

Application Restorative Justice Traffic Crimes That Result In Casualties: A Study In Enrekang District

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ABSTRACT

The research aims to analyze the application of restorative justice to traffic crime cases that have resulted in fatalities in Enrekang Regency, and 2). know and analyze the factors that influence the application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency. This type of research is empirical normative. The results of the study the authors found that: 1) The application of restorative justice to traffic crime cases which resulted in fatalities in Enrekang Regency was not running optimally, because in its application there were no specific regulations governing the process of resolving traffic crime cases which resulted in fatalities. 2) Factors that influence the application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency include; legal substance, legal structure, and legal culture.

Keywords: *Restorative Justice; Traffic; Fatalities*

ABSTRAK

Tujuan penelitian menganalisis penerapan restorative justice terhadap perkara tindak pidana lalu lintas yang mengakibatkan korban jiwa di Kabupaten Enrekang, dan 2). mengetahui dan menganalisis faktor yang mempengaruhi penerapan restorative justice terhadap perkara tindak pidana lalu lintas yang mengakibatkan korban jiwa di Kabupaten Enrekang. Tipe penelitian ini adalah normatif empiris. Hasil penelitian penulis mendapatkan bahwa: 1) Penerapan restorative justice terhadap perkara tindak pidana lalu lintas yang mengakibatkan korban jiwa di Kabupaten Enrekang kurang berjalan secara optimal, dikarenakan pada penerapannya belum ada peraturan secara khusus yang mengatur proses penyelesaian perkara tindak pidana lalu lintas yang mengakibatkan korban jiwa. 2) Faktor yang mempengaruhi penerapan restorative justice terhadap perkara tindak pidana lalu lintas yang mengakibatkan korban jiwa di Kabupaten Enrekang meliputi; substansi hukum, struktur hukum, dan budaya hukum.

Kata Kunci: Restorative Justice; Lalu Lintas; Korban Jiwa

PRELIMINARY

Regulations regarding traffic are contained in Law Number 22 of 2009 concerning Road Traffic and Transportation. The existence of this law does not make road users aware of their safety or that of others (Dolly, 2016). Traffic problems are a problem faced by developed countries as well as developing countries like Indonesia. However, in Indonesia itself, the problems that are often encountered nowadays are becoming more severe and bigger than in previous years, including accidents, congestion and air pollution as well as traffic violations. (Rusmini¹, 2022).

Of these various problems, the main problem is traffic accidents. Based on data from the Indonesian National Police in 2010 the number of deaths due to traffic accidents reached 31,186 people. On average, 84 people die every day, or between three and four people every hour. Globally based on WHO data, every year as many as 1.3 million people die as a result of traffic accidents (Djaja², and 2016). This number will certainly continue to grow to 1.9 million people in 2020 if nothing is done to reduce the number of accidents. Furthermore, in the jurisdiction of Enrekang Regency, in recent years there have been fluctuations in the number of traffic accidents, based on data from the Enrekang Police Traffic Unit, the number of traffic accidents during 2019 reached 139 cases or incidents with the number of fatalities due to traffic accidents reaching 15 people. This has increased from the previous year when in 2018 the number of traffic accidents was recorded at 77 cases or incidents with 11 fatalities. This is inversely proportional to the 2020 period where the number of traffic accidents (Lakalantas) in Enrekang Regency has decreased. Based on data from the Enrekang Police Traffic Unit, the number of traffic accidents during 2020 reached 72 cases or incidents. The Lakalantas fatalities during 2020 were 12 people;

Article 1 point 24 of Law Number 22 of 2009 concerning Road Traffic and Transportation, provides an understanding of traffic accidents namely; An unexpected and unintentional road incident involving a vehicle with or without other road users resulting in human casualties and/or property loss. Furthermore, article 229 of the Road Traffic and Transportation Law contains three categories of traffic accidents, namely; Minor traffic accidents; Moderate traffic accidents; and heavy traffic accidents. Traffic accident cases are processed under criminal

¹ Rusmini, R. (2022). Upaya Penanggulangan Pelanggaran Pasal 293 Ayat (2) Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan. Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum sumpah Pemuda,

² Djaja, S., Widyastuti, R., Tobing, K., Lasut, D., & Irianto, J. (2016). Gambaran kecelakaan lalu lintas di Indonesia Tahun 2010-2014. Jurnal Ekologi Kesehatan.

justice procedures following applicable laws and regulations, namely Law Number 22 of 2009 concerning Road Traffic and Transportation. This is contained in article 230, however, ambiguity often occurs in the settlement of traffic accident cases (Sahti³, 2019). The settlement of traffic accident cases was resolved through the judicial process and some were resolved without going through a legal process because both parties had reconciled. Based on the Regulation of the Head of the National Police of the Republic of Indonesia Number 15 of 2013 concerning Procedures for Handling Traffic Accidents, states that; Only minor traffic accidents can be resolved outside the courtroom during the process of settling the case (Princess & Tajudin, 2015). The out-of-court settlement does not apply to cases of serious accidents that result in the death of the victim (Richard, 2017). Therefore, it is necessary to have a rule in positive law that governs the suspension of the settlement of serious traffic offences that can be resolved without going to court. Settlement of traffic accident cases without going through the legal process (non-penal) can also be called approximation restorative justice. In draft restorative justice handling crimes or criminal acts that occur is not only the responsibility of the state but also the responsibility of society (Princess, 2021). Therefore, the concept of restorative justice is built on the understanding that crimes or criminal acts that have caused harm (both to victims and the wider community) must be recovered, both the losses suffered by the victims and the losses suffered by the community. (Flora⁴, 2018). The concept of restorative justice is not something new to Indonesian society. It is said so because so far Indonesian people with a heritage of customary or cultural diversity (local wisdom) and values that live in society have had a mechanism or process of solving problems (disputes) in essence following the concepts or values contained in restorative justice. (Rijal⁵, Rahman & Baharu, 2020). In line with this, the view of Rufinus Hotmaulana Hutauruk, the basic concept of the approach to restorative justice in the form of actions to rebuild relationships damaged by criminal acts has long been known and practised in customary law in force in Indonesia (Candra, 2014). The problem that arises is that the criminal elements have been fulfilled when faced with problem-solving through an approach to restorative justice in which one takes precedence or is ruled out, whether formal juridical based on legal certainty (legal certainty) or the sense of justice held by the community on condition that it does not conflict

³ Sahti, A. (2019). Penerapan Konsep Restorative Justice dalam Penyelesaian Perkara Kecelakaan Lalu Lintas. *Aktualita*.

⁴ Flora, H. S. (2018). Keadilan Restoratif Sebagai Alternatif Dalam Penyelesaian Tindak Pidana Dan Pengaruhnya Dalam Sistem Peradilan Pidana Di Indonesia. *University Of Bengkulu Law Journal*,

⁵ Rijal, M., Rahman, S., & Baharu, B. (2020). Implementasi Konsep Keadilan Restoratif Dalam Perkara Anak Yang Berkonflik Dengan Hukum Di Kepolisian Resort Kota Besar Makassar. *The Juris*.

with the principles of criminal law. Based on the foregoing, there will be legal gaps that occur in the application of principles restorative justice as an effort to settle cases of traffic crimes that result in casualties. The researcher provides an overview of the two cases that occurred in the jurisdiction of Enrekang Regency as study material below:

1. Verdict Number: 2/Pid.Sus/2019/PN. Enr. The defendant with the initials E, 24 years old, male, Muslim, addressed in Lembang Hamlet, Tungka Village, Enrekang District, Enrekang Regency. The defendant because of his negligence caused a traffic accident which resulted in the death of the victim with the initials SN. As a result of his actions the defendant voluntarily gave compensation to the victim's wife in the amount of Rp. 3,000,000,-. However, the victim's family did not want to accept and did not want to sign the peace statement, but the family still forgave the defendant's actions but the legal process continued. Against the defendant, the panel of judges imposed a prison sentence of 7 (seven) months and a fine of Rp. 4,000,000.- (four million rupiah) to the defendant.
2. Verdict Number: 43/Pid.Sus/2020/PN. Enr. The defendant with the initials MY, 36 years old, male, Muslim, address Cakke, Lakawan Village, Anggeraja District, Enrekang Regency. The defendant because of his negligence caused a traffic accident which resulted in the death of the victim MAH. As a result of his actions the defendant voluntarily gave compensation to the victim's family in the amount of Rp. 30,000,000, - without removing the criminal charges. Against the defendant, the panel of judges sentenced the defendant to imprisonment for 7 (seven) months.

Based on the case above which is a traffic accident case that resulted in the death of the victim. In the case above the perpetrator/defendant had fulfilled his obligations as a person who had caused a traffic accident which resulted in the victim's death by giving condolence money to the victim's family. This has fulfilled the positive law in force and application restorative justice with a solution model restorative board/youth panels, namely the mediator facilitating meetings between victims, perpetrators and family members. Based on this description, the settlement model is restorative board/youth panels about the settlement of traffic accident crimes that result in fatalities, of course involving judges as mediators, prosecutors as public prosecutors, and lawyers as legal advisers. restorative justice so here it is necessary to codify the principles of adjudicating cases with the principles contained in restorative justice. The general principle of adjudicating a case is; examining, trying, and deciding cases while the general principle of restorative justice that is; restoration of circumstances and compensation

for losses suffered by victims. About the case above the perpetrator/defendant has fulfilled his obligations as a person who has caused a traffic accident which resulted in the death of the victim, of course, he becomes a supporter of implementing the restorative principle the justice. But in fact, Indonesian positive law states that; Even though the defendant gave condolence money to the victim's family (peace be upon him) it did not invalidate the criminal charge as stated in Article 235 of Law Number 22 of 2009 concerning Road Traffic and Transportation. This makes law enforcement officials from investigators, public prosecutors, and judges, continue to follow up and decide on the actions of the perpetrators because there is no legal umbrella that regulates the termination of traffic accident cases. Settlement of traffic accident cases resulting in the death of victims should be done using an approach to restorative justice by considering the reconciliation process carried out by both sides.

RESEARCH METHODS

This type of research is qualified as an empirical legal research type, namely legal research that uses secondary data as initial data, which is then followed by primary data in the form of data obtained from interviews related to the subject matter in this study. In this case, the author analyzes and examines the application of restorative justice for traffic crimes that result in fatalities. This research was conducted in the Legal Area of Enrekang Regency, to be precise at the Enrekang District Court which is related to this research. The reason for choosing this location is because in the jurisdiction of Enrekang Regency traffic accidents often occur which cause fatalities

FINDING & DISCUSSION

Application of Restorative Justice for Traffic Crime Cases that Result in Casualties in Enrekang Regency

In the Criminal Code, an article that can be used to ensnare a driver of a motorized vehicle resulting in death in a traffic accident is article 359 of the Criminal Code, which reads; Whoever because of his fault (negligence) causes another person to die, shall be punished by a maximum imprisonment of five years or a maximum light imprisonment of one year (Abdillah⁶, 2020). Furthermore, if the accident results in the death of someone, then according to law what must be imposed on the driver of the vehicle is the criminal charge stipulated in Law Number 22 of 2009 concerning Road Traffic and Transportation, in this case following the provisions referring to Article 63 paragraph (2) of the Criminal Code, which states that; If an act is

⁶ Abdillah, M. S. (2020). Penerapan Asas Kausalitas Dalam Lecelakaan Lalu Lintas Yang Menyebabkan Korban Meninggal Dunia. Kertha Semaya.

included in a general criminal rule, it is also regulated in a special criminal rule, then that special one shall be applied. Thus the reference to Article 63 paragraph (2) of the Criminal Code, because traffic accident cases resulting in death have been regulated in Law Number 22 of 2009 as special regulations, the public prosecutor in his indictment and the Panel of Judges in adjudicating by applying the provisions in Article 310 paragraph (4) of Law Number 22 of 2009 with a maximum penalty of 6 (six) years, not Article 359 in the Criminal Code.

Based on the above, the researcher's view is that the results of interviews and field observations found that; Basically, the application of restorative justice to traffic crimes can be carried out, both to victims and to perpetrators by way of compensation. The obligation to compensate for this loss can be carried out out of court if there is an amicable agreement between the parties involved. This is a form of accountability of the perpetrator to the victim for his negligent driving actions which only result in material losses without casualties. But when it is related to article 230 of Law Number 22 of 2009 concerning Road Traffic and Transportation, which states that; Traffic accident cases as referred to in Article 229 paragraph (2), paragraph (3), and paragraph (4) are processed by criminal justice procedures following statutory provisions. Therefore, the party causing the traffic accident resulting in material loss accompanied by loss of life is the perpetrator of the crime and will be prosecuted criminally because of the crime.

Based on the search results of the decision that the researcher did, it was found that; Perpetrators of traffic crimes that result in casualties, in the process of settling the case have been sought and applied to restorative justice by law enforcement officials. However, the perpetrator is still criminally responsible for his actions. The chronology of the case with decision number: 2/Pid.Sus/2019/PN. Enr. The defendant with the initials E, 24 years old, male, Muslim, addressed in Lembang Hamlet, Tungka Village, Enrekang District, Enrekang Regency. On Friday, November 9 2018, at around 20.00 WITA, or at least in November 2018 or at least still in 2018 located on a public road located on Jalan Latanro Puang Buttut to be exact in front of the Enrekang District Court housing complex, Galonta Village, Enrek District, Enrekang Regency, or at least in other places that are still included in the jurisdiction of the Enrekang District Court, driving a motorized vehicle which due to his negligence resulted in a traffic accident and resulted in another person, namely S.N (hereinafter referred to as the victim) died, which act the defendant committed in the following way:

- That it started when on Friday, November 9 2018, at around 14.00 WITA the defendant was queuing up to load sand material located in Baba, Enrekang District, Enrekang Regency to be brought to the construction of a PDAM water reservoir located in Batili, Galonta Village, Enrekang District, Enrekang Regency then after filling in the sand the defendant drove a truck brand Toyota Dyna 130 HT with Police Number DD 9624 BA to the place where the PDAM water reservoir was being built;
- After unloading the sand, the defendant then wanted to return home by driving a car moving from north to west via Jalan Latanro Puang Buttu at a speed of 20 - 30 (twenty to thirty) Km/hour using gear 3 (three) at clear weather, road conditions downhill slightly turning right and going straight, dry asphalt and quiet traffic without street lighting, where the defendant did not pay attention to the road situation, besides that the defendant was following the direction of the road with the car positioned on the right (north to west direction) and from a distance very close, namely approximately 4 (four) meters the defendant saw the victim on the side of the road but the defendant did not try to be careful or honked or stopped his car to allow the victim to avoid it, so the defendant could no longer control the speed of the car that was moving. driven to graze the victim;
- Whereas the collision occurred to the rear tire on the right side of the car which the defendant was driving with the back of the victim's body so that the victim fell on the road from the point of impact;
- Whereas as a result of a traffic accident that occurred the victim died at the Massenrempulu General Hospital based on Visum et reported Number: 664 / RSUM / TU-2 / XI / 2018 November 13 2018 which was signed by dr. Zulfakhri Sulaiman was the doctor who examined the victim Sulaeman Nura with the following examination results:
 - Admitted to the emergency room conscious and has abdominal pain penetrating to the back with signs, Vital blood pressure = 70 palpations, mmHg Pulse: 79 x/minute, respiration: 26 x/minute, body temperature: 36 degrees Celsius.
 - External examination found; The skin of the left big toe peeled off with a size of 4 x 1 cm. Bruised on the right breast nipple size 2 x 1.5 cm.
 - Conclusion: Cuts and bruises are caused by blunt force trauma.

Death Certificate Number: 111 / RSUM / TU-2 / 11 / 2018 dated 09 November 2018 in the name of Mr Sulaiman Nura signed by dr. Wahyu Purnama is the examining doctor. For the actions of the defendant as stipulated and subject to criminal penalties in Article 310 paragraph

(4) of Law Number 22 of 2009 concerning Road Traffic and Transportation, the elements of which are as follows; Elements of each person; a part driving a motorized vehicle whose negligence results in the death of another person.

Based on the chronological description of the decision number: 2/Pid.Sus/2019/PN. Enr, the settlement was carried out judicially, namely at the Enrekang District Court. The considerations of the judges examining and adjudicating are as follows:

1. Considering, that because all the elements of Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation are fulfilled, the Defendant must be declared legally and convincingly proven to have committed a crime as charged in a single indictment;
2. Considering, that during the trial, the Panel of Judges did not find things that could abolish criminal responsibility, either as reasons for justification or excuses, the Defendant must be held accountable for his actions;
3. Considering, that against the demands of the Public Prosecutor who demands that the Defendant be sentenced to 10 (ten) months, by paying attention to and considering the Defendant's request for leniency after the Panel pays attention to the facts at trial bearing in mind the sense of justice and legal certainty that the purpose of sentencing is not to provide sorrow for the perpetrators of criminal acts but preventive, educative and corrective, besides that the victim's family has also forgiven the defendant's actions at trial, so it is considered more appropriate and fair and following the degree of guilt of the defendant and does not conflict with the sense of justice in society if the defendant is sentenced to the longest sentence as stated in this decision;
4. Considering, that in this case, the Defendant has been subject to lawful arrest and detention, the said period of arrest and detention must be deducted entirely from the sentence imposed;
5. Considering, that because the Defendant was detained and the detention of the Defendant was based on sufficient reasons, it is necessary to determine that the Defendant remains in detention;
6. Considering, that the evidence presented at trial for further consideration is as follows:
7. Considering, that the evidence in the form of 1 (one) Toyota Dyna 130 HT DD 9624 BA truck was the vehicle used by the Defendant at the time of the incident and had 1 (one) Toyota Dyna 130 HT DD 9624 BA truck registration sheet in the name of DR. Nurmiati Lapabi, the evidence is returned to its rightful owner;

8. Considering, that the evidence is in the form of 1 (one) Gol SIM card. B II in the name of E belongs to Defendant which has been confiscated from Defendant, so it is returned to Defendant;
9. Considering, that to impose a sentence on the Defendant, it is necessary to first consider the aggravating and mitigating circumstances of the Defendant;
Aggravating circumstances:
 - The Defendant's actions disturbed the community;Extenuating circumstances:
 - The defendant confessed openly to what he had done;
 - The defendant regretted his actions;
 - The accused behaved politely;
 - The accused has never been convicted;
 - The Defendant has provided compensation for IDR 3,000,000.00 (three million rupiahs) to the victim's family;
10. Considering, that because the Defendant was convicted, he must also be burdened with paying court fees;
11. Taking into account, Article 310 paragraph (4) of the Law of the Republic of Indonesia Number 22 of 2009 concerning Traffic and Transportation and Law Number 8 of 1981 concerning Criminal Procedure Code and other relevant laws and regulations;

In the decision of the District Court of Enrekang Number: 2/Pid.Sus/2019/PN. Enr, the judge imposed a prison sentence of 7 (seven) months and a fine of Rp. 4,000,000.- (four million rupiah) to the defendant, with the following verdict:

JUDGE:

1. Declare that Defendant E mentioned above was legally and convincingly proven guilty of committing a crime because the negligence of driving a motorized vehicle resulted in the death of another person as stated in the single indictment;
2. Sentenced punishment against the Defendant and therefore with imprisonment for 7 (seven) months;
3. Determine that the period of arrest and detention that the Defendant has served is deducted entirely from the sentence imposed;
4. Stipulates that the Defendant remains in custody;
5. Establish evidence in the form of:

- 1 (one) unit of Toyota Dyna 130 HT DD 9624 BA truck
- 1 (one) sheet of vehicle registration for the Toyota Dyna 130 HT DD 9624 BA truck

Returned to its rightful owner;

- 1 (one) Gol SIM card. BII an. E

Returned to Defendant E;

6. Burdened the Defendant to pay court fees in the amount of Rp. 2,500.00 (two thousand and five hundred rupiahs);

Based on the description of the decision of the Enrekang District Court Number: 2/Pid.Sus/2019/PN. Enr, the researcher argues that; Defendant E had fulfilled his obligations as the perpetrator who had caused a traffic accident which resulted in the victim's death by giving a certain amount of money to the victim's family, thus of course the application of restorative justice had been fulfilled. However, the elements of Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation, as applied by the Public Prosecutor in his Indictment, are elements of each person; An element driving a motorized vehicle whose negligence results in the death of another person. The element of "Whosoever" is the subject of the perpetrator of a criminal act and that person is a person who is capable of being responsible and can be held accountable for his actions legally. In the decision of the Enrekang District Court Number: 2/Pid.Sus/2019/PN. Enr, the term "Whoever" is applied to Defendant E is a person who can be convicted, and can be legally responsible for his actions in the sense that in Defendant E there is no element of criminal eradication either an element of forgiveness or an element of justification. Furthermore, the element driving a motorized vehicle whose negligence results in the death of another person; What is meant by negligence is the defendant's negligence or negligence, while minor injuries in this element were not wanted or intended or intended at all by the defendant but were only the result of the defendant's negligence or negligence. So it can be said, a person commits an act intentionally if he knows that by acting there will arise or result in a certain consequence and he wants that consequence.

Regarding Defendant E's actions, it can be categorised as intentional, if when carrying out these actions, the suspect with his common sense or with his awareness knows that; Defendant E who at that time was driving 1 (one) unit of Toyota Dyna 130 HT DD 9624 BA truck moving from north to west at a speed of 20-30 (twenty to thirty) km/hour using gear 3 (three), when turning to the left he did not pay attention to the right side of the road so that the victim who was temporarily in the right position of the road was arranging for the stones used to be

excavated by the PDAM to be struck by the car driven by Defendant E, to be precise, hit the right tire on the back of the truck. The defendant only realized when the car had gone straight, and looking in the right rearview mirror it turned out that the victim had fallen, then Defendant E stopped the car he was driving and parked on the left a few meters from the scene and approached the victim. Based on the above, the researcher describes based on the results of studies and observations conducted in the field, the responses of various respondents regarding the application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, it can be described in the following table:

Table 1. Respondents' Responses Regarding the Optimum Implementation of Restorative Justice for Traffic Crime Cases That Cause Lives in Enrekang Regency in 2022

No	Description	Frequency (Number of Respondents)	Presentase (%)
1.	Optimal	7	33.34
2.	Less Optimal	9	42.86
3.	Not optimal	5	23.80
	TOTAL	21	100.00

Data Source: *Results of Processed Primary Data for 2022*

Based on the data in the table above, it can be explained that respondents' answers regarding the application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, which stated that it had run optimally as much as 33.34%, and stated that it was not running optimally as much as 42.86%, and those who stated that it did not run optimally as much as 23.80%. Thus the trend of these data indicates that in the application of restorative justice to traffic crime cases that result in fatalities, respondents generally judged that 42.86% did not run optimally. This is because in practice there are no regulations specifically governing the application of restorative justice in the process of settling traffic crime cases that result in fatalities. According to Mr Afif Dewa Brata Panjaitan, a Judge at the Enrekang District Court stated that traffic accidents are unwanted or unwanted by perpetrators and victims, so in the application of restorative justice in traffic crimes it is appropriate to apply together to find the best solution. In principle, the application of restorative justice in traffic crimes can be pursued for both parties, but normatively there is no specific mechanism (legal substance) in the application of restorative justice in traffic crimes.

If a traffic crime results in a victim, then in principle the perpetrator is still criminally responsible for his actions. In line with this, article 235 paragraph (1) of Law Number 22 of 2009 concerning Road Traffic and Transportation, states; If the victim dies as a result of a Traffic Accident as referred to in Article 229 paragraph (1) letter c, the Driver, owner and/or

Public Transport Company is obliged to assist the victim's heirs in the form of medical expenses and/or funeral expenses without dropping the lawsuit. criminal. This makes law enforcement officials from investigators, public prosecutors, and judges, continue to follow up and decide on the actions of the perpetrators because there is no legal umbrella that regulates the termination of traffic accident cases that result in fatalities.

Factors Influencing Application Restorative Justice Against Traffic Crime Cases that Result in Casualties in Enrekang Regency

Related to the application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, of course, it cannot be separated from several factors that influence the implementation of the investigation. The following is a description of these factors, including Legal Substance, Legal Structure and Culture.

1. Legal Substance

Settlement of traffic crimes peacefully or settlement of traffic crimes using restorative justice methods have not been integrated into the criminal justice system. The legal process for traffic crimes, as a form of special provisions from the provisions of the Criminal Code, refers to Law Number 22 of 2009 concerning Road Traffic and Transportation. In this law, the problem of implementing restorative justice has not been regulated. However, the settlement of cases using the method or concept of restorative justice has been widely applied in the settlement of traffic accident cases in the jurisdiction of Enrekang Regency, but the perpetrators of traffic accident crimes do not necessarily abort criminal liability if, in a traffic accident, it results in a victim. soul. This is confirmed in article 310 paragraph (4), which states that; In the case of an accident as referred to in paragraph (3) which results in the death of another person, the penalty shall be imprisonment for a maximum of 6 (six) years and a fine of up to Rp. 12,000,000.00 (twelve million rupiahs). Furthermore, the provisions of article 230 of Law Number 22 of 2009 concerning Road Traffic and Transportation, confirm; Traffic accident cases as referred to in Article 229 paragraph (2), paragraph (3) and paragraph (4) are processed by criminal justice procedures following the provisions of laws and regulations. This means that every case of a traffic accident, be it a minor, moderate or serious traffic accident must be resolved following the judicial procedures stipulated in the law. In such circumstances, it can be said that the substance of Law Number 22 of 2009 has a negative influence on the effectiveness of the application of restorative justice in traffic crime cases that result in fatalities. This is because the substance

of this law does not accommodate the wishes of the people, or in other words, this law does not pay attention to the values or legal principles that are or are currently developing in society (living law). Based on the above, the researcher describes from the results of studies and observations conducted in the field, related to the responses of various respondents to the influence of legal substances on the optimal application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, can be illustrated through the table as follows:

Table 2. Respondents' Responses Regarding the Effect of Legal Substance on the Optimum Implementation of Restorative Justice for Traffic Crime Cases that Cause Lives in Enrekang Regency in 2022

No	Description	Frequency (Number of Respondents)	Presents (%)
1.	Influential	12	57.15
2.	Less Influence	6	28.57
3.	No effect	3	14.28
	TOTAL	21	100.00

Data Source: *Results of Processed Primary Data for 2022*

The data shows that the legal substance factor is one of the factors influencing the optimal application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency. Thus the "legal substance" in the provisions of the Road Traffic and Transportation Law has not specifically accommodated the application of restorative justice to the perpetrators of traffic crimes which resulted in fatalities, and the form of its application is only limited to providing compensation to the victim's family so that the perpetrators remain carrying out criminal responsibility. This is what makes law enforcement officials, starting from the investigation level up to the examination at the Court, continue to process the actions of the perpetrators in accordance with the mandate set out in Article 235 p(1) of the Road Traffic and Transportation Law.

2. Legal Structure

It is known that article 230 of Law Number 22 of 2009 concerning Road Traffic and Transportation confirms that; Every traffic accident case the that fulfils criminal elements must be resolved through the criminal justice process. This means that other law enforcement officials must carry out and/or take legal action, while the legal action in question is carrying out investigations, prosecutions, examinations and terminations, as well as defence, against every victim and perpetrator of a traffic crime. Based on the above, the researcher describes based on the results of studies and observations conducted in the

field, regarding the responses of various respondents to the influence of the legal structure on the optimal application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, can be described through the table as follows:

Table 3. Respondents' Responses Regarding the Influence of the Legal Structure on the Optimum Implementation of Restorative Justice for Traffic Crime Cases that Result in Casualties in Enrekang Regency in 2022

No	Description	Frequency (Number of Respondents)	Presentase (%)
1.	Influential	9	42.86
2.	Less Influence	6	28.57
3.	No effect	6	28.57
	TOTAL	21	100.00

Data Source: *Results of Processed Primary Data for 2022*

The data shows that the legal structure factor is one of the factors influencing the optimal application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency. Thus the legal structure (law enforcement officials) is passive towards the application of the principles of restorative justice to the perpetrators of traffic crimes that result in fatalities. The passive nature referred to here is that all components of law enforcement officials continue to seek settlement of cases according to criminal procedural law against perpetrators of traffic crimes that result in fatalities even though the principle of restorative justice itself has been implemented. The assessment of law enforcement officials here is of course very much based on the provisions of the Road Traffic and Transportation Act in which the application of restorative justice does not release punishment to the perpetrator but can provide leniency to the perpetrator.

3. Legal Culture

This element of legal culture includes opinions, habits, ways of thinking, and ways of acting both from law enforcement officials and from the community. Without a legal culture, the legal system will lose its power. Law has a reciprocal relationship with the community, where the law is a means/tool to regulate society and work within society itself while society can become an obstacle or a social means/tool that allows the law to be applied as well as possible. Based on the results of the observations the researchers made in the field it was found that; The attitude of the victim's family is related to the application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, namely; Accept, with previously agreed things that must be the responsibility of the perpetrator to the victim's family, such as the amount of compensation, medical expenses;

Refuse if there is no agreement between the parties regarding the amount of compensation and medical expenses. However, in practice, an agreement is rarely reached, because the families of the victims do not accept the fate of the victims who died. Based on the above, the researcher describes based on the results of studies and observations conducted in the field, the responses of various respondents to the influence of legal culture on the optimal application of restorative justice to traffic crime cases that resulted in fatalities in Enrekang Regency, it can be described through the table as following

Table 4 Respondents' Responses Regarding the Influence of Legal Culture on Optimal Implementation of Restorative Justice for Traffic Crime Cases that Result in Casualties in Enrekang Regency in 2022

No	Description	Frequency (Number of Respondents)	Presents (%)
1.	Influential	8	38.09
2.	Less Influence	7	33.34
3.	No effect	6	28.57
	TOTAL	21	100.00

Data Source: *Results of Processed Primary Data for 2022*

The data shows that the legal culture factor is one of the factors influencing the optimal application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency. Whereas the legal culture factor is considered to influence because apart from the role of law enforcement officials if there is no support from the community itself, it will certainly affect the success or failure of the application of restorative justice. In this case, the obstacles in the process of implementing restorative justice are many of the victims who refuse to carry out deliberations (restorative justice). Of course, it is known that the willingness of both parties to play an active role in resolving traffic crime cases that result in casualties between the two parties will be one form of effort and part of the application of the principles of restorative justice. This can show that in the application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency, apart from being part of the authority of law enforcement officials, they must also obtain support from the surrounding community to optimize the application of restorative justice. Based on this, the factors that influence the optimal application of restorative justice to traffic crime cases that result in fatalities in Enrekang Regency are; legal substance, legal structure, and legal culture. The three factors that have the most influence on the application of restorative justice to traffic crime cases that result in fatalities are legal substances which are in Law Number 22 of 2009 concerning Road Traffic and Transportation, the problem of

implementing restorative justice has not been regulated comprehensively. clear and with the affirmation of article 230 of Law Number 22 of 2009 concerning Road Traffic and Transportation, which in essence every traffic crime that results in loss of life must be resolved following the judicial procedure regulated in the law.

CONCLUSION

1. Application Restorative justice regarding traffic crime cases that have resulted in fatalities in Enrekang Regency is not running optimally, because in practice there are no specific regulations governing the process of resolving traffic crime cases that have resulted in fatalities.
2. Factors affecting applicability-restorative justice against cases of traffic crimes that resulted in fatalities in Enrekang District, namely; substance, structure, and legal culture. The three factors that have the most influence on the application of restorative justice to traffic crime cases that result in fatalities are legal substances which are in Law Number 22 of 2009 concerning Road Traffic and Transportation, the problem of implementing restorative justice has not been regulated comprehensively. clearly and with the existence of provisions governing every traffic crime that results in loss of life must be resolved following the judicial procedure regulated in the law.

SUGGESTION

1. The government should accommodate the law that lives in a society in the form of solving problems through deliberation in formulating the Road Traffic and Transportation Law, especially regarding the settlement of traffic crime cases. So that in the application of restorative justice (deliberation), it can be applied at every level of criminal procedural law related to the settlement of traffic accident crimes that result in fatalities.
2. It is expected that law enforcement officials need to provide understanding to the public, especially victims and perpetrators regarding the rights and obligations that must be carried out related to resolving cases using restorative justice. With this understanding, it is hoped that each party can carry out its obligations and otherwise receive its rights. So that in this process there is a balance between victims and perpetrators, which in the end will fulfil a sense of justice for all parties.

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