

Resolving Traffic Accident Cases: Approaches in East Java Regional Police Jurisdiction

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ABSTRACT

Traffic accident cases constitute a complex legal matter, as they encompass two distinct forms of criminal liability, namely intentional wrongdoing and negligence, each carrying different legal consequences. In Indonesian law enforcement practice, the resolution of such cases has not followed a uniform pattern, given that two primary mechanisms are available: formal litigation under Article 310 of the Traffic and Road Transport Law and Article 359 of the Criminal Code, and restorative justice as governed by Police Regulation No. 8 of 2021. This study aims to examine the implementation of both mechanisms and their relevance to the foundational legal values of justice, utility, and legal certainty. The research employs an empirical legal method with a socio-legal approach, conducted through in-depth interviews with investigators from the East Java Regional Police, field observation, and documentary analysis encompassing court decisions and applicable legislation. The findings reveal that over 90 percent of traffic accident cases within the East Java Regional Police jurisdiction in 2023 and 2024 were resolved through restorative justice by means of SP3 issuance, while cases involving fatalities continued to be processed through formal litigation, as reflected in the Jombang District Court Decision No. 152/Pid.Sus/2024. This study concludes that both mechanisms are complementary in nature and must be operationalized in a coordinated manner to achieve law enforcement outcomes that are equitable for all parties concerned.

Keywords: *Criminal Litigation, East Java Regional Police, Police Regulation No. 8 Of 2021, Restorative Justice, Traffic Accidents*

Penyelesaian Kecelakaan Lalu Lintas: Keadilan Restoratif dan Litigasi di Polisi Daerah Jawa Timur

ABSTRAK

Kecelakaan lalu lintas merupakan persoalan hukum yang kompleks karena melibatkan dua bentuk pertanggungjawaban pidana, yakni kesengajaan dan kelalaian, yang masing-masing memiliki konsekuensi hukum berbeda. Dalam praktik penegakan hukum di Indonesia, penyelesaian perkara kecelakaan lalu lintas tidak berjalan seragam, mengingat terdapat dua mekanisme yang dapat ditempuh, yaitu jalur litigasi formal berdasarkan Pasal 310 Undang-Undang Lalu Lintas dan Angkutan Jalan serta Pasal 359 KUHP, dan jalur keadilan restoratif sebagaimana diatur dalam Peraturan Kepolisian Nomor 8 Tahun 2021. Penelitian ini bertujuan menganalisis implementasi kedua mekanisme penyelesaian tersebut serta relevansinya terhadap nilai keadilan, kemanfaatan, dan kepastian hukum. Penelitian menggunakan metode hukum empiris dengan pendekatan sosio-legal, melalui wawancara mendalam terhadap penyidik Polda Jawa Timur, observasi lapangan, serta studi dokumen yang mencakup putusan pengadilan dan peraturan perundang-undangan terkait. Hasil penelitian menunjukkan bahwa lebih dari 90 persen kasus kecelakaan lalu lintas di wilayah hukum Polda Jawa Timur pada tahun 2023 dan 2024 diselesaikan melalui keadilan restoratif dalam bentuk penerbitan SP3, sedangkan kasus dengan korban meninggal dunia tetap diproses melalui litigasi formal sebagaimana tercermin dalam Putusan Pengadilan Negeri Jombang Nomor 152/Pid.Sus/2024. Penelitian ini menyimpulkan bahwa kedua mekanisme bersifat komplementer dan perlu disinergikan guna mewujudkan penegakan hukum yang berkeadilan bagi seluruh pihak.

Kata kunci: *Kecelakaan Lalu Lintas, Keadilan Restoratif, Litigasi Pidana, Polda Jawa Timur, Perkap No. 8 Tahun 2021*

INTRODUCTION

Legislation is enacted to guarantee legal certainty, which serves as a form of justiciable protection against arbitrary actions by authorities and law enforcement officers. This means that individuals should be able to obtain what they reasonably expect under given circumstances. In accordance with its function, law operates to establish legal certainty, as it is ultimately directed toward maintaining social order. Society, in turn, expects tangible benefits from the implementation and enforcement of law. Since law exists to serve human beings, its implementation and enforcement must produce practical benefits for the community.¹ Gustav Radbruch asserted that law must simultaneously fulfill three fundamental values, namely justice (*gerechtigheit*), utility (*zweckmässigkeit*), and legal certainty (*rechtssicherheit*). These three values must be realized proportionally within every legal policy that is formulated.²

Road traffic and transportation constitute a component of the national transportation system whose potential and role must be developed to achieve safety, security, order, and smooth traffic flow, as well as to support the development of road transportation in the context of advancing economic and regional development, as stated in the whereas Clause of the Road Traffic and Transportation Law or known as UULLAJ.³ The UULLAJ was formulated to bring about safety, security, order, and smooth traffic flow in road transportation. A traffic accident, as defined under Article 1 point 24 of the UULLAJ, is an unexpected and unintentional incident occurring on a road, involving a vehicle with or without other road users, which results in human casualties and/or property losses.⁴

Criminal law recognizes two forms of fault, namely intention (*dolus*) and negligence (*culpa*). A criminal act may arise not only from deliberate intent on the part of the perpetrator, but also from negligence.⁵

Within the domain of road traffic and transportation law, matters concerning traffic accidents resulting in the death of victims are governed by Article 310 of the

¹ Sudikno Mertokusumo, *Mengenal Hukum : Suatu Pengantar* (Yogyakarta: Universitas Atma Jaya, 2010).

² Gustav Radbruch, *Rechtsphilosophie*, ed. Quelle & Meyer, 1932.

³ Pemerintah Pusat Indonesia, “Undang-Undang (UU) Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan” (Jakarta, June 22, 2009), <https://peraturan.bpk.go.id/details/38654/uu-no-22-tahun-2009>.

⁴ Indonesia, “Undang-Undang (UU) Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan.”

⁵ Febri Ana and Rehnalemken Ginting, “Analisis Penerapan Pasal 359 KUHP Mengenai Kealpaan Yang Menyebabkan Hilangnya Nyawa Orang Lain (Studi Putusan Nomor: 267/Pid.B/2011/Pn/Skh),” *Recidive* 4, no. 2 (May 2, 2015): 184–91, https://www.academia.edu/111716991/ANALISIS_PENERAPAN_PASAL_359_KUHP_MENGENAI_KEALPAAN_YANG_MENYEBABKAN_HILANGNYA_NYAWA_ORANG_LAIN_Studi_Putusan_Nomor_267_PID_B_2011_PN_SKH_.

UULLAJ. Under this provision, a perpetrator whose negligence causes the death of another person is subject not only to Article 359 of the Criminal Code (KUHP), but also to Article 310 paragraph (4) of the UULLAJ, giving rise to a concurrence of criminal offenses, commonly referred to as *concursum*, as regulated under Articles 63 through 65 of the KUHP.

On another front, the development of modern criminal law is no longer oriented solely toward punitive measures (*retributive justice*), but has begun to accommodate a restorative justice approach. Restorative justice is a process in which all parties involved in an offense come together to collectively determine the most appropriate course of action in addressing the consequences of that offense for the sake of their shared future.⁶ In the context of traffic law enforcement in Indonesia, this approach is accommodated through Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice (Perkap No. 8/2021), which grants Indonesian National Police investigators the authority to terminate investigations on restorative justice grounds in respect of certain criminal acts, including traffic offenses, based on the discretionary powers provided under Articles 16 and 18 of Law Number 2 of 2002 concerning the Indonesian National Police.⁷

Settlement through the district court, as handled by the Jombang District Court, resolved a road traffic accident case through criminal proceedings under Decision No. 152/Pid.Sus/2024/PN.Jbg. The court declared that the perpetrator/defendant was proven guilty beyond reasonable doubt of violating Article 310 paragraph (4) of the UULLAJ, and imposed a sentence of one year of imprisonment.

Prior studies have examined related aspects of this subject from distinct perspectives. Sinaga et al. addressed criminal liability in traffic accident cases resulting in death under Article 310 paragraph (4) of the Road Traffic and Transport Law, yet the study did not extend its analysis to restorative justice as a potential avenue for case resolution.⁸ Separately, Ramadhani and Suyatna investigated the application of Police Regulation No. 8 of 2021 within the jurisdiction of Jember Regency, though their inquiry was confined to a single jurisdiction and did not situate

⁶ Tony E. Marshall, *Restorative Justice: An Overview* (London: Research Development and Statistics Directorate, 1999).

⁷ Kepolisian Negara Republik Indonesia Indonesia, “Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif” (Jakarta, September 20, 2021), <https://peraturan.bpk.go.id/Details/225020/perpol-no-8-tahun-2021>.

⁸ Angelina Cinthia Diana Sinaga, Hulman Panjaitan, and Lonna Yohanes Lengkong, “PERTANGGUNGJAWABAN PIDANA TERHADAP PENGENDARA YANG MENGAKIBATKAN KEMATIAN PADA KECELAKAAN LALU LINTAS,” *Honeste Vivere* 33, no. 1 (January 16, 2023): 1–14, <https://doi.org/10.55809/HV.V33I1.168>.

its findings alongside formal sentencing decisions carrying binding legal force.⁹ Both studies address either criminal liability or restorative justice in isolation, a substantive gap appear in the literature that no study has undertaken a simultaneous comparative analysis of both the formal criminal justice pathway and the restorative justice mechanism as applied to a single, concrete case, particularly within the jurisdiction of the East Java Regional Police. The present study addresses this gap by examining Decision Number 152/Pid.Sus/2024/PN.Jbg. as its primary object of inquiry.

Based on the foregoing background, a legal issue emerges in which, on one hand, traffic accident cases may be resolved through restorative justice, a process by which the parties concerned in a particular offense come together to collectively determine how to address the consequences of that offense in the interest of their shared future, as provided under Perkap No. 8/2021, while on the other hand, such cases may be resolved through criminal court proceedings. This article examines the resolution of traffic accident cases within the jurisdiction of the East Java Regional Police.

LITERATURE REVIEW

Traffic Accidents: Concept and Legal Framework

Criminal offenses arising from negligence that result in accidents are addressed under Article 359 of the Criminal Code (KUHP). This provision determines the legal fate of a perpetrator whose negligence in causing an accident leads to the death of another person, under which the perpetrator is subject to a maximum sentence of five years of imprisonment or a maximum of one year of detention.¹⁰ Criminal law recognizes two forms of fault as prerequisites for criminal liability, namely intention (*dolus*) and negligence (*culpa*). Between these two forms, culpable fault carries a lesser degree of criminal liability than intentional fault. Both forms constitute the basis for criminal accountability in traffic accident cases. The application of Article 359 of the KUHP in the context of traffic accidents has evolved in line with developments in law enforcement, with courts in several recent decisions tending to consider factors such as the conduct of the victim and road conditions as mitigating or aggravating circumstances.¹¹

Restorative Justice in the Resolution of Traffic Accident Cases

⁹ Fandika Wahyu Ramadhani and Suyatna Suyatna, "Penerapan Restorative Justice Dalam Kecelakaan Lalu Lintas Berdasarkan Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 Tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif," *Indonesian Journal of Law and Justice* 1, no. 4 (February 12, 2024): 9–9, <https://doi.org/10.47134/IJLJ.V1I4.2185>.

¹⁰ Soesilo R., *Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal* (Bogor : Politeia, 1996), <https://jdih.bpip.go.id/dokumen/view?id=898>.

¹¹ Andi Hamzah, *Hukum Acara Pidana Indonesia*, 2nd ed. (Jakarta Timur: Sinar Grafika, 2022).

Restorative justice is a process that involves all parties affected by a criminal act, particularly for the purpose of collectively determining how to address the consequences of that act and its implications for the future. Howard Zehr, in his work, describes restorative justice as a process of engaging all interested parties in a given case to collectively address the harm caused and to restore the situation as equitably as possible.³ The resolution of criminal cases through this approach involves the perpetrator, the victim, the families of both parties, and other relevant stakeholders working together to reach a just resolution, with emphasis placed on the restoration of the prior state of affairs rather than retribution. This process does not require substantial costs, time, or effort, and offers protection to both the victim and the perpetrator.¹²

From the foregoing definitions, it can be concluded that the resolution of a criminal act through restorative justice places primary emphasis on reaching an agreement among the parties to the dispute, with a view toward the future. Restorative justice aims to empower victims, perpetrators, families, and communities to address unlawful conduct through awareness and moral reflection as the foundation for rebuilding communal life.¹³

RESEARCH METHODOLOGY

This study is an empirical legal research that takes as its starting point the statutory provisions governing traffic accidents, which are then analyzed against the factual conditions occurring within society.¹⁴ The method employed is a socio-legal approach, combining normative analysis with an examination of social reality.¹⁵

The research was conducted within the jurisdiction of the East Java Regional Police (Polda Jatim), on the consideration that, since the enactment of Police Regulation Number 8 of 2021, this region has begun implementing restorative justice-based resolution of traffic criminal offenses. The data collected comprises both primary and secondary data. Primary data were obtained through direct interviews and field observation, specifically through in-depth interviews with Bripka Arizal Eka Firmasyah conducted between 2023 and 2024. Secondary data were derived from legal

¹² Moh. Supriyadi et al., "Penerapan Asas Restorative Justice Dalam Penyelesaian Perkara Tindak Pidana Penipuan Dan Penggelapan Jual Beli Get Arisan Online Berdasarkan Laporan Polisi Nomor: Lp-B/165/IV/Res.1.11./2021/Satreskrim/Spkt Polres Pamekasan," *Jurnal Yustitia* 24, no. 2 (December 18, 2023), <https://doi.org/10.53712/YUSTITIA.V24I2.2182>.

¹³ Ratna Sary Gayatri and Sulistyanta Sulistyanta, "Penyelesaian Tindak Pidana Penipuan Melalui Pendekatan Restorative Justice Di Kepolisian Resor Purworejo," *Hakim: Jurnal Ilmu Hukum Dan Sosial* 2, no. 2 (March 25, 2024): 337–49, <https://doi.org/10.51903/HAKIM.V2I2.1826>.

¹⁴ Muhaimin Muhaimin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

¹⁵ Muhaimin, *Metode Penelitian Hukum*.

materials relevant to the subject matter, including the UULLAJ, the KUHP, and Perkap No. 8/2021.¹⁶

All collected data were analyzed qualitatively using the descriptive-analytical method, whereby empirical facts gathered in the field were described and subsequently analyzed systematically within the applicable legal framework.¹⁷ Data validity was ensured through source triangulation, a technique involving the comparison and cross-referencing of data obtained from interviews, field observation, and document review to verify the consistency and credibility of the findings.¹⁸

RESULT AND DISCUSSION

The Anatomy of Traffic Accidents in the East Java Regional Police Jurisdiction

According to Bripka Arizal Eka Firmasyah, as conveyed during interviews conducted with the researchers between 2023 and 2024, the East Java Regional Police (Polda Jatim) handles thousands of road traffic accident cases through various resolution mechanisms. Throughout 2023, a total of 28.302 traffic accident cases were recorded within the jurisdiction of Polda Jatim.¹⁹

Bripka Arizal further noted that 246 cases, representing approximately 0.8%, were resolved through the P21 mechanism, meaning that the case files were declared complete and forwarded to the prosecutor's office for court proceedings pursuant to Article 8 paragraph (3) of the Criminal Procedure Code (KUHAP). In accordance with that provision, once a case is declared P21, the investigator transfers responsibility for the suspect and evidence to the public prosecutor, who then proceeds to the prosecution stage before the court.²⁰

In addition, 2.205 cases, or approximately 8%, had their investigations terminated through the issuance of an Order for the Termination of Investigation or known as SP3. An SP3 is issued when there is insufficient evidence, when the reported incident does not constitute a criminal offense, or when there are other legal grounds for terminating the investigation, as governed by Article 109 paragraph (2) of the KUHAP. In this context, a portion of such SP3 orders were also issued under a restorative justice approach, aimed at achieving peaceful resolution through mediation between the perpetrator and the victim, with community involvement.²¹

¹⁶ Nur Solikin, *Pengantar Metodologi Penelitian Hukum* (Pasuruan: Penerbit Qiara Media, 2021).

¹⁷ Muhaimin, *Metode Penelitian Hukum*.

¹⁸ Sugiyono Sugiyono, *Metode Penelitian : Kuantitatif, Kualitatif, Dan R&D*, 27th ed. (Bandung: Alfabeta, 2022).

¹⁹ Wawancara Dengan Bripka Arizal Eka Firmansyah Di Polda Jawa Timur, 2024

²⁰ "Wawancara Dengan Bripka Arizal Eka Firmansyah Di Polda Jawa Timur."

²¹ Azizul Hakiki, "Surat Perintah Penghentian Penyidikan (SP3) Yang Diterbitkan Berdasarkan Perdamaian Antara Tersangka Dan Pelapor Dalam Delik Biasa," *Jurnal Riset Rumpun Ilmu Sosial, Politik Dan Humaniora* 1, no. 2 (June 10, 2022): 12–22, <https://doi.org/10.55606/JURRISH.V1I2.113>.

The restorative justice-based SP3 has become an important instrument in efforts to prioritize recovery, restore relations among the parties involved, and reduce the burden on the conventional criminal justice system. This approach is applied only in specific types of cases, such as minor criminal offenses, cases involving children or women, or cases amenable to amicable settlement.

Furthermore, 45 cases, or 0.2%, were followed up with the issuance of a DVSI (*Dokumen Visum et Repertum*), a medico-legal document resulting from an examination of the victim, typically issued in cases involving violence or physical injury. The DVSI serves as evidentiary material in investigation and court proceedings.²² The majority of cases, totaling 25.866 or approximately 91%, were resolved through restorative justice-based SP3 orders. This indicates that the non-litigative approach has increasingly become the preferred mechanism for handling traffic accident cases within the Polda Jatim jurisdiction, in alignment with the spirit of Police Regulation Number 8 of 2021.

Entering 2024, the number of traffic accident cases declined by 10%, with a total of 25.617 cases recorded, a reduction of 2.745 cases compared to the preceding year. The case resolution patterns for that year reflected a broadly similar trend. A total of 222 cases (0.8%) were resolved through the P21 mechanism, indicating the completeness of case files and readiness for judicial proceedings. Meanwhile, 2.293 cases (9%) were terminated through SP3 on legal grounds or due to insufficient evidence. A total of 55 cases (0.2%) involved the issuance of DVSI documents for medico-legal purposes. The majority, comprising 23.047 cases or 90%, were again resolved through the restorative justice approach via the issuance of restorative justice-based SP3 orders.

Taken together, these figures reflect a paradigm shift in the handling of traffic offenses, moving away from a repressive orientation toward a more humanistic and solution-oriented approach that emphasizes restoration, justice, and the participation of all parties involved. This approach is expected not only to resolve legal disputes but also to strengthen social relations and enhance public trust in law enforcement institutions.

Between 2023 and 2024, the vast majority of traffic accident criminal cases were resolved through restorative justice, with the proportion consistently exceeding 90%. This demonstrates that the capacity of Polda Jatim in resolving road traffic criminal offenses is well-aligned with the intent of the applicable regulatory framework, as set out in Article 10 of Perkap No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. Consistent with the directives on resolving road traffic offenses under Perkap No. 8/2021, the Indonesian National Police

²² “Wawancara Dengan Bripka Arizal Eka Firmansyah Di Polda Jawa Timur.”

is called upon to pursue criminal case resolution that prioritizes restorative justice, emphasizing the restoration of the prior state of affairs and a balanced protection of the interests of both victims and perpetrators, without being oriented toward punitive measures. This constitutes a genuine legal need within society, except in cases where traffic accident victims sustain serious injury or death.²³

Litigation: An Analysis of Decision No. 152/Pid.Sus/2024/PN.Jbg

With regard to criminal proceedings in traffic accident cases that are excluded from restorative justice resolution, the following case is illustrative. The matter was resolved before the Jombang District Court, with the defendant being Yanto bin Sarji, a resident of Bojonegoro, aged 30 years, male, and employed as a private sector worker. The criminal was investigated by the Traffic Unit of the Jombang Police (Polri) within the jurisdiction of the Jombang District Court. On 24 May 2024, while driving a tourist bus under Dimas Rio Ltd. The defendant, through his negligence, caused the bus to be involved in an accident. As a result, at least two victims named Edi Kresna Handaka and Edi Sulistiono died. The Jombang Police investigators charged Yanto with committing a criminal offense in violation of Article 310 paragraphs (4) and (2) of the UULLAJ in conjunction with Article 222 paragraph (1) of the KUHAP, on the grounds that his negligence in operating a motor vehicle caused a traffic accident resulting in the death of another person, bodily injuries to others, and damage to vehicles.²⁴

The Jombang District Court, in Decision No. 152/Pid.Sus/2024/PN.Jbg., declared that the defendant was proven guilty beyond reasonable doubt of committing a criminal offense in violation of Article 310 paragraph (4) of the UULLAJ, and imposed a sentence of one year of imprisonment. The decision acquired permanent legal force, as Yanto, as the convicted party, did not file an appeal or a cassation petition.²⁵

Refer to the provisions of Article 13 in conjunction with Article 14 of Law No. 2 of 2002, the duties and authority of the Indonesian National Police include maintaining public security and order. In carrying out its primary functions, the Police are responsible for regulation, supervision, escort duties, and the organization of all activities necessary to ensure security, order, and the smooth flow of road traffic. The Police, particularly the traffic division, in handling traffic accident criminal cases, refer to Article 10 of Perkap No. 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice, which stipulates that the specific requirements for traffic criminal offenses include: traffic accidents caused by operating a motor vehicle in a

²³ “Wawancara Dengan Bripka Arizal Eka Firmansyah Di Polda Jawa Timur.”

²⁴ M Karjadi and R. Soesilo, *Kitab Undang-Undang Hukum Acara Pidana (KUHAP) Dengan Penjelasan Resmi Dan Komentar.*, 2nd ed., 1988.

²⁵ “152/Pid.Sus/2024/PN Jbg” (Jombang, July 9, 2024), https://sipp.pn-jombang.go.id/index.php/detil_perkara.

dangerous manner or under dangerous conditions that result in material losses and/or minor physical injuries to victims; or traffic accidents resulting from negligence that cause human casualties and/or property losses.²⁶

In relation to the case of Yanto bin Sarji, a bus driver whose negligence caused an accident resulting in the death of a victim, the investigators charged the defendant with a single count of violating Article 310 of the UULLAJ, and the case was subsequently forwarded to the Jombang District Prosecutor's Office. This signifies that the investigator did not issue an SP3. The SP3, which stands for Surat Perintah Penghentian Penyidikan (Order for the Termination of Investigation), is a document issued by the investigator to the public prosecutor to notify that the investigation into a particular individual has been terminated. An SP3 is issued when the investigation reveals insufficient evidence, when the reported or complained-of incident does not constitute a criminal offense, or when the investigation must be discontinued by operation of law. In such cases, the investigator may terminate the investigation by issuing either a SP3, and must promptly notify the public prosecutor accordingly, pursuant to Article 109 of the KUHAP.

The foregoing indicates that, in proceeding through criminal court processes, the investigator chose not to resolve the matter outside the courtroom through restorative justice in the form of an official notification from the investigator to the public prosecutor declaring the termination of the investigation. Restorative justice, as an approach to criminal case resolution, places greater emphasis on restoring relations among the perpetrator, the victim, and the community, while avoiding the imposition of severe criminal sanctions.

The Role of the Police in Handling Traffic Accidents within the Polda Jatim Jurisdiction

The Traffic Unit (Satuan Lalu Lintas or Satlantas) holds a dual function in the handling of traffic accidents, serving simultaneously as a law enforcement body and as the investigating authority. This role encompasses the functions of regulation, supervision, law enforcement, and road safety education, as provided under Law No. 2 of 2002. In its investigative capacity, the Chief of Police Letter No. B/3022/XII/2009/SDEOPS serves as a guideline directing investigators to apply alternative case resolution mechanisms prior to resorting to criminal proceedings.²⁷

²⁶ Muhammad Zainuddin, Zakki Mubarak, and Rielia Darma Bachriani, "POLITIK HUKUM RESTORATIVE JUSTICE DALAM PEMBAHARUAN HUKUM PIDANA DI INDONESIA," *Semarang Law Review (SLR)* 3, no. 1 (April 27, 2022): 120–29, <https://doi.org/10.26623/SLR.V3I1.5050>.

²⁷ Ramadhi Kurniawan, "DISKRESI KEPOLISIAN DALAM PENYELESAIAN PERKARA KECELAKAAN LALU LINTAS MELALUI MEDIASI PENAL | Unes Journal of Swara Justisia," *Unes Journal of Swara Justisia* 2, no. 3 (2018): 1–10, <https://swarajustisia.unespadaang.ac.id/index.php/UJSJ/article/view/72>.

The selection of a case resolution mechanism in traffic accident cases, whether litigation or restorative justice, is determined by the characteristics of the individual case. Restorative justice may be applied in accident cases on the basis of mutual agreement between the parties, provided that both the substantive and procedural requirements are satisfied simultaneously. If either set of requirements is not met, resolution through the restorative justice system cannot be pursued.²⁸ In practice, however, the principal obstacle is the difficulty of reaching agreement between the families of the perpetrator and the victim, a challenge shaped by legal factors, law enforcement considerations, and broader social and cultural dynamics.²⁹

CONCLUSION

The handling of traffic accident crimes in Indonesia reflects a fundamental tension between conventional litigation and restorative justice approaches. Empirical data drawn from the jurisdiction of the East Java Regional Police (Polda Jatim) indicates that over 90 percent of traffic accident cases recorded in 2023 and 2024 were resolved through restorative justice mechanisms in the form of SP3 issuance. This pattern signals a broader paradigmatic shift in law enforcement, moving away from punitive orientations toward more humanistic and solution-driven responses that prioritize the restoration of relations among offenders, victims, and the wider community, as mandated under Police Regulation No. 8 of 2021. Such a trajectory is consistent with the three foundational values of law advanced by Gustav Radbruch, namely justice, utility, and legal certainty, while simultaneously addressing the practical legal needs of a society that increasingly demands efficient and equitable dispute resolution.

That said, restorative justice cannot be applied indiscriminately across all case categories. Traffic accident cases resulting in fatalities or serious injury, as demonstrated by the Jombang District Court Decision No. 152/Pid.Sus/2024, remain subject to formal criminal proceedings under Article 310 paragraph (4) of the Traffic Law, reflecting the continued relevance of proportional criminal accountability. Beyond legal thresholds, practical obstacles, particularly the difficulty in reaching mutual agreement between the parties involved, further constrain the broader application of restorative justice in field practice. Accordingly, structured coordination

²⁸Derby Deromero et al., “Implementasi Konsep Restorative Justice Terhadap Pertanggungjawaban Pidana Dalam Pengendalian Kecelakaan Lalu Lintas Ditinjau Dari Perspektif Keadilan Restoratif,” *Indonesian Journal of Law and Justice* 1, no. 4 (June 25, 2024): 7–7, <https://doi.org/10.47134/IJLJ.V1I4.2784>.

²⁹ Muhamad Sidiq et al., “PENYELESAIAN KECELAKAAN LALU LINTAS YANG MENGAKIBATKAN KORBAN MENINGGAL DUNIA DENGAN PENDEKATAN RESTORATIVE JUSTICE,” *Kajian Hasil Penelitian Hukum* 7, no. 1 (July 8, 2023): 110–24, <https://doi.org/10.37159/JMIH.V7I1.3031>.

among regulatory frameworks, investigator capacity, and public legal awareness is necessary to ensure that both mechanisms function in a complementary manner, ultimately delivering legal certainty grounded in substantive justice.

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