

Juridical Study on the Implementation of Restorative Justice by the South Central Timor Police on Traffic Violations

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Abstract: This research was carried out to further explain to the public about the existence of a problem-solving process outside the court (restorative justice) carried out by the Police against traffic violators that resulted in property damage. Restorative Justice is a series of out-of-court criminal settlement processes that aim to restore the relationship between the parties and the losses suffered by crime victims, restoring this relationship can be based on mutual agreement between the victim and the perpetrator. Traffic violations that result in damage to goods can be resolved through restorative justice, known as the mediation process, without any legal route taken. Restorative Justice at the Traffic Unit of the South Central Timor Police is based on a legal reference to the letter of the Chief of Police No. Pol B / 3022 / xii / 2009 / SDEOPS dated 14 December 2009, regarding alternative dispute resolution whereas a traffic police mediator gives authority to the perpetrator and victim in mediation. For the sake of creating certainty of legal benefits and justice. The targeted outputs include accredited national journal publications and socialization and local scientific meetings.

Keywords: goods, traffic violations, restorative justice, juridical

Introduction

The progress of the times in the field of Science and Technology provides facilities to facilitate the community in meeting their daily needs, one of which is transportation. The means of transportation develop based on the quota of usage and usage. Along with the development, there are still many problems between the stability of the community and transportation, such as congestion, damaged road conditions, minimal awareness of driving safety, and lack of strict supervision from related parties. From this aspect, the traffic accident rate still needs to be suppressed. According to article 1, paragraph 24 of the Republic of Indonesia Law No. 22 of 2009, namely, traffic accidents are road events that are not suspected and are suspected of involving human victims and property losses [1].

According to a general understanding, a traffic accident is an unexpected and unintentional event involving a vehicle with or other road users who leave the human victim with minor injuries, serious injuries, death and property loss. In the settlement process that is pursued through legal channels, mistakes made by the perpetrator shall be subject to criminal sanctions in accordance with the applicable regulations, which in turn will be subject to sanctions in the form of imprisonment. Apart from that, seen from the social aspect, human habits in solving problems from the past are not always through legal channels. The victim and the perpetrator are brought together by a third party, in this case, to resolve or negotiate in a family manner on condition that the loss suffered by the victim and his family is borne by the perpetrator. In this process, seen from the legal aspect, the meeting between the victim and the perpetrator in a family manner is also known as Restorative Justice.

Justice which is based between the perpetrator, the victim and the community is the ethical-moral of restorative justice; therefore, justice is said to be the "just peace principle". This principle reminds us that justice and peace are basically inseparable. Peace without justice is oppression, justice without Justice. Peace is a new form of persecution [2], this effort aims to bring together victims, perpetrators and the community. Accidents caused by the negligence of road users will create a new problem for both the victim and the perpetrator where the victim experiences material loss in the form of damage to property, namely vehicles that harm him and the perpetrator experiences social pressure from a legal aspect because the violation he committed has a bad impact. So in the settlement process an agreement is needed between the two parties through the intermediary of the related parties, to reach an agreement, if both parties do not want a legal solution to the problems that occur in traffic violations, the author feels interested in analyzing, so there is a difference in legal review, and the

solution is by choosing the title of a juridical review of the application of restorative justice against the perpetrators of traffic violations that cause damage to goods.

Based on the above background, the formulation of the problem under study is how the process of resolving traffic violations that cause damage to goods by using the application of restorative justice seen from a juridical aspect? While the purpose of the research is to determine the process of resolving traffic violations that cause damage to goods by using restorative applications. Justice is seen from a juridical aspect.

Research Method

This study uses empirical legal research, which is research in which data is directly taken from the field through interviews. This research was conducted using a sociological juridical research method that examines what lies behind the appearance of the application of laws and regulations. Primary data is data obtained primarily from the results of empirical research, namely research conducted directly in the community. Secondary data, namely data obtained from the results of literature review on various literature, or library materials related to the problem or research material.

Results and Discussion

Restorative Justice

Restorative justice, which in Indonesian translation is called restoration justice. Restoration Justice is the settlement of criminal cases by involving perpetrators, victims, families of perpetrators/victims, and other related parties to jointly seek a fair solution by emphasizing restoration back to the original state, and not retaliation"[3].

In principle, Restorative Justice is a philosophy (basic guidelines) in the peace process outside the court by using mediation or deliberation to achieve the justice expected by the parties involved in the crime, namely the perpetrator of the criminal act (his family) and the victim of a criminal act (family) to find the best solution agreed upon and agreed upon by the parties. Restorative justice is said to be a philosophy (basic guidelines) in achieving justice that is carried out by parties outside the court because it is the basis for the peace process for the perpetrator of the criminal act (his family) and the victim (his family) due to the emergence of victims/losses from the criminal act [4].

The out-of-court problem-solving efforts carried out by the criminal offender (his family) and the victim of a criminal act (his family) are expected to be the basis for consideration in the process of examining the criminal in court in imposing criminal sanctions by the judge/panel of judges So it can be interpreted that Restorative Justice is a series of processes for solving criminal problems outside the court that aim to restore the relationship of the parties and the losses suffered by crime victims and are expected to be used as a basis for consideration for the judges of the criminal court in reducing sanctions. Penalties imposed on the perpetrators of these crimes. Restorative. Justice in criminal law should aim to restore the situation before a crime occurred. When there are people who violate the law, the situation will change. So that is where the role of law is to protect the rights of every crime victim [4].

In the conventional criminal justice process, restitution or compensation for victims is known, while restoration has a broader meaning. Restoration includes restoring the relationship between the victim and the perpetrator. This rapprochement can be based on mutual agreement between the victim and the perpetrator. The victim can convey about the losses they have suffered, and the perpetrator is given the opportunity to atone for it, through compensation, peace, social work, and other agreements. Why is this important? Because the conventional criminal process does not provide room for parties involved in violations of criminal law, in this case, the perpetrators of criminal acts and victims of these crimes to actively participate in conducting mediation/deliberation in solving their problems outside the court. Every indication of a criminal act, regardless of the escalation of the act, will continue to be rolled into the realm of law enforcement, which is only the jurisdiction of law enforcers. Active participation from the community does not seem to be important anymore; everything only comes down to a punishment (imposition of criminal sanctions) without seeing any restorative justice that has been carried out and agreed upon by the parties [4].

It is time for the philosophy of Restorative Justice to be considered in the criminal law implementation system and included in the new Criminal Law Regulations (KUHP), especially for criminal complaint offences (Klacht delict) so that the emphasis is on the conditions of creating justice and a balance of legal treatment of perpetrators. Crimes and victims of criminal acts can be appropriately achieved, without always using criminal sanctions (imprisonment) in their final solutions. Due to the deterrent effect as the ultimate goal of punishment (imprisonment), the perpetrators of criminal acts are no longer achieving their targets as expected. There needs to be a breakthrough in the implementation of the criminal system in Indonesia, not only through imprisonment but also through application Restorative Justice[4].

The forms of restorative justice that exist and are used to date are [5]:

- a) Victim Offender Mediation (VOM) A meeting between the victim and the perpetrator led by a mediator. VOM originally originated in Canada as part of an alternative court sanction.
- b) Family Grup Conferencing (FGC) FGC participants are wider than VOM. FGC involves nuclear family, friends and experts in addition to the perpetrators and victims. FGC is often used in cases committed by children. This program is used by Australia and New Zealand. In Brazil, such a program is called Restorative Conferencing (RC).
- c) Community Restorative Boards (CRB) CRB is a panel or institution consisting of people who have been trained to negotiate in solving problems. Here the victim meets the perpetrator and the panellists to discuss the problem and its solution within a certain period of time. If no agreement is reached within that time, the panel will delegate it to the court or Police. This is common in England and in Wales.
- d) Restorative Circles 18 Is a forum consisting of family and friends to support prisoners in order to socialize with the community. This system is widely used in Hawaii.

Traffic Violations

Offence

According to the Big Indonesian Dictionary, violation comes from the word "langgar" which means a place of worship, crash, fight, landa, "violate" means to hit, violate, fight, attack, hit, or hit. "Violation" means an offence, or a crime that is less severe than a crime [6]. According to Rusdi Effendy and Ny. Poppy Andi Lolo (Harry Waeharima, 2011) argues that: Violation is a statutory offence (wetsdelicten), that is, an act that is against the law can only be known after the law that regulates it [7].

Actions deemed to be violating can lead to an unlawful nature even though the act creates an act against the law but cannot be declared as a form of violation before they are regulated in statutory regulations.

Traffic

According to Law of the Republic of Indonesia Number 22 of 2009 concerning road traffic and transportation, article 1 paragraph 2 states that traffic is the movement of vehicles and people in the road traffic space [1]. According to W.J.S Porwodarmito (1976: 164) that traffic is: travel back and forth, about travel and so on, and transportation between a place [8].

According to M. Marwan and Jimmy.P (2009: 236) the term traffic is defined as the movement of vehicles, people and animals on the roadside [9].

Traffic violations

Judging from the understanding of violations and traffic, it can be interpreted that a traffic violation is an act that is contrary to the provisions of the traffic laws. The violations referred to above are as regulated in Article 105 of Law Number 22 of 2009 which reads:

Everyone using the Mandatory Road [1]:

- Behave in an orderly manner; and / or
- Prevent things that can obstruct, endanger the safety and security of traffic and road transportation, or which may cause road damage.

In terms of the form of traffic violations, it can be divided into[10]:

- Standing violations, such as violations of parking prohibition signs.
- Moving traffic violations (moving violations) for example exceeding the speed limit, exceeding load capacity and so on.

If viewed from the consequences of traffic violations, it can be divided into [10]:

- Violations that give rise to traffic accidents such as overloading people or goods, exceeding speed.
- Violations that do not lead to traffic accidents, for example, not carrying complete documents during traffic, violations of parking prohibition signs and so on.

Traffic Violations that Result in Damage to Goods

Article 310 paragraph 1 of the Law of the Republic of Indonesia concerning Traffic and Road Transportation: Any person driving a Motor Vehicle which due to his negligence results in a Traffic Accident with damage to the vehicle and/or goods as referred to in Article 229 paragraph 2, shall be punished with imprisonment of a maximum of 6 (six) months and / or a maximum fine of IDR 1,000,000.00 (one million rupiah) [1]. Judging from the Article above, it can be seen that apart from the consequences of violations arising

from traffic violations in the form of loss of life of people, there is damage to goods or vehicles. In relation to the settlement, the community is still dominant with the settlement of non-litigation pathways in the form of mediation between related parties to seek joint solutions to related problems, the process being pursued is ongoing, namely legal reform, namely restorative justice.

Settlement of Traffic Violations that cause Damage to Goods through Restorative Justice

There are many problems related to law violations, ranging from minor to serious ones. Minor violations that often occur in traffic problems include not wearing a helmet, running a red light, not having a driver's license or vehicle registration certificate, not turning on the lights during the day, and a triple pillion. Traffic violations like that are considered to have become a habit for road users so that every time an orderly operation is carried out on the highway by the authorities, there are still many cases of traffic violations mentioned above and often because these violations often cause traffic accidents cross.

Mediation as a manifestation of restorative justice is in traffic accident cases where the victim and the suspect still have family relations. Whereas the relationship between mediation and restorative justice is that both use a justice approach that focuses on the needs of victims, criminals, and also involves community participation. Mediation as an alternative in the criminal justice system in traffic accident cases where the victim and suspect still have family relations is very much needed and even very necessary, because [11]:

1. It is hoped that it can reduce the buildup of cases.
2. Is a dispute resolution process that is considered faster, cheaper and simpler
3. Can provide the widest possible access to the disputing parties to obtain justice
4. Can provide the widest possible access to the disputing parties to obtain justice
5. Strengthening and maximizing the functions of court institutions and dispute resolution in addition to the process of dropping punishment.

Legal certainty contains two definitions, namely, first, the existence of general rules that make individuals know what actions are allowed or not to be done, and second, in the form of legal security for individuals from government abuse because with these general rules individuals can know anything, which may be imposed by the state on individuals [12].

In making decisions, the traffic police are not only bound by facts and legal principles that form the juridical basis of their decisions but determining the facts at the scene of the incident case is also used as a basis for resolving the cases they face. This means that the traffic police in carrying out their duties must be aware of responsibility because the decision can have a direct effect on the lives of the people who are affected by the extent of its application of the decision.

Conflicts or disputes in people's lives today have been and will continue to be a common phenomenon in society, whether those related to two individuals or more. This situation will be more difficult if all conflicts, disputes or disputes are processed legally by the judiciary; therefore, it is necessary to look for other efforts outside the existing criminal justice procedure but still get justice and problem solving, especially for victims as parties who most disadvantaged. One form of solution offered is the settlement process in the context of restorative justice where the principle or system in this approach model is that justice must be able to correct the perpetrator's mistakes and return the losses suffered by the victim by presenting the families of both parties to actively participate in solving the case so that a solution is obtained. Best so that there is no grudge between the two parties.

The law must have direct or indirect benefits meaning, the law must be beneficial not only for the person concerned, namely the perpetrator, victim and victim's family and the perpetrator's family, but it is hoped that the law applied to the perpetrator and victim can also provide benefits to society, namely such as giving effect deterrent or afraid to commit the crime and provide a sense of security for the community. In one of the known legal principles, *lex specialis derogat legi generalis*, states that specific laws override general laws, this is the basis for traffic accidents to be declared as a form of special act or criminal act because it is regulated in the form of law—legislation outside the Criminal Code.

Article 14 letter "f" of the Regulation of the Head of the National Police of the Republic of Indonesia Number 7 of 2008 explains that the application of the Alternative Dispute Resolution (ADR) concept (patterns of solving social problems through alternative channels that are more effective in the form of efforts to neutralize problems other than through legal or non-litigation processes), for example through peace efforts [13].

In the Letter of the Chief of Police No. Pol .: B / 3022 / XII / 2009 / SdeOps dated 14 December 2009 which was then followed up with a Telegram Letter from Kabareskrim Number: ST / 110 / V / 2011, stipulating that one form of social problem-solving pattern is through alternative channels, including through efforts to

settle cases out of court by applying the concept of Alternative Dispute Resolution (ADR), which is applied with principles [14]:

1. Prioritizing deliberation and consensus.
2. Prioritizing deliberation and consensus.
3. Respect local wisdom/culture/customs, as well as local social institutions.
4. Involve existing social institutions in the community, such as community leaders, religious leaders, traditional leaders, village heads, RW heads, RT heads, and others.
5. Prioritizing the implementation of the Community Policing Strategy.
6. Decisions in case settlement are left to the parties in dispute (perpetrators and victims) with social/customary sanctions.
7. Perpetrators of criminal acts are responsible for and repair and compensate for losses arising from their actions/mistakes.
8. In the settlement, there is no interest from other parties such as the Police, community leaders, and so on.
9. Pay attention to the ultimatum remedium azas.

Settlement of cases with the application of Alternative Dispute Resolution is carried out on conditions [14]:

1. A criminal act that is resolved is a criminal offence of a minor nature or a criminal offence which constitutes an offence of complaint, either absolute/relative.
2. There is a desire on the part of the litigant parties (perpetrators and victims) to make peace and the consequences of these problems do not have a broad/negative impact on people's lives.
3. Activities of a reconciliation nature must be carried out by bringing together the parties in the case and involving social institutions such as local community leaders.
4. In resolving a case, it is necessary to pay attention to the factors of intention, age, socio-economic conditions, the level of losses incurred, family/kinship relations and not a recurring act (recidivist).
5. If the action begins with an agreement / engagement (leading to civil).
6. The victim must withdraw the report/complaint.
7. If there is dissatisfaction between the parties in the case after it is done outside the court mechanism, a settlement will be made in accordance with the applicable legal procedures.
8. If a criminal act is repeated, a legal process must be carried out in accordance with the applicable laws/regulations.

From the explanation above, it is explained that the concept of the restorative justice approach is regulated even though it is outside of Law No. 22 of 2009 concerning Road Traffic and Transportation, and the traffic police is obliged to implement it.

Settlement of traffic accident cases is also regulated in Article 61 of the National Police Regulation No. 15 of 2013, namely by providing compensation [15]:

1. Determination and payment of compensation for Material Damage resulting from a Traffic Accident can be resolved through an out-of-court process.
2. The settlement of the determination and payment of compensation for Material Damage as referred to in paragraph 1 shall be carried out by direct deliberation between the parties involved in the Traffic Accident.
3. The process of settling material compensation is prohibited from involving investigators/assistant investigators.

Article 63 National Police Regulation No. 15 of 2013 explains that [15]:

1. The obligation to compensate for damages occurs in an amicable agreement between the parties involved in a traffic accident, to settle the case outside the court.
2. The peace agreement between the parties involved in a traffic accident is stated in a peace agreement statement letter.
3. Settlement of cases outside the court session as referred to in paragraph (2) can be carried out as long as the police report has not been made.
4. In a minor traffic accident case, if the elements of the criminal act are fulfilled, and there is no peace agreement between the parties involved in a traffic accident, then the settlement of the case is settled by a short procedure.
5. Settlement of cases outside the court session as referred to in paragraph 2 must be registered and a peace agreement statement letter filed.

Field Data

The results of the author's research in the field related to the application of restorative justice against perpetrators of traffic violations at the South Central Timor Police which caused damage to property, obtained data on traffic accidents in the Legal area of the TTS Police as follows:

Table 1. Data Sources for the Accident of the South Central Timor Police in 2019

No.	Month	Amount Accident	Vehicle		Victim	Settlement Non-judicial Mediation /
			R 2	R 4	Minor Injuries	
1	January	29	41	6	37	15
	February 2	26	38	7	44	24
	March 3	29	24	11	50	27
	April 4	31	41	7	44	20
	May 5	36	49	8	48	30
	June 6	39	54	11	63	31
	July 7	22	27	3	28	19
8	Agust	38	51	4	63	32
9	September	32	41	7	31	27
	October 10	32	40	7	47	24
	November 11	30	42	5	45	26
	December 12	33	40	8	43	34
Amount		377	488	84	543	309

Based on the data table obtained by the researcher at the time of conducting the research, traffic violations can be said that the reference to violations that occurred in South Central Timor is based on the Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation article 310 paragraph 1 where it says 'Everyone who drives a Motor Vehicle which due to negligence results in a Traffic Accident with damage to the vehicle and / or goods as referred to in Article 229 paragraph (2), shall be punished with a maximum imprisonment of 6 (six) months and/or a maximum fine of 1. 000,000.00 (one million rupiah) [15]

Table 2. Researchers' processed data on traffic violations

No.	Month	Amount Accident	Violating Article 310 Paragraph 1 of the UULAJ	Goods Damage	Non-Judicial Mediation Settlement Forms /
				Wheels 2 & Wheels 4	
	October 1	32	24	47	24
	November 2	30	26	47	26
	December 3	33	30	48	30
Amount		95	80	142	80

The results of the interview of the author with the Head of an accident then the South Central Timor Police (AIPDA I WAYAN WIJANA, SH. NRP 82060349) found traffic violations that caused damage to goods in the form of restorative justice/mediation settlement. Based on the processed table 2, it can be explained that in October, November, December 2019, there were 95 accidents that occurred in the jurisdiction of the Traffic Unit of the South Central Timor Police. Eighty traffic violations were found in Article 310 paragraph 1 of Law of the Republic of Indonesia No 22 of 2009 involving 142 vehicles, both 2-wheeled and 4-wheeled, were involved. In the form of settlement, it is carried out non-judicially in the form of mediation between the perpetrator and the victim in order to create a consensus.

From this general explanation, the researchers took one sample of violations where on 14 November 2019 at 15:45 WITA there was an accident caused by traffic violations, which involved a 2-wheeled vehicle Supra X 125 No Pol DH 2743 VA, a driver with the initials SS, a student of a school continued to the first level in south-central Timor with a Suzuki smash motorbike No Pol DH 7851 FA with a rider with the initials JA who works as a Civil Servant in one of the South Central Timor Government agencies. This was due to the SS

driving towards the bus terminal when the vehicle was turning around without using a turn signal. So it involves the vehicle behind it being driven by JA touching the back of the motorbike spakboard so that the SS experiences a loss in vehicle damage. Where the resolution of the problem was agreed upon by the two parties by means of deliberation by making a statement letter with the South Central Timor Traffic Police mediator. The contents of the statement letter that have been researched by the author are: "There has been a traffic accident caused by traffic violations from JA and SS where JA has suffered both physical and material losses. After this matter was negotiated by deliberation to reach a consensus consisting of the perpetrators, victims, witnesses, related family parties and the mediator of the South Central Timor Traffic Resort Police, it was mutually agreed that the SS perpetrators agreed to compensate the agreement. Incurred and the physical harm suffered by the victim. Therefore, the mediator of the South Central Timor Traffic Police Force stopped investigating the related matter and did not proceed to the next legal process."

Based on field data, violations committed by motorists can result in traffic accidents, which may result in loss of property or someone's life. According to the procedure, the laka unit then the TTS police will carry out the processing of the crime scene based on the public report that an accident has occurred. The action of processing the scene of the case is based on the Chief of Police Regulation No. 15 of 2013 article 24 'the investigator and / or assistant investigator carry out the activities of the scene of the incident by means of [15]:

- a. Make observations
- b. Gathering evidence
- c. Doing documentation.

Then a police report and a brief examination are made. If during the brief examination, a peace agreement occurs between the parties, it can be resolved outside the court, namely the actions taken by the Police in the form of mediation. If it creates an agreement unilaterally from the perpetrator and the victim where the perpetrator is fully responsible for the consequences of traffic violations against the victim by submitting a peace statement.

Mediation is part of the concept of restorative justice where the resolution of a legal problem between the victim and the perpetrator and the families of the parties is to be resolved amicably for the sake of creating a consensus between the two parties, this aims to create a deterrent effect on the perpetrator where the perpetrator is obliged to compensate for the losses incurred—experienced by both the victim and himself.

Police mediation is based on legal references LETTER OF KAPOLRI NO POL B / 3022 / XII / 2009 / SDEOPS 14 DECEMBER, 2009 Regarding Case Handling Through Alternative Dispute Resolution [16].

1. Striving for handling criminal cases that have small material losses, the resolution can be directed through the ADR concept.
2. Settlement of criminal cases using the ADR concept must be agreed upon by the parties in the case, but if there is no agreement, it will be settled according to legal procedures that apply professionally and propositional.
3. Settlement of criminal cases using ADR must be based on the principle of deliberation and consensus and must be known by the surrounding community by including the local RT RW.
4. Settlement of criminal cases using ADR must respect social/customary legal norms and fulfil the principle of justice.
5. Empower community policing members and play FKPM in their respective regions to be able to identify criminal cases that have minor material losses and allow them to be resolved through the ADR concept.
6. For cases that have been resolved through the ADR concept so that they are no longer touched by counter-productive legal actions with the aim of Polmas.

From this concept, the authors conclude that the ADR concept is a concept that is owned by the Police in this case, especially the Traffic Police. Where is the application of restorative justice through a mediation process between the victim and the perpetrator through a mediator (traffic police, especially the investigator) or outsiders from the family, the agreed local RT/RW. So the subject is used as a reference for authority to carry out the mediation process.

From the meeting of the two parties in accordance with the procedure through mediation by way of deliberation, for the sake of creating a consensus, the agreement is stated in the statement letter between the two parties with matters concerning that the victim's loss, both material and physical, is borne by the perpetrator on the condition that the perpetrator is not imposed. Legal sanctions that lead to imprisonment; in fact, the victim's vehicle which is damaged will be replaced by the perpetrator after a peace agreement is made through a statement letter. The Traffic Police as a mediator gives full authority to the two parties to agree on a mutually agreed-upon peace agreement, so as to provide non-judicial evidence through a peace statement for the two

parties if a violation is found that violates traffic rules, the vehicle will be detained as proof of a ticket, not evidence of violations or accidents by the traffic unit of the South Central Timor Police.

Juridical Study of the Application of Restorative Justice Against Perpetrators of Traffic Violations at the Traffic Unit of the South Central Timor Police

Juridical Review of Restorative Justice

Restorative justice is often called restorative justice which is different from the approach used in the conventional justice system. The approach focuses on the perpetrators, victims and the community in the process of resolving cases of violations, especially traffic. Restorative justice is a concept of punishment, but as a concept of punishment, it is not only limited to the provisions of criminal law (formal and material). Restorative justice must also be observed in terms of criminology and the correctional system. From the existing reality, the applicable criminal system has not fully guaranteed integrated justice, namely justice for the perpetrators, Justice for victims, and Justice for the community. The restorative justice process is basically an effort to divert from the criminal justice process towards a deliberative settlement to resolve problems by familial means to reach consensus.

In accordance with the principle of restorative justice that input and suggestions from victims and community representatives are not in the form of opposites, non-formal and voluntary meetings in an atmosphere that produces a good process that prioritizes honesty and sincerity of each. The most important process in restorative justice is to prioritize dialogue between perpetrators and victims who can be directly monitored by the community or traffic units so that harmony will arise in the parties concerned. As confirmed in Article I point 6 of the Juvenile Justice System Law, which states as follows: " Restorative Justice is the settlement of criminal cases by involving the perpetrator, the victim, the family of the perpetrator/victim, and other related parties to jointly seek a fair settlement by emphasizing restoration to its original state, and not retaliation [3].

Police mediation as the basis for implementing restorative justice

Mediation is the authority of law enforcement officials who take cases to continue or stop cases, take certain actions in accordance with their policies, if they continue, they will be faced with the criminal justice system, and there will be sanctions given. If not continued, then the case will be terminated for the benefit of both parties, in principle, to restore relationships that occur for social interests or kinship for both parties. The main principle of conducting mediation is persuasive or non-penal action and providing opportunities for someone to correct mistakes. Mediation is an effort to invite the public to obey and uphold state law; its implementation still considers the sense of justice as a top priority in addition to providing opportunities for perpetrators to take non-criminal paths, such as compensation or an agreed agreement. This is done to provide opportunities for lawbreakers to become good people again through non-formal channels by involving community resources. In general, there are three types of mediation, namely:

1. The implementation of social control (social control orientation), in which law enforcement officers hand over the perpetrator with the responsibility of monitoring or observing the public, it means that from the results of restorative justice by the law cross-section of the South Central Timor Police with the form of agreement given prioritizing the principle of openness so that the public can easily supervise the smooth application of the law for traffic offenders in compliance with the approval or warning given. The perpetrator of the violation accepted responsibility for his actions for which the community did not expect a second agreement to the perpetrator.
2. Social services by the community to the perpetrators (social service orientation), namely carrying out functions to supervise, interfere with, improve and provide services to the perpetrators and their families. The community can interfere with the perpetrator's family to provide repairs or services.
3. Towards a process of restorative justice or negotiation (balance or restorative justice orientation), namely protecting the community, giving the perpetrator the opportunity to be directly responsible to the victim and the community and making a joint agreement between the victim, the perpetrator and the community, the implementer is the Traffic Police of the South Central Timor Resort bring together all related parties to jointly reach an agreement on action against the perpetrator.

In the criminal justice system, the mediation act carried out by the Police as 'the gatekeeper of the criminal justice system' which determines the inclusion of criminal cases in the criminal justice system, there are several mediation bases in the form of:

1. The mediator must have legal authority.

It can be interpreted that the authority of the South Central Timor Traffic Police is based on LETTER OF KAPOLRI NO POL B / 3022 / XII / 2009 / SDEOPS 14 DECEMBER, 2009 concerning Case Handling through Alternative Dispute Resolution. It can be seen from the explanation of the problem in table 2 where the role of the Traffic Police as a mediator between SS and JA where the SS suffers a loss in vehicle damage with the form of resolution in the form of mediation, the settlement is through a statement letter made by both parties based on deliberation with all compensation borne by JA.

2. The purpose of mediation must not conflict with the law

This means that the process and results of the mediation agreed upon by the two parties are still in a good legal path so as to create a sense of justice and legal benefit for everyone. This is evidenced by the principle of openness carried out by the traffic police in handling cases of traffic violations or other incidents.

3. Freedom in mediation is the freedom to choose based on problems.

This means that the parties concerned are free to determine the form of settlement by deliberation while still being supervised by the traffic police.

In fact, the legality element in mediation cannot be overlooked at all. Freedom is in the choice to achieve the maximum benefit without contradicting the law. Meanwhile, the objectives of mediation are:

1. To avoid detention
2. To avoid being stigmatized or labelled as criminals.
3. To improve life skills for the perpetrator.
4. In order for the perpetrator to be responsible for his actions
5. To prevent a repetition of criminal acts.
6. To promote the necessary interventions for victims and perpetrators without having to go through a formal process.

Basically, the authority to conduct the mediation in the police institution can be exercised in all forms of the implementation of police duties, both preventive and repressive, even though it is the authority to make decisions on an objective basis, so basically the use of mediation must be controlled. The use of mediation by an officer must also be used accountably, which refers to the code of conduct regarding the rules of conduct for law enforcement officers in law enforcement practices.

In general, the basis for mediation authority in Indonesia is regulated in article 18 paragraph 1 of Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia which provides preconditions for mediation, namely:

1. That the action was actually carried out.
2. Such action is absolutely necessary.
3. The action taken is the most appropriate action to achieve the target or goal, namely the loss of disturbance of order or preventing the occurrence of something worrying with provisions.

The operational characteristics of restorative justice

The restorative justice process is basically an effort to divert from the criminal justice process to a deliberative settlement, which is basically the soul and nation of Indonesia, to resolve problems in a familial way to reach consensus, the current condition for resolving cases of violations through restorative justice efforts is wrong a step that is right for solving problems that are oriented towards the interests of the victims. Restorative justice is included in the reform of criminal law because the Criminal Code in the future must be able to adapt to new developments, especially international developments that have been agreed upon by civilized society.

The juridical aspect of the Police's performance in handling cases based on restorative justice

Legal structure

Here the role of law enforcement officers is needed to provide solutions to the concept of problems between perpetrators and victims, both in litigation and non-litigation. With the completion process easier and more efficient. Where the settlement process is carried out procedurally from the scene of the crime to the level of examination by the Laka unit investigator, then the settlement process is according to an agreement either juridical or non-juridical or mediation.

Legal substance

All legal rules, legal norms and legal principles, both written and unwritten. It means that in the process of resolving traffic violations Article 310 paragraph 1 of the Law on Traffic and Road Transportation which results in damage to goods, it is also seen from other binding regulations, in this case, the role of the traffic police in solving problems through restorative justice in the form of mediation. It can be interpreted that the

flow of settlement is carried out in accordance with the applicable legal rules where if there is a deviation, it will be prosecuted legally, thus giving rise to good legal certainty. It can be seen from the problems that the researchers studied where the settlement process was carried out by mediation between the two parties which was realized through a statement letter with the subject of compensation for damaged goods.

Legal Culture

With field data processed by researchers and the form of resolution, the law is the opinion of belief (belief), the habit of thinking and acting both law enforcers and members of the community regarding various phenomena related to law. This means that human culture traditionally still uses the customary law system where the settlement of violations that harm others can still be resolved in a familial way through the intermediary of the parties to create a legal agreement. The legal culture that prioritizes the human aspects of deliberation and consensus can be seen from the review of the problems found by researchers. The goal is to prevent dissatisfaction due to the structure and substance of the law that is running so that it has become a priority in processing and resolving problems according to applicable regulations.

From this legal element, based on the work process carried out by the traffic unit of the South Central Timor Police, it can be said that in carrying out the process of solving problems, especially traffic violations, article 310 paragraph 1 of the Law on Traffic and Road Transportation can be resolved by deliberation to reach consensus by taking into account these legal elements so that it creates a sense of legal certainty in the form of a clear and transparent settlement process, justice in which the related parties by means of deliberation and consensus resolve the problem regarding article 310 paragraph 1 of the Law on Traffic and Road Transportation so that both parties are satisfied with the legal process completed through the restorative route just by compensating for losses the damaged vehicle for the victim, the benefit in the form of the final result agreed upon and felt by the parties and is considered an accountable and efficient process. In the end, both parties feel mutually beneficial where the perpetrator is not caught in the law and is directly responsible for the damage to property as a result of the violation caused. From the accident data obtained by researchers from the traffic unit of the South Central Timor Police, it is known that there were 309 during 2019, cases of traffic violations that caused traffic accidents were resolved by non-judicial or mediation using the ADR (Alternative Dispute Resolution) method on the part of the unit officer. Traffic as the mediator. As for the form of a non-judicial settlement or mediation which is included in the restorative justice plan in the form of bringing together the two parties concerned and their related families or the Traffic Police to conduct deliberations to resolve these problems in a non-judicial manner which is manifested through an agreed agreement through a statement letter containing compensation. Damages by the perpetrator against the victim, between the perpetrator and the victim, provided that the perpetrator compensates for the damage to the property caused and bears all medical expenses for the victim if it causes physical injuries to the victim. However, as law enforcers, police officers, in this case, the traffic unit, continue to process vehicles as evidence of a ticket. If it is found to have violated traffic rules, then it will be charged as evidence of a ticket, this is because it has violated Article 310 of the Road Traffic and Transportation Law. Especially in paragraph 1, which causes damage to the victim's property, everyone driving a motorized vehicle which due to his / her negligence causes a traffic accident with damage to the vehicle and / or goods as referred to in article 229 paragraph 2 shall be punished with imprisonment for a maximum of 6 (six) months and / a fine a maximum of Rp. 1,000,000.00 (one million rupiah).

The working principles of the Police, especially traffic units, are as follows:

- a. Handling conflict (Conflict Handling/Konfliktbearbeitung)
The mediator's job is to make the parties forget about the legal framework and to get them involved in the communication process. That conflict is what the mediation process is aiming for.
- b. Process-oriented (Process Orientation-Prozessorientierung)
Penal mediation is more oriented to the quality of the process than the results, namely: making the perpetrator of the criminal act aware of his mistake, resolving the needs of the conflict, calm the victim from fear and so on.
- c. Informal process (Informal Proceeding - Informalittit)
Penal mediation is an informal, non-bureaucratic process, avoiding strict legal procedures.
- d. There is active and autonomous participation of the parties (Active and Autonomous Participation - Parteiautonomie / Subjektivierung)

According to the explanation of Law of the Republic of Indonesia Number 2 of 2002 Article 1 point (1) and Article 2, it is clear that the Police in their position as law enforcement officers have a function to enforce the law in the judicial sector, both preventive and repressive tasks. So that with the existence of discretionary authority in the judicial sector as stipulated in Article 18 paragraph (1) of Law No. 2 of 2002 concerning the

National Police of the Republic of Indonesia which explains that "For the public interest, officials of the State Police of the Republic of Indonesia in carrying out their duties and authorities can act according to their own judgment" According to the explanation of Law of the Republic of Indonesia Number 2 of 2002 Article 1 point (1) and Article 2 explains that the Police, in their position as law enforcement officers, have a function to enforce the law in the judicial sector, both preventive and repressive tasks. So that with the existence of discretionary authority in the judicial sector as stipulated in Article 18 paragraph (1) of Law No. 2 of 2002 concerning the National Police of the Republic of Indonesia which explains that "For the public interest, officials of the State Police of the Republic of Indonesia in carrying out their duties and authorities can act according to their own judgment".

Based on the Chief of Police Regulation No. 15 of 2013 concerning Procedures for Handling Traffic Accidents explained in Article 36 states that:

1. Handling of minor traffic accidents where there is sufficient evidence or fulfilment of elements of a criminal act shall be carried out by means of a short examination process.
2. Short examination process on minor traffic accidents, if there is a peace agreement between the parties involved, it can be resolved out of court.

Conclusion

Based on the results of the above research, it can be concluded that in handling a traffic violation case that results in damage to property can be resolved outside the court, namely through a process of mediation or restorative justice by means of deliberation involving the parties involved (perpetrators and victims) and the families of the parties, RT / RW, with the traffic police unit then act as the mediator. From field data obtained in October, November, December, there were 95 accidents that occurred in the jurisdiction of the Traffic Unit of the South Central Timor Police. It was found 80 traffic violations in article 310 paragraph 1 of Law of the Republic of Indonesia No. 22 of 2009 involving 142 vehicles, both 2-wheeled and 4-wheeled, were involved in violations of Article 310 paragraph 1 of the Law of the Republic of Indonesia concerning Road Traffic and Transportation. The resolution of problems with violations found by researchers is resolved by deliberation in order to create consensus with the form of implementation in the form of a peace statement agreed by the perpetrator and the victim with compensation given to the perpetrator. The procedure of action from the case where the incident occurred to the form of restorative justice settlement is based on the Chief of Police Regulation No. 15 of 2013 article 24. Restorative justice Police Traffic Resort Timor Tengah Selatan is based on the letter of the Chief of Police NO POL B / 3022 / XII / 2009 / SDEOPS dated 14 December 2009 regarding Alternative Dispute Resolution (ADR). The implementation of the ADR concept is in the form of restorative justice with the Traffic Police of the South Central Timor Resort as the mediator for resolving traffic violations that cause property damage.

Suggestion

From the above discussion, several suggestions can be made in the form of:

1. In the legal process that is running in Indonesia, along with the times in the era of globalization, it will continue to force legal reforms in order to keep an eye on the pattern of the community's behaviour system.
2. Restorative justice is a settlement pattern by means of mediation where victims, perpetrators, and the community are pursued through non-judicial channels; it is necessary to have laws and regulations governing restorative justice.
3. The Police, as the implementer of the restorative concept through the ADR, is based on the Law of the Republic of Indonesia No. 22/2009 concerning road traffic and transportation, and are always supported by the community in order to continue to improve performance in order to realize elements of certainty, justice and legal benefits for the community.
4. Vehicle users must prioritize traffic rules in order to stay safe while driving.
5. In order to realize the legal element, it is necessary to have public participation in supporting the running of the legal system in effect in Indonesia.

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