

## IMPLEMENTATION OF RESTORATIVE JUSTICE IN TRAFFIC ACCIDENT CASES IN SUKABUMI CITY VIEWED FROM REINTEGRATIVE SHAMING THEORY

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### Abstract

*This study aims to describe the implementation of restorative justice approach in handling traffic accident cases in Sukabumi City, focusing on the theory of reintegrative shaming. Restorative justice offers a different alternative to conflict resolution, prioritizing the repair of relationships between perpetrators, victims and communities. In the context of traffic accidents, this approach highlights a process of learning and accountability that can result in improved behavior and healing for all parties involved. This research will use a qualitative method with data collection techniques through interviews with relevant parties, observation, and literature study. The data collected will be analyzed using the reintegrative shaming theory approach to understand the effectiveness and impact of the application of restorative justice in traffic accident cases in Sukabumi City. The results of this research are expected to provide deeper insights into how this approach can be applied effectively in the context of criminal law and restorative justice, making policies that are unified and provide recommendations for improving a more just and rehabilitative law enforcement system in handling traffic accident cases.*

*Keywords: Police Discretion, Reintegrative Shaming, Restorative Justice, Traffic Accident, Sukabumi*

### Abstrak

*Penelitian ini bertujuan untuk mendeskripsikan penerapan pendekatan restorative justice dalam penanganan kasus kecelakaan lalu lintas di Kota Sukabumi dengan fokus pada teori reintegrative shaming. Restorative justice menawarkan alternatif penyelesaian konflik yang berbeda dengan mengutamakan perbaikan hubungan antara pelaku, korban, dan masyarakat. Dalam konteks kecelakaan lalu lintas, pendekatan ini menonjolkan proses pembelajaran dan akuntabilitas yang dapat menghasilkan perbaikan perilaku dan penyembuhan bagi semua pihak yang terlibat. Penelitian ini akan menggunakan metode kualitatif dengan teknik pengumpulan data melalui wawancara dengan pihak terkait, observasi, dan studi pustaka. Data yang terkumpul akan dianalisis menggunakan pendekatan teori reintegrative shaming untuk mengetahui efektivitas dan dampak penerapan restorative justice dalam kasus kecelakaan lalu lintas di Kota Sukabumi. Hasil penelitian ini diharapkan dapat memberikan wawasan yang lebih mendalam tentang bagaimana pendekatan ini dapat diterapkan secara efektif dalam konteks hukum pidana dan restorative justice, membuat kebijakan yang menyatu dan memberikan rekomendasi untuk perbaikan sistem penegakan hukum yang lebih adil dan rehabilitatif dalam penanganan kasus kecelakaan lalu lintas.*

*Kata Kunci: Diskresi Kepolisian, Reintegrative Shaming, Restorative Justice, Kecelakaan Lalu Lintas, Sukabumi*



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## INTRODUCTION

Traffic problems are still an issue faced by both developed and developing countries, including Indonesia. The main problem lies in the flow of land transportation, which is becoming increasingly important as the population increases and the variety of transportation modes, especially in urban areas.<sup>1</sup> One of the root causes of problems on highways is the rapid growth in the number of motorized vehicles that is not balanced with the development of road infrastructure, and the lack of improved facilities and supporting infrastructure.

**Table 1. Growth in the Number of Motorcycles in Indonesia in the Last 10 Years**

No.	Years	Number of Motorcycles / Unit
1.	2012	76.381.183
2.	2013	84.732.652
3.	2014	92.976.240
4.	2015	98.881.267
5.	2016	105.150.082
6.	2017	113.030.793
7.	2018	106.836.985
8.	2019	112.771.136
9.	2020	115.023.039
10	2021	120.045.878
11	2022	125.267.349

Source: Central Statistics Agency (2023)

According to the Statistics Indonesia 2023 report published by the Central Statistics Agency (BPS), by the end of 2022, the number of motorcycle units in Indonesia will reach approximately 125.3 million. During the period 2012-2022, there were an additional 48.9 million motorcycle units in the country, representing a growth of 64%, as listed in table 1. This growth in the number of motorcycles reflects the improved performance of the automotive industry and people's purchasing power. In addition, this increase also has the potential to increase individual mobility, transportation of goods, and services, which in turn can play a role in driving economic growth. However, the growth of motorized vehicles can also have negative impacts, including increased traffic congestion, air pollution, and increased consumption of fuel oil (BBM), which is still largely dependent on imports.<sup>2</sup> Efforts to overcome this problem are made by those responsible for the

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<sup>1</sup> Ferimon, Mahmud Mulyadi, dan Ibnu Affan. "Penerapan Keadilan Restorative Dalam Penyelesaian Perkara Kecelakaan Lalu Lintas Yang Menyebabkan Korban Luka Berat Dan Meninggal Dunia (Penelitian di Satlantas Polres Batu Bara)." *Jurnal Ilmiah Metadata* 3, no. 1 (2021): 1-19.

<sup>2</sup> Ahdiat, Adi. *Ini Pertumbuhan Jumlah Motor di Indonesia 10 Tahun Terakhir*. 16 Maret 2023. <https://databoks.katadata.co.id/datapublish/2023/03/16/ini-pertumbuhan-jumlah-motor-di-indonesia-10-tahun-terakhir> (diakses Desember 10, 2023).

safety of road users by implementing regulations that have been regulated and socialized beforehand. Even so, the reality is that there are still many problems that are difficult to overcome in the road environment.<sup>3</sup>

According to the Global Status Report on Road Safety, as many as 1.24 million individuals die each year from traffic accidents worldwide, while another 20-50 million are injured as a result of these incidents. Data released by the World Health Organization (WHO) confirms that traffic accidents are the leading cause of death for children worldwide, with an average of 1000 children and adolescents dying every day, particularly in the 10-24 age range. Deviations from traffic regulations put Indonesia in a significant position, where in the last three years, traffic accidents have become the third leading cause of death after coronary heart disease and tuberculosis, according to an evaluation by the WHO.<sup>4</sup> In addition to causing physical harm and resulting in loss of life, accidents also result in considerable financial and material impacts.

**Table 2. Material Loss due to Traffic Accidents (2017-2021)**

No	Year	Amount/ Rp Miliar
1	2017	217,03
2	2018	213,89
3	2019	254,78
4	2020	198,4
5	2021	199,01

Source: Korlantas Polri (reprocessed by researcher) (2023)

According to data published by the Indonesian National Police Traffic Corps (Korlantas Polri), there were 83,694 incidents of traffic accidents that occurred during the period January to October 2021. The number shows a decrease when compared to the cases recorded throughout 2020, which reached 100,028 incidents. The reduction indicates a decrease of 1.45% compared to the same period in the previous year. During the same time span, the Korlantas Polri recorded a total of 84,923 domestic accident incidents. However, financial losses caused by accidents in the January to October 2021 period reached IDR 199.01 billion. This figure has increased when compared to financial losses throughout 2020 which reached IDR 198.4 billion, with an increase of 21.55% in the same period the previous year. During the 10 months of the previous year, financial losses caused by traffic accidents reached IDR 163.73 billion. On average, financial losses due to

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<sup>3</sup> Narayani, Kadek Astiti, Ni Putu Rai Yuliantini, dan Dewa Gede Sudika Mangku. "Implementasi Restorative Justice Pada Kasus Kecelakaan Lalu Lintas (Studi Kasus Di Polres Buleleng)." *Jurnal Gender Dan Hak Asasi Manusia* 1, no. 1 (2023): 79-89.

<sup>4</sup> Hidayati, Annisa, dan Lucia Yovita Hendrati. "Analisis Risiko Kecelakaan Lalu Lintas Berdasarkan Pengetahuan, Penggunaan Jalur dan Kecepatan Berkendara." *Jurnal Berkala Epidemiologi* 4, no. 2 (2016): 275-287.

traffic accidents from January to October 2021 amounted to IDR 16.58 billion per month. More specifically, the daily financial loss due to traffic accidents reached IDR 552.81 million.<sup>5</sup> This is a serious concern if strategic action is not taken to improve road safety and legal compliance.<sup>6</sup>

Over the past decade, traffic accidents have claimed an average of 10,000 lives each year. Accident rate data reveals that about 332 individuals die from every 1000 accidents.<sup>7</sup> In addition to fatalities, accidents also have significant financial and material consequences. The losses are estimated at 41.3 trillion rupiah. The situation is shocking, and strategic measures need to be taken to improve legal compliance and safety in the traffic system.<sup>8</sup> The World Health Organization (WHO) notes that approximately 1.25 million individuals die each year from road traffic accidents. Traffic accidents rank as the leading cause of death among young people, particularly in the 15-29 age range. Although low- and middle-income countries have only about half the number of vehicles worldwide, 90% of all traffic fatalities occur in these countries. Most road fatalities are road users who fall into high-risk categories, such as pedestrians, cyclists and motorcyclists. If no action is taken, projections show that road traffic crashes will be the leading cause of 7 out of every 10 deaths by 2030.<sup>9</sup>

Recognizing the important role of transportation, comprehensive coordination is needed in managing the national transportation system by Road Traffic and Transportation. This aims to create transportation services that are in accordance with the needs of traffic and transportation services in an orderly, safe, comfortable, and smooth manner. Various measures have been taken, such as requiring the use of special helmets for motorcyclists and using seat belts for car drivers. Despite these efforts, traffic accidents still occur frequently. Despite these protective measures, safety still requires awareness and knowledge of the causes of accidents. Traffic indiscipline is a major problem in Indonesia today, with unruly driver behavior causing many accidents and fatalities. Many drivers do not obey the signs and markings that have been set on the road. The implementation of Road Traffic and Transportation needs to be continuously improved so that the services provided can cover more people. In doing this, it is necessary to pay attention to the public interest, the ability of the community, environmental sustainability, coordination between agencies,

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<sup>5</sup> Pahlevi, Reza. *Kerugian Materiil akibat Kecelakaan Lalu Lintas (2017-2021)*. 9 November 2021. <https://databoks.katadata.co.id/datapublish/2021/11/09/kerugian-materiil-akibat-kecelakaan-meningkat-hingga-oktober-2021> (diakses Desember 10, 2023).

<sup>6</sup> Akbar, Zainul. "Penerapan Restorative Justice Dalam Tindak Pidana Pelanggaran Lalu Lintas." *Jurnal Litigasi Amsir*, 2023: 186-202.

<sup>7</sup> Ariefianto, Yuniar. "Penerapan Restoratif Justice Dalam Penyelesaian Kecelakaan Lalu Lintas." *Brawijaya Law Student Journal* (Fakultas Hukum Universitas Brawijaya), 2016: 1-25.

<sup>8</sup> Sahti, Arman. "Penerapan Konsep Restorative Justice Dalam Penyelesaian Perkara Kecelakaan Lalu Lintas." *Jurnal Aktualita* 2, no. 2 (2019): 615-642.

<sup>9</sup> Setyowati, Dina Lusiana, Ade Rahmat Firdaus, dan Nur Rohmah. "Faktor Penyebab Kecelakaan Lalu Lintas Pada Siswa Sekolah Menengah Atas di Kota Samarinda." *The Indonesia Journal of Occupational Safety and Health* 7, no. 3 (2018): 329-338.

sectors, and related parties, as well as ensuring security and order in the implementation of Road Traffic and Transportation. All these steps are taken with the aim of creating a reliable and integrated national transportation system.<sup>10</sup>

All regulations related to traffic flow and transportation systems have been compiled holistically in an official regulation, namely Law Number 22 Year 2009 on Road Traffic and Transportation. The stipulation of this law is a replacement for Law No. 14/1992 on Road Traffic and Transportation, as it is considered no longer relevant in line with the times, advances in science and technology, and has not been integrated in a comprehensive system as an essential part of the overall transportation system. In its evolution, road traffic flow can be a significant challenge for society due to the increasing mobility and number of land transportation users, which directly impacts the high number of traffic accidents.

## RESEARCH METHOD

In this study, researchers used a qualitative methodological approach. Qualitative methodology is often identified as a naturalistic research approach that works on studies in natural settings. Sometimes, this approach is also known as the ethnographic method, mainly because of the history of its use which was originally better known in the realm of cultural anthropology. The term "qualitative" refers to the nature of the data collected and its analysis which prioritizes qualitative aspects, emphasizing interpretation, deep understanding, and interpretation in the research process.<sup>11</sup> The type of research used by researchers in this study is descriptive qualitative. is one form of research that belongs to the qualitative research paradigm. Descriptive research focuses on exploring the phenomena of individual or group life, where researchers investigate events or events by listening to narratives delivered by participants. The data obtained is then analyzed and compiled in a chronological narrative by the researcher. This research was conducted in a span of about 5 months, starting from November 2023 to March 2024. In this research, the researcher took a research site in Sukabumi City, for the sources to be researched for this research there were 4 (four) research objects, 1 (one) suspected suspect, 1 (one) victim and 2 (two) informants from the Laka Lantas Polres Sukabumi City.

In this study, researchers used observation, interview and literature study techniques. Observation has distinctive characteristics compared to other methods such as interviews and questionnaires in research. While interviews and questionnaires consistently involve direct

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<sup>10</sup> Hadi, Bagus Basuki. "Tinjauan Yuridis Terhadap Penerapan Restorative Justice Dalam Kecelakaan Lalu Lintas (Studi Kasus Di Polres Jakarta Selatan Tahun 2018 - 2020)." *Jurnal Ilmiah Wahana Pendidikan* 9, no. 9 (2023): 114-127.

<sup>11</sup> Sugiyono. *Metode Penelitian Kuantitatif, Kualitatif dan R&D*. Bandung: Alfabeta, 2019.

interaction with individuals, observation is not only limited to human subjects, but also includes observation of other natural objects. If interviews and questionnaires always communicate with people, then observation is not limited to people but also other natural objects.<sup>12</sup> The first step taken during the initial observation was to visit and observe the place or object of research in the Sukabumi City area. After conducting the observation stage, the researcher then entered the process of collecting data from information through interviews about the issues to be raised. Interviews were applied as a data collection method to identify problems that require further research. In addition, interviews were also used to gain a deeper understanding from respondents, especially when the number of respondents was limited. This data collection approach relies on direct reporting from respondents regarding their personal experiences or underlying personal beliefs.<sup>13</sup> The resource persons requested in this research are traffic accident perpetrators who use restorative justice approach, traffic accident victims who agree to restorative justice. Each victim and perpetrator will be asked questions individually by the researcher to obtain the information needed in making the research. In addition to the perpetrators and victims, the researcher also observed and interviewed the Sukabumi City Police, which in this study is the traffic accident unit, to obtain valid data and information related to the restorative justice approach in traffic accidents, especially in the Sukabumi City jurisdiction.

In addition to observations and interviews that used primary data collection techniques, researchers also used secondary data collection techniques using literature studies. Literature study is an effort made by researchers to collect information that is relevant to the topic or problem to be investigated. The source of this information can come from various types of scientific literature, such as books, research reports, scientific articles, theses, dissertations, legal regulations, decisions, annual references, encyclopedias, and other written sources both in print and electronic form. In addition, researchers can also gain insight from similar studies or those that have relevance to the scope of their research, including studies that have been conducted previously. Through this literature study conduction, researchers can utilize all information and ideas relevant to their research to support a comprehensive investigation process.<sup>14</sup>

In this study, the researcher uses the analysis of Reintegrative Shaming Theory, developing the idea of reintegrative shaming by using the offender's perspective on the punishment given to him. Braithwaite's main concern in reintegrative shaming lies in the imposition of shame as a consequence of punishment. Shame can be defined as a feeling that arises within an individual when

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid. p.195

<sup>14</sup> Purwono. *Studi Kepustakaan*. Yogyakarta: Pustakawan Utama UGM, 2008.

one is unable to meet certain standards given by oneself or significant others. In other words, shame can act as a social control tool, both formally and informally, which is very strong in society.<sup>15</sup>

## RESULT AND DISCUSSION

### Traffic Accidents in Indonesia

Traffic accidents according to Law Number 14 of 1992 concerning Road Traffic and Transportation, is an event that occurs on the road accidentally and unexpectedly resulting in human and property casualties. Meanwhile, according to Article 93 of Government Regulation (PP) Number 43 of 1993 concerning Road Infrastructure and Traffic, a traffic accident is an event on the road that is unexpected and unintentional involving vehicles that are moving with or without using other roads, resulting in human casualties and property losses. And according to Law Number 22 of 2009 concerning Road Traffic and Transportation, a traffic accident is an unexpected and unintentional road event involving human casualties and/or property damage. In this law, accidents are classified into 3, namely:

1. Light traffic accidents are accidents that result in damage to vehicles and/or goods.
2. Moderate traffic accidents are accidents that result in minor injuries and damage to vehicles and/or goods.
3. Serious traffic accidents, which are accidents that result in death or serious injury.

However, it should be noted that there is a line of causality between the factors that trigger accidents. As an illustration, if there is no routine inspection of the braking system on a fleet of public transportation buses, it is likely that there will be a braking malfunction that leads to an accident. Similarly, "unintentional" can be interpreted as "intentional". For example, individuals who drive under the influence of alcohol and psychotropic substances should not be allowed to drive a motor vehicle. The act of breaking this rule results in a high risk of traffic accidents, so it can be considered an intentional act and a potential cause of an accident.<sup>16</sup>

According to the Kakorlantas Polri report, there has been a significant increase in the number of traffic accidents for three consecutive years. It was noted that the biggest spike in the number of accidents occurred in 2022. The increase was caused by a number of factors, such as human error, vehicle conditions, and factors related to facilities and infrastructure. The following data on the number of traffic accidents in Indonesia from 2021 to 2022 is presented in the Kakorlantas Polri report:

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<sup>15</sup>Amry, Muh Ardilla. *Lifestyle Relate Shaming Dalam Penanggulangan Drug Relapse di Indonesia*. Depok: PT RajaGrafindo Persada, 2022.

<sup>16</sup> KementerianPUPR. *Data Kecelakaan Lalu Lintas*. Jakarta: Kementerian PUPR Badan Pengembangan Sumber Daya Manusia Pusat Pendidikan dan Pelatihan Jalan, Perumahan, Pemukiman dan Pengembangan Infrastruktur Wilayah, 2016.

**Table 1. Number of Traffic Accidents in Indonesia 2021-2022**

No	Year	Data on the number of traffic accidents in Indonesia
1.	2021	70294
2.	2022	94617

Source: Kakorlantas Polri (processed by researchers) (2023)

Based on data provided by the National Police Traffic Corps (Korlantas), from January to September 13, 2022, there were around 94.6 thousand traffic accident incidents throughout Indonesia. This figure shows an increase of 34.6% when compared to the same period in the previous year, which recorded around 70.2 thousand accident incidents.

From January to September 13, 2022, a total of 19,054 people lost their lives in traffic accidents. The number of accidental deaths increased by 683, representing an increase of 3.7% compared to the same period in the previous year. According to Kakorlantas Polri Inspector General Aan Suhanan, data shows that during the period of 2023 there have been 152 thousand incidents that caused 27 thousand casualties. The impact of these events led to significant material losses, estimated at 500 billion rupiah within a year.<sup>17</sup>

Polri plays an important role in maintaining social stability and security, enforcing the rule of law, and providing protection, protection and services to the public with the aim of maintaining domestic order. Therefore, continuous efforts are needed to raise the standard of Polri professionalism and strengthen its connection with citizens. In particular, Polri is required to evolve into a more adaptive civilian policing institution. As an integral part of the government structure, Polri's role is significant in ensuring that policing is conducted in accordance with the principles of proportionality and professionalism, which are essential elements in achieving good governance.<sup>18</sup>

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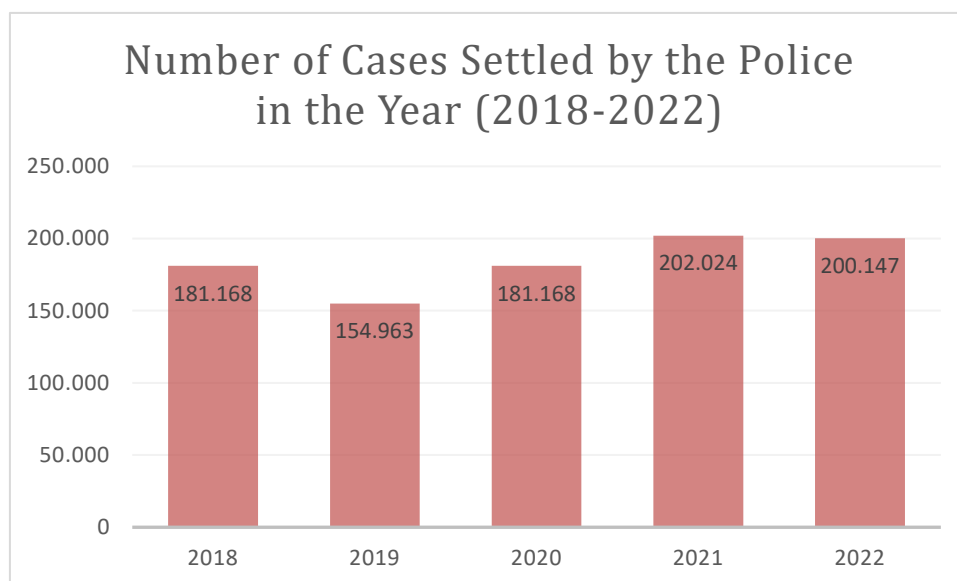
<sup>17</sup>Andayani, Dwi. *Kakorlantas: 152 Ribu Kecelakaan-27 Ribu Korban Tewas secara Nasional*. 2 Maret 2024. <https://news.detik.com/berita/d-7221952/kakorlantas-152-ribu-kecelakaan-27-ribu-korban-tewas-secara-nasional> (diakses Maret 14, 2024).

<sup>18</sup>Sadjijono. *Seri hukum Kepolisian, Polri dan Good Governance*. Surabaya: Laksbang Mediatama, 2008.



## Restorative Justice Settlement by the Police in Indonesia

**Table 2. Number of Cases Settled by the Police in the Year 2018-2022**



Source: DataIndonesia.id (processed by researchers) (2023)

Based on data collected by DataIndonesia.id, in 2022, the Indonesian National Police (Polri) managed to solve 200,147 crime cases within the country, reaching a proportion of 72.38% of the total crime recorded of 276,507 cases during the previous year.<sup>19</sup>

**Tabel 3. Restorative Justice by the Police in Indonesia Year 2021-2022**

No	Years	Total Restorative Justice Data by Police in Indonesia
1.	2021	14.030
2.	2022	15.908

Source: DataIndonesia.Id (processed by researcher) (2023)

According to National Police Chief General Listyo Sigit Prabowo, by 2022, there will be an 11.8% increase in the resolution of crime cases through the restorative justice approach. The total number of cases resolved reached 15,908, where the Police tried to solve the problem with a peaceful approach to fulfill justice for all parties and emphasize recovery. However, if the restorative justice approach is not successful in resolving the problem, the Police will still take

<sup>19</sup> Widi, Shilvina. *Penyelesaian Kasus Kejahatan oleh Polri Menurun pada 2022*. 4 Januari 2023. <https://dataindonesia.id/varia/detail/penyelesaian-kasus-kejahatan-oleh-polri-menurun-pada-2022> (diakses November 11, 2023).

action in accordance with applicable procedures.<sup>20</sup> In the context of Indonesia's criminal justice system, the focus on enforcing punishment against criminals has taken center stage, while the application of the concept of retributive justice is often given top priority. There is a demand for reform in this approach, which advocates for alternative criminal case resolution that prioritizes the process of conflict recovery and reconciliation, and pays attention to social balance through the application of restorative justice principles. According to Andi Hamzah, the criminal justice system in Indonesia still tends to focus on the perpetrator, with an overemphasis on the rights of the suspect or defendant.<sup>21</sup>

Because it tends to be offender oriented, the criminal justice system requires a concept of settlement outside of these channels. As a solution, the concept of resolving criminal cases through a restorative justice approach was introduced. This approach emphasizes the creation of justice for both perpetrators and victims.<sup>22</sup> The process of resolving violations of the law is realized through a dialogical confrontation between the victim and the suspect, where both parties come together in one forum to confront the events that occurred and discuss the impact and implications of the action.<sup>23</sup>

Restorative Justice in the police was pioneered by the National Police Chief General Tito Karnavian in an official circular letter recorded as SE/8/VII/2018, signed on July 27, 2018. The document, known as the National Police Chief Circular Letter Number: SE/8/VII/2018, provides guidelines for handling legal cases with a restorative justice approach.<sup>24</sup> The contents, among others, are:

The material requirements are met, namely:

1. Does not cause public unrest and there is no public rejection;
2. No impact on social conflict;
3. There is a statement from all parties involved not to object, and to waive their right to sue before the law;
4. Limiting principle;
  - On the perpetrator: The culpability of the perpetrator is relatively not severe, namely the mistake (schuld) or mensrea in the form of intent (dolus or opzet),

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<sup>20</sup> Ibid.

<sup>21</sup> Hamzah, Andi. *Hukum Acara Pidana Indonesia*. Jakarta: Sinar Grafika, 2012.

<sup>22</sup> Arief, Barda Nawawi. *Masalah Penegakan Hukum dan Kebijakan Hukum Pidana dalam Penanggulangan Kejahatan*. Jakarta: Kencana Prenada Media Group, 2014.

<sup>23</sup> Gusnita, Chazizah, Marvine Viano, Putri Puspita, dan Yosafat Kevin. "Analisis Keadilan Restoratif dalam Kasus Penghinaan Presiden Jokowi oleh Anak di Bawah Umur." *Deviance: Jurnal Kriminologi* 2, no. 1 (2018): 35-50.

<sup>24</sup> Simamora, Mirsan. *Jadi Sorotan, Begini Awal Mula Penerapan Restorative Justice di Kepolisian*. 17 Januari 2023. <https://kumparan.com/kumparannews/jadi-sorotan-begini-awal-mula-penerapan-restorative-justice-di-kepolisian-1zeNJgkExtw/full> (diakses November 11, 2023).

especially intent as an intention or purpose (opzet als oogmerk); and The perpetrator is not a recidivist.

- In criminal offenses in process: Investigation; and Investigation before the SPDP is sent to the Public Prosecutor.

The formal requirements are met, namely:

1. A letter of request for peace from both parties (reporter and complainant);
2. A statement of peace and settlement of disputes between the parties (the complainant and/or the complainant's family, the reported party and/or the reported party's family, and representatives of community leaders) known by the investigator;
3. Report of investigation of the additional examination of the litigants after the settlement of the case through restorative justice;
4. Recommendation of special case title approving restorative justice settlement;
5. The perpetrator does not object to responsibility, compensation, or voluntariness;
6. All criminal offenses can be carried out restorative justice for general crimes that do not cause human victims;

The issuance of the circular letter stems from an evaluation of the evolution of law enforcement systems and approaches in Indonesia, which shows a trend to pay attention to the development of social justice, especially in the emergence of the concept of restorative justice that reflects justice as a principle of balance in human life. Thus, this case resolution strategy aims to restore harmony, assign responsibility to the perpetrators of the crime by involving their awareness to admit guilt, apologize, and compensate for the damage and losses caused to the victim until it reaches its original or at least similar condition, thus providing fulfilled justice for the victim. Therefore, in handling traffic accident cases, the National Police as the responsible institution, is professionally committed to mediating between all parties involved through the criminal mediation process, also known as penal mediation. Restorative justice not only considers crime as a violation of state law, but also as an act that violates the principles of justice that should be maintained in society. This approach places primary emphasis on repairing social relationships and restoring justice disrupted by crime, rather than merely punishing offenders for breaking the law. A key principle of restorative justice is to encourage the active participation of all parties affected by the crime, either directly or indirectly, in the search for solutions. This approach prioritizes informal and voluntary procedures rather than relying on formal procedures of state law.<sup>25</sup>

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<sup>25</sup>Saharani, Denisa Tri, dan Mahfud. "Penerapan Keadilan Restoratif Pada Perkara Kecelakaan Lalu Lintas (Suatu Penelitian di Kepolisian Resor Aceh Tamiang)." *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana* 7, no. 1 (2023): 16-23.

### Settlement of Traffic Accident Cases Using Restorative Justice in Sukabumi City

In Sukabumi City, West Java, a serious accident occurred in which a Mitsubishi Xpander crashed into a minibus and a shop on Jalan RA Kosasih, Sukaraja Subdistrict, Sukabumi, West Java, on Thursday, September 22, 2022, at around 10:00 am. This tragic incident occurred in front of the gate of Pesona Cibereum Housing, resulting in three deaths and three minor injuries. According to information obtained from the Law Enforcement Unit of the Sukabumi City Police Traffic Unit, the Xpander minibus with police number F 1349 OJ was driven by an elderly woman named EH (71 years old). Meanwhile, the pink angkot operating from Sukabumi to Sukaraja with police number F 1959 TZ was driven by Hapid Mulyana (53 years old). The suspect in this case has applied for restorative justice, by fulfilling one of the main requirements to obtain it, namely having obtained an amicable statement letter from the victim's family and the letter has been submitted to the Sukabumi City Police Traffic Accident Unit.<sup>26</sup>

**Table 4. Number of Traffic Accident Cases in 2023 and Their Resolution at Sukabumi City Police Station**

N O	MONT H	J K	P2 1	SP 3	AD R	R J	SP2L ID	BA S	DIVE RSI	LIMP AH	T L	JML H SEL RA	PROCE SS
1	Januari	9	0	1	0	8	0	0	0	0	0	9	
2	Februar i	9	2	1	0	5	1	0	0	0	1	9	
3	Maret	7	0	0	0	4	3	0	0	0	2	7	
4	April	7	3	0	0	3	1	0	0	0	0	7	
5	Mei	1 2	1	0	0	1 0	1	0	0	0	1	12	
6	Juni	9	0	1	0	8	0	0	0	0	0	9	
7	Juli	6	0	2	0	4	0	0	0	0	0	6	

<sup>26</sup> Fatimah, Siti. *Penabrak Angkot di Sukabumi Ajukan Restorative Justice, Ini Alasannya*. 6 Oktober 2022. <https://www.detik.com/jabar/hukum-dan-kriminal/d-6333048/penabrak-angkot-di-sukabumi-ajukan-restorative-justice-ini-alasannya> (diakses November 11, 2023).

8	Agustus	9	0	2	0	7	0	0	0	0	0	9	
9	September	6	0	1	0	3	2	0	0	0	2	6	
10	Oktober	8	0	2	0	2	3	0	0	0	3	7	1
11	November	1	0	1	0	5	1	0	0	0	1	7	4
12	Desember												
<b>Total</b>		<b>9</b>	<b>6</b>	<b>11</b>	<b>0</b>	<b>5</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>88</b>	<b>5</b>

Source: Polres Sukabumi City (processed by researchers) (2023)

Based on this data, traffic accident cases that occurred in Sukabumi City Police in 2023 showed that the majority of traffic accident settlements were resolved outside of criminal law and using a restorative justice system. According to the Traffic Accident Unit of Sukabumi City Police Ipda Andhika Pratista, the term restorative justice can be simplified by the word peace through family means, not through legal channels. Andhika further explained that what distinguishes restorative justice in traffic accidents from other criminal offenses is that in traffic accidents, family values are upheld. If both parties agree to reconcile and have reached an agreement on the matter, we will stop our investigation. For example, in a situation where two motor vehicles collide and both want to compensate, party A may want to compensate party B, and vice versa. This phenomenon illustrates the difference of restorative justice approach in the context of traffic accidents compared to other cases, considering that not all criminal offenses can be addressed in this way.

## Analysis of Reintegrative Shaming Theory in the Settlement of Traffic Accident Cases Using Restorative Justice

Reintegrative shaming is a process of shaming that is accompanied by efforts to reintegrate individuals who violate the law into the structure of a law-abiding society is one of the hallmarks of the concept of reintegrative shaming<sup>27</sup>, as described by Braithwaite<sup>28</sup>:

- Rejecting or denouncing bad behavior, praising or supporting good behavior
- Have a formality that states someone's behavior is bad or deviant, ending by stating the person has been forgiven
- Provides punishment or reproach without a labeling process
- Does not make mistakes or deviations or crimes a master status trait

Reintegrative shaming requires a number of conditions to be in place in society<sup>29</sup>, including:

- The existence of interdependency
- Communitarian society (communitarianism)

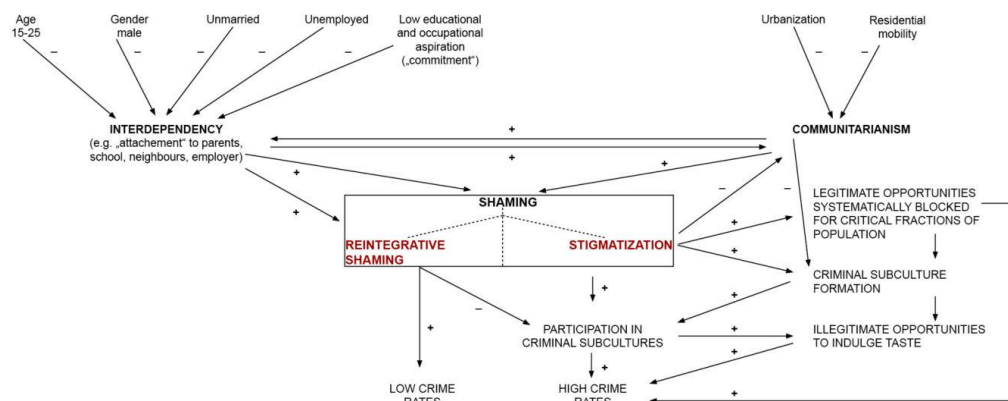


Figure 1. Summary of Reintegrative Shaming Theory

Source: Braithwaite, 1989:99

Braithwaite argues that there are two forms of control that will be carried out by society in response to crime, namely reintegration and stigmatization. Rejection or shame (disapproval / shame) if given in a reintegrative pattern as opposed to a stigmatization pattern will have the effect of decreasing the likelihood of offending behavior, due to the moral quality that arises.

<sup>27</sup>Braithwaite, John. *Crime, Shame and Reintegration*. New York: Cambridge University Press, 1989.

<sup>28</sup> Supatmi, Mamik Sri, and Herlina Permata Sari. *Dasar-Dasar Teori Sosial Kejahatan*. Jakarta: PTIK Press, 2007.

<sup>29</sup> Ibid.

Reintegrative shaming facilitates society's expression of disapproval towards offenders by maintaining respect for their individuality, where offenders are treated as individuals who have positive potential despite committing negative acts. In contrast, if the expression of disapproval is done through stigmatization, there is a tendency to categorize the offender as an individual permanently tied to a negative image, and this may hinder their social reintegration process. In other words, a society that forgives criminals respectfully will have a low crime rate compared to a society that demeans criminals through stigmatization and thus has a tendency to have a higher crime rate.

Under these conditions, society will have low crime rates if offenders communicate shame about crime effectively. This relates to the development of reintegrative shaming which considers the role of shame-related emotions with the likelihood of subsequent deviant behavior. In other words, the outcome of the action must have a moral corrective quality that builds the offender's consciousness. In relation to the basic assumption of reintegrative shaming theory that the delivery of rejection messages through shame is key to understanding the impact on the likelihood of reoffending of an individual. Braithwaite believes that reintegrative shaming can lead to lower rates of reoffending, at least in part because it is more capable of eliciting shame in offenders. The most important element of reintegrative shaming is when offenders begin to accept and understand their own shame and guilt. Reintegrative shaming has a more significant impact on offenders' perspectives than conventional approaches to law enforcement for offenses committed by criminals.<sup>30</sup>

The Reintegrative Shaming theory, formulated by John Braithwaite, suggests a different approach to the punishment aspect of the criminal justice system. The core concept of the theory is that punishment that educates the individual and improves the relationship between the offender and the community has proven to be more effective than a purely punitive emphasis. The principle of Restorative Justice, which is closely related to this theory, emphasizes the importance of repairing relationships disrupted by criminal acts, both among offenders, victims, and the community. In the context of traffic accident case resolution, the Reintegrative Shaming approach, which adopts the concept of Restorative Justice, has implications that are more impactful to victims than the criminal route.

1. First, rather than simply imposing punishment as a form of punishment, the justice system can consider measures to improve relations between the perpetrator of the accident, the victim, and the community. The mediation process between the perpetrator and the victim can encourage an open dialog to understand the consequences of their actions and find solutions that are satisfactory for all parties involved.

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<sup>30</sup> Ibid.

2. In addition, through the Restorative Justice approach, the perpetrator of the accident is given the opportunity to directly acknowledge responsibility for their actions and play a role in repairing the impact. This may include paying compensation to the victim as part of the process of repairing damaged relationships.
3. Furthermore, the Reintegrative Shaming approach takes into account the importance of rebuilding the offender's reputation in the community after admitting and making amends. Actions that demonstrate self-improvement and a commitment to avoid repeating the same actions in the future are the focus of this process.

The three things mentioned above are included in the points of the peace statement which contains important points for both parties. The first is not to continue this case to legal proceedings, the second is to compensate for all losses or part of the losses, and the third is not to make noise and forgive each other. However, in applying this theory to the resolution of traffic accident cases, not all cases will fit the Restorative Justice approach. Some accident cases may involve a high level of severity or the inability of the parties involved to reconcile, causing mediation to fail, thus requiring more decisive action from the justice system to maintain justice and public safety.

In conclusion, the analysis of the Reintegrative Shaming theory in the resolution of traffic accident cases utilizing the Restorative Justice approach demonstrates the potential to repair damaged relationships and encourage individual accountability, while still paying attention to the principles of justice and public safety. However, the application of this theory should be tailored to the unique characteristics of each case and consider the interests of all parties involved. In resolving traffic accident cases using restorative justice, the challenges and obstacles faced in the context of resolving legal cases are varied and depend on the factors involved, especially the victim. This can include the victim's desire for compensation, either in the form of compensation or settlement of the case without continuing the legal process, as well as demands for compensation and other aspects. In addition, it is not uncommon for the suspect to be a lower-middle class individual, who may have limited financial means to fulfill all of the claims made by the victim. In these situations, there is a mismatch between the high demands of the victim and the limited financial capacity of the suspect to fulfill these demands. In addition, the challenge faced by the police is that it is difficult for witnesses to be questioned, either at the scene of the incident or coming to the police station, which causes a slow judicial process, which in this traffic accident mostly uses restorative justice.



## CONCLUSION

The Indonesian National Police (Polri) has a very important role in maintaining public order and security, providing protection, services to the community and carrying out law enforcement. The criminal law system in Indonesia to date has focused only on punishing perpetrators without involving victim recovery. Changes are needed that involve alternatives to resolving criminal cases that are centered on restoring conflict or problems. Because it is still offender oriented, the criminal justice system needs a concept to solve this problem. As a solution, the concept of criminal case resolution through restorative justice was introduced. This concept emphasizes justice for offenders and victims without having to involve criminal law. The settlement process is carried out by bringing the perpetrator and victim together to sit in mediation in one meeting to then talk together to solve the problem.

In the context of traffic accidents, the reintegrative shaming approach that adopts the concept of restorative justice has more substantial implications for victims than the conventional law enforcement process. First, rather than simply imposing punishment as an enforcement measure, the justice system has the capacity to consider measures that can repair the relationship between the perpetrator, the victim and the community. Through mediation between the perpetrator and the victim, there is an opportunity to initiate a dialog that opens up an understanding of the causes and consequences of the actions taken and find solutions that can satisfy all parties involved. In addition, by using a restorative justice approach, perpetrators are given the opportunity to directly acknowledge responsibility for their actions and contribute to repairing the damage caused. These measures include the payment of compensation to victims. Furthermore, the Reintegrative Shaming approach focuses on the significance of rebuilding the offender's reputation in society after acknowledging and correcting their wrongdoing. Actions that demonstrate self-improvement and a commitment to avoid repeating the same behavior in the future are the main focus of this process.

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