

THE EFFECTIVENESS OF IMPLEMENTING RESTORATIVE JUSTICE IN TRAFFIC CASES AS AN EFFORT TO REDUCE OVERCROWDING IN CORRECTIONS

Made Feri¹
Universitas Mahendradatta

H Nurianto RS²
Universitas Mahendradatta

Siti Nurmawan Damanik³
Universitas Mahendradatta

Correspondence : Made Feri (Madeferry2@gmail.com)

Abstract

Overcrowding, or overcapacity, is a serious problem in Indonesia's penal system. This situation impacts the effectiveness of prisons, the provision of human rights, and increases the burden on the state budget. One of the main factors contributing to overcrowding is criminal law enforcement, which still emphasizes imprisonment, including for minor traffic cases. Alternatively, the concept of restorative justice offers case resolution through restoration, deliberation, and the involvement of perpetrators, victims, and the community. This study aims to analyze the legal regulations and effectiveness of restorative justice enforcement in traffic issues as an effort to reduce overcrowding at the Class IIA Kerobokan Penitentiary. The research method used is normative-empirical legal research. The results indicate that the implementation of restorative justice has a clear legal basis and is empirically effective in reducing the caseload and the number of inmates.

Keywords : restorative justice, traffic cases, legal effectiveness, overcrowding, correctional institutions.

Introduction

Indonesia, as a nation based on the rule of law, places law as the primary instrument for regulating social and state life. Criminal law enforcement has tended to use a repressive approach, emphasizing imprisonment. This approach has resulted in an increase in the number of inmates, disproportionate to the capacity of correctional institutions. Data from the Directorate General of Corrections shows that most correctional institutions in Indonesia are experiencing significant overcrowding. Overcrowding not only impacts the physical condition of correctional institutions but also impacts the quality of guidance, human rights protection, and security within the prisons. Traffic cases are a particularly high-profile criminal case, particularly traffic accidents involving minor injuries and material losses. Resolving these cases through conventional criminal justice mechanisms often fails to provide substantive justice for the parties. Therefore, restorative justice is seen as a more humane and proportionate approach. The government has responded to this need through Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Offenses Based on Restorative Justice, which serves as the legal basis for the application of restorative justice in law enforcement practices, including traffic cases.

1. What are the legal regulations regarding the application of restorative justice in resolving traffic cases in Indonesia?
2. How effective is the application of restorative justice in traffic cases as an effort to reduce overcrowding at the Class IIA Kerobokan Penitentiary?

Results and Discussion

Legal Regulations on Restorative Justice in Traffic Cases

The application of restorative justice in resolving traffic cases in Indonesia is generally carried out during the investigation stage by the Indonesian National Police. The primary legal basis for this application is Article 18 of Law Number 2 of 2002 concerning the Indonesian National Police, which grants police officers discretionary authority to act according to their own judgment in the public interest. This discretionary authority serves as the legal basis for investigators to apply a restorative justice approach in handling certain criminal cases, including traffic cases.

Furthermore, the application of restorative justice is explicitly regulated in Indonesian National Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. This regulation emphasizes that criminal cases can be resolved through a restorative approach as long as they meet the material and formal requirements as stipulated in Articles 5 and 12 of the Police Regulation. Therefore, the police have a clear legal basis for terminating investigations through restorative justice mechanisms.

In the context of traffic cases, the application of restorative justice must also be understood within the framework of Law Number 22 of 2009 concerning Traffic and Road Transportation. This law stipulates that traffic violations and crimes are generally related to negligence (*culpa*) and do not always result in serious consequences. Therefore, as long as the act does not result in loss of life and is not classified as a serious crime, its resolution can be directed toward recovery efforts through restorative justice mechanisms.

Settlement of traffic cases through restorative justice is implemented through penal mediation, a process of resolving criminal cases outside the courts involving the perpetrator, victim, the perpetrator's and victim's families, and other relevant parties. The legal basis for this penal mediation can be traced to Circular Letter of the Chief of the Indonesian National Police Number SE/2/II/2021 concerning Ethical Cultural Awareness to Achieve Restorative Justice, which encourages law enforcement officers to prioritize resolving cases through just and dignified peace negotiations.

In its implementation, police investigators are required to consider a number of requirements as stipulated in Article 5 of Police Regulation Number 8 of 2021, namely the level of culpability and the consequences, the perpetrator's willingness to take responsibility, the consent of the victim or the victim's heirs, and the absence of public opposition. These considerations aim to ensure that the application of restorative justice does not conflict with the community's sense of justice and still

guarantees legal protection for the victim.

If all these requirements are met, investigators can terminate the investigation through the restorative justice mechanism. This termination of the investigation is outlined in the minutes of the settlement agreement signed by the parties and serves as the legal basis for issuing an Investigation Termination Order (SP3), as stipulated in Police Regulation Number 8 of 2021. Thus, the resolution of the case has legal legitimacy and can be legally accounted for.

Furthermore, the application of restorative justice in traffic cases also aligns with the principle of *ultimum remedium* in criminal law, namely that punishment should be a last resort after other resolving efforts are deemed ineffective. A restorative approach enables the achievement of substantive justice through the restoration of social relationships, the provision of compensation to victims, and the proportional accountability of perpetrators.

The application of restorative justice in traffic cases also aligns with the principle of *ultimum remedium*, which views criminal law as a last resort in resolving legal disputes. Punishing perpetrators of unintentional traffic accidents often fails to provide reparation for victims and can even create new social problems. Therefore, resolving the case through restorative mechanisms is a proportional and just alternative, as long as it does not conflict with public order and the interests of the wider community.

From a criminal procedural law perspective, terminating an investigation through restorative justice can be viewed as a legitimate form of investigator discretion. Although the Criminal Procedure Code (KUHAP) restricts the grounds for terminating an investigation, developments in criminal law policy indicate an expansion of the grounds for terminating an investigation based on a restorative justice approach. This is reinforced by the issuance of Police Regulation Number 8 of 2021, which normatively legitimizes this practice.

Effectiveness of Restorative Justice Implementation

The problem of overcrowding, or overcapacity in correctional institutions, is a structural issue within the Indonesian criminal justice system. One of the main causes of overcrowding is the continued dominance of imprisonment as the primary sanction in resolving criminal cases, including certain minor traffic offenses. Law Number 12 of 1995 concerning Corrections emphasizes that the goal of correctional institutions is to develop inmates so they can become whole individuals and reintegrate into society. However, overcrowding actually hinders the achievement of this goal.

Kerobokan Class IIA Penitentiary, one of the correctional institutions in Bali Province, also faces overcrowding due to the high number of inmates and detainees admitted each year. High public mobility, tourism activities, and dense traffic in Bali contribute to the increasing number of traffic cases being processed criminally. When minor traffic cases continue to be directed towards imprisonment, this situation directly exacerbates overcrowding at Kerobokan Class IIA Penitentiary.

The application of restorative justice is a relevant and strategic alternative for case resolution.

Restorative justice is a criminal case resolution concept that emphasizes restitution for victims, accountability for perpetrators, and restoration of social relationships, rather than solely retaliation through imprisonment. This approach aligns with developments in modern criminal law, which emphasizes the principle of *ultimum remedium*, where imprisonment is only used as a last resort when other legal means are no longer effective.

Normatively, the application of restorative justice in traffic cases is legitimized through Indonesian National Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. This regulation grants the police discretion to discontinue criminal proceedings in certain cases that meet material and formal requirements, including not causing public unrest, an agreement between the perpetrator and victim, and a sense of justice. In practice, this mechanism is widely applied in traffic accident cases resulting in material losses or minor injuries.

The effectiveness of restorative justice in reducing overcrowding at the Class IIA Kerobokan Penitentiary can be analyzed quantitatively and qualitatively. Quantitatively, the termination of traffic cases through restorative justice mechanisms directly reduces the number of suspects detained and the number of convicts serving prison sentences. This reduces the influx of new inmates into prisons. This policy aligns with the policy direction of the Directorate General of Corrections, Ministry of Law and Human Rights of the Republic of Indonesia, which encourages the use of alternative sentencing as a medium-term solution to address overcrowding.

Qualitatively, the implementation of restorative justice also improves the quality of substantive justice. Victims receive faster and more tangible redress through compensation or other forms of accountability, while perpetrators are encouraged to take moral and social responsibility without experiencing the negative impacts of imprisonment, such as stigmatization and loss of livelihood. This demonstrates that restorative justice functions not only as an instrument for reducing overcrowding but also as a means of reforming the criminal law enforcement paradigm.

Furthermore, the application of restorative justice in traffic cases also has positive implications for the efficiency of the criminal justice system. By reducing the number of cases referred to the courts, the workload of law enforcement officers can be reduced, allowing for more optimal handling of more serious cases. This efficiency ultimately results in a reduced use of correctional institutions as the primary punishment instrument.

However, the effectiveness of restorative justice in reducing overcrowding at the Class IIA Kerobokan Penitentiary still faces several challenges. These challenges include the unequal understanding of the concept of restorative justice among law enforcement officials, differing interpretations of the criteria for cases that can be resolved restoratively, and concerns that this approach could be misused. Furthermore, there is still a public perception that equates justice with imprisonment, resulting in the application of restorative justice often being considered insufficiently deterrent. (Interview)

The effectiveness of restorative justice in reducing overcrowding cannot be separated from the role and discretion of law enforcement officials, particularly the police, as the first point of contact in the criminal justice system. The police have strategic authority in determining what.

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The effectiveness of restorative justice in reducing overcrowding cannot be separated from the role and discretion of law enforcement officers, particularly the police, as the first point of contact in the criminal justice system. The police have strategic authority in determining whether a traffic case should proceed to court or be resolved through restorative justice mechanisms. This discretion must be exercised professionally, transparently, and accountably to avoid creating legal uncertainty or injustice for all parties.

Empirically, the effectiveness of restorative justice in traffic cases can be seen as a response to social realities and the characteristics of traffic violations themselves. The majority of traffic cases

entering the criminal justice system are not crimes with a high degree of culpability, but rather are caused by negligence (*culpa*) with limited impact. Therefore, resolving such cases through restorative justice mechanisms is considered more proportionate than imprisonment, which can have broader social and economic impacts on both the perpetrator and their family.

Regarding the Class IIA Kerobokan Penitentiary, the restorative approach becomes increasingly relevant given that the primary function of correctional institutions is not merely a place to serve sentences but also a means of rehabilitation. Prolonged overcrowding results in ineffective rehabilitation and even has the potential to turn prisons into mere detention centers without rehabilitative value. By reducing the number of prison inmates through restorative traffic case resolution, the correctional function can be carried out more humanely and in accordance with correctional goals as mandated by law.

Restorative justice in traffic cases also implies a shift in the orientation of criminal policy. The state no longer solely emphasizes the repressive nature of criminal law, but rather begins to prioritize a balance of penal and non-penal policies. This approach positions criminal law as a last resort and encourages dialogical and participatory resolution of legal conflicts. Within this framework, restorative justice can be viewed as an effective and sustainable criminal policy instrument in addressing structural problems such as prison overcrowding.

Conclusion

1. The application of restorative justice in resolving traffic cases in Indonesia is based on Article 18 of Law Number 2 of 2002 concerning the Indonesian National Police. Furthermore, the application of restorative justice is explicitly regulated in Indonesian National Police Regulation Number 8 of 2021 concerning Handling Criminal Acts Based on Restorative Justice. In the context of traffic cases, the application of restorative justice is also within the framework of Law Number 22 of 2009 concerning Traffic and Road Transportation. This law stipulates that traffic violations and crimes are generally related to negligence and do not always result in serious consequences and can be directed towards remedial efforts through restorative justice mechanisms.
2. The application of restorative justice in traffic cases faces obstacles from various aspects, namely legal barriers, institutional barriers, and social and cultural barriers. Therefore, strategies are needed to increase the effectiveness of restorative justice:
 - 1) Strengthening Regulations: Revise the Traffic Law to provide more space for restorative resolution and standardize inter-agency mediation procedures.
 - 2) Human Resource Capacity Building: Training of professional mediators and improving the competence of law enforcement officers.

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