

Traffic Law Enforcement by Indonesian National Police Through a Restorative Justice Approach

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Traffic law enforcement requires a renewal in the traffic law enforcement model. This is necessary considering that traffic is the lifeblood of society, and traffic can also be said to be a reflection of culture and the level of modernity of a nation. So that society can live, grow and develop, it requires productivity in its life which can be generated through activities supported by traffic. Traffic Law Enforcement aims to create order and regularity in community life, especially in traffic on the road. Traffic law enforcement is essentially for safety by raising awareness and even building civilization. The purpose of this research is to determine the renewal of the law enforcement model implemented, especially in the investigation of traffic accidents by the Police, through a restorative justice approach. The research method used is empirical legal research with the research specifications used being analytical descriptive. From the research results, it was found that the renewal of law enforcement for traffic crimes is based on 3 (three) foundations/aspects, namely philosophical, legal and sociological foundations. Furthermore, a new innovation is offered in the renewal of the law enforcement model for traffic crimes by the Indonesian National Police, namely electronic-based law enforcement in investigating traffic accident cases, through a restorative justice approach.

Keywords: Traffic Law Enforcement, Renewal of Law Enforcement Model, Restorative Justice

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INTRODUCTION

The supremacy of law implemented in Indonesia is to realize a national legal system based on social justice and truth, which means that the supremacy of law in national life must uphold its substantial values, including the values of justice, truth, honesty and trust between people (Barda, 2017). The values of the supremacy of law should also be realized in all aspects of social/state life. This can be interpreted that the supremacy of law is not only realized in legal justice, but also social justice, political justice, and also all justice in all other areas of life (Barda, 2012). The principle of justice that is upheld in order to realize the supremacy of law underlies the national legal system and must be implemented consistently through law enforcement (Kelana, 2002).

Law enforcement is an activity to harmonize the relationship between values that are outlined in solid and manifest rules and attitudes as a series of final stage value explanations to create, maintain and defend peaceful social interactions (Soekanto, 2012). Law enforcement

also aims to create a conducive and dynamic social order (Airliman, 2015) that is implemented in all areas of life in society, including life in the traffic field. Traffic is the lifeblood of society, and traffic can also be said to be a reflection of culture and the level of modernity of a nation. This gives meaning that as the lifeblood of society, it is understood that as a society that can live, grow and develop if it has productivity in its life. This productivity can be generated through activities supported by traffic (Chryshnanda in Hariyanto, 2017).

Law enforcement in the field of traffic in Indonesia is regulated in positive Indonesian law contained in Law No. 22 of 2009 concerning Traffic and Road Transportation (UULAJ). Article 1 numbers 2 and 11 of the UULAJ, it is explained that traffic is the movement of vehicles and people in road traffic space, namely infrastructure designated for the movement of vehicles, people and/or goods in the form of roads and supporting facilities. The substance of road traffic law is the law that regulates the movement of people and/or vehicles in the road traffic space. The scope of road traffic law is not only related to the movement of vehicles, people, and/or goods, but also related to entities that move on the road are also regulated by road traffic law itself, namely people and/or vehicles. This is manifested in various regulations, such as regulations for pedestrians, regulations for technical requirements and roadworthiness of vehicles, regulations for standardization of competency of people as vehicle drivers, regulations for technical requirements and roadworthiness of vehicles and regulations for registration and identification of motor vehicles. In addition to regulating movement and entities that move on the road, road traffic law also regulates acts that are considered violations of the law.

Violations of the law in UULAJ, specifically regulated in Articles 272 - 317, namely violations of administrative law which are threatened with administrative sanctions, including violations of provisions regarding registration and identification of motor vehicles, violations of provisions regarding driving licenses, violations of provisions regarding traffic impact analysis, and violations related to provisions regarding public transportation. UULAJ also regulates violations of criminal law, with acts that are categorized as criminal acts and are threatened with criminal sanctions, so they are regulated separately in the Criminal Provisions Chapter.

Problems in the field of road traffic in addition to traffic violations there are also traffic accidents. Law enforcement against traffic accidents, especially those that cause death, is still debatable whether it is a violation or a crime. In Indonesia, death caused by traffic accidents is considered as a regular traffic violation. Before the enactment of UULAJ, acts that cause death on the road were applied to various Articles in the Criminal Code by Investigators. The application of the Article that is quite controversial is the threat of murder in Article 338 of the

Criminal Code. This article is imposed when the driver of the vehicle is clearly proven to have intentionally caused the death of another person. This article was once applied by the Supreme Court in 1994 when sentencing a mini metro driver who drove his vehicle recklessly, causing a traffic accident with a fatality, with a sentence of 15 years in prison (Sofian, 2021). This decision is certainly debatable, considering that the element of intent carried out by the metro mini driver is different from the intent of the perpetrator of murder, where there are 3 (three) elements of intent (*dolus*) in the theory and doctrine of criminal law (Utrecht, 1986), namely: 1) intent as intention (*oogmerk*); 2) intent as certainty (*opzet bij zekerheids bewustzijn*); and 3) intent with possibility (*dolus eventualis*). The criminal act of the metro mini driver can be categorized as intentional with the possibility that the driver was aware of his actions and the possibility of other consequences arising from his actions that he did not want, that there were fatalities as a result of his actions, and also that he did not cancel his intention to carry out his actions (driving recklessly). Most investigators, therefore, apply another article in the Criminal Code which is used to punish perpetrators who accidentally cause another person to die on the road due to a traffic accident, by applying Article 359 of the Criminal Code.

Traffic law enforcement aims to create order and regularity in the lives of the community, especially in traffic on the road. Traffic law enforcement is essentially for safety by raising awareness and even building civilization (Chryshnanda, 2022). It is known that to support community mobility, space is needed as a means. By considering the importance of traffic for the community, it can be said that traffic is the lifeblood of the community (Chryshnanda, 2009). As the lifeblood, it is said that security, safety, order and smooth traffic are very necessary for society to fulfill its productivity. To improve the quality of life through useful community productivity, which can be generated from various activities whose implementation/mobility is supported by traffic (Suparlan, 2004). The Indonesian National Police (INP) as an institution within the state government system that carries out government functions in maintaining order and enforcing the law (Thamrin, 2018). This is stated in Article 2 of Law No. 2 of 2002 concerning the Indonesian National Police, which states that the function of the police is one of the functions of government in maintaining public security and order, law enforcement, protection, patronage and service to the community (Kelana, 2002). Through this function, the INP are required to be able to align their duties and roles in anticipating strategic environmental developments that continue to change very rapidly.

Carrying out its main duties, the INP must also anticipate the strategic environment, which is full of turmoil, uncertainty, complexity, and ambiguity, which then become challenges faced by the INP in providing services and guarantees of security to the community. The challenges faced by the INP require the appearance, attitude, behavior, and posture of the

INP that are not in accordance with the expectations of the community to change, so that the INP are also required to carry out a transformation. The transformation of the INP is emphasized in the concept of the Presisi, which is an abbreviation of the words predictive, responsible and transparent with justice (Suprihanto, 2021). The Transformation of the INP Presisi, implemented in 4 (four) areas, including organizational transformation, operational transformation, public service transformation, and supervisory transformation. From these four areas of transformation, the Chief of INP's priority programs were created. The priority programs are intended as an effort to improve the quality of public services, strengthen law enforcement and strengthen the maintenance of public order and security. In its implementation, the priority program is then implemented through a timeline for determining action plans and targets that must be outlined by all Work Units within the INP. One of the urgencies of INP's transformation is the change and improvement of services and implementation of tasks in INP of traffic functions. In priority program number 4 (four) is: "Changes in modern police technology in the era of police 4.0" and priority program number 6 (six) is: "Improving Law Enforcement Performance", is one of the main bases and foundations for improving traffic functions, especially in aspects of law enforcement based on technology and information.

Improvement in traffic function is a renewal implemented by the INP, especially in the implementation of law enforcement. Renewal in the traffic law enforcement model by the INP is based on the lack of awareness, discipline and compliance of the community with traffic regulations and traffic procedures or driving on the highway. The behavior of road users in Indonesia who do not comply with traffic regulations results in a high number of traffic accidents and a high number of traffic violations. Based on data from the Indonesian Police Traffic Corps, during 2022 there were 2,650,789 traffic violations and the number of traffic accidents reached 85,333 (INP Traffic Corps, 2022). From these data, it is apparent that the urgency of more optimal law enforcement of traffic crimes needs to be implemented by the Police, bearing in mind that current law enforcement has not had a significant impact on changing the traffic behavior of road users.

Currently, there are also developments in the legal world to fulfill the sense of justice in society, with the beginning of a shift from positivism to progressiveness, and to seek fair solutions in society so that a restorative justice approach is needed. The main objective of restorative justice is to restore or repair the victim's losses, there must be recognition from the perpetrator of the losses resulting from the crime committed, conciliation or reconciliation between the victim, the perpetrator and the community, reintegration of the perpetrator and through peaceful conflict resolution.

Based on the background description above, the focus of the research in this paper is on how the traffic law enforcement model by the INP is implemented through a restorative justice approach. This research will further examine the renewal of the traffic law enforcement model based on 3 (three) foundations/aspects, namely philosophical, legal and sociological foundations, as well as the concept of the renewal model offered as a form of manifestation of the contribution of "Police for the Community" according to the theme of writing on this proceeding.

RESEARCH METHODS

This research is a type of empirical legal research, or is called field research by examining the applicable legal provisions and what actually happens in society (Arikunto, 2012). Empirical legal research is legal research regarding the application or implementation of normative legal provisions in action in each specific legal event that occurs in society (Muhammad, 2004) or in other words, it is a study conducted on the actual situation or real conditions that occur in society with the aim of knowing and finding the facts and data needed, after the required data has been collected, then leads to problem identification which ultimately leads to problem solving (Waluyo, 2002). The research conducted was to determine the implementation or legal events related to the traffic law enforcement model by the INP which is implemented through a restorative justice approach.

The research specifications used are analytical descriptive, to describe a problem in a certain area or at a certain time, which describes the research results with data that is as complete as possible (Mukti & Achmad, Yulianto, 2017). Researchers try to reveal the facts completely and truthful facts (Suteki & Taufani, Galang, 2018) about the implementation or legal events related to the traffic law enforcement model by the Police which is implemented through a restorative justice approach. The data analysis method is carried out by collecting data through reviewing library materials or secondary data which includes primary, secondary and tertiary legal materials in the form of documents and applicable laws and regulations.

RESULTS AND DISCUSSION

1. Traffic Law Enforcement.

Traffic law enforcement on the road cannot be separated from crime prevention. Empirical crime prevention consists of three main parts. This is as stated by Barda Nawawi Arief, namely: first, preemptive, initial efforts made to prevent criminal acts occur; second, preventive, are follow-up efforts from preventive efforts that are still at the prevention level before a crime occurs; and third, repressive, efforts made when a

criminal act/crime has occurred, the actions of which are in the form of law enforcement (Zukifli, 2021). In relation to this, especially in enforcing traffic laws, crime prevention can be done in three ways, which are called preemptive efforts, preventive efforts, and repressive efforts (Ilyas, 2010), as follows:

- a. Preemptive efforts are initial efforts made by the police to prevent criminal acts from occurring. Efforts made in preemptive crime prevention are by instilling good values or norms so that these norms are internalized in a person. In this preemptive effort, it is done to eliminate the intention so that the opportunity to commit a violation or crime does not occur, in other words, the intention to commit a crime is eliminated so that the crime will not occur. So in this effort, the intention factor is lost even though there is an opportunity;
- b. Preventive efforts, are a continuation of preemptive efforts in the form of preventive activities before a crime occurs, which are carried out by eliminating the opportunity to commit a crime. Preventive measures are better efforts compared to efforts made after a crime has occurred;
- c. Repressive efforts, as an effort made when a crime or crime has occurred, the action of which is in the form of law enforcement by imposing punishment. In repressive efforts in enforcing traffic law, especially against traffic violations, it is carried out judicially and non-judicially.

Repressive efforts in a judicial manner in enforcing traffic law are carried out in the form of fines, which are evidence of violations and function as a form of invitation to traffic violators to attend court hearings, and also as proof of the confiscation of evidence that has been confiscated by the police from traffic violators. In practice, conventional fines are carried out by confiscating documents or vehicles as evidence that will be needed during traffic violation trials. Confiscation is usually carried out on motor vehicle documents (STNK) and driving licenses (SIM) (Sasambe, 2016). Traffic law enforcement using fines is one form of traffic law enforcement against traffic violations. Traffic law enforcement against traffic violations is not just about finding fault with violators. But the essence is for safety by raising awareness and even building civilization. Traffic as the lifeblood of life, then conditions of safety, security, orderly and smoothly become pillars for society to survive in life, grow and develop. In addition, traffic is a reflection of the nation's culture. Traffic law enforcement is carried out to resolve conflicts in a civilized manner, the principles of which are: 1). to prevent congestion, prevent accidents or to prevent and overcome other traffic problems; 2). to provide protection, protection and services to other road users so that they are not disturbed by

traffic violations as well as for other victims and justice seekers. 3). to build a culture of orderly traffic. 4). Provide certainty. 5). Education. The five points above are described in a public service as an effort to provide security services, safety services, legal services, administrative services, information services, and humanitarian services (Dwilaksana, 2022).

Further improvement in enforcement using ticket have implemented in a renewal of the law enforcement model, which is conducted by applicated an electronic-based system or method, known as the electronic ticket system or *e-tilang*. *E-tilang* is implemented using an application on Android. The difference with the conventional ticketing system is that the type of violation found must be written by the officer (Traffic Police) on the ticket letter (blank), while in *e-tilang*, traffic violations that are found directly are entered into the *e-tilang* application. Each Traffic Police member has the application on their mobile phones so that the process of recording traffic violations becomes faster. Through this application, the data of violators can be directly connected to the Bank so that the process of paying fines becomes more transparent.

The next development in the electronic-based approach in enforcing traffic violations is through electronic traffic law enforcement (ETLE). In ETLE, high-tech CCTV cameras have been installed at several points on the road and on patrol cars (called ETLE mobile) which will monitor traffic violations. The CCTV can record, capture images of violations and license plates of violating vehicles and then connect to the back office, called the Traffic Management Center (TMC), which are located in the Traffic Corps of the INP, in several Regional Police and Resort Police. In more detail, ETLE is a form of traffic law enforcement system, by utilizing electronic technology in the form of ANPR (Automatic Number Plate Recognition) cameras, which can detect Motor Vehicle Number Plates (TNKB) automatically, so that they can record and store evidence of the violation to be used as evidence when taking action against traffic violations.

Top 10 ranking data for ETLE camera capture count in 2022

Rank	Region	Number of Captures	Total of Cameras
1	Metro Jaya	1030838	98
2	South Sumatera	781064	10
3	West Jawa	263182	21
4	East Java	250864	74
5	Banten	177838	1
6	South Kalimantan	120757	3
7	West Kalimantan	108873	2
8	Gorontalo	96121	2
9	Bali	78328	1
10	Central Java	75158	186

source : INP Traffic Corps, 2022.

In 2022, as many as 26 Regional Police throughout Indonesia (starting in April 2022) will simultaneously implement ETLE in law enforcement against traffic violations on the road. The National Police Traffic Corps will implement ETLE considering that the socialization of ETLE implementation will be carried out starting in 2021, and for 2022, ETLE will be implemented on toll roads, there are two types of violations that will be prosecuted. The table above is the number of violations that were successfully captured by the ETLE camera located in each Regional Police.

ETLE is carried out as an effort to provide security and safety services as well as legal services by shortening the way to enforcing the law which is conducted by officers in the field. The enforcement is carried out using a barcode reader/security codes on SIM/STNK or vehicles that are passing, which are not acted on with a ticket form but with a CCTV camera or with an online gate connected to the back office to recognize faces or vehicles whose data will be processed into traffic attitude records (TAR). The TAR will be linked to the SIM extension system in the de merit point system program, which will then analyze the traffic behavior data based on artificial intelligence which if there is confirmation, the vehicle owner or violator is required to pay the fine at the bank. There are several advantages of traffic law enforcement using ETLE, including: 1). No need to write manually, faster enforcement time. 2). No need for ticket forms. 3). Traffic ticket data can be directly connected to the back office so that accurate data is obtained as a filling and recording system that can be linked to the TAR and de merit system, 4) Connected to the bank for payment of fines. 5). Connected to the court to hear/impose a fine decision. 6). Officers can attach evidence of violations in the form of photos/films/recordings as attachments to the trial. 7). Violators can be subject to a demerit point system for violations committed. 8). As a basis for the SIM testing system, education and other programs of Traffic Police. 9). Can provide actual information as a portrait or even an index of orderly traffic culture. 10). Avoid extortion practices by certain officers in the field (Dwilaksana, 2022).

ETLE installed on CCTV cameras is called Static ETLE. In addition to static ETLE, there is also ETLE that is carried out in a mobile, which is called mobile handled ETLE. This type of ETLE has advantages, including that traffic police officers can reach areas that cannot be reached by static ETLE, because the camera installed on the mobile handled ETLE is on the officer's equipment such as helmets, vests or on the rotator lights on traffic police vehicles (Nugroho, 2022).

In non-judicial repressive efforts, it is implemented in the form of giving warnings to violators. Warnings are given to drivers or motor vehicle riders who have committed

violations and have been caught red-handed by the Traffic Police. Warnings are also given if the violators promise not to commit violations again. Warnings are given by making a written statement that they will not commit violations. This warning effort is expected to be able to resolve problems that basically cannot eliminate violations directly, but can provide a warning to those who have committed traffic violations (Rahardjo, 2014).

In relation to law enforcement of traffic crimes, repressive law enforcement against traffic accidents is by conducting an investigation process against drivers in traffic accidents. This is to provide legal certainty regarding legal events that occur in traffic accidents. In order to be prosecuted before the law, the incident that occurs must be a crime, while in traffic accidents the crime that occurs is an unintentional crime or due to absence or negligence (Mahulae, Pujiyono, 2017).

Traffic law enforcement carried out by the Police, are: 1). Preventing accidents or congestion or other traffic problems from occurring. 2). Providing protection, protection and services to other road users who are disturbed by violations, also for victims and justice seekers. 3). Building a culture of orderly traffic. 4). So that there is certainty. 5). As part of Education (Dwilaksana, 2022). Traffic law enforcement to prevent traffic accidents as described above, the Police are also faced with traffic accidents that occur and need to be enforced. Therefore, traffic law enforcement is also carried out in traffic crime investigation activities. Traffic crime investigations are carried out in accordance with the main duties of the Police as mandated in Article 13 of Law Number 2 of 2002 concerning the Indonesia National Police (INP Law), namely: a) maintaining public security and order; b) enforcing the law; and c) providing protection, patronage, and services to the community. In relation to investigations, the main duties of the Police are also outlined in Article 14 letter g of the INP Law which states that the Police are tasked with conducting investigations and inquiries into all criminal acts in accordance with criminal procedure law and other laws and regulations. More specifically, investigations into traffic crimes are contained in articles in the Law on Traffic and Road Transportation, including Article 260 paragraph (1) letter b which states that the Police in the traffic and road transportation have the authority to examine the truth of information related to investigations into criminal acts in the field of Traffic and Road Transportation and letter e which states the authority of Police investigators in taking action against criminal acts of violations or traffic crimes according to the provisions of laws and regulations, and letter h namely in carrying out detentions related to criminal acts of traffic crimes.

In the digitalization process in the current era of the industrial revolution 4.0, an electronic approach is also possible in enforcing traffic crime laws, especially in the process of investigating traffic accidents. The latest regulation that accommodates guidelines for electronic-based traffic law enforcement is the issuance of the Chief of Police Regulation Number 8 of 2023 concerning Electronic-Based Traffic Management. The Chief of INP Regulation (Perkap) explicitly regulates electronic-based traffic law enforcement services which are only limited to taking action against traffic violations. It is stated in Article 3 letter a, that one of the types of electronic-based traffic management includes legal services, then in Article 4 letter a it is explained that the legal services as referred to in Article 3 letter a are taking action against traffic violations.

2. Practice of Handling Traffic Crimes with Restorative Justice.

In practice, handling of criminal acts based on restorative justice is carried out by referring to Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. Before the enactment of the Regulation, traffic accident criminal cases that would be resolved using a restorative justice approach were based on the Police Law, in Article 18 paragraph (1) which states: "In the public interest, officials of the Republic of Indonesia Police in carrying out their duties and authorities may act according to their own judgment." This article is more directed at police discretion based on the principle of general police obligations, as a principle that gives authority to police officials to act or not act according to their own judgment, within the framework of their general obligations to maintain, preserve order and ensure public security. With the implementation of Police Regulation Number 8 of 2021, it is regulated regarding the requirements for criminal cases that can be resolved with restorative justice, namely material requirements and formal requirements that are included in the general requirements. As a material requirement, it is required (Articles 4 and 5 of Police Regulation Number 8 of 2021):

- a. does not cause unrest and/or rejection from the community;
- b. does not have an impact on social conflict;
- c. does not have the potential to divide the nation;
- d. is not radicalism and separatism;
- e. is not a repeat offender of a crime based on a court decision; and
- f. is not a criminal act of terrorism, a crime against state security, a criminal act of corruption, and a crime against people's lives.

Meanwhile, the general requirements in the form of formal requirements include:

- a. peace from both parties as evidenced by a peace agreement and signed by the parties, except for narcotics crimes;
- b. peace as evidenced by a peace agreement letter signed by both parties;
- c. fulfillment of the rights of the victim and the responsibilities of the perpetrator in the form of returning goods, replacing losses, replacing the costs of damage caused by the crime and/or replacing damage caused by the crime, as evidenced by a statement in accordance with the agreement signed by the victim (except for narcotics crimes).

Even though it has been regulated in the material and formal requirements in Police Regulation Number 8 of 2021, not all traffic accident crimes can be resolved with restorative justice, only traffic accidents that cause little loss or are minor in nature and do not result in the loss of a person's life can be resolved with restorative justice (Ramadhani & Suyatna, 2024). However, in practice, there are cases of traffic accidents with fatalities that are resolved with restorative justice. Therefore, it is necessary to re-emphasize the limits of restorative justice in handling criminal acts including traffic accidents. In general, handling of criminal acts based on restorative justice is in the activities (Article 2 of Police Regulation Number 8 of 2021):

- a. Implementation of the Criminal Investigation function by the *Binmas* and *Samapta* of INP function holders (such as in the resolution of Minor Crimes); and
- b. Investigation and inquiry by Polri investigators.

Handling of criminal acts based on restorative justice must also be in accordance with certain requirements, including general and specific requirements. General requirements apply to the implementation of the Criminal Investigation function, investigation or inquiry, while special requirements only apply to criminal acts based on restorative justice in investigation or inquiry activities (Article 3 paragraph 2 and 3 of Police Regulation Number 8 of 2021). There are also special requirements in handling criminal acts based on restorative justice, as additional requirements for other criminal acts (Article 7 of Police Regulation Number 8 of 2021):

- a. Information and Electronic Transactions (ITE) Crime;
- b. Drugs; and
- c. Traffic

Especially for handling traffic crimes, there are special requirements in handling traffic crimes based on restorative justice, especially for traffic accidents, which include (Article 10 of Police Regulation Number 8 of 2021):

- a. Traffic accidents due to driving motor vehicles in a dangerous manner and under dangerous conditions resulting in material losses and/or minor injuries; or
- b. Traffic accidents on the road due to negligence resulting in human casualties and/or property losses.

The implementation of the authority to investigate and/or investigate criminal acts by INP's investigators who apply restorative justice in their investigation methods is based on the following provisions:

- a. Article 7 paragraph (1) letter j of Law Number 8 of 1981 concerning Criminal Procedure Law, that investigators due to their obligations have the authority to carry out other actions according to responsible law;
- b. Article 16 paragraph (1) letter l and Article 18 of Law Number 2 of 2002 and Article 5 paragraph (1) number 4 of Law Number 8 of 1981, that other actions as referred to in Article 16 paragraph (1) letter l are investigative and investigative actions carried out if they meet the following requirements:
 - 1) not contrary to a rule of law;
 - 2) in line with legal obligations that require the action to be taken;
 - 3) must be appropriate, reasonable, and within the scope of his/her position;
 - 4) reasonable consideration based on compelling circumstances;
 - 5) respect to human rights.
- c. Article 18 paragraph (1) of Law Number 2 of 2002, that in the public interest, officials of the INP in carrying out their duties and authorities may act according to their own judgment. Furthermore, in Article 18 paragraph (2) that the implementation of the provisions as referred to in paragraph (1) may only be carried out in circumstances of extreme necessity by paying attention to statutory regulations and the Code of Ethics of the INP.

3. The Renewal of the Traffic Law Enforcement Model

The renewal of the law enforcement model for traffic crimes can be seen in at least 3 (three) aspects/foundations, which include philosophical foundations, legal foundations and sociological foundations. This is as expressed by Jimly Asshiddiqie, that there are 3 (three) things in the formation of a good regulation, which must be based on aspects/foundations, namely philosophical, legal and sociological (Asshiddiqie, 2006).

As a philosophical basis, it is said that if the norm is in accordance with the norms that exist in a country. As in Indonesia, the formulation of Pancasila has contained the values of religiosity, the values of just and civilized humanity, nationality in the bonds of

Unity in Diversity, people's sovereignty and social justice for every Indonesian citizen. None of these five philosophical values may be ignored or even opposed in various legal norms contained in various possible laws and regulations within the framework of the Unitary State of the Republic of Indonesia. The renewal of traffic crime law enforcement, especially in the investigation of traffic accident cases, is built based on a moral framework by considering the humanitarian side in upholding human dignity. Through human moral considerations, individuals will be required to be able to respect others, care about the welfare of others rather than their own welfare, and try to limit the pursuit of their own interests. Moral considerations can be used to assess laws or customs, praise or support the actions of others, or conversely to criticize or oppose. A person with high morals is able to position virtue as a bridge to connect personal life with professional life. A person can be the most trusted and generous person. Trustworthy concerns the values of honesty in action, honesty in speech, ability/competence, diligence and loyalty. As for generosity, concerns actions that do not harm others and provide assistance to others. Moral dilemmas often befall law enforcers, in which there are two or even more moral obligations, rights, ideals or the application of a principle that are in conflict in a situation that allows law enforcers to fulfill. Moral obligations to law enforcers who should decide cases fairly, moral obligations to fellow professionals wrapped in the term loyalty, moral obligations to oneself and moral obligations to God Almighty. The law enforcement model for traffic crimes is based on the assessment of the INP investigator and police discretion, so the handling process is carried out with a restorative justice approach. The application of restorative justice is a form of change in the way of thinking in viewing justice. While the values of humanity are shown in the form of the INP as a law enforcement officer who must also be able to achieve moral autonomy with the ability to achieve a rational moral view, which is based on a responsive attitude towards humanity.

Furthermore, in the legal basis it is stated that the legal validity of law is a norm that applies with its general nature with consideration of a legal technique. Legally, this also means that the regulations have been established as valid data and have never been explicitly revoked or set aside by new regulations. In this discussion of the legal basis, it is the validity of the norms that are obeyed as legal rules in the implementation of law enforcement renewal that will be implemented. In the practice of law enforcement renewal, the legal basis is based on the provisions of the legal rules below:

- a. Article 272 UULAJ, in paragraph (1) To support the activities of taking action against violations in the field of traffic and road transportation, electronic equipment can be used; furthermore in paragraph (2) The results of the use of

electronic equipment as referred to in paragraph (1) can be used as evidence in court. This article emphasizes that taking action against traffic violations can be done electronically and the results of the electronic action can also be used as evidence in court;

- b. Article 3 letter a in conjunction with Article 4 letter a of the Republic of Indonesia National Police Regulation Number 8 of 2023 concerning the Implementation of Electronic System-Based Traffic. It is explained that in Article 3 letter a, that the type of implementation of electronic system-based traffic includes legal services, then in Article 4 letter a it is explained that legal services as referred to in Article 3 letter a can be in the form of taking action against traffic violations. This regulation is an implementing regulation regarding the implementation of electronic-based traffic, including in traffic law enforcement including in taking action against traffic violations;
- c. The renewal of the law enforcement model for traffic crimes, especially in traffic case investigations, then the legal basis used as the legal basis is Police Regulation Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. With the existence of the Police Regulation, the enforcement of criminal law by the Police has accommodated the norms and values that apply in society as a solution in resolving cases, as well as an effort to provide legal certainty in the benefits and sense of justice of the community in order to answer the need for legal protection for the community and fulfill the sense of justice of all parties.

Meanwhile, the sociological basis, it is said that the application of law sociologically is by implementing laws that are alive and practiced in society, because they are considered good by the interests of the society. The sociological basis is based on the acceptance of society towards a legal rule, which can be classified into two forms, namely recognition, if the validity of a legal rule is based on the recognition and acceptance by society, while the next form is because of coercion, which means that in order for the legal rule to be obeyed by society, coercion is needed from the authorities or legal officials. Based on the theory of law enforcement by Soerjono Soekanto, who said that law enforcement is an activity to harmonize the relationship between values that are outlined in firm rules and attitudes as a series of final stage value explanations, to create, maintain and defend peace in social life (Soekanto, 2012). Furthermore, Soerjono Soekanto and Purnadi Purbacaraka, as quoted by Erina Pane in Sri Wahyuni's paper (Wahyuni, 2022), have noted 2 (two) theoretical bases as the sociological basis for the validity of a

legal rule, namely: 1) Power (*machttheorie*), namely sociologically a legal rule applies because of the coercion of the ruler, regardless of whether it is accepted or not by society; and 2) Recognition (*anerkennungstheorie*), namely a legal rule applies based on acceptance by the society where the law applies. From the results of the Author's research, it is known that traffic law enforcement by the Police by implementing electronic law enforcement, both implemented in traffic violations and in handling traffic crimes, is aimed at harmonizing the relationship of values outlined in solid rules in the form of security values, safety, order and smooth traffic that must be maintained as a solid rule of the Indonesian nation, because in any case obedience and order in traffic is a reflection of the nation's culture itself. The culture of the Indonesian nation which is noble and has good morals is a form of peace in the social life of the nation and state. As former President of the United States Bill Clinton said (Dwilaksana, 2022): "if you want to see a nation, look at its traffic". What Bill Clinton said can be understood that traffic is a reflection of the nation's culture. The cultural context for understanding people's behavior in traffic can be seen as a function of culture, which is related to thoughts, concepts, theories, beliefs that are used selectively as a priority to exploit resources or distribute resources. Thus, traffic behavior can be understood as a reflection of culture.

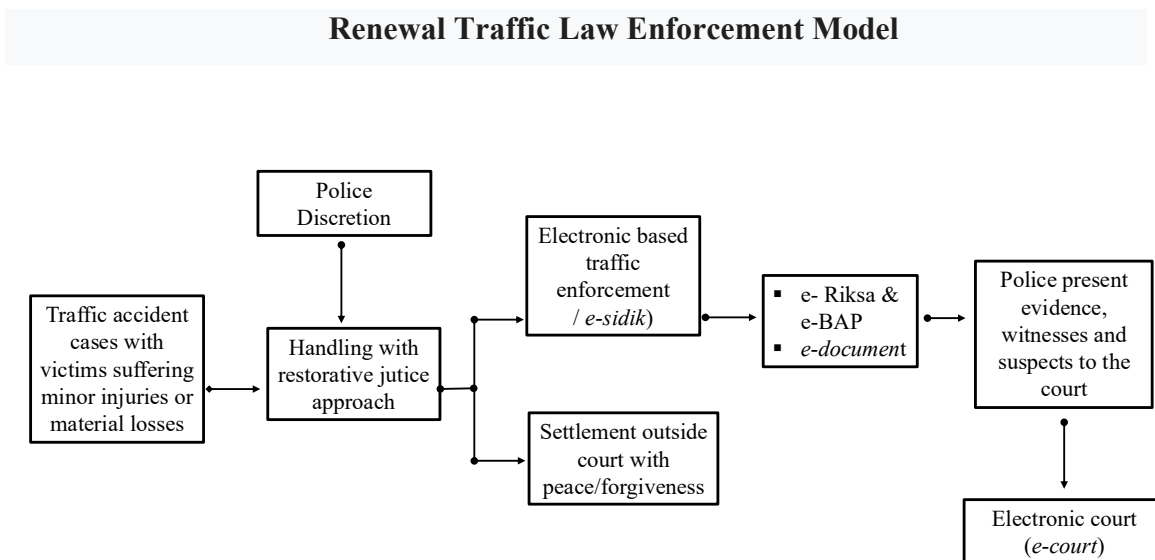
4. Renewal of Traffic Law Enforcement Model in Traffic Accident Investigation Through Restorative Justice Approach

Based on the three elements that form the legal system (structure, substance and culture) according to Friedman (1984), that legal culture precedes the other two elements, because according to Friedman, legal culture is something important in the legal system, as a 'demand', 'request' or 'need' that comes from the community or users of legal services, which is related to ideas, attitudes, beliefs, hopes and opinions about the law. The legal culture of society can also be interpreted as the values and attitudes and behavior of members of society in legal life, which is reflected not only by the behavior of officials (executive, legislative and judicial), but also the behavior of society itself.

The legal culture in enforcing electronic-based traffic crime law in law enforcement officers (INP) must change from using traditional methods in the investigation process by adapting digitally. This means that in the era of the industrial revolution 4.0, INP's members must develop the competence of their personnel in the digital field, by improving their skills in the field of information technology, and the mindset of Police must also be changed, do not be imprisoned by past work patterns that rely on physical,

because in the current era, information technology is the basis for human life. Polri investigators must also practice using equipment, media and electronic documents used in implementing electronic-based traffic crime law enforcement. Likewise, the community must also adapt to the digital approach offered by the police in supporting the implementation of their duties.

Therefore, in the renewal of the law enforcement model for traffic crimes through a restorative justice approach, it is a different concept from what has been implemented before. The renewal model is electronic-based law enforcement in traffic accident investigations, especially for victims of minor injuries or material losses. The application of restorative justice, especially in law enforcement of traffic crimes, is to reduce the burden of handling traffic accidents which are very much handled by Police Investigators, so that it is necessary to regulate accidents with minor injuries or material losses that can be resolved with restorative justice. In addition, restorative justice also has advantages, including saving costs that must be incurred if the case resolution process must be carried out through the courts. The renewal of the electronic-based traffic crime law enforcement model with a restorative justice approach in handling traffic accident cases with victims suffering minor injuries or material losses, as described in the following diagram concept:



The concept of updating the electronic-based traffic crime law enforcement model is specifically for traffic accident cases with minor injuries or accidents with material losses. This implies that the losses incurred can be accommodated based on a cultural approach, namely family culture but still regulated in a legal settlement, as follows:

- a. the handling process begins with an assessment by the INP traffic investigator who handles traffic accidents with victims suffering minor injuries or material losses, then based on the assessment based on police discretion, the handling process is carried out using a restorative justice approach;
- b. the restorative justice approach is divided into 2 (two) categories, the first category is for cases with material losses, then the investigator carries out a settlement process outside the court by making a peace report and recording it in the case register book and entering it into the e-investigation application (E-MP / electronic investigation management);
- c. while the second category is for handling cases with minor injuries that are resolved through an electronic-based minor crime mechanism (e-traffic investigation/e-RJ Traffic Investigation), with the examination process carried out electronically using electronic infrastructure and documents, which include: a list of questions in the examination report that is filled in via electronic format (in the form of a Google form or other electronic form filling application);
- d. the parties involved in the traffic accident case, whether the suspect, witness or victim, affix an electronic signature on the electronic form which, after being filled in by the parties, is then sent back to the investigator via an electronic delivery application, either via e-mail or an electronic traffic accident investigation application (e-RJ Laka Lantas);
- e. after receiving the application, the investigator will then read and make corrections. As soon as it is deemed complete and in accordance with the list of questions in the examination report, the investigator will add an electronic signature;
- f. the investigation report that have been prepared are then ready to be sent to the court and previously recorded in the case register book which is also carried out electronically;
- g. the following process is in the court that is conducted electronically (e-court).

CONCLUSIONS

Traffic law enforcement is carried out not only against traffic violations but also in handling traffic accidents. Traffic accident law enforcement can be carried out with a restorative justice approach to provide a sense of justice for the community. Currently, electronic-based traffic law enforcement is only carried out limited to traffic law enforcement against traffic violations, namely in the form of e-tickets which were later developed into ETLE (electronic

traffic law enforcement) which has been tested for compatibility in several Regional Police while electronic traffic law enforcement in handling traffic crimes has not been implemented.

The updated law enforcement model (renewal of the law enforcement model) with a restorative justice approach as a concept offered in this paper is a form of legal culture in electronic-based traffic crime law enforcement in law enforcement officers (Police investigators) who must change from using traditional methods in the investigation process by adapting digitally. The renewal of the electronic-based traffic law enforcement model with a restorative justice approach is through an electronic-based traffic accident investigation mobile application with a restorative justice approach (e-RJ laka lintas) offered by the Author in supporting the implementation of Polri's duties in investigating traffic crimes.

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