



## Aspects of Obstacles to the Implementation of Restitution for Victims of Traffic Accidents Causing Death

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**Abstract:** The purpose of this research is to know and analyze about kObstacles in the implementation of restitution for victims of traffic accidents that cause death are; Legal procedures and processes are long and complicated, law enforcement is not involved in the implementation of restitution, which means that the police do not intervene in determining compensation costs, the majority of people do not know that there is compensation in the form of restitution that must be given to perpetrators outside of the criminal cases they receive and factors perpetrators who are unable to pay compensation. By him, the researcher suggests that the police play an active role in providing socialization to the community regarding the rights they receive when they become victims of traffic accidents, especially the existence of a merger of cases with claims for compensation and law enforcers should facilitate the process of submitting requests related to compensation (restitution), by accelerating settlement of criminal cases experienced by victims in the trial process.

**Keywords:** *Victim; Traffic accident; Restitution.*

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## 1. Introduction

Indonesia is the highest agreement of the state's formers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so the recognition of the regions under the auspices of the State of Indonesia is still recognized.<sup>1</sup> An absolute requirement for state sovereignty is the existence of a society that obeys the constitution and its government.<sup>2</sup> Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.<sup>3</sup> Therefore, in legal politics, a legal discovery and new law-making that is in accordance with the goals of the State is a value that must be implemented in order to achieve legal supremacy and justice.<sup>4</sup>

In our daily lives, even in society, in order to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.<sup>5</sup> At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution in tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence of the concept of forming a state which, according to JJ Rousseau, is based on community agreements. Furthermore, the people agreed to enter into a noble agreement (*modus vivendi*) which was set forth in a basic law in the form of the state constitution.<sup>6</sup> Legal protection is really needed because of efforts to integrate various needs in associations so that there are no conflicts between needs and can enjoy all the rights granted by law.<sup>7</sup> The state is firmly obliged to try to fulfill the rights of every citizen.<sup>8</sup>

Article 1 paragraph (1) of Law Number 22 of 2009 stipulates that "Road traffic and transportation is a unified system consisting of traffic, road transport, road transport

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<sup>1</sup> Novendri M. Nggilu, "Juridical Review of Criminal Sanction Arrangements in Gorontalo Province Regional Regulations," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

<sup>2</sup> Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

<sup>3</sup> Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian of the Constitution of the Constitution Through the the Principle of the Guardian of the Constitution." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

<sup>4</sup> Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

<sup>5</sup> Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

<sup>6</sup> Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Straftrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

<sup>7</sup> Jufryanto Puluhaulawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

<sup>8</sup> Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, No. 02 (2021): 365-77., 375

traffic network, road traffic and transportation infrastructure, vehicles, drivers , road users, and their management.”<sup>9</sup>

This law was formed with the aim of realizing road traffic and transportation services that are safe, orderly, smooth and integrated with other modes of transportation to boost the country's economy, realizing ethics in traffic and law enforcement, and of course legal certainty for the community. The existence of this regulation can also balance the role of transportation against the problems that are likely to occur on the road.

Traffic accidents are events that are not expected to occur and involve motorized vehicles on roads, because they can cause material losses and even kill human lives. Accidents that cause fatalities and financial or material losses can be avoided as much as possible with strategic efforts and steps by implementing compliance with traffic laws.

Other legal consequences of a traffic accident can also result in a crime for the perpetrator who is the actor causing the incident, which can also be accompanied by civil lawsuits for the material losses incurred. Andi Hamzah stated that in various kinds of mistakes, where the person who made the mistake caused harm to others, then he must pay compensation.<sup>10</sup>

On the other hand, criminal justice must also prioritize the interests of law and justice. Although there is a view that the measure of the success of law enforcement is marked by success in bringing suspects to court, and then being sentenced. Supposedly, the measure of the success of law enforcement by law enforcement officials is marked by the achievement of the values of justice in society.<sup>11</sup> Therefore, in dealing with traffic accidents, the police as the responsible party, in a professional way seeks to reconcile the parties who have had an accident with restorative efforts or better known as (restorative justice).

Restorative justice is justice that seeks to restore conditions to their original condition, benefit and win all parties, and is not confined to a rigid and procedural legal mechanism.<sup>12</sup> Restorative justice is also the most recommended form of exercising police discretion against perpetrators who are in conflict with the law. This is because the concept of restorative justice involves various parties to resolve a problem related to a crime committed by the perpetrator.

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<sup>9</sup> Undang-undang Lalu Lintas Nomor 22 Tahun 2009, “Tentang Lalu Lintas Dan Angkutan Jalan” (n.d.).

<sup>10</sup> Joko Suryanto, “Standar Operasional Prosedur Kepolisian Dalam Menangani Perkara Kecelakaan Lalu Lintas Yang Mengakibatkan Luka Berat Atau Meninggal Dunia Berdasarkan Pasal 229 Ayat (1) Huruf C Uu Nomor 22 Tahun 2009,” *Jurnal Hukum Prodi Ilmu Hukum, Fakultas Hukum Universitas Tanjungpura* 3, no. 3 (2015).

<sup>11</sup> Yunan Hilmy, “Penegakan Hukum Oleh Kepolisian Melalui Pendekatan Restorative Justice Dalam Sistem Hukum Nasional,” *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 2, no. 2015 (2AD).

<sup>12</sup> Musakkir, “Kajian Sosiologi Hukum Terhadap Penerapan Prinsip Keadilan Restoratif Dalam Penyelesaian Perkara Pidana,” *Jurnal Ilmu Hukum Amanna Gappa, Fakultas Hukum Universitas Hasanuddin* 19, no. 3 (2011): 214–15.

The following are the five principles of restorative justice namely;<sup>13</sup>

- a. Contains full participation and consensus;
- b. Restorative justice heals damage or loss;
- c. Giving meaning as the direct responsibility of the perpetrator;
- d. Being a means of reunification of divided (separated) communities;
- e. Providing resilience to the community to prevent further criminal acts from occurring.

While the legal basis or legal umbrella for the Police for the settlement of criminal cases outside the Alternative Dispute Resolution (ADR) court by means of peace, namely;<sup>14</sup>

- 1) Article 3 paragraph (1) Law Number 14 of 1970 Jo. Law Number 4 of 2004 Jo. Law Number 48 of 2009 concerning Judicial Power, all courts throughout the territory of the Republic of Indonesia are state courts and are determined by law; stated in the explanation: "this provision does not rule out the possibility of settlement of cases outside the state court through peace or arbitration".
- 2) Article 3 paragraph (2) of Law Number 4 of 2004 concerning Judicial Powers of the State Courts applies and confirms law and justice based on Pancasila.
- 3) Article 1 Number 27 of the Regulation of the Head of the Indonesian National Police Number 6 of 2019 concerning Investigation of Criminal Acts states that this restorative justice must involve the perpetrator, victim and/or their family and related parties. This aims to achieve justice for all parties.

This regulation also regulates the rights, obligations and responsibilities of service providers against third party losses as a result of road transport operators. In traffic accidents that occur, among others, are caused by fatigue, carelessness, lack of caution and boredom experienced by the driver, it does not even rule out the possibility of an accident due to things beyond human reason.

Apart from Restorative Justice (RJ), another term is also known, namely "Restitution" as part of the form of restoration of the rights of victims or what can be referred to as reparations. This has been developing for a long time and even the existence of international human rights law has not been recognized. In principle, the word repair refers to efforts to restore or return to its original state before damage occurred. Restitution in the history of law in Indonesia, is interpreted by the term Compensation.

Arrangements related to compensation can be found in a number of legal products. At the law level, they include the Criminal Code, the Civil Code, (KUHAP), Law no. 26 of 2000 concerning the Human Rights Court, Law no. 31 of 2014 concerning Amendments to Law Number 13 of 2006, regarding the Protection of Witnesses and Victims, as well as

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<sup>13</sup> Edwin Notaris, "Restorative Justice Pengertian Prinsip," [blogspot.co.id](http://edwinnotaris.blogspot.co.id/2013/09/restorative-justice-pengertian-prinsip.html), 2013, <http://edwinnotaris.blogspot.co.id/2013/09/restorative-justice-pengertian-prinsip.html> .

<sup>14</sup> Nasional Tempo, "Kapolri Sering Sebut Restorative Justice RJ Selesaikan Perkara Pidana," [NASional Tempo.com](https://nasional.tempo.co/read/1557863/kapolri-sering-sebut-restorative-justice-syarat-rj-selesaikan-perkara-pidana#google_vignette), n.d., [https://nasional.tempo.co/read/1557863/kapolri-sering-sebut-restorative-justice-syarat-rj-selesaikan-perkara-pidana#google\\_vignette](https://nasional.tempo.co/read/1557863/kapolri-sering-sebut-restorative-justice-syarat-rj-selesaikan-perkara-pidana#google_vignette).

several other regulations that will be presented in the literature review. However, at the government regulation level, arrangements regarding restitution are contained in PP no. 44 of 2008 concerning Provision of Compensation, Restitution and Assistance to Witnesses and Victims, as well as Government Regulation No. 3 of 2002 concerning Compensation, Restitution and Rehabilitation for Victims of Serious Human Rights Violations.

**Table 1**  
**Data on Traffic Accident Cases Causing Loss of Lives**

No.	Year	Number of Cases Accident	Death Case World	Case closed In the Gorontalo District
1.	2017	105	16	1
2.	2018	108	15	1
3.	2019	158	19	0
<b>Amount</b>		<b>371</b>	<b>50</b>	

Of the many cases of traffic accidents in the legal area of the Gorontalo City Police, one of them was experienced by Zulkifli. Based on the chronology of the accident, Zulkifli, who was riding a motorcycle, hit 2 (two) pedestrians, where 1 teenage girl survived and 1 adult woman died and was none other than the biological mother of the teenager in question. The case should have resulted in an act of criminal responsibility, in which the act resulted in a victim who died or was injured. As the process of the case progresses, the police then try to settle the case outside the court (restorative justice), of course with several requirements, including the imposition of restitution to the perpetrator for the victim and family.

According to the police<sup>15</sup> that the accident that happened to Zulkifli was an accident which then resulted in the loss of the victim's life, but in the process it was carried out in a Restorative Justice manner. Previously, an investigation process and other stages were carried out, but due to several reasons that met the requirements, an RJ was carried out. Next according to the perpetrator<sup>16</sup> that RJ's efforts that he received were the result of an agreement with the family facilitated by the police, but with certain conditions including the imposition of restitution.

<sup>15</sup> Wawancara dengan Bapak Aipda Yusuf, Kanit Laka-Satuan Lalu Lintas Polres Gorontalo Kota

<sup>16</sup> Wawancara dengan zulkifli sebagai pelaku dalam kecelakaan lalu lintas

Thus, the researcher is interested in conducting research related to Implementation of Restitution for Victims of Traffic Accidents Causing Death in the Legal Area of the Gorontalo City Police.

## **2. method**

This type of research is empirical research, using This type of research is primary data and secondary data, with an emphasis on primary data, while secondary data is only supporting. This research uses techniques Secondary data was obtained, namely systematically arranged and its substance analyzed qualitatively to obtain an overview of the subject matter using deductive thinking methods. While the primary data is grouped based on research variables and then analyzed qualitatively so that a clear picture of the subject matter is obtained.

## **3. Analysis And Discussion**

### **Obstacles in the Implementation of Restitution for Victims of Traffic Accidents Causing Death**

The high number of traffic accidents causing casualties, according to the police, is due to several causes, namely the negligence factor of humans who are not careful, lack of patience in traffic, wanting to always overtake other vehicles, including many damaged roads as well as natural and weather factors that affects it. Not only that, some of these accidents are also experienced by minors whose parents have allowed them to drive on the main road, which is a triggering factor for the high number of accidents.

Meanwhile, every victim has rights and makes efforts to obtain compensation or compensation, but of course it is not something easy, and must go through a long process, especially if a criminal case is combined with the intended compensation. This starts from the report to the claim for compensation by the victim or perpetrator and is carried out with many procedures. The existence of compensation is regulated in Article 314 of Law no. 22 of 2009 which reads "In addition to imprisonment, confinement, or fines, perpetrators of traffic crimes can be subject to additional punishment in the form of revocation of driving licenses or compensation for losses caused by traffic crimes".

At present, law enforcement is indeed receiving more attention from various groups of society, especially in fulfilling justice. One of them is the demand for justice and balance in the treatment of victims and perpetrators of crimes. The current criminal law system has not been able to meet the demands of this balance, so it is necessary to change the system in law enforcement, especially for traffic crimes on the highway. Claims that need serious attention, especially for victims, which result in death or serious injury. Restitution and compensation, which are basically the rights of victims and their families,

can then be taken over by the state for victims, because it is very much needed and beneficial for victims and their families, especially for those who have a weak economy. Regarding the application of restitution and compensation, it can be carried out on conditional sentences in cases of road traffic accidents that result in the death of the victim or serious injury, as an effort to solve the demands for balance and attention and treatment for victims of criminal acts. This is done based on principles and humanity, then the theory of balance restoration and the theory of causality in traffic offenses.

Based on the contents of Article 35 of Law no. 26 of 2000 and PP no. 3 of 2002 itself describes the meaning and purpose of restitution. It was explained that restitution is compensation given to victims and their families, by perpetrators or third parties, which can be in the form of returning assets, paying for losses or suffering and for reimbursing the costs of an action. Article 1 point 13 of Law no. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons, explains that "Restitution is the payment of compensation charged to the perpetrator based on a court decision that has permanent legal force for material and/or immaterial losses suffered by the victim or his heirs". Paragraph (3) also explains that the provisions for granting compensation and restitution are through PP issued No. 44 of 2008 concerning Provision of Compensation, Restitution and Assistance to Witnesses and Victims. The PP is formulated, the notion of compensation, restitution and assistance is contained in Article 1 number 4, number 5 and 7 namely;

- a. "Compensation is compensation provided by the State because the perpetrator is unable to provide full compensation which is his responsibility"
- b. "*Restitution is compensation given to victims or their families by perpetrators or third parties, which can be in the form of returning property, paying compensation for loss or suffering or reimbursing costs for certain actions,*" and
- c. "*Assistance is a service provided to victims and/or witnesses by the LPSK in the form of medical assistance and psycho-social rehabilitation assistance.*"

There are two types of demands for compensation in the Criminal Procedure Code, namely;

1. Aimed at law enforcement officials (Chapter XII Part One), and

Aimed at the guilty party, as a combination of a criminal case with a claim for compensation (Chapter XIII).

In the settlement of accident cases, it certainly requires a good police role in resolving cases in order to provide justice for victims. Therefore, the process was carried out with several procedures that had already been carried out, as in this case. According to the perpetrator himself, after the incident he and his family reported to the police and immediately surrendered together with his motorbike. In the end, the police conducted an investigation into the case with several lengthy processes starting from examination, witness statements and asking for statements from the victim's children.

The police admitted that the family had good intentions to provide compensation such as financing and hospital treatment for the victim's child until he was healthy again, including funeral expenses and living expenses for the victim's family for several months. Next, the researcher will describe what are the causes or obstacles in fulfilling restitution to victims<sup>17</sup>

Based on the results of an interview with Aipda Yusuf, the obstacles in implementing restitution for traffic accident cases are;<sup>18</sup>

1. Usually the perpetrators and the suspect's family who will provide restitution, want this as an effort to resolve the case. That is, by giving restitution, the problem does not want to be processed again, while restitution is not to stop the investigation or investigation of the crime. This restitution is something that is mandatory for any perpetrator or suspect, by providing compensation for accident victims. Therefore, the desire to stop the case sometimes hinders the granting of restitution for the victim.
2. Victims or families who wish to receive compensation must wait for a long process until the case is completed at the court decision stage. The process of resolving criminal cases with compensation or restitution is 2 different cases or cannot be single. Criminal cases are processed in accordance with standard operating procedures for the police, namely through investigations, investigations and so on. While granting restitution is a case that is requested and wants to be combined in a criminal case, the process is left to the civil mechanism. Therefore, the obstacle in fulfilling this restitution is the victim who waits too long in relation to the duration of the completion of the case.
3. Compensation or in the provision of restitution received by the victim if a case is made between a lawsuit for compensation and a criminal case, namely the amount of compensation received does not match the losses suffered by the victim, including having to go through a lengthy procedure. Seen from the perspective and point of view of the victim, that sometimes the compensation is not in accordance with the expenses that must be incurred by the family, even the process can be long and complicated. Victims also find it complicated and take up a lot of time if they want to take the case to the court level, as well as the risk associated with an inappropriate amount of compensation.
4. The obstacle factor is the ignorance of the public about the merger of compensation lawsuits with criminal matters. The community only understands that if the perpetrator has been processed according to criminal law, then there will be no further charges other than that, so that it becomes one of the inhibiting factors in

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<sup>17</sup> Wawancara dengan Bapak Aipda Yusuf, Kanit Laka-Satuan Lalu Lintas Polres Gorontalo Kota

<sup>18</sup> Wawancara dengan Bapak Aipda Yusuf, Kanit Laka-Satuan Lalu Lintas Polres Gorontalo Kota



fulfilling restitution against victims. In general, victims are unable to monitor and claim their rights, constrained by a lack of knowledge regarding the existence of requests for compensation in criminal cases, be it requests for restitution or compensation. If this is the case, then the police should facilitate the victims or their families in fulfilling compensation.

5. The suspect's domicile also influences the settlement of accident cases, because the suspect's domicile must be the same as the location of the accident, if the victim wants to file a lawsuit for compensation. If this is the case, according to the researcher, there will be obstacles in fulfillment of the victim's right to compensation and restitution in the justice system later.
6. The suspect was unable to pay the set compensation costs. Sometimes perpetrators as suspects are people who have less or limited economic capacity, so they cannot fulfill the court's decision to pay compensation to the victim. As a result, this situation then hinders the fulfillment of restitution from the perpetrator for the victim and his family, which is the determining element for the implementation or not of this obligation.
7. According to the results of the study, most law enforcement officers also do not know clearly about the mechanism for granting restitution or compensation. Thus, the legal instrument must be clarified, which can be used by the applicant to obtain the right of restitution and compensation in order to fulfill his rights. Not only that, judges as law enforcers should be braver in enforcing legal breakthroughs, for example in the case of imposing obligations to provide compensation and restitution that are clearly detrimental to victims.

According to the findings of the researchers, it is rare to find victims of traffic accidents then taking the road to file a merger of these compensation claims in court, in connection with one form of providing legal protection to the victim. This is not because they don't want to, but because the victim chooses to resolve the problem through family channels, with the premise that it will be easier than following the trial process. In addition, in relation to the police's efforts to fulfill this compensation, it was stated that if the amount of compensation was not fully paid, then a method was taken to bring the two parties together and negotiate. The reason is because what has been stipulated by the regulations per law cannot be fulfilled, because everyone is different in their economic conditions.

This meeting was accompanied by local government officials or the village head to explain the economic conditions based on the consensus of the two parties. Basically, this compensation is material and immaterial. Material compensation sometimes does not cause problems, but immaterial losses such as embarrassment and so on, so that it must be replaced with funeral money or bereavement compensation for the family. Therefore, with the description of the description above, the researcher concludes that basically the police as investigators have carried out their duties by prioritizing humanitarian principles, because the constraints in providing compensation are not entirely the fault

of the police, but the prosecution process in court, which then the police seek a way other exit by taking into account the economic level of society that is not evenly distributed.

Based on the description and results of the description above, the researcher then mapped out what were the obstacles and factors that hindered the implementation of restitution, which consisted of;

- a. Legal procedures and processes are lengthy and convoluted which causes the victim to feel tired of going through the method of merging cases from this lawsuit for damages. In addition, the procedure must be based on the domicile of the perpetrator and the accident scene if the victim wants to apply for a merger of these cases. In addition, compensation that can be filed is only limited to material losses, while immaterial losses are sued separately through civil lawsuits.
- b. Law Enforcement Factors, where the implementation of restitution does not involve the police. This means that there is no intervention in determining the cost but a pure agreement between the perpetrator and the victim. If the perpetrator has good intentions to help the victim, of course it becomes a consideration for law enforcement officials in deciding a case. For example, the consideration is that if the amount of loss that can be paid is only a small amount, it will be resolved by deliberation.
- c. The sociological aspect is that the majority of people do not know that there is compensation in the form of restitution. Ordinary perpetrators want to pay compensation and do not want the case to be continued at the investigation stage, besides that there are also victims who ask not to continue the case, as long as the perpetrator pays the costs of the loss.
- d. Public ignorance about the existence of a merger of cases for compensation.
- e. Economic factors, namely the perpetrator is unable to pay when there is a court decision. Apart from that, the compensation that is usually obtained does not match the expectations of the victim, in the sense that the perpetrator pays but is not fully realized.

In accordance with the police statement that "The process of proving the existence of material losses is complicated and convoluted. This complexity is seen from the aspect of proof in letters or receipts. The victim or the victim's family must be able to prove the validity of the receipts they have. This will also take a long time, so that it can eliminate the element of simplicity from a judicial process. The long evidentiary process will

usually lead the judge to suggest that the claim for damages be filed separately. Compensation according to the mandate of the Criminal Procedure Code only refers to Material Losses and not Immaterial Losses. Material losses, for example, medical treatment or care, funeral expenses attached with proof of expenses, receipts, and so on. Meanwhile, if the victim or the victim's family wants to sue for immaterial compensation,

In addition, if the victim continues to file a claim for immaterial damages at a criminal trial, then the result will be nil, because the decision will always state that the claim for immaterial damages is unacceptable and has no basis in law. There are no regulations and legal remedies related to restitution sanctions and will only follow the criminal case. That is, if a criminal case is appealed or cassated, then restitution will automatically be compared/cassated and vice versa.

The above constraints faced by victims of traffic accidents are of course detrimental to victims and their families, because a victim is someone who suffers from a crime or crime. With this problem, the victim feels that his justice has not been fulfilled or even disturbed, due to his experience of being the target of a criminal offence. If it is interpreted correctly that restitution or compensation is an act of recovery in all respects to the owner and an act of kindness which gives commensurate things to the damage or things suffered. This compensation can also be given by the government even though the government is not wrong, but for the sake of services to the disadvantaged it is still provided within the framework of developing welfare and justice.

Meanwhile, in the case experienced by Zul, the police acknowledged that restitution and compensation provided by the perpetrators were fundamental rights that must be given to victims who died. However, as the process of this case progressed at the police, in the end the family chose to reconcile and no longer push the case to the next stage. This is based on the consideration that perpetrators and their families are willing to take responsibility and carry out their obligations to take care of victims and their families. In addition, there is good faith that the perpetrator will not run away from what is his obligation, and fulfill what is the needs of the victim.

The police themselves ultimately decided to dismiss the case, after a meeting was held and peaceful efforts were carried out even though the victim died. The victim's family is willing to accept this incident and don't want to make an issue of it anymore, on the grounds that the perpetrator wants to be responsible and still has family ties. In this case, it indicates that the police have carried out ADR and then ended with SP3, of course after making several efforts including the imposition of various types of compensation or restitution referred to, as described by the researcher in the first problem formulation.<sup>19</sup>

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<sup>19</sup> Wawancara dengan Bapak Aipda Yusuf, Kanit Laka-Satuan Lalu Lintas Polres Gorontalo Kota

## 4. Conclusion

Based on the results of the analysis and discussion that have been described above, it can be concluded that Obstacles in the Implementation of Restitution for Victims of Traffic Accidents Causing Death are; Legal procedures and lengthy and complicated processes cause victims to feel tired of trying to combine criminal cases with claims for compensation. Law Enforcement Factors where the implementation of restitution does not involve the police. This means that the police did not intervene in determining the cost of compensation, so it was only left to the good faith of the perpetrators. The majority of people do not know that there is compensation in the form of restitution that must be given to perpetrators outside of the criminal cases they receive. The perpetrator's economic factor becomes an obstacle in granting restitution, namely not being able to pay compensation even though there has been a court decision, or paying but not according to the expectations of the victim and his family.

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