

## **Spatial Justice and Urban Mobility Governance: Reconstructing the Policy Framework for Resolving Fatal Traffic Accidents in Indonesian Metropolitan Areas**

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### **Abstract**

This study examines the intersection between spatial justice, urban mobility governance, and criminal justice policy in the context of fatal traffic accidents in Indonesian metropolitan areas. Deaths resulting from road accidents represent a critical failure of the built environment management system. Yet, the applicable regulatory framework treats them solely as criminal matters without considering spatial, infrastructural, and community dimensions. Using a post-positivist normative legal research approach supplemented by empirical data from four metropolitan police jurisdictions (Polda Metro Jaya, Polres Brebes, Polres Blora, and Polres Semarang), this study analyzes how the retributive orientation of Indonesian traffic accident regulations creates spatial injustice by severing the link between case resolution and the urban communities where the harm occurred. The findings reveal three critical governance gaps: (1) the absolute prohibition of restorative resolution in Article 235 of the Road Traffic Law contradicts the urban governance paradigm that prioritizes community-based conflict resolution; (2) institutional fragmentation between the police, prosecutors, courts, and transportation agencies results in spatially uneven justice; and (3) transactional legal culture reduces the restorative process to financial compensation that is detached from the spatial and social context of the affected community. This study proposes a regulatory reconstruction that integrates the principles of restorative justice into the framework of urban mobility governance. These findings contribute to the interdisciplinary discourse on spatial justice, urban governance, and the social dimensions of mobility infrastructure.

**Keywords:** *Spatial Justice, Urban Mobility Governance, Restorative Justice, Traffic Accident Policy, Built Environment, Urban Infrastructure Governance.*

### **Introduction**

Road traffic fatalities are one of the most persistent spatial justice challenges in countries undergoing rapid urbanization. In Indonesia, traffic accidents reached more than 155,000 cases in 2023, up from around 100,000 cases in 2020, with tens of thousands of fatalities each year (WHO, 2023). These deaths are not randomly distributed in space; they are concentrated along certain urban corridors, at certain types of intersections, and within communities characterized by inadequate pedestrian infrastructure and high-speed vehicle traffic (Soja, 2020). Thus, fatal traffic accidents are a fundamentally spatial phenomenon, shaped by the design, governance, and regulation of the built environment. Yet, the policy response remains dominated by criminal law rather than urban governance (Mohan, Bhalla & Bose, 2023).

The scientific discourse on spatial justice, rooted in the works of Edward Soja and Henri Lefebvre, increasingly recognizes that justice and injustice are produced through spatial processes, including the design and management of urban mobility infrastructure (Harvey, 2023). When fatal accidents occur on poorly designed urban arterial roads, the legal system isolates the event as a criminal case between the individual perpetrator and the state, ignoring the spatial conditions of road design deficiencies, inadequate signage, lack of traffic calming facilities, and poor lighting that contributed to the fatal accident (Corburn, 2022). The atomization of this fundamental urban governance problem into

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individual criminal prosecutions represents what academics refer to as "spatial injustice through regulatory design" (Cervero & Kockelman, 2022).

The Indonesian Road Traffic and Transportation Law (Law No. 22/2009, hereinafter referred to as LLAJ) exemplifies this disconnect. Article 310 paragraph (4) threatens imprisonment of up to six years for negligence resulting in death, while Article 311 paragraph (5) threatens up to twelve years for intentional violations. Critically, Article 235 stipulates that compensation to the victim's family "does not preclude criminal prosecution" — an absolute prohibition that closes off any avenue for community-based or restorative justice (Nugra, Semendawai & Intihani, 2022). This retributive framework treats every fatal accident identically without regard to spatial context: whether it occurs on a well-designed urban boulevard or a notoriously dangerous dark rural road, whether the driver was negligent due to a momentary lapse in attention or was recklessly driving under the influence of alcohol (Victoria & Ariyana, 2020).

The retributive approach to fatal accidents has been widely criticized in urban governance literature for failing to achieve effective deterrence or meaningful recovery for affected communities (Rosalina & Suyatna, 2025). The lengthy judicial process places additional psychological and financial pressure on the victims' families without meeting their recovery needs, recognition, acceptance of guilt, and adequate compensation (Nia, Haryadi, & Najemi, 2023). Furthermore, the punitive orientation contributes to prison overcrowding, which is itself a spatial governance issue, as correctional facilities in Indonesia's major cities operate well above capacity (Ministry of Law and Human Rights, 2024). From an urban management perspective, the criminalization-only approach also fails to generate the necessary feedback to improve road infrastructure and mobility governance, as accident data is judicialized rather than channeled into the spatial planning process (Cozens & Love, 2023).

Restorative justice offers an alternative governance paradigm that reconnects conflict resolution with the community and the site of the harm (Zehr, 2022). Instead of abstracting offenses into state-versus-individual prosecutions, the restorative approach brings together the affected parties—the offender, the victim's family, and community stakeholders—in the spatial and social context where the incident occurred (Simanjutak, 2023). Several countries have successfully integrated restorative justice into their urban mobility governance frameworks. The Netherlands applies non-custodial sentences for offenses of six years or less through social work supervised by *Reclassering Nederland*, effectively keeping offenders within their communities (Hasanah & Aulia, 2024). Norway's National Mediation Service processes 8,000-9,000 cases per year with the lowest recidivism rate in the world, demonstrating that community-embedded resolutions yield better outcomes than incarceration (Sjechlad, 2024). Canada's Offender-Victim Mediation Program and Community Justice Forum under the Youth Criminal Justice Act also prioritize spatial and social reintegration (Febriansyah, 2025).

In Indonesia, restorative justice has gained formal recognition through several regulations, including the Law on the Criminal Justice System for Children (Law No. 11/2012), Police Regulation No. 8/2021 (Perpol 8/2021) at the investigation stage, and Attorney General's Regulation No. 15/2020 at the prosecution stage (Ramadhani & Suyatna, 2024). Most significantly, the New Criminal Procedure Code (Law No. 20/2025) has explicitly adopted restorative justice mechanisms applicable to all stages of the criminal justice process, although limited to offenses with a maximum penalty of five years (Flora, 2022). However, applying these frameworks to fatal traffic accidents remains highly problematic, as the regulatory architecture creates a contradiction between the spatial governance aspiration of community-based resolution and the retributive insistence of traffic laws (Pratama & Ardhya, 2023).

Empirical evidence from Indonesian metropolitan police jurisdictions reveals the governance consequences of this regulatory ambiguity. At the Metro Jaya Police Headquarters (Greater Jakarta), 35 of 37 fatal traffic accident cases in 2024 were resolved through restorative processes, with only two cases proceeding to prosecution. At the Brebes Police Station, hit-and-run cases were resolved "restoratively" unilaterally, even though the perpetrators were still on the wanted list — a practice that violates the fundamental participatory principles of restorative justice. At the Blora Police Station's Community Relations Unit, restorative resolution was applied to a fatal accident caused by drunk driving, a case that should have been excluded due to aggravating factors (Empirical interview data, 2024-2025). These practices demonstrate that without clear spatial governance parameters, restorative justice risks becoming an administrative convenience mechanism rather than substantive community justice.

This study addresses these governance gaps through three objectives: (1) analyzing why the current regulatory framework for resolving fatal traffic accidents fails to achieve spatial justice; (2)

identifying substantive, structural, and cultural weaknesses in the existing governance framework using Lawrence Friedman's legal systems theory; and (3) proposing regulatory reconstructions that integrate restorative justice into the urban mobility governance framework while maintaining appropriate exceptions for aggravating cases. By bridging criminal justice policy and urban governance academia, this research contributes to the interdisciplinary discourse on how the built environment can be managed more fairly, equitably, and effectively (Fainstein, 2022).

## **Method**

This study uses a post-positivist paradigm that recognizes the subjective and value-laden nature of legal and spatial governance phenomena (Sekaran & Bougie, 2020). The post-positivist approach is particularly appropriate for investigating the intersection of criminal justice policy and urban governance, as it allows for integrating normative analysis (what is prescribed by law) with empirical observation (how governance functions in practice within a particular spatial context).

The research design combines normative legal analysis with sociological legal research. Two analytical approaches are used: the statute approach, which examines the regulatory architecture governing the settlement of fatal traffic accidents, and the comparative approach, which draws lessons from the urban mobility governance frameworks in the Netherlands, Norway, Canada, and Scotland (Fajar ND & Achmad, 2021). Secondary data sources include primary legal materials (the 1945 Constitution, the Old and New Criminal Code, the Old and New Criminal Procedure Code, the Road Traffic Law, and related police and prosecutor regulations) as well as secondary legal materials in the form of academic literature at the intersection of criminal justice, spatial justice, and urban governance.

Empirical primary data was collected through structured observations and in-depth interviews with investigators and police officials in four metropolitan police jurisdictions representing different urban typologies: Polda Metro Jaya (megacity governance), Polres Brebes (peri-urban corridor), Polres Blora (small town), and Polres Semarang (medium-sized metropolitan area) (Andrianto & Wahyuningsih, 2022). This multi-location approach captures spatial variations in how the same regulatory framework produces distinct governance outcomes across urban contexts.

Data analysis follows a qualitative methodology using three theoretical lenses. John Rawls' theory of justice (justice as fairness) serves as the primary analytical framework for evaluating whether existing regulations produce spatially equitable outcomes. Lawrence Friedman's theory of the legal system (substance, structure, and culture) provides an analytical structure for identifying governance weaknesses. Gustav Radbruch's theory of the purpose of law (certainty, justice, and utility) guides the reconstruction proposal. In addition, the Islamic jurisprudential perspective on unintentional killing (qatl al-khata') provides a complementary cultural analytical lens relevant to the Indonesian socio-legal context.

## **Results and Discussion**

### **The Failure of Spatial Justice in the Governance of Fatal Traffic Accidents**

The analysis reveals that Indonesia's regulatory framework for resolving fatal traffic accidents produces spatial injustice through three interconnected mechanisms. First, the absolute retributive orientation of Article 235 of the Road Traffic Law severs the link between case resolution and the urban community where the harm occurred. When a pedestrian is killed at an unprotected intersection in a densely populated neighborhood of Jakarta, the legal process extracts the conflict from its spatial context, the community, the street landscape, the infrastructure conditions, and relocates it to the courtroom, where it is processed as an abstract criminal case between the state and an individual defendant (Wacquant, 2022). The victim's family, the surrounding community, and the local governance actors who manage that urban space are reduced to peripheral witnesses rather than being positioned as central stakeholders in the resolution process.

Second, the regulatory framework fails to account for the spatial determinants of fatal traffic accidents. Urban studies consistently demonstrate that road deaths are not solely the product of individual negligence but are shaped by the design, maintenance, and governance of urban mobility infrastructure, road geometry, speed design, pedestrian facilities, lighting, signage, and traffic management systems (Dumbaugh & Rae, 2022). By treating each fatal accident as an individual criminal act without considering the contributing spatial conditions, the legal framework absolves urban governance institutions of their responsibility to maintain a safe mobility environment. The absolute

prohibition of Article 235 on alternative resolutions ensures that the criminal justice system bears the entire burden of responding to what is essentially a multi-sectoral urban governance challenge.

Third, the ambiguity of Perpol 8/2021, which nominally allows for restorative justice in traffic accident cases but fails to specify whether fatal cases qualify, results in spatially uneven outcomes of justice. The phrase "human victims" in Article 10 letter b does not provide a classification that distinguishes between minor injuries, serious injuries, or death, creating what Friedman would characterize as a substantive gap that results in unpredictable governance outcomes across jurisdictions (Friedman, 2020). This normative ambiguity directly contradicts the absolute prohibition in Article 235 of the LLAJ Law, resulting in vertical regulatory contradictions that are resolved differently across police jurisdictions, depending on local institutional culture, resource constraints, and spatial governance traditions.

Analyzed through John Rawls' framework of justice as fairness, the current regulatory architecture fails to meet the difference principle because it does not benefit the most disadvantaged parties, the families of victims whose recovery needs are subordinated to the interests of state prosecution. Rawls' original position thought experiment suggests that rational agents behind a veil of ignorance, who do not know whether they will be perpetrators, victims' families, or community members, would design a system that provides clear, consistent, and flexible avenues for resolution rather than a rigid retributive framework that adequately benefits no one (Rawls, 2020). The spatial dimension intensifies this injustice: families in metropolitan areas with adequate resources may be able to access informal resolution despite legal prohibitions, while families in peri-urban areas lacking resources do not even have this informal channel, resulting in what urban governance scholars call "justice deserts" — spaces where structurally equitable conflict resolution is unavailable.

The Islamic jurisprudential perspective further illuminates the deficit of spatial justice. The classical Islamic legal category of *qatl al-khata'* (unintentional killing) resolves death due to negligence through *diyat* (compensation to the victim's family) and *kaffarah* (spiritual atonement), integrating horizontal restoration (community-level healing) with vertical accountability (moral responsibility). This model, deeply embedded in Indonesia's socio-cultural landscape, is inherently spatial; it places justice within the community rather than abstracting it to distant state institutions, yet the current regulatory framework systematically excludes it (Hall, 2021).

### **Structural Weaknesses in the Urban Mobility Governance Framework**

The application of Friedman's tripartite model of legal systems to urban mobility governance reveals systemic weaknesses in the substance, structure, and culture of law (Rahmawati et al., 2022).

#### ***Substantive Governance Gap***

The substantive dimension reveals three critical gaps. First, overlapping regulations between the Land Transportation Law (which threatens a maximum of six years for fatal accidents due to negligence under Article 310 paragraph 4) and the New Criminal Code (which threatens five years under Article 474 paragraph 3) creates uncertainty about the applicable sanctions and, consequently, about which cases may qualify for restorative resolution under the five-year threshold of the New Criminal Procedure Code. This overlap reflects a broader failure of policy coherence in Indonesia's urban governance architecture, where sectoral laws (transportation, criminal, procedural) operate in silos without the integrative mechanisms required for effective built environment governance (Vigar, 2022).

Second, the vertical contradiction between Article 235 of the LLAJ Law (an absolute prohibition on alternative dispute resolution) and Perpol 8/2021 (which allows a restorative approach) represents a fundamental governance incoherence. In urban governance terminology, this is analogous to a spatial planning regime in which the master plan prohibits mixed development. At the same time, local zoning permits it—the result is unmanaged discretion that produces spatially inconsistent outcomes. Third, the absence of a normative classification that distinguishes between levels of negligence (conscious versus unconscious negligence) and between levels of harm (minor injury, serious injury, death) renders the governance framework lacking the graded parameters essential to proportional spatial justice (Walim, 2024).

#### ***Structural and Institutional Fragmentation***

The structural dimension reveals that police investigators play a dual role as facilitators and decision-makers in the restorative process, without institutional separation or mandatory judicial oversight. The concentration of governance authority in a single institution reflects a problem identified

in the urban planning literature when regulatory, enforcement, and adjudicative functions are collapsed into a single institution. The absence of mandatory judicial review means that decisions to terminate cases are administrative rather than adjudicative, lacking the transparency and accountability that urban governance academics consider essential for legitimate spatial decision-making (Rich & Djaja, 2024).

Furthermore, institutional fragmentation between the police, prosecutors, courts, and the Ministry of Transportation means that no single governance actor has comprehensive oversight of how fatal traffic accidents are resolved across the metropolitan area. Data from the 2024 Metro Jaya Police case load, where 35 of 37 fatal cases were resolved restoratively, with only two proceeding to prosecution, never entered the Ministry of Transportation's infrastructure improvement planning process. This disconnect between criminal justice data and spatial planning represents a critical missed opportunity for evidence-based urban mobility governance. The Brebes Police case, where a hit-and-run was resolved "restoratively" without the perpetrator's participation, and the Blora Police case, where restorative resolution was applied to a fatal drunk driving accident, further demonstrate how structural fragmentation enables governance dysfunction (Dempsey, Brown & Bramley, 2022).

### **Legal Culture and Spatial Governance Norms**

The cultural dimension reveals a pervasive reduction of restorative justice to financial transactions, a "peace equals case closed" mentality that strips the restorative process of its community healing function. Field research in the four jurisdictions revealed quasi-transactional justice practices, including investigators requesting informal "file removal" fees from perpetrators, transforming what should be a community governance process into an opportunity for rent-seeking. This transactional culture reflects broader patterns identified in the literature on Indonesian urban governance, where informal patronage networks and discretionary practices mediate formal regulatory frameworks (Pepinsky & Wihardja, 2022).

The absence of post-resolution rehabilitation programs further exacerbates cultural problems. In an effective urban governance system, restorative resolution is not the end point but rather a gateway to broader community safety interventions—such as road infrastructure improvements, enhanced traffic management, and community awareness programs. In the Indonesian context, restorative resolution ends the governance process entirely, resulting in what could be called "covert impunity." Perpetrators are not rehabilitated through formal punishment or integrated into community safety programs, creating ongoing risks to public safety in urban spaces (UNODC, 2020).

### **Towards an Integrated Urban Mobility Governance Framework: Regulatory Reconstruction**

The enactment of the New Criminal Code (Law No. 1/2023) and the New Criminal Procedure Code (Law No. 20/2025) creates a historic window of opportunity to integrate restorative justice into the framework of urban mobility governance. Articles 79-84 of the New Criminal Procedure Code establish restorative justice mechanisms at all stages of the criminal justice process, with Article 84 requiring judicial oversight through court confirmation of the termination of investigations. However, the maximum criminal penalty threshold of five years in Article 80 paragraph (1) letter a technically excludes fatal traffic accidents due to negligence under the six-year provision of the Road Traffic Law, thus requiring targeted regulatory reconstruction (MA RI, 2025).

The proposed reconstruction operates on two parallel tracks. First, Article 235 of the LLAJ Law must be amended by replacing the phrase "without prejudice to criminal charges" with "in principle without prejudice to criminal charges." This linguistic shift shifts the norm from an absolute, closed norm to an open, principle-based norm that maintains the general rule of criminal accountability while allowing limited exceptions through restorative processes. In urban governance terminology, this is analogous to the shift from rigid zoning codes to form-based codes—the fundamental regulatory intent is maintained while allowing for context-sensitive flexibility (Talen, 2022).

Second, Article 10 of Perpol 8/2021 must be amended to add an explicit classification (new subsection c): "traffic accidents due to negligence resulting in fatalities, as long as there are no aggravating factors, such as driving under the influence of alcohol, narcotics, illegal racing, or serious traffic violations." At the same time, the ambiguous phrase "human casualties" in subsection (b) should be replaced with "serious injuries" for to eliminate interpretative uncertainty. This reconstruction establishes clear governance parameters: only cases of pure negligence (*culpa lata inconscienta*, unconscious negligence, such as momentary inattention or late braking) are eligible for restorative resolution, while conscious negligence (*culpa lata conscienta* such as drunk driving, where the perpetrator is aware of the risks but still acts carelessly) is categorically excluded (Sahputra, 2022).

Evaluated through Radbruch's tripartite framework on the purpose of law, this reconstruction achieves certainty (clear normative parameters eliminate inconsistencies between jurisdictions), justice (a restorative approach becomes the *primum remedium* for cases of negligence, with imprisonment as the *ultimum remedium*, in line with Article 53 paragraph 2 of the New Criminal Code which directs judges to prioritize substantive justice), and benefit (faster recovery for victims, reduction of case backlogs, and maintenance of deterrent effects through the exclusion of aggravating factors). The judicial oversight mechanism in Article 84 of the New Criminal Procedure Code addresses structural weaknesses by requiring court confirmation, ensuring that restorative termination is no longer merely an administrative decision by the police (Radbruch, 2020).

Comparative analysis reinforces this reconstruction model. The Dutch graduated sanctions system, Norway's community-embedded mediation services, and Canada's offender-victim reconciliation programs all demonstrate that effective urban mobility governance integrates rather than separates the functions of criminal justice and community safety. These systems share three principles of governance design that are absent from the current Indonesian framework: clear normative boundaries for restorative eligibility, mandatory institutional oversight mechanisms, and post-resolution community safety programs that link individual case outcomes to broader spatial governance goals (Vooren et al., 2022). The proposed reconstruction incorporates these three principles into Indonesia's existing institutional architecture, offering a contextually appropriate model for spatially just urban mobility governance.

## **Conclusion**

This study has demonstrated that resolving fatal traffic accidents in metropolitan areas in Indonesia poses a significant spatial justice challenge that the current criminal law framework cannot structurally address. The absolute retributive orientation of the Traffic and Road Transportation Law creates conflicts with its spatial context, severing the connection between resolution and affected urban communities, and failing to generate the essential governance feedback needed to improve mobility infrastructure. Ambiguity in police regulations results in spatially uneven outcomes of justice, while a transactional legal culture reduces restorative processes to financial exchanges that lose their community-healing function.

The proposed two-track regulatory reconstruction amends Article 235 of the Land Transportation Law from an absolute norm to a principle-based norm and adds an explicit classification of eligibility to Perpol 8/2021, offering a governance model that integrates restorative justice into the urban mobility framework. By distinguishing between types of negligence, establishing clear exemption criteria for cases with aggravating factors, and incorporating the judicial oversight mechanisms of the New Criminal Procedure Code, this reconstruction balances spatial justice, legal certainty, and community safety within a coherent governance architecture.

These findings contribute to the interdisciplinary academy at the intersection of urban governance, spatial justice, and criminal justice policy, demonstrating how established environmental management frameworks can accommodate restorative approaches to mobility-related harms. For urban governance practitioners and policymakers, this research underscores the need to move beyond sectoral regulatory silos toward an integrated approach that recognizes fatal traffic accidents as a fundamental spatial governance challenge requiring multi-stakeholder resolution mechanisms embedded within communities.

Further research needs to examine the spatial distribution of restorative justice outcomes across various urban typologies following the implementation of the New Criminal Procedure Code, develop community safety indicators that link individual case resolutions to broader urban mobility governance metrics, and investigate the potential for integrating geospatial data between the criminal justice system and transportation planning to create evidence-based spatial governance feedback.

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