

Criminal Liability in Fatal Traffic Accidents: A Study in the Jurisdiction of Surabaya Metropolitan Police

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ABSTRACT

*This study examines the investigative procedures applied by the Surabaya Metropolitan Police in handling fatal traffic accidents, with particular focus on how investigators determine the applicable legal provision and establish the form of criminal fault in cases involving alcohol-impaired driving. Employing an empirical legal research method that combines a case approach and a statute approach, data were collected through field interviews with investigators and traffic police officers, supplemented by a systematic literature review. Data were analyzed using a qualitative-descriptive technique. The findings demonstrate that the perpetrator's conduct satisfies the criteria for gross negligence, given that the decision to drive after consuming a significant quantity of alcohol constituted a serious and conscious departure from the standard of care required by law. Furthermore, Article 310 paragraph four of Law Number 22 of 2009 on Road Traffic and Transportation is established as the most appropriate legal provision, as it specifically governs negligent driving causing death under conditions of alcohol impairment, taking precedence over the general negligence provisions of the Criminal Code pursuant to the principle of *lex specialis derogat legi generali*. Consistent and evidence-based application of the Road Traffic and Transportation Law, incorporating aggravating factors such as driving under the influence, is essential for achieving both justice for victims and a deterrent effect on potential perpetrators.*

Keywords: *Traffic Accident, Road Traffic and Transportation Law, Culpa*

Tindak Pidana Kecelakaan Lalu Lintas yang Mengakibatkan Korban Meninggal Dunia: Studi di Wilayah Hukum Polrestabes Surabaya

ABSTRAK

*Penelitian ini mengkaji prosedur penyidikan yang diterapkan oleh Kepolisian Resor Kota Besar Surabaya dalam menangani kecelakaan lalu lintas yang mengakibatkan kematian, dengan fokus utama pada bagaimana penyidik menentukan ketentuan hukum yang berlaku dan menetapkan bentuk kesalahan pidana dalam kasus yang melibatkan pengemudi di bawah pengaruh alkohol. Penelitian ini menggunakan metode penelitian hukum empiris yang menggabungkan pendekatan kasus dan pendekatan perundang-undangan, dengan pengumpulan data melalui wawancara lapangan dengan penyidik dan petugas satuan lalu lintas, yang dilengkapi dengan studi kepustakaan secara sistematis. Data dianalisis menggunakan teknik deskriptif-kualitatif. Hasil penelitian menunjukkan bahwa perbuatan pelaku memenuhi kriteria kelalaian berat (culpa lata), mengingat keputusan untuk mengemudi setelah mengonsumsi alkohol dalam jumlah signifikan merupakan penyimpangan yang serius dan disadari dari standar kehati-hatian yang disyaratkan oleh hukum. Selanjutnya, Pasal 310 ayat (4) Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan ditetapkan sebagai ketentuan hukum yang paling tepat, karena secara khusus mengatur kelalaian berkendara yang mengakibatkan kematian dalam kondisi pengaruh alkohol, sehingga mengesampingkan ketentuan kelalaian umum dalam Kitab Undang-Undang Hukum Pidana berdasarkan asas *lex specialis derogat legi generali*. Penerapan Undang-Undang Lalu Lintas dan Angkutan Jalan secara konsisten dan berbasis bukti, dengan mempertimbangkan faktor-faktor pemberat seperti mengemudi di bawah pengaruh alkohol, sangat penting untuk mewujudkan keadilan bagi korban sekaligus memberikan efek jera bagi calon pelaku.*

Keywords: *Kecelakaan lalu lintas, Undang Undang LLAJ, Culpa*

INTRODUCTION

Indonesia is a rule of law country that emphasizes the supremacy of the law as an effort to achieve justice for all citizens. It is clearly stated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which recognizes Indonesia as a rule of law country. Therefore, all citizens must adhere to applicable laws to ensure order and justice.¹

Driver negligence is the primary factor behind Indonesia's concerning traffic situation. Despite ongoing legal issues, a lack of understanding and discipline regarding traffic regulations continues to cause high accident rates. These accidents could be largely prevented if every road user practiced discipline and caution. The police serve a pivotal role in detecting danger spots, identifying traffic violators, and assisting the public in emergencies.²

Traffic accidents caused by drivers' negligence are classified as crimes of negligence under criminal law. Negligence (*culpa*) constitutes fault (*schuld*) in the narrow sense, where the perpetrator had no intent to cause the consequences, but due to a lack of due care, a fatal accident occurred. In the case of unconscious *culpa*, the perpetrator did not anticipate the consequences of their actions at all; their fault lies in the failure to think as they should have. Negligence in criminal law is specifically regulated in Articles 359 and 360 of the Criminal Code (KUHP), stating that a person may be punished if their negligence results in the death or injury of others. In addition, provisions regarding traffic and road transportation are also regulated in Law No. 22 of 2009 on Traffic and Road Transportation.³

The present case involving a traffic accident that occurred in the jurisdiction of the Surabaya City Police, which involved a driver identified as A who killed two people while returning from a nightclub. The accident began when A left home for the nightclub at 12:00 a.m. and consumed alcohol until 3:55 a.m. Thereafter, A and four companions left the nightclub and drove toward Pasar Kembang Street, Surabaya. Along the way, A turned around to pick up something he left behind. When he arrived on Kedungdoro Street, A, who was trying to avoid a vehicle in front of him, lost concentration and crashed into a white Honda Jazz, a black Mitsubishi

¹ R. Rokilah, "Dinamika Negara Hukum Indonesia: Antara Rechtsstaat Dan Rule Of Law," *NURANI HUKUM: JURNAL ILMU HUKUM* 2, no. 1 (2020), <https://doi.org/http://dx.doi.org/10.51825/nhk.v2i1.8167>.

² S. Santosa, A. Mahyuddin, and F Sunoto, "Anatomy of Injury Severity and Fatality in Indonesian Traffic Accidents," *Journal of Engineering and Technological Sciences* 49, no. 3 (2017), <https://doi.org/https://doi.org/10.5614/j.eng.technol.sci.2017.49.3.9>.

³ J. Junus, A. Indrawati, and L. Rahmanto, "PERTANGGUNG JAWABAN PENGEMUDI DALAM HAL TERJADINYA KECELAKAAN MENURUT PASAL 359 DAN PASAL 360 KUHP," *Yurisprudencia: Jurnal Hukum Ekonomi* 8, no. 1 (2022), <https://doi.org/https://doi.org/10.24952/yurisprudencia.v8i1.5737>.

Pajero, and several parked motorcycles, including a food stall in front of him, resulting in the deaths of two customers of the food stall. The primary cause of the accident was the driver's lack of caution, which was influenced by alcohol consumption.

To investigate traffic accidents, the police carry out a number of steps, starting from visiting the scene of the accident, requesting a forensic medical report, preparing an interrogation report, and summoning witnesses and confiscating evidence. The enforcement stage is a crucial part of the investigative process, as legal actions at this stage directly intersect with human rights, involving restrictions on rights that must be carried out carefully.

Several prior research has examined negligent driving offenses and their criminal accountability in Indonesia. Setiawan and Mumpuni investigated the application of criminal law regarding negligent driving causing death under Law Number 22 of 2009 on Road Traffic and Transportation, analyzing the case at the District Court of Kotamobagu.⁴ Similarly, Yadi, Hartanto, and Wiryadi analyzed negligence criminal acts in traffic accidents resulting in serious injury and death, providing insights into the legal culpability of perpetrators.⁵ Additionally, Istiawan examined law enforcement against negligent traffic violators resulting in fatalities through a detailed case study of Court Decision Number 34/Pid.B/2021/PN.Mgt.⁶ While these studies have provided valuable insights into the determination of criminal articles and culpability in traffic accidents, there remains a significant gap in comprehensive analysis of how investigative procedures specifically determine the form of negligence (*culpa lata* versus *culpa levis*) when alcohol consumption is a contributing factor, and how this determination influences the application of appropriate legal provisions. Furthermore, limited research has focused on the investigative methodology employed by regional police forces, particularly Surabaya metropolitan police Surabaya, in establishing evidentiary grounds for distinguishing between gross negligence and simple negligence in fatal traffic accidents. This study addresses these gaps by analyzing the process and mechanisms for determining the nature of offenses committed by perpetrators of traffic accidents under Law No. 22

⁴ A. Setiawan and N Mumpuni, "Penerapan Hukum Pidana Atas Kelalaian Berkendaraan Yang Menyebabkan Kematian Menurut UU Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan (Studi Kasus: Pengadilan Negeri Kotamobagu)," *Educatioria : Jurnal Ilmiah Ilmu Pendidikan* 5, no. 3 (2025), <https://doi.org/https://doi.org/10.36312/educatoria.v5i3.551>.

⁵ D. Yadi, Hartanto, and U Wiryadi, "NEGLIGENCE CRIMINAL ACT THAT CAUSES TRAFFIC ACCIDENTS AND RESULTS IN SERIOUS INJURY AND DEATH OF OTHER PEOPLE," *JILPR Journal Indonesia Law and Policy Review* 6, no. 3 (2025), <https://doi.org/https://doi.org/10.56371/jirpl.v6i3.385>.

⁶ I Istiawan, "Enforcement of the Law Against Negligent Traffic Violators Resulting in Fatalities: A Case Study of Decision Number 34/Pid.B/2021/PN.Mgt.," *Justice Voice* 3, no. 1 (2024), <https://doi.org/https://doi.org/10.37893/jv.v3i1.1020>.

of 2009 and Regulation of the Chief of the Indonesian National Police No. 6 of 2019 in the Surabaya area, as well as to identify the provisions applied to perpetrators of traffic accidents resulting in death.

LITERATURE REVIEW

Law Enforcement Theory

The theory explained how society applies the law. It states that the legal system consists of three key elements: the legal substance of existing rules, the legal structure of the institutions that enforce the law, and the legal culture, which refers to the attitudes and values of society regarding the law. According to Soerjono Soekanto, law enforcement is the mechanism by which the relationship between the values articulated in established norms and behavioural attitudes is harmonised, representing the final stage of value implementation.⁷ The aim is to create, maintain and uphold social harmony. The success of law enforcement depends heavily on the quality of the legal substance, such as traffic regulations and child protection laws, the effectiveness of the legal structures involving coordination among various institutions, and the performance of law enforcement officials. It also depends on support from the legal culture present in society.⁸

Legislation Theory

Legislation in Indonesia is governed by Law No. 12 of 2011 on the Formation of Legislation. The definition of legislation, according to experts, varies considerably. As Bagir Manan argues, legislation is a written decision of the state or government containing guidelines or patterns of behaviour that are general in nature and binding.⁹ Another definition of legislation according to Attamimi is that it comprises state regulations, at both central and regional levels, formulated on the basis of legislative authority, whether attributive or delegated.¹⁰

1. Legislation refers to the process of forming/creating state regulations, whether at the central or regional level.
2. Legislation comprises the entirety of state regulations, resulting from the formulation of such regulations at both the central and regional levels by the authorized institutions, including the legislative body and the representative council.

⁷ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: UI Press, 1986).

⁸ *Ibid* (n.d.).

⁹ Bagir Manan, *Dasar-Dasar Perundang-Undangan Indonesia* (Jakarta: Ind-HillCo, 1992).

¹⁰ Rosjidi Ranggawidjaja, *No Title* (Bandung: Mandar Maju, 1998).

RESEARCH METHODOLOGY

This study employs an empirical legal research method, focusing on the actual implementation of criminal law in the investigation of fatal traffic accidents caused by negligent driving.¹¹ This approach is appropriate because the study does not merely examine legal norms in the abstract, but seeks to understand how those norms are applied in practice by investigators at the Surabaya Metropolitan Police. Two complementary approaches are used: the case approach, which examines the specific accident involving driver A whose alcohol-impaired driving resulted in two deaths; and the statute approach, which examines the applicability and consistency of Law Number 22 of 2009 on Road Traffic and Transportation, the Criminal Code, and the Regulation of the Chief of the Indonesian National Police Number 6 of 2019 on Criminal Investigation.

Data were analyzed using a qualitative-descriptive technique, whereby findings from field interviews and documentary sources are interpreted and described systematically to produce a nuanced understanding of investigative practice and its legal basis.¹² This study draws on two categories of data sources. Primary data were obtained directly from the field through structured interviews with investigators and traffic unit officers at the Surabaya Metropolitan Police who have direct experience handling cases of criminal negligence in driving. Secondary data were gathered through a comprehensive literature review encompassing relevant legislation, judicial decisions, scholarly articles, and official agency records pertaining to traffic accident investigation.

RESULT AND DISCUSSION

Determining the Form of Liability for Perpetrators of Traffic Accident Crimes

The process of determining criminal fault (*schuld*) in fatal traffic accidents begins with establishing whether the act constitutes *dolus* or *culpa*. Under Indonesian criminal law doctrine, *dolus* requires proof of a deliberate will directed toward a harmful result, typically evidenced by a discernible motive such as prior dispute or calculated endangerment. Where no such intent can be established, the conduct is assessed within the framework of *culpa*, which encompasses fault arising from a failure to observe the standard of care required by law, without the element of conscious harmful intent.

Within the category of *culpa*, Indonesian criminal law recognizes fundamental distinction between *culpa levis* and *culpa lata*. *Culpa lata* is

¹¹ J. W. Creswell and C. N. Poth, *Qualitative Inquiry and Research Design: Choosing among Five Approaches (4th Ed.)* (SAGE Publications, 2018).

¹² Lexy J. Moleong, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosdakarya, 2018).

characterized by a serious, conscious, and inexcusable departure from the standard of care that a reasonable person would observe in the same circumstances. As Moeljatno explains, gross negligence differs from ordinary negligence not merely in degree but in the quality of the perpetrator's conscious disregard for the foreseeable consequences of their conduct. This distinction carries direct legal significance, as the degree of negligence determines both the applicable legal provision and the severity of the resulting criminal sanction.¹³

Four constituent elements must be established to classify conduct as *culpa lata*: first, the existence of a legal duty of care incumbent upon the perpetrator; second, a breach of that duty through conduct falling below the required standard; third, the perpetrator's subjective awareness of the risk created by their conduct; and fourth, a direct causal nexus between the breach and the resulting harm. Each of these elements is satisfied in the present case. As the holder of a driving license operating a motor vehicle on a public road, driver A was bound by the duty of care prescribed under Article 106 of Law Number 22 of 2009, which obligates every driver to maintain full concentration and physical fitness while operating a vehicle. His decision to drive after consuming a significant quantity of alcohol over an extended period constituted a clear breach of this duty one that he undertook with subjective awareness of his impaired condition, having spent several hours at a nightclub before taking the wheel. The direct causal link between this breach and the deaths of two persons at Kedungdoro Street is established by the sequence of events documented in the case record.

The alcohol-impairment factor is particularly determinative in elevating the classification from *culpa levis* to *culpa lata*. The voluntary consumption of alcohol prior to driving is not a passive condition but an active choice that the perpetrator made with full awareness of its impairing effects on perception, reaction time, and vehicle control. This conscious risk-creation distinguishes the present case from instances of momentary inattention or misjudgment that typically constitute ordinary negligence. This position is consistent with the findings of Setiawan and Mumpuni and Yadi et al, whose analyses of comparable cases confirm that alcohol-impaired driving causing death satisfies the threshold for gross negligence under Indonesian criminal law. The present case therefore warrants classification as *culpa lata*, a determination that directly supports the application of the most severe tier of criminal liability under the Road Traffic and Transportation Law, as examined in the following section.

Determining whether an accident constitutes *dolus* or *culpa* requires first

¹³ Moeljatno, *Asas Asas Hukum Pidana* (Rineka Cipta, 2008), <https://www.perpustakaan.dilmil-padang.go.id/index.php?p=cite&id=2990&keywords=>.

establishing whether it is *dolus*; this necessitates the presence of a motive, such as revenge or a violation, indicating that the perpetrator acted intentionally. Conversely, *culpa* refers to an unintentional aspect. Investigators typically factor in negligence when assessing the perpetrator's fault, including actions such as improper turning, inattentive driving, and traffic signal violations. What factors will investigators take into account? The lack of adequate lighting poses a unique challenge during nighttime investigations. Key evidence used to determine liability in traffic accidents includes witness statements, CCTV footage, police reports, and physical evidence such as the vehicles involved. All of these elements are crucial for establishing the sequence of events and identifying the responsible party.

Determination of Applicable Legal Provisions Against the Perpetrator

The determination of the correct legal provision to be applied against driver A necessitates a systematic comparative analysis between the general criminal provisions of the Criminal Code and the specialized provisions of Law Number 22 of 2009 on Road Traffic and Transportation. This comparative exercise is not merely technical but carries substantive legal significance, as the choice of applicable provision directly determines the criminal charge, the maximum sanction, and the legislative framework within which the perpetrator's accountability is assessed.

As a general framework, Articles 359 and 360 of the Criminal Code establish criminal liability for negligence resulting in death or serious injury, respectively. These provisions apply broadly to any act of negligence causing harm, irrespective of the context in which it occurs. However, the generality of the Criminal Code provisions is precisely what renders them subsidiary in the present case. Indonesian legal doctrine and established jurisprudence consistently apply the principle of *lex specialis derogat legi generali* to traffic accident cases, which mandates that a more specific legal provision prevails over a general one where both are potentially applicable to the same conduct. The Road Traffic and Transportation Law constitutes such a special law: it was enacted specifically to govern the legal relationships, rights, obligations, and liabilities arising from road traffic, and its criminal provisions are calibrated to the particular risks, social conditions, and policy objectives associated with motorized transportation in Indonesia.

Within the Road Traffic and Transportation Law, Article 310 specifically governs criminal negligence in the operation of motor vehicles causing casualties. The article is structured in ascending degrees of severity: paragraph one addresses negligence causing minor injury; paragraph two, serious physical injury; paragraph three, the death of one or more persons resulting from negligent driving in the absence of aggravating conditions; and paragraph four the most severe tier governs

cases where negligent driving resulting in death is compounded by the driver being under the influence of alcohol, narcotics, or psychotropic substances, or being in any other physical or psychological condition that renders them unfit to operate a vehicle safely. The maximum criminal sanction under Article 310 paragraph four is imprisonment of up to six years and a fine of twelve million rupiah.

Applying this framework to the facts of the present case, all constitutive elements of Article 310 paragraph four are satisfied. First, driver A was operating a vehicle on a public road within the jurisdiction of the Surabaya Metropolitan Police. Second, his operation of the vehicle was characterized by a lack of the caution required by law a failure established, on the basis of the preceding analysis, to constitute gross negligence rather than ordinary negligence. Third, his negligent driving directly caused the deaths of two persons at a food stall on Kedungdoro Street. Fourth, and critically for the application of paragraph four rather than paragraph three, driver A was under the influence of alcohol at that time of the accident, a fact confirmed by forensic laboratory examination.

It bears emphasis that the alcohol-impairment element in Article 310 paragraph four functions not merely as an aggravating circumstance to be weighed at sentencing, but as a constitutive element of the offense that determines which paragraph of Article 310 is applicable. This legislative design reflects a deliberate policy judgment by the Indonesian legislature: that alcohol-impaired driving causing death is qualitatively distinct from, and more culpable than, other forms of negligent driving causing death, and therefore warrants a separate and more severe legal response. This distinction carries important analytical consequences. It confirms that investigators at the Surabaya Metropolitan Police acted with legal precision and institutional correctness in recommending the application of Article 310 paragraph four of the Road Traffic and Transportation Law as the primary charge, and in declining to apply the more general provisions of Articles 359 and 360 of the Criminal Code. Their approach reflects not only procedural competence but also substantive alignment with the legislative intent underlying the Road Traffic and Transportation Law as the authoritative and comprehensive legal framework governing criminal liability in road traffic cases in Indonesia.

CONCLUSION

The analysis of the fatal traffic accident involving driver A yields two principal conclusions. The perpetrator's conduct amounts to gross negligence, as his decision to drive after consuming a significant quantity of alcohol constituted a serious and conscious departure from the standard of care required by law, directly causing the deaths of two victims. With respect to the applicable legal provision, Article 310 paragraph four of Law Number 22 of 2009 on Road Traffic and

Transportation is the most appropriate charge, as it specifically governs negligent driving causing death under conditions of alcohol impairment. Its application takes precedence over the general negligence articles of the Criminal Code, given that the Road Traffic and Transportation Law was enacted precisely to address criminal liability arising from road traffic accidents, rendering the charge both legally sound and contextually appropriate.

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