

# THE JURIDICAL ANALYSIS OF CRIMINAL ACTS ON NEGLIGENCE OF TRAFFIC ACCIDENTS THAT CAUSE DEATH

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**Abstract:** This study aims to explain the problem, which is the basis or consideration of the judge in considering the elements of the criminal act of negligence in traffic accidents that result in the loss of other people's lives. This study is a literature study with a normative juridical approach. The data collection technique used in this research is the documentation technique. At the same time, the analysis technique used in this research is descriptive. The findings in this study are that the judge's considerations in determining criminal sanctions against perpetrators of criminal acts of negligence in traffic accidents are divided into two, namely, juridical considerations and non-juridical considerations. A judge gives juridical considerations to a case based on statutory regulations, indictments, and demands from the public prosecutor. The judge's consideration is also based on the facts found in the trial examination based on the evidence submitted. At the same time, non-juridical considerations include the judge's consideration of the factors that will burden the crime and the factors that relieve the perpetrators of the crime.

**Keywords:** *Traffic Accident, Crime of Negligence, Death.*

**Abstrak:** Tujuan penelitian ini adalah menjelaskan permasalahannya yang menjadi dasar atau pertimbangan hakim dalam mempertimbangkan unsur-unsur tindak pidana kelalaian kecelakaan lalu lintas yang mengakibatkan hilangnya nyawa orang lain. Studi ini adalah penelitian pustaka dengan pendekatan yuridis normatif. Teknik pengumpulan data yang digunakan dalam penelitian ini adalah teknik dokumentasi. Sedangkan Teknik analisis yang digunakan dalam penelitian ini adalah Deskriptif. Temuan dalam penelitian ini adalah pertimbangan hakim dalam menentukan sanksi pidana terhadap pelaku tindak pidana kelalaian atau kealpaan dalam kecelakaan lalu lintas terbagi menjadi dua yakni, pertimbangan yuridis dan pertimbangan non yuridis. Pertimbangan yuridis merupakan pertimbangan yang diberikan oleh hakim terhadap suatu perkara berdasarkan peraturan perundang-undangan, dakwaan dan tuntutan yang diberikan oleh penuntut umum. Pertimbangan hakim ini juga berdasarkan kepada fakta-fakta yang ditemukan dalam pemeriksaan persidangan berdasarkan barang bukti dan alat bukti yang diajukan. Sedangkan pertimbangan non yuridis yakni pertimbangan hakim dari faktor-faktor yang akan memberatkan pelaku tindak pidana dan juga faktor-faktor yang meringankan pelaku tindak pidana.

**Kata Kunci :** *Kecelakaan Lalu Lintas, Tindak Pidana Kelalaian, Kematian.*

## Introduction

Indonesia is a legal state where government power is implemented based on law. In a state of law, the power to run the government is based on the rule of law (the rule of law) and aims to carry out law and order. Another opinion states that in a state of Law, Law as the basis is embodied in laws and regulations culminating in the constitution or the state's fundamental law<sup>1</sup>.

Traffic problems are one of the problems that scale national development that develops in tandem with the development of society. Traffic is one of the means of community communication that plays a vital role in expediting the development that we carry out, so there is a great need for a highway to use this highway requires a suitable means of Transportation.<sup>2</sup>

Transportation is an essential and strategic means of facilitating the wheels of the economy. The importance of Transportation is reflected in the increasing need for transportation services for the mobility of people and goods from and throughout the country; this activity seems to be racing with the increasing number of motorized vehicles. With so many people who use the highway every day, there are also many problems that we don't want. Such as violations committed by road users or motorists in the form of minor or severe violations that result in traffic accidents.

A traffic accident is when a motorized vehicle collides with another object and causes damage. Sometimes these accidents can result in injury or death to humans or animals. Traffic accidents are events that are difficult to predict when and where they will occur. In the road traffic accident reporting

system, the KNKT (National Transportation Safety Committee), in this case, the Traffic and Road Transportation Accident Investigation Sub-Committees, obtains reports or accident news from various sources, namely the local Transportation Service, Police, print and electronic media, and other relevant agencies. All information received by the KNKT (Sub-Sub-Committee for Investigation of Traffic and Road Transportation Accidents) is entered into the road transport accident database. If the accident Meets the limits of the accident being investigated as stated in the Instructions for Conducting Road Traffic accidents,<sup>3</sup> Investigations and Research will be followed up with an investigation at the scene.

Traffic accidents are a problem that requires serious handling. For this reason, the study that needs to be done is to conduct an in-depth analysis of the existing traffic accidents.<sup>4</sup> Researchers are very interested in conducting normative juridical studies on accidents that cause fatalities. Researchers want to know the primary considerations judges use in deciding cases of accidents that result in fatalities.

## Method

The study is a literature study with a normative juridical approach. The data collection technique used in this research is the documentation technique. At the same time, the analysis technique used in this research is descriptive. The primary data in

<sup>3</sup> Saputra Abadi Dwi, "Study of Road Traffic Accident Rates in Indonesia Based on NTSC Data (National Transportation Safety Committee) From 2007-2016," *Transportation Research Report*, 29, no. 2 (July 2017): 180, <https://ojs.balitbanghub.dephub.go.id/index.php/warlit/article/view/557>.

<sup>4</sup> Utami Sylvia Lestari and Renty Ika Anjarsari, "Traffic Accident Analysis And Handling Of Ahmad Yani Road Accident Area (Segment Km 17 – Km 36) Banjarbaru City," *Journal of Sustainable Technology* 9, no. 02 (October 1, 2020): 111.

<sup>1</sup>Ali, Ahmad. *Revealing the Veil of the Law* , (A Philosophical And Sociological Study) , ( Jakarta: PT. Toko Gunung Agung Tb , . 2002 ), p.57

<sup>2</sup>Ilyas Amir. *Principles of Criminal Law* . ( Yogyakarta: Rangkang Education , 2012 ), p.65

this study are online scientific journals and books directly related to the object being researched, namely online scientific journals or books related to the crime of negligence in traffic accidents. While the secondary data used in this study are data from online scientific journals, books, and the internet, which are not directly related to the object of this research, the data strongly supports this research.

## Result and Discussion

### Elements of Negligence in Accident Crimes

The term criminal offense in Latin is called *delictum* or *delicta*; in English, it is known as *delict*, which means an act for which the perpetrator can be punished, while in Dutch, the crime is known as "*strafbaar feit*," which consists of three words, namely *straf*, *baar* and *feit*. Our legislators have used the word "*strafbaar feit*" to refer to what we know as "criminal acts" in the Criminal Code Act without explaining what exactly is meant by the word "*strafbaar feit*."<sup>5</sup>

The word "*feit*" itself in Dutch means "part of a reality" while "*strafbaar*" means that it can be translated as "part of a reality that can be punished," which, of course, is not correct. Therefore we will know that what can be punished is a human being as a person and not a fact, deed, or action. As has been said above, if our legislator did not explain what he meant by the word "*strafbaar feit*," then various opinions arise in the doctrine about what exactly is meant by "*strafbaar feit*." The following are the proponents of the opinion about the crime as follows:

1. According to Hazewinkel-Suriga, namely: They have made a general formulation of "*strafbaar feit*" as "a human behavior which at a certain point in time has been

rejected in a certain life association and is considered a behavior that must be eliminated by criminal law by using means of - the coercive means contained therein,"

2. According to Pompe, namely: The word "*strafbaar feit*" can theoretically be formulated as "a violation of norms (disruption of the legal order) which has intentionally or unintentionally been carried out by an offender, where the imposition of punishment on the perpetrator is necessary for the sake of maintaining order. Law and guarantee the public interest"
3. According to Achmad Ali, it is stating that a criminal act "delict is a general understanding of all acts that violate the law or the law without distinguishing whether the violation is in the field of private law or public law, including criminal law."<sup>6</sup>

From the description of the theory above, it can be concluded that a criminal act is an act of doing or not doing something that has an element of error as an act that is prohibited and is threatened with a crime, where the imposition of a crime against the perpetrator is for the sake of maintaining legal order and guaranteeing the public interest. The types of criminal acts are distinguished on specific grounds, including the following:

- a. According to the Criminal Code (KUHP), there are different types of crimes in Book II and Violations in Book III. The division of criminal acts into "crimes" and "violations" is not only the basis for the

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<sup>5</sup>Drs. PAF Lamintang, SH. *The basics of Indonesian criminal law*. (Bandung: PT Citra Aditya Bakti, 2013), h. 181

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<sup>6</sup> Dwi Esti Intari, Hendrian Budi Bagus Kuncoro, and Riana Pangestika, "Analysis Of Traffic Accidents And Material Accident Costs On The National Road Segment (Case Study: Jl. Raya Serang Km 23 Balaraja - Jl. Raya Serang Km 35 Jayanti, Tangerang Regency)," *Foundation : Civil Engineering Journal* 8, no. 1 (April 1, 2019): 20, <https://doi.org/10.36055/jft.v8i1.5401>.

division of our Criminal Code into Books II and Book III but is also the basis for the entire criminal law system in the legislation.

- b. According to the way of formulating it, it is distinguished into formal criminal acts (*Formeel Delicten*) and material crimes (*Material Delicten*). Formal crime is a crime that the prohibition formulated to do specific actions. For example, Article 362 of the Criminal Code is about theft. The essence of the prohibition of material criminal acts is to cause the prohibited result. Therefore, whoever causes the prohibited result is responsible and punished.<sup>7</sup>
- c. According to the error, criminal acts are divided into intentional crimes (*dolus delicten*) and unintentional crimes (*culpose delicten*). Examples of intentional criminal acts (*dolus*) regulated in the Criminal Code include Article 338 of the Criminal Code (murder) intentionally causing the loss of another person's life, Article 354 of the Criminal Code that intentionally injures another person. In the case of negligence (*culpa*), people can also be punished if there is an error, for example, Article 359 of the Criminal Code, which causes the death of a person, and Article 188 and Article 360 of the Criminal Code.
- d. According to the type of action, an active (positive) crime, an active act, also called a material act, is an act to make it happen; it is indicated by the body movements of the person who commits it, for example, theft (Article 362 of the Criminal Code) and Fraud (Article 378 of the Criminal Code). Passive crimes are divided into pure and impure crimes.

<sup>7</sup> Marsaid Marsaid, M. Hidayat, and Ahsan Ahsan, "Factors Related To Traffic Accident Events On Motorcycles At The Police Area Of Malang Regency," *Journal of Nursing Science Update* 1, no. 2 (November 1, 2013): 98–112.

Pure criminal acts, namely criminal acts that are formally formulated or criminal acts which are elements of the act in the form of passive acts, are regulated in Articles 224, 304, and 552 of the Criminal Code. An impure crime is a criminal act that is a positive crime but can be carried out inactively or a crime that contains prohibited elements but is carried out by not taking action; for example, as regulated in Article 338 of the Criminal Code, the mother does not breastfeed her baby so that the child dies.

In the law, it is not found what the meaning of negligence is, but from some experts in criminal law, it is known that the characteristics are the characteristics of *culpa*. Laminating PAF, namely:

- a. Deliberately performing an action that turns out to be wrong due to misusing memory, he should use his memory (to the best of his ability), but he acts (actively or passively) without the necessary vigilance.
- b. The perpetrator can predict the consequences but feels they can prevent them; if the consequences are sure to occur, he prefers not to take actions that will cause them. But the action was not undone, for the ma'am was later reproached for being against the law.<sup>8</sup>

The term of the doctrine of the *culpa* is called "*Schuld*," which in Indonesian is translated as "Error," which consists of intentional and *culpa*. In a narrow sense as opposed to revenue. In general, intentional is willed, while *culpa* does not want any form of error that is lighter than intentional. The word *culpa* in a broad sense means mistakes in general, while in a narrow sense, it is a form of error in the form of negligence. The

<sup>8</sup> Ahmad Yudhi Ryanto, "Analysis Of Traffic Accident Causes In The City Of Bogor (Case Study: Tajur Road Segment)," *Online Student Journal (JOM) Civil Engineering Sector* 1, no. 1 (August 10, 2019): 78, <https://jom.unpak.ac.id/index.php/tekniksipil/article/view/1177>.

culpa becomes one of the elements of error when a situation is so dangerous to the safety of people or goods or causes harm to a person that is so great and cannot be repaired. Therefore, the law also acts against the prohibition of caution, recklessness (carelessness), and *Schuld* (negligence that causes the situation as described earlier).<sup>9</sup>

So, a criminal act is covered by negligence when an act is carried out due to a lack of estimators or caution. Negligence is a lesser form of intention. But it can also be said that negligence is the opposite of intentional because whenever it is intentional, a result that arises is desired, even though the perpetrator can practice it beforehand. The elements of negligence can be seen clearly in the table below,

No	Elements of Negligence		
	Van Hamel	Moeljanto	Pompe
1	Not making guesses as required by law	Perpetrators can suspect the consequences of their behavior	The perpetrator can predict the consequences of his actions (or previously can understand the meaning of his actions) or can understand things that will occur due to his actions.
2	Not exercising caution as required by law. <sup>10</sup>	The perpetrator is less careful (the perpetrator lacks a sense of responsibility); in other words, if the offender is more careful, the behavior is not carried out or done differently.	The perpetrator previously saw the possible consequences of his actions.
3			Previous perpetrators can see the possible consequences of their actions. <sup>11</sup>

<sup>9</sup> Khairul Fahmi, "Cause Factors Of Traffic Accidents And Driving Behavior In High School Students In Pasir Penaraian Riau," *Scientific Journal of Cano Ekonomos* 10, no. 1 (July 24, 2021): 1–10.

<sup>10</sup> Moeljanto, *Principles of Criminal Law*, ( Jakarta: Rienaka Cipta, 2008 ), h . 214-215

<sup>11</sup> Suedarto, *Criminal Law 1*, ( Semarang: Sudarto Foundation, 1990 ), h . 125

Negligence in an act has several forms; when viewed from the perspective of the perpetrator's awareness, for more details, see the table below,

No	Forms of Negligence	Information
1	( <i>bewuste schuld</i> )	Conscious omission occurs when the perpetrator can imagine or predict the possibility of a consequence that accompanies his actions even though he had tried to take precautions so the consequences would not arise.
2	Unconscious omission ( <i>onbewuste schuld</i> )	Unconscious omission occurs when the perpetrator does not imagine or predict the possibility of a consequence that accompanies his actions, but he should be able to imagine or estimate the possibility of an effect. <sup>12</sup>

Based on Article 1 number 24 of Law Number 22 of 2009 concerning Road Traffic and Transportation, what is meant by a traffic accident is an event on the road that is unexpected and unintentional involving a vehicle with or without other road users resulting in human casualties or property loss. Object. In this law, accidents are classified into 3, namely:

- a. Minor traffic accidents are accidents that result in damage to vehicles or goods.
- b. Moderate traffic accidents result in minor injuries and damage to vehicles and goods.
- c. A serious traffic accident is an accident that results in death or severe injury to the victim.

Meanwhile, in article 93 of Government Regulation no. 43 of 1993 paragraph 1 concerning Highway and Traffic Infrastructure, a traffic accident can be defined as an incident on the highway that is unexpected and unintentional, It involved a vehicle with or without other road users, resulting in human casualties or property loss. Traffic accident victims can be in the form of dead victims, serious injuries, and

<sup>12</sup> Moeljanto, *Principles of Criminal Law*, ( Jakarta: Rienaka Cipta, 2008 ), h . 214-215

minor injuries and are calculated no later than 30 (thirty) days after the accident. From the above definition, it can be concluded that what is meant by a traffic accident is an event that is unexpected and not expected to occur on the highway involving motorized vehicles or other road users and results in damage and the emergence of human casualties (slightly injured, seriously injured and died). In this case, it is necessary to pay attention to the differences between the conscious *culpa* and the *dolus eventualis*, which almost have similarities. So based on the difference between the two things above, as follows:<sup>13</sup>

*Culpa* with this awareness if the one who does the action remembers the harmful consequences. However, he still dared to do that because he was not sure that the result would happen, and he would not act like that if he were sure it would. Apart from the above forms of neglect, other forms of neglect are also viewed in severity and lightness. Consisting of: The first is severe negligence ( *culpa lata* ). Severe negligence in Dutch is called *Merlijke Schuld* or *Grove Schuld*; experts state that this gross negligence is summed up in "crimes due to negligence." Second, Mild negligence ( *culpa levisima* ). Mild negligence in Dutch is referred to as *Litche sculd*; experts do not state that it is not found in this type of crime because of its light nature.<sup>14</sup>

### Sentencing Given by the Judge

In a developing country like Indonesia, the transportation sector dramatically influences the pace of development. Transportation of various types and Amounts support economic, social, and political aspects. In a period of 10 years, it is

<sup>13</sup> Arvian Zanuardi and Hitapriya Suprayitno, "Analysis of Traffic Accident Characteristics on Jalan Ahmad Yani Surabaya Through Knowledge Discovery in Database Approach," *Journal of Infrastructure & Facilities Asset Management* 2, no. 1 (March 20, 2018), <https://doi.org/10.12962/j26151847.v2i1.3767>.

<sup>14</sup>Ahmad Zainal Abidin, *Criminal Law 1*, ( Jakarta: Sinar Graphic, 1995 ), h . 330

known that the growth of motorized vehicle ownership in Indonesia is  $15.25 \pm \%$  annually, while the development of the length of national roads is only  $\pm 6.85\%$  annually (source: [www.bappenas.go.id](http://www.bappenas.go.id)). This analysis shows that the growth of motorized vehicle ownership is faster than the increase in the length of existing roads.

The recent rise of land transportation accidents has reached an alarming point. Facts prove that traffic accidents are one of Indonesia's most significant causes of death. In the last three years, there have been 109,038 traffic accidents resulting in 27,441 deaths (source: [www.bin.go.id](http://www.bin.go.id)). Many factors can affect the high number of accidents. One of the important factors is traffic conditions, where traffic conditions are an accumulation of interactions of various characteristics of drivers, vehicles, road infrastructure, and environmental characteristics.<sup>15</sup>

The criminal elements contained and must be fulfilled in the rules of Article 310 paragraph (4) of the RI Law No. 22 of 2009 concerning Road Traffic, and Transportation can be seen in the table below:

No	Elements of a Crime	Information
1	Whoever	refers to the perpetrators of criminal acts, whether human or personal or legal entities, who can be held accountable for their actions; a person is said to be responsible if he fulfills 3 (three) conditions, namely: First, can realize the meaning of his actions. Second, he can realize that his actions cannot be seen as appropriate in social interaction. Third, determine the intention or will in doing the deed.
2	Because of his negligence	This element of negligence is evident from the examination at trial, the defendant's statement, and the evidence presented at trial
3	Causing others to die	There are victims of accidents that cause death

<sup>15</sup> Dendy Wicaksono et al., "Traffic Accident Analysis (Case Study - Ungaran - Bawen Highway)," *Jurnal Karya Teknik Sipil* 3, no. 2 (April 2, 2014): 346.

By taking into account the elements contained in Article 310 paragraph (4) of the Republic of Indonesia Law no. 22 of 2009 because his negligence resulted in the loss of another person's life. Whereas in consideration of the sentence, the Panel of Judges considers whether the defendant committed a crime or not by analyzing the elements contained in the provisions of Article 310 paragraph (4) of law No. RI. 22 of 2009 based on legal theory and doctrine and then connecting it with the defendant's actions and the incident.<sup>16</sup>

In proving the elements contained in the indictment supported by the fulfillment of the absolute requirements of proof, namely *unus testis nullum testis*, namely the existence of at least two pieces of evidence, then the elements intended in the indictment have been fully fulfilled, were to prove the indictment the Public Prosecutor has submitted instruments evidence in the form of witness testimony, evidence of instructions and testimony of the defendant.<sup>17</sup>

The process or stages of imposing a decision by a judge in a criminal case there are three stages<sup>18</sup>. For more details, see the table below,

No	Stages of Decision Making	Information
1	Stage of Analyzing Criminal Acts	When the judge analyzes whether the defendant committed a criminal act or not, the community aspect is considered primary, namely the act as part of the formulation of a criminal rule.
2	Stage of Analyzing Criminal Liability	If a defendant is found guilty of committing a criminal act

<sup>16</sup> Gledis Yassin, Dian Ekawaty Ismail, and Lusiana Margareth Tijow, "Traffic Accident Law Enforcement Due To Break Roads," *Gorontalo Law Review* 3, no. 2 (October 28, 2020): 122–36, <https://doi.org/10.32662/golrev.v3i2.982>.

<sup>17</sup> Ilmi Mufidah and Roudhotul Jannah, "Effort To Prevent Traffic Accidents In Rogojampi Police Area, Banyuwangi Regency," *JPPKn (Scientific Journal of Pancasila and Citizenship Education)* 4, no. 2 (April 3, 2020): 8–14, <https://doi.org/10.36526/jppkn.v5i1.985>.

<sup>18</sup> Ahmad Rifai. *Legal discovery*. (Jakarta: Sinar grapha. 2010 ), h. 96

		violating a particular article, the judge analyzes whether the defendant can be declared responsible for his criminal act.
3	Sentencing Determination Stage	The judge will impose a sentence if the elements have been fulfilled by looking at the article of the law that the perpetrator violated. With the imposition of a sentence, the perpetrator is a defendant.

Types of traffic accidents several events can be a differentiator between the types of traffic accidents, namely minor traffic accidents or minor traffic accidents, in essence, do not cause injuries to either the driver or other people involved in the accident. The traffic accident. Moderate Traffic Accident, where a traffic accident causes damage to vehicles or other goods and causes minor injuries, such as abrasions and other injuries, but not until these injuries cause a person to be unable to carry out everyday activities.<sup>19</sup>

And heavy traffic accidents, where there is a traffic accident that not only causes damage to goods or goods but causes serious injuries so that the victim cannot carry out normal activities for some time or permanently, or the victim dies. In the provisions of Article 230 of Law No. 22 of 2009 concerning Road Traffic and Transportation, cases of traffic accidents, as referred to in Article 229 paragraph (2), paragraph (3), and paragraph (4), are processed by criminal justice procedures following the provisions of the regulations. Legislation. With this legal certainty, law enforcers must process all traffic crime cases. In the provisions of Article 310 of Law Number 22 of 2009 concerning Road Traffic and Transportation, it is explained that: " Everyone who drives a Motorized Vehicle due to his negligence causes a Traffic

<sup>19</sup> Veronica Diana Anis Anggorowati, "Analysis Of The Causes Of Traffic Accidents At Wates – Purworejo Segment, Kulon Progo Regency," *KURVATEK* 5, no. 1 (May 1, 2020): 123–32, <https://doi.org/10.33579/krvtk.v5i1.583>.

Accident with damage to the Vehicle and goods as referred to in Article 229 paragraph (2), shall be sentenced to a maximum imprisonment of 6 (six) months and a maximum fine of Rp. 1,000,000.00 (one million rupiah).<sup>20</sup>

"Everyone who drives a Motorized Vehicle due to his negligence causes a Traffic Accident with minor injuries and damage to the Vehicle and goods as referred to in Article 229 paragraph (3), shall be punished with imprisonment for a maximum of 1 (one) year and a fine a maximum of IDR 2,000,000.00 (two million rupiah)."

"Everyone who drives a Motorized Vehicle due to his negligence causes a Traffic Accident with serious injuries as referred to in Article 229 paragraph (4), shall be sentenced to a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 10,000,000.00 (ten million rupiah)."

In the event of an accident, as referred to in paragraph (3), which results in the death of another person, the punishment shall be maximum imprisonment of 6 (six) years and a maximum fine of Rp. 12,000,000.00 (twelve million rupiahs).

Traffic accidents in the criminal provisions contained in Law Number 22 of 2009 concerning Road Traffic and Transportation, Based on the provisions of Article 310, drivers of motorized vehicles who, due to their negligence, result in minor traffic accidents are threatened with imprisonment for a maximum of 6 months if they result in a traffic accident. Is being threatened with a maximum imprisonment of 1 year, and if it results in a severe traffic accident, the threat of imprisonment is a maximum of 5 years in prison, and if the victim dies, then is threatened with a 6-year

sentence.<sup>21</sup>

### **Risk Factors for Traffic Accidents**

Several risk factors contribute to increasing the number of traffic accidents. These risk factors can be categorized into (1) the Socio-economic status of the community in general, (2) the habits of road users, and (3) local environmental factors.

People, especially those living in low- and middle-income countries, generally have two or three-wheeled vehicles compared to those with four or more wheels. These vehicles are usually used for work purposes or other family needs. Unlike the condition of people in developed countries, they prefer to drive four-wheeled vehicles for family needs and two-wheeled vehicles for leisure or recreational activities. This condition is influenced by the community's socio-economic status, especially related to people's income in general.

The habit of road users, especially motorized vehicle drivers, is a factor that contributes to the increase or decrease in traffic accidents. The number of motorists who ignore safety in driving triggers the high incidence and fatality of a traffic accidents. Abbas, Hefny, and Abu Zidan state that wearing a standard helmet for users of two-wheeled vehicles can reduce the risk of death by up to 40% and the risk of serious injury by 70%.<sup>15</sup> In Indonesia, the most common violation among motorcyclists, is not wearing a helmet when driving. Marsilius cited the report submitted by the East Java Regional Police in 2010 in his journal regarding the most frequent violations among motorcyclists. Riders who do not wear helmets have a percentage of 51% of the total violations and are followed by offenses running red lights more than

<sup>20</sup> Abdul Hamid, Nila Kusumawati, and Rizki Rahmawati Lestari, "Factors Causes Of Traffic Accident Events In Adolescent Motorcycles In Tapung District, Kampar Regency, Riau Povince, Indonesia," *Scientific Journal of Health Sciences* 1, no. 1 (February 5, 2021): 1–8.

<sup>21</sup> Naurahelmi Farihah Muto'in and Adita Utami, "Traffic Accident Rate Analysis Using Accident Rate and Equivalent Accident Number (EAN) Methods in Magelang City," *Jurnal Rekayasa Sipil (JRS-Unand)* 18, no. 1 (May 29, 2022): 60–67, <https://doi.org/10.25077/jrs.18.1.60-67.2022>.

24%. These two types of Violations have a very significant impact on the incidence of traffic accidents.

In addition to socio-economic factors, negligence of road users, and the inadequacy of motorized vehicles, environmental factors have a significant influence on the occurrence of traffic accidents and increase the mortality rate and disability (Disability-Adjusted Life Years [DALYs]). . An increase in the number of motorized vehicles without is followed by an increase in transportation infrastructures such as roads, traffic lights at every intersection, particular roads for pedestrians and bicycles will cause significant problems for the plan to reduce the number of traffic accidents.<sup>22</sup>

### Conclusion

From the discussion put forward in this study, the researcher concludes that the judge's considerations in determining criminal sanctions against perpetrators of criminal acts of negligence in traffic accidents are divided into juridical considerations and non-juridical considerations. A judge gives juridical considerations to a case based on statutory regulations, indictments, and demands from the public prosecutor. The judge's consideration is also based on the facts found in the trial examination based on the evidence submitted. At the same time, non-juridical considerations include the judge's consideration of the factors that will burden the crime and the factors that relieve the perpetrators of the crime. The judge's consideration of the elements of the crime (whoever, the element of negligence, and the element of causing the death of a person) of the perpetrator has been fulfilled based on the facts that occurred in the case based on normative and jurisprudential

rules.

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