

JURIDICAL ANALYSIS ON THE POSSIBILITY OF TRAFFIC ACCIDENT VICTIM BEING DESIGNATED AS SUSPECT

Erdianto Effendi*, Syaifullah Yophi Ardianto, Gusliana HB

Universitas Riau

Kampus Bina Widya KM. 12,5, Simpang Baru, Kec. Tampan, Kota Pekanbaru, Riau 28293

*email: erdianto.effendi@gmail.com

Ishaq

Universitas Islam Negeri Sulthan Thaha Saifuddin Jambi

Jl. Jambi-Muara Bulian KM. 16, Simp. Sei Duren, Jambi Luar Kota, Muaro Jambi, Jambi 36361

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Abstract: The fundamental aim of criminal law is to shield society from potential victimization, allowing for the prosecution of wrongdoers, including the offenders engaged in negligent acts. This objective leads to a legal dilemma when negligence originates from the victim, sparking a debate within law enforcement about the entity to bear the criminal responsibility. Therefore, this study aimed to explore the juridical feasibility of designating victims as suspects in the same case where the offender has been victimized. Real cases were used in this study, accompanied by secondary data and interviews with crucial policymakers. The findings show that designating victims of negligence in traffic accidents as a suspect should not be pursued. Consequently, the investigation process should be suspended when the victim is found to be responsible for the accident, as the incident does not meet the criteria for a criminal act.

Keywords: Victim, Suspect, Negligence

Abstrak: Tujuan mendasar dari hukum pidana adalah untuk melindungi masyarakat dari potensi viktimisasi, memungkinkan penuntutan terhadap pelaku kesalahan, termasuk pelanggar yang melakukan tindakan lalai. Tujuan ini menimbulkan dilema hukum ketika kelalaian yang bersumber dari korban sehingga menimbulkan perdebatan di kalangan penegak hukum mengenai entitas yang memikul tanggung jawab pidana. Oleh karena itu, penelitian ini bertujuan untuk mengetahui kelayakan yuridis penetapan korban sebagai tersangka dalam kasus yang sama dimana pelaku menjadi korban. Kasus-kasus nyata digunakan dalam penelitian ini, disertai dengan data sekunder dan wawancara dengan para pengambil kebijakan penting. Temuan menunjukkan bahwa penetapan korban kelalaian dalam kecelakaan lalu lintas sebagai tersangka tidak boleh dilakukan. Oleh karena itu, proses penyidikan harus

dihentikan ketika korban terbukti bertanggung jawab atas kecelakaan tersebut, karena peristiwa tersebut tidak memenuhi kriteria tindak pidana.

Kata Kunci: Korban, Tersangka, Kelalaian

Introduction

Criminal law is fundamental in regulating the legal relationship between the perpetrator and the victim.¹ The primary objective of this law is to safeguard society against the possibility of falling victim to crimes, either perpetrated by fellow citizens or the state.² Criminal law functions to protect citizens from offenses committed by others and to shield society from becoming victims of the state.³

In the context of a criminal act, two essential parties evolve, the perpetrator and the victim, representing the legal subject and object respectively.⁴ The constitution inherently supports the victim, and as a component of public law, the state ensures the protection of the injured party. Excluded from the domain of public law, criminal offenses would reflect the legal relationships inherent in civil law, entailing conflicts between citizens.⁵

Instances occur where the state falls victim to a crime, such as when the entity is harmed by citizens, as observed in cases of sedition or corruption. Criminal law is designed to safeguard a minimum of five distinct groups,

comprising the state, rulers, society, citizens, and property owned by residents.⁶ However, these safeguarded entities are not necessarily collective perpetrators of criminal acts. While individuals acting on behalf of the state, rulers, and society may be considered potential wrongdoers, the entities cannot be implicated in the actions.

Outside the aforementioned context, criminal acts give rise to two conflicting legal interests, namely the perpetrator and the victim. The perpetrator is someone who either commits an act prohibited by law or fails to legal obligations, while the victim is an individual or group who suffers as a consequence of the crime. This suffering can manifest in three methods, namely physical, psychological, or economic pain.⁷ Physical suffering includes injuries, psychological pain comprises the loss of freedom, and economic distress consists of property loss. Among these suffering, the most severe form of pain is connected to death, a matter addressed by various articles, including publications about murder and negligence causing the demise of others.⁸

In cases including negligence leading to the death of others, two distinct legal subjects can be identified, such as the negligent perpetrator and the victim. Attribution of blame does not always necessitate malicious intent but can also arise from negligence, classified as a criminal act due to the inability of the

¹ Dewa Gede Atmadja, 'Asas-Asas Hukum Dalam Sistem Hukum', *Kertha Wicaksana*, 12.2 (2018), 145-55 <<https://www.ejournal.warmadewa.ac.id/index.php/kertawicaksana/article/view/721>>.

² S Sahabuddin, 'Kebijakan Penanggulangan Kejahatan Dengan Sanksi Ganti Rugi', *Jurnal Lex Specialis*, Universitas Batanghari, 17 (2017), 1-2.

³ Jaka Arief Sugema, 'Penanganan Over Kapasitas Di Dalam Lapas', *JUSTITIA: Jurnal Ilmu Hukum Dan Humaniora*, 7.1 (2020), 201-8 <<http://jurnal.um-tapsel.ac.id/index.php/Justitia/article/view/1939>>.

⁴ Bunyamin Alamsyah Raden Achmad Syarnubi and Amir Syarifuddin, 'Kebijakan Hukum Pidana Pengaturan Asas Peradilan Cepat, Sederhana Dan Biaya Ringan Dalam Hukum Acara Pidana', *Legalitas*, X.1 (2018), 36-65.

⁵ Eddy OS Hieariej, *Prinsip-Prinsip Hukum Pidana, Cahaya Atma Pustaka* (Yogyakarta, 2014).

⁶ Erdianto Effendi, *Hukum Pidana Adat* (Bandung: Refika Aditama, 2018).

⁷ Djuniarti, 'Proses Hukum Kejahatan Tertangkap Tangan Menurut KUHAP', *Jurnal Saraq Opat*, 4.2 (2022), 94-108.

⁸ Abdul Rahman Maulana Siregar dan Mhd. Azhali Siregar, 'Penyelesaian Tindak Pidana Dengan Delik Pidana Adat Di Kabupaten Padang Lawas Utara', *Jurnal Hukum Responsif*, 7.7 (2019), 137-44.

negligent party to restore the situation to its original state.⁹

Negligence offenses, particularly in traffic matters, are regulated by Article 359 of the Criminal Code, often applied to penalize individuals found negligent. This correlates with Article 310 of the Traffic Ordinance, Law No. 35 of 2009, which specifically addresses negligence causing death, following the principle of *lex specialis derogate legi generalis*, where the Traffic Law takes precedence.¹⁰

In the post-implementation of the law, practical observations show that not all instances of driving negligence lead to the death or injury of others. Accidents primarily arise from the actions of the victim rather than external faults. In single-party incidents, blame is absent, however, complexities arise when an accident includes multiple parties, and the victim becomes the instigator leading to losses.

In recent cases, the police designated the victim as a suspect, asserting responsibility for the traffic accident, while investigations showed no mistakes by the parties. This raises the question of how a victim can be designated as a suspect. Therefore, the study delves into the juridical possibility of designating the victim as a suspect in the same case and explores the likelihood of similar cases progressing through the legal process, from investigation to trial in court.

This study differs from previous investigations into the application of criminal procedural law in traffic accident cases. While a previous article by Muhammad Dani Hamzah in 2020, titled "*Pertanggungjawaban*

pada kasus tindak pidana kecelakaan lalu lintas yang menyebabkan hilangnya nyawa orang pada tindak pidana kecelakaan lalu lintas di Kota Semarang (Accountability in cases of criminal traffic accidents causing death in traffic accidents in Semarang City)"¹¹, concluded that the general criminal accountability requirements should be fulfilled, such as the existence of a criminal act, the capacity to be responsible, intent or negligence, and no excuse for forgiveness. This study takes a distinctive method by placing a greater emphasis on resolving actual cases. Furthermore, it deviates from Gledis Yassin and colleagues' 2020 study titled "*Penegakan Hukum Kecelakaan Lalu Lintas Akibat Jalan Rusak* (Law Enforcement on Traffic Accidents Due to Damaged Roads)," which solely focuses on law enforcement in traffic accident cases.¹² Similarly, it contrasts with the publication by Ida Ayu Putu Monika Dewi et al. in 2020 titled "*Penegakan Hukum Terhadap Anak Dalam Pelanggaran Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang Lain Di Kota Singaraja* (Law Enforcement Against Children in Traffic Violations Resulting in the Loss of Others' Lives in Singaraja City)."¹³ The study focuses on examining how the law is applied when the victim is deemed negligent in traffic accidents, setting it apart from previous inquiries that primarily explored broader principles and law enforcement perspectives.

Method

The study used normative legal research techniques with a model incorporating secondary data and a case analysis method to incidents resulting in the loss of human lives.

⁹ Hildayastie Hafizah and Surastini Fitriasih, 'Urgensi Penyelesaian Dugaan Kesalahan Medis Melalui Restorative Justice', *Jurnal USM Law Review* Vol, 5.1 (2022), 205–23 <<https://doi.org/http://dx.doi.org/10.26623/julr.v5i1.4884>>.

¹⁰ Agung Asmara, 'Penegakan Hukum Lalu Lintas Melalui Sistem E-Tilang', *Jurnal Ilmu Kepolisian* |, 13 (2019), 187–202.

¹¹ Muhammad Dani Hamzah, 'Penegakan Hukum Pada Kasus Tindak Pidana Kecelakaan Lalu Lintas Yang Menyebabkan Hilangnya Nyawa Orang', *Jurnal Daulat Hukum*, 1.1 (2020), 43–52.

¹² Gledis Yassin, Dian Ekawaty Ismail, and Lusiana Margareth Tijow, 'Gorontalo', *Gorontalo Law Review*, 3.2 (2020), 122–36.

¹³ Yassin, Ismail, and Tijow.

Normative legal research included various types, such as comparative legal analysis, history, synchronization, and principles. This investigation focused on analyzing legal principles, using secondary data comprising of primary legal materials representing rules applied as positive law. Additionally, secondary juridical materials, derived from legal expert studies, and tertiary statutory sources, such as dictionaries or encyclopedias, were incorporated into the research framework. The analysis technique adopted was triangulation, providing a comprehensive and multi-faceted examination of the selected subject matter.

Result and Discussion

Results

Cases where the victim was designated as a suspect were previously thought to be common occurrences. However, upon further examination, this assumption was found to be inaccurate. An instance included a rape victim who was labeled as a suspect not because of the sexual assault but, in a separate incident, due to the participation in the death of the baby resulting from the rape. In the case of the demise of Brigadier Joshua, originally a victim, was reported by Putri Chandrawati as the perpetrator of sexual harassment. Another scenario revolved around a duel between Dewi Persik and Julia Perez, where both were treated as suspects and eventually convicted in a physical altercation case. In the latter case, both played roles as both perpetrators and victims of each other.

In contrast to these scenarios, the three cases mentioned earlier included distinct incidents, differing from the situation in an accident that led to the death of a UI student. In this case, the South Jakarta Police designated the victim as a suspect concurrently. This case garnered significant public attention as it was perceived to conflict with the principles of justice. The sequence of

events in the UI Student Accident and Retired Police Officer Case¹⁴, as reported by journalists, began when the Pajero driver named Eko passed through Srengseng Sawah Street on Thursday, October 6, 2022, at approximately 9:00 PM. Eko, driving at 30 km/h with license plate B 2447 RFS, encountered a situation where Hasya, riding a Kawasaki Pulsar motorcycle, suddenly applied the brake to avoid colliding with another bike turning right. Consequently, Hasya collided with the black Pajero and fell approximately 5 meters from the car. Despite the attempt of Eko to swerve to the left, the collision was inevitable due to the short distance. The injured party fell on the road, and both the front and rear right wheels of the car ran over the victim. The police attributed negligence to the motorcycle rider, resulting in the fatality, while determining that Eko, as the car driver, was in the correct lane and bore no blame. The police initially considered Hasya a suspect responsible for the death, but later overturned this decision under public pressure.

In a parallel incident at the Siak Hulu Police District, Kampar Police Resort, Riau, a traffic accident transpired including a Honda Supra motorcycle with license plate BM 2170 FN, carrying a basket of fruit and driven by SANOTONA ZEGA. The motorcycle, moving from the New Village Intersection towards the Beringin crossroads, attempted to overtake the vehicle in front of it. From the opposite direction, a Mitsubishi truck with license plate BA 8165 LQ attempted to avoid it, but the right side of the fruit-carrying basket collided with the front right light of the truck. The rider of the Honda Supra motorcycle suffered severe injuries and later died after receiving treatment at Arifin Ahmad Hospital in Pekanbaru. In this case, the police terminated

¹⁴ Balqis Fallahnda, 'Kronologi Kasus Kecelakaan Mahasiswa UI Hingga Jadi Tersangka', <https://Tirto.id/Kronologi-Kasus-Kecelakaan-Mahasiswa-Ui-Hingga-Jadi-Tersangka-GBUi>, 2022.

the investigation asserting that no criminal act occurred, and no one could be held criminally liable. The truck driver was considered not at fault and consequently, no criminal liability could be ascribed.

A comparable incident also occurred comprising the renowned lawyer Hotman Paris. In this case, the victim, Dedy Sulaeman, was driving a box car with license plate B-9642-BCL when a tire blowout occurred. This resulted in the green Lamborghini with license plate B-333-NIP, driven by Hotman Paris and positioned behind him, being unable to halt in time. Due to the abrupt stop of the box car, blame could not be attributed to the Lamborghini driver. Despite the death of Dedy from head injuries and broken bones, the police concluded that no suspect could be identified in this accident, as it was considered a single incident.¹⁵

Discussion

a. Legal Subjects of Perpetrators and Victims in Criminal Law

This principle functions as the standard of behavior that individuals should adhere to, including various forms and primarily categorized into two types, namely personal and interpersonal. Individuals set personal principles for their conduct, and any violation results in harm. On the other hand, interpersonal principles pertain to how individuals interact with others, including courtesy and legality. Violating these principles causes harm to someone else, leading the state to impose strict sanctions through criminal law.¹⁶

Considering the distinction between personal and interpersonal principles, legal precepts are categorized as part of the interpersonal domain. Personal principles, such as divinity and morality, are violated when in conflict with the values of an individual and may not necessarily include others. The second category of principles is interpersonal, where violations are considered to transpire when implicating the legal interests of others.

Examining the police version in the case of the accident resulting in the death of a student named Harsya shows that the car driver is claimed not to have committed negligence. However, negligence attributed to Harsya establishes that the act of carelessness resulting in death is not considered a criminal act. Criminal law targets actions causing harm to others, not behaviors resulting in self-harm.¹⁷

Engaging in actions that impact oneself presents no legal issue, provided there is no harm to others. This holds even for self-insults, although contrary to religious principles, are not inherently problematic when harm is not done to others. Suicide, self-harm, property damage, or financial squandering, though forbidden in religion, do not violate legal principles when not causing harm to others. Legal concerns only arise when actions extend to obtaining funds belonging to someone else or insulting another individual.¹⁸

Legal issues only occur provided that an individual's actions do not disturb others. Consequently, the legal principles are contingent upon the presence of legal interests from other parties who perceive harm or disturbance. Negligence, intentional self-

¹⁵ ANT, 'Polisi Amankan Hotman Paris Usai Terlibat Tabrakan', <https://www.hukumonline.com/Berita/a/Polisi-Amankan-Hotman-Paris-Usai-Terlibat-Tabrakan-Lt543181a709bf1>, 2014.

¹⁶ Rosdiana Eka Kurniawan, Piatur Pangaribuan, 'Tinjauan Kriminologis Pelaku Pencurian Di Kota Balikpapan Dikaitkan Dengan Norma Kesusilaan', *Uniba Law Review*, 1.1 (2019).

¹⁷ Rena Yulia, 'Mengkaji Kembali Posisi Korban Kejahatan Dalam Sistem Peradilan Pidana', *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 28.1 (2016), 33 <<https://doi.org/10.22146/jmh.15858>>.

¹⁸ Stephen R Galoob, 'Retributivist and Criminal Procedure', *NEW CRIMINAL LAW REVIEW* |, 20.3 (2017), 465-505.

crime, self-harm, suicide, or property damage is not considered criminal unless it entails harm to others.¹⁹

Religiously, individuals should adhere to their teachings, and failure results in sin, but these transgressions against God are not criminally punished.²⁰ In countries, including those implementing Islamic law, failure to pray or fast is considered a personal matter and not punishable. Punishment only applies when an individual disrupts others during prayer or fasting, a principle observed even in countries such as Indonesia, not governed by Islamic law. Islamic criminal law reserves the authority to punish sinful acts affecting others, such as adultery, murder, theft, and similar offenses.²¹

When a Muslim commits suicide, it is not considered an act punishable by criminal law, despite being a major sin. Crimes that fall under major sins and can be subject to punishment include killing others, committing adultery, drinking alcohol, and gambling. Although alcohol and gambling cause harm to both the individual and society, these activities are distinctly categorized as punishable offenses.²²

In the context of a crime, there are clear distinctions between victims and perpetrators. Roles in a crime are typically assigned to distinct individuals, preventing the entity from simultaneously being both a perpetrator and a victim. However, when someone

becomes a victim, no one can be seen as a perpetrator despite potential misconceptions.²³

Exceptions to this situation exist for victims of drug abuse or gambling offenders, where an individual can assume both the roles of perpetrator and victim. In both types of crimes, where individuals may also be regarded as suspects according to legal regulations, society is concurrently victimized.²⁴

A transformation from victim to suspect is inherently impossible, as victims are defined by their victimhood. Criminal law is intricately designed to prevent actions that cause harm to others, as stated by Article 263 of the Criminal Code, which shows the significance of considering the potential harm to others, even when it does not have to be proven. Legal violations devoid of harm to others do not meet the criteria for criminal acts.²⁵

Article 310 of Law Number 35 of 2009 concerning Traffic outlines four paragraphs. The first paragraph characterizes negligence as a criminal act leading to a vehicle-damaging accident, while the second pertains to carelessness causing minor injuries, and the third paragraph includes dereliction causing severe fractures. The fourth paragraph specifically deals with negligence leading to the death of another individual, explicitly excluding incidents causing personal death from the formulation of this criminal offense.

¹⁹ Ahmad Rofiq, Hari Sutra Disemadi, and Nyoman Serikat Putra Jaya, 'Criminal Objectives Integrality in the Indonesian Criminal Justice System', *Al-Risalah*, 19.2 (2019), 179 <<https://doi.org/10.30631/al-risalah.v19i2.458>>.

²⁰ Safaruddin Harefa, 'Penegakan Hukum Terhadap Tindak Pidana Di Indonesia Melalui Hukum Pidana Positif Dan Hukum Pidana Islam', *University Of Bengkulu Law Journal*, 4.1 (2019), 35–58 <<https://doi.org/10.33369/ubelaj.v4i1.7303>>.

²¹ Michal Zacharski, 'Mens Rea, the Achilles' Heel of Criminal Law', *European Legacy*, 23.1–2 (2018), 47–59 <<https://doi.org/10.1080/10848770.2017.1400259>>.

²² Rini Apriyani, 'Sistem Sanksi Dalam Hukum Islam', *Journal of Islamic Law Studies*, 2.2 (2021).

²³ Gerry Johnstone, 'Restorative Justice for Victims: Inherent Limits?', *Restorative Justice*, 5.3 (2017), 382–95 <<https://doi.org/10.1080/20504721.2017.1390999>>.

²⁴ Patrick Bashizi Bashige Murhula and Aden Dejene Tolla, 'The Effectiveness of Restorative Justice Practices on Victims of Crime: Evidence from South Africa', *International Journal for Crime, Justice and Social Democracy*, 9.3 (2020), 1–13 <<https://doi.org/10.5204/IJCJSJSD.1511>>.

²⁵ Ivo Aertsen, 'Recalibrating Victimhood through Restorative Justice: Perspectives from Europe', *Restorative Justice*, 5.3 (2017), 352–67 <<https://doi.org/10.1080/20504721.2017.1390997>>.

To constitute a criminal act, all elements of the offense should be fulfilled, as seen in the case of Mahmud, who changed the name on the diploma certificate to Muhammad Mahmud. Although this includes forgery, and altering document contents, the crucial element of causing harm to others is absent. Therefore, Article 263 rendered it an act against administrative law rather than a criminal offense.

An example is corruption, defined as the illegal act of self-enrichment, by others, or corporations, leading to state losses. When an unlawful act occurs without causing losses to the state, it does not qualify as corruption, it is solely a violation of administrative law. Only when proven to cause state losses does the unlawful act transform into a complete criminal act of corruption. Consequently, all elements of non-criminal acts should be satisfied before designating an act as an offense.²⁶

The focus of this study is on traffic accidents, specifically those leading to fatalities, the appropriate conclusion for the police is "no criminal act." Determining the presence or absence of a criminal act falls under the purview of the investigation, warranting the case to be halted during this stage. Should the investigation advance and it becomes evident that the case does not constitute a criminal act, it ought to be halted. In the case of Harsya, the resolution process of the traffic accident is in the investigation stage and does not need to proceed to the next stage of investigation. The handling of the accident of Hotman Paris and the incident in Siak Hulu by the police was appropriate, correlating with

the actions that should have been taken in the case of Harsya.²⁷

Upon determining the absence of a criminal act in a case during the investigation, the subsequent step includes searching for evidence to identify the individual strongly suspected as the perpetrator, either through actions or circumstances. In the case of Harsya, a critical determination is essential to ascertain how the victim's death resulted from negligence.

In determining negligence and its consequences, the application of causation theories in criminal law is crucial. Three main causation theories, namely condition sine qua non, general, and special theories, help identify the root cause of a criminal act.²⁸ When the investigation or police version shows no negligence by the four-wheeled vehicle driver, the case should close due to insufficient evidence and not because the suspect died.²⁹

Stopping an investigation at the investigation stage can occur for three reasons, namely insufficient evidence, the incident not constituting a criminal act or legal grounds. Even when the investigation initially is considered a criminal act, there remains the

²⁶ Salman Bahoo, Ilan Alon, and Andrea Paltrinieri, 'Corruption in International Business: A Review and Research Agenda', *International Business Review*, 29.4 (2020), 101660 <<https://doi.org/10.1016/j.ibusrev.2019.101660>>.

²⁷ Achmad Budi Waskito, 'Implementasi Sistem Peradilan Pidana Dalam Perspektif Integrasi', *Jurnal Daulat Hukum*, 1.1 (2018), 287-304 <<https://doi.org/http://dx.doi.org/10.30659/jdh.v1i1.2648>>.

²⁸ Muchlas Rastra Samara Muksin and Nur Rochaeti, 'Pertimbangan Hakim Dalam Menggunakan Keterangan Ahli Kedokteran Forensik Sebagai Alat Bukti Tindak Pidana Pembunuhan', *Jurnal Pembangunan Hukum Indonesia*, 2.3 (2020), 343-58 <<https://doi.org/10.14710/jphi.v2i3.343-358>>.

²⁹ Appludnopsanji Appludnopsanji and Pujiyono Pujiyono, 'Restrukturisasi Budaya Hukum Kejaksaan Dalam Penuntutan Sebagai Independensi Di Sistem Peradilan Pidana Indonesia', *Sasi*, 26.4 (2020), 571 <<https://doi.org/10.47268/sasi.v26i4.359>>.

possibility of reassessment, ensuring the accuracy of the conclusion.³⁰

Legal termination of an investigation includes three reasons specified in Articles 76, 77, and 78 of the Criminal Code, namely *ne bis in idem*, suspect demise, and expiration. The term "suspect demise" in this context signifies the death of the suspect during the investigation process.

b. Possibility of Continuing the Case to the Next Stage

When accusing the victim is impossible due to the condition requiring the death of someone else for a criminal act, an alternative is to proceed with the case. This would be followed by identifying the individual in the accident as the suspect, even when the offender may not necessarily be guilty.

An individual designated as a suspect may not necessarily be considered guilty until proven in court. The dualistic elements of a criminal act, including objective and subjective, are separated and the proof of subjective factors is presented in court. During the investigation stage, only the objective element can be presented as evidence. The examination of how there is a fault in the suspect takes place during the trial by the judge, specifically related to criminal liability.

Criminal liability is contingent on fulfilling two requirements for prosecution, namely mental capacity and the circumstances present. Individuals including the mentally ill or children, who cannot be held criminally accountable due to a lack of understanding of the wrongfulness of their actions, are exempted. Similarly, those unable to decide to commit or not commit an act due to circumstances such as self-defense, coercion,

following official orders, or adhering to the law cannot be prosecuted.³¹

The Explanation of the Criminal Code (Memorie van Toelichting) negatively defines the concept of accountability, stating that there is no accountability when an individual is not given the freedom to decide between obeying or disobeying what is prohibited or commanded by law. Additionally, when an individual cannot realize that their actions violate the law and do not understand the consequences of their pathological impulse (pathologische drift), insanity, or delusional thinking.

Judgments concerning criminal liability, grounds for forgiveness, and justifications are crucial to the judge's assessment during the trial. When an individual is considered unable to justify their actions in the evaluation of the magistrate, the judge will render a verdict dismissing the charges.³²

In cases where criminal liability is questioned, the focus is on how the individual was denied the freedom to decide between obeying or disobeying what is prohibited or commanded by law, specifically in instances of forced actions. The evaluation also examines how the individual is incapable of realizing that their actions violate the law and lacks comprehension of the consequences of factors such as pathological impulses, insanity, delusional thinking, and similar conditions.³³

When the judge concludes that an individual can be held criminally liable, the

³⁰ Phileo Hazelya Motulo, 'Upaya Paksa Dalam Proses Peradilan Pidana', *Lex Administratum*, VIII.4 (2020), 149–58.

³¹ Marsudi Utoyo and Kinaria Afriani, 'Sengaja Dan Tidak Sengaja Dalam Hukum Pidana Indonesia', *Lex Librum: Jurnal Ilmu Hukum*, 7 (2020), 75 <<https://doi.org/10.46839/Iljih.v0i0.298>>.

³² Naval Bajpai and others, 'An Empirical Examination of Elder Abuse through the Lens of Mens Rea', *Journal of Adult Protection*, 22.5 (2020), 269–97 <<https://doi.org/10.1108/JAP-04-2020-0010>>.

³³ Kuswardani Kuswardani and Gilang Kartiko, 'Asas Kesalahan Dalam Hukum Pidana Pilar Perlindungan Hak Asasi Manusia', in *Seminar Nasional Online & Call for Papers* (Cianjur: Universitas Suryakencana, 2020), pp. 11–20.

next assessment includes determining how the offender can be blamed for their actions, and distinguishing between intentional or negligent behavior. Negligence, characterized by **carelessness, recklessness, or a lack of foresight**, results from the failure of an individual to act carefully. Therefore, the key distinction between intent and negligence lies in the presence of motive in intentional actions.³⁴

In cases of accident-related death or injury, causation is examined through the Condition Theory. This theory states that certain conditions lead to consequences that would not occur without the factors. The Special Theory identifies the most influential event leading to the consequences, while the General concept considers events generally causing a repercussion.³⁵

Based on the causation theory in criminal law, experts generally agree that the behavior most determinant in causing repercussions is considered accountable and subject to blame.³⁶ Applying the legal principles outlined above, the cause of the motorcycle falling can be attributed to the negligence of the rider. In this situation, the car driver, unable to prevent the motorcycle from falling, is considered to be in an emergency and unable to decide an action to avoid the fall.³⁷ Consequently, the judge is inclined to declare the car driver as free from

fault, leading to a verdict releasing the offender.³⁸

To summarize, accidents caused by self-negligence, as seen in cases such as Hotman Paris and the Siak Hulu Riau incident, are considered single accidents. Consequently, no criminal act occurred, and investigators in both cases arrived at correct conclusions. However, where the investigators perceive a criminal act in the case, a suspect should be identified based on both the circumstances and actions. Even when the car driver did not commit an act, the designation as a suspect can still be based on their actions. The determination of guilt occurs during the trial, not within the investigation process.³⁹

Conclusion

In conclusion, designating a victim, especially an offender in a fatal traffic accident, as a suspect was considered impossible. The examination had to be terminated at the investigation stage because the elements of a criminal act were not fulfilled. A critical aspect of negligence leading to the death of someone necessitated the participation of the demise of another individual, separate from the fatality of the victim. Both negligence and intentional acts resulting in the demise of another individual were considered not to be criminal acts. An alternative method to address cases of fatal accidents was to implicate the individual, and the process of establishing their innocence was assessed by the judge in court, following the dualistic principle in criminal law. Consequently, this method ensured a thorough examination of culpability and innocence in the legal proceedings.

³⁴ M Latifah, 'Upaya Transformasi Konsep Jarimah Qisash-Diyat Pada Hukum Positif Melalui RUU KUHP', *Negara Hukum: Membangun Hukum Untuk Keadilan ...*, 2.1 (2011), 129–50 <<http://jurnal.dpr.go.id/index.php/hukum/article/view/188>>.

³⁵ Gideon Yaffe, 'Mens Rea by the Numbers', *Criminal Law and Philosophy*, 12.3 (2018), 393–409 <<https://doi.org/10.1007/s11572-017-9430-0>>.

³⁶ Joanna Wilson-Scott, 'Mens Rea and Narratives of Violence: The Guilty Mind in Twenty-First-Century American Literature', *American Studies in Scandinavia*, 53.2 (2021), 23–41 <<https://doi.org/10.22439/asca.v53i2.6390>>.

³⁷ Laura Ausserladscheider Jonas, 'Actus Reus and Mens Rea in International Criminal Law', *Individual Criminal Responsibility for the Financing of Entities Involved in Core Crimes*, 5.3 (2021), 40–48 <https://doi.org/10.1163/9789004470934_004>.

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