



Implementation of Criminal Sanctions Against Traffic Accidents Causing Other People's Death in Jayapura City

Budiyanto

Faculty of Law, Cendrawasih University, Papua, Indonesia

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Abstract

Drivers influenced by alcoholic beverages are the leading cause of accidents that cause death in Jayapura City. Vehicles, awareness and legal compliance, facilities and infrastructure only support the main factors. All cases analyzed were resolved through the criminal justice process—defendants who manage to make peace and provide compensation for grief. However, the application of the law remains through the trial process. Efforts to make peace by the defendant are used as the basis for the judge's consideration to ease his criminal sanctions. In addition, the judge's rationale for review also pays attention to the facts proven at trial.

Keywords: *Application of Criminal Sanctions; Traffic Accidents; Death*

Introduction

Problems in traffic in Indonesia seem to be endlessly discussed by all groups, either in the general public, government, police officers, or academics. Even though the police have taken preventive measures and firm action against traffic violators, it seems that they cannot reduce the cases of violations that occur. Likewise, accidents in the light to severe categories, and even causing the loss of a person's life, still happen.

The condition of traffic accidents in the Papua Regional Police Area was recorded in 2017, amounting to 1,125 cases, and the death toll was 247 people. In 2018 there were 1,485 cases, and 277 people died.¹ In 2019, there were 2,224 cases, and 283 people died. The following year, 2020, 1,501 cases and 208 people passed away. It means that the number of cases in 2020 dropped by around 723 or 32.51%.² From January to October 2021, there were 826 traffic accidents, and 114 people died.³

¹ See <https://mediaindonesia.com/nusantara/218491/miras-penyebab-paling-utama-kecelakaan-lalu-lintas-di-papua>. accessed on 16 November 2021.

² See <https://humas.polri.go.id/2021/01/08/kabid-humas-angka-kecelakaan-lalu-lintas-tahun-2020-di-wilayah-hukum-polda-papua-mengalami-penurunan/>. Accessed on 16 November 2021.

³ See <https://papua.tribunnews.com/2021/11/15/114-orang-di-papua-tewas-akibat-kecelakaan-lalu-lintas-sejak-januari>. accessed on 16 November 2021.

In Jayapura City, traffic accidents in 2017 amounted to 122 cases, and 46 people died. In 2018, there were 126 cases which 38 people died.⁴ In 2019, there were 918 cases, with a loss of more than 3.1 billion. Throughout 2020, the number of traffic accident cases decreased by 701, with material losses of 3.4 billion more than the previous year.⁵

The case of an accident in the traffic sector in Jayapura City was an accident involving the Deputy Regent of Yalimo with the initials (ED). It resulted in the death of a female police officer at the scene on 16 September 2020 at around 07.30. The driver (ED) was under the influence of alcoholic beverages, so he lost control and left the lane to the right of the road. As a result of the accident, the victim was declared dead by the hospital.⁶

Regarding the accident resulting in death, not long after, officers from the Jayapura City Police Traffic Unit immediately went to where the case occurred to examine evidence and witnesses around the incident. Then the results of the place where the case occurred are followed up to find and determine the suspect and the witness. After the investigation, the case file is transferred to the Jayapura District Attorney for further prosecution at trial.

The focus of this paper, therefore, is the caused factors of the accident resulting in people from die in Jayapura City and the application of criminal sanctions to traffic accidents causing other people died.

Research Method

The research is normative legal research, by conducting a study of the law related to the problem under study. It is supported by empirical legal research to examine and collect data through interviews. Data analysis was carried out qualitatively, starting with searching for data in the form of cases that already had permanent legal force, chronological description of issues, case classification, and concluding. The case approach is also applied to briefly describe 4 cases of traffic accidents that resulted in the death of another person.

Accidents Factors to Cause People Die in Jayapura City

The term "traffic" means going back and forth or lots of traffic vehicles on the highway.⁷ Meanwhile, according to Article 1 point 2 Law Number 22 of 2009 concerning Road Traffic and Transportation (starting now abbreviated as UULLAJ), traffic is the movement of vehicles and people in the Road Traffic Room.

According to Article 1 point 24 UULLAJ further, a traffic accident is an incident on the road that is unexpected and unintentional involving a vehicle with or without other road users resulting in human casualties or property loss. Traffic crimes have been regulated in Chapter XX Article 273 to Article 317 UULLAJ. In addition, according to Ramdlon Naning, "Road traffic accidents are the final event in a series of road traffic events, both in the form of crimes or violations that result in loss, injury, or life or property loss".⁸

⁴ See <https://www.elshinta.com/news/165529/2019/01/07/angka-kecelakaan-lalu-lintas-di-jayapura-2018-meningkat>. accessed on 16 November 2021.

⁵ See <https://kabarpapua.co/sepanjang-2020-lakalantas-di-kota-jayapura-turun/>, accessed on 28 September 2021.

⁶ See <https://regional.kompas.com/read/2020/09/16/14322451/diduga-mabuk-saat-mengemudi-wakil-bupati-yalimo-tabrak-polwan-hingga-tewas?page=all>. Accessed on 16 November 2021.

⁷ Pusat Bahasa. "*Kamus Besar Bahasa Indonesia*", JPT Gramedia Pustaka Utama, Jakarta, 2008, p. 777.

⁸ Ramdlon Naning. "*Menggairahkan Kesadaran Hukum dan Disiplin Penegak Hukum Dalam Lalu Lintas*", Mandar Maju, Bandung, 1990, p. 19.

The results of the study revealed that in the Jayapura City Police Legal Area, several factors caused traffic accidents that resulted in the death of other people, namely:

1. Human factor (rider/driver)

Negligent drivers/drivers are the leading cause of accidents that result in the death of another person. They ultimately result in an unavoidable accident or collision with other road users. The driver's condition, drunk due to consuming alcoholic beverages, coupled with high speed, causes the vehicle's speed to be no longer controlled.

2. Road factor

The condition of damaged roads, uphill, slippery, turning/cornering, and intersections are other causes in cases of accidents that cause fatalities. Drivers act when passing through damaged, uphill, slippery roads, turning/cornering, and at crossroads. Drivers/drivers influenced by alcoholic beverages while driving ignore road conditions. As a result, the vehicle sped off the lane without direction, colliding with other vehicle users, and the victim died.

3. Weather factor

Bad weather conditions, heavy rains, and floods are the determinants of accidents that cause fatalities. Drivers who force themselves to pass through damaged roads, heavy rain, and strong winds during bad weather, and are not careful, have the potential for collisions or accidents that cannot avoid.

4. Vehicle factor

The condition of the car or motorcycle is also an essential factor as a cause of accidents. The abnormal condition of the vehicle, such as brake failure, engine failure, inability to pass uphill roads, flat tires, and several other damages, will undoubtedly be at risk of causing traffic accidents. An abnormal vehicle will interfere with the driver's concentration when driving it on the road, making it prone to traffic accidents.

5. Awareness and legal compliance factors

Factors of low awareness and legal compliance are factors that cause traffic accidents. People who are aware and obey the law will affect reducing the number of accidents. The results showed that the level of compliance of motorcycle or car drivers was shallow. Violation of signs, road markings, breaking through red lights, and parking that is not in place is a sight every day. When there are no police officers on the road, there will be more violations, especially crossing red lights, not wearing standard helmets, not wearing seat belts and so on.

6. Road congestion factor

Congestion in Jayapura City is frequent, especially when community activities begin: when going to and from work, repairing road odours, city transportation bases (taxi), trucks carrying heavy loads such as sand or wood, and the number of vehicles. That crosses the road. Likewise, on roads uphill, cornering, queues, and long traffic jams often occur, given the narrow road conditions, so that other cars cannot cross cars carrying heavy loads.

7. Condition of facilities and infrastructure

The lack of road facilities or infrastructure availability will affect the number of accidents in Jayapura City. Road equipment is a significant determinant in the field of traffic. In Jayapura City, the

road conditions are still very narrow, although, at specific points, two lanes have been made because many offices, hotels, and shops do not have their own parking space. As a result, vehicles park on the shoulders of the road or the sidewalk. Such conditions create a point of road congestion and are also prone to collisions or accidents.

Application of Criminal Sanctions Against Traffic Accidents Causing the Death of Person in Jayapura City

Based on the results of the study, it can describe the chronology of 4 (four) cases of accidents in the field of traffic causing fatalities as follows:

1. Case 1 was Case Number: 500/Pid.Sus/2020/PN Jap:

a. The defendant Erdi Dabi was charged with a single charge of imprisonment for 6 (six) months for violating Article 311 Paragraphs (1), (2) and (5) of the UULAJ, for being guilty of a criminal act of "Intentionally driving a motorized vehicle in a dangerous manner or condition. For life or property, which results in a Traffic Accident with damage to the vehicle and which results in the death of another person", as stated in the single indictment of the Public Prosecutor.

b. Jayapura District Court Judge's Decision

(1) To declare that Defendant Erdi Dabi has been legally and convincingly proven guilty of committing a criminal act as stated in the single indictment;

(2) Sentencing the defendant imprisonment for 4 (four) months.

2. 2nd Case was Case Number: 216/Pid.Sus/2021/PN Jap:

a. The defendant Billy Albert Dien was charged with a single charge of imprisonment for 5 (five) years, for violating Article 310 Paragraph (1), (2) UULAJ, for being guilty of a criminal act "because his negligence caused the death of another person."

b. Jayapura District Court Judge's Decision

(1) To declare that Defendant Billy Albert Dien has been legally and convincingly proven guilty of committing a criminal act as stated in the single indictment of the Public Prosecutor;

(2) Sentencing the defendant with imprisonment for 4 (four) years;

3. 3rd Case was Case Number: 69/Pid.Sus/2022/PN Jap:

a. The defendant Riswan Limarae was charged with cumulative charges of imprisonment for 5 (five) years for violating Article 229 Paragraph (4) Jo. Article 310 Paragraph (4), and Article 229 Paragraph (2) Jo. Article 310 Paragraph (1) UULAJ, because he is guilty of committing a crime "driving a Motorized Vehicle which due to his negligence causes a Traffic Accident with damage to the vehicle or goods and which results in the death of another person"

b. Jayapura District Court Judge's Decision

(1) To declare that Defendant Riswan Limarae has been legally and convincingly proven guilty of committing a criminal act as stated in the first and second cumulative indictments of the Public Prosecutor;

(2) Sentencing the defendant with imprisonment for 5 (five) years;

4. 4th Case was Case Number: 66/Pid.Sus/2022/PN Jap:

- a. The defendant Hartina Sokoy was charged with a single charge of imprisonment for 1 (one year) and 10 (ten) months for violating Article 310 Paragraph (4) of the UULAJ, namely being guilty of the crime of "driving a motorized vehicle, which due to negligence resulted in a traffic accident resulting in a person another dies."

b. Jayapura District Court Judge's Decision

- (1) To declare that Defendant Hartina Sokoy has been legally and convincingly proven guilty of committing a criminal act as stated in the single indictment;
- (2) Sentencing the defendant with imprisonment for 1 (one) year and 4 (four) months.

Based on the description of the four cases, in principle, there are differences, ranging from how cases are resolved, indictments, demands, and judges' decisions. It has resulted in different choices regarding prison sentences handed down by judges to the defendants. In other words, there has been a disparity in the decisions. In case 1, it is clear that the judge only sentenced the defendant to a prison term of 4 (four) months. It is very different from the defendant's sentence in cases 2, 3, and 3. When viewed from the point of view of the criminal threat violated according to Article 311 paragraphs (1), (2) and (5) of the UULAJ, which is a maximum imprisonment of 12 (twelve) years or fined 24 (twenty-four) million rupiah. The defendant in case 1 was only sentenced to 4 (four) months in prison. Meanwhile, the defendant who violates Article 310 Paragraph (1) and (2) of the UULAJ in the second case will be sentenced to 4 (four) years in prison. Likewise, the defendants who violated Article 310 Paragraph (1) and (4) of the UULAJ in the 3rd case were sentenced to 5 (five) years in prison, and also the defendants who violated Article 310 Paragraph (4) of the UULAJ in the 4th case were sentenced to imprisonment. For 1 (one) year and 4 (four) months.

When referring to the teachings of the nature of being against, then according to the nature of being against the formal law, that is, an act is said to be against the law if the act is punishable by a criminal offence and is formulated as a criminal act in the law.⁹ Moeljatno said an act is said to be against the law if the action has complied with the law's prohibition.¹⁰ Meanwhile, according to the nature of against material law, namely the unlawful nature of the act, it is not only based on the law or written law. Still, it must also be found on unwritten legal principles.¹¹

Meanwhile, if it is related to the analyzed case, then the defendant's act as a car or motorcycle driver is an act that is against the formal law because all elements of the formulation of the defendant's actions have been fulfilled. In the 1st case, the act committed by the defendant is punishable by a criminal offence and is formulated as a criminal act according to Article 311 paragraphs (1), (2), and (5) of the UULAJ. The second case is regulated in Article 310 paragraph (1) and (2) UULLAJ, and the 3rd case is held in Article 229 Paragraph (4) Jo. Article 310 Paragraph (4), and Article 229 Paragraph (2) Jo. Article 310 Paragraph (1) UULAJ, and in the 4th case, it is regulated in Article 310 Paragraph (4) UULLAJ.

Like violating material law, the defendant's actions and violating the law also violate the norms that apply in society. The condition of the defendant being drunk while driving, causing an accident, and causing the victim to die is an act that violates religious norms and societal norms (manners, etiquette). Therefore, the defendant's actions were considered inappropriate and violated morals in public life. Moreover, in case 1, where the defendant is a regional official (Vice Regent of Yalimo Regency), he should be a role model for the community and not consume alcoholic beverages while driving. The

⁹ Tongat. "Dasar-dasar Hukum Pidana Indonesia Dalam Perspektif Pembaharuan", UMM Press, Malang, 2008, pp. 193-194.

¹⁰ Moeljatno, "Asas-Asas Hukum Pidana". Rineka Cipta. Jakarta, 2008, p 140.

¹¹ Mahrus Ali. "Dasar-dasar Hukum Pidana", Sinar Grafika, Jakarta, 2011, p. 147.

defendant's mistake has become a matter of public discussion regarding the 4 (four) month prison sentence imposed on the defendant. It creates suspicion, dissatisfaction, and even injustice in law enforcement practice in Indonesia. Especially if it is related to political issues, the defendant is participating in the Regional Head Election (Pilkada) in Yalimo Regency. Then it is associated with the official factor so that it can pay anyone to secure and facilitate their participation in the Pilkada. In addition, it is related to the bribery factor and the proximity factor to law enforcement officials. As if it would be natural if the judge gave a prison sentence to the defendant for 4 (four) months. However, if scrutinized, each of the defendants in the 2nd, 3rd, and 4th cases did not find any attempts to reconcile, nor were there any compensation payments for condolences to the victim's family. Hence, the punishment was heavier than in the 1st case.

The defendant's efforts in case 1 have taken a restorative justice approach to restoring the conditions for creating justice and balance for both parties. Although there has been an agreement and peace between the defendant and the victim's family, law enforcement officers, in pursuit of legal certainty, continue to proceed with the case to the criminal realm and lead to the conviction of the defendant, even though he is only sentenced to imprisonment for 4 (four) months. If you look closely, one of the purposes of criminal law is to pursue the establishment of order and peace. When the methods used by the defendant have resulted in order and peace, then the purpose of the punishment has been achieved, so there should be no need for a criminal justice process and the imposition of criminal sanctions.

After being against the law, another meaningful discussion is about criminal liability. There are 3 (three) things to be discussed, namely: a person's ability to be responsible, the state of mind and its relationship with the act (mistake), and there is no reason to erase mistakes (forgiving reasons). Regarding the ability to take responsibility, the defendant meets the requirements to be held legally accountable. The defendant, although drunk, cannot be considered a mentally ill person as stipulated in Article 44 of the Criminal Code (KUHP). Thus, the defendant is categorized as someone capable of being responsible.

Meanwhile, from the defendant's guilt, the defendant's mistake was committed by intentionally consuming alcoholic beverages and neglecting to drive, resulting in the victim's death. It is appropriate to be held criminally responsible for the defendant's guilt because there is no excuse for forgiveness accompanying his actions. Regarding sentencing, Amir Ilyas believes that it can realize the provision of a criminal or sentencing if it sees several stages of planning, namely the provision of punishment by the legislature, the granting of a sentence by the competent authority, and the granting of a ruling by the competent implementing agency.¹² The sentences handed down against the defendants, as in the case analyzed, have been carried out through these three stages. Thus, the settlement of cases through the legal process in court is essentially a process to make the legal objectives a reality. The community will be satisfied because they have received justice, certainty, and benefits when similar cases are correctly processed and somewhat through the criminal justice system.

Conclusion

It can be concluded that:

1. The traffic accidents that resulted in the death of other people in Jayapura City were caused by the negligence of the driver, road conditions, weather conditions, vehicle conditions, awareness and legal compliance, congestion, and facilities and infrastructure requirements. The main factor was

¹² Amir Ilyas, *Asas-asas Hukum Pidana, Memahami Tindak Pidana dan Pertanggungjawaban Pidana Sebagai Syarat Pemidanaan (Disertasi Teori-teori Pengantar dan Beberapa Komentar)*. Rangkang Education Yogyakarta & PuKAP-Indonesia, Yogyakarta, 2012, pp. 95-96.

that the driver (the defendant) was under the influence of alcoholic beverages while driving and could not control his vehicle's speed.

2. The application of criminal sanctions against perpetrators of traffic accidents that resulted in the death of another person has led to criticism and dissatisfaction with the judge's decision which differs among the defendants. The defendant in case 1, although previously reconciled and handed over compensation money to the victim's family, is still being processed legally. The judge's decision on the defendant in the 1st case who had reconciled with the victim's family was sentenced to imprisonment for 4 (four) months. Meanwhile, the defendants in the 2nd, 3rd, and 4th cases were much more severe.

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