

## Juridical Review of Traffic Accident Crimes Involving Pedestrians as Perpetrators at the Klungkung Police Resort

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### ABSTRACT

Traffic accidents are not always caused by the driver of a motor vehicle; under certain conditions, they can also involve pedestrians as perpetrators. This phenomenon raises its own legal problems, especially in the process of determining perpetrators and applying criminal liability by law enforcement officials. This study aims to examine the determination of pedestrians as perpetrators of traffic accidents and to analyze law enforcement in these cases within the jurisdiction of the Klungkung Resort Police. It employs a normative juridical method supported by an empirical approach, with legislative and conceptual approaches. The data were analyzed based on the provisions of the Criminal Code, the Criminal Procedure Code, and Law Number 22 of 2009 concerning Road Traffic and Transportation, associated with field investigation practices. The results show that the determination of pedestrians as perpetrators of traffic accidents is based on the principle of negligence (*culpa*), with fulfillment of the elements of error and valid proof. Law enforcement against pedestrians as perpetrators of traffic accidents at the Klungkung Resort Police is carried out professionally by prioritizing evidence, prudence, and a restorative justice approach. This research emphasizes the importance of investigators' meticulousness in assessing the elements of error to avoid improper criminalization and ensure legal certainty and justice.

## INTRODUCTION

Traffic is an important part of the life of modern society that functions to support human mobility and the distribution of goods (Borbon et al., 2018; Mohammed Almatar, 2023; Sánchez-Mangas et al., 2010). The high intensity of movement on the highway is inseparable from the risk of traffic accidents, which can cause material losses and fatalities. Therefore, regulation and law enforcement in the field of traffic is a crucial aspect in maintaining safety and order on the road (Cracknell, 2017; Latkovska, 2025; Lebie & Br. Sihombing, 2025; Valentino Azendia Oktama Wijaya, 2024).

In the Indonesian legal system, pedestrians are normatively given priority and protection in road use. This provision aims to protect vulnerable groups from potential traffic hazards. However, in practice, not a few pedestrians ignore the rules and safety, so that it is the cause of traffic accidents.

Traffic accident data in the jurisdiction of the Klungkung Resort Police shows an increase in the number of accidents from year to year, including accidents involving pedestrians as parties that contribute to the occurrence of these events (Guo et al., 2020; Hu et al., 2023; Kitamura et al., 2018; Soehodho, 2017). This condition raises legal problems regarding the possibility of pedestrians being designated as perpetrators of traffic accidents.

The determination of pedestrians as perpetrators of traffic accidents cannot be done immediately. Law enforcement officials must prove the existence of an element of error, both in the form of negligence and intentionality, in accordance with the principle of "no crime

without error". This requires the professionalism of investigators in assessing legal facts, evidence, and chronology of events objectively.

In the context of proof, the criminal procedure law requires the existence of at least two valid pieces of evidence to establish a person as a suspect. Witness statements, expert statements, letters, instructions, and statements of the defendant must be analyzed comprehensively in order to achieve material truth in handling traffic accident cases.

Law Number 22 of 2009 concerning Road Traffic and Transportation is the main legal basis in handling traffic accidents, including those involving pedestrians. This law regulates criminal liability based on the elements of negligence and intentionality, the application of which must be adjusted to concrete conditions in the field (Bayunegara et al., 2025; David David & Faisal Santiago, 2024; Najemi & Nawawi, 2020).

In law enforcement practice, police investigators are also required to distinguish between traffic ethics violations and acts that meet the elements of criminal acts. Errors in judgment can lead to improper criminalization or, conversely, neglect of actions that should be legally processed.

Based on this background, this research is important to examine how pedestrians are determined as perpetrators of traffic accidents and how law enforcement is carried out by the Klungkung Resort Police. This research is expected to make an academic and practical contribution to the development of fair, professional, and legal certainty-oriented traffic law enforcement.

## **RESEARCH METHOD**

This research is a normative juridical research supported by empirical research, using a legislative approach and a conceptual approach, namely normative analysis shows that determining that pedestrians are perpetrators in traffic accidents is based on applicable legal principles and norms, while the conceptual approach concerns evidence. Ibrahim (2007) argues that normative legal research is a form of scientific research aimed at finding the truth based on legal scientific logic reviewed from the normative part, or in the form of an effort to find law that is tailored to a certain case. This research is also supported by empirical research.

## **RESULTS AND DISCUSSION**

### **Determination of Pedestrians as Perpetrators in Traffic Accidents by Investigators at the Klungkung Police Station**

Traffic is a process or activity that occurs on the highway, the highway is one of the most important elements in the common life between communities. The road network system is divided into primary roads and secondary roads, the primary road system is used to provide services for the distribution of goods and services to develop all regions at the national level by connecting all tangible distribution services to activity centers, while the secondary road system provides services for the distribution of goods and services in urban areas. According to its function, roads can be grouped into arterial roads, local roads, neighborhood roads and collector roads. In addition, roads are also divided by class Where the division of road classes is useful for regulating the use and fulfillment of transportation needs (Putranto, 2019).

The existence of Law No. 22 of 2009 concerning Road Traffic and Transportation aims to provide restrictions for road users not to be careless when operating their vehicles on the highway and regulate all forms of traffic violations that may be committed by highway users as a result of traffic growth, considering that the growth rate from year to year is increasing (Soekanto, 2010). The imbalance between the increase in the number of vehicles and the improvement of infrastructure and road length, it is feared that there will be vehicle density and saturation, so that there will be congestion and traffic and road transportation violations (Munawar, 2011).

In relation to criminal acts, according to Moeljatno, there is a legal principle that states "Not convicted if there is no mistake" (Moeljatno, 2003). This principle is not stated in written law but in unwritten law where the principle is recognized in Indonesia. So a person cannot be blamed or sentenced to a criminal sentence if it is not preceded by the guilty act committed.

Pedestrians are people who carry out walking activities and are one of the elements of road users. (Decree of the Director General of Land Transportation: SK.43/AJ 007/DRJD/97). Pedestrians must walk on the section of the road intended for pedestrians, or on the pedestrian section, or on the leftmost part of the road if there is no section of the road intended for pedestrians.

Klungkung police investigators in investigating evidence of traffic accident cases with pedestrian examined objects in the condition of crossing the road, pedestrian according to the basic norms of a legal rule is postulated as the final rule on determination and cancellation, legal facts are made and canceled by the act of pedestrians crossing the road that are free from the morality system and other similar norms. This distinguishes between criminal law and traffic ethics norms are considered as violations, whether it violates behavioral norms (ethics) or norms of traffic habits in an area.

That the strength of proof and criminal elements on pedestrians crossing the road, are basically related to each other, meaning that one piece of evidence is not enough (*Unus testis nullus testis*), the suitability of other evidence is needed to find a material truth. The strength of the evidence in Article 184 of the Criminal Code depends on the interpretation of the judge in accepting the evidence presented by the prosecutor and depends on the interpretation of the judge in considering the evidence in Article 184 of the Criminal Code.

The analysis of Article 184 of the Criminal Code in applying criminal elements to pedestrians who are negligent when crossing the road is reported in a form of witness statements, as an example of a witness presented by the public prosecutor explaining that in the case of a pedestrian traffic accident who tries to crash himself into a bus in Ciamis, that from the opposite direction the pedestrian who tries to commit a traffic violation is trying to crash himself, The evidence is very small, and difficult to obtain other than the testimony of witnesses who exonerate the bus driver and the ultimate Ario, regulated in Article 183 of the Criminal Code, namely that the Judge may not impose a criminal sentence on a person (the bus driver and Rio the ultimate) except with at least two valid evidence.

It is believed that a criminal act really occurred and that the defendant is guilty of committing it. The minimum threshold requirement for evidence in a trial is not enough based on witness testimony alone, but proof requires the medium of evidence specified in 184 of the Criminal Code as evidence at trial, unless there is CCTV footage that can be integrated, synergistically with other evidence specified in the Criminal Code.

According to the author's analysis, the existence of clue evidence is a complement, because of the assessment of the strength of proof, because the nature of clue evidence is indirect evidence. The pedestrian defense process if for example his status has become a defendant, then in court it is evidenced by a testimony regarding the defendant's testimony as regulated in Article 189 of the Criminal Code, the testimony of a pedestrian who was negligent in crossing the road as a defendant, stating at the trial about the acts experienced and known to himself. The evidence of the defendant's testimony (a pedestrian who is negligent in crossing the road as a defendant) can only be used against himself and must be supported by other evidence to prove responsibility or not to account for the crime charged against him. The testimony of the pedestrian defendant who was negligent in crossing the road as evidence does not need to be the same or contradicted by confession.

Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation regulates the elements of the traffic accident criminal article which are conditional in nature, this conditional nature requires law enforcement officials to work more

professionally in collecting evidence in the field. Laka investigators can no longer apply the elements of traffic accident articles in conventional ways, because in this way it is difficult for Lakalantas investigators to find causality between evidence and witnesses at the crime scene. Investigators must be able to describe the chronology of traffic accidents based on witnesses and evidence to find elements of fault from pedestrians crossing on the road, so investigators must not necessarily criminalize motorists only in traffic accident cases.

The investigator's analysis of the causes of pedestrians crossing the road to the occurrence of traffic accidents must be in line with the elements of criminal acts. There are two criminal articles that criminalize motorists as perpetrators of criminal acts, namely Article 310 and Article 311 of the LLAJ Law. Both articles point to the driver as the cause of the accident, but there is a fundamental difference between the two articles, namely negligence and intentionality. These two things are very interesting to discuss because most investigators, investigators then find it difficult to apply investigation and prove the element of intentionality and/or negligence. There are two forms of pedestrian forgetfulness who cross the road, namely: Not being careful, and Not guessing the consequences of the act.

Pedestrian forgetfulness (Culpa) that crosses the road in a broad sense means a mistake in general while culpa in a narrow sense is a form of error in the form of forgetfulness, as well as intentionality regarding forgetfulness is also explained in the Criminal Code (KUHP) about culpa. Van Hamel's definition of forgetfulness contains two conditions, namely: Pedestrian crossing the road does not hold suspicions as required by law and Pedestrian crossing the road is not careful as required by law.

Delik culpa pedestrian crossing the road has an unlawful nature and has been concluded in the culpa itself, in general culpa is distinguished from forgetfulness and awareness (bewuste schuld) in this case, the pedestrian who crosses the road has imagined or grieved the occurrence of an outcome, but even if he tries to prevent it, the consequences still arise.

Based on the description above, it is clear that the subjective factor of the pedestrian crossing the road or the will of the perpetrator that distinguishes it is the will factor which in the maker starting from the will as an intention to the forgetfulness of the state of the will factor will be weaker, the use of SI in identifying the presence of negligence factors can be proven by the existence of CCTV cameras and or if there is no CCTV evidence, the investigator will process the crime scene shortly after the accident occurs.

The police is a tool to clarify, make a bright light in applying the criminal elements regulated in the LLAJ Law, namely whether pedestrians who cross the road are negligent or intentional in view of Article 310 and Article 311 of the Law of Representatives, evidence and evidence are appropriate and acceptable to the Public Prosecutor.

In the study, it was found that the application of Law Enforcement Elements Against Pedestrians (pedestrian) must be in line with and in accordance with the professionalism of the National Police, without criminalization of pedestrians, so traffic accident law enforcement officers based on law Number 8 of 1981 concerning the Criminal Procedure Code, therefore, coordinate optimally with the Puslabfor in the process of investigating traffic accident crimes considering Article 7 paragraph (1) letter h of the Criminal Procedure Code which states that the investigator authority to bring in the necessary experts in connection with the examination of the case, Article 120 paragraph (1) of the Criminal Code states that in the event that the investigator deems it necessary, he may ask for the opinion of an expert or a person with special expertise. The definition of an expert can be seen in Article 1 point 28 and in the explanation section which says that what is meant by an expert is someone who, either based on education or experience, has expertise in his field.

The provisions of Article 183 when investigators will determine the status of a person as a suspect, at least two valid pieces of evidence must be fulfilled, while valid evidence according to Article 184 is witness statements, expert statements, letters, instructions, and

statements of the defendant. In accordance with its main duties and functions, the Puslabfor Bareskrim of the National Police can play a role in this matter as an expert witness, provide letter evidence in the form of examination minutes and provide instructions according to the results of the examination related to criminal acts that occurred from the beginning of the investigation, investigation, prosecution and in court.

### **Law Enforcement of Traffic Accidents Involving Pedestrians as Perpetrators at the Klungkung Police Station**

Law Number 22 of 2009 concerning Road Traffic and Transportation (UULLAJ) is the legal basis that regulates all matters related to road traffic and transportation in Indonesia. The main purpose of this law is to create safety, order, and smooth traffic, as well as to provide protection to the public from potential dangers posed by traffic accidents. In the jurisdiction of the Klungkung Police, legal settlement of traffic accident perpetrators is carried out based on the provisions of this law, with various mechanisms that refer to the applicable rules.

Law enforcement is the process of making efforts to uphold or function legal norms in real terms as a guideline for behavior in the life of society and the state. Viewed from the point of view of the subject, according to Soeroso (2009), law enforcement can be carried out by a broad subject and can also be interpreted as an effort to enforce the law by the subject in a limited or narrow sense. In a broad sense, the law enforcement process involves all legal subjects in every legal relationship. Anyone who implements normative rules or does something or does not do something based on the norms of the applicable legal rules, means that he or she is implementing or enforcing the rule of law. In a narrow sense, in terms of its subject, law enforcement is only interpreted as the effort of certain law enforcement apparatus to guarantee and ensure that a rule of law runs as it should. In ensuring the upholding of the law, if necessary, law enforcement officials are allowed to use force.

To see the legal settlement process against the perpetrators of traffic accidents based on law number 22 of 2009 concerning traffic and road transportation in the jurisdiction of the Klungkung Police, the author presents a case that occurred in the jurisdiction of the Klungkung Police where pedestrians are the perpetrators. Monday, September 04, 2023, at approximately 16.00 WITA. Reported on Monday, September 4, 2023, at approximately 19.00 WITA.

Negari Highway in Negari village, Banjarangkan Klungkung regency, there was a Laka Lantas between Spm Honda PCX No.Reg.: DK 2908 NE and PJK a.n. I KETUT NANDA JORDYANA WIHARTA. The victims are 1. Spm Honda PCX No.Reg.: DK 2908 NEN, belonging to LUH KADEK SATYA GEMINI, Gender: Female, Age: 45 Years, Private Employee occupation, Address: BTN Batu Asri Blok B No 28 Akah Village, Kec/Klungkung Regency. The suspect I KETUT NANDA JORDYANA WIHARTA, Male, 9 years old, Occupation: Student, Address: Nmaar Hamlet, Negari village, Banjarangkan district, Klungkung Regency.

The cause of the incident was the initial suspicion that due to the lack of caution of the driver of the Spm Honda PCX No.Reg.: DK 2908 NE a.n LUH KADEK SATYA GEMINI lacked concentration when in traffic so that the cause of the accident occurred. After the examination was carried out, the suspect's mother explained that the pjk (child of the witness) when invited by his parents suddenly ran across the street and mocked the witness in the middle of the road, so the investigator determined I KETUT NANDA JORDYANA WIHARTA as the perpetrator. The suspect and the victim held mediation and the settlement of the case was carried out/resolved by means of RJ (Restorative Justice).

### **CONCLUSION**

Klungkung police investigators handle evidence in traffic accident cases involving pedestrians crossing the road by applying basic legal norms, where pedestrians are treated as

the final determinants for establishing or negating liability; legal facts arise or are nullified by the pedestrian's act of crossing, independent of moral or similar normative systems. Law enforcement against such pedestrian perpetrators at the Klungkung Police Station relies on the principle of negligence (*culpa*, or forgetfulness) as regulated in Law No. 22 of 2009 on Road Traffic and Transportation (UU LLAJ) and the Criminal Code (KUHP). For future research, a comparative analysis of pedestrian liability across Indonesian police jurisdictions, incorporating empirical data on case outcomes and restorative justice applications, could enhance understanding of enforcement disparities and inform policy reforms.

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