



Intoxication Does Not Negate Culpability: Rethinking Driver *Mens Rea* in Fatal Traffic Accidents

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Original Article

Abstract

Fatal traffic accidents involving alcohol consumption raise significant questions regarding criminal liability, particularly because Indonesian law lacks an objective standard for Blood Alcohol Concentration (BAC) and does not consistently distinguish between *culpa* (negligence) and *dolus eventualis* (eventual intent) in determining driver culpability. This study examines the relationship between alcohol-induced impairment and criminal responsibility, identifies the normative and evidentiary problems arising from the absence of a standardized BAC threshold, and proposes a more consistent and equitable framework for determining criminal liability. The study employs a normative juridical method using statutory, conceptual, medico-legal, and case-based approaches, with an analysis of ten judicial decisions. The findings demonstrate that alcohol intoxication does not automatically preclude criminal liability. However, the absence of a standardized BAC threshold creates evidentiary uncertainty and contributes to inconsistencies in judicial decision-making. The study concludes that a more coherent framework should integrate the doctrine of *actio libera in causa*, *mens rea* analysis, medico-forensic evidence, and sentencing guidelines to strengthen legal certainty, promote consistency in judicial reasoning, and ensure effective protection of victims.

Keywords: *Mens Rea, Alcohol Intoxication, Criminal Culpability, Fatal Traffic Accidents*

Abstrak

Kecelakaan lalu lintas fatal akibat pengaruh alkohol menimbulkan persoalan serius dalam pertanggungjawaban pidana karena hukum Indonesia belum memiliki standar objektif kadar alkohol dalam darah (Blood Alcohol Concentration/BAC) dan belum konsisten mengkualifikasikan kesalahan pengemudi sebagai *culpa* atau *dolus eventualis*. Penelitian ini bertujuan menganalisis hubungan kondisi medis akibat konsumsi alkohol dengan kemampuan bertanggung jawab, mengidentifikasi permasalahan normatif akibat ketiadaan standar BAC, serta merumuskan konstruksi pertanggungjawaban pidana yang lebih konsisten dan adil. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, medis-yuridis, dan kasus melalui analisis sepuluh putusan pengadilan. Intoksikasi alkohol tidak otomatis menghapus kemampuan bertanggung jawab, sedangkan ketiadaan standar BAC menimbulkan ketidakpastian pembuktian dan perbedaan putusan. Penelitian menyimpulkan perlunya integrasi *Actio Libera in Causa*, *mens rea*, bukti medis-forensik, dan pedoman pembedaan untuk menjamin kepastian hukum dan perlindungan korban.

Kata kunci: *Mens Rea, Alcohol Intoxication, Criminal Culpability, Fatal Traffic Accidents*

1. INTRODUCTION

Traffic accidents constitute one of the most serious public safety challenges worldwide. The World Health Organization (WHO) estimates that approximately 1.19 million people die each year as a result of road traffic accidents, making them a leading cause of mortality globally.¹ Low- and middle-income countries bear a disproportionate share of this burden. Indonesia, for example, continues to experience an upward trend in the number of traffic accidents. Various studies and reports from Jasa Raharja indicate that human factors are the predominant cause of traffic accidents, accounting for approximately 60% of cases.² These factors include inadequate driving skills, traffic violations, and driving under the influence of alcohol.

From a medical perspective, alcohol consumption can substantially impair an individual's ability to operate a motor vehicle safely. Alcohol slows reaction time, disrupts motor coordination, impairs decision-making, and reduces awareness of surrounding hazards.³ Consequently, drivers under the influence of alcohol face an increased risk of causing accidents that result in property damage, serious injury, or death. Importantly, alcohol intoxication does not necessarily lead to an immediate loss of consciousness. Before reaching a state of unconsciousness, individuals commonly experience symptoms such as dizziness, nausea, impaired balance, and diminished concentration.⁴ These symptoms indicate that individuals may remain sufficiently aware of their impaired condition to recognize that they are unfit to drive and to make the decision to stop driving.

The legal implications become particularly complex when an intoxicated driver's conduct results in a fatal accident. Criminal liability generally requires not only the commission of a prohibited act (*actus reus*) but also an assessment of the offender's culpability and mental state (*mens rea*).⁵ This raises a fundamental question as to whether drunk driving that results in death should be characterized as negligence (*culpa*) or as a form of intent (*dolus*). The doctrine of *actio libera in causa* holds that an individual who voluntarily and knowingly places themselves in a state of intoxication cannot

¹ The World Health Organization, "Despite Notable Progress, Road Safety Remains Urgent Global Issue," World Health Organization, The World Health Organization, 2023, <https://www.who.int/news/item/13-12-2023-despite-notable-progress-road-safety-remains-urgent-global-issue>.

² Okto Risdianto Manullang and Arya Satrio Wicaksono Putra Waspodo, "Faktor Eksternal Dan Internal Perilaku Keselamatan Berkendara Pekerja Kantoran Pengguna Sepeda Motor: Wilayah Studi: Kota Tangerang Selatan," *Jurnal Pengembangan Kota* 11, no. 1 (2023): 82–91, <https://doi.org/10.14710/jpk.11.1.82-91>; Arief Rahman H and Septian Deny, "Jasa Raharja: 61 Persen Penyebab Kecelakaan Karena Kelalaian Manusia," *Liputan 6*, 2022, <https://www.liputan6.com/bisnis/read/4882287/jasa-raharja-61-persen-penyebab-kecelakaan-karena-kelalaian-manusia>.

³ Cinzia Carrodano, "Novel Semi-Quantitative Risk Model Based on AHP: A Case Study of US Driving Risks," *Heliyon* 9, no. 10 (2023): e20685, <https://doi.org/10.1016/j.heliyon.2023.e20685>.

⁴ Young-Chul Jung and Kee Namkoong, "Alcohol," in *Handbook of Clinical Neurology*, vol. 125 (Elsevier, 2014), <https://doi.org/10.1016/B978-0-444-62619-6.00007-0>.

⁵ Alessandro Stasi, "Actus Reus and Mens Rea," in *General Principles of Thai Criminal Law*, by Alessandro Stasi (Springer Singapore, 2021), https://doi.org/10.1007/978-981-15-8708-5_3.

subsequently invoke that condition to avoid criminal responsibility.⁶ This doctrine is closely associated with the concept of *dolus eventualis*, which refers to a mental state in which an individual recognizes the possibility that a prohibited consequence may occur but nevertheless proceeds with the conduct while accepting the associated risk.⁷ Accordingly, the decision to drive after consuming alcohol may be interpreted as an acceptance of the foreseeable risk of causing a fatal accident. The relationship among alcohol consumption, awareness of risk, culpability, and criminal responsibility therefore warrants careful examination within the Indonesian criminal justice system.

Research on criminal liability for traffic accidents has developed considerably in recent years, particularly concerning the determination of driver culpability when an accident results in death. Nevertheless, the existing literature reflects divergent approaches to whether such conduct should be characterized as negligence (*culpa*) or as a form of intent (*dolus*). This distinction is particularly significant in cases involving drivers who operate vehicles while under the influence of alcohol.

Although scholarship on criminal liability in traffic accidents has expanded, disagreement remains regarding the appropriate classification of culpability in fatal accidents. Sinaga, Lengkong, and Panjaitan, in their analysis of Court Decision Number 665/Pid.B/PN.JKT.PST, emphasize human negligence as a dominant factor and identify Article 311 of the Law on Road Traffic and Transportation (UU LLAJ) as a specific legal provision applicable to such conduct.⁸ However, their study does not examine in depth the possibility of applying *dolus eventualis* to high-risk driving behavior. Similarly, Tobing et al. reinforce the *culpa* perspective by demonstrating that inadequate awareness of road safety is a significant factor contributing to fatal traffic accidents.⁹ Their analysis, however, does not establish a substantive connection between negligence and intoxication that has been voluntarily induced by the driver. Sitepu and Siregar advance the discussion by highlighting the relationship between alcohol consumption and drivers' awareness of risk.¹⁰ Abdullah and Sudiro go further by characterizing accidents caused by intoxicated drivers as *culpa lata* (gross negligence),

⁶ Sabine Gless et al., "Imputation of Responsibility and Intoxicated Offending," in *Core Concepts in Criminal Law and Criminal Justice*, 1st ed., ed. Kai Ambos et al. (Cambridge University Press, 2022), <https://doi.org/10.1017/9781009037136.004>.

⁷ Sarah Finnin, "Mental Elements Under Article 30 of the Rome Statute of the International Criminal Court: A Comparative Analysis," *International and Comparative Law Quarterly* 61, no. 2 (2012): 325–59, <https://doi.org/10.1017/S0020589312000152>.

⁸ Angelina Cinthia Diana Sinaga et al., "Pertanggungjawaban Pidana Terhadap Pengendara Yang Mengakibatkan Kematian Pada Kecelakaan Lalu Lintas," *Honeste Vivere* 33, no. 1 (2023): 1–14, <https://doi.org/10.55809/hv.v33i1.168>.

⁹ Vania Athalia Lumban Tobing et al., "Delik Culpa Dalam Berkendara: Studi Kasus Tindak Pidana Pelanggaran Lalu Lintas Di Kabupaten Gorontalo," *Media Hukum Indonesia* 2, no. 4 (2024): 110–16, <https://doi.org/10.5281/zenodo.7978399>.

¹⁰ Ella Doris Sitepu and Hisar Siregar, "Kajian Hukum Tindak Pidana Kecelakaan Lalu Lintas Yang Mengakibatkan Korban Meninggal Dunia : Studi Kasus 1785/Pid.Sus/2025/PN Mdn.," *Journal of Innovative and Creativity* 5, no. 3 (2025): 31810–18, <https://doi.org/10.31004/joecy.v5i3.5002>.

while still treating *dolus eventualis* primarily as a supporting consideration rather than as an independent basis for determining criminal culpability.¹¹

Fajriah, Abbror, and Fajar identify sentencing disparities in the application of Article 311(5) in conjunction with Article 106(1) of the Road Traffic and Transportation Law (UU LLAJ). Although the doctrine of *actio libera in causa* has been invoked to sustain the criminal liability of intoxicated drivers, its application remains inconsistent across cases.¹² Paneo, Moonti, and Ahmad explicitly challenge the negligence-based (*culpa*) approach, arguing that a driver's conscious acceptance of risk more closely corresponds to *dolus eventualis* (conditional intent).¹³ Similarly, Belo, Marwiyah, and Aribawa continue to characterize alcohol-related driving offenses as *culpa lata* (gross negligence),¹⁴ whereas Abu, Thalib, and Arifin (2026) focus primarily on the application of restorative justice. Taken together, these studies indicate that the existing literature has not yet established a coherent conceptual framework linking *actio libera in causa*, *dolus eventualis*, and the criminal liability of intoxicated drivers.

Existing scholarship has generally examined the criminal liability of intoxicated drivers through the lens of negligence (*culpa* or *culpa lata*), sentencing disparities, and the application of the *actio libera in causa* doctrine. However, limited attention has been given to the systematic integration of medico-legal considerations, particularly the driver's level of consciousness, the absence of an objective Blood Alcohol Concentration (BAC) threshold under Indonesian law, and the implications of these factors for establishing *dolus eventualis* as a basis of culpability. Moreover, few studies have systematically examined judicial inconsistencies by correlating medical indicators, theories of culpability, and evidentiary practices.

The originality of this study lies in its development of an analytical model for determining the criminal liability of intoxicated drivers by integrating the doctrines of *actio libera in causa* and *dolus eventualis* with medico-legal indicators of the offender's level of consciousness. This integrated approach is intended to provide a more objective basis for distinguishing between negligence and conditional intent in fatal traffic accidents involving alcohol impairment. Accordingly, this study aims to comprehensively analyze the criminal liability of drivers who operate motor vehicles

¹¹ Reza Abdullah and Amad Sudiro, "Alcohol-Related Traffic Accidents Resulting in Death: Analysis of Driver Negligence and Liability: Kecelakaan Lalu Lintas Akibat Alkohol Yang Menyebabkan Kematian : Analisis Kelalaian Dan Pertanggungjawaban Pengemudi," *Indonesian Journal of Law and Economics Review* 20, no. 4 (2025): 1–10, <https://doi.org/10.21070/ijler.v20i4.1383>.

¹² Novi Tri Ulfatul Fajriah et al., "Pertanggungjawaban Pidana Pengemudi Kendaraan Bermotor Dalam Pengaruh Alkohol Yang Mengakibatkan Matinya Orang Lain: Analisis Pasal 311 Ayat (5) Jo. Pasal 106 Ayat (1) Uu Nomor 22 Tahun 2009," *Jurnal Media Akademik* 3, no. 11 (2025): 1–14, <https://doi.org/10.62281/5jxrmg73>.

¹³ Rahmat Paneo et al., "Pertanggungjawaban Pidana Pengemudi Dalam Keadaan Mabuk Yang Menyebabkan Kematian," *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 2, no. 4 (2025): 234–48, <https://doi.org/10.62383/aliansi.v2i4.1083>.

¹⁴ Alekxia Benga Belo et al., "Pertanggungjawaban Terdakwa Dalam Kecelakaan Lalu Lintas: Studi Putusan No. 156 K/Pid/2024," *RIGGS: Journal of Artificial Intelligence and Digital Business* 5, no. 1 (2026): 657–63, <https://doi.org/10.31004/riggs.v5i1.6241>.

under the influence of alcohol when their conduct results in fatal traffic accidents. Specifically, the study seeks to: (1) examine the relationship between alcohol-induced medical impairment and the offender's capacity for criminal responsibility; (2) identify the normative and evidentiary issues arising from the absence of an objective Blood Alcohol Concentration (BAC) standard within the Indonesian legal system; and (3) formulate a more consistent and equitable framework for determining criminal liability by integrating criminal law theory, medico-legal evidence, and judicial practice in cases of fatal traffic accidents involving alcohol-impaired drivers.

2. RESEARCH METHODOLOGY

This study adopts a normative legal research design with a qualitative-dochtrinal approach to examine the criminal liability of drivers who operate motor vehicles under the influence of alcohol and cause fatal traffic accidents. The analysis focuses primarily on determining the applicable form of *mens rea*, including culpa, *culpa lata*, *bewuste culpa*, and *dolus eventualis*, as well as assessing the relevance and application of the *actio libera in causa* doctrine.

The study employs four complementary approaches: a statutory approach, a case approach, a conceptual approach, and a medico-legal approach. The statutory analysis examines Law No. 22 of 2009 on Road Traffic and Transportation, Law No. 1 of 2023 on the Criminal Code (KUHP), and relevant regulations governing traffic and driver conduct. Judicial decisions are analyzed with particular attention to their ratio decidendi, material facts, evidence concerning alcohol-related impairment, causal relationships between the driver's conduct and the resulting fatalities, the courts' construction of culpability, and Blitar District Court Judgment Number 3/Pid.Sus/2023.

The legal materials consist of primary, secondary, and tertiary sources, supplemented by relevant medical and medico-forensic literature addressing the effects of alcohol on cognitive functioning, motor coordination, reaction time, consciousness, and decision-making. Data were collected through systematic literature review and documentary analysis. The collected materials were analyzed using a qualitative-prescriptive method involving the identification and interpretation of relevant legal norms, analysis of *mens rea*, assessment of the applicability of the *actio libera in causa* doctrine, and comparative examination of judicial decisions.

The validity and coherence of the analysis were strengthened through source triangulation, particularly by cross-referencing statutory provisions, legal doctrines, judicial decisions, and medical-scientific evidence. This approach enables the study to examine criminal culpability not only from a docttrinal criminal law perspective but also in light of medically established indicators of alcohol-related impairment, thereby providing a more comprehensive basis for assessing the appropriate form of *mens rea* in fatal traffic accidents involving intoxicated drivers.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Relationship Between Alcohol-Induced Impairment and Criminal Responsibility from a Criminal Law Perspective

Alcohol consumption does not automatically eliminate an offender's capacity for criminal responsibility. In certain circumstances, the deliberate decision to consume alcohol before driving may, in fact, strengthen the basis for attributing criminal culpability. A state of alcohol intoxication must therefore be distinguished from a complete loss of consciousness. Intoxication generally develops through progressive stages that increasingly impair cognitive and motor functions. Common symptoms include euphoria, impaired judgment, diminished self-awareness, reduced concentration, impaired motor coordination, and delayed reaction times (Jung and Namkoong 2014). These effects indicate that an intoxicated individual may remain conscious of their surroundings and capable of performing purposeful actions while simultaneously experiencing diminished capacity to evaluate risks and safely control a vehicle. This conclusion is further supported by forensic evidence, as alcohol consumption can be objectively established through blood alcohol concentration (BAC) testing. From a criminal law perspective, therefore, intoxication should not be equated automatically with an absence of criminal responsibility.

A comparison of the judicial decisions reveals notable differences between cases involving non-intoxicated and intoxicated offenders. The judicial decisions examined in this study also include Blitar District Court Judgment Number 3/Pid.Sus/2023. Among the five cases involving non-intoxicated defendants, prison sentences ranged from one to four years. The Siak District Court's Decision No. 108/Pid.Sus/2021 imposed the longest sentence in this group—four years' imprisonment—after the defendant drove a truck at high speed while drowsy and attempted to overtake in a prohibited area, resulting in five fatalities. By comparison, Jayapura District Court Decision No. 465/Pid.Sus/2020 imposed a three-year prison sentence on a defendant who lost control of a motorcycle, causing one death. Kepanjen District Court Decision No. 710/Pid.Sus/2020 imposed two years' imprisonment and a fine, while Purworejo District Court Decision No. 106/Pid.Sus/2024 and Sangatta District Court Decision No. 230/Pid.Sus/2021 imposed sentences of one year and three months and one year, respectively.

By contrast, cases involving intoxicated drivers tend to result in comparatively lenient sentences that do not always correspond to the level of risk created by the defendants' conduct. Surabaya District Court Decision No. 567/Pid.Sus/2025 provides a particularly striking example. The defendant drove after consuming whiskey and beer, caused a series of collisions at six locations that resulted in two fatalities, and subsequently fled the scene. Despite the hit-and-run conduct, the court imposed a one-

year prison sentence under Article 311(5) of the Road Traffic and Transportation Law (LLAJ Law). In determining the sentence, the court considered the settlement reached with the victims, the defendant's expression of remorse, and the absence of prior criminal convictions. This decision suggests that alcohol consumption was not treated as a significant aggravating circumstance in the determination of the sentence.

A different approach is evident in Marabahan District Court Decision No. 35/Pid.Sus/2024. The defendant drove while intoxicated at an estimated speed of 90–100 km/h, lost control of the vehicle, and caused the death of a passenger. In this case, the court expressly considered the concept of *dolus eventualis* (eventual intent) and imposed a two-year prison sentence under Article 311(5) of the LLAJ Law. This decision is particularly significant because it demonstrates that intoxication may be interpreted not as a circumstance that eliminates criminal responsibility, but as a factual circumstance supporting the inference that the defendant was aware of the risks associated with the conduct and nevertheless chose to proceed.

The case involving Yogi Fadli Syahdian, as examined in Blitar District Court Decision Number 3/Pid.Sus/2023, illustrates this problem, particularly in relation to the court's assessment of alcohol-related impairment and its implications for determining criminal culpability. After consuming alcohol throughout the night, the defendant drove in a zigzag manner and overtook another vehicle without signaling before colliding with an approaching motorcyclist and causing the victim's death. Despite the manifestly hazardous nature of the conduct, the court classified the offense as negligence under Article 310(4) of the LLAJ Law on the ground that the defendant did not intend to cause harm to the victim. A similar approach was adopted in Madiun District Court Decision No. 316/Pid.Sus/2014, in which the defendant drove a truck while intoxicated and without a valid driver's license, resulting in the victim's death; the conduct was nevertheless characterized as negligence. Likewise, in Waingapu District Court Decision No. 79/Pid.Sus/2016, the defendant drove a truck while intoxicated with ten passengers aboard, causing death and serious injuries, and subsequently fled the scene. The defendant was also prosecuted under Article 310(4) of the LLAJ Law.

These findings highlight a fundamental conceptual challenge in distinguishing culpa (negligence) from *dolus eventualis* (conditional intent). In cases of culpa, the offender may recognize the existence of a risk but nevertheless believes that the harmful consequence will not occur or can be avoided.¹⁵ By contrast, *dolus eventualis* requires not only awareness of the possibility of a harmful consequence but also acceptance of the associated risk.¹⁶ Accordingly, the mere fact that a defendant "did not intend to kill" is insufficient to establish negligence. The absence of a specific intent to cause death

¹⁵ Błażej Kmiecik, "Selected Elements of Roman Law as an Inspiration for a Modern Psychological and Legal Interpretation Regarding Human Responsibility for a Committed Act," 2024, 1–7.

¹⁶ Abdullah and Sudiro, "Alcohol-Related Traffic Accidents Resulting in Death."

distinguishes *dolus eventualis* from direct intent (*dolus directus*), but it does not, by itself, exclude the possibility of conditional intent.

Alcohol intoxication at the time of an accident should not be assessed independently of the conduct that preceded the onset of intoxication. When an individual knowingly consumes alcohol while being aware, or reasonably expected to be aware, of its potential effects on driving ability and subsequently chooses to drive, the basis for culpability may be traced to that prior decision. Alcohol-induced impairment of motor function should not, in itself, constitute sufficient grounds for mitigating or eliminating criminal liability. Instead, where the evidence establishes that the individual retained the capacity to choose not to drive, that decision becomes an important indicator of the individual's awareness of, and attitude toward, the risks associated with driving while intoxicated.

These findings are consistent with Paneo et al., who criticize the tendency within Indonesian legal practice to characterize intoxicated drivers exclusively as negligent offenders and emphasize the potential relevance of *dolus eventualis*.¹⁷ The findings also support Fajriah et al., who demonstrate that the doctrine of *actio libera in causa* may provide a legal basis for maintaining the criminal liability of individuals who choose to drive after consuming alcohol.¹⁸ However, the decisive issue is not simply whether alcohol was present, but how the offender's medical condition, level of awareness, decision to drive, and attitude toward the resulting risks interact. In this respect, the present study departs from approaches that automatically classify intoxication as *culpa lata* (gross negligence) or, conversely, treat alcohol consumption alone as sufficient evidence of *dolus eventualis*.

The defendant's intoxication status has not yet been consistently incorporated into judicial assessments of the degree of criminal culpability. In several cases, intoxication did not result in a more severe sentence than that imposed in comparable cases involving non-intoxicated defendants, even where the latter cases involved fewer victims. This pattern suggests that judicial reasoning may place greater emphasis on the existence or absence of an "intent to harm" than on a detailed examination of whether the defendant recognized and accepted the risks generated by their conduct. In the context of *dolus eventualis*, however, the central inquiry is not necessarily the offender's primary objective but their mental attitude toward the potential consequences of their conduct.

Alcohol-induced impairment therefore does not automatically negate criminal responsibility. Rather, its legal significance must be assessed in conjunction with the level of alcohol present, observable symptoms of intoxication, cognitive and motor functioning, the defendant's awareness of the risks, the decision to continue driving, the

¹⁷ Paneo et al., "Pertanggung Jawaban Pidana Pengemudi Dalam Keadaan Mabuk Yang Menyebabkan Kematian."

¹⁸ Fajriah et al., "Pertanggungjawaban Pidana Pengemudi Kendaraan Bermotor Dalam Pengaruh Alkohol Yang Mengakibatkan Matinya Orang Lain: Analisis Pasal 311 Ayat (5) Jo. Pasal 106 Ayat (1) Uu Nomor 22 Tahun 2009."

manner in which the vehicle was operated, and the circumstances surrounding the accident. An analysis of ten judicial decisions reveals substantial inconsistency in the manner in which intoxication is connected to the determination of culpability. The principal finding of this study is therefore the need for a structured *mens rea* assessment model that integrates medical evidence with legally established facts, enabling courts to distinguish more objectively among *bewuste culpa* (conscious negligence), *culpa lata* (gross negligence), and *dolus eventualis* (conditional intent). Such an approach is essential to ensuring that criminal liability for intoxicated drivers is neither unduly lenient, thereby undermining the protection of human life, nor excessively punitive without sufficient evidentiary support for the offender's actual or inferable state of mind.

3.2. The Absence of an Objective Blood Alcohol Concentration (BAC) Standard in the Indonesian Legal System

Indonesian positive law does not yet provide a uniform operational definition of “intoxicated” or “drunk” in the context of motor vehicle operation. The Law on Road Traffic and Transportation (UU LLAJ), particularly Article 106(1), requires drivers to operate vehicles reasonably and with full concentration and recognizes alcohol consumption as a factor that may impair a driver's ability to concentrate. However, the provision does not establish a specific level of alcohol consumption or Blood Alcohol Concentration (BAC) at which an individual is legally considered intoxicated or unfit to drive.

This definitional gap becomes more apparent when considered in relation to the former Criminal Code (KUHP). Articles 492 and 536 of the KUHP adopt a descriptive approach by associating intoxication with a condition in which an individual, as a result of excessive alcohol consumption, is no longer able to control one or more of their senses or bodily functions. Although this formulation provides a general description of the observable manifestations of intoxication, it does not establish a quantitative threshold that can be applied consistently in traffic-related cases. Consequently, the legal concept of intoxication in Indonesia tends to be constructed primarily on the basis of behavioral manifestations and physical conditions rather than objectively measurable scientific indicators.

This approach presents significant evidentiary challenges because an individual's observable physical condition does not necessarily correspond directly to the degree of alcohol-induced impairment. Two individuals with the same BAC may exhibit substantially different behavioral or physical symptoms because of differences in physiological tolerance, body weight, sex, drinking patterns, food consumption, and the time elapsed between alcohol consumption and testing. Accordingly, relying exclusively on observable indicators such as the ability to walk, speak coherently, or remain conscious may produce subjective assessments and inconsistent legal outcomes.

The central regulatory problem, therefore, is not simply the absence of a precise legal definition of “intoxication,” but also the absence of a BAC threshold that establishes a normative limit for lawful driving. From a forensic medical perspective, BAC can be quantitatively measured and associated with varying degrees of physiological and functional impairment. The effects of ethanol generally progress from initial stimulation to impaired coordination and diminished sensory and motor functioning, and at sufficiently high concentrations may lead to loss of consciousness, coma, and death.

These medical findings indicate the potential for a more objective legal framework based on measurable alcohol concentrations. Nevertheless, the UU LLAJ does not establish a specific BAC threshold for distinguishing between individuals who are legally permitted to drive and those whose level of alcohol impairment renders driving unlawful. This differs from the regulatory frameworks adopted in several jurisdictions that employ per se limits, under which driving is prohibited when a driver’s BAC reaches or exceeds a specified statutory threshold.¹⁹ In the absence of such a threshold, Indonesian law generally requires courts to establish impairment through a combination of alcohol-testing results, observable symptoms, driving behavior, and other relevant evidence.

The regulatory gap is further illustrated by Indonesian National Police Regulation No. 8 of 2021, which provides mechanisms and instruments for measuring alcohol levels but does not establish the measured alcohol concentration as a normative threshold for determining whether a traffic violation has occurred or for assessing the degree of criminal culpability. Thus, Indonesian regulations provide mechanisms for obtaining quantitative evidence of alcohol consumption but do not provide corresponding legal standards for interpreting those measurements. This study characterizes this condition as a regulatory gap between the evidentiary function of alcohol measurement and its normative legal significance.

The absence of a legally defined Blood Alcohol Concentration (BAC) threshold has direct implications for the evidentiary process in cases involving alcohol-impaired driving resulting in death. Prosecutors must establish not only that the defendant consumed alcohol but also the causal relationship between alcohol consumption, the defendant’s driving behavior, the applicable form of culpability, and the resulting harm. Without a statutory BAC threshold, courts are afforded considerable interpretive discretion in determining whether the defendant’s alcohol consumption was sufficiently significant to impair their ability to drive safely.

In some cases, evidence that a defendant consumed alcohol does not automatically lead courts to apply Article 311 of the Road Traffic and Transportation Law (LLAJ

¹⁹ Engineering and Medicine National Academies of Sciences et al., *Getting to Zero Alcohol-Impaired Driving Fatalities: A Comprehensive Approach to a Persistent Problem*, ed. Yamrot Negussie et al. (National Academies Press, 2018).

Law). Instead, the conduct may still be classified as negligence under Article 310. By contrast, in Marabahan District Court Decision No. 35/Pid.Sus/2024, the court expressly considered *dolus eventualis* (conditional intent) in assessing the conduct of a defendant who drove at high speed while intoxicated. This divergence demonstrates that, in the absence of objective statutory parameters, materially similar factual circumstances may receive substantially different legal interpretations.

The absence of a BAC threshold is therefore not merely a problem of measuring alcohol concentration; it also has implications for the determination of *mens rea*. When BAC levels have no clearly defined normative consequences, courts must infer the defendant's state of mind and culpability from other circumstances, including driving behavior, vehicle speed, manner of driving, the defendant's statements or admissions, and events preceding the accident. In the absence of consistent interpretive guidelines, reliance on these contextual factors may contribute to disparities in judicial outcomes and sentencing.

A critical distinction must be maintained between BAC as an indicator of physiological impairment and awareness of risk as an indicator of *mens rea*. The establishment of a particular BAC level does not, by itself, prove *dolus eventualis*. Although BAC can provide objective evidence of the degree of alcohol exposure and its potential effects on driving ability, it does not automatically establish that the defendant recognized and accepted the possibility of causing another person's death. Accordingly, a BAC threshold should function as one objective evidentiary parameter among several, rather than as the sole basis for determining the appropriate form of culpability.

A more defensible approach is to use BAC as an initial evidentiary reference point. As BAC increases, the objective basis for establishing alcohol-related impairment generally becomes stronger, potentially supporting an inference that the driver should have recognized the risks associated with operating a vehicle in that condition. However, establishing *dolus eventualis* requires additional evidence concerning the defendant's knowledge of the risk and their mental attitude toward that risk. BAC should therefore provide an objective basis for establishing the defendant's physiological condition, while *mens rea* should be assessed holistically by considering BAC, observable behavior, knowledge of the relevant risks, and the conscious decision to continue driving.

This approach is also consistent with the doctrine of *actio libera in causa*.²⁰ When an individual voluntarily and knowingly consumes alcohol before driving, the resulting intoxication should not automatically be treated as a condition that eliminates criminal responsibility. Rather, the decision made before the onset of significant impairment may constitute an important factor in determining whether the individual knowingly created or substantially increased the risk of a prohibited consequence.

²⁰ Gless et al., "Imputation of Responsibility and Intoxicated Offending."

The absence of a clearly defined BAC threshold also raises concerns regarding *Rechtsunsicherheit*, or legal uncertainty. The principle of legal certainty requires individuals to be able to understand, in a reasonably predictable manner, which conduct is prohibited and what legal consequences may follow from that conduct.²¹ In the context of alcohol-impaired driving, individuals currently lack a clear normative benchmark indicating the level of alcohol concentration at which their condition becomes legally impermissible for driving.

This uncertainty may also contribute to inconsistent law enforcement and judicial decision-making. Law enforcement officers may assess drivers with comparable BAC levels differently, while courts may rely on different behavioral or physical indicators when determining whether an individual was legally intoxicated. Such variability is problematic because the imposition of criminal liability should be based on legal standards that are sufficiently clear, consistent, and predictable. Establishing an objective BAC framework, while preserving a contextual assessment of *mens rea*, would therefore strengthen legal certainty without reducing the individualized assessment necessary for determining criminal culpability.

These findings are consistent with Paneo, Moonti, and Ahmad, who criticize the tendency within Indonesian law to characterize alcohol-impaired driving primarily as negligence and advocate greater consideration of the *dolus eventualis* doctrine.²² However, the application of *dolus eventualis* requires more than a shift in judicial interpretation. It also requires an objective evidentiary foundation capable of establishing a rational connection between the offender's physiological condition and their awareness and acceptance of the risks associated with driving while intoxicated.

Three principal normative issues emerge from the analysis. First, Indonesian law lacks a uniform operational definition of "intoxication" in the context of motor vehicle operation. Second, although the regulatory framework recognizes the use of alcohol testing, it does not establish a Blood Alcohol Concentration (BAC) threshold accompanied by clearly defined legal consequences. Third, this regulatory deficiency complicates the assessment of *mens rea* and creates opportunities for inconsistent application of Articles 310 and 311 of the Road Traffic and Transportation Law (LLAJ Law).

Accordingly, the absence of a statutory BAC threshold should be understood as a substantive regulatory gap rather than merely an administrative deficiency. An appropriate regulatory framework should recognize at least three distinct functions of BAC: (1) as an indicator of physiological impairment; (2) as a parameter for assessing fitness to drive; and (3) as an evidentiary factor relevant to determining the degree of

²¹ Elina Paunio, "Beyond Predictability – Reflections on Legal Certainty and the Discourse Theory of Law in the EU Legal Order," *German Law Journal* 10, no. 11 (2009): 1469–93, <https://doi.org/10.1017/S2071832200018332>.

²² Paneo et al., "Pertanggung Jawaban Pidana Pengemudi Dalam Keadaan Mabuk Yang Menyebabkan Kematian."

criminal culpability. BAC measurements should not, however, be used mechanically to establish *dolus eventualis*. The determination of culpability must remain grounded in the totality of the circumstances and in the principle of individualized criminal responsibility.

Reforming Indonesia's traffic law therefore requires a transition from an approach centered primarily on subjective or observable symptoms toward one supported by medico-forensic evidence and objective quantitative parameters. Establishing a clearly defined BAC threshold, accompanied by standardized procedures for interpreting test results and guidelines for integrating BAC evidence with *mens rea* indicators, would strengthen legal certainty, reduce sentencing disparities, improve the reliability of evidence, and provide clearer criteria for distinguishing among *bewuste culpa* (conscious negligence), *culpa lata* (gross negligence), and *dolus eventualis* (conditional intent). BAC standardization should not be viewed merely as an instrument for imposing harsher penalties on intoxicated drivers. Rather, it should constitute an essential component of a traffic-related criminal liability framework that is objective, proportionate, consistent, and responsive to the protection of road users' right to life.

3.3. A Consistent and Equitable Framework for Criminal Liability Integrating Legal Theory, Medico-Legal Evidence, and Judicial Practice

Judicial decisions reveal fundamental differences in how courts interpret the relationship between alcohol intoxication and an individual's capacity for criminal responsibility. Tuban District Court Decision No. 108/Pid.Sus/2025 illustrates one approach in which intoxication is treated as a condition that diminishes the defendant's level of awareness and, consequently, affects the assessment of criminal responsibility. This approach is problematic when voluntary alcohol-induced intoxication is treated as equivalent to a mental disorder beyond the defendant's control. The two circumstances are fundamentally different because alcohol consumption is ordinarily preceded by a conscious and voluntary decision by the individual.

By contrast, the Situbondo District Court decision reflects a more cautious approach to establishing intoxication. The court questioned whether physical indicators such as an unsteady gait, slurred speech, and the smell of alcohol were sufficient to establish severe intoxication. This approach suggests that intoxication should not be determined solely on the basis of outward physical manifestations but should, where available, be supported by objective scientific evidence. The contrasting approaches expose a central problem identified by this study: judicial practice lacks a consistent evidentiary standard for determining when a driver can legally be considered impaired by alcohol.

This inconsistency also affects the choice between Articles 310 and 311 of the Road Traffic and Transportation Law (UU LLAJ). In some cases, courts have applied

the concept of culpa (negligence) even when defendants had consumed alcohol and engaged in highly hazardous driving behavior. In other cases, particularly where the factual circumstances indicated a stronger awareness of the risks involved, courts have applied Article 311 and, in some instances, considered the doctrine of *dolus eventualis* (eventual intent). The issue, therefore, extends beyond the severity of punishment; it concerns the consistent and principled application of culpability doctrines in Indonesian criminal law.

The doctrine of *actio libera in causa* provides a potential foundation for developing a more coherent framework of criminal responsibility. Rather than assessing the defendant's condition solely at the moment of the accident, the doctrine permits a more holistic examination of the sequence of conduct through which the defendant voluntarily created the circumstances that subsequently impaired their self-control.²³ In the context of alcohol-related traffic offenses, this sequence may be conceptualized in three stages: (1) the decision to consume alcohol; (2) the decision to drive after consuming alcohol; and (3) the manner of driving that ultimately results in a fatal accident. These stages should be examined collectively rather than in isolation. Where an individual knows, or reasonably should know, that alcohol can impair driving ability but nevertheless chooses to drive, that decision may carry significant weight in assessing the degree of criminal culpability.

The *actio libera in causa* doctrine should not, however, be applied mechanically to establish *dolus eventualis* (conditional intent). Such a conclusion requires evidence that the defendant recognized the possibility of the prohibited consequence and nevertheless proceeded while accepting the associated risk. Alcohol consumption may constitute an important evidentiary indicator, but it cannot, standing alone, conclusively establish *dolus eventualis*.

These findings support Paneo et al., who argue that *dolus eventualis* can provide an important doctrinal basis for extending criminal responsibility in a manner that is both fair and sensitive to the circumstances of the case.²⁴ The present study, however, further emphasizes that its application should be grounded in a combination of objective and contextual indicators rather than in the assumption that every person who consumes alcohol necessarily recognizes and accepts the risk of causing death.

Within this framework, medico-legal evidence becomes an important component of the assessment of the defendant's condition. Measurements of alcohol concentration, clinical or observable signs of intoxication, impaired motor coordination, diminished concentration, and delayed motor responses can provide objective evidence regarding the extent to which alcohol affected the defendant's ability to operate a vehicle safely.

²³ Gless et al., "Imputation of Responsibility and Intoxicated Offending."

²⁴ Paneo et al., "Pertanggung Jawaban Pidana Pengemudi Dalam Keadaan Mabuk Yang Menyebabkan Kematian."

This approach also addresses limitations evident in the Situbondo District Court decision. Physical manifestations such as an unsteady gait or slurred speech may constitute relevant initial indicators of intoxication, but they should not be treated as the sole basis for establishing the defendant's level of impairment. Where available, medical and forensic evidence should be assessed in conjunction with other legally relevant facts, particularly the measured alcohol concentration and the defendant's conduct both before and during the accident.

Medical evidence cannot substitute for an independent assessment of *mens rea*. A high BAC may provide strong evidence of alcohol-related impairment but does not automatically establish *dolus eventualis*. Conversely, a relatively low BAC does not necessarily eliminate criminal culpability. The relationship between medico-legal evidence and criminal responsibility should therefore be understood as correlative and evidentiary rather than deterministic. Medical evidence establishes the physiological condition and potential degree of impairment, while the determination of *mens rea* requires an integrated assessment of the defendant's knowledge, conduct, decision-making, and attitude toward the risks created by driving under the influence of alcohol.

The study proposes a four-stage framework for determining criminal liability, with each stage interconnected and building upon the preceding one. The first stage involves establishing the defendant's objective condition. The court must determine, on the basis of verifiable evidence, whether the defendant was under the influence of alcohol, giving particular consideration to BAC test results and medico-forensic findings.

The second stage concerns the defendant's capacity for criminal responsibility. The court must distinguish among ordinary intoxication, severe alcohol-induced impairment, and a state of unconsciousness that may, as a matter of fact, affect the individual's ability to understand or control their conduct. Intoxication should not automatically be equated with diminished or absent criminal responsibility.

The third stage involves reconstructing the defendant's *mens rea*. Once the objective condition has been established, the court should determine whether the defendant was unaware of the relevant risk (onbewuste culpa), aware of the risk but confident that the harmful consequence could be avoided (bewuste culpa), demonstrated gross disregard for the risk (culpa lata), or recognized and accepted the possibility of a fatal consequence (dolus eventualis). This stage is essential because the classification of culpability should be based on the defendant's mental attitude toward the risk rather than solely on the occurrence of the harmful consequence.

The fourth stage involves individualized sentencing. After determining the nature and degree of culpability, the court may consider relevant aggravating and mitigating circumstances, including the number of victims, the degree of danger created by the conduct, the defendant's post-accident behavior, expressions of remorse, restitution, reconciliation with victims, and prior criminal history. Under this framework,

reconciliation does not eliminate the fact that the defendant's conduct created a serious and foreseeable risk to the lives of others. Rather, it should operate as a sentencing consideration only after the underlying culpability and seriousness of the conduct have been established.

The principle of *in dubio pro reo* also helps explain why courts may favor less severe provisions when genuine uncertainty remains regarding the element of intent. As a fundamental safeguard of defendants' rights, this principle cannot be disregarded. Its application, however, should follow a comprehensive assessment of the available evidence. In *dubio pro reo* should not be understood as a basis for disregarding objective evidence concerning alcohol consumption, driving behavior, or the defendant's awareness of the risks created by their conduct. Only when a rational and reasonable doubt concerning *dolus eventualis* remains after all relevant evidence has been thoroughly examined should that doubt be resolved in favor of the defendant. This approach preserves the presumption of innocence while also ensuring meaningful protection for victims.

The absence of more clearly defined and quantifiable sentencing guidelines may also allow non-legal considerations, including reconciliation, expressions of remorse, and the defendant's respectful demeanor, to exert substantial influence on sentencing outcomes. Surabaya District Court Decision No. 567/Pid.Sus/2025 illustrates this tendency: reconciliation with the victims was treated as a significant consideration in imposing a relatively lenient sentence, despite the accident involving multiple collisions and resulting in a fatality. This study does not discount the legitimate relevance of such mitigating factors. Rather, it argues that they should be considered only after the court has clearly established the nature of the defendant's culpability and the degree of danger created by the conduct.

These findings reinforce Sigarlakui's conclusion that sentencing disparities are influenced by the absence of standardized sentencing guidelines and the role of subjective, non-legal considerations.²⁵ They are also consistent with research conducted by UII (2014), which found that courts do not consistently treat intoxication as an aggravating circumstance.

Nevertheless, previous studies have generally examined judicial disparities, deficiencies in BAC regulation, or the relevance of *dolus eventualis* as separate issues. The present study integrates these dimensions into a unified analytical framework. Under this framework, medico-legal evidence establishes the defendant's objective physiological condition; the *actio libera in causa* doctrine explains the legal relevance of

²⁵ Nathanael Michael Gilbert Sigarlakui, "Disparitas Pemidanaan Terhadap Kasus Kecelakaan Lalu Lintas Yang Mengakibatkan Kematian: Studi Kasus Putusan Nomor 397/Pid.b/2016/Pn Sgt Dan Nomor 399/Pid.b/2016/Pn Sgt" (Universitas Mulawarman, 2022), https://digilib.unmul.ac.id/index.php?p=show_detail&id=38139&keywords=Nathanael+Michael+Gilbert+Sigarlakui.

decisions made before the onset of intoxication; *mens rea* determines the nature and degree of culpability; and judicial practice provides the empirical context for evaluating the consistency of legal norms in their application. This integrated framework provides a more structured basis for determining criminal responsibility while maintaining an appropriate balance among legal certainty, individualized culpability, defendants' procedural rights, and the protection of victims.

4. CONCLUSION

This study examines the relationship between alcohol-induced impairment and an offender's capacity for criminal responsibility, identifies the normative problems arising from the absence of an objective Blood Alcohol Concentration (BAC) standard, and proposes a consistent framework for determining criminal liability in fatal traffic accidents. The findings demonstrate that alcohol intoxication does not automatically negate criminal responsibility; rather, its legal significance must be assessed through medico-forensic evidence and a careful reconstruction of the offender's *mens rea*. The absence of a statutory BAC threshold in the Indonesian legal system creates normative ambiguity, evidentiary uncertainty, and inconsistencies in distinguishing between culpa (negligence) and *dolus eventualis* (eventual intent).

The study emphasizes the need to integrate the doctrine of *actio libera in causa*, medico-legal evidence, *mens rea* analysis, and judicial practice to establish a more proportional and consistent basis for criminal liability. Such integration can strengthen legal certainty, promote consistency in judicial decision-making, enhance victim protection, and contribute to improved road safety. The study is subject to limitations arising from its reliance primarily on judicial decisions and secondary legal sources; it does not empirically assess the implementation, reliability, or interpretation of BAC testing in actual law enforcement practice. Accordingly, policy reform should prioritize the establishment of clear BAC thresholds, standardized guidelines for the use and interpretation of medico-legal evidence, and more consistent sentencing guidelines for alcohol-related traffic offenses. Future research should empirically evaluate the effectiveness of these standards through comparative, multidisciplinary, and field-based studies.

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