

MODEL OF CRIMINAL CASE RESOLUTION OF TRAFFIC ACCIDENTS CAUSING DEATH

(Case Study in the Police Department of Special Region of Yogyakarta)

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ABSTRACT

The present research seeks to find out a model of criminal case resolution of traffic accidents causing death in Traffic Directorate of Yogyakarta (DIY) Police Department through either criminal justice system or mediation. Socio-legal research or non-doctrinal research has been used for this research. The research location is located in the Traffic Directorate of Yogyakarta Police Department. The research data use primary and secondary data. The results of this research indicate that in Traffic Directorate of DIY Police Department criminal case of traffic accidents causing death is resolved through criminal justice system with a record of ordinary examination. It is in accordance with the Decree of Indonesian National Police Number 15 of 2013 regarding Procedures for Handling Traffic Accident. Meanwhile, mediation is never used to resolve such case since there exists no legal framework. The article, therefore, suggests that revision of the Decree should be made. The criminal case resolution of traffic accidents causing death should fall into two forms, namely willful misconduct and negligence. A case with willful misconduct should be resolved through criminal justice system, while that negligence is resolved through mediation.

Keywords: accident, death, criminal justice system, mediation

A. INTRODUCTION

Traffic accident is defined as an unexpected and unintended injury which involves motor vehicles with the presence or absence of other road users and causing in severe injuries or death, and property damage. It is therefore included as a criminal act.

The traffic accident as a criminal act regulated by Law Number 22 of 2009 on The Road Traffic and Transportation more detailedly than the previous regulation, *Indonesian Penal Code*. According to Article 359 and 360 of the Indonesian Penal Code on negligence leading to death, traffic accident is categorized as *culpa* (negligence); The Indonesian Penal Code has not concerned with traffic accident which leads to material loss, while in fact the Law Number 22 of 2009 regulates such consequences of the traffic accident as material loss, injury, and death.

Article 310 section (1) state that "Any person who drives a motor vehicle whose negligence can cause traffic accident with vehicle and/or property damage, as intended in Article 229 section (2), to occur shall be punished by imprisonment for a period of not more than 6 (six) months, or by a fine of not more than IDR 1,000,000 (one million rupiahs)."

Article 310 section (2): "Any person who drives a motor vehicle whose negligence causes traffic accident with mild injury and vehicle and/or property damage, as intended in Article 229 section (3), to occur shall be punished by imprisonment for a period of not more than 1 (one) year, or by a fine of not more than IDR 2,000,000 (two million rupiahs)."

Article 310 section (3): "Any person who drives a motor vehicle whose negligence causes traffic accident with severe injury, as intended in Article 229 section (4), to occur shall be punished by imprisonment for a period of not more than 5 (five) year, or by a fine of not more

than IDR 10,000,000 (ten million rupiahs)."

section (4): "In case of traffic accident intended in section (3) which results in road user death, the perpetrator shall be punished by imprisonment for a period of not more than 6 (six) year, or by a fine of not more than IDR 12,000,000 (twelve million rupiahs)."

Referring to the above articles emphasizing on negligence, the fault takes the form of negligence. In addition, another for of fault is called willful misconduct.

Article 311 section (1): "Any person who intentionally drives a motor vehicle in a manner that may endanger another life or property shall be punished by imprisonment for a period of not more than 1 (one) year, or by a fine of not more than IDR 3,000,000 (three million rupiahs)."

Article 311 section (2): "In case of an act intended in section (1) which results in traffic accident with vehicle and/or property damage intended in Article 229 section (2), the perpetrator shall be punished by imprisonment for a period of not more than 2 (two) years, or by a fine of not more than IDR 4,000,000 (four million rupiahs)."

Article 311 section (3): "In case of an act intended in section (1) which results in traffic accident with mild injury victims and vehicle and/or property damage intended in Article 229 section (3), the perpetrator shall be punished by imprisonment for a period of not more than 4 (four) years, or by a fine of not more than IDR 8,000,000 (eight million rupiahs)."

Article 311 section (4): "In case of an act intended in section (1) which results in traffic accident with severe injury victims intended in Article 229 section (4), the perpetrator shall be punished by imprisonment for a period of not more than 10 (ten) years, or by a fine of not more than IDR 20,000,000 (twenty million rupiahs)."

Article 311 section (5): "In case of an act intended in section (4) which results in the death of another person, the perpetrator shall be punished by imprisonment for a period of not more than 12 (twelve) years, or by a fine of not more than IDR 24,000,000 (twenty four million rupiahs)."

Any person who commits the acts regulated in the above articles commits criminal acts, and therefore criminal laws must be enforced. This can be clear provided that the criminal act of traffic accident is committed with willful misconduct. Thus, the perpetrator should be responsible for what he did. The case resolution will be different if the accident occurs with negligence in which the perpetrator did not expect the accident to happen.

In reference to statutory laws, both willful misconduct (*dolus*) and negligence (*culpa*), are similar to other criminal acts, are solved through criminal justice system.

Criminal justice system actually seeks to protect and raise dignity of human, including victims, perpetrators, and society. The criminal justice has to guarantee and realize rights of all citizens involved in a criminal case process. The criminal justice is expected to provide justice for all population groups.

Criminal cases including traffic accident are practically solved through discretion of law enforcement instead of the criminal justice process, or through a deliberation mechanism/ peace agreement and/or reconciliation institutions, one of which is customary. Attorney General can ignore cases through such institutions as *deponering* (the official halt of a criminal case) and *afkoop* (redemption) and drop the cases if determined maximum amount of fine has been paid.

Police officers sometimes do the same if a committed criminal act is included as trivial case; they merely scold and briefly arrest the perpetrator (Sudarto, 1986 : 44). This resolution type is called mediation.

Criminal case resolution through mediation has been stipulated in Law Number 11 of 2012 regarding Juvenile Justice System until now; it is termed diversion. There is no legal framework for criminal act of traffic accidents which regulates a resolution through mediation.

Criminal case resolution through mediation should be positively responded by all law enforcement officers since it reduces socioeconomic burden of the state and also saves the officers' energy in serving justice for communities. Seen from socioeconomic view, mediation enables to reduce state budget since the capacity of correctional facility/ prison (*Lembaga Pemasyarakatan*) and the number of officers do not need to be added. Furthermore, the state does not need to provide food for the prisoners.

The research aims at finding out a model of criminal case resolution of traffic accidents causing death through criminal justice system or mediation, as well as criteria of each of the resolution used. Apart from that, it is expected that the research results can develop insights of Law, particularly those which are dealing with common criminal case resolution.

In provision of criminal law, three stages emerge, namely formulation, application, execution. The first one is defined as a stage in which statutory criminal law is formulated by a legislature. The second one is a stage in which the criminal law is applied by police officers. Meanwhile, the third is, by definition, a stage in which judicial judgment is executed by prison officers.

The research focuses on criminal law policy in stage of application; it examines how police officers resolve criminal case of traffic accidents causing death based on Article 310 section (1), (2), (3), and (4), as well as Article 311 section (1), (2), (3), (4), and (5) of Law Number 22 of 2009 concerning Road Traffic and Transportation.

B. PROBLEM STATEMENTS

This article aimed to observe a model of criminal case resolution of traffic accidents causing death which analysis case study by Yogyakarta Police Department through either criminal justice system and mediation and criteria of each of the resolution used.

C. RESEARCH METHOD

The research is descriptive research, i.e. a research conducted to gain a real view of the criminal case resolution of traffic accidents, as well as the criteria used in the model. From views of legal research, it is categorized as non-doctrinal research carried out to examine police attitudes. The research location is Yogyakarta Police Department. Data is obtained from primary and secondary data, comprises of Law Number 22 of 2009 and files of traffic accident cases listed by Traffic Directorate of Yogyakarta Police Department. The primary data were collected by using interviews with police officers, while the secondary data were collected by using documentation of files of traffic accidents causing death. (Robert K Yin, 1996: 103 - 108).

D. RESEARCH RESULT AND DISCUSSION

A. Criminal Act

Criminal act is derived from a Dutch term '*Strafbaarfeit*'. The word '*strafbaar*' means 'can be convicted', while the word '*strafbaar*' is translated to be 'a fact', or 'an event' (JCT. Simorangkir. 1983: 49). Legal experts use the the term differently from each other. Moeljanto uses the term '*perbuatan pidana*' (criminal action) which refers to an action forbidden by a regulation and threatened with a penalty. The prohibition is addressed to the action, while the penalty to the perpetrator (Moeljatno, 1980: 75). Dissimilarly, Satochid Kartanegara uses the term '*delik*' (offense) (Satochid n y: 74). Meanwhile, Lamintang (2011: 172) and Pompe use '*tindak pidana*' (criminal act). Pompe defines it as norm violation (disturbance of legal order) committed with fault by perpetrator. Threatened penalty is therefore required to maintain the legal order and to guarantee public interest (Lamintang, 2011: 173). Wiryono Prodjodikoro interprets it as an act of which the perpetrator can be convicted (Soedarto, 1987: 33). Among the definitions, Pompe's and Prodjodikoro's are the most suitable in the current situation due to the use of the word 'perpetrators' meaning that they cover not only individual perpetrator, but also corporation.

Soedarto noticed two contrast groups of scholars having monistic and dualistic perspectives. The first one, regards constituents of criminal act as an intact wholeness, and therefore it is possible to convict the perpetrator. In contrast, the second tends to separate between the criminal act and the perpetrator, meaning that the act meets constituents of statutory formulation. Whether or not the perpetrator can be convicted and whether or not the perpetrator meets certain qualification to be convicted should be examined separately. In other words, those having dualistic perspective separate between criminal act and criminal responsibility.

Soedarto further pointed out that when it comes to a judgment on whether or not a perpetrator will be convicted of a crime, both perspectives in the end show similarity since all of the constituents in the views of both monistic and dualistic perspectives should exist in the judgment. The dualistic perspective includes benefits to strengthen the concept—whether certain requirements are adhered to the action or the perpetrator (Soedarto, 1987 :45).

According to Van Hamel, '*strafbaarfeit*' (criminal act) is '*rechtswettelijk omschreven menselijke gedraging, onrechtmatig, strafwaardig en aan schuld te wijten*'. He further provides an addition to the constituents to indicate that perpetrator should be convicted. The constituents include:

1. *menselijke gedraging* (human actions);
2. *rechtswettelijk omschreven* (formulated in the Constitution);
3. *onrechtmatig* (committed in violation of law);
4. *aan schuld te wijten* (committed with fault); and
5. *strafwaardig* (should be convicted) (Soemitro, 1991 : 42).

E. Mezger defines criminal act as '*der inbegriff der Voraussetzungen der Strafe*' (all requirements for penalty) and further explains that '*Die Starftat ist demnach tatbestandlich rechtswiedrige, personlich zurechenbare strafbedrohte Handlung*'. The constituents

cover:

1. *Handlung* (human actions in a broad sense);
2. *Rechwiedrig* (against the law);
3. *Personlich zurechenbaar* (held accountable for a person);
4. *Strafbedroht* (threatened with a penalty) (Muladi and Dwidja P, 1991 : 37).

Wirjono Projodikoro gives short definition of criminal act. It involves an action of which the perpetrator can be convicted (Soemitro, 1991:42).

From the above formulations, it can be seen that all of the constituents to indicate that a perpetrator should be convicted are combined altogether. In addition, criminal act and criminal responsibility are inseparable. This point of view belongs to the monistic perspective.

In contrast, those who have dualistic perspective seem to separate between criminal act and criminal responsibility. They believe that in case that both are combined, a perpetrator should be convicted.

Pompe theoretically defines criminal act as norm violation (disturbance of legal order) committed with fault by a perpetrator and threatened penalty is therefore required to maintain the legal order and to guarantee public interest. Meanwhile, positive law emphasizes that criminal act is a '*feit*' in which the perpetrator can be threatened with penalty based on statutory laws.

The difference between theory and positive law is imperceptible. The most important thing in theory is that nobody can be convicted unless their actions violate law and are committed with fault. Meanwhile, positive law does not recognize fault without the characteristic of 'against the law'. They can be combined considering that *green straf zonder schuld* (no conviction exists without fault) (Lamintang, 2011 :173).

It can be concluded from the above explanation that it is impossible for a perpetrator to be convicted if '*strafbaarfeit*' exists without '*strafbaar persoon*' (a person who can be convicted)

B. Criminal sanction

Criminal sanction is, by definition, a penalty or punishment given to a perpetrator as a consequence of the committed criminal act. A perpetrator can be convicted if a fault is found in addition to the criminal act. Fault takes two forms—willful misconduct and negligence.

Criminal sanction is generally regulated in Article 10 of the **INDONESIAN PENAL CODE** (Criminal Law Code), which comprises ordinary and additional punishments. Criminal sanctions below are arranged in order, starting from the heaviest to the mildest sanction:

1. Ordinary punishments:
 - a. Death penalty
 - b. Imprisonment
 - c. Incarceration
 - d. Fine
 - e. Confinement
2. Additional Punishments:
 - a. Deprivation from certain rights

b. Forfeiture of confiscated objects

c. Publication of the Judicial Judgment

The ordinary punishments can be imposed as a criminal sanction without the additional punishments, while the additional punishments follow the ordinary punishments, in other word that it is impossible to impose the additional punishments as a stand alone criminal sanction without involving the ordinary punishments.

1. Ordinary Punishments

a. Death Penalty

Death penalty is the heaviest criminal sanction which is associated with life imprisonment or 20-year jail sentence. Several criminal acts threatened by death penalty include those stipulated in Article 104, 110, 340, 363, and 365 of the *INDONESIAN PENAL CODE*, as well as in Law Number 31 of 1999 *juncto* Law Number 20 of 2001 on the Eradication of the Criminal Act of Corruption, Law Number 5 of 1997 on the Psychotropics, Law Number 35 of 2009 on the Narcotics, Law Number 2 of 2002 regarding Terrorism. When death penalty is imposed on a perpetrator, he is obligated to request clemency to the president. The president will subsequently either accept or deny the clemency by taking the Supreme Court consideration into account. If the clemency is accepted, the perpetrator will have the sentence commuted to life imprisonment or 20-year jail sentence. However, if it is denied, a fiat to carry out an execution will be issued. The implementation of the death penalty is regulated in Law Number 12 of 1964 on the Capital Penalty Procedures by general and military courts.

b. Imprisonment

Imprisonment is a criminal sanction imposed to perpetrators of crime. Its minimum duration is one day, while its maximum duration is 15 years. In certain case, the duration of 15 years can exceed 20 years in case that the act is threatened with death penalty or life imprisonment and there are *concursum* as well as *residivis*. Suspended sentence in which a perpetrator does not go to prison can be given. A perpetrator, for example, is sentenced to six months in jail with probation period of a year. During a year, the perpetrator who committed either felony or infraction must be jailed for 6 months besides being responsible for his criminal act. It is possible to release him from jail prior to the expiration of his terms of imprisonment while he is serving a sentence of imprisonment; in other words, a parole is granted when the convict has served the sentence for two third of the terms of imprisonment, or for at least nine months.

c. Incarceration

Incarceration refers to a form of criminal sanctions given to offenders with minimum duration of a day and maximum duration of a year. The maximum duration may exceed a year and four months in case of the presence of *concursum* and *residivis*.

d. Fine

A sentence to pay a fine for felony and infraction with minimum amount of 25 cents (one forth rupiah) and no maximum amount in general (the specific maximum amount is stated in each article). Provided that the fine is not paid, a convict must serve a term of incarceration called substituted incarceration.

e. Confinement

Confinement is a threatened penalty added in Article 10 of the INDONESIAN PENAL CODE in reference to Law Number 20 of 1946. It is sentenced to a perpetrator committed a crime, as consequences in such way that he is convicted and loses his freedom.

2. Additional Punishments

a. Deprivation from Certain Rights

Certain rights of which convicts in cases determined by Article 35 of The Indonesian Penal Code may be deprived by judicial verdict involving:

- 1) The right to serve with the armed forces
- 2) The right to vote and be voted for in elections
- 3) The right to be a counselor and to be a guardian, co-guardian, curator, or co-curator
- 4) The paternal authority, the guardianship and the curatorship over one's own children
- 5) The right to exercise specific professions

b. Forfeiture of confiscated objects

Objects belonging to the sentenced person, acquired by means of a crime or with which a crime deliberately has been committed, may be forfeited.

c. Publication of the Judicial Judgment

In case that the judge imposes the additional punishments, such media of publication as electronic media, mass media, and notice board should be paid attention to. All expenses are chargeable to the sentenced person.

C. Criminal Justice System

Criminal act is an action which violates a criminal law. The violation of the criminal law leads to imposition of criminal sanction. The imposition is done through criminal justice system.

The Indonesian criminal justice system is regulated in Law Number 8 of 1981 regarding Indonesian Procedural Penal Code. Indonesian Procedural Penal Code is general in a sense that it can be implemented to all of the criminal acts, including a criminal act of traffic accident.

The criminal justice system covers investigation, prosecution, examination by trial, and execution of the sentence.

investigation are conducted by police officers, prosecution by a prosecutor, examination by judges, and execution of the sentence by the prosecutor. The criminal justice system exerts a consequence that perpetrator will be proceeded if he violates the criminal law. Similarly, a criminal act of traffic accident is resolved through a criminal procedure as stipulated in the Law [Article 310 section (2), (3), and (4)]. Although the article offers an alternative to punishment that is fine. If condition that fine is paid, the perpetrator does not need to serve imprisonment at a correctional facility/ prison (*Lembaga Pemasyarakatan*). It, however, belongs to a criminal sanction of legal resolution.

In the criminal justice system, an examination is carried out based on the type of case. Ordinary examination procedures are performed to examine ordinary cases, i.e. cases with uneasy vindication. Meanwhile, summary examination procedures are carried out to examine cases with simple vindication, and express examination procedures involve mild

cases and mild criminal acts.

The examination of traffic accident cases depends on consequences of the accident. In case that the accident results in death, ordinary examination procedures can be performed. Whereas, if the accident causes either severe or mild injuries and material loss, express examination procedures are done.

In addition to legal resolution, if a criminal act is committed, there is a possibility to resolve it through mediation instead of criminal procedure.

D. Mediation

Mediation serves as a form of out-of-court alternative dispute resolution. Article 1 of Law Number 30 of 1999 regarding Arbitration and Alternative Dispute Resolution determines that alternative dispute resolution includes dispute institutions or dissenting opinion through agreed procedures between parties; it is out-of-court resolution through consultation, negotiation, mediation, consolidation, or expert judgment. In short, alternative dispute resolution is commonly used as a means of dispute resolution in private law instead of in criminal law (Nyoman Serikal Putra Jaya. 2010:1).

Although out-of-court dispute resolution generally emerges in private cases, criminal cases are practically resolved outside a court; not all of the criminal cases is proceeded. Attorney General, as stipulated in Attorney General Regulation, can ignore cases through such institutions as *deponering* (the official halt of a criminal case) and *afkoop* (redemption) and drop the cases if maximum amount of fine has been paid.

E. Criminal Case Resolution of Traffic Accidents Causing Death

Similar to the law enforcement of other criminal acts, that of traffic accidents is carried out by a traffic police unit of an area where the accident occurs by being guided by the Decree of Indonesian National Police Number 15 of 2013 regarding Procedures for Handling Traffic Accident. The unit is responsible for crime scene processing which includes traffic accident data collection of conditions and the number of victims who are died, severely injured, mildly injured, and are victimized through material loss. If an accident occurs in territory jurisdiction of The Special Region of Yogyakarta (DIY) Police Department, district police will do the duty.

DIY Police Department which is based in Yogyakarta supervises 5 district police, including:

1. Yogyakarta district police
2. Bantul district police
3. Wates district police
4. Gunung Kidul district police
5. Sleman district police

In reference to an interview with a police officer of Traffic Directorate of DIY Police Department, in accordance with the Decree of Indonesian National Police Number 15 of 2013 regarding Procedures for Handling Traffic Accident, traffic accident case falls into three categories, namely mild accident, moderate accident, and severe accident. The former results in vehicle and/or property damage, the middle in mild injury and vehicle and/or property damage, while the latter in severe injury or death.

The different categories influence the resolution. The following elaboration shows the resolution of each category :

Mild traffic accident: Mild traffic accident can be resolved outside court provided that a peace agreement between the involved parties is reached and the loss is replaced. The peace agreement is written in a statement letter, is put into registry, and filed. Such procedure can be conducted as long as police report has not been made. However, if the traffic accident does not meet constituents of a criminal act and peace agreement is not achieved, it will be resolved through criminal justice system with a record of summary examination. In addition, the procedure is similar to that of resolution of mild criminal acts. A perpetrator of the accident is imposed by Article 310 section (2) of Law Number 22 of 2009: "Any person who drives a motor vehicle whose negligence causes traffic accident with mild injury and vehicle and/or property damage to occur shall be punished by imprisonment for a period of not more than 1 (one) year, or by a fine of not more than IDR 2,000,000 (two million rupiah)."

Moderate traffic accident: Similar to mild traffic accident, moderate traffic accident can be resolved with a record of summary examination provided that constituents of a criminal act are not fulfilled. In this case, a perpetrator is imposed by Article 310 section (2): "Any person who drives a motor vehicle whose negligence causes traffic accident with mild injury and vehicle and/or property damage, as intended in Article 229 section (3), to occur shall be punished by imprisonment for a period of not more than 1 (one) year, or by a fine of not more than IDR 2,000,000 (two million rupiah)."

Severe traffic accident: This category of traffic accidents leads to severe injury and death, and therefore is resolved with a record of ordinary examination. In case that the crime is committed with negligence, a police officer will issue the record according to Article 310 section (3): "Any person who drives a motor vehicle whose negligence causes traffic accident with severe injury, as intended in Article 229 section (4), to occur shall be punished by imprisonment for a period of not more than 5 (five) year, or by a fine of not more than IDR 10,000,000 (ten million rupiah)" and also Article 310 section (4): "In case of traffic accident intended in section (3) which results in road user death, the perpetrator shall be punished by imprisonment for a period of not more than 6 (six) year, or by a fine of not more than IDR 12,000,000 (twelve million rupiah)."

In case a traffic accident occurs due to willful misconduct—for instance people driving under the influence of alcohol and drugs—police's record is made according to Article 311 section (4): "In case of an act intended in section (1) which results in traffic accident with severe injury victims intended in Article 229 section (4), the perpetrator shall be punished by imprisonment for a period of not more than 10 (ten) years, or by a fine of not more than IDR 20,000,000 (twenty million rupiah)" and also Article 311 section (5): "In case of an act intended in section (4) which results in the death of another person, the perpetrator shall be punished by imprisonment for a period of not more than 12 (twelve) years, or by a fine of not more than IDR 24,000,000 (twenty four million rupiah)."

Based on data of Traffic Directorate of DIY Police Department, a traffic accident causing death is resolved through a criminal procedure, which means that the perpetrator is proceeded with a record of ordinary examination prior to prosecution and trial. In reference to Law

Number 22 of 2009, traffic accident is classified as a criminal act, and therefore is resolved through criminal justice system.

The case study below would be an example of a traffic accident causing death in territory jurisdiction of DIY (The Special Region of Yogyakarta) Police Department, specifically in Sleman.

Eko Rismanto, son of Supardi, committed traffic violation causing a traffic accident on Jalan Raya Kebon Agung of Minggir of Sendang Agung subdistrict of Sleman regency between a dump truck and a roadster bicycle (*sepeda onthel*) to happen. The traffic accident killed Wagimun, the roadster bicycle rider. In this case, several measures are carried out:

- i. Police officers did not arrest the perpetrator. Daily mandatory reporting is required,
- ii. Police officers seized a physical evidence of a dump truck,
- iii. Police officers issued a notice
- iv. Victim's *visum et repertum* is issued (alternatively translated as 'seen and discovered')
- v. Witness information is gathered

By referring to data collected by police officers, the suspect was proven guilty due to his carelessness/ negligence/ neglect which caused a bicycle rider to die, as regulated in Article 310 section (4) juncto 106 section (2) of Law Number 22 of 2009. After a record of the examination had been made, the case was handed over Public Prosecutor of Sleman and a bill of charges was submitted to Sleman district court.

Clearly, for a traffic accident causing death committed with negligence, a record of ordinary examination is made, and the perpetrator is imposed by Article 310 of section (4) of Law Number 22 of 2009. Police officers do not carry out mediation as if there is no legal framework on resolution of traffic accident causing death with mediation, but rather with criminal justice system.

The following data below shows the number of traffic accidents in DIY Police Department during 2009-2013.

Table 1

NO.	YEAR	THE NUMBER OF INCIDENTS	VICTIMS				DESCRIPTION
			DEATH (PERSONS)	SEVERE INJURY (PERSONS)	MILD INJURY (PERSONS)	MATERIAL LOSS (IDR)	
1.	2009	4,381	201	1,029	5,783	3,588,768,300	-
2.	2010	4,704	171	1,105	6,100	3,081,522,000	-
3.	2011	4,518	460	940	5,263	1,054,485,500	-
4.	2012	4,457	431	678	5,871	3,314,783,550	-
5.	2013	3,631	353	103	5,601	3,068,590,000	-

Source: Traffic Directorate of DIY Police Department

Accordingin to the table, the highest rate of traffic accident occurred in 2010. The number of died victims indicates an increase year after year, while the number of victims with

severe injury tends to decline. The highest rate of victims with mild injury is in 2010, while the highest rate of material loss is in 2009. The causes of the traffic accidents vary. Such factors as human errors, nature, vehicle mechanical condition, and road condition can be number of contribution to traffic accidents. Human errors include mobile phone use while driving, road marking violation, and drowsy when driving. Meanwhile, natural factors cover limited sight distance due to fog, and heavy rain causing roads to become slippery afterwards. Vehicle mechanical condition includes brake failure leading to uncontrollable vehicle, while road condition covers the excessive number of damaged roads.

E. CLOSING

a. Conclusion

Based on the results and discussion, it can be concluded below:

1. Model of Criminal Case Resolution of Traffic Accidents in DIY Police Department

Traffic Directorate of Yogyakarta Police Department is guided by the Decree of Indonesian National Police Number 15 of 2013 regarding Procedures for Handling Traffic Accident in solving traffic accident cases. Provided that the victims die, the case should be solved through criminal procedure. It is in accordance with traffic accident which is considered as a criminal case. Since it is included as a criminal act and regulated in criminal law, a violation of the law should be resolved through the criminal law (criminal justice system). Normatively, the Traffic Directorate of Yogyakarta Police Department resolve traffic accident cases through mediation since it has not been regulated in statutory laws, and consequently no legal framework exists.

2. The criteria of the criminal case resolution of traffic accidents through either criminal procedure or mediation

All traffic accident cases are solved through criminal procedure; none of them is solved through mediation, and therefore there is no criteria of the criminal case resolution through both criminal procedure and mediation. It is in accordance with the qualifications emerging in criminal law; an act regarded as a criminal act should be resolved through a criminal procedure.

b. Suggestion

Based on the above conclusion, it is suggested to the government, in this case legislators, not to solve all of the traffic accident cases with criminal laws; some cases may be solved through mediation. It is also important to separate between willful misconduct and negligence. The first one should be solved through criminal procedure, while the rest through mediation.

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BIBLIOGRAPHY:

- JCT, Simorangkir. 1983. *Hukum Pidana Indonesia (Indonesian Criminal Law)*. Jakarta: Sinar Grafika.
- Lamintang. 2011. *Dasar-Dasar Hukum Pidana Indonesia (Basic of Indonesian Criminal Law)*. Bandung: Citra Aditya.
- Moeljatno. 1980. *Azas-Azas Hukum Pidana (Principles of Criminal Law)*. Yogyakarta: Liberty.
- Moeljatno. 1983. *Perbuatan Pidana dan Pertanggungjawaban Pidana (Criminal Act and Responsibility)*. Jakarta: Bumi Aksara.
- Muladi dan Dwidja P. 1991. *Pertanggungjawaban Korporasi dalam Hukum Pidana (Corporate Accountability in the Criminal Law)*. Bandung: Publishing Division of Sekolah Hukum Bandung.
- Nyoman Sarikat Putra Jaya. 2010. *Kualifikasi Tindak Pidana Ringan Yang Dapat Diselesaikan Melalui ADR*. Semarang; Publishing Division of Universitas Diponegoro.
- Robert K. Yin. 1996. *Studi Kasus: Desain dan Metode (Cases Study: Design and Methods)*. Jakarta: Rajawali Press
- Satochid Kartanegara. (ny). *Hukum Pidana (Criminal Law)*. Jakarta: Balai Lektor Mahasiswa
- Sumitro. 1991. *Hukum Pidana (Criminal Law)*. Surakarta: UNS Press
- _____. 198). *Hukum Pidana I (Criminal Law I)*. Semarang: Faculty of Law of Universitas Diponegoro
- Regulation:
- Indonesian Penal Code.
- The Indonesian Constitution of 1945
- Law Number 30 of 1990 on The Arbitration and Alternative Dispute Resolution
- Law Number 8 of 1981 on The the Indonesian Criminal Procedure Code
- The Decree of Indonesian National Police Number 15 of 2013 on The Procedures for Handling Traffic Accident.