

## Comparative Analysis of Blood Alcohol Concentration Thresholds and Criminal Responsibility in Indonesia and Germany

Josephine Steffanie<sup>1\*</sup>, Aji Lukman Ibrahim<sup>2</sup>

<sup>1</sup>E-mail : 2210611465@mahasiswa.upnvj.ac.id

<sup>2</sup>E-mail : adjie\_loekman@upnvj.ac.id

<sup>1,2</sup>Universitas Pembangunan Nasional Veteran Jakarta, Indonesia

\*corresponding author

### Article history:

Submission: 30 October 2025

Received in revised form: 24 November 2025

Acceptance date: 10 December 2025

Available online: 18 December 2025

### Keywords:

Blood Alcohol Concentration; Comparative Criminal Law; Criminal Liability.

### How to Cite:

Steffanie, J. & Ibrahim, A. L. (2025). Comparative Analysis of Blood Alcohol Concentration Thresholds and Criminal Responsibility in Indonesia and Germany. *Al-Risalah Jurnal Ilmu Syariah Dan Hukum*. <https://doi.org/10.24252/al-risalah.vi.62355>

### License:

Copyright (c) The authors (2025)



This work is licensed under a [Creative Commons Attribution 4.0 International License](https://creativecommons.org/licenses/by/4.0/).

### Abstract

Criminal liability is based on the perpetrator's awareness and ability. However, Indonesian criminal law still experiences a normative gap because it does not regulate the blood alcohol concentration (BAC) limit as an objective parameter for assessing the ability to be responsible. As a result, judges' assessments are subjective and lead to disparities in decisions. This normative-comparative research aims to analyze the gap in the BAC norm in Indonesia by comparing it to the German criminal law system. The method used is normative legal research with a legislative, conceptual, and comparative approach, using literature study data. The results show that Germany sets a BAC limit of 0.3–1.09‰ for relative impairment and  $\geq 1.1\%$  for complete loss of ability, while Indonesia does not have a similar standard. The novelty of this research lies in the formulation of a concept for determining a measurable and applicable alcohol level limit in Indonesia, namely the proposed addition of Article 38A to the National Criminal Code with a BAC limit of 0.03%–0.1%. This determination is recommended to realize legal certainty, proportionality, and substantive justice in the Indonesian criminal law system.

## INTRODUCTION

A criminal offense is an act prohibited by law and punishable under the legislation in force in Indonesia.<sup>1</sup> The enforcement of the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana/ KUHP) aims to regulate various types of criminal offenses, ranging from crimes against life and bodily integrity to offenses against property, morality, and public order.<sup>2</sup> In practice, however, not all criminal acts are committed in a fully conscious state. There are numerous cases in which offenders commit crimes while under the influence of certain substances, one of which is alcohol. Intoxication resulting from alcohol consumption can affect an individual's awareness and self-control, thereby giving rise to debate regarding how criminal law should perceive and assess the criminal liability of offenders in such conditions.<sup>3</sup> This phenomenon has become increasingly relevant, as the mass media frequently report criminal acts—including violence and homicide—committed by offenders while intoxicated.

Decision Number 98/Pid.B/2021/PN Slt illustrates a case in which two defendants committed a group assault while intoxicated, yet were sentenced to only six months' imprisonment, despite the fact that Article 170 paragraph (1) of the Criminal Code carries a maximum penalty of five years and six months. This case demonstrates that the assessment of the influence of alcohol remains highly dependent on judicial interpretation and is not supported by objective parameters such as Blood Alcohol Concentration (BAC). The absence of such standards results in sentencing disparities and provides broad room for subjectivity in determining an offender's capacity for criminal responsibility.

This case reflects a normative gap in Indonesian criminal law, particularly with regard to the absence of objective parameters—such as blood alcohol levels—that can be used as a basis to assess the extent to which a person retains consciousness and the capacity to bear criminal responsibility. In this regard, several countries have adopted more specific and measurable legal approaches. Under Article 20 of the German Criminal Code (Strafgesetzbuch/StGB), a blood alcohol concentration exceeding 3.0% may be categorized as a disturbance of consciousness that eliminates criminal responsibility. However, Germany also anticipates potential abuse of this provision through §323a StGB

---

<sup>1</sup> Wijaya, I. B. K. P., dan A. A. N. Wirasila. "Pertanggungjawaban Pidana terhadap Pelaku Tindak Pidana yang Diakibatkan Pengaruh Minuman Beralkohol di Kota Denpasar." *Jurnal Ilmu Hukum* 8, no. 8 (2020). Denpasar: Universitas Udayana Press.

<sup>2</sup> Kitab Undang-Undang Hukum Pidana [KUHP], Pasal 44.

<sup>3</sup> Wijaya, I. B. K. P., dan A. A. N. Wirasila. "Pertanggungjawaban Pidana terhadap Pelaku Tindak Pidana yang Diakibatkan Pengaruh Minuman Beralkohol di Kota Denpasar.", 50.

(Vollrausch), which stipulates that a person who deliberately places themselves in a state of severe intoxication may still be punished for their conduct, even if they lose consciousness at the time the offense is committed.<sup>4</sup> This regulatory framework positions alcohol level as one of the measurable indicators in assessing an individual's criminal liability.

Indonesian criminal law currently faces a normative vacuum due to the absence of specific rules establishing alcohol level thresholds as a determining factor in criminal responsibility.<sup>5</sup> The Criminal Code merely states that an intoxicated person remains criminally responsible, without providing clear parameters regarding the extent to which intoxication may affect legal accountability. This situation also creates normative ambiguity, considering that Article 44 of the Criminal Code exempts punishment for individuals who lose consciousness due to mental disorders, yet does not explain how severe intoxication should affect criminal responsibility. This ambiguity aligns with Van Hamel's Theory of Criminal Responsibility, which requires legal awareness and criminal intent (*mens rea*) at the time the offense is committed.<sup>6</sup> In the context of intoxication, it is necessary to consider the extent to which alcohol affects an individual's capacity to form criminal intent, thereby necessitating objective parameters. The absence of objective blood alcohol limits contradicts the principle of legal certainty and results in sentencing disparities.<sup>7</sup> Other countries, such as Germany, have adopted specific and measurable regulations, highlighting the need for legal reform in Indonesia to formulate blood alcohol standards that can serve as fair and objective benchmarks.

Previous studies have consistently examined the influence of alcohol on criminal behavior and offender liability from various theoretical perspectives. Nur, Natsir, Phireri, and Mannan, using theories of criminal responsibility, fault (*Schuldprinzip*), intent and negligence, intoxication, and the principle of legality, find that alcohol significantly reduces awareness and self-control, thereby affecting the assessment of intent; however, they emphasize the absence of alcohol threshold regulations in Indonesian law and highlight the subjectivity of judicial assessments that leads to legal uncertainty, without proposing objective BAC limits or a normative reform model. Similarly, Pankrasius Yeremias Leto and Hudi Yusuf approach the issue from criminal psychology, rational choice theory, voluntary intoxication liability, and comparative criminal law, concluding

---

<sup>4</sup> Policewatch.id. *Aturan Keras bagi Pelanggar Lalu Lintas di Jerman*. Diakses pada 21 Mei 2025. <https://policewatch.id/aturan-keras-pelanggar-lalu-lintas-jerman>

<sup>5</sup> Fitriana, R., dan V. S. Putri. "Comparison of the Provisions of Criminal Sanctions Against Drunken People Who Commit Criminal Acts in Indonesia and Russia." *Journal of Humanities and Social Studies* 1, no. 1 (2023).

<sup>6</sup> Moeljatno, 2002. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.

<sup>7</sup> Asshiddiqie, Jimly. *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Konstitusi Press, 2005.

that alcohol increases aggression and impairs rational decision-making, while offenders remain liable due to voluntary consumption; nonetheless, their analysis remains largely psychological-criminological and does not advance normative legal standards or ideal BAC thresholds. Rosa Amalia Fatma and Triny Srihadiati further demonstrate that alcohol consumption lowers self-control and heightens impulsivity in assault cases, and although they note that countries such as Germany and the United States have established BAC limits while Indonesia has not, their study focuses more on theories of impulsivity and liability rather than formulating concrete BAC parameters or a regulatory framework. Collectively, these studies reveal a clear normative gap in Indonesian criminal law concerning objective alcohol thresholds, as they do not translate comparative insights into measurable legal standards or propose comprehensive regulatory solutions.

All three studies indicate the existence of a legal gap in Indonesian criminal law concerning the influence of alcohol. However, these studies remain limited to theoretical or criminological aspects and do not provide an in-depth analysis of concrete legal parameters. Therefore, this research distinguishes itself by focusing on a normative and comparative analysis of blood alcohol concentration (BAC) regulations within the criminal law systems of Indonesia and Germany, with the aim of formulating an objective, measurable, and justice-oriented regulatory framework for assessing criminal responsibility under the influence of alcohol. Based on the background and identified research gaps, the primary focus of this study is to analyze the regulation of blood alcohol limits for criminal offenders in Germany and Indonesia, as well as to formulate future regulatory models that can ensure legal certainty and justice within the Indonesian criminal law system.

## **METHODS**

In this study, the author employs a normative juridical research method, which is a form of legal research that focuses on the examination of library materials or secondary data as the primary basis for analyzing legal issues. The approaches used include the statutory approach, the comparative approach, and the conceptual approach. All research data are collected through library research. The data are then analyzed qualitatively, beginning with content analysis to examine the depth of regulations on blood alcohol limits and the implications of normative gaps. The findings are subsequently synthesized and presented in a descriptive-analytical manner to provide an overview as well as prescriptive recommendations for the formulation of an ideal regulatory framework in Indonesia.

## RESULTS AND DISCUSSION

### 1. Regulation of Blood Alcohol Concentration in Indonesia and Germany

The concept of criminal responsibility constitutes one of the fundamental pillars of criminal law and is grounded in the principle of fault (*schuld*). This principle requires the presence of awareness and free will (*mens rea*) on the part of the offender at the time the unlawful act is committed. As articulated by Van Hamel, a person can only be held criminally responsible if they possess legal awareness and are capable of controlling their will.<sup>8</sup> Accordingly, criminal responsibility does not merely assess the existence of an unlawful act, but also measures the extent to which the offender had full consciousness at the time the act was carried out.

The influence of alcohol on consciousness therefore becomes a significant factor that gives rise to distinct legal issues. Alcohol consumption at certain levels can reduce cognitive capacity, obscure moral judgment, and even eliminate consciousness entirely.<sup>9</sup> Alcohol affects the central nervous system by suppressing self-control functions and decision-making abilities. The degree of this influence can be measured through Blood Alcohol Concentration (BAC), which scientifically demonstrates a proportional relationship between the amount of alcohol in the body and the level of impairment of an individual's consciousness.<sup>10</sup> In modern criminal law, such parameters are used to distinguish between offenders who retain full criminal capacity and those who lose such capacity due to severe intoxication.

This parameter is known as Blood Alcohol Concentration (BAC). BAC functions as a standardized benchmark to determine the degree of psychological and physical impairment of an offender, enabling law enforcement authorities to accurately differentiate between total incapacity to bear responsibility and diminished criminal capacity. The use of BAC as a legal instrument is not only important for assessing criminal responsibility, but also for preventive policies, particularly in the context of driving under the influence (DUI). The *Prevention of Driving Under the Influence of Alcohol and Drugs* Report (2021) emphasizes that a BAC level as low as 0.05% is sufficient to impair cognitive

---

<sup>8</sup> Mulyadi, Lilik. *Pertanggungjawaban Pidana dalam Hukum Pidana Indonesia*. Jakarta: Sinar Grafika, 2020.

<sup>9</sup> World Health Organization, *Global Status Report on Alcohol and Health 2018* (Geneva: WHO, 2018); National Institute on Alcohol Abuse and Alcoholism, "Alcohol's Effects on the Body," U.S. Department of Health & Human Services, 2021, <https://www.niaaa.nih.gov/alcohols-effects-health/alcohols-effects-body>

<sup>10</sup> World Health Organization (WHO). *Global Status Report on Alcohol and Health 2018*. Geneva: WHO, 2018. <https://www.who.int/publications/i/item/9789241565639>

ability and therefore should serve as a reference point in evidence-based criminal law policy (evidenzbasierte Jurisprudenz).<sup>11</sup>

Rapid global developments have increased awareness of the importance of standardizing alcohol thresholds. The European Commission, through Recommendation 2001/115/EC and the Strategic Action Plan on Road Safety, has encouraged European Union member states to establish consistent BAC limits. Germany is among the most advanced countries in implementing such a system. Through the *Strafgesetzbuch* (StGB) and the *Straßenverkehrsgesetz* (StVG), Germany regulates BAC thresholds in detail to determine the degree of an offender's criminal responsibility. Section 20 StGB provides that a person who commits an unlawful act without culpability due to a pathological mental disorder, a profound disturbance of consciousness, mental deficiency, or any other serious mental abnormality shall not be held criminally responsible, while Section 21 StGB governs situations of diminished responsibility, allowing for mitigation of punishment. In addition, Section 323a StGB (*Vollrausch*) ensures that individuals who deliberately place themselves in a state of severe intoxication may still be punished.<sup>12</sup> This system guarantees legal certainty while preventing the abuse of intoxication as a ground for exemption from criminal liability.

The German legal system is not solely reliant on statutory provisions, but is also reinforced by consistent jurisprudence. One example is a 2022 decision of the Oberlandesgericht Bayern (BayObLG), which affirmed the obligation of trial judges to calculate the defendant's BAC at the time of the offense as a primary basis for determining whether the requirements for loss or diminution of criminal capacity are met.<sup>13</sup> This approach is further supported by the *Gesamtschau* principle developed by the Bundesgerichtshof (BGH), which requires judges to assess alcohol levels in conjunction with behavioral evidence and the concrete circumstances of the offender. Accordingly, a high BAC does not automatically eliminate criminal responsibility, but must be analyzed contextually through a combination of scientific assessment and normative legal judgment. This approach reflects a balance between scientific objectivity and moral-legal evaluation that characterizes the German criminal law system.

---

<sup>11</sup> European Commission. *Prevention of Driving Under the Influence of Alcohol and Drugs: Final Report*. Luxembourg: Publications Office of the European Union, 2021. Diakses pada 8 Oktober 2025. [https://www.drugsandalcohol.ie/36199/1/Prevention\\_of\\_driving\\_under\\_the\\_influence\\_of\\_alcohol\\_and\\_drugs](https://www.drugsandalcohol.ie/36199/1/Prevention_of_driving_under_the_influence_of_alcohol_and_drugs)

<sup>12</sup> Gesetze im Internet. "§20–§21 StGB – Schuldunfähigkeit wegen seelischer Störungen; §323a StGB – Vollrausch." Diakses pada 8 Oktober 2025. <https://lexmea.de/de/gesetz/stgb>

<sup>13</sup> Bayerisches Oberstes Landesgericht (BayObLG). 2022. *Urteil vom 12. Juli 2022 – 205 StRR 116/22*. München: juris.

The German criminal justice system is widely regarded as modern and measurable in assessing criminal responsibility, including in cases involving alcohol influence. As a country adhering to the civil law system, Germany possesses systematic and rational written regulations. Every criminal offense (*Straftat*) is assessed based on the principle of fault (*Schuldprinzip*), which requires awareness and the capacity for responsibility. This principle underpins the application of objective alcohol measurement not only in traffic offenses, but also in general crimes such as violence or homicide. Such an approach aligns with the concept of evidence-based jurisprudence (*evidenzbasierte Jurisprudenz*), which places scientific data at the core of determining criminal responsibility.

Cultural patterns of alcohol consumption constitute a major social factor underlying the need for detailed regulation. Alcohol, particularly beer, is deeply embedded in German social and cultural life. Celebrations such as Oktoberfest, beer gardens (*Biergarten*), and everyday social drinking demonstrate the significant cultural role of alcohol.<sup>14</sup> According to World Health Organization (WHO) data from 2023, alcohol consumption in Germany reached 10.6 liters of pure alcohol per capita per year, making it one of the highest in Europe.<sup>15</sup> Reports from Movendi International (2019)<sup>16</sup> and ZIPDO (2025) further indicate that approximately 11% of all criminal cases in Germany are committed under the influence of alcohol, with around 40,000 cases of serious violent crime involving intoxicated offenders and approximately 69,000 DUI arrests recorded in 2022.<sup>17</sup> These statistics confirm that high levels of alcohol consumption correlate with increased risks of crime and legal violations, thereby necessitating objective and measurable legal standards to ensure legal certainty and justice.

The historical development of alcohol regulation in Germany is rooted in the need to avoid judicial subjectivity in assessing intoxication. In the early twentieth century, court decisions frequently evaluated a person's "state of intoxication" subjectively, without standardized scientific benchmarks. This condition resulted in sentencing disparities. Consequently, Germany adopted an evidence-based jurisprudence (*evidenzbasierte Jurisprudenz*) approach by using Blood Alcohol Concentration (BAC) as an objective indicator for assessing an individual's capacity for criminal responsibility. This approach

---

<sup>14</sup> *Oktoberfest* adalah festival bir tahunan di Munich, sedangkan *Biergarten* merupakan taman bir khas Jerman tempat masyarakat menikmati bir bersama. BBC Travel, "Why Beer Is More than a Drink in Germany". 2022. Diakses pada 30 Oktober 2025

<sup>15</sup> World Health Organization (WHO). *Global Status Report on Alcohol and Health*. 2023. Diakses pada 8 Oktober 2025.

<sup>16</sup> Movendi International. "Study: Germany Has an Alcohol Problem." 2019. Diakses pada 8 Oktober 2025. <https://movendi.ngo/policy-updates/2019/04/18/study-germany-has-an-alcohol-proble>

<sup>17</sup> ZIPDO. "Germany Drunk Driving Statistics." 2025. Diakses pada 8 Oktober 2025. <https://zipdo.co/germany-drunk-driving-statistics>

enables German courts to accurately distinguish between total incapacity to bear responsibility (*schuldunfähig*), diminished responsibility (*vermindert schulfähig*), and full criminal responsibility (*voll schulfähig*).<sup>18</sup> Such standardization has become a crucial element in upholding the principle of equality before the law (*Gleichheit vor dem Gesetz*) and in preventing divergent judicial interpretations.

Beyond cultural factors and legal history, developments in forensic science have also played a significant role in shaping alcohol regulation in Germany. Forensic medicine (*Rechtsmedizin*) and forensic psychiatry (*forensische Psychiatrie*) are closely integrated into the German criminal justice system, particularly through biological testing of alcohol levels. Blood Alcohol Concentration examinations are conducted using gas chromatography or enzymatic analysis, both of which are legally recognized as valid scientific evidence. As explained in the journal article "*Evidentiary Values of Breath Alcohol Concentrations in Criminal Proceedings*," alcohol level measurements—whether obtained from breath or blood—possess high evidentiary value in criminal proceedings. Scientifically, these test results demonstrate a direct correlation between alcohol concentration and the degree of impairment in cognitive function and self-control.<sup>19</sup> This integration renders alcohol regulation in Germany not merely repressive, but also preventive and corrective, serving to prevent misuse of intoxication as a legal excuse, provide judges with a scientific basis for decision-making, and protect society from offenders who lose self-control.

Regulations concerning alcohol levels are comprehensively governed by the *Strafgesetzbuch* (StGB) and the *Straßenverkehrsgesetz* (StVG). Section 316 StGB (*Trunkenheit im Verkehr*) stipulates that any person who operates a vehicle while intoxicated to the extent that they are incapable of controlling it may be punished with imprisonment of up to one year or a fine. Section 315c StGB (*Gefährdung des Straßenverkehrs*) imposes more severe penalties where such conduct endangers others.<sup>20</sup> German jurisprudence classifies blood alcohol levels into several categories. The first is relative driving incapacity (*relative Fahruntüchtigkeit*), with BAC levels ranging from 0.3–1.09‰, which requires additional evidence of impaired driving ability. The second is absolute driving incapacity (*absolute Fahruntüchtigkeit*), applicable at BAC levels of  $\geq 1.1\text{‰}$ , where the offender is legally presumed incapable of driving without further proof. A BAC level of  $\geq 0.5\text{‰}$  is classified as an administrative offense under Section 24a StVG. In addition, Section 323a StGB (*Vollrausch*) provides that a person who intentionally places themselves in a state of

<sup>18</sup> German Criminal Code (*Strafgesetzbuch*, StGB), §§ 20–21.

<sup>19</sup> ResearchGate. 2016. *Evidentiary Values of Breath Alcohol Concentrations in Criminal Proceedings*.

<sup>20</sup> *Strafgesetzbuch* (StGB) Republik Federal Jerman.



severe intoxication may still be held criminally liable if, while intoxicated, they commit an act fulfilling the elements of a criminal offense. This regulatory framework demonstrates that the German legal system is designed to close loopholes that might otherwise allow intoxication to be exploited as a ground for justification or excuse.

Accordingly, Sections 20, 21, and 323a StGB illustrate that the German criminal justice system positions alcohol level as a measurement tool directly correlated with the principles of criminal incapacity (*schuldunfähigkeit*) and diminished responsibility (*vermindert schulfähig*). This means that alcohol thresholds are applied not only in traffic law, but also as parameters for assessing the psychological capacity of offenders in all types of criminal offenses, including violence, assault, and homicide. Jurisprudence of the *Bundesgerichtshof* (BGH) affirms that a BAC of  $\geq 3.0\text{‰}$  generally indicates total incapacity, while levels between 2.0–2.99‰ may indicate diminished responsibility, depending on additional evidence such as impaired perception, coordination, or self-control.<sup>21</sup>

The application of the principle of proportionality within German law is also evident in the differentiated alcohol thresholds imposed on certain professions. In the context of employment law, the *Works Constitution Act* (*Betriebsverfassungsgesetz*, BetrVG) and European Union regulations do not impose a uniform BAC limit for all workers, but establish stricter standards for professions involving public safety.<sup>22</sup> For example, pilots, bus drivers, taxi drivers, and public transport operators are subject to alcohol limits approaching 0.0‰, given that their occupations involve the safety of many lives. This demonstrates Germany's application of the principle of proportionality (*Verhältnismäßigkeitsprinzip*), whereby the greater the social risk associated with a profession, the stricter the alcohol limits imposed.

This layered and scientifically grounded regulatory system enables Germany to balance legal certainty with substantive justice. The use of objective forensic data prevents subjective judicial decisions and ensures more equitable legal protection. Alcohol regulation in Germany thus functions not only as an instrument of criminal law, but also as part of a broader social policy aimed at safeguarding public safety and preventing alcohol abuse. From this perspective, Indonesia may draw important lessons regarding the necessity of objective alcohol thresholds as benchmarks for determining criminal responsibility.

---

<sup>21</sup> European Commission. 2021. *Prevention of Driving Under the Influence of Alcohol and Drugs: Final Report*.

<sup>22</sup> *Betriebsverfassungsgesetz* (BetrVG) – *Works Constitution Act*.

In contrast, neither the former Indonesian Criminal Code nor the current National Criminal Code contains explicit provisions establishing Blood Alcohol Concentration (BAC) limits as a basis for assessing an offender's capacity for criminal responsibility. Article 44 of the Criminal Code regulates mental disorders or mental disabilities but does not encompass intoxication caused by alcohol. As a result, judicial assessments in Indonesia tend to be subjective, leading to legal uncertainty and sentencing disparities in similar cases. This view is supported by R. Soesilo, who explains that "a person whose mental condition is disturbed due to alcohol intoxication is generally not considered to be mentally defective, unless it can be proven that their memory has completely disappeared."<sup>23</sup> In line with this, Sandra Amelia and Aji Lukman also assert that "the absence of regulations governing blood alcohol concentration (BAC) thresholds for drivers results in inconsistent law enforcement."<sup>24</sup> These conditions demonstrate the urgent need for regulatory reform to establish objective alcohol thresholds, as applied in Germany, in order to achieve legal certainty, proportionality of sanctions, and substantive justice within the national criminal justice system.

Indonesia, whose legal system remains influenced by Dutch colonial heritage, adopts a different approach in determining criminal responsibility for offenders under the influence of alcohol. Criminal liability is grounded in the principle of legality as stipulated in Article 1 paragraph (1) of the Criminal Code, which states that "no act shall be punished unless it is based on the force of existing criminal legislation." The application of this principle means that, in the absence of explicit legal provisions defining alcohol thresholds as indicators of criminal capacity, judges lack a clear normative basis for determining whether an offender has lost consciousness to a degree that would negate criminal liability. Consequently, the absence of alcohol threshold regulations creates a legal vacuum and undermines legal certainty in the application of the legality principle.

Meanwhile, regulations outside criminal law address only the classification and alcohol content of alcoholic beverages. Article 3 of Presidential Regulation No. 74 of 2013 categorizes alcoholic beverages based on ethanol content, stating that alcoholic beverages are classified into Group A with ethanol content up to 5%, Group B with ethanol content exceeding 5% up to 20%, and Group C with ethanol content exceeding 20% up to 55%.<sup>25</sup>

---

<sup>23</sup> R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) serta Komentar-Komentarnya Lengkap Pasal Demi Pasal* (Bogor: Politeia, 1995), 61.

<sup>24</sup> Sandra Amelia dan Aji Lukman Ibrahim, "Reformulation of Sanctions for Drunk Driving Traffic Offenders," *Syiah Kuala Law Journal* 9, no. 2 (Agustus 2025): 460–468.

<sup>25</sup> Peraturan Presiden Nomor 74 Tahun 2013 tentang Pengendalian dan Pengawasan Minuman Beralkohol.

This classification is intended solely for administrative trade and supervision purposes, not as a criminal law reference for assessing an individual's level of consciousness. Consequently, it provides no scientific guidance for law enforcement authorities in determining the degree of awareness or criminal responsibility of offenders under the influence of alcohol. A similar approach is reflected in the Indonesian Food and Drug Authority (BPOM) Regulation No. 5 of 2021 on Safety and Quality Standards for Alcoholic Beverages, which regulates technical aspects of product composition and chemical safety. These provisions further confirm that Indonesian regulations remain focused on product safety and distribution rather than criminal responsibility.<sup>26</sup> Likewise, the Draft Bill on the Prohibition of Alcoholic Beverages submitted to the House of Representatives does not regulate alcohol thresholds affecting consciousness, but instead emphasizes prohibition of production, distribution, and consumption. Thus, to date, there is no legal basis enabling law enforcement authorities in Indonesia to objectively determine alcohol levels that negate an offender's consciousness or criminal responsibility.

The absence of objective parameters has a direct impact on judicial practice in Indonesia. In many cases, judges frequently rely on subjective assessments to determine whether an intoxicated offender can still be held criminally responsible. Such narrative-based evaluations reveal a broad scope for interpretation. Similar cases may result in different judgments depending on a judge's perception of the offender's level of consciousness. Research conducted by Zul Khaidir Kadir explains that the justice system cannot function properly without clear evidentiary standards, as their absence leads to legal uncertainty.<sup>27</sup> Similar inconsistencies are also identified in studies by Ateng and Adhari, which demonstrate sentencing disparities in criminal cases involving alcohol influence.<sup>28</sup> The lack of provisions regulating alcohol thresholds further creates a normative vacuum (legal gap), as Indonesia does not yet possess legal instruments capable of distinguishing between mild and severe intoxication in the context of criminal responsibility. Theoretically, the degree of intoxication may affect two fundamental elements of criminal law: awareness (*mens rea*) and free will (*voluntas*). However, due to the absence of quantitative benchmarks, assessments of these elements are entirely left to judicial interpretation.

---

<sup>26</sup> Peraturan BPOM Nomor 5 Tahun 2021 tentang Standar Keamanan dan Mutu Minuman Beralkohol.

<sup>27</sup> Kadir, Z. K., 2025. *Meruntuhkan Pilar Keadilan: Apakah Sistem Peradilan Dapat Berfungsi Tanpa Standar Pembuktian?* MANDUB: Jurnal Politik, Sosial, Hukum dan Humaniora, Vol. 3 No. 2, Juni 2025, hlm. 40–61

<sup>28</sup> Ateng, K. V. L. K., & Adhari, A., 2025. *Kriteria Disparitas Pemidanaan yang Dapat Dipertanggungjawabkan*. Dinasti Review: Jurnal Ilmu Hukum Humaniora dan Politik, Vol. 5 No. 3, Januari 2025.

Nevertheless, Indonesia already has a basic framework for assessing criminal capacity through Articles 38 and 39 of the National Criminal Code. Article 38 regulates diminished criminal responsibility (*verminderde toerekeningsvatbaarheid*) for offenders with mental and/or intellectual disabilities, while Article 39 governs total incapacity (*ontoerekeningsvatbaarheid*) for individuals suffering from severe psychotic disorders. These provisions reflect recognition of graduated levels of criminal responsibility based on psychological conditions. However, they do not cover intoxication caused by alcohol, even though such a condition may functionally resemble a disturbance of consciousness. According to Eddy O.S. Hiariej and Topo Santoso in *Annotations on the National Criminal Code*, these articles affirm differentiated degrees of responsibility, thereby allowing severe intoxication—when medically proven—to be analogized to Articles 38 and 39. This analogy opens the possibility for Indonesia to adopt scientific approaches such as Blood Alcohol Concentration (BAC), as implemented in Germany, in order to establish a more objective, proportional, and just system.

This disparity is clearly reflected in judicial practice. In serious crimes such as assault resulting in death or homicide, the legal vacuum in Indonesia causes offenders who have completely lost consciousness due to alcohol intoxication to be treated as if they acted with full awareness, simply because no medical mechanism exists to measure alcohol levels. In contrast, the German legal system mandates forensic examinations to determine whether an offender falls under the category of total incapacity (*schuldunfähig*) pursuant to Section 20 StGB or diminished responsibility (*verminderte Schuldfähigkeit*) under Section 21 StGB. Thus, while Indonesia assesses intoxication narratively, Germany evaluates it scientifically and measurably.

This normative gap also complicates law enforcement. Police officers lack technical guidelines to measure a suspect's alcohol level, and prosecutors have no scientific basis to assess the impact of alcohol on criminal intent. Consequently, judges often issue rulings based on general impressions without medical examination, resulting in sentencing disparities in similar cases due to differing interpretations of the offender's level of consciousness. This condition weakens deterrence and legal certainty, as emphasized by Balqis, Christianto, and Samudra, who argue that weak legal parameters reduce the effectiveness of criminal enforcement against offenders under the influence of alcohol.<sup>29</sup>

---

<sup>29</sup> Balqis, B., Christianto, H., & Samudra, A. H., 2023. *Pertanggungjawaban Pidana terhadap Pelaku yang Mencampurkan Etil Alkohol ke dalam Pangan*. Qodiri: Jurnal Penelitian dan Kajian Keislaman, Vol. 21 No. 1, April 2023.

Beyond legal gaps, social and cultural factors also contribute to the absence of alcohol threshold regulation in Indonesia. Alcohol consumption is often viewed primarily as a moral or religious violation, leading legal approaches to emphasize normative considerations rather than scientific assessment. At the same time, limited forensic infrastructure and weak integration between forensic medicine and the criminal justice system hinder the application of alcohol level measurements as admissible evidence. This contrasts with European countries such as Germany, where alcohol test results are directly integrated into criminal evidentiary processes. Consequently, social, political, and cultural influences have shaped Indonesia's approach to alcohol as predominantly moralistic rather than science-based.

Therefore, normative reform is required to explicitly regulate alcohol thresholds as parameters for criminal responsibility within the development of national criminal law. To date, neither the former Criminal Code nor the National Criminal Code provides objective instruments to assess the impact of alcohol on an offender's legal consciousness. As a result, judicial assessments continue to rely on subjective judgment unsupported by scientific evidence, leading to legal uncertainty and potential sentencing disparities in similar cases. Indonesia must therefore adopt an evidence-based jurisprudence (*evidenzbasierte Jurisprudenz*) approach, whereby medical and forensic data are integrated into criminal adjudication. Establishing alcohol threshold standards would serve not only as an objective evidentiary tool for assessing criminal intent but also as an instrument of social prevention. Such reform would strengthen the principles of legal certainty (*Rechtssicherheit*) and substantive justice (*materielle Gerechtigkeit*). Accordingly, scientifically measurable alcohol regulation can serve as a crucial foundation for a more modern, proportional, and just Indonesian criminal justice system, as exemplified by the German legal framework.

## **2. Regulation of Blood Alcohol Limits for Criminal Offenders in the Future**

The regulation of blood alcohol limits for criminal offenders constitutes an urgent need in the reform of Indonesia's national criminal law. At present, there is no standard determining the extent to which an individual may be held criminally liable when committing an offense while intoxicated, resulting in judicial assessments that tend to be subjective and inconsistent. The establishment of a specific Blood Alcohol Concentration (BAC) threshold would provide legal certainty, eliminate subjective judgments, and fulfill the principle of legality by ensuring that standards of criminal responsibility are measurable, predictable, and not dependent on individual interpretation. The principle of legality as a fundamental pillar of criminal law, as stipulated in Article 1 paragraph (1) of the Criminal Code (KUHP), which states that "no act may be punished except on the

basis of a criminal rule that has existed in prior legislation,” requires certainty, clarity of norms, and predictability. The determination of a specific BAC limit would provide an objective parameter for assessing an offender’s capacity for criminal responsibility, while simultaneously fulfilling the concept of *lex certa* so that criminal provisions are formulated clearly and are not open to multiple interpretations. According to Iskandar, legal certainty not only requires the existence of written regulations, but must also be supported by norms that are empirically measurable in order to avoid divergent interpretations in law enforcement practice.<sup>30</sup> Thus, the regulation of alcohol levels is not merely a medical issue, but a substantive application of the principle of legality to ensure that every potentially punishable act has clear and measurable boundaries.

The principle of balance in criminal law requires proportional protection between the interests of society and the rights of the individual offender. According to Muladi and Barda Nawawi Arief, modern criminal law must be capable of accommodating both corrective justice and distributive justice in a balanced manner, so as to avoid excessive criminalization of individuals who, from a medical perspective, have lost their capacity for responsibility.<sup>31</sup> In this context, regulating alcohol levels is necessary to ensure that offenders who genuinely lose consciousness due to biological factors are not treated the same as those who remain conscious but use alcohol as a justification. The principle of liability for those who intentionally place themselves in a state of incapacity is affirmed in Article 55 of the National Criminal Code, which states: “Any person who commits a criminal offense shall not be relieved of criminal responsibility on the grounds of justification or excuse if such condition was intentionally caused to create a circumstance that constitutes a ground for the exclusion of punishment.” This provision emphasizes that intentional intoxication cannot serve as a ground for exemption from punishment. This is consistent with the concept of *Vollrausch* in German criminal law (§ 323a StGB), which criminalizes individuals who knowingly place themselves in a state of incapacity. Accordingly, future regulation of blood alcohol limits must distinguish between offenders who lose consciousness due to pathological factors deserving mitigation of punishment and those who intentionally become intoxicated to commit criminal acts and therefore must bear full responsibility. The formulation of such norms must also align with the values of Pancasila and the 1945 Constitution of the Republic of Indonesia,

---

<sup>30</sup> Iskandar, M., 2021. *Implikasi Asas Legalitas terhadap Penegakan Hukum dan Keadilan*. Jurnal Ilmu Hukum Fiat Justisia, Vol. 15 No. 2, 7 April 2021. DOI: <https://doi.org/10.25041/fiatjustisia.v15no2>

<sup>31</sup> Muladi, dan Arief Barda Nawawi, 2010. *Teori-Teori dan Kebijakan Pidana* (Cetakan ke-4). Bandung: Alumni.

particularly the Second Principle, so that law enforcement remains proportionate and reflects a balance between moral justice and legal justice.

The implementation of clear blood alcohol limits would have a significant impact on the principles of proportionality and legal certainty in Indonesia's criminal justice system. Currently, the absence of scientific instruments renders judicial assessments of the influence of alcohol highly subjective and prone to sentencing disparities. By establishing alcohol levels as a measure of criminal responsibility, degrees of intent and negligence can be assessed more proportionally, for example by distinguishing between an offender with a BAC of 0.03‰ who remains conscious and one with a BAC of 1.1‰ who has lost self-control. This principle aligns with the perspective in Indonesian criminal law policy that proportionality constitutes a form of substantive justice ensuring that punishment is neither more severe nor more lenient than the offender's culpability.<sup>32</sup>

Furthermore, the application of objective parameters such as BAC would strengthen due process of law by introducing scientific evidence that can be tested in court. According to Suryawan in *Fiat Justisia Journal of Law*, modern criminal proof must adopt an empirical approach so that it does not rely solely on subjective perceptions, but also on verifiable scientific data.<sup>33</sup> Thus, the existence of concrete rules such as BAC thresholds can reduce the likelihood of erroneous assessments and enhance the integrity of the criminal justice system. In addition to legal certainty, the determination of blood alcohol limits is closely related to the principle of equality before the law. Offenders in similar conditions would be assessed based on the same standards rather than the individual perceptions of law enforcement officials. Harahap's research on drinking culture in Indonesia shows that perceptions of alcohol are often influenced by moral and religious values rather than scientific assessment.<sup>34</sup> With BAC parameters, every offender can be treated objectively without discrimination based on social or cultural background.

Germany's system of regulating alcohol levels demonstrates how criminal law can balance legal certainty and substantive justice. In this system, a BAC of  $\geq 1.1\text{‰}$  is classified as absolute unfitness for criminal responsibility, while a BAC of 0.3–1.09‰ constitutes relative unfitness if accompanied by evidence of impaired consciousness. These scientific parameters provide a consistent basis for judges in assessing criminal liability. This model is relevant to Indonesian legal reform because it offers four

---

<sup>32</sup> Marunduri, Fanema A., Supriyono, dan Gunadi, Genta Arief, 2023. *Kebijakan Hukum Pidana*. Jakarta: PT Literasi Nusantara Abadi Grup.

<sup>33</sup> Suryawan, I. G. N. (2020). *Penerapan Pendekatan Empiris dalam Pembuktian Hukum Pidana*. *Fiat Justisia Journal of Law*, Vol. 14 No. 1.

<sup>34</sup> Harahap, S., 2022. *Budaya Minum di Indonesia: Antara Tradisi dan Regulasi*. *Jurnal Kebijakan Sosial Indonesia*, Vol. 4 No. 1.

advantages: objectivity through scientific measurement that reduces judicial subjectivity; proportionality between the degree of culpability and the offender's state of consciousness; prevention of legal abuse, as intoxication cannot be used as a means to evade punishment; and flexibility through a graduated framework that still considers the social and psychological context of the offender. By adopting a model similar to Germany's, the principle of proportionality can be realized concretely, ensuring that punishment accounts for both the consequences of the act and the offender's scientifically assessed capacity for responsibility, thereby strengthening substantive justice and reducing legal uncertainty in Indonesia.

The implementation of a BAC system in Indonesia would, of course, require adaptation to the country's geographical, demographic, and socio-cultural conditions. Tropical climates may accelerate alcohol metabolism, meaning that intoxicating effects can occur at lower BAC levels than in temperate countries such as Germany. Therefore, BAC thresholds in Indonesia must be adjusted to reflect the physiological conditions of tropical populations. Social and cultural factors are also essential considerations. Indonesia has long-standing traditions of consuming local alcoholic beverages – such as *tuak* in North Sumatra, *arak* in Bali, *brem* in East Java, and *cap tikus* in North Sulawesi – which are not solely intended to cause intoxication but also possess social, cultural, and ritual significance deeply embedded in indigenous communities.<sup>35</sup> These practices indicate that alcohol in Indonesia is not viewed merely as an intoxicant, but also as part of local cultural identity protected by the principle of respect for local wisdom as stipulated in Article 18B paragraph (2) of the 1945 Constitution, which states that “the State recognizes and respects indigenous law communities and their traditional rights insofar as they remain alive and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia, as regulated by law.” Therefore, the regulation of alcohol levels within criminal law must not be repressive toward local cultures, but rather adaptive and proportionate, distinguishing between culturally embedded alcohol consumption and alcohol abuse that poses a risk of criminal conduct.

The approach to addressing the normative gap regarding BAC must be based on a *lex specialis* rule-making model. This is essential because both the former Criminal Code and the National Criminal Code function as general law (*lex generalis*) and do not regulate Blood Alcohol Concentration as a parameter of criminal responsibility. In criminal law,

---

<sup>35</sup> Kompas, “Mengenal Arak Bali yang Jadi Warisan Budaya Takbenda Indonesia,” 4 November 2022, diakses 30 Oktober 2025, <https://www.kompas.com/food/read/2022/11/04/142725175/mengenal-arak-bali-yang-jadi-warisan-budaya-takbenda-indonesia>



the principle of *lex specialis derogat legi generali* affirms that more specific rules prevail over general ones when regulating the same matter. Accordingly, a specific criminal regulation (*lex specialis*) is required to scientifically establish BAC limits, measurement procedures, and their implications for criminal responsibility. This principle has proven effective in Law Number 22 of 2009 on Road Traffic and Transportation. By adopting a similar approach, a specific BAC regulation could provide legal certainty, prevent normative conflicts, and remain aligned with Indonesia's socio-cultural values.

As a concrete step in implementing a *lex specialis*-based rule-making model, the regulation of blood alcohol concentration (BAC) limits should be realized through the insertion of Article 38A into the National Criminal Code (KUHP Nasional), to be placed immediately after Article 38. Article 38A of the National Criminal Code would function as a *lex specialis* that provides scientific parameters for measuring the influence of alcohol on an offender's capacity for criminal responsibility, in harmony with Article 38, which regulates other conditions of diminished responsibility. The proposed formulation is as follows: "*The capacity for criminal responsibility of an offender under the influence of alcohol shall be assessed based on the level of alcohol in the blood (Blood Alcohol Concentration/BAC), with a range between 0.03% and 0.1% serving as the benchmark for assessment.*" With the introduction of this *lex specialis* provision, it is expected that judges will have an objective and scientific standard for assessing levels of consciousness, preventing the misuse of intoxication as a defense, and strengthening the principles of legal certainty and justice. This proposal also remains consistent with Article 55 of the National Criminal Code, which rejects the manipulation of circumstances to evade legal responsibility, and aligns with the German criminal law system, which has long utilized alcohol levels as a standard for assessing criminal liability. By adapting its implementation to Indonesia's social and cultural conditions, the national criminal law system can become more objective, scientific, and just, while also reflecting a legal identity that is humanistic, adaptive, and progressive.

## CONCLUSION

This study finds that Indonesia's criminal law system continues to experience a normative gap due to the absence of regulation on **blood alcohol concentration (BAC)** as an objective parameter for assessing an offender's capacity for criminal responsibility. The lack of quantitative standards causes judicial assessments to be largely subjective, gives rise to sentencing disparities, and is not fully aligned with the principles of legality and legal certainty. A comparison with German law demonstrates that BAC standards—such as  $\geq 1.1\%$  as an indicator of the loss of full criminal responsibility—enable

assessments of criminal liability that are more scientific, consistent, and proportionate. Theoretically, these findings underscore the importance of integrating scientific parameters into the doctrine of criminal responsibility, reinforce the relevance of the principle of fault (*Schuldprinzip*), and support legal modernization through *evidenzbasierte Jurisprudenz* (evidence-based jurisprudence). Practically, the current absence of BAC standards hampers law enforcement agencies due to the lack of adequate evidentiary instruments for assessing an offender's level of consciousness, thereby contributing to inconsistent judicial decisions and weakening substantive justice. As a policy recommendation, this study proposes the formulation of a new norm within the National Criminal Code through the addition of Article 38A as a *lex specialis* establishing a BAC threshold of 0.03%–0.1% as an objective benchmark for assessing criminal responsibility. Such regulation is expected to enhance legal certainty, prevent the abuse of intoxication as a defense, and strengthen the integrity of the criminal justice process. This study also opens avenues for further research, including forensic studies to determine the most appropriate BAC measurement methods for Indonesian conditions, sociological and anthropological research on the impact of BAC regulation on local alcohol consumption cultures, and comparative studies with other civil law countries to formulate the most suitable BAC regulatory model for Indonesia's criminal law system.

## REFERENCES

### Books:

- Soesilo, R. Kitab Undang-Undang Hukum Pidana (KUHP) serta Komentari-Komentarnya Lengkap Pasal Demi Pasal. Bogor: Politeia, 1995.
- Soekanto, Soerjono, dan Mamudji Sri. Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Jakarta: Rajawali Pers, 2001.
- Moeljatno. Asas-Asas Hukum Pidana. Jakarta: Rineka Cipta, 2002.
- Sunggono, Bambang. Metode Penelitian Hukum. Cet. ke-5. Jakarta: PT RajaGrafindo Persada, 2003.
- Asshiddiqie, Jimly. Konstitusi dan Konstitusionalisme Indonesia. Jakarta: Konstitusi Press, 2005.
- Muladi, dan Barda Nawawi Arief. Teori-Teori dan Kebijakan Pidana. Cet. ke-4. Bandung: Alumni, 2010.
- Mulyadi, Lilik. Pertanggungjawaban Pidana dalam Hukum Pidana Indonesia. Jakarta: Sinar Grafika, 2020.
- Marunduri, Fanema A., Supriyono, dan Genta Arief Gunadi. Kebijakan Hukum Pidana.

Jakarta: PT Literasi Nusantara Abadi Grup, 2023.

Hiariej, Eddy O. S., dan Topo Santoso. Anotasi KUHP Nasional. Depok: Rajawali Pers, 2025.

Legislation:

Undang-Undang Nomor 1 Tahun 1946 tentang Peraturan Hukum Pidana.

Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan. Lembaran Negara Republik Indonesia Tahun 2009 Nomor 96 dan Tambahan Lembaran Negara Republik Indonesia Nomor 5025.

Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana. Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1 dan Tambahan Lembaran Negara Republik Indonesia Nomor 6841.

Peraturan Presiden Nomor 74 Tahun 2013 tentang Pengendalian dan Pengawasan Minuman Beralkohol. Lembaran Negara Republik Indonesia Tahun 2013 Nomor 189

Peraturan BPOM Nomor 5 Tahun 2021 tentang Standar Keamanan dan Mutu Minuman Beralkohol.

Pengadilan Negeri Salatiga. Putusan Nomor 98/Pid.B/2021/PN Slt. 2021.

Journals:

Apriyanto, T., E. Soponyono, dan U. Rozah. "Analisis Kebijakan Pidana pada Tindak Pidana Pembunuhan dalam Keadaan Mabuk." *Jurnal Ilmu Hukum* 17, no. 1 (2022). <http://dx.doi.org/10.21107/ri.v17i1.14417>.

Fitriana, R., dan V. S. Putri. "Comparison of the Provisions of Criminal Sanctions Against Drunken People Who Commit Criminal Acts in Indonesia and Russia." *Journal of Humanities and Social Studies* 1, no. 1 (2023).

Fatma, R. A., dan T. Srihadiati. "Minuman Keras sebagai Faktor Determinan Tindak Kejahatan Penganiayaan di Wilayah Jakarta Selatan." *UNES Law Review* 6, no. 4 (2024). <https://doi.org/10.31933/uneslaw.v6i4.1626>.

Leto, P. Y., dan H. Yusuf. "Perspektif Tindak Kejahatan Kriminal Pengaruh atau Akibat Alkohol." *Jurnal Intelek dan Cendekiawan Nusantara* 1, no. 2 (2024).

Nur, E. F., M. Natsir, P. Phireri, dan K. Mannan. "Melangkah ke dalam Kegelapan: Kajian Yuridis Tindak Pidana Pembunuhan dalam Pengaruh Alkohol." *Jurnal Litigasi Amsir* 11, no. 3 (2024). <https://doi.org/10.47268/litigasi.v11i3.1740>.

Isroriyah, R. Pengaturan Hukum Pidana Perbuatan Mengonsumsi Minuman Beralkohol yang Mengakibatkan Tindak Pidana. Universitas Jambi, 2023.

Wijaya, I. B. K. P., dan A. A. N. Wirasila. "Pertanggungjawaban Pidana terhadap Pelaku Tindak Pidana yang Diakibatkan Pengaruh Minuman Beralkohol di Kota Denpasar." *Jurnal Ilmu Hukum* 8, no. 8 (2020). Denpasar: Universitas Udayana

Press.

- Kadir, Z. K. "Meruntuhkan Pilar Keadilan: Apakah Sistem Peradilan Dapat Berfungsi Tanpa Standar Pembuktian?" *MANDUB: Jurnal Politik, Sosial, Hukum dan Humaniora* 3, no. 2 (Juni 2025): 40–61. <https://doi.org/10.59059/mandub.v3i2.2351>.
- Ateng, K. V. L. K., dan A. Adhari. "Kriteria Disparitas Pidana yang Dapat Dipertanggungjawabkan." *Dinasti Review: Jurnal Ilmu Hukum Humaniora dan Politik* 5, no. 3 (Januari 2025). <https://doi.org/10.38035/jihhp.v5i3>.
- Balqis, B., H. Christianto, dan A. H. Samudra. "Pertanggungjawaban Pidana terhadap Pelaku yang Mencampurkan Etil Alkohol ke dalam Pangan." *Qodiri: Jurnal Penelitian dan Kajian Keislaman* 21, no. 1 (April 2023). <https://doi.org/10.53515/qodiri>.
- Kawilarang, D. A. "Analisis Pertanggungjawaban Pidana Pelaku Penganiayaan Akibat Mengonsumsi Minuman Beralkohol." *Lex Privatum: Jurnal Fakultas Hukum Universitas Sam Ratulangi* 15, no. 1 (2025).
- Iskandar, M. "Implikasi Asas Legalitas terhadap Penegakan Hukum dan Keadilan." *Jurnal Ilmu Hukum Fiat Justisia* 15, no. 2 (7 April 2021). <https://doi.org/10.25041/fiatjustisia.v15no2>.
- Suryawan, I. G. N. "Penerapan Pendekatan Empiris dalam Pembuktian Hukum Pidana." *Fiat Justisia Journal of Law* 14, no. 1 (2020).
- Harahap, S. "Budaya Minum di Indonesia: Antara Tradisi dan Regulasi." *Jurnal Kebijakan Sosial Indonesia* 4, no. 1 (2022).
- Amelia Sandra, dan Aji Lukman Ibrahim. "Reformulation of Sanctions for Drunk Driving Traffic Offenders." *Syiah Kuala Law Journal* 9, no. 2 (Agustus 2025): 460–468.
- ResearchGate. 2016. Evidentiary Values of Breath Alcohol Concentrations in Criminal Proceedings.
- Internet/Website:
- Policewatch.id. Aturan Keras bagi Pelanggar Lalu Lintas di Jerman. Diakses pada 21 Mei 2025. <https://policewatch.id/aturan-keras-pelanggar-lalu-lintas-jerman>
- European Commission. Prevention of Driving Under the Influence of Alcohol and Drugs: Final Report. Luxembourg: Publications Office of the European Union, 2021. Diakses pada 8 Oktober 2025. [https://www.drugsandalcohol.ie/36199/1/Prevention\\_of\\_driving\\_under\\_the\\_influence\\_of\\_alcohol\\_and\\_drugs](https://www.drugsandalcohol.ie/36199/1/Prevention_of_driving_under_the_influence_of_alcohol_and_drugs)
- Gesetze im Internet. "§20–§21 StGB – Schuldunfähigkeit wegen seelischer Störungen; §323a StGB – Vollrausch." Diakses pada 8 Oktober 2025. <https://lexmea.de/de/gesetz/stgb>

- Hukumonline. "Aturan Hukum Minum Alkohol di Indonesia." Hukumonline.com, 2022. Diakses pada 8 Oktober 2025. <https://www.hukumonline.com/berita/a/aturan-hukum-minum-alkohol-di-indonesia-lt62bd612cc439b>
- World Health Organization (WHO). Global Status Report on Alcohol and Health. 2023. Diakses pada 8 Oktober 2025.
- Movendi International. "Study: Germany Has an Alcohol Problem." 2019. Diakses pada 8 Oktober 2025. <https://movendi.ngo/policy-updates/2019/04/18/study-germany-has-an-alcohol-proble>
- ZIPDO. "Germany Drunk Driving Statistics." 2025. Diakses pada 8 Oktober 2025. <https://zipdo.co/germany-drunk-driving-statistics>
- Lexmea. "§316 StGB – Trunkenheit im Verkehr; §315c StGB – Gefährdung des Straßenverkehrs; §323a StGB – Vollrausch." Diakses pada 8 Oktober 2025. <https://lexmea.de/de/gesetz/stgb>
- Kompas, "Mengenal Arak Bali yang Jadi Warisan Budaya Takbenda Indonesia," 4 November 2022, diakses 30 Oktober 2025, <https://www.kompas.com/food/read/2022/11/04/142725175/mengenal-arak-bali-yang-jadi-warisan-budaya-takbenda-indonesia>
- Lainnya:
- Strafgesetzbuch (StGB) [German Criminal Code]. Federal Law Gazette I.
- Straßenverkehrsgesetz (StVG) [Road Traffic Act]. Federal Law Gazette I.
- Pengadilan Tinggi Negara Bagian Bayern (BayObLG). Putusan tanggal 6 Desember 2022 – Nomor 203 StRR 481/22, BeckRS 2022, 48392.
- European Commission. 2021. Prevention of Driving Under the Influence of Alcohol and Drugs: Final Report.