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The Concept of Criminalization of Judges' Negligence: The Merit System and Evaluation of Judgments as Judicial Reform

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ABSTRACT

The failure of the supervision system and sanctioning mechanisms to address the negligence of judges has created an urgent need to reform the justice system. Disparities in the independence and accountability of judges create accountability gaps in the justice system. This study uses a juridical-normative approach to analyze positive legal norms, legal principles, and the systematics of laws and regulations related to the accountability of judges for negligence in deciding criminal cases. This study reconceptualizes culpa lata into two categories: negligence that leads to KKN, using the Theory of Rational Choice, Theory of Opportunity, and the Theory of White Collar Crime based on motives and manipulation attempts. Non-KKN Negligence, in the first phase, examines the individual level based on Social Control Theory. The second phase analyzes the failure of the supervisory system to function at the institutional level using the Theory of Sociological Institutionalism and the Theory of Rational Choice Institutionalism. The findings suggest that criminalizing culpa lata is a last resort. Therefore, the authors propose an integrated concept consisting of three components: the evaluation of AI-based judgments synergized with the merit system as a tool for detecting negligence, the special court as the final judicial forum, and the criminalization of culpa lata as a sanction mechanism. This concept aims to balance judicial independence with accountability through effective and organized mechanisms in order to restore public trust and realize the role of the Supreme Court in Indonesia.

Keywords: judicial independence and accountability, culpa lata, criminalization of judges, AI-based merit system, judicial reform.

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INTRODUCTION

A judge plays a crucial role as the guardian of justice, particularly in receiving, examining, and rendering decisions. A judge is obligated to know all laws (*ius curiae novit*) (Nugroho et al., 2024), and their decisions must be based on trial facts and evidence (*judex debet judicare secundum allegata et probata*) (Pusat Kajian Hukum dan Keadilan Sosial Fakultas Hukum Universitas Gajah Mada, 2024). This reflects a robust legal reasoning concerning legal construction, legal syllogism, and the grounds of the decision. Such a comprehensive approach not only upholds the principles of justice, legal certainty, and expediency but also reflects philosophical (the nature of law, the morality of decisions), juridical (the relevance of positive norms), and sociological (public response and social legitimacy) dimensions (Marzuki et al., 2024)

Ironically, a significant gap often exists between the idealism of a judge and the application of their practice. An interview with a prospective Supreme Court justice during

the 2010 to 2015 selection period confirmed the existence of certain interests in deciding cases, as documented in the book "Memotret Pertimbangan Putusan Hakim Dari Berbagai Perspektif" (Photographing Judges' Decisions from Various Perspectives) (Marzuki et al., 2024). Further criticism was voiced by Dr. Nani Indrawati and Prof. Sulistyowati Irianto, who stated that judicial decisions are often unsystematic, lack a clear line of thought, and suffer from inconsistencies despite being final and binding. Many court decisions, they argue, lack public credibility (Fachri, 2023). Cases like those of Ronald Tannur and Fikri et al. exemplify a substandard quality of judicial *ratio decidendi*. Furthermore, 12 judges were found to have manipulated trial facts and falsified copies of decisions (Ginting Miko, 2023). Ironically, these judges were not dismissed, even though such actions constitute a serious violation under Article 18 of the Code of Judicial Ethics. This situation is exacerbated by a sharp increase in reports received by the Judicial Commission: 2,501 in 2021 (Komisi Yudisial, 2022), 2,925 in 2022 (Komisi Yudisial, 2023), and 3,593 in 2023 (Komisi Yudisial, 2024). This surge in complaints is a clear sign of public dissatisfaction with judicial performance and integrity. Moreover, over 70% of the Judicial Commission's recommendations for sanctions against judges were not followed up on by the Supreme Court, and 75% of public complaints were rejected by the Judicial Commission because they pertained to judicial aspects, thereby infringing on independence itself (Komisi Yudisial Republik Indonesia, 2017). This persistent gap in accountability and quality has remained unresolved for two decades, as documented in the 2010-2035 Judicial Reform Blueprin (Mahkamah Agung Republik Indonesia, 2010), and led to a profound public distrust of the Supreme Court, which in turn gave rise to the Judicial Commission as a guardian of judicial independence and integrity (Risalah Perubahan Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, 2010).

Literature on the criminalization of judges offers various perspectives. Some argue that it aims to create a deterrent effect, cautioning that the ambiguous nature of Article 97 of the Supreme Court Bill makes it difficult to comprehend (Hairi, 2014). Others view it as an assault on judicial freedom, leading to serious issues such as forcing non-criminal acts to be treated as criminal offenses (Risnain, 2018). A third perspective contends that explicit criminal sanctions are unnecessary, reasoning that ethical and administrative sanctions, as outlined in the Code of Judicial Ethics, are already sufficient (Fatoni, 2020).

The urgency of this research is founded on the gap between judicial independence and accountability. Therefore, criminal sanctions should be considered a last resort, especially given the legal vacuum regarding accountability for judges who commit gross negligence (*culpa lata*), which leads to injustice and impunity. This study proposes a new solution by designing "The Concept of Criminalization of Judicial Negligence: Merit System and Decision Evaluation as Judicial Reform." This concept outlines a criminalization scheme for judicial negligence in criminal cases by distinguishing between culpa levis (minor negligence) and culpa lata (gross negligence). This concept focuses on reconceptualizing culpa lata into negligence leading to corruption, collusion, and nepotism (KKN) and negligence without corruption, both of which are subject to criminal sanctions. The proposal of this concept is crucial given the anomalies and hidden patterns related to *mens rea* (evil intent) that serve as the basis for judges to escape accountability for their decisions. Therefore, this mechanism integrates artificial intelligence (AI) technology based on Natural

Language Processing (NLP) as a monitoring system to evaluate decisions rapidly, thoroughly, and accurately, and to detect hidden patterns. The results of the AI analysis will be further processed and used as a basis for assessing a judge's performance and integrity within a merit system to determine the form of negligence or prove negligence. The rapid development of AI can enhance its use in critical public-affecting decisions (Fine & Marsh, 2024). China's "smart courts" are a prime example, aiming to improve access to justice, increase transparency, and ensure fair outcomes (Shi et al., 2021). Similarly, the United States uses advanced algorithmic risk assessment software to predict recidivism (Fine & Marsh, 2024). However, this research does not aim to replace the role of a judge but rather to assist in the oversight process, thus bridging the gap between judicial independence and accountability. The proposed system suggests a specialized court, a modified *privilegiatum*, to resolve these issues by imposing administrative, ethical, and even criminal sanctions. All of this is to reduce legal errors, prevent deviations, close oversight loopholes, and restore public trust without sacrificing judicial independence.

METHOD

This research uses a juridical-normative approach, which is an approach in law that aims to analyze positive legal norms, legal principles, and the systematics of laws and regulations related to the accountability of judges for negligence in deciding criminal cases (Widiarty, 2024). To ensure the validity and actuality of the argument, the author conducts a study conducted on primary legal materials such as the 1945 Constitution, Law Number 48 of 2009 concerning Judicial Power, the Judicial Commission Law and the Code of Ethics and Code of Conduct for Judges. Secondary legal materials are in the form of books, legal journals, scientific articles, and official documents from the Supreme Court and the Judicial Commission (Muhaimin, 2020). This approach uses a normative-dogmatic analysis model through legal interpretation, systematization of norms, and criminal accountability efforts (Gunardi, 2022). The approach taken utilizes the case analysis method of Decision Number 454/Pid.B/2024/PN Sby and Decision Number 1131/Pid.An/2013/PN.Jkt.Sel to identify patterns of negligence committed by judges based on court decisions that already have permanent legal force. The analysis will be carried out to identify the pattern of negligence of judges in the criminal justice system in Indonesia, with a qualitative-deductive approach that will be applied with various interdisciplinary theories (Gunardi, 2022), for negligence leading to KKN in Decision Number 454/Pid.B/2024/PN Sby and Non-KKN negligence in Decision Number 1131/Pid.An/2013/PN.Jkt.Sel. The validity of this research is through legal reasoning that is in accordance with norms, principles, or doctrines that are applied. Therefore, the reliability of this research is based on the process of method transparency so that readers can follow the thinking process of this research again. However, the researcher acknowledges that normative law research has some limitations, such as focusing on the ideal realm (das sollen) and the existence of an element of interpretation. The interpretation we present is only one of a variety of valid interpretation possibilities and acknowledges these limitations to maintain intellectual honesty.

RESULTS AND DISCUSSION

This study reconceptualizes *culpa lata* (gross negligence) within the Indonesian criminal justice system. It uses an interdisciplinary theoretical framework to analyze controversial verdicts to validate anomalies or hidden patterns that have resulted in negligence driven by KKN (corruption, collusion, and nepotism) and non-KKN negligence, which have long created a gap in judicial accountability.

The Urgency of Criminalizing the Judicial Error

The current system of sanctions and oversight is no longer adequate. This inadequacy has led to systemic failures, the rise of a culture of impunity, and a lack of transparency, all of which are critical factors that must be addressed immediately. A look at recent data highlights this issue: the Judicial Commission (KY) received 2,501 reports in 2021 (Komisi Yudisial, 2022), which increased to 2,925 in 2022 (Komisi Yudisial, 2023) and then surged to 3,593 in 2023 (Komisi Yudisial, 2024). This upward trend, coupled with the fact that approximately 70% of KY's recommendations for sanctions go unheeded by the Supreme Court (MA) and 75% of public complaints are rejected for technical judicial reasons, indicates a significant obstacle to judicial accountability (Komisi Yudisial Republik Indonesia, 2017). Mechanisms intended to protect accountability have ironically become a shield for misconduct, allowing severe violations to be concealed under the guise of technical judicial justifications.

A culture of impunity can damage the credibility of the judiciary, as demonstrated by the case of 12 judges who manipulated trial facts and falsified copies of verdicts (Ginting Miko, 2023). Ironically, they did not receive the sanction of dismissal as stipulated in Article 18 of the Judges' Code of Ethics. This situation is exacerbated by the fact that 29 judges were involved in corruption cases from 2011 to 2024 (Indonesian Corruption Watch, 2025)This is not an isolated problem but a manifestation of a persistent systemic issue. The fact that many court verdicts, such as Decisions No. 522/Pid.B/2024/PN Bdg, No. 653/Pid.B/2024/PN Bdg, No. 182/Pid.B/2024/PN Bdg, and No. 354/Pid.B/2024/PN Bdg, are still not accessible to the public and researchers makes external oversight difficult. This creates a lack of transparency and allows *culpa lata* to hide from scrutiny.

These facts are in line with the view of B. Arif Sidharta, who, quoting Francis Bacon, states, "A wrong act only pollutes the water, but a wrong legal verdict can pollute the very spring itself." (Marzuki et al., 2024). Just as a doctor who commits fatal malpractice can be criminally prosecuted even without the intent to kill, it is only fitting that a judge who commits negligence that results in harm to the public should be subject to criminal sanctions to close the judicial accountability gap. Therefore, a new mechanism is needed to address this gap without compromising or infringing upon the independence of the judge itself.

Reconceptualizing the Forms of Judicial Negligence in the Indonesian Criminal Justice System

This study employs the concept of *culpa lata* as defined by D. Schaffmeister, N. Keijzer, and E. PH. Sutorius, who divides negligence into two types: conscious negligence and unconscious negligence (Wahyuni, 2017). This concept is then modified into KKN-based negligence and non-KKN negligence, based on various interdisciplinary theories to solve the puzzle that has long shrouded the judiciary in Indonesia.

1) Negligence Leads to KKN

This type of negligence follows a pattern of disregarding evidence without careful consideration, even to the extreme of not considering evidence important for testing the truth, which indicates the manipulation of evidence. Errors in legal reasoning, such as a logical fallacy in the verdict, flawed legal construction (error in building the law), and a flawed legal syllogism (a conclusion not supported by trial evidence), are forms of KKN-based negligence. Furthermore, this negligence takes into account two main aspects in all these patterns: manipulation of trial facts and falsification of verdict documents (Ginting Miko, 2023). All these acts represent the most extreme form of abuse of independence, leading to serious violations of accountability.

This phenomenon can be explained through the synergy of Rational Choice Theory, Opportunity Theory, and White-Collar Crime Theory. Rational choice theory posits that criminal offenders are rational actors who weigh the benefits of committing a crime and feel that the gains outweigh the risks of being caught and the threat of punishment (Becker, 1968) (Ramadhan, 2023). A judge consciously performs a cost-benefit analysis where the potential gains (financial, power) are deemed greater than the risk of sanction. This calculation is reinforced by Opportunity Theory, proposed by Richard A. Cloward and Lloyd E. Ohlin, which explains that crime is instigated by the opportunity to commit deviant acts (Hutabarat et al., 2024). This negligence can only occur due to opportunities provided by weak institutional conditions, such as a legal vacuum regarding criminal accountability for state officials, like judges, as well as weak enforcement against the abuse of judicial power, which provides space for unethical practices for personal gain. Edwin H. Sutherland's White-Collar Crime Theory states that certain crimes are committed by elite, respected, and high-status individuals in economic, social, and political spheres (Ginanjar & Yusuf, 2025). This provides context that this negligence is not merely an error, but a tool to legitimize systemic corruption that has become normalized within the judiciary. Consequently, public trust in the legal system declines drastically.

2) Non-KKN Negligence

Non-KKN negligence is characterized by a similar pattern of disregarding trial evidence and flawed legal reasoning, such as logical fallacies in the verdict, flawed legal construction (errors in building the law), and a flawed legal syllogism (a conclusion not supported by trial evidence). Although non-KKN negligence shares a similar pattern with KKN-based negligence, there is a crucial difference that can be analyzed in two phases. The first phase, at the individual level, will be examined based on Social Control Theory proposed by F. Ivan Nye, which states that deviance occurs due to a weakening of internal controls, such as individual commitment and integrity, and external controls, such as supervision (Dewi, 2025). This leads to a lack of professionalism that cannot be adequately handled by administrative or ethical sanctions.

The second stage involves analyzing the failure of the institutional oversight system. This can be seen using the approach of sociological institutionalism, which explains why a feudal culture remains entrenched, causing a gap between judicial independence and accountability (Ekayanta, 2024). This has implications for the weakening of judicial integrity and commitment to the judicial merit system. Furthermore, rational choice

institutionalism provides an understanding of the conflicts of interest arising from the persistent overlap of authority (Ekayanta, 2024) between the Supreme Court Supervisory (BAWAS MA) and the Judicial Commission (KY), which creates reporting issues where the output can lead to *ne bis in idem* and disrupt the effectiveness of oversight. Therefore, the classification of non-KKN negligence emerges as a way to balance judicial independence and accountability, serving as a control to uphold the fairest possible justice.

Manifestation of Culpa Lata for Negligence Leading to KKN and Non-KNN Negligence in the Case of Ronald Tannur and Fikri Cs.

1. The Case of Ronald Tannur (Decision Number 454/Pid.B/2024/PN Sby)

The manifestation of negligence culminating in corruption, collusion, and nepotism (KKN) emerged from the Ronald Tannur case, as referenced in Verdict No. 454/Pid.B/2024/PN Sby. The judge who handled this case was proven to have committed a criminal act of corruption, making it a highly relevant and concrete example. This analysis will comprehensively examine the charges against the defendant, including the First Charge: Article 338 of the Criminal Code (KUHP); the Second Charge: a violation of Article 351 paragraph (3) of the Criminal Code; and the Third Charge: first, a violation of Article 359 of the Criminal Code, and second, a violation of Article 351 paragraph (1) of the Criminal Code.

In its considerations, directly quoted from the verdict, the Panel of Judges assessed the first alternative charge of Article 338 of the Criminal Code, stating: "Considering, that from the legal considerations based on observations of the CCTV footage from the Lenmarc basement parking area, and in connection with the expert's opinion, the Panel did not see any fact as described by the Public Prosecutor in their indictment. As seen from the CCTV footage in the courtroom, which was witnessed by all parties in the public hearing, the Panel has carefully observed from the camera's perspective that the Defendant's car, from its parked position, moved, moved, and then turned to the right, then went straight and stopped. The position of the Victim, Dini Sera Afrianti, was actually outside the path of the vehicle driven by the Defendant." (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024).

Regarding the second charge under Article 351 paragraph (3) of the Criminal Code: "Considering, that the Panel has carefully reviewed that from the legal considerations based on the examination in court, the Panel has carefully observed that from the public prosecutor's evidence in the courtroom, there was no act of the Defendant proven by the Public Prosecutor as described in the second element of the Public Prosecutor's indictment, which could prove that the Defendant's act of abuse resulted in the death of the Victim" (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024).

For the third charge, first, Article 359 of the Criminal Code: "Considering, that by observing the legal considerations above and the results of the *Visum et Repertum*, in the opinion of the Panel, the event and the act described by the Public Prosecutor in the indictment, which in essence states that Dini Sera Afrianti died due to the Defendant's negligence in driving the car, which resulted in Dini Sera Afrianti being

run over, does not give the Panel of Judges the certainty that Dini Sera Afrianti's death was caused by this" (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024).

For the third charge, second, Article 351 paragraph (1) of the Criminal Code: "Considering that since all elements in the Public Prosecutor's indictment against the Defendant were not met, the Panel believes that the Defendant is not legally and convincingly proven guilty of committing a criminal act for all of the Public Prosecutor's indictments above." (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024).

Trial facts from *Visum et Repertum* No. KF. 23.0465 explain the cause of death as multiple lacerations to the liver due to blunt force trauma, leading to severe bleeding (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024). Furthermore, based on the testimony of Dr. Felicia Limantoro, she suggested that the victim be taken to IKF RSUD Dr. Soetomo because it fell into the category of unnatural death (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024). However, the judge failed to include this in the legal reasoning (*ratio decidendi*) of the verdict. Instead, they argued that there was no act by the Defendant as described in the second element of the Public Prosecutor's indictment, which would prove the Defendant's intent or intent to kill. Based on a witness's statement, the Defendant initially claimed not to know the Victim but eventually admitted to knowing her. Furthermore, the Defendant quickly took the Victim's belongings, put them in the back of the car, and then took them into an Orchard Tanglin apartment before returning them to the security guard in the lobby and placing them in a wheelchair (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024). When the security guard checked, the victim was no longer alive, and only then was she rushed to the hospital. In this case, the judge failed to find the defendant's *mens rea* (evil intent), which was clearly visible from the various trial facts presented. Additionally, in the third charge, Second, Article 351 paragraph (1) of the Criminal Code, it was stated that the formulation of the offense under Article 351 of the Criminal Code is part of the same group of articles on abuse. Therefore, the substance of the act of abuse *in casu* had already been considered by the Panel, and thus the Panel adopted all considerations from the Second Alternative Charge and declared this element to be unfulfilled (*Putusan PN Surabaya Nomor 454/Pid.B/2024/PN Sby*, 2024). However, in the third charge, Second, based on *Visum et Repertum* No. KF. 23.0465, an external examination found bruising on the head, neck, and left upper limb due to blunt force trauma, but this was not considered, with the excuse that the Panel had already considered it *in casu* and therefore it was unfulfilled.

The pattern of disregarding evidence without careful consideration, even to the extent of not deeming evidence important for testing the truth, indicates the manipulation of evidence (witness statements, CCTV footage, and even the *Visum et Repertum*) that was not considered in the verdict. The revelation of a bribery case involving three judges in the Ronald Tannur case by the Attorney General's Office confirms the pattern identified using rational choice theory, opportunity theory, and white-collar crime theory.

2. Case of Fikri Cs (Decision Number 1131/Pid.An/2013/PN. Jkt. Sel)

The manifestation of non-KKN negligence emerged from the Fikri Cs case, as seen in Verdict No. 1131/Pid.An/2013/PN.Jkt.Sel. This verdict serves as a concrete example of how a judge can commit a negligent error due to flawed decision-making, such as a failure of legal logic and legal error in its application. The analysis of this verdict will be conducted in two stages based on the trial facts.

The first stage, at the individual level, aims to prove the judge's weak integrity and capability in issuing a verdict. First, the panel of judges failed to consider important evidence submitted by the defendant's legal counsel, such as witness testimony, expert testimony, and CCTV footage (Tim Advokasi Anti Penyiksaan (TAP), 2022). This disregards the clear mandate in Article 5, paragraph (1) of the Law on Judicial Power, which states, "Judges and constitutional judges are obligated to explore, follow, and understand the legal values and the sense of justice living in society."

Although the witnesses were sworn in and gave valid testimony, the panel of judges still supported the public prosecutor's view that their statements were invalid because of the close relationship between the witnesses and the defendants. This is an inconsistency, as Article 168 of the Criminal Procedure Code (KUHAP) explicitly outlines who may not testify or may recuse themselves as witnesses: blood relatives or relatives by marriage, siblings of the defendant, siblings of the mother or father, the defendant's spouse (even if divorced), or those who are also defendants. It is highly illogical for a judge to reject this testimony based on friendship, especially since the witnesses could not be proven to have committed perjury under Article 242 of the Criminal Code. These witnesses were key individuals who directly saw the torture of the defendants and provided important testimony, such as witness Sudarmun, who explained how the evidence came into the possession of the defendants. This shows the judge's lack of ability to evaluate evidence, as their focus was not on the substance and relevance of the testimony.

Second, the panel of judges made a legal error by accepting testimony from outside the trial, namely the Official Investigation Report (*Berita Acara Pemeriksaan* or BAP) (Tim Advokasi Anti Penyiksaan (TAP), 2022). This contradicts the provisions of Article 185, paragraph (1) of the KUHAP, which requires witness testimony to be given directly in court. The trial facts also show that the defendants were not accompanied by legal counsel and were subjected to torture by law enforcement officials, so the BAP should not have been accepted as valid evidence (Tim Advokasi Anti Penyiksaan (TAP), 2022). The judges disregarded the facts and findings of the National Commission on Human Rights (Komnas HAM), which documented at least ten forms of physical torture and eight forms of verbal abuse, as well as witness testimony that directly saw the defendants being tortured and forced to confess (Tim Advokasi Anti Penyiksaan (TAP), 2022).

The second stage relates to the failure of the institutional oversight system. The Fikri et al. case was processed even up to the final legal recourse of a Judicial Review (*Peninjauan Kembali* or PK), before the defendants were acquitted and their rights were fully restored. This raises a key question about where true justice lies. The defendants, as victims of judicial malpractice, had to endure immense suffering, such

as being forced to drop out of school and being imprisoned after being mistakenly arrested while helping someone in need (Tim Advokasi Anti Penyiksaan (TAP), 2022). This is a strong indication of a significant accountability gap in the behavior of judges at previous levels that is not always adequately addressed through administrative or ethical sanctions. It proves a systemic oversight flaw that is not always handled properly. The logical errors in the verdict, flawed legal construction, and flawed legal syllogism (where the conclusion is not supported by trial evidence), as well as the disregard for evidence (witness and expert testimony, and CCTV footage) (Tim Advokasi Anti Penyiksaan (TAP), 2022) and unsubstantiated legal reasoning that invalidated testimony, strengthens the urgency to criminalize the modified *culpa lata* for judges who have been proven guilty.

The Concept of Criminalization *of Judges by Elaborating the Merit System and Evaluation of Decisions as a Tool for Indonesian Judicial Reform*

The concept of criminalization, as put forward by Soetandyo Wignjosoebroto and Soerjono Soekanto, affirms that criminalization is a step taken by the government to prosecute acts that are considered punishable by society (Luthan, 2009). All these steps are designed to strengthen judicial accountability. The criteria for this concept are based on the ideas of Moeljatno and Sudarto, who emphasize acts that can disrupt the nation's ideals and cause significant harm to society in terms of justice (Valerian, 2022). The concept of criminalization in this study focuses on judicial *culpa lata*, which has been reconceptualized into two categories: KKN-based negligence and non-KKN negligence.

Verdict evaluation is a follow-up process after reconceptualization, elaborated by using Artificial Intelligence (AI) to detect forms of judicial negligence. The results will be verified through a judicial merit system to assess the judge's history and performance. In this context, the judicial merit system serves as an initial protection mechanism to manage judicial human resources based on qualifications, capabilities, performance, integrity, and morality. Although the current merit system is often considered merely an administrative requirement, its meritocratic principle is defined as "a human resource management principle based on qualifications, competence, potential, and performance, as well as integrity and morality, which is implemented fairly and equitably without discriminating against ethnicity, race, skin color, religion, origin, gender, marital status, age, or special needs" (Undang-Undang (UU) Nomor 20 Tahun 2023 Tentang Aparatur Sipil Negara, 2023). However, in this study, the merit system is used as a key tool to objectively assess performance and ultimately identify patterns of negligence that occur throughout a judge's career.

The merit system must be optimized by applying it using AI technology that leverages Natural Language Processing (NLP). The United States has made significant innovations in its criminal justice system by using advanced algorithmic risk assessment software to predict the likelihood of an individual reoffending. In 2022, at least 60 jurisdictions nationwide were using algorithmic risk assessment for bail decisions, and several states also applied it to help determine sentencing, such as Arizona, Colorado, Virginia, Washington, and others (Fine & Marsh, 2024). China has successfully created a nationwide "smart court" system to ensure fair outcomes for parties involved in legal matters (Shi et al., 2021).

Based on these principles, the designed AI mechanism will evaluate thousands of decisions quickly, comprehensively, and accurately. The AI will detect anomalies or hidden patterns related to *mens rea* (evil intent) that allow judges to avoid accountability for their decisions or indicate judicial actions that could lead to Corruption, Collusion, and Nepotism (KKN), which might be missed by human oversight. AI is currently being used to assist in court decision-making processes (Antunes et al., 2024). It is crucial to repeatedly emphasize that in this study, AI is not designed to replace the role of the judge in making decisions but serves as a supporting tool to enhance the effectiveness of judicial oversight and accountability. The purpose of this integration is to create a strict and efficient procedure to bridge the gap between judicial independence and accountability, particularly concerning a judge's responsibility.

Illustration Table of Decision Evaluation Based on *Natural Language Processing*

No.	Indicator	Jenis	Persentase (%)
1.	Quality of Decisions	Accuracy of law enforcement	15%
		The power of the ratio decidendi	15%
		Consistency with jurisprudence	15%
2.	Code of Conduct and Conduct Compliance	Integrity and independence	15%
		Professionalism and discipline	15%
3.	Performance history and track record	Frequency of reports or complaints	5%
		Record of previous violations	5%
		Rate of objection or appeal of the decision	5%
4.	Sociological aspects and public responses	Social legitimacy of the verdict	10%

This is important because the quality of verdicts often does not align with judicial accountability. For example, the accuracy of legal application, the strength of the *ratio decidendi*, and the consistency of jurisprudence are often inconsistent, as seen in cases of embezzlement and fraud versus breach of contract, which usually result in different verdicts despite the existence of Jurisprudence with catalogue number 4/Yur/Pid/2018 (Fraud with breach of contract) and Jurisprudence with No. 1868K/Pid/2012 (Embezzlement with breach of contract). Compliance with the code of ethics and conduct also needs to be considered, as complaints against judges have shown a significant increase annually, as documented in the KY reports from 2021 to 2023, as previously mentioned in the section on the urgency of criminalizing judges. Performance history and track record are crucial in a meritocratic system so that judges can be evaluated based on their work, not just on kinship ties, as seen in the case of Ramlan Comel, who was selected as an *ad hoc* anti-corruption court judge despite having been a suspect in a corruption case. Finally, the sociological aspect and public response are expected to be used to maintain transparency and increase public accountability, which is a main objective in the 2010–2035 Judicial Reform Blueprint.

With all this in mind, the system must be optimized or refined through a modified special court, namely, the *privilegiatum*. This process is crucial given the limitations of general courts in handling cases of judicial negligence and the special nature of a judge's position, which requires a careful approach to maintain judicial independence and prevent

conflicts of interest. The concept of the modified *privilegiatum* is the final stage of perfecting the proposed model, to achieve a balance between the need for judicial accountability and judicial independence. This special court is final and binding (Panjaitan, 2018). It is expected to enhance the deterrent effect, increase the efficiency of the judicial process, and restore public trust. Meanwhile, the cooperation between the Supreme Court and the Judicial Commission serves as a leading body (similar to the Honorary Council of Judges) that aims to ensure specialization, competence, objective and collective decisions, and reduce the culture of feudalism in the judicial system. This modified *privilegiatum* is designed to maintain judicial independence within an accountability framework based on the values of judicial ethics to produce credible decisions and is considered a legitimate protection mechanism for realizing a noble judiciary.

CONCLUSION

This study demonstrates a significant gap in the judicial accountability system that cannot be addressed solely by the existing administrative and ethical sanctions. Through a legal and normative analysis, this research proposes a reconceptualization of judicial negligence, previously known as *culpa lata*, into two types: negligence leading to KKN (Corruption, Collusion, and Nepotism) and non-KKN negligence. Each of these types of negligence is exemplified in the verdicts of the Ronald Tannur case and the Fikri et al. case. The findings of this study affirm that criminalizing judicial negligence is the *ultima ratio* (last resort) needed to ensure judges remain accountable, especially given the patterns of negligence that allow them to avoid sanctions.

Therefore, this study presents an integrated concept comprising three main components: an AI-based evaluation to detect patterns of judicial negligence, a merit system to objectively measure judicial performance, and a modified special court to definitively handle cases of severe negligence. This framework aims to bridge the gap between judicial independence and accountability, ensuring judges are held responsible for their negligence and restoring public trust in the judicial system.

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