

BEYOND ROAD ACCIDENT COMPENSATION: STRUCTURAL VICTIMISATION AND INSTITUTIONAL ACCOUNTABILITY FOR FATAL POTHOLE CRASHES

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ABSTRACT

Fatal road crashes associated with damaged roads raise questions extending beyond driver conduct and one-off compensation. This article examines how Indonesia's legal framework allocates preventive duties, public-institutional accountability, and remedies for families following pothole-related fatalities. Using qualitative document-based legal and socio-policy analysis, it re-examines a 2026 research report through victimology, road-safety literature, the Road Traffic and Transportation Law, the amended Road Law, the Criminal Code, and administrative-justice rules. The analysis identifies three analytically distinct protection deficits: an implementation risk where known hazards are not repaired or marked; an accountability risk where road status, duty-holder identity, and causation are difficult to establish; and a recovery risk where insurance payments are mistaken for complete institutional redress. It develops a prevention-accountability-recovery framework linking hazard reporting, evidence preservation, jurisdictionally appropriate remedies, and family-centred support. The findings are legal and conceptual rather than estimates of the frequency of government negligence or outcomes of verified court cases. More effective victim protection requires transparent maintenance records, careful investigation of road-related causation, accessible legal pathways, and measures preventing recurrence.

Keywords: structural victimisation; road safety; road maintenance; institutional accountability; victims' families.

INTRODUCTION

Road traffic fatalities are often presented as the cumulative result of individual errors: speeding, inattention, vehicle misuse, or failure to comply with traffic rules. Such explanations can be important, but they risk becoming incomplete when the physical environment is unsafe. A damaged carriageway, an unmarked pothole, or a delayed maintenance response can contribute to crash occurrence and severity. Engineering research demonstrates that road conditions and geometric characteristics warrant independent examination alongside driver-related variables (Almannaa et al. 2023; Liang et al. 2024). The central policy issue is therefore not whether road defects explain every crash, but whether public authorities can demonstrate that identified dangers were reasonably addressed before a serious incident occurred.

When a road user dies, the legal and social consequences extend beyond the deceased person. Families may experience lost income, changes in care arrangements, emotional strain, and unequal access to financial assistance. A study of 1,291 relatives of road-traffic fatality victims in Taiwan identified significant household vulnerabilities after fatal crashes (Huang 2016). A meta-synthesis of qualitative road-injury studies likewise documents individual, family, social, and economic consequences, and identifies a corresponding need for support systems rather than narrowly defined compensation (Azami-Aghdash et al. 2020). These findings justify treating survivors and families as participants in the justice process, not merely as recipients of a payment.

The original research report underlying this article, entitled 'Perlindungan Hukum Korban Meninggal Akibat Jalan Rusak Perspektif Viktimologi' (2026), framed protection in terms of prevention, responsibility, and recovery. It also discussed the potential for public institutions to contribute to victimisation through omission, including failure to inspect, repair, or warn about hazardous road conditions. These conceptual findings provide the starting point for the present article. They do not, by themselves, demonstrate the number of fatal crashes caused by potholes, the extent of neglect in a particular district, or judicial findings of wrongdoing. Distinguishing a plausible institutional mechanism from a proven instance of legal liability is essential to a defensible scholarly analysis.

Indonesia offers an especially pertinent legal setting because a concrete road-safety duty is imposed by Article 24 of Law No. 22 of 2009 on Road Traffic and Transportation. The provision requires road administrators to repair dangerous road defects promptly and appropriately and, when immediate repair cannot be undertaken, to provide signs or warnings. Article 273 connects specific omissions with criminal sanctions when legally stipulated consequences arise, including a fatality under paragraph (3) (Republic of Indonesia 2009). The Road Law, as amended by Law No. 2 of 2022, additionally supplies an institutional framework for classifying road networks and assigning responsibilities (Republic of Indonesia 2022).

Nevertheless, the existence of legal duties does not settle the complex question of practical redress. Investigators must establish the status and authority responsible for the particular road segment, the chronology of hazard detection, the availability and adequacy of warnings, the factual connection between the defect and the collision, and the requirements of the remedy pursued. A private-law claim against a contractor, an administrative action alleging unlawful governmental conduct, and criminal prosecution operate under different rules. Indonesian scholarship identifies persistent difficulties in applying the obligation to repair and in determining its responsible subject (Budhiarto 2016). The transfer of jurisdiction over unlawful governmental actions to the administrative courts likewise makes

remedy selection a substantive issue rather than a procedural technicality (Barokah and Erliyana 2021; Hakim and Amnesti 2022).

Victimological analysis adds a further question: whose injuries are made visible by the legal process? Research on structural victimisation in other policy contexts illustrates how deficiencies in formal protection and welfare support can intensify material and psychological harm (Jayusman et al. 2025). Kiely and Warnock (2023) conceptualise institutional neglect through patterns such as delay and deferral. Their study concerned welfare services, not roads, and its findings should not be mechanically applied to Indonesian road administrators. Its conceptual value is that an institution's failure to act may itself warrant investigation where a specific duty, foreseeable risk, and avoidable harm are established.

Previous analyses address important parts of this problem separately: infrastructure and crash severity (Almannaa et al. 2023; Liang et al. 2024); road-traffic impacts on families (Huang 2016; Makuu 2018); Indonesian road-administrator duties (Budhiarto 2016); and access to administrative justice (Barokah and Erliyana 2021; Maarif 2024). Within the target journal, research on victims' compensation and government services also indicates editorial openness to public-law questions addressed through social consequences and institutional practice (Rahmah, Hafrida, and Usman 2026; Taufik and Umam 2026). What remains insufficiently integrated is a pathway connecting unsafe infrastructure, legally demonstrable public omission, and the distinct recovery needs of fatal-crash families.

Accordingly, this article asks: (1) how should the duties and possible liabilities of Indonesian road administrators be distinguished when a pothole-related fatality occurs; and (2) how can victimology translate these duties into a practical, family-centred protection framework? Its original contribution is an integrated prevention–accountability–recovery model, with an evidence and remedy pathway designed to reduce the gap between the acknowledgement of harm and actual access to justice. The contribution is conceptual and policy-oriented; it does not purport to evaluate the effectiveness of a programme that has not yet been implemented.

RESEARCH METHOD

This study employs qualitative document-based research combining doctrinal legal interpretation with victimological and public-policy analysis. Its primary research material is a 2026 Indonesian research report on legal protection for persons killed in crashes associated with damaged roads, read together with its earlier research proposal. The report articulates a conceptual analysis of preventive, repressive, and restorative protection and discusses accountability and barriers for families. It does not supply an auditable interview dataset, respondent register,

police case files, judicial case numbers, or systematically collected accident observations. Consequently, the present article does not represent the report as a completed empirical interview study.

The legal materials comprise Law No. 22 of 2009, particularly Articles 24 and 273; Law No. 2 of 2022 amending the Road Law; Law No. 1 of 2023 on the Criminal Code; and Supreme Court Regulation No. 2 of 2019 concerning governmental acts and administrative-court jurisdiction. Secondary materials comprise peer-reviewed scholarship on road-safety risk, the consequences of road fatalities, victimisation, accountability, and access to remedies. A targeted rather than exhaustive literature search was undertaken to select sources capable of testing the assumptions of the original report. This article should therefore not be characterised as a systematic review or as a quantitative causal assessment.

Analysis was conducted in three stages. First, each statutory duty was mapped to a responsible actor, a legally relevant omission, and an available response, distinguishing legal possibilities from actual findings of liability. Second, victimological themes were coded deductively into prevention, accountability, and recovery, with attention to familial vulnerability and possible institutional secondary harm. Third, the legal and victimological matrices were synthesised into a sequence of practical actions from hazard notice and evidence preservation to remedy screening, family support, and prevention of recurrence.

For analytical discipline, three evidentiary thresholds were applied. A road defect alone is not treated as proof that an administrator committed a crime; a fatality does not establish the legal elements of negligence; and a payment made through an insurance mechanism is not equated with adjudicated fault of a road authority. The study does not infer that a particular government office, contractor, or driver was responsible without road-status records, relevant case evidence, and an applicable legal finding. Assertions concerning delays or barriers in the underlying report are treated as research propositions requiring field verification, except where supported independently by published literature.

Two limitations follow. The documentary design cannot estimate the frequency, geographical distribution, or causal share of pothole crashes in Indonesia, and it cannot measure the actual success rate of compensation claims. The framework is best understood as a testable foundation for later case-file reviews, interviews with families and administrators, and comparative analysis of administrative and criminal decisions. These boundaries are stated expressly to prevent general public-safety concerns from being mistaken for empirical findings.

RESULTS AND ANALYSIS

Road maintenance as an enforceable public-safety duty

The first finding is that Indonesia's framework contains a two-stage safety obligation. Article 24(1) of Law No. 22 of 2009 stipulates a duty to repair road damage capable of causing traffic accidents. Article 24(2) addresses the interval before repair: where repair cannot immediately be completed, the road administrator must install a sign or warning. These are distinct interventions with different evidentiary implications. Timely maintenance mitigates the physical hazard; temporary warnings mitigate exposure while the hazard remains. The public duty therefore cannot be evaluated solely by whether a budget allocation or future maintenance plan exists (Republic of Indonesia 2009).

Article 273 provides a specific liability structure for failures associated with Article 24. Its consequences differ according to the proven result: property damage or less serious injury, serious injury, and death; paragraph (4) separately addresses a failure to install warnings or signs when a damaged road has not yet been repaired. In a fatality scenario Article 273(3) is especially relevant, but a charge requires more than identification of a pothole near the scene. The prosecution must establish the legally responsible road administrator, a culpable omission meeting the relevant statutory requirements, and the causal connection required by law. The warning obligation in paragraph (4) should not be conflated with the death-result provision in paragraph (3).

The identification of the administrator is a threshold issue. A damaged municipal street, a provincial connector and a national road may fall under different responsibilities. Under the Road Law as amended in 2022, statutory authority must be ascertained from road classification and official designation; the geographical location of a pothole does not automatically prove that the municipal or district government is the liable party (Republic of Indonesia 2022). Similarly, an outsourced works contractor should not be treated as criminally responsible merely because it previously worked on the road. The contractor's duty, breach and legal nexus must be examined separately.

The legal framework thus yields an operational distinction between identification, intervention, and attribution. Identification concerns whether the dangerous condition was observed, recorded or reported. Intervention concerns the nature and timeliness of repair or warnings. Attribution concerns which person or institution had the legal ability and duty to respond at the relevant moment. Budhiarto (2016) identified uncertainty surrounding the scope of road-administrator obligations; the present analysis translates that concern into a documentary trail capable of being tested in specific cases.

Importantly, the revised national Criminal Code should not be cited as though former Article 359 continues unchanged in 2026. Law No. 1 of 2023 supplies the

current general framework for death caused by negligence, including Article 474(3), while specialised duties under the traffic law require their own legal assessment (Republic of Indonesia 2023). Whether a general offence applies alongside or instead of a special offence in a concrete case turns on its elements, temporal rules and principles governing the relationship between statutes; this article makes no universal claim that both may be cumulatively imposed.

Structural victimisation and the social meaning of omission

The second finding concerns the distinction between direct crash harm and the possible institutional production of secondary harm. A pothole-related death is a road-traffic incident whose immediate mechanisms require reconstruction. By contrast, structural victimisation describes a broader pattern in which foreseeable risks are not addressed despite an applicable duty, or in which affected families encounter preventable obstacles in seeking information and remedies. The latter is an interpretive lens, not an automatic legal characterisation of every road-traffic death.

The threshold for using the term 'structural' should be demanding. Evidence would need to show more than a single damaged surface. Relevant indicators include documented repeated reports of the same hazard, unexplained failures to inspect or warn, a demonstrable mismatch between assigned responsibilities and operational responses, and institutional practices preventing affected families from obtaining the information necessary to assess a claim. Kiely and Warnock (2023) demonstrate why delays and deferrals can matter in institutional analyses. Jayusman et al. (2025), in a different Indonesian context, show that attention to structural victimisation can reveal rights deficiencies obscured by a narrower legal remedy. These studies support conceptual examination, not a presumption of Indonesian roadway misconduct.

This distinction also discourages 'victim precipitation' arguments being used as an evidentiary shortcut. The fact that a driver may have made a dangerous manoeuvre does not eliminate the need to consider surface defects, lighting, warning placement, traffic volumes and maintenance history. Conversely, pointing to a road defect does not exclude analysis of driver conduct, vehicle condition or independent intervening events. A balanced victimological investigation resists both victim blaming and predetermined institutional guilt.

The social character of this inquiry matters because a fatal crash may redistribute hardship within a household. Huang (2016) documents the adverse economic and domestic consequences experienced by family members. Makuu (2018) reports social and psychological consequences of traffic crashes for affected households in Tanzania. In combination with the thematic synthesis by Azami-Aghdash et al. (2020), these studies, together with research on psychosocial consequences among non-fatal crash survivors (Marimuthu et al. 2025), justify a

broad recovery assessment covering income, dependants, psychological needs, time spent seeking remedies and social support. The studies do not, however, prove identical impacts on any specific family in Tegal or elsewhere in Indonesia.

For administrators, treating safety as a social-service outcome changes the objective of infrastructure governance. The aim is not simply closing maintenance work orders but demonstrating that reported dangers were prioritised according to their foreseeable human cost. A complaint-receipt system, publicly accessible status updates and clear escalation responsibility would create an accountability chain before any collision occurs. Research in the target journal on accountable and accessible public services provides relevant policy context, even though its geographical and institutional subjects differ (Taufik and Umam 2026; Judijanto, Kahar, and Hasanuddin 2026; Ibrahim, Arsad, and La Suhu 2026).

Distinct remedies: insurance assistance, liability and institutional correction

The third finding is a conceptual gap between receiving a payment and receiving redress for the state-related cause of the harm. A survivor's family may seek statutory insurance assistance where the applicable eligibility conditions are met. Such schemes perform a protective social-insurance function, but their coverage cannot be presumed in all single-vehicle or road-defect scenarios. Eligibility depends on the relevant statutory scheme and the facts of the accident. Moreover, payment under a scheme is not, by itself, a judicial determination that a particular road authority caused the death (Prasetyo, Mahmudi, and Lutfi 2026).

The original report's discussion of general civil liability under Article 1365 of the Indonesian Civil Code correctly directs attention to fault, loss and causation at a high level of abstraction. Yet a more precise remedial route must distinguish governmental omissions from private conduct. Supreme Court Regulation No. 2 of 2019 places unlawful acts by administrative bodies or officials, insofar as they constitute governmental actions, within the administrative judiciary's sphere, subject to relevant procedural requirements (Supreme Court of Indonesia 2019). Administrative and private-law controversies should therefore not be indiscriminately labelled ordinary district-court tort claims. Barokah and Erliyana (2021), Hakim and Amnesti (2022), and Maarif (2024) discuss substantive and procedural complications of this jurisdictional arrangement.

Criminal responsibility should also be separated from administrative redress. Article 273 of the traffic law addresses particular breaches by road administrators with specified consequences. The general negligence offence in Article 474(3) of the 2023 Criminal Code is not a substitute for proving special statutory conditions, nor does an accusation automatically grant the family a recovery package. A lawful prosecution may promote public accountability but is not designed to resolve every social and economic need arising after death. Thus an integrated protection system

requires coordination without collapsing all available instruments into one undifferentiated remedy.

Restorative language must be used carefully. Victim-centred recovery does not imply that a fatal crash should automatically be diverted from prosecution through informal reconciliation. The practical priority is to understand the needs and choices of the family, preserve the possibility of lawful accountability, and offer support independent of an obligation to forgive an administrator or driver. Liwang and Arpangi (2024) discuss restorative responses to fatal traffic accidents, while Rahmah, Hafrida, and Usman (2026) examine compensation and restitution in another victim-protection context. Neither study establishes that restorative settlement is a legally sufficient resolution of negligent road maintenance. The relevant contribution here is recovery-oriented service design rather than a proposed waiver of public duties.

A victim-centred remedial assessment therefore contains four questions. What immediate protection or financial scheme is lawfully available? What underlying conduct or omission is independently provable? Which forum has competence to decide the relevant allegation? And what unmet family needs require referral irrespective of whether a criminal or administrative case succeeds? The sequence avoids the false choice between receiving emergency support and pursuing a separate claim for proven institutional wrongdoing.

Evidence, barriers and a family-centred accountability pathway

The fourth finding concerns the evidence architecture necessary to translate a general duty into an actionable legal question. The original report emphasised difficulties in obtaining road-repair records, learning which institution was responsible and proving that the defect materially contributed to an accident. These are analytically plausible barriers, but the report lacks case-level evidence sufficient to measure their prevalence. Accordingly, they are treated here as risk points to be tested, not established findings about all Indonesian cases.

A complete road-related fatality inquiry should examine the police collision reconstruction, road-surface measurements and photographs, traffic conditions, visibility, the position of warnings, site-inspection records, the date on which the hazard first became known, repair-work instructions and road authority designation. An administrator's assertion that repair was planned is not equivalent to evidence that temporary warnings were installed. Equally, a family's description of a pothole cannot alone establish that it was the legally relevant cause of death. These competing factual possibilities are why investigators, authorities and litigants need an evidence register rather than generic assertions of neglect.

The authority to release particular records, protect personal data and preserve chain of custody remains subject to applicable law. Nevertheless, an accessible channel for requesting inspection information could reduce the inequality between

an institution holding maintenance documents and an affected family attempting to understand an accident. The administrative-litigation literature identifies procedural challenges that can undermine access to remedies if families enter the wrong forum or miss an applicable deadline (Barokah and Erliyana 2021; Hakim and Amnesti 2022). Legal assistance should therefore begin with forum and timing screening, rather than waiting until a dispute has escalated.

The proposed model distinguishes four successive but connected institutional checkpoints. At the hazard checkpoint, a road administrator records the report, assigns the competent unit, assesses risk and documents repair or warning actions. At the collision checkpoint, investigators preserve independent evidence concerning both road conditions and road-user conduct. At the remedy checkpoint, a qualified adviser identifies insurance eligibility and screens administrative, civil and criminal procedures separately. At the recovery checkpoint, services assess financial security, the needs of dependants, emotional support and communication with the family, while responsible agencies undertake corrective action to reduce recurrence.

This model does not require that every family commence litigation. Rather, it requires that institutional information be available, legal choices be explained accurately and support be delivered without making the family responsible for discovering every actor in a complex road-governance chain. The quality of response would be measured by verifiable performance indicators: time to acknowledge a hazard, elapsed time until mitigation, accessibility of road-status records, preservation of scene evidence, clarity of referrals, and family access to available remedies. These indicators are proposals for future implementation, not observed statistics from the 2026 report.

Table 1. Proposed prevention–accountability–recovery matrix (authors’ synthesis of legal rules and literature)

Stage	Primary responsibility	Relevant evidence / protection outcome
Prevention	Identify road authority, inspect defects; repair promptly or provide warnings	Road-status register; complaints; inspection and repair logs; photographs of warnings
Accountability	Independently assess breach, causation, relevant actor and competent legal forum	Collision reconstruction; hazard timeline; Article 24/273 elements; administrative or other procedural screening
Recovery	Offer eligibility assessment, family information, appropriate legal referral and support	Documented advice; available insurance claim; family needs assessment; status of corrective measures

Source: Authors' conceptual synthesis; not a table of observed field data.

Policy implications, contribution and limitations

The model offers three practical implications. First, maintenance agencies should treat records of a dangerous defect, temporary mitigation and completion of repairs as a unified public-safety chain. This would help establish what an institution knew, what action was feasible and which measures were actually taken. Second, police and administrative investigators should avoid a driver-only causal account where there is credible evidence that the physical roadway played a role. Road-engineering studies show why the built environment is relevant to crash severity, even though they cannot resolve any specific Indonesian case (Almannaa et al. 2023; Liang et al. 2024). Third, a family liaison or referral protocol should connect the initial collision investigation with information about support and legal options.

The framework's novelty lies in its explicit separation of the three protection deficits and in its proposed transitions between them. A preventable hazard can create a duty-related question without conclusively establishing legal guilt; an actionable negligence claim can exist without resolving all family needs; and successful insurance administration does not demonstrate that the underlying safety failure has been corrected. This makes the approach more precise than a call for stronger 'legal protection' in general terms. It also produces a research agenda: each checkpoint can be audited through road-status data, family interviews, court records and documented agency responses.

The social-policy implications are significant but bounded. Public authorities could pilot transparent hazard-response dashboards, formal referral agreements between relevant road administrators and investigators, and a non-adversarial family information service. Such initiatives would need to comply with procurement rules, confidentiality obligations, road-authority divisions and data-protection requirements. A future study could compare municipalities with and without systematic hazard-reporting procedures, test whether available warning and maintenance records correlate with improved investigation quality, and evaluate whether families receive usable procedural information. None of those outcomes should be represented as established by the present documentary review.

A final caution concerns generalisability. The report was motivated by Indonesian road conditions, including an intended local policy focus on Tegal Regency, but did not offer a documented sample of fatal pothole cases from which district-level prevalence or causal findings could be inferred. The imported empirical studies examine different jurisdictions and different accident populations. The contribution of the present analysis is therefore the doctrinal clarity and conceptual coherence of its framework, not cross-country causal equivalence or local impact

evaluation. This distinction is particularly important where claims of state negligence can have serious legal and reputational consequences.

CONCLUSION

Legal protection in fatal pothole-related crashes should be analysed as a continuous process of prevention, accountability and recovery. Indonesian law establishes duties to repair or warn of dangerous road conditions and provides potential criminal consequences for specified failures, while the amended Road Law helps identify the relevant administrative responsibilities. These norms create possible routes to accountability, but neither the discovery of a pothole nor the occurrence of a fatality proves that an administrator is legally culpable. The proper inquiry must identify the competent road authority, establish the factual sequence and causal relationship, and distinguish criminal responsibility from public-administration disputes and other available claims.

Victimology adds a necessary social dimension: a deceased road user leaves behind family members whose needs may include information, economic security, emotional support and meaningful access to a competent legal forum. Payments available through statutory insurance arrangements may provide assistance without deciding the separate issue of governmental liability. The proposed prevention–accountability–recovery framework therefore links prompt hazard mitigation, a reliable evidence trail, appropriate remedy screening, family-centred referral and institutional learning after a serious crash.

The article's conclusions are documentary and conceptual; no field interview dataset or verified series of fatal pothole cases was available in the supplied research report. Before claiming effectiveness or institutional misconduct in any jurisdiction, future research should examine collision files, road-maintenance records, decisions of the competent courts and the experiences of families. For policy-makers, the immediate recommendation is to make road-hazard responses traceable and post-crash legal information accessible so that safety failures, when proven, can be addressed and similar harms prevented.

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