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Reconstructing Legal Provisions on Victims and Eligible Heirs under the Road Traffic Accident Fund Law

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Abstract

Traffic accidents constitute a form of social risk that results in serious losses, including bodily injuries, property damage, and the death of family members. The state provides protection through the Road Traffic Accident Fund as regulated under Law Number 34 of 1964 and Government Regulation Number 18 of 1965. However, in practice, the regulation concerning the status of victims and the scope of heirs entitled to compensation continues to generate juridical and social problems, as it does not fully reflect substantive justice. This study aims to analyze the concepts of victims and heirs within the prevailing Road Traffic Accident Fund regulations and to formulate a more equitable regulatory reconstruction. This research employs a normative legal research method with statutory, conceptual, and comparative approaches. The analysis is conducted through an examination of positive legal norms and the social realities that develop within society. The findings demonstrate that the definition of victims and the limitation on the scope of heirs under the current positive law remain narrow and administrative in nature, thereby lacking responsiveness to the complexity of social relationships and the economic dependency of the families of traffic accident victims. The inconsistency between normative limitations and social realities has implications for the failure to achieve the objectives of social protection and substantive justice. Therefore, this study proposes a reconstruction of the interpretation of the concept of victims and an expansion of the scope of heirs that is more responsive, inclusive, and oriented toward social protection.

1. Introduction

Road traffic accidents constitute one of the most tangible and recurring social risks in modern society. Such incidents not only cause physical injuries and material losses but also directly affect the sustainability of the victims' family lives, particularly when accidents result in severe injury or death.[1] In this context, the presence of the state through a social protection mechanism becomes a fundamental necessity to ensure that victims and surviving family members are not left to bear the burden of risk individually.[2] This condition demonstrates that road traffic accidents are not merely transportation issues but also legal and social protection issues. Therefore, the effectiveness of legal norms governing victim compensation becomes a crucial legal concern requiring further examination to ensure that the objectives of social justice are fulfilled.

The Indonesian state has responded to this risk by establishing the Road Traffic Accident Fund scheme as regulated under Law Number 34 of 1964 and Government Regulation Number 18 of 1965.[3] This normative framework indicates that the existence of the Road Traffic

[1] Gøsta Esping-Andersen, The Three Worlds of Welfare Capitalism (Princeton: Princeton University Press, 1990), 35–.37
[2] John Rawls, Justice as Fairness: A Restatement, Harvard University Press, 2001, 10–12.
[3] Jimly Asshiddiqie, Pengantar Ilmu Hukum Tata Negara (Jakarta: Rajawali Pers, 2015), 122.

Accident Fund is intended to realize state responsibility in providing social protection. Nevertheless, the absence of a responsive legal construction regarding the definition of victims and eligible heirs creates uncertainty in the implementation of compensation, thereby constituting the principal legal issue addressed in this study. Normatively, this regulation is intended to function as a social security instrument that provides compensation to road traffic accident victims or their heirs. Nevertheless, in practice, the regulation concerning the definition of victims and the scope of heirs has generated various juridical and sociological problems, resulting in the failure to fulfill the sense of justice for affected parties.[4]

One of the fundamental issues lies in the normative construction of road traffic accident victims, which remains narrowly associated with accidents caused solely by transportation vehicles or drivers. Such an approach reflects an outdated paradigm that perceives traffic accidents as singular causal events. In fact, within the development of modern transportation systems, traffic accidents are the product of complex interactions among human factors, vehicles, roads, environmental conditions, and traffic management systems.[5] Consequently, victims who in reality suffer losses due to road conditions or infrastructural failures may potentially be denied compensation protection because they are classified as parties responsible for the accident. Accordingly, the current legal definition of victims appears inconsistent with the multidimensional causes of road traffic accidents recognized in contemporary transportation studies. This inconsistency raises questions regarding whether the existing legal framework remains capable of providing equitable protection for all accident victims.

A similar problem also arises in the regulation concerning the scope of heirs of road traffic accident victims. Government Regulation Number 18 of 1965 limits the category of heirs in an administrative and restrictive manner, without fully considering the actual social relationships and economic dependency existing within the victims' families. Such limitations have resulted in the exclusion of many individuals who, in factual terms, depended economically on the victims but are not legally recognized as recipients of state compensation.[6] This condition demonstrates a gap between the social protection objectives intended by the regulation and the social realities of the community it seeks to protect. This situation demonstrates that the legal limitation of heirs is no longer aligned with contemporary family structures and patterns of economic dependency. Consequently, legal reconstruction becomes necessary to ensure that social protection is distributed according to substantive justice rather than formal administrative status.

From the perspective of the modern rule of law, an approach that excessively emphasizes administrative aspects risks reducing the meaning of social protection to merely a mechanism for distributing accident compensation funds. When victim protection is

[4] Samuel Fleischacker, A Short History of Distributive Justice (Cambridge, MA: Harvard University Press, 2004), 3–5

[5] William Haddon Jr., "The Changing Approach to the Epidemiology, Prevention, and Amelioration of Trauma: The Transition to Approaches Etiologically Rather than Descriptively Based," *American Journal of Public Health* 58, no. 8 (1968): 1431–1438, https://doi.org/10.2105/AJPH.58.8.1431.

[6] Ahmad Qiram As-Suvi and Moh. Zainullah, "Sociology of Law in the Perspective of Roscoe Pound and Donald Black and Its Relevance in the Indonesian Context," *Peradaban Journal of Law and Society* 1, no. 2 (December 2022): 82–95, https://doi.org/10.59001/pjls.v1i2.39

constrained by formal constructions regarding the causes of accidents and narrow definitions of heirs, substantive justice for victims and surviving family members becomes difficult to achieve.[7] Therefore, a conceptual and normative reassessment of the provisions concerning victims and heirs within the Road Traffic Accident Fund regulation is necessary.

Studies on legal protection for road traffic accident victims in recent years have generally continued to focus on the technical aspects of compensation provision, victim characteristics, and administrative claim mechanisms. For instance, the study conducted by Satrya Surya Pratama primarily emphasizes the legal relationship between victims or heirs and PT Jasa Raharja, as well as procedural obstacles in the compensation claim process.[8] Meanwhile, the research of Ika Annisa and Rahmi Syahriza examines the effectiveness of compensation implementation by PT Jasa Raharja from the perspective of public service administration.[9] Another study conducted by Imam Budy Prastiyo focuses more on the socio-economic costs resulting from road traffic accidents without addressing the issue of the legal construction of victims and heirs.[10] Accordingly, previous studies have tended to position victims and heirs within a normative framework that has been taken for granted, thereby failing to specifically examine the problem of injustice arising from the narrow definition of victims and the administrative limitation of heirs under the Road Traffic Accident Fund Law. Although previous studies have examined compensation mechanisms and administrative implementation, they have not critically questioned the legal construction of victims and heirs as the fundamental basis for determining entitlement to compensation. Consequently, the existing literature leaves a significant normative gap regarding the reconstruction of these legal concepts, which this study seeks to address.

Based on these issues, this article examines three principal matters: first, how the concepts of victims and heirs of road traffic accident victims are constructed within the prevailing positive legal framework; second, why the regulation of the Road Traffic Accident Fund has the potential to generate injustice for victims and heirs; and third, how the reconstruction of provisions concerning victims and heirs can be formulated in a manner consistent with justice from the perspective of John Rawls' theory of justice. This study is expected to contribute academically to the development of a more responsive, inclusive, and equitable legal framework for the protection of road traffic accident victims.

2. Methods

This study constitutes normative legal research aimed at examining and analyzing the regulation concerning victims and heirs within the Road Traffic Accident Fund framework.[11]

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[7] Philip Selznick, Law, Society, and Industrial Justice, Russell Sage Foundation, 1969, 50–52.

[8] Satrya Surya Pratama, "Analisis Hukum terhadap Proses Klaim Santunan atas Korban Kecelakaan Lalu Lintas oleh Perusahaan Asuransi (Studi pada PT Jasa Raharja Persero)," *Audi Et AP: Jurnal Penelitian Hukum* 1, no. 1 (2022): 78–93, https://doi.org/10.24967/jaeap.v1i01.1528.

[9] Ika Annisa dan Rahmi Syahriza, "Pelaksanaan Pemberian Santunan pada Korban Kecelakaan Lalu Lintas PT Jasa Raharja Perwakilan Medan," *Publika: Jurnal Ilmu Administrasi Publik* 8, no. 1 (2022). https://doi.org/10.25299/jiap.2022.vol8(1).9185.

[10] Imam Budy Prastiyo, "Analisis Kejadian dan Biaya Kecelakaan Lalu Lintas (Studi Kasus Kota Jambi)," *Jurnal Keselamatan Transportasi Jalan* 10, no. 2 (2023). https://doi.org/10.46447/ktj.v10i2.561.

[11] Soerjono Soekanto dan Sri Mamudji, Penelitian Hukum Normatif: Suatu Tinjauan Singkat (Jakarta: Rajawali Pers, 2001), 13–14

The normative approach was selected because the focus of this study lies in the evaluation of positive legal norms and the reconstruction of legal concepts oriented toward justice and social protection for road traffic accident victims. The approaches employed in this research include the statutory approach and the conceptual approach. The statutory approach is utilized to examine the provisions of Law Number 34 of 1964 and Government Regulation Number 18 of 1965, along with other related regulations, particularly in constructing the definitions of victims and heirs entitled to compensation.[12] Meanwhile, the conceptual approach is employed to analyze the concepts of justice and social protection through John Rawls' theory of justice, progressive law, and maqāṣid al-syarī'ah.

The legal materials used in this study consist of primary and secondary legal materials. The primary legal materials include statutory regulations governing the Road Traffic Accident Fund as well as relevant court decisions. Meanwhile, the secondary legal materials comprise legal literature, scientific journals, textbooks, and previous studies related to victim protection, social security, and legal justice.[13] The analysis of legal materials was conducted qualitatively through prescriptive and argumentative analytical methods. Prescriptive analysis was employed to assess the conformity of prevailing legal norms with the principles of justice and the objectives of social protection, whereas argumentative analysis was used to formulate a more equitable reconstruction of the concepts of victims and heirs. The results of this analysis were subsequently utilized to propose a model of normative reconstruction that is responsive to the development of modern transportation systems and the protection needs of road traffic accident victims.

3. Results and Discussion

3.1. The Concept of Road Traffic Accident Victims under Law Number 34 of 1964

The Article 4 of Law Number 34 of 1964 stipulates that compensation from the Road Traffic Accident Fund shall be granted to victims of accidents caused by the use of road transportation vehicles. Such a formulation implicitly establishes a causal relationship between the existence of transportation vehicles as the cause of the accident and the status of an individual as a victim entitled to compensation. This normative construction places victims within a narrow framework of causality, whereby victim status is determined not by the factual losses suffered, but rather by an administrative assessment regarding the cause of the accident.[14]

This single-causality approach cannot be separated from the historical context in which the law was enacted during the 1960s, when traffic accidents were primarily perceived as resulting from interactions between vehicles or between vehicles and human beings. At that time, transportation systems had not yet developed in a complex manner, such that road conditions, infrastructural design, and traffic management were not regarded as dominant variables causing accidents.[15] Nevertheless, such a paradigm is no longer fully relevant to the conditions of modern transportation systems, which are multidimensional in nature.

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[12] Peter Mahmud Marzuki, Penelitian Hukum, Kencana, Jakarta, 2017, hlm. 133–134; Johnny Ibrahim, Teori dan Metodologi Penelitian Hukum Normatif, Bayumedia Publishing, Malang, 2006, 295–296

[13] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), 181–183

[14] Andrew Ashworth, *Victims' Rights, Defendants' Rights* (Oxford: Oxford University Press, 1998), 15.

[15] World Health Organization, *World Report on Road Traffic Injury Prevention*, WHO Press, Geneva, 2004, 19–22

In the contemporary implementation of traffic systems, road traffic accidents arise from the interaction of various factors, including physical road conditions, traffic governance, environmental conditions, and failures in safety systems.[16] Numerous accidents occur not merely as a result of driver error or vehicle malfunction, but rather due to external factors beyond the direct control of the victims. Under such circumstances, the application of Article 4 of Law Number 34 of 1964 has the potential to exclude parties who factually suffer losses from the category of victims protected by the state.

The normative construction linking victim status to the cause of the accident also gives rise to issues of justice, particularly when the party considered responsible for causing the accident likewise suffers severe injuries or death. Factually, both the party deemed responsible and other involved parties experience actual losses. However, the prevailing regulation excludes individuals classified as causing the accident from the status of victims, thereby eliminating their entitlement to compensation, including medical expenses and death benefits. This approach demonstrates that state protection is granted selectively based on normative constructions rather than on the degree of suffering or the need for social protection.

From the perspective of victim protection, such an approach tends to shift the objective of social security from protecting citizens against social risks to merely fulfilling administrative requirements. When the assessment of victims is determined more by the classification of the causes of accidents than by the losses suffered, the essence of substantive justice becomes diminished.[17] The state, as the guarantor of social risk, should place factual losses and protection needs as the primary basis for determining victim status.

Therefore, the provisions of Article 4 of Law Number 34 of 1964 require reconsideration in order to align with the development of modern transportation systems and the principles of a rule-of-law state oriented toward the protection of citizens' rights. The reconstruction of the concept of road traffic accident victims should no longer be based solely on the causality of transportation vehicles, but rather on the factual losses suffered as a consequence of the operation of road traffic systems as an integrated system. Such an approach enables a more inclusive and equitable form of protection for all parties affected by road traffic accidents.

3.2. The Concept of Heirs of Road Traffic Accident Victims under Government Regulation Number 18 of 1965

Article 12 of Government Regulation Number 18 of 1965 concerning the Implementation of the Road Traffic Accident Fund regulates the parties entitled to receive compensation when a road traffic accident victim dies. This provision introduces the concept of "heirs" within the framework of the implementation of the Road Traffic Accident Fund.[18] Nevertheless, the concept of heirs employed in this regulation is not intended as a regulation of inheritance in the sense of civil law or Islamic inheritance law, but rather as an instrument of administrative law functioning to determine the parties entitled to receive state compensation.

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[16] William Haddon Jr., "The Changing Approach to the Epidemiology, Prevention, and Amelioration of Trauma: The Transition to Approaches Etiologically Rather than Descriptively Based," *American Journal of Public Health* 58, no. 8 (1968): 1432–1433, https://doi.org/10.2105/AJPH.58.8.1431.

[17] Gustav Radbruch, "Statutory Lawlessness and Supra-Statutory Law," dalam *Oxford Journal of Legal Studies*, Vol. 26 No. 1, 2006, 7–14. https://doi.org/10.1093/ojls/gqi041

[18] Wirjono Prodjodikoro, *Hukum Warisan di Indonesia* (Bandung: Sumur Bandung, 1983), 11–13.

Normatively, the designation of heirs under Government Regulation Number 18 of 1965 is restrictive and administrative in nature. Such regulation is intended to ensure certainty and efficiency in the distribution of compensation, thereby enabling the state to disburse funds promptly and systematically. In this context, the legal relationship established is not a private legal relationship between insurer and insured as found in commercial insurance schemes, but rather a public legal relationship between the state and citizens, in which the state acts as the guarantor of social risk.[19] Although it serves a legitimate administrative purpose, the limitation of heir categories under Government Regulation Number 18 of 1965 gives rise to juridical and sociological problems. In practice, family structures and patterns of economic dependency within society develop dynamically and do not always correspond to the formally prescribed classifications of heirs. Consequently, certain individuals who factually depended on the accident victim are not recognized as recipients of compensation because they do not fall within the categories of heirs determined by the regulation.

This condition demonstrates the existence of tension between administrative legal certainty and the objectives of social protection intended to be achieved through the Road Traffic Accident Fund regulation.[20] When the criteria for determining heirs are established rigidly, the state risks failing to reach vulnerable groups that should otherwise receive protection. In this context, the dominance of an administrative approach may shift the orientation of social protection into merely fulfilling procedural requirements for the distribution of funds.[21] From the perspective of substantive justice, protection for the families of victims should be based on the reality of losses and economic dependency rather than solely on formal relationships prescribed by regulation. Limitations on heirs that fail to consider concrete social conditions have the potential to perpetuate injustice, particularly for those who are factually the most affected by the death of road traffic accident victims.[22]

In practice, administrative exclusion manifests in several recurring situations. First, adopted children whose adoption was conducted only socially and never formalized through a court decision or civil registration are often not recognized as heirs under the compensation mechanism. Although they may have been fully integrated into the victim's household and economically dependent on the victim, the lack of a legally registered adoption renders them invisible in the administrative determination of heirs. Second, distant relatives such as nieces, nephews, or siblings who lived with the victim and relied on the victim's income as their primary source of support are likewise excluded if they do not fall within the specified categories of heirs. Third, spouses and children from unregistered or religious-only marriages (nikah siri) frequently face denial because the state does not recognize the marital relationship for civil law purposes, even though family and community life may be entirely real. Fourth, stepchildren and de facto dependents, such as elderly parents of the victim who were not formally recorded in the family card or integrated population documents, may also be denied compensation.

[19] Ridwan HR, *Hukum Administrasi Negara*, RajaGrafindo Persada, Jakarta, 2018, 92–94.
[20] Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2012, 183–186.
[21] Amartya Sen, *The Idea of Justice*, Harvard University Press, Cambridge, 2009, 9–12.
[22] Jeremy Waldron, *Law and Disagreement* (Oxford: Oxford University Press, 1999), 98.

What unites these examples is the disjuncture between the formal administrative record and the lived reality of economic dependence. Civil registration documents family cards, marriage certificates, adoption decrees serve as proxies for dependency, but they do not capture all forms of family and social solidarity recognized in Indonesian society. In many communities, care relationships are based on customary or religious ties rather than state registration. Consequently, a rigid heir criterion that relies on formal documents tends to privilege those who have managed to align their family arrangements with administrative requirements, while systematically excluding the most vulnerable and legally unprotected groups. From a socio-legal perspective, this exclusion is not merely an incidental defect; it reflects a broader pattern in which the administrative state recognizes only those social relations that have been formally registered, thereby producing legal invisibility for the poor and marginalized.

Therefore, the regulation concerning heirs under Government Regulation Number 18 of 1965 requires evaluation and reconstruction in order to align with the objectives of social security and the principles of a rule-of-law state oriented toward the protection of citizens.[23] Such reconstruction should be directed toward broader and more flexible criteria for determining heirs based on the degree of dependency and actual losses suffered, thereby ensuring that the state compensation mechanism genuinely functions as an equitable instrument of social protection.[24]

3.3. Reconstruction of the Concepts of Victims and Heirs within an Equitable Road Traffic Accident Fund Framework

The regulation concerning victims and heirs within the Road Traffic Accident Fund, as stipulated under Law Number 34 of 1964 and Government Regulation Number 18 of 1965, fundamentally emerged from the state's obligation to provide social security against the risks arising from road traffic accidents. Nevertheless, the development of modern transportation systems and the evolving social dynamics of society demonstrate that the existing normative construction has not been fully capable of addressing the need for fair and inclusive victim protection.[25] A conceptual and normative reconstruction is therefore necessary, one that places the protection of victims as the primary orientation of legal policy.

The reconstruction of the provisions concerning victims and heirs within the Road Traffic Accident Fund fundamentally departs from a critique of the legalistic paradigm that has long dominated the regulation of protection for road traffic accident victims.[26] The regulatory framework established under Law Number 34 of 1964 and Government Regulation Number 18 of 1965 continues to position victims and heirs within a narrow administrative framework, causing state protection to emphasize procedural certainty rather than substantive justice. From the perspective of John Rawls, such a condition reflects the failure of social institutions to fully protect the *least advantaged*, namely road traffic accident victims and families who lose

[23] Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Sinar Grafika, Jakarta, 2005, 123–125
[24] Edi Suharto, *Analisis Kebijakan Publik*, Alfabeta, Bandung, 2014, 145–147.
[25] A Theory of Justice (Cambridge, MA: Harvard University Press, 1971), 3–4.
[26] Herlindah Herlindah, Siti Rohmah, and Ahmad Qiram As-Suvi, "Character-Building for Law Students: Exploring the Satjipto Rahardjo's Thoughts," *WASKITA: Jurnal Pendidikan Nilai dan Pembangunan Karakter* 6, no. 2 (2022), https://doi.org/10.21776/ub.waskita.2022.006.02.3.

their means of livelihood as a consequence of social risk. Rawls argues that justice must become the primary virtue of social institutions, and that legal policies should be directed toward ensuring fair protection for vulnerable groups.[27]

The first reconstruction concerns the concept of road traffic accident victims. Victim status has long been determined through a narrow causal relationship between transportation vehicles and accident events. As a result, parties categorized as causing accidents may lose their entitlement to compensation despite having suffered severe injuries or death themselves. This approach reflects an administrative logic that prioritizes the cause of the accident rather than the actual suffering experienced by victims. Within Rawls' framework of distributive justice, such a model contradicts the principle of fairness because the state fails to direct protection toward those who are most in need. Recent victimological scholarship has increasingly argued that legal systems should adopt a victim-oriented approach by recognizing victim status based on the actual harm suffered rather than solely on formal legal classifications or criminal liability.[28]

The concept of victims therefore requires reconstruction based on the factual losses arising from the operation of road traffic systems as an integrated system. Traffic accidents should no longer be understood merely as individual events caused by drivers or vehicles, but as failures of transportation systems involving the interaction of human beings, vehicles, roads, environmental conditions, and traffic governance. Every individual who suffers physical injury or loss of life as a result of such systemic failure should be recognized as a victim entitled to state protection, without being restricted beforehand by administrative classifications concerning who caused the accident. This development demonstrates that the principal legal issue lies not merely in determining legal responsibility for traffic accidents, but in ensuring that compensation law adequately protects all persons who experience actual losses. Accordingly, the reconstruction proposed in this study seeks to transform the concept of victims from an administrative category into a substantive legal status grounded in social protection.

This argument corresponds with the perspective of progressive law, which places law as an instrument intended to serve human beings rather than merely preserve the rigidity of norms. Within the context of the Road Traffic Accident Fund, progressive law rejects the notion that social protection is sufficiently fulfilled through administrative certainty in compensation distribution. Law must instead respond directly to the realities of human suffering. Contemporary studies on restorative justice in traffic accident cases likewise emphasize that legal mechanisms should prioritize victim recovery, compensation, and restoration of social relationships rather than relying exclusively on punitive or procedural approaches.[29] When an individual loses the ability to work, suffers permanent disability, or

[27] Satjipto Rahardjo, *Hukum Progresif: Hukum yang Membebaskan* (Jakarta: Kompas, 2009), 5–7.
[28] Rini Widiyanti, Anthon F. Susanto, and Rd. Hj. Dewi Asri Yustia, "Victim Oriented Model for Resolving Traffic Accident Cases in Pursuit of Reforming Indonesia's Criminal Law Policy," *Sipakatau Law Journal* 3, no. 4 (2026), https://doi.org/10.66314/sipakatau.v3i4.610.
[29] Nurriva Chairunnisa, Rani Hendriana, Dwi Hapsari Retnaningrum, and Bhanu Prakash Nunna, "The Application of Restorative Justice in the Settlement of Traffic Accident Cases (A Case Study in the Jurisdiction of the Bekasi City Resort Police)," *Jurnal Hukum In Concreto* 3, no. 2 (2024): 101–114, https://ejournal.uhb.ac.id/index.php/inconcreto/article/view/1398.

dies as a consequence of a road traffic accident, the orientation of law should focus on recovery and social protection rather than administrative judgments concerning whether the victim was formally at fault. The reconstruction proposed in this study seeks to shift the orientation of legal protection from a *rule-centered approach* toward a *human-centered approach* in the protection of road traffic accident victims.[30] Therefore, the significance of this reconstruction lies in repositioning compensation law as a mechanism of restorative social protection rather than merely an instrument for determining administrative eligibility. Such an approach strengthens the normative objective of achieving substantive justice for traffic accident victims.

The reconstruction also extends to the regulation of heirs of road traffic accident victims. Government Regulation Number 18 of 1965 still limits heirs within rigid and formalistic administrative categories, despite the fact that family structures and patterns of economic dependency in modern society have developed far beyond the assumptions embedded in the regulation. Consequently, many individuals who factually lose their source of livelihood due to the death of accident victims remain excluded from state compensation because they do not fall within formally recognized categories of heirs. Recent studies concerning restorative justice and victim compensation indicate that effective legal protection should recognize the socio-economic dependency of victims' families as an essential element of recovery, particularly where the deceased served as the principal source of family income.[31] From Rawls' perspective, such conditions demonstrate the inability of the state to distribute social protection fairly, since the law effectively excludes those most severely affected by social risk. The reconstruction of heirs must therefore be directed toward recognizing actual socio-economic dependency rather than relying exclusively on formal relationships established through administrative documents. This finding confirms that the legal issue is not confined to defining heirs in a formal sense, but concerns whether compensation law is capable of protecting those who genuinely suffer economic vulnerability after the death of a family member. Consequently, this study proposes a more responsive interpretation of heirship that better reflects the social function of the Road Traffic Accident Fund.

Within the framework of progressive law, the state cannot shield itself behind procedural certainty when such procedures ultimately produce substantive injustice. For that reason, administrators of the Road Traffic Accident Fund should be granted measured administrative discretion to assess the factual relationship between victims and surviving dependents. The purpose of such discretion is not to create legal uncertainty, but to ensure that social protection genuinely reaches those who suffer socio-economic losses as a consequence of road traffic accidents. The concept of heirs should no longer be understood narrowly as a closed administrative category, but rather as subjects of social protection determined by the degree of dependency and the actual losses experienced.

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[30] Jasser Auda, *Maqasid al-Shariah as Philosophy of Islamic Law: A Systems Approach* (London: International Institute of Islamic Thought, 2008), 21–25.

[31] Rahtami Susanti, "The Application of Restorative Justice in Traffic Accidents Committed by Children Resulting in Death," *Proceedings Series on Social Sciences & Humanities* 14 (2023), https://doi.org/10.30595/pssh.v14i.909.

This reconstruction also gains normative legitimacy from the perspective of *maqāṣid al-syarī'ah*, particularly the principles of protecting life (*ḥifẓ al-nafs*) and protecting property as well as family continuity (*ḥifẓ al-māl*). Within the framework of *maqāṣid*, law is not intended merely to enforce procedural formalities, but to realize human welfare and social benefit. State compensation for road traffic accidents should therefore be based on the realities of suffering and loss rather than restricted by rigid administrative classifications. When the state refuses protection to individuals who have genuinely lost their means of livelihood solely because they fail to satisfy formal requirements of heirship, the law loses its orientation toward public welfare. In this respect, the reconstruction of the concepts of victims and heirs forms part of a broader effort to restore the function of law as an instrument of social protection grounded in justice, inclusiveness, and human dignity.[32]

From the perspective of John Rawls, the reconstruction of the concepts of victims and heirs reflects the obligation of legal institutions to protect those who are most disadvantaged by social risk. Road traffic accident victims and families who lose their economic support due to death or permanent disability occupy a vulnerable position within the social structure, yet the current legal framework continues to place administrative certainty above substantive justice. As a consequence, social protection is often inaccessible to those who are factually the most affected by traffic accidents. This condition illustrates the gap between procedural legality and distributive justice, particularly when rigid legal classifications exclude individuals who urgently require state protection.[33] Recent studies on traffic accident regulation in Indonesia likewise demonstrate that existing legal mechanisms remain heavily oriented toward formal procedures and have not fully accommodated the broader dimensions of victim recovery and social protection.[34]

The reconstruction proposed in this study departs from the classical paradigm that understands traffic accidents primarily through the lens of individual fault. Modern transportation systems involve complex interactions among infrastructure, technology, environmental conditions, governance, and road users. Legal protection should therefore no longer be determined solely by administrative classifications concerning who caused the accident, but by the extent of factual losses suffered as a consequence of systemic failure. This approach is consistent with the perspective of progressive law, which positions law as an instrument intended to serve human welfare rather than merely preserve procedural rigidity. When victims lose their ability to work, suffer permanent disability, or die as a result of traffic accidents, the primary concern of the state should be socio-economic recovery and social protection, not merely formal verification regarding fault or heirship status. Contemporary legal scholarship on restorative justice in traffic accident cases also indicates the growing need for a more humane and victim-oriented legal approach that prioritizes recovery and social

[32] Justice as Fairness: A Restatement (Cambridge, MA: Harvard University Press, 2001), 42–44.
[33] Dian Ardiansyah, Fenty U. Puluhulawa, and Fence M. Wantu, "Kebijakan Hukum Menjamin Perlindungan Sosial Bagi Individu Yang Mengalami Kecelakaan Lalu Lintas Sendirian," Philosophia Law Review 3, no. 2 (2023), https://doi.org/10.56591/pilar.v3i2.13668
[34] Lovita Aprillia Helena, Nur Hakim, and Tubagus Achmad Darodjat, "Reconstruction Of Restorative Justice-Based Settlement Of Traffic Accident Offences," *Journal Evidence Of Law* 4, no. 1 (2025): 129–134, https://doi.org/10.59066/jel.v4i1.1058.

restoration over rigid formalism.[35] Recent legal scholarship has increasingly shifted from a perpetrator-oriented model toward a victim-oriented framework emphasizing compensation, recovery, and social restoration as the primary objectives of traffic accident resolution rather than merely determining criminal liability.[36,37]

This reconstruction also gains normative legitimacy from the framework of *maqāṣid al-syarī'ah*, particularly the principles of protecting life (*ḥifẓ al-nafs*) and preserving family livelihood and property (*ḥifẓ al-māl*). Within this perspective, law is directed toward achieving public welfare rather than merely enforcing administrative formalities. The expansion of the concept of victims and the flexibilization of heir determination therefore represent more than technical legal reform; they constitute a transformation of legal orientation from a rule-centered approach toward a human-centered model of social protection. In this framework, the state is not merely an administrator of compensation funds, but a guarantor of social welfare for citizens affected by systemic risks arising from modern transportation systems.[38] This tendency also reflects the broader development of contemporary compensation law, which places the state under an obligation to ensure effective recovery mechanisms through victim-centered compensation schemes rather than limiting protection to formal administrative classifications.[39]

This reconstruction is not intended to eliminate legal certainty, but rather to rebalance administrative certainty with social justice. Accordingly, reconstructing the legal framework governing victims and heirs does not undermine legal certainty but seeks to harmonize legal certainty with substantive justice through a more responsive compensation system.[40] In this regard, the reconstruction of the Road Traffic Accident Compensation framework should be situated within the applicative dimension of Rawlsian *justice as fairness*, particularly through the perspectives of relational justice and non-ideal theory. Justice, therefore, cannot merely be understood as procedural uniformity in administrative mechanisms, but must also reflect the law's capacity to provide tangible protection for vulnerable groups disproportionately affected by traffic accidents. Excessively rigid administrative requirements may ultimately obstruct victims' access to compensation, thereby transforming legal protection into a purely formal entitlement without substantive realization. Consequently, the legal framework

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[35] Kasjim Salenda and Sudirman, "The Reconstruction of Maqasid Al-Syariah against Traffic Violation in Indonesia," *Jurnal Adabiyah* 23, no. 1 (2023), https://doi.org/10.24252/jad.v23i1a4.

[36] Sherly Ramadani and Riki Zulfiko, "Implementation of Restorative Justice at the Payakumbuh District Attorney's Office in the Case of Traffic Accident Crime Resulting in Minor Injuries," *PAMALI: Pattimura Magister Law Review* 5, no. 1 (2025): 91–98, https://doi.org/10.47268/pamali.v5i1.2872.

[37] Jessica Dewastyana, Rodiyah, and Anis Widyawati, "Implementation of Restorative Justice in Traffic Accidents by the Ambon Police Traffic Unit," *Fox Justi: Jurnal Ilmu Hukum* 15, no. 3 (2025), https://ejournal.seaninstitute.or.id/index.php/Justi/article/view/7257.

[38] Abdullah Saeed, "Maqasid al-Shari'ah and Social Welfare in Contemporary Islamic Legal Thought," *Journal of Islamic Ethics* 6, no. 1–2 (2022): 44–47, https://doi.org/10.1163/24685542-12340063.

[39] Tika Arisanti et al., "The Concept of Restoring the Rights of Victims of Mass Fraud through a Victim Compensation Fund," *International Journal of Environmental Sciences* 11, no. 5 (2025): 840–853, https://doi.org/10.64252/0377g274.

[40] Lovita Aprillia Helena, Nur Hakim, and Tubagus Achmad Darodjat, "Reconstruction of Restorative Justice-Based Settlement of Traffic Accident Crimes," *Journal Evidence of Law* 3, no. 3 (2025), https://jurnal.erapublikasi.id/index.php/JEL/article/download/1058/720.

requires a more responsive normative orientation that is capable of accommodating empirical social realities while still preserving institutional accountability.[41]

From the standpoint of contemporary administrative law, legal certainty undoubtedly remains essential to ensure accountability and prevent abuse of authority. Nevertheless, an overly procedural conception of legal certainty risks producing what scholars describe as *administrative exclusion*, namely a condition in which individuals formally possess rights yet are substantively unable to access legal protection due to inflexible bureaucratic barriers.[42] Under such circumstances, law gradually loses its ethical and social function as an instrument of public protection. Accordingly, the reconstruction of traffic accident compensation norms should move toward a model of *justificatory administration*, where administrative governance is not solely assessed through procedural compliance, but also through the substantive rationality and social utility of legal decision-making processes. Such an approach enables the compensation system to remain legally accountable while simultaneously reflecting broader principles of fairness and inclusivity.[43]

The reconstruction of the concepts of victims and heirs based on factual loss and actual dependency relationships constitutes an important step in shifting the orientation of law from a formalistic approach toward a more substantive model of social protection. In practice, many individuals who are socially and economically affected by traffic accidents remain excluded from compensation schemes merely because they do not satisfy rigid administrative classifications. This condition demonstrates that formal legality does not necessarily correspond to social justice. Consequently, the reformulation of the Road Traffic Accident Compensation regulation should position social vulnerability and empirical dependency as central considerations in determining who is entitled to legal protection. Such an approach is consistent with the development of *social vulnerability theory*, which places the state as an active actor responsible for reducing risk inequality and expanding protection for vulnerable groups.[44]

Furthermore, the expansion of the meaning of victims and heirs reflects the transformation of the modern welfare state paradigm, in which social protection is no longer perceived solely as an administrative policy, but also as a constitutional responsibility of the state toward its citizens. Contemporary studies on social protection emphasize that welfare-oriented legal systems must ensure effective access to protection for vulnerable groups by prioritizing substantive outcomes rather than merely procedural compliance.[45] Within this

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[41] Ae-Ryung Kim, "Limitations of Distributive Justice: A Study on Fairness in the Perspective of Relational Justice," *Korean Feminist Philosophy* 38 (2022): 39–66, https://doi.org/10.17316/kfp.2022.11.38.39.

[42] Janina Boughey, "The Culture of Justification in Administrative Law: Rationales and Consequences," *University of British Columbia Law Review* 54, no. 2 (2021): 403–447, https://commons.allard.ubc.ca/ubclawreview/vol54/iss2/4/.

[43] Mesfin Mulugeta Woldegiorgis, "Inequality, Social Protection Policy, and Inclusion: Pertinent Theories and Empirical Evidence," *Journal of Social and Economic Development* 24 (2022): 241–265, https://doi.org/10.1007/s40847-022-00185-1.

[44] Martha Albertson Fineman, "Vulnerability and Social Justice," *Valparaiso University Law Review* 53, no. 2 (2019): 341–369, https://scholar.valpo.edu/vulr/vol53/iss2/2/.

[45] Maria Federica Moscati, "The Role of Access to Justice and Legal Aid in the Welfare State," *Journal of Social Welfare and Family Law* 45, no. 2 (2023): 170–186, https://doi.org/10.1080/09649069.2023.2198582.

framework, legal legitimacy is not constructed merely through procedural compliance, but through the capacity of regulations to generate tangible benefits for individuals who suffer socio-economic losses as a consequence of traffic accidents. Accordingly, law simultaneously performs corrective and distributive functions: correcting inequalities in access to protection while distributing social guarantees more proportionally based on the degree of harm experienced by victims.[46] This development demonstrates that the existing legal framework governing road traffic accident compensation should no longer be assessed solely on its administrative consistency, but also on its effectiveness in fulfilling the constitutional objective of social protection. Accordingly, the reconstruction proposed in this study seeks to reposition victim compensation within the broader framework of welfare-oriented legal protection, thereby addressing the legal gap identified in the current regulatory regime.

Ultimately, this reconstruction reinforces the position of the state as a *social risk bearer* responsible for ensuring that every citizen receives humane and inclusive protection when confronted with public risks. Recent scholarship further demonstrates that effective victim-oriented legal systems should measure their legitimacy not merely through procedural efficiency but through their ability to restore the social and economic conditions of affected individuals and families.[47] Such an orientation further strengthens the legitimacy of the legal system because law is no longer perceived as a rigid administrative instrument, but rather as a responsive mechanism of social protection capable of addressing the actual needs of society. In the context of the welfare rule of law, the effectiveness of traffic accident compensation regulations should not be measured solely through bureaucratic orderliness in fund distribution, but also through their ability to ensure substantive justice, broaden access to protection, and restore the social dignity of victims in a more equitable manner.[48] This finding confirms that the principal legal issue is not merely the existence of compensation regulations, but whether the current legal construction is capable of providing meaningful protection for those who experience socio-economic vulnerability following road traffic accidents. Consequently, the proposed reconstruction aims to align the Road Traffic Accident Fund framework with contemporary principles of social justice and responsive legal protection.

4. Conclusions

The regulation of the Road Traffic Accident Fund, as stipulated in Law Number 34 of 1964 and Government Regulation Number 18 of 1965, fundamentally represents the state's presence in guaranteeing social risks arising from traffic accidents. Nevertheless, this study demonstrates that the normative construction of victims and heirs remains grounded in an outdated paradigm that emphasizes transportation-related causality and rigid administrative

[46] Daniel Halliday and John Thrasher, "Social Justice and Public Policy: Instrumentalism and Political Legitimacy," *Critical Review of International Social and Political Philosophy* 24, no. 5 (2021): 661–680, https://doi.org/10.1080/13698230.2020.1781077.

[47] Michael King and Theo Gavrielides, "Restorative Justice and Victim-Centred Justice: Contemporary Developments and Future Directions," *The International Journal of Restorative Justice* 5, no. 3 (2022): 356–375, https://doi.org/10.5553/TIJRJ.000110.

[48] Frans Viljoen, "Social Protection, Welfare States and Human Dignity in Contemporary Constitutionalism," *Potchefstroom Electronic Law Journal* 26 (2023): 1–27, https://doi.org/10.17159/1727-3781/2023/v26i0a15861.

limitations, thereby failing to fully reflect the complexity of modern traffic systems and contemporary social realities. The concept of traffic accident victims, which is narrowly linked to the direct cause of the accident, has the potential to exclude parties who, in factual terms, suffer losses resulting from failures within the broader road traffic system. Such an approach causes state protection to be oriented more toward administrative classification than toward actual social protection needs. Similarly, the regulation concerning heirs under Government Regulation Number 18 of 1965, which adopts a restrictive and exhaustive formulation, has not been capable of adequately accommodating individuals who are factually dependent, both economically and socially, upon traffic accident victims. The reconstruction of the concepts of victims and heirs proposed in this article places factual loss and the degree of dependency as the principal foundations for state compensation protection. This approach seeks to balance administrative legal certainty with substantive justice, thereby enabling the Road Traffic Accident Fund to function more effectively as an instrument of social protection. In this sense, law does not merely operate as a mechanism for distributing compensation funds, but also as a means of realizing justice for victims and affected families.

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