

# Reconstruction of Criminal Responsibility of Road Users for the Impact of Psychological Trauma on Witnesses and Indirect Victims of Traffic Accidents

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**Abstract:** *This article examines the construction of criminal liability for road users in Indonesian traffic law, which to date still focuses on physical consequences and material losses, while the impact of psychological trauma experienced by witnesses and indirect victims of accidents has not yet been recognized as a relevant legal consequence. Social reality shows that traffic accidents not only cause bodily injury or property damage, but also psychological suffering in the form of post-traumatic stress disorder, anxiety, and other mental disorders that seriously impact the quality of life. This study aims to analyze the weaknesses in the regulation of criminal liability for road users in positive law and to formulate a model for reconstructing criminal liability that is more responsive to psychological trauma. The method used is normative legal research through a statutory and conceptual approach by examining criminal law doctrine, victimology, forensic psychology, and the principles of substantive justice and human rights. The results of the study indicate that psychological trauma deserves to be positioned as a conceptually legitimate consequence of crime, accompanied by the recognition of witnesses and indirect victims as subjects of legal protection. Therefore, the reconstruction of criminal liability for road users needs to be directed at integrating punishment and psychological recovery to create a more humane, proportional, and just traffic law system.*

**Keywords:** *Criminal Liability, Traffic Accidents, Psychological Trauma, Indirect Victims, Substantive Justice.*

## Introduction

The high number of traffic accidents in Indonesia remains a serious problem that recurs year after year and reflects a systemic failure to foster a safe traffic culture (Sukmandari 2020). Accident statistics show that roads are not only a space for mobility but also a risk zone with far-reaching impacts on society (Firmansyah 2024). The current criminal traffic law framework prioritizes physical victims. Material losses and bodily injuries are the dominant benchmarks in assessing the legal consequences of an accident (Sulli 2025). This orientation has gradually created a narrow law enforcement pattern that is insensitive to other, non-physical dimensions of suffering.

Traffic accidents do not stop at vehicle damage or bodily injuries; they leave profound psychological scars for many parties (Jamaluddin 2025). Witnesses, other drivers, and even

bystanders often experience serious mental distress after witnessing traumatic events. Post-traumatic stress disorder, excessive anxiety, and sleep disorders are conditions that frequently arise in empirical practice (Purba 2022). These experiences disrupt the quality of life and social skills of witnesses and indirect victims. This fact demonstrates that traffic accidents are legal events with multidimensional impacts (Rahmawan 2026).

Indonesian traffic criminal law does not yet provide adequate space for the recognition of psychological trauma as a legally valid consequence. The structure of traffic accident offenses is still designed based on the paradigm of visible physical consequences. The assessment of psychological harm tends to be placed in the abstract and considered difficult to prove legally (Elfin 2025). This mindset results in the psychological suffering of witnesses and victims being marginalized from the criminal justice process. This gap creates latent yet tangible injustices.

Public communication and institutional responses play a significant role in shaping the psychological impact experienced by traffic accident victims and their families. Insensitive communication, victim-blaming narratives, excessive media exposure, and inadequate information from law enforcement or other authorities may aggravate trauma and prolong psychological suffering. In contrast, transparent communication, respectful treatment of victims, timely information, and access to psychological support services can facilitate emotional recovery and strengthen public trust in legal institutions.

Accordingly, psychological suffering arising from traffic accidents should be understood not only as a consequence of the accident itself but also as a result of post-accident social and institutional interactions. This perspective further supports the need for a more victim-oriented approach within Indonesian traffic criminal law, including greater recognition of psychological harm and the development of institutional mechanisms that promote victims' psychological recovery.

Developments in forensic psychology have actually provided sufficient scientific instruments to identify and measure psychological trauma (Pambudhi 2024). Clinical diagnosis, psychological assessment, and professional standards allow for objective and accountable assessment of psychological trauma (Nawindi 2025). Criminal law, as a normative system, has not fully responded to these scientific advances. The gap between scientific development and legal construction creates conceptual tensions in law enforcement practices. This situation demonstrates the need to adjust the criminal law paradigm to align with social and scientific realities.

Criminal liability in classical criminal law rests on fault as the basis for punishment (Fridawati 2024). Fault is understood in two main forms: intent and negligence, which reflect the perpetrator's inner attitude toward their actions (Sitepu 2024). This concept positions humans as moral subjects who can be held accountable for the consequences of their actions. Traffic law often uses the concept of *culpa* as the basis for punishment for accidents (Tobing 2024). This focus often stops at the violation of the norm of prudence without exploring the broader impact of the act.

Consequence-based criminal liability developed in response to the limitations of an approach that solely assesses the perpetrator's inner attitude. This model emphasizes the importance of the tangible consequences arising from criminal acts. In traffic accidents, consequences are often narrowly defined as bodily injury or death (Leba 2023). This

framework ignores the fact that psychological suffering is also a real consequence and has long-term impacts. The consequence-based approach opens conceptual space to incorporate psychological trauma into criminal law assessments.

The development of modern criminal law demonstrates a tendency to be more responsive to the interests of victims. Punishment is no longer viewed solely as retribution, but also as a means of protection and reparation (Situmeang 2025). This direction encourages a shift from an offender-centric approach to a more balanced approach. In the field of traffic, this shift has not yet been fully realized. The construction of criminal responsibility still lags behind the spirit of criminal law reform in general.

Victimology provides an important perspective on who qualifies as a victim of a crime. Victims are no longer understood solely as those who suffer direct harm as a result of the perpetrator's actions (Sunarso 2022). Modern victimology theory recognizes the existence of indirect victims who suffer because of criminal events (Waluyo 2022). Traffic accident witnesses fall into the category of secondary victims who are psychologically impacted. This recognition challenges the traditional, rigid boundaries of criminal law.

Critical victimology highlights the legal system's tendency to marginalize certain groups of victims. An excessive focus on the perpetrator often renders the victim's experience invisible in the judicial process. In traffic accidents, witnesses are often positioned solely as evidence. This position ignores the fact that witnesses can also experience serious suffering. A critical victimology approach is relevant for dismantling structural biases in traffic law.

Psychological trauma is understood as a psychic response to an event that threatens a person's safety or integrity (Akiel 2025). Forensic psychology views trauma as a condition identifiable through clear clinical indicators. Post-traumatic stress disorder (PTSD) is not simply a temporary feeling of sadness or fear (Firnando 2025). This condition has internationally recognized diagnostic criteria. This understanding strengthens the argument that psychological trauma is not merely a subjective claim.

From a communication perspective, the psychological impact of trauma may be exacerbated by repeated exposure to accident narratives, graphic images, videos, viral social media content, or sensational news coverage related to the traumatic event. Such exposure can trigger a process of re-traumatization, causing witnesses and indirect victims to repeatedly relive feelings of fear, helplessness, and anxiety associated with the incident. Consequently, excessive and sensationalized dissemination of traumatic content may intensify clinical symptoms of PTSD and anxiety disorders, prolong the recovery process, and increase the overall psychological harm suffered by affected individuals.

The standard of proof for psychological trauma has evolved through structured professional assessment methods. Psychological examinations, clinical interviews, and test instruments provide an objective basis for trauma assessment (Satsabhila 2025). The results of these assessments can be communicated in scientific language understandable by law enforcement officials. The causal relationship between accidents and psychological disorders can be rationally traced. This fact demonstrates that psychological trauma deserves to be treated as a serious legal consequence.

Substantive justice theory demands that the law not stop at formal compliance with the rules. Justice is measured by the extent to which the law responds to the real suffering

experienced by humans. The human-centered justice approach places the victim's experience as a crucial part of the legal process. Harm-based justice assesses crimes based on the magnitude of the harm caused, including psychological harm (Maulidina 2025). These principles open up space for the development of more humane criminal accountability.

The conceptual framework of this research is built on the relationship between road users, unlawful acts, their consequences, and the existence of indirect victims. Psychological trauma is positioned as a criminal consequence with legal and moral relevance. The causal relationship between acts and psychological suffering is the primary focus of the analysis. This approach rejects the rigid separation between physical and non-physical harm. The reconstruction of criminal responsibility is aimed at bridging the needs for justice, legal certainty, and humanity in traffic law.

## **Methodology**

This study uses a normative legal research method that focuses on the study of legal norms, principles, and doctrines governing the criminal liability of road users. A statutory approach is used to examine the provisions of Law Number 22 of 2009 concerning Road Traffic and Transportation and their relationship to general provisions of criminal law and human rights principles. A conceptual approach is utilized to examine the concepts of guilt, criminal consequences, victims, and the expansion of the meaning of psychological trauma-based criminal liability through the perspectives of modern criminal law, victimology, and forensic psychology. Primary legal materials in the form of laws and regulations are combined with secondary legal materials such as scientific literature, legal journals, and relevant psychological studies to build a coherent and systematic argument. The analysis of legal materials is conducted qualitatively using prescriptive and evaluative methods to identify weaknesses in the applicable legal construction and formulate a reconstruction model of criminal liability that is fairer, more responsive, and in line with humanitarian values without relying on analysis of court decisions.

## **Result and Discussion**

### **Weaknesses in the Construction of Criminal Liability for Road Users in Positive Law**

The regulation of criminal liability for road users in Indonesian positive law is based on Law Number 22 of 2009 concerning Road Traffic and Transportation. This law defines a traffic accident as an unforeseen and unintentional event on the road involving a vehicle that results in human casualties or property damage, as defined in Article 1, number 24. The established criminal offense structure places the act of violating traffic regulations as the starting point for criminal liability. This formulation emphasizes a direct link between the violation of traffic norms and the tangible consequences. This construction demonstrates the still highly traditional orientation of criminal traffic law.

Traffic accident offenses are further detailed through the classification of consequences as stipulated in Article 229 of Law Number 22 of 2009. This article classifies traffic accidents into three categories: minor, moderate, and serious, based on whether they involve vehicle damage, minor injuries, serious injuries, or fatalities. This classification reflects a legal

perspective that assesses the severity of an act solely based on physical consequences. Dimensions of suffering other than bodily and material damage are excluded from this assessment system. This normative structure implicitly excludes recognition of psychological impacts. Provisions regarding the criminal liability of road users are further regulated in Articles 310 and 311 of Law Number 22 of 2009. Article 310 stipulates criminal sanctions for drivers whose negligence causes traffic accidents resulting in property damage, minor injuries, serious injuries, or death. Article 311 regulates the act of intentionally driving in a manner that endangers life or property. Both articles consistently prioritize physical consequences as the basis for determining punishment. The normative choice demonstrates that lawmakers have not yet considered psychological suffering as a relevant legal consequence.

The emphasis on physical consequences and material losses is also reflected in daily law enforcement practices. Law enforcement officials typically determine whether the elements of a crime have been met by relying on post-mortem examination reports (*visum et repertum*), assessments of vehicle damage, and estimates of economic loss. These forms of evidence are considered the most objective and easily verified. The psychological suffering of witnesses and indirect victims is often viewed as outside the scope of criminal law. This perspective reinforces a rigid positivistic tendency in the application of traffic law.

Psychological trauma resulting from traffic accidents is not explicitly recognized in applicable laws and regulations. Law Number 22 of 2009 does not contain a single provision that mentions psychological impact as a legal consequence. This absence of norms limits the scope for interpretation for law enforcement officers. Trauma experienced by witnesses or victims is indirectly treated as a personal event with no criminal relevance. This situation creates a gap between social reality and legal construction.

The lack of recognition of psychological trauma is also closely related to the paradigm of consequences in criminal traffic law. Consequences are understood as something that can be seen, measured, and proven with the naked eye. Mental suffering is considered difficult to assess and prone to subjectivity. Yet, forensic psychology has developed strict standards for diagnosis and assessment. The legal rejection of psychological consequences reflects conceptual limitations rather than the impossibility of proof.

The limited interpretation of consequences in judicial practice reinforces the marginalization of psychological trauma. Judges are generally bound by articles that explicitly mention specific types of consequences. Progressive interpretative space is avoided to maintain formal legal certainty. Consequences that are not explicitly formulated tend to be disregarded in legal deliberations. This pattern demonstrates how normative structures systematically influence the thinking of law enforcement officers. This situation directly impacts the lack of protection for witnesses and indirect victims of traffic accidents, who experience real suffering, but are not recognized as legally injured parties. The legal system only views them as evidence, not as subjects in need of protection. This injustice is structural because it stems from the narrow design of norms. The law fails to fulfill its protective function.

The imbalance between perpetrators and victims is increasingly evident in the current construction of criminal responsibility. Perpetrators are judged solely on the level of culpability and the physical consequences. Indirect victims are never included in the calculation of punishment or reparation. The legal relationship that is formed becomes disproportionate because it only considers one aspect of suffering. Substantive justice is difficult to achieve if the law ignores this reality.

The weaknesses in the construction of criminal responsibility for road users demonstrate the need for serious conceptual reform. Traffic criminal law is not sufficient to merely guarantee order and safety formally. Protecting human dignity and mental health is also part of the goal of modern law. When norms no longer align with developments in knowledge and social needs, the law loses its responsiveness. Reconstructing criminal responsibility is an urgent need so that traffic law can more comprehensively address humanitarian challenges.

### **Reconstruction of Criminal Liability of Road Users Based on Psychological Trauma**

The reconstruction of criminal liability for road users needs to be based on a philosophical foundation that places substantive justice as the primary objective of criminal law. Justice cannot be understood simply as the mechanical application of rules, but rather as an effort to address the real suffering experienced by humans. Traffic accident victims, including witnesses and indirect victims, experience impacts that extend beyond the physical and material dimensions. Criminal law that ignores this dimension has the potential to perpetuate structural injustice. The principle of substantive justice demands that the law be more empathetic and responsive to the experiences of victims.

Victim protection is an integral part of the goal of modern criminal law. The law functions not only to control the behavior of perpetrators but also to restore the social balance disturbed by criminal acts. Traffic accidents cause social wounds that are not always visible but are deeply felt by the individuals involved. Psychological trauma often persists and affects victims' social relationships, employment, and quality of life. Recognition of this suffering reflects the law's commitment to humanitarian values.

Human rights values provide a strong legal basis for mental health protection. The right to security and protection from degrading treatment encompasses both physical and psychological dimensions. The Constitution of the Republic of Indonesia guarantees the protection of human dignity regardless of the form of suffering experienced. Traffic criminal law should be interpreted in line with these principles. Reconstruction of criminal responsibility serves to harmonize sectoral law with constitutional values.

Progressive law offers a more flexible perspective on the role of law in society. Law is not positioned as a fixed text, but rather as an instrument that must evolve to meet the needs of justice. The psychological trauma experienced by witnesses and indirect victims is a social fact that cannot be ignored. A progressive approach opens up space for interpretation and normative reform without having to wait for lengthy formal changes. This approach allows criminal law to function more humanely.

Reconstructing the concept of criminal consequences requires expanding the meaning of consequences, which have previously been limited to physical and material losses.

Psychological trauma is a tangible consequence of traffic accidents. These impacts can be identified, measured, and explained scientifically through a forensic psychology approach. Recognizing trauma as a consequence of crime enriches legal understanding of the harm caused by an act. This expansion does not obscure legal certainty but rather strengthens the law's relevance to social reality.

Recognizing psychological trauma as a consequence of crime has implications for the concept of the victim. Victims are no longer limited to individuals who suffer direct bodily injury or economic loss. Witnesses and indirect victims who experience psychological suffering deserve to be recognized as subjects of legal protection. The recognition aligns with the development of modern victimology, which places the victim at the center of attention. Traffic law takes on a new, more inclusive dimension through this approach.

A trauma-responsive model of criminal accountability demands the integration of punishment and recovery. Criminal accountability is not solely focused on imposing sanctions, but also on efforts to alleviate the victim's suffering. Psychological recovery requires special attention due to its long-term impact. This integration encourages a shift in the perspective of law enforcement officials regarding the purpose of punishment. Traffic law is transforming into a more balanced means of justice.

Alternative criminal and non-criminal sanctions are a critical part of a trauma-responsive model. Sanctions do not always have to take the form of imprisonment, especially in cases of accidents caused by negligence. Rehabilitation programs, counseling, or mandatory restitution may be more relevant options. A restorative approach allows perpetrators to understand the impact of their actions on the victim more deeply. This framework strengthens the educational function of criminal law.

The normative implications of this reconstruction include the need for adjustments to legislation. Law No. 22 of 2009 concerning Traffic and Road Transportation could be updated to include recognition of psychological impacts as a legal consequence. This normative change provides a clear basis for law enforcement officials. Legal certainty actually increases because the scope for interpretation becomes more focused. This normative update reflects the evolution of the law that is responsive to societal developments.

The practical implications of reconstruction also affect the role of law enforcement and judges. Officials need to be equipped with an understanding of psychological trauma and how to assess it professionally. Judges have a strategic role in developing interpretations that are more oriented towards substantive justice. Legal considerations that are sensitive to the suffering of victims enhance the quality of decisions. Judicial practice becomes more reflective and humane.

The direction of future traffic law reform must be directed towards strengthening a legal system based on safety and justice. Road safety is measured not only by the reduction in accidents but also by the law's ability to protect the public's mental health. This approach places humans at the center of traffic law policy. A trauma-sensitive legal system fosters a broader sense of justice. Public trust in the law has the potential to increase.

## Conclusion

The current framework of criminal liability for road users offers significant limitations in addressing the complex impacts of traffic accidents. Positive law still prioritizes physical consequences and material losses as the primary measure of accountability, while indirectly ignoring the psychological suffering of witnesses and victims. This approach is inconsistent with scientific developments, particularly forensic psychology, which has been able to objectively identify and assess psychological trauma. A psychological trauma-based reconstruction of criminal liability offers a solution by broadening the concepts of consequences and victims without sacrificing legal certainty. This model strengthens the orientation of substantive justice and emphasizes the role of traffic criminal law as an instrument for protecting human dignity.

Moreover, improving interdisciplinary communication requires stronger coordination among legal institutions, healthcare professionals, psychologists, and victim support services in the process of collecting and assessing trauma-based evidence. This can be achieved through standardized assessment protocols, integrated reporting mechanisms, and clear guidelines regarding the evidentiary value of psychological evaluations in traffic accident cases. Regular collaboration and information exchange among these disciplines would help ensure that psychological trauma is properly documented, objectively assessed, and effectively considered within legal proceedings. Such an approach would strengthen the recognition of psychological suffering as a relevant form of harm and support a more comprehensive and victim-oriented system of justice.

Policymakers and law enforcement officials need to take progressive steps through regulatory reforms and judicial practices that are more responsive to psychological suffering. Adjustments to the Road Traffic and Transportation Law can be made by recognizing psychological trauma as a relevant legal consequence worthy of consideration in criminal accountability. Law enforcement officials and judges require clear guidance and enhanced capacity to professionally understand and assess the impacts of trauma. Rehabilitative and restorative approaches should be expanded as alternative sanctions that are more oriented toward victim recovery and perpetrator social responsibility. The development of interdisciplinary studies between law and forensic psychology is an important agenda so that traffic law reform is consistent with the values of justice, safety, and humanity.

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