

Civil Liability of the Government for Accidents Resulting from Road Damage

Andi Baso Maulana Ashar¹, ^ΩLauddin Marsuni², Dian
Eka Pusvita Azis³

¹Fakultas Hukum, Universitas Muslim Indonesia

²Fakultas Hukum, Universitas Muslim Indonesia

³Fakultas Hukum, Universitas Muslim Indonesia

^ΩSurel Koresponden: andibasomaulanaashar@gmail.com

Abstract:

This study aims to analyze the implementation of the Bulukumba Regency Government's civil liability for traffic accidents caused by road damage and to identify the obstacles encountered in its implementation. Road infrastructure as a public facility plays a vital role in ensuring the safety of road users. However, the condition of some roads in Bulukumba Regency does not meet the standards of suitability, thus potentially causing traffic accidents and losses to the community. This study uses a qualitative method with a sociological juridical approach, namely examining law as a norm and as a practice in society. Primary data were obtained through interviews with officials from the Bulukumba Regency Public Works and Spatial Planning Agency, the Bulukumba Police Traffic Unit, accident victims, as well as academics and legal practitioners. Secondary data were obtained from laws and regulations, scientific literature, and official documents related to road maintenance and traffic safety. The results of the study indicate that the implementation of the local government's civil liability has not been optimally implemented. The Bulukumba Regency Government has carried out routine and incidental road maintenance and coordinated with the police, but its implementation is still hampered by budget limitations, bureaucratic procedures, and technical factors, resulting in frequent delays in follow-up repairs. Furthermore, local governments have not yet provided a direct compensation mechanism for accident victims, so victims are generally directed to file claims with Jasa Raharja. From a legal perspective, the public faces difficulties in demanding government civil liability due to the difficulty of proving causality and limited access to legal mechanisms, creating a gap between the government's legal obligations and actual practice.

Keywords: government civil liability, road damage, traffic accidents, road safety

Abstrak:

Penelitian ini bertujuan untuk menganalisis implementasi tanggung jawab perdata Pemerintah Kabupaten Bulukumba terhadap kecelakaan lalu lintas akibat kerusakan jalan, serta mengidentifikasi kendala yang dihadapi dalam pelaksanaannya. Infrastruktur jalan sebagai fasilitas publik memiliki peran vital dalam menjamin keselamatan pengguna jalan. Namun, kondisi sebagian ruas jalan di Kabupaten Bulukumba belum memenuhi standar kelayakan, sehingga berpotensi menimbulkan kecelakaan lalu lintas dan kerugian bagi masyarakat. Penelitian ini menggunakan metode kualitatif dengan pendekatan yuridis sosiologis, yaitu mengkaji hukum sebagai norma dan sebagai praktik dalam masyarakat. Data primer diperoleh melalui wawancara dengan pejabat Dinas Pekerjaan Umum dan Tata Ruang Kabupaten

Bulukumba, Satuan Lalu Lintas Polres Bulukumba, korban kecelakaan, serta akademisi dan praktisi hukum. Data sekunder diperoleh dari peraturan perundang-undangan, literatur ilmiah, dan dokumen resmi yang berkaitan dengan pemeliharaan jalan dan keselamatan lalu lintas. Hasil penelitian menunjukkan bahwa implementasi tanggung jawab perdata pemerintah daerah belum terlaksana secara optimal. Pemerintah Kabupaten Bulukumba telah melakukan pemeliharaan jalan secara rutin dan insidental serta koordinasi dengan pihak kepolisian, namun pelaksanaannya masih terkendala keterbatasan anggaran, prosedur birokrasi, dan faktor teknis sehingga tindak lanjut perbaikan sering terlambat. Selain itu, pemerintah daerah belum menyediakan mekanisme ganti rugi secara langsung bagi korban kecelakaan, sehingga korban pada umumnya diarahkan untuk mengajukan klaim kepada Jasa Raharja. Dari aspek hukum, masyarakat mengalami kesulitan dalam menuntut pertanggungjawaban perdata pemerintah akibat sulitnya pembuktian hubungan sebab-akibat dan keterbatasan akses terhadap mekanisme hukum, yang menimbulkan kesenjangan antara kewajiban hukum pemerintah dan praktik di lapangan.

Kata Kunci: *tanggung jawab perdata pemerintah, kerusakan jalan, kecelakaan lalu lintas, keselamatan jalan*

INTRODUCTION

Good road infrastructure is one of the important factors in supporting the smooth flow of transportation and ensuring the safety of road users. Damaged roads not only hinder public mobility but also increase the risk of traffic accidents. In this context, the existence of roads that are proper and well maintained becomes the primary responsibility of the government as the organizer of the state.

Learning from various international cases, the success of bureaucratic reform is highly dependent on the existence of commitment and national leadership. The absence of commitment and national leadership will lead to the failure of bureaucratic reform implementation, as has occurred in Indonesia.

Despite the lack of adequate commitment and national leadership in implementing bureaucratic reform at the national level, since the introduction of the new era of regional autonomy in Indonesia, leaders have emerged in several regions—such as Jembrana Regency and Sragen Regency, who possess strong commitment and leadership to carry out bureaucratic reform in their respective areas. The bureaucratic reforms implemented by these regions have been proven to have a very significant impact on the implementation of regional development.[1]

Infrastructure constitutes an integral part of national development aimed at transforming the people of Indonesia into a progressive and prosperous society. Infrastructure development is also inseparable from the objective of realizing *Nawa Cita* and the 1945 Constitution, as the presence of adequate infrastructure promotes increased productivity, efficiency, and industrial competitiveness, as well as overall national economic growth.

The concept of the welfare state for the Indonesian nation is articulated in the fourth paragraph of the Preamble to the 1945 Constitution, which states that “the Government shall protect the whole Indonesian nation and the entire homeland of Indonesia, promote the general welfare, and educate the life of the nation.”[2]

In Bulukumba Regency, South Sulawesi, road damage has become a serious problem that has resulted in loss of life and material losses. This issue not only disrupts social and economic activities but also raises public concern regarding the role and responsibility of the local government in ensuring public safety. Every year, many traffic accidents occur due to poor road conditions, such as potholes, uneven road surfaces, or the absence of an adequate drainage system. Road infrastructure is one of the essential components of the transportation system that supports public mobility and economic growth. Roads function as routes for the movement of goods and people, playing a role in connecting regions, reducing travel time, and improving accessibility.[3] As a result, damaged roads are left in an unfit condition and pose potential risks of accidents for road users, especially two-wheeled vehicle riders. According to Law Number 22 of 2009 on Road Traffic and Transportation, the government has an obligation to ensure the safety of road users through the provision and maintenance of traffic facilities and infrastructure. Article 238 paragraph (1) stipulates that the government is required to provide and/or repair traffic facilities, including road maintenance. However, the reality on the ground shows that the implementation of this regulation is still far from expectations. Many reports indicate that road repairs are often carried out only after accidents have occurred or following pressure from the public.

Rakhmani’s research also shows that the government’s responsibility in maintaining roads should not be limited to reactive measures, but should also include preventive actions such as the installation of warning signs, routine inspections, and the allocation of dedicated funds for periodic maintenance.[4] The study highlights the importance of local government involvement in responding to public complaints in a prompt and transparent manner. In the context of Bulukumba Regency, this issue is even more urgent given the numerous accident-prone locations caused by road damage that have not yet been comprehensively addressed.

One concrete example can be found in Parukku Hamlet, Bulolohe Village, Bulukumba Regency, where severely damaged road conditions—marked by potholes, uneven surfaces, and frequent waterlogging—have become a major cause of accidents. Residents have repeatedly submitted complaints to the authorities, yet road repairs have not been fully realized. This phenomenon indicates a potential negligence on the part of the government, which may be classified as a form of disregard for its legal responsibilities.

The phenomenon of road damage leading to traffic accidents raises serious questions regarding the extent to which local governments possess the awareness and capacity to carry out their civil liability. Moreover, a significant number of accident victims feel that they do not receive justice, either in the form of compensation or adequate legal protection. Roads play a crucial role as routes for reaching a place or destination; therefore, they must receive serious attention. However, in reality, roads in poor and alarming conditions are frequently encountered. Such

conditions contribute to numerous traffic incidents, ranging from minor accidents to those resulting in the loss of human life.[5] In many cases, such negligence not only causes physical and material losses but also results in psychological suffering for the victims and their families. Therefore, a civil law approach becomes essential to examine the extent to which government liability can be enforced in the context of traffic accidents caused by damaged road infrastructure.

The defendant's actions may be construed as an unlawful act and are consistent with Article 1365 of the Indonesian Civil Code, under which one of the essential elements that must be fulfilled is the existence of fault (*schuldelement*) in the act committed. Pursuant to this provision, in order for legal sanctions to be imposed, the act in question must involve fault, which may take the form of intent or negligence. In this context, liability without fault, commonly referred to as strict liability, does not fall within the scope of Article 1365 of the Civil Code.[6] If such liability is imposed, it is not based on Article 1365, but rather on other, more specific legal provisions. An act is considered to involve fault and may give rise to liability when there is no justification that can excuse or justify the conduct, such as a state of emergency, self-defense, or the mental incapacity of the perpetrator, which may constitute exculpatory or justificatory grounds under the law.[7] Nevertheless, the process of bringing legal claims against the government in cases of civil liability is far from easy. Many victims face difficulties in accessing legal information, encounter complex bureaucratic procedures, and lack the capacity to pursue their rights through legal channels. This situation presents particular challenges to efforts to enforce justice and ensure the protection of the rights of the public as road users.

Therefore, this study is not only intended to examine the legal aspects governing government liability, but also to evaluate how such liability is implemented at the local level, particularly in Bulukumba Regency. It is expected that the results of this study will contribute to strengthening the policy framework, improving road monitoring systems, and promoting better legal protection for accident victims. Furthermore, it is essential to foster shared awareness among the government, the public, and other relevant stakeholders in addressing the issue of road damage. The use of information technology, such as road damage reporting applications, real-time monitoring dashboards, and digital complaint platforms, may serve as innovations to enhance the effectiveness of road reporting and maintenance.

Cross-sector collaboration, including the involvement of the private sector through Corporate Social Responsibility (CSR) programs for road maintenance, may also serve as a strategic measure to accelerate infrastructure improvements and reduce accident rates. Regular evaluations of road improvement programs and the enhancement of the capacity of implementing authorities are likewise essential elements in efforts to prevent traffic accidents in the future.

RESEARCH METHOD

This study constitutes empirical legal research employing a sociological–juridical approach, which examines law not only as written norms but also as social behavior that is applied and experienced in real-life contexts within society. This research is qualitative and descriptive in nature, aiming to describe and analyze in depth the implementation of local government civil liability for traffic accidents caused by road damage. The population of this study includes all parties related to the issue of traffic accidents caused by road damage in Bulukumba Regency. The research sample comprises officials or employees of the Public Works and Spatial Planning Office of Bulukumba Regency, police officers handling traffic accident cases, accident victims or their families, as well as academics or legal practitioners with expertise in issues of government civil liability. The types and sources of data used in this study consist of primary and secondary data. Primary data are obtained directly from the main sources related to the research object, while secondary data are obtained from indirect sources and function as supporting data. Data collection techniques in this study were conducted through in-depth interviews, field observations, and documentation. Data analysis was carried out using qualitative analysis techniques, which aim to systematically process and interpret empirical data in order to address the research problems. The data analysis process was conducted through several interrelated stages. The first stage is data reduction, which involves the process of sorting and simplifying the data. The second stage is data presentation, namely the organization of the reduced data into narrative descriptions, matrices, or thematic categories. The third stage is drawing conclusions and verification, which entails interpreting the meaning of the data by formulating preliminary conclusions that are subsequently verified on an ongoing basis. The fourth stage is data triangulation, which is carried out by comparing data obtained from various sources and data collection techniques, such as interviews, observations, and documentation.

RESULT AND DISCUSSION

A. Implementation of the Bulukumba Regency Government’s Liability for Accidents Caused by Road Damage

The geographical conditions of Bulukumba Regency, which range from coastal areas to hilly regions, present particular challenges in the development of road infrastructure. Roads function as vital means of public mobility and economic distribution. However, road damage is still frequently found in the form of large potholes, longitudinal cracks, and uneven surfaces. This situation has given rise to accident-prone locations (black spots) that endanger road users. Based on data from the Traffic Unit of the Bulukumba Police Resort, traffic accidents triggered by road damage have fluctuated over the past three to five years, with an increase occurring during the rainy season. This is further corroborated by the accounts of accident victims.

Deviations from road planning standards and design criteria for a road segment will only result in a reduction in the safety level of that segment. If implementation is unavoidably required to deviate from established standards, accident-prone information or warning signs must be installed immediately before the road is opened to the public. In addition, vulnerable locations must be provided with clear information regarding road conditions so that drivers are aware of their surroundings and exercise greater caution.[8] The Government of

Bulukumba Regency, through the Public Works and Spatial Planning Office (PUTR), implements both routine and incidental road maintenance programs.

The local government also implements technology-based monitoring, such as digital maps of road damage that are updated every semester. This system assists in prioritizing repairs and enables faster identification of accident-prone locations. From a civil law perspective, these measures are in accordance with the provisions of Law No. 38 of 2004 on Roads, which obliges the government to provide road infrastructure that is fit for use.

Compensation is one of the most important issues in the land acquisition process. Compensation refers to the provision of restitution for losses suffered by holders of land rights as a result of the transfer of such rights. Article 1 of Law Number 2 of 2012 stipulates that compensation constitutes fair and equitable remuneration to the entitled parties in the land acquisition process. The determination of the amount of compensation for each parcel of land is carried out by the Head of the Land Acquisition Implementing Committee based on the assessment conducted by licensed appraisers or public appraisers.[9] Outreach activities and the installation of temporary traffic signs form part of the preventive strategies implemented by the Public Works and Spatial Planning Office (PUPR).

The local government has also developed a digital-based public complaint system, such as a road damage reporting application that allows residents to submit photographs and the locations of damaged roads. This system is intended to accelerate repair responses, although in practice it still requires on-site verification by technical officers. In addition, the Government of Bulukumba Regency routinely conducts road condition surveys every semester to identify road segments most prone to damage. The survey results are used as a reference in the preparation of the annual budget, ensuring that repair priorities are based on empirical data. Preventive efforts are also carried out through road safety awareness programs for the public. These activities include the installation of temporary warning signs at accident-prone locations and educational outreach to motorcycle riders regarding the risks of traveling on damaged roads. From a legal perspective, coordination with law enforcement authorities is crucial for the documentation of traffic accidents. The collected data assist the local government in evaluating the effectiveness of road maintenance and serve as a basis for civil liability in the event of negligence resulting in losses.

In addition to the condition of road infrastructure, the research findings also indicate that rider behavior contributes to the occurrence of traffic accidents. Several accident cases are influenced by rider negligence, such as driving at excessive speeds, fatigue, lack of concentration, and, in certain circumstances, being under the influence of alcohol. These factors often increase the risk of accidents, particularly when combined with damaged road conditions or the absence of adequate safety facilities.

However, from a civil law perspective, the existence of fault on the part of the driver does not automatically eliminate the liability of the local government if negligence in road maintenance is proven. Road damage that is left unrepaired or without warning signs may still be classified as a contributing factor to the occurrence of an accident.

The determination of legal liability must take into account the causal relationship between the road condition and the accident, as well as the possibility of contributory fault on the part of the driver.

B. Constraints Faced in the Implementation of the Civil Liability of the Government of Bulukumba Regency for Accidents Caused by Road Damage

The implementation of the civil liability of the Government of Bulukumba Regency for accidents caused by road damage faces various multidimensional constraints, including technical, administrative, and legal obstacles, as well as social factors within the community. These constraints not only affect the effectiveness of road maintenance but also have direct implications for the difficulty of enforcing the civil liability of the local government.

1. Technical Problem

The limited availability of heavy equipment, asphalt machinery, and raw materials causes road repairs to be uneven and unsustainable. The diverse geographical conditions of Bulukumba Regency, combined with high rainfall, further complicate road maintenance efforts. This is consistent with the opinion of Nasution¹⁰, who states that technical limitations drive the government to adopt a reactive rather than preventive approach to road infrastructure maintenance. In addition, the limited number of competent technical human resources results in repairs that are often carried out on an emergency basis and are temporary in nature. From a civil law perspective, This condition has the potential to give rise to elements of negligence if road damage is repeatedly left without comprehensive remedial measures.

In addition, the limited availability of technical human resources with expertise in road maintenance compels the government to rely on emergency methods that merely address surface damage without resolving underlying structural problems. As a result, road deterioration often reoccurs within a short period, rendering preventive efforts ineffective.

2. Administratif and Bureucracy Barriers

Lengthy planning and budgeting procedures often result in delays in the implementation of road repairs. Public reports regarding road damage are not promptly followed up because they must pass through multiple layers of administrative procedures. This emphasizes that slow bureaucratic processes have a direct impact on the decline in the quality of public services. In the context of civil liability, such administrative delays may be regarded as a form of structural negligence, as they hinder the fulfillment of the government's obligation to provide safe public facilities. Administrative obstacles also arise from ineffective coordination among local government units, where reports of road damage must pass through multiple levels before budget approval is granted. This situation leads to delayed responses to emergency road conditions, particularly in remote areas.

3. Law Barriers

Civil Liability of the Government for Accidents Resulting from Road Damage

The public often faces difficulties in proving the causal link between road damage and the accidents they have experienced. In addition, there are no regulations that explicitly govern compensation mechanisms. Pendapat ini sejalan dengan teori Subekti¹² yang menegaskan bahwa. After collecting data from various sources, the researcher will conduct an analysis of the documents obtained. This analysis includes several aspects:

- Analyzing the legal principles that protect the rights of the parties in civil litigation, both in the context of the right to obtain justice, the right to fair treatment, and the right to receive clear information regarding legal procedures.
- Evaluating the effectiveness of existing laws and regulations in providing legal protection for parties involved in proceedings before the District Court.
- Analyzing the challenges and obstacles encountered in the implementation of law and the protection of parties in civil lawsuits, such as issues of access to justice and inequality.”[10]

Many victims lack the legal knowledge and capacity to collect evidence, prepare a civil claim, or file compensation claims with the relevant authorities, thereby significantly weakening the prospects for enforcing the government’s civil liability.

4. Social Factors and Public Awareness

Public awareness in reporting road damage and asserting their rights remains low. The use of information technology, such as social media and digital applications, enables legal awareness campaigns to reach a wider audience in a shorter period of time. Through this approach, legal messages can be delivered in a more engaging manner and made more relevant to the needs of the community.[11] Many citizens tend to accept damaged road conditions as something normal and regard reporting such damage or filing claims as solely the responsibility of the government. This situation creates a cycle in which road damage is not promptly repaired due to minimal public pressure.

The design and delivery of public policies by a set of public actors and an expanded community involve different levels of decision-making that are interconnected through cooperative relationships and collaborative actions. This approach can encourage cooperation, mutual benefit, and mutual support among regions, as well as between the central government and local governments. Such collaboration can improve the acceleration of regional development toward a more integrated and effective system. “Inter-regional cooperation is important in the implementation of regional autonomy in improving the implementation of development and public services which is transparent, accountable, effective and efficient”[12]

Conclusion and Recommendation

Based on the results of the research and the discussion presented, it can be concluded that the implementation of the responsibility of the Government of Bulukumba Regency for accidents caused by road damage has not been carried out optimally. The local government, through the Department of Public Works and Spatial Planning, has undertaken road maintenance and coordination with relevant agencies; however, its implementation remains constrained by limited budgetary resources, bureaucratic procedures, and technical factors. In addition, the local government has not provided a direct compensation mechanism for accident victims, so the implementation of the government's civil liability remains limited. The obstacles encountered in the implementation of the civil liability of the Government of Bulukumba Regency include technical, administrative, and legal constraints, as well as the low level of public legal awareness. Legal obstacles primarily relate to the difficulty of proving the causal relationship between road damage and accidents, as well as the absence of clear regulations governing compensation mechanisms, resulting in the ineffective enforcement of the government's civil liability.

Based on these conclusions, the author offers the following recommendations: the Government of Bulukumba Regency needs to enhance the effectiveness of implementing its responsibilities through more planned and responsive road maintenance. This can be achieved by allocating a dedicated budget for emergency repairs, simplifying bureaucratic procedures, and strengthening inter-agency coordination so that the risk of accidents caused by road damage can be minimized.

The local government needs to strengthen the legal aspects of the implementation of civil liability. This can be achieved by formulating local regulations that govern compensation mechanisms for victims of accidents caused by road damage, as well as by enhancing legal outreach to the public so that they understand their rights and the procedures for pursuing civil liability claims.

REFERENCE

- [1] E. Prasajo and T. Kurniawan, "Reformasi Birokrasi dan Good Governance: Kasus Best Practices dari Sejumlah Daerah di Indonesia," 2008.
- [2] "ANALISIS HUKUM ISLAM TERHADAP PERANAN".
- [3] "Hawi AS, Pangestu A, Safitri D, Mayshita E. Pengaruh Transparansi Dan Akuntabilitas Terhadap pengelolaan Anggaran Pemerintah Daerah Terhadap Kerusakan Jalan Di Provinsi Lampung. JURNAL ILMIAH MAHASISWA MERDEKA EMBA. 2025".
- [4] P. Ilmiah Untuk Mahasiswa, S. Pengajar, A. Universitas, and K. Sintang, "F OK US," 2018.
- [5] "PERTANGGUNGJAWABAN HUKUM PEJABAT NEGARA."
- [6] M. Sutan Muda Siregar, M. Vernando Sirait, Y. Teresya Mamonto, A. Ramadhan, and F. Aimee Lasut, "Analisis Yuridis Perbuatan Melawan Hukum Dalam Sengketa Tanah: Putusan Nomor 76/Pdt.G/2022/PN Tlg," *R2J*, vol. 7, no. 1, 2024, doi: 10.38035/rrj.v7i1.
- [7] "Kajian Terhadap Perbuatan Melawan Hukum Berdasarkan Pada Pasal 1365 Kitab Undang-Undang Hukum Perdata".

- [8] “TANGGUNG JAWAB HUKUM PEMERINTAH TERHADAP”.
- [9] “AKUNTABILITAS PELAKSANAAN GANTI RUGI PEMBEBASAN TANAH”.
- [10] H. Hendra and A. Halbadika Fahlevi, “Implementation of Good Corporate Governance (GCG) Principles in PDAM Tirta Ogan, Ogan Ilir District,” *Iapa Proceedings Conference*, p. 187, Oct. 2024, doi: 10.30589/proceedings.2024.1052.
- [11] P. Partisipasi Masyarakat, S. dan Edukasi terhadap Peningkatan Kesadaran Hukum Masyarakat dalam Memelihara Keamanan dan Ketertiban Busriadi, M. Saleh, P. Masyarakat, P. Kesadaran Hukum, and K. dan Ketertiban, “Kata kunci,” 2025. [Online]. Available: <http://jiip.stkipyapisdompu.ac.id>
- [12] “Reformasi_Administrasi_dan_Birokrasi_Pem”.