

Analysis of the Legal Protection of Online Transportation Services Users for Unenjoyable Actions by Online Ojek Drivers Through Social Media According to Law Number 8 of 1999 Concerning Consumer Protection

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ABSTRACT

Information and communication technology has changed the behavior and lifestyle of people globally. The development of information and communication technology has caused the world to become borderless, where one person can access and send information to others quickly over long distances. Based on the contents in this thesis, there are problems. First, how is the responsibility of Go-Jek business actors in terms of unpleasant acts committed by motorbike taxi drivers or motorbike taxi drivers to consumers who use Go-Jek services, secondly, what are the obstacles to Go-Jek business actors in terms of unpleasant acts committed by drivers? or drivers to consumers who use Go-Jek services, then the purpose of the research in this thesis is the first to find out Go-Jek's responsibilities in terms of unpleasant acts committed by Go-Jek drivers to consumers who use Go-Jek services, the second is to find out Go-Jek's obstacles in terms of inappropriate actions. fun that is done by gojek drivers to consumers who use gojek services. Based on the research data as follows: many occur and often encountered are vehicles registered in online applications are different from vehicles used by drivers or online transportation drivers, and the conclusions in the research data are as follows: Related to sanctions that have been agreed upon that sanctions are case by case, from the Gojek side, it is necessary to know the details of the incident thoroughly from both parties so that appropriate sanctions can be given or not.

Keywords: *Unpleasant acts, Gojek, Consumer Protection*

1. INTRODUCTION

The behavior and lifestyle of people globally have used information and communication technology. The development of information and communication technology has caused the world to become borderless, where one person can access and provide information to others quickly and remotely.

The Internet is an example of the development of information and communication technology. Browsing, searching for data and information, being able to send messages by e-mail, communicating with social networking sites and including commerce are various activities that are used and utilized for cyberspace as a medium of information and electronic communication. Electronic commerce or abbreviated as e-commerce that utilizes internet media for electronic trading activities. [1]

The internet is a computer network medium for a process of buying and selling goods and services in electronic trading activities. The occurrence of transactions between two parties, the exchange of goods, services or information and using the internet media are characteristics of electronic commerce. Trust in each other is the basis of electronic commerce transactions because of this virtual world electronic commerce transactions. [2]

Business is a complex whole in the fields of industry and sales, basic industry, process, manufacturing and networking industries, insurance, banking, distribution, transportation and others which then enter the whole business world is the opinion of the hooper.

According to the opinion of Fidel Miro S.E., MStr said that: as an effort to move, move, transport, or divert an object from one place to another, where this other place the object is more useful or useful for certain purposes is the meaning of transportation.[3] If seen from this

understanding, what is said that the object in question can be in the form of goods or people. Transportation is divided into land transportation, air transportation and sea transportation.

The increasing mobility and activity of the community causes the need for an application that can facilitate all daily transaction activities to become a necessity. Starting from transportation matters, meeting daily needs now with advances in technology and information, all these needs can be fulfilled by only using online applications that are already available on smart phones. Of course, this is an exciting phenomenon, because it really helps us in terms of time and energy efficiency.[4]

In general, transportation plays an important role in Indonesia in economic development, for example increasing national income and creating new jobs for the community. The right to development cannot be separated from the provision that the development process must promote human dignity, the purpose of development is for the sake of continuous progress in a sustainable manner for the welfare of society. [5]

Public transportation as a means of transportation plays an important role in supporting the economic development of the people in Indonesia, public transportation is an important part of the economic movement where public transportation is related to the transportation and distribution of goods, services, labor and is the core of economic movement in cities, various forms modes of public transportation with the characteristics and level of service provided color the development of the city's public transportation system which should be oriented to comfort and safety so that it can compete with private transportation. [6] Another thing that is equally important for the need for transportation is the need for comfort, security, and smooth transportation that supports the implementation of development in the form of spreading development needs, equitable development, and distribution of development results in various sectors throughout the country, for example, industrial sector, trade, tourism, and education.

Transportation is a means to move goods or people from one place to another desired place, or to send goods from the place of origin to the place of destination. Transportation consists of the transportation of people with motorized vehicles such as motorcycles, passenger cars, as well as non-motorized and goods transportation. Judging from the ownership, transportation is divided into private transportation and public transportation. Public transportation is a means of transportation for small and medium-sized people so that they can carry out their activities in accordance with their duties and functions in society. Users of this public transportation vary, ranging from workers, housewives, students, students, and others. [7]

Basically, people in Indonesia generally depend on public transportation to support their daily activities, both in the form of conventional transportation and online-based transportation. With the era that continues to develop rapidly that pampers the community with various modern technologies, the community automatically begins to

follow these developments and is more interested in choosing types of transportation based on online applications compared to conventional transportation.

The phenomenon of online transportation lately seems to be an oasis in the midst of not yet maximal public transportation services. An alternative solution to the problem of access to public transportation is the presence of online transportation service providers such as: Go-Jek, Grab-Bike, and Uber Taxi which have received positive responses from the public. Based on transparent fares with easy payment methods, the identity of the driver that can be known, the travel route that can be monitored through the application is an advantage of this information technology-based transportation service. The existence of this online application-based transportation phenomenon is closely related to transportation activities which are legally regulated in Law No. 22 of 2009 concerning Road Traffic and Transportation. However, the law does not include motorcycles as a means of public transportation with the main consideration being that it is not feasible from the aspect of security and safety. [8] However, in Article 137 paragraph 2 of Law Number 22 of 2009 concerning Road Traffic and Transportation, it is stated that: Transportation of people uses motorized vehicles in the form of motorcycles, passenger cars or buses. In Government Regulation No. 74 of 2014 concerning road transportation, it is also not stated clearly regarding the use of motorbikes as public transportation to lift people.

Apart from all the advantages and conveniences offered by this online-based application, there are also negative things that arise for consumers that we need to examine, such as consumer protection. In fact, drivers often take actions that can cause harm to consumers, both in the form of material losses and immaterial losses, for example, such as disappointment and discomfort felt by consumers who use online transportation services. The actions of drivers or online transportation drivers who drive unnaturally in the sense that the driver is affected by illness, fatigue, or also because the driver consumes a drink or other material that can affect his performance and ability to drive on public roads, and can also be an online transportation driver. This is driving recklessly in order to pursue a target that has been determined by the online transportation service provider. Things like this can lead to road accidents and consumers become victims due to the actions of the driver. And it is possible that a driver or online transportation driver commits a crime against his consumer such as robbing, committing acts of sexual harassment so that it can lead to rape. [9]

The problem that often occurs and is often encountered is that the vehicles registered in online applications are different from the vehicles used by drivers or online transportation drivers, so the vehicles used are below the standards set by online transportation service providers. And it was also found that many drivers did not wear the attributes that are required to be worn every time they do work, such as jackets and other attributes that make consumers feel comfortable and safe.

Recently, there have also been other problems arising from online transportation drivers or drivers in the field of

consumer protection. An example of a case when a consumer gets a short message via a cellular phone (SMS) that sounds rude is because he has given a bad assessment to the online transportation driver he drives. In this case the consumers as users of online transportation services are disturbed because the service providers (especially drivers) do not want to accept negative criticism from their consumers. So that the actions of the driver or online transportation driver have violated what has been stated in article 4 letter d of Law Number 8 of 1999 concerning Consumer Protection, which in this law states that one of the rights of consumers is the right to be heard and complaints from consumers about goods or services that have been used. [10] And another example of a crime that can harm consumers who use online transportation services is the level of security of an item that will be sent via the Gojek online application or in particular GoSend. Moreover, if the delivery is in the form of valuable goods, it is certainly very detrimental to the consumer who uses the online application service.

Based on Article 4 of the Consumer Protection Act, the rights to consumers are as follows: (1) The right to comfort, security, and safety in consuming goods or services. (2) The right to choose goods or services and to obtain such goods and/or services in accordance with the exchange rate and the promised conditions and guarantees, (3) The right to correct, clear and honest information regarding the conditions and guarantees of goods or services, (4) The right to have their opinions and complaints heard on the goods and/or services used.[11]

Broadly speaking, there are several basic consumer rights, namely: the right to security, the right to information, the right to vote, and the right to be heard. This relates to the rights of passengers to be respected by providers of conventional transportation services and transportation based on online applications, in connection with which there is a need for legal protection for consumers who use transportation services and other types of transportation.

All forms of losses experienced by consumers who use online transportation services give rise to a long legal problem, especially the relationship with the responsibility of online transportation service providers to their consumers. So that an effort is needed from companies providing online transportation services and from the government to increase protection and ensure legal certainty for consumers. In addition, in terms of consumer comfort and safety, it is also necessary to standardize the vehicles used by drivers or online transportation drivers, increase driver selection, and also carry out periodic checks, both checking vehicles and checking the health condition of a driver.

2. METHOD

The methods used in writing this proposal are as follows: (1) Type of Research: The type of research in this legal research is normative or doctrinal legal research. (12) Doctrinal or normative research is research that provides a

systematic explanation of the rules governing a category.(13), (2) Nature of Research: The nature of legal research has a distinctive character, namely its descriptive nature. As a descriptive science, legal science studies the purpose of law, values of justice, the validity of the rule of law, legal concepts, and legal norms. As an applied science, legal science establishes standard procedures, provisions, and signs in carrying out legal activities, (3) Data Source: (a). Primary Legal Material: Primary legal materials are materials used consisting of statutory regulations, official records, minutes of making legislation and judges' decisions. In this study, the primary legal material used is Law Number 8 of 1999 concerning Consumer Protection, (b) Secondary Legal Material: secondary legal materials are defined as legal materials that provide an explanation of primary legal materials. In this case, it consists of laws, scientific books and research results, (c) Tertiary Law Material: Tertiary legal materials are materials that provide instructions or explanations for primary and secondary legal materials. In this study the tertiary legal materials used include dictionaries (laws), encyclopedias, (4) Data Analysis Techniques: The data analysis used in this study is qualitative data analysis techniques, namely the efforts made by collecting data, synthesizing, searching and finding important patterns, (5) Research Approach: in legal research, there are several approaches. With this approach, researchers will get information from various aspects regarding the issue that is being tried to find answers to. There are 2 (two) kinds of approaches, namely: (a) statute approach: The statutory approach is an approach taken by reviewing all laws and regulations related to the legal issues being handled, (b) Case Approach: The case approach is an approach that is carried out by examining cases related to the issues at hand which have become court decisions that have permanent legal force, namely: Law Number 8 of 1999 concerning Consumer Protection.

3. DISCUSSION

3.1 Issue

The problems that will be studied by the author in writing this proposal are: (1) What is the responsibility of gojek business actors in terms of unpleasant acts committed by motorcycle taxi drivers or motorcycle taxi drivers to consumers who use gojek services? (2) What are the obstacles for gojek business actors in terms of unpleasant acts committed by drivers or drivers against consumers who use gojek services?

3.2. Legal Protection Online Transportation Services Users

In Chapter 4 in the author analyzes the position case, the results of interviews in chapter 3 and chapter II in this thesis, namely in the case of the position of chapter 3 of this author's thesis as follows: Problems that often occur

and are often encountered are vehicles registered in online applications are different from vehicles used by the driver or online transportation driver, so the vehicle used is below the standard set by the online transportation service provider. And it was also found that many of the drivers did not wear the attributes that are required to be worn every time they do work, such as jackets and other attributes that make consumers feel comfortable and safe. Recently, there have also been other problems arising from online transportation drivers or drivers in the field of consumer protection. An example of a case when a consumer gets a short message via a cellular phone (SMS) that sounds rude is because he has given a bad assessment to the online transportation driver he drives. In this case the consumers as users of online transportation services are disturbed because the service providers (especially drivers) do not want to accept negative criticism from their consumers. So that the actions of the driver or online transportation driver have violated what has been stated in Article 4 letter d of Law Number 8 of 1999 concerning Consumer Protection, which in this Law states that one of the rights of consumers is the right to be heard. and complaints from consumers about the goods or services that he has used.

Based on another example of a crime that can harm consumers who use online transportation services, is the level of security of an item that will be sent via the Gojek online application or in particular GoSend. Especially if the delivery is in the form of valuable goods, of course, it is very detrimental to the consumer who uses the online application service.

Based on August 6, 2020 that the author intends to order a food but it is not listed on gofood but must order from a person and that person will send it by gosend coincidentally, at the time of ordering gosend, it was me who ordered directly. And usually in the Gojek application, we can chat with the driver, but coincidentally it was raining that night and the chat on the Gojek application had an error. And the author intends to contact the Gojek driver or driver via WhatsApp. Starting with polite words, I ask the Gojek driver or driver to convey it to the security guard at my friend's house complex to help deliver it to the Gojek, coincidentally, Gojek cannot enter during the pandemic. And the driver or the driver said that: OK, I have conveyed it, and the author also said yes, sir, thank you. After I stopped contacting via whatsapp with the gojek driver, I didn't block the driver number because according to the author, what was it for. So the author is silent. The next day at around 11:26 this Gojek driver or driver contacted my WhatsApp asking for a job vacancy due to the pandemic so the Gojek was quite quiet. The author politely replied: sorry sir there is no and the driver or driver is reading my whatsapp message. Then from there the author kept quiet and did not block the number of the gojek driver because personally the author did not feel disturbed.

Based on the night at around 9:20 p.m., this gojek driver or driver whatsapp the author back with inappropriate words, with the point that: this gojek driver or driver asked for a photo of the author without clothes and he promised not to

share my photo if I sent it First, the writer kept silent, not long after, this Go-Jek driver or driver miscall or called me on WhatsApp 2 times, but the writer just silenced the phone and here I didn't block it on purpose, I want to see what action the Go-Jek driver wants to take. After I refused the call and this driver or driver whatsapp the author again said that: Sorry, madam, if I'm lancing. And from here the new writer gets emotional by saying that Sorry, what do you mean, sir? And this driver or driver explained that in increasingly inappropriate language: sorry, madam, did you ever take photos without clothes? If so, I'm sorry I'm rude to ask. And here I am slowly asking: What do you mean by asking me something like this. And this driver or driver is getting more and more impudent and replies: yes ma'am, I can see from the whatsapp photo, mba The author clearly remembers here that the author's WhatsApp photo does not contain an open photo or anything. I immediately asked the Gojek driver or driver: what do you mean by this and the author emphasizes that his treatment as a Gojek driver or driver is not appropriate and this case will definitely not be silenced and I will report this to Gojek. From here, the driver and driver apologized to the author on the grounds that the driver or the gojek driver was very stressed by the pandemic situation, there was no income and he wanted to pay for his family and children.

In the end, the author felt that he had been harassed and felt that the reason for the driver or driver was very unreasonable according to the author personally, immediately called the Go-Jek to reprimand and be given a witness for the Go-Jek driver or driver.

Based on the results of interviews in Chapter III of the author's thesis, namely: (1) - According to the author's interview with the gojek, namely: Mrs. Nanda as part of Corporate Legal PT. Gojek Indonesia through a virtual conference related to the author's thesis case can be concluded as follows: (a) If there are unpleasant actions reported by Gojek consumers, from the Gojek side, Gojek will help with the best efforts, namely bringing together users with drivers or being a mediator by listening to problems from both sides, and facilitating meetings so that problems can be resolved amicably and in a family manner. because the main principle of the relationship between Gojek and drivers is partners, so first thing first will be assisted for mediation both to the driver himself and also to consumers who report, (b) Regarding the sanctions that have been agreed that the sanctions are case by case, from the perspective of Gojek, it is necessary to know the details of the incident thoroughly from both parties so that appropriate sanctions can be given or not, whether or not they can be given requires comprehensive mitigation for each case. so you can't speak frankly the sanctions are A, B, C. Back to the case by case principle, then each case will have different consequences and whether there are sanctions will be seen from various points of view whether it is detrimental to the victim or the company or the driver itself.

Based on chapter II of this thesis regarding the theoretical framework, namely:

(1) According to Satjipto Raharjo that this legal protection is to provide protection for human rights that are harmed by others and that protection is given to the community so that they can enjoy all the rights granted by the law. This legal protection sees the stages, namely legal protection is born from a legal provision and all legal regulations provided by the community which are basically an agreement by the community to regulate behavioral relations between community members and between individuals and the government which are considered to represent the interests of the community. And according to Fitzgerald quoting the term legal protection theory from Salmond that the law aims to integrate and coordinate various interests in society because in a traffic of interests, protection of certain interests can be done by limiting various interests on the other hand. The interest of the law is to take care of human rights and interests, so that the law has the highest authority to determine human interests, so it must have the highest authority to determine human interests that need to be regulated and protected. The principles regarding the position of consumers in their relationship with business actors are based on doctrines or theories known in the historical development of consumer protection law, among others: (a) Let the buyer beware (caveat emptor): The doctrine of let the buyer beware or caveat emptor is the basis for the birth of disputes in the field of consumer transactions. This principle assumes that business actors and consumers are two very balanced parties, so that consumers do not need protection. This principle contains a weakness, that in the development of consumers, they do not receive adequate information to determine the choice of goods and/or services they consume., (b) The due care theory

This doctrine states that business actors have an obligation to be careful in marketing products, both goods and services. As long as business actors are careful with their products, they cannot be blamed. In this principle applies proof, whoever postulates then he is the one who proves. This is in accordance with the spirit of proof in private law in Indonesia, namely the proof is with the plaintiff, in accordance with article 1865 BW which expressly states that whoever argues has a right or to confirm his right or refute the rights of others, or refers to an event, then required to prove the existence of such rights or events, (c) The privilege of contract: This doctrine states that business actors have an obligation to protect consumers, but this can only be done if there is a contractual relationship between them. Business actors cannot be blamed beyond what was agreed upon. Thus, consumers can sue based on default. This is in accordance with the provisions in Article 1340 BW which states that the scope of the agreement is only between the parties who make the agreement. Consumer protection is organized as a joint effort based on five relevant principles in national development, namely: (a) Benefit Principle: All efforts in implementing consumer protection must provide the maximum benefit for the benefit of the principle of justice Provide opportunities for consumers and business actors to obtain their rights and carry out their obligations fairly, (b) Balance Principle: Providing a balance between the

interests of consumers, business actors, and the government in a material and spiritual sense, (c) Consumer Safety and Security Principles: To provide guarantees for security and safety to consumers in the use, use, and utilization of goods and or services that are consumed or used, (d) Principle of Legal Certainty: Actors and consumers obey the law and obtain justice in the implementation of consumer protection and the state guarantees legal certainty. Consumers and business actors as a whole.

(2) In the philosophy of law, the theories of natural law from Socrates to Francois Geny, still maintain justice as the crown of law. Natural Law Theory prioritizes the search for justice. There are various theories about justice and a just society. These theories concern rights and freedoms, opportunities for power, income and prosperity. Among these theories can be called: Aristotle's theory of justice in his book *Nicomachean ethics*, John Rawl's theory of social justice in his book *a theory of justice* and also Ahmad Ali in *Uncovering Legal Theory and Justice theory*. According to Aristotle's view of justice, it is found in his *nichomachean ethics*, *politics*, and *rhetoric*. More specifically, in the book *nicomachean ethics*, the book is entirely devoted to justice which, based on Aristotle's general philosophy, must be considered as the core of his legal philosophy, because law can only be established in relation to justice. From the view of Aristotle above, it is very important that justice must be understood in terms of equality. But Aristotle makes an important distinction between numerical equality and proportional equality. Numerical equality equates every human being as a unit. This is what is now commonly understood about equality and what is meant when it is said that all citizens are equal before the law. Proportional equality gives each person what he is entitled to according to his abilities, achievements, and so on.

From this distinction, Aristotle presents a lot of controversies and debates around justice. Furthermore, he distinguishes justice into types of distributive justice and corrective justice. The first applies to public law, the second applies to civil and criminal law. Distributive and corrective justice are equally vulnerable to the problem of equality or equality and can only be understood within its framework.

In the area of distributive justice, what is important is that equal rewards are given for equal achievements. In the second case, the problem is that inequalities caused by, for example, breaches of agreements, are corrected and eliminated.

Based on the author's opinion regarding the relationship between the theoretical framework, namely the theory of legal protection and the theory of justice with the title of the author's thesis entitled: *Analysis of the Legal Protection of Online Transportation Service Users for Unpleasant Treatment by Online Ojek Drivers Through Social Media Based on Law Number 8 of 1999 Regarding Consumer Protection (Case Study: Personal Data of Online Ojek Users in Jakarta)*, so according to the author that in the title and case of this thesis it must be related to legal protection theories, principles in consumer protection

and principles in consumer protection., furthermore In providing justice to users of online transportation services provided by online transportation service business actors, this must be related to the theories of justice.

4. CONCLUSION

The conclusion of the thesis entitled: Analysis of the Legal Protection of Online Transportation Service Users for Unpleasant Treatment by Online Ojek Drivers Through Social Media Based on Law Number 8 of 1999 concerning Consumer Protection (Case Study: Personal Data of Online Ojek Users In Jakarta) and answer description of the formulation of the problem of this author's thesis as follows:

- (1) Based on the formulation of the first problem regarding legal protection for unpleasant actions by online motorcycle taxi drivers through social media based on Law Number 8 of 1999, so in Article 4 letter d of Law Number 8 of 1999 concerning Consumer Protection, which in Law No. This law states that one of the rights of consumers is the right to be heard and complaints from consumers about the goods or services that they have used.
- (2) Based on the second problem formulation regarding the responsibility of Gojek business actors in terms of unpleasant acts committed by motorcycle taxi drivers or drivers against consumers who use Gojek services, so if there are unpleasant actions reported by Gojek consumers, from the Gojek side, they will help with their best efforts. namely bringing users together with drivers or being a mediator to listen to problems from both sides, as well as facilitating meetings so that problems can be resolved amicably and in a family manner. because the main principle of the relationship between Gojek and drivers is partners, so first thing first will be assisted for mediation both to the driver himself and also to consumers who report.

The author's advice on the analysis of the legal protection of online transportation service users for unpleasant treatment by online motorcycle taxi drivers through social media based on law number 8 of 1999 concerning consumer protection (Case Study: Personal Data of online motorcycle taxi users in Jakarta:

- (1) The author suggests that the online motorcycle taxi management should give a warning to the driver or the driver regarding unpleasant actions against online motorcycle taxi users.
- (2) The author suggests that the online motorcycle taxi management must provide strict sanctions against the driver or driver in the form of freezing the driver's or driver's account, giving a warning letter to the driver or driver

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