



Manifestation of Renewable Transportation Law in the Disruption Era Based on Developments in Legal Development in Indonesia

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Abstract. Research Objectives To analyze and criticize the legal relationship between online transportation parties in the Indonesian legal system in the era of disruption and to describe the comparison of online transportation arrangements from several countries in Asia and to create a renewable transportation law in the era of disruption based on developments in legal development in Indonesia. Methods Research is Normative Law research which is analyzed using Descriptive Analysis. The results of this research are that the insistence on renewable regulations in regulating an online transportation regulation is inseparable from the renewal of national law. The conclusion is that an update in legal certainty will lead to rules or regulations that compile online transportation in coherent and standard rules so that problems in transportation law can be accommodated ideally.

Keywords: Era of Disruption · Renewal · Development · Transportation Law

1 Introduction

Law can serve as a tool to promote development. Pragmatic and instrumental views of law and the legal system are shared by scholars who think that legal reform can be a means of advancing certain development goals, such as economic development as measured by a country's GDP per capita. However, these agendas do not always agree on how law can promote development. This divergence is largely based on differing views of the role of the state in promoting development in general and in transport growth in particular [1].

Law enforcement is intended to improve order and legal certainty in society. This is done by disciplining the functions, duties and authorities of the institutions tasked with enforcing the law in accordance with the proportions of their respective scopes, and based on a good system of cooperation and supporting the goals to be achieved [2].

The level of development of the society in which the law is enforced influences the pattern of law enforcement, because in a modern society which is rational and has a high level of specialization and differentiation law enforcement organizations are also increasingly complex and highly bureaucratic. A systematic study of law enforcement

and justice is theoretically effective if the 5 pillars of law work well, namely: legal instruments, law enforcement officials, factors of citizens affected by the scope of legal regulations, cultural factors, facilities and factors that can support the implementation of the law [3].

Transportation Law is a manifestation of the development of legal development in Indonesia, this can be seen from the policies and legal transformations that are increasingly developing in Indonesia. So that the Agenda to present a legal form can be carried out carefully. The use of the updated law will have an impact in the current era of disruption to bring benefits to affected communities, transportation law should be an outdated agenda, but with the right concepts and theories, the resulting impact will be useful for society, especially Indonesia [4].

Now people are familiar with various online applications for various transactions, including in th world of transportation. This started from the birth of Go-Jek in Indonesia. Go-Jek, a technology company made by the nation’s children, was founded in 2010 with the idea of a Nadiem Makariem who was inspired by his experiences with the motorcycle taxi drivers he used to ride when the streets of Jakarta were jammed. The idea was sparked to create a technology that could connect motorcycle taxi drivers with their potential customers so that the motorcycle taxi drivers don’t just have to wait at the base (Table 1).

Initially the services provided by this company were only call centers. But along with the development of capital, innovation continues to be carried out so that now Gojek provides various services besides transportation, namely food delivery services, goods or document delivery services, shopping message delivery services, goods moving services, health massage services and even beauty salon services.

Online transportation, which is the implementation of information technology into the world of transportation business, has been greatly felt by conventional transportation service business actors. To see the differences and changes from the ‘old world’ to the ‘new world’ in Kasali, the new world is called the Uber civilization (Table 2).

The problem now is that the transportation system is increasingly dependent on information systems because the system is increasingly computerized and more intertwined, so there are not a few legal issues. So it is necessary to have arrangements that can comprehensively secure and protect all the legal interests of related parties.

Table 1. The Uber Civilization

Old World	New World (Uber Civilization)
<i>Time series dan linier</i>	<i>Real time dan eksponensial</i>
<i>On the Lane Economy</i> (waiting in queue)	<i>On Demand Economy</i> (so desired, when it is available)
<i>Supply-Demand tunggal</i>	<i>Supply-Demand</i> with networking
The opponent is clear	Invisible opponents

Table 2. The Uber Civilization

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Based on the background mentioned above, the author is interested in studying “Renewal and Development of Transportation Law in the Disruptive Era in the Context of Realizing Legal Certainty.

2 Method

This research is based on the normative juridical research method, which includes a statutory approach, research on legal principles and in concreto legal research, systematic legal research, research on legal history and comparative law. Secondary data in normative legal research is in the form of primary legal materials, secondary legal materials and tertiary legal materials. Which includes research on positive legal inventory that will examine transportation arrangements in the Indonesian legal system.

3 Results and Discussion

3.1 Legal Certainty Realizing Renewable Transportation Law in the Disruption Era Based on Developments in Legal Development in Indonesia

One of the goals to be achieved in the administration of law (formulation, implementation or application and law enforcement) is to realize justice and legal certainty in social life [5]. Therefore, justice is essential in discussions about law [6]. This justice, both in content and form, is very difficult to explain, this is because justice is not only related to one individual or determined by someone, but many determining factors. Meanwhile, legal certainty is the principle and foundation in achieving justice.

The development of transportation law in Indonesia should provide legal certainty so as to realize legal ideals in a more realistic form. This is in line with the concept expressed by the Indonesian development law figure from Mochtar Kusuma-atmadja, namely the role or function of law in a society that is currently developing, or in Indonesia is known for its national development.

Examined from a historical perspective, around the 1970s the Development Law Theory was born and its elaboration was not intended by its initiators to be a “theory” but rather a “concept” of legal development modified and adapted from Roscoe Pound’s theory of “Law as a tool of social engineering” which was developing in America. Union. When elaborated further, theoretically the Theory of Development Law from Prof. Dr.

Mochtar Kusumaatmadja, S.H., LL.M. influenced by the way of thinking from Herold D. Laswell and Myres S. Mc Dougal (Policy Approach) coupled with the theory of Law from Roscoe Pound (minus the mechanical conception). Mochtar processed all of these inputs and adapted them to Indonesian conditions.

Usually, transportation law in Indonesia experiences various dilemmas so that the legal relations that occur have a norm/legal vacuum. With the theory put forward by Prof. Mochtar Kusuma Atmadja, a norm vacuum will be inevitable.

If you look at the comparisons that have occurred from several countries that are Indonesia’s neighbours, Indonesia has an online transportation market that has a thriving and lucrative market. This can be seen from companies investing online companies in Indonesia, for example Grab, Maxim, Go-jek, etc.

The neighboring countries in question are Malaysia and Singapore and Australia which have very systemized domestic legal relations so that legal ideals can take place ideally [7]. If you see Indonesia’s current face, there is a need for legal reform in carrying out online transportation laws to present an ideal concept, of course.

It is interesting to review the legal certainty that will emerge in online transportation in Indonesia so that the theory and/or concept of development law promoted by Prof. Mochtar can run side by side so that the ideal concept in transportation law can present a unified standard norm.

The insistence on renewable regulations in regulating online transportation rules is inseparable from the reform of national law, the development of legal development theory so that the author can exemplify in a scheme as follows in Fig. 1.

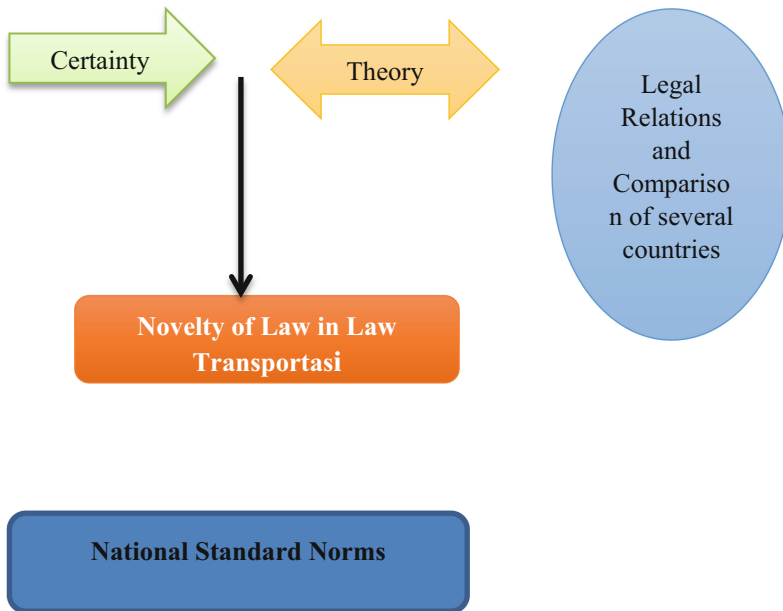


Fig. 1. Scheme 1

From this scheme it can be seen that an update in legal certainty will lead to rules or regulations that compile online transportation in coherent and standard rules so that problems in transportation law can be ideally accommodated [8].

What is meant by ideal is a renewable concept and norm that collects rules that do not overlap so as to compile obsolete regulations into one national regulation from Sabang to Merauke.

3.2 Updating and Development of Transportation Law in the Disruptive Era 5.0

Today's transportation industry is developing very rapidly, this is evident from the increasing number of trade transactions that do not only involve one city but already involve between regions/regions. To expedite trade transactions between regions/regions requires people to use transportation services. Transportation is an activity of moving people and/or goods from one place to another either through land transportation, water transportation, or air transportation using means of transportation. There are rights and obligations in the transportation industry, namely between the carrier and the sender of goods. This relationship occurs because of actions, events, or circumstances in the transportation process [9].

Historically, the world has gradually experienced a technological revolution. The first wave of technological revolutions was due to the invention of the steam engine, the second wave was due to the invention of the electric motor, the 3.0 and 4.0 technological revolutions were due to digital inventions, all human life is digital based. Technological developments in today's digital era can be analogous to a double-edged knife. Where one side has a good impact in the form of convenience for humans. On the other hand, it will have a negative impact in the form of massive changes if it is not properly anticipated. And what will be faced now is the society 5.0 revolution, where Society 5.0 is a concept that allows humanity to use modern technology-based science such as AI and robots to meet needs and make human life easier.

The concept of legal renewal emerged as a result of the demands and needs of the community. So it is necessary to reform transportation law in the era of disruption 5.0 to accommodate, especially online transportation, which is experiencing very rapid development, the development of transportation itself intersects with novelty and renewable designs, for example the formation of a clear and firm.

The legal relationship formed from this renewal There are two conflicting concepts regarding legal renewal as part of legal development. The first is the concept of logic (including the school of postivism) and the historical school of thought. The former equates law with statutes and thinks that all legal actions (including reforms) can simply be carried out with statutes. It is advisable for the Madzhab of history to oppose legislation as a way to make (and renew) laws because laws cannot be made but must grow on their own from the legal awareness of society.

When discussing legal development, it must start from the understanding of the law itself. Mochtar Kusumaatmadja. Providing the following understanding of law: "law is not only the principles, the rules governing human life, but also includes the institutions and processes that embody the rules in reality. Mochtar Kusumaatmadja stated [10].

“Law is a means of social renewal. This is based on an assumption that the existence of order or order is something that is desired, even deemed necessary. Furthermore, another assumption contained in the conception of law as a means of social renewal is that law in the sense of legal rules or regulations can indeed function as a regulatory tool or means of development in the sense of channeling the direction of human activity in the direction desired by development or renewal.

Legal reform in Indonesia as stipulated in the Legal Development Plan is directed at :

1. Development in the field of law must be able to direct and accommodate legal needs in accordance with the legal awareness of the people which is progressing towards modernization according to the level of progress of development in all fields, especially transportation law so as to achieve order and legal certainty as infrastructure which must be aimed at increasing the development of national unity as well as functioning as a means of supporting the development of comprehensive modernization and development, it is carried out by: (a) Improving and perfecting the development of national law by, among other things, carrying out renewal, codification and unification of law in certain fields by paying attention to legal awareness in society. (b) Ordering the functions of legal institutions according to their respective proportions. (c) Increasing the ability and authority of law enforcement officers.
2. Fostering legal awareness in society and fostering the attitude of rulers and government officials towards law enforcement, justice, and protection of human dignity, and order and legal certainty in accordance with the 1945 Constitution.

If you look at neighboring Singapore itself in its legal renewal. Taking into account the regulations carried out by Singapore, as stated, 3 regulatory approaches were carried out which were explained as a strategy for the Singapore government to manage the application of technological advances in various aspects of life. First, the approach he calls the establishment of regular sandboxes. Technology-based ideas, products or services are given limited trial space. The arrangement is loose and not permanent. This method has been implemented since 2015 for fintech where 13 companies have joined. In the field of transportation, Singapore allows the operation of driverless automated vehicles for 5 years.

From this phenomenon, it can be seen that the neighboring country of Singapore has carried out reforms in the regulatory sector by adjusting to this era of disruption, especially during the industrial revolution 5.0. Whereas Indonesia is still in a dilemma with domestic problems which open up the widest possible investment opportunities, but in terms of regulations and guidance and attention to the development of society which continues to increase, it is neglected, especially in the field of online transportation.

In Indonesia, the harmonization of rules and policies must be committed to carrying out reconciliation and improvement to support industrial competitiveness and ensure close coordination of policy makers between ministries and agencies related to local governments.

Strategic legal development in Indonesian transportation law is ideally implemented so that legal renewal and development is achieved in this era of disruption.

Ideally, the legal development and renewal relationship should include the following elements:

- (1) legal renewal in the field of legislation (elements of rules or norms),
- (2) law enforcement tools (institutions), and
- (3) how to achieve goals (process).

With this legal relationship, the law that is *masalah* will be present for the development of transportation law in Indonesia.

3.3 Perwujudan Pembangunan dan Pembaharuan Hukum Transportasi di Indonesia Dengan Teori Hukum Progresif

As described by Philippe Nonet and Philipp Selznich, that in America in the 70s there were social problems, crime, environmental degradation, mass protests, civil rights, poverty, riots in cities and abuse of power in 1960. In the late 1990s, people felt how the law failed to deal with these various social problems, especially in the field of transportation in America.

The legal condition in America gave rise to a criticism of legal experts in America through the “Critical Legal Studies Movement”. Then, with the writings of Philippe Nonet and Philip Selznich, whose starting point is social theory of law, they distinguish 3 (three) types of law, namely repressive law, autonomous law and responsive law.

As evolution continues to develop from a scientific point of view, the idea of confirming the existence of the science of law to become a true science also continues to develop. Law is not something final (finite scheme) but continues to move and dynamically follow the changing times. Thus, the law must continue to be reviewed by conducting a review through progressive efforts so that the essential truth can be achieved and present human freedom in achieving harmony, peace, order which ultimately creates just and civilized welfare in accordance with the spirit of the values of legal certainty and legal protection.

In Indonesia, the so-called progressive law emerged around 2002 with the initiator Satjipto Rahardjo. Progressive law was born because so far the teachings of positive law (analytical jurisprudence) that have been practiced in empirical reality in Indonesia have been unsatisfactory. The idea of Progressive Law arose out of concern for the quality of law enforcement in Indonesia, especially since the reformation took place in mid-1997. If the function of law is intended to ideally participate in solving societal problems, then what Indonesia is currently experiencing and happening is very much the opposite of the ideals. That ideal.

According to Satjipto Rahardjo, progressive law enforcement is carrying out the law not only verbally but in black and white from the rules (according to the letter), but according to the spirit and deeper meaning (to very meaning) of the law or law in a broad sense. Law enforcement is not only intellectual intelligence, but with spiritual intelligence. In other words, legal certainty and legal protection are carried out with full determination, empathy, dedication, commitment to the suffering of the nation and accompanied by the courage to find other ways than what is usually done.

Progressive legal theory is a very appropriate breakthrough in the legal renewal and development agenda in the era of disruption in Indonesia as the implementation of controlling transportation regulations and the current void of norms, so that online transportation problems can be accommodated and rules are responsive to society.

If looking at the studies of several countries that the demand for defending the theory of legal certainty, the theory of legal protection and the theory of legal renewal and development in online transportation is not enough, then the legal breakthrough that is manifested concretely in progressive legal theory as a differentiating part, this can be seen in neighboring countries Malaysia and Singapore as well as Australia which have implemented regulations that Indonesia can emulate, for example on licenses or special driver's license arrangements so that legal protection for online transportation consumers gets legal certainty, this can be applied in Indonesia with the absence of these norms. Then in Australia, several districts/states implement a 1% tax collection regulation for state governments so as to generate economic value for their regions.

What is unique can also be stated that these countries are still facing the same thing as Indonesia, namely the gap between online transportation companies and drivers in terms of accident insurance, vehicle maintenance, and welfare for partners.

If you analyze the online transportation legal relationship that occurs between several countries in Asia and Oceania or Australia, there are differences where as a country that is a neighbor of Indonesia, this is the right choice to carry out a comprehensive legal review in accordance with the interests and fields to be studied. Applied in Indonesia the knife used to dig is used progressive law as an ideal study material in transportation law. This can be exemplified by the legal relationship between drivers and transportation service providers who experience gaps in the distribution of profit and loss for both parties, so it is urgent to review it so that a new Omnibus Law is created in online transportation arrangements as a strategic update today.

The novelty that appears in this example is useful for people who will use online transportation in their daily lives, this will be in line with the principles of consumer protection and overlapping regulations can be avoided in a practical review.

With this phenomenon, Progressive Law is present in overhauling the existing system in Indonesia so that it creates an urgency in the actualization of progressive law, so that the previously adopted theory can be implemented and generate benefits for the wider community. Areas that need attention are;

- a. Drivers License,
- b. Foreign Exchange Value for the country, and
- c. Insurance for Partners.

With Progressive Law, the aims and objectives of the previous theory can be carried out. To facilitate understanding in studying the authors designed the aims and objectives of the progressive law. in essence the legal theory of development built by prof muchtar kusuma atmadja is opposite to progressive law, this can be proven by the concept offered in empirical/sociological evidence where progressive law explores legal certainty with a sharp knife following the legal realism that occurs in middle of society. To clarify the theory can be seen from the schematic in Fig. 2.

In the explanation above it looks simple, but the reality in the embodiment of the law is still raising questions, the comparative study described in the previous section is still very far from what was expected.

Improvements from various sectors are homework for policy makers, both the central and regional sectors. This is very good input for the government which is carrying out

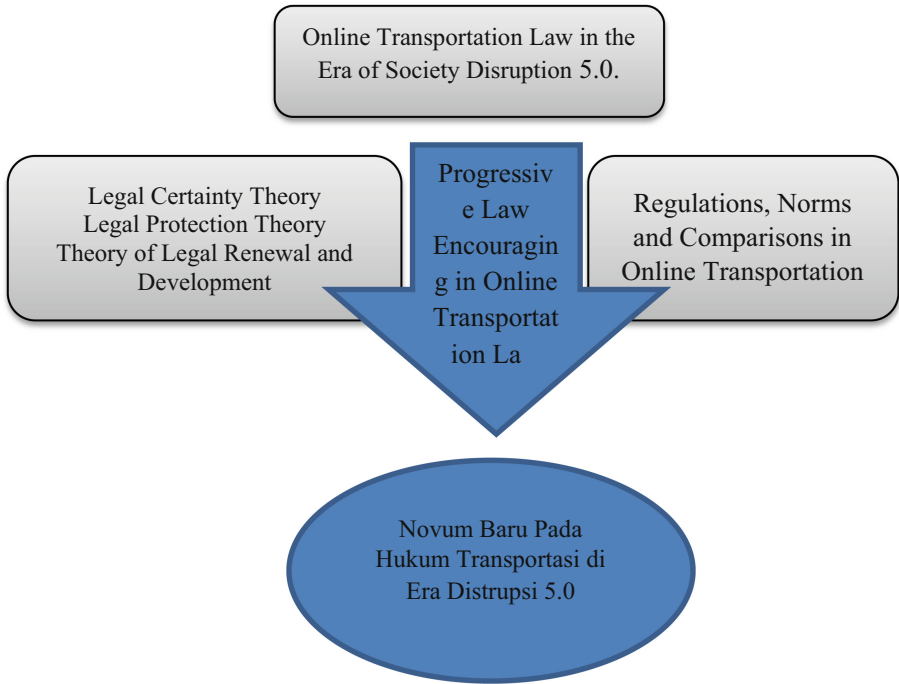


Fig. 2. Scheme 2

developments on a large scale, but the value of benefits for the wider community must be raised in reforming regulations in transportation law in Indonesia.

Progressive Legal Breakthrough as a reformation law product will bring benefits in guaranteeing the implementation of legal ideals which are based on the value of legal benefits as a function of law by the community for the development of transportation law so that the expected law will be faster than the development of an era of disruption and then in line with the agenda expected to be able to become a legal reform in Indonesia.

From this scheme the necessity that arises in the regulation and implementation of online transportation can be carried out carefully in accordance with the progressive legal theory that the author finally adopted.

4 Conclusion

Transport policies and regulations ASI in the era of disruption requires proper regulation integrated and comprehensive, it becomes necessary to realize E governance transportation law in the era of disruption. Ministry of Transportation policy to present comprehensive transportation can be seen in Master Plan National Transportation year 2020- 2024. However, the Master Plan has not yet seen a clear policy leads to E Governance as a response to the development of transportation in the era disruption. So to perfect the policy, Pembaharuan and Development of Transportation Law in the Era of Disruption through E Governance. This is where the urgency of research with the title E

Transport Governance: Design Model of Transportation Law Regulation in Disruption Era to find Updates and Buildersnan Transportation Law in the Era of Disruption and Formulating Concept E Transportation Governance.

5 The Author's Contribution

The First Author's Contribution In Preparing An Ideal Research Manual, The Second Author's Correction To Produce Confrehensive Research, The Third Author Contributes The Content Of The Research.

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