

**ONLINE MOTORCYCLE TAXI SERVICES AND SMARTPHONE USE WHILE
DRIVING****Nurani Eka Saputri**

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mn272@ums.ac.id**ABSTRACT**

The use of smart phones by online motorcycle taxi services drivers while driving brings complex impacts, including the risk of traffic accidents, violations of the law, and liability in accident cases. The main problem that arises is the extent of legal protection available to online motorcycle taxi services drivers who use smart phones while driving and how existing regulations address this challenge. This study aims to examine the legal protection of online motorcycle taxi services drivers who use smart phones while driving. This research method uses juridical-normative to relevant legal provisions. The results showed that the need for clearer and stricter regulations to protect the rights and welfare of online motorcycle taxi services drivers. In addition, the need for concrete steps from related parties to improve legal protection for online motorcycle taxi services drivers who use smart phones while driving.

Keywords: Legal Protection; Online Motorcycle Taxi Services; Smart Phone.

INTRODUCTION

Industry 4.0, which is considered a new phenomenon in industry, marks a major change in the production process with the internet as the basis. The concept refers to a combination of digital and physical technologies that allow objects in the industrial environment to be equipped with technological devices, sensors, and can communicate with information technology systems independently. Minister of Industry and Trade (Working Cabinet) Airlangga Hartarto said that a more efficient production process can be facilitated by Industry 4.0. As stated by Roser (2015), the 2011 Hannover Messe/Fair in Hannover, Germany, was

the starting point for Industry 4.0. Hannover Messe/Fair is a large-scale international event that addresses industry and automation. It was a pivotal moment in kicking off the Industry 4.0 era.

The transportation paradigm around the world has been significantly altered by technological advancements in the ever-evolving modern era. The emergence of increasingly popular online motorcycle taxi services is one prominent phenomenon. Smartphone applications for ordering motorcycle taxi services have become a major trend in urban mobility, showing how technology has made its way into everyday life. This service not only offers a fast and efficient transportation alternative, but also increases the accessibility of urban communities.

Transportation is a very important field of activity in the life of Indonesian society (Prasetyo & Sutopo, 2017). Recognizing the important role of transportation, traffic and road transport must be organized in an integrated national transportation system and be able to realize the availability of transportation services in accordance with the level of traffic needs and orderly, comfortable, fast, smooth and low-cost transportation services. The importance of transportation is shown to help people and/or goods move from one place to another. Transportation is the movement of places, both objects and people (Abdulkadir, 1998).

Because of the importance of transportation, traffic and road transport must be regulated in an integrated manner within the national transportation system in order to meet traffic needs and provide orderly, comfortable, smooth, and inexpensive transportation services. Although motorcycles fall under the category of private vehicles, many motorcycles in Indonesia can also be used as public vehicles, i.e. to transport people and goods for an agreed fee (Aji, Prakoso, & Pramono, 1991). Online motorcycle taxi services provide significant benefits in facilitating access to transportation, however, the use of smartphones by online motorcycle taxi services drivers while driving also raises various concerns that need serious attention.

Over time, more attention has been paid to driving safety issues, legal questions, and liability arising from this practice. The use of smartphones by online motorcycle taxi services drivers while driving often diverts attention from the road and causes concentration disorders that can increase the risk of traffic accidents (Suwardi, 2012). The high risk of accidents and possible violations of the law are essential for legal protection. This raises fundamental questions about whether legal protection is available and effective for online motorcycle taxi

services drivers who use smart phones while driving (Amyrulloh, 2024). Therefore, to determine appropriate and effective legal protection efforts for online motorcycle taxi services drivers, it is necessary to conduct a thorough analysis to thoroughly understand the challenges and opportunities associated with this issue.

The use of smart phones by online motorcycle taxi services drivers while driving brings complex impacts, including the risk of traffic accidents, violations of the law, and liability in accident cases. The main problem that arises is the extent of legal protection available to online motorcycle taxi services drivers who use smart phones while driving and how existing regulations address this challenge. This study aims to analyze the existing legal protection for online motorcycle taxi services drivers who use smart phones while driving (Meilliza, 2022). Through this study, it is expected to identify weaknesses in the existing legal protection system and provide recommendations to improve legal protection for online motorcycle taxi services drivers.

Every Indonesian citizen, when driving a vehicle, is required to comply with the traffic regulations listed in Law No. 22 of 2009 (Law 22/2009) on Road Traffic and Transportation, which is an amendment to Law No. 14 of 1992. Law 22/2009 states that road traffic and transportation have a strategic role in supporting national development and integration as part of efforts to promote public welfare. Safety aspects are also emphasized in the regulation of road traffic and transportation. In addition, this law also emphasizes the realization of traffic ethics and national culture (just culture) through efforts to promote, provide guidance and traffic education from an early age and implemented through a sustainable program.

Related to the above, in the perspective of Islamic law itself, *qiyas* can be made between Law 22/2009 and Islamic law, which guarantees a person's life and safety. Islam itself has the nature of *rahmatan lil alamin*, which means that Islam provides welfare and mercy for all nature. This is enshrined in the Qur'an letter Al Anbiya verse 107, namely:

وَمَا أَرْسَلْنَاكَ إِلَّا رَحْمَةً لِّلْعَالَمِينَ

Meaning: And We have not sent you (Muhammad) but to be a mercy to all the worlds. This verse textually explains that the Prophet Muhammad SAW was sent by Allah SWT as God's mercy for the universe.

This study is expected to contribute to a deeper understanding of legal protection for online motorcycle taxi services drivers who use smart phones while driving. The benefits are not only for the online motorcycle taxi services drivers themselves but also for the

government, regulators, and the general public in formulating more effective and efficient policies in ensuring driving safety and adequate legal protection.

RESEARCH METHOD

The approach in this study uses the normative juridical method, meaning that this study will use the main legal material which contains principles, theories and also laws and regulations then supported in addition in the form of interview data and observations to the sources.

This study aims to examine the legal protection of online motorcycle taxi drivers who use smart phones while driving. In the normative juridical aspect, researchers will examine phenomena in society by referring to applicable legal rules and involving legal theories and related literature. This study uses an analytical descriptive approach, in which the existing problems will be described based on legal theory and relevant laws and regulations (Mamudji, 2018). The research location includes the Surakarta Police Traffic Unit and the campus area of Universitas Muhammadiyah Surakarta. Data collection techniques include desk research and field research by conducting free guided interviews with resource persons such as online motorcycle taxi drivers and the Surakarta Traffic Police. Data analysis is done qualitatively with deductive-inductive method to conclude the right solution related to the use of smart phones by online motorcycle taxi drivers while driving so as not to endanger other road users (Sugiyono, 2014).

RESULTS AND DISCUSSION

Transportation is the activity of moving people or goods from one place to another using the appropriate conveyance. Transportation has an important role in human life, both in economic, social, political and environmental aspects. Transportation also affects regional development, because it can increase accessibility, mobility, and connectivity between regions (Ali., Kharis, & Karlina, 2019).

Transportation can be classified based on several criteria according to (Jinca, 2019). First, based on the goods being transported, there is passenger transportation that carries people from one place to another such as buses, trains, and airplanes. Second, based on

geography, there are various types of transportation such as intercontinental which crosses continents, intercontinental which crosses countries within one continent, inter-island which crosses islands, intercity which crosses cities, inter-regional which crosses regions, and within cities which operate within one city such as *angkot*, motorcycle taxi services, and pedicab. Third, based on the technique and means of transportation, transportation can be grouped into road transportation that uses roads as its path such as cars and motorbikes, rail transportation that uses rails as its path such as trains, river and lake transportation that uses rivers or lakes as its path such as boats and speedboats, pipeline transportation that uses pipes as its path to drain oil, gas, or water, sea transportation that uses the sea as its path such as ships and ferries, and air transportation that uses air as its path such as planes.

Online motorcycle taxi services is a transportation service that uses motorcycles and smartphone applications as a booking medium. It is part of information and communication technology (ICT)-based transportation, utilizing the internet as a link between drivers and passengers. The advantages of online motorcycle taxi services include easy access, affordable price, and convenience. In addition, it also provides economic, social, and environmental benefits such as creating jobs, reducing congestion, and saving fuel. Nevertheless, obstacles such as ambiguous regulations, intense competition, and security and safety concerns persist. Potential solutions entail collaboration with the government, community, and entrepreneurs, necessitating clear regulations, community appreciation, and innovation from entrepreneurs to enhance the quality of service and welfare of online motorcycle taxi services drivers (Sastradinata, 2018).

The legal basis for the regulation of road traffic and transportation in Indonesia is Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law). The Road Traffic and Transportation Law is based on the necessity to address a number of issues related to road traffic and transportation. These include traffic congestion, high accident rates, low service quality, and the discrepancy between existing regulations and the pace of technological development. The objective of this legislation is to establish a secure, safe, orderly, and efficient transportation system, while simultaneously facilitating economic and regional development.

The Road Traffic and Transportation Law replaces previous laws that are no longer in line with current conditions and needs. Consisting of 22 chapters and 310 articles, the Road Traffic and Transportation Law covers various aspects related to road traffic and

transportation, ranging from general provisions to criminal provisions. The goal of this law is to create a safe, comfortable, orderly, smooth, affordable, fair, quality, environmentally sound, and sustainable road traffic and transportation system. In order to achieve these goals, the Road Traffic and Transportation Law regulates various matters such as guidance, administration, traffic networks, vehicles, drivers, transportation, security, safety, environmental impacts, and law enforcement (Rahawarin, 2017).

1. Legal Protection of Online Motorcycle Taxi Services Using Smartphones

The legal perspective on the use of smartphones while driving encompasses normative and regulatory studies pertaining to the utilisation of technology in the context of traffic safety and the responsibilities of road users. In many jurisdictions, the use of smartphones while driving has become a significant concern due to the potential dangers it poses, such as impaired driver concentration that can result in fatal accidents. In light of these considerations, the legal perspective on the use of smartphones while driving can be examined from a number of different angles (Jasmine, 2020).

Under Indonesian law, the use of smartphones while driving is governed by various regulations that aim to improve traffic safety and prevent accidents. One of the relevant regulations is Law Number 22 Year 2009 on Road Traffic and Transportation. Article 106 paragraph (1) of the Law expressly prohibits drivers of motor vehicles from using hand-held phones or other communication devices that can interfere with concentration while driving. This prohibition is reinforced by the Minister of Transportation Regulation No. PM 108/2017 on the Safety Use of Communication Devices in Driving which stipulates sanctions for violators.

The legal perspective on the use of smartphones while driving in Indonesia emphasizes the importance of compliance with regulations that have been established to maintain traffic safety. Efforts to implement these regulations are a form of legal protection for road users and are part of the responsibilities that must be obeyed by all parties participating in traffic. Because basically using a smart phone while driving can reduce the driver's concentration so it is considered a violation. In accordance with the tenets of criminal law, individuals who are involved in vehicular accidents as a result of utilizing their smartphones while operating a motor vehicle may be subject to criminal prosecution in accordance with Article 310 of Law Number 22 of 2009 concerning Road Traffic and Transportation. This article serves to regulate the criminal act of drivers who are responsible for causing traffic accidents.

Article 310 of the Criminal Code can also be applied which regulates the criminal offense of driving with negligence resulting in death or serious injury. Law enforcement against the use of smart phones while driving still faces various obstacles, including the difficulty of supervision and enforcement by limited authorities and low public awareness of the dangers of using smart phones while driving. Therefore, more comprehensive efforts are needed to increase awareness and law enforcement on this issue, both through driving safety campaigns, increased supervision, and stricter enforcement of sanctions for violators.

In this study the researcher conducted interviews with several online transportation drivers:

- a) **Shopeefood Anonim (Motorcycle):** Yes, I have never been fined for using my smartphone while driving. I found a way around it by opening up maps in small alleys and memorizing the roads on the highway. In addition, the tax reduction policy has also made me feel more relieved.
- b) **Gojek Danang (Motorcycle):** I have also never experienced any legal issues related to using a smartphone while driving. I always try to be careful and focused when using my smartphone to take orders.
- c) **Gojek Ari (Motorcycle):** Like many others, I have never been ticketed or felt unsafe while using my smartphone. However, I always try to stay alert and prioritize safety on every trip.
- d) **Grab Rendi (Car):** Even though I use a car, I haven't had any problems with using my smartphone while driving. I try to stay focused and only use my smartphone when it is absolutely necessary.
- e) **Grab Anonim (Motorcycle):** I feel safe enough that I have never been fined for using my smartphone while driving. I try to use my smartphone wisely and only when necessary.
- f) **Maxim Wina (Car):** I always try to avoid using my smartphone while driving, but if it is necessary, I make sure to do so safely. So far, I have not encountered any legal issues related to this.
- g) **Maxim Anonim (Car):** I understand the importance of safety when driving, so I try not to use my smartphone too much. However, if I must use it, I make sure to keep my eyes on the road. I have never been fined for this.

The use of smart phones by motorcyclists has become a serious concern in terms of traffic safety. Referring to an interview with Mr. Sugianto, a traffic police officer, regarding law enforcement actions against motorcyclists using smartphones on the road, it was found that no punishment in the form of tickets has been taken. Mr. Sugianto stated that currently law enforcement against the use of smartphones by motorcyclists is only done through appeals. According to Mr. Sugianto, if the use of mobile phones disrupts the concentration of the motorcyclist and causes potential danger in driving, there will be further follow-up. However, for now, the action taken is only a warning to motorcyclists who are found to be using smartphones while driving. Law enforcement against the use of smartphones by motorcyclists is important because of the potential dangers they pose, such as causing concentration problems and increasing the risk of accidents. Therefore, stricter law enforcement efforts may be a necessary step to increase awareness of traffic safety among motorcyclists.

The objective of law enforcement initiatives targeting the use of smartphones by motorcyclists is to enhance road safety and traffic compliance. In consideration of the interviews, it can be posited that despite the prevalence of smartphone usage among drivers, the majority of respondents did not report any legal ramifications associated with this behavior. The participants articulated a variety of strategies for ensuring their safety, including focusing on the road, utilizing smartphones only when necessary, and attempting to refrain from using smartphones while driving. It is crucial to acknowledge that the use of smartphones while driving can potentially elevate the risk of accidents. Therefore, it is imperative for drivers to remain committed to adhering to traffic regulations and prioritizing safety.

Legal protection theory according to Satjipto Raharjo is a concept that emphasizes the need for law as a tool to protect individuals and society from various risks and injustices. Related to the context of analyzing the use of smart phones on the highway, this theory can be described as follows: (Rahardjo, 2000)

- a. **Safety Protection:** Legal protection theory emphasizes the need for regulations governing the use of smartphones on the road as an effort to protect the safety of road users. In this case, the use of smartphones that disrupt the driver's concentration can be considered to violate the principle of safety protection, as it increases the risk of accidents.

- b. **Protection of Human Rights:** Satjipto Raharjo emphasized the need for law to protect individual human rights, including the right to life and security. In this context, the use of smartphones that disturbs the driver's concentration can be considered a violation of human rights, as it can endanger the safety of oneself and other road users.
- c. **Justice and Balance:** Legal protection theory also emphasizes the importance of justice in the application of law. In the case of smart phone use on the road, justice is required in enforcing the rules that apply fairly to all parties, without taking sides or discriminating. Therefore, the use of smart phones that violate traffic rules must be dealt with fairly and proportionally.
- d. **Effective Law Enforcement:** Legal protection theory demands effective law enforcement to protect the public from various risks and violations of the law. In this context, enforcement of rules related to the use of smartphones on the road must be carried out firmly and consistently to prevent violations that can endanger the safety of road users.

2. Regulation of using cell phones while driving according to positive law in Indonesia

The growing phenomenon of ride-hailing is the result of a fusion between conventional transportation services and communication technology. Ride-hailing apps, equipped with GPS (global positioning system) features, utilize mobile phones as an integral part of the transportation experience. However, the practice of ride-hailing drivers using mobile phones while driving presents a serious risk to safety, with the possibility of loss of focus and fatal accidents (Paramitha & Wirasila, 2019).

While technological advancement has brought convenience to urban mobility, it has also brought new challenges to road safety. In the Indonesian legal context, the use of cellphones while driving is regulated by several regulations, including Law No. 22/2009 on Road Traffic and Transportation and Government Regulation No. 55/2012 on the Implementation of Traffic Discipline and Safety. Violations of these rules can result in administrative and criminal sanctions.

Road safety is still a serious concern despite the existing regulations. The weak culture of discipline in the community and the need to adjust the rules with the times are challenges. Comprehensive measures are needed to raise awareness of the importance of traffic safety and ensure effective law enforcement (Swartini, Dewi, & Mulyawati, 2024).

Driving while actively using a smartphone is completely prohibited. This includes sending text messages, receiving or making phone calls, using social media, watching videos, or performing other non-essential activities that require visual or cognitive attention. Violations of the ban on smartphone use while driving are subject to strict legal sanctions, including significant fines, penalty points on the driver's license, and even suspension or revocation of the driver's license in serious cases.

The debate on the use of earphones while driving has also been highlighted. While earphones can help drivers receive directions from GPS without having to look at the phone screen, their use can also be considered a distraction from concentration and safe driving. In 2018, an attempt to test the substance of the existing regulation was rejected, as a comprehensive regulation is still needed to reduce the number of accidents.

The legal protection of driving safety in the context of online-based transportation is a complex and multifaceted issue that necessitates a comprehensive approach. While regulation and law enforcement are essential for maintaining safety, it is also crucial to facilitate cultural change and enhance public awareness to foster a safer and more orderly driving environment. It is crucial to implement regulations and legal protections for online motorcycle taxi services users to ensure the security, rights, and well-being of those who utilize these services.

Along with the development of technology and the popularity of online motorcycle taxi services, the government and related institutions have issued various regulations to regulate operations and protect user rights. These regulations include license requirements, tariffs, and vehicle eligibility, which aim to ensure safe and convenient access to online motorcycle taxi services. Legal protection also includes rights related to travel safety, cost transparency, personal data protection, and dispute resolution between users and drivers. However, challenges in implementing the regulation still exist, especially related to law enforcement, supervision, and harmonization with local regulations (Sukmayanti & Sudirga, 2022). Legal protection for drivers using smartphones is also a concern, especially related to privacy, data security, and daily operational security. Thus, comprehensive regulation and legal protection are expected to create a safe, fair, and transparent environment for online motorcycle taxi services users, as well as reduce potential legal threats for users and service provider platforms.

The responsibilities of online motorcycle taxi services offices towards their drivers and service users are crucial in maintaining safety, convenience, and fairness in the online

transportation industry. First of all, online motorcycle taxi services offices have the responsibility to provide legal protection to their drivers and service users, including by providing clear employment contracts, providing access to relevant legal information, and providing legal assistance in cases of disputes or conflicts. In addition, they are also responsible for providing insurance to drivers, both for injuries and vehicle damage, as well as public liability insurance to protect drivers and service users from accident-related claims or demands. The responsibility of online motorcycle taxi services offices also includes handling legal violations that occur in their services, by having clear procedures for handling violations and enforcing sanctions in accordance with applicable regulations.

CONCLUSION

In light of the aforementioned discussion, it can be posited that the implementation of transparent and efficacious regulations is of paramount importance in maintaining the safety and comfort of those engaged in the online transportation industry. It is imperative that online motorcycle taxi services offices assume responsibility for providing legal protection to their drivers and service users. This encompasses the furnishing of transparent employment contracts, insurance coverage for injury or vehicle damage, and the expedient processing of legal infractions. Legal protection should also protect the privacy and security of user data, while ensuring compliance with applicable traffic regulations. Thus, efforts to improve legal protection for online motorcycle taxi services users who use smartphones while driving must integrate these various aspects to create a safe, fair and reliable environment for all parties involved.

The main solution to improve safety and compliance with traffic rules for online motorcycle taxi services drivers who use smartphones while driving is through the implementation of comprehensive job training. The online motorcycle taxi services platform should initiate a training program that includes an understanding of traffic rules, driving safety, safe smartphone use, and professional work practices. In addition, cooperation with the police in organizing this training is also very important. The police can provide hands-on training in the field that includes simulations of driving situations and emergency handling, so that drivers can be better prepared to face challenges on the road with better knowledge and trained skills. With on-the-job training, it is expected that online motorcycle taxi services

drivers can be more aware of the importance of safety so as to reduce the risk of accidents and traffic violations.

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