

Reconstruction of Responsibility Regulations Due to Errors in the Event of Uncertainty in Land Transportation Based on the Value of Justice

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Abstract

The transportation agreement in Indonesia is a reciprocal agreement, between the carrier and the sender. Article 468 of the Commercial Code, which regulates the carrier's responsibility for losses due to transportation and Article 193 of the UULLAJ which is a special provision regulating the carrier's responsibility in land transportation law, have weaknesses that have implications for legal disputes, legal uncertainty over damage or loss of goods being transported. The purpose of this study is to examine and find weaknesses in regulations on liability due to errors in the event of an uncertain event in land transportation that are currently not based on the value of justice and how to reconstruct the law. The author uses a constructivism paradigm with a socio-legal research approach that is descriptive analytical. The collection method and type of data used are sourced from primary and secondary data. Data analysis was carried out using a qualitative analysis method. The results of the study show that the Weaknesses in legal substance, weaknesses of Article 468 of the Commercial Code and Article 193 of the UULLAJ, weaknesses in legal culture/culture, namely the weakness of traffic supervisors from the Police and transportation and a culture of lawlessness in transportation. Reconstruction of the value of the principle of responsibility due to errors in the event of an uncertain event in land transportation includes strengthening regulatory compliance in logistics, creating compliance with business efficiency, utilizing the role of technology in ensuring compliance, utilizing insurance and customer protection. Reconstruction of norms is carried out on several articles including Article 468 to become (1) The transportation agreement promises the carrier to maintain the safety of goods to be transported from the time of receipt to the time of delivery. (2) The carrier is responsible for damage or loss of goods if the loss is caused by the error of the carrier or its agent. (3) The carrier is not responsible if the loss is caused by other factors such as the nature of the goods, the condition of the goods, or the sender's error. (4) The losses as referred to in paragraph (2) are calculated based on the actual losses experienced. Article 193 paragraph (1) of the UULLAJ states that the Public Transportation Company is responsible for losses suffered by the sender of the goods because the goods are destroyed, lost, or damaged due to the provision of transportation, unless it is proven that the destruction, loss, or damage of the goods was caused by the nature of the goods, the condition of the goods or the sender's error.

Keywords: Legal Reconstruction, Personal Data, Legal Protection, Justice Value.

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INTRODUCTION

Road Traffic and Transportation have a strategic role in supporting national development and integration to advance public welfare, in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia. As part of the national transportation system, Road Traffic and Transportation must be developed to realize security, welfare, and order in supporting economic development, development of science and technology, regional autonomy, and accountability of state administration. (Widodo, 2018) To anticipate the

development of the global strategic environment that demands national resilience in global competition and a new paradigm that requires better, transparent, and accountable government services, the government issued Law Number 22 of 2009 concerning Road Traffic and Transportation. Transportation is the activity of moving goods or passengers from the loading point to the destination. In the modern era, transportation plays an important role in national economic development supported by legal certainty that considers the interests of business actors and service users. Land transportation, as the dominant mode of transportation, includes trains

and road vehicles such as buses, trucks, and box cars. According to Law Number 22 of 2009, land transportation is the movement of people or goods using vehicles in road traffic space to increase the utility and value of the goods or people being transported. (Widodo, 2019) Land transportation by commercial companies is usually carried out based on a transportation agreement to make a profit, either for individuals, businesses, or the government. The goods transportation agreement involves the carrier who is responsible for transporting goods from the place of origin to the destination safely and in good condition, and the sender who pays the transportation costs. Both parties have rights and obligations according to the agreement. One example of a land transportation company is the Dharma Raya Muntiran Expedition, which transports goods, especially basic necessities such as chilies, from Magelang to large markets in Jakarta. This expedition is responsible for transporting goods safely, including packaging according to standards.

Laws and regulations, such as the Commercial Code (KUHD) and Law Number 22 of 2009, regulate the obligations of shipping companies. If a violation occurs, the carrier is obliged to compensate the losses suffered by the injured party, unless it can be proven that the loss was caused by a defect in the goods, the sender's fault, or force majeure. The transportation agreement is also regulated in Book III of the Civil Code concerning Contracts, as well as other regulations according to the mode of transportation.

The carrier is responsible for maintaining the safety of the goods from receipt to delivery and is obliged to compensate for losses due to loss or damage to the goods, unless it can be proven that the loss was caused by an unpreventable event, defect in the goods, or the sender's fault. The sender, on the other hand, is obliged to pay the transportation costs and provide honest information about the goods being transported. If the sender fails to provide correct information and causes a loss, the carrier has the right to claim compensation.

Article 468 of the KUHD stipulates that the carrier is responsible for the safety of the goods from receipt to delivery, and is obliged to compensate for losses due to loss or damage, unless it can be proven that the loss was caused by the nature of the goods, the sender's fault, or force majeure. However, this article has weaknesses, such as the lack of clear provisions on the division of responsibilities during force majeure and the lack of specific compensation provisions for indirect or future losses. (Toebagus, 2022)

Law Number 22 of 2009, especially Article 193, regulates the carrier's responsibility for losses due to goods being destroyed, lost, or damaged during transportation, unless the loss is caused by an unavoidable event or the shipper's fault. Losses are calculated based on actual losses, and responsibility

applies from the time the goods are transported until they are delivered. However, the carrier is not responsible if the loss is caused by information that is not in accordance with the bill of lading. This article also has weaknesses, such as an unclear interpretation of "events that cannot be prevented or avoided," broad room for interpretation, and unclear mechanisms for proof, which can lead to legal uncertainty, disputes, and delays in claim settlement.

The weaknesses of Article 468 of the Commercial Code and Article 193 of the UULLAJ can lead to prolonged legal disputes, uncertainty for transportation business actors, and delays in the settlement of compensation claims. Therefore, regulatory reconstruction is needed to create justice for the parties. This study aims to reconstruct the regulation of the carrier's responsibility in land transportation due to uncertain events based on the value of justice, with a focus on improving Article 468 of the Commercial Code and Article 193 of the UULLAJ. That's why, The problem above are further organized into research with the following main problem:

1. What are the weaknesses of the regulations due to errors in the event of uncertainty in land transportation in Indonesia currently?
2. How is the reconstruction of the regulations due to errors in the event of uncertainty in land transportation based on the value of justice?

METHOD OF RESEARCH

This study uses a constructivist legal research paradigm approach. The constructivism paradigm in the social sciences is a critique of the positivist paradigm. According to the constructivist paradigm of social reality that is observed by one person cannot be generalized to everyone, as positivists usually do.

This research uses descriptive-analytical research. Analytical descriptive research is a type of descriptive research that seeks to describe and find answers on a fundamental basis regarding cause and effect by analyzing the factors that cause the occurrence or emergence of a certain phenomenon or event.

The approach method in research uses a method (*socio-legal approach*). The sociological juridical approach (*socio-legal approach*) is intended to study and examine the interrelationships associated in real with other social variables (Toebagus, 2020).

Sources of data used include Primary Data and Secondary Data. Primary data is data obtained from field observations and interviews with informants. While Secondary Data is data consisting of (Faisal, 2010):

1. Primary legal materials are binding legal materials in the form of applicable laws and regulations and have something to do with the issues discussed, among others in the form of

Laws and regulations relating to the freedom to express opinions in public.

2. Secondary legal materials are legal materials that explain primary legal materials.
3. Tertiary legal materials are legal materials that provide further information on primary legal materials and secondary legal materials.

Research related to the socio-legal approach, namely research that analyzes problems is carried out by combining legal materials (which are secondary data) with primary data obtained in the field. Supported by secondary legal materials, in the form of writings by experts and legal policies.

RESEARCH RESULT AND DISCUSSION

1. Weaknesses of the Regulations Due to Errors in the Event of Uncertainty in Land Transportation in Indonesia Currently

The land transportation security system requires special attention because accidents, robberies, or other incidents that cause losses to carriers and service users often occur. Law Number 22 of 2009 concerning Road Traffic and Transportation, especially Article 200 paragraph (3), regulates efforts to realize security through the preparation of national programs, provision of security facilities, education and counseling, problem assessment, security management, regulation, escort, vehicle and driver registration, and law enforcement. Article 201 paragraph (1) requires public transportation companies to improve security. Although this regulation is quite good, its implementation in Indonesia is still weak, especially in the provision of security officers in the field. Institutions such as the Ministry of Transportation, the Police, and BUMN/BUMD have a role, but the minimal number of supervisors has an impact on the lack of supervision and security of land transportation. In addition, land transportation facilities have not been well integrated, increasing the risk of accidents. WHO data in 2019 showed that Indonesia was ranked eighth in Southeast Asia with a death rate due to traffic accidents of 12.2% per 100,000 population (Jaya, 2020). The lack of supervision by the Transportation Agency on vehicle conditions also increases the potential for accidents due to lack of standard maintenance. Improving the transportation system requires comprehensive and consistent coordination between policy makers to improve performance and accessibility, especially in rural areas. The lack of supervisory officers from the police and the Transportation Agency also increases the risk of accidents and the delivery of illegal goods such as narcotics, which are detrimental to the community and the state.

Law enforcement on interprovincial transportation, although regulated in Law Number 22 of 2009, faces complex challenges. Supervision is often ineffective due to the lack of coordination between the central and regional governments. Officials in the regions are often limited to their administrative areas,

without the authority to take action against cross-provincial violations. Decentralization gives more authority to regional governments, but differences in priorities and capacities mean that regional policies are often not in line with central objectives. Limited human resources (HR) and budgets in the regions also hamper supervision, with many regions lacking trained personnel and facilities such as modern checkpoints, so minor violations often go unpunished. (Sidiqah, 2023)

Legal substance includes regulations produced by lawmakers, which should be responsive to community aspirations and guarantee justice, usefulness, and legal certainty. However, legislative products are often influenced by the interests of certain groups, so they are not responsive and tend to become tools of power. According to the 1945 Constitution, the DPR and the President have the authority to make laws, but many legislative products are still far from public expectations, such as the Health Law which does not regulate tobacco, indicating the low quality of legislation. Overlapping regulations, such as in the Civil Code, Commercial Code, Postal Law, Traffic Law, and Consumer Protection Law, cause legal uncertainty, especially regarding compensation and the carrier's responsibility for failed delivery. Article 468 of the Commercial Code regulates the carrier's responsibility to maintain the safety of goods and compensate for losses due to loss or damage, unless caused by defective goods, sender's error, or force majeure. However, this article is unclear regarding the division of responsibility during force majeure and is less specific about indirect compensation. Article 193 of Law Number 22 of 2009 also regulates the carrier's responsibility for losses due to goods being destroyed, lost, or damaged, except due to unavoidable events or sender's error. Weaknesses include an unclear interpretation of "unavoidable event," wide scope for interpretation, and unclear evidentiary mechanisms, leading to legal uncertainty and disputes (Putra, 2025).

Modern legal culture reflects the behavior of society and law enforcement officers in a specific time context. In land transportation, legal culture has weaknesses such as late delivery, loss or damage to goods, lack of coordination in handling complaints, and low legal awareness among business actors and the community. Dishonest supervisors are also vulnerable to bribery, allowing violations such as illegal delivery of goods or use of unroadworthy vehicles, which increase the risk of accidents and legal problems. (Musyafah, 2018) The culture of lawlessness in transportation, indicated by the high number of accidents, reflects the suboptimal safe, orderly, and equitable transportation system. Transportation law should regulate a dynamic, comfortable, and affordable system, but high violations indicate the need for fairer and more effective regulations to support mobility and the progress of civilization.

2. Reconstruction of the Regulations Due to Errors in the Event of Uncertainty in Land Transportation Based on the Value of Justice

The development of technology and information has facilitated cross-country communication, including in business relations between Indonesia and China. This sales agreement is governed by a contract agreed by both parties, becoming law for them. Shipping of goods between the two countries, both from China to Indonesia and vice versa, is influenced by the applicable transportation system. The long distance makes shipping take longer than domestic, with the main options being by sea (more affordable, around 4 weeks) or air (faster, around 14 days). Sea shipping is more often chosen due to its lower costs, although the COVID-19 pandemic since 2020 has caused delays, especially for air shipping due to flight restrictions. Shipping goods from Indonesia to China requires compliance with procedures, such as attaching an invoice for returned goods, which are subject to customs duties based on the value of the goods. Sample goods require the stamp of the recipient company. Expedition services with door-to-door services and a good reputation are recommended to ensure the safety of shipping documents, clinical goods, or other commodities. Land routes are rarely used, usually only in combination with sea or air routes. In Southeast Asia, Indonesia stands out as the largest e-commerce market, with a market value projected to reach USD 50 billion by 2024 from USD 26 billion in 2020, supported by 175.4 million internet users, 88% of whom shop online (Toebagus, 2024). The Greater Jakarta area, the center of e-commerce activity, has advanced infrastructure, but the pandemic has restricted flights from Singapore, affecting international shipping. Singapore is connected to Malaysia by land, making trucking cheaper than sea or air shipping to warehouses in Malaysia. In Indonesia, companies such as PT. Global Paket Express in Medan offer international shipping services with door-to-door (Express and Economy) or port-to-port options. Both Indonesia and Singapore protect consumer rights through national laws, regulating the rights and obligations of business actors and consumers to create balance and prevent violations, such as unreasonable price increases. In Thailand, consumer protection is regulated by the Consumer Protection Act (CPA) 1979, which has been revised until 2013, as well as other laws such as the Product Liability Act 2008, the Consumer Case Procedure Act 2008, and the Direct Selling Act 2002. The CPA protects consumers in advertising, labeling, and contracts, establishing basic rights such as correct information, freedom of choice, security, fair contracts, and compensation for losses. This regulation provides a sense of security for users of freight services, demonstrating Thailand's commitment to consumer protection. Justice is an essential goal of law, although it is difficult to define because it depends on the context of society. Justice can be seen as an outcome (procedural) or value (personal and case-specific), demanding balance without discrimination. In freight forwarding, regulations such as the Civil Code, Commercial Code,

Traffic Law, Consumer Protection Law, and Postal Law contain the value of justice, but their implementation has not achieved equality between consumers and service providers. Disputes are often difficult to resolve due to complicated complaint mechanisms, making consumers prefer to voice complaints on social media rather than to BPSK or YLKI. Overlapping regulations also cause legal uncertainty. There is a need for an integrated codification of shipping laws, covering land, sea and air, as well as a simple complaint mechanism through strengthening BPSK and YLKI.

The value of fairness in land transportation responsibilities includes compliance with logistics regulations to ensure safety and efficiency, which also increases customer trust and business success. Non-compliance, such as Over Dimension Over Loading (ODOL), often causes accidents and pollution due to poor load management. Technologies such as GPS, ELD, and TMS can improve compliance by monitoring routes, drivers, and documentation. Insurance, such as that offered by Deliverer, also strengthens consumer protection, reflecting a commitment to fairness.

The progressive legal theory, initiated by Satjipto Rahardjo, offers a dynamic approach to addressing the weaknesses of transportation regulations in Indonesia. In contrast to legal positivism, progressive law views law as a social reality, focusing on justice, certainty, and benefit. In Indonesia, progressive law is relevant to addressing the absence of norms, such as in online transportation, by adopting practices from Malaysia, Singapore, and Australia, for example special driver licenses or taxes for regional economic value. Progressive law can also address the gap between online transportation companies and drivers regarding insurance, vehicle maintenance, and welfare, encouraging the formation of an Omnibus Law for online transportation.

Philosophically, the LLAJ Law must be in line with Pancasila, reflecting the values of humanity, unity, and social justice. Sociologically, the 2009 LLAJ Law has not fully answered the needs of the community, especially regarding land transportation responsibilities. Legally, the LLAJ Law needs to be updated to accommodate online transportation, which is only regulated by ministerial regulations that are vulnerable to being canceled, such as PM 108/2017 and PM 118/2018. Reconstruction of Article 468 of the Commercial Code and Article 193 of the LLAJ Law is proposed to clarify the carrier's responsibilities, limit compensation to real losses, and remove ambiguous phrases such as "unavoidable events" to reduce legal uncertainty, ensuring justice for all parties. Namely as follows:

- a. Law of the Republic of Indonesia Number 22 of 2009 concerning Road Traffic and Transportation Article 193 paragraph (1), is amended to: Public Transportation Companies are responsible for losses suffered

by the sender of goods because the goods are destroyed, lost, or damaged due to the organization of transportation, unless it is proven that the destruction, loss, or damage of the goods is caused by the nature of the goods, the condition of the goods or the sender's fault.

b. KUHD Article 468 is reconstructed as:

(1), The transportation agreement promises the carrier to maintain the safety of the goods to be transported from the time of receipt until the time of delivery. (2). The carrier is responsible for damage or loss of goods if the loss is caused by the error of the carrier or its agent. (3). The carrier is not responsible if the loss is caused by other factors such as the nature of the goods, the condition of the goods, or the error of the sender. (4). The losses as referred to in paragraph (2) are calculated based on the actual losses experienced.

CONCLUSION

1. The principle of liability for fault in land transportation incidents faces significant weaknesses that undermine justice. Structurally, enforcement of transportation regulations is weak, despite frameworks like Law No. 22/2009 on Traffic and Road Transportation. Limited coordination between central and regional authorities, coupled with decentralization, results in inconsistent oversight, as local governments often lack resources. Insufficient qualified personnel and infrastructure, such as modern monitoring systems, hinder effective vehicle inspections, increasing accident risks and allowing illegal goods transport. Substantively, Article 468 of the Commercial Code lacks clarity on carrier responsibilities, compensation limits, and exemptions for bulk cargo, creating unfairness. Article 193(1) of Law No. 22/2009 uses vague terms like "unavoidable events," leading to interpretive disputes and uncertainty, with no clear guidelines on proving exemptions. Overlapping laws, including the Civil Code and Consumer Protection Law, cause confusion over compensation and accountability. Culturally, a lack of legal discipline prevails, with corruptible traffic supervisors enabling violations like illegal goods transport or substandard vehicle operations. Delays, loss, or damage of goods, poor complaint handling, and low legal awareness exacerbate issues, with high accident rates reflecting systemic non-compliance.
2. Reconstructing this principle based on justice involves strengthening regulatory compliance in logistics to ensure safety, efficiency, and fairness, covering vehicle standards, driver qualifications, and trade regulations. Non-compliance risks penalties and reputational harm, while adherence enhances efficiency, reduces accidents, and builds customer trust. Issues like Over Dimension Over Loading (ODOL) stem from poor load management,

contributing to accidents and pollution. Technology, including GPS, electronic logging, and transportation management systems, can optimize routes, monitor drivers, and ensure compliance. Insurance, like Deliverer's free coverage up to IDR 1 billion, strengthens consumer protection. A unified legal framework with simplified dispute resolution through agencies like BPSK and YLKI is needed to address complex complaint mechanisms. Proposed revisions to Article 468 of the Commercial Code clarify carrier liability for losses due to their fault, exempting them for issues related to goods' nature or shipper errors, with compensation based on actual losses. Article 193(1) of Law No. 22/2009 is revised to hold carriers liable for losses unless caused by goods' condition or shipper errors, removing ambiguous terms to ensure clarity and fairness. These changes aim to address weaknesses, enhance accountability, and foster a just and reliable land transportation system in Indonesia.

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