

# Law and Alternative Dispute Resolution: Case of Conventional and Online-Based Transportation in Indonesia

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## **Law and Alternative Dispute Resolution: Case of Conventional and Online-Based Transportation in Indonesia**

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**Law and Alternative Dispute Resolution:****Case of Conventional and Online-Based Transportation in Indonesia****Abstract**

Online-based transportation is one of innovational features to support human life. It invades throughout the world, including Indonesia. Therefore, this development requires a serious concern to regulate its operation. As Indonesian Government assigned transportation law, online-based transportation also required law affirmation. However, the law and regulation sometimes emerges disputes that affects human life. This study aimed to examine alternative dispute resolution by local governments in Indonesia regarding online and conventional transportation in sociological perspective. The research used an empirical approach and elaborated by descriptive analysis. The results showed that disputes regarding online and conventional transportation fairly resolved and resulted some implied-effects, such as; it proved effectiveness of local government, improved economic development and minimized conflict.

**Keywords:** Dispute, ADR, online-based transportation, Indonesia, legal sociology.

**Law and Alternative Dispute Resolution:****Case of Conventional and Online-Based Transportation in Indonesia****I. INTRODUCTION**

This article discussed law and alternative dispute resolution by local governments in Indonesia about online and conventional transportation in sociological perspective. This study explored law and its application in Indonesian society with its effects and effectiveness to assign human life in Indonesia. As transportation develops rapidly in response to modernism and people needs, however, a high number of residents is imbalance with

utilization of limited urban resources. The imbalance between the available public infrastructure and the number of people who need transportation resulted an imbalance in urban services such as transportation sector. Inequality in urban infrastructure development is inseparable from the problem of development financing priorities. (Somantri, 2016). Almost all major cities in Indonesia have complex transportation problems, especially traffic jams that are getting worse. Some people in big cities experience very acute stagnation due to protracted traffic jams because of the high number of vehicles.

Basically, various means of transportation are invented and used by human to facilitate any travels of people and goods. Transportation continuously develops their machines, sizes and functions. Moreover, in the modern era, one of the biggest developments is online-based transportation that is relatively new and becomes the most-demanded service in urban life. Online transportation is an online-based transportation that can be reserved from online smartphone applications enabling an effortless transportation hunting to customer. (Goodin and Moran, 2016). It comes with a concept to connect driver and passengers in mobile application. (Ngo, 2015). It also gives passengers opportunities to easily book their transportation through the application.

Effortless sophisticated-mobile application not only support human life, it also emerges many conflicts and problems as well. The mobile booking-based transportation is now trending demand for human and it causes decline of conventional transportation mode. Numerous conflicts happened between online and conventional transportation not only in Indonesia, but also in some countries such as in Australia, America, Philippine, etc (Dharmasaputra, 2015; Amato, 2016; Alamsyah et al., 2018) People in Germany and French opposed against online transportation that incompletely licensed (Davis, 2015). Moreover, Denmark government enforced new tax regulation that made Uber bankrupt and closed their services (Henley, 2017). Similarly, in Korea and India, Uber frequently failed to meet safety standards (Jung-a, 2015; Kaira, 2015). Transportation ministry in Thailand banned Uber and Grab due to unfulfilled standard of registration and its rule-violated payment system (Tanakasempipat and Thegumpanat, 2017). There was a mis-registration of Uber in Taiwan that recorded Uber as a software company. In fact, Uber is a service provider for transportation (Sui, 2017). On the peak of it, Uber encounters advance innovational competition in Japan (Ong, 2018). Thus, online-based transportation facing different challenges in various countries, including Indonesia and it causes a degeneration of conventional two-wheeled transportation because they are unprepared to compete with the sophisticated technology and innovation (Avinda, 2016).

Dewanto (2016) found that Online-based transportation, especially two-wheeled riding services became new hero in the heart of traffic jams in Jakarta and other big cities. It is considered as efficient and effective alternative to break traffic jam because its flexibility to break through and to find alternative or shortcut ways. Nevertheless, two-wheeled online transportation is illegal because in the Law no 22 of 2009 does not regulate the two-wheeled as public transportation (Wulandari, 2016).

The advantages of taking online-based transportation emerge problems that cause dispute and conflict between conventional and online transportation drivers that directly affects their income and indirectly makes the conventional company facing bankruptcy. However, Indonesian government rapidly assigned regulation regarding online-based transportation. Moreover, to achieve more effective law enforcement and justice throughout Indonesia, local government arranged local regulation regarding online-based transportations. Therefore, it is important to examine regulations by local governments concerning its fairness and effectiveness and its outcomes in society.

## II. METHOD

The research used an empirical approach and elaborated by descriptive analysis to provide conclusions from this discussion. This study obtained data from observation, interviews and flash survey from 25 cities in Indonesia. It observes online-drivers and passengers. Moreover, it also explored secondary data from literature review. The study elaborated all descriptively to inform completely regarding the issue.

## III. DISCUSSION

*Ojek* or two-wheeled taxi has been becoming famous in Indonesia since motorcycle invention. Moreover, its slim design that can break through traffic jam is irreplaceable. Instead of merely being private transportation, *Ojek* utilize their vehicles to serve people who need transportation services. The survey results in this study revealed that *Ojek* driver is interesting because many people need the transportation. Therefore, this situation affects *Ojek* driver growth.

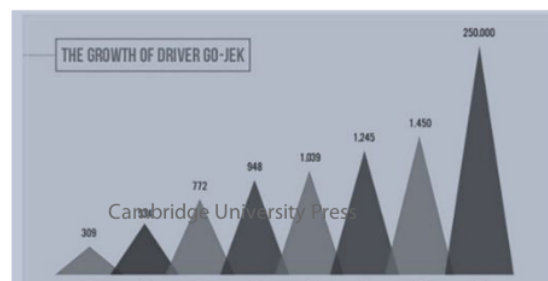


Table 1. The growth of Ojek Online Driver (Gojek)

The reasons of people joining Online-based transportation are vary:

1. Online-based Ojek is recently a most-demanded service in Indonesia. Conventional Ojek was quite helpful and most-wanted transportation service because it drives passengers from start point to finish point (home) that other mass transportation unable to do. Moreover, Ojek Online emerges and expands their services to assist several human activities. Thus, this is a crucial reason for joining Online Ojek.
2. Online Ojek has a huge amount of users throughout Indonesia. As the development of technology, human now aware of the multi-functional gadget, especially a smartphone. Human now utilize smartphone not only to send messages and making call, but also to do homework, promoting, shopping and hailing a transportation. As many as people install online apps on their phone, demand of online-based transportation service is unlimited too.
3. Being online Ojek enables drivers to socialize each other. Many drivers joining Online Ojek and they become friends. Moreover, to strengthen their solidarity and their interest, they establish an organization. Thus, being online drivers is advantageous.
4. A good side-job. Online drivers is a good side-job for those have leisure time even they already have primary job.
5. Flexible work time. Online drivers can start working early or lately depends on their needs. They may activate their software lately at noon because its flexibility. Unlike other jobs that limit work-hours of employees.
6. Exciting income. No pain, no gain, which is the motto of employees all over the world enables online drivers to struggle harder in order to gain more income. The online drivers can achieve more than 3 million rupiahs per month.
7. Positive community. Online drivers have a community that exists to strengthen solidarity and sharing information each other.

8. Help people in need. Online-based transportation innovated their services to improve income and expand benefit for people. Therefore, being online drivers makes people feel as a hero who helps people in need.
9. Work as fun as traveling. Driving people everywhere will make the drivers enjoy the works as they were in a traveling.
10. Spending leisure time. Some people who already have a job, yet they want to spend their leisure time in afternoon or night choose online-based transportation. They want to spend the spare time with enjoyable and good activity as good as being online drivers.

Moreover, the online-based transportation reduces unemployment in Indonesia. No matter one's educational background, one can join as online drivers. Here are the data:

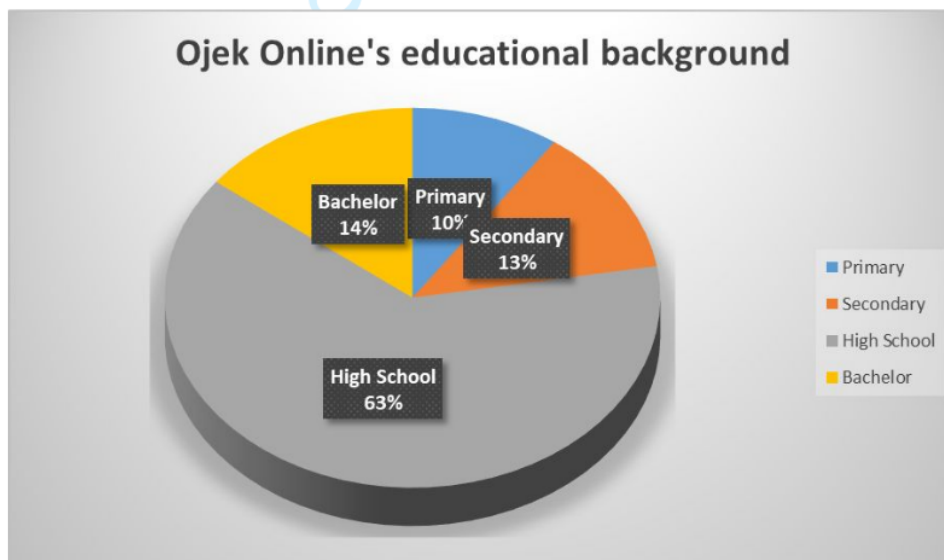


Table 2. Educational background of Online-Ojek in Indonesia

Illustrated data above proved that educational background is not a problem in driver-hailing process. Moreover, majority of drivers are people with high-school background that is the educational standard in Indonesia to obtain a job. Besides, there are some bachelors of university use this job as a side-job to spend leisure time in university or to wait a job interview.



Importantly, stigma of Indonesian people that considered men to have a job and make money also became a strong reason behind of developed-amount of online drivers. Moreover, Low competence and limited source of vacancy also affected people to join as online drivers.

#### ***A. ADR regarding online transportation in some countries***

##### ***1. America***

Online-based transportation spread throughout the world including America. In America, Online-based transportations are considered as unfair because they fix a lower price for their services in transportation. This condition emerges protest from conventional and public transportation service providers because American people prefer choosing online-based transportation to conventional. Moreover, most of online-based drivers do not have driving license (Amato, 2016). Initially, online-based transportation could operate unlimitedly because there was no detailed-regulation regarding online-based transportation. Further, the online-based transportation then enforced strict rules such as drivers' insurances, background check, and difficult registration procedures for online-based transportation company (Dharmasaputra, 2015; Chandra, 2017). The strict rules resulted a decline of Uber that preferred to submit the requirements. From the condition of Uber in America, it could be concluded that government's strict rule was a dispute resolution for the conflict between online and conventional transportation service provider in America. Thus, this solution was win-lose solution that regulated online-based transportation in America.

##### ***2. Australia***

Uber was forced to stop operating by Taxi Service Commission in Australia because Uber drivers did not complete the driver rules. Most of the online-based taxi drivers did not have driving license of public transportation drivers that could put passengers in danger (Dharmasaputra, 2015). Based on the situation in Australia, the conflict resolution was the regulation of driving-license that caused Uber stopping their operation in Australia. Thus, the solution was win-lose solution.

##### ***3. Germany***

Germany banned Uber directly because Uber was not qualified Germany's safety standard of public transportation. Uber not only causing people inverted from conventional to online, but it also causing another problem by violating public transportation rules. Berlin



Transportation Authority clearly regulated Uber to stop operating. When Uber is caught operating in Germany, the online-based company must pay fine \$ 34 thousand per case. By the time, Uber was allowed to operate again in one condition that Uber must pay 100-200 Euro for each drivers to register their driving licenses (Dharmasaputra, 2015).

#### **4. *Philippine***

Uber develops successfully in Philippine with new regulations concerning online-based transportation service that benefits both conventional and online transportation as well. Therefore, the regulation made by Philippine was a win-win solution that enables development in both offline and online transportation modes Dharmasaputra, 2015).

The regulations of those countries are in line with the developed public transportation facilities in the developed countries. The sophisticated innovation has been already becoming the major factors to attracting people using public transportation although the public transportation was conventional. Therefore, innovation of online-based transportation was not necessary for the developed countries because their traffic problems were not severe and their technology were innovative and greater. On the contrary, Indonesia is a developing country that needs serious traffic jam resolution, especially in big cities. So that online-based transportation is a precious solution for Indonesian at present, and maybe several years in the future. Indonesia transportation service is considered lame and needs numerous remedies regarding its facilitations and regulations. However, there are some attempts to regulate online-based transportation conducted by government.

#### ***B. National Regulation of Online-based Transportation in Indonesia***

Online-based transportation is new in Indonesia. Therefore, its regulations also new, However, Indonesian government have structured many regulations for Online-based transportation such as company's license, rider-hiring process, operational process, charges, etc. (Mutiarin, 2019).

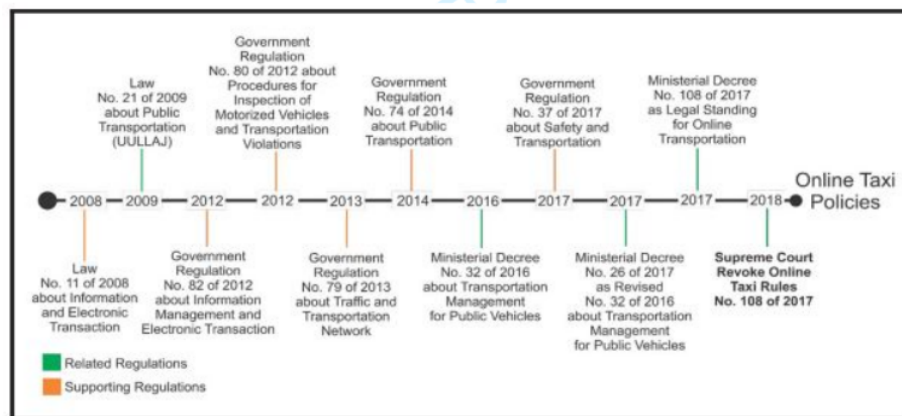
Those regulations were arranged to response many protests regarding online transportation that was considered unfairly manage low and illogical prices for transportation service resulting many conventional transportations encountered difficulties and declined their income that affected conventional transportation companies. Moreover, it also raised conflicts in many regions in Indonesia and other countries as well. Therefore, a regulation is required to anticipate any further problems and redeem conflicts. New regulation is required

because new problem cannot be solved by existed-regulations. Modern and complex situation require new and specific regulations and law. Thus, in the regulations was frequently changed as follow:

Figure 1.0. Related and supporting Regulation

Law	Regulations	Supporting regulations
Law No. 21 the Year 2009 about public transportation (UULLAJ)	Ministerial decree No. 108 of 2017 about transportation management for public vehicles arrangement Ministerial decree No. 26 of 2017 about transportation management for public vehicles	Government regulation No. 82 of 2012 about information management and electronic transaction Government regulation No. 80 of 2012 procedures for inspection of motorized vehicles and transportation violations
Law No. 11 the Year 2008 about information and electronic transaction	Ministerial decree No. 32 of 2016 about transportation management for public vehicles Government regulation No. 37 of 2017 about safety and transportation	Government regulation No. 79 of 2013 about traffic and transportation network Government regulation No. 74 of 2014 about transportation

Figure 2.0. Timeline of co-regulatory measurement



Indonesia Transportation Ministry issued regulation No 26/2017 to withdraw previous regulation No 32/2016 due to supreme court consideration that the 2016 regulation was inadequate to cover online-based transportation services. The regulation no 26/2017 aimed to emerge legal regulation and certainty on safety, comfort, fairness and affordability necessities that allowing opportunity of sustainability of both online and conventional-based

transportation service in Indonesia. The regulation of 2017 implied that Uber and Grab Car was illegal in Indonesia because they did not have a business permit of car-rental and they were not registered as public transportation operators. Moreover, the Grab car and Uber driver must comply driving license and insurance to conduct legal facility as transportation providers.

Therefore, the authority to determine minimal and maximum price of both online and conventional transportation will be designated by local governments based on their zones (Yuniar, 2018). For example, Region I, which covers Sumatera, Java, and Bali (minimum rate is Rp. 3,500/km and maximum rate is Rp. 6,000/km); and Region II, which covers Borneo, Sulawesi, Nusa Tenggara Barat, Maluku, and Papua (minimum rate is 3,700/km and maximum rate is Rp. 6,500/km) (Rosa, 2017). Furthermore, in Jakarta, Transportation ministry issued regulation No. 12/2019 regarding safety riding of online and conventional ojek. Besides, government also assigned partnership law between applicator and drivers that resulted good partnership for both parties and it significantly enhanced relation between Start-up Company and their partners (Nordiansyah, 2020). Those regulations improve quality and ensure safety.

### ***C. Local Regulation (Perda)***

Regulation regarding online-based transportation has been discussed by local governments of every regions in Indonesia. One of them was government of Lampung that assigned local regulation No 10/2017 regarding transportation in Bandar Lampung. Moreover, several local government planned to arrange local regulations regarding online-based transportation. Based on interview of Transportation Ministry, Budi stated that there are 3 local governments that are going to assign local law regarding online-based transportation (Sari, 2018).

Regulation of transportation ministry assigned regulation No 12/2019. There are some points of the local regulations, such as; safety riding, minimum and maximum rate and sanction and dismissal mechanism for online-based transportation. Meanwhile, because conventional ojek is independent and does not follow company, the conventional ojek only follow one aspect of those, which is safety riding rules (Ramli, 2020).

### ***D. Factors of dispute between online and conventional transportation***

Many factors can be triggers for the dispute such as:

a. Lower price and discount

Online-based transportation serves a lower price that is interesting for passengers. Moreover, there are many discount, point and promotion for attracting passengers that is easily accessed by mobile application. This feature is advantageous for passengers.

b. Company's attribute

Company's attribute is one of problems that causes conflict between online and conventional transportation drivers. Conventional drivers feel irritated by the online drivers' attribute because they realize that online drivers are going to pick up their passengers within the conventional transportation's territorial area.

c. Space and scope

Conventional transportation has their own area to presents their transportation services. Generally, they park near to bus station, train station, market and other crowded places to wait their passengers. Meanwhile, online-based transportation service's space is unlimited. As long as both driver and passenger are reachable, transaction can be accomplished. Therefore, online-based transportation service does not have limit space and scope.

d. Passengers' choices

Passengers have right and ability to choose their transportation service as they wish based on their budget and needs. Although many options of conventional transportation service with affordable price, passengers can easily choose online-based transportation through their mobile application. Moreover, passengers only allowed to reserve an online-based services through online mobile application. While conventional transportation service is easily booked by coming in front of the conventional drivers' parking area or basecamp to get their transportation service without any mobile application booking procedure.

Based on the factors above, online-based transportation service increasingly becomes people choice because the easy access of internet in 4.0 digital era facilitating people to use mobile application for reservation.

***E. Categories of dispute between Conventional and online transportation***

### ***1. Large-scale dispute***

A large-scale dispute represents a macro problem that affects large scope of company and government. Large-scale dispute involving Startup Company, service provider and government both locally and nationally. This type of dispute requires an effective and massive treatment to resolve because its severe problem infecting business directly and disturbing operation largely. Large-scale dispute may trigger all drivers conduct a demonstration in national scale because the dispute may affect them both personally and nationally.

### ***2. Small-scale dispute***

A small-scale dispute happens within a micro part of company such as certain driver and costumer. Dispute between individuals in this context, between online and conventional drivers, online drivers and passengers includes a small-scale dispute that indirectly affected company. Furthermore, there are several levels of dispute as follow:

#### ***a). Levels of dispute***

Dispute Levels	Examples	Resolutions
Low	Argumentative fight	Kinship
Medium	Physical fight	Mediation
Severe	Robbery & Murder	Litigation

## ***F. The Effects of Online-based Transportation Regulation from local government***

### ***1. Efficiency of local government***

Indonesia is a developing country with several problems encountered by citizens. The citizens sometime innocently blame central government for not effectively assisting and concerning their problems. By the time, Indonesian citizens realize that they have local government that comprehend their problems better than central government. Therefore, the central authority command every local government to concern about local problems and no



limitation in improving their local potential developments. Local regulation regarding conventional and online-based transportations, especially *ojek* proved that citizens have helpers. Small people are not alone facing social and economic problems and there is always a solution for every obstacle in our life because 78% respondents (drivers) agree that local government precisely assign law and policy that is beneficial for both conventional and online drivers.

## **2. *Boost economic development***

Both conventional and online-based transportation are essential in human's life. Conventional transportation provides an inexpensive transportation services for people. Moreover, as a most-demanded service in modern era, online-based transportation expanded their services. They provide services to enhance human life's quality. There are some services such as Go Ride, Go Send, Go Food, Go Mart, Go Box, Go Clean, Go Glam, Go Massage and Go Busway. All of them are genuinely simplify human's life and boosting economic development as 85% of respondents agree that Online-based services are helpful and they will reorder it.

## **3. *Minimize conflict***

Numerous conflicts and disputes between conventional and online-based transportations are now resolvable. Due to accuracy and time duration, central authority might not resolve the dispute precisely. However, local government have committed their best efforts to assist people by assigning local regulations that means a lot for their local citizens as conventional and online-based drivers as well as users. The data from respondents showed that 79% conflicts and dispute could be solved by negotiation, mediation and consolidation. Moreover, local government and mediators are genuinely resolve the problems that proves social relationship is stronger than monetary interest. 89% agree that humanity will always satisfy one's heart.

## **IV. CONCLUSION**

In conclusion, this study revealed that regulations regarding the online-based transportation, especially *Ojek* frequently changes and the durability of law is temporary. Moreover, local governments responsible is to maintain social justice for their citizens, in this context regarding conventional and online transportation, especially *Ojek*. Local government

supported their people and enforced justice for them. The local law has improved economic development and minimized conflicts.

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