

## **CRIMINAL ACTS OF ABUSE OF TRANSPORTATION APPLICATIONS ONLINE IN SURABAYA**

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### **Abstract (size 12)**

Online transportation is a development in the world of transportation and communication which is inseparable from the development of science and technology which is increasingly advanced and very sophisticated. This study aims to find out the forms of abuse of online transportation applications, to find out the efforts of the police in preventing criminal acts of violating online transportation applications and to find out the penalties for online transportation drivers in the crime of theft of online transportation applications, and to find out the factors inhibiting the police in prevent criminal acts of theft of online transportation applications. Based on the results of the research it is known that the provisions regarding criminal acts of electronic fines are specifically regulated in Article 30 paragraph (3) of Law Number 19 of 2016 concerning Information and Electronic Transactions (UU ITE). The criminal threat of this article is stated in Article 46 paragraph (3) of the ITE Law, which is imprisonment for a maximum of 8 (eight) years.

Keywords: Online Transportation, Cyber Crime, Injustice.

### **Introduction**

Advances in information and communication technology are now becoming double-edged sword, because in addition to contributing to improvement welfare, progress, and human civilization, as well as being a means effective occurrence of unlawful acts. With the occurrence these unlawful acts, then the scope of the law must extended to include these activities.

Technology in this modern era, people have various activities and to fulfill these activities the community needs existence transportation as a supporting tool / tool in carrying out its activities. Therefore, transportation service entrepreneurs carry out service rejuvenation for consumers by creating an application to make it easier

consumers / the public in ordering a service to transport people or transporting goods quickly through the mobile phone that is the owned.

There is no part of this world that escapes scrutiny and monitoring. We have been spoiled by technology products, because we are with it's easy to be able to visit other parts of the world than the one we live in and establish relationships global communication, or hanging out with other people, looking for new girlfriends, and even learn how to be a terrorist, become a member of a mafia network, or being part of organized crime<sup>1</sup>.

The government and its apparatus have not been able to keep up with technology crimes committed with computer technology, especially in the network the internet and the internet (internetworks). Very cyber unlawful act not easily overcome by relying on conventional positive laws, because Talking about crime cannot be separated from 5 (five) factors interrelated, namely the perpetrators of crime, victims of crime, social reactions to crime and law. Law is indeed an important instrument in crime prevention and control. However, to make a legal provisions on the field of law that change very quickly, such as information technology is not easy.

This is where the law often seems to become obsolete quickly set the field undergoing rapid change, so the situation like experiencing a legal vacuum (vacuum recht). Against crimes in internet or cyber crime it seems that there is a legal vacuum<sup>2</sup> Advances in information and communication technology are currently making the public more easily in giving and receiving information. Communities can easily communicate without any distance, space, and time. Along with the development of technology, society too required to be able to follow every development that is happening. Current technological developments are not just for the sake of interweaving communication and socializing, but also lead to the world busines

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<sup>1</sup> Abdul Wahid & Mohamad Labib. 2018. *Mayantara Crime (CyberCrime)*, Bandung: PT Refika Aditama, page

<sup>2</sup> Budi Suhariyanto. 2017. *Information Technology Crime (Cybercrime) Urgency Legal Arrangements and Loopholes*. Jakarta: PT RajaGrafindo Persada, page 3

network without limits.<sup>3</sup>One of the business networks in question is business services transportation that uses information technology-based applications.<sup>4</sup>

In the context of criminal policy as a rational effort to tackling crime, which can be done both through penal efforts and non penal efforts then the use of criminal law is part of criminal policy, which is referred to as criminal law policy (penal policy).<sup>5</sup>Talking about crime in information technology does not escape the rules that regulates the crime, then that becomes the basis for its birth Law Number 11 of 2008 concerning Information and Transactions Electronic and now changed to Law Number 19 of 2016 regarding Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. There are several types of crimes regulated in in the law, one of which is the crime of Manipulation of Electronic Information contained in Article 35 of the Law Number 11 of 2008 concerning Electronic Information. based transportation business online has penetrated into various cities in Indonesia, one of which is in the city Surabaya, making thousands of people finally decide to switch professions as an online transportation driver to earn income better. Online transportation has evolved into a daily necessity service such as delivering goods, buying food and several other needs.

The increasing number of online transportation drivers, makes Competition between drivers is getting tougher. As a result, not a few of them who commit fraud to get passengers. Multiple modes fraud committed by several driver partners, including: creation of fictitious orders, use of Fake GPS applications to cheat the system, and use additional applications to not take orders without reduce the performance of receiving orders from partners.

Information obtained from television or newspapers that reported the occurrence of various criminal acts by using the internet as supporting facilities, for

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<sup>3</sup> Toni Yuri Rahmanto. "Law Enforcement Against Fraud-Based Crimes Electronic Transactions". in the DE JURE Journal of Legal Research Vol. 19 No.1 March 2019.

<sup>4</sup> Ministerial Regulation Number 12 of 2019 concerning User Safety Protection Motorcycles Used for Community Interests Article 2 letter a.

<sup>5</sup> Danrivanto Budhijanto. 2017. Indonesian Cyberlaw Revolution (Law Update and Revision ITE 2016). First Print. Bandung: Aditama Reflection, page. 33-34.

example in the online transportation system application misused by online transportation drivers themselves in this way in the mobile phone system that is used as a driver account has been on rooting (breaking into the certificate / licensed cellphone system) and also has installing 7 (seven) illegal applications including Kingroot, Device Faker, Device Emulator, Titanium Backup, Fast Reboot, BshMap, and Mock Location (Fake GPS) to trick/cheat the online transportation operator GPS system. Police caught a syndicate of Grab drivers picking up and dropping off fictitious passengers or what is called 'tuyul'. Total money they can earn reach Rp. 120 million. The suspect broke into or tampered with the security system on Android cellphone so that you can enter the GPS application to place orders fictitious.<sup>6</sup>

The existence of police officers is needed by society. Not a single society has a police institution. Police on duty maintaining public order and security besides that, the police as well acting as a law enforcement officer. In Indonesia, the government is trying continue to emphasize and reduce the number of crimes that occur one. One of them is crime caused by crime abuse.

## Sub Title

### 1. Legal Basis for the Crime of Application Abuse Online Transportation

Based on the positive law that regulates criminal acts abuse of Online transportation applications is Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 About Information And Electronic Transactions. In Article 35, which reads: "Every person intentionally and without right or against the law does manipulation, creation, alteration, deletion, destruction of Information Electronic and/or Electronic Documents with the aim of obtaining Electronic Information and/or the Electronic Documents are considered as if they were authentic data."

The legal basis for the crime of misuse of online transportation applications including in existing forms of crime are increasingly becoming varies. Crime of misuse of online transportation system applications included in

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<sup>6</sup> News Detik, "Tuyul Delivery Grab Driver" via, <https://news.detik.com/berita/d3>

the crime of information technology or cybercrime is one of the special crimes in Indonesia. Cybercrime arise due to errors or errors in utilization information and communication technology.<sup>7</sup>

On line. As regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 Information and Transaction Law Electronic.

The development of information and communication technology on the other hand has cause the emergence of new crimes that have different characteristics different from conventional crimes. Computer abuse as One of the impacts of the three technological developments is inseparable of its distinctive nature so that it brings complicated problems to be solved regarding the problem of handling one of the crimes that caused by developments and advances in information technology or telecommunications is a crime related to internet applications. This crime is popularly known as cybercrime.<sup>8</sup> transport something from one place to another. Meanwhile, according to Amin in his book entitled Transportation Planning and Modeling (1997), Transportation is a system consisting of infrastructure/facilities and systems services that allow movement throughout the region so that accommodated population mobility, made possible the movement of goods, and access to all areas is possible. Meanwhile, according to Sukarto (2004), The meaning of transportation is moving from one place to another by means of transportation, whether driven by power humans, animals or machines. The concept of transportation is based on existence journey (trip) between origin (origin) and destination (destination). Truly an application online transportation for passenger calling media facilities, but it often happens crime of misuse of online transportation applications.

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<sup>7</sup> Ermansjah Djaja. 2017. Information Technology and Legal Dispute Resolution Electronic Transactions: Juridical Study of Non-Litigation Settlements Through Arbitration and Alternative Dispute Resolution. Yogyakarta: Pustaka Timur, page 9.

<sup>8</sup> Edmon Makarim, 2005, Introduction to Telematics Law (A Compilation Study), Jakarta PT. Raja Grafindo Persada, p. 426

It should be an online transportation application for media calls passengers, but criminal acts of application misuse often occur online transportation. Transportation is the process of transporting or moving people, goods and animals to a place with or without assistance tool/vehicle. In the transportation process, there are several elements that underlying namely people, goods, vehicles, and roads (Bowersox, 1981). Human needs such as work, education, health and sports demands a movement.

The legal basis for the crime of misuse of online transportation applications according to Widodo is every activity of a person, group of people, agency laws that use computers as a means of committing a crime, or make computers the target of crime. All these crimes are forms of action that are against the rules legislation, both in the sense of violating the law materially or otherwise formally against the law.<sup>9</sup>

The legal basis for the crime of misuse of online transportation applications namely, the development of technology has brought humans to a civilization new social structure and its values. That is, society develops towards a new society with a global structure. System of values in a society changes, from being local-particular to global-universal. This will ultimately have an impact on shifting values, norms, morals, and decency.<sup>10</sup>

The legal basis for the crime of misuse of online transportation applications namely there are several factors that cause misuse of electronic systems including criminal acts of misusing online transportation applications easy to happen, including:

- a. Unlimited internet access.

Nowadays, the internet can be easily used by everyone. This matter make people access everything without any restrictions so make it easier for criminals to carry out their actions.

- b. Negligence of computer users.

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<sup>9</sup> Widodo, 2011, *Legal Aspects of Mayaantara Crime*, Yogyakarta, Aswindo, p. 7

<sup>10</sup> Abdul Whid and Mohammad Labib, 2005, *Mayaantara Crime (Cybercrime)*, Bandung, PT. Refika Aditama, p. 23

Not a few people who always enter important data into Internet. This can provide convenience for people who do crime.

c. Affordable cell phone prices.

Easy to perform with little security risk and no need super-sophisticated equipment. As you know, the internet is easy-to-use system without the need for special tools.

d. Weak network security system.

Network security is often underestimated. Whereas, Weak network security system becomes a big loophole for people who intend to commit a crime.

The legal basis for the crime of misuse of online transportation applications Based on the results of interviews from the Surabaya Police Criminal Investigation Unit AKP Rofiq, he stated that according to the investigation, the perpetrators of abuse online transportation application by making fictitious orders usually get incentives/bonuses from applications ranging from 500 thousand to 1 million Rupiah per day in several accounts that are run in stages incentives/bonuses, such as: "every time the application order gets 1 trip. An example for 10 trips means that drivers get an incentive of IDR 90,000. For 16 trips get an incentive of IDR 200,000 and so on. For Saturday and Sunday if the drivers get orders with a total of 20 trips then will get a bonus of Rp. 300.000,-"<sup>11</sup>

Criticism of the opinion above that thinking is too pragmatic and opportunistic, thus making the perpetrators of application abuse Online transportation always wants to get a lot of money without having to work hard and only care about themselves, without them knowing it what he has done is a form of violation of the law and violation a religious norm.

## 2. Abuse of Qualifying Online Transportation Applications As a Criminal Act

Online transportation is an application-based transportation

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<sup>11</sup> The results of the interview with the investigating police Mr. AKP Rofiq September 20, 2022 at Investigation and Criminal Unit (Reskrim) Polrestabes Surabaya



where customers order means of transportation through the application system in in a smartphone or android. However, the crime of application abuse Online transportation is often troubling for drivers or consumers online transportation. Misuse of online transportation applications qualifies as a follow-up criminal. On the part of the driver or consumer of online transportation, they are worried

crime is getting more and more brutal. So it needs a legal basis that regulates crime of misuse of online transportation applications. There is a legal basis the existence of online motorcycle taxis in Indonesia in Law no. 22 of 2009 concerning Road Traffic and Transportation (LLAJ), PP No. 74 of 2014 concerning Road Transportation, Minister of Transportation of the Republic of Indonesia No. 108 of 2017 concerning Organizing the Transportation of People with Public Motorized Vehicles No on the Route, Minister of Transportation of the Republic of Indonesia No. 12 of 2019 concerning Motorcycle User Safety Protection Used For Community Interests. Then, in Law no. 22 of 2009 concerning Then Traffic and Road Transportation (LLAJ). Minister of Transportation Regulation (PM) Number 32 of 2016 concerning Organizing the Transportation of People Not on Routes.

Misuse of online transportation applications qualifies as a follow-up crime, with Online Transportation using a set of technological media computer with a mobile phone or smartphone connected to a network Internet. Media technology has been regulated by law, namely Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 About Information And Electronic Transactions. Thus abusing the Application Online Transportation is a qualification for criminal acts.

Based on the definition of criminal above, it can be concluded that criminal contains elements and characteristics, namely:

- a. Criminal is essentially an imposition of suffering or misery or other unpleasant consequences.
- b. The punishment was given intentionally by the person or entity that owns it power



- c. The punishment is imposed on someone who has committed a crime according to law.
- d. The crime is a statement of reproach by the state for someone for breaking the law.

Misuse of online transportation applications qualifies as a follow-up This definition of punishment explains as follows:

After knowing the definition and deeper understanding of follow crime, then in the crime there are elements of a crime, that is :

- a. Objective elements, elements that are outside the actor. existing elements relation to circumstances, i.e. in the circumstances in which the actions of the perpetrator must consist of:
    - 1. Illegitimacy.
    - 2. The quality of the doer. For example, the state of civil servants within position crimes according to Article 415 of the Criminal Code or circumstances as
    - 3. management or commissioner of a limited liability company in a crime according to Article 398 of the Criminal Code.
    - 4. causality. Namely the relationship between an action as a cause with a fact as a result.
  - b. Subjective elements, elements that are contained or attached to the perpetrator, or that connected with the perpetrator himself and including everything contained in his heart. This element consists of:
    - 1. Intentional or accidental (dolus or culpa).
    - 2. The purpose of an experiment, as specified in Article 53 paragraph (1) Criminal Code.
    - 3. Various purposes as found in crimes theft, fraud, extortion, and so on.
    - 4. Plan ahead, as stated in Article 340 of the Criminal Code that is premeditated murder.
    - 5. Feelings of fear as contained in Article 308 of the Criminal Code (KUHP)
- Misuse of qualifying online transportation applications is

a criminal act, this understanding explains that, the objective element of an act the crime is:

- a. The nature of breaking the law or *wederrechtelijkheid*;
- b. The quality of the perpetrator, causality, namely the relationship between a crime as a cause with something real as an effect. eg circumstances

as a civil servant in a crime of office according to Article 415

Criminal Code or circumstances as a manager or commissioner of a company Limited in crime according to Article 398 of the Criminal Code.

Casuality that is the relationship between an action as a cause and something

### **Conclusion**

This study provides the conclusion that, in the Law Number 19 of 2016 concerning Amendments to Law Number 11 of the Year 2008 concerning Information and Electronic Transactions. In Article 35, which reads: "Every person intentionally and without right or against the law does manipulation, creation, alteration, deletion, destruction of Information Electronic and/or Electronic Documents with the aim of obtaining Electronic Information

The legal basis for the criminal act of misuse of the transportation application Online is included in other forms of crime that exist day by day increasingly varied. Crime of misusing the transportation system application Online is included in information technology crime or cybercrime is one of the special crimes in Indonesia. Cybercrime arise due to errors or errors in utilization information and communication technology. Because of that, the act of misusing online transportation applications is crime so that it needs to get good legal protection service users and or users of the online transportation application or motorcycle taxis On line. As regulated in Law Number 11 of 2008 concerning Information and Electronic Transactions as amended by Law Number 19 of 2016 Information and Transaction Law Electronic.

Online transportation is an application-based transportation where customers order means of transportation through the application system in in a smartphone or android.

However, the crime of application abuse Online transportation is often troubling for drivers or consumers online transportation.

Misuse of online transportation applications qualifies as a follow-up criminal. On the part of the driver or consumer of online transportation, they are worried crime is getting more and more brutal. So it needs a legal basis that regulates crime of misuse of online transportation applications. There is a legal basis the existence of online motorcycle taxis in Indonesia in Law no. 22 of 2009 on Road Traffic and Transportation (LLAJ) and Ministerial Regulations (PM) Transportation Number 32 of 2016 concerning Organizing the Transportation of People Not On Route.

Misuse of online transportation applications qualifies as a follow-up crime, with Online Transportation using a set of technological media computer with a mobile phone or smartphone connected to a network Internet. Media technology has been regulated by law, namely Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 About Information And Electronic Transactions. Thus abusing the Application Online Transportation is a qualification for criminal acts.

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