



Islamic Law as An Umbrella of Human Rights in The Loss of Social Welfare Rights of Pedicab Drivers towards The Existence of Online Transportation

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Article Information:

Received June 10, 2023

Revised June 19, 2023

Accepted June 25, 2023

ABSTRACT

With change mode transportation become online transportation, the result in low enthusiasts' transportation conventional yet digitally based pedicab driver in a few areas. This resulted hurt their right human on pedicab drivers and no its implementation justice social on the precepts fifth Pancasila. The method in this research is descriptive qualitative method with using a *systematic technique literature review*. Existence pedicab drivers that lost it source income because presence mode online transportation, that is case hurt their right in fulfillment worker's welfare pedicab drivers and necessary exists breakthroughs, modifications, and renewals will be existing policies and regulations from to fit with phenomenon social happenings. It has confirmed in Article 27 Paragraph 2, Article 28 A, Article 28C paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution, Surah As- Syuara verse 183 and Surah Al-Qashash Verse 77 as base changes and reminders about must followed and made policy new orgive protection rights attached to the pedicab drivers for the sake of achieving it fairness, usefulness, and certainty law.

Keywords: *Jobs, Online Transportation, Pedicab Driver*

Journal Homepage <https://ejournal.staialhikmahpariangan.ac.id/Journal/index.php/judastaipa/>

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How to cite:

Novemyanto, D. A., Hani, P. A. (2023). Islamic Law as An Umbrella of Human Rights in The Loss of Social Welfare Rights of Pedicab Drivers towards The Existence of Online Transportation. *Journal International Dakwah and Communication*, 1(3), 137–145. <https://doi.org/10.55849/jidc.v3i2.409>

Published by:

Sekolah Tinggi Agama Islam Al-Hikmah Pariangan Batusangkar

INTRODUCTION

Advances in technology have shown its influence on everything field community and state life (Caccialanza dkk., 2020). It proven with exists online transportation using application on smartphones as liaison between user and driver in make its easy booking operation transportation, fine rates nor payment. According to survey Association Indonesian Internet Service Provider (APJII) (Maggio dkk., 2019), Grab and Gojek become service the most frequent online transportation used by the community (Bayu, DJ, 2020). With interested the online transportation has an impact on projections

potency income online transportation from US\$ 127.8 billion in 2017 to US\$ 318.8 billion in 2023 . This also affects the market share of services service Indonesia's online transportation is increasing, with data of US\$ 1 billion (2015), US\$ 5.7 billion (2019), and US\$ 18 billion (2023) (Scheen dkk., 2020). With these data user service online transportation will Keep going increase and a lot interested Because its effective and efficient.

Development technology should not give impact positive (Hamidah dkk., 2020). With change mode transportation become online transportation, the result in low enthusiasts transportation conventional yet digitally based pedicab drivers in a few areas. Incident they can see on some phenomenon:

- a. Pedicab drivers now more often take a break at the timed base spent for waiting for 1 or 2 passengers who ask his services. It happens because exists online transportation (Bayu, N., 2021).
- b. Lonely enthusiasts pedicab make pedicab drivers forced to swerve because online motorcycle taxi (Baskoro, R, 2020).
- c. The story of Taat (78) is sad pedicab drivers that feels lonely passenger with income IDR 7,000/day because online transportation. He expelled his son Alone from house and stay at home friends, and sometimes until no can eat (Prabowo, RS, 2021)
- d. The story of Mat Khoironi a pedicab drivers that week only get income IDR 50,000 (Newswire, 2022). It can occur because move enthusiasts to mode online transportation.
- e. Pedicab drivers in Grobogan more down, ever no can passenger in a day because passenger move to online transportation (Newswire, 2022).

In a rule of law like Indonesia, events loss source income pedicab drivers and protection on right get work already emphasized in Article 27 paragraph (2) of the 1945 Constitution which confirms that all citizens are entitled to work and a decent living for humanity (Awad dkk., 2020). However base law the Not yet can give guarantee and protection on development resulting technology loss source life pedicab drivers this resulted hurt their right human on pedicab drivers and no its implementation justice social on the precepts fifth Pancasila (Su dkk., 2019). With exists adage *Justitiae non est neganda, non differenda* which means justice cannot be denied or postponed (Conte dkk., 2020), then should phenomenon the must quick followed up so that the pedicab drivers in the territory of the Unitary State the Republic of Indonesia gets social welfare as honor and dignity humanity.

In law Islam strongly supports the progress of its people including in technology. However, if development technology this result in the loss of others, then matter the need exists breakthrough new, renewed, and modified on policies and regulations. Because deep Islam has confirmed in Surah As-Syuara verse 183 which is:

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْنُوا فِي الْأَرْضِ مُفْسِدِينَ

Meaning: *"And do not You harm man with reduce their rights and don't make corruption on earth"* (Kokudo dkk., 2019). Because with existence detrimental online transportation, pedicab drivers and yet noticed in a manner social will impact negative, so needed exists assessment repeat determination mode transportation. Because deep matter this to get policies that provide fairness, certainty, and expediency.

With exists problems that have explained above, then writer idea about islamic law as an umbrella of human rights in the loss of social welfare of pedicab drivers towards the existence of online transportation (Barrows & Ollivier, 2021). It need noticed, because with development technology to mean worship and *muamalah* for give protection on right well-being social pedicab drivers (Moosavi dkk., 2020). Besides, that idea aim for now review juridical protection right well-being social pedicab drivers and know policy in give protection right well-being social pedicab drivers for the sake of realization justice social.

RESEARCH METHODOLOGY

The method used in this research is descriptive qualitative method with collect literature studies. Literature study is aimed at by searching data and information through documents (Bappy dkk., 2021). In this study the authors based on data analysis literature with using a *systematic technique literature review*, in which the researcher carries out the process of identifying, assessing, and interpreting several data relating to a predetermined research theme to fulfill the research objectives (Herr dkk., 2019). Thus, the data source is the researcher use in develop study this among them is a number book texts, journals, articles, and proceedings with scale national and international as well as page *websites*, documents government, news electronics, regulation legislation, and encyclopedias.

RESULT AND DISCUSSION

Overview Juridical Protection Social Welfare Right of Pedicab Drivers

Existence pedicab driver that lost their work because presence mode online transport, then in matter this need exists breakthroughs, modifications, and renewals will be existing policies and regulations from to fit with phenomenon social happenings. Because of the loss work pedicab drivers the same case has injure right attached human. Whereas right must be protected, respected, and guaranteed by all party good society, government, and the state . This has also been confirmed on:

- a. Article 27 Paragraph 2 of the 1945 Constitution, which confirms *"All Indonesian citizens are entitled on decent work and livelihood _for humanity."*
- b. Article 28 A of the 1945 Constitution, which states *"Everyone is entitled for life as well as entitled maintain life and life."*
- c. Article 28C paragraph (1) of the 1945 Constitution, which reads: *"Everyone has the right to develop theirselves through meeting his basic needs, has the right to get education and to benefit from science and technology, arts and culture, in order to improve the quality of his life and for the welfare of the people man"*

- d. Article 28D paragraph (1) of the 1945 Constitution, which confirms *"Everyone is entitled on acknowledgment, guarantee, protection, and certainty fair laws as well as same treatment in front of law."*

Especially in view Islam has too confirmed about necessity protection right individual with presence deed on what is created and done by humans. On As- Syuara's Surah verse 183 explains:

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْنُوا فِي الْأَرْضِ مُفْسِدِينَ

Meaning: "And do not You harm man with reduce their rights and don't make corruption on earth". Apart from As- Syuara Surah verse 183, this is also supported by Surah Al- Qashash Verse 77 which is:

وَابْتَغِ فِيمَا آتَاكَ اللَّهُ الدَّارَ الْآخِرَةَ وَلَا تَنْسَ نَصِيبَكَ مِنَ الدُّنْيَا وَأَحْسِنْ كَمَا أَحْسَنَ اللَّهُ إِلَيْكَ وَلَا تَبْغِ
الْفُسَادَ فِي الْأَرْضِ إِنَّ اللَّهَ لَا يُحِبُّ الْمُفْسِدِينَ

Meaning: "And seek (reward) the land of the Hereafter with what have bestowed by Allah upon you, however, don't you forget it your part in the world and do be kind (to others) as Allah has do Good to you, and don't You do damage on earth. Really, Allah doesn't love people who do damage."

Second verse the remind that with development technology should not solely for the sake of achieving ease, effectiveness, and efficiency course, but technology it should too considered with known impact existence. Because with exists mode online transportation, no direct happening competition in look for resulting consumers hurt their right human on carpenter pedicab because its strengths and weaknesses. Whereas in Islam teach what people do human solely with intention of worship and muamalah. With problem happening taking passenger matter This referred to in An- Nisa Surah verse 29 which is:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ بِجَارَةٍ عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ ۖ
إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

Meaning: "You who believe! Don't you each other eat treasure your neighbor with vanity path (no true), except in valid trade on base like the same as between you. And don't You kill yourself. Really, Allah is Great Caring to you."

In Al- Qashash Surah verse 77 also confirms that " no You forget it your part in the world and do be kind (to others) as Allah has do Good to you, and don't You do corruption on earth." this must become reject measure, that with Allah gave knowledge to human with he made product Application Online Transportation, government should also have to give opportunities and benefits for its competitors without injure right of pedicab drivers (Teslya dkk., 2020). Hurt the right human that happened to its competitors that is pedicab drivers, this also works said as damage on earth. So, with presence mode online transportation should also be followed made new policy for give protection rights attached to the pedicab drivers.

Protection to rights attached to the pedicab drivers because to ensure their social welfare right in fulfillment live (Fernando dkk., 2019). Welfare of pedicab drivers is condition fulfillment spiritual, social, and material needs of the pedicab drivers and his family to get life worthy and able develop self. So, they can carry out function social (Essandoh dkk., 2020). Especially in Article 28D paragraph (1) of the 1945 Constitution has also been confirm about necessity protection, guarantee, and certainty justice for everyone citizen, to get same treatment in front of law (Kumar dkk., 2021). Legal basis be that momentum presence law and legislation not only protect consumers and drivers only, but also must give warranty on the pedicab drivers to impact of exists mode online transportation.

Right of legal equality or equality in law, rule of law and human rights is a requirement of the concept of a rule of law (Marbun, 2004). Right of Legal Equality which is part from equality before the law principle is a manifestation of a rule of law (rechtstaat) with equal treatment for everyone before the law (gelijkheid vans ieder voor de wet) (Khan dkk., 2020). Thus, the embedded element implies equal protection before the law (equal justice under the law) and get equal justice before the law. Theory of equality before the law can reflected in Article 27 paragraph (1) which states that "All citizens have the same position in law and government and are obliged to uphold that law and government without exception " (Bahoo dkk., 2020). This is the basis of protection for pedicab drivers as citizens of the country for get recognition and guarantee of the equal rights of all citizens state in law and government for the sake of creation fairness, expediency, and certainty.

Policy in Give Protection Social Welfare Right of Pedicab Drivers for the sake of Realization Justice Social

Protection social welfare right of pedicab drivers need done for the sake of assurance right continuity life them (Angus, 2020). In matter, this is necessary thing that must do to prevent and manage risks from social shocks and vulnerabilities. Because of existence mode online transportation should also be followed with government made new policy for give protection rights attached to the pedicab drivers (Meyer dkk., 2019). However, if judging by the phenomena that occur, lots of pedicab drivers that has not fulfilled right for get decent life as dignity humanity. So, from that with the existence of the As-Syura Surah verse 183 and Surah Al-Qashash Verse 77 give umbrella law on protection right human being attached to the pedicab drivers to deliver breakthrough, renewed, and modified policy or existing regulations for the sake of creation justice socially affirmed in fifth Pancasila.

Existence online transportation should also be considered with breakthrough new to get walk with fluent between presence online transportation and pedicab drivers. Due to developments technology should not solely for the sake of achieving ease, effectiveness, and efficiency course, but technology should too be considered with known impact existence. Allah has too emphasized in Al- Hashr Surah verse 18 which is:

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَلْتَنْظُرْ نَفْسٌ مَّا قَدَّمَتْ لِغَدٍ وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ خَبِيرٌ بِمَا تَعْمَلُونَ

Meaning: "You who believe! Be fearful to Allah and let everyone is paying attention what have he did for day tomorrow (hereafter) and be fearful to Allah. Truly, Allah is All-Aware to what are you do it."

Although existence mode online transport delivers good impact in country development, however welfare and justice inherent social rights of pedicab drivers must enforced. There is adage says that *Fiat justitia ruat coelum* or *fiat justitia pereat* retreat which means even if tomorrow the sky will fall, even if the world will perish, or even if goodness must be sacrificed, justice must still be upheld. Right pedicab drivers the must prioritized, because it is mandatory right for given protection, respect, and guarantee. Especially, it also has become inherent rightssomebody since born.

Social Welfare of pedicab drivers should need become field main in impact exists online transportation. Existence pedicab drivers also deliver impact positive as friendly transportation environment and no raises pollution and noise. So, need exists consideration with support work pedicab drivers and preservation transportation local in conserve inheritance culture. In matter, this is what Islam teaches about honor dignity man as unity soul and body, spiritual, and physical, as well look after glory people and their implementation driven by faith and morals (Xu dkk., 2019). Think about fate pedicab drivers is worship and muamalah in accordance with characteristic law Islam the. Because with thinking about worke 's welfare pedicab drivers have goals that have been also emphasized in Article 3 of Law No. 11 of 2009 concerning Social Welfare stated that "The implementation of social welfare aims to:

- a. increase the level of welfare, quality, and survival;
- b. restore social function in order to achieve independence;
- c. increasing the social resilience of the community in preventing and dealing with social welfare problems;
- d. improve the ability, awareness and social responsibility of the business world in implementing social welfare in an institutionalized and sustainable manner;
- e. increasing the capacity and awareness of the community in implementing social welfare in an institutionalized and sustainable manner; And
- f. improve the management quality of social welfare administration."

Social welfare which is priority main pedicab drivers in fulfillment his life to got done with do several ways to make it happen justice social. In matter, this can carry out by individuals, families, groups, communities, and countries. In Law No. 11 of 2009 concerning Social Welfare, Welfare can do with maintenance. That thing confirmed in article 6 which states that "The implementation of social welfare includes: a) social rehabilitation; (b) social security; (c) social empowerment; and (d) social protection".

- a. Rehabilitation to pedicab drivers can done with restore and develop ability to get carry out function social in a manner fair.
- b. Guarantee social pedicab drivers can form forms of social welfare insurance and direct direct assistance.

- c. Empowerment pedicab drivers done for increasing the role of the pedicab drivers as a potential and resource in the implementation of social welfare.
- d. Whereas for protection social in pedicab drivers form prevention and management of risks from social shocks and vulnerabilities so that their survival can be fulfilled in accordance with the minimum basic needs.

However, existence online transportation should also be balanced and considered with breakthrough new to get walk with aligned and smooth between presence online transportation and handyman pedicab drivers. It can made policy like:

1. Making Application Online Transportation also to pedicab drivers
2. Empowerment pedicab drivers with use it services they in something tour
3. Empowerment pedicab drivers with applied to a regional spatial layout
4. Diversion profession If matter the possible. However, it must offset with necessary knowledge and insight done like socialization or course.
5. Fulfillment need tree form guarantee social for pedicab drivers that has not get income normally.
6. Making route pedicab for operating in the village area.

CONCLUSION

Existence pedicab driver that lost source income because presence mode online transportation, it is case hurt their right in fulfillment worker's welfare pedicab drivers and necessary exists breakthroughs, modifications, and renewals will be existing policies and regulations from to fit with phenomenon social happenings. Because of rights must protected, respected, and guaranteed by all party good society, government, and the state that has emphasized in Article 27 Paragraph 2, Article 28 A, Article 28C paragraph (1), and Article 28D paragraph (1) of the 1945 Constitution. Moreover, matter This is also confirmed on the basis law Islam As- Syuara Surah verse 183 and Al- Qashash Surah verse 77 as base changes and reminders about must followed and made new policy for give protection rights attached to the pedicab drivers for the sake of achieving it fairness, usefulness, and certainty law.

Think about fate pedicab drivers is worship and *muamalah* in accordance with characteristic law islamic. Because with thinking about worker 's welfare pedicab drivers have goals that have been also emphasized in Article 3 of Law No. 11 of 2009 concerning Social Welfare. Breakthroughs and policies new who can be implemented in give protection right well-being pedicab drivers in the form of:

- a. Making Application Online Transportation also to pedicab drivers
- b. Empowerment pedicab drivers with use it services they in something tour
- c. Empowerment pedicab drivers with applied to a regional spatial layout
- d. Diversion profession If matter the possible. However, it must offset with necessary knowledge and insight done like socialization or course.
- e. Fulfillment need tree form guarantee social for pedicab drivers that has not get income normally.
- f. Making route pedicab for operating in the village area.

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