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Discourse on online transportation regulation under Posner's theory: a comparative analysis in Indonesia and Brazil

Discurso sobre transporte online sob a teoria de Posner: uma análise comparativa na Indonésia e no Brasil

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Abstract

The international transportation industry faces rejection and conflict due to legal gaps, mainly in online platform services. This paper examines how legal regulations allow Brazil and Indonesia to accommodate global businesses like Uber and other online transportation platforms. The research uses qualitative methods and comparative and theoretical approaches, gathering legal information through a literature review. Posner's Theory of Economic Analysis of Law suggests that actors have varying strategies to maximize their opportunity costs, leading to different legal protections for international companies like Uber in each country. While previous research highlights the role of international law in supporting corporate legitimacy in the global market, this article proposes a new perspective on the importance of national law in protecting international businesses. This paper demonstrates that Indonesia and Brazil have potential markets for digital transportation, but social friction towards the changing digital landscape must be addressed through robust and adaptive regulation.

Keywords: international business; online transportation; Posner's theory; regulation.

Resumo

A indústria de transporte internacional enfrenta rejeição e conflito devido a lacunas legais, principalmente em serviços de plataformas online. Este trabalho examina como as regulamentações legais permitem que o Brasil e a Indonésia acomodem empresas globais como Uber e outras plataformas de transporte online. A pesquisa usa métodos qualitativos e abordagens comparativas e teóricas, coletando informações legais por meio de revisão bibliográfica. A Teoria da Análise Econômica do Direito de Posner sugere que os atores têm estratégias diferentes para maximizar seus custos de oportunidade, levando a diferentes proteções legais para empresas internacionais como Uber em cada país. Embora pesquisas anteriores destaquem o papel do direito internacional em apoiar a legitimidade corporativa no mercado

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global, este artigo propõe uma nova perspectiva sobre a importância do direito nacional na proteção de empresas internacionais. Este trabalho demonstra que a Indonésia e o Brasil têm mercados potenciais para transporte digital, mas a fricção social em relação à mudança do cenário digital deve ser abordada por meio de regulamentação robusta e adaptativa.

Palavras-chave: negócios internacionais; transporte online; teoria de Posner; regulamentação.

1 Introduction

One of the characteristics of digital civilization is marked by changes in people's lifestyles; one is the ease of doing everything with one hand. One of the conveniences of this application is the use of technology-based transportation. Currently, the development of online transportation services is very varied, one of which is Uber. Uber is a transnational company providing the first online transportation service, reaching 80 countries in 2017.¹ The European Union, through the European Commission, has responded to this phenomenon by issuing supranational regulations on online application platforms. However, the breakdown of these provisions is the authority of each country.² The Italian government chose to submit a draft law to support sharing economy activities. Generally, this national-scale regulation ensures transparency, fair competition, taxation mechanisms, supervision, and consumer protection.

Several cities, such as Hamburg, Berlin, and Madrid, are also experiencing dynamics in welcoming the arrival of Uber.³ These cities have rejected Uber's presence as an application-based transportation service provider. Uber's restrictions in various countries indicate problems such as violations of tax obligations, administrative fulfillment, driver professionalism, and no insurance for consumers. The government enforces these provi-

sions for providers of public transportation services to protect the parties. By defaulting on Uber from meeting these requirements, Uber can reduce the cost of producing services, enabling them to lower fares.⁴ The judge considers that the protection of consumers is an essential requirement. Based on these considerations, restrictions on the Uber application cannot be said to violate the principle of freedom of trade as regulated by supranational trade law in the European Union.

Indonesia⁵ and Brazil⁶ are the top five countries with the largest population and areas in the world that are also influenced by the digital transportation mode trend. The number of internet users in Brazil covered 143.5 million in 2019.⁷ Meanwhile, internet users in Indonesia in the same year reached 196 million people.⁸ This number illustrates the immense market potential for developing internet-based transportation service providers in the two countries. As in other countries, the inclusion of Uber has also generated resistance from conventional taxi drivers.

This research raised legal issues regarding how legal regulations in Brazil and Indonesia can accommodate global businesses such as Uber and other online transportation platforms. Regulations that are not dynamic have created legal issues. Online transportation services are illegal because they refuse to operate like other public transportation services. The perceived horizontal collision contrasts with the support given by consumers to the developments in modern transportation services. To deal with this situation, Indonesia and Brazil have different ways to accommodate the need for legality for online transportation modes. Although both countries

⁴ DE MASI, Francesco. *The Uber case: a ride for the future of the european single market*. 2016. Tesi (Laurea in European Business Law) - Dipartimento di Giurisprudenza, LUISS, Roma, 2017. Available at: https://tesi.luiss.it/21529/1/119073_DE%20MASI_FRANCESCO.pdf. Access in: 2 July 2022. p. 90.

⁵ WORLD BANK. *Indonesia overview*. The World Bank. Available at: <https://www.worldbank.org/en/country/indonesia/overview>. Access in: 3 July 2022.

⁶ UNITED NATIONS. *Brazil: contry profile: national implementation of Agenda 21*. 1997. Available at: <https://www.un.org/esa/earthsummit/brzil-cp.htm>. Access in: 3 July 2022.

⁷ IBGE. Continuous PNAD ICT 2019: Internet reaches 82.7% Brazilian households. *Agência IBGE Notícias*, 2019. Available at: <https://agenciadenoticias.ibge.gov.br/en/agencia-press-room/2185-news-agency/releases-en/30533-continuous-pnad-ict-2019-internet-reaches-82-7-brazilian-households>. Access in: 3 July 2022.

⁸ DJUNAEDI, Arif Z. Digitalization impact on growth & human capital: Indonesia broadband plan case study. *Review of Business, Accounting & Finance*, v. 1, n. 3, p. 299-309, June 2021. p. 300.

¹ HYUN, J. Kim; CHAN, S. Suh. Spreading the sharing economy: institutional conditions for the international diffusion of Uber: 2010-2017. *PLOS ONE*, v. 16, n. 3, p. 1-14, 2021. p. 3.

² LA DIEGA, Guido Noto. Uber law and awareness by design: an empirical study on online platforms and dehumanised negotiations. *European Journal of Consumer Law: Revue Européenne de Droit de la Consommation*, n. 2, p. 383-413, 2016. p. 385.

³ DI AMATO, Alessio. Uber and the sharing economy. *The Italian Law Journal*, v. 2, n. 1, p. 177-190, 2016. p. 180.

have legislative bodies with authority to make regulations, neither chose that path as the only way to legalize this application. They use alternative methods considered the most efficient to accommodate the parties' interests.

The normative legal research method using the statute, comparative, and conceptual approaches is a means to see the responsiveness of the two countries in facing the need for regulations in the industrial era 4.0.⁹ This era is interpreted as a time when there was a change in the chain production and communication patterns between humans and machines. The use of information technology and the internet is a crucial element in carrying out daily activities. This phenomenon also led to a changing trend in providing digital transportation services.¹⁰ This effort is carried out as part of the impact of globalization by utilizing gadgets and internet access owned by the majority of the world's population so that they can access transportation services according to personal needs with various additional services that ensure the convenience of every transaction.

Indonesia's¹¹ and Brazil's¹² participation in international institutions such as the IMF, WTO, and GATT has impacted national sovereignty. Governments can no longer hinder the flow of global competition and must comply with international trade cooperation agreements. A Meta-Law is seen as being able to become the basis for corporate operations in the global market.¹³ Consequently, national service and service provider

companies must compete with transnational companies with all the facilities. This condition also occurs in the shift in transportation services from conventional to operating by utilizing information technology bases.

According to Nyhart, economic life views law as a procedural system that provides predictability by codifying goals. Thus, the existence of intervention from international law against a country's sovereignty to restrict foreign companies that want to do business in their jurisdiction certainly has a significant impact on the economic and social life of the people. However, an exciting thing happened to the digital transformation phenomenon in transportation. Foreign and national companies in this field need government authority to issue regulations that protect them.

The government's decision not to prohibit transnational companies such as Uber and Grab from operating seems to have caused turmoil in the community. Consumers' enthusiasm towards modes of transportation that provide cheap, easy, and innovative services appears to be inversely proportional to conventional transportation service entrepreneurs. This condition then became the background for the attitudes of the Brazilian and Indonesian governments to intervene in the economic sector so that this innovation could maximize the potential for the country's economic growth while also increasing the welfare of the people. Incremental policies are needed to anticipate obstacles to the country's economy.

Based on these considerations, it is necessary to study alternative policy options that are best practices from the Brazilian and Indonesian governments in accommodating online transportation. The comparison between Brazil and Indonesia is a form of comparable comparison because the two countries provide concrete examples of government responsiveness. Even though the two countries have chosen different paths in making decisions, both offer innovation so that the regulations required by digital transportation businesses can be side by side with the community's needs and the conventional businesses' demands with deeply rooted roots.

An in-depth analysis will determine how the two countries can produce a practical legal umbrella to protect online transportation. By taking advantage of existing regulation-making procedures in Indonesia and Brazil, the government addressed social and economic conflicts quickly and appropriately. In general, Indo-

⁹ SULEIMAN, Zhanybek *et al.* Industry 4.0: clustering of concepts and characteristics. *Cogent Engineering*, v. 9, n. 1, p. 2034264, 2022. p. 2.

¹⁰ DILDOR, Shadibekova; NARIMONJON, Ismoilov. Development of digital logistics and transport in the process of globalization. In: INTERNATIONAL CONFERENCE ON FUTURE NETWORKS & DISTRIBUTED SYSTEMS, 5., Dec. 2021, Dubai. *Annals [...]*. Dubai: ACM, 13 Apr. 2022. Available at: <https://dl.acm.org/doi/10.1145/3508072.3508207>. Access in: 22 Mar. 2023.

¹¹ DAMURI, Yose Rizal. *An evaluation of the need for selected trade facilitation measures in Indonesia: implications for the WTO negotiations on trade facilitation*. Jakarta: Asia-Pacific Research and Training Network on Trade, Working Paper Series, n. 10, Apr. 2006.

¹² ABREU, Marcelo de Paiva. *Brazil, the GATT, and the WTO: history and prospects*. Rio de Janeiro: Pontifícia Universidade Católica do Rio de Janeiro, Departamento de Economia. Texto para discussão, n. 392, set. 1998. Available at: <https://www.econstor.eu/bitstream/10419/186636/1/td392.pdf>. Access in: 29 Mar. 2023.

¹³ FERRAZ, Daniel Amin. O grupo de sociedades: mecanismo de inserção da empresa transnacional na nova ordem econômica internacional. *Revista de Direito Internacional, Brasília*, v. 9, n. 1, p. 15-25, jan./jun. 2012. Available at: <http://www.publicacoesacademicas.uniceub.br/index.php/rdi/article/view/1633>. Access in: 22 Mar. 2023.

nesia offers a national policy alternative by utilizing a judicial review procedure, while Brazil protects digital businesses by utilizing local government authority. The differences in methods and legal force of the types of regulations made by the two countries seem to be still able to produce optimal results. They are worthy of being an example for other countries facing similar problems. With the different approaches the government takes despite facing similar problems, it can emphasize the importance of its sensitivity to social, economic, and political conditions in its territory when it is about to make an effective policy.

An analysis of best practices in alternative forms of regulation can be seen through an analysis of the São Paulo government's courage in resolving disputes between conventional and application-based transportation providers. This regulation has been widely highlighted as a commitment to creating an ideal business competition without leaving the need to accommodate the interests of all parties. Several studies have taken São Paulo policy as the focus of study to look at the security of the service¹⁴, the relationship between the government and the Uber company¹⁵, the development of the actors involved, and the socio-legal aspects.¹⁶ In addition, the impact of Uber's legality policy on reducing accident deaths has also been analyzed.¹⁷

Meanwhile, previous studies about Indonesia only explained a series of regulations that would be legal protection for online transportation and asked the government to fill the legal void by making new regulations.¹⁸ Another study only highlights the lack of legal protection for online taxi drivers and inadequate legal protections protection for consumer protection.¹⁹ However,

unlike this research, the novelty lies in the rationality of the strategy used by the actors to legalize Uber as an international company representing similar companies with enormous and broad economic potential in the future. Exploring this matter can also be considered for other countries facing similar problems.

Strict licensing to provide public transportation services following the laws and regulations has burdened service production costs. That causes the fare of conventional taxis to be higher than online taxis in general. Price competition becomes the initial strategy to attract customers. However, it did not run effectively due to the rejection of the online taxi fleet operations. When observing this issue in both countries, this paper then determines Posner's theory to analyze it. Assuming this theory is based on the reasoning that legal and economic issues should be in a straight line and not on opposite lines. Therefore, Richard Posner's theory, which examines the impact of material contained in regulation (legal realm) to influence ongoing economic activity, is the suitable logic for this phenomenon.²⁰ This theory thinks that the relationship between the law of supply and demand is not the only aspect affecting fluctuations in national economic conditions.

Furthermore, it includes activities that will become external factors, such as policy changes and implementing new sectoral laws and regulations. The rational choices made by online transportation drivers who seek to optimize economic potential through legal channels are also inseparable from the following aspects: (a) the law of demand, (b) opportunity cost, and (c) the free flow of resources contained in Posner's theory. Business actors who drive the national economy directly have a significant role in the community's welfare. It has the right to get government support through effective regulations that have value and use (value, utility, and efficiency).²¹

This study is essential to provide an overview of strategic steps in responding to legal gaps. This con-

¹⁴ BARRETO, Yuri; SILVEIRA NETO, Raul da Mota; CARAZZA, Luis. Uber and traffic safety: evidence from Brazilian cities. *Journal of Urban Economics*, v. 123, p. 103347, 2021.

¹⁵ NAVARRO, Rodrigo. Government relations and Uber in Brazil. *Revista Brasileira de Relações Governamentais*, v. 1, n. 1, p. 28-33, ago. 2016.

¹⁶ ZANATTA, Rafael A. F.; KIRA, Beatriz. Regulation of Uber in São Paulo: from conflict to regulatory experimentation. *International Journal of Private Law*, v. 9, n. 1/2, p. 83-94, 2018.

¹⁷ BARRETO, Yuri; SILVEIRA NETO, Raul da Mota; CARAZZA, Luis. Uber and traffic safety: evidence from Brazilian cities. *Journal of Urban Economics*, v. 123, p. 103347, 2021.

¹⁸ HANDAYATI, Nur; TASLIM, Galuh Lintang; SURYAAGUST, Satyagraha. Pengangkutan online ditinjau dari undang-undang nomor 22 tahun 2009. *Lex Journal: Kajian Hukum & Keadilan*, v. 3, n. 2, Apr. 2020.

¹⁹ NASUTION, Dian Mandayani Ananda. Tinjauan hukum terhadap layanan transaksi dan transportasi berbasis aplikasi online. *RE-*

SAM Jurnal Hukum, v. 4, n. 1, p. 17-30, Apr. 2018.

²⁰ HARNAY, Sophie; MARCIANO, Alain. Posner, economics and the law: from "law and economics" to an economic analysis of law. *Journal of the History of Economic Thought*, v. 31, n. 2, p. 215-232, 2009. p. 220.

²¹ FAUZI, Mohammad Yasir; PURNAMAWATI, Vivi. Pendekatan analisis economic of law Posner terhadap konsep wasiat wajibah dalam penyelesaian sengketa waris beda agama. *ASAS: Jurnal Hukum Ekonomi Syariah*, v. 12, n. 2, p. 1-16, Dec. 2020.

dition may occur in other essential sectors due to the development of industry 4.0 in Indonesia, Brazil, and even other countries. Furthermore, this paper analyzes qualitative research methods with a statutory legal approach. The analysis results combine Posner's theory and related normativity in both countries and are divided into four sub-chapter. The first part explains the background of the issue. Then the second part explains Posner's theory. The following sub-chapter describes the legal avenue for legal disparities in digital transportation services. This study continues with the same problem in Brazil, mainly the government's strategy in dealing with the issue of online transportation services. The last part contains conclusions.

2 Literature review: Posner's economic analysis of law

Internal and external aspects influence the dynamics of economic conditions in a country. In simple terms, fluctuations in the analysis of macroeconomic conditions appeared because of the demand and supply of goods or services in the market. However, this condition cannot be said to be the only determining factor for the economic theory proposed by Posner. Once again, to consider the potential and risks of an important sector that can affect economic conditions, external factors indirectly have a decisive role in the sustainability of ongoing business activities.²² In this context, future research of the business sector is determined and influenced by the contribution of policies taken by the government and is also closely related to society's social conditions.

The government may not fully supervise what happens in the economic chain. However, the government has a hand in determining the boundaries for the operation of an economic system, as stated in a regulation that regulates economic activity.²³ Hence, it is appropriate that the strategic steps taken by entrepreneurs are not only guided by economic factors that may affect their business journey. However, furthermore, the business strengthening strategy must be able to

touch on external factors that have a significant impact. In Posner's theoretical framework, it seems that the role of the government in determining the course of an economic condition is contained in the rule of law. It is a reference point for entrepreneurs to maximize the profits they earn.

The government has used the law as a mechanism to exercise control over the market. Efforts made by people to maximize the profits they get as a concrete form of the rational choice chosen to deal with conditions in society are the fundamental essence of the discussion about the economic sector. The discussion on the economic sector and its impact on society are not limited to the high annual inflation rate, the large number of unemployed, the lack of absorption of the labor force, and distribution problems in the economic chain. More than that, in this context, it is then seen that the economic sector analysis shows the influence of human desires, which causes resource limitations. This action makes humans think logically to achieve maximum results, personal satisfaction, or 'self-interest'.²⁴

Satisfaction or self-interest is not only in the form of money. The discussion related to the economic scope of Posner's theory does provide a more comprehensive limitation related to these economic factors. There is also a broader understanding when discussing an appreciation for a commodity, good, or service. Although money is one of the main things in economic calculations, in this case, satisfaction and self-interest come from emphasizing the value of a commodity rather than the price. This view becomes one of the points in determining the steps to developing its economic potential. Long-term satisfaction and benefits have provided dynamic boundaries according to the needs and developments of the times.

To fulfill this self-interest, the actions taken to result from thoughts that are not only spontaneous. Furthermore, the action was motivated by the results of the rational choice of conditions that could directly or in-

²² HARNAY, Sophie; MARCIANO, Alain. Posner, economics and the law: from "law and economics" to an economic analysis of law. *Journal of the History of Economic Thought*, v. 31, n. 2, p. 215-232, 2009.

²³ MINDA, Gary. The lawyer - economist at Chicago: Richard A. Posner and the economic analysis of law. *Ohio State Law Journal*, v. 39, n. 1, p. 439-475, 1978.

²⁴ RIYANTO, Agus. Economic analysis of law terhadap kejahatan korporasi. *Binus University: Business Law*, Dec. 2018. Available at: <https://business-law.binus.ac.id/2018/12/12/economic-analysis-of-law-terhadap-kejahatan-korporasi/>. Access in: 29 Mar. 2023. MAHARANI, Amelia Fitri Bella. Produk cacat tersembunyi dalam perspektif hukum perlindungan konsumen di Indonesia: analisis product liability. *Lex Prudentum: Law Journal*, v. 1, n. 1, p. 53-61, May 2022.

directly affect their business.²⁵ In this case, Posner also emphasizes that this rational action is a logical response to the satisfaction of fulfilling self-interest. The strategy of these business actors depends on three basic principles that are influenced by: (a) the law of demand, (b) opportunity costs, and (c) the free flow of resources.²⁶

Relating to supply and demand's principle, in this context, the considerations one chooses will also be influenced by the law of demand. Consumers' presence or absence of demand strongly influences the running of an economic cycle.²⁷ This concept emphasizes the importance of certainty for consumers. It is essential to make customers believe that whatever the company offers is the best choice. Moreover, what they pay is proportional to the benefits they get. With the guarantee of security for the rational choice of consumers, the demand will increase according to the supply and demand curves. Moreover, what they pay is proportional to the benefits they get. With the guarantee of security for the rational choice of consumers, the demand will increase according to the supply and demand curves.

The second principle that will affect the rational choice of an entrepreneur is the utilization of the opportunity cost. In this case, essential production factors must be present but do not require additional costs that will affect the final result of calculating the profit and loss of the commodity offered. Maximizing the utilization of opportunity costs can be an excellent potential for long-term business development adapted to the needs of the times. Like other production factors, opportunity costs also play an essential role in providing an overview of trade competition strategies. That factor must be utilized by parties who want excellent service and superior products.

The last factor must consider the actions it can use to maintain free-flow market conditions. A potential resource can only be used to fulfill self-interest when the exchange for access to its use can be legally guaranteed. Permits issued by the government will be the basis for someone to take advantage of these commodities so

that the hidden potential can be explored and become an opportunity for an economical chain that occurs voluntarily. Thus, the demand and supply curves will be formed as they should. The curve can be an indicator that shows whether or not there are obstacles to implementing this aspect.

The existence of the development of a resource into a particular activity is enough to show the benefits obtained. However, if the expected profit does not materialize, it can be said that there has been an obstacle in the economic cycle. Things that can trigger these inhibiting factors can be seen in conditions influenced by external factors, a relatively low standard of living, difficulties in accessing the availability of information, and the scarcity of something that has been going on for a long time.

These considerations are the basis for economic actors to seek protection against the applicable law. Posner believes that the norms contained in the law can be a person's behavior when carrying out economic activities. The primary purpose of this logical consideration is to obtain a practical, valuable, and utility legal norm. The main goal of the cross-sectoral analysis proposed by Posner is to obtain a norm that can support economic activity appropriately.

3 Judicial review as a legal avenue for resolving issues on Indonesian digital transportation

The benefit of the sharing economy model adopted by online transportation service providers in Indonesia, such as Uber, Grab, and Go-Jek, is a unique new item. Personal assets can now become a facility that can be used by the public, but also because the e-hailing system that is a feature of this application has marked the entry of a collaboration model for gig workers.²⁸ The many modern economic concepts in the digital era developed in this work model have significantly impacted providing excellent service with cost and time efficiency that conventional transportation network models can-

²⁵ POSNER, Richard. *Economic analysis of law*. 3. ed. Netherlands: Wolters Kluwer Law and Business, 1986. p. 3.

²⁶ POSNER, Richard. *Economic analysis of law*. 3. ed. Netherlands: Wolters Kluwer Law and Business, 1986. p. 4.

²⁷ PRASETYO, Rohmat Adi; RISMAYANI, Riris. Studi karakteristik dan faktor-faktor downstream user transportasi online (ride sharing) di kota Bandung. *Jurnal Wacana Ekonomi*, v. 18, n. 1, p. 33-44, 2018.

²⁸ TAPSCOTT, Don; AGNEW, David. Governance in the digital economy. *Finance & Development*, p. 34-37, Dec. 1999. Available at: <https://www.imf.org/external/pubs/ft/fandd/1999/12/pdf/tapscott.pdf>. Access in: 29 Mar. 2023.

not provide.²⁹ As a result, these legal voids then impact resistance driven by workers in the conventional transportation sector who feel disadvantaged by the presence of new competitors in their business. Although the government continues to encourage the progress of various sectors to take advantage of information and communication technology to provide progress to the country's economy,³⁰ legal protection is not an adaptive market competition minimal. The refusal that started in 2017 in several areas was then carried out by conventional transportation driver's strikes and sweeping against online taxi drivers.

Legal action proposes to overcome the rejection through a judicial review procedure. Through a judicial review request submitted to the Constitutional Court of The Republic of Indonesia (after this referred to as the MK) in 2016, the national online driver legal advocacy team or TIMAH PANAS requested that the Constitutional Court be able to decide on the unconstitutionality of Law Number 22/2009 concerning Traffic and Road Transportation (LLAJ Law). In case number 78/PUU-XIV/2016, the online application transportation drivers who act as individuals stated that the LLAJ Law had violated their constitutional right to get a job and a decent living. As stated in Article 27 paragraph (1) of the Constitution and Article 28 paragraph (1), every citizen has the right to the opportunity for protection through legal certainty and access to a job that they use to fulfill their daily needs. However, this provision is hindered by the existence of Article 139, paragraph (4) of the LLAJ Law. The article explains explicitly that state-owned enterprises, regional-owned enterprises, or legal entities can only provide public transportation under the legislation's provisions. Article 139 paragraph (4) of the LLAJ Law is seen as only protecting the interests of corporations and cannot reflect the application of the principle of equality before the law. The article can be interpreted that online transportation drivers who use the economy-sharing system to provide road transportation fleets, not on this route can still not be accommodated. The verse has values contradictory to the interests of developing innovations in the transportation sector that rely on online application networks.

²⁹ GÖRÖG, Georgina. The definitions of sharing economy: a systematic literature review. *Management*, v. 13, n. 2, p. 175-189, 2018.

³⁰ INDONESIA. Ministry of Communications and Informatics of the Republic of Indonesia. *Connected Indonesia: more digital, more advanced*. Jakarta: Ministry of Communications and Informatics of the Republic of Indonesia, 2020.

Nevertheless, through Decision Number 78/PUU-XIV/2016, the Constitutional Court has started rejecting the application.

As an effort to obtain protection through judicial review procedures, online transportation drivers then appoint legal representatives to submit a judicial review application to the Minister of Transportation Regulation (*Permenhub*) Number 26 of 2017 concerning the Implementation of Transportation of People with Public Motorized Vehicles Not on Route to the Supreme Court (MA). The applicants questioned the legal status of the Minister of Transportation Regulation number 35/2003, which should have been revoked by the Minister of Transportation 32/2016. *Permenhub* 32/2016 has not yet been implemented effectively; the regulation has been revoked with the issuance of Minister of Transportation Regulation 26/2017. In addition, the material content contained in *Permenhub* 26/2017 is not much different from what has been stated in *Permenhub* 32/2016.

In this case, the applicants act as individuals running micro, small, and medium enterprises (MSMEs). This position is based on the understanding of article 3, article 4, and article 5, letter c of Law number 20/2008 on MSMEs, according to articles 28A, 28 C paragraph (1), 28 D paragraph (1), and paragraph (2) and 28 H paragraph (2) of the 1945 Constitution, applicants as MSME actors have the opportunity to gain access to decent work to improve their standard of living. Based on the principle of equality before the law, their fundamental rights are also protected in Law Number 39/1999, which explains Human Rights, particularly Article 9 paragraph (1), article 12, and article 13. With the enactment of Minister of Transportation Regulation 26/2017, the rights owned by the applicants have been harmed. These provisions have violated the nature of the MSME Law, in particular Article 7 paragraph (1) letters b, d, r, and f, Article 9 letters a and b, Article 11, Article 12, and Article 25, which prioritizes the simplicity of the licensing procedure so that can create a conducive business climate. Based on these various considerations, the Supreme Court then decided to accept the entirety of the submitted application and stated that the articles being tested no longer had binding legal force following the ruling contained in decision Number 37P/HUM/2017.

In Posner's theory, legal norms can bind and coerce factors that affect economic sectors. Furthermore, the analysis conducted on the influence of a legal norm in economic activities is a way to see how the law can influence the actions of business people who are conventional taxi drivers. As evidence, it can then be seen that there is a change in the behaviour of conventional transportation drivers compared to before and after the legal protection for the provision of application-based transportation services. Currently, the application service has embraced both types of transportation service providers, those who have just joined as partners in providing online transportation fleets as MSME business actors and those previously drivers of conventional taxis and basic motorcycle taxis.

The strategy used by online taxi drivers to take legal action as a rational action and a form of long-term conflict resolution has paid off. It can solve problems that arise as a form of rejection of the presence of a revolution in the field of transportation, but the applications used to provide transportation services are also proliferating. Following the economic theory put forward by Posner, in choosing the actions they will take, business people in the modern transportation sector have made logical choices that can optimize their profits by managing their resources. In considering this logical choice, business actors must be able to determine actions that can positively impact the long term.³¹ The selection of the method for proposing a Judicial Review application to the Constitutional Court and the Supreme Court has proven to be the right step to support every step of business development in this digital era. This paper assumes that it is necessary to understand and analyze the factors behind a rational choice by considering the basic principles proposed by Posner in the theory of economic analysis of law.

In this context, online transportation drivers are primarily interested in obtaining legal protection when carrying out their profession to meet the needs of a decent standard of living. Furthermore, according to Posner, a law that can be used as a strong foundation must contain material content that is useful, effective, and has clear values and goals.³² The legal voids that

make the application-based transportation driver profession illegal are challenging to resolve. Getting legal protection that suits this urgent interest becomes a logical choice when they submit a material review of the existing legal rules. This thought is certainly not without economic considerations. For business people, there is often a saying that time is money. In this case, the sooner the rules guarantee their legitimacy in their work, the sooner they will guarantee the benefits they will get. The procedure for submitting a judicial review of statutory regulations, whether carried out through the Constitutional Court or the Supreme Court, will certainly be faster when compared to the procedures required to make regulations through a legislative body. Legislative institutions or the government will not consider the advantages and disadvantages arising due to the duration of policymaking. Therefore, the choice is entirely for entrepreneurs who need legal guarantees to fulfill their self-interests.³³

The struggle to obtain legal protection for the transformation and innovation of business operations in the transportation sector in this digital era is a form of utilization of the opportunity cost aspect described by Posner. The ease of access to information provided by the internet and smartphones is a potential resource that can not be ignored. One example is an online transportation application service that can open its business network to reach other sectors, such as food purchases and electronic-based financing. This rapid development occurred after the main facilities offered had received legal protection and no longer caused horizontal conflicts in the community. Economic resources protected by law are then turned into an economic activity that generates profits for business actors.³⁴

Following the economic analysis of the legal field, the judicial review efforts carried out by online transportation drivers are a form of manifestation of efforts to ensure the free flow of resources. As previously explained, the development of economic sharing that minimizes the production costs of online transportation services has led to resistance from conventional transportation drivers. Ease of access, low cost, wide

³¹ HARIYANA, Trinas Dewi. Pengaturan ritel di Indonesia ditinjau dari perspektif economic analysis of law. *Uniska Law Review*, v. 1, n. 2, p. 1-17, Dec. 2020.

³² MURNI. Analisis ekonomi terhadap pasal-pasal hukum persaingan usaha dalam undang-undang nomor 5 tahun 1999. *Arena Hukum*,

v. 6, n. 1, p. 21-30, Apr. 2012.

³³ COOTER, Robert; ULEN, Thomas. *Law & economics*. 6. ed. Boston: Pearson Education, 2011.

³⁴ KORNHAUSER, Lewis. The economical analysis of law. *Stanford Encyclopedia of Philosophy*. 2022. Available at: <https://plato.stanford.edu/entries/legal-econanalysis/>. Access in: 29 Mar. 2023.

coverage, and better performance are the advantages of innovative products in this 4.0 industrial era. The legal gaps in the LLAJ Law and Permenhub 26/2017 have hampered the development of the digital economy potential, which should receive support from the government under the provisions of the MSME Law.³⁵

The legal gaps that gave rise to these refusal actions have also become a barrier to the increasing number of online transportation application users, even though providers have provided various additional incentives and the superiority of the services offered. This condition is enough to indicate a need for conflict resolution efforts that involve elements of conventional transportation drivers to hinder the free flow of resources. In addition, the economic incentives that application service providers have provided cannot provide a sense of security for consumers to use their services. The absence of regulations from the government that can explicitly accommodate the needs of this new type of business model has made transactions in the market unable to run correctly.

Based on the law of demand, to make the market balance condition appropriately run, it is necessary to take legal action so that the regulations that are the basis for the legitimacy of their profession can fully guarantee consumer safety. This guarantee is needed to increase their willingness to choose modern transportation services as the best rational choice in the long term and firmly rooted in the community.

To fulfill the self-interest of applicants, they want to get a legal umbrella for their profession. In line with the basic concept of legal considerations from an economic point of view, the application for judicial review to the Constitutional Court and Supreme Court is a strategic step to carry out long-term conflict resolution. To obtain a sufficient legal basis, have value and use the following economic principles. This effort finally provided a basis for protection for online transportation drivers after the Supreme Court issued decision Number 37P/HUM/2017, which granted their request. This decision has protected MSME actors with the potential for long-term economic development and provided guarantees for applying the principle of equality before the law to welcome the industrial era 4.0 in Indonesia.

³⁵ KUSUMADARA, Afifah. Kedudukan hukum sebagai alat pembangunan ekonomi di era reformasi. *Jurnal Hukum & Pembangunan*, v. 40, n. 3, p. 364-389, July/Sept. 2010.

4 Digital transportation: experience in São Paulo, Brazil

The internet data network penetrated 92.6% of households in Brazil in 2018 with all the conveniences it offers.³⁶ From the number of internet users, cell phones are the primary tool used to enjoy information technology facilities.³⁷ This number is a potential market consideration for international online transportation platform providers like Uber. São Paulo, Brazil's most significant metropolitan city, is the world's second most significant Uber user. In 2018, at least 600,000 people worked as Uber drivers, with the number of Uber users reaching 22 million.³⁸ This significant achievement figure results from stakeholders' struggle to accommodate Uber as a legal and beneficial form of business for the community.

The negative impact of the increase in the number of private vehicles operating in the City of São Paulo since 2012, such as the lack of parking space and the high risk of death due to road accidents, and the number of drivers who are affected by alcohol can at least be reduced by making Uber services available to the public. In addition, from several projected scenarios of e-hailing development, this application can reduce travel time for people who will travel and affect overall economic effectiveness.³⁹

As stated by Posner, a market potential that will affect the law of demand is an essential factor in determining strategies for potential businesses. The momentum of Uber's entry into the transportation service provider market in Brazil, coinciding with the 2014 FIFA

³⁶ HADDAD, Eduardo Amaral *et al.* A socioeconomic analysis of ride-hailing emergence and expansion in São Paulo, Brazil. *Transportation Research Interdisciplinary Perspectives*, v. 1, p. 100016, June 2019. Available at: <https://linkinghub.elsevier.com/retrieve/pii/S2590198219300168>. Access in: 5 July 2022. p. 1.

³⁷ IBGE. Continuous PNAD ICT 2019: Internet reaches 82.7% Brazilian households. *Agência IBGE Notícias*, 2019. Available at: <https://agenciadenoticias.ibge.gov.br/en/agencia-press-room/2185-news-agency/releases-en/30533-continuous-pnad-ict-2019-internet-reaches-82-7-brazilian-households>. Access in: 3 July 2022.

³⁸ BARRETO, Yuri; SILVEIRA NETO, Raul da Mota; CARAZZA, Luis. Uber and traffic safety: evidence from Brazilian cities. *Journal of Urban Economics*, v. 123, p. 103347, 2021. p. 1.

³⁹ HADDAD, Eduardo Amaral *et al.* A socioeconomic analysis of ride-hailing emergence and expansion in São Paulo, Brazil. *Transportation Research Interdisciplinary Perspectives*, v. 1, p. 100016, June 2019. Available at: <https://linkinghub.elsevier.com/retrieve/pii/S2590198219300168>. Access in: 5 July 2022. p. 6.

World Cup, marked the emergence of internet-based innovations quickly accepted by the wider community. Although Uber offers easy access to services, safe driving, and financial benefits, these advantages have been hampered by protests and resistance from conventional taxi drivers. The obstacles that arise from conventional taxi drivers have hindered Uber's steps from expanding its business wings at the beginning of its emergence.

Conventional taxi drivers consider that Uber provides illegal public transportation services because it does not meet general administrative requirements for taxi providers.⁴⁰ Taxi drivers and taxi associations have even filed a lawsuit to close the Uber app a year later. As a result, judge Luiz Roberto Corcioli Filho briefly ordered the removal of the Uber app and imposed a \$100,000 fine for non-compliance. However, the decision was later annulled because a similar lawsuit had been previously decided because the prosecutor was entitled to file the lawsuit, not the association.

Debate continues to occur between uber supporters and conventional taxis. The courts in Brazil are not only guided by normative law but also give a large portion of the consideration of legal doctrines presented by experts to produce legal products.⁴¹ Based on these principles, it is unsurprising that the conflict brought to court has developed.⁴² The legal argument initially aimed to determine whether Uber is an illegal activity. However, it later developed to determine the boundaries between individual transport being a public service, the types of regulations that must be formed, and how to accommodate the interests of new players in the transportation world without compromising conventional service providers.

The legal process and refusal by taxi drivers have hampered the principle of free resource flow from the Uber business. The lengthy court process with ongoing debates certainly significantly impacts economic activity. According to the logic of economic analysis of law, Uber and various transportation application platforms

need a legal umbrella to explore the potential of the City of São Paulo. Intervention from the government is a way to bridge the interests of the parties so that economic growth is not hampered.

In order to maximize the opportunity cost of these economic activities, alternative ways for the legality of Uber services must still be fulfilled. Representatives of the students then sought the support of the Conselho Administrativo de Defesa Econômica (Brazil's business competition authority) to argue that the lawsuit filed by the taxi drivers was unfounded and market-oriented. After approving this argument with bill numbers 349/2014 and 16279/2015, the City of São Paulo took steps to make The Decreto Municipal Number 56981/2016.⁴³ Through this legal remedy, the municipal government of São Paulo uses the powers granted by Article 18 (1) of the Política Nacional de Mobilidade Urbana to regulate transportation services.⁴⁴ This regulation is the legal basis for Uber and several other types of sharing economy models.

The government has designed a mechanism for registering a digital transportation provider platform through the Operadora de Transporte Credenciada (OTC). This mechanism is the most flexible alternative policy option while implementing a limited intervention to ensure the market mechanism can run optimally. This provision also allows the government to maximize opportunity costs by sharing user and driver data centered on Laboratory for urban Mobility (the-Mobilab) technology and protocols. With this mechanism, the government can monitor trip map updates, user service evaluations, and driver identity and fare details.

Based on this analysis, it can be seen that the So Paulo City government has taken strategic steps to ensure the effectiveness of the law of demand from Uber users and the sharing economy model in the future through The Decreto Municipal Number 56981/2016. This legal umbrella provides legal guarantees that ensure a free flow of resources from the digital world and São Paulo's social potential. In addition, the government also maxi-

⁴⁰ ZANATTA, Rafael A. F.; KIRA, Beatriz. Regulation of Uber in São Paulo: from conflict to regulatory experimentation. *International Journal of Private Law*, v. 9, n. 1/2, p. 83-94, 2018. p. 86.

⁴¹ PASSOS, Edilenice. Doing legal research in Brazil. *Hauser Global Law School Program*, Feb. 2005. Available at: <https://www.nyulaw-global.org/globalex/Brazil.html>. Access in: 7 July 2022.

⁴² ZANATTA, Rafael A. F.; KIRA, Beatriz. Regulation of Uber in São Paulo: from conflict to regulatory experimentation. *International Journal of Private Law*, v. 9, n. 1/2, p. 83-94, 2018. p. 86-92.

⁴³ ZANATTA, Rafael A. F.; KIRA, Beatriz. Regulation of Uber in São Paulo: from conflict to regulatory experimentation. *International Journal of Private Law*, v. 9, n. 1/2, p. 83-94, 2018. p. 90.

⁴⁴ DEFOSSEZ, Delphine Aurélie Laurence. The regulation of a project of the deregulation: Uber in Brazil and the European Union. *Journal of Law and Regulation*, Brasília, v. 3, n. 1, p. 1-28, May 2017. p. 18.

mizes the opportunity cost through data sharing in Laboratory for urban Mobility (the-Mobilab).

5 Conclusion

This paper highlights the importance of legal regulations in accommodating global businesses like Uber and other online transportation platforms in Brazil and Indonesia. The economic analysis of law theory suggests that actors have varying strategies to maximize their opportunity costs, leading to different legal protections for international companies in each country. To ensure the legality of these economic activities and guarantee security for all parties involved, regulations that legalize the implementation of online transportation modes are proposed. In Indonesia, online transportation drivers who use the judicial review method as a business strategy demonstrate the need for temporary legal protection to reduce losses due to horizontal conflicts. In Brazil, the municipal government's limited intervention has played a vital role in initiating the birth of a legal umbrella for a business activity model in the form of a sharing economy, maximizing the opportunity cost by presenting OTC and Mobilab. The economic analysis of law theory provides a framework for solving economic sector problems through the law's visions, emphasizing the importance of robust and adaptive legal regulations to address social friction towards the changing digital landscape.

References

ABREU, Marcelo de Paiva. *Brazil, the GATT, and the WTO: history and prospects*. Rio de Janeiro: Pontifícia Universidade Católica do Rio de Janeiro, Departamento de Economia. Texto para discussão, n. 392, set. 1998. Available at: <https://www.econstor.eu/bitstream/10419/186636/1/td392.pdf>. Access in: 29 Mar. 2023.

BARRETO, Yuri; SILVEIRA NETO, Raul da Mota; CARAZZA, Luis. Uber and traffic safety: evidence from Brazilian cities. *Journal of Urban Economics*, v. 123, p. 103347, 2021.

COOTER, Robert; ULEN, Thomas. *Law & economics*. 6. ed. Boston: Pearson Education, 2011.

DAMURI, Yose Rizal. *An evaluation of the need for selected trade facilitation measures in Indonesia: implications for the WTO negotiations on trade facilitation*. Jakarta: Asia-Pacific Research and Training Network on Trade, Working Paper Series, n. 10, Apr. 2006.

DE MASI, Francesco. *The Uber case: a ride for the future of the European single market*. 2016. Tesi (Laurea in European Business Law) - Dipartimento di Giurisprudenza, LUISS, Roma, 2017. Available at: https://tesi.luiss.it/21529/1/119073_DE%20MASI_FRANCESCO.pdf. Access in: 2 July 2022.

DEFOSSEZ, Delphine Aurélie Laurence. The regulation of a project of the deregulation: Uber in Brazil and the European Union. *Journal of Law and Regulation*, Brasília, v. 3, n. 1, p. 1-28, May 2017.

DI AMATO, Alessio. Uber and the sharing economy. *The Italian Law Journal*, v. 2, n. 1, p. 177-190, 2016.

DILDOR, Shadibekova; NARIMONJON, Ismoilov. Development of digital logistics and transport in the process of globalization. In: INTERNATIONAL CONFERENCE ON FUTURE NETWORKS & DISTRIBUTED SYSTEMS, 5. Dec. 2021, Dubai. *Annals* [...]. Dubai: ACM, 13 Apr. 2022. Available at: <https://dl.acm.org/doi/10.1145/3508072.3508207>. Access in: 22 Mar. 2023.

DJUNAEDI, Arif Z. Digitalization impact on growth & human capital: Indonesia broadband plan case study. *Review of Business, Accounting & Finance*, v. 1, n. 3, p. 299-309, June 2021.

FAUZI, Mohammad Yasir; PURNAMAWATI, Vivi. Pendekatan analisis economic of law Posner terhadap konsep wasiat wajibah dalam penyelesaian sengketa waris beda agama. *ASAS: Jurnal Hukum Ekonomi Syariah*, v. 12, n. 2, p. 1-16, Dec. 2020.

FERRAZ, Daniel Amin. O grupo de sociedades: mecanismo de inserção da empresa transnacional na nova ordem econômica internacional. *Revista de Direito Internacional*, Brasília, v. 9, n. 1, p. 15-25, jan./jun. 2012. Available at: <http://www.publicacoesacademicas.uniceub.br/index.php/rdi/article/view/1633>. Access in: 22 Mar. 2023.

GÖRÖG, Georgina. The definitions of sharing economy: a systematic literature review. *Management*, v. 13, n. 2, p. 175-189, 2018.

- HADDAD, Eduardo Amaral *et al.* A socioeconomic analysis of ride-hailing emergence and expansion in São Paulo, Brazil. *Transportation Research Interdisciplinary Perspectives*, v. 1, p. 100016, June 2019. Available at: <https://linkinghub.elsevier.com/retrieve/pii/S2590198219300168>. Access in: 5 July 2022.
- HANDAYATI, Nur; TASLIM, Galuh Lintang; SURYA-AGUST, Satyagraha. Pengangkutan online ditinjau dari undang-undang nomor 22 tahun 2009. *Lex Journal: Kajian Hukum & Keadilan*, v. 3, n. 2, Apr. 2020.
- HARIYANA, Trinas Dewi. Pengaturan ritel di Indonesia ditinjau dari perspektif economic analysis of law. *Uniska Law Review*, v. 1, n. 2, p. 1-17, Dec. 2020.
- HARNAY, Sophie; MARCIANO, Alain. Posner, economics and the law: from “law and economics” to an economic analysis of law. *Journal of the History of Economic Thought*, v. 31, n. 2, p. 215-232, 2009.
- HYUN, J. Kim; CHAN, S. Suh. Spreading the sharing economy: institutional conditions for the international diffusion of Uber: 2010-2017. *PLOS ONE*, v. 16, n. 3, p. 1-14, 2021.
- IBGE. Continuous PNAD ICT 2019: Internet reaches 82.7% Brazilian households. *Agência IBGE Notícias*, 2019. Available at: <https://agenciadenoticias.ibge.gov.br/en/agencia-press-room/2185-news-agency/releases-en/30533-continuous-pnad-ict-2019-internet-reaches-82-7-brazilian-households>. Access in: 3 July 2022.
- INDONESIA. Ministry of Communications and Informatics of the Republic of Indonesia. *Connected Indonesia: more digital, more advanced*. Jakarta: Ministry of Communications and Informatics of the Republic of Indonesia, 2020.
- KORNHAUSER, Lewis. The economical analysis of law. *Stanford Encyclopedia of Philosophy*. 2022. Available at: <https://plato.stanford.edu/entries/legal-econanalysis/>. Access in: 29 Mar. 2023.
- KUSUMADARA, Afifah. Kedudukan hukum sebagai alat pembangunan ekonomi di era reformasi. *Jurnal Hukum & Pembangunan*, v. 40, n. 3, p. 364-389, July/Sep. 2010.
- LA DIEGA, Guido Noto. Uber law and awareness by design: an empirical study on online platforms and dehumanised negotiations. *European Journal of Consumer Law: Revue Européenne de Droit de la Consommation*, n. 2, p. 383-413, 2016.
- MAHARANI, Amelia Fitri Bella. Produk cacat tersembunyi dalam perspektif hukum perlindungan konsumen di Indonesia: analisis product liability. *Lex Prudentium: Law Journal*, v. 1, n. 1, p. 53-61, May 2022.
- MINDA, Gary. The lawyer - economist at Chicago: Richard A. Posner and the economic analysis of law. *Ohio State Law Journal*, v. 39, n. 1, p. 439-475, 1978.
- MURNI. Analisis ekonomi terhadap pasal-pasal hukum persaingan: an usaha dalam undang-undang nomor 5 tahun 1999. *Arena Hukum*, v. 6, n. 1, p. 21-30, Apr. 2012.
- NASUTION, Dian Mandayani Ananda. Tinjauan hukum terhadap layanan transaksi dan transportasi berbasis aplikasi online. *RESAM Jurnal Hukum*, v. 4, n. 1, p. 17-30, Apr. 2018.
- NAVARRO, Rodrigo. Government relations and Uber in Brazil. *Revista Brasileira de Relações Governamentais*, v. 1, n. 1, p. 28-33, ago. 2016.
- PASSOS, Edilenice. Doing legal research in Brazil. *Hausser Global Law School Program*, Feb. 2005. Available at: <https://www.nyulawglobal.org/globalex/Brazil.html>. Access in: 7 July 2022.
- POSNER, Richard. *Economic analysis of law*. 3. ed. Netherlands: Wolters Kluwer Law and Business, 1986.
- PRASETYO, Rohmat Adi; RISMAYANI, Riris. Studi karakteristik dan faktor-faktor downstream user transportasi online (ride sharing) di kota bandung. *Jurnal Wacana Ekonomi*, v. 18, n. 1, p. 33-44, 2018.
- RIYANTO, Agus. Economic analysis of law terhadap kejahatan korporasi. *Binus University: Business Law*, Dec. 2018. Available at: <https://business-law.binus.ac.id/2018/12/12/economic-analysis-of-law-terhadap-kejahatan-korporasi/>. Access in: 29 Mar. 2023.
- SULEIMAN, Zhanybek *et al.* Industry 4.0: clustering of concepts and characteristics. *Cogent Engineering*, v. 9, n. 1, p. 2034264, 2022.
- TAPSCOTT, Don; AGNEW, David. Governance in the digital economy. *Finance & Development*, p. 34-37, Dec. 1999. Available at: <https://www.imf.org/external/pubs/ft/fandd/1999/12/pdf/tapscott.pdf>. Access in: 29 Mar. 2023.
- UNITED NATIONS. *Brazil: contry profile: national implementation of Agenda 21*. 1997. Available at: <https://www.un.org/esa/earthsummit/brzil-cp.htm>. Access in: 3 July 2022.

WORLD BANK. *Indonesia overview*. The World Bank. Available at: <https://www.worldbank.org/en/country/indonesia/overview>. Access in: 3 July 2022.

ZANATTA, Rafael A. F.; KIRA, Beatriz. Regulation of Uber in São Paulo: from conflict to regulatory experimentation. *International Journal of Private Law*, v. 9, n. 1/2, p. 83-94, 2018.

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