CONSUMER PROTECTION FOR LOSSES ARISING FROM THE USE OF AUTO PILOT-BASED TECHNOLOGY IN INDONESIA

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Abstract

This study aims to examine the legal safeguards provided to consumers in Indonesia in relation to losses incurred from the use of autopilot-based technology. The research methodology employed in this study is normative legal research, utilizing a legislative approach and legal material analysis. The findings of this study reveal that autopilot technology or artificial intelligence (AI) can be considered as legal entities, as there is human involvement in regulating and operating the technology. However, consumer protection in the utilization of such technology encounters challenges within the Indonesian legal system. This is primarily due to the requirement of reversing the burden of proof for losses under Law Number 8 of 1999 on Consumer Protection. Consequently, this presents a significant hurdle in achieving consumer protection against the adverse effects of this technology, as there exists an imbalance of knowledge and bargaining power between the producer (AI) and the consumer in substantiating the losses incurred from its use.

Keywords: *Artificial Intelligence, Autopilot Technology, Consumer Protection*

1. INTRODUCTION

The rapid development of technology poses a challenge in various sectors of life, especially in the legal field. One of them is in creating efforts to protect the public from the use of technology. This can be achieved by formulating regulations that create order in society to cope with the rapid development of technology (Adha, L. A. (2020)). One example of the latest technological advancement occurs in the Autopilot technology sector. This technology allows vehicles or other moving machines to rely on computer systems to control steering or specific commands. This situation utilizes machine learning and artificial intelligence support. Autopilot features, in general, have advanced in vehicle technology, such as autopilot cars that can control vehicles automatically based on AI capabilities (Mikelsten et al., 2022). On the other hand, the use of technology in tools or vehicles equipped with Autopilot facilities, as a form of technological sophistication, may still lead to negligence, violations, or accidents. Therefore, by examining the functioning system of technology-driven vehicles, it becomes interesting to discuss aspects of consumer protection regarding regulations in Indonesia in the event of violations or negligence leading to accidents or losses for users of such technology.

Consumer protection is an effort to preserve the dignity and rights of consumers, supported by increased awareness, knowledge, concern, capability, and independence of consumers to protect themselves and foster responsible behavior of businesses (Tampubolon, 2016). Indonesia itself has regulations safeguarding consumer rights outlined in Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK). UUPK covers various essential aspects of consumer protection in various fields, including product purchases, service utilization, and consumer interactions with producers or sellers (Saragih & Bagaskara, 2023). Furthermore, the law has detailed

provisions regarding the rights held by consumers. Article 4 states, "consumer rights include: a. The right to comfort, security, and safety in consuming goods and/or services; b. The right to choose goods and/or services and receive those goods and/or services in accordance with the agreed-upon value, conditions, and guarantees; c. The right to accurate, clear, and honest information about the condition and guarantees of goods and/or services; d. The right to express opinions and complaints about the goods and/or services used; e. The right to receive advocacy, protection, and fair dispute resolution efforts for consumer protection; f. The right to receive consumer treatment and education; g. The right to be treated or served fairly and honestly without discrimination; h. The right to receive compensation, reimbursement, and/or replacement if the goods and/or services received do not match the agreement or as they should be; and i. Rights regulated in other legal provisions.

The UUPK also regulates the responsibility of business operators. Stated in Article 19, paragraph (1), it is further explained that "Business operators are responsible for providing compensation for damage, pollution, and/or losses to consumers resulting from the consumption of goods and/or services produced or traded." In paragraph (2), it is elaborated that "Compensation as referred to in paragraph (1) may take the form of a refund or replacement of goods and/or services of the same kind or equivalent value, or healthcare and/or the provision of compensation in accordance with the provisions of applicable laws and regulations." This law has given significance, indicating that in the Indonesian legal system, the use of products, goods, or services is granted legal protection (Susanto et al., 2022).

Considering the legal protection for consumers stipulated in the UUPK, it brings a broader understanding that this regulation also safeguards consumers in the use of products, goods, and services generated by AI technology (Novita & Santoso, 2021). AI technology products, such as autopilot features, fall under the scope of goods and/or services recognized in this regulation. Recognizing that there is a potential harm to consumers caused by autopilot technology features, consumers have the right to demand compensation from the relevant provider or manufacturer to fulfill their obligation in indemnifying the losses. The issue of compensation by business operators to consumers in the UUPK has been addressed in the previous explanation. Furthermore, in the process of fulfilling compensation in Article 19, the subsequent paragraphs elaborate that:

> "(3) Compensation payment shall be made within a period of 7 (seven) days from the transaction date."
>
> "(4) The provision of compensation as referred to in paragraph (1) and paragraph (2) does not eliminate the possibility of criminal charges based on further evidence of the existence of culpable elements."
>
> "(5) The provisions as mentioned in paragraph (1) and paragraph (2) do not apply if the business operator can prove that the error in question is the consumer's fault."

The further explanation requires that the accountability process outlined in the UUPK is based on the principle of responsibility for wrongdoing. This fundamental principle of accountability implies that an individual is accountable because they have committed an error that harms others. If consumers claim compensation using the qualification of an unlawful act (*onrechtmatige daad*), the elements of an unlawful act must be fulfilled, and the business operator's error must be proven (Yudha, 2023). This becomes an issue concerning the accountability process for errors committed by AI

autopilot features. The problem arises because the burden of proof is reversed, resulting in a weak position for consumers, especially those who understand that the AI system's creator is the business operator or creator (Yudha, 2023).

If malfunctions occur due to system errors, the business operator or creator is undoubtedly responsible for the losses suffered by consumers, in accordance with Article 19, paragraph (1) of the UUPK. The weakness of this article lies in the burden of proof, as those who understand the AI system are typically the creators or business operators. This indicates a legal loophole in Indonesia's legal system, where there is no detailed regulation addressing consumer protection issues related to the use of autopilot or AI systems. The issue of reversed burden of proof in the UUPK cannot guarantee that the law can serve as a legal instrument to provide protection for consumers using autopilot technology in AI.

This article aims to address two important questions regarding the legal landscape of artificial intelligence (AI) in Indonesian law. Firstly, it explores the legal status of AI within the Indonesian legal framework. Secondly, it examines the legal protection provided to consumers in Indonesia in relation to potential losses caused by advancements in autopilot technology driven by AI. With these questions in mind, the objectives of this article are to uncover the fundamental principles of consumer protection in the changing landscape of autopilot technology. It also aims to analyze the existing consumer protection laws and the legal safeguards available to consumers. Through this exploration, we hope to contribute valuable perspectives to the ongoing discussion on the intersection of law and AI in Indonesia.

2. RESEARCH METHODS

The type of legal research method employed as the fundamental framework for this writing is the normative research method. This method examines the law textually within legislative regulations by analyzing legal principles and the reasoning of human relationships (Purwati, 2020). The approach begins by identifying and thoroughly examining the primary issues, followed by an exploration and analysis using various legal theories that support the case, and subsequently, tracing their connections with the applicable legal regulations. Furthermore, the use of primary, secondary, and tertiary legal sources is essential in this research. The outcomes of the thought process, grounded in the research method and gathered legal sources, are structured, leading to formulated conclusions directly related to the case under investigation.

3. RESULTS AND DISCUSSION

3.1. The Position of Artificial Intelligence (AI) as a Legal Subject in Indonesian Positive Law

Artificial intelligence, known by the English term "Artificial Intelligence" or abbreviated as AI, combines the meanings of "artificial," meaning man-made, and "intelligence," referring to cognitive abilities. AI is created with the goal of being intelligent and clever, capable of performing tasks precisely and more efficiently, similar to human capabilities. This is achieved by simulating functions of the human brain,

including reasoning, thinking, knowledge, language comprehension, decision-making, and problem-solving (Pasaribu & Widjaja, 2022).

By receiving input from humans, AI has the ability to acquire knowledge and through simulated reasoning processes, can use its knowledge to think like humans in solving various problems. Although it cannot experience research, experience, and knowledge like humans, AI can improve its knowledge through the efforts provided by humans (Jaya & Goh, 2021).

Therefore, artificial intelligence capable of legal actions cannot be categorized as a legal object but can be considered a legal subject equivalent to other legal subjects. Legally, one of the legal sources regulating technology, in particular, is Law Number 19 of 2016 (UU 19/2016). UU 19/2016 was enacted with considerations outlined in the preamble of UU 19/2016, emphasizing its design to respond to technological developments and advancements. Although it is believed that UU 19/2016 can address various issues related to technology, the law does not significantly elaborate on the meaning or definition of Artificial Intelligence. According to UU 19/2016, Artificial Intelligence will only be classified as Electronic Information, as explained in "Article 1 Number 1 of UU 19/2016."

In theory, the legal subjects capable of performing legal actions or legal acts, as recognized in Indonesian positive law, are "individuals (*natuurlijke persoon*)" and "legal entities (*rechts persoon*)." According to L. J. van Apeldoorn, specific conditions are required for a legal subject to engage in legal acts, namely, the legal subject must have the capacity to hold rights. He distinguishes the capacity to hold rights based on one's legal capacity in legal acts. For instance, minors and individuals under guardianship are considered legal subjects because they possess rights. However, from a legal perspective, these individuals are deemed legally incapacitated. In this context, the determinant of whether a legal subject is considered capable or not lies within the legal framework itself (Holijah, 2021).

From the explanation above, it can be understood that whether something can be considered a legal subject or not is determined by the applicable law. This also applies to Artificial Intelligence (AI). Like other legal subjects, AI has rights and obligations, and its actions must be regulated by legal norms. Although AI cannot be considered exactly like a human being in its entirety due to the lack of human qualities, AI can be equated with the legal status of a legal entity, which is also recognized as a legal subject according to legal provisions (Baihaiqi, 2022).

3.2. Legal Protection for Consumers for Losses Arising from Autopilot-Based Technology (Artificial Intelligence) in Indonesia

Auto-pilot technology is artificial intelligence or artificial intelligence that enables a vehicle to move without the driver's control. The functioning of auto-pilot technology involves the use of a system that allows the vehicle to move automatically. Auto-pilot technology enables drivers to not have to control the vehicle, allowing the vehicle to move autonomously following a predetermined path.

The emergence of auto-pilot technology in Indonesia poses new challenges. In the context of consumer protection, businesses have a responsibility to "ensure the quality of goods and/or services produced and/or traded in accordance with the prevailing standards of quality for goods and/or services" (Article 7 letter d of Law Number 8 of 1999 concerning Consumer Protection) (Geovanie & Dana, 2021). However, obstacles arise

because there are no provisions governing quality standards for vehicles with auto-pilot technology. Consequently, Article 7 letter d of the Consumer Protection Law becomes irrelevant and unattainable. Consumer rights are also affected because businesses cannot fulfill their obligations related to the right to comfort, security, and safety in consuming goods and/or services (Article 4 letter a of Law Number 8 of 1999 concerning Consumer Protection).

The legal challenges in consumer protection in Indonesia become increasingly complex when it comes to proving losses caused by auto-pilot technology. This issue becomes more intricate because, in the Consumer Protection Law, the burden of proof is placed on the consumer, yet consumers often lack the competence to provide such evidence. Article 28 of the Consumer Protection Law establishes a reverse burden of proof, resulting in a weak bargaining position for consumers since those who understand the AI system are typically the business operators or creators. If malfunctions occur due to errors in the system, the business operator or creator is undoubtedly responsible for the losses suffered by consumers, in accordance with Article 19, paragraph (1) of the Consumer Protection Law. The weakness of this article lies in the proof process because those who understand the AI system are usually the creators or business operators.

Reverse burden of proof is a legal concept recognized in the Consumer Protection Law in Indonesia. However, its understanding and implementation become increasingly significant when dealing with cases of losses caused by auto-pilot technology. Reverse burden of proof, which is supposed to provide extra protection for consumers, can itself become a challenge. According to this system, the burden of proof is not solely on the consumer but also on the business operator. This means that the party providing goods or services must prove that they have complied with quality standards and have implemented adequate preventive measures (Hutagalung et al., 2021).

However, the implementation of reverse burden of proof can pose several challenges. One of the main challenges is the competence gap between consumers and technology companies. Auto-pilot technology is often complex, and consumers may not have sufficient technical understanding to prove losses or technological failures. The success of reverse burden of proof also relies on transparency and the availability of information from business operators. Consumers must have access to adequate information to demonstrate the existence of losses or defects in auto-pilot technology.

4. CONCLUSION

The reverse burden of proof in Indonesia's Consumer Protection Law provides additional protection for consumers in cases of harm caused by auto-pilot technology. Despite its positive intent, its implementation faces challenges, particularly in addressing the competency gap between consumers and technology companies. The significance of transparency and the availability of information on the part of service providers is a crucial factor in the success of reverse burden of proof. Therefore, additional measures are needed to ensure consumers have access to sufficient information and can effectively exercise their rights. Continuous evaluation of the legal framework is also essential to keep it relevant and effective in light of ongoing technological advancements.

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