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Misappropriation of Parking Operators' Responsibilities in Commercial Parking Zones

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Abstracts. The dense commercial areas that have sprung up around communities have led to the proliferation of commercial parking areas, which are intended to help consumers or customers who come to visit by tidying up their vehicles so that they are more organized and secure when left by consumers to shop or carry out activities in the commercial area. However, commercial parking areas often display signs stating, "We are not responsible for any losses," which creates ambiguity regarding the parking management's responsibility, as if they are not involved in any losses experienced by consumers. This study aims to identify the limits of responsibility that should be borne by parking lot managers and to provide consumer protection. This study uses normative research with a deductive syllogism method based on the major premise, followed by the minor premise, and then both premises are drawn into a conclusion. A syllogism consists of two premises (major and minor) and one conclusion. The major premise is that commercial parking area managers are obligated to protect consumers' belongings or vehicles from any form of theft or other losses experienced by visitors. while the minor premise lies in the ambiguity of the statement "Any form of loss is not our responsibility," which is clearly irrelevant to use as it would harm visitors or consumers and absolve the parking area operator of responsibility in the commercial area.

Keywords: Commercial Parking Areas, Responsibility, Management, Consumer Protection

INTRODUCTION

It is undeniable that the growth of commercial areas in Indonesia has expanded rapidly. These commercial zones encompass various sectors, including trade, services, entertainment and recreational venues, as well as transportation. The rapid development of such areas has inevitably led to increasingly hectic conditions, primarily due to the limited availability of land or space (Ahmad Azizi et al., 2023). In response to this issue, many commercial areas provide designated parking spaces intended for consumers or visitors, enabling them to park their vehicles safely and mitigating traffic congestion within the vicinity.

The provision of parking facilities by property owners is typically complemented by professional parking management services, which bear the responsibility of organizing and overseeing the parking areas efficiently. Their role is essential in facilitating smooth vehicle circulation and ensuring the accessibility of the premises for customers engaged in various

activities. In this context, parking operators hold a dual position: they are obligated to fulfill their duties in managing and regulating parking activities, while simultaneously possessing the right to collect fees from consumersestablishing a reciprocal relationship of rights and obligations.

In Indonesia, parking fees vary considerably depending on the local population's purchasing power and the overall economic condition of each area. Generally, parking rates for vehicles range from approximately IDR 1,000 for twowheeled vehicles to IDR 2,000–50,000 for fourwheeled or larger vehicles (Suryahartati, 2019). The management of parking facilities in commercial areas is typically undertaken either by the building owner or delegated to a third party through a cooperative arrangement. In this context, the third party often refers to informal parking attendants responsible for organizing and supervising the parking space.

The existence of paid parking is not merely a supporting facility for business activities, but also a critical component of service provision that directly impacts consumer comfort and safety. In practice, parking operators collect fees from users in exchange for orderly and secure access to the parking facilities. However, implementation is frequently suboptimal. It is not uncommon for operators to neglect their responsibilities—for instance, by failing to arrange motorcycles properly, resulting in disorder and inconvenience for users. Despite these shortcomings, operators still expect payment, even though the service often falls short of what is legally or ethically expected.

In many cases, there is a mismatch between the legally stipulated rates and what is actually charged. For example, local regulations in some regions clearly state that the parking fee should be IDR 1,000 for twowheeled vehicles and IDR 2,000 for fourwheeled vehicles. However, in practice, these standardized rates are frequently disregarded and substituted with arbitrary pricing.

From a legal standpoint, the relationship between parking users and operators forms an implicit contractual obligation. While not explicitly documented in a formal agreement, there exists a legally binding reciprocal understanding: users are obligated to pay the parking fee, while operators are responsible for ensuring the safety and proper care of the parked vehicle. This legal bond bears similarity to a custodial agreement (penitipan), as governed by Article 1694 of the Indonesian Civil Code (KUH Perdata), wherein one party receives a movable good for safekeeping and is bound to return it in its original condition. Consequently, any loss or damage to the vehicle should not automatically absolve the operator of legal liability.

In practice, however, many parking operators attempt to evade liability by asserting that they merely act as "space providers" and are therefore not responsible for the security of parked vehicles. This argument is often formalized through unilateral clauses printed on parking tickets, stating that any loss or damage to vehicles is not the responsibility of the operator. In some cases, similar disclaimers are displayed prominently on signage within the parking premises.

From a legal perspective, the acceptance of payment from parking users is sufficient to establish a binding legal relationship between the parties, thereby creating reciprocal obligations that must be fulfilled. The insertion of such exculpatory clauses raises significant questions regarding their validity, as they are not the result of a mutual agreement and tend to impose an unfair burden on consumers. These clauses, being unilaterally imposed and lacking the element of consensus, may be deemed legally questionable, especially when they serve to exclude the liability of the operator without any negotiation or consent from the user.

Delving deeper into this issue, a recurring phenomenon can be observed in which parking operators neglect their supervisory duties. This includes the absence of on site personnel, inadequate security systems, and the prevalence of unauthorized or unregulated parking practices all of which increase the risk to users' vehicles. This situation reflects a form of misconduct: parking fees continue to be collected, yet the operators fail to fulfill their legal and

moral obligations to safeguard the vehicles under their care. Such obligations are often disclaimed through statements like “we are not responsible for any loss or damage,” which are prominently displayed but lack legal weight. This imbalance directly harms the public, especially when consumers' rights to a sense of security in entrusting their vehicles are not upheld as they should be. The disparity between the payment collected and the lack of corresponding service represents not only a breach of expectation but a potential violation of consumer protection principles.

METHOD

The type of research employed in this study is normative legal research, which focuses on examining and analyzing legal norms currently in force within society. Normative legal research is a methodological process aimed at identifying applicable legal rules, principles, and doctrines in order to address the legal issues at hand (Mahmud Marzuki, P., 2017). Since legal doctrines may often conflict with one another, it is essential for law students and legal scholars to possess the analytical capability to evaluate factual situations and determine which doctrine is most relevant to the issue being addressed.

The technique used to collect relevant legal sources for this study is document study (literature review), which involves gathering legal materials through written legal documents. In this research, the primary approach is the statutory approach, particularly with reference to Law No. 28 of 2009 concerning Regional Taxes and Regional Levies (Pajak Daerah dan Retribusi Daerah), as further elaborated in regional regulations (peraturan daerah) and head of regional government regulations (peraturan kepala daerah) specific to each jurisdiction.

Accordingly, the initial step in the data collection process involves identifying statutory regulations that directly relate to the issues under discussion. These legal materials are then analyzed and used as references in evaluating the existing regulatory framework, with the aim of identifying potential legal reforms or regulatory additions needed to strengthen legal certainty.

RESULT AND DISCUSSION

The legal relationship between commercial parking lot operators and parking users arises when both parties are subject to corresponding rights and obligations. This mutual exchange establishes a reciprocal arrangement in which both the operator and the user are bound by a shared responsibility. In this context, should either party commit a breach—such as users exiting without payment or operators neglecting their duty to provide adequate security within the parking premises the conduct may be classified as a form of nonperformance (wanprestasi).

Referring to Article 1338 of the Indonesian Civil Code (Kitab UndangUndang Hukum Perdata), it is stated that: “All agreements made in accordance with the law shall serve as binding law for the parties involved. Such agreements may not be revoked except by mutual consent of the parties, or for reasons permitted by law. Agreements must be executed in good faith” (Paendong & Taunaumang, 2020).

This principle underlines the binding force of agreements and the obligation of each party to fulfill their contractual duties in good faith. Therefore, any failure to perform these obligations whether by the parking user or the operator may result in legal consequences based on the doctrine of wanprestasi under Indonesian civil law.

Considering the positions that emerge within the legal issue examined in this research, the parking operator may be identified as a service provider, while the parking user assumes the role of a consumer. Therefore, it is appropriate to begin with a definition of the term “consumer.” In general terms, a consumer is an individual who utilizes a product or service. In this case, the consumer is someone who makes use of a service.

The core interest of the consumer in a legal service relationship lies in the fulfillment of satisfaction through adequate and appropriate service delivery, in accordance with what has been promised. However, in practice, there is often a significant imbalance of power between the service provider and the consumer. Consumers frequently find themselves in a legally, socially, and economically vulnerable position, making them susceptible to exploitation or abuse by service providers who hold a more dominant position.

In response to this disparity, legal instruments have emerged with the explicit aim of protecting and empowering consumers. Legal protection for consumers is not merely a regulatory construct—it constitutes a constitutional right of citizens, and accordingly, it imposes an obligation upon the state to ensure its fulfillment. This is particularly essential in the context of services, where consumers must be assured access to lawful, fair, and nonharmful service experiences (Kusumadewi & Sharon, 2022).

The concept of consumer protection as stipulated in Article 3 of Law No. 8 of 1999 on Consumer Protection reflects a broader vision of fostering a strong civil society (masyarakat madani) as a foundation for achieving equitable justice and prosperity. One of the fundamental rights recognized by this law is the consumer's right to safety and comfort (the right to be safe) in relation to the goods and services consumed—in this context, the services provided by parking operators.

When this right is violated by the operator, consumers are entitled to seek legal recourse against business actors, either through civil or criminal proceedings, under the provisions of the Consumer Protection Law (Hukum et al., 2019b). In cases where a vehicle is lost or damaged within a commercial parking area, the operator may be held civilly liable under two distinct legal pathways.

First, liability may be pursued under the doctrine of nonperformance (wanprestasi), as provided for in Article 1243 of the Indonesian Civil Code (KUH Perdata), if the operator is proven to have failed in fulfilling their contractual obligations. Second, even in the absence of a written agreement, legal responsibility may also arise under the tort principle of unlawful act (perbuatan melawan hukum), as outlined in Article 1365 of the Civil Code, if the operator's negligence results in harm to the user.

Additionally, further legal grounds are found within Law No. 8 of 1999, particularly Article 4(c), which affirms the consumer’s right to security in using a service, and Article 19, which imposes an obligation on business actors to provide compensation in the event of loss or damage suffered by consumers due to negligence or noncompliance in service delivery.

In implementing such mechanisms, numerous challenges arise—one of the most significant being the difficulty in proving negligence on the part of parking attendants. It is undeniable that not all commercial areas are willing to equip their parking facilities with CCTV surveillance. In many cases, the absence of CCTV makes it difficult to determine whether the attendant was indeed negligent or if the damage or loss experienced by the user was purely the result of the user’s own error or that of another user, attributable to human error.

The proliferation of illegal parking spaces (parkir liar) poses a significant challenge in addressing accountability within commercial areas. It is not uncommon for certain commercial establishments to intentionally provide free parking, as their management may choose not to generate profit from parking facilities and, at the same time, avoid potential liability in the event of consumer losses. Nevertheless, unauthorized individuals frequently take advantage of these unregulated spaces by turning them into illicit parking operations. This practice, often referred to in local parlance as premanisme, has adverse effects on the economy, traffic flow, and the overall comfort of road users (Ababil et al., n.d.).

One of the root causes enabling this form of dereliction in parking management lies in the inadequate oversight and regulatory framework imposed by local governments. In many cases, local authorities tend to focus predominantly on the fiscal dimension—particularly on

efforts to increase locally generated revenue (Pendapatan Asli Daerah or PAD) through the parking sector. Unfortunately, this revenueoriented approach is not supported by comprehensive policies addressing the quality of service, professional standards in parking management, or the legal boundaries of operator responsibility toward service users.

From a juridical standpoint, the authority to regulate and oversee parking systems is vested in local governments through the issuance of regional regulations (Peraturan Daerah, or Perda). However, in practice, most of these regulations focus solely on administrative aspects—such as tariffs, location designations, operating hours, and business licensing procedures. They largely fail to address more substantive concerns, such as minimum service standards, consumers' right to safety, or the imposition of legal sanctions in cases of operator negligence. This regulatory gap creates an opportunity for parking service providers to evade responsibility when users suffer loss or damage.

Beyond the weaknesses in regulatory substance, another critical issue lies in the absence of systematic monitoring and performance evaluation mechanisms—particularly for privately managed parking operations. In many instances, local governments limit their role to issuing permits or entering into cooperation agreements, without establishing effective supervisory bodies to enforce operator accountability on the ground. The lack of oversight enables exploitative practices, such as charging parking fees without guaranteeing security, the absence of supervision over parking attendants, and the imposition of unilateral disclaimers that disadvantage consumers without a valid legal basis.

This situation is further exacerbated by poor interagency coordination, particularly among transportation departments, licensing authorities, and local law enforcement. When members of the public suffer loss or harm due to a parking operator's negligence, they often do not know which institution to report to. As a result, many consumers end up without legal protection, given the absence of a clear, effective, and consumeroriented dispute resolution mechanism

From this situation, it becomes evident that the state, particularly the local government, has yet to optimally assert its role in establishing a fair, firm, and communityoriented regulatory and supervisory framework. This institutional absence has created a legal vacuum in the management of commercial parking services, which in turn opens space for violations of consumer rights and erodes public trust in the governance of urban commercial services.

To build an orderly and highquality parking service system, active collaboration is required between the Department of Transportation, onsite parking attendants, and the public as service users. Structurally, the Parking Division under the Department of Transportation plays a central role in optimizing parking operations, including the management of parking fees within its respective jurisdiction. Institutionally, the coordination structure, ranging from Division Heads, Section Heads, Regional Coordinators (Korwil), to field officers such as Fee Collectors, should not serve as a barrier to addressing problems that emerge on the ground.

In terms of implementation, the actors most frequently interacting with parking attendants are the Regional Coordinators and Fee Collectors. Appointed via an official Assignment Letter from the Head of the Transportation Department, Regional Coordinators are obligated to submit reports on public parking management to the Head of Department through the Division and Section Heads. However, field observations reveal that these higherlevel structural officials rarely, if ever, conduct direct monitoring. Their absence in field supervision reflects a significant weakness in structural oversight, despite the fact that such supervisory responsibilities are inherently attached to their official positions.

The duty of oversight, which should be active and comprehensive, is thus disproportionately borne by the lowest tier—Regional Coordinators and Fee Collectors—who are constrained by limited human resources. In practice, they are expected to supervise

hundreds of parking attendants spread across various points, a task that is impractical without sufficient manpower and legal instruments (Anwar et al., 2023).

Furthermore, although efforts have been made to involve representatives of parking attendants within Working Groups (Pokja) alongside Regional Coordinators acting as local verifiers, the effectiveness of such structures remains limited. This is largely due to the presence of numerous field actors operating informally, colloquially referred to as "rogue operators," who function outside any official regulatory framework. Their existence not only hampers enforcement efforts but also undermines the legitimacy of officially managed parking systems.

In a legal service relationship, consumer interest primarily lies in the fulfillment of satisfactory service, one that is fair and aligned with the promised standards. However, in practice, there often exists an imbalance of power between service providers and consumers. Consumers typically occupy a legally, socially, and economically disadvantaged position, rendering them vulnerable to abuse or exploitation by more dominant providers. Therefore, strong legal instruments are essential to both protect and empower consumers. Legal protection of consumers is a constitutional right of citizens, which the state is obligated to uphold, particularly in ensuring that services provided are lawful, decent, and nonexploitative (Kusumadewi & Sharon, 2022).

CONCLUSON

The conclusion of this issue highlights the continuing inadequacy in the legal effectiveness of regulations that generally govern the responsibilities of parking operators, particularly in commercial areas. The absence of clear criteria delineating which zones are mandated to implement commercial parking systems creates uncertainty in practical application. Furthermore, the varying enforcement of local regulations across different regions contributes to inconsistencies in parking tariff policies and compensation mechanisms in the event of operator negligence that causes consumer loss.

The lack of assertiveness among private entities or business owners in confronting unlawful practices, such as extortion or "premanism" on their premises, further complicates the issue. Therefore, these parties require institutional support and regulatory guidance to take proactive and bold measures in mitigating, or even eliminating, such illicit activities.

Enhanced collaboration between local governments and private sector stakeholders in managing parking retribution systems both public and private is essential in ensuring legal certainty and consumer protection. A critical step toward this goal involves the elimination of disclaimers such as "We are not responsible for any loss or damage," which have long served as a shield for parking operators. Such disclaimers should be explicitly prohibited and regulated under local ordinances or national legislation to strengthen consumer legal standing in commercial parking environments.

Moreover, there is a need for technical requirements to be established for commercial parking operators, including mandatory certification or formal declarations verifying that the designated area meets the standards and capacity required to operate a paid parking system in a professional and accountable manner.

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