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Legal Validity of Exoneration Clauses and Parking Operator Liability in Commercial Parking Services

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A B S T R A C T

This study aims to analyze the legal validity of exoneration clauses in parking services, to examine the basis of business actor liability regarding vehicle loss or damage, and to assess the enforcement of consumer rights within commercial parking management. Employing a normative juridical method with statutory and conceptual approaches, the research evaluates the practices of parking management in commercial areas of Surabaya City against national legislation and regional legal standards. The findings indicate that the unilateral inclusion of exoneration clauses explicitly contradicts Law Number 8 of 1999 concerning Consumer Protection and Surabaya City Regional Regulation Number 3 of 2018. Such clauses fail to meet the objective requirements of a valid agreement, rendering them null and void by law.

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INTRODUCTION

The increasing number of motor vehicles in Indonesia has contributed significantly to the growing demand for parking facilities. As urban development continues to expand, parking services have become an essential part of transportation infrastructure that supports public mobility and economic activities. In major cities such as Surabaya, parking facilities are no longer merely complementary services but have become a necessity to accommodate the high volume of vehicles operating in public spaces. Consequently, the provision of parking services requires not only adequate facilities but also legal certainty regarding the rights and obligations of both parking operators and consumers.

Parking services generally create a legal relationship between vehicle owners and parking operators. Consumers entrust their vehicles to parking providers with the expectation that their property will be maintained safely during the parking period. In return, consumers pay parking fees determined by the service provider. This relationship reflects the existence of reciprocal rights and obligations that arise from the use of parking services. Therefore, the security and protection of parked vehicles constitute an important aspect of consumer rights that should be guaranteed by parking operators.

The importance of consumer protection in parking services is also reflected in Indonesian legislation. Article 1 of Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments defines parking services as the provision of parking spaces outside public roads and services related to placing vehicles in designated parking areas, including motor vehicle storage facilities. In addition, various regional governments have enacted regulations governing parking management in order to improve service quality, maintain public order, and ensure the security of parked vehicles. In Surabaya, these objectives are regulated through Regional Regulation Number 3 of 2018 concerning Parking Management.

Despite the existence of legal regulations governing parking services, disputes between consumers and parking operators continue to occur in practice. One of the most common issues concerns the use of exoneration clauses by parking operators. Exoneration clauses are provisions intended to limit or exclude the liability of business actors for losses suffered by consumers. Such clauses are frequently displayed on parking tickets, information boards, or other notices within parking areas. Through these clauses, parking operators attempt to transfer responsibility for vehicle damage or loss to consumers.

The use of exoneration clauses can be found in the parking facility operated by PT Berkat Subuh Transpor (Best Parking) at Jokopi Dinoyo Surabaya. The parking operator displays a notice stating that all risks related to vehicle damage and the goods contained therein are the responsibility of the vehicle owner and that no compensation will be provided by the parking service provider. This provision effectively excludes the liability of the parking operator for losses that may occur within the parking area.

The inclusion of such clauses raises important legal issues regarding consumer protection. Under Article 18 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, business actors are prohibited from including standard clauses that transfer their legal responsibilities to consumers. Furthermore, Article 14 letter d and letter f of Surabaya Regional Regulation Number 3 of 2018 requires parking operators to maintain security within parking areas and provide compensation for vehicle loss or damage in accordance with applicable laws and regulations. These provisions indicate that parking operators have legal obligations that cannot simply be eliminated through unilateral contractual terms.

Several previous studies have discussed the legality of exoneration clauses and the liability of parking operators. Sitorus examined the liability of parking operators arising from exoneration clauses contained in parking tickets and concluded that such clauses cannot eliminate the operator's legal responsibility. Nirwandani analyzed exoneration clauses in parking services from the perspective of consumer protection law and Islamic law, while Afriyandi focused on legal protection for parking service users who experienced vehicle loss. These studies have contributed to the development of legal discourse concerning consumer protection in parking services.

Although previous studies have contributed significantly to discussions concerning consumer protection and parking operator liability, most of them primarily examine exoneration clauses from the perspective of consumer protection law. Limited attention has been given to the interaction between national consumer protection legislation and regional regulations governing parking management in determining the legal consequences of such clauses. Furthermore, relatively little discussion has focused on the characterization of parking services as a bailment relationship and the implications of that characterization for determining operator liability in cases involving vehicle damage. These issues remain important because they directly affect the legal basis upon which consumers may seek protection and compensation when losses occur within parking facilities.

The present study differs from previous research because it examines parking operator liability from a broader legal perspective. Earlier studies have mainly focused on whether exoneration clauses violate consumer protection law and whether consumers are entitled to compensation when losses occur. Although those studies provide useful findings, they do not fully explain the legal relationship that arises between consumers and parking operators. This study therefore examines exoneration clauses not only through consumer protection law but also through the concept of bailment and the obligations imposed upon parking operators by regional parking regulations. By combining these perspectives, this research seeks to provide a more complete explanation of the legal basis of parking operator liability in cases involving vehicle damage or loss.

Building upon this integrated framework, the present study addresses the legal vulnerability experienced by consumers at the Jokopi Dinoyo Surabaya parking facility, where the parking operator displays an exoneration clause seeking to exclude liability for vehicle damage and losses occurring within the parking area. The analysis examines the legal validity of such clauses by evaluating their conformity with Law Number 8 of 1999 concerning Consumer Protection and Surabaya City Regional Regulation Number 3 of 2018 concerning Parking Management. In addition, the study investigates the legal basis of parking operator liability through the concept of bailment and the principles of contractual and tort liability recognized under Indonesian law. Through this approach, the study aims not only to determine whether the exoneration clause possesses binding legal force, but also to clarify the extent of responsibility that remains attached to parking operators when consumers suffer losses while utilizing commercial parking services.

THEORETICAL REVIEW

Consumer Protection in Parking Services

Consumer protection plays an important role in regulating the relationship between consumers and business actors in commercial transactions. Under Law Number 8 of 1999 concerning Consumer Protection, consumers are entitled to legal certainty, security, comfort, and compensation when goods or services received do not conform to the standards promised by business actors. The existence of consumer protection law is intended to address the imbalance of bargaining power that frequently exists between consumers and service providers, particularly where contractual terms are prepared unilaterally and accepted without meaningful negotiation.

Within parking services, vehicle owners occupy the position of consumers because they utilize services provided by parking operators for personal purposes, while parking operators act as business actors that derive economic benefits from such activities. Consequently, the legal relationship established through parking services falls within the scope of consumer protection law. This legal framework becomes particularly relevant when consumers suffer losses arising from vehicle damage or loss within parking facilities. In such circumstances, consumer protection principles serve as an important basis for determining the rights of consumers and the corresponding obligations of parking operators.

Standard Clauses and Exoneration Clauses

In modern commercial practice, standard agreements are commonly used because they facilitate efficiency in transactions involving a large number of consumers. These agreements are generally prepared in advance by business actors and applied uniformly without individual negotiation. Although standard clauses may simplify commercial transactions, their use often creates an imbalance of bargaining power because consumers are required to accept contractual terms that they have little opportunity to influence.

One form of standard clause frequently encountered in commercial transactions is the exoneration clause. An exoneration clause is a contractual provision intended to limit, reduce, or exclude the liability of a business actor for losses suffered by consumers. Such clauses are often justified on the basis of contractual freedom; however, the principle of freedom of contract is not absolute and must operate within the limits established by legislation and public policy. Accordingly, Article 18 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection prohibits business actors from including clauses that transfer their legal responsibilities to consumers. This prohibition reflects the broader objective of consumer protection law to prevent unfair contractual practices and ensure accountability in commercial transactions.

The Concept of Bailment in Commercial Parking Services

The legal characterization of parking services has long been debated within Indonesian legal practice. One perspective regards parking services merely as the provision of parking space, whereas another considers them a legal relationship involving the custody of property. The latter view has gained stronger acceptance because consumers do not simply occupy a physical location but entrust their vehicles to the supervision of parking operators. Consequently, the legal relationship established through parking services extends beyond the temporary use of land and encompasses obligations relating to the care and protection of entrusted property.

Under Article 1694 of the Indonesian Civil Code, a bailment agreement arises when one party receives property belonging to another party and undertakes to keep and return it in its original condition. Although Indonesian civil law does not expressly employ the term bailment, the legal consequences arising from a bailment agreement are substantially similar to the bailment doctrine recognized in comparative legal literature. The relevance of this concept to parking services has been reinforced through Supreme Court Decision Number 3416/Pdt/1985, which recognized that parking operators bear responsibilities extending beyond the mere provision of parking space. Therefore, the relationship between consumers and parking operators must be understood as a legal relationship that creates obligations concerning security, care, and accountability for the condition of entrusted vehicles.

Business Actor Liability in Consumer Transactions

Liability constitutes a legal consequence arising from the failure to fulfill obligations imposed by law or by agreement. Within consumer transactions, liability serves as a mechanism for ensuring that business actors remain accountable for losses suffered by consumers. Under Indonesian civil law, liability may arise from breach of contract or from unlawful acts. Breach of contract occurs when a party fails to perform obligations arising from a legal relationship, while liability based on unlawful acts arises when a person or legal entity violates obligations imposed by law and causes losses to another party.

In the context of parking services, these principles provide the legal foundation for assessing the responsibility of parking operators when consumers suffer losses due to vehicle damage or loss. Accordingly, the liability of parking operators must be evaluated not only from the perspective of contractual obligations arising from the parking relationship but also from the perspective of statutory duties imposed by consumer protection legislation and regulations governing parking management.

METHODOLOGY

This study employed a normative legal research method, which essentially focuses on the systematic analysis of legal norms, principles, and doctrines to address the identified legal issues. Because the core objective was to evaluate the validity of contractual clauses and the extent of operator liability, the research relied on literary analysis rather than empirical field data collection. To achieve a comprehensive understanding, this research adopted two primary approaches: the statute approach and the conceptual approach. The statute approach was utilized to examine the prevailing legislative frameworks and regulations governing consumer protection and parking management, while the conceptual approach was applied to analyze legal doctrines and theoretical views evolving within civil law, particularly concerning standard clauses, exoneration clauses, and the concept of bailment in commercial parking services.

The research utilized secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials included the Indonesian Civil Code, Law Number 8 of 1999 concerning Consumer Protection, Law Number 22 of 2009 concerning Traffic and Road Transportation, Government Regulation Number 58 of 2001 concerning Consumer Protection Development and Supervision, and Surabaya City Regional Regulation Number 3 of 2018 concerning Parking Management. Furthermore, Supreme Court Decision Number 3416/Pdt/1985 was incorporated as an important jurisprudential basis. Secondary legal materials comprised academic literature, scholarly books, and legal journals relevant to the research topic, while tertiary materials, such as legal dictionaries and legal encyclopedias, were used to provide further conceptual clarification.

The data collection procedure was conducted exclusively through comprehensive library research. This process involved identifying, studying, categorizing, and documenting relevant legal texts and literature pertaining to the research object. Subsequently, the collected materials were analyzed using a descriptive-analytical method. This qualitative analysis was used to examine the applicable legal framework and assess the legal issues arising from the implementation of exoneration clauses in parking services. The analysis was ultimately directed toward assessing the validity of exoneration clauses and determining the liability of parking operators under Indonesian law.

RESEARCH RESULTS AND DISCUSSION

Legal Validity of Exoneration Clauses in Parking Services

The findings of this study indicate that the parking facility at Jokopi Dinoyo Surabaya implements an exoneration clause through an information board prominently placed within the parking area. The clause states that all risks relating to vehicle damage and the goods contained therein are borne by the vehicle owner, and that no compensation shall be provided by the parking service operator. Through this provision, the parking operator attempts to unilaterally transfer responsibility for any loss or damage occurring within the parking facility to consumers. From a contractual perspective, this provision constitutes a standard clause because it is prepared unilaterally by the parking operator and applied uniformly to all consumers.

Consumers who utilize the parking service are not afforded the opportunity to negotiate or modify its contents. Instead, they are deemed to accept the clause simply by entering and using the parking facility. This situation reflects the unequal bargaining position between consumers and business actors, where consumers are placed in a legally vulnerable position with limited control over the contractual terms governing the service. While the parking operator may argue that the inclusion of an exoneration clause is justified under the principle of freedom of contract, such freedom is not absolute. Contractual provisions remain subject to statutory limitations and must not contravene imperative legal norms. In consumer transactions, contractual freedom must be exercised in a manner that respects consumer rights and complies with applicable legislation; it cannot be invoked to justify the evasion of responsibilities expressly imposed by law.

The legal validity of such a clause must be critically assessed against the imperative provisions of Law Number 8 of 1999 concerning Consumer Protection. Article 18 paragraph (1) expressly prohibits business actors from including standard clauses that transfer their legal responsibilities to consumers. This prohibition reflects the fundamental principle that business actors cannot evade statutory obligations through unilateral contractual arrangements. The incompatibility of the exoneration clause becomes even more apparent when examined in conjunction with the Surabaya City Regional Regulation Number 3 of 2018 concerning Parking Management. Article 14 requires parking operators to maintain security within parking facilities and to provide compensation for any loss or damage suffered by vehicle owners. These cumulative obligations demonstrate that parking operators are not merely passive providers of parking space, but bear an active legal duty to ensure the safety of vehicles entrusted to their supervision.

The invalidity of the exoneration clause may also be examined through the requirements for a valid agreement under Article 1320 of the Indonesian Civil Code. While the clause may satisfy the subjective requirements relating to consent and legal capacity, it raises concerns regarding the objective requirement of a lawful cause. A contractual provision that transfers responsibilities expressly prohibited by consumer protection legislation and regional regulations cannot be regarded as having a lawful cause because its content conflicts with mandatory legal norms. Consequently, the clause fails to satisfy one of the essential requirements of a valid agreement and may therefore be declared null and void under Indonesian contract law.

Beyond the requirements of a valid agreement under Article 1320 of the Indonesian Civil Code, the legal status of the exoneration clause must also be assessed within the broader framework of mandatory legal norms governing consumer transactions. In principle, contractual freedom permits parties to determine the contents of their agreements; however, such freedom is not unlimited and must operate within the boundaries established by legislation. Consumer protection law functions as a mandatory legal framework designed to prevent business actors from imposing unfair contractual terms upon consumers. Consequently, any contractual provision that seeks to eliminate or reduce responsibilities expressly imposed by law cannot be justified solely on the basis of party autonomy or freedom of contract.

This position becomes particularly relevant in the context of parking services because the obligations of parking operators are not derived exclusively from contractual arrangements. Article 18 of Law Number 8 of 1999 prohibits business actors from transferring liability through standard clauses, while Surabaya City Regional Regulation Number 3 of 2018 expressly requires parking operators to maintain security and provide compensation for losses suffered by consumers. The existence of these statutory obligations demonstrates a clear legislative intention to ensure that consumers receive effective legal protection when utilizing parking facilities. Therefore, an exoneration clause that attempts to negate such obligations cannot produce legal consequences and may not be relied upon as a valid defense against consumer claims arising from vehicle damage or loss.

The parking operator may contend that the inclusion of an exoneration clause represents an exercise of the principle of freedom of contract, which allows parties to determine the contents of their agreements. However, modern contract law recognizes that contractual freedom is not absolute and must operate within the boundaries established by legislation and public policy. This limitation becomes particularly important in consumer transactions, where contractual terms are frequently drafted unilaterally by business actors and accepted by consumers without meaningful negotiation. Consequently, the principle of freedom of contract cannot be interpreted as granting unlimited authority to business actors to exclude liabilities that have been expressly imposed by law. In the context of parking services, contractual freedom must therefore be balanced against the objectives of consumer protection, namely fairness, legal certainty, and the prevention of abusive contractual practices.

Based on the foregoing analysis, the exoneration clause implemented at the Jokopi Dinoyo Surabaya parking facility cannot be regarded as legally valid. Because the clause directly conflicts with Article 18 paragraph (1) of the Consumer Protection Law as well as Article 14 of Regional Regulation Number 3 of 2018, it is fundamentally inconsistent with the legal obligations imposed upon parking operators. Accordingly, pursuant to Article 18 paragraph (3) of the Consumer Protection Law, the clause is null and void by operation of law and is deemed never to have existed. Consequently, the clause has no binding legal effect and cannot be relied upon by the parking operator to avoid responsibility for damage occurring to vehicles within the parking facility.

Liability of Parking Operators for Vehicle Damage

The determination of parking operator liability cannot be separated from the legal relationship established between consumers and parking service providers. When a consumer parks a vehicle in a designated parking facility and pays the required parking fee, a legal relationship arises between the parties. This relationship is not merely limited to the provision of physical parking space but also involves the transfer of custody over the vehicle to the parking operator for a certain period. Consequently, parking operators assume a duty to maintain the safety and security of vehicles placed within their supervision.

From the perspective of Indonesian civil law, such a relationship is closely associated with the concept of a bailment agreement as regulated under Article 1694 of the Indonesian Civil Code. The provision requires the receiving party to safeguard and subsequently return the entrusted property in its original condition. This legal characterization has been reinforced through Supreme Court Decision Number 3416/Pdt/1985, which recognized that parking services create responsibilities extending beyond the mere provision of parking space. Accordingly, consumers who utilize parking facilities do not simply rent a location to place their vehicles; they entrust their property to the parking operator, thereby creating obligations concerning care, security, and accountability.

The obligation of a parking operator to safeguard an entrusted vehicle is further reflected in Article 1706 of the Indonesian Civil Code, which requires the recipient of entrusted property to exercise the same degree of care as would be applied to his own property. This provision emphasizes that the duty of safekeeping is an essential element of a bailment relationship and cannot be disregarded merely because the parties utilize a standard agreement. Accordingly, where vehicle damage occurs due to inadequate supervision or insufficient security measures, the parking operator may be considered to have failed to perform the standard of care required under the law, thereby giving rise to legal liability for the resulting losses.

These obligations demonstrate that the legal consequences arising from parking services extend beyond the mere provision of parking space. The transfer of custody over a vehicle creates a legal expectation that the entrusted property will be returned in substantially the same condition as when it was received. For this reason, the relationship between consumers and parking operators cannot be equated with an ordinary lease of space, where responsibility is generally limited to providing access to a particular location. Instead, the placement of a vehicle within a managed parking facility gives rise to duties of supervision, security, and care that remain attached to the parking operator throughout the parking period. Consequently, consumers are entitled to expect that reasonable measures will be taken to prevent foreseeable risks capable of causing damage to the entrusted vehicle.

The significance of this legal characterization is reinforced by Supreme Court Decision Number 3416/Pdt/1985, which has become an important jurisprudential foundation in disputes concerning parking services in Indonesia. Through this decision, the Supreme Court recognized that parking operators bear responsibilities that exceed the simple provision of parking space. The decision reflects the view that consumers entrust their vehicles to parking operators for safekeeping and therefore create legal obligations relating to the protection of the entrusted property. Accordingly, where vehicle damage occurs within a parking facility, the operator cannot avoid liability merely by arguing that it only provides parking space. Liability must instead be evaluated based on the obligations arising from the bailment relationship and the standard of care required to protect consumers' property while it remains under the operator's supervision.

The legal responsibility of parking operators is also supported by the principle that rights and obligations arising from contractual relationships must be performed in good faith. Good faith requires each party to conduct its activities honestly, fairly, and with due regard for the legitimate interests of the other party. Within parking services, the principle of good faith obliges operators not only to provide parking facilities but also to take reasonable measures to protect vehicles entrusted to their supervision. The continued use of contractual provisions intended to exclude liability despite statutory prohibitions may therefore be regarded as inconsistent with the principle of good faith. Accordingly, the assessment of operator liability should not be limited solely to the literal wording of contractual clauses but should also consider whether the conduct of the operator reflects the standards of fairness and responsibility expected under Indonesian civil law.

Based on this legal relationship, the primary basis of liability arises from breach of contract arising from the bailment relationship. A parking operator that fails to maintain the safety of a vehicle entrusted to its supervision has failed to perform an obligation inherent in the parking arrangement. The occurrence of vehicle damage within the parking facility therefore indicates that the operator has not fulfilled the expected standard of performance associated with the custody of the vehicle. Under Indonesian civil law, such failure may give rise to an obligation to compensate consumers for losses resulting from the non-performance of contractual obligations. Consequently, the liability of the parking operator is principally founded upon the failure to fulfill obligations arising from the legal relationship established through the parking service.

In addition to contractual liability, the conduct of a parking operator may also give rise to liability based on an unlawful act. This situation arises when the operator continues to rely upon exoneration clauses that have been prohibited by consumer protection legislation or disregards obligations expressly imposed by statutory regulations. The inclusion of clauses intended to transfer liability to consumers despite clear legal prohibitions may therefore constitute an independent violation of legal norms. In this regard, liability based on unlawful acts serves as an additional legal basis that reinforces consumer protection when contractual remedies alone are insufficient to address the violation.

Accordingly, parking operators remain legally responsible for losses suffered by consumers as a result of vehicle damage occurring within parking facilities. Such responsibility arises primarily from the failure to fulfill obligations inherent in the bailment relationship and is further strengthened by statutory provisions governing consumer protection and parking management. Therefore, the existence of an exoneration clause does not eliminate the obligation of parking operators to provide compensation for losses suffered by consumers.

CONCLUSIONS AND RECOMMENDATIONS

This study concludes that the exoneration clause implemented by the parking operator at the Jokopi Dinoyo Surabaya parking facility is legally invalid. The clause transfers the risk of vehicle damage to consumers and therefore conflicts with Article 18 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection as well as Article 14 of Regional Regulation of Surabaya City Number 3 of 2018 concerning Parking Management. As a consequence, the clause is null and void by operation of law and cannot be relied upon by the parking operator to avoid liability for losses suffered by consumers.

This study further finds that the legal relationship established through parking services may be understood as a bailment relationship under Indonesian civil law. Such a relationship creates obligations concerning the custody, security, and return of the entrusted vehicle. Accordingly, the primary basis of liability arises from breach of contract when the parking operator fails to fulfill its obligations. Liability may also arise from unlawful acts when the operator applies exoneration clauses prohibited by consumer protection legislation or fails to comply with obligations imposed by statutory regulations. Therefore, the existence of an invalid exoneration clause does not eliminate the obligation of parking operators to compensate consumers for losses resulting from vehicle damage occurring within parking facilities.

Based on these findings, parking operators should review and revise their standard clauses to ensure compliance with consumer protection legislation and parking management regulations. In addition, local authorities should strengthen supervision of parking service providers and promote greater legal awareness regarding consumer rights in parking transactions to support legal certainty and accountability in the provision of parking services. Consumer education programs should also be strengthened to improve public awareness regarding legal remedies available when losses occur within parking facilities.

ADVANCED RESEARCH

This study is limited to a normative legal analysis of the validity of exoneration clauses and the liability of parking operators within the context of the Jokopi Dinoyo Surabaya parking facility. The research primarily focuses on statutory regulations, legal doctrines, and relevant jurisprudence without incorporating empirical data regarding consumer experiences or the practical implementation of parking management policies. Consequently, this study does not comprehensively examine how exoneration clauses are applied in various parking facilities across different regions. Future research may adopt empirical or socio-legal approaches to evaluate the effectiveness of consumer protection mechanisms in parking services and to assess the practical enforcement of legal responsibilities imposed upon parking operators.

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