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Regulations Without Protection: State Failure in Safeguarding Passenger Rights

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Original Article

Abstract

Flight delays remain a persistent issue in Indonesia's air transportation sector, directly impacting passengers through financial and non-material losses. This study aims to (1) analyze the legal responsibilities of air transportation business entities for flight delays under Law Number 1 of 2009, (2) evaluate the effectiveness of the compensation claim settlement mechanism in accordance with Law Number 8 of 1999 on Consumer Protection, and (3) uncover structural inequalities in the legal relationship between airlines and passengers. Employing a normative legal approach, the study draws upon both primary and secondary legal sources. The findings reveal that, despite an adequate regulatory framework, the enforcement of legal responsibilities and the functionality of claims mechanisms remain weak. A significant imbalance in bargaining power and access to justice persists between passengers and airlines, further exacerbated by ineffective state oversight. This study concludes that policy reform and a strengthened state supervisory role are essential to ensure legal certainty and the effective protection of passenger rights.

Keywords: *Compensation, Flight Delay, Legal Responsibility, Aviation Law*

Abstrak

Keterlambatan penerbangan (flight delay) merupakan problematika klasik dalam industri transportasi udara Indonesia yang berimplikasi langsung pada kerugian penumpang. Penelitian ini bertujuan untuk menganalisis tanggung jawab badan usaha angkutan udara atas keterlambatan penerbangan berdasarkan Undang-Undang Nomor 1 Tahun 2009, mengevaluasi efektivitas mekanisme penyelesaian klaim kompensasi menurut UU Nomor 8 Tahun 1999, serta mengungkap ketimpangan struktural dalam relasi hukum antara maskapai dan penumpang. Penelitian menggunakan pendekatan yuridis normatif dengan analisis bahan hukum primer dan sekunder. Hasil penelitian menunjukkan bahwa meskipun kerangka regulasi telah memadai, implementasi tanggung jawab hukum maskapai dan mekanisme klaim masih lemah. Terdapat ketimpangan posisi tawar dan akses keadilan antara penumpang dan maskapai, diperparah oleh lemahnya pengawasan negara. Kesimpulannya, perlu reformasi kebijakan dan penguatan fungsi pengawasan negara guna menjamin kepastian hukum dan perlindungan hak penumpang secara efektif.

Kata kunci: *Ganti Rugi, Penundaan, Tanggung Jawab Hukum, Penerbangan*

1. INTRODUCTION

Air transportation plays a vital role in facilitating human mobility and the distribution of goods, particularly in an archipelagic country like Indonesia, which is characterized by complex geography. Its advantages—namely speed, time efficiency, and cross-regional connectivity—have made it the preferred mode of transport for both the public and economic actors. The national aviation sector has witnessed significant growth, driven by increasing market demand and liberalization policies that have fostered competition among airlines. However, amid this expansion, a persistent issue continues to undermine service quality and consumer trust: flight delays. These delays not only result in material and immaterial losses for passengers but also reflect systemic weaknesses in governance and legal protection within the aviation industry.

Flight delays, whether caused by technical issues, weather conditions, operational inefficiencies, or managerial shortcomings, have become a central concern and a frequent subject of public complaint. Although the government has introduced various regulations, such as Law No. 1 of 2009 on Aviation and Ministerial Regulation No. 89 of 2015 on Delay Management, their implementation remains suboptimal. Contributing factors include inadequate enforcement mechanisms, poor transparency by airlines, and an imbalance of power between consumers and service providers. According to the principle of presumed liability in transportation law, airline operators are legally accountable for delays unless they can demonstrate valid exceptions such as force majeure or uncontrollable navigational disruptions.¹ This issue not only implicates consumer protection but also reflects on the state's integrity in safeguarding the rights of air transport users. The lack of accessible, accurate information on delay causes and inconsistent compensation policies have generated legal uncertainty and undermined public confidence in the air transport system. In light of ongoing efforts to enhance national logistics and connectivity, these challenges highlight the need for a comprehensive review of airline accountability and the effectiveness of current regulatory frameworks. The state must move beyond passive regulation and adopt a proactive supervisory role to ensure fairness, transparency, and accountability.

The problem of flight delays has become a longstanding concern in the aviation industry from both operational and legal standpoints. Several previous studies have explored the legal responsibility of airlines and the scope of consumer protection in this context. Damayanthi and Parsa examined airline accountability for delays, focusing on compensation mechanisms such as meals, beverages, and financial restitution,

¹ Antony Duff, "Strict Liability, Legal Presumptions, and the Presumption of Innocence," in *Appraising Strict Liability*, ed. Andrew Simester (Oxford: Oxford Academic, 2005), 125–150, <https://doi.org/10.1093/acprof:oso/9780199278510.003.0006%0A>.

underscoring the importance of consumer rights.² Other researchers have taken a normative approach, analyzing the legal force of Law No. 1 of 2009 and Ministerial Regulation No. 89 of 2015 as the basis for airline liability. Their findings suggest that compensation is frequently inadequate, and the claims process is hindered by bureaucratic inefficiencies and limited government oversight.³ Rizqya and Rismawati emphasized the crucial role of timely and accurate delay information, highlighting the work of consumer protection institutions such as the Aceh Consumer Protection Foundation (YaPKa) in advocating for transparency.⁴ Studies by Dewi and Legiman et al. further revealed that while passengers are legally entitled to claim losses from delays, airlines often evade responsibility, especially in cases attributed to weather or technical issues. These scholars critique the inconsistent application of liability rules, which places consumers at a structural disadvantage.⁵

On the other hand, studies by Dewi et al. and Sidik broaden the scope of discourse by examining international regulatory frameworks and insurance obligations in cases of accidents or major disruptions in civil aviation. While these studies do not directly address flight delays, they underscore the critical importance of establishing a robust consumer protection system and harmonizing national aviation laws with international air law.⁶

Although numerous previous studies have explored airline responsibilities and legal remedies available to passengers affected by flight delays, the majority have remained focused on normative legal aspects and compensation schemes. There is a notable lack of research that integrates normative legal analysis with empirical

² Ni Wayan Melda Ika Damayanthi and I Wayan Parsa, "Pelaksanaan Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Penerbangan," *Kertha Semaya: Journal Ilmu Hukum* 3, no. 1 (2015): 1–13, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/42180>.

³ Muhammad Pradika Setia Agafta and Adianto Adianto, "Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Penerbangan," *Mimbar Keadilan* 10, no. 2 (2017): 146–59, <https://doi.org/10.30996/mk.v0i0.2191>; Diva Danica and I Made Dedy Priyanto, "Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Transit Dalam Penerbangan Lanjutan," *Kertha Semaya: Journal Ilmu Hukum* 3, no. 1 (2015): 1–15, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/view/39508/23961>.

⁴ Cut Israviana Rizqya and Rismawati Rismawati, "Tanggung Jawab Maskapai Penerbangan Terhadap Penumpang Yang Dirugikan Karena Keterlambatan Penerbangan: Suatu Penelitian Pada PT. Lion Grup Cabang Banda Aceh," *Jurnal Ilmiah Mahasiswa: Bidang Hukum Keperdataan* 6, no. 3 (2022): 270–78, <https://jim.usk.ac.id/perdata/article/view/22870>.

⁵ Ni Made Trisna Dewi, "Perlindungan Hukum Bagi Penumpang Pesawat Udara Jika Terjadi Keterlambatan Jadwal Penerbangan Menurut Undang - Undang Nomor 1 Tahun 2009 Tentang Penerbangan," *Kerta Wicaksana: Sarana Komunikasi Dosen Dan Mahasiswa* 15, no. 2 (2021): 122–29, <https://ejournal.warmadewa.ac.id/index.php/kertawicaksana/article/view/2750>; Febriana Samsi Legiman, Luh Putu Sudini, and I Nyoman Sutarna, "Tanggung Jawab Keperdataan Dalam Pengangkutan Udara Atas Keterlambatan Jadwal Penerbangan," *Jurnal Preferensi Hukum* 1, no. 2 (2020): 150–53, <http://doi.org/10.22225/jph.v1i2.2383.150-153>.

⁶ Anggraeni Rosliana Dewi, Potler Gultom, and Sudarto Sudarto, "Hukum Pemberian Ganti Kerugian Terhadap Penumpang Dalam Kecelakaan Pesawat Udara Sipil Indonesia Dan Kewajiban Asuransi Oleh Maskapai Penerbangan Berdasarkan Undang-Undang No.1 Tahun 2009 Tentang Penerbang," *Iblam Law Review* 4, no. 3 (2024): 80–90, <https://doi.org/10.52249/ilr.v4i3.499>; Hasan Sidik, "Tanggung Jawab Pengangkut Udara Atas Kelambatan," *Intermestic: Journal of International Studies* 1, no. 1 (2016): 62–76, <https://doi.org/10.24198/intermestic.v1n1.5>.

evaluations of regulatory effectiveness, particularly in addressing recurrent delays stemming from structural issues such as limited aircraft availability, inadequate airport infrastructure, and weak governmental oversight.

Moreover, earlier research predominantly centers on airline obligations and the individual rights of consumers, often overlooking the critical role of the state as both regulator and supervisor within the air transportation ecosystem. In reality, the state must assume a proactive role—not only in ensuring compliance and accountability—but also in preventing systemic delays and safeguarding procedural justice in the passenger compensation process.

The originality of this study lies in its analytical approach to the imbalance of legal standing between air transport business entities and consumers, particularly in the context of compensation claims. This analysis highlights the economic and procedural advantages enjoyed by airlines, which have not been thoroughly examined in prior studies, especially in light of recent regulatory developments such as Ministerial Regulation No. 30 of 2021 on Minimum Passenger Service Standards.

Furthermore, this research draws a direct connection between recurrent flight delays and the structural complexity of the national aviation service system. It critically assesses the unintended consequences of market liberalization in the air transport sector, which—while promoting competitive tariffs—has often come at the expense of punctuality and service quality. This dimension remains underexplored in existing scholarly literature. In response to these gaps, this study sets out the following strategic objectives:

- 1) To analyze the legal responsibility of air transportation business entities for passenger losses resulting from flight delays, based on Law No. 1 of 2009 on Aviation and its implementing regulations, specifically Ministerial Regulations No. 89 of 2015 and No. 30 of 2021.
- 2) To identify and evaluate the effectiveness of compensation claim mechanisms available to passengers affected by flight delays—whether through direct negotiation, consumer protection institutions, or litigation—based on Law No. 8 of 1999 on Consumer Protection.
- 3) To uncover structural inequalities in the legal relationship between air transport providers and consumers and to examine how the state should exercise its regulatory and supervisory authority to ensure legal certainty and justice for passengers as injured parties.

2. RESEARCH METHODOLOGY

This study adopts a normative juridical approach, a legal research methodology that focuses on the analysis of legal norms contained in statutory regulations and established legal doctrines. The primary objective of this approach is to examine the legal

responsibility of air transportation business entities for passenger losses resulting from flight delays and to assess the effectiveness of consumer protection within Indonesia's positive legal system. The study draws on primary, secondary, and tertiary legal sources. Primary legal materials include Law No. 1 of 2009 on Aviation, Law No. 8 of 1999 on Consumer Protection, Ministerial Regulation No. 89 of 2015 on Delay Management, and Ministerial Regulation No. 30 of 2021 on Minimum Service Standards. Relevant international legal instruments, such as the 1944 Chicago Convention and applicable International Civil Aviation Organization (ICAO) regulations, are also referenced. Secondary legal materials consist of legal commentaries, scholarly journals, and previous academic studies. Tertiary materials, such as legal dictionaries and encyclopedias, serve as supplementary sources. Data collection was conducted through systematic library research. The analysis employed a descriptive-analytical method combined with deductive reasoning to interpret general legal norms in the context of specific cases. Beyond merely cataloging legal provisions, this study critically evaluates the implementation of relevant laws and formulates normative recommendations aimed at strengthening consumer protection in the field of air transportation.

3. RESEARCH RESULT AND DISCUSSION

3.1. Legal Responsibility of Air Transportation Business Entities for Passenger Losses Arising from Flight Delays

This study analyzes the normative legal responsibility of air transportation business entities for losses incurred by passengers as a result of flight delays. The analysis is grounded in Law No. 1 of 2009 on Aviation and is further supported by Ministerial Regulation No. 89 of 2015 on Delay Management and Ministerial Regulation No. 30 of 2021 on Minimum Service Standards.

Airlines' liability for flight delays is explicitly outlined in Article 146 of Law No. 1 of 2009, which holds carriers responsible for passenger losses due to delays, except when such delays result from weather conditions or technical operational issues. Article 147(2) provides for compensation in the form of flight rerouting or alternative services, such as food, accommodation, or transport. Ministerial Regulation No. 89 of 2015 elaborates on the categories of delay and the corresponding compensation, while Ministerial Regulation No. 30 of 2021 defines the rights of passengers and the service obligations of carriers. Collectively, these instruments form the regulatory basis for consumer protection in the aviation sector.

The findings of this study indicate that although the regulatory framework for compensation exists, its practical implementation remains suboptimal. Airlines frequently invoke "force majeure" as a blanket justification, often without proportional substantiation. Passengers are generally unaware of their rights, and regulatory oversight by the state remains weak. Such practices conflict with the principle of presumption of

liability, which holds that compensation should be provided to passengers without requiring them to prove airline fault.

These findings corroborate earlier studies by Damayanthi & Parsa and Dewi, which highlight the discrepancy between regulatory mandates and actual airline practices.⁷ While Agafta & Adianto focus on compensation forms, this study contributes a more structural and systemic analysis by emphasizing the imbalance in bargaining power between passengers and airlines, as well as the dual contractual and civil nature of airline liability.⁸

The airline-passenger relationship is a reciprocal contractual engagement. Under the principle of freedom of contract (Article 1338 of the Indonesian Civil Code), the transportation agreement constitutes a binding legal obligation. A delay without valid justification constitutes a breach of contract. As such, airline liability may be examined under multiple legal doctrines: fault-based liability (Article 1365 of the Civil Code), presumption of liability, or even strict liability as stipulated in Law No. 8 of 1999 on Consumer Protection.

This legal responsibility is further reinforced by core principles in transportation law: accountability, responsibility, and liability. These principles underscore that airlines bear not only moral and administrative duties but also legal obligations to compensate passengers for actual or potential losses.⁹ Accordingly, the study affirms the following key conclusions:

- a) Airlines are legally responsible for delays under Law No. 1 of 2009, Ministerial Regulation No. 89/2015, and Ministerial Regulation No. 30/2021.
- b) The presumption of liability principle remains ineffectively enforced due to the airlines' failure to provide counter-evidence.
- c) Passengers face significant barriers in accessing accurate information and navigating the claims process.
- d) The state, as the regulatory authority, has not effectively fulfilled its supervisory role, allowing many airlines to evade compensation obligations.
- e) There is an urgent need to enhance the legal framework, both preventively and repressively, through consumer education and the imposition of stricter administrative sanctions on non-compliant airlines.

⁷ Damayanthi and Parsa, "Pelaksanaan Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Penerbangan"; Dewi, "Perlindungan Hukum Bagi Penumpang Pesawat Udara Jika Terjadi Keterlambatan Jadwal Penerbangan Menurut Undang - Undang Nomor 1 Tahun 2009 Tentang Penerbangan."

⁸ Agafta and Adianto, "Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Penerbangan."

⁹ Nurul Qalbi and Ahkam Jayadi, "Aspek Hukum Ganti Kerugian Keterlambatan Penerbangan (Flight Delay) Maskapai Penerbangan Komersial Indonesia," *Alaudin Law Development Journal* 2, no. 3 (2020): 302–15, <https://doi.org/10.24252/aldev.v2i3.14642>; Asmarsha Qathrinada and Pranoto Pranoto, "Kompensasi Sebagai Bentuk Tanggung Jawab Pihak Maskapai Penerbangan Dalam Keterlambatan Jadwal Penerbangan Komersial Di Indonesia," *Jurnal Privat Law* 7, no. 1 (2019): 124–29, <https://doi.org/10.20961/privat.v7i1.30140>.

In light of these findings, this study recommends reformulating the airline liability regime and reinforcing the supervisory functions of the state to promote justice and ensure effective consumer protection in the air transportation sector.

3.2. Effectiveness of the Compensation Claim Mechanism for Flight Delays

This section aims to identify and evaluate the effectiveness of the mechanisms available to passengers for settling compensation claims resulting from flight delays. These mechanisms include direct negotiation with airlines, dispute resolution through consumer protection institutions, and litigation. The analysis is conducted within the legal framework established by Law No. 8 of 1999 on Consumer Protection, Law No. 1 of 2009 on Aviation, and their implementing regulations.

The compensation claim process is regulated under Ministerial Regulation No. 89 of 2015 and Ministerial Regulation No. 30 of 2021. These rules entitle passengers affected by delays to various forms of compensation—ranging from meals and beverages to vouchers and monetary compensation up to IDR 300,000—depending on the length of the delay. To initiate a claim, passengers must present valid travel documents and complete a compensation form provided by authorized airline personnel. Claims may also be submitted online or via airline applications. However, in practice, several barriers persist, including inadequate dissemination of information by airlines, delays in compensation delivery, and a general lack of passenger awareness regarding their rights. These obstacles highlight the deficiency in both legal literacy and regulatory oversight by aviation authorities.

Although the compensation system is normatively established, the study finds that its practical effectiveness remains limited. Airlines frequently neglect their obligations, even for delays exceeding four hours. Delay announcements are often poorly communicated, and airline personnel frequently lack the authority or initiative to address passenger complaints effectively. Many passengers are unaware of their entitlement to compensation, resulting in underutilization of the available mechanisms.

These findings are consistent with previous research, which notes the frequent failure of airlines to honor compensation claims.¹⁰ This study extends the literature by demonstrating that alternative resolution channels, such as consumer dispute settlement bodies (Lembaga Perlindungan Konsumen or LPK) and the judiciary, also fall short due to unresponsive procedural mechanisms and high litigation costs. These outcomes contrast with the regulatory ideal, which purports to fully safeguard consumer rights.

¹⁰ Dewi, “Perlindungan Hukum Bagi Penumpang Pesawat Udara Jika Terjadi Keterlambatan Jadwal Penerbangan Menurut Undang - Undang Nomor 1 Tahun 2009 Tentang Penerbangan”; Legiman, Sudini, and Sutama, “Tanggung Jawab Keperdataan Dalam Pengangkutan Udara Atas Keterlambatan Jadwal Penerbangan”; Rizqya and Rismawati, “Tanggung Jawab Maskapai Penerbangan Terhadap Penumpang Yang Dirugikan Karena Keterlambatan Penerbangan: Suatu Penelitian Pada PT. Lion Grup Cabang Banda Aceh.”

From a legal standpoint, flight delays constitute a breach of contract or default on the part of the airline. Passengers, as the aggrieved party, are entitled to pursue compensation through negotiation, mediation, or litigation, as stipulated in Article 1365 of the Civil Code and Article 23 of Ministerial Regulation No. 77 of 2011. Nevertheless, the effectiveness of these avenues is limited by barriers to access and weak implementation mechanisms.

Moreover, enforcement of administrative and criminal sanctions under Law No. 1 of 2009—particularly Articles 350 and 422, which address violations of safety, security, and minimum service standards—remains inconsistent. Administrative sanctions such as license suspension or revocation are seldom applied, even when airlines repeatedly fail to meet service obligations.¹¹ This regulatory laxity further undermines consumer protection efforts.¹² The findings of this study support the following conclusions:

- a) Although legal norms governing passenger compensation for delays are well established, their implementation remains weak.
- b) Direct resolution efforts between passengers and airlines often fail due to the lack of empowered staff and the airlines' generally passive response.
- c) Consumer protection institutions (LPK) offer alternative mechanisms, but their effectiveness largely depends on the mutual willingness of parties to resolve disputes non-litigiously.
- d) While litigation remains an available path, procedural complexity and financial costs discourage individual passengers from pursuing claims, especially for relatively small losses.
- e) Administrative and criminal sanctions are not consistently enforced, allowing airlines to repeatedly violate passenger rights with minimal consequence.

Given these challenges, the study recommends a reform of the compensation claim system to enhance responsiveness and accountability. The state must strengthen regulatory oversight and rigorously enforce sanctions against non-compliant airlines. Equally important is the need for broader public education and awareness campaigns to ensure passengers understand and can effectively assert their legal rights in the event of flight delays.

¹¹ Nur Asyiah, *Hukum Administrasi Negara* (Yogyakarta: Deepublish, 2018); HR Ridwan, *Hukum Administrasi Negara*, 18th ed. (Jakarta: Rajawali Pers, 2018); Yuswalina Yuswalina, *Hukum Administrasi Negara* (Malang: Setara Press, 2019).

¹² Irene Patricia Margaretha and Amad Sudiro, "Evaluasi Tanggung Jawab Pelaku Usaha Terhadap Perlindungan Konsumen Dilihat Dari Perspektif Hukum Pembatalan Penerbangan," *Unes Law Review* 6, no. 2 (2023): 6039–50, <https://doi.org/10.31933/unesrev.v6i2.1441>.

3.3. Structural Inequality in the Legal Relationship Between Air Transportation Business Entities and Consumers: The Supervisory and Control Function of the State to Ensure Legal Certainty

This study aims to examine the structural inequality inherent in the legal relationship between air transportation business entities and aviation service consumers in Indonesia—particularly in the context of flight delays—and to assess how the state should fulfill its supervisory and regulatory functions to ensure fair and constitutionally grounded protection of consumer rights.

The analysis focuses on the normative legal framework outlined in Law No. 1 of 2009 concerning Aviation, Law No. 8 of 1999 concerning Consumer Protection, as well as implementing regulations such as Ministerial Regulation No. 89 of 2015 on Flight Delay Handling and Ministerial Regulation No. 30 of 2021 on Minimum Service Standards. The study also evaluates the practical application of the presumption of liability principle as it pertains to airline responsibility for passenger losses.

The findings indicate a structural imbalance in the legal relationship between airlines as commercial entities and passengers as consumers. This imbalance manifests primarily in two forms: procedural dominance and economic superiority on the part of airlines. In practice, flight delays are often accompanied by a lack of transparent information and limited access for passengers to claim their compensation rights. Despite the provisions of Articles 146 and 147 of Law No. 1 of 2009—which hold airlines liable for losses unless delays are proven to result from force majeure—airlines frequently invoke weather or technical issues as blanket justifications, often without transparent or verifiable evidence. This practice effectively evades legal accountability.

Another key dimension of inequality is the general lack of legal awareness among passengers and the inefficiency of existing claim resolution mechanisms. Many passengers are unaware that delays exceeding two hours entitle them to specific compensation under the categories defined in Ministerial Regulation No. 89 of 2015. Moreover, the procedural complexities, delays, and bureaucratic barriers inherent in the administrative claims process further weaken the consumers' bargaining position.

Legally, the relationship between carriers and passengers is a reciprocal contractual relationship governed by Article 1338 of the Indonesian Civil Code and the principle of freedom of contract. However, in reality, this relationship is far from equal. Airlines exercise significant control over procedures, access to information, and decisions related to delay management, whereas passengers occupy a passive role with limited ability to seek redress or challenge unfair practices.

In terms of legal liability, the principles applied in air transportation law include fault-based liability, presumption of liability, and strict (absolute) liability.¹³ Law No. 1 of 2009 adopts the presumption of liability principle for flight delay cases, meaning airlines are presumed liable unless they can provide sufficient evidence to the contrary.¹⁴ However, this presumption is often undermined in practice due to weak enforcement, minimal regulatory oversight, and the absence of robust evidentiary requirements for airlines invoking force majeure defenses.

These findings reinforce the need for the state to play a more proactive role in supervising and regulating the implementation of airline responsibilities. Strengthening institutional oversight, enforcing administrative sanctions, and promoting consumer legal literacy are essential to rectifying structural inequalities and ensuring legal certainty and justice for airline passengers.

Despite the formal adoption of the presumption of liability principle in aviation law, its practical implementation remains ineffective. Passengers are still burdened with the task of proving the airline's fault, even though, in theory, the burden of proof lies with the carrier. In practice, many airlines fail to assign competent complaint-handling officers, do not proactively provide claim forms, and neglect to adequately disseminate information regarding passenger rights. These systemic shortcomings constitute structural barriers to effective consumer protection.

The state, as the designated supervisory authority, has not fulfilled its regulatory mandate optimally. Although regulations such as Ministerial Regulation No. 30 of 2021 and No. 89 of 2015 are in place, enforcement remains weak. Delay reports are seldom verified independently, and administrative or criminal sanctions—as stipulated in Article 422 of the Aviation Law—are rarely applied consistently or effectively.

These findings are consistent with earlier research. Damayanthi and Parsa noted that compensation is often limited to minimum offerings, such as food or vouchers.¹⁵ Danica and Priyanto highlighted weaknesses in government supervision and called for regulatory reform, although they did not address structural inequality explicitly.¹⁶ Rizqya and Rismawati emphasized the lack of transparency in passenger information as a core issue¹⁷, while Dewi pointed out that weather and technical reasons are frequently used

¹³ Duff, "Strict Liability, Legal Presumptions, and the Presumption of Innocence"; Meinhard Lukas, "Fault Liability," in *Tort Law of the European Community*, Tort and Insurance Law (Vienna: Springer, 2008), 81–102, https://doi.org/10.1007/978-3-211-77586-8_4.

¹⁴ Martono Martono and Amad Sudiro, *Hukum Angkutan Udara: Berdasarkan UU Ri No. 1 Tahun 2009*, 1st ed. (Jakarta: Rajawali Pers, 2010).

¹⁵ Damayanthi and Parsa, "Pelaksanaan Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Penerbangan."

¹⁶ Danica and Priyanto, "Tanggung Jawab Maskapai Penerbangan Terhadap Keterlambatan Transit Dalam Penerbangan Lanjutan."

¹⁷ Rizqya and Rismawati, "Tanggung Jawab Maskapai Penerbangan Terhadap Penumpang Yang Dirugikan Karena Keterlambatan Penerbangan: Suatu Penelitian Pada PT. Lion Grup Cabang Banda Aceh."

manipulatively by airlines to evade responsibility.¹⁸ However, none of these studies systematically explore the structural imbalance in legal relationships and the state's weak institutional role in safeguarding justice within the compensation system.

This study fills that gap by offering a critical and structural perspective on legal inequality in the Indonesian aviation sector. The imbalance is not merely technical or administrative, but systemic. The state has failed to perform its constitutional and regulatory duties as an active overseer of commercial airline practices. Contributing factors include the weak enforcement of sanctions, minimal auditing of service standards, and the absence of an accessible, transparent claims system.

This failure constitutes a form of state neglect toward the constitutional rights of citizens, particularly the right to legal certainty and equal treatment before the law, as guaranteed under Article 28 D (1) of the 1945 Constitution. When airlines unilaterally define their obligations and the state fails to intervene with decisive action, legal uncertainty and procedural injustice prevail. This aligns with the responsible state doctrine in modern administrative law, which holds that the state's obligations extend beyond norm creation to ensuring effective implementation in practice.¹⁹ In this context, the state must ensure that all airlines fulfill their legal duties with respect to both service obligations (responsibility) and compensation for losses (liability).

This study identifies two fundamental causes of inadequate passenger protection in cases of flight delays: (1) Structural inequality between airlines and passengers in the claims resolution process, and (2) Institutional weakness of the state in regulating and sanctioning airline violations. In light of these findings, the following policy recommendations are proposed:

a) Reform of State Supervisory Mechanisms

The government should establish an independent oversight body or strengthen the Directorate General of Civil Aviation through a mandatory audit system and public disclosure of airlines that violate minimum service standards. Supervision must be based on measurable indicators of transparency and accountability.

b) Enhancement of Information and Claims Systems

Airlines should be required to deploy authorized personnel at airports and online platforms to manage compensation claims. The system must be standardized, accessible, time-bound, and transparent across all carriers.

c) Strengthening Consumer Legal Awareness

The Ministry of Transportation and consumer protection institutions (LPK) must implement broad legal education campaigns, using digital platforms, in-airport

¹⁸ Dewi, "Perlindungan Hukum Bagi Penumpang Pesawat Udara Jika Terjadi Keterlambatan Jadwal Penerbangan Menurut Undang - Undang Nomor 1 Tahun 2009 Tentang Penerbangan."

¹⁹ Suzana Tavares da Silva, *Administrative Law for the 21st Century: Administrative Law on an Illiberal and Post-Democratic Context*, 1st ed. (Cham: Springer, 2024), <https://doi.org/10.1007/978-3-031-55795-8>.

announcements, and media collaborations to increase passenger awareness of their rights.

d) **Strict Sanctions and Public Disclosure of Violators**

Airlines that fail to meet legal obligations must face administrative sanctions, including license suspension or revocation, and criminal prosecution when appropriate. Names of violators should be made public to foster deterrence and restore consumer trust.

e) **Accessible and Pro Bono Legal Remedies**

The state should facilitate pro bono legal aid for consumers seeking redress through courts or arbitration, particularly in cases where financial losses are minor but justice remains unmet.

These recommendations aim to create a fair, accountable, and consumer-oriented legal regime in the aviation sector, ensuring that passengers are adequately protected in accordance with constitutional and legal standards.

4. CONCLUSION

This study was conducted with the following objectives: (1) to analyze the normative legal responsibilities of air transportation business entities for passenger losses resulting from flight delays, based on Law Number 1 of 2009 and its implementing regulations; (2) to evaluate the effectiveness of the passenger compensation claim settlement mechanism under Law Number 8 of 1999 concerning Consumer Protection; and (3) to examine structural inequalities in the legal relationship between airlines and consumers, and to formulate the appropriate role of the state in ensuring justice and legal certainty.

The findings indicate that although normative regulations are in place, the practical implementation of airlines' legal responsibilities remains suboptimal. The principle of *presumption of liability* has not been consistently applied, and passengers frequently fail to receive the compensation to which they are entitled. The existing claim settlement mechanism is largely ineffective, hindered by weak regulatory oversight, low levels of consumer legal awareness, and complex procedural requirements. Additionally, the study reveals structural inequalities that disadvantage consumers—particularly in terms of bargaining power and access to justice—while the state has not fulfilled its supervisory and regulatory functions effectively.

This study contributes to strengthening the policy reform agenda in the field of consumer protection for air transportation services and provides a normative and argumentative basis for enhancing the state's role as an active regulator. However, the study is limited in that it does not include empirical data, such as interviews or surveys with passengers or airline representatives. Therefore, it is recommended that the government reinforce monitoring and sanction mechanisms for non-compliant airlines,

simplify claims procedures, and improve legal literacy among consumers. Future research should incorporate empirical and comparative approaches to analyze consumer protection frameworks in other jurisdictions, with the aim of developing more adaptive and responsive policies that uphold passenger rights.

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