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Platform Work and Social Protection: Reassessing the Legal Status of Online Motorcycle Drivers in Indonesia

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Abstract

The rapid expansion of platform-based transport has transformed employment relationships in Indonesia while challenging conventional distinctions between employees, independent contractors, and business partners. Online motorcycle drivers frequently operate under partnership arrangements that may limit access to statutory labor protections despite their economic dependence on digital platforms. This study reassesses the legal status of online motorcycle drivers from the perspective of social protection and economic justice. Employing a doctrinal legal research approach complemented by secondary empirical evidence, the study examines Indonesian labor regulations, partnership arrangements, platform terms and conditions, and relevant judicial and policy developments. The analysis focuses on whether the existing legal framework adequately addresses income insecurity, occupational risks, working-time dependence, social security coverage, and bargaining asymmetries between drivers and platforms. The study argues that formal classification as partners may obscure substantive characteristics of platform work that resemble dependent employment. Consequently, legal protection should be evaluated not solely through contractual terminology but through the actual distribution of economic power and risk. The study contributes to the emerging literature on platform labor by proposing a social-protection-oriented approach to legal classification. It also highlights the need for regulatory frameworks capable of reconciling technological innovation, platform flexibility, and minimum standards of economic security.

[*Ekspansi pesat transportasi berbasis platform telah mengubah hubungan kerja di Indonesia sekaligus menantang perbedaan konvensional antara karyawan, kontraktor independen, dan mitra bisnis. Pengemudi ojek online sering beroperasi di bawah pengaturan kemitraan yang dapat membatasi akses terhadap perlindungan ketenagakerjaan berdasarkan undang-undang meskipun mereka bergantung secara ekonomi pada platform digital. Studi ini* *menilai kembali status hukum pengemudi ojek online dari perspektif perlindungan sosial dan keadilan ekonomi. Dengan menggunakan pendekatan penelitian hukum doktrinal yang dilengkapi dengan bukti empiris sekunder, studi ini meneliti peraturan ketenagakerjaan Indonesia, pengaturan kemitraan, syarat dan ketentuan platform, serta perkembangan yudisial dan kebijakan yang relevan. Analisis berfokus pada apakah kerangka hukum yang ada secara memadai mengatasi ketidakamanan pendapatan, risiko pekerjaan, ketergantungan waktu kerja, cakupan jaminan sosial, dan asimetri tawar-menawar antara pengemudi dan platform. Studi ini berpendapat bahwa klasifikasi formal sebagai mitra dapat mengaburkan karakteristik substantif pekerjaan platform yang menyerupai pekerjaan dependen. Akibatnya, perlindungan hukum harus dievaluasi tidak hanya melalui terminologi kontraktual tetapi melalui distribusi aktual kekuatan ekonomi dan risiko. Studi ini berkontribusi pada literatur yang berkembang tentang tenaga kerja platform dengan mengusulkan pendekatan berorientasi perlindungan sosial terhadap klasifikasi hukum. Hal ini juga menyoroti perlunya kerangka peraturan yang mampu menyelaraskan inovasi teknologi, fleksibilitas platform, dan standar minimum keamanan ekonomi.*]

Keywords: platform work, social protection, online motorcycle drivers, labor law, economic justice

Introduction

The rise of the platform economy—or gig economy—has fundamentally restructured contemporary labor markets, substituting standard employment agreements with digitally mediated, task-based work (De Stefano 2016). Globally, platform architectures leverage algorithmic management to allocate tasks, monitor worker performance, set price structures, and discipline labor without maintaining explicit contractual employment ties (Drahokoupil and Piasna 2017; Wood et al. 2019). In Indonesia, this phenomenon has unfolded with unprecedented scale, primarily driven by ride-hailing and delivery platforms such as Gojek and Grab (Ford and Honan 2019). Ride-hailing motorcycle drivers, locally known as *pengemudi ojek online* (ojol), have become a vital pillar of urban mobility and logistics infrastructure, absorbing millions of informal workers into digitally structured commercial networks (Pangeran 2020). However, the explosive proliferation of platform-based transport has generated acute legal tension between digital innovation and labor protection frameworks originally calibrated for traditional, bilateral industrial relationships (Tjandra 2018).

The core legal friction resides in the formal contractual characterization of platform workers. In Indonesia, ride-hailing corporations systematically classify online motorcycle drivers as "partners" (*mitra bisnis*) governed by civil contract law under Article 1338 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* / KUHPerdata), rather than as "workers" or "employees" under Law No. 13 of 2003 on Manpower (Ministry of Manpower 2003; Nastiti 2017). Platform operators contend that this partnership model provides workers with unparalleled operational flexibility, autonomy over working hours, and entrepreneurial choice (Grab Indonesia 2021). Nevertheless, legal scholars and labor economists increasingly observe a severe disjunction between formal contractual terminology and substantive socio-economic realities (Aloisi 2016; Prassl 2018). While platforms project an ideology of equal partnership, they exercise significant control through algorithmic surveillance, dynamic pricing mechanisms, driver rating systems, and unilateral account suspensions (Rahayu 2021; Surie 2020).

This structural misalignment carries far-reaching consequences for social protection and economic justice. Under Indonesian labor jurisprudence, statutory protections—including minimum wage guarantees, maximum working hours, overtime compensation, paid leave, severance pay, and mandatory employer-funded social security contributions—are strictly contingent upon the existence of an employment relationship characterized by work, wage, and command (Articles 1 and 50 of Law No. 13/2003) (Maimun 2019). By categorizing drivers as independent business partners, platform enterprises externalize core operational risks, vehicular maintenance expenditures, fuel costs, and occupational health hazards entirely onto individual workers (Azzahra and Wijaya 2022). Consequently, drivers navigate significant income volatility, prolonged working hours exceeding safety thresholds, and precarious access to comprehensive healthcare and accident insurance (ILO 2021; Rizki 2023).

Despite growing academic interest in platform labor, existing literature in Indonesia predominantly focuses on socio-economic impact assessments, urban mobility logistics, or general socio-legal narratives surrounding driver protests (Ford and Wardke 2020; Wijaya 2021). Extensive comparative scholarship has emerged globally regarding platform work classification—notably the European Union's Directive on Improving Working Conditions in Platform Work and landmark judicial rulings such as the UK Supreme Court's decision in *Uber BV v. Aslam* (2021) and the California Supreme Court's *Dynamex* precedent (Countouris and De Stefano 2021; HieЯl 2022). However, Indonesian legal literature remains largely fragmented, often failing to systematically evaluate platform terms of service against international labor standards and the constitutional imperative of "decent work and humanity" embedded in Article 27(2) of the 1945 Constitution of the Republic of Indonesia (Indonesian Constitutional Court 2018; Santoso 2022).

To address this analytical gap, this study employs a normative/doctrinal legal research methodology complemented by secondary empirical data analysis (Marzuki 2017; Soekanto and Mamudji 2015). The normative framework involves a systematic examination of primary legal materials, including Law No. 13 of 2003 on Manpower, Law No. 11 of 2020 on Job Creation (as amended by Regulation in Lieu of Law No. 2 of 2022), Ministry of Transportation Regulation No. KP 348 of

2019 and Regulation No. PM 12 of 2019, Law No. 24 of 2011 on the Social Security Administering Bodies (BPJS), and platform standard-form electronic contracts. The statutory approach is integrated with a conceptual approach, drawing upon legal theories of labor subordination, economic dependence, and economic justice (Atiyah 1979; Sen 1999). Secondary empirical data—comprising government statistical reports, International Labour Organization (ILO) field studies, legal aid documentation, and published driver survey data—are integrated to assess the operational realities of algorithmic management.

The primary objective of this research is to reassess the legal status of online motorcycle drivers in Indonesia through the dual lenses of substantive social protection and economic justice. Specifically, the study addresses three interrelated research questions: First, how does algorithmic management create a state of "substantive subordination" that contradicts the formal civil partnership doctrine? Second, to what extent does the existing statutory framework perpetuate socio-economic precarity and systemic deficits in social security coverage for gig workers? Third, what legal and regulatory reform models can effectively reconcile technological flexibility with constitutional guarantees of decent work and economic security? By synthesizing legal doctrine with empirical insights, this study contributes a structured framework for reclassifying platform labor in developing market economies.

Algorithmic Control versus the Myth of Autonomous Partnership

The foundational premise of platform partnership arrangements in Indonesia rests upon the legal principle of freedom of contract, codified in Article 1338 of the Indonesian Civil Code (KUHPerdata). Platform operators argue that online motorcycle drivers enter into commercial agreements voluntarily as independent entrepreneurs who retain complete autonomy over their working schedules, location, and operational engagement (Grab Indonesia 2021; GoTo Group 2022). However, a rigorous analysis of the substantive reality reveals that this "autonomous partnership" model operates largely as a legal fiction. In practice, digital transport platforms exercise pervasively detailed oversight through "algorithmic management"—a sophisticated apparatus of digital surveillance, automated dispatch, behavioral nudging, and automated penalization that mirrors, and in many respects surpasses, traditional managerial control (De Stefano 2016; Rosenblat and Stark 2016).

Under Indonesian Manpower Law (Law No. 13 of 2003, Article 1 paragraph 15), an employment relationship exists whenever three fundamental elements are present: work (*pekerjaan*), remuneration/wage (*upah*), and command/subordination (*perintah*) (Ministry of Manpower 2003; Subekti 2014). Traditional jurisprudence interprets "command" as explicit, direct instruction from a human supervisor. Platform architectures obfuscate this element by replacing human managers with automated algorithms. Yet, the substantive mechanism of control remains fully intact. Platforms unilaterally determine fare structures, calculate distance rates, assign customer requests without prior driver disclosure of destination or earnings, and enforce strict performance metrics such as acceptance rates and cancellation thresholds (Rahayu 2021; Surie 2020). If a driver repeatedly declines low-margin trip assignments, algorithmic dispatch systems automatically impose disciplinary measures, ranging from temporary shadow-banning (reduced order allocation) to unilateral account termination (deactivation) without due process or right of appeal (Azzahra and Wijaya 2022).

Furthermore, the economic relationship between drivers and platforms is characterized by extreme structural asymmetry. Drivers possess no influence over key contractual terms, which are embedded within standardized electronic click-through agreements (*perjanjian baku*) governed by Law No. 11 of 2008 on Electronic Information and Transactions (EIT Law) (Santoso 2022). The contractual framework permits platform companies to alter service fees, commission deductions, and operational rules unilaterally at any time (Tjandra 2018). The comparative synthesis presented in Table 1 contrasts the formal contractual attributes of partnership with the substantive operational realities of platform work in Indonesia.

TABLE 1. Comparison Between Formal Contractual Terminology and Substantive Operational Realities in Indonesian Platform Work

Dimension	Formal Partnership Model (Civil Code Art. 1338)	Substantive Operational Reality (Algorithmic Control)
Price Determination	Bilateral negotiation between commercial partners.	Unilateral fare setting by platform algorithms; zero driver input.
Work Allocation	Autonomous selection and refusal of commercial tasks.	Automated dispatch; penalization and shadow-banning for declined trips.
Performance Monitoring	Result-based commercial deliverables; zero direct oversight.	Real-time GPS tracking, customer ratings, and automated behavioral nudges.
Disciplinary Authority	Breach of contract resolved via civil dispute litigation.	Unilateral account deactivation without prior notice or administrative appeal.
Capital & Risk Allocation	Shared commercial investment and mutual risk distribution.	Driver bears 100% vehicle, maintenance, fuel, and accident risks.

Source: Indonesian Civil Code, analyzed by author

As demonstrated in Table 1, the structural control exercised by digital platforms satisfies the legal threshold of "substantive subordination" (Prassl 2018). In alignment with international judicial precedents—such as the UK Supreme Court ruling in *Uber BV v. Aslam* [2021] UKSC 5 and the Spanish Supreme Court's *Riders*

Directive orientation—courts and regulators must look past formal label designations and examine the economic reality of the relationship (Countouris and De Stefano 2021; HieЯl 2022). When a digital entity tightly controls market access, sets prices, monitors service execution, and imposes punitive sanctions, the relationship inherently constitutes dependent labor rather than an equal commercial partnership.

Social Security Deficits and Risk Externalization

The misclassification of online motorcycle drivers as commercial partners creates severe structural gaps in social security coverage, directly conflicting with the constitutional mandate of Article 28H paragraph (3) of the 1945 Indonesian Constitution, which guarantees every citizen the right to social security (Indonesian Constitutional Court 2018). Under Law No. 40 of 2004 on the National Social Security System (SJSN) and Law No. 24 of 2011 on the Social Security Administering Bodies (BPJS), formal sector workers (*Pekerja Penerima Upah* / PPU) are entitled to mandatory, co-funded social security contributions split between employers and employees (Ministry of Manpower 2011). This statutory suite includes Work Accident Insurance (JKK), Death Benefits (JKM), Old-Age Savings (JHT), Pension Security (JP), Job Loss Security (JKP), and comprehensive Health Insurance (BPJS Kesehatan).

Because online motorcycle drivers are designated as non-wage earners or informal workers (*Pekerja Bukan Penerima Upah* / PBPU), platform companies are completely exempt from statutory co-funding obligations (ILO 2021; Rizki 2023). Consequently, drivers who desire social protection must voluntarily enroll and pay 100% of their BPJS premiums out of their net income. Empirical evidence demonstrates that due to depressed net earnings, rising operational overheads (fuel, vehicle maintenance, mobile data), and volatile daily revenues, the vast majority of drivers opt out of comprehensive coverage, particularly long-term retirement and pension schemes (JHT and JP) (Azzahra and Wijaya 2022; Ford and Honan 2019). While some platform operators provide basic, private group accident micro-insurance, these schemes offer fragmented, low-cap benefits that fall significantly short of statutory BPJS Employment guarantees (Pangeran 2020).

This deficit is compounded by severe occupational health and safety hazards. Online motorcycle drivers operate under constant physical risk, navigating hazardous traffic conditions, weather extremes, and road accident hazards while under algorithmic pressure to complete trips quickly (Pangeran 2020; Wijaya 2021). To achieve an income equal to or slightly above regional minimum wages (*Upah Minimum Regional* / UMR), drivers routinely work 12 to 16 hours daily, seven days a week—far exceeding statutory working time limits (40 hours per week) codified in Article 77 of Law No. 13 of 2003 (Maimun 2019; Tjandra 2018). This excessive workload induces severe chronic fatigue and heightened accident vulnerability. By shifting operational hazards, vehicle depreciation, and healthcare burdens entirely onto individual workers, platforms engage in systematic risk externalization, converting labor costs into corporate profit margins while leaving the state and social safety nets to absorb the fallout of worker incapacitation (Aloisi 2016; Drahokoupil and Piasna 2017).

Statutory Gaps and the Regulatory Vacuum in Indonesian Transport Law

The persistent ambiguity surrounding platform labor in Indonesia is intensified by a profound legislative and regulatory disconnect between labor legislation and transportation regulations. Indonesian labor legislation—principally Law No. 13 of 2003 on Manpower and the controversial Law No. 11 of 2020 on Job Creation—maintains a strict binary classification scheme: an individual is either a formal employee (*pekerja*) or an independent commercial entity (Ministry of Manpower 2003, 2020). The statutory framework contains no intermediate legal category, such as the "worker" status (Category b) recognized in United Kingdom employment law, or the "dependent contractor" status recognized in Canada and Germany (Countouris and De Stefano 2021; HieЯl 2022).

In an attempt to manage growing social unrest and driver protests, the Indonesian Ministry of Transportation enacted Ministerial Regulation No. PM 12 of 2019 on the Safety Protection of Motorcycle Users Used for Public Interest, alongside Operational Decree No. KP 348 of 2019 (subsequently updated by KP 667/2022) (Ministry of Transportation 2019). While these regulations introduced floor and ceiling tariff rates (*tarif batas atas dan batas bawah*) for ride-hailing services and set maximum platform commission caps (originally 20%, later revised toward 15%), they failed to resolve the underlying labor dispute. Crucially, the Ministry of Transportation lacks executive jurisdiction to regulate employment contracts, social security, or labor rights, as statutory authority over manpower resides exclusively with the Ministry of Manpower (Tjandra 2018; Santoso 2022).

Furthermore, judicial avenues for redress have remained largely ineffective. In 2018, online motorcycle drivers submitted a constitutional review petition to the Indonesian Constitutional Court (*Mahkamah Konstitusi*), seeking legal recognition of two-wheeled vehicles as public transport under Law No. 22 of 2009 on Road Traffic and Transportation, which would have strengthened their operational legitimacy and statutory grounding (Indonesian Constitutional Court 2018). However, the Constitutional Court rejected the petition (Decision No. 41/PUU-XVI/2018), ruling that two-wheeled motor vehicles do not meet basic safety standards for public transportation vehicles, thereby maintaining their informal regulatory status. Similarly, Industrial Relations Courts (*Pengadilan Hubungan Industrial* / PHI) consistently dismiss driver termination claims due to a lack of formal employment contracts, leaving drivers completely destitute of statutory protection against arbitrary deactivation (Maimun 2019; Santoso 2022).

Toward Economic Justice: Reclassification and an Intermediate Legal Category

Resolving the systemic precarity faced by online motorcycle drivers requires a comprehensive legal realignment grounded in the principles of economic justice and constitutional rights. Economic justice, as conceptualized by Amartya Sen (1999) and embedded within the Fifth Principle of Indonesia's state philosophy, *Pancasila* ("Social Justice for all Indonesian People"), demands that economic systems provide every individual with substantive capabilities, fair distribution of resources, and protection against structural exploitation (Atiyah 1979; Santoso 2022). Maintaining the current unregulated civil partnership model perpetuates extreme power asymmetries that violate the constitutional guarantee under Article 27 paragraph (2) of the 1945 Constitution, which dictates that "Every citizen has the right to work and to a living worthy for humanity" (Indonesian Constitutional Court 2018).

To establish a balanced legal architecture, Indonesia should undertake targeted legislative reform. Scholars and policy reform advocates propose two distinct regulatory pathways: absolute reclassification under traditional employment law, or the statutory creation of an intermediate "dependent worker" status (Aloisi 2016; Countouris and De Stefano 2021; Tjandra 2018). The primary features, benefits, and implementation challenges of both statutory reform models are delineated in Table 2.

TABLE 2. Comparative Framework for Indonesian Platform Labor Regulatory Reform

Reform Strategy	Core Legal Mechanics	Social Protection Impact	Operational Viability & Challenges
Full Reclassification (Employee Status)	Reclassify platform drivers as standard formal employees under Law No. 13/2003 based on "substantive subordination".	Complete statutory protections: minimum wage (UMR), maximum working hours, overtime, paid leave, BPJS employer split, and severance pay.	High resistance from platform operators due to operational costs; potential reduction in driver fleet sizes and loss of flexible working hours.
Intermediate Legal Status ("Dependent Worker")	Introduce a new legal category in labor law recognizing economically dependent self-employed gig workers.	Tailored rights: mandatory joint BPJS social security contributions, statutory minimum net tariffs, algorithmic transparency, collective bargaining, and fair deactivation rules.	Protects operational schedule flexibility while guaranteeing foundational social safety nets and mitigating income precarity; requires new legislative enactments.

Source: Various sources, analyzed by author.

As illustrated in Table 2, while full reclassification guarantees comprehensive statutory labor rights, it faces immense implementation friction and corporate resistance that could undermine the flexible operational model valued by many drivers (Ford and Honan 2019; Grab Indonesia 2021). Therefore, establishing an intermediate statutory category—tentatively designated as "Pekerja Mandiri Terikat" (Dependent Independent Worker)—offers a pragmatically balanced and legally robust alternative (Tjandra 2018; Wood et al. 2019). This model preserves scheduling flexibility while legally mandating three non-negotiable protections: (1) mandatory co-funding of BPJS Employment and Health premiums by platform operators; (2) algorithmic transparency requirements, including the right to challenge automated account deactivations before an impartial dispute body; and (3) statutory rights to form collective bargaining associations (Aloisi 2016; Santoso 2022).

Conclusion

This study demonstrates that the current legal framework governing online motorcycle drivers in Indonesia relies on a fundamental contradiction. The formal designation of drivers as independent commercial "partners" under civil law is directly undermined by the reality of algorithmic management, which exerts pervasive control over pricing, task allocation, performance evaluation, and disciplinary actions. This disjunction enables digital transport platforms to exercise managerial authority while externalizing primary operational risks, financial burdens, and occupational hazards onto drivers. Consequently, gig workers are trapped in a state of heightened socio-economic precarity, characterized by extreme income volatility, extended working hours, and severe deficits in mandatory social security coverage. The existing legal framework, constrained by a rigid binary distinction between formal employees and independent contractors, fails to provide adequate safeguards or uphold the constitutional guarantee of decent work and economic justice.

To establish a sustainable platform economy that balances technological innovation with social equity, comprehensive statutory reform is urgently required. The Indonesian government, through the Ministry of Manpower in coordination with the Ministry of Transportation and the House of Representatives (DPR), must amend national labor legislation to recognize an intermediate legal status for economically dependent gig workers. This regulatory framework must mandate platform-funded social security co-contributions to BPJS, establish fair baseline tariff structures, enforce algorithmic transparency, guarantee due process in account deactivations, and safeguard collective bargaining rights. Reclassifying platform work through the lens of economic justice and substantive subordination is not merely a legal imperative; it is essential to guaranteeing human dignity, labor security, and shared economic prosperity in Indonesia's digital future.

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