

'ADALAH

Buletin Hukum & Keadilan

The Unclear Employment Status of Digital Platform Workers in the Indonesian Labor Law System

Muhammad Riko Adamulloh*, Mustopa Adam*, Suandi*, Gilang Rizki Aji Putra*

Universitas Dharma Indonesia (UNDHI)

Universitas Islam Negeri Syarif Hidayatullah Jakarta



10.15408/adalah.v5i1.38425

Abstract:

The development of the digital economy has given rise to a platform-based employment relationship model (gig economy), which places workers in an ambiguous position within the Indonesian labor law system. This article aims to analyze the unclear employment status of digital platform workers from the perspective of Indonesian labor law and formulate ideas for a more adaptive and equitable regulatory reconstruction. This research employs normative legal research methods, utilizing a statutory and conceptual approach. The results indicate that the provisions in Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023 concerning Job Creation, do not explicitly accommodate platform-based employment models. This unclear status results in the non-fulfillment of workers' normative rights, such as minimum wages, social security, and protection against termination of employment. Regulatory reconstruction is needed to clarify the category of digital employment relationships, ensuring legal certainty and protecting workers' rights.

*Mahasiswa Fakultas Hukum, Universitas Dharma Indonesia (UNDHI).

Email: rikokori320@gmail.com

* Dosen Fakultas Hukum, Universitas Dharma Indonesia (UNDHI).

Email: mustopaadam@undhi.ac.id

* Dosen Fakultas Hukum, Universitas Dharma Indonesia (UNDHI).

Email: suandi@undhi.ac.id

* Peneliti pada Pusat Studi Konstitusi dan legislasi Nasional (Poskolegnas), Universitas Islam Negeri Syarif Hidayatullah Jakarta. Email: gilang.rizkiajiputra19@uinjkt.ac.id

Keywords: Digital Platform Workers, Employment Relations, Gig Economy, Legal Protection, Regulatory Reform

A. PROLOG

Digital transformation has fundamentally overhauled the structure of the job market. The emergence of application-based companies such as Gojek, Grab, and similar platforms marks a shift from conventional work patterns based on formal working relationships to a more centralized work model on digital platforms. This phenomenon gives rise to a new dynamic: work is flexibly accessible, yet the relationship between workers and platforms is often constructed as partnerships rather than formal working relationships. This practice, in turn, blurs the line between workers/laborers and independent partners, so that legal protection of workers' normative rights becomes fragmented and not always aligned with the national labor law framework.¹

In Indonesia, the labor law framework emphasizes three core elements for the existence of employment relationships: the existence of work, wages, and orders. These three are the basis for assessing whether an employment relationship meets the criteria as a "worker" in accordance with the Labor Law. However, practices in the world of digital platforms often show that employment relationships are identified as partnerships between platform workers and platform providers, so companies are less likely to recognize the existence of formal employment relationships. This unclear status raises a

¹ De Stefano, V. (2016). The Rise of the "Just-in-Time" Workforce: On-Demand Work, Crowdswork and Labour Protection. *Comparative Labor Law & Policy Journal*, 37(3).

fundamental juridical problem: are digital platform workers included workers as referred to in the law, or are they just independent partners? This ambiguity has direct implications for the protection of normative rights, including living wages, social security, work accident protection, and legal dispute resolution pathways.

Departing from these issues, this article aims to (1) examine how the Indonesian legal framework assesses the status of digital platform workers in the context of the elements of employment, wages, and orders; (2) examine the implications of classification on the protection of normative rights of platform workers; and (3) offer policy options that could lead to regulatory alignment between platform corporate accountability and labor rights protection. The theoretical approach used includes doctrinal/legal analysis to weigh the classical legal criteria on employment relations, as well as policy analysis to see how regulations can be adapted without neglecting the efficiency of the platform system and labor justice. Supporting data came from the study of national regulations (the Manpower Law and derivative regulations), related legislative decisions, social regulation documents (e.g. national social security schemes), and academic literature on platform-based work economics. Thus, this study seeks to provide a comprehensive overview of the legal status of platform workers in Indonesia as well as policy recommendations that can improve the protection of normative rights without eroding the dynamics of digital innovation. The main research questions raised include:

To what extent are the elements of work, wages, and orders fulfilled in the work practices of platforms in Indonesia, and how does this affect the legal status of platform workers? What are the legal consequences of classification as a worker/laborer versus independent partner on access to normative protections (living wage, social security, employment protection, right to dispute resolution)? What policy options allow for alignment between the platform's operational model and the protection of labor rights within the Indonesian legal framework?

The contribution of this study is to present an analytical framework that connects the theory of employment classification with the operational reality of digital platforms, as well as to propose a more inclusive regulatory alternative for platform workers without sacrificing digital economy innovation. This paper is also expected to serve as a reference for policymakers, platform industry players, and academics who are interested in the dynamics of employment law in the era of the platform economy.

B. DISCUSSION

1. Unclear job status

Many platform workers don't have a clear "employee" icon but are also not always considered pure independent contractors. This ambiguity arises because traditional Indonesian labor law categorizes employment relationship status relatively strictly as permanent employee or independent contractor, while the platform's practice uses a highly flexible employment agreement

model and operational supervision through algorithms. As a result, the "reality of work" through the platform often doesn't align with the written label of the employment agreement.²

Algorithm-based grading systems and operational controls through the platform can give rise to subordination elements even if the contract is written as a free labor agreement. Algorithms that determine assignments, performance evaluations, and revenue sharing often create a form of control that functionally resembles subordination, making job status classification problematic when relying solely on agreement documents.³

Uncertainty of employment status has an impact on access to legal protections such as minimum wage, rest, overtime, leave, insurance, and social security. Without a clear classification, platform workers tend to escape the protections historically inherent in permanent workers and social security schemes for independent entrepreneurs.⁴

2. Social protection and workers' rights

Platform workers are often not automatically covered by BPJS Employment/Health or other social security because their legal status is unclear. The

² ILO. Platform Work and the Future of Work: Key Findings on Employment Status and Protections in the Platform Economy. ILO, 2021/2022.

³ OECD. Platform Work and the Labor Market. OECD Publishing, 2020.

⁴ Law No. 13 of 2003 concerning Manpower (Manpower Law), Republic of Indonesia.

provisions of social protection in Indonesia depend a lot on employment status that is formally defined in the framework of labor law and social security.⁵

Without certainty of legal status, access to protection programs (work accident insurance, old-age insurance, compensation) may be limited or optional. This results in a greater income risk for workers when there is a risk of work or retirement, as the contribution mechanism and its protective facilities are not mandatorily binding.⁶

3. Regulatory effectiveness and implementation

Existing regulations may lack explicitly regulating digital platforms as the subject of employment law or as a special category of digital workers. The core provisions of the Employment Law and the Job Creation Law regulate employment relations in general, but do not explicitly normalize the status of platform workers as a separate legal category.⁷

Oversight and implementation in the field demand a new approach that can assess the "labor relations reality" generated by the platform's business model, not just the labels of employment agreements. This demands an evaluation mechanism that takes into account algorithmic controls, the dynamics of flexibility of working hours, as

⁵ Law No. 11 of 2020 concerning Job Creation (Job Creation Law), Republic of Indonesia.

⁶ BPJS Employment. Social Protection Guidelines for Informal Workers and Platform Workers. BPJS Employment, various editions.

⁷ World Bank. Indonesia: Making the most of digital platforms. World Bank, 2021.

well as the economic contribution of the platform to workers' income.⁸

4. Economic dynamics and innovation

Platform segmentation allows for the necessary flexibility for workers (exemption to choose hours and jobs), but when accompanied by adequate protections, it can improve income stability and job security. Flexibility needs to be balanced with social security and basic employment rights to safeguard workers' welfare.⁹

Overly rigid regulations can hinder innovation and renewal of the platform's business model; On the contrary, overly loose regulations can leave workers exploited or unprotected. Policy balance requires results-based policy exploration and periodic evaluation.¹⁰

Many countries are considering specific categories for digital platform workers (e.g. "platform workers" or income-sharing work models) with minimum protections, access to social security, and tailored dispute resolution mechanisms. Examples of this approach include models that recognize the unique characteristics of platforms while

⁸ ILO. *Non-Standard Forms of Employment in Asia and the Pacific*. ILO Regional Office for Asia and the Pacific, 2018.

⁹ Social Security Administration Agency (BPJS). Law No. 24 of 2011 concerning BPJS Employment and BPJS Kesehatan (summary of the implementation of social protection in Indonesia).

¹⁰ Ministry of Manpower (Kemnaker), *Guidelines for Labor Relations and Platform Worker Regulations* (policy guidelines, ministry publications).

adding temporary obligations for platforms in terms of transparency, social contributions, and basic protections.¹¹

Some jurisdictions are trying to combine work flexibility with certain standards of protection through platform obligations for contributions to the social safety net, algorithm transparency, and clearer employment agreement options. This approach seeks to maintain the dynamics of the digital economy without neglecting workers' rights.¹²

Potential policy solutions include six main steps: (1) a legal definition for digital platform workers that recognizes the characteristics of algorithmic control, per-order based work, and flexibility while ensuring minimum rights such as living wages, social security, access to health facilities, and safety protection; (2) clarity of employment status through a transparent employment agreement, explicitly stating whether the worker is a permanent worker or a contractor and his rights and obligations, with minimum standards of working hours, pay-per-task, and dispute resolution mechanisms; (3) improving social protection with the integration of platform workers into the BPJS scheme at large as well as work accident insurance programs, old-age insurance, and adequate access to health services; (4) transparency and accountability of the platform through the openness of operational logistics

¹¹ Other countries (Comparative study): e.g. the "platform worker" model in some jurisdictions with minimal protection and algorithmic transparency (summary of country policies related to the gig economy).

¹² OECD/Senior officials briefings on platform work and social protection (international policy brief).

(payment schemes, algorithms, evaluations) and social safety net funding mechanisms based on income or service fees; (5) dispute resolution instruments and protection of the right to assemble through user-friendly dispute resolution mechanisms, support for the right to assemble, and protection against retaliation; (6) a policy experiment model through a regulatory sandbox with periodic evaluation to adjust policies based on empirical data.

Practical implications for industry players: platforms need to formulate internal policies related to employment status, social protection, and openness to external oversight to maintain the reputation and continuity of the business; for workers: stronger protection opportunities and increased social security, although there may be changes in working models that need to be adapted; For the government: the need for a clearer legal framework that still encourages digital innovation, with continuous evaluation and participation of industry players and workers.

C. EPILOG

The employment status of digital platform workers in the Indonesian labor law system remains in a dynamic and complex area. While the platform model offers economic flexibility and efficiency, it actually presents risks to income protection, social security, dispute resolution rights, and organizational skills. The reality of "workloads" governed by algorithms and operational controls often does not easily fit into the categories of permanent workers or independent contractors, so there is a need for an update of the regulatory framework that

respects business dynamics while ensuring protection for workers.

Constructive policy directions include recognizing the unique characteristics of the platform through clear legal definitions, increasing operational transparency, expanding access to social protection through BPJS, and user-friendly dispute resolution mechanisms. Work flexibility can be maintained as long as it is balanced with a guarantee of a living wage, safety protection, and basic rights to organize. This process should be done through a phased approach (*regulatory sandbox*) with data-driven evaluation, while involving all government stakeholders, industry players, trade unions, and platform worker communities to achieve fair and sustainable solutions.

Ultimately, Indonesia has the opportunity to formulate a legal framework that not only effectively regulates the practice of digital platforms, but also encourages technological innovation and digital economic growth. The success of the policy will depend on the ability to align the operational needs of the platform with the protection of labor rights, through cross-ministerial coordination, worker participation, and strong public accountability.

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