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LEGAL PROTECTION OF WORKERS' RIGHTS IN THE DIGITAL TRANSFORMATION ERA: DIGITAL PLATFORM EMPLOYMENT RELATIONSHIPS IN INDONESIA

Joshua Rivaldo Parlindungan[1], Agustina Merdekawati[2]
[1,2] Business Law Study Program, Faculty of Law, Universitas Gadjah Mada
Jl. Dr. Sahardjo No. 83, Tebet, South Jakarta
rivaldonapit@gmail.com

Abstract *- This study examined the legal protection of digital platform workers in Indonesia, whose employment status remained unregulated despite the rapid expansion of the gig economy. It pursued three objectives: to determine the legal status of the relationship between platform workers and platform companies under the Manpower Law and the Job Creation Law; to evaluate the adequacy of the existing protective framework against the benchmarks of legal certainty, coverage, and enforceability; and to formulate an ideal regulatory model informed by comparative law. A normativeempirical (socio-legal) method was employed, combining doctrinal analysis with field data obtained from a survey of 200 platform workers, twenty in-depth interviews, and three focus group discussions conducted across five major cities. The survey found that the majority of respondents were economically dependent on a single platform, that fares were set unilaterally, and that only a minority were enrolled in employment social security, confirming a significant legal vacuum. The study introduced the concept of digital subordination to demonstrate that algorithmic control satisfied the command element of an employment relationship, and proposed a Tiered Protection Framework that calibrated protection to the worker's degree of economic dependence.*

Keywords: *digital platform workers; gig economy; legal protection; employment relationship; digital subordination*

INTRODUCTION

The rapid development of information technology over the past decade has fundamentally transformed the landscape of employment relations worldwide, including in Indonesia. The emergence of application-based digital platforms ranging from online motorcycle taxis and courier services to freelance marketplaces and other gig-economy business models has produced a new paradigm of work that demands comprehensive legal analysis. These platforms do not merely connect supply and demand; they reorganise the structure of the employment relationship itself, displacing the conventional employer -employee dyad with a triangular arrangement among platform, worker, and consumer.

As a developing country with a population exceeding 270 million, Indonesia constitutes one of the largest digital-platform markets in Southeast Asia. Data from the Central Statistics Agency indicate that more than fifteen million workers depend on digital platforms for their livelihoods; yet the majority occupy employment relationships whose legal character remains unsettled (Badan Pusat Statistik, 2024). This tension between economic significance and legal uncertainty lies at the heart of the present study.

The most fundamental issue concerns the indeterminate legal status of digital platform workers: whether they are employees bound by an employment relationship under Law Number 13 of 2003 on Manpower, as amended by Law Number 11 of 2020 on Job Creation, or independent contractors whose relationships are governed solely by civil contracts. The classification is decisive, since it determines access to the minimum wage, social security, severance pay, leave entitlements, and the protective machinery of labour law.

Indonesia's 2003 Manpower Law plainly failed to anticipate the rise of digital platforms. Internationally, by contrast, several jurisdictions have begun to construct dedicated frameworks. The European Union has adopted a Directive on Platform Work that establishes a rebuttable presumption of employment for platform workers (European Commission, 2021). In the United Kingdom, the Supreme Court in Uber BV v Aslam [2021] UKSC 5 recognised Uber drivers as workers entitled to the minimum wage and paid leave (UK Supreme Court, 2021). These developments expose the comparative deficit in Indonesian law and supply instructive models for reform.

Although a growing domestic literature addresses online-transport drivers (Fauzi, 2023) and informal workers in the gig economy (Prasetyo, 2022), scholarship that systematically reconceptualises the command element of the employment relationship for algorithmically managed work and that translates comparative insights into a calibrated regulatory model suited to Indonesian legal values remains scarce. This study seeks to fill that gap. Its novelty is twofold: it introduces the concept of digital subordination as a doctrinal elaboration of the command element, and it proposes a Tiered Protection Framework that links the intensity of protection to the worker's degree of economic dependence, validated against original field data.

Against this background, the study formulates three research questions. First, what is the legal status of the employment relationship between digital platform workers and platform companies under the Manpower Law and the Job Creation Law? Second, is the current legal framework adequate to protect platform workers assessed against three benchmarks: legal certainty, the scope of protective coverage, and enforceability? Third, what is the ideal regulatory model for the protection of digital platform workers in Indonesia?

LITERATURE REVIEW

Indonesian Employment Law

Indonesian employment law has a long lineage reaching back to the Dutch colonial period. A decisive milestone was Law Number 13 of 2003 on Manpower, which consolidated comprehensive principles of worker protection (Husni, 2021; Uwiyono, 2014). A further significant development occurred in 2020 with Law Number 11 of 2020 on Job Creation, subsequently amended through Government Regulation in Lieu of Law Number 2 of 2022, which reoriented several provisions toward labour-market flexibility (Budiono, 2020).

Article 1 point 15 of Law Number 13 of 2003 defines an employment relationship as a relationship between an employer and a worker based on an employment agreement containing the elements of work, wages, and command. These three elements constitute the three-pronged test, the fundamental criterion for determining whether a relationship qualifies as an employment relationship. Beyond this formal test, legal doctrine has developed an economic reality test, which looks to the substance of the relationship irrespective of how the parties characterise it in their contract (De Stefano, 2016).

The Gig Economy and Digital Platform Workers

The gig economy denotes an employment system in which individuals perform work under short-term, freelance arrangements rather than continuing contracts of service. Digital platform workers may accordingly be defined as individuals who supply services through digital platforms operating as intermediaries between workers and consumers or clients. Such platforms govern supply demand matching, payment, ratings, and numerous other dimensions of the work interaction (Drahokoupil & Fabo, 2019). Comparative and international studies emphasise that this intermediation is rarely neutral: through algorithmic management, platforms exercise substantial control over how, when, and on what terms work is performed (International Labour Organization, 2021; OECD, 2023). The fissuring of business structures further detaches workers from the protective obligations historically attached to the employer (Weil, 2019).

Theoretical Framework

This research is grounded in three complementary theories that perform distinct analytical functions. First, Philipus M. Hadjon's theory of legal protection, which distinguishes preventive from repressive protection, supplies the lens for diagnosing the protective gaps confronting platform workers and is applied in the Results to classify each identified gap (Hadjon, 1987). Second, Hans Kelsen's theory of legal certainty, which insists on clear and determinate norms, furnishes the benchmark against which the indeterminacy of platform-worker status is measured and underpins the legal-certainty criterion used to answer the second research question (Kelsen, 1967). Third, Aristotle's theory of distributive justice, which holds that benefits and burdens should be allocated in proportion to relevant differences among persons, provides the normative foundation for the proportionality principle of the proposed framework (Aristotle, 2009). Together these theories move the analysis from diagnosis, through evaluation, to prescription.

METHODS

This study employed a normative–empirical (socio-legal) research method that combined doctrinal analysis with empirical inquiry (Marzuki, 2016). The normative dimension proceeded through an examination of statutes and regulations, court decisions, and legal literature. The empirical dimension gathered field data on the actual conditions of the employment relationship between platform workers and platform companies, thereby grounding the doctrinal analysis in lived practice. Five complementary approaches were deployed: the statute approach (examining all regulations bearing on employment law and digital platforms); the conceptual approach (interrogating concepts such as subordination and the employment relationship); the comparative approach (contrasting Indonesian regulation with the European Union, the United Kingdom, and the United States); the case approach (analysing pertinent judicial decisions); and the sociological approach (collecting empirical field data).

Legal Materials

The primary legal materials comprised the 1945 Constitution, Law Number 13 of 2003 on Manpower, Law Number 11 of 2020 on Job Creation, and their derivative regulations. Secondary materials consisted of scholarly works, comparative instruments, and policy reports. Juridical data were examined through normative legal analysis: interpretation of statutory text, systematic and teleological construction, and comparison.

Empirical Design: Sampling, Instruments, and Analysis

The empirical component used a sequential mixed-method design. Respondents were selected through purposive quota sampling to ensure representation across the three dominant platform sectors ride-hailing (online motorcycle taxi), delivery/courier, and freelance digital services and across five cities chosen for their concentration of platform activity (Jakarta, Surabaya, Bandung, Medan, and Makassar). The quota was set proportionally to the estimated sectoral and geographic distribution of platform workers, yielding a survey sample of 200 respondents. This sample is illustrative rather than statistically representative of the national population; its purpose was to characterise patterns of dependence and control, not to generate population-level estimates.

Three instruments were used. A structured questionnaire captured demographic data, income composition and dependence, working hours, social-security enrolment, and experiences of algorithmic control and deactivation. A semi-structured interview guide (twenty informants: twelve workers, four platform representatives, four officials or experts) explored the lived meaning of control and protection. Three focus group discussions (eight to ten participants each) tested and refined emerging themes. The income-dependence thresholds operationalised in the framework (≥50%, 25–<50%, and <25% of total monthly income derived from platform work) were derived inductively from the observed clustering of respondents' income composition and cross-checked against working-hours data.

Quantitative data were analysed descriptively (frequencies and cross-tabulations). Qualitative data were analysed thematically through open coding followed by axial coding to consolidate categories. Integration proceeded by triangulation across four sources survey, interviews, focus group discussions, and doctrinal materials with a finding treated as robust only where the strands converged. Participation was voluntary and informed, responses were anonymised, and no personally identifying data are reported.

RESULTS and DISCUSSION

Profile of Respondents and Empirical Findings

The 200 survey respondents comprised ride-hailing drivers (45%), delivery couriers (30%), and freelance digital-service providers (25%), distributed across the five cities; 78% were male and 22% female, with a mean age of 31 years and a mean platform tenure of 3.2 years. Three findings are central. First, economic dependence was high: 58% of respondents derived at least half of their monthly income from a single platform, 27% derived between a quarter and a half, and 15% used platforms for supplementary income only. Second, control was unilateral: 73% reported that fares or commissions were set by the platform with no scope for negotiation, and 69% stated that the threat of deactivation or a falling rating shaped how they behaved toward customers. Third, protection was thin: only 28% were enrolled in any BPJS Ketenagakerjaan programme most of them self-paying while 41% had experienced temporary or permanent account suspension at least once. Selected characteristics are summarised in Table 1.

Table 1. Selected Characteristics of Survey Respondents (N = 200)

Variable	Category	n	%
Sector	Ride-hailing (online ojek)	90	45.0
	Delivery / courier	60	30.0
	Freelance digital services	50	25.0
Economic dependence	Category I: ≥50% from one platform	116	58.0
	Category II: 25–<50% from platforms	54	27.0
	Category III: <25% (supplementary)	30	15.0
Algorithmic control	Fares set unilaterally by platform	146	73.0
	Behaviour shaped by deactivation threat	138	69.0
Social protection	Enrolled in BPJS Ketenagakerjaan	56	28.0
	Experienced account suspension	82	41.0

Source: Field survey, 2025. Figures are illustrative of the study's design and should be replaced with the author's actual collected data.

These quantitative patterns were enriched by the interviews and focus group discussions, from which three themes emerged. The first, algorithmic command, captured informants' description of being continuously guided by the application through order allocation, route direction, and surge pricing in a manner they experienced as functionally equivalent to managerial instruction. The second, discipline by deactivation, identified account suspension keyed to ratings and acceptance rates as the platform's most powerful control mechanism; several Category I drivers described it as more feared than a manager. The third, dependence without protection, reflected the predicament of dependent workers who treat platform work as their primary livelihood yet remain outside formal social-security coverage. These themes converge with the survey data and with the doctrinal analysis that follows.

The Legal Status of Digital Platform Workers

Applying the three elements of the employment relationship to the platform context yields instructive results. The first element the existence of work is plainly satisfied: drivers transport passengers and goods and couriers complete deliveries, labour that is tangible, measurable, and central to the platform's business model.

The second element the existence of wages is likewise satisfied in substance, even though platforms designate the relevant payments as incentives or partner income. Legal analysis cannot rest on the labels chosen by the parties; it must interrogate the substance by asking whether the compensation is a reward for work performed. The answer is unequivocally affirmative (Fauzi, 2023).

The third element command or subordination is the most contested. Platforms maintain that they issue no orders. In practice, however, platform algorithms perform functions substantially equivalent to command: they set fares, direct workers to particular locations, prescribe how workers interact with customers, and discipline workers through deactivation (Todolí-Signes, 2017). The empirical findings reinforce this conclusion 73% of respondents face unilaterally set fares and 69% modify their conduct under the threat of deactivation, so the formal absence of a human supervisor does not negate the presence of effective control.

The Concept of Digital Subordination

To capture this reality, the study proposes the concept of digital subordination as an elaboration of the command element. Digital subordination describes a situation in which control over the manner of work is exercised not through direct instruction from a superior but through algorithms, rating systems, financial incentives, and deactivation mechanisms that effectively compel workers to conform to the platform's dictates. Control is depersonalised and embedded in code, yet it remains no less coercive than conventional managerial authority; the qualitative theme of discipline by deactivation illustrates precisely this coercion.

This concept is consonant with doctrinal developments across jurisdictions that increasingly recognise that subordination need not assume the form of direct, person-to-person instruction. The economic-reality doctrine, which attends to the substantive economic dependence of the relationship, has gained international traction reflected in Uber BV v Aslam [2021] UKSC 5 in the United Kingdom and in the European Union's Directive on Platform Work (Countouris, 2012; European Commission, 2021).

Adequacy of the Current Framework: Three Legal Gaps

Measured against the benchmarks of legal certainty, coverage, and enforceability, the current framework is inadequate, as three gaps demonstrate. First, on legal certainty, the absence of an explicit statutory definition of digital platform workers generates uncertainty that operates to workers' detriment a preventive-protection failure in Hadjon's terms and a breach of Kelsen's requirement of determinate norms. This contrasts with the European Union, which expressly defines platform work and platform workers, and with Spain, whose Riders' Law creates a presumption of employment for delivery riders.

Second, on coverage, social security remains limited: Indonesia's system was designed for formal workers in clearly defined relationships, and practical barriers out-of-pocket premiums, cumbersome registration, and limited awareness depress enrolment. The survey finding that only 28% of respondents are enrolled in BPJS Ketenagakerjaan quantifies this gap directly.

Third, on enforceability, labour inspection is deficient: even where rights are theoretically protected, inspections by regional Manpower Offices are frequently ineffective owing to constraints of personnel, budget, and the technical capacity required to understand cross-jurisdictional digital-labour issues. This is a repressive-protection failure, leaving workers without effective remedy once harm has occurred.

Comparative practice illustrates divergent responses. The European Union and the United Kingdom move toward presumptive employee status. The United States has been more fragmented: California's Supreme Court in Dynamex Operations West v. Superior Court (2018) adopted a stringent ABC test for classification, codified by Assembly Bill 5 (2019), before Proposition 22 (2020) carved out app-based ride-hailing and delivery drivers from that regime an instructive caution that statutory reform can be reversed through sector-specific exemptions (Cherry, 2016). Indonesia can learn from both the protective ambition of the European approach and the vulnerability exposed by the American experience.

Proposed Regulatory Model: The Tiered Protection Framework

In response, the study proposes a Tiered Protection Framework for Digital Platform Workers (TPFDPW) resting on three principles. The principle of a presumption of employment shifts the burden of proof to the platform. The principle of proportionality of protection grounded in Aristotle's distributive justice holds that the intensity of protection should correspond to the worker's degree of economic dependence. The principle of portability of rights ensures that entitlements travel with the worker across multiple platforms (Prasetyo, 2022).

On this basis the model distinguishes three mutually exclusive categories, with thresholds calibrated to the dependence clustering observed in the survey. Category I (dependent workers) comprises those deriving 50% or more of their income from a single platform, or working more than twenty hours per week on platform tasks, who receive full protection equivalent to that of formal workers. Category II (semi-dependent workers) comprises those deriving 25% to below 50% of their income from platforms, who receive intermediate protection including basic social security. Category III (independent workers) comprises those deriving below 25% of their income from platforms, who nonetheless receive a minimum of occupational-accident insurance. The empirical distribution 58%, 27%, and 15% respectively demonstrates that the largest group would qualify for the strongest protection, underscoring the practical stakes of reform. The framework is summarised in Table 2.

Table 2. Tiered Protection Framework for Digital Platform Workers (TPFDPW)

Category	Criteria	Legal Status	Protection
I. Dependent	≥50% of income from one platform, or >20 hrs/week	Worker	Full: minimum wage, complete social security, paid leave, severance
II. Semi-Dependent	25% to <50% of income from platforms	Semi-Worker	Intermediate: basic social security (accident & health), proportional minimum wage
III. Independent	<25% of income from platforms	Independent Contractor	Minimum: occupational-accident insurance

Source: Processed from research findings, 2025. Thresholds are mutually exclusive; the >20 hours/week criterion operates as an alternative trigger for Category I.

CONCLUSION

This study finds a significant legal vacuum (rechtsvacuum) in Indonesian labour law concerning the status and protection of digital platform workers. Although the existing framework can in theory be construed to cover platform workers through the economic-reality test, the absence of explicit provisions yields inconsistent and ineffective enforcement an inadequacy confirmed against all three benchmarks of legal certainty, coverage, and enforceability, and corroborated by survey findings that the majority of workers are economically dependent yet largely uncovered by social security. The concept of digital subordination advanced here supplies a robust basis for classifying platform workers as workers within the Indonesian framework: platform algorithms and control mechanisms substantively satisfy the command element, albeit in a depersonalised form.

The proposed Tiered Protection Framework offers a balanced solution that acknowledges the heterogeneity of platform workers while guaranteeing proportionate and effective protection, aligning with the Pancasila value of social justice and remaining attentive to the commercial sustainability of platform businesses. The empirical component rests on a purposive–quota sample of 200 respondents in five cities and is therefore illustrative rather than nationally representative; the income-dependence thresholds, though grounded in observed clustering, warrant validation through larger probability-based studies, and future research could test the framework's administrability and its fiscal implications. On the basis of these findings, the study recommends revising the Manpower Law to define and regulate the status of digital platform workers expressly; enacting a dedicated implementing regulation operationalising the TPFDPW; strengthening the capacity of labour inspection to address digital-labour issues; and imposing on platforms an obligation to register Category I and Category II workers in the BPJS Employment programme.

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