

## *Legal Status and Protection of Gig Economy Workers Under Indonesian Labor Law*

### Status Hukum dan Perlindungan Pekerja Economy Gig dalam Hukum Ketenagakerjaan Indonesia

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#### AbstrLaw

*The rapid expansion of the digital gig economy exposes a severe normative vacuum within Indonesian labor law, permanently subjugating workers to exploitative algorithmic management and sham partnerships. Employing a doctrinal legal methodology, this study comprehensively evaluates Indonesia's rigid statutory framework and conducts a comparative jurisprudential analysis with the United Kingdom and Spain. The findings indicate that dogmatic adherence to traditional employment classifications completely prevents algorithmic accountability, effectively externalizing operational risks onto entirely unprotected digital workers. Conversely, the UK's hybrid 'worker' classification and Spain's bold algorithmic transparency mandates provide vital blueprints. To prevent systemic disenfranchisement, Indonesia must immediately transition toward a responsive law paradigm by judicially piercing the digital corporate veil. The national legislature must formally codify a sui generis dependent contractor legal classification. Furthermore, institutionalizing an automated micro-levy social security mechanism alongside mandatory algorithmic transparency will perfectly balance essential labor protections with market flexibility, ultimately restoring substantive constitutional justice and fundamental human dignity.*

#### Abstrak

Ekspansi cepat ekonomi gig digital mengungkap kekosongan normatif yang parah dalam hukum ketenagakerjaan Indonesia, yang secara permanen menundukkan pekerja pada manajemen algoritmik eksploitatif serta kemitraan semu. Menggunakan metodologi hukum doktrinal, penelitian ini secara komprehensif mengevaluasi kerangka peraturan Indonesia yang kaku dan melakukan analisis yurisprudensi komparatif terhadap Inggris Raya dan Spanyol. Hasilnya menunjukkan bahwa kepatuhan dogmatis pada klasifikasi pekerjaan tradisional sepenuhnya mencegah akuntabilitas algoritmik, sehingga secara efektif mengalihkan risiko operasional kepada pekerja digital tanpa perlindungan. Sebaliknya, klasifikasi pekerja hibrida Inggris dan mandat transparansi algoritmik Spanyol memberikan cetak biru yang sangat vital. Untuk mencegah pencabutan hak sistemik, Indonesia harus segera beralih menuju hukum responsif dengan menyingkap tabir perusahaan digital. Legislatif nasional harus merumuskan klasifikasi hukum kontraktor bergantung yang bersifat sui generis. Selanjutnya, melembagakan mekanisme jaminan sosial pungutan mikro otomatis bersama dengan kewajiban transparansi algoritmik akan secara sempurna menyeimbangkan perlindungan tenaga kerja esensial dengan fleksibilitas pasar, guna memulihkan keadilan konstitusional dan martabat manusia.



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## **A. INTRODUCTION**

### **1. Background**

The rapid acceleration of digital technological disruption fundamentally restructured Indonesia's labor ecosystem by 2026. The emergence of the gig economy facilitates individuals to offer specialized skills through digital platforms, operating outside traditional, long-term employment contracts. Initially perceived as a supplementary income source, macro-economic realities demonstrate that platform-based informal work has mutated into a primary pillar of the national digital economy. This sector contributes over five percent to Indonesia's total Gross Domestic Product (GDP). According to the Central Bureau of Statistics (BPS) in February 2025, informal workers constituted 59.40 percent of the active domestic workforce, reaching 86.58 million individuals, which includes a growing number of platform-dependent gig workers. This exponential demographic expansion poses deep socioeconomic and political implications, transforming the gig economy into a crucial mechanism for labor absorption amidst a shrinking formal employment sector.<sup>1</sup>

The systemic neglect of tens of millions of digital workers without mandatory regulatory protection represents a severe state omission that risks creating localized structural poverty. The absence of comprehensive labor safeguards—such as institutional healthcare, workplace accident insurance, and income predictability—leaves 86.58 million citizens vulnerable to acute socioeconomic shocks. Any unilateral platform rationalization or market volatility threatens to plunge millions of families beneath the extreme poverty line, morphing a regulatory void into a large-scale social crisis. Consequently, legal intervention in the gig economy is not merely an administrative requirement but a constitutional imperative to avert systemic structural deprivation.<sup>2</sup> Empirical conditions validate this precarity; online labor unions consistently mobilize on International Workers' Day, demanding basic workplace rights, accident coverage, and traditional holiday allowances (THR). These persistent grievances demonstrate that digital platform relations contain deep, localized elements of socioeconomic

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<sup>1</sup> Emiria Dinar Triana, "Jaminan Sosial Ketenagakerjaan Di Sektor Platform Digital Untuk Pekerja Gig Economy," *Populi Center*, 2025, <https://populicenter.org/wp-content/uploads/2025/12/Policy-Brief-Edisi-7-JAMINAN-SOSIAL-KETENAGAKERJAAN-DI-SEKTOR-PLATFORM-DIGITAL-UNTUK-PEKERJA-GIG-ECONOMY.pdf>.

<sup>2</sup> Novali Panji Nugroho, "Potongan Aplikator Ojek Online 8 Persen Berlaku 1 Juli," *Tempo*, 2026, <https://www.tempo.co/politik/potongan-aplikator-ojek-online-8-persen-berlaku-1-juli-2271116>.

subordination cloaked under the guise of independent partnerships.<sup>3</sup>

In response to escalating labor unrest, the Indonesian government enacted Presidential Regulation (Perpres) No. 27 of 2026 concerning the Protection of Online Transportation Workers. This regulatory intervention imperatively reduces the maximum platform commission deduction from twenty percent to a strict cap of eight percent, implemented by platform conglomerates like GoTo and Grab on July 1, 2026. Legally, this mandate guarantees driver-partners a net earnings floor of ninety-two percent of total consumer fares.<sup>4</sup> However, empirical street-level realities reveal a stark normative anomaly: drivers report that real deductions consistently exceed the mandated cap.<sup>5</sup> This disconnect exposes the failure of administrative regulations to penetrate corporate compensatory business strategies. Platform operators exploit the foundational principle of freedom of contract under Article 1338 of the Indonesian Civil Code (KUHPerdata) to establish alternative, extra-legal financial exactions that circumvent the legislative intent.

Leveraging the private autonomy granted by Article 1338 KUHPerdata, platform corporations unilaterally embed "Platform Fees" or ancillary support fees within digital adhesion contracts. These corporate levies are framed as technological sustainability, safety insurance, and system maintenance costs. Because these fees are calculated independently of the core delivery commission, consumers pay higher aggregate service costs while drivers only receive a percentage of the diminished base tariff. Furthermore, platforms compensate for regulatory losses by terminating internal subsidy programs, eliminating low-cost features, and restricting promotional vouchers. This algorithmic calibration suppresses order frequency and market demand.<sup>6</sup> The cumulative effect of these concealed structural adjustments erodes the drivers' real net income, confirming that formalistic administrative protections remain functionally toothless without effective, public oversight of corporate algorithmic governance and underlying contract

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<sup>3</sup> Anton Cahyono, Indra Fredika Kusuma, and Hendro Haryo Kusumo, "Hubungan Hukum Kemitraan Antara Driver Online Dengan Penyedia Layanan," *Perspektif Hukum* 24, no. 2 (December 2, 2024): 317–31, <https://doi.org/10.30649/ph.v24i2.311>.

<sup>4</sup> RCTI+, "Sah! Potongan Komisi Ojol Jadi 8 per Juli 2026, Aplikator Sudah Sepakat," RCTI+, 2026, <https://www.rctiplus.com/news/detail/ekonomi/5412899/sah--potongan-komisi-ojol-jadi-8-per-juli-2026--aplikator-sudah-sepakat>.

<sup>5</sup> Bromo Liem, "Grab Dan Gojek Resmi Hapus Langganan GrabBike Dan GoRide Hemat," Bacaini, 2026, <https://bacaini.id/grab-gojek-hapus-langganan-grabbike-goride-hemat-perpres-ojol-2026/>.

<sup>6</sup> Yudi Setiawan, Budi Sutrisno, and Ari Hakim Budiawan Firdaus, "Pelaksanaan Pasal 1338 Ayat (1) (3) KUHPerdata Tentang Kebebasan Berkontrak Dan Itikad Baik Dalam Pembiayaan Kendaraan Bermotor," *Journal Kompilasi Hukum* 5, no. 1 (June 30, 2020): 154–74, <https://doi.org/10.29303/jkh.v5i1.5>.

asymmetries.<sup>7</sup>

This contractual asymmetry exposes a profoundly unequal power dynamic between multinational digital corporations and individual gig workers. The corporate narrative of "independent partnership" functions as a legal camouflage, since drivers lack any bargaining leverage to negotiate or reject terms altered unilaterally via smartphone screens. Consequently, this relationship constitutes a modern iteration of industrial subordination rather than an equitable civil contract. Evaluated through Philippe Nonet and Philip Selznick's legal sociology framework, Indonesia's labor regime remains trapped within "autonomous law." This autonomous orientation manifests through rigid judicial and administrative institutions that prioritize formal statutory texts and literal contract legalities, thereby legalizing structural exploitation under the guise of freedom of contract. This formalistic approach systematically ignores the coercive operational realities and asymmetric power distributions embedded within proprietary digital algorithms, insulating capital owners from traditional statutory liabilities.<sup>8</sup>

The rigidities of the autonomous model are exacerbated by the statutory architecture of Law No. 13 of 2003, as amended by Law No. 6 of 2023 on Job Creation. This framework strictly requires a cumulative showing of work, wages, and direct managerial command to establish an employment relationship. Because platform management is executed autonomously by artificial intelligence without physical supervisors, corporations easily evade the traditional legal definition of "command." Furthermore, autonomous law permits platforms to operate merely under Electronic System Provider (PSE) licenses issued by telecommunications authorities, rendering formal labor laws blind to algorithmic control. This adherence to procedural administration allows autonomous law to devolve into a repressive mechanism for the working class by institutionalizing the exploitation of gig workers, prioritizing corporate investment stability and capital accumulation over substantive labor justice.

Consequently, gig workers are reduced to the status of digital "milking cows," forced to generate immense corporate valuation while stripped of fundamental protections.<sup>9</sup>

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<sup>7</sup> Empirical field evidence: <https://www.instagram.com/reels/DZKfPY4pAZC/>. June 2026 is underway; however, the government-promised regulation capping ride-hailing application deductions at an 8 percent maximum remains practically unimplemented.

<sup>8</sup> Philippe Nonet and Philip Selznick, *Law and Society in Transition: Toward Responsive Law* (Routledge, 2017), Page, 73-76. <https://doi.org/10.4324/9780203787540>.

<sup>9</sup> Anindya Dessi Wulansari, "Mitos Ekonomi Berbagi dalam Platform Kerja Gig di Indonesia," in *Menyoal Kerja Layak dan Adil Dalam Ekonomi Gig di Indonesia* (Yogyakarta: IGPA Press, 2021), 3-22.

Platforms externalize all operational risks—including vehicle depreciation, fuel fluctuations, maintenance, and fatal traffic accidents—directly onto the workers without providing proportional social security. To address this crisis, contemporary scholars attempt to map the boundaries of informal labor protection. Rahayu and Wijayanti analyze traditional informal labor protections but limit their scope to localized, non-digital fields.<sup>10</sup> Conversely, Indra and Nawangsari evaluate gig worker protections through standard Indonesian labor law but fail to address transnational digital frameworks or professional gig workers.<sup>11</sup> Similarly, Ikhtiariza, Fidiyati, and Fitriyah explore normative rights like wages and insurance for freelancers but overlook the distinct structural mechanisms of platform-mediated digital subordination.<sup>12</sup>

Further scholarly discourse examines these relationships through alternative private law lenses. Putra et al., analyze gig worker relationships strictly from an Indonesian civil law perspective, yet their analysis lacks the protective public policy imperatives of labor law.<sup>13</sup> Furthermore, Prawira et al., examine digital contract law boundaries and consumer protections within commercial endorsement agreements, leaving the broader issue of platform-mediated employment integration unaddressed.<sup>14</sup> These existing studies present a significant thematic gap: they treat gig economy disputes as isolated civil or localized issues, failing to synthesize how algorithmic governance systematically conceals traditional employment subordination, and ignoring how transnational jurisprudential developments can cross-fertilize and reform domestic policy.

To bridge this academic blind spot, this study looks to comparative jurisprudential developments within the European Union, specifically Spain. The Spanish Supreme Court successfully dismantled digital asymmetries in its landmark Ruling No. STS 805/2020

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<sup>10</sup> Lilik Puja Rahayu and Asri Wijayanti, “Perlindungan Hukum Pekerja Harian Lepas Di Kabupaten Bondowoso,” *Justitia Jurnal Hukum* 4, no. 2 (October 24, 2020): 319–30, <https://journal.um-surabaya.ac.id/Justitia/article/view/6188>.

<sup>11</sup> Indra and Sefti Afi Nawangsari, “Legal Protection for Gig Economy Workers from the Perspective of Labor Law in Indonesia,” *Hakim: Jurnal Ilmu Hukum Dan Sosial* 3, no. 1 (February 19, 2025): 937–54, <https://doi.org/10.51903/hakim.v3i1.2289>.

<sup>12</sup> Dyah Ikhtiariza, Eva Fidiyati, and Lailatul Fitriyah, “Perlindungan Hak Pekerja Lepas Dalam Hukum Ketenagakerjaan,” *Jurnal Dunia Ilmu Hukum (JURDIKUM)* 2, no. 1 (June 2, 2024): 09–15, <https://doi.org/10.59435/jurdikum.v2i1.375>.

<sup>13</sup> Rengga Kusuma Putra et al., “Perlindungan Hukum Bagi Pekerja Gig Economy: Perspektif Hukum Perdata Di Indonesia,” *Perkara: Jurnal Ilmu Hukum Dan Politik* 2, no. 4 (January 4, 2025): 553–64, <https://doi.org/10.51903/perkara.v2i4.2227>.

<sup>14</sup> I Made Agastia Wija Prawira et al., “Perlindungan Hukum Terhadap Pemilik Bisnis, Selebgram Maupun Konsumen Dari Adanya Perjanjian Endorsement Pada Aplikasi Instagram,” *Kertha Semaya: Journal Ilmu Hukum* 11, no. 3 (2023): 610–31, <https://doi.org/10.24843/KS.2023.v11.i03.p13>.

involving the Glovo platform.<sup>15</sup> Utilizing the IRAC framework, the Spanish judiciary pierced artificial contractual labels, ruling that digital couriers are formal employees rather than independent contractors. The court established that the platform's algorithm exercises authentic managerial control by unilaterally setting prices, dictating optimal routes, monitoring performance via ratings, and enforcing automated disciplinary sanctions. This systemic algorithmic governance creates absolute economic dependency, shattering corporate claims of courier autonomy and culminating in Spain's legislative enactment of the "Ley Rider" to formalize digital labor protections.<sup>16</sup>

Conversely, the UK Supreme Court in *Deliveroo* [2023] UKSC 43 adopted a contrasting contractual approach, rejecting a labor union's request to grant formal "worker status" to digital couriers for collective bargaining purposes.<sup>17</sup> The British judiciary prioritized the absolute contractual right of substitution embedded within the platform's terms, which allowed couriers to delegate deliveries to third parties without penalty. This absence of a personal service requirement fundamentally dissolved the traditional element of subordination under English common law. The clash between Spain's protectionist paradigm and the United Kingdom's strict contractual approach provides critical cross-jurisdictional insights. This jurisprudential spectrum highlights the urgent need for Indonesia to construct precise legal indicators that differentiate genuine entrepreneurial flexibility from camouflaged algorithmic exploitation.

The urgency of this statutory reform is underscored by previous institutional failures within domestic courts. In Constitutional Court Decision No. 41/PUU-XVI/2018, online transport unions sought judicial review of Law No. 22 of 2009 on Traffic and Road Transportation, contesting the lack of formal legal recognition for two-wheeled vehicles as public transport.<sup>18</sup> This statutory exclusion deprives drivers of sectoral legality, leaving their professional status vulnerable to unchecked corporate manipulation. However, the

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<sup>15</sup> "Tribunal Supremo, Sala de Lo Social, Sentencia Num. 805/2020 (Caso Glovo), ECLI:ES:TS:2020:2924" (2020), [https://gredos.usal.es/bitstream/handle/10366/147301/Sentencia\\_del\\_Tribunal\\_Supremo\\_%28Sala\\_de\\_.pdf?sequence=1&isAllowed=y](https://gredos.usal.es/bitstream/handle/10366/147301/Sentencia_del_Tribunal_Supremo_%28Sala_de_.pdf?sequence=1&isAllowed=y).

<sup>16</sup> Tiago Vieira and Pedro Mendonça, "The Times, Are They Changing? Examining Platform Companies' Chameleonic Labour Process as a Response to the Spanish Rey Rider," *Socio-Economic Review* 23, no. 2 (April 1, 2025): 877-98, <https://doi.org/10.1093/ser/mwae066>.

<sup>17</sup> "UK Supreme Court, *Independent Workers Union of Great Britain (IWGB) v Central Arbitration Committee and Another* [2023] UKSC 43" (2023), <https://www.supremecourt.uk/cases/uksc-2021-0155>.

<sup>18</sup> "Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 41/PUU-XVI/2018 Tentang Pengujian Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan Terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945" (2018).

Constitutional Court rejected the petition based on rigid administrative transport policies and traffic safety rationales. This judicial denial exemplifies how the state remains shackled to formalist, autonomous legal traditions, systematically relegating digital platform workers to a legal gray zone of unchecked economic exploitation and regulatory disenfranchisement.

Therefore, this study departs from dogmatic, localized interpretations by executing a dialectical comparative analysis of international jurisprudence against domestic statutory deficiencies. This research does not merely recount historical legal narratives; instead, it uses foreign precedents to deconstruct the "independent partnership" doctrine utilized by digital platforms. Unlike previous studies confined to traditional civil remedies, this study introduces a novel comparative framework that applies the doctrine of "piercing the corporate veil" through a responsive law lens. This perspective enables courts to look past the digital interface and expose platforms as true employers exercising absolute algorithmic dictatorship, offering a scalable regulatory model tailored for the structural realities of the Indonesian labor market.

This article argues that algorithmic governance represents a sophisticated mutation of corporate subordination that deliberately evades traditional labor law frameworks. The ultimate solution to this systemic exploitation requires a transition to responsive law, achieved by empowering industrial relations courts to pierce the corporate veil and establishing an imperative, non-derogable statutory regime. This legal intervention aligns with the constitutional mandate of Article 27 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which guarantees every citizen the right to work and a decent living. By establishing rigorous legal standards for platform accountability, this study provides a comprehensive blueprint to eradicate digital structural poverty and restore substantive labor justice within the Global South.

## **2. Research Questions**

Predicated on the preceding background, this study addresses the following central inquiries:

- a. How does the prevailing labor regulatory void impact the scope of digital platforms' legal liability in fulfilling the fundamental rights of gig workers in Indonesia?
- b. How should Indonesia's labor law architecture be structurally transformed to secure the rights and protections of gig workers, informed by comparative

jurisprudence from foreign jurisdictions?

### **3. Research Methodology**

This study employs a doctrinal legal methodology to analyze the principles, doctrines, and positive law lacunae governing gig worker protections in Indonesia, seeking to establish normative coherence through systematic statutory analysis rather than empirical quantitative observation.<sup>19</sup> To ensure analytical rigor, this study employs statutory, conceptual, and comparative methodologies. The statutory approach evaluates the structural coherence of positive law, specifically Law No. 13 of 2003 on Manpower *juncto* Law No. 6 of 2023 on Job Creation. Conceptually, it interrogates fundamental doctrines such as algorithmic management and sham partnerships. Finally, the comparative approach analyzes jurisprudence and regulatory frameworks within the UK's common law and Spain's civil law traditions to synthesize a hybrid protective model adaptable to Indonesia's labor law architecture.<sup>20</sup>

This study relies exclusively on secondary data stratified into primary and secondary legal materials. Primary sources encompass national labor regulations, international labor instruments, and landmark judicial decisions from comparative jurisdictions. Secondary materials comprise academic literature, textbooks, and global index-rated journal articles published within the last five years to ensure the *state of the art* of the discourse. Data collection was conducted via library research across legal databases, academic repositories, and international publication portals. All synthesized legal materials were analyzed through a qualitative-normative method. The analysis proceeds deductively, deriving prescriptive, targeted solutions—specifically the urgent need for a *sui generis* legal classification for digital platform workers—from foundational normative premises concerning legal certainty and labor justice.<sup>21</sup>

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<sup>19</sup> Terry Hutchinson, "Doctrinal Research," in *Research Methods in Law* (London: Routledge, 2025), 8–38, <https://doi.org/10.4324/9781032710372-2>.

<sup>20</sup> Konrad Zweigert and Hein Kötz, *Introduction to Comparative Law* (Oxford: Clarendon Press, 1998). Page, 34–36.

<sup>21</sup> Maheran Makhtar, Zuhairah Ghadas, and Mahbulul Haque, "Exploring Legal Protections for Platform Workers in Malaysia: A Human Rights-Based Perspective," *PADJADJARAN Jurnal Ilmu Hukum* 11, no. 2 (August 2024): 185–207, <https://doi.org/10.22304/pjih.v11n2.a2>.

## **B. DISCUSSION**

### **1. Implications of the Employment Normative Vacuum on Digital Platform Liability for the Basic Rights of Gig Economy Workers**

#### **a. The Normative Vacuum and the Legitimation of Sham Partnerships in Electronic System Provider Practices**

The contemporary Indonesian labor law landscape confronts an existential crisis driven by massive digital economic acceleration. The rapid expansion of digital platform corporations, particularly decacorns operating within the on-demand transit and logistics sectors, has fundamentally disrupted the domestic labor market. Initially perceived as a mere source of supplementary income, the gig economy has mutated into a primary macroeconomic pillar. This digital sector consistently contributes over five percent to Indonesia's Gross Domestic Product. Such a systemic transformation has permanently altered traditional employment relations, establishing the gig economy as a structural necessity rather than a temporary or alternative employment arrangement.<sup>22</sup>

According to the Central Bureau of Statistics (BPS) projections for 2026, informal workers dominate Indonesia's labor force, representing 59.40 percent of total employment. Within this rapidly expanding digital-informal ecosystem, the population of independent and gig workers relying on platform applications is estimated to reach a massive 86.58 million individuals. This demographic explosion functions as an early warning signal for national economic and political stability. It empirically proves that the gig economy has absorbed vital segments of the labor force amidst a severe deficit of formal employment opportunities.<sup>23</sup> Yet, this expanding population remains structurally unprotected under current statutory frameworks.

**Table 1. Labor Force Distribution and Legal Framework in 2026**

<b>Labor Force Category</b>	<b>Estimated Population (2026)</b>	<b>Percentage of Total Labor Force</b>	<b>Primary Legal Framework</b>
Formal Sector Workers	~59.17 Million	40.60%	Manpower Law No. 13/2003
Informal Sector	~86.58 Million	59.40%	None (Normative)

<sup>22</sup> Bona Jevon Tampubolon and Ridha Wahyuni, "Protection of the Normative Rights of Platform Workers: A Comparative Study of Indonesia and Singapore," *Journal of Law, Politic and Humanities* 6, no. 4 (June 26, 2026): 2979–89, <https://doi.org/10.38035/jlph.v6i4.3373>.

<sup>23</sup> Triana, "Jaminan Sosial Ketenagakerjaan Di Sektor Platform Digital Untuk Pekerja Gig Economy."

Workers

Vacuum)

**Total Labor Force ~145.75 Million 100.00%**

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This rapid capital accumulation lacks a corresponding regulatory evolution, generating a systemic regulatory lag. The resulting regulatory vacuum (*rechtsvacuüm*) exposes a profound systemic gap in Indonesian positive law. Positive labor law remains strictly tethered to orthodox employment relations, limiting absolute legal protection to static, formal-sector configurations. Leaving a population of 86.58 million workers devoid of statutory labor protections risks the creation of a new class of structural urban and sub-urban poverty. This institutional failure vividly demonstrates the state's inability to reconcile rapid technological disruption with the constitutional mandate of socioeconomic justice.<sup>24</sup>

Specifically, Law No. 13 of 2003 on Manpower, read in conjunction with Law No. 6 of 2023 on Job Creation, demonstrates a structural failure in addressing digital labor. National labor regulations dogmatically require a cumulative demonstration of three conventional elements to establish an employment relationship: work, command, and wages. These elements are conceptualized strictly within physical, conventional employment contracts. Consequently, positive law lacks specific provisions governing the asymmetrical legal status, fundamental rights, and employer responsibilities of platform corporations toward this marginalized class of digital workers.<sup>25</sup>

Due to this persistent normative vacuum, millions of digital workers are relegated to a legal gray area, which effectively legitimizes the practice of "sham partnerships" or "bogus self-employment." Within this gray zone, workers bear disproportionately high operational burdens. They are contractually obligated to self-finance their primary means of production, including motor vehicles, fuel, and communication devices. Paradoxically, this massive capital contribution is met with an absolute absence of legal protections that should inherently accompany the provision of labor. This asymmetric risk distribution allows platforms to extract maximum surplus value.

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<sup>24</sup> Joel Bakan and Sujit Choudhry, "Constitutional Labour Rights in the Gig Economy," *McGill Law Journal* 70, no. 3 (July 1, 2024): 443–90, <https://doi.org/10.26443/law.v70i3.2209>.

<sup>25</sup> Adi Pratomo Kusuma Wardhana and Rasji Rasji, "The Legal Status of Gig Economy Workers in Indonesia's Digital Platform Industry (2022-2025)," *Indonesian Journal of Law and Economics Review* 21, no. 1 (December 7, 2025): 1–13, <https://doi.org/10.21070/ijler.v21i1.1402>.

This structural precarity is massively exacerbated by platform corporations exploiting administrative licensing ambivalence in Indonesia. Factually, platforms operate as massive digital employers that organize, supervise, and discipline millions of workers from end to end. Administratively, however, platforms shield themselves behind Electronic System Provider (PSE) registrations issued by the Ministry of Communication and Information. By manipulating this administrative classification, platform corporations claim to be passive intermediary technology providers that merely bridge market supply and demand. This legal fiction allows platforms to entirely deny the existence of labor subordination.

By presenting themselves purely as technology platforms, corporations frame their relationship with workers as a business-to-business (B2B) arrangement governed by general civil contract law. This exploitation of the principle of freedom of contract serves as an exculpatory shield to reduce corporate liability. Platforms argue their legal responsibility is strictly limited to maintaining application performance and facilitating electronic transactions. This narrative allows them to legally evade mandatory labor standards. Consequently, platforms successfully bypass obligations to provide minimum wages, comprehensive social security, occupational safety protections, and humane working hours.

This dogmatic deadlock can be analyzed comprehensively through Philippe Nonet and Philip Selznick's Theory of Legal Transformation. In their classic work, *Law and Society in Transition: Toward Responsive Law*, they deconstruct legal evolution into three successive stages: Repressive Law, Autonomous Law, and Responsive Law. This framework reflects the dynamic interaction between law, power, and society. Applying this theory confirms that Indonesian labor law is currently experiencing severe jurisprudential stagnation, entirely unable to transition from rigid proceduralism to substantive social protection.

The first stage, Repressive Law, exists when legal institutions are entirely subordinated to preserving power and ruling-class interests. As Nonet and Selznick observe, at this stage, "law is subordinated to power politics".<sup>26</sup> Within this theoretical framework, legal institutions do not limit corporate power or protect marginalized classes; rather, they function as coercive tools to maintain hierarchical order. Legal

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<sup>26</sup> Nonet and Selznick, *Law and Society in Transition: Toward Responsive Law*. Page, 16.

certainty applies exclusively to those possessing capital and authority, while substantive justice is blatantly subordinated to the efficiency of social control and wealth extraction.

Intriguingly, residues of repressive law resonate strongly in contemporary digital labor relations, albeit in heavily mutated forms. While state repression historically manifested through active physical coercion, in the modern gig economy, it operates through regulatory passivity or state omission. The state systematically permits platform corporations to exercise unchecked algorithmic hegemony. By retreating from its constitutional obligation to protect labor, the state allows digital labor relations to be dictated by an inherently unequal free-market mechanism. This deliberate regulatory omission Laws as a tacit state endorsement of platform capitalism.

This systemic state omission creates a legal gray area that enables platforms to aggressively exploit regulatory gaps. First, platforms manipulate employment status by labeling workers as "independent partners" to escape statutory labor liabilities. Second, the absence of regulatory boundaries facilitates an algorithmic dictatorship, allowing black-box algorithms to discipline or unilaterally deactivate accounts without due process of law. Third, platforms privatize operational risks, shifting vehicle depreciation, fuel costs, and accident liabilities entirely onto the shoulders of vulnerable workers.

This toxic combination of technological dominance and regulatory leniency facilitates massive structural exploitation. The state's deliberate omission is not merely a bureaucratic oversight but a profound form of tacit support for capital accumulation. Consequently, the legal system—through its inaction—operates repressively. It suppresses workers' collective bargaining power, alienates them from their fundamental rights, and provides an impenetrable legal foundation for platforms to maximize profit. The law thus ceases to be a shield for the weak, operating instead as a sword for corporate interests.

The second evolutionary stage is Autonomous Law, which emerges as an antithesis to repressive arbitrariness. Autonomous law seeks to separate itself from political power and class dominance to pursue procedural neutrality and legal certainty. As articulated by Nonet and Selznick, this regime is characterized by strict rule-bound adjudication, judicial independence, and rigid proceduralism. However, this procedural fetishism and textual rigidity often render the law entirely blind to evolving substantive justice. It prioritizes the preservation of the legal code over the changing socioeconomic realities of

society.<sup>27</sup>

Tragically, Indonesia’s Manpower Law remains locked within this rigid autonomous law paradigm. When confronted with digital economic disruptions, the national regulatory framework blindly serves statutory texts and classical jurisprudence. It refuses to acknowledge the volatile socioeconomic realities underlying platform work. The law is reduced to grammatical interpretations alienated from the lived experiences of digital workers. This dogmatic adherence to literal texts permanently isolates the legal system from the structural inequalities embedded within the digital marketplace.

This blindness is most apparent in how autonomous law rigidly defines an employment relationship. Article 1, Paragraph 15 of Law No. 13 of 2003 rigidly requires cumulative proof of three elements: work, wages, and command. Under this positivistic logic, "command" is imagined exclusively as industrial-era managerial subordination: a physical supervisor, fixed working hours, and direct verbal instructions. This rigid interpretation proves disastrous for gig workers, as it entirely fails to capture modern digital control mechanisms embedded within platform architectures.

First, autonomous law creates an illusion of independence. Because platform workers possess temporal flexibility, the law superficially concludes that no subordination exists, legitimizing corporate claims of independent partnership. Second, this paradigm ignores algorithmic subordination. Rating systems, order-allocation algorithms, suspension threats, and gamified incentives are modern functional equivalents of managerial command. Third, procedural paralysis occurs as judges Law merely as *la bouche de la loi*, refusing progressive legal discovery (*rechtsvinding*) due to formalistic statutory rules.

**Table 2. Comparative Analysis of Legal Paradigms in the Gig Economy**

<b>Legal Paradigm (Nonet &amp; Selznick)</b>	<b>Primary Characteristics</b>	<b>Manifestation in the Digital Gig Economy</b>
<b>Repressive Law</b>	Law as a tool for power; subordination of justice to order.	State omission; tacit support for capital accumulation; workers treated as disposable assets.
<b>Autonomous Law</b>	Rule-bound; procedural fetishism; blind to social reality.	Strict adherence to the textual definition of "command"; honoring clickwrap agreements

<sup>27</sup> Nonet and Selznick. Page 52.

unconditionally.

<b>Responsive Law</b>	Law as a dynamic tool for social engineering; purposive justice.	Recognizing subordination; micro-levies; corporate veil.	algorithmic implementing piercing the
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Ultimately, autonomous law becomes a dangerous double-edged sword in the digital economy. To preserve legal certainty for corporations and statutory texts, the legal system sacrifices substantive justice for millions of workers. The proclaimed neutrality of autonomous law is *deceptively* not neutral; its silence and rigidity *deceptively* legitimize novel forms of exploitation under the guise of technological innovation. It shields platforms from liability while systematically disenfranchising workers from statutory protections and social safety nets.

This procedural rigidity in autonomous law leads to decisions that severely harm the working class. As Nonet and Selznick observe, under an autonomous legal regime, judicial bodies are restricted to mechanically applying existing rules without evaluating their substantive fairness.<sup>28</sup> This theoretical reality explains why the state permits digital partnership agreements to be treated as absolute under the civil law doctrine of *pacta sunt servanda* (Article 1338 of the Civil Code). Judges consider their duty complete once a clickwrap agreement is signed, ignoring its exploitative, take-it-or-leave-it nature.

Faced with structural gridlock and exploitation legitimized by rigid rules, Indonesia's labor law framework must immediately evolve. It is imperative that the national legal system migrate toward the third stage of legal evolution: Responsive Law. Nonet and Selznick conceptualize responsive law as a purposive institution that subordinates procedural rigidity to substantive justice, utility, and societal welfare. Under this paradigm, the law returns to its fundamental nature as a dynamic tool for social engineering, remaining acutely sensitive to material social realities.<sup>29</sup>

Transitioning to responsive law requires a fundamental epistemological shift in legal reasoning. The judiciary and legislature must move from an obsession with formal *legal* certainty to the *substantive* protection of vulnerable parties. In asymmetric digital labor relations, the legal system must look past formalistic constructs. It can no longer assume that tech giants and individual gig workers possess equal bargaining power.

<sup>28</sup> Nonet and Selznick. Page, 58.

<sup>29</sup> Nonet and Selznick. Page, 115.

Responsive law demands that courts look beyond the literal text of partnership contracts that are unilaterally drafted and inherently exploitative.

By adopting a responsive law paradigm, the national legal system can systematically dismantle the legal fiction of sham partnerships. This transition requires highly progressive measures. First, the interpretation of "employment relationships" must expand to recognize algorithmic management as absolute subordination. Second, the principle of substance over form must prevent platforms from using PSE licenses to evade labor classifications. Finally, the state must enforce mandatory public law standards over private contract terms, ensuring platforms can no longer escape statutory liabilities.

Ultimately, the transformation to responsive law is not a mere academic debate but an existential prerequisite for social justice. Without this paradigm shift, the state continues to legitimize modern forms of labor exploitation. Embracing responsive law is the only path to dismantling bogus partnerships that masquerade as technological innovation. This jurisprudential shift is absolutely necessary to prevent corporations from extracting maximum surplus value from the blood, sweat, and vulnerability of digital workers across the archipelago.

#### **b. Structural Vulnerability, Algorithmic Manipulation, and the Erosion of the Basic Rights of Gig Economy Workers**

The direct consequence of maintaining bogus partnerships within an autonomous law regime is the creation of extreme structural vulnerability on the digital shop-floor. Far from acting as neutral intermediaries facilitating equal cooperation, digital platforms implement a highly prescriptive, omnipresent, and tyrannical degree of subordination. Traditional human-centric managerial supervision has mutated into a computerized surveillance architecture. This phenomenon is sociologically and academically defined in global literature as "Algorithmic Management".<sup>30</sup>

Under this computational model, exploitation is no longer executed by human supervisors wielding authority on a physical factory floor. Instead, supervisory systems have mutated into algorithmic control, wherein managerial functions traditionally executed by humans are encoded and executed by artificial intelligence systems.<sup>31</sup> This

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<sup>30</sup> Alex J Wood et al., "Good Gig, Bad Gig: Autonomy and Algorithmic Control in the Global Gig Economy," *Work, Employment and Society* 33, no. 1 (February 8, 2019): 56–75, <https://doi.org/10.1177/0950017018785616>.

<sup>31</sup> Eva Janssen, Pieter Hendriks, and Sophie Vermeer, "The Disruption of Labor Law in the Platform Economy: Towards a Normative Reconfiguration," *Rechtsnormen: Journal of Law* 3, no. 2 (April 22, 2025): 190–98, <https://doi.org/10.70177/rjl.v3i2.2216>.

shift represents a transition from human-centered oversight to a computational governance model that operates continuously, invisibly, and irreversibly, leaving workers with absolutely no room for dissent, negotiation, or grievance redress.

This algorithmic governance manifests as a digital dictatorship governed by closed-source, black-box algorithms. The position of the human manager is replaced by computational bosses that centralize absolute authority. Work processes are reduced to automated dispatches, where the machine unilaterally dictates order distribution, mandates optimal routes, and tracks workers' geolocations in real-time via smartphone GPS integration. The absence of human intervention eliminates opportunities for negotiation, flexibility, or empathy in response to real-world disruptions like adverse weather or traffic congestion.

Furthermore, the narrative of scheduling autonomy, consistently propagated by platform corporations to attract workers under the guise of entrepreneurial freedom, is a highly manipulative illusion. While gig workers are not mandated to log in at specific hours, platforms employ soft control mechanisms that manipulate choices through sophisticated gamification architectures. This design creates a form of behavioral coercion that achieves compliance without explicit commands, effectively obscuring the underlying labor subordination under a veneer of flexibility.<sup>32</sup>

This gamified coercion operates through layered incentives, bonuses, and daily targets designed to psychologically compel workers to remain on the road for excessive hours. Conversely, if workers exercise their theoretical freedom to disconnect and rest, the platform's algorithm records this inLawivity as a performance degradation. The consequence is a silent algorithmic penalty known as shadowbanning, where the inLawive worker is deprioritized in future order allocations. This choice architecture reduces the celebrated autonomy to a grim choice between hyper-exploitation or economic starvation.

**Table 3. Elements and Consequences of Algorithmic Control in Gig Platforms**

<b>Element of Algorithmic Control</b>	<b>Manifestation in Digital Platforms</b>	<b>Consequence for Gig Workers</b>
<b>Automated Dispatch</b>	AI-driven matching of supply and demand without	Loss of negotiation power; forced compliance to machine

<sup>32</sup> Wood et al., "Good Gig, Bad Gig: Autonomy and Algorithmic Control in the Global Gig Economy."

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	human input.	routes.
<b>Surge Pricing</b>	Dynamic price calculation based on real-time data metrics.	Alienation from clients; workers become absolute <i>price-takers</i> .
<b>Gamification</b>	Points, tiered bonuses, and behavioral nudges in the app UI.	"Soft coercion" extending work hours, leading to severe burnout.
<b>Rating Systems</b>	Consumer-driven, 5-star evaluation metrics.	Constant anxiety; outsourcing of disciplinary management to the public.

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Beyond physical and temporal control, algorithmic systems hold absolute prerogative over dynamic service pricing (*surge pricing*), exposing the profound fallacy of the "independent contractor" designation. A genuine entrepreneur possesses the freedom to establish price rates (*price-maker*) and build direct client relations. Conversely, platform workers are entirely alienated from customer data and have zero bargaining power over service pricing. They function as *price-takers* dictated by unilateral corporate code, positioning them at the weakest point of the digital supply chain.

This computational exploitation culminates in an algorithmic panopticon, which re-engineers disciplinary control by outsourcing surveillance directly to consumers. Platforms transform consumers into unpaid middle managers by enforcing a rigid rating system and measuring acceptance rates. A customer's subjective dissatisfaction is blindly calculated by the algorithm. This highly biased evaluation has catastrophic consequences, including automated account suspension or permanent termination. This system perfectly shields platforms from oversight costs while locking workers in a cage of permanent occupational anxiety.<sup>33</sup>

In this platform architecture, evaluation and discipline are fully divested from human oversight. When a worker's cumulative rating falls below an undisclosed proprietary threshold, sanctions are executed instantaneously through automated decision-making systems. These computerized penalties range from temporary order restrictions (*shadowbanning*) to permanent automated deactivation. This automated termination functions as a computational execution of livelihood, leaving no room for human verification (*human-in-the-loop*). It represents a complete collapse of the

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<sup>33</sup> Wardhana and Rasji, "The Legal Status of Gig Economy Workers in Indonesia's Digital Platform Industry (2022-2025)."

constitutional right to due process of law.

This continuous, prescriptive algorithmic intervention induces a novel occupational pathology globally recognized as algorithmic fatigue. To survive low base rates and high platform commissions, workers must exploit their biological limits. They endure twelve to sixteen hours of daily labor, braving severe urban pollution and traffic hazards without adequate.<sup>34</sup> This extreme exertion creates a "Red Queen Dynamic," where workers must work excessive hours merely to maintain a static, subsistence-level income, drastically heightening the probability of fatal accidents.

Tragically, when economic shocks or fatal road accidents occur, platform workers find themselves entirely excluded from safety nets. By hiding behind their administrative PSE classification, platform corporations legally externalize operational liabilities and refuse to contribute to social security programs. Millions of gig workers are forced into the "Non-Wage Earner" (BPU) category of *BPJS Ketenagakerjaan*. Consequently, insurance premiums for occupational hazards and death benefits are privatized, directly deducted from the already marginal earnings of the workers.

In response to growing unrest, the Indonesian government attempted to intervene by issuing Presidential Regulation No. 27 of 2026 on the Protection of Online Transportation Workers. This regulation reduced the maximum platform commission from twenty percent to eight percent, guaranteeing that drivers retain ninety-two percent of gross fares. However, operational realities demonstrate the profound naivety of this administrative intervention. Relying on the principle of freedom of contract, platform corporations quickly introduced unilateral "Platform Fees" charged directly to consumers outside the base fare.

This tariff manipulation triggered a highly destructive domino effect. The inflated consumer fees caused a sharp decline in market demand, severely reducing order volumes for drivers. Simultaneously, platform operators discontinued promotional subsidies and discount codes that had previously stimulated the market. Consequently, drivers' actual take-home pay deteriorated further after the enactment of Perpres 27/2026. This anomaly demonstrates that administrative price caps are entirely ineffective without a comprehensive legal framework that mandates algorithmic

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<sup>34</sup> Dedi Sudrajat, "The Economics of Algorithmic Management: The Impact of AI Surveillance on the Marginal Productivity of Gig Workers," *International Journal of Economics, Business and Innovation Research* 5, no. 03 (May 23, 2026): 2630–50, <https://doi.org/10.63922/ijebir.v5i03.3664>.

governance and price transparency.

Ultimately, this series of exploitative anomalies confirms the systemic failure of Indonesian labor law to adapt to technological change. If the state continues to allow platform corporations to wield non-transparent algorithmic control and disguise employment relations under the legal fiction of independent partnerships, these structural vulnerabilities will solidify into modern labor servitude. Solving this crisis requires moving away from piecemeal administrative patches and embracing progressive, rights-based legal engineering that effectively tames algorithmic power and enforces corporate labor liabilities.

**c. Deconstructing Modern Subordination Through the Progressive Law Paradigm: Piercing the Corporate Veil**

Confronting legal asymmetries, algorithmic manipulation, and the gridlock of an autonomous law regime requires a profound epistemological leap. Technological disruptions cannot be resolved through formalistic positivism that cowardly shelters behind literal statutory texts. Consequently, this study adopts the Progressive Law Theory, formulated by Professor Satjipto Rahardjo, as its foundational philosophical and operational framework. Progressive law serves as an ideological antithesis to the rigid proceduralism of positive law, prioritizing substantive justice and human dignity over mechanical compliance with oppressive contemporary regulations.

The ontological foundation of Progressive Law Theory rests upon a single, noble postulate: "Law is for humans, and not humans for the law". This paradigm positions human welfare and happiness as the absolute focus of the legal system. In Rahardjo's view, if legal institutions, regulations, or private agreements generate human suffering and structural poverty, they must be modified or cast aside. In the gig economy, where standard contracts are weaponized to subjugate workers, Progressive Law demands a total deconstruction of traditional contract theory.<sup>35</sup>

Progressive law mandates that judges, scholars, and policymakers look beyond the literal text (*beyond the text*) to uncover material socioeconomic realities. Legal scholars must not stop at formalistic analyses of digital clickwrap agreements. They are compelled to examine the empirical conditions under which platform labor is performed to reveal disguised subordination. This approach requires the bold transplantation of the corporate

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<sup>35</sup> Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Pub, 2009). Page, 2.

law doctrine of piercing the corporate veil directly into the core of labor jurisprudence.<sup>36</sup>

Historically used to lift the shield of limited liability in commercial corporate law, piercing the corporate veil can dismantle the platform's PSE shield. Under this progressive doctrine, industrial relations courts are empowered to rip away the platform's self-proclaimed status as a mere technological intermediary.<sup>37</sup> This disclosure exposes platforms as true employers who unilaterally direct and extract economic surplus from human labor. Consequently, this deconstruction requires a dynamic, modern reinterpretation of the conventional elements of employment relationships under the Manpower Law.

Under a progressive lens, the concept of "command" must evolve to encompass GPS tracking, surge pricing, gamification, and automated deLawivation. When these elements are met, the cumulative requirements of an employment relationship are substantively satisfied. This progressive approach is not a theoretical utopia; it finds immense precedent in global jurisprudence. For instance, the Spanish Supreme Court (*Tribunal Supremo*) in the *Caso Glovo* (STS 805/2020) pierced the technological veil by ruling that the platform's algorithm exercised absolute operational control over couriers, validating their employee status.<sup>38</sup>

The Spanish court's progressive ruling triggered a legislative cascade, leading to the enLawment of the *Ley Rider* in 2021. This statutory reform established a "Presumption of Employment" and mandated algorithmic transparency for all digital delivery platforms operating in Spain. Similarly, the United Kingdom Supreme Court in *Uber BV v Aslam* ([2021] UKSC 5) took a teleological approach to protect vulnerable workers. The court bypassed written contrLaw terms, establishing a hybrid "worker" status (Limb-b) guaranteeing minimum wage and paid leave.<sup>39</sup>

Synthesizing these global precedents with Nonet and Selznick's Theory of Legal Transformation, Indonesia must urgently escape its dogmatic deadlock. The state cannot remain reliant on an outdated binary classification that only recognizes full employees or independent contrLawors. Instead, the legislature must formulate a *sui generis* legal

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<sup>36</sup> Rahardjo. Page, 10.

<sup>37</sup> Sulistiowati Sulistiowati and Veri Antoni, "Konsistensi Penerapan Doktrin Piercing the Corporate Veil Pada Perseroan Terbatas Di Indonesia," *Yustisia Jurnal Hukum* 2, no. 3 (September 1, 2013): 23–33, <https://doi.org/10.20961/yustisia.v2i3.10152>.

<sup>38</sup> Tribunal Supremo, Sala de lo Social, Sentencia Num. 805/2020 (Caso Glovo), ECLI:ES:TS:2020:2924.

<sup>39</sup> "Uber BV and Others v Aslam and Others [2021] UKSC 5" (2021), <https://www.supremecourt.uk/cases/uksc-2019-0029>.

category: "Digital Platform Workers" or "Dependent Contractors." This hybrid classification is intelligently designed to reconcile two seemingly incompatible realities: preserving operational scheduling flexibility while transplanting mandatory, non-negotiable labor protections into the gig ecosystem.

First, this model preserves the flexible login/logout features vital to the gig economy's operational viability, ensuring platforms can manage fluctuating consumer demand. Second, it integrates non-negotiable, mandatory public protections—such as minimum wage standards, health insurance, and collective bargaining rights—into the working relationship. Platforms can no longer override these rights through unilateral terms and conditions. To implement these protections effectively, the state must mandate an automated social safety net using a micro-levy system to resolve the brutal privatization of occupational risk.

Under this automated micro-levy system, a minor percentage of each transLawion is automatically routed in real-time to the worker's BPJS Ketenagakerjaan account. This model spreads the financial burden of social security across platforms, consumers, and workers, ensuring continuous protection without imposing rigid fixed-cost burdens on the digital economy. Additionally, progressive law demands the elimination of automated robo-firing. Platforms must be prohibited from executing deLawivations without human review (*human-in-the-loop*), ensuring workers' constitutional right to due process of law through bipartite mediation.

In conclusion, abandoning millions of digital workers to algorithmic tyranny under the guise of contrLawual freedom violates the Indonesian Constitution. Article 27, Paragraph 2 of the 1945 Constitution guarantees that every citizen has the right to work and a decent living. Implementing Progressive Law Theory is the absolute path to dismantling bogus partnerships. By piercing the corporate veil, the state can tame algorithmic hegemony, secure workers' fundamental rights, and restore the supreme goal of the legal order: the pursuit of human dignity and social justice.

## **2. The Construction of Indonesian Labor Law Transformation Through Reflections on Foreign Jurisdictions**

### **a. Stagnation and the Repressive Nature of Autonomous Law in the National Manpower Law**

Indonesia's positive labor law system is dogmatically built and constructed entirely upon traditional industrial-era employment templates. This orthodox configuration of

labor relations requires physical presence, fixed working hours, and direct supervision by a human employer.<sup>40</sup> These historical characteristics are rigidly codified and enforced throughout national labor regulations, leaving absolutely no room for the structural realities of digital platform work. This rigidity creates an epistemological disconnect between the law and the evolving realities of the modern digital marketplace.

This statutory regime primarily rests upon Law No. 13 of 2003 on Manpower, read in conjunction with Law No. 6 of 2023 on Job Creation. Under this positive law framework, an agreement is recognized as a valid "employment relationship" only if it cumulatively fulfills three strict elements: work, command, and wages. These three essential elements (*conditio sine qua non*) represent an outdated jurisprudential paradigm that fails entirely to capture the nuances of platform labor, trapping gig workers in a perpetual cycle of misclassification and vulnerability.

This conventional dogma is entirely inadequate and loses its epistemological relevance when confronted with the digital platform ecosystem. Platform corporations strategically exploit the rigid statutory interpretations of "command" and "wages" to manipulate workers' legal status on the ground. By capitalizing on the absence of a physical manager, platforms unilaterally classify their workforce as independent contractors, reducing their legal identity to mere "partners" to legally evade statutory labor protections, minimum wage mandates, and collective bargaining rights.

Administratively, these local and multinational digital platforms shield themselves behind Electronic System Provider (PSE) licenses issued by the Ministry of Communication and Information. Under this administrative classification, platforms persistently argue they function merely as technology providers or software intermediaries. This argument serves as a legalistic shield to wash their hands of employer responsibilities while deliberately concealing the factual subordination and extreme economic dependency occurring daily on the streets.

This dogmatic deadlock can be analyzed comprehensively through Philippe Nonet and Philip Selznick's Theory of Legal Transformation. In *Law and Society in Transition: Toward Responsive Law*, they observe that a legal system can become deeply trapped in the "Autonomous Law" phase. The primary pathology of autonomous law is its extreme

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<sup>40</sup> Andri Herman Setiawan et al., "Analysis of Digital Employment Contracts on Gig Economy Platforms: Between Flexibility and Exploitation," *International Journal of Law, Crime and Justice* 2, no. 3 (August 1, 2025): 54–64, <https://doi.org/10.62951/ijlcj.v2i3.723>.

obsession with formal legalism, textual rigidity, and strict procedural compliance, Lawively separating itself from sociological realities to maintain a false sense of neutrality.<sup>41</sup>

In Indonesia, this autonomous law paradigm is blind to modern digital subordination, recognizing "command" only when a physical supervisor is present. The absence of a physical boss on the road is naively interpreted by the judiciary as worker independence. This narrow textualism ignores the stark reality of algorithmic management, which exercises a level of surveillance and disciplinary control far more totalizing, prescriptive, and omnipresent than any conventional human supervision could ever achieve.

This textual obsession eventually shifts autonomous law into a repressive tool that Lawively protects corporate capital. As Nonet and Selznick explain, repressive law occurs when legal instruments are mobilized to preserve the status quo and serve the interests of those controlling resources.<sup>42</sup> In the gig economy, this repressive character is manifested through systemic state omission, leaving vulnerable workers entirely unprotected from algorithmic exploitation in the name of facilitating technological innovation and foreign investment.

Specifically, the state permits platforms to rely heavily on the civil law doctrine of *pLawa sunt servanda* under Article 1338 of the Civil Code. This jurisprudential treatment legitimizes digital clickwrap agreements as neutral contracts, ignoring that these take-it-or-leave-it templates represent extreme economic coercion. Workers lack any bargaining power, rendering these agreements manifestations of absolute economic subordination and defective consent, rather than genuine mutual agreements between equal business entities.

This non-responsive character is perfectly exemplified by the Constitutional Court (MK) Decision No. 41/PUU-XVI/2018. The Court rejected a judicial review petition seeking to recognize online motorcycle taxis as legitimate public transit. This rejection, rooted deeply in the formalism of traffic regulations, proves sociologically that state institutions remain firmly trapped within the autonomous law paradigm. The state prioritizes formal legal codes over the livelihood and safety of millions of digital workers

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<sup>41</sup> Nonet and Selznick, *Law and Society in Transition: Toward Responsive Law*. Page, 76.

<sup>42</sup> Nonet and Selznick. Page, 17.

operating within its jurisdiction.<sup>43</sup>

Furthermore, administrative interventions by the executive branch have proved entirely ineffective against corporate algorithms. For instance, administrative regulations restricting platform commissions to a maximum of eight percent are easily bypassed by tech corporations. Platforms simply introduced unilateral platform fees charged to consumers outside the commission structure. This reduced order volumes and further eroded workers' net take-home pay, brutally exposing the limits of procedural interventions against untamed algorithmic power.

To overcome this acute stagnation and dismantle this repressive charLawer, Indonesia must urgently embrace Satjipto Rahardjo's Theory of Progressive Law. This theory rests upon the philosophical foundation that "law is for humans, and not humans for the law".<sup>44</sup> It challenges the rigid positivism that leaves citizens trapped in structural poverty merely to preserve contract certainty. Progressive law urges legal institutions to pursue substantive justice dynamically.

In his classic work, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*, Rahardjo instructs legal practitioners to cultivate the courage to break rigid rules (*rule-breaking*). Judges and policymakers must look beyond the written text (*beyond the text*) to discover material truth in the streets. In platform labor disputes, this progressive doctrine empowers courts to apply the doctrine of piercing the corporate veil to dismantle technological fictions and expose the true nature of digital subordination.<sup>45</sup>

By piercing the corporate veil, labor courts can tear away the platform's PSE facade and expose them as Lawual employers directing human labor for profit. Recognizing algorithmic management as modern subordination allows the legal system to transition seamlessly toward responsive law. This shift ensures that the state can Lawively intervene in the digital market to protect workers' fundamental rights, eradicate modern servitude, and enforce corporate accountability proportional to their massive economic gains.

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<sup>43</sup> Mahkamah Konstitusi Republik Indonesia, Putusan Nomor 41/PUU-XVI/2018 tentang Pengujian Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

<sup>44</sup> Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* . Page, 2.

<sup>45</sup> Rahardjo. Page, 10.

**b. Cross-Examination of Employment Jurisprudence: ContrLawual Flexibility Boundaries (UK) versus Protectionist Intervention (Spain)**

To formulate a responsive, balanced regulatory framework for Indonesian labor law, comparative law (*comparative law*) serves as an essential analytical method. This method goes far beyond merely juxtaposing distinct legal systems descriptively. Rather, it seeks to dissect the operational efficacy and sociological outcomes of legal mechanisms used in foreign jurisdictions to govern platform capitalism. In this study, the United Kingdom (UK) and Spain are selected as comparative anchors, representing two distinct traditions: Common Law pragmatism and Civil Law protectionism.

The UK's approach offers a moderately flexible yet protective model. British statutory labor law has revolutionized the traditional binary division between full employees and pure independent contractors. Under Section 230(3)(b) of the Employment Rights Law 1996, UK law establishes a middle-tier classification known as the "worker" or Limb-b worker. This status applies to individuals contracted to perform work personally, but who do not run an independent business where the platform acts as a mere client.<sup>46</sup>

The landmark UK Supreme Court decision in *Uber BV v Aslam* ([2021] UKSC 5) successfully tested this intermediate category. Lord Leggatt applied a purposive approach, categorically rejecting formal, artificially drafted contracts as the sole basis for determining legal status. The Court dissected the platform's absolute control mechanisms, including unilateral price-setting, prescriptive route monitoring, and rating-based penalties, recognizing them as modern forms of labor subordination.<sup>47</sup>

Based on this purposive analysis, the UK Supreme Court concluded that drivers were workers entitled to the national minimum wage and paid annual leave. The most significant breakthrough was the ruling that working time must be calculated from the moment a driver logs into the application, not merely when transporting a passenger. This legal precedent powerfully demonstrates how a judiciary can dismantle asymmetrical information and protect vulnerable parties without destroying the flexibility of the digital market.

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<sup>46</sup> "Employment Rights Act 1996" (1996), <https://www.legislation.gov.uk/ukpga/1996/18/section/230>.

<sup>47</sup> Sandra Fredman and Darcy Du Toit, "One Small Step Towards Decent Work: Uber v Aslam in the Court of Appeal," *Industrial Law Journal* 48, no. 2 (July 2, 2019): 260-77, <https://doi.org/10.1093/indlaw/dwz011>.

However, UK jurisprudence strictly maintains the boundaries of genuine self-employment. In *Independent Workers Union of Great Britain v Central Arbitration Committee* ([2023] UKSC 43) regarding Deliveroo, the Supreme Court denied worker status to delivery couriers. The decision turned entirely on the presence of a genuine right of substitution. Because couriers could delegate deliveries to third parties without platform approval or penalty, the requirement of personal service was absent, causing their labor claim to fail.<sup>48</sup>

This outcome reveals that UK courts remain partially anchored in autonomous law when evaluating formal contractual clauses. In *Deliveroo*, the Court adhered strictly to formal procedural rules of substitution rather than addressing the underlying economic asymmetries. In reality, a courier's right of substitution is often an illusion. Under algorithmic systems, platforms retain full control over ratings, order allocation, and pricing. By prioritizing contractual logic over human dignity, the UK Supreme Court illustrates the limits of procedural neutrality.

Conversely, Spain offers a highly protectionist, civil law model of state intervention. The Spanish Supreme Court (*Tribunal Supremo*) initiated a responsive legal revolution in its *Caso Glovo* ruling (STS 805/2020). The Court meticulously analyzed Glovo's algorithms, concluding that the platform's app-based infrastructure exercised complete instructional control over the logistics supply chain. It ruled that the primary means of production in the digital era is the platform's proprietary software, classifying couriers as formal employees.<sup>49</sup>

This progressive judicial precedent led directly to the enactment of Royal Decree-Law 9/2021, widely recognized across Europe as the *Ley Rider*. The *Ley Rider* introduced a radical "Presumption of Employment" for all delivery platform workers, shifting the burden of proof entirely to platform companies. Furthermore, it became the first European regulation to mandate "Algorithmic Transparency." By amending Article 64 of the *Estatuto de los Trabajadores*, it forced platforms to disclose the mathematical parameters of their AI to trade unions.

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<sup>48</sup> UK Supreme Court, *Independent Workers Union of Great Britain (IWGB) v Central Arbitration Committee and another* [2023] UKSC 43.

<sup>49</sup> Tribunal Supremo, Sala de lo Social, Sentencia Num. 805/2020 (Caso Glovo), ECLI:ES:TS:2020:2924.

**Table 4. Comparative Regulatory Frameworks for the Gig Economy**

Legal Jurisdiction	Guiding Philosophy	Regulatory Mechanism	Market ImpLaw
<b>United Kingdom</b>	Pragmatic compromise; flexibility retained.	"Worker" (Limb-b) status; guarantees minimum wage & leave.	Maintained platform investments; curbed extreme exploitation.
<b>Spain</b>	Absolute protectionism; structural state intervention.	Blanket "Employee" status via <i>Ley Rider</i> ; Algorithmic Transparency.	Prompted capital flight (e.g., Deliveroo); rise of chameleonic subcontrLawing.

From Philip Selznick's perspective, Spain's *Ley Rider* represents an extremely aggressive manifestation of responsive law. It looks completely beyond contract texts and directly intervenes in market failures to preserve human dignity above digital codes. However, this hyper-protective model overlooks contextual economic consequences. Implementing a blanket employee classification fails to account for heterogeneous work patterns among drivers. Forcing all gig workers into a rigid full-time employee framework constitutes a profound sociological error.

The destructive economic impact in Spain was immediate. Platforms like Deliveroo executed a capital flight, exiting the Spanish market in November 2021 to avoid the fixed social security and wage costs of formal employment.<sup>50</sup> Surviving platforms, such as Glovo, resorted to outsourcing their fleets to third-party agencies, a strategy academically termed a "chameleonic labor process".<sup>51</sup> This aggressive corporate resistance severely undermined the protective intent of the original legislation.

Tragically, this fleet subcontracting merely birthed new chains of exploitation. It degraded wages, worsened working conditions at the agency level, and fostered a dangerous underground market. Undocumented migrants began renting digital accounts from local citizens at extortionate rates, plunging the most vulnerable workers further

<sup>50</sup> Tiago Vieira, "An Incomplete Double Movement: Spain's Legislative Strategy for Platform Courier Reclassification," *International Labour Review* 164, no. 4 (November 17, 2025), <https://doi.org/10.16995/ilr.23799>.

<sup>51</sup> Vieira and Mendonça, "The Times, Are They Changing? Examining Platform Companies' Chameleonic Labour Process as a Response to the Spanish Rey Rider."

into precarity.<sup>52</sup> This phenomenon serves as a harsh critique that overly radical legal interventions hostile to technological innovation can inadvertently destroy the stability of marginalized groups.

Therefore, Indonesia must absolutely avoid replicating Spain's absolute employee reclassification. Mandating full employee status for millions of gig workers would risk capital flight and trigger a tsunami of unemployment. Instead, Indonesia must extract the progressive essence of the *Ley Rider*—specifically algorithmic transparency—and fuse it with the UK's hybrid classification model. This balanced, responsive approach protects human dignity through guaranteed minimum wages and social security while preserving the necessary operational flexibility of the digital market.

**c. Transformation Toward Responsive Law: Formulating the *Sui Generis* "Digital Platform Worker" Category and Automated Social Safety Nets**

Indonesia stands at a crucial policy crossroads. With the informal sector projected to continue dominating nearly sixty percent of the national workforce, the gig economy serves as an indispensable macroeconomic stabilizer. Blindly copying Spain's rigid, protectionist employee classification would trigger severe economic consequences. Forcing platforms to hire millions of drivers as permanent employees with fixed costs would prompt mass algorithmic suspensions and capital flight, ultimately destroying the primary livelihoods of highly vulnerable populations.

However, maintaining the exploitative status quo, which cowardly hides behind the legal fiction of sham partnerships and freedom of contract, is a direct betrayal of the state's constitutional mandates. Therefore, the architecture of Indonesian labor law must urgently evolve toward Nonet and Selznick's highest stage: Responsive Law. A responsive legal system demands intelligent legislative innovation capable of synthesizing substantive human rights protections with the preservation of necessary digital market flexibility.

The most rational, adaptive, and equitable legislative formulation for Indonesia is the creation of a *sui generis* (unique) legal category. The government and parliament must revise the Manpower Law to introduce the nomenclature of "Digital Platform Workers" or "Dependent ContrLawors." This *sui generis* category successfully bridges the rigid

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<sup>52</sup> Carlos A. Scolari et al., "Riders on the Road: An Interface-Centred Analysis of the Delivery Platform Workforce in Spain," *Work Organisation, Labour & Globalisation* 19, no. 3 (2025), <https://doi.org/10.13169/workorgalaboglob.19.3.0007>.

binary divide between a full-time employee and a purely independent contractor, offering a bespoke legal framework tailored precisely for the realities of the gig economy.

Adopting the pragmatism of the UK's Limb-b worker model, this *sui generis* category acknowledges a fundamental empirical truth: platform workers factually possess the spatial and temporal autonomy to log in or out of the app. However, once active within the network, they are economically alienated and completely subordinated to algorithmic instructions. Recognizing this intermediary status is the true crystallization of Satjipto Rahardjo's Progressive Law, matching legal forms with material realities to protect vulnerable classes.

Once this hybrid legal status is codified, the first mandatory element of protection must be the institutionalization of a comprehensive Social Safety Net. Currently, the burden of insurance is placed disproportionately on the working class. Gig workers registered in BPJS Ketenagakerjaan are categorized as Non-Wage Earners (BPU), forcing them to pay entire premiums out of pocket. While temporary government subsidies exist, they free corporations from their contributive duties. Responsive law demands a mandatory cost-sharing mechanism.

To accommodate the fluctuating incomes of gig workers, Indonesia must lead global regulatory innovation by legislating an "Automated Micro-levy System." Under this new legal regime, the law forces the integration of application payment gateways with the national banking system and the BPJS Ketenagakerjaan database. For every completed transaction, the algorithm automatically deducts a fractional micro-percentage from the fare and routes it in real-time to the individual worker's social security account.

This brilliant model of social engineering ensures continuous social security protection without destroying the operational flexibility of the gig economy with rigid fixed costs. If a worker suffers a fatal traffic accident, the state and the corporation are structurally prepared to provide unlimited medical coverage and death benefits for the surviving family. This ensures that the burden of protection is shared equitably among the platform corporation, the consumer, and the worker.

The second essential protective element to be constructed into this *sui generis* category is the adoption of Spain's doctrine of "Algorithmic Transparency." The dominance of black-box algorithms is the root cause of exploitation and power

asymmetry.<sup>53</sup> Workers are perpetually haunted by the fear of automated account deactivations executed purely on statistical fluctuations or irrational consumer complaints. Responsive labor law must subject this machine dictatorship to the supremacy of human rights.

Regulations must strictly prohibit platform corporations from executing unilateral terminations based on automated algorithms (*robo-firing*). Every decision to suspend or permanently deactivate an account must be evaluated through human oversight (*human-in-the-loop*). Workers must be guaranteed their constitutional right to due process of law, granting them access to logical explanations behind algorithmic decisions and providing a fair bipartite mediation space to defend themselves before any sanctions are finalized.

Furthermore, absolute data transparency must be enforced. The law must compel corporations to declassify the variables and parameters used to distribute orders, calculate dynamic pricing, and deduct commissions. This transparency can be audited by worker representatives or government bodies to prevent manipulative practices, such as hidden application fees that exploit workers. Transparency is the absolute prerequisite for a genuinely equal partnership in the digital economy.

In conclusion, abandoning tens of millions of digital workers to algorithmic manipulation and capitalist extraction under the guise of 'freedom of contract' is not a mere administrative flaw; it is a direct betrayal of the state constitution. Article 27, Paragraph 2 of the 1945 Constitution unambiguously mandates that every citizen has the right to work and a decent living. The law must not petrify into an oppressive instrument that solely protects corporate property while turning a blind eye to working-class suffering.

Through the injection of Professor Satjipto Rahardjo's Progressive Law Theory—which affirms that "law is for humans, not humans for the law"—Indonesian jurisprudence is compelled to make an epistemological leap. Our legal and judicial institutions must possess the courage to pierce the corporate veil, expose the naked reality of algorithmic subordination, and totally reconstruct the architecture of worker protection.

This radical transformation is the only path to liberating workers from the digital panopticon. By formulating a *sui generis* framework equipped with micro-levy social

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<sup>53</sup> Vieira and Mendonça, "The Times, Are They Changing? Examining Platform Companies' Chameleonic Labour Process as a Response to the Spanish Rey Rider."

security and algorithmic transparency, the state ensures that the gig economy aligns with the ultimate goal of the legal order: to bring holistic happiness, justice, and dignity to humanity.

### **C. CONCLUSION**

The prevailing statutory vacuum within Indonesia's labor law regime effectively immunizes digital platform corporations from traditional employer liabilities, thereby legitimizing sham partnerships that subjugate gig workers to unchecked algorithmic governance and acute socioeconomic precarity. To remedy this systemic disenfranchisement, the Indonesian judiciary and legislature must abandon rigid textual formalism in favor of a responsive legal paradigm that empowers courts to pierce the technological corporate veil and expose the material realities of digital subordination. Informed by comparative jurisprudence, lawmakers must comprehensively amend the Manpower Law to codify a *sui generis* "dependent contractor" classification that elegantly synthesizes the operational flexibility of the digital market with non-derogable public law protections. Ultimately, by institutionalizing algorithmic transparency mandates and an automated micro-levy framework for continuous social security contributions, this hybrid regulatory architecture will equitably secure fundamental labor rights without irreparably chilling technological innovation.

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