



Closing Labor Protection Gaps for Transport Platform Workers

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Abstract

This study will provide a critical analysis of platform transportation work in Indonesia, which has helped millions of Indonesian workers to have easy access to get jobs, especially during the Covid-19 pandemic when new patterns of production, consumption, and distribution of products are introduced through digital platforms. Despite it provide many job opportunities to low-skilled workers and workers with limited mobility, this platform business presents several problems in labour and social protection, which is indicated by the frequent occurrence of conflicts. Authors develops a critique toward existing regulation on platforms from a trade union point of view, and try to contribute to the ongoing debates by offering some proposed regulatory options based on international experience to mitigate the problem. Data were collected through three times focus group discussions (FGD) and interviews (both structured and semi-structured interviews) with a total of 20 people consisting of: platform drivers; platform companies; drivers association leaders, government and social security officer. Those informants selected with purposes-sampling based on the qualities the informant possesses.

Keywords: Labor Protection; Platform Work; And Social Protection.

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1. Introduction

The platform-based business model is the industry that has provided the most jobs for Indonesian workers in recent years. Especially during the Covid-19 pandemic, there is sizeable online business growth. The platform work is divided into two segments: on-location (doing tasks remotely) and online (providing delivery services). This research will refer to the latter, given the majority of Indonesian platform workers work in this segment, particularly transport platform workers. Regarding the size of workers, platform Gojek declared has 2,5 million its driver partners. (Hvidt, 2021), followed by Grab has 2 million (Arif Novianto, 2021) and the third place is occupied by In Drive which has 600,000 drivers. However, the accuracy of the actual number of platform workers cannot be ascertained, considering that there is no official data available, both government and data from platform owners. Some literature suggests that efforts to calculate the size of the platform economy are considered too early for the following reasons: First, without an agreed official definition, it is not easy to define which company and what relevant activities are included and their activities to count their platform business. (Farrell, 2020); Second, existing statistical data is not provided accurate data following unclear

employment status (Lenaerts et al., 2017); Third, platform owners are often not open to sharing data on their activities (Fabo et al., 2017); Fourth, from the government's point of view, there seems challenging to collect data on platform workers because of the unclear work status. (Coyle & O'Connor, 2021); Fifth, many transport platform workers perform the same work on different platforms (Singer, 2014).

The uniqueness of the platform's business and the absence of accurate platform worker data have brought consequences to absence of collective understanding of the problems and a low sense of urgency for policy making. Over time, while many praised the role of the platform for providing massive new jobs, the growth of the work platform has created several problems, due to the lack of clarity on workers' rights in labour regulations that created various vulnerabilities, among which are low wages, income instability, job insecurity, excessive working hours and exploitation (Anwar & Graham, 2021). Platform workers face the risk of a lack of adequate protection, given that platform work is evaluated by algorithmic management systems. (Jessop, 1988). (De Stefano, 2016) mentioned, workers face the straightforward possibility of being laid off. As a result of this pressure, workers are forced to accept working conditions below regulatory standards, including short term works. These workers are commonly known as precarious workers or non-standard employment. Following the narrative text of (C & M, 2018), national policies play an essential role in causing the emergence of precarious work because of their ability to determine individual access to welfare and social protection.

Despite looks new and unique, the platform business has similar logic to a system of production and consumption processes of previous economic system. In the Post-Fordism Theory (1970) for instance, its characterized by using flexible work systems and computer technology to assist management analyse order data and sales and making production calculations more accurate. Likewise, using the MNCs to response significant changes in international markets and the development of consumer tastes (Jessop, 1988). The difference is only in the business platform can use algorithm system input for monitoring whole business operation, include workers performance. With this equipment platform able to put sanction to workers without input from manager and workers itself, as uncommonly used in conventional industrial relation mechanisms. As well as Labor Protection Theory which has a philosophy "workers are not commodities!" This philosophy underlies all provisions of International Labour Conventions, which become the reference for the national labour law of ILO member states worldwide, including Indonesia. While the Theory of Justice (Rawls, 2001) emphasized role of the collectivization of workers and protective legislation could prevent work pressure.

The partnership system that used in the current platform business model industrial is ineffective in managing the emergence of work conflicts, as evidenced by several demonstrations that occurred in the last five years, as follows:

Table 1. List Of Transport Platform Workers Rallies 2018-2022

Year	Demo Frequency	Main Demand
2018	Seven times	Demand to increase tariff rates; questioning the worker's performance parameter; ask the applicator's promise; refusal to become a transportation company; exploitation work of online drivers; the issue of business monopoly of the online transportation business; the accuracy of calculation of points schemes and prices/kilometer, social security, and fair tariffs.
2019	Eight times	The problem of the legality of the platform workers' transportation; evaluation offares tariff throughout Indonesia; the number of online motorcycle taxis in the city; management consistency over the partnership system; elimination of the priority account system; workers' welfare which is considered not following the promise of the Gojek CEO
2020	Four times	Unclear workers status legality: demand to evaluate the low rate; protesting the proposal of members of the parliament about limitation platform only goods transport; restore the rate of intensive to the previous rate; protesting the 20 percent fee order during the Covid-19 Pandemic.
2021	Five times	Demonstration in several big cities in Indonesia regarding the issue of unilaterally reducing incentive services, minimum wages, and protests over orders. Happened in several big cities, such as the Shopee Express courier demonstration in Bandung on April 6; action by thousands of Gojek workers June 8-10 throughout Greater Jakarta; courier action PT. Jet Technology Express (J&T) with SPSI Tangerang November 10; Gojek action in Medan on 14 th December.
2022	12 times	The demonstration took place in all big cities in Indonesia. For example; Jakarta on 5 January; on July 19 in Batam; August 24 in Jakarta; September 12 in Jakarta, and December 6 in South Sulawesi. Banten on 26 Sept. Balikpapan, Kalimantan Timur on 23 October, also in Medan Jayapura and others. Driver's strike demanded various; such as tariff adjustments and demands for applicators to reduce the application fee to 10-15%, reject the suspension system without any evidence from the court. Other demands include the rejection of the double order system, the removal of the red zone, and the removal of the cancel feature.

Source: Data processed by authors based on online media news for 2018-2022

Previous research and research gap

The platform's origin cannot be separated from a post-industrial society on a knowledge theory of value, in which knowledge is the source of invention and innovation. It creates value-added and increasing returns to scale, is often capital-saving, uses less capital, and produces a more than proportional gain in output (Bell, 1973). The things that distinguish the digital economy from the traditional economy, according to (Paper et al., 2016) as the irrelevance of geographical location, the critical role played by platforms, the importance of network effects,

and the use of big data, mainly as a result of the associated value chain transformations. Several experts provide different terms and definitions of work mediated by digital. Some of them choose to use the terms “economic-sharing”, “gigs-economy”, “crowds- work”, or “collaborative economy”. Valerio de Stefano (De Stefano, 2016) calls "crowd-workers" by definition: online business operations through platforms that can reach many consumers, organizations, and businesses. Meanwhile, (Friedman, 2014) referred to "gig-economy" workers employed under "flexible" arrangements as independent contractors or consultants. (Koopman et al., 2014) call the "sharing- economy" by definition "any market that brings together a distributed network of individuals to share or exchange underutilized assets." Another opinion defines platform work as work that is mediated, coordinated, organized, and controlled by digital platforms (Jesnes et al., 2019) Jobs are characterized by varying working hours and working periods, workers must provide the equipment needed to do the work, there is no fixed workplace provided by the company and tasks are mediated through digital technology (Stewart & Stanford, 2017) Workers are most often classified as self-employed (individuals) by the company and are paid on a commission basis. Workers, trade unions, and academics (Salice & Pais, 2017). (Stewart & Stanford, 2017) claim that (i) platform companies; control pay, control terms of work, and other conditions through algorithms, and (ii) many workers depend on the job. This is only a small list of expert opinions cited by the authors. Outside of this expert, there are still many groupings with different concepts. This situation shows that experts do not yet have an opinion on the name and definition of platform workers. The World Economic Forum/WEF (2020) (World Economic Forum, 2020) chooses to use the term platform worker with the following definition: Someone who earns income from work facilitated by digital work platforms/services, either as a main source of income or as an additional job. This includes independent professionals and people who run their businesses. While the European Commission (Urzí Brancati et al., 2018) defines platform workers as a network that coordinates job service transactions through an algorithm. The diversity of terminology especially with less precise definitions, makes it difficult to accurately calculate the number of platform workers, making it difficult for policy makers to solve the problem. (Kenney & Zysman, 2016).

Although there are several different definitions, all the above have four things in common: working online, involvement with third parties, jobs offered to the public, and a flexible work system. The researchers do not use the term "partnership relationship" following the term used by the government through several ministry regulations, because in practices no equal partnership, no fair profit sharing, and no real work flexibility (independent). Researchers also

do not use the term "sharing economy" because the sharing economy by nature is a way of doing business that provides temporary access to the company's unused physical assets (idle capacity) used by other parties to earn money. (Frenken & Schor, 2017). It becomes clear that many companies falsely claim that they are part of the sharing economy whereas platform workers use their vehicle assets to work. The authors prefer to use the term platform worker and platform economy work, given the term provides the most accurate description of the development of this new system. Besides that, the term is also most widely used by prominent international institutions, such as; ILO, European Union Commission and World Economic Forum. From the various definitions above, the researcher defines platform workers as a form of work mediated by platform technology that involves three parties (platform, consumers and workers) for goods and services trading activities with payments calculated in a task unit.

The platform business model is controversial because it is suspected of moving away from decent work agenda as formulated in article 27 of the 1945 Indonesia Constitution, and the ILO's concept on decent workers, which was introduced by the ILO in 1999 as a guide for members countries to ensure that every worker works productively and fulfils their rights. The Decent Work Agenda is formulated in four strategic pillars, namely: the right to work in the workplace; full and productive employment, social security protection; social dialogue. ILO (International Labour Organisation, 2018). In 2008 at the 18th Conference developed a decent work indicator framework by establishing 10 indicators, namely: employment opportunities; sufficient and productive income; decent working hours; work balance between personal and family; abolished work; job stability; equal treatment in employment; safe work environment; social security, social dialogue between employers and workers. (Badan Pusat Statistik (BPS), 2013). In its development, the concept of decent workers further is included in the Sustainable Development Goals (SDGs) on Goal 8.8 that emphasized the need promoting workers' rights in a safe work environment, to prevent growing vulnerable workers (International Labour Organisation, 2018).

Research conducted in Indonesia and international lessons learnt

Various studies carried out by Indonesian researchers still brings pros and cons camps. Some support the partnership model and some prefer continue use the conventional concept of industrial relations. Meanwhile, platform application owners prefer the partnership concept since it is much more profitable to them and almost without responsibility for job protection. generally only examined partially the problems of platform workers. So far, there has not been a comprehensive study of the problem of working protection on transportation platforms, let

alone offer the policy options for solving them. Below are nine selected research recently conducted in Indonesia: (i) Research by the "Prakarsa institute" on online motorcycle taxi drivers (Maftuchan Ah, Djamhari Eka Afrina, 2018) examined the issue of wages and job protection and found follows: platform transportation workers have not enjoyed decent work; still considered informal workers even though they are positioned as partners; the increase in income is not accompanied by improvement of employment relations and job protection; (ii) (Kamim & Khandiq, 2019) revealed that the promise made by Gojek management to make workers' welfare has caused drivers to be trapped in unnatural working hours, without social security, and gaps in information knowledge; (iii) Result of the dissertation conducted by (Yuniastuti et al., 2019) states that the partnership work pattern is the right way to protect Indonesian platform workers if there is social security which three parties carry out: the government, platform entrepreneurs, work partners (workers); (iv) Research by (Sudharma, 2018) found since Grab workers are seen as partners, there is no work protection, especially on wages and working hours; (v) (Wiryawan, 2020) mentions that although the presence of Gojek and Grab is essential for the community, the absence of legal status as stipulated in Law Number 13 of 2003, force them work without protection. He called the government needs to immediately provide a clear legal status; (vi) (Subakdi & Nugroho, 2019) found that workers do not get social security protection as to consequences of partner worker status. (vii) (Rachman, 2018) defended the platform owner by saying that Grab's transportation workers should be aware of their status as partner workers, so they do not have to demand equal rights like other regular workers guaranteed by the regulations; (viii) (Kurniawan, 2020) prefers to use the term "digital sharing economy," which in practice involves a wide range of networks of organizations and individuals. The digital sharing economy is the latest movement of all organizations that allow temporary access to specific resources which mediated by internet-based platforms; (ix) Study conducted by "Fair Work" regarding the standard of work for platform workers for six transportation companies found injustice practices, particularly in five area, namely: fair pay, fair working conditions, fair contracts, proper management, and fair representation. They insisted Indonesia needs to addressed the gap quickly,

Meanwhile in international practices, some governments have succeeded in making regulations, but others are still in the early stages of finding a formula. They still see and study phenomena and their interactions with the parties involved. (Lenaerts et al., 2017). Some countries able to mitigate problems with introduced several models of protection arrangement, although undertake in sporadic and diverse ways. There are measures in the form of laws, ministerial regulations, bipartite agreements, or due to imposed by court decisions. Below are

some good practices of international experiences that selected from different continents. The Indian government in 2020 passed a new law on Social Security for platform workers. This law regulates a new mechanism for paying social security contributions through three contributors, namely; the central government, the federal government, and platform owners. The contribution rate from platforms is set at 1-2% of total revenue. The shortfall is supplemented by the government. To ensure implementation, it is done through a bipartite body namely platform and workers representatives (Sinha, 2021). Meanwhile, China's experience is slightly different from Indonesia, because in this country the platform can only transport goods. On July 26, 2021, a new national policy and guidelines to protect food delivery drivers were issued. This policy was made in a joint decision of six departments. The regulation stipulates the obligation to pay the provincial minimum wage, social insurance coverage and freedom to become a member of a labor union. It also stipulates that algorithms should not be used to measure performance. be able to join labor unions. Although this regulation does not make detailed rules regarding its implementation and how sanctions are determined (Huang, 2023). In Korea, the government in 2022 presented a draft law to parliament for the protection of delivery food drivers. The draft law distinguished platform workers with regular workers which invited protest from trade union. Initially there was already recognizing union platform when the local government of Seoul accepted the Seoul platform trade union legal registration "Baemin riders," and success to have a Collective Labor Agreement with "Woowahan Youths" platform owner (EU-Korea, 2021). In Spain, regulation created to give the protection to platform delivery workers through the "Spanish Rider Law" Valentin Bontemps (2019). This policy was followed by Portugal which made the same policy as Spain. In the United Kingdom, it makes a different route, due to a long polemic, The Independent Labor and General Workers Union (ICWB) filed a lawsuit to the Supreme Court on behalf of Uber drivers. It was finally decided that Uber drivers were designated as "regular workers." With this status, they are entitled to basic labor protections, just like other workers. (Europe, n.d.). In Kenya, the Transport and Allied Workers' Union of Kenya (TAWU-K) is a registered union af-filiated to the Central Organization of Trade Unions and the International Transport Federation (ITF). TAWU-K developed a new organizing and recruitment strategy designed specifically for platform workers. Based on this new organizing strategy, the union reported that it had recruited more than 2,000 app-based drivers and expanded its activities from Nairobi to Mombasa, Nakwu, Kisumu, Edoret and Mt Ken (Webster & Fikile, 2021).

The previous research revealed although there are a few who have different thought, but in general agreed with the facts of the worsening labor conditions of platform workers

happened due to the partnership system. But has four drawbacks: 1) There are no conclusion whether the presence of transportation platform workers offer more work benefits, compared to the previous conventional transportation workers. The only benefit is the platform system provided many jobs flexible nature of work, allowing workers to choose the location, time and nature of work according to their needs. However, as explained earlier, this new work system creates challenges for the labor market, such as disruptions in the concept of the labor market, labor regulations and industrial relations institutions. There is gap in labor protection as existing regulation are not sufficient to accommodate needs of platform workers. As a result of the regulatory vacuum, as mentioned (Gobel et al., 2019) has neglected employment protection, and triggers an increase in informal work and work without protection standards. From the platform application owner's point of view, the platform work system is beneficial, because with a management algorithm system, they can monitor and measure worker performance accurately and efficiently. It can also minimize investment costs, because asset and operating costs can be transferred to workers.

2) There are still differences regarding what the form of work protection coverage platform workers. From the ILO (International Labour Organization, 2019) identified seven areas that need to be improved on the platform system, namely: employment status; working conditions (including K3); access to social security; access to association and negotiation; cross-border platform worker issues; issue algorithm management; and access to training and professional employment opportunities. The ILO Global Commission on the future of work (Organization, 2019) called for the development of an international governance system for digital work platforms, requiring platforms and consumers to provide a certain minimum level of protection. The ILO's tripartite declaration on social principles and policies for multinational companies (MNE Declaration) can be used as a first step towards this goal. However, it is different from the opinion (Bhatia & Van Belle, 2021) who put forward five principles to protect platform workers, namely: fair pay, fair contracts, fair conditions, fair management, and fair representation applied to platform workers across the board, regardless of employment status. This principle can be realized in various ways, such as legislation or other rules, but by following the ILO standards above.

3) A diversity terminology. Experts still have different names for digital mediated workers, some called "gigs workers", some use the terms "crowd workers", "sharing economy workers", "digital workers", "platform workers" and other terms. The dissimilarity of these terms gives birth to different definitions, which result in unequal understanding and unequal basis of calculation and policy perception. 4) There are no clear proposals regarding the form

of regulation that is appropriate for worker platforms. Are the arrangements made with conventional regulations or with special arrangements, which are different from conventional workers?

Indonesia urgently needs to formulate a special regulation for these workers by fixing their employment status. Several previous conflicts appeared have shown have occurred complexity issues, because it involves a variety of multidimensional issues, such as employment status, social security; wage issues; working hours, labour inspection, freedom of association and bargaining, and so on. This means a multidimensional approach is needed to provide a comprehensive solution. The four drawbacks above are the basis for researchers to make this study and our research novelty

2. Methods

This research collected data through three times focus group discussions (FGD) and interviewed (both structured and semi-structured interviews) of 20 different informants, namely: Selected of 10 platform transport drivers (6 men and 4 women); two platform companies; 4 persons represent communities associations and unions activists; four government representatives and one officer from employment social security representative. Those informants selected with purposes-sampling based on the qualities the informant possesses selection of drivers included having work experience of more than three years as platform workers. This is intended process in order to have sufficient information to share. FGD and interviews were conducted between October 2022 to January 2023 in Jakarta. We chose Jakarta as the research location take into account the majority of platform transportation workers are in Jakarta and platform of Gojek and Grab are the main player in Jakarta. Data was completed by collecting all related regulations governing platform workers and examining a number of journals and books.

Considering the presence of platform business in transportation workers is a new phenomenon, the researchers choose qualitative method with study case in Gojek and Grab platform. In line with Creswell J and Poth thoughts (Creswell & Poth, 2007), authors intend to investigate a new phenomenon that needs to be explored from variabilities that are not easy to measure and there is a need for more detailed understanding since the theories that exist today are inadequate to answer the complexity of the problem under study. Besides that, researcher wants to focus on interpreting phenomena in their natural setting (Denzin & Lincoln, 1994) to search for the explanation of an ongoing event or phenomenon (Zhao et al., 2019). To enrich our understanding of this phenomenon authors also collected data from some countries about

their experiences in regulating platform transportation work. This information is useful for formulating a form a policy that is suitable to Indonesia context.

3. Results and Discussion

3.1. The blurring of work relations leads to a decent work deficit

Findings from the results of the FGDs and interview found that because platform workers were not regulated within the scope of labor regulation, has triggered the growth of escalation of workers with blurring work status (blurring relationship). As a consequence, the number of workers work without clear status, continues to grow day by day, without work protection regulations. The partnership rules implemented by the platform are far different from the concept of working relationships. Platform companies argued by saying “We are not similar to conventional companies, because we are only a platform provider that bridges consumers and drivers” (interviewed with Grab). Means they are not employers as is customary in the concept of industrial relation. The Platform categorizes its partners as freelance contractors or self-employed workers, with that, workers are not covered by labor regulations. This argument was refuted by the Labor Minister expert by stating that there are several elements that prove the existence of workers' dependence on the platform owner (dependant) and there are elements in the definition of suitable labor law that can prove the existence of a working relationship, despite marked by ambiguity in the relationship. These elements include; there is a work and there is an order to do the work.

The blurring of work relations lead to decent work deficit as indicated by following situations;

(i) Income uncertainty

The presence of a platform business is indeed useful for creating jobs, but the jobs created are generally not decent and make workers suffer, as the experience described by following drivers Mr. Muchan (alias name) is 34 years old below. “I work every day on average 12 hours (from 10.00am to 22.00pm). But sometimes working more than 12 hours towards the end of the month, the time to pay off the car loan. Sometimes I did not come home, and continue work if the money for the car loan instalments isn't enough. The monthly car loan that must be paid is IDR 2 million (USD. 135). This is quite tough at the moment, considering the high competition between platform drivers for passengers. Because apart from paying the car instalments, I also have to support his three family members (wife and 2 children), rent a house contract of IDR 350,000/month, car parking fees of IDR 350,000/month and other family living expenses daily. Meanwhile, my average net income is only between IDR 150,000 (USD.10)

and IDR 200,000 per day. I don't know what will happen to my family if I get sick or have an accident at work on the road, because I am not covered by social security (BPJS), nor do I have savings". (In-depth interviews in January 2023). The story of Pak Muchan is also experienced by platform drivers in general. The problem is, drivers don't know where to complain because there is no union where they can ask to convey the complaint and there is no mechanism for dialogue with management. All decisions made by platform rely on the company's information technology (algorithm).

(ii) Excessive Working hours

Even though drivers benefited from flexibility work system, generally the working hours of platform workers exceed standard working hours regulation (40 hours/week). But this excessive working hours had to be done to catch up on deposits and meet the application rating target. Data taken from interviewed found average working hours is between 8-12 hours/day.

(iii) Lack of Social protection

The flexible work system makes it impossible for workers to contribute consistently in the long term. Workers' participation in social security will always be disconnected every time they change jobs, and it takes time to reconnect. Serious problems will occur in the social security protection Old Age Security (JHT) and Pension Benefits (JP). As a result of not contributing to the JHT and JP programs at a young age, there is a potential for poverty for these types of workers in near future which will burden society and the government. One driver mentioned "I did not take part in BPJS Ketenagakerjaan (employment social security) because I had already entered the insurance recommended by the company. I paid IDR 15,000/month to 'Pasar Polis GoRide insurance', which is automatically deducted every month from my funds in the top-up fund. The platform should have offered to join the BPJS, not private insurance" (Quoted from Mr. Bob, motor driver, 47 years old, during interview on 20 January 2023).

Indonesia concept called "Kemitraan" (partnership) caused platform drivers being classified as not worker or called "Bukan Penerima Upah" (Non-Wage Recipients), they are only mandatory required to participate in two social security programs, namely; Work Accident Insurance and Death Security programs. Even they are responsible to bear monthly contributions. The other three social protection schemes (pension, old age, lost job protection) are just voluntary basis. With this status platform workers are facing discrimination in three ways: 1) As BPU they cannot enjoy full basic social protection and this situation is against them; 2) The worker must bear his social security dues without employer's contribution, which is a very large amount to be borne alone. This fact caused millions of platform workers not eager to join social security programs, 3) The lower income of platform workers makes the

basis for the deduction of income for workers' dues also very small. This further will affect the contribution income to BPJS and further hinder the service capacity of BPJS to perform optimal services. This is the reason behind the low number of workers registered in social security.

(iv) Industrial relations dysfunction

Administratively, platform workers face legal obstacles as a result of platform workers not being considered workers. In fact, some trade unions have been registered in the ministry of manpower, but in practices cannot carry out advocacy and negotiations. As a result, the present of community workers organization seems are preferred by workers even if only for social assistance activities. In few cases these community organizations were able to organize the strikes (see the table 1) and negotiated with platform or government, but if there were agreement, the certainty of implementation is very weak, since negotiations are not legally binding. This is different when it is done with industrial relation mechanism or through tripartite negotiation. The absence of industrial relations, make the roles of unions cannot function as they should. From the in-depth interviews with workers revealed, what behind the reason platform worker are not eager to join labor union, but prefer community organization, because union unable to negotiate with the platform owners once work problems occur. Recognition of the freedom to organize and bargain collectively for all workers should be establish as an effective way to settle industrial conflicts, so that it is consistent with Indonesia ratification to ILO Convention No.87;

3.2 The Policy options for Indonesia

Platform workers, as a new type of work without a direct employment relationship with the employer are a unique form of employment relationship compared to other traditional workers. This caused platform workers are not get proper job protection. To fill this protection gap, Indonesia needs to have a new, fairer regulation to prevent discriminatory practices both in the protection of work and business rule of game. Considering that this case has never happened, Indonesia needs to look at the experiences of other countries that has been able to mitigate problems with several model of arrangement. So far, there are measures in the form of laws, ministerial regulations, bipartite agreements, or imposed court decisions. Below are some good practices of international experiences can be used as references to create policies according to Indonesian conditions and needs.

Option 1. Expanding the definitions of “employee” and “employer”.

The fact that the majority of the digital workforce in developing countries face poor labor policy.(Graham et al., 2019) and limited regulations reaches out to new form of work resulting from IR 4.0, make the regulations presented become very pragmatic, and in the many cases defend employers. So, it's no wonder they are classified as self-employed, although it is completely wrong. In practices, platform owners control all their work starting from setting prices, an obligation to wear platform uniform, they are not really free to choose passenger without a consequence, work is controlled constantly through algorithms, and financially dependent on the platform owner. Their self-employed status excludes them from enjoying rights and benefits provided by labor laws. On the contrary, the platform benefits a lot because it does not have to pay minimum wage, social security, work tools, and so on, that giving them a competitive advantage over conventional companies. Quoted vice chair of Indonesia Commerce of Chamber organization (Kadin) opinion on this matter, saying that they did not attempt to make the platform a member of Kadin as they also do not perceive platforms as employers, but as intermediaries that matching supply and demand

Option 2: To determined or classify platform workers as "casual workers".

The ambiguity of the status of platform workers in the Manpower Act resulted in poor protection. Following the classification workers made by the Central Bureau of Statistics (BPS), this ambiguity should not happen. The worker classification made by BPS refers to ILO guidelines, which stipulate it in the 2008 International Standard Classification of Occupations (ISCO). Indonesia Statistics (2022) distinguished seven category of employment status, namely; (1) Self-employed, someone who works or tries to bear the risk economically, does not use paid workers or unpaid workers; (2) Working assisted by non-permanent workers/unpaid workers, means a person who works or tries at his own risk, using unpaid workers and non-permanent workers; (3) Work to be assisted by permanent workers/paid workers and employing at least one paid permanent worker; (4) Worker/Employee/Employee is someone who works for another person or agency/office/company on a regular basis by receiving wages/salary either in cash or in kind; (5) Casual worker (on agriculture), is someone who works for another person/employer/institution that is not permanent (more than 1 employer in the last month). (6) Casual worker in non-agricultural, such as; businesses in the mining, industrial, electricity, transportation, and other sectors; (7) Family/unpaid worker, is someone who works to help other people who are trying but do not get wages or compensation.

Of the seven categories, the status of "casual workers" are the most appropriate term to represent platform workers, which means Indonesia no longer needs to look for other terminology. Just adopt it as the official definition that used as a national reference for cross-

ministerial department. The obstacle that possible arise is on this option is the issue of data consolidation given that many workers work for multiple platforms. The new regulation should anticipate this by providing a certain time as transition period to customize data.

Option 3: Create a new category for platform workers.

Obviously, there will be a new definition along with different labor protection coverage. in. The reason for the difference in definition is because the platform has a unique working system, such as; the flexibility of work, and being able to work with multiple. For this purpose, author propose a definition of a platform worker as follows: A platform worker is someone who works for someone else that mediated by a digital platform and receives compensation. Regarding what form of work protection for them, it can be made in special regulation (Labor Minister Degree) according to their job uniqueness. But not necessarily have similar rights with the regular workers as written in the Manpower Law No. 13/2003. For example, platform workers are not entitled to work leave, work competency development training, maternity leave, and the right to severance pay. The researcher proposes that job protection includes at least five basic minimum rights; minimum wage according to working hours, rules for minimum working hours, matters regarding social security, occupational health and safety protection (K3) and rights to establish union. Beyond these rights can be negotiated by bipartite way in respective company. The challenge that might arise in this policy option is how to formulate worker rights that will be given to platform workers, because in many international cases there are big challenges in determine the minimum wage and to count working hours (started from open the app or from you get taking orders). The second challenge concerns formulating the amount of social security contributions, whose payment scheme is of course different from that of conventional workers, because platform workers possible working for two or three platforms, contribution payments will of course be made in various ways (sharing contribution). The formulation of contribution technically can be carried out by the government together with BPJS, using international practices. Another challenge, how to calculate daily working time when someone work for multiple platform? This also needs to be decided. The Greek model of working time formulation that can be taking for consideration.

Option 4: Turning platform workers into outsourced contract workers

The option of making platform workers as contract workers or temporary workers could be an option, considering that this practice has already been carried out in the Philippines and recently in Sweden (the joint agreement between the Swedish Transport Federation and the platform food delivery Foodora). The agreement stipulates a minimum wage and some additional wage compensation at certain times of the day, an annual wage increase according

to the transportation industry agreement, compensation for maintenance of bicycles/mopeds and work clothes as well as pension and insurance entitlements according to the agreement together. (Mtsweni et al., 2020) In fact, The ILO Recommendation No. 198 regarding work relations is mentioned; for the purposes of national policy, the protection of workers in an employment relationship, and the determination of the existence of such a relationship must be guided primarily by facts related to the implementation of work and workers' remuneration. Regardless of how the relationship is characterized, or even contrary to the rules and may have been agreed between the parties. The employment relationship has traditionally been described as a dependency relationship, defined by two elements (the presence of work and wages). In several countries, employment relations in law refer to situations of "legal subordination" and "economic dependence", whether the work is for the benefit of another person and whether the work is under the orders of another party.

In some countries, the relationship of subordination can also be seen from the obligation for workers to follow the instructions of the employer. In many cases, subordination and dependence are synonymous, characterized by the three elements – directive power, controlling power and disciplinary power – which are exercised by the employer over the worker. Even though this concept in Indonesia has not been fully adopted, because as contained in Law 13/2003, employment relations occur when three elements are fulfilled: there is an order, work, and wages.

The challenge of this option lies in the possibility of refusing platform companies to use third party companies (outsourcing) to use platform workers, because in practice, platforms can directly recruit drivers to become their partners. With an outsourcing contract system, there will be business complications and additional work. Something the system has always avoided platform that works efficiently, quickly and inexpensively. This difficulty requires discussion through negotiation (social dialogue) with tripartite, so that this policy does not impede economic efficiency.

Option 5: Protect workers through trade unions and collective bargaining

As use of the platform becomes widespread, unions are becoming increasingly interested in engaging with and representing platform workers. From the interviews of researchers with trade unions, it was found that the great desire to organize platform workers into trade unions. There is great potential in terms of the size of the crowd and the potential membership fees that can be obtained. However, because the existing industrial relations could not accommodate this desire, the organization did not develop. Platforms and workers are not included in industrial relations, then, how can of these workers inserted into workers' organizations, and how

platforms inserted into employers' organizations? With intense market competition and a lack of regulations protecting workers, it is imperative to allow platform workers to associate and bargain collectively with platform owners. So that a mutually beneficial and lasting relationship can be realized. Trade union membership for platform workers is important as a result two things: The higher the percentage of workers who are unionized, the more economic pressure they can exert to improve wages, benefits, and working conditions. This logic also applies vice versa. However, trade unions face difficulties in organizing and mobilizing platform workers for the unclear status of platform workers, the heterogeneous nature of the workers involved, and the lack of a physical workplace for mass mobilization.

In several countries platform workers have succeeded in forming unions and negotiating with platform companies. Platform workers set up organizations new or join an existing guild. ILO (ILO, 2022). The experiences of Australia in the Rideshare platform drivers have successfully established a labor union. They are the founders of the international alliance of app-based Transport Workers platform and have joined the international transport workers' union (Transport Federation Workers). In Brazil, platform transport unions are active in various Brazilian states. They joined the existing trade union (Única dos Trabalhadores) and had organized strikes several times. In Chile, several platform unions have been established: Riders United Now (2020), Penquista freight forwarding (2018) and others. In Ghana, several app-based driver associations have successfully formed unions, including the Ghana Online Drivers Association; Ghana Online Drivers Association; Ghana Online Drivers Union and others. Some are affiliated with the Ghana Trade Union Congress. Members of the two associations pay weekly subscriptions via mobile money transfers. In Kenya, the Kenya Transport Workers' Union (TAWU-K) became the first registered union affiliated with the International Transport Federation (ITF) organization. TAWU-K develops an organizing strategy and new recruitment specially designed for platform workers. Under this new organizing strategy, the union reports recruiting more than 2,000 app-based drivers.

Regarding the role a Collective Bargaining Agreement (CBA) in protect platform workers, international experienced suggested, generally it only covers the company level with each platform company. Why? Because platform companies are generally not members of national employers' organizations or other sectoral organizations, make impossible to have a national CBA. In South Korea, CBA allowing platform workers have access to unemployment benefits, pension contributions and also to skills development funds. (ILO, 2022); In Germany shipping platform company Lieferando and labor union NGG successfully negotiated a mutual agreement negotiation. (Bertolini et al., 2021); In Sweden, union Unionen has been negotiating

with platform company Gigstr; and this platform is covered by the general collective agreement for temporary agency workers (Bard & Söderqvist, 2020) ; Likewise in Denmark, CBA took place on the Chabber platform; Meanwhile in England in 2021, the Supreme Court rules that Uber drivers can be reclassified as “workers” under UK law. After that, Uber signed an acknowledgment agreement recognizing GMB as the union representative for Uber drivers. The agreement includes an acknowledgment that the platform company will work with GMB as a representative organization for Uber drivers who are members of a union (Forsyth, 2022). Germany's experience can be used as an example, while no clear regulations to regulate the protection of platform workers, the freight forwarding company "Lieferando" together with the NGG labor union managed to negotiate in the form of a collective labour agreement. In Sweden, trade unions have been negotiating on the “Gigstr” platform. Through the collective agreement workers treated as temporary agency workers. Those above practices can be lesson learnt in designing protection policies in Indonesia.

4. Conclusion

Job protection and decent work for platform workers are urgently needed following the increasing number of workers absorbed as platform workers and problems that have been steadily increasing. There is urgently needs to clarify the working status of platform workers in ensuring all workers without its type of relation has rights to labor protection. Author proposed five options to solve the gap labor protection face by platform workers. But the most urgent is to clarify blurring relationship by determined platform workers as Casual Workers, as has been used by National Agency Statistic since 2001 to classify those who work in multiple employers. Clarity on this status will be the key to further work for protection arrangements. With this category, platform workers can assume as part of contract workers that have rights to get a work contract, have access to minimum rights of work, also rights to bargain collectively as a guarantee in existing labour laws. Therefore, Indonesia's current policy that governs the relationship between platform owners and workers in work partnerships should be discontinued. International experiences related to work protection mechanism, social protection, minimum wages and working hours arrangement can use to enrich policy measure that suitable to Indonesia context.

The authors recognized some lacks this research, for instance; this research mainly focuses on platform workers' transportation instead of all platform workers. Research location also only took place in Jakarta instead of whole Jakarta surrounding cities. We hope this gap will encourage other researchers to conduct further research.

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One of the basic problems for regulating platform workers is, what minimum rights can be granted that eligible to them? Referring to the findings of the European Union Commission, (International Labour Organization, 2019) identified seven areas that need to be improved to protect platform workers, namely: employment status; working conditions (including OHS); access to social security; access to associations and bargains; cross-country platform worker issues; algorithm management; and access to professional training and job opportunities. For Indonesia what minimum job protection needs to introduce? By look at the data workers demonstrations in last five years, the most frequently demanded are five; employment status, minimum wages, working hours, social security, right to bargain collectively. If refer to Indonesia employment law no.13/2003 there are eight labor rights, namely: wages, non-discrimination, skill development, work placement, working hours, OSH, welfare benefits (holiday leave and paid leave), right to join an-union. However, due to the uniqueness of

platform, it is deemed fair if they only needed to obtain the five minimum rights, namely; employment status, minimum wages, working hours, social protection and right to bargain collectively. The other rights such as; holiday allowance and paid leave are not part of their rights. Authors suggests Indonesia can choose model arrangements of Spain, with few adjustments.

Related to what the choice of terminology for digital platform workers, the authors found that the most objective and appropriate term to describe workers with digital applications is "platform workers" because this term is more neutral than other terms, this can at once correct the confusing term of "work-partner" as the concept of partnership, sharing, or collaboration economy does not reflect reality. As definition authors defined; platform workers is a form of work carried out with the help of the platform and involving three parties, for goods and services trading activities with payments calculated in a task force. The other crucial issue is about employment status, since working status is an important condition for accessing workers basic rights provided by law. The existing employment laws cannot extend to protect platform workers. Indonesia concept on employment status is divided into seven different categories, including: Employer; own-account worker, unpaid worker; employer assisted by permanent workers; casual employee. **Statistic Indonesia, (2022).** Available at: <https://www.bps.go.id/subject/6/tenaga-kerja.html>

With this category, Indonesia doesn't need to look for a new category for platform workers, but simply put platform worker to be part of casual workers classification. This criterion fits because it is within the statistical term casual workers or "Pekerja Bebas" is defined; a labor who have no permanent employer or work to more than one employer. however, as is often the case, the existence of legislation does not automatically guarantee fair business practices. because the power of laws exists when there is compliance in implementing them. That is why the presence of labor unions is indispensable as a tool for workers to negotiate collectively with companies. implementation of laws will be better with the presence of labor unions who can control the implementation of the correct laws. In addition, with the existence of labor unions, they have right to negotiate collective labor agreements with employers regarding work protection for workers without having to wait for laws to be enacted. This practice is already taking place in Germany. Even though there are no laws regarding platforms yet, platforms and workers agree to enter into a collective labor agreement. Huws, U., N.H. Spencer, D.S. Syrdal and K. Holts (2017):

Work in the European Gig Economy. The absence of industrial relation in the platform

business, according to some experts have plunged into a new form of labour exploitation by the capitalist production system, and has definitively weakened workers. Particularly to organize and associate around business competition in low-skilled workers (Montalban et al., 2019). The concept of industrial relations is a conventional mechanism that has been used to mediate conflicts that arise between employers and workers. This concept has been a standard reference for governments worldwide since the end of the second world war. If there is a conflict at the enterprise level, it can be resolved through bipartite negotiations (employer and union).

Platform workers, as a new type of worker without an employment relationship are a unique form of work form compared to other traditional workers. Due to this uniqueness platform workers are not fit for the industrial relations traditional concept. Thus, existing industrial relations mechanisms (such as bipartite and tripartite) cannot be used to mediate industrial conflicts between platform and platform workers. Industrial relations actors (employees, employers, and the government) as essential elements in the industrial relation do not exist in the platform business. But the most fundamental problem that caused this to happen is concerns about the regulation that classified them as a self-employed or independent contractor. As the status of self-employment is not recognized in the current labour laws resulting they cannot enjoy labor rights, join a labor union and negotiate collectively like other regular workers. Indonesia Employment Law no. 13 of 2003 stipulated: "Employment relationship is a relationship between employers and workers, or labourers based on a work agreement that has the following elements: (a) work, (b) wages, and (c) orders". (Kemnaker, 2003). From three elements, platform workers only able to meet two criteria; work and orders. While regarding wages not included because wages they get from customers not from the platform company. The other obstacles that hinder the regulation to establish employment relations is, the platform company by labor law definition cannot be categorized as employers, because the law defined an employer as a person or individual, entrepreneur, legal entity, or other entity that employs workers by paying wages or other forms of compensation (Ministry of Manpower, 2003). The term of paying wages is a barrier for them to be classified as employers. That is why, the relation arrangement concept in the platform business is not based on labour law, but business law.

With this logic, Indonesia designated platform workers as work-partners through three Ministerial regulations. Started by the Ministry of Small, Medium Business and Cooperatives Regulation Number 7 year 2021 which designated partnership cooperation as official relation between a platform company and platform driver. But the regulation required the partnership should conduct with equal, trust and mutual benefit principles, not implemented. The platform creates and fully controls the contents of the agreement. Further, Transportation Minister issued degree number 12 year of 2019 which further strengthen relation between platform companies and drivers in form of “partnership relation”. Means, business-to-business relations without working relations. Later, the Ministry of Communication and Information issued a ministerial degree number 01 year of 2012 regarding the rates formulation determination costs for delivery goods drivers. The partnership cooperation concept seems to have been made as a temporary regulation, as the Ministry of Manpower is currently conducting series of meeting to reviewing the appropriate form of regulation to accommodate the fairer platform business. One of researcher of this journal happened to be invited together other experts to the meeting.

The reason for the meeting is to response the current conditions, because after those regulations have been running for some time, it turns out considered further to blur the legal status of platform workers. Platform companies now can legally exploit workers within the framework of the rhetoric of flexible work and cooperation partnership. Those ministerial regulations heavily regulate the obligations of platform workers, but less on company responsibility. A further consequence of this new model business is the absence of industrial relation mechanism in solving work conflict. Platform currently prefers use an algorithmic system to replace most personnel management roles in industrial relation work, particularly in assessing, monitoring, and controlling drivers. Because the algorithm system can search, match, schedule, and determine the level of remuneration effectively and efficiently without using management and negotiation mechanisms. As defined by (Mohlman & Zalmanson, 2018), management algorithms have five characteristics, namely: (1) continuous tracking of worker behaviour; (2) constant evaluation of workers' performance, starting with consumer complaints about their work; (3) implementation of decisions unilaterally and automatically, without human intervention; (4) workers' interactions with "systems" rather than humans, depriving workers of opportunities for feedback or discussion and negotiation with their supervisors, as is usually the case in everyday work; and (5) low transparency. One aspect that is particularly worrying is the presence of arbitrary and unilateral acts of a platform which can deactivate connections drivers, often without explanation or warning. (Huws et al., 2018). The algorithm system can eliminate dialogue and negotiation mechanisms with unions because companies can

impose sanctions on the workers from data inputted by the algorithm, without conducting clarification and negotiation.

The absence of trade unions further worsens the living conditions of workers as there is no collective bargaining to settle a problem. Other things in terms of social protection, as a consequence of drivers relying on business law, platform drivers being classified as Non-Wage Recipients (BPU), in which they are only mandatory required to participate in two social security programs, namely; Work Accident Insurance and Death Security programs. Even they are responsible to bear monthly contributions. The other three social protection schemes are just voluntary basis. With the status of the Non-Wage Earners platform workers are facing discrimination in three ways: 1) As BPU they are only able to participate in only two social security programs (JKM and JKK), instead of five basic social security, 2) The worker must bear his social security dues without employer's contribution. The researchers experienced suggested this fact caused millions of platform workers not eager to join social security programs, 3) The lower income of platform workers makes the basis for the deduction of income for workers' dues also very small. This further will affect the contribution income to BPJS and further hinder the service capacity of BPJS to perform optimal services. From the data released by BPJS Employment in May 2021, the number of platform drivers registered as social security participants by paying themselves is only 162.429 drivers, compared to five million predicted workers. (Data provided by employment social security to researchers, during the first FGD on October 17th, 2022).

If we look at the work characteristics of the platform relation work system, the platform worker is part of non-standard work (NSE) which, according to the ILO formulation, is characterized by four types: temporary work; part-time work; temporary work, and other forms of work that involve multiple parties; and covert working relationships (International Labour Organization, 2016). According to the findings, workers involved in the NSE receive lower incomes, enjoy less coverage from social security, and work in poor conditions. (ILO, 2017) Thus, the presence of platform workers exacerbates the situation of vulnerable workers, whose numbers are already high in Indonesia due to the conception of a flexible labour market system.

Data from the Central Statistics Agency (BPS) reveals the number of informal workers in the country remain high, as compare to following data. In 2019 informal worker were 55,88%, increased to 60,47% in 2020. In 2021 slightly decreased to 59,45% and 59,31% in August 2022. Statistic Indonesia, 2022. These data confirms the data presented by the World Bank which used ILO estimate states, that the still high level of vulnerable workers in Indonesia, namely 47.45 % in 2020. Vulnerable employment is defined by two forms; contributing family workers

and own-account workers. data.worldbank.org. (2020). Available at: <https://data.worldbank.org/indicator/SL.EMP.VULN.ZS?locations=ID>. Most likely, the growth in vulnerable workers contribute partly from false self-employed platform workers.

*healing environment; children cancer; health care facility; environment behavior studies;
pediatric cancer*