

WEAVING A FRAGILE SAFETY NET: THE TRIANGULAR APPROACH FOR STRENGTHENED HEALTH AND SAFETY PROTECTION FOR PLATFORM WORKER

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Article	Abstract
Article History: Submitted: September 2024 Reviewed: March 2025 Accepted: April 2024 Published: April 2025 Keywords: Health and Safety; Non-Wage Earner, Partnership; Platform Worker; Social Insurance.	<i>Platform workers in Indonesia face a significant dilemma, particularly regarding employment security. Being classified as independent workers means they do not receive the same protections and benefits as regular employees in Indonesia. If employment security and benefits are seen as a safety net for employees in difficult situations, for platform workers in Indonesia, that net is fragile—prone to breaking at any moment. To address this dilemma, this study employs a juridical-normative and conceptual research approach to explore alternatives to legal enforcement. The findings suggest that if sanctions on platform companies and workers prove ineffective, reward mechanisms—such as a “Zero Accident Award”—could motivate platform companies to encourage worker participation in BPJS Ketenagakerjaan (social security). By offering recognition and public rewards, this soft law approach can increase compliance and improve worker protection without changing the legal status of platform workers. Additionally, the community award for platform workers to increase awareness of individual registration is also encourages. In a rapidly evolving digital economy, such strategies could help address gaps where traditional legal frameworks are inadequate.</i>

A. Introduction

The rise of platform companies like Gojek, Grab, and other gig-economy players has sparked a debate on the classification of platform workers. For business reasons, platform companies classify these workers as "mitra" or independent partners rather than employees.¹ This allows for easy hiring and firing, lower operational costs, and flexibility in labor management, as workers are only paid when they work, with no obligations to provide benefits such as paid leave, insurance, or long-term employment. These platform workers only get paid when they work and there are no benefits provided for illness or paid leave, leading to short-term, circular contracts.² While this partnership model offers companies significant

¹ Anindya Dessi Wulansari, *et.al.*, “Hiding behind the platform: the myth of flexibility for gig workers in Indonesia”, *Southeast Asia Research* 32, no. 1 (2024): 22-40, <http://dx.doi.org/10.1080/0967828X.2023.2292101>.

² Alexandra J Ravanelle, *Hustle and Gig: Struggling and Surviving in the Sharing Economy* (Oakland, CA: University of California Press, 2019), 62.

advantages, it leaves platform workers in a vulnerable position, unequal working relationship and lack of proper channel to express their voice.³

Platform workers themselves, many of whom rely on gig work as a primary source of income in a challenging job market accept the partnership arrangement to secure employment. However, the nature of their work—especially for drivers and delivery personnel—exposes them to significant risks, including accidents and injuries.⁴ As a result, platform workers increasingly demand a safety net, particularly regarding health and safety protections, while still accepting the flexibility of their partnership status.

Platform workers is known as one of the high-risk job and involves significant occupational hazard⁵ investigate the occupational safety and health (OSH) risks faced by workers in the digital platform economy, particularly those involved in physically demanding or hazardous tasks like delivery and ride-hailing services. The study highlights how platform workers are often excluded from traditional labor protections, leaving them vulnerable to work-related accidents and injuries. In addition, emphasized how countries in Europe deal with these issues, such as Belgium and Spain who already quite progressive in their labour regulations adaptation toward gig workers.⁶ Indeed, providing its partner worker insurance is also seen as a way for companies to maintain their reputation⁷ as organizations that prioritize human rights. From the customers' perspective, this can directly influence their experience, as having a safe driver enhances their sense of security during the service.

Some platform companies in Indonesia do exhibit good intention in protecting the health and safety of their platform workers. Grab has taken steps to cover work-related incidents through private third party, but this is not universal practice, some platform companies have partnership with government to assist health and safety administration for platform workers⁸ possibly to avoid direct partnership responsibilities, many does not cover this health and safety

³ Shanti Darmastuti, *et.al.*, “The Rise of the Gig Economy: Job Creation and the Paradox of Working Relationship on the Digital Transportation Platform”, (Research Result, Proceedings of International Conference on Manpower and Sustainable Development (IMSIDE), 2022), 44.

⁴ N. Christie & H. Ward, “The Health and Safety Risks for People Who Drive for Work in The Gig Economy”. *Journal of Transport & Health* 13, (2019): 115-127, <https://doi.org/10.1016/j.jth.2019.02.007>.

⁵ K. Lenaerts, *et.al.*, “Digital Platform Work and Occupational Safety and Health: Overview of Regulation, Policies, Practices, and Research: Report”, (Research Result, Publications Office of the European Union, 2022), 79.

⁶ *Ibid.*

⁷ Xueming Luo, *et.al.*, “The impact of Platform Protection Insurance on Buyers and Sellers in The Sharing Economy: A Natural Experiment”, *Journal of Marketing* 85, no. 2 (2020): 50-69, <https://doi.org/10.1177/0022242920962510>.

⁸ Shopee, “Apa manfaat dan bagaimana cara pendaftaran BPJAMSOSTEK bagi Mitra Pengemudi Shopee?,” <https://help.shopee.co.id/portal/4/article/92704-%5BMitra-Pengemudi-Shopee%5D-Apa-manfaat-dan-bagaimana-cara-pendaftaran-BPJAMSOSTEK-bagi-Mitra-Pengemudi-Shopee>, accessed 1 September 2024.

protection. While platform companies demonstrate a commitment to safeguarding the health and safety of their workers, they remain reluctant to modify employment classifications to circumvent the assumption of further legal obligations. In addition, the formal legal framework in Indonesia does not require companies to provide such protections under the partnership model, highlighting the disparity between law, business dynamics, and sustainability. The Indonesian government too is under constitutional obligation to protect all workers, as outlined in Article 28H and Article 34 of the Indonesia Constitution 1945, which mandate the development of a social security system that upholds human dignity. Law likes the National Social Security System (Law No. 40 of 2004) and the Social Security Administration Agency (Law No. 24 of 2011) provide the legal framework for worker health and safety protection, but enforcement remains a challenge in the gig economy.

This triangular dilemma—balancing the needs of platform companies, platform workers, and the government—demonstrates the truth in the phrase "*Het Recht Hink Achter De Feiten Aan*": Law always lags behind technology. In this case, the law is not only trailing technology, but also behind the evolving business dynamics and the companies' good faith efforts to sustain both their operations and worker welfare. Although the framework already there to cover non-wage earner, but the implementation is lacking. The form of the partnership contract, which accommodates health and safety protections despite the lack of legal obligation, exemplifies this lag in legal enforcement. This legal problem requires a careful approach from three main stakeholders to ensure platform workers protection without altering the partnership model that companies rely on.

This study aims to explore several key questions related to the protection of platform workers in the gig economy. Firstly, it seeks to understand how the government can effectively enforce and ensure platform workers' access to health and safety protections without imposing strict employment regulations that might affect the flexibility of platform work. Additionally, the research will examine strategies to raise awareness among platform companies, encouraging them to maintain business flexibility while still complying with health and safety standards. Finally, the study will investigate ways to empower platform workers to seek effective protection on their own, without relying solely on platform companies, by providing them with the necessary resources and support.

B. Method

The juridical-normative research method involves examining existing legal frameworks, regulations, and legal theories related to the health and safety protection of platform workers.

This approach analyzes the legal status of platform workers in Indonesia and the obligations of the government and platform companies under current laws, such as labor laws, occupational health and safety regulations, and social security provisions. By reviewing statutes, regulations, and relevant court decisions, this method evaluates the extent to which existing laws provide adequate protections for platform workers, considering their unique employment classification as independent partners. Additionally, the conceptual research component explores theoretical perspectives on worker protection in the gig economy. This involves reviewing academic literature on the evolving nature of work in the digital economy and how traditional labor law struggles to adapt to new forms of employment relationships. The study conceptualizes alternative legal mechanisms, such as soft law, rewards, and public recognition that can incentivize better health and safety compliance in the absence of stringent legal enforcement. This method focuses on proposing non-traditional solutions, such as the “zero accident award” that cover partnership forms by synthesizing insights from legal theory and practical governance strategies. Through this approach, the research integrates both legal analysis and conceptual innovation to address the challenges faced by platform workers. The juridical-normative method ensures a solid foundation in law, while the conceptual approach allows for creative problem-solving within the regulatory framework. This combination provides a comprehensive understanding of the issue and proposes realistic solutions that align with the needs of platform workers, companies, and the government.

C. Analysis and Discussion

1. Legal Theory

This study employs a three legal theoretical approach to explore the fragile framework of occupational health and safety (OSH) protections for Indonesian platform workers. It is rooted in international labor norms, supported by philosophical legal theory, and guided by interpretive legal constructivism.

a. The Decent Work as a Soft Law by International Labor Law Standard

The decent work for all is a United Nations in 2006 initiative to create jobs, eradicate poverty, and develop sustainability. Further, the International Labor Organization (ILO) adopts this agenda as a concept of international labor law to offer a compelling normative framework for assessing state and non-state obligations in occupational safety. Decent work reflects the priority lists on the social, economic and political agenda of countries and the international system. It articulates four fundamental pillars—employment creation, rights at work, social protection, and social dialogue—that together set a benchmark for interpreting

and implementing labor rights, including the right to a safe and healthy working environment.⁹

As a theory, decent work embodies a value-oriented and rights-based approach to labor regulation. It does not impose binding obligations per se, but it influences domestic legal interpretation and legislative reform through what legal theorists call normative guidance or persuasive authority. In contexts where employment relationships are deliberately obscured such as in the case of platform workers, the agenda operates as a standard of expectation that guides how legal norms should evolve in light of changing labor structures. It reframes health and safety not as a privilege tied to formal employment, but as a core component of labor dignity applicable across contractual forms.

This normative soft law influence is evident in international instruments such as ILO Convention No. 155 (1981) and Convention No. 187 (2006), both of which promote the integration of occupational safety and health into national labor policy. While Indonesia has only ratified Convention No. 187, the ratification itself reflects a commitment to progressive realization of OSH standards through participatory governance.¹⁰ The Convention explicitly mandates governments to develop and periodically review national OSH systems in consultation with employer representatives and workers as a tripartite model of labor law, which remains central to international legal theory.

In contexts where platform work blurs employment classifications, although ILO convention does not specific on gig workers, the decent work agenda provides a legally relevant benchmark for interpreting the right to a safe and healthy working environment as a matter of fundamental human rights and social justice, rather than formal contractual status.

b. The Capabilities Approach as a Justificatory Basis for OSH Protection

Martha Nussbaum's capabilities approach offers a rights-based framework that reconceptualizes the role of law in securing substantive justice. Nussbaum developed Sen's pluralism theory to become more universal by setting a list of capabilities. She developed the theory of justice by focusing on human dignity and creating a threshold of each capability.¹¹ Nussbaum argues that a just legal system must go beyond procedural equality

⁹ International Labour Organization, "Ensuring Safety and Health at Work in a Changing Climate," https://www.ilo.org/global/topics/safety-and-health-at-work/WCMS_880539/lang--en/index.htm, accessed 1 September 2024.

¹⁰ International Labor Organization, "C187 - Promotional Framework for Occupational Safety and Health Convention" (2006).

¹¹ S Jamil, "Amartya Sen, Martha Nussbaum, and the Capability Approach", *Al-Hikmat: A Journal of Philosophy* 44, (2024): 73-87, https://pu.edu.pk/images/journal/phill/pdf_files/5_v44_24.pdf.

or economic growth indicators such as Gross Domestic Product (GDP).¹² She asserts that laws and policies must be assessed based on the extent to which they enable individuals to achieve real freedoms and functionings.¹³

In the context of occupational health and safety (OSH), Nussbaum and Sen argue that health policy measures the quality of life.¹⁴ OSH is not merely a labor standard, but a fundamental entitlement grounded in the core capabilities of bodily health and bodily integrity. Rather than limiting protection to formal employment classifications, capability theory emphasizes the state's duty to ensure that all individuals possess the necessary conditions to live a life of dignity. This shift from formal status to substantive capability provides a legal justification for extending OSH protections to platform workers, even when they fall outside traditional definitions of 'employee.'

Her theory identifies ten central capabilities that constitute a threshold of justice, among which bodily integrity and health are central.¹⁵ From this perspective, the state has a positive legal obligation to guarantee conditions that allow individuals to avoid preventable harm and to participate fully in public and economic life. Accordingly, health and safety protections must be understood as normatively binding legal entitlements, not discretionary benefits.¹⁶

This approach aligns with contemporary interpretations of constitutional and human rights law, particularly in Indonesia, where the 1945 Constitution affirms the right to social security and a dignified life. By framing OSH as an essential part of human development and legal equality, the Capabilities Approach supports a teleological interpretation of labor protection law—one that considers the purpose of legal norms in promoting justice for all workers, including those in the platform economy.

c. Constructivism as an Interpretive Legal Paradigm

Constructivist paradigm is developed by Guba and Lincoln as an interpretive legal-theoretical approach.¹⁷ Constructivism holds that law and legal meaning are not fixed or objective, but are instead socially constructed through interaction, negotiation, and shared

¹² J. Braithwaite, *Types of responsiveness -Regulatory Theory: Foundations and Applications* (Canberra: ANU e-Press, 2017), 117-132.

¹³ Martha Nussbaum, "Creating Capabilities – Martha Nussbaum," <https://www.youtube.com/watch?v=AoD-cjduM40>, accessed 1 September 2024.

¹⁴ Martha Nussbaum & A. Sen, *Quality of Life* (Oxford: Oxford University Press, 1993), 53.

¹⁵ I. Ayres & J. Braithwaite, "Tripartism: Regulatory Capture and Empowerment", *Law & Social Inquiry* 16, no. 3 (1991): 435-496, <https://www.jstor.org/stable/828556>.

¹⁶ Martha Nussbaum, *Loc.Cit.*

¹⁷ E.G. Guba & Y.S. Lincoln, "Competing Paradigms in Qualitative Research, in *Handbook of Qualitative Research*, N. K. Denzin & Y. S. Lincoln (Eds.), (Thousand Oaks: Sage Publications, 1994), 105-117.

understanding. Legal norms emerge not solely from statutes or formal regulations, but also from institutional practices, public discourse, and the lived experiences of legal subjects.¹⁸

In the context of platform work, constructivism offers a valuable framework for understanding how OSH protections evolve in practice, especially in legally ambiguous environments. Platform workers, by virtue of their independent status, often fall outside the scope of traditional labour categories. Yet, in practice, various actors co-construct informal norms and expectations around safety, responsibility, and welfare.

Constructivism thus complements the juridical normative method by framing law not only as a system of rules but also as a dynamic process of meaning-making. In regulatory areas where formal law lags behind business models and social expectations, such as the gig economy, this paradigm helps illuminate how new forms of labour protection can emerge through soft governance, public reasoning, and collective practice. It supports the argument that OSH norms should be extended through legally informed but socially driven instruments.

2. Weaving Three Threads

a. The First: The Government

The Indonesian government has a constitutional obligation to protect its citizens, as established in several key articles of the 1945 Constitution. Article 28H paragraph (3) of the Indonesian Constitution 1945 guarantees that everyone has the right to social security, which enables their full development as dignified human beings. This serves as the legal basis for the establishment of the Social Security Administration Agency (*BPJS*) under Law Number 24 of 2011. Furthermore, Article 34 paragraph (2) of the Indonesian Constitution 1945 mandates the state to develop a social security system for all citizens and empower the weak and underprivileged, forming the foundation for Law Number 40 of 2004 on the National Social Security System (*Badan Penyelenggara Jaminan Sosial-BPJS*).

The Nasional security system consists of *BPJS Kesehatan* and *BPJS ketenagakerjaan*. The specific social security system for workers including platform workers is *BPJS Ketenagakerjaan*. *BPJS Ketenagakerjaan* provides a service for non-wage workers (*BPU: Bukan Penerima Upah*) besides wage-earning employees, as platform workers are typically compensated through service fees rather than wages. In Indonesia, wage-related compensation can imply an employment relationship, so platform workers are categorized

¹⁸ *Ibid*, 114–127.

differently. The *BPJS Ketenagakerjaan* scheme for platform workers includes accident insurance (*JKK: Jaminan Kecelakaan Kerja*), retirement/pension insurance (*JHT: Jaminan Hari Tua*), and death insurance (*JKM: Jaminan Kematian*).

Historically, non-wage earners have been recognized in Law Number 40 of 2004 on the National Social Security System, which grants them access to death insurance under the *BPJS Ketenagakerjaan*. Government Regulation Number 44 of 2015 further stipulates that non-wage earners, including employers, self-employed workers, and workers not in wage-earning relationships, are entitled to participate in work accident and death insurance programs. Although these provisions have long existed for non-wage earners, their application to platform workers was formally established in 2021 with Ministry of Manpower Regulation Number 5 of 2021 (*Permenaker 5/2021*). The Ministry's Regulation in Article 1 point 15 defines non-wage earners as individuals conducting independent business activities to earn an income. Moreover, Article 31 point 3 includes workers in non-employment relationships, such as those in partnership agreements, under the category of non-wage earners. One type of workers under partnership agreement is platform workers where their relationship status as partner is not categorized as employee or wage earners. The platform workers, based on Article 32 paragraph (2) must participate in two social security programs, *JKK* and *JKM*, while participation in the *JHT* program is voluntary.

From the provisions in the Regulation, the government already aware on the health and safety protection of platform workers. They emphasize the minimum safety net on platform workers to have accident insurance and death insurance. This safety net is crucial given the high risks platform workers face, particularly those involved in transportation services.¹⁹ For instance, in Indonesia, motorcycle and car drivers face constant exposure to traffic hazards, leading to a heightened risk of accidents, injuries, and even fatalities.²⁰ In an industry where road safety is unpredictable, having health and accident insurance becomes a critical lifeline, ensuring that workers receive the necessary medical care and financial support in case of incidents. Without this protection, platform workers would be left vulnerable, shouldering the entire burden of their occupational risks, which can lead to devastating financial and health consequences for themselves and their families. Therefore, the health and safety net not only safeguard the well-being of the workers but also supports

¹⁹ N. Christie & N. Ward, *Loc.Cit.*

²⁰ N. S. Kusumastutie, *et.al.*, "Hazardous Traffic Scenarios for Motorcyclists in Indonesia: A Comprehensive Insight from Police Accident Data and Self-Reports", *International Journal of Injury Control and Safety Promotion* 31, no. 3 (2024): 408-419, 10.1080/17457300.2024.2335495.

the overall sustainability of the gig economy. However, while *JKK* and *JKM* are mandatory for platform workers, the regulation only focuses on platform workers awareness and does not impose obligation on platform companies. Registration can be conducted independently or through specific forums or groups created for non-wage earners, as outlined in Article 33 paragraph (2) and further detailed in Article 39. However, the analysis highlights a critical issue: the mandatory nature of the regulation applies to platform workers, not platform companies, leaving workers without sufficient institutional support or enforcement mechanisms to ensure their participation in these programs. This gap underscores the need for stronger regulatory frameworks that balance the flexibility of platform work with adequate social protections for workers.

b. The Second: The Platform Companies

In line with their good faith efforts, the participation of platform workers in *BPJS Ketenagakerjaan* is often characterized by a multitude of approaches, such as partnerships with *BPJS Ketenagakerjaan*, amendments to existing contractual clauses, and the Power of Attorney (POA) arrangements for registration and compliance. Specifically, Article 34 of Ministry's Regulation stipulates that participation in *BPJS Ketenagakerjaan* for workers engaged in partnership relationships must be ensured by platform companies as service providers through the partnerships. Currently, in *BPJS Ketenagakerjaan* website there is specific page dedicated for some platform companies that work together with *BPJS Ketenagakerjaan* to increase participation of platform workers. While major platform companies like Grab, Bukalapak, Shopee, and Gojek actively utilize this model, many others do not. The lack of legal mandates for platform companies to optimize their operations needs to be addressed. Currently, Indonesia has numerous platform companies employing a significant number of platform workers, many of whom operate in vulnerable conditions, such as drivers on the road, field workers in remote areas, and logistics couriers.²¹ Therefore, it is essential to focus on optimizing legal enforcement for platform companies to ensure they prioritize the health and safety of their partners. Presently, partnerships with *BPJS Ketenagakerjaan* are based on voluntary agreements, relying on the good faith of platform companies. Despite this commendable initiative, the outcomes remain low, with only 11 major platform companies—out of hundreds in Indonesia—participating in the program.

²¹ A.D. Wulansari, *et.al.*, "Hiding Behind the Platform: The Myth of Flexibility for Gig Workers in Indonesia", *South East Asia Research* 31, no. 1 (2024): 22-40, doi.org/10.1080/0967828X.2023.2292101.

BPJS Ketenagakerjaan has introduced *SIPP Mitra*, an option for platform companies that have not yet formed partnerships, allowing them to register independently. This initiative is understandable, given that the number of platform workers outside of these 11 companies is relatively small. This dynamic also happens as a result of the pressure from platform worker communities, government flexibility, and the company good intentions. A win-win solution for all stakeholders with recognizing the existing partnership status. However, the practical implementation is far from ideal, many of platform workers and platform companies do not know about this initiative. This initiative is not sufficient to encourage more platform companies to register their workers considering the existing hundreds of platform companies in Indonesia. The absence of sanctions or mandatory compliance mechanisms raises questions about the effectiveness of Ministry's Regulation. Under Government Regulation Number 86 of 2013, which outlines procedures for imposing administrative sanctions, penalties are only applicable to employers who fail to register their formal employees for social security. However, these sanctions do not extend to platform companies, for whom the registration of platform workers remains important but not compulsory. Instead, registration functions as an informational guideline rather than a legal obligation, with no real enforcement or penalties for non-compliance. This lack of accountability diminishes the government's ability to ensure that platform workers are properly protected under social security and other health and safety regulations. An alternative approach could involve incentivizing compliance by offering rewards, thereby encouraging platform companies to voluntarily adhere to health and safety protections for their workers.²² Instead of focusing on hard law approaches—such as strict sanctions and penalties—introducing soft law measures like recognition programs, public awards, or tax incentives could be more effective. These rewards could act as a positive reinforcement, motivating companies to fulfil their constitutional obligations²³ and provide essential protections to platform workers. By shifting the focus from punishment to reward, the government can foster collaboration and innovation, ensuring that platform workers are adequately protected while maintaining the flexibility that companies value.

²² B. Lee & H. Kim, "Evaluating the Effects of Safety Incentives on Worker Safety Behavior Control Through Image-Based Activity Classification", *Frontiers in Public Health* 12, (2024): 1-13, <https://doi.org/10.3389/fpubh.2024.1430697>.

²³ A. H. Porteous, *et.al.*, "Carrots or Sticks? Improving Social and Environmental Compliance at Suppliers Through Incentives and Penalties", *Production and Operations Management* 24, no. 9 (2015):1402-1413, <https://doi.org/10.1111/poms.12376>. See also, I. Bautista-Bernal, *et.al.*, "Safety Culture, Safety Performance and Financial Performance: A Longitudinal Study", *Safety Science*, 172, (2024):106409. <https://doi.org/10.1016/j.ssci.2023.106409>.

c. The Third: The Platform Workers

The urgency of health and safety protection for platform workers been addressed by platform workers. Especially on platform workers that work daily on the road as driver, delivery, logistics, and surveyor, the traffic incident is their highest concern. Data shows that from 2019 to 2021 the traffic accident increased from 103,645 incidents in 2019 to 116,411 in 2021.²⁴

As the main character in the dilemma, platform workers often have the fewest resources to address their working conditions. While they typically operate independently, it is essential for them to begin uniting their strengths through collective movements, such as collective group and community. The unionisation of platform workers in Europe already developed into promising collective movements.²⁵ Countries like Italy and Spain have seen significant progress, with collective bargaining agreements and legislation recognizing platform workers as employees.²⁶ The COVID-19 pandemic further exposed the vulnerabilities of platform workers, intensifying their interest in collective action and prompting unions to innovate with digital strategies to organize these fragmented workforces.²⁷ Despite these advances, challenges remain, such as company pushback and the isolated nature of platform work, which complicates organizing efforts across Europe. Unfortunately, in Indonesia, the option for trade union law does not cover partner as in platform workers. It strict to worker while worker definition on the same law is defined as any person who works by receiving wages or other forms of compensation as per Law Number 21 of 2000 on Trade union. Therefore, there is no chance for platform workers to be protected by this trade union law since they cannot be categorized as union members.

Engagement among platform workers plays a crucial role in voicing their needs and concerns.²⁸ Community or organization are recognized under Article 39 Ministry's

²⁴ D. Setyowati, "Urgensi Jaminan Hari Tua dan Kecelakaan Kerja Bagi Driver Ojek Online," <https://katadata.co.id/digital/startup/655efe7d130f6/urgensi-jaminan-hari-tua-dan-kecelakaan-kerja-bagi-driver-ojek-online>, accessed 1 September 2024.

²⁵ A. Aloisi, "Platform Work in Europe: Lessons Learned, Legal Developments and Challenges Ahead", *European Labour Law Journal* 13, no. 1 (2022): 4-29, 10.1177/20319525211062557. *See also*, Valerio De Stefano, "The Rise of the 'Just-in-Time Workforce': On-Demand Work, Crowd Work and Labour Protection in the 'Gig-Economy'" (Research Result, Forthcoming, Bocconi Legal Studies Research Paper No. 2682602, 2015), 85.

²⁶ Ursula Huws, *et.al.*, "Work in the European Gig Economy: Research Results from the UK, Sweden, Germany, Austria, The Netherlands, Switzerland and Italy" (Research Result, University of Hertfordshire, 2017), 46.

²⁷ Agnieszka Piasna, *et.al.*, "The Platform Economy In Europe Results From The Second ETUI Internet And Platform Work Survey" (Paper, European Trade Union Institute, 2022), 55.

²⁸ N. Van Doorn, N, "Platform Labor: on the Gendered and Racialized Exploitation of Low-Income Service Work in the 'On-Demand'economy", *Information, communication & society* 20, no. 6 (2017): 898-914, <https://doi.org/10.1080/1369118X.2017.1294194>. *See also*, E. Bucher, *et.al.*, "Just Another Voice in The Crowd? Investigating Digital Voice Formation in The Gig Economy", *Academy of Management Discoveries* 10, no. 3 (2024), 488-511, <http://dx.doi.org/10.5465/amd.2022.0112>.

Regulation that governs a collective group can do partnership with *BPJS Ketenagakerjaan* to address health and safety protection for platform workers. This legal framework initiative by *BPJS Ketenagakerjaan* is a shortcut to protect platform workers without involving platform companies. The evolving landscape of labor relations necessitates the accommodation of communities within the gig economy. Alternative platform companies have emerged as potential facilitators in this domain. However, the extent to which platform workers community comprehend and acknowledge this role remains uncertain. It is imperative to consider whether these communities are adequately addressing the protection of its member health and safety, whose responsibilities seem limited to ensuring participation in safety nets.

3. Weaving the All Three Threads: A Triangular Approach to Strengthening the Fragile Safety Net

A strong safety net means should be protecting the platform workers, but the same time also increase customer experience and morale as well as compliance with constitution. Thus, potential solution to enhancing the welfare of platform workers involves the collaboration of three key stakeholders: the government, companies, and drivers. The government could consider making *BPJS Ketenagakerjaan*, a national social security program, mandatory for independent workers, similar to the requirements for small business entrepreneurs. This would enable independent workers to access essential social security benefits. Companies could explore the possibility of offering additional salary or benefits to drivers, although it is important to note that mandatory benefits are currently not provided. An intriguing development is reflected in Regulation of The Minister of Transportation Number PM.12 of 2019, which emphasizes the protection of platform workers while recognizing the role of platform companies. The relationship between health and safety protections for platform workers and customer experience is underscored. Ensuring the safety of platform workers directly contributes to customer safety, highlighting the strong interdependence between the two.²⁹ This connection underscores the need for stricter accountability measures. Platform companies could consider implementing sanctions against platform workers who fail to protect their own health and safety. For example, failure to register for *BPJS Ketenagakerjaan*

²⁹ K. Lenaerts, *et.al.*, *Digital Platform Work and Occupational Safety and Health: A Review* (Luxemburg: Publication Office of European Union, 2022), 1-43. *See also*, J. Zhang, *et.al.*, “To Be (Safe), or Not to Be (Safe)? A Daily Exploration of Why and When Gig Workers Stay Safe Under Customer Demands”, *Journal of Organizational Behavior*, (2025), <https://doi.org/10.1002/job.2874>.

or to comply with health and safety regulations could lead to consequences such as temporary suspension. By emphasizing individual responsibility for health and safety protections, companies can ensure a safer and more reliable service for both workers and customers, ultimately enhancing the platform's reputation and customer loyalty.

Overall, the ideal concept seeks to accommodate business flexibility—facilitating easy hiring and firing—while simultaneously protecting the basic rights of health and safety. Nevertheless, improvements are still needed in terms of health and safety measures from platform companies. A proactive “push-no push” strategy could be implemented, where rewards replace sanctions to encourage compliance. For instance, an award system for achieving zero accidents could incentivize non-wage-related improvements among partners. However, this approach remains passive, relying on the goodwill of platform companies and the initiative of educated platform workers' communities to register on behalf of workers. To achieve meaningful change, a balance of push factors, including both rewards and sanctions is essential.

D. Conclusion

This research has explored the legal challenges of securing occupational health and safety (OSH) protections for platform workers in Indonesia, whose employment classification as independent partners often leaves them excluded from formal labor safeguards. Addressing this issue requires a collaborative and adaptive approach involving government, platform companies, and the workers themselves. The following conclusions directly respond to the three legal questions raised:

First, the government can strengthen OSH protection without imposing rigid labor classifications by shifting from a hard law enforcement model to a strategy centered on soft law and reward-based mechanisms. Under current regulations such as Ministry of Manpower Regulation Number 5 of 2021, platform workers are eligible to register independently with *BPJS Ketenagakerjaan*, but the lack of binding obligations on companies results in low participation rates. Rather than pursuing strict penalties or reclassification, the state can offer incentives—including public recognition, Zero Accident Awards, or tax benefits—to encourage voluntary compliance by companies. This approach preserves the flexibility inherent to platform work while aligning with the state's constitutional obligation to ensure the health and safety of all workers.

Second, platform companies can be encouraged to fulfil their OSH responsibilities by positioning health and safety not as a legal burden, but as a strategic value that enhances their

public image and customer trust. Voluntary collaboration with *BPJS Ketenagakerjaan*, use of delegated registration mechanisms (e.g., power of attorney), and participation in government-led recognition programs can serve as pragmatic alternatives to formal employment obligations. These measures allow companies to contribute meaningfully to worker protection while maintaining their preferred partnership model.

Third, platform workers must be empowered to protect their own health and safety by improving access to information, simplifying registration procedures, and facilitating collective action through communities or cooperatives. Although current labour law restricts formal union representation to wage earners, Article 39 of Ministry of Manpower Regulation Number 5 of 2021 allows for community-based group registration, which can serve as a legal and practical channel for workers to organize, advocate, and access OSH protections. Supporting digital outreach, legal education, and partnerships with civil society organizations can further enhance workers' capacity to navigate their rights independently.³⁰

In summary, achieving a meaningful safety net for platform workers requires a coordinated triangular approach, where the government acts as a regulatory enabler, companies as voluntary but accountable participants, and workers as active rights-holders. By combining legal flexibility with normative pressure and community-based engagement, Indonesia can promote a more just and sustainable framework for OSH in the platform economy.

References

Books

- Braithwaite, J., *Types of responsiveness -Regulatory Theory: Foundations and Applications*, Canberra: ANU e-Press, 2017.
- Guba, E.G. & Y.S. Lincoln, "Competing Paradigms in Qualitative Research", in *Handbook of Qualitative Research*, N. K. Denzin & Y. S. Lincoln (Eds.), Thousand Oaks: Sage Publications, 1994.
- Nussbaum, M. & A. Sen, *Quality of Life*, Oxford: Oxford University Press, 1993.
- Ravanelle, Alexandra J, *Hustle and Gig: Struggling and Surviving in the Sharing Economy*, Oakland, CA: University of California Press, 2019.

³⁰ E. Kusdarini, *et.al.*, "The Urgency of Legal Literacy for Indonesian Migrant Workers Through Distance Education", *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 4 (2021): 399-416, <http://dx.doi.org/10.25041/fiatjustisia.v15no4.2317>. See also, S. Mangold, "Platform Work and Traditional Employee Protection: The Need for Alternative Legal Approaches", *European Labour Law Journal* 15, no. 4 (2024): 726-739, <https://doi.org/10.1177/20319525241260878>. See also, M. Aspinwall, "Legal Mobilization Without Resources? How Civil Society Organizations Generate and Share Alternative Resources in Vulnerable Communities", *Journal of Law and Society* 48, no. 2 (2021): 202-225, <http://dx.doi.org/10.1111/jols.12290>.

Journal Articles

- A, Aloisi, "Platform Work in Europe: Lessons Learned, Legal Developments and Challenges Ahead", *European Labour Law Journal* 13, no. 1 (2022): 4-29, 10.1177/20319525211062557.
- Aspinwall, M., "Legal Mobilization Without Resources? How Civil Society Organizations Generate and Share Alternative Resources in Vulnerable Communities", *Journal of Law and Society* 48, no. 2 (2021): 202-225, <http://dx.doi.org/10.1111/jols.12290>.
- Ayres, I., & Braithwaite, J. (1991). Tripartism: Regulatory capture and empowerment. *Law & Social Inquiry*, 16(3), 435-496. I. Ayres & J. Braithwaite, "Tripartism: Regulatory Capture and Empowerment", *Law & Social Inquiry* 16, no. 3 (1991): 435-496, <https://www.jstor.org/stable/828556>.
- Bautista-Bernal, I. *et.al.*, "Safety Culture, Safety Performance and Financial Performance: A Longitudinal Study", *Safety Science*, 172, (2024):106409. <https://doi.org/10.1016/j.ssci.2023.106409>.
- Bucher, E, *et.al.*, Just Another Voice in The Crowd? Investigating Digital Voice Formation in The Gig Economy", *Academy of Management Discoveries* 10, no. 3 (2024), 488-511, <http://dx.doi.org/10.5465/amd.2022.0112>.
- Christie, N., & Ward, H. (2019). The health and safety risks for people who drive for work in the gig economy. *Journal of Transport & Health*, 13, 115-127. <https://doi.org/10.1016/j.jth.2019.02.007>.
- Jamil, S. "Amartya Sen, Martha Nussbaum, and the Capability Approach", *Al-Hikmat: A Journal of Philosophy* 44, (2024): 73-87, https://pu.edu.pk/images/journal/phill/pdf_files/5_v44_24.pdf.
- Kusdarini, E, , *et.al.*, "The Urgency of Legal Literacy for Indonesian Migrant Workers Through Distance Education", *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 4 (2021): 399-416, <http://dx.doi.org/10.25041/fiatjustisia.v15no4.2317>.
- Kusumastutie, N.S., *et.al.*, "Hazardous Traffic Scenarios for Motorcyclists in Indonesia: A Comprehensive Insight from Police Accident Data and Self-Reports", *International Journal of Injury Control and Safety Promotion* 31, no. 3 (2024): 408-419, 10.1080/17457300.2024.2335495
- Lee, B., & H. Kim, "Evaluating the Effects of Safety Incentives on Worker Safety Behavior Control Through Image-Based Activity Classification", *Frontiers in Public Health* 12, (2024): 1-13, <https://doi.org/10.3389/fpubh.2024.1430697>.
- Luo, Xueming, *et.al.*, "The Impact of Platform Protection Insurance on Buyers and Sellers in The Sharing Economy: A Natural Experiment", *Journal of Marketing* 85, no. 2 (2020): 50-69, <https://doi.org/10.1177/0022242920962510>.
- Mangold, S. "Platform Work and Traditional Employee Protection: The Need for Alternative Legal Approaches", *European Labour Law Journal* 15, no. 4 (2024): 726-739, <https://doi.org/10.1177/20319525241260878>.

- Porteous, A.H., *et.al.*, “Carrots or Sticks? Improving Social and Environmental Compliance at Suppliers Through Incentives and Penalties”, *Production and Operations Management* 24, no. 9 (2015):1402-1413, <https://doi.org/10.1111/poms.12376>
- Van Doorn, N, “Platform Labor: on the Gendered and Racialized Exploitation of Low-Income Service Work in the ‘On-Demand’economy”, *Information, communication & society* 20, no. 6 (2017): 898-914, <https://doi.org/10.1080/1369118X.2017.1294194>
- Wulansari, A.D. *et.al.*, “Hiding Behind the Platform: The Myth of Flexibility for Gig Workers in Indonesia”, *South East Asia Research* 31, no. 1 (2024): 22-40, doi.org/10.1080/0967828X.2023.2292101.
- Zhang, J. *et.al.*, “To Be (Safe), or Not to Be (Safe)? A Daily Exploration of Why and When Gig Workers Stay Safe Under Customer Demands”, *Journal of Organizational Behavior*, (2025), <https://doi.org/10.1002/job.2874>.

Research Results/Papers

- Darmastuti, Shanti, *et.al.*, “The Rise of the Gig Economy: Job Creation and the Paradox of Working Relationship on the Digital Transportation Platform” (Research Result, Proceedings of International Conference on Manpower and Sustainable Development (IMSIDE), 2022).
- Huws, Ursula, *et al.*, “Work in the European Gig Economy: Research Results from the UK, Sweden, Germany, Austria, The Netherlands, Switzerland and Italy” (Research Result, University of Hertfordshire, 2017).
- Lenaerts, K, *et al.*, “Digital Platform Work and Occupational Safety And Health: Overview of Regulation, Policies, Practices, and Research: Report,” (Research Result, Publications Office of the European Union, 2022).
- Piasna, Agnieszka, *et.al.*, “The Platform Economy In Europe Results From The Second ETUI Internet And Platform Work Survey” (Paper, European Trade Union Institute, 2022).
- Stefano, Valerio De, “The Rise of the 'Just-in-Time Workforce': On-Demand Work, Crowd Work and Labour Protection in the 'Gig-Economy” (Research Result, Forthcoming: Bocconi Legal Studies Research Paper No. 2682602, 2015)

Internet

- BPJS Ketenagakerjaan, “Bukan Penerima Upah (BPU)”, September 30, 2024, <https://www.bpjsketenagakerjaan.go.id/bukan-penerima-upah.html>.
- BPJS Ketenagakerjaan, “Manfaat Perlindungan BPJS Ketenagakerjaan untuk Mitra Ojol”, September 30, 2024, <https://www.bpjsketenagakerjaan.go.id/artikel/17374/artikel-manfaat-perlindungan-bpjs-ketenagakerjaan-untuk-mitra-ojol.bpjs>.
- BPJS Ketenagakerjaan, “Pendaftaran ini khusus untuk Mitra Gojek”, September 30, 2024, <https://www.bpjsketenagakerjaan.go.id/bpu/gojek>.

International Labour Organization, “Ensuring Safety and Health at Work in a Changing Climate”, April 2023, https://www.ilo.org/global/topics/safety-and-health-at-work/WCMS_880539/lang--en/index.htm.

Gojek, “Dorong Mitra Pengemudi Jadi Peserta BPJS Ketenagakerjaan, GO-JEK Sosialisasikan Kemudahan Akses kepada Ribuan Mitra Driver”, September 30, 2024, <https://www.gojek.com/blog/gojek/go-jek-dan-bpjs-ketenagakerjaan-bandung>.

Grab, “Perlindungan Asuransi Mitra Pengemudi Grab”, September 30, 2024, <https://help.grab.com/driver/id-id/900004029926>.

Nussbaum, M., “Creating Capabilities – Martha Nussbaum”, May 2, 2011, <https://www.youtube.com/watch?v=AoD-cjduM40>.

Setyowati, D, “Urgensi Jaminan Hari Tua dan Kecelakaan Kerja Bagi Driver Ojek Online”, September 30, 2024, <https://katadata.co.id/digital/startup/655efe7d130f6/urgensi-jaminan-hari-tua-dan-kecelakaan-kerja-bagi-driver-ojek-online>.

Shopee, “Apa manfaat dan bagaimana cara pendaftaran BPJAMSOSTEK bagi Mitra Pengemudi Shopee?” September 30, 2024, <https://help.shopee.co.id/portal/4/article/92704-%5BMitra-Pengemudi-Shopee%5D-Apa-manfaat-dan-bagaimana-cara-pendaftaran-BPJAMSOSTEK-bagi-Mitra-Pengemudi-Shopee>.

Law and Regulations as a Reference

Indonesia, Central Government, Government Regulation No. 86 of 2013 regarding Procedures for Imposing Administrative Sanctions on Employers Other Than State Administrators and Individuals, Other Than Employers, Workers, and Contribution Assistance Recipients in the Implementation of Social Security (2013).

Indonesia, Central Government, Government Regulation No. 44 of 2015 regarding The Implementation of the Work Accident Insurance and Death Insurance Program (2015).

Indonesia, Central Government, Law No. 13 of 2003 regarding Manpower (2003).

Indonesia, Central Government, Law No. 17 of 2013 regarding Community Organizations (2013).

Indonesia, Central Government, Law No. 21 of 2001 regarding Trade Union (2001).

Indonesia, Central Government, Law No. 24 of 2011 regarding Social Security Administration Agency (2011).

Indonesia, Central Government, Law No. 40 of 2004 regarding National Social Security System (2004).

Indonesia, Central Government, Law No. 6 of 2023 regarding Manpower Law (2023).

Indonesia, Central Government, The 1945 Constitution of the Republic of Indonesia (1945).

Indonesia, Ministry of Transportation, Minister of Transportation Regulation No. 12 of 2019 regarding Safety Protection for Motorcycle Users Used for Public Interest (2019).

Indonesia, Ministry of Manpower, Ministry of Manpower Regulation No. 5 of 2021 regarding Procedures for the Implementation of the Work Accident Insurance, Death Insurance, and Old Age Insurance Program (2021).

International Labour Organization, C187 - Promotional Framework for Occupational Safety and Health Convention, (2006).