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Eliminating the Gap of Labor and Social Protection for the Workers of Platform-Based Transportation

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Abstract

This study aims to examines online transport business practices in Indonesia and assesses whether workers get decent labor protection. The study tries to provide the answer to the unresolved debate about what form of regulation to close the protection for platform work. The method used a descriptive-qualitative research design with the study case paradigm notably in online transportation sectors. Research data was obtained through in-depth semi-structured interviews with drivers from different apps in Jakarta, the Indonesia Capital City. The study found that the improvement of employment protection for workers can only be done by first clarifying the legal status of workers, and determining the form of employment protection that is suitable for them, which is made through a special regulation. The study proposes a way out by providing options based on selected countries experiences of different continents on how the platform should protected without hurting platform business.

I. Introduction

In the last decade, the world of employment has experienced major challenges with the emergence of new business models based on digital platforms. The presence of this new business disrupts several things, for example, business activities are carried out without labor regulations; without working relationships; workers provide themselves with the means of production of work; and job are not requiring special competencies.

The trend has radically changed the way jobs carry out, challenging existing labor regulations and disrupting business ([Fay,1967](#)). These incident is believed to be the inevitable result of the Industrial Revolution 4.0, which bring changes in consumer taste, internet penetration, which is supported by an unchanged capitalist system, which is always trying to get new profits, new markets, new commodities, and ways to make money new exploit ([Srnicek, 2019](#)).

Even though the platform business has started operating in Indonesia since 2010, its rapid growth occurred during the 2020-2021 Covid-19 pandemic. As a result of the policy of restricting people's movements, there has been a change in consumption modes through online business services, especially in the transportation platform sector. According to data McKinsey & Company ([McKinsey&Company, 2018](#)) Indonesia's online commercial economy in 2022 is estimated-directly and indirectly-will provide jobs to around 26 million jobs, out of around four and a half million are online workers. Likewise, internet penetration growth into society, which according to Digital Report 2021 data the number of internet users in Indonesia increased by 16% between 2020 and 2021. Covering around 93,4 million internet users, with smartphone usage by 71 million people. The structural forces that influence and shape working conditions in these companies are referred by the ILO as Megatrends, namely the effects of a combination of globalization, technology, demographics and climate change ([H Kara, 2014](#)).

The first platform business to operate in Indonesia was transportation platform, started by Gojek in 2010, followed by Uber (2013), Grab (2014) and then other hundred platforms. The presence of this new mode of transportation is favored by consumers because it is considered safer, faster, and cheaper than conventional transportation. These situations further attracted many workers to apply to become platform drivers. With the availability of a large market, the transportation platform continues to develop, no longer for transportation only but also delivering goods and shopping services. That's what makes transportation platforms grow fast, as can be seen from the emergence of hundreds of platform transportation in few recent years. Although about the number of drivers remain unclear, considering that there is no official data available, both government and platforms data. Based on some literatures, attempts to calculate the exact amount of platform workers are difficult as a results of the absence of an agreed official definition, caused it is difficult to make parameters of which companies and relevant activities are included.

Indonesia government created the concept of 'Partnership System' to bridge the working relationship between drivers and application owners. The concept is taken from Law 20 of 2008 on Micro, Small and Medium Enterprises. Later followed by the Minister of Transportation Number 12 of 2019 concerning the Protection of Motorcycle Safety Used for the Benefit of the Community. Article 15 states "The relationship between the platform company and the driver is a partnership relationship". Next to that, the Ministry of Communication and Information issued a regulation Number 1 of 2012 for formulating the tariff costs of goods and food delivery, and the last, Ministry

of Manpower issued a regulation Number 5 of 2021 for social security arrangements. Over time, the implementation of the partnership system poses several problems, mainly due to the blurring of workers' rights in labor regulations. The working conditions of platform workers are generally characterized by various vulnerabilities, among which are; low wages, income instability, insecurity and exploitation of workers. This circumstance has led to some extent created decent work deficit to the workers, which is indicated by the emergence of several conflicts and demonstrations of workers in major cities in Indonesia. In a meeting conducted by researchers with KSBSI 87 Grab drivers in Jakarta on October 2022, found eight of the most frequent problems faced by platform drivers, namely; suspending the account unilaterally (suspend); cutting costs; pressure to pay vehicle loan instalments; high competition between apps owners; inconsistent policies (bonuses, incentives, loyalty fees, account suspensions, priority orders, vehicle withdrawals, rental fees); income gets smaller and insufficient; the accuracy of the ordering address sometimes does not match the GPS, and job security of drivers.

Several researched conducted previously revealed that in general researchers against the partnership system and calling for replacing it. Despite few scholars agreed to continue the system. But most research only able to provide partial analysis on specific issues, such as; wages issue and occupational safety and health, and yet has not offered concrete solutions on what regulatory options are needed to replace the current regulations. Some previous research results include research carried out by Prakarsa ([The Prakarsa, 2018](#)) that found online ojek drivers have not enjoyed decent work, the work status as informal workers even though they called them as partners, as well as no employment relations and employment protection. Researched conducted by Anggalih Bayu Muh ([Kamim & Khandiq, 2019](#)) revealed about the lack of workers welfare as promised by the Gojek management. While study by Subakdi and Andriyanto Adhi Nugroho ([Subakdi & Nugroho, 2019](#)) found that online transportation drivers have not enjoyed social security. Toni Arivianto ([Arivianto, 2018](#)) mentioned the promise of welfare is not proven, drivers are trapped in unreasonable working hours, lack of social security, and gaps in information mastery. The most recent dissertation research conducted by Endang Yuniastuti ([Yuniastuti et al., 2019](#)) argued that the partnership work pattern is the right way to protect Indonesian platform workers. However, this pattern must be govern by tripartite (government, platform company, and work partners (workers)). GoJek as an online-based transportation provides convenience to the community in their activities, but there are still new risks and uncertainties regarding regulations ([Amajida, 2016](#)).

The many problems experienced by platform drivers cause platform workers repeatedly demanded government to revoke the partnership system and replace it with better regulations, in accordance with the Law Number 20 of 2021 that stipulated, the partnership should be carried out with an equal position and based on the principles of mutual need, trust, mutually reinforcing. The current practices the platforms dominate all work processes, and even may force "partners" or drivers to comply the platforms

decisions that made unilaterally. The existing regulations have benefited platform owners more than drivers, given the fact they can operate business at very minimal cost, without any obligation to follow labor laws.

The incompatibility of this partnership system happened due to several anomalies in the practice of legal labor protection, as described as follows: First anomalies, in case of wage/income protection system. It has long been general practices that matters related to wages and labor protection are the core business of the Ministry of Manpower, but in platform business the matter is now shifted to other ministry, namely the Ministry of Transportation, in line with their authority to set tariff cost and standard safety for platform transport drivers. The problem arise when the amount of tariff set is considered very low, so, in practice, a driver will be difficult or impossible to get wages according to the Provincial/City Minimum Wage level. 2) Second anomalies, in the labor supervision system field. With current practices, supervision of worker rights implementation is carried out by different ministries outside of labor ministry. 3) Next to that is the anomalies over social security protection (BPJS). As a result of the driver being assumed as a business partner, workers are considered as non-wage earners workers (entrepreneurship). Means, the drivers must bear all the social security cost dues without platform contributions. 4) The last anomalies, in the context of the right to bargain with employers become impossible as trade union can't represent platform workers which is classified as part of employers. Despite few labor unions have been able to registered platform union to local labor ministry office, but they have no right to bargain collectively.

Take into consideration those problem, the main issue that need to be addressed is what kind of Indonesia policy should be made for making platform workers better protected? To answer these problems the researchers use the qualitative research method with study case form, for the following reasons: The research intends to investigate a new phenomenon that needs to be explored; from variabilities that are not easy to measure; there is a need for a more complicated understanding and the theories that exist today are inadequate to answer the complexity of the problem under study ([Creswell & Poth, 2007](#)). But for the approach, we use the case study approach, following what Ying Zhao suggested ([Zhao et al., 2019](#)) the case study form is relevant to use when researchers want to search for an explanation of a going event, or phenomenon. Data was obtained through in-depth semi-structured interviews with drivers from different platforms in Jakarta, and related government officials. As an effort to enrich the understanding of the phenomenon researchers also collected secondary data from selected countries related to their respective experiences in regulating platform business.

Researchers acknowledged the important of the case and need an urgent action to solve problems, considering the continue escalation of conflicts between drivers and platform and to prevent Indonesia failing to achieve the decent work and universal coverage of social security target, as mandated by the Indonesia Constitution of 1945 as well as the Sustainable Development Goals (SDGs) target. That is why this study aims to

offer a new, fairer regulatory option of protection for transport workers. The options we offer are drawing from several countries experiences that have succeeded in regulating employment protection for platform workers.

II. Finding and Discussion

A. The labor protection and principles of equality

From several theories of legal protection put forward by experts, researchers chose the definition of Philipus M. Hadjon ([Hadjon, 2017](#)), which states that legal protection is the protection of dignity, as well as the recognition of human rights possessed by legal subjects under the legal provisions of the authority. Hadjon further said there are two forms of legal protection; preventive and repressive protection. Preventive protection aims to prevent disputes from occurring, while repressive protection is aimed at resolving disputes. Another theory is Salmond's theory which according to Fitzgerald, the law aims to coordinate various interests in society, protection to certain parties can only be done by limiting the interests of different parties and the government is considered to represent the interests of society ([Rahardjo, 2018](#)).

Labor protection is a key part of the national decent work agenda which is formulated in four strategic pillars, namely: job creation; social security; rights in the workplace; and social dialogue (International Labour Organization, 2019). The concept of decent work was first introduced by the ILO in 1999 as a guide for member states to ensure that every worker, works productively and fulfilment of his human rights. Further on, In 2008 in the 18th International Labor Statistics Commission, the ILO developed a framework of decent employment indicators by establishing 10 indicators, namely: employment opportunities; sufficient and productive income; decent working hours; work balance between personal and family; abolished work; stability of work; equality treatment in employment; safe working environment; social security, social dialogue between employers and workers ([Badan Pusat Statistik \(BPS\), 2020](#)). The above indicators are a reference for the presentation of labor statistics data of Indonesia and other ILO member countries. The concept of decent work in their development becomes a key important word in the sustainable development goals (SDGs), as we can see in the concept of "Decent Work Agenda" on the objectives of Goal 8.8 of the SDGs. It stated the need to protect workers' rights by promoting safe work protection, including vulnerable workers ([UN, 2017](#)). Platform workers are a vulnerable group of workers following the uncertainty of their job protection.

Another important principle for job equality is social security rights. Social security is understood as a program of redistribution across generations and between rich and poor populations. The social security system is aimed at preventing the occurrence of poverty to workers, resulting from work

accidents, illness, death, and inability to work. The idea of social security was first introduced by Van Bismarck in Germany in 1880, in response to the escalation of the exploitation among capital owners of workers in the early days of the Industrial Revolution. In the theory of Positive Social Security (the positive theory of Social Security), it is assumed that everyone has the potential to face unpredictable life problems. Therefore, a person has the potential to fall into poverty, if there is no social protection provided by the state to protect a person when facing problems; employment, health, accidents, old age, disability, childbirth, and others, as formulated in ILO Convention Number 102 of 1952 (The Social Security Minimum Standards). By introducing nine basic social security for international guidance on worker protection. The nine basic types of protection are health care, income insurance, old age, unemployment benefits, illness, disability, work accidents, childbirth, or loss of income. In the recommendations of the 2020 ILO convention, it is also stated that the social security system is not only for the self-protection of workers but also serves as a tool of automatic social-economic stability, helping demand growth during a crisis, as well as supporting a sustainable economic process.

B. The various concept of platform work

Platform work or those who work use digital platforms digital is known by several terms. Other than the “platform work” term, some experts prefer to use the “economic-sharing worker”, or “collaborative economy workers” ([De Stefano et al., 2021](#)). While Friedman ([Friedman, 2014](#)) calls it the “gig economy. Other experts call it “crowd-work” ([Heeks, 2019](#)). Koopman ([Koopman et al., 2014](#)) chose the term “sharing economy”. Outside of these experts there are still many groupings with different concepts. The situation suggests that experts to date have not yet had an agreement on the names and definitions of platform workers. With a diversity of terminology, especially with less precise definitions, it creates difficult to have accurate calculations about the number of platform workers, which in turn makes it difficult for policymakers to solve problems ([Groen, 2022](#)).

Although there are several different definitions, all of the above definitions have four things in common, namely: working by online; there is involvement of third parties; employment is offered to the public; flexible work system. The researcher chose the term platform economy worker by defining platform workers as follows: a form of work carried out with the mediated of a digital platform, involving three parties, that aim for trade activities in goods and services with payments calculated in units (not in time).

Despite the platform being recognized as a unique phenomenon that has not previously existed, to some extent, the business process of the platform is a continuation of the previous business model. The theory used in analyzing

this research consists of several theories. When viewed from Taylor's management theory known as the "Theory of Scientific Management", clearly seen a continuity of business practice centered on efficiency, automation, that replace manual labor with machines. Taylor suggests that if industry want to produce efficiently, it should be done by conducting close observations of the time and motion of the worker, to find futile movements to be eliminated. ([Vázquez et al., 2013](#)). The basis of the theory is similar, that mass production cannot exist without mass consumption. In its purest form, automation will include the removal of all manual work through the use of automatic devices, while at the same time ensuring accuracy and quality. However, automation also means abolishing various forms of work and effectively making certain types of professions obsolete. Automation systems affect the worker-manager relationship because managers -- through computerization - can monitor emails, track numbers, and evaluate work. This method is currently carried out in the platform economy business through a system of management algorithms to monitor the performance of its workers.

Platform workers, as a new type of worker without an employment relationship, are an unique form of employment relationship compared to other traditional workers. Due to this uniqueness, platform workers are not included in the scope of industrial relations. So, if there is a work conflict, industrial relations mechanisms (such as bipartite, tripartite) cannot be used to mediate the case. Some factors obscure the traditional concept of industrial relations caused the concept of industrial relations becomes ineffective in mediating industrial conflicts between platform and workers. The most basic problem on this concerns is, regarding the status of platform workers which is not recognized in the labor law. As a result, they cannot become industrial relations actors like other conventional workers. The working partnership relationship model regulated by the Government Regulation of Cooperatives and SMEs obscures the clarity of the legal status of platform workers to protect their work. Platform companies can legally exploit workers, within the framework of the rhetoric of work flexibility and partnership, when in reality workers are not treated as equal partners. During interview as revealed by workers, researchers found there is no riel equal partnership, no fair profit sharing, and no (independent) work flexibility. The platform owner can unilaterally terminate the partnership without consultation.

The working conditions of the platform are exacerbated by the use of an algorithm system by the platform owner, which can be used to monitor, match, schedule, cut access, set sanctions, and determine worker performance effectively and efficiently, without using personal management and without negotiation mechanisms. ([Mohlmann & Zalmanson, 2018](#)) defines five characteristics of management algorithms: 1) being able to continuously track employee

behavior; 2) Constant evaluation of workers' performance, starting with consumer complaints about their work; 3) Can implement decisions unilaterally and automatically, without human intervention; 4) Workers interact more with the "system" than with humans. This can deprive workers of opportunities to provide feedback and negotiate with their supervisors, as is usually the case in a typical job; and 5) low transparency.

One aspect of poor relations between platform and platform workers is the arbitrary actions of platform owners to unilaterally disable access (suspension) for workers, often without explanation or warning ([HUWS et al., 2017](#)). The system can eliminate dialogue and negotiation mechanisms with trade unions, because companies can impose sanctions on workers for data inputted from the application, without conducting clarification and negotiation. The absence of trade unions on the platform has deprived workers of the opportunity to advocacy in improving the living conditions of workers, as workers cannot negotiate directly to employers.

The obscurity of platform work has caused challenges to the industrial relations concept. For long decades Industrial relations being used as a problem-solving mechanism or method to unite stakeholders to find common ground and practical solutions to conflicts arising from labor relations. According to Omotayo ([Omotayo, 2014](#)) as the inventor of the theory of industrial relations, the main elements of the industrial relations model are; the actors, certain contexts or circumstances, then ideologies, along with the rules made by the government to control actors in the workplace. Industrial relations developed at the beginning of the 20th century as a democratic mechanism for solving labor problems, through which industrial relations actors (governments, employees and workers) were encouraged to share information, consult and negotiate. J.T. Dunlop defines industrial relations as complex reciprocal relations between managers, workers and trade unions and governments. The actors of industrial relations believe that negotiation or social dialogue is the most appropriate mechanism for managing conflicts between workers and employers. Unfortunately, in the platform system, the concept of industrial relations cannot be carried out, due to an unknown pattern of partnership in labor legislation. Platform workers, as a new type of worker without an employment relationship, are a unique form of labor relations compared to other traditional workers. Due to this uniqueness, platform workers are not included in the scope of industrial relations. So that if a problem arises, industrial relations mechanisms (such as bipartite, tripartite) cannot be used.

C. The gap in social protection

The consequences of Ministry Manpower Regulation Number 5/2021 make the majority of platform worker are not enjoy social security, even though it

is a basic right as guaranteed by social security law. With the status of work partner (Non-Wage Earners/BPU) platform workers experience discrimination in three ways: 1) As BPU they are only required to participate in only two social security programs (JKM and JKK), instead of five basic social security, 2) The worker must bear his own social security dues without employer's contribution. This arrangement 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 potentially 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 four million and half predicted workers. During interviewed with the official of BPJS Ketenagakerjaan recognizing the roots cause the comes from the regulations of partnership.

Table 1. Number of Transportation Platform Workers Covered by BPJS Ketenagakerjaan

No	App Company	Registered to Social Security
1	Grab	8.850 Workers
2	Gojek	153.579 Workers
Total Registered		162.429 Workers

**the data based on interview the BPJS Employment report as of May 18,2021*

As the data clearly shows that very few platform workers are covered by social security, even less than 0,5 % of the total number of all drivers. This means, most of them will cover medical expenses from their funds in case of illness and work accident. Even though they have no reserve funds if this happens.

Social security is cited as the foundation for advancing human rights and social justice. As mandated by the 1945 Constitution and in Law Number 20/2004 concerning the National Social Security System (SJSN) it is targeted to achieve universal coverage. Likewise, the concept of decent workers as a very important goal is achieved, as set out in goal number eight (Goal 8) in the Sustainable Development Goals (SDGs). Among the four pillars of the concept of decent workers, social security is one of the pillars of the other pillars (rights in the workplace; sustainable work; social dialogue) (UN, 2017). Every worker – regardless of what form of employment relationship – must receive social security protection, as an embodiment of “no one left behind”.

The target will be difficult to achieve if there is no clarity on the legal status of platform workers. The partnership system currently used by Indonesia faces criticism not only from workers but also from trade unions and academics. Frequent protests of platform workers have evidence that reinforces the existence of a partnership pattern error. The unknown partnership system within the scope of the definition of the Manpower Law Number 13 of 2003, caused the impossibility to create a platform work relation. Even the Ministry of Manpower uses the Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (MSME), as a reference to make Ministry Regulation (Permenaker) Number 5 of 2021 concerning social security contribution schemes.

D. Some consideration on economic welfare theory

The relevant theory is used to analyze this research is the theory of Economic Welfare, a theory of how the allocation of resources and goods affects social welfare. The basic principles of the welfare state are equality in opportunity, income and distribution of wealth. The core of the welfare state economic system is the state's responsibility for the welfare of its citizens, particularly in education, health care, old age or pension insurance, and work accidents. This means the welfare state is associated with the fulfilment of basic needs. Therefore, the welfare state is considered an equalization mechanism for the inequalities created by the market economy. The current debate on the welfare state system is whether this system is still relevant in countries that do not have a competitive advantage in global economic competition. This question is raised considering the increasingly high competition in the world economy and each is competing to make efficiency on all fronts, including labor costs. Developing countries such as Indonesia, which lack funds to develop investment, face a big dilemma of whether to decrease labor costs for the sake of FDI or to increase labor costs for the sake of workers' welfare but trigger industry relocation.

O'Connell & Esping-Anderson ([O'Connell & Esping-Anderson, 1991](#)) identifies three classical forms of the welfare state, namely:

- i The Liberal Anglo-Saxon form of the poverty-alleviating welfare state or Minimal Model is characterized by very little government spending on social development. Social security and welfare programs are provided sporadically or unevenly, partially, and minimally. They are generally provided to civil servants, members of the military and police, and private sector employees who can afford to pay premiums. This model utilizes a very small budget for social spending because the country is still classified as a poor country or the political will for social development is still low.
- ii The Corporate Model or Bismarck Model is a welfare state model with a social security system that is carried out institutionally and widely, but

contributions to the distribution of social security come from three parties, namely the government, the business world, and workers.

- iii and the Scandinavian model of universality, a form of social protection model that provides protection equally to all populations. This model views social welfare as the right of all citizens so that services are carried out permanently and regardless of the social and economic position of the community.

Indonesia is one of the countries that adhere to the minimal model, as it can be seen from the Law Number 40 of 2004 concerning the national social security system. Government spending on social development is still relatively small. Despite in state concept of Indonesia is guarantee of people to enjoy a welfare state. The implementation of a social protection system is conducted by the Social Security Management Agency or BPJS. But, the concept of a welfare state is now increasingly difficult to implement due to the pressures of global economic competition that force poor and developing countries to follow the rules of market mechanisms (not national legislation) at the urging of multinational corporations. The work deficit experienced by platform workers is one of the examples where employment protection is dictated or more driven by multinational companies than government regulations.

E. Reflecting on Several Countries Experiences

Currently, more countries are realizing the need for clearer regulatory arrangements for platform workers. We present some selected international experiences from different continents that aim to provide Indonesian policy makers to follow a similar path to give justice to all workers irrespective of their type of work. Regulation in South Korea the government decided only allowing platform transport for food service delivery only (not for delivery passengers), and in 2019, the local government of Seoul allowed the registration of a platform workers' union. "the Baemin Riders" as a delivery platform workers signed a Collective Labor Agreement with company "Woowahan Youth, covering 3,000 workers (Song, 1999). Currently, the government and parliament are discussing a new draft law on platform workers. While in China, officially amended its Trade Union Law in January 2022, allowing platform workers to form trade unions. This situation allows the establishment of labor relations with platform employers, despite existing labor regulations designating platforms as independent contractors. (BMFTU) (Workers, 2022). The government of India, in 2020 changed its Social Security law for giving access to platform workers. The law stipulated that there will be a cost-sharing contribution between the government (central and federal) and platform owners based on 1-2% of total revenue). Oversight of this scheme, there will be carried out by platform and worker representatives ([Sinha, 2021](#)).

In the United Kingdom, The Supreme Court defined Uber drivers as “permanent workers”. Under UK law, there are two types of workers (employees and labor). In this case, platform workers are not independent contractors, which means they are entitled to the minimum wage and other benefits. However, given their specific form, they cannot enjoy all the rights of regular workers. They belong to the Independent Union of General Workers and Laborers (ICWB) (Europe, 2021). A different policy was made in Spain when In 2021, the parliament passed a special law called “Rider Law”, which clarify the work status of the platform transportation workers as ordinary workers ([Eat, 2021](#)). California, United States: In 2019, following a court ruling, Uber and Lyft drivers became eligible for a minimum wage of \$7.25/day in the US state of California (Berg et al., 2018). Another example is taken from the country of Ghana. In this country, some platform workers’ unions have been formed. They are affiliated with the Ghana Trade Union Congress. Members of two associations pay weekly membership dues via mobile money transfer (Hadwiger, 2022).

III. Policy options for better protection of platform workers

Continuing existing regulations in the partnership system from empirical evidence and interview result, has led to many work conflicts that can accumulate into bigger conflicts. Take into account that the system benefited the company more than the workers, especially with the absence of industrial relations mechanisms to mediate conflicts. This condition reminds us of the thesis of the Critic Law Study (CLS) which states that a society is not governed by objective law but is governed by the interpretation of the ruler as outlined in written law (Legislation). Therefore, there is no compatibility between law and legislation, because the substance is highly dependent on the will of the ruler. This means that society is not governed by the law but by the interpretation of the ruler in the name of the law. (Ash-shidiqqi, 2021).

To bring decent work to platform workers, Indonesia needs to have scenario choices in a regulation framework. Researchers introduce two policy options as follows. The first option: Changing the labor law definition of “employee” and “employment relationship” to accommodate the existence of platform workers. When looking at the content of labor laws this definition issue can be easily adjusted. If we refer to the definition of Worker in Law 13/2003 ([KEMENPERIN, 2003](#)). According to the law, a worker is defined “worker is anyone who works for wages or other forms of remuneration”. Here it is not explained who pays the wages (not necessarily assumed as an institution). Legal barriers occur in the definition of “employer” which is defined as “individual, entrepreneur, legal entity, or other entity that employs workers by paying wages or other forms of remuneration. Since the platform workers do not receive wages directly from employers/employers (but from customers), the platform owner cannot be classified as an employer. Although workers get job order from platform, using uniforms platform brands, and get bonuses or incentives from platform owners, but it is not enough to be used as a basis for establishing

work relations. Due to this definitional barrier, workers and platform owners cannot have a work agreement and be represented by a trade union to negotiate, on the grounds that the application owner does not fall into the category of entrepreneur or employer. Scenarios to change the definition of the employer by expanding the concept of the definition are technically feasible because the owner of the application is a business owner, which means it is also categorized as an employer. Despite changing the law definition required changing the Manpower Act, which takes a relatively long time as have to take route consult with parliament. Meanwhile, due to the increasing number of conflicts faced by platform workers, Indonesia needs a quick legal breakthrough. So, this option expanding could be a regulatory option for mid-term plan. We offer the next definition of employers can be simplified as follows. The employer is; an individual, entrepreneur, legal entity, or other entity that provides the job to the worker.

Second option: Set the platform as an “independent worker or casual workers” category. This option is the most realistic if the aim for making quick and short-term regulations. Because coincidentally the term freelancer is not a new term in the Indonesian dictionary. Because it has been a long time since the Central Statistics Agency (BPS) used the category of independent workers for certain types of work. This term was adopted by BPS following international guidelines according to the classification established by the International Standardization Classification Occupational (ISCO) ([BPS, 2002](#)). There are two categories of workers according to the version of the Statistical Law: first, Labor/Employee/Employee: A person who works for another person or institution/office/company permanently by receiving wages/salaries, either in the form of money or goods. The second is casual workers: workers, employees, and employees who do not have a permanent employer (multi employers).

Why platform need to set in a special category? Because by its nature the platform worker has different characteristics from the worker in general, namely; the flexibility of work, work for more than one company and the duration of work cannot be calculated precisely. For instance, the issue of working hours is certainly difficult to calculate, is it start from the application being accessed, or from customers taken? Another example is the time waiting for a customer call is uncertain, it is rightly called being at work or not? Why are they called casual workers? Because they are free to determine when to start work and ability and free to refuse work. Although according to interview result, workers basically are not free 100%, the platform company have the right to determine working rules and even to give sanction to workers in case workers refuse the job orders.

IV. Conclusion

This study reveals that there is a huge gap in employment protection for platforms that originated from the existing regulation of the partnership system, which causes platform workers unable to access the basic labor rights as enjoyed by the conventional worker. To extend work protection, researchers suggest that Indonesia should make a new regulation that determine platform workers as casual workers, following the

National Statistic Agency category. Our research revealed that existing regulation should be discontinued given the problem it presents. Platform workers cannot be classified as business entities since they are basically having many similarities to ordinary workers whose jobs get orders from employers in delivering the passengers or goods, controlled by the platform, and they are considered an integral part of the operation. That is why these workers cannot be categorized as business partners. They are ordinary workers with specific circumstances.

As an effort to design further regulations for platform workers, Indonesia may refer to international experiences that fit into the national context. Protecting transportation platform workers is only effective if there is a regulation that is separately made for them, either in the form of a ministerial decree or a law. This regulation will be the key to clarify the blurring relation between workers and platform. Protecting workers by relying only on the kindness of platform owners as practiced in the current partnership system will only create injustice and prolonged conflicts.

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