



Reorienting Legal Protection of Employment in Indonesia in Facing Globalization and Digitalization

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Abstract

The rapid development of globalization and digitalization has fundamentally transformed employment relations in Indonesia. Conventional employment patterns characterized by stable and formal work arrangements have increasingly shifted toward flexible and precarious forms of employment, particularly with the rise of the digital economy and platform-based labor. This transformation poses significant challenges to the existing labor law framework, which was originally designed to regulate permanent and formal employment relationships. As a result, many platform and gig economy workers are excluded from normative labor protections, including social security, wage protection, and job security, due to their classification as independent contractors or partners rather than employees. Labor law serves a strategic function as a protective instrument for workers, who are generally in a weaker bargaining position compared to employers. Within the welfare state paradigm, such protection is intended not only to provide legal certainty but also to promote social justice and societal welfare. However, the dynamics of globalization and digitalization have exposed a regulatory gap between evolving employment practices and existing legal norms, potentially weakening the protection of workers' rights. This study applies a qualitative research method using a normative-juridical approach. Data were collected through a systematic review of labor law regulations and relevant legal literature and analyzed descriptively and qualitatively. The study emphasizes the urgent need to reorient Indonesian labor law policies to balance economic growth, investment interests, and the constitutional obligation to ensure equitable legal protection for all workers, particularly those in digital and non-standard employment relationships.

I. INTRODUCTION

The development of globalization and digitalization has brought fundamental changes to the structure of employment relations in various countries, including Indonesia. Global economic integration, advances in information technology, and the emergence of a digital platform-based economy have shifted conventional employment patterns toward more flexible, precarious forms of employment that are often inadequately protected by positive law. This situation poses serious challenges to the employment legal protection system, which has been built on the assumption of stable and formal employment relationships.

Employment law essentially serves a strategic function as a protection instrument for workers, who are in a weaker bargaining position than employers. In the context of a welfare state, this protection is intended not only to guarantee legal

certainty but also to achieve social justice and prosperity for all citizens. However, the dynamics of globalization and digitalization have revealed a gap between developments in employment practices and the prevailing regulatory framework, potentially weakening the protection of workers' rights.

Digital economic phenomena, such as the gig economy and platform-based work, have created non-conventional forms of employment that are difficult to qualify under classical labor law regimes. Platform workers are often not recognized as workers in formal employment relationships, but rather categorized as partners or independent workers, thereby losing access to normative rights such as social security, wage protection, and job security. This situation highlights the urgent need to review the orientation of labor law protection in Indonesia.

On the other hand, the state faces a dilemma between promoting an investment climate and economic growth in the global era and its constitutional obligation to protect workers' rights. Imbalances in the formulation and implementation of employment policies can lead to the marginalization of workers, particularly those involved in the digital sector and flexible employment relationships. Therefore, a new approach is needed that can bridge economic interests with the principle of equitable legal protection.

II. RESEARCH METHODS

This study employed a qualitative research method with a normative-juridical approach. This normative approach focused on analyzing applicable labor law norms in Indonesia, particularly those related to legal protection for workers in the context of globalization and digitalization.

The data collection method was carried out by systematically reviewing, inventorying, and examining various literature related to the research problem. The collected data was then analyzed descriptively and qualitatively by outlining, interpreting, and linking applicable legal provisions to employment phenomena in the era of globalization and digitalization.

III. RESULTS AND DISCUSSION

A. Concept and Theoretical Basis of Legal Protection of Employment

Employment law in Indonesia is a branch of law that functions to provide protection for workers as parties who are in a structurally weaker position than employers. This protective function is rooted in the values of Pancasila and the principles of social justice enshrined in the 1945 Constitution of the Republic of Indonesia. In the national legal system, employment is comprehensively regulated through Law Number 13 of 2003 concerning Employment, which was later amended through Law Number 11 of 2020 concerning Job Creation, in response to modern social and economic dynamics (Supomo, 1985).

Employment law can be understood as the totality of legal norms governing the relationship between workers and employers, both before, during, and after the termination of the employment relationship. These regulations cover the processes of recruitment,

placement, transfer, promotion, and termination of employment, as well as the rights and obligations of the parties in the employment relationship (Khakim, 2020).

The scope of labor law includes regulations regarding minimum wages, a maximum working week limit of 40 hours, occupational safety and health, protection for women and child workers, and the provision of social security for workers. All of these regulations aim to create fair, humane, and sustainable working conditions, while ensuring legal certainty for workers and employers through a firm sanction mechanism (Asikin, 2010).

Legal protection for workers in labor law is conceptually divided into two main forms: preventive protection and repressive protection. Preventive protection is realized through the establishment of legal norms governing work standards, the obligation to create written employment contracts, and the implementation of labor supervision by the government as a representation of the state's presence (Supomo, 1985).

Meanwhile, repressive protection is provided through industrial relations dispute resolution mechanisms, either through bipartite negotiations, tripartite mechanisms, or through the Industrial Relations Court. This protection is based on the fact that workers have a weak bargaining position in employment relations, so the state is obliged to provide protection for workers' normative rights, such as the right to decent wages, rest periods, leave, and protection from unilateral termination of employment without fair procedures (Budiono, 2011).

In addition to general protection, labor law also provides special attention to vulnerable groups of workers, such as outsourced workers, pregnant women, and people with disabilities. This protection is based on human rights principles, which recognize workers as legal subjects whose dignity and rights must be respected.

The principle of social justice for all Indonesian people is the philosophical

foundation of national labor law. This principle affirms the country's adherence to the concept of a welfare state, where worker protection is part of the state's responsibility to ensure the well-being of its citizens. In this context, workers are not viewed merely as factors of production, but as subjects of rights who must be protected humanely and fairly (Asshiddiqie, 2006).

Employment management is aimed at achieving equal employment opportunities, reducing unemployment, and improving the welfare of workers and their families through a social security system. This principle of social justice is also in line with the basic principles of international labor law developed by the International Labor Organization since the early 20th century, which emphasize the importance of protecting human dignity in employment relations.

Legally, an employment relationship is understood as the relationship between an employer and employee arising from an employment agreement, either verbal or written, to perform specific work in exchange for wages or other compensation. This relationship forms the basis for the reciprocal rights and obligations between employees and employers in the national employment system (Khakim, 2014).

The development of employment relations in Indonesia has been dynamic for a long time, beginning in the colonial period, developing during the early years of independence, and entering the Reformation era, marked by the recognition of freedom of association and the right to strike. From a modern legal perspective, employment relations are influenced by contractual theory, which emphasizes the importance of balancing the interests of workers and employers, and continues to adapt to developments in globalization and digitalization, including the emergence of the gig economy and digital platforms (Supomo, 1985).

Adjustments to employment regulations in the contemporary era aim to create labor

market flexibility without compromising the protection of fundamental workers' rights. Therefore, the evolution of employment law is an ongoing process that must consistently prioritize fairness and worker protection (Budiono, 2011).

B. The Impact of Globalization and Digitalization on Employment Relations

Globalization and digitalization are two structural forces reshaping social, economic, and legal systems at both the global and national levels, including in the employment sector. Globalization is characterized by the opening of national economic borders, the increasing flow of goods, services, capital, and labor across jurisdictions, and intensifying global economic competition. On the other hand, digitalization brings with it the use of information and communication technologies that fundamentally change work mechanisms, production systems, and the relationship between workers and employers. The combination of these two phenomena has created significant changes in modern employment relations, presenting both new opportunities and risks for the workforce.

Within the framework of employment law, developments in globalization and digitalization have created demands for regulatory adjustments to ensure the law continues to function protectively for workers without hindering innovation and the dynamics of economic growth. Employment relationships, previously conventional, fixed, and tied to specific work locations and hours, are now shifting toward flexible, digital-technology-based employment relationships that tend to transcend traditional industrial relations boundaries. These changes create new complexities that require comprehensive and multidimensional legal analysis (De Stefano, 2016).

Globalization is driving the integration of international labor markets, giving companies broader access to recruit workers from various countries. This situation has led to increased competition among workers, both domestically and globally. In this situation, workers are required to have greater capacity, skills, and competitiveness to adapt to the

demands of an increasingly competitive global labor market (Steger, 2017).

The structural changes in the labor market due to globalization are also reflected in shifts in the employment sector. In several developing countries, the manufacturing sector is experiencing a slowdown, while the service sector and the knowledge-based economy are showing rapid growth. This shift requires the workforce to upgrade their skills and adapt their competencies to align with the changing needs of the workforce (Todaro & Smith, 2020).

Furthermore, globalization has encouraged outsourcing and industrial relocation to countries offering lower labor costs. These practices often lead to increased job insecurity and weakened worker protections. This situation has given rise to serious debate about the principle of social justice and the responsibility of multinational corporations to protect labor rights (Standing, 2011).

Digitalization has given rise to the platform economy, a business model that relies on digital technology to connect service providers and users. This form of economy is growing rapidly in the online transportation, delivery, and app-based freelance sectors. While offering work flexibility, this model raises fundamental issues regarding the clarity of the employment relationship between the platform and the worker (Schwab, 2016).

Gig economy As part of the digital economy, it is characterized by short-term, project- or task-based employment relationships, with a lack of ongoing employment contracts. In practice, workers are often classified as partners or independent workers, rather than employees. Consequently, workers do not receive the normative rights typically afforded in conventional employment relationships, such as minimum wages, social security, and other employment protections (De Stefano, 2016).

Despite the flexibility it offers, the digital economy also creates unequal power relations between platforms and workers. Platform

companies wield significant control through algorithms, assessment systems, and unilateral policies that directly impact workers' employment. This inequality poses serious challenges to enforcing labor rights protections in the digital age (Wood et al., 2019).

Globalization and digitalization have led to the emergence of various forms of non-conventional employment relationships, such as short-term contract workers, part-time workers, freelancers, and digital platform-based workers. These forms of employment are fundamentally different from traditional, permanent, full-time employment.

This transformation provides companies with greater flexibility in managing human resources. However, for workers, non-conventional employment relationships often result in increased job insecurity and the risk of sudden income loss without any guarantee of continuity (Standing, 2011).

From an employment law perspective, non-conventional employment relationships pose challenges in determining workers' legal status. Many employment regulations still focus on conventional employment patterns, thus failing to fully accommodate the characteristics of modern, digital-based work (Supomo, 2020).

One of the main issues in employment relations in the digital era is the weak protection of workers' rights, particularly for platform and gig workers. Unclear employment status makes it difficult for workers to claim normative rights, such as a living wage, humane working hours, and social security.

Furthermore, the use of digital technology and algorithms in workforce management raises issues of transparency and accountability. Workers are often unaware of the basis for performance assessments or the reasons for terminations, which are automatically implemented by the system. This practice potentially violates the principles of justice and legal certainty (Pasquale, 2015).

Another issue is workers' weak bargaining power when faced with large-scale, cross-border platform companies. Therefore, the role of the state is crucial in formulating adaptive regulations and strengthening the role of labor unions and social dialogue mechanisms to ensure the protection of workers' rights in the digital age (Hepple, 2014).

C. Reorientation of Employment Legal Protection in Indonesia

Global developments marked by cross-border economic integration, the acceleration of information technology, and fundamental changes in the structure of the labor market have had significant consequences for the structure of labor law in Indonesia. Employment relations that were previously characterized by stability, permanence, and direct subordination have now transformed into flexible, task- or project-based relationships, increasingly mediated by digital technology. This shift poses serious challenges for the national labor law system, given that most applicable norms are still formulated with the assumption of conventional, relatively certain and long-term employment relationships (Castells, 2010). In this context, labor law is not only required to make technical adjustments, but also to conceptually re-imagine its legal protection function.

Historically and normatively, Indonesian labor law has been built on a protectionist paradigm aligned with the principles of the welfare state, where the state is positioned as the primary actor responsible for protecting workers, who face structural imbalances. However, the intensification of globalization and the growing demand for labor market flexibility have given rise to criticism of this paradigm's effectiveness in addressing contemporary labor dynamics (Khakim, 2020). Regulatory adjustments aimed at improving the investment climate and economic efficiency reflect a shift in the orientation of labor law policy, while simultaneously raising concerns about the erosion of worker protection (Asshiddiqie, 2021). This situation demonstrates the latent tension between the goals of economic growth and the mandate of social justice in labor law politics.

The complexity of legal protection is increasing with the development of non-standard forms of work, particularly digital and flexible workers who operate outside the formal employment structure. Although these types of workers contribute directly to the production process and create economic value, they are often legally excluded from the labor law protection regime because they are constructed as business partners or subjects of ordinary civil legal relationships (Todoli, 2020). The normative approach that requires the elements of work, wages, and orders as the main indicators of an employment relationship becomes less relevant in the context of digital work, which is indirect, fragmented, and technology-based (Prasetyo, 2021). As a result, digital workers are in a vulnerable position because they bear work risks individually without adequate normative protection.

The gap between the normative construction of labor law and the reality of modern employment relations reflects the limitations of conventional legal paradigms in responding to social transformation. In digital economic practices, platform companies have significant control over workers through algorithmic systems, performance assessment mechanisms, and data-based sanctions, although these forms of control are not always recognized as subordinate in classical labor law doctrine (De Stefano, 2016). This phenomenon indicates that Indonesian labor law is still heavily influenced by a formalistic approach, potentially obscuring its fundamental purpose as an instrument of social protection and justice (Rahardjo, 2019).

This situation underscores the urgency of reorienting labor law protection toward a more substantive and contextual approach. Legal protection should not be limited by formal classifications of employment relationships, but rather must consider the level of economic dependence, social vulnerability, and workers' bargaining position within modern production structures (Supomo, 2020). This approach aligns with developments in comparative law and human rights principles, particularly the concept of decent work developed by the International Labour Organization, which emphasizes the fulfillment of basic workers' rights without discrimination based on the form of employment relationship. Therefore, labor law

reform needs to be directed at strengthening the substance of protection, not merely structural adjustments.

Within this framework, the state plays a central role in maintaining a balance between economic interests and worker protection. The state cannot take a neutral position in industrial relations, given that employment relations inherently contain an imbalance of power between capital owners and workers (Asshiddiqie, 2016). Employment policy orientation that places too much emphasis on economic growth and investment has the potential to weaken workers' bargaining power and lower historically established protection standards (Mahfud MD, 2019). Therefore, the state is required to effectively carry out its regulatory, supervisory, and law enforcement functions, including in the digital and flexible work sectors, which have historically existed in a gray area of formal regulation (Lubis, 2020).

Thus, the reorientation of labor law protection in Indonesia is not only related to the need for regulatory reform, but also reflects a legal policy choice to position workers as the primary subject of development. In the context of increasingly fierce global competition, the state's commitment to worker protection is a crucial indicator of the realization of equitable, sustainable, and human rights-compliant economic development.

D. Employment Legal Protection in the Digital Era

The digital transformation of the workplace poses serious challenges to labor law systems, particularly regarding the uncertain legal status of platform workers. Technology-mediated employment relationships often blur the lines between workers as employees and workers as independent entities. Therefore, various countries have begun developing legal protection models aimed at guaranteeing basic workers' rights without eliminating the flexibility of the digital economy (De Stefano, 2016).

Several countries have adopted progressive legal approaches to address worker status ambiguity in the digital age, particularly through regulating the classification of platform workers. One emerging approach is the concept of rebuttable presumption, which

presumes that workers are employees unless the company can prove otherwise. This approach aims to ensure workers' access to basic legal protections from the outset of the employment relationship (Cherry & Aloisi, 2017).

In the United States, particularly in California, this policy is reflected in the implementation of AB5, which requires platform companies to classify workers as employees if the company is proven to have a significant degree of control over the manner and hours of work. This policy provides access to a minimum wage, health benefits, and protection from termination. This regulation was further expanded through AB2257, which provides limited exemptions for certain professions without eliminating fundamental worker rights. The United States Supreme Court's ruling in *Dynamex Operations West, Inc. v. Superior Court* reinforced the platform's obligation to adapt its business model (Bodie et al., 2021).

At the European Union level, the regulation of platform workers is being developed through the Platform Workers Directive, which emphasizes assessing employment status based on the level of algorithmic control, such as monitoring working hours and performance evaluations through apps. If these control elements are met, workers are entitled to employee status, with the right to annual leave and collective bargaining. Countries such as France and Germany have implemented similar policies with strict sanctions for violations, to prevent exploitative practices in the platform economy (De Stefano & Aloisi, 2022).

Australia has adopted a relatively moderate approach, allowing platform workers to appeal their employment status through employment tribunals. If workers successfully prove a subordinate employment relationship, they can be granted rights such as minimum wages and pension benefits. This model is considered effective in the context of the growing gig economy, although it still faces technical

implementation challenges (Stewart et al., 2021).

Meanwhile, India has adopted a social security-based approach by integrating platform workers into the national social insurance system. This model provides basic protection against health risks and occupational accidents, although implementation has been slow due to infrastructure limitations and administrative complexities (Rani & Furrer, 2020).

In general, these models indicate a global trend towards stricter regulation of platform companies, with an emphasis on algorithmic transparency and the protection of basic workers' rights.

From an international legal perspective, the protection of platform workers has not been uniformly regulated in a single binding legal instrument. However, various international organizations, particularly the International Labour Organization (ILO) and the OECD, are actively promoting harmonization of protection standards to prevent a race to the bottom in the global economy.

ILO conventions emphasize the importance of tripartite social dialogue between governments, workers, and employers as a basis for shaping employment policies. In the digital context, the Decent Work Agenda highlights the need for protections for platform workers, including the right to organize and protection from algorithm-based discrimination. A recent ILO report also identified the risks of excessive monitoring of working hours and recommended a review of the legal status of platform workers.

A human rights-based approach is also a crucial foundation for regulating platform workers. The UN Guiding Principles on Business and Human Rights affirm the corporate responsibility to respect workers' rights, including freedom of association and the right to fair working conditions. The OECD also promotes transparency in the use of algorithms to prevent bias and unfairness in

remuneration and performance evaluation systems (UN OHCHR, 2011; OECD, 2019).

In practice, courts in various countries are beginning to take a strategic role in strengthening worker protections. The UK court ruling recognizing Uber workers as workers demonstrates a judicial trend increasingly favoring worker rights protections and influencing the formation of global standards in the digital economy (Prassl, 2022).

In Indonesia, the current labor legal framework is not fully able to address the challenges of digital platform-based employment relationships. Platform workers are still often classified as independent partners, thus lacking full employment protections. This situation becomes increasingly relevant as the number of gig workers in the national economy increases (Tjandraningsih, 2022).

The protection models implemented in the United States, the European Union, and Australia are highly relevant for Indonesia, particularly in addressing the protection gaps caused by the use of algorithms in labor management. International organizations are also encouraging Indonesia to implement legal reforms to reduce the risk of exploitation of platform workers and strengthen social protection.

The implications of reforming labor law in Indonesia can be articulated in several key areas. First, the reclassification of workers by adopting the principle of presumption of employment relationships, placing the burden of proof on platform companies. Second, the recognition of new rights, such as algorithmic transparency, the right to organize digitally, and the integration of platform workers into the national social security system. These reforms have the potential to increase productivity and reduce inequality, although they may generate resistance from businesses due to increased compliance costs (De Stefano, 2016).

Therefore, reform of labor law in Indonesia needs to be carried out through inclusive, evidence-based, tripartite social dialogue. Adaptive regulatory adjustments are crucial not only to protect workers but also to ensure the long-term sustainability and competitiveness of the national digital economy (World Bank, 2023).

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Globalization and digitalization have brought significant structural changes to the employment system, both in the form of employment relations, production patterns, and labor control mechanisms. These changes challenge the construction of Indonesian labor law, which has been built on the assumption of conventional, permanent employment relationships characterized by direct subordination. In practice, the emergence of non-standard workers and digital platform workers demonstrates the gap between applicable legal norms and the social realities of contemporary employment relations, resulting in weak substantive protection of workers' rights.

Efforts to reform labor regulations in response to demands for labor market flexibility and an investment climate have not fully guaranteed the fulfillment of the principles of social justice and human rights protection for workers. Legal approaches that emphasize deregulation and economic efficiency have the potential to shift the state's role as protector of the vulnerable in industrial relations if not accompanied by adaptive and inclusive protection mechanisms. Therefore, Indonesian labor law requires a paradigm reorientation, from protection based on the formal status of employment to protection based on the level of vulnerability, economic dependence, and factual control within modern work structures. This reorientation is crucial to ensure that the law continues to function as an instrument of social justice in the face of the ever-evolving dynamics of the digital economy.

B. Suggestion

Labor law reform in Indonesia needs to be directed at strengthening substantive

protection for non-standard workers, particularly digital platform workers, through an approach based on levels of vulnerability and economic dependency, rather than solely on formal employment status. Furthermore, policymakers are advised to adopt comparative legal practices and international standards, particularly the principles of decent work and human rights protection, as references in formulating labor regulations that are more responsive to technological developments. Finally, the state needs to strengthen its labor law oversight and enforcement functions effectively and inclusively to ensure a balance between the interests of economic growth and the protection of workers' dignity in the digital economy ecosystem.

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