

Legal Certainty and Social Security: Two Main Pillars of the LLAJ Bill for the Future of Online Motorcycle Taxi Drivers

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Abstract

The era of digitalization has brought about significant transformation in Indonesia's transportation sector through the emergence of online motorcycle taxis (ojol). However,

despite their significant contribution to the economy and employment, ojol drivers face two fundamental problems: the lack of legal certainty regarding their employment status and the lack of adequate social security. This study aims to analyze the extent to which the draft Law on Road Traffic and Transportation (RUU LLAJ) currently under discussion can address these two issues. Using normative legal research methods and a descriptive-analytical approach, this article analyzes primary and secondary legal materials through the lens of Gustav Radbruch's Theory of Legal Certainty and T.H. Marshall's Theory of the Welfare State. The results of the study show that the LLAJ Bill is projected to become a comprehensive legal umbrella to provide legal certainty for drivers and require platforms to provide social security. Thus, the LLAJ Bill is expected to become the foundation for the creation of a fair and sustainable digital transportation ecosystem in Indonesia.

Keywords

Legal Certainty; Social Security; LLAJ Bill; Online Motorcycle Taxi.

I. Introduction

The digital era has brought about a significant revolution in Indonesia's transportation sector through the emergence of application-based platforms (online motorcycle taxis/ojol) such as Gojek, Grab, and Maxim since around 2015.¹ This phenomenon is growing rapidly: the latest data from Maxim Indonesia's Government Relations Specialist in

¹ "Mengungkap Perkembangan Ojek Online Dari Masa Ke Masa," Balnesia.id, 2025, <https://balnesia.id/read/mengungkap-perkembangan-ojek-online-dari-masa-ke-masa>.

May 2025 shows that there are more than 7 million online transportation partners throughout Indonesia.² with transaction values reaching IDR 141.9 trillion in 2024, an increase of 13% compared to the previous year.³ This figure makes Indonesia the largest digital economy market in Southeast Asia, with projected growth of up to Rp 5.3-8.9 trillion by 2030.⁴ Amidst the limited formal employment opportunities in the post-pandemic era, online motorcycle taxis have become a pragmatic solution to the problem of unemployment, especially for lower-middle-class communities with low educational backgrounds and rural origins.⁵ However, behind this economic success lies a fundamental paradox that threatens the sustainability and fairness of the system: millions of drivers who are the backbone of this trillion-rupiah industry are in a legally ambiguous and vulnerable position.

The presence of online motorcycle taxis in Indonesia faces challenges in the form of legal vacuums and uncertainties that have persisted for nearly a decade. Despite their contribution to the economic ecosystem, the fate of drivers is stuck in a legal gray area: they are not fully recognized as employees, but they are also not completely

² Fahrul Dwi Putra, "Berapa Banyak Driver Ojol Di Indonesia? Segini Jumlahnya," TangerangNews.com, 2025, <https://www.tangerangnews.com/nasional/read/53760/Berapa-Banyak-Driver-Ojol-di-Indonesia-Segini-Jumlahnya>.

³ Lukman Nur Hakim, "Nilai Transaksi Ojek Online (Ojol) Tembus Rp141,9 Triliun Di 2024," Kompas.com, 2024, <https://ekonomi.bisnis.com/read/20241114/98/1815850/nilai-transaksi-ojek-online-ojol-tembus-rp1419-triliun-di-2024>.

⁴ "Masa Depan Ekonomi Digital Indonesia, Strategi Menuju 2030," Indonesia.go.id, 2024, [https://indonesia.go.id/kategori/editorial/8497/masa-depan-ekonomi-digital-indonesia-strategi-menuju-2030?lang=1#:~:text=Target inklusi keuangan sebesar 90,dan investasi di masa depan.&text=Langkah-langkah strategis terus dilakukan,utama dalam ekonomi dig.](https://indonesia.go.id/kategori/editorial/8497/masa-depan-ekonomi-digital-indonesia-strategi-menuju-2030?lang=1#:~:text=Target%20inklusi%20keuangan%20sebesar%2090,dan%20investasi%20di%20masa%20depan.&text=Langkah-langkah%20strategis%20terus%20dilakukan,utama%20dalam%20ekonomi%20dig)

⁵ Chairun Niswa Simanullang and Yeshieca Ginting, "Dinamika Kehidupan Sosial Ekonomi Kota Tukang Ojek Online(GOJEK)," *Jurnal Multidisiplin Ilmu Akademik* 1, no. 3 (2024): 570-77, <https://www.ejurnal.kampusakademik.co.id/index.php/jmia/article/download/1577/1452>.

independent as entrepreneurs.⁶ Law No. 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law) stipulates that "Public transportation of people and/or goods shall only be carried out by Public Motor Vehicles and subject to tariffs".⁷ Meanwhile, the definition of public motor vehicles in the law does not accommodate the existence of online motorcycle taxis that operate through digital applications. The discrepancy between existing regulations and the empirical reality of online motorcycle taxis creates legal uncertainty that is detrimental to all parties. Without higher regulations, motorcycle taxi drivers still do not have legal recognition equivalent to public transportation,⁸ even though its economic and social contributions have proven to be significant.

Multi-stakeholder conflicts of interest further complicate the dynamics of online motorcycle taxi regulation. On the one hand, conventional transportation modes such as public minibuses and conventional taxis feel threatened by the presence of online motorcycle taxis, which are considered to be operating without adequate licenses. On the other hand, the public and online motorcycle taxi drivers want legal certainty that can protect their rights. Differences in the interpretation of regulations between the central and regional governments also create inconsistencies in law enforcement, with some regions prohibiting the operation of online motorcycle taxis while others tolerate them with various requirements.⁹

The fundamental problem faced by online motorcycle taxi drivers lies in the uncertainty of their legal status and the ambiguity of their position in the Indonesian employment relationship scheme. Digital

⁶ Aura Anisah and Ratih Damayanti, "Perlindungan Hukum Bagi Pekerja Freelance: Analisis Regulasi, Tantangan, Dan Akses Jaminan Sosial Di Indonesia," *Media Hukum Indonesia* 2, no. 4 (2024): 566–71.

⁷ Article 10 of Law of the Republic of Indonesia Number 22 of 2009 on Road Traffic and Transportation

⁸ Sharleen Agustine, "Analisis Kekosongan Hukum Terhadap Transportasi Berbasis Aplikasi: Studi Kasus Ojek Online," *Media Hukum Indonesia* 3, no. 3 (2025): 815–22.

⁹ Ayuta Puspa Citra Zuama, Cut Mutia Dinda, and Djalu Pamungkas, "Telaah Regulasi Ojek Online Di Indonesia Dalam Perspektif Filsafat Fenomenologi Hukum," *Reformasi Hukum* 25, no. 1 (2021): 21–40, <https://doi.org/10.46257/jrh.v25i1.182>.

platforms uniformly categorize drivers as "partners," and drivers have the discretion to accept or reject orders, so there is no obligation to perform work as in an employer-employee relationship. Theoretically, partnership is based on a mutually beneficial relationship with equal standing for both parties, unlike the hierarchical employer-employee relationship in labor law with its superior-subordinate structure. However, operational realities reveal a tension between this ideal concept of partnership and practices in the field. The platform retains substantial control through algorithms that determine order allocation, a rating system that can lead to account deactivation, unilateral rate setting, and various operational rules that drivers must comply with, implying limited access to formal legal protection as stipulated in labor laws. As a result, basic rights such as social security, health benefits, minimum wage, working hours, leave, and protection from unilateral termination of access are not guaranteed. The ambiguity between the label "partner" and the reality of dependence on and control by the platform creates a regulatory gap in the legal protection of online motorcycle taxi drivers.¹⁰

The conditions faced by online motorcycle taxi drivers reveal a concerning reality. According to *Kumparan.com*, a survey by the Ministry of Transportation's Research and Development Agency found that 50.1 percent of online motorcycle taxi drivers had an average daily income of 50,000 to 100,000 rupiah in 2022.¹¹ And in 2024, the gross income of ojol drivers reached 175 thousand to 200 thousand per day and was still subject to a 70% platform deduction, where operational costs (gasoline, food and drink) ranged from 50 to 55 thousand per day, or around 28-31 percent. This is a very minimal amount to meet the needs of a decent life in the city.¹² This inequality is exacerbated by the

¹⁰ Aulia D. Nastiti, "Dijamin Regulasi, Dikontrol Aplikasi: Keterbatasan Kebijakan Transportasi Dalam Melindungi Kerja Pengemudi Gig," in *Menyoal Kerja Layak Dan Adil Dalam Ekonomi Gig Di Indonesia* (Yogyakarta: IGPA Press, 2021), 22.

¹¹ "Survei Kemenhub: Rata-Rata Pendapatan Ojol Nyaris Setara Ongkos Yang Keluar," *Kumparan.com*, 2022, <https://kumparan.com/kumparanbisnis/survei-kemenhub-rata-rata-pendapatan-ojol-nyaris-setara-ongkos-yang-keluar-1z0nFHvtgk2>.

¹² "Pendapatan Harian Pengemudi Ojol," *TEMPO*, 2025, <https://www.tempo.co/data/data/pendapatan-harian-pengemudi-ojol-1494027>.

operational costs that are borne entirely by drivers, including vehicle purchase and maintenance, fuel, vehicle insurance, and other unexpected costs. Social tensions are also exacerbated by wage inequality due to platform algorithms that determine rates dynamically, as seen in mass demonstrations by ojol drivers in previous years and most recently on September 18, 2025, in front of the Indonesian House of Representatives building, demanding recognition of online motorcycle taxi drivers as formal workers so that they have legal protection, social security, and job security.¹³

Social security issues are also a major concern, in addition to legal certainty, because the majority of online motorcycle taxi drivers in Indonesia work as partners rather than formal employees, meaning they do not receive adequate social protection such as accident insurance, retirement benefits, and health care from the government or platform companies. This situation leaves drivers vulnerable to the risk of accidents, loss of income, and uncertainty in terms of long-term welfare. As a result, many drivers still have to rely on personal insurance or inheritance from their previous jobs, as there are no specific regulations requiring platform companies to provide full and systematic social security in accordance with applicable laws.¹⁴

Regulatory-wise, online motorcycle taxis are regulated by Law No. 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law) and Law No. 13 of 2003 concerning Manpower (Manpower Law), which has been amended with the enactment of the Job Creation Law (Law No. 11 of 2020), as well as derivative regulations such as Government Regulation No. 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest

¹³ “Ratusan Pengemudi Ojek Online Gelar Aksi Di Depan DPR RI, Tuntut Regulasi Yang Adil,” *Kawan Jari News.com*, 2025, <https://kawanjarinews.com/hukum-sosial-lingkungan/2025/09/18/ratusan-pengemudi-ojek-online-gelar-aksi-di-depan-dpr-ri-tuntut-regulasi-yang-adil/>.

¹⁴ I Nurhadi, “Legislative Provisions Concerning Social Security for Online Ojek Drivers in Indonesia,” *AKADEMIK: Jurnal Mahasiswa Humanis* 3, no. 2 (2023): 90–100, <https://ojs.pseb.or.id/index.php/jmh/article/view/598%0Ahttps://ojs.pseb.or.id/index.php/jmh/article/download/598/486>.

Periods, and Termination of Employment. However, this regulatory approach is still not comprehensive.

The LLAJ Law was drafted before the digital era and focuses more on conventional transportation, while the changes through the Job Creation Law that accommodate platform-based workers in Article 81A of the Labor Law have not been followed by adequate technical implementing regulations. Operational regulations such as Minister of Transportation Regulation No. PM 108 of 2017 only regulate the technical and operational aspects of special rental transportation (online taxis/online motorcycle taxis) as mandated by the Job Creation Law. As a result, even though the Job Creation Law has opened the door to recognition, in practice, online motorcycle taxi drivers often still do not receive their guaranteed basic rights, such as a special social security scheme, a proportional minimum wage, or a clear dispute resolution mechanism. In other words, the mismatch between the old legal framework (LLAJ Law), the new legal mandate (Job Creation Law), and the absence of technical regulations has actually reinforced the status quo of legal uncertainty and protection gaps for drivers.¹⁵

The need for legal certainty is imperative to creating a sustainable and equitable digital transportation ecosystem. Without a clear legal framework, online motorcycle taxi operations will continue to be vulnerable, which could harm all stakeholders, including drivers, users, and the platform itself. This regulatory uncertainty has direct implications for two fundamental issues. First, the issue of legal certainty. Drivers are in a weak position due to the lack of a clear legal definition of their status. This results in uncertainty regarding their rights and obligations, both towards the platform and consumers, as well as complexity in the dispute resolution mechanism.¹⁶ Second, social security issues. The ambiguous legal status prevents online motorcycle taxi drivers from accessing state-guaranteed social protection programs, such as health insurance, work accident insurance, and old age insurance

¹⁵ Anisah and Damayanti, "Perlindungan Hukum Bagi Pekerja Freelance: Analisis Regulasi, Tantangan, Dan Akses Jaminan Sosial Di Indonesia."

¹⁶ Augustine, "Analisis Kekosongan Hukum Terhadap Transportasi Berbasis Aplikasi : Studi Kasus Ojek Online."

through BPJS Ketenagakerjaan (Employment Social Security) and BPJS Kesehatan (Health Social Security).¹⁷

Recognizing this urgency, the government has responded through legislative initiatives by drafting the Road Traffic and Transportation Bill (RUU LLAJ) since 2022 as an amendment to the 2009 LLAJ Law. This bill is projected to become a comprehensive legal umbrella that not only regulates technical operations but also aspires to address protection challenges, including by attempting to define the status and rights of online motorcycle taxi drivers. However, based on the circulating draft, the RUU LLAJ does contain several provisions related to the obligation of platforms to provide social security, vehicle safety standards, and dispute resolution mechanisms. However, crucial aspects such as recognition of employment status, mechanisms for setting fair rates, protection from unilateral account deactivation, and minimum income guarantees are still not explicitly and comprehensively articulated in the substance of the bill.

Provisions regarding social security also need to be further elaborated: whether this obligation covers the entire BPJS Employment scheme (JKK, JKM, JHT, JP) as it does for formal workers, or only health insurance. Furthermore, the mechanism for monitoring and enforcing the law against platforms that do not fulfill this obligation is also unclear. Therefore, although the LLAJ Bill demonstrates the state's commitment to Sustainable Development Goal (SDG) Number 8 on decent work and inclusive economic growth, its effectiveness in providing substantive protection still requires regulatory strengthening. The questions are: is the definition of worker or partner in the bill clear enough to create legal certainty? And is the mandated social security scheme equivalent to the rights of formal workers or is it a partial scheme that actually reinforces dualism in protection? In other words, the LLAJ Bill has the potential to be a breakthrough, but it also risks failing to fill the regulatory gap if it does not explicitly resolve the ambiguity of legal status that is at the root of the problem.

¹⁷ M Ghusni Ridho and Arief Suryono, "Jaminan Sosial Ketenagakerjaan Pengemudi Ojek Online (Studi Peraturan Menteri Perhubungan Nomor 12 Tahun 2019)," *Privat Law* 9, no. 2 (2021): 319–27, <https://jurnal.uns.ac.id/privatlaw/article/view/60040/34999>.

The problems of online motorcycle taxis in a theoretical context offer a relevant case study for analyzing legal responses to the digital economy. A number of previous studies have examined the issues of digital platform workers from various perspectives, but with different approaches and focuses. The research by Pranade Mas, Agusmidah, and Suria Ningsih (2022) conducted a comparative study of non-standard dependent self-employment relationships between Indonesia and the United Kingdom, focusing on the legal construction and legal protection of gig workers in the gig economy era. The study found that Indonesia does not yet have a clear and specific regulatory framework governing digital intermediary service business models such as Gojek and Grab, while the UK already has a UK Supreme Court ruling that classifies Uber drivers as workers with certain employment rights. However, this study emphasizes the comparison of existing legal constructs and aspects of employment contracts, rather than conducting an in-depth analysis of the substance of prospective legislative instruments such as the LLAJ Bill, which is currently being drafted.¹⁸

Meanwhile, Erda Afifah (2024) analyzed the comparison of legal regulations for gig economy workers in the transportation sector between Indonesia and California. This study identified that the partnership model in Indonesia is detrimental to workers and makes them vulnerable because they do not receive adequate employment protection as stipulated in Government Regulation No. 35 of 2021. On the other hand, California implements the ABC5 test, which provides a clearer legal framework for classifying workers as employees or independent contractors, although its implementation still faces challenges.¹⁹ Afifah's study makes an important contribution to understanding comparative regulatory models, but its focus is more on worker classification and economic impact, and it does not sufficiently explore the dimensions of legal certainty and social security from the

¹⁸ Erda Afifah, "Studi Perbandingan Regulasi Hukum Bagi Pekerja Ekonomi GIGdi Sektor Transportasi :Indonesia Dan California," *Restorasi Hukum* 7, no. 2 (2024): 227–29.

¹⁹ Suria Ningsih Pranade Mas, Agusmidah, "Studi Komparasi Hubungan Kerja Non-Standar Dependent Self Employment Dalam Hukum Ketenagakerjaan Di Indonesia Dan Hukum," *MAHADI: Indonesia Jurnal of Law* 1, no. 2 (2022): 193–94.

perspectives of classical legal theory and welfare state theory simultaneously.

Nabiyla Risfa Izzati's (2021) research explores the legal and empirical existence of non-standard employment relationships in Indonesian labor law, highlighting that online motorcycle taxi drivers are trapped in a status of ambiguity due to the partnership agreements that bind them, even though they factually fulfill the elements of an employment relationship (work, wages, and orders).²⁰ This study provides an in-depth analysis of the empirical aspects of platform work relationships, but it does not comprehensively evaluate how new regulatory instruments such as the LLAJ Bill can address these issues. However, this article takes a different approach. Instead of comparing other countries' legal systems or focusing on existing regulations, this research is prospective and evaluative of a specific regulatory draft (LLAJ Bill) that is currently undergoing the legislative process in Indonesia. This approach makes the case of Indonesia a unique laboratory, where tensions between the partnership model and the need for protection occur in an acute regulatory vacuum, while legislative solutions are being formulated.

In this context, the theoretical framework of Legal Certainty by Gustav Radbruch and T.H. Marshall is presented to fundamentally examine whether the proposed LLAJ Bill can fulfill two main requirements: creating legal certainty for the status of employment relationships and guaranteeing the fulfillment of drivers' basic social rights. According to Gustav Radbruch, good law must fulfill three main pillars, namely justice, certainty, and usefulness. One of the main pillars of legal justice is certainty, namely the ability of law to provide clarity, consistency, and predictability in social life.²¹ Without legal certainty, the law loses its legitimacy as a guide for behavior and protection of citizens. In the context of online motorcycle taxi drivers, the absence of strict and consistent regulations actually creates space for systemic exploitation and structural injustice.

²⁰ Nabiyla Risfa Izzati, "EKSISTENSI YURIDIS DAN EMPIRIS HUBUNGAN KERJA NON-STANDAR DALAM HUKUM KETENAGAKERJAAN," *Masalah-Masalah Hukum* 50, no. 3 (2021): 291.

²¹ Muh Afif Mahfud, *Pengantar Ilmu Hukum* (Semarang: Yoga Pratama, 2016).

Meanwhile, according to T.H. Marshall's Welfare State Theory, social rights are an integral part of citizenship. Marshall argues that modern citizenship encompasses not only civil and political rights, but also social rights, namely the right to a decent standard of living, education, health, and social security.²² Online motorcycle taxi drivers, as citizens, have the right to receive social protection equal to that of workers in other sectors, but reality shows that their social rights have not been adequately fulfilled. The state has a moral and constitutional responsibility to guarantee these rights, regardless of the form of employment relationships that have developed in the digital age.

The novelty of this article lies in three aspects: First, in its prospective object of study, which is to analyze a draft regulation (RUU LLAJ) before it becomes law. Second, in its theoretical approach, which synthesizes legal philosophy (Radbruch) and social welfare theory (Marshall) to assess a sectoral policy. Third, in its contribution, which not only describes the problem but also provides a theory-based evaluation of the proposed legislative solution, thereby hopefully providing constructive input for lawmakers.

This article aims to critically analyze the extent to which the provisions in the LLAJ Bill can provide legal certainty and social security for the future of online motorcycle taxi drivers in Indonesia, as well as to provide constructive theoretical and practical contributions to a fair and sustainable legislative process, and to enrich the literature on labor law in the era of the digital platform economy with a perspective that comprehensively integrates aspects of legal certainty and social security.

II. Method

This study uses a normative legal approach with a descriptive-analytical doctrinal legal research method. The primary legal materials used include the 1945 Constitution, Law Number 22 of 2009 concerning Road Traffic and Transportation, Law Number 13 of 2003 concerning

²² Mas Putri et al., *Kewarganegaraan: Teoretis Dan Praksis* (Malang: Future Science Publisher, 2023).

Manpower, and the draft LLAJ Bill which is currently in the legislative process. Secondary legal materials include scientific journals, legal textbooks, and academic research related to legal certainty and social security for digital platform workers. Data collection was carried out through literature studies using systematic documentation techniques from academic databases and official government institutions.

Data analysis uses descriptive-interpretative qualitative methods with Gustav Radbruch's Legal Certainty and T.H. Marshall's Welfare State Theory as analytical frameworks to assess the suitability and effectiveness of provisions in the LLAJ Bill. The analysis techniques included normative analysis to examine existing legal constructs and critical analysis to identify legal gaps. The results of the study were presented in two main sub-discussions that analyzed legal certainty as the foundation of online motorcycle taxi regulation and social security as a basic right of digital platform workers.

III. Legal Certainty as the Foundation for Online Motorcycle Taxi Regulation

The digital revolution has brought fundamental changes to Indonesia's urban mobility landscape through the emergence of application-based transportation platforms. Services such as Grab, Gojek, and similar platforms have changed the face of conventional transportation, offering efficient mobility solutions while opening up job opportunities for millions of Indonesians. These platforms have now become the backbone of the transportation system in various metropolitan cities across Indonesia. Nevertheless, behind the rapid expansion of this industry, there are fundamental issues related to the legal status and protection of drivers as central actors in the digital transportation ecosystem.²³

²³ Fuad Hasan and Suwarno Abadi, "Perlindungan Hukum Terhadap Hak Pekerja Kontrak Dalam Pemutusan Hubungan Kerja," *Legal Standing : Jurnal Ilmu Hukum* 9, no. 1 (2025): 64–76, <https://doi.org/10.24269/lis.v9i1.11128>.

It is important to note that the group of online motorcycle taxi drivers constitutes a heterogeneous entity. Field surveys reveal that not all drivers share the same preferences regarding their employment status. Some drivers utilize the platform service as their primary occupation and depend entirely on income from this activity, while other groups view application-based transportation as supplementary income to complement their primary employment. This diversity creates distinct challenges in designing a protection framework that can accommodate the varied needs and aspirations of drivers. Empirical studies through in-depth interviews and questionnaires administered to drivers across various cities demonstrate that some desire formal worker status with comprehensive protection, while others prefer the flexibility of partner status with minimal protection requirements. This qualitative data becomes crucial in ensuring that forthcoming regulations not only provide protection but also respect the plurality of driver choices and circumstances.²⁴

Online motorcycle taxi drivers currently find themselves in an ambiguous legal situation, often referred to as a legal "gray area." On one hand, platform companies classify them as independent contractors or partners on the other hand, the reality of their daily operations demonstrates strong characteristics of an employment relationship. Drivers are controlled by complex algorithmic systems, subject to various strict rules unilaterally imposed by the platform, and evaluated through a rating system that significantly determines their income and partnership status.

It is important to clarify that the concept of "partnership" in the platform transportation context is fundamentally different from partnership in the traditional business law sense. In conventional business partnerships, partners occupy equal positions, possess autonomy in decision-making, and share profits collectively. Conversely, platform drivers lack complete freedom in selecting the type of work they will undertake they receive orders from a non-transparent algorithm and can reject them only at the risk of rating decline and reduced access to future orders. They also have no voice in tariff

²⁴ Ridho and Suryono, "Jaminan Sosial Ketenagakerjaan Pengemudi Ojek Online (Studi Peraturan Menteri Perhubungan Nomor 12 Tahun 2019)."

determination or platform operational policies. While formal employment relationships in Indonesian labor law are indeed hierarchical with subordination, this is compensated by various rights and protections guaranteed by the state. Thus, ojol drivers occupy a more vulnerable position than either status they experience control and subordination similar to workers, yet without the protections afforded to formal workers, and they also lack the genuine autonomy of independent business partners. This pattern of relations actually reflects the characteristics of a conventional employment relationship between an employer and an employee, despite the formal use of the term "partner."

This legal ambiguity forms the root of a series of systemic problems faced by drivers, including highly fluctuating and uncertain incomes, minimal access to social security such as health protection and work accident insurance, operational costs borne entirely by individuals, and high vulnerability in dispute resolution and occupational safety protection.

The significant transformation in Indonesian urban transportation brought about by digital platforms such as Grab and Gojek has not only revolutionized how people travel but also created mass employment opportunities that have absorbed millions of workers. However, the gig economy business model that underpins online transportation operations contains structural problems related to the legal status and protection system for drivers.

In practice, drivers are generally categorized as independent contractors, rather than as employees or formal workers. This classification has very significant legal implications: drivers are automatically outside the scope of conventional labor law protection. They are not entitled to the minimum wage guaranteed by the state, do not receive social security benefits as formal workers do, do not receive severance pay when the partnership ends, and have no protection against unilateral termination of employment (Pemutusan Hubungan Kerja/PHK). The absence of legal certainty creates structural

vulnerability and a high degree of uncertainty in the economic and social lives of drivers.²⁵

The accumulation of dissatisfaction and frustration due to legal uncertainty reached its climax in May 2025, when thousands of Grab drivers from various regions in Indonesia organized a Grand Demonstration centered in Jakarta and several other major cities. This mass demonstration was triggered by the implementation of a series of new policies from the Grab platform that were considered to be very detrimental to the interests of drivers.

These controversial policies include: first, changes to the fare calculation algorithm that have resulted in a drastic decline in drivers' daily income; second, a substantial increase in the percentage of commission or platform fees deducted from each transaction; third, the implementation of an account deactivation mechanism and the imposition of sanctions that are considered unfair, non-transparent, and carried out unilaterally without a clear process.

This massive demonstration goes beyond a mere protest against company policy. It represents a deep expression of disappointment at the lack of intervention and adequate legal protection from the state. The drivers demand that the government take an active role in providing legal certainty, which includes several crucial aspects: formal recognition of a clearer and fairer employment status, the establishment of a decent base rate that guarantees a dignified life, transparency in the algorithms that determine their income, protection from arbitrary unilateral layoffs, and full access to national social security programs.²⁶

The events of May 2025 became a crucial moment to critically evaluate the extent to which the existing legal and policy frameworks in Indonesia are able to provide adequate legal certainty and protection for online motorcycle taxi drivers. The main regulations currently governing this sector are Minister of Transportation Regulation No. 12 of 2019 concerning the Operation of Public Motor Vehicle Transportation Outside of Fixed Routes and Minister of Manpower

²⁵ Wirdatul Aini, "Ojek Dan Taksi "Online" Menjadi Tulang Punggung Transportasi Jakarta."

²⁶ Agustine, "Analisis Kekosongan Hukum Terhadap Transportasi Berbasis Aplikasi : Studi Kasus Ojek Online."

Regulation No. 12 of 2023 concerning the Protection of Platform-Based Workers.

Both regulations have often been sharply criticized by various groups because they are considered to not yet clearly and comprehensively regulate the status of employment relationships and the normative rights of drivers. Minister of Manpower Regulation No. 12 of 2023, although it can be seen as a progressive step because it begins to regulate basic protection aspects such as occupational safety, work accident insurance, and minimum income, still leaves fundamental ambiguities regarding the nature of the employment relationship between drivers and platforms, namely whether they are partners or workers.

Furthermore, these regulations do not fully accommodate demands for comprehensive social security and the establishment of fair wages that take into account all operational costs borne by drivers. The absence of higher-level legislation, namely a specific law governing platform-based transportation, further weakens drivers' bargaining position in negotiations with platform companies. As a result, various important aspects of this digital transportation ecosystem still lack a strong and comprehensive legal basis.

A. Ambiguity of Status and Lack of Protection for Drivers

One of the most significant implications of the absence of comprehensive regulations is the uncertainty surrounding the legal status of online motorcycle taxi drivers. Although in practice they are highly dependent on income from the platform and work full-time, drivers are formally treated as business partners of the app company, rather than as official employees with all the rights that come with it.

This classification is not explicitly and comprehensively regulated in the existing Labor Law, so drivers do not have access to the rights normally enjoyed by formal workers. These inaccessible rights include comprehensive social security (covering health insurance and employment insurance through BPJS), a state-guaranteed minimum

wage, holiday allowances (THR), leave entitlements, and protection from arbitrary unilateral termination of employment.²⁷

This legal uncertainty puts drivers in a very vulnerable position to various forms of exploitation. For example, app companies have the authority to unilaterally change commission policies or fare structures without adequate consultation with drivers. Platforms can also terminate partnerships without clear and transparent procedures and rules. Furthermore, drivers face great difficulty in demanding their rights due to a severe imbalance of bargaining power. This systemic vulnerability ultimately leads to a decline in drivers' welfare and chronic uncertainty about the sustainability of their livelihoods and those of their families.

B. Limitations of Consumer Protection

The absence of specific regulations that comprehensively govern application-based transportation services has resulted in limited direct protection for consumers or service users. Without a clear and definitive legal framework, the legal responsibilities of service providers become vague and difficult to account for.

This situation is particularly problematic in handling cases such as traffic accidents involving passengers, loss or damage to consumers' property during travel, or violations of the law that occur in the process of providing services. The process of resolving consumer complaints becomes complicated and ineffective due to the lack of a standard mechanism that is formally regulated by binding laws and regulations.²⁸

This situation increases the risk of insecurity and injustice for consumers, as their rights are not optimally protected as they are in conventional transportation services, which are more strictly regulated and have been tested. Consumer protection is generally regulated by Law No. 8 of 1999 on Consumer Protection, but this regulation does

²⁷ Ayuta Puspa Citra Zuama, Cut Mutia Dinda, and Djalu Pamungkas, "Telaah Regulasi Ojek Online Di Indonesia Dalam Perspektif Filsafat Fenomenologi Hukum."

²⁸ Ridho and Suryono, "Jaminan Sosial Ketenagakerjaan Pengemudi Ojek Online (Studi Peraturan Menteri Perhubungan Nomor 12 Tahun 2019)."

not specifically accommodate the unique characteristics of digital application-based transportation services, leaving consumers facing legal uncertainty in claiming damages, filing safety complaints, and resolving disputes that arise.

C. Complexity of Oversight and Inconsistency in Law Enforcement

Supervision and law enforcement of application-based transportation operations face major challenges in the form of difficulties and inconsistencies if there is no comprehensive and integrated national legal framework. Local governments have attempted to fill this void by drafting local regulations (Perda), but this approach has actually created counterproductive regulatory fragmentation.

Local regulations often differ from one another in substance and approach, and not infrequently contradict central government policies and directives. This results in significant regulatory fragmentation. This situation seriously hinders efforts to implement uniform and effective safety standards, service quality standards, and business ethics norms throughout Indonesia.

As a result of this regulatory inconsistency, the potential for harmful business practices to emerge is greater and more difficult to monitor and prosecute. These practices include unilateral tariff setting without consultation or transparency, inadequate operational safety standards, and unfair or discriminatory treatment of drivers. Weak coordination between the central and regional governments in terms of supervision further exacerbates this situation.

Table 1.

Conditions and Implications of Online Transportation Regulations in
Indonesia

Regulatory Aspects	Related Regulations	Regulatory Power	Gaps	Key Implications
Legal Status of Drivers	Ministry of Transportation Regulation No. 12/2019, Law No. 22/2009	Technical Safety Regulations	Drivers are not formal workers	Formal employment protection is not provided
Consumer Protection	Law No. 8/1999	There are General Protection Regulations	There are no Specific Regulations for Online Transportation	Consumers are Vulnerable to Safety Risks
Regional Regulations	Various Local Regulations Related to Online Transportation	There are Local Regulations	Conflicting Between Regions	Legal Uncertainty, Difficult Supervision
Competition Between Transportation Modes	Law No. 22/2009, Local Regulation	Standards for Conventional Transportation	No Equivalent Regulations for Online Transportation	Imbalance and Potential for Socioeconomic Conflict
Supervision and Law Enforcement	Central and Regional Regulation	Formal Supervision Mechanisms	Difficult to Apply Consistently to Online Services	Weak Supervision, High Potential for Legal Violations.

D. Legal Protection within the Current Regulatory Framework

Online motorcycle taxis have established their position as an integral part of the urban mobility ecosystem in Indonesia. However, the legal foundation supporting this sector still shows substantial weaknesses that result in suboptimal protection for all parties involved. The current regulatory dynamics reflect legislative delays in responding to technological innovations that are developing at an exponential rate.

The Indonesian government, through the Ministry of Transportation and the House of Representatives, is in the process of drafting a new regulatory framework. The Online Transportation Bill currently being drafted is a response to the awareness of the need for comprehensive governance that can accommodate multiple interests: drivers as vulnerable workers, consumers as service users, and platform operators as service providers. This legislative process involves inter-ministerial coordination covering aspects of employment, infrastructure, and information technology. This transition phase has created a paradoxical situation. On the one hand, the absence of specific regulations allows operators to innovate with minimal risk. On the other hand, this absence leaves drivers in a very weak position when it comes to negotiating their fundamental rights. Consumers also face risks in terms of accountability when serious incidents occur.

Online motorcycle taxi drivers in Indonesia are currently formally categorized as business partners, a classification that has profound legal consequences. This clarification is not merely a matter of semantics, but rather a determinant that regulates access to a range of employment rights. In practice, drivers have no guarantee of the minimum wage set by the state, do not receive health benefits through the national social security scheme, and are not protected from unilateral termination of employment.

This vulnerability is exacerbated by the operational characteristics of the gig economy. Platform algorithms determine job allocation, dynamic pricing, and rating systems that simultaneously function as mechanisms for control and performance evaluation. When drivers do not receive orders, there is no compensation. When they are sick, the

absence of benefits causes their income to stop immediately. This mechanism externalizes risk to individual drivers without adequate social safety nets.

Consumer protection in app-based transportation services is regulated through the general framework of the 1999 Consumer Protection Law. However, regulations designed for the era of physical commerce and traditional services do not specifically anticipate the unique characteristics of digital transactions. The absence of clear operational standards creates uncertainty regarding the mechanism of accountability when incidents occur, whether the responsibility lies with the platform, the driver, or is shared between both parties.

In cases of accidents involving passengers, the compensation claim process becomes complicated because there are no standard and legally binding guidelines. The same applies to incidents involving the loss or damage of users' belongings during the trip. The absence of clear protocols results in ad hoc dispute resolutions, which often favor parties with greater legal capacity for litigation.

Local efforts to fill the regulatory void at the national level through local regulations have produced contradictory effects. Some regions have implemented strict requirements that effectively restrict the operations of online motorcycle taxis, while others have adopted a permissive approach with minimal standards. This inconsistency has created a fragmented regulatory landscape and made it difficult for platform operators to implement uniform operational standards.

This fragmentation also complicates oversight efforts. When violations occur at the local level, enforcement mechanisms may vary depending on local interpretations. This allows operators to take advantage of regulatory arbitrage by moving operations to jurisdictions with more lenient regulations. Drivers face situations where their rights depend on the geographic location where they work, rather than on consistent normative standards. Currently, there are no regulations that explicitly impose responsibility on platform operators to guarantee minimum protection standards for drivers. Obligations regarding transparency in tariff setting, fair dispute resolution mechanisms, and user data protection systems are not yet strictly regulated in legally binding instruments.

The absence of effective accountability mechanisms means that operators' unilateral decisions are not balanced by any external control or oversight rights. When platforms change their fare algorithms or implement account deactivation policies, drivers have no formal channel to respond or raise objections through institutions with full authority to enforce compliance.

Weaknesses in the current regulatory architecture pose long-term risks to the sustainability of the digital transportation ecosystem. Without clear legal certainty, industry growth can be hampered by social instability and the potential escalation of protests. Conversely, clear regulations can serve as a platform for standardization and professionalization of the industry, which ultimately benefits all stakeholders.

Analysis concerning legal certainty for online motorcycle taxi drivers will be more comprehensive when supported by empirical data derived from in-depth interviews, questionnaires administered to representative driver samples, and social surveys exploring the variability of driver preferences and circumstances across various operational regions. Such qualitative and quantitative data can provide a more nuanced understanding of how driver heterogeneity ranging from full-time operators to those with supplementary employment influences their regulatory needs. Further research is strongly recommended to integrate direct driver perspectives in the policy evaluation and legislative design process.

In response to the various regulatory weaknesses outlined above, the Road Traffic and Transportation Bill (LLAJ Bill) emerges as a comprehensive legislative response. An in-depth examination of the LLAJ Bill draft currently in the legislative process at the House of Representatives reveals several important observations concerning the level of accommodation for fundamental issues faced by online motorcycle taxi drivers.

The LLAJ Bill proposes significant changes in defining the status of platform-based transportation drivers. Within the proposed framework, drivers are recognized as entities requiring special protection, although their status is not yet fully equated with formal workers in the traditional sense. The LLAJ Bill text includes provisions requiring platforms to provide minimum protection guarantees to

drivers, including operational safety standards, transparency in tariff determination, and more structured dispute resolution mechanisms. However, several limitations warrant attention: first, the Bill still employs the term "partner" in certain articles, reflecting a compromise between platform interests and driver protection; second, the definition of platform responsibility in certain aspects remains ambiguous, requiring further implementing regulations.

One significant achievement of the LLAJ Bill is its explicit recognition that platforms bear responsibility for contributing to driver social security programs. Articles in the Bill mandate that platform operators must ensure all drivers have access to social security programs, encompassing health insurance, work accident insurance, and old age protection. This represents a significant breakthrough compared to previous regulations that did not explicitly impose this obligation on platforms. Nevertheless, the financing mechanism and implementation details require further elaboration, particularly regarding how platform contribution amounts are determined fairly and how compliance verification will be conducted effectively.

Despite the LLAJ Bill's accommodation of many fundamental issues, several gaps remain. First, the Bill lacks specificity in regulating algorithm transparency regarding order allocation and dynamic tariff setting aspects crucial for drivers. Second, the oversight mechanism for platform compliance with minimum protection standards requires further clarification concerning which institution will hold responsibility and what enforcement authority will be available. Third, the Bill does not comprehensively accommodate the heterogeneous needs of drivers, particularly those working part-time or with supplementary employment, as noted in the earlier methodological section.

Overall, the LLAJ Bill represents a significant step forward in providing a more comprehensive legal framework compared to previous regulations. However, to ensure this legislative instrument truly realizes the two main pillars legal certainty and social security particular attention is needed at the implementing regulation stage. Additionally, post-implementation monitoring and evaluation mechanisms are essential to ensure the LLAJ Bill achieves its objective of creating a fair and sustainable digital transportation ecosystem.

The presence of the Road Traffic and Transportation Bill in this context is not merely an administrative instrument, but a strategic mechanism to transform the ecosystem from a situation of ambiguity to one of measurable and predictable certainty.

IV. Social Security as a Fundamental Right of Digital Platform Workers

One form of protection provided by the state to its citizens is social security. Social security is a form of government concern for its citizens to have a decent life, as stipulated in Law No. 40 of 2004 concerning the social security system.²⁹ The government has a major responsibility to guarantee the welfare of its citizens, whereby the government can at least control the wealth of the state and fulfill health insurance. Welfare is a fundamental right for every citizen. Therefore, welfare must be prioritized in order to achieve social order.

The Welfare State theory is based on the principle that the state has an active responsibility to ensure the economic and social welfare of its citizens, including by creating a system of protection against various risks in life such as illness, old age, workplace accidents, and unemployment.³⁰ The concept of the welfare state provides a solution by emphasizing decision-making by leaders with higher levels or positions, with the results of these decisions then being distributed from the top down. In the context of a capitalist economic system, market conditions and issues beyond the control of workers affect the income

²⁹ Dian Arsitha W Eben Henry R M S, "Implementasi Konsep Negara Kesejahteraan (Welfare State) Dalam Penyelenggaraan Jaminan Sosial Di Indonesia Implementation of the Welfare State Concept in the Implementation of Social Security in Indonesia," *Konferensi Nasional Ilmu Administrasi* 8, no. 1 (2011): 620–28, <https://knia.stialanbandung.ac.id/index.php/knia/article/view/1106>.

³⁰ Muhammad Zainul Arifin et al., "Membumikan Teori Negara Kesejahteraan Dalam Penguatan Dana Desa Untuk Pengentasan Kemiskinan Menurut Keadilan Distributif," *Journal Of Law And Social Society* 1, no. 2 (2024): 29–42, <https://doi.org/10.70656/jolasos.v1i2.158>.

level of labor.³¹ As Jeremy Bentham said, anything that brings greater happiness is a better thing.³²

The principle of social security gives the state a primary role in bearing responsibility, but in certain models, this responsibility is shared with the business world through co-funding in social insurance programs.³³ Social security benefits such as unemployment benefits, health insurance, and pensions enable people to survive even when they are not working. However, in reality, ojol workers are currently fully commodified, meaning that their value is only measured by the number of orders they complete. Thus, if an ojol worker is sick or has an accident, their income will immediately drop to zero.

The principle of fairness in a welfare state requires online motorcycle taxi platform owners to contribute to the social security of their partners. This is not merely a matter of corporate social responsibility, but a social obligation, as they are the ones who benefit most from this ecosystem. If this right to justice is not taken into account, then only the owners of the online motorcycle taxi platform will benefit from this cooperation agreement. In addition, cooperation should include elements of fair income and decent work. Although ojol drivers are only considered partners, the platform enjoys huge profits from their work.

Indonesia uses a minimal system whereby government spending on allocation of social development funds is low. The distribution of welfare and social security programs is uneven and incomplete, as they are only distributed to civil servants, members of the Indonesian National Armed Forces and the Indonesian National Police, and private sector employees who are able to pay premiums, even though social security is regulated by Law No. 40 of 2004 concerning the national

³¹ Aji rahman Halim, "Sistem Upah Berdasarkan Prinsip Keadilan Dalam Konsep Negara Kesejahteraan (Welfare State)," *Journal Presumption of Law* 3, no. 2 (2021): 206–20, <https://doi.org/10.31949/jpl.v3i2.1496>.

³² E. ELVIANDRI, "Quo Vadis Negara Kesejahteraan: Meneguhkan Ideologi Welfare State Negara Hukum Kesejahteraan Indonesia," *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 31, no. 2 (2019): 252, <https://doi.org/10.22146/jmh.32986>.

³³ Arifin et al., "Membumikan Teori Negara Kesejahteraan Dalam Penguatan Dana Desa Untuk Pengentasan Kemiskinan Menurut Keadilan Distributif."

social security system.³⁴ The powerlessness of freelance workers such as motorcycle taxi drivers has drawn serious attention to the guarantee of basic rights for workers. Ojol workers who are still classified as independent contractors, not employees, and therefore do not have conventional employment protection such as minimum wage, social security, severance pay, or protection against unilateral termination of employment.³⁵ Indonesia, which has a 1945 Constitution that mandates the state to “promote general welfare,” has in fact embraced the principle of a welfare state. Therefore, fighting for social security for ojol workers is not only a technical issue, but also a matter of fulfilling constitutional mandates and social justice in the digital economy era. The debate now should not be about “whether they are entitled,” but about “how best to realize those rights.”

V. Conclusion

Based on the analysis of the Draft Law on Road Traffic and Transportation (LLAJ Bill), it can be concluded that this legislative draft is a necessary response to address the legal ambiguity and protection gap experienced by online motorcycle taxi (ojol) drivers. The LLAJ Bill has the potential to become a legal foundation that provides certainty of status and obligates platforms to provide social security, thereby aligning with Gustav Radbruch's principle of legal certainty and T.H. Marshall's welfare state ideal. However, its effectiveness still depends on substantive refinement.

The success of the LLAJ Bill as a pillar of a fair and sustainable digital transportation ecosystem is heavily determined by clarity at the technical regulatory level. Its implementation must explicitly regulate a *sui generis* legal classification for drivers, a comprehensive and equivalent social security scheme, as well as transparent mechanisms for

³⁴ Marsudi Dedi Putra, “Negara Kesejahteraan (Welfare State) Dalam Perspektif Pancasila,” *Likhitaprajna Jurnal Ilmiah* 23, no. 2 (2021): 139–51, <https://doi.org/10.37303/likhitaprajna.v23i2.199>.

³⁵ Gemilang Adi Perdana and Agus Satory, “Analisis Yuridis Kedudukan Pengemudi Ojek Dan Kurir Online: Antara Mitra Atau Pekerja Harian Lepas,” *Jurnal Pendidikan Indonesia* 6, no. 5 (2025): 2661–79, <https://doi.org/10.59141/japendi.v6i5.7843>.

algorithm oversight and dispute resolution. Without strong and clear technical regulations, this Bill risks maintaining the status quo of uncertainty, thus failing to substantively fulfill the basic rights of drivers as citizens.

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The author(s) affirm that the present study is an entirely original undertaking. It has not appeared in print, online, or in any other medium, nor is it currently submitted to any journal for review. Every source noted in the reference list conforms to accepted protocols of academic citation.

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