



# LEGAL PROTECTION FOR ONLINE TRANSPORTATION PARTNERS: A COMPARISON BETWEEN INDONESIA AND MALAYSIA IN THE IMPLEMENTATION OF SOCIAL PROTECTION SYSTEMS

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## Abstract

This study seeks to examine and critically analyze the legal protection afforded to online transportation partners in Indonesia and Malaysia, with particular emphasis on identifying regulatory gaps within the existing social protection frameworks. The primary issue stems from the inadequacy of Law No. 13 of 2003 on Manpower in addressing the legal status of online transportation drivers, as the prevailing working arrangements do not conceptually satisfy the essential elements of an employment relationship as defined under the law. This condition gives rise to legal uncertainty concerning access to social security, occupational safety guarantees, and

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income protection for online transportation partners. This study adopts a normative juridical approach, employing both statutory and comparative legal analyses. The findings reveal that Malaysia has established a more structured and systematic framework for integrating platform-based workers into formal social protection schemes. In contrast, Indonesia continues to experience a regulatory gap, resulting in heightened vulnerability of workers to occupational risks and restricted access to comprehensive social protection mechanisms. This study concludes that Indonesia might to adapt aspects of Malaysia's labor policies as a reference, through regulatory harmonization, strengthening the role of the government, and providing sustainable social protection programs.

**Keywords:** Legal Protection, Online Transportation Partners, Social Protection, Gig Workers, Labor Regulations.

## **A. Introduction**

Transportation is one of the essential elements that not only supports human activities<sup>1</sup> but also plays a significant role in Indonesia's economic development<sup>2</sup>, particularly amid the rapid development of technology that is transforming various aspects of life.<sup>2</sup> Digital platforms are technologybased systems that connect service providers and users through applications or online media. Online transportation services such as Gojek and Grab are now considered affordable, practical, and increasingly popular. The growing number of drivers, along with various promotional fares, has contributed to the rising popularity of these services over time. Based on the 1945 Constitution of Indonesia, the state is responsible for providing adequate public services, particularly in the transportation sector,

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<sup>1</sup> Khalid, Z. (2019). Perlindungan Hukum terhadap Pengemudi Jasa Transportasi Online di Kota Medan. *Resam*, 5(1), 57-73. Talan, M. Y., & Suharyanti, N. P. N. (2023). Perlindungan hukum terhadap customer ojek online dalam kasus tindak pidana kekerasan seksual (Studi kasus di Kota Denpasar). *Jurnal Hukum Mahasiswa*, 3(1), 685-698.

<sup>2</sup> Hamsona, D. A., & Susilowati, I. F. (2019). Perlindungan Hukum Terhadap Keselamatan Penumpang Kendaraan Sepeda Motor Yang Digunakan Untuk Kepentingan Masyarakat. *Novum: Jurnal Hukum*, 6(02).

which functions as a driver of economic growth and social progress.<sup>3</sup> According to a report by We Are Social, 66.7% of internet users aged 16 and above in Indonesia regularly used app- or web-based online transportation services in the fourth quarter of 2024. By the end of 2024, the number of online transportation users had reached approximately 88.3 million. Furthermore, according to the e-Economy SEA 2024 report, the sales value of motorcycle ride-hailing services in Indonesia was also the largest in Association of Southeast Asian Nations (ASEAN).<sup>5</sup> Nevertheless, Indonesia's labor regulations still maintain a distinction between formal and informal workers.

This phenomenon has become a serious issue, particularly concerning the right to social security.<sup>4</sup> At first glance, drivers appear to have flexible working hours and income based on the number of completed orders. However, in practice they remain highly dependent on the policies of platform operators, particularly with regard to fares, incentives, and access to certain services. As a result, many partners feel implicitly compelled to participate in the Akses Hemat program offered by the platform operator. If they do not join the program, they are not given priority access to the Grab Hemat service, which is increasingly preferred by passengers compared to regular services. Although the program is formally optional, many drivers perceive it as effective mandatory, as failing to participate may significantly reduce their chances of receiving orders, given that many passengers now prefer Grab Hemat. Conversely, participation in the program obliges drivers to incur additional costs or deductions imposed by platform operators, which may consequently diminish their overall income. This ambiguity in employment status engenders substantial vulnerability, particularly with respect to access to social security, the availability of labor protections, and the stability of earnings. Such vulnerability is especially concerning considering the high occupational risks faced by

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<sup>3</sup> Silviani, N. Z., & Nurlaily, V. (2023). Hang Tuah Law Journal. GoodStats. (2025). Ilmu Pengetahuan dan Teknologi Indonesia Jadi Pengguna Transportasi Online Terbesar 2024.

<sup>4</sup> Wibowo, D. A., Sugianto, F., & Agustian, S. L. (2025). Legal Protection for The Parties as a Preventive Affort Against Disputes in Health Insurance Claims. *Pranata Hukum*, 20(2), 141-157.

drivers, including traffic accidents, robbery, and long working hours without guaranteed income.

The main issue in this research lies in the gap between legal norms (*das sollen*) and the reality in practice (*das sein*). Normatively, the employment concept applied by the Badan Pusat Statistik (BPS) refers to the labor framework developed by the International Labour Organization (ILO).<sup>5</sup>

Based on Law Number 13 of 2003 on Manpower (Manpower Law), which was subsequently refined through Law Number 6 of 2023 on Job Creation, the Indonesian legal framework provides general provisions governing employment relationships and the protection of workers in Indonesia. As a state that adheres to the concept of a welfare state as stipulated in the Constitution of the Republic of Indonesia 1945, Indonesia is obligated to develop a national social security system. This obligation is aligned with the objectives of national development, particularly the eradication of poverty in all its forms by emphasizing the importance of social protection for all members of society. However, in practice, these regulations do not explicitly regulate the legal status of workers or provide adequate protection for the essential rights of informal workers, particularly with regard to social security as a form of recognition of their contributions to the digital economy. This condition reflects a contradiction to the objectives of Sustainable Development Goal 1, as many partners in Indonesia remain trapped in uncertain employment status and do not receive adequate social security due to unilateral partnership agreements and fragmented regulations.

This normative gap reflects structural weaknesses that trigger unequal legal treatment among workers, ultimately placing informal workers in a vulnerable position within employment relationships. Consequently, the implementation of a social protection system is highly relevant for informal workers, including online drivers, who play a significant role in the digital economy but remain insufficiently

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<sup>5</sup> Praditama, D. A., Rusdijjati, R., Hakim, H. A., Wicaksono, M. P., & Nugraha, Y. S. (2023). The Dilemma of Fulfilling Informal Sector Workers' Rights in the Indonesian Welfare State Concept. *Law and Justice*, 8(2), 211-225.

protected due to their non-formal employment status. This is consistent with the principles promoted by the Group of Twenty (G20),<sup>6</sup> the adaptation of labor policies must ensure the rights of informal workers to decent working conditions, social protection, and social dialogue, as also emphasized by the International Labour Organization (ILO).

Malaysia also has app-based motorcycle ride hailing services provided through Grab, which are widely recognized and commonly used. Although Malaysia has several regulations governing the online transportation sector particularly those related to operational permits and drivers such as the Road Transport Act 1987 and the Employment Act 1955, which regulate many aspects of workers' rights in the formal sector, these regulations do not cover online transportation partners because they are not classified as permanent employees. Consequently, they are not protected by many provisions of the Employment Act, including those concerning minimum wages and social security. This situation indicates that there remains a gap between the need for legal protection and the existing regulatory reality in both countries.

In a previous study written by Maria, the research highlights the shift in transportation culture from conventional to online services and its regulatory implications. However, it does not examine the impact of regulations or legal uncertainty on online transportation partners.<sup>7</sup> A study by Indayatun focuses on legal protection for online transportation drivers as part of the workforce in the digital era. However, it does not explain how legal strategies or mechanisms can be implemented to clarify the employment status of partners at the national level.<sup>8</sup> Furthermore, studies conducted by Limbong, Nababan, and Sihotang examines legal issues related to the transfer of driver

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<sup>6</sup> G20 Policy Principles on Adapting Labour Protection for More Effective Protection and Increased Resilience for All Workers, [https:// share.google/RCTKRy8mhl1G1CPVR](https://share.google/RCTKRy8mhl1G1CPVR)

<sup>7</sup> Maria, A. (2019). Aspek Hukum Transportasi Berbasis Aplikasi Dalam Perspektif Hukum Indonesia. *Jurnal Bina Mulia Hukum*, 3(2), 176-187.

<sup>8</sup> Indayatun, R. (2025). Legal Protection of Online-Based Transportation Workers in the Era of Digitalization. *Journal of Law, Politic and Humanities*, 5(4), 2958-2966.

accounts in online transportation services and the legal responsibility arising from their use. However, the study does not examine in depth the legal protection for driver partners, particularly regarding employment status and access to social security.<sup>9</sup> However, the study does not comprehensively analyze the mechanisms of law enforcement and social security protection for driver partners within the labor system.<sup>10</sup>

The study conducted by Saputra, Muzayanah, and Andraini examines the application of agreements in employment relationships and the legal protection afforded to online transportation drivers. Furthermore, the study conducted by Prananda and Aidi examines the legal position of online transportation drivers within partnership agreements with application-based companies. However, the study does not sufficiently discuss the economic impact on driver partners and does not analyze in detail the implementation of new regulations.<sup>11</sup>

This study introduces a new perspective (novelty) through a comparative approach between Indonesia and Malaysia, particularly in the context of legal protection for online transportation partners in the implementation of social protection systems. The aim is to provide new insights into how states regulate the balance between partners' rights and social security welfare. Another aspect of the study's novelty lies in its use of the legal protection theory proposed by Philipus M. Hadjon to assess the implementation of social security, as well as the legal objectives theory developed by Gustav Radbruch to evaluate the extent to which regulations in Indonesia and Malaysia have achieved a balance

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<sup>9</sup> Lesson, R., & Sitohang, L. (2020). Tanggung Jawab Hukum Perusahaan Transportasi Online dan Driver Online terhadap Pengguna atas Peralihan Akun Driver Online. *Jurnal Hukum PATIK*, 9(2), 102-113.

<sup>10</sup> Saputra, A., Muzayanah, M., & Andraini, F. (2020). Penerapan Perjanjian Dalam Hubungan Kerja Dan Perlindungan Hukum Bagi Driver Online. *Jurnal Komunikasi Hukum (JKH)*, 6(1), 266-280.

<sup>11</sup> Prananda, R. R., & Aidi, Z. (2019). Tinjauan Yuridis Kedudukan Pengemudi Transportasi Online Dalam Perjanjian Kemitraan Dengan Perusahaan Penyedia Aplikasi Transportasi Online. *Law, Development and Justice Review*, 2(2), 135-162.

between legality, legal certainty, justice, and effectiveness in providing legal protection for online transportation partners.

Through the combination of these two theoretical frameworks, this study develops a conceptual model of ideal legal protection based on comparative normative analysis, which may serve as a reference for the formulation of more equitable and effective legal policies. This study provides both theoretical and practical contributions. Theoretically, through a normative approach, this research addresses gaps in the legal literature and provides an academic foundation for policy formulation by offering a more comprehensive understanding of the legal protection framework for online transportation partners. Practically, this study may serve as a reference for policymakers in formulating regulations that are more equitable and responsive to the interests of online transportation partners, particularly in ensuring their rights as workers who are vulnerable to exploitation. By comparing the legal frameworks in Indonesia and Malaysia, this research also opens opportunities for the adoption of best practices that may be applied across countries to strengthen legal protection for workers in the gig economy sector. However, this study has certain limitations. The discussion is limited to two countries Indonesia and Malaysia in examining the legal systems and social security arrangements for online transportation partners. The analysis is also confined to aspects of legal regulation, government policies, and the implementation of such policies in providing legal protection. Furthermore, the findings of this study are intended primarily as a preliminary basis for comparison and are not meant to provide comprehensive conclusions regarding the effectiveness of policies in each country or legal system examined.

The research method used is normative legal research method, which focuses on the examination of applicable laws and regulations, particularly those related to legal protection for online transportation partners. The analytical framework involves two main approaches,

namely the statute approach and the comparative approach.<sup>12</sup> By utilizing these approaches, the researcher seeks to examine how existing regulations accommodate fundamental legal values.

Secondary data constitute the primary source of data in this study, consisting of primary legal materials, secondary legal materials, and tertiary legal materials. In Indonesia, the primary legal materials include the Constitution of the Republic of Indonesia 1945, Law No. 13 of 2003 on Manpower, Law No. 6 of 2023 on Job Creation, Law No. 24 of 2011 on Social Security Administering Bodies, Presidential Regulation No. 109 of 2013, and Minister of Transportation Regulation No. 12 of 2019. Meanwhile, the primary legal materials from Malaysia include the Road Transport Act 1987, Employment Act 1955, Self-Employment Social Security Act 2017, and the Gig Workers Act 2025. Secondary legal materials consist of academic literature, legal journals, expert opinions, statistical data, reports from relevant institutions, and other relevant online sources. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to support the analysis related to the research topic.<sup>13</sup>

Data collection was conducted through library research. After the data were collected, the analysis technique employed was descriptive qualitative analysis, which aims to provide an in-depth explanation of existing regulations and their implementation. This technique enables the author to elaborate legal issues comprehensively and critically,<sup>16</sup> as well as to analyze the relevance of the legal protection theory proposed by Philipus M. Hadjon and the theory of the objectives of law developed by Gustav Radbruch in the context of legal protection for online transportation partners in Indonesia.

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<sup>12</sup> Tan, D. (2021). Metode penelitian hukum: Mengupas dan mengulas metodologi dalam menyelenggarakan penelitian hukum. *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8(8), 2463-2478.

<sup>13</sup> Yanova, M. H., Komarudin, P., & Hadi, H. (2023). Metode Penelitian Hukum: Analisis Problematika Hukum Dengan Metode Penelitian Normatif Dan Empiris. *Badamai Law Journal*, 8(2), 394-408. <sup>16</sup> Disemadi, H. S. (2022). Lensa Penelitian Hukum: Esai Deskriptif tentang Metodologi Penelitian Hukum. *Journal of Judicial Review*, 24(2), 289-304.

## **B. Discussion**

### **1. Regulatory Framework for Legal Protection of Online Transportation Partners at the Global and National Levels**

Online transportation partners are part of a vulnerable group of workers who often operate without adequate legal protection and social security. In this context, a specific legal framework governing online transportation partners is necessary, as the law must adapt promptly to changes occurring within society, and vice versa. This also reflects the broader transformations taking place in society, indicating that the law itself must evolve dynamically in response to such developments.<sup>14</sup> However, legal development should not merely involve the introduction of new regulations or the replacement of old regulations with new ones it must also ensure legal certainty and protection for all parties involved in the system. This can be observed from the continuous advancement of innovation, which has led to increasingly sophisticated transportation and communication systems within society. Therefore, ensuring that online transportation partners obtain access to social security constitutes a strategic step in achieving the objectives of the Sustainable Development Goals, particularly in relation to poverty reduction and the creation of decent employment opportunities. The regulatory framework governing legal protection for online transportation partners, both at the global and national levels, demonstrates dynamic development in line with the growth of the digital economy and the expansion of the gig economy model.

In the context of global labor governance, the ILO views social protection as an integral component of decent work and has issued several international instruments to encourage member states to develop inclusive and universal social security systems that cover all categories of workers. One such instrument is ILO Social Protection Floors Recommendation, 2012 (No. 202),<sup>15</sup> which emphasizes that

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<sup>14</sup> Astuti, B., & Daud, M. R. (2023). Kepastian Hukum Pengaturan Transportasi Online. *Al-Qisth Law Review*, 6(2), 205-244.

<sup>15</sup> ILO. (2012). *Social Security for All: The ILO Social Protection Floors Recommendation*. Social Security For All Briefing Note, June.

every individual has the right to social protection regardless of whether they are employed in the formal or informal sector. The ILO has also highlighted the emergence of digital and gig economy workers, including online transportation partners, as a new challenge in global labor relations. Consequently, the organization encourages adaptive labor regulations that respond to new forms of work, including the recognition of social security rights for platform workers. In this regard, countries such as Indonesia and Malaysia are expected to develop legal and institutional policies that guarantee access to social security for online transportation partners as part of workers' fundamental rights.

Meanwhile, G20 as both an international forum and the world's largest economic cooperation forum, has placed the protection of digital workers, including online transportation partners, as an ongoing policy concern. The G20 has paid particular attention to the transformation of employment resulting from digitalization, emphasizing that governments must play an active role in safeguarding the rights of digital workers through clear legal regulations, financial support for social protection systems, and the promotion of social protection literacy among informal workers. In various meetings, such as the G20 Labour and Employment Ministers' Meeting, member states have agreed on the importance of establishing social protection systems that are inclusive, flexible, and adaptive to the development of the gig economy and platform-based work. As a member of the G20, Indonesia is therefore expected to respond to these global policy directions through adjustments in its national labor and social security policies.

At the national level in Indonesia, online transportation partners are categorized as self-employed workers under the non-wage earner scheme within the social security system administered by BPJS Employment. Although they are eligible to participate in programs such as Work Accident Insurance, Death Benefits, and Old-Age Security, their participation remains voluntary. As a result, not all online transportation partners are actively protected. Existing legislation,

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including Law No. 24 of 2011 on the Social Security Administering Bodies and Presidential Regulation No. 109 of 2013 on the Phases of Social Security Program Participation, does not explicitly require digital platforms such as Gojek and Grab to assume responsibility for providing social security coverage to their driver-partners. Local governments, such as Jakarta, have at times collaborated with BPJS and platform companies to increase the number of registered drivers within the social security system. However, in the absence of binding national regulations, enforcement remains weak. Consequently, the implementation of social protection largely depends on individual drivers' awareness and the voluntary initiatives of application-based companies, resulting in low participation rates and uneven protection.

In contrast, Malaysia has adopted a more systematic approach through the Self-Employment Social Security Scheme (SESSS), administered by Social Security Organisation (PERKESO). This policy requires self-employed workers in certain sectors, including online transportation drivers, to be registered within the national social security system, supported by government subsidies for contributions. Under Self-Employment Social Security Act 2017 (Act 789), platform workers have a clear legal basis for receiving work accident protection. In addition, Malaysia encourages self-employed workers to save for retirement through the i-Saraan scheme managed by Employees Provident Fund (KWSP). Although participation has not yet become universal, Malaysia's approach demonstrates stronger state intervention supported by a clear legal framework, implementing institutions, and government incentives in ensuring social protection for gig workers compared to Indonesia.

More broadly, both Indonesia and Malaysia continue to face challenges in the implementation of social protection policies. Workers' awareness of social security enrollment remains relatively low, and regulatory support from the state is still evolving. The enforcement of social protection for gig workers remains largely dependent on individual driver's awareness and the voluntary initiatives of platform companies. The legal ambiguity surrounding their employment status compels workers to manage their social security independently, as there are no explicit obligations imposed on

the platforms. This situation has resulted in a very low participation rate around 1.6% leaving most workers without adequate health protection.<sup>16</sup> Similar conditions are found in many developing countries, making this issue a global challenge that requires adaptive, equitable, and welfare-oriented regulatory approaches for digital platform workers. Nevertheless, international policy directions articulated through the SDGs, the ILO, and the G20 exert positive pressure on both countries to establish legal and institutional frameworks that guarantee fair and sustainable legal and social protection for online transportation partners. Indonesia is currently at an early stage of this process and still needs to adopt more progressive approaches, whereas Malaysia is in a transitional phase toward more formalized regulations, demonstrating efforts to adapt labor regulation to the context of the digital economy.

From the perspective of legal protection theory developed by Philipus M. Hadjon, the preventive approach is particularly relevant in the context of protecting online transportation partners, who often occupy a legally and socially vulnerable position. Preventive legal protection should be realized through clear regulations, inclusive social security systems, and the responsibility of both the state and platform companies to provide protection from the outset. Effective legal protection therefore contributes to the realization of justice and legal certainty for individuals within society. For example, policies requiring the registration of driver partners in social security programs from the beginning of their employment constitute a concrete manifestation of preventive legal protection. However, in practice, legal protection in Indonesia remains largely voluntary and passive, as partners must independently register with BPJS Ketenagakerjaan as non-wage earners. This situation creates inequality, as not all partners possess the necessary access, information, or financial capacity to secure their own protection. The

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<sup>16</sup> Lumban Gaol, C. P., Bambang Eko Nugroho, Dadang Sumarna, Asnal Hafiz, & Irsan Rahman. (2026). Analysis of The Legal Status of Gig Workers in Indonesia's Digital Platforms: The Urgency of Sufficient Work Regulations as Social Protection. *Jurnal Smart Hukum (JSH)*, 4(3), 224-241. <https://doi.org/10.55299/jsh.v4i3.1794>

absence of regulations requiring platform companies to contribute to social security financing or registration reflects the limited implementation of preventive legal protection according to Hadjon's framework. Moreover, existing arrangements are largely confined to unilateral partnership agreements that do not fulfill the ideal principles of preventive legal protection.

Conversely, in Malaysia, the regulation established under Act 789, which obliges self-employed workers including online transportation drivers to participate in the SESSS social security scheme administered by PERKESO, represents a more effective implementation of preventive legal protection. Through this framework, the state plays a more active role by providing regulatory mandates and financial subsidies, thereby preventing potential losses or violations of workers' rights from the outset.

By applying the theoretical framework of Philipus M. Hadjon, preventive legal protection for online transportation partners should be realized through legal instruments that proactively guarantee the right to social security, rather than merely offering remedies after problems arise. This approach becomes increasingly important in the context of digital transformation and the expansion of flexible work models, ensuring that informal workers do not become victims of legal gaps that undermine their rights.

## **2. Comparative Legal Protection for Online Transportation Partners in Indonesia and Malaysia in Ensuring Workers' Social Protection Certainty**

The comparison of legal protection for online transportation partners reveals significant differences between Indonesia and Malaysia. In Indonesia, informal workers or partners are not classified as formal employees under the Manpower Law, the Job Creation Law, or the Ministry of Transportation Regulation No. 12 of 2019 concerning the Safety Protection of Motorcycles Used for Public Purposes (Permenhub 12/2019). Employment agreements take the form of unilateral partnership contracts provided by platforms such as Gojek or Grab. These standard contracts tend to be one-sided and do not provide legal certainty regarding minimum wages, social protection

such as social security (BPJS Employment/Health), or occupational accident coverage, thereby favoring the platform providers and placing partners in a vulnerable position. In contrast, in Malaysia, social protection for self-employed workers is more systematically regulated under Act 789 and administered by PERKESO, which mandates participation for self-employed workers in certain sectors. The Malaysian government has also implemented amendments to the Employment Act 1955, introducing a presumption of employment in cases where no written contract exists.

**Table 1:** Comparison of Legal Regulations.

<b>Aspect</b>	<b>Indonesia</b>	<b>Malaysia</b>
Legal Status	Informal worker or partner (not a formal employee)	Independent contractor/freelancer (gig worker)
Legal Basis	Manpower Law, Job Creation Law, Ministry of Transportation Regulation No. 12 of 2019	Employment Act 1955 (amendments), Act 789, Gig Workers Act 2025
Specific Regulation (Gig Worker)	Not yet available	Gig Workers Act 2025
Employment Agreement	Unilateral partnership agreement (standardized by the platform)	Partnership or employment agreement based on mutual consent (written service agreement)

**Source:** Researchers' analysis

Gig workers or freelancers in Malaysia now receive legal protection following the Malaysian Parliament's enactment of the Gig Workers Bill 2025. This regulation provides a legal framework for

approximately 1.2 million workers, including online drivers. Given that the law was only passed within the last three months, it officially recognizes gig workers and establishes welfare guarantees for the digital workforce.

Under the Gig Workers Act 2025, all platform providers and companies employing gig workers are required to provide contracts that explicitly specify minimum standards for payment, work arrangements, insurance coverage, and termination procedures. The law also grants workers avenues to address issues such as unilateral contract termination or unpaid wages. Consequently, these contracts are defined as written service agreements between gig workers and platform providers.

Regarding social protection for self-employed workers, Malaysia has advanced through the implementation of Act 789, which mandates participation in the PERKESO social security scheme. In the Malaysian Budget 2024, the government increased its contribution to the SOCSO program for self-employed workers to 90% and provided incentives for the Employees Provident Fund (EPF) through the i-Saraan program. The Gig Workers Act further strengthens social security entitlements, including EPF, SOCSO, and medical care. Thus, Malaysia has established social security infrastructure such as SOCSO and EPF, offered fiscal incentives, and provided protections that were previously unavailable. In contrast, Indonesia continues to face challenges due to limited legal recognition and reliance on weak, standardized contracts. This highlights a significant opportunity for Indonesia to develop more inclusive and protective regulations for online transportation partners.

**Table 2:** Comparison of Relevant Institutions.

<b>Aspect</b>	<b>Indonesia</b>	<b>Malaysia</b>
Social Protection Agency	BPJS Employment and BPJS Health	SOCSO (Social Security Organization)

Labor Oversight Agency	Ministry of Manpower, Regional Labor Offices	Ministry Of Human Resources (MOHR)
Government Involvement	Limited; regulations are not yet clear or stringent	Actively promotes legislation and provides subsidies for gig worker protection
Platform Providers	Gojek, Grab, Maxim, etc.	Grab, Foodpanda, InDriver, etc.

**Source:** Researchers' analysis

**Table 2:** Comparison of Legal Protection.

<b>Protection Aspect</b>	<b>Indonesia</b>	<b>Malaysia</b>
Social Security	Optional/not automatic; self-funded and not mandatory	Provided through SOCSO and EPF (with subsidies and incentives)
Occupational Accident Protection	Not automatic; depends on BPJS registration	Automatic if enrolled in SOCSO's Self-Employment Social Security Scheme (SESSS)
Minimum Wage and Working Hours	Not guaranteed	Guaranteed under the Gig Workers Act 2025

Dispute Resolution	No specific mechanism; often results in imbalance	Provided under the Gig Workers Act 2025
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**Source:** Researchers' analysis

These tables provide a comprehensive overview of how two Southeast Asian countries, Indonesia and Malaysia, address the legal challenges in protecting online transportation partners. Malaysia appears to adopt a more progressive approach in social security and legislation, whereas Indonesia still requires stronger regulations that favor gig workers. Collectively, the three tables also indicate that Malaysia is relatively more advanced in terms of regulatory frameworks, institutional management, and forms of social protection for gig workers, while Indonesia remains dependent on individual compliance and unilateral platform contracts.

In comparing legal protection for online transportation partners in Indonesia and Malaysia, Radbruch's theory can be used to assess the extent to which the laws in each country fulfill the values of legal certainty, justice, and effectiveness. Gustav Radbruch's theory of legal certainty emphasizes that the concept of legal certainty is realized when the law functions as a rule that must be obeyed.<sup>17</sup> Legal certainty constitutes a crucial foundation for the protection of online transportation partners, as without a clear legal basis, their position remains uncertain between worker and employer. Employment relationships should be established on the basis of mutual agreement between the employer and the worker.<sup>18</sup> In Malaysia, legal certainty for online transportation partners has begun to take shape through concrete government measures aimed at establishing a more systematic legal framework for workers in the digital economy. The implementation of the Self-Employment Social Security Scheme under

<sup>17</sup> Halilah, S., & Arif, M. F. (2021). Asas Kepastian Hukum Menurut Para Ahli. *Siyasah: Jurnal Hukum Tata Negara*, 4(II).

<sup>18</sup> Wijayanti, A. (2009). *Hukum ketenagakerjaan pasca reformasi* (Vol. 1). Sinar Grafika.

SOCSO provides structured and legally recognized social protection for gig workers, including online transportation drivers. In addition, voluntary participation in the Employees Provident Fund (EPF) offers a clear legal basis for partners to secure long-term protection, such as retirement savings. The Malaysian government's enactment of the Gig Workers Act further strengthens legal certainty, as the legislation is expected to serve as a distinct legal framework for informal workers who have historically fallen outside conventional labor law protections. These measures demonstrate that Malaysia is progressing toward a legal system that is more predictable, structured, and responsive to the evolving digital economy. In contrast, in Indonesia, legal certainty for online transportation partners remains weak due to the absence of explicit regulations in the Manpower Law and the Job Creation Law that clearly define the legal status of platform workers. The government tends to classify online transportation partners as self-employed or business partners under partnership agreements, thereby excluding them from recognition as employees within legally protected employment relationships.<sup>19</sup> Furthermore, social protection policies through BPJS Employment remain optional and have not been comprehensively regulated in the context of digital labor relations. From the perspective of legal certainty, Malaysia has demonstrated a clearer and more concrete direction through its recent legislation and institutionalized social protection programs, whereas Indonesia remains in an ambiguous and normative phase. The uncertainty regarding employment relationships in Indonesia reflects the absence of one of the fundamental values of law according to Radbruch: a legal system capable of providing clarity and tangible protection for all citizens, including online transportation partners.

A just law is one that is non-discriminatory and provides equal treatment to all individuals.<sup>20</sup> The political will demonstrated in Malaysia reflects the state's awareness of the need to treat online

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<sup>19</sup> Cahyono, A., Kusuma, I. F., & Kusumo, H. H. (2024). Hubungan Hukum Kemitraan antara Driver Online dengan Penyedia Layanan. *Perspektif Hukum*, 317-331.

<sup>20</sup> Radbruch, G. (1932). *Legal philosophy*.

transportation partners more fairly, taking into account their vulnerabilities and limited bargaining power relative to platform companies. In contrast, in Indonesia, their status as business partners is not formally recognized within the labor law framework, and therefore they do not receive essential rights afforded to informal workers. Unilateral contracts issued by platform companies further exacerbate the imbalance in employment relationships and undermine the principle of legal equality.

Under these conditions, the value of justice, as conceptualized in Radbruch's theory treating each individual according to their rights and proportionately has not yet been fully realized in Indonesia. From the perspective of justice, Malaysia appears more progressive, balancing economic and social interests through policies that accommodate digital platform workers, whereas Indonesia remains in a transitional phase toward establishing a legal framework capable of ensuring substantive justice for online transportation partners.

In the context of legal protection for online transportation partners, the effectiveness of the law can be assessed by the extent to which policies and regulations enhance the welfare, job security, and livelihood stability of partners within the digital economy. In Malaysia, the effectiveness of the law is evident through the implementation of the Self-Employment Social Security Scheme under SOCSO, which provides tangible benefits such as protection against occupational accidents, disability, and death for online transportation partners. Additionally, voluntary participation in the Employees Provident Fund (EPF) allows gig workers to save and secure retirement benefits. These measures show that the law functions not merely as a formal rule but also delivers practical benefits that enhance social security and overall welfare for freelance workers.

The Malaysian government further demonstrates an orientation toward effectiveness through the Gig Workers Act, which is expected to expand protections and create economic stability for partners. Malaysia's legal system aligns with Radbruch's concept of effectiveness, as it adapts to the needs of modern society, particularly workers in the digital sector. In Indonesia, the effectiveness of legal protection for online transportation partners remains limited. The status of partners

as self-employed workers results in the absence of tangible legal benefits, such as mandatory social security, occupational safety protections, and access to effective dispute resolution. Although the government has collaborated with BPJS Employment to allow voluntary registration, implementation remains limited and lacks enforceable legal power. As a result, the majority of partners remain vulnerable to occupational hazards and income loss. The lack of formal recognition of the employment relationship means that the law has yet to provide clear economic or social benefits for partners.

From the perspective of effectiveness, Malaysia demonstrates a more efficient application of the law, as its social protection policies provide direct and tangible benefits for digital service workers. In contrast, Indonesia remains at a normative stage, where the law has not yet fully delivered social effectiveness for online transportation partners. To achieve the level of effectiveness envisaged by Radbruch, Indonesia needs to strengthen its regulations and implementation mechanisms so that the law functions as a true instrument of social welfare rather than merely an administrative framework.

Regulation must be able to balance the interests of users, service providers, and the broader public interest. Effective regulation must strike a balance among the interests of users, service providers, and the broader public, while carefully considering the economic implications for platform operators. Stricter rules concerning labor protection and social security have the potential to increase operational costs, which may, in turn, lead to higher prices or necessitate restructuring of existing business models. Given that platform-based business models are fundamentally designed to minimize labor related obligations by classifying workers as independent contractors, tighter regulatory frameworks would directly alter firms' cost structures and risk profiles.

Nevertheless, the implementation of proportionate and adaptive regulation remains essential to ensuring market stability and the long-term sustainability of the digital ecosystem. Achieving harmony between improving workers' welfare and maintaining the financial viability of service providers is therefore critical to preserving the

competitiveness and economic feasibility of the app-based transportation industry.

In other words, every legal provision should be formulated in accordance with societal needs and should reflect these three objectives of law. Therefore, the regulations enacted can contribute to the achievement of national welfare.<sup>21</sup>

Based on the theory of the objectives of law proposed by Gustav Radbruch, it can be concluded that Malaysia is closer to achieving legal perfection in providing protection for online transportation partners, as it has begun to fulfill the aspects of legal certainty, justice, and expediency. In contrast, Indonesia still has many gaps, particularly in terms of legal certainty and tangible protection for partners. Therefore, legal reform has become an urgent necessity in order to realize these three legal values in a balanced manner.

In Indonesia, the limited regulations governing the legal status and social security rights of platform partners make them vulnerable to economic risks, accidents, and loss of income without adequate protection. This condition hampers the achievement of Sustainable Development Goal 1, particularly in the implementation of social protection systems, due to the potential for long-term economic vulnerability. Meanwhile, in Malaysia, protection has been more progressive through schemes such as the Self-Employment Social Security Scheme, which integrates platform workers into the national social security system. This comparison indicates that, in order to realize SDG 1, Indonesia needs to reform its legal framework and policies so that social security coverage extends to all forms of modern employment, including the online transportation sector. Thus, the relevance of SDG 1 lies in encouraging legal systems in both countries to ensure social justice and equal protection for all workers without exception, while also reducing the risk of structural poverty.

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<sup>21</sup> David, D. (2021). Keberadaan surat ijo dikaji berdasarkan pendekatan kasus dan teori tujuan hukum Gustav Radbruch. *Jurnal Education and Development*, 9(4), 478-484.

### **C. Conclusion**

The conclusion of this study indicates that the regulation of legal protection for workers in digital-based services, including online transportation partners, is still at a developmental stage globally. Several countries have begun to recognize and formulate legal frameworks to protect gig workers. At the international level, particularly through forums such as the Group of Twenty, International Labour Organization, and the Sustainable Development Goals, there is an emphasis on the need to adapt labour policies and strengthen flexible social protection systems. Meanwhile, in Indonesia, the legal status of online transportation workers is still categorized as business partners or informal workers; therefore, existing regulations, including the Law No. 13 of 2003 on Manpower and the Law No. 11 of 2020 on Job Creation, have not explicitly guaranteed social protection for them.

A comparison between Indonesia and Malaysia shows that Malaysia has taken more progressive steps in providing legal protection for online transportation partners. Through schemes such as the Self-Employment Social Security Scheme (SESSS), administered by the Social Security Organisation, as well as initiatives related to the Gig Workers Act, Malaysia actively facilitates social protection for workers engaged in digital-based services. In contrast, Indonesia still faces legal gaps that result in workers' vulnerability to occupational risks and limited access to social protection. Efforts to harmonize cross-sectoral policies within Indonesia's bureaucracy can be pursued through an integrative approach, beginning with regulatory mapping to disentangle overlaps among labor regulations, the Job Creation Law, and sector-specific transportation rules.

This process should be reinforced by the establishment of inter-ministerial coordination forums to formulate standardized protection frameworks and a uniform definition of platform workers, and further solidified through overarching regulatory instruments to prevent legal disharmony. Ultimately, the success of this implementation depends on a clear allocation of authority and the adoption of an integrated digital monitoring system to ensure legal certainty and policy consistency for both business actors and workers within the platform ecosystem. In this regard, cross-sectoral regulation, strengthened government

involvement, and the provision of sustainable social protection programs are essential to ensuring effective legal and social protection for workers in this sector.

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