

Regulating Ride-Hailing for Decent Work: A Legal Evaluation of Indonesia and Spain's Regulatory Frameworks

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Abstract

The growing proliferation of digital transportation services has disrupted traditional labour relations, often excluding ride-hailing drivers from formal labour protections. In Indonesia, this exclusion is institutionalized through a partnership model that fails to ensure decent work standards. This study aims to evaluate the extent to which Indonesia's legal framework fulfills the five Fairwork indicators (fair pay, fair conditions, fair contracts, fair management, and fair representation) and to compare it with Spain's regulatory approach. Employing a normative legal method supported by statutory, conceptual, and comparative approaches, the research analyzes primary and secondary legal materials across the two jurisdictions. The analysis uncovers that Indonesia's fragmented and non-binding regulations fall short of guaranteeing decent work, particularly in areas such as income security, algorithmic transparency, and collective representation. In contrast, Spain's Riders' Law offers a more coherent and enforceable framework by presuming employment status and regulating algorithmic management. The study recommends that Indonesia adopt key elements of Spain's model to strengthen labour protections for platform workers. These include normative reclassification, procedural guarantees to govern algorithmic management, collective empowerment, and legislative anchoring to general labour law.

1. Introduction

Ride-hailing and other digital transportation services have rapidly transformed into indispensable public mobility infrastructures,¹ yet the labour law regime governing the workers who sustain these systems remains strikingly underdeveloped.² As a manifestation of the platform economy business model, this sector has fundamentally altered the traditional employment law paradigm by detaching work performance from formal employment relationships.³ Consequently, companies evade core labour law obligations under the pretext of flexibility and autonomy, while the work itself often structured around task-based engagements requiring minimal formal skills.⁴ Despite the rhetoric of innovation and empowerment, the model remains embedded within a capitalist framework that prioritizes

¹ Hana Salvia, Enni Soerjati Priowirjanto, and Agus Suwandono, 'Operator Responsibilities in Safeguarding Consumer Rights Against GPS Spoofing in Ride-Hailing Services', *Padjadjaran Jurnal Ilmu Hukum*, 11.2 (2024), 208-30 <<https://doi.org/10.22304/pjih.v11n2.a3>>.

² Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy*, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (New York: Oxford University Press, 2018) <<https://doi.org/10.1093/oso/9780198797012.001.0001>>.

³ Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdwork, and Labour Protection in the "Gig-Economy"', *Comparative Labour Law & Policy Journal*, 37.3 (2016), 1-51 <<http://ssrn.com/abstract=2682602>>The usual disclaimer applies. Electronic copy available at: <https://ssrn.com/abstract=2682602> Electronic copy available at: <http://ssrn.com/abstract=2682602>.

⁴ Silaban and others.

profit accumulation through exploitation, market domination, and the commodification of new resources.⁵ Srnicek conceptualizes this configuration as “platform capitalism”, in which data function as the primary extractive asset, collected, analyzed, and monetized⁶, while simultaneously displacing responsibility for worker welfare. The resulting contradiction underscores an urgent legal problem: the growing incapacity of labour law to respond to digitally mediated forms of work that are economically essential yet legally marginalized.

The monopolistic control of access to and ownership over key resources—data, networks, and users—by platform companies has generated a new form of economic inequality and wealth concentration.⁷ At first glance, these companies appear to grant workers greater flexibility in determining when and where to work. Yet, beneath this veneer of autonomy lies a sophisticated mechanism of control exercised through algorithmic management. This system enables companies to govern crucial aspects of operations—such as fare setting, task allocation, and performance evaluation—while maintaining the illusion of worker independence. Initially, under the logic of classical microeconomic theory, such companies positioned themselves merely as intermediaries between consumers seeking services and drivers seeking income opportunities.⁸ However, as profitability pressures intensified, these platforms restructured their business models to extract greater surplus value from labour and data generated through user activity.⁹ This shift was institutionalized through the classification of drivers as “independent contractors”,¹⁰ a strategic move designed to minimize operational costs and evade legal responsibilities arising from formal employment relationships, according to the labour law.¹¹

On a practical level, several empirical studies¹² reveal that platform capitalism has generated a range of occupational vulnerabilities for drivers. These include low remuneration

⁵ Nick Srnicek, ‘Platform Capitalism’, *Revista Brasileira de Inovação*, 18.2 (2019), 449–454 <<https://doi.org/10.17323/1726-3247-2019-1-72-82>>.

⁶ Maribel Casas-Cortés, Montserrat Cañedo-Rodríguez, and Carlos Diz, ‘Platform Capitalism’, *Oxford Research Encyclopedia of Anthropology*, October 2023, 2023, 1–26 <<https://doi.org/10.1093/acrefore/9780190854584.013.597>>.

⁷ Nick Srnicek, ‘Value, Rent and Platform Capitalism’, in *Work and Labour Relations in Global Platform Capitalism*, 2021, pp. 29–45.

⁸ Koen Frenken and Juliet Schor, ‘Putting the Sharing Economy into Perspective’, *Environmental Innovation and Societal Transitions*, 23 (2017), 3–10 <<https://doi.org/10.1016/j.eist.2017.01.003>>.

⁹ Jamie Woodcock and Mark Graham, *The Gig Economy: A Critical Introduction*, Polity Press (Cambridge: Polity Press, 2020); Niels van Doorn and Adam Badger, ‘Platform Capitalism’s Hidden Abode: Producing Data Assets in the Gig Economy’, *Antipode*, 52.5 (2020), 1475–95 <<https://doi.org/10.1111/anti.12641>>.

¹⁰ Jeroen Meijerink and Anne Keegan, ‘Conceptualizing Human Resource Management in the Gig Economy: Toward a Platform Ecosystem Perspective’, *Journal of Managerial Psychology*, 34.4 (2019), 214–32 <<https://doi.org/10.1108/JMP-07-2018-0277>>.

¹¹ María Luisa Pérez Guerrero and Miguel Rodríguez Piñero Royo, ‘Social Security for Spain’s Platform Workers: Self-Employed or Employee Status?’, *International Social Security Review*, 74.3–4 (2021), 177–94 <<https://doi.org/10.1111/issr.12283>>.

¹² Sabina Dewan and Kaushiki Sanyal, *Empowerment or Exploitation: Global Perspectives on Women’s Work in the Platform Economy*, JustJobs Network, 2023; International Labour Organization, *Decent Work in the Platform Economy: Reference Document for the Meeting of Experts on Decent Work in the Platform Economy*, 2022; European Agency for Safety and Health at Work (EU-OSHA), *Spain: The ‘Riders’ Law*, *New Regulation on Digital Platform Work*, 2022 <[230](https://healthy-</p>
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coupled with excessive working hours; the absence of social protection and effective dispute resolution mechanisms; persistent discrimination and occupational health risks; barriers to collective bargaining; and the underutilization of workers' skills. In Indonesia, growing awareness of these precarious conditions has sparked collective mobilizations among drivers, exemplified by coordinated application shutdowns and mass demonstrations in several major cities on May 20, 2025. These actions reflect widespread dissatisfaction with the lack of welfare protection and the perceived exploitative tendencies of platform policies.¹³ This phenomenon is not entirely novel. Over the past few years, debates concerning labour exploitation, income inequality, and profit concentration within platform-based industries have increasingly attracted public and academic attention.¹⁴ Consequently, the role of law becomes critically important – not only in delineating the boundaries of permissible business conduct, but also in ensuring that digital labour practices comply with principles of fairness, legality, and social justice.¹⁵

The absence of legal protection for ride-hailing drivers stems from the asserted existence of a “partnership” arrangement between the platform company and its drivers—a classification that effectively excludes drivers from the rights and protections ordinarily afforded to conventional employees. Izzati, in 2022, identifies this as a logical distortion of the partnership concept, marked by a disproportionate imbalance of power and liability between the parties.¹⁶ Similarly, in 2024, Oey argues that the implementation of such relationships is highly subordinative, closely resembling an employment relationship.¹⁷ In the same vein, Mas, *et.al* in 2022 explicitly contend that the interaction between the parties fulfills all three defining elements of an employment relationship under Indonesia's Manpower Law.¹⁸

workplaces.osha.europa.eu/en/publications/spain-riders-law-new-regulation-digital-platform-work-0>; Felix Hadwiger, *Realizing the Opportunities of the Platform Economy through Freedom of Association and Collective Bargaining*, ILO Working Paper 80 (Geneva, 2022) <<https://doi.org/10.54394/ward7939>>; OECD, *Policy Responses to New Forms of Work, Policy Responses to New Forms of Work* (Paris: OECD Publishing, 2019) <<https://doi.org/10.1787/0763f1b7-en>>;

¹³ Angie Meidyana, 'Aksi Massa Ojek Online 20 Mei 2025, Ini Tuntutan Lengkapnya', *Metro TV News*, 2025 <<https://www.metrotvnews.com/play/NP6C3Por-aksi-massa-ojek-online-20-mei-2025-ini-tuntutan-lengkapnya>>.

¹⁴ I Dewa Gde Ery Suputra Suputra, I Gede Agus Kurniawan, and Anak Agung Ayu Ngurah Sri Gorda, 'Ethics In Business Law : A Paternalistic Legal Philosophy Approach From John Stuart Mill', *SASI*, 31.1 (2025), 70–81.

¹⁵ I. Gede Agus Kurniawan and others, 'The Business Law in Contemporary Times: A Comparison of Indonesia, Vietnam, and Ghana', *Substantive Justice International Journal of Law*, 7.2 (2024), 114–41 <<https://doi.org/10.56087/substantivejustice.v7i2.297>>.

¹⁶ Nabiyla Risfa Izzati, 'Ketidakseimbangan Kewajiban Para Pihak Dalam Regulasi Ojek Online : Distorsi Logika Hubungan Kemitraan Ekonomi Gig Pelindungan Keselamatan Pengguna Sepeda Motor Yang Digunakan', *Undang: Jurnal Hukum*, 5.2 (2022), 325–56 <<https://doi.org/10.22437/ujh.5.2.325-356>>.

¹⁷ Williams Oey, 'Misklasifikasi Hubungan Kerja Pengemudi Ojek Online (Platform Worker) Di Indonesia', *Veritas et Justitia*, 10.1 (2024), 153–78 <<https://doi.org/10.25123/vej.v10i1.7722>>.

¹⁸ Prenade Mas, Agusmidah, and Suria Ningsih, 'Studi Komparasi Hubungan Kerja Non-Standar Dependent Self Employment Dalam Hukum Ketenagakerjaan Di Indonesia Dan Hukum Inggris Pada Era Gig Economy', *Mahadi: Indonesia Journal of Law*, 1.2 (2022), 181–99 <<https://doi.org/10.32734/mah.v1i2.9024>>.

Despite substantial scholarly criticism rejecting the notion of corporate neutrality or mere intermediation, the Indonesian government has legitimized this “partnership” claim through the issuance of the Minister of Transportation Regulation No. 12 of 2019 (hereinafter Permenhub 12/2019) – the sole regulatory instrument governing ride-hailing operations in Indonesia. This regulatory stance illustrates that, although the structure of employment has evolved, Indonesian labour law remains largely static and non-adaptive, contradicting Satjipto Rahardjo’s theory of progressive law, which emphasizes law’s responsiveness to social change.¹⁹ Moreover, such stagnation is inconsistent with the constitutional obligation to fulfill the right to decent work and a proper standard of living for every citizen, as enshrined in Article 27(2) of the 1945 Constitution.

In addressing the evolving nature of employment, the International Labour Organization (ILO) emphasizes that the principles of decent work must equally extend to workers in the platform economy.²⁰ Heeks further identifies five key indicators of decent work within this context: fair pay, fair conditions, fair contracts, fair management, and fair representation.²¹ In contrast to Indonesia’s regulatory stagnation, Spain has adopted a more adaptive and progressive legal framework that embodies these principles by explicitly integrating platform-based work into the general labour law. The country is recognized as having the highest number of judicial rulings concerning the protection of platform-based workers in Europe,²² and notably became the first EU member state to formally recognize platform drivers as “workers”.²³ This recognition was institutionalized through *Real Decreto-Ley 9/2021* – commonly referred to as the “Riders’ Law”, which establishes a statutory presumption of employment for platform drivers and legally acknowledges algorithmic management as a form of employer control through mandatory transparency obligations. By incorporating platform work within existing labour law doctrines rather than treating it as a regulatory exception, Spain provides a coherent legal response to the structural vulnerabilities of platform workers. For this reason, Spain constitutes a relevant and methodologically justified point of comparison in assessing how Indonesian labour law might be reoriented to address the precarious position of ride-hailing drivers.

Beyond Spain’s doctrinal innovation, the juxtaposition of Indonesia and Spain reveals a deeper structural divergence in how civil law jurisdictions respond to platform capitalism.

¹⁹ M. Zulfa Aulia, ‘Hukum Progresif Dari Satjipto Rahardjo: Riwayat, Urgensi, Dan Relevansi’, *Undang: Jurnal Hukum*, 1.1 (2018), 159–85 <<https://doi.org/10.22437/ujh.1.1.159-185>>.

²⁰ International Labour Organization, *Realizing Decent Work in the Platform Economy* (Geneva: International Labour Office, 2024) <<https://www.ilo.org/resource/conference-paper/ilc/113/realizing-decent-work-platform-economy-0>>.

²¹ The five indicators of decent work in the platform economy were developed by Heeks based on the ILO’s indicators of decent work which were then contextualized against the characteristics of the platform economy and referred to the results of the Tripartite negotiations (workers, platforms and government) in a workshop in Geneva with the ILO and UNCTAD as the main facilitators. See Richard Heeks and others, ‘Systematic Evaluation of Gig Work against Decent Work Standards: The Development and Application of the Fairwork Framework’, *The Information Society: An International Journal*, 37.5 (2021), 267–86 <<https://doi.org/10.1080/01972243.2021.1942356>>.

²² Adrian Todolí-Signes, ‘Notes on the Spanish Supreme Court Ruling That Considers Riders to Be Employees’, *SSRN Electronic Journal*, 30, 2020, 1–7 <<https://doi.org/10.2139/ssrn.3717599>>.

²³ AFP.

Indonesia maintains a sector-specific regulatory approach grounded in administrative oversight and contractual partnership classification, whereas Spain has opted for systemic integration of platform labour within general employment law. This contrast is analytically significant because it isolates regulatory design—rather than legal tradition—as the decisive variable shaping worker protection. Examining these divergent trajectories allows for a more precise assessment of how labour law can either entrench or mitigate the precarity inherent in digitally mediated work.

Comparable research was conducted by David Tan in 2021²⁴ who examined the legal status and social protection of platform economy workers, and by Rofi Aulia Rahman, *et.al* in 2024²⁵ who analyzed the concept of decent work in the platform economy through the lens of Indonesian and European Union law. Similarly, the study by Rekson Silaban *et al.* in 2023 identifies fundamental regulatory gaps in Indonesia's partnership system and proposes two policy options to improve labour and social protection for platform-based transportation workers.²⁶ While these studies provide valuable descriptive and policy-oriented insights, they largely treat decent work as a normative aspiration or policy objective rather than as a set of legally operational standards. In particular, existing research has yet to systematically evaluate platform work regulation by employing decent work indicators as binding legal benchmarks within labour law analysis, especially in a comparative context. This study seeks to fill that gap by structuring its comparative analysis of Indonesian and Spanish legal frameworks around the fulfillment of five decent work indicators as legally relevant standards. By doing so, the study moves beyond identifying regulatory absence and instead assesses the normative adequacy of existing legal arrangements, intending to extract regulatory principles to inform *ius constituendum* in Indonesia.

2. Methods

This study employs a normative juridical research methodology using legislative, conceptual, and comparative approaches. The analysis applies a vertical normative review to assess the conformity of Indonesia's ride-hailing regulatory framework—particularly Permenhub 12/2019—with higher legal norms, including the 1945 Constitution, the Manpower Law, and relevant international labour and human rights obligations. The comparative approach examines the Indonesian and Spanish legal frameworks across three principal dimensions: (1) specific statutory provisions governing platform work; (2) regulatory structure and employment classification of platform drivers; and (3) the allocation of legal and economic risks, including the practical implications of these arrangements for drivers' protection. Beyond formal legality, the study adopts a substantive equality approach to examine whether the regulatory framework effectively addresses structural vulnerabilities faced by platform drivers arising from economic dependency, algorithmic control, and unequal bargaining power. Primary and secondary legal materials are collected through an

²⁴ David Tan, 'A Brave New Frontier in the Dichotomous Indonesian Labour Law: Gig Economy, Platform Paradox and Workers Without Employers', *Mimbar Hukum*, 33.1 (2021), 1–38.

²⁵ Rofi Aulia Rahman, József Hajdú, and Valentino Nathanael Prabowo, 'Digital Labour Platformer's Legal Status and Decent Working Conditions: European Union and Indonesian Perspective', *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 7.1 (2024), 157–75 <<https://doi.org/10.24090/volkgeist.v7i1.10366>>.

²⁶ Silaban and others.

extensive literature review. The results of the analysis are systematically presented using descriptive, evaluative, and argumentative techniques. The central legal issue concerns the extent to which the Indonesian and Spanish legal frameworks fulfill the five Fairwork indicators as legally meaningful standards of decent work, evaluated hierarchically from basic to advanced indicators as follows:

Table 1. Indicators of Fairwork in the Platform Economy

Indicators	Basic Indicators	Advanced Indicators
Fair Pay	Provides remuneration not lower than the applicable local minimum wage.	Provides the local minimum wage inclusive of associated work-related costs.
Fair Conditions	Reduces risks inherent to the specific tasks performed.	Proactively enhances the quality of working conditions.
Fair Contracts	Comprehensive and clearly articulated terms and conditions are accessible.	The contract genuinely embodies the legal and factual realities of the employment relationship.
Fair Management	Decisions affecting workers are subject to a fair and transparent due process.	Management systems operate on equitable principles, and workers' data are collected transparently with informed consent.
Fair Representation	Mechanisms for worker representation and the right to freedom of association are ensured.	A formally recognized workers' collective exists and is empowered to engage in collective representation and bargaining.

Source: Richard Heeks, *et.al* (2021)²⁷

3. Results and Discussion

3.1 Decent Work Standards for Drivers under Indonesian Law

In Indonesia, the regulation of ride-hailing is fragmented and predominantly governed by sectoral administrative instruments, particularly Permenhub 12/2019. While this regulation provides legal recognition to platform-based transportation services, its compatibility with constitutional guarantees, labour law principles, and international decent work obligations remains contested. Accordingly, this discussion evaluates the Indonesian ride-hailing regulatory framework against the five Fairwork indicators as legally binding standards of decent work. Despite the fragmented regulatory landscape, Permenhub 12/2019 is the only regulation specifically dedicated to governing the ride-hailing business, whereas other regulations²⁸ are more general but relevant to driver protection. Accordingly, this study has conducted a comprehensive review of Permenhub 12/2019 and identified several articles explicitly addressing the fulfillment of the five indicators of decent work, as outlined below:

Table 2. Provisions in Permenhub 12/2019 related to Fairwork Indicators

Indicators	Articles	Descriptions
Fair Pay	Article 7	Paragraph (1) stipulates that the service fee is determined by mutual agreement between the driver and the passenger, whereas paragraph (2) emphasizes that the

²⁷ Heeks and others.

²⁸ Other regulations only address the ride-hailing sector indirectly, including Government Regulation No. 44 of 2015 on work accident and death insurance, and Minister of Transportation Decrees No. KP 667 of 2022 juncto No. KP 1001 of 2022 on service fee calculation, none of which establish substantive labour protection for drivers..

		agreed fee must correspond to the amount displayed in the application.
	Article 11	The calculation of service fees is governed by the relevant Ministerial Regulation.
	Article 12	The company is obliged to adhere to the formula and guidelines for calculating service fees as set forth in Article 11.
Fair Conditions	Article 16 paragraph (3h)	Ensuring drivers' entitlement to compensation in the event of an accident.
	Article 16 paragraph (3l)	Ensuring drivers' entitlement to employment and health-related social security protection in accordance with applicable laws and regulations.
Fair Contracts	Article 15	The platform-driver relationship is constructed as a partnership model.
Fair Management	Article 14	Concerning operational standards and procedures for the suspension or termination of contracts.
	Article 16 paragraph (3b-g)	The regulatory protections for drivers include obligations for on-site registration, specified conditions for suspension or termination, prior warning requirements, procedural clarification, the right to rebut administrative actions, and pathways for account reactivation.
Fair Representation	Article 16 paragraph (3a)	Provision of services for driver complaints and dispute resolution.
	Article 18	The obligation of the platform company to provide a complaint service center for addressing suspension and termination sanctions against partners.

Source: Processed by the author based on Permenhub 12/2019

In general, when assessed against the normative objectives of Permenhub 12/2019—namely, “*safety protection of motorcycle users for the benefit of the community*”—this regulation is not specifically designed to govern the ride-hailing ecosystem or the employment aspects therein. From its inception, the regulation primarily aimed to provide legal legitimacy to the ride-hailing business, which had previously experienced horizontal conflicts with conventional motorcycle taxis,²⁹ as well as to address the issue of motorcycles not being recognized as “public transportation” under applicable law.³⁰ Consequently, the regulation’s provisions regarding the platform-drivers relations, as well as the protection of drivers’ rights to decent work, remain largely superficial and leave various unresolved issues, which can be described as follows:

a. Fair Pay

Fair pay, as a foundational decent work indicator, requires not merely the absence of underpayment but the provision of remuneration sufficient to secure a livelihood consistent

²⁹ 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*, ed. by Arif. Keban, Yeremias. T., Hernawan, Ari., dan Novianto (Yogyakarta: IGPA Press, 2021), pp. 21–46 <<https://igpa.map.ugm.ac.id/2021/12/07/unduh-buku-menyual-kerja-layak-dan-adil-dalam-ekonomi-gig-di-indonesia/%0A%0A>>.

³⁰ Ahmad Agung Febrianto, Habib Muhsin Syafingi, and Suharso Suharso, ‘Efektivitas Peraturan Menteri Perhubungan Nomor 12 Tahun 2019 Tentang Keselamatan Pengguna Sepeda Motor Yang Digunakan Untuk Kepentingan Masyarakat Dalam Mewujudkan Keselamatan Dan Keamanan Di Magelang’, *Borobudur Law and Society Journal*, 2.1 (2023), 1–8 <<https://doi.org/10.31603/9940>>.

with human dignity. In Indonesia's ride-hailing sector, this standard is structurally negated by the existing regulatory framework. Permenhub No. 12/2019 imposes no obligation on platform companies to ensure compliance with minimum wage standards. Instead, service fees are nominally framed as agreements between drivers and passengers, while in reality being unilaterally determined through platform-controlled algorithmic pricing. This arrangement rests on a legal fiction: although Article 7(1) suggests driver autonomy in setting fares, Article 7(2) confines such autonomy to the price displayed in the application, thereby legitimizing the platform's decisive control over pricing and drivers' income. The subsequent Ministerial Decrees (KP 667/2022 *juncto* KP 1001/2022) further entrench this imbalance by establishing upper and lower tariff limits while permitting deductions for application rental fees and so-called welfare support costs.³¹ Although the decrees frame these limits as net service fees after indirect cost deductions – up to 15% for application rental and 5% for welfare support – the percentages are rendered non-definitive. The ninth dictum explicitly opens a legal loophole by allowing platforms to exceed these limits under the vague justification of 'business continuity,' thereby diluting driver protection. This weakness is compounded by the absence of enforceable sanctions: under Eighth Dictum B of KP 1001/2022, the Director General merely "...*may issue recommendations for sanctions..*", rendering enforcement discretionary, non-binding, and legally uncertain for drivers.

When assessed against Indonesia's labour law framework, this regulatory approach amounts to a deliberate circumvention of mandatory wage protections. Articles 88–89 of the Manpower Law establish minimum wages as non-derogable state guarantees of a decent livelihood, yet Permenhub 12/2019 permits platform-mediated 'agreements' wholly detached from these standards. This is not a regulatory omission but an active neutralization of statutory labour rights and a retreat of the State from its constitutional duty. Such displacement undermines Article 27(2) of the 1945 Constitution on the right to dignified work and Article 28D on legal certainty and equal treatment. This constitutional inconsistency contrasts with the Doctrine of the Positive Obligation of the State, which holds that the State must act, rather than merely refrain from interference, to ensure the effective protection of rights and freedoms.³² Constitutional rights to work and to legal certainty impose not only negative duties upon the State to refrain from interference, but also positive duties to respect, protect, and fulfil those rights. The obligation to respect requires the State to avoid adopting regulatory measures that directly undermine minimum wage guarantees established by labour legislation. The obligation to protect requires the State to prevent private actors, including platform companies, from circumventing statutory wage protections through contractual or

³¹ The Minister of Transportation of the Republic of Indonesia has issued guidelines for calculating the cost of motorcycle use services used for the benefit of the public which is carried out with an application (online motorcycle taxi) repeatedly in a fairly rapid period of change and change. Starting with the Ministry of Transportation No. KP 348 of 2019 which was last amended through the Ministry of Transportation KP No. 348 of 2022, then revoked with the Ministry of Transportation No. KP 564 of 2022 which was last amended by the Ministry of Transportation No. KP 633 of 2022 and finally revoked through the Ministry of Transportation No. KP 667 of 2022 and last amended through the Ministry of Transportation No. KP 1001 of 2022.

³² Vitaliy B. Kovalchuk and others, 'Human Rights and Positive Obligations of the State', *Journal of the National Academy of Legal Sciences of Ukraine*, 28.3 (2021), 27–35 <[https://doi.org/10.37635/jnalsu.28\(3\).2021.27-35](https://doi.org/10.37635/jnalsu.28(3).2021.27-35)>.

algorithmic arrangements. The obligation to fulfil requires the State to establish an effective regulatory framework ensuring that remuneration in platform labour meets constitutionally mandated standards of decent livelihood.

Indonesia's constitutional duties are further reinforced by Indonesia's obligations under ILO Conventions No. 131 and No. 95, which require effective state intervention to prevent substandard remuneration—an obligation reflected in the Fairwork framework, where minimum wage compliance is treated as a legal baseline, not a policy aspiration. Crucially, Article 91 of the Manpower Law renders any agreement producing remuneration below the minimum wage null and void by operation of law, regardless of consent. Applied to platform work, this provision exposes the legal fiction of the alleged 'agreement' on service fees displayed in the application: even if drivers are deemed to have consented to algorithmically determined earnings, such consent is legally irrelevant where income falls below state-mandated wage standards. The fair pay deficit in platform labour therefore cannot be reduced to income volatility or weak enforcement; it reflects a structurally embedded system of disguised wage suppression. The combination of hour-dependent pay and algorithm-driven task allocation often compels drivers to remain online for excessively long periods, simply to generate a minimally sufficient income.³³ Empirical data indicate that 39% of drivers work a full week without a day off, 30% work more than eight hours per day, and some even work up to 19 hours per day, which far exceeding the 40-hour/week limit under Indonesian labour law and the 48-hour/week threshold recognized by the ILO.³⁴

In addition, drivers' earnings fluctuate depending on the company's algorithmic job allocation system, which evaluates drivers' average working hours and ratings. Consequently, the longer a driver works, the higher the likelihood of receiving subsequent job assignments. This system incentivizes drivers to extend their working hours in competition with peers to secure more jobs. Simultaneously, an oversupply of drivers can force individuals to accept low-paying jobs.³⁵ Transparency in the algorithm is limited and, in certain cases, may be modified at the discretion of the company.³⁶ This situation is further exacerbated by periods of idle time or waiting before receiving job assignments, during which drivers are not compensated for their availability on the platform. An assessment conducted by the Ministry of Transportation's Research and Development Unit (Balitbang) revealed drivers' daily income ranges between IDR 50-100 thousands representing the national average for ride-hailing drivers.³⁷ It is important to note that this income does not account for operational expenses such as vehicle maintenance and repair, fuel, and internet quotas, which further

³³ Treviliana Eka Putri, Paska Darmawan, and Richard Heeks, 'What Is Fair? The Experience of Indonesian Gig Workers', *Digital Geography and Society*, 5.May 2022 (2023), 1-5 <<https://doi.org/10.1016/j.diggeo.2023.100072>>.

³⁴ Ah Maftuchan, Eka Afrina Djahhari, and Rahmanda Muhammad Thaariq, *Pengemudi Ojek Daring Dan Kerja Layak* (Jakarta, 2018).

³⁵ International Labour Organization, *Realizing Decent Work in the Platform Economy*.

³⁶ Sara Baiocco and others, *The Algorithmic Management of Work and Its Implications in Different Contexts, JRC Working Papers Series on Labour, Education and Technology* (Seville, 2022) <<https://joint-research-centre.ec.europa.eu/system/files/2022-06/JRC129749.pdf>>.

³⁷ Vika Azkiya Dihni, 'Senja Kala Profesi Ojek Online?', *Kata Data*, 2023 <<https://katadata.co.id/analisisdata/6436ac5d9a7f4/senja-kala-profesi-ojek-online>>.

reduce drivers' net earnings.³⁸ Given the significant power imbalance between drivers and platform companies, the Confederation of Indonesian Trade Unions (KSPI) has emphasized that the government should take a more decisive role in establishing a legally enforceable minimum wage for drivers.³⁹

From a substantive equality perspective, these conditions demonstrate that the absence of a legally enforceable minimum wage is not merely a regulatory gap, but a structural failure to realize the living wage principle as an integral component of the right to decent work. By tolerating excessive working hours, algorithm-driven income instability, and weak wage guarantees, the current regulatory framework enables exploitative labour practices that systematically suppress drivers' real earnings while preserving the appearance of contractual autonomy. As such, Indonesia's ride-hailing regulations fail to satisfy the fair pay standard under the Manpower law, constitutional guarantees, and international labour obligations.

b. Fair Conditions

In ensuring decent working conditions, basic indicators focus on mitigating risks inherent in the performance of work, while advanced indicators require proactive improvements and the allocation of responsibility to the party exercising control over the labour process. Although Article 16(3) of Permenhub 12/2019 formally recognizes drivers' entitlement to employment injury and health insurance, under Government Regulation No. 44 of 2015, this protection is hollowed out by the classification of drivers as 'partners.' As non-wage participants under Article 5(3) of the Regulation, drivers must independently register and fully finance their social security contributions, as no obligation is imposed on platform companies to ensure coverage. Social protection is thus reduced to an individual choice rather than a mandatory condition of work. This design reveals a core legal flaw: the problem lies not in the insurance scheme, but in the misclassification of drivers as autonomous actors. Such classification is incompatible with labour law's economic dependency and control tests,⁴⁰ given drivers' reliance on platforms for income and their subjection to algorithmic allocation, ratings, pricing, and sanctions. In practice, several platform companies collaborate with insurance providers to offer limited coverage schemes and partner with repair shops to provide maintenance discounts. However, participation costs are entirely borne by drivers, which discourages enrollment and results in widespread under-protection.⁴¹ By externalizing employment risks entirely to drivers, while retaining decisive control and economic benefit, platform companies effectively avoid employer liability.

Regulatory inconsistencies further reinforce this structural weakness. The eighth dictum of the Ministry of Transportation Decrees allows companies to allocate up to 5% of service fees for "welfare support," including additional insurance, training, health services, complaint

³⁸ Putri, Darmawan, and Heeks.

³⁹ Naufal Mamduh, 'Bisakah Diatur Tarif Atau Upah Minimum Bagi Driver Ojek Online?', *Tirto.Id*, 2018 <<https://tirto.id/bisakah-diaturn-tarif-atau-upah-minimum-bagi-driver-ojek-online-cHbp>>.

⁴⁰ ILO Recommendation No. 198 (2006) requires the existence of an employment relationship to be determined by factual indicators – particularly economic dependency and control – rather than by the parties' contractual classification. See Valerio De Stefano and others, *Platform Work and The Employment Relationship*, ILO Working Paper 27 (Geneva: ILO, 2021).

⁴¹ Zidna Aufima, 'Jaminan Keselamatan Kerja Bagi Pengemudi Go-Jek Di Surabaya', *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang*, 2.1 (2019), 1–15.

handling, and conditional operational assistance. These provisions are discretionary rather than mandatory, and even when implemented, they are financed through deductions from drivers' own income. Such "optional" norms do not amount to protection; instead, they reflect a form of regulatory abdication by the State, whereby the obligation to ensure fair working conditions is formally acknowledged but substantively relinquished. By legitimizing the partnership model and maintaining the misclassification of drivers, the regulatory framework enables companies to remain structurally exempt from core labour protections, thereby undermining the realization of decent working conditions in the platform economy. From an international law perspective, this framework is incompatible with the State's obligation to ensure safe and healthy working conditions under ILO Convention No. 155 and the broader decent work agenda. These standards require States to prevent the shifting of occupational risks onto workers through contractual or legal fictions. By allowing working-condition protections to operate voluntarily and permitting the systematic transfer of social security responsibilities to drivers, the Indonesian regulatory regime falls short of its duty to ensure effective and non-illusory labour protection.

This regulatory design is not a mere doctrinal oversight; it reflects the State's deliberate preservation of regulatory flexibility at the expense of labour protection. By maintaining the partnership classification and refusing to impose mandatory employer obligations, the State institutionalizes informalization within the platform economy. The rhetoric of digital innovation is repeatedly invoked to legitimize deregulation, obscuring the systematic transfer of occupational risks to drivers while safeguarding platform profitability. In effect, the Indonesian regulatory framework does not simply weaken decent work standards—it reconstitutes decent work from a mandatory constitutional labour right into a market-contingent privilege subject to corporate discretion.

c. Fair Contracts

The basic indicator of fair contracts requires contractual clarity, while the advanced indicator demands that the contract substantively reflects the real nature of the working relationship. Article 15 of Permenhub 12/2019 classifies the platform–driver relationship as a partnership subject to the Civil Code (KUHPperdata), thereby invoking freedom of contract under Articles 1320 and 1338 KUHPperdata. This construction presumes equal bargaining power and genuine consent—assumptions that are patently fictitious in platform-mediated work. The reliance on contractual autonomy operates as a form of legal formalism that obscures structural dependency and legitimizes substantively unfair agreements. Labour law emerged precisely to correct this failure of classical contract law under conditions of inequality, occupying a distinct normative space between civil law and public law.⁴² Where economic dependency and subordination exist, unrestrained freedom of contract becomes inherently exploitative. This principle has been affirmed by the Constitutional Court in Decision No. 168/PUU-XXI/2023, which recognized workers as the weaker party and held

⁴² Dede Agus and others, 'The Freedom of Contract Principle in Contract of Employment', *Pena Justisia: Media Komunikasi Dan Kajian Hukum*, 24.1 (2025), 1993–2012 <<https://doi.org/10.31941/pj.v24i1.5976>>.

that contractual freedom must be restrained by statutory safeguards⁴³ Accordingly, Indonesian labour law imposes mandatory minimum standards to prevent consent from being used to justify unfairness, a corrective logic reflected in Article 55 of the Manpower Law, which restricts unilateral contractual modification even within recognized employment relationships. Platform practices stand in direct contradiction to this principle. Partnership agreements and working conditions are routinely modified unilaterally through application updates, algorithmic recalibrations, and incentive restructuring, without prior notice or meaningful consent from drivers.⁴⁴ Consent is presumed automatically through continued platform use, converting silence into agreement and enabling the circumvention of labour law constraints on employer power.⁴⁵ The normalization of unilateral modifications thereby exposes the partnership classification as a legal fiction divorced from economic reality.

Substantively, the platform–driver relationship exhibits the core elements of employment stipulated in Article 1, number 15 of the Manpower Law. *First*, the “work” performed by drivers is personal and non-delegable, as drivers must personally provide transport or delivery services.⁴⁶ *Second*, remuneration is not freely negotiated but is algorithmically determined through pricing mechanisms, incentive structures, and performance-based systems that directly shape drivers’ income.⁴⁷ *Third*, control/command is exercised through rating systems, algorithmic job allocation, sanctions, and the ultimate power of account deactivation, all of which discipline drivers’ conduct and restrict their autonomy.⁴⁸ These features demonstrate a clear imbalance of bargaining power and establish subordination incompatible with a genuine partnership that naturally should reflect an equal position.⁴⁹ Multiple researchers⁵⁰ have ultimately concluded that the partnership contract is, in effect, a disguised employment relationship, lacking the formal and substantive equality expected in a genuine partnership. International labour standards reinforce this conclusion. ILO Recommendation No. 198 warns against the misclassification of employment relationships through contractual labels and obliges States to ensure that legal form does not override

⁴³ Muhidin and Faisal Santiago, ‘Reconstruction of the Principles of Justice in Employment Agreements Post Constitutional Court Decision No .168/PUU-XXI/2023’, *Greenation International Journal of Law and Social Sciences*, 3.4 (2025), 1440–50 (p. 1446) <<https://doi.org/https://doi.org/10.38035/gijlss.v3i4>>.

⁴⁴ Silaban and others.

⁴⁵ Dian Hadiati, Abdul Rachmad Budiono, and Hanif Nur Widhiyanti, ‘Legal Relationship Between Platform Service Providers and Online Transportation Driver in Indonesia’, *Journal of Public Administration, Finance and Law*, 29, 2023, 199–210 (p. 200) <<https://doi.org/https://doi.org/10.47743/jopaf1-2023-29-18>>.

⁴⁶ Mas, Agusmidah, and Ningsih.

⁴⁷ Sunardi, ‘Ilusi Insentif Di Gojek: Cara Perusahaan Platform Mengontrol Pekerja Gig Dalam Relasi Kemitraan Yang Semu’, in *Menyoal Kerja Layak Dan Adil Dalam Ekonomi Gig Di Indonesia*, ed. by Yeremias T. Keban, Ari Hernawan, and Arif Novianto (Yogyakarta: IGPA Press, 2021), pp. 63–78.

⁴⁸ Aulia D Nastiti, *Worker Unrest and Contentious Labour Practice of Ride-Hailing Services in Indonesia*, *Arryman Symposium* (Illinois, 2017).

⁴⁹ Rahandy Rizki Prananda and Zil Aidi, ‘Tinjauan Yuridis Kedudukan Pengemudi Transportasi Online Dalam Perjanjian Kemitraan Dengan Perusahaan Penyedia Aplikasi Transportasi Online’, *Law, Development and Justice Review*, 2.2 (2019), 135–62 <<https://doi.org/10.14710/ldjr.v2i2.6139>>.

⁵⁰ Izzati; Mas, Agusmidah, and Ningsih; Oey.

economic reality dependencies.⁵¹ Accordingly, State intervention in platform labour relations is not an intrusion into contractual autonomy but a legal necessity. Where bargaining power is structurally unequal, the State must set and enforce minimum labour standards that bind employers irrespective of contractual form. Without such intervention, freedom of contract ceases to function as a guarantee of autonomy and instead becomes a mechanism for legitimizing inequality and the erosion of worker protections in the digital labour market.

d. Fair Management

The managerial aspect in the platform economy is characterized by the extensive use of algorithms and artificial intelligence (AI), making a transparent and reasonable decision-making process a fundamental indicator for assessing the fairness of work. In the ride-hailing sector, algorithmic management operates through ‘gamified work,’ whereby rules are translated into targets, ratings, points, and sanctions that structure work allocation, income levels, and continued access to the platform.⁵² Drivers who fail to meet opaque performance metrics are systematically disadvantaged through reduced task allocation or deactivation,⁵³ incentivizing excessive working hours and competitive self-discipline.⁵⁴ Crucially, platforms provide no meaningful disclosure of data use, decision logic, or human oversight, while automated sanctions are imposed without notice, justification, or effective appeal.⁵⁵ Decisions directly affecting drivers’ livelihoods are thus rendered through opaque systems treated as final, reproducing classic due process violations marked by the absence of transparency, procedural fairness, and accountable authority.⁵⁶ Taken together, these mechanisms amount to the exercise of disciplinary authority traditionally associated with an employer. The platform’s denial of employment status thus operates as a legal fiction, enabling it to evade labour obligations while retaining decisive control over drivers’ livelihoods.

Such practices are fundamentally incompatible with Indonesian Manpower Law. Company rules that regulate working conditions and discipline (*peraturan perusahaan*) are legally required to incorporate worker input (Article 110) and to be notified, explained, and formally communicated to workers, including any amendments (Article 114). Algorithmic rules in ride-hailing platforms function equivalently to company regulations, yet are continuously modified without consultation, disclosure, or consent. The assumption that drivers automatically “know and agree” to unilateral digital changes reflects a fictitious and

⁵¹ Zbigniew Hajn, ‘The International Labour Organisation Recommendation No. 198 and Self-Employed Workers’, *Acta Universitatis Lodzianensis, Folia Iuridica*, 107 (2024), 41–53 (p. 43) <<https://doi.org/https://doi.org/10.18778/0208-6069.107.03>>.

⁵² Laura Schulze and others, ‘Algorithmic Unfairness on Digital Labour Platforms: How Algorithmic Management Practices Disadvantage Workers’, in *International Conference on Information Systems, ICIS 2022: ‘Digitization for the Next Generation’* (Copenhagen, 2022), pp. 1–17.

⁵³ Taofik Hidajat, Agung Hendra Kusuma, and Achmad Sulchan, ‘Gamification in Ride-Hailing: What Drives a Driver to Drive’, *Advances in Economics, Business and Management Research*, 169 (2021), 241–24 <<https://doi.org/https://doi.org/10.2991/aebmr.k.210311.047>>.

⁵⁴ Holy Rafika Dhona and Gigih Mahatattwo, ‘Pangkalan Gojek : Ruang Produk Kapitalisme Digital’, *Jurnal Komunikatif*, 10.1 (2021), 1–15 <<https://doi.org/10.33508/jk.v10i1.3039>>.

⁵⁵ Sangeet Paul. Choudary, *The Architecture of Digital Labour Platforms : Policy Recommendations on Platform Design for Worker Well-Being* (ILO, 2018).

⁵⁶ Putri, Darmawan, and Heeks.

formalistic notion of consent that directly contradicts labour law's procedural safeguards, which exist precisely to restrain unilateral managerial power in structurally unequal relations.

Permenhub 12/2019 not only fails to correct this imbalance but also entrenches it. Although the regulation alludes to transparency in sanctions and deactivation, it imposes no binding obligations concerning algorithmic explainability, human oversight, or procedural safeguards, nor does it establish enforceable consequences for non-compliance. As a result, Permenhub 12/2019 operates as a procedural regulation devoid of substantive safeguards, amounting to regulatory abdication rather than protection. This regulatory design runs counter to principles of good governance and legal accountability. International labour and human rights standards increasingly recognize that automated decision-making affecting workers must be subject to human-in-the-loop oversight as a minimum legal standard, particularly where decisions implicate income security and job continuity.⁵⁷ By permitting opaque algorithmic control without transparency, accountability, or worker participation, Indonesia's current framework legitimizes arbitrary managerial power under the guise of technological neutrality, reflecting a structural failure to uphold due process and fair treatment in platform-based work.

e. Fair Representation

Fair representation under the Fairwork framework cannot be reduced to individualized complaint mechanisms; it requires the effective recognition of collective voice through freedom of association and collective bargaining. Although, as mentioned in Table 2, Permenhub 12/2019 formally provides drivers with access to dispute-resolution channels, these mechanisms are strictly individual and confined to contesting platform-imposed sanctions or account decisions. They do not constitute representation in the labour law sense, as they exclude collective organization and deny drivers any institutional capacity to negotiate working conditions, remuneration, or contractual terms. This regulatory design amounts to structural silencing rather than a mere normative gap. By channeling participation into application-based, individualized grievances, the framework fragments workers, neutralizes bargaining power, and prevents the emergence of drivers as a collective legal subject.⁵⁸ In practice, the platform economy presents significant challenges to fulfilling fair representation, including the individualization of workers and the threat of retaliation in the form of contract termination or future ineligibility.⁵⁹ The geographical dispersion of platform workers further limits opportunities for interaction and solidarity,⁶⁰ while algorithmic and rating systems encourage competition among drivers for job allocation.⁶¹ These mechanisms operate as structural arrangements that suppress collective action, thereby consolidating platform's full

⁵⁷ Uma Rani and others, *The Role of Digital Labour Platforms in Transforming The World of Work* (Geneva: ILO, 2021), p. 22.

⁵⁸ Hakeem Adeniyi Ajonbadi and others, 'Exploring the Voice and Representation Mechanisms of Platform Workers and Implications for Decent Work in the Nigerian Gig Economy', *Journal of Industrial Relations*, 2025, 1-29 <<https://doi.org/10.1177/00221856251337191>>.

⁵⁹ Graham, Mark, and Jamie Woodcock, 'Towards a Fairer Platform Economy: Introducing the Fairwork Foundation', *Alternate Routes: A Journal of Critical Social Research*, 29 (2018), 268-82.

⁶⁰ Felix Hadwiger, *Realizing the Opportunities of the Platform Economy through Freedom of Association and Collective Bargaining*, ILO Working Paper 80 (Geneva, 2022).

⁶¹ Yanyou Chen, Yao Luo, and Zhe Yuan, 'Driving the Drivers: Algorithmic Wage-Setting in Ride-Hailing', *SSRN Electronic Journal*, 2024, 1-71 <<https://doi.org/10.2139/ssrn.4299499>>.

control over labor governance⁶² through the unilateral imposition of standard partnership contracts⁶³ and the automatic implementation of policy changes without prior consultation or consent.⁶⁴

The classification of ride-hailing drivers as ‘partners’ excludes them from institutional labour structures, effectively stripping freedom of association of its legally protected functions and rendering it illusory. As a result, no ride-hailing drivers’ organization is officially recognized in Indonesia.⁶⁵ This exclusion directly contradicts Indonesian labour law principles. Article 102(2) of the Manpower Law assigns trade unions a substantive role, including democratically articulating workers’ interests and negotiating improvements in welfare, reflecting a non-formalistic conception of freedom of association. Workers are not merely entitled to form unions; those unions must be afforded real space to function and bargain collectively. This substantive understanding is equally embedded in international human rights law, as reflected in Articles 20(1) and 23(4) of the UDHR, Article 22 of the ICCPR, and Article 8 of the ECHR. Since the 1998 ILO Declaration, freedom of association and collective bargaining have been affirmed as universal and functional labour rights binding on all Member States by virtue of membership and applicable to all workers irrespective of ratification.⁶⁶ Consistently, ILO Conventions Nos. 87 and 98 link freedom of association to the State’s duty to ensure that workers’ organizations can operate effectively and engage in genuine collective bargaining. Regulatory arrangements that fragment workers or confine participation to individualized grievance channels are therefore fundamentally incompatible with these core labour rights.

Permenhub 12/2019 exhibits a clear vertical inconsistency with both Indonesian Manpower Law and international labour standards. By privileging individualized, application-based grievance mechanisms while remaining silent on collective representation, the regulation departs from the substantive model of freedom of association embedded in Article 102 paragraph (2) of the Manpower Law and reinforced by ILO norms. This regulatory design does not merely reflect a legal gap; it institutionalizes a governance model that structurally suppresses collective voice and entrenches asymmetrical control in favor of platform companies. Accordingly, Permenhub 12/2019 fails to meet the Fairwork standard of

⁶² Helena Verhuyck, ‘The Achilles Heel of the Platform-To-Business Regulation: No Unfair Term Protection for Platform Workers?’, *Journal of Law, Market and Innovation*, 3.3 (2024), 260–93.

⁶³ Muljanto, Gindo L. Tobing, and Wiwik S. Widiarty, ‘Legal Protection of the Rights and Obligations of Online Ojek Drivers Based on Partnership Agreements in Terms of Indonesian Positive Law’, *Jurnal Scientia*, 12.3 (2023), 2408–22.

⁶⁴ De Ruyter, Alex, and Riani Rachmawati, ‘“Understanding the Working Conditions of Gig Workers and Decent Work: Evidence from Indonesia’s Online Ojek Riders”’, *Sozialpolitik*, 2.4 (2020), 1–16 <<https://doi.org/doi.org/10.18753/2297-8224-159>>.

⁶⁵ Henriko Tobing, ‘The Gig Economy Dilemma: Exploring Alternatives to Create Decent Work for Online Motorcycle Taxi Drivers in Indonesia’, *Jurnal Ketenagakerjaan*, 19.2 (2024), 168–83 <<https://doi.org/10.47198/jnaker.v19i2.340>>.

⁶⁶ Charalampos Stylogiannis, ‘Freedom of Association and Collective Bargaining in the Platform Economy: A Human Rights-Based Approach and An Over Increasing Mobilization of Workers’, *International Labour Review Journal*, November, 2021, 1–37 (p. 21) <<https://doi.org/https://dx.doi.org/10.2139/ssrn.3959155>>.

fair representation, as it reinforces unilateral managerial power rather than fulfilling the State's obligation to protect core labour rights in digitally mediated work relations.

3.2 Decent Work Standards for Drivers under Spanish Law

In recent years, the Spanish Supreme Court has fundamentally redefined the concept of “worker” to respond to the structural realities of platform-mediated labour.⁶⁷ In its landmark judgment of September 2020, the Court classified ride-hailing couriers as employees, not by relying on formal contractual labels, but by adopting a functional subordination approach grounded in the factual organization of work. The Court explicitly recognized that algorithmic management—manifested through digital intermediation, rating systems, and data-driven allocation of tasks—constitutes a contemporary form of employer control and supervision.⁶⁸ Rather than negating subordination, digital platforms were understood as intensifying and technologizing managerial authority, with workers' economic dependence on the application reinforcing, rather than diminishing, the employment relationship. This doctrinal shift articulated a critical legal principle: contractual autonomy and digital intermediation cannot be used to obscure the existence of employer control where functional subordination is present. Building on this jurisprudential foundation, the Spanish Government initiated a tripartite social dialogue involving the main trade unions—the Trade Union Confederation of Comisiones Obreras (CCOO) and the Unión General de Trabajadores (UGT)—and business organizations, namely the Spanish Confederation of Business Organizations (CEOE) and the Spanish Confederation of Small and Medium Enterprises (CEPYME). This process culminated in a political and legal consensus that was formalized through *Royal Decree-Law No. 32/2021* (Ley Rider), thereby translating judicial doctrine into binding statutory standards and decisively reshaping the paradigm of employment relations by reaffirming that platform-mediated work falls within the protective ambit of labour law.⁶⁹

The Riders' Law represents a decisive legal intervention by the Spanish state to correct the systemic misclassification of platform workers, particularly in the logistics and delivery sector.⁷⁰ By introducing a presumption of employment, the regulation reverses the burden of proof and places it squarely on platform companies to demonstrate the absence of an employment relationship.⁷¹ This marks a significant victory for platform workers, as recognizing their employee status grants them access to legal employment rights, including sick leave, work accident protection, layoff benefits, pensions, maternity leave, and the entitlement to establish associations and participate in collective bargaining processes. The progress of Spanish law in protecting platform economy workers through the presumption of employment has served as an example for other EU countries, which later developed the

⁶⁷ Adrian Todolí-Signes.

⁶⁸ Spanish Supreme Court, 'Sentencia Del Tribunal Supremo No. 805/2020, de 25 de Septiembre de 2020. ECLI:ES:TS:2020:2924', 2020, pp. 1–20 <https://wilfredosanguineti.wordpress.com/wp-content/uploads/2023/01/sts_2924_2020-caso-glovo-25-9-20.pdf>.

⁶⁹ 'Resolution of 19th May 2023, of the Directorate General for Labour, Registering and Publishing the 5th Agreement for Employment and Collective Bargaining', *BOE Consolidated Legislation*, 2023, pp. 1–20 <https://www.mites.gob.es/ficheros/ministerio/sec_trabajo/ccnc/D_AspectosNormativos/AcuerdosInterconfederales/23-1714-EN-BOE-A-2023-12870-consolidado-ingles.pdf>.

⁷⁰ Fulvio Mannino, 'Ley Rider: A New Era for Digital Platform Workers' Rights in Spain', *Diritto Della Sicurezza Sul Lavoro*, 2, 2025, 21–57.

⁷¹ Global Deal, *Collective Bargaining in the Platform Economy: The Impact of Spain's "Riders' Law"*, 2023.

Platform Workers Directive.⁷² Beyond addressing the problem of misclassification, the Riders' Law further introduces rules governing algorithmic decision-making processes that directly impact workers' terms and conditions of work.⁷³

Crucially, the Riders' Law does not operate as a standalone or *ad hoc* sectoral regulation. Instead, it is deliberately integrated into Spain's general labour law framework through amendments to the *Estatuto de los Trabajadores* (ET), regulated under Royal Legislative Decree 2/2015.⁷⁴ This legislative strategy reflects a deliberate internal recalibration of labour law, rather than the creation of a parallel regime for platform work. By embedding platform regulation into general employment law, Spain preserves the systemic coherence of its labour protection framework and prevents the fragmentation of workers' rights along technological or sectoral lines. These normative coherencies can be examined as follows:

First, the Riders' Law revises Article 23 of the ET to introduce provisions related to the presumption of employment based on four indicators, namely:⁷⁵

- (1) the service is performed by an individual;
- (2) the service involves the distribution or delivery of consumer goods or commodities;
- (3) the company exercises organizational, managerial, or supervisory authority, whether directly, indirectly, or implicitly; and
- (4) such authority is exerted through algorithmic systems.

The legal significance of this amendment lies not merely in enumerating factual indicators but in the explicit recognition of algorithmic systems as instruments of employer control. By affirming that organizational, managerial, or supervisory authority may be exercised "directly, indirectly, or implicitly," Article 23 deliberately forecloses platform attempts to deny employment status through technological mediation. The provision affirms that control need not be explicit or acknowledged: once authority is exercised through algorithms, incentives, or automated sanctions, employment status is presumed regardless of contractual form.

In principle, a general presumption of employment has been stipulated in article 8(1) of the ET which establishes that a person is presumed to be an employee unless proven otherwise, as long as the following elements are present: (i) the provision of services, (ii) subordination to the organization and direction of another party, and (iii) receipt of remuneration. However, the Supreme Court has traditionally interpreted this provision as a largely formal definition of an employment contract, thereby limiting its normative and practical legal force.⁷⁶ This formalistic reading created interpretive space for digital platforms to reframe managerial control as mere "technological coordination". The amendment of

⁷² Council of the EU, 'Platform Workers: Council Confirms Agreement on New Rules to Improve Their Working Conditions', 2024 <<https://www.consilium.europa.eu/en/press/press-releases/2024/10/14/platform-workers-council-adopts-new-rules-to-improve-their-working-conditions/>>.

⁷³ María Luz Rodríguez Fernández, 'La Participación de Las Personas Trabajadoras En La Gobernanza de La Transición Digital: Las Experiencias de La Unión Europea y de España', *Revista de Derecho Social*, 101 (2023).

⁷⁴ Mannino.

⁷⁵ (Ley, 2021)

⁷⁶ Adrián Todolí-Signes, 'Spanish Riders Law and the Right to Be Informed about the Algorithm', *European Labour Law Journal*, 12.3 (2021), 399–402 <<https://doi.org/10.1177/20319525211038327>>.

Article 23, therefore, functions as a concrete operationalization of Article 8(1), closing these loopholes by expressly rearticulating subordination in algorithmic terms.

Beyond its classificatory function, the presumption of employment introduced by the Riders' Law performs a redistributive role by reallocating the burden of proof in favor of workers. Rather than operating as a mere evidentiary technique, this presumption functions as a structural safeguard against systematic misclassification in labour relations marked by deep asymmetries of power and information. By obliging companies to disprove employment status, the law explicitly acknowledges that workers are structurally excluded from access to algorithmic, organizational, and contractual data that evidences subordination.⁷⁷ In this respect, the presumption operationalizes the theory of burden-of-proof redistribution:⁷⁸ where one party monopolizes access to decisive evidence, neutrality in proof allocation reproduces domination. By compelling platforms to justify their classification, the regulation reassigns procedural risk to the data-controlling actor, thereby functioning as a structural corrective to entrenched information asymmetry. Normatively, the presumption constitutes a mandatory rule of labour law that overrides private contractual labels and curbs the formalistic invocation of freedom of contract. It reflects the core protective logic (*favor laboratoris*) of labour law, affirming that State intervention is necessary to prevent economically dominant actors from masking employment relations through contractual design and to ensure that economic reality, rather than legal fiction, governs the allocation of labour protections.⁷⁹

Second, the Riders' Law introduces Article 64(4)(d), which obliges companies to disclose to workers' representatives the instructions, rules, and parameters underlying any algorithmic or AI-based systems that influence decision-making. This obligation is not a mere administrative reporting duty, but a procedural labour right that institutionalizes collective oversight over automated management. By granting access to workers' representatives, rather than individual workers, the provision strengthens collective capacity to scrutinize how algorithms shape access to work, income distribution, performance evaluation, disciplinary measures, and termination decisions. Normatively, Article 64(4)(d) gives concrete effect to due process in employment relations, ensuring that decisions affecting workers' livelihoods are not produced by opaque and unreviewable systems. Simultaneously, it operates as a safeguard against discrimination in automated decision-making, enabling the detection of biased parameters or unequal outcomes embedded in algorithmic design.⁸⁰ In this sense, the

⁷⁷ Lorenzo Cini, 'How Algorithms Are Reshaping the Exploitation of Labour - Power : Insights into the Process of Labour Invisibilization in the Platform Economy', *Theory and Society*, 52.5 (2023), 885-911 <<https://doi.org/10.1007/s11186-023-09520-9>>.

⁷⁸ Abdul Karim Subhanul Akbar, Risky Agung Firnanda, and Lucas Feng, 'Will Judicial Activism Redefine Justice in Employment Termination Disputes Through Evidence Standards?', *UNNES Law Journal*, 11.2 (2025), 191-224 <<https://doi.org/https://doi.org/10.15294/ulj.v11i1.34705>>.

⁷⁹ Luca Ratti, 'Best Friend, False Friend: The "Favour" Rule in Comparative Labour Law', *Comparative Labour Law & Policy Journal*, 45.1 (2025), 63-86 (p. 65) <<https://doi.org/https://doi.org/10.60082/2819-2567.1023>>.

⁸⁰ Maryam Ghasemaghaei and Nima Kordzadeh, 'Understanding How Algorithmic Injustice Leads to Making Discriminatory Decisions: An Obedience to Authority Perspective', *Information & Management*, 61.2 (2025), 1-14 <<https://doi.org/10.1016/j.im.2024.103921>>; Rahul Jha, 'Algorithmic Bias and Social

Riders’ Law reasserts a foundational labour law principle: technological management does not displace legal accountability, but must remain subject to transparency, fairness, and equality as binding legal standards.

When contextualized within the framework of the Fairwork indicators, the Spanish legal approach may be characterized as follows:

Table 3. Fairwork for Drivers in Spanish Law

Indicators	Fulfillment		Description
	Basic	Advanced	
Fair Pay	✓	✓	The recognition of drivers’ status as workers entitles them to a fixed hourly wage, with rest periods and waiting time duly counted as part of their remunerated working hours.
Fair Conditions	✓	✓	The recognition of drivers’ status as workers entitles them to social security contributions borne by the company, safeguards against arbitrary termination and guarantees of a stable, predictable weekly work schedule.
Fair Contract	✓	✓	The classification of drivers as workers is determined by the substantive reality underlying the employment arrangement, rather than by the unilateral contractual designation imposed by the company.
Fair Management	✓	✓	Companies bear a legal duty to reveal to workers’ representatives any deployment of AI algorithms or systems that affect job conditions, access, or employment security. In addition, the government has established an expert committee tasked with assessing and monitoring the impact of algorithmic management within employment relations.
Fair Representation	✓	✓	Drivers are represented through workers’ representative bodies in collective negotiations, and the Riders’ Law itself emerged as a product of tripartite dialogue involving the government, employers, and trade unions.

Source: processed by the author

As a direct consequence of the Riders’ Law, Spain’s two largest labour confederations, Comisiones Obreras (CCOO) and Unión General de Trabajadores (UGT), entered into a collective agreement with Just Eat Spain, covering approximately 2,000 delivery workers. The agreement regulates core employment conditions, including working time, hourly wages, trade union rights, and algorithmic management, and guarantees substantive improvements, such as an annual salary of €15,200, four weeks of paid leave, and a maximum working day of nine hours.⁸¹ This development signals a structural shift in bargaining power, as platform workers are no longer confined to unilateral standard-form contracts but can engage in collective negotiations. Beyond Eat, several platforms (including GoDelivery, Stuart, Getir, and Gorillas) have reclassified drivers as employees in compliance with the new legal framework.⁸² At the same time, continued resistance by platforms such as Glovo and Uber

Inequality in AI Decision-Making Systems from a Sociological Perspective’, *ShodhKosh: Journal of Visual and Performing Arts*, 5.6 (2024), 3151–56 <<https://doi.org/10.29121/shodhkosh.v5.i6.2024.616>>.

⁸¹ Eurofound, ‘Collective Agreement between JustEat, CCOO and UGT in Spain (Collective Agreement)’, 2022 <<https://apps.eurofound.europa.eu/platformeconomydb/collective-agreement-between-assodelivery-and-ugl-103352>>.

⁸² Luca Serafin, ‘Riders on the Storm: The Riders’ Case in Italy, France and Spain’ (Ca’ Foscari University of Venice, 2022).

Eats has prompted robust state enforcement and underscored the systemic impact of Spain's Riders' Law. Recent enforcement actions underscore the systemic impact of Spain's Riders' Law. Spanish authorities imposed a €450 million social security liability on Glovo for misclassification and continue prosecutorial inquiries,⁸³ including potential penal proceedings against Uber Eats for the continued use of autonomous labour.⁸⁴

Faced with escalating litigation risks and regulatory pressure, leading platforms have begun to materially change their labour models: Glovo completed its transition to formal employment in 2025 by hiring approximately 14,000 riders under salaried contracts, abandoning its autonomous model.⁸⁵ Similarly, Uber Eats announced in early 2026 that it would cease using autonomous riders and adopt exclusively salaried or sub-contracted employment arrangements under Spanish law.⁸⁶ This sequence of sanction, resistance, and eventual compliance demonstrates that the Spanish regulatory framework does not operate symbolically, but materially redistributes power in the platform economy by compelling alignment with labour law standards. In doing so, it underscores effective enforcement as a core element of the rule of law, ensuring that labour regulation is backed by credible sanctions that deter regulatory arbitrage and unfair competition—standing in implicit contrast to the Indonesian regime, where sanctions remain largely discretionary.

Taken together, the Spanish regulatory framework operates as a normative counter-model to the Indonesian approach to platform work. Its strength lies not in the incremental extension of ancillary protections, but in the deliberate reclassification of platform workers within the core architecture of labour law. By affirming the existence of an employment relationship, legally recognizing algorithmic management as a contemporary form of subordination, and fully integrating platform-mediated work into general labour law, Spain reasserts the primacy of labour protections over contractual form and technological mediation. This framework, therefore, functions as a normative benchmark for the comparative analysis that follows, offering a coherent model of how digital labour can be reconciled with the foundational principles of decent work.

3.3 Comparative Analysis of Indonesia and Spain's Legal Frameworks

Indonesian and Spanish labour laws exhibit substantial differences in addressing the evolving employment structures characteristic of the platform economy. With respect to the

⁸³ Eurofound, 'Glovo Faces €450m Spanish Social Security Bill for Misclassifying Riders', 2025 <<https://apps.eurofound.europa.eu/platformeconomydb/glovo-faces-450m-spanish-social-security-bill-for-misclassifying-riders-110271>>.

⁸⁴ Eduardo Ortega Socorro, 'Trabajo Presentará En Enero Una Acción Penal Contra Uber Eats Por Usar Falsos Autónomos', *El Español*, 17 December 2025 <https://www.elespanol.com/invertia/economia/empleo/20251217/trabajo-presentara-enero-accion-penal-uber-eats-usar-falsos-autonomos/1003744059805_0.html>.

⁸⁵ Alfonso Muñoz Fernández, 'Glovo Cede Ante La "Ley Rider" y Completa Su Cambio de Modelo: Contrata a 14.000 Repartidores y Deja de Trabajar Con Autónomos', *El Español*, 1 July 2025 <https://www.elespanol.com/invertia/empresas/tecnologia/20250630/glovo-cede-ley-rider-completa-cambio-modelo-contrata-repartidores-deja-trabajar-autonomos/1003743828048_0.html>.

⁸⁶ Cadena SER, 'Uber Eats Rechaza Seguir Trabajando Con Repartidores Autónomos Para Evitar Consecuencias Legales Tras La Amenaza de Trabajo', 15 January 2026 <<https://cadenaser.com/nacional/2026/01/15/uber-eats-rechaza-seguir-trabajando-con-repartidos-autonomos-para-evitar-consecuencias-legales-tras-la-amenaza-de-trabajo-cadena-ser/>>.

fulfillment of Fairwork indicators, the author summarizes the key legal distinctions between the two jurisdictions as follows:

Table 4. Regulatory Analysis: Indonesia and Spain Legal Frameworks

Indicators	Indonesia	Spain
Fair Pay	× Adopts a fare-based regulatory model, setting only upper and lower limits on service tariffs, without recognizing wages or guaranteeing any minimum remuneration or compensation for drivers.	✓ Applies a wage-based regulatory model, recognizing drivers as employees entitled to fixed hourly wages, with waiting time and breaks counted as paid working hours.
Fair Conditions	× Social security participation is optional and individually borne, with no employer obligation, reflecting drivers’ classification under a partnership-based relationship.	✓ Drivers receive full social protection as a legal consequence of employee status, including employer-funded social security, regulated working hours, paid annual leave, and mandatory rest periods.
Fair Contracts	× Platform relationships are framed as partnerships governed by freedom of contract, resulting in unilateral, non-negotiable standard-form agreements with no state-imposed minimum labour standards.	✓ Platform contracts are governed by labour law logic through the presumption of employment, preventing pseudo-partnership arrangements and subordinating contractual form to employment reality.
Fair Management	× Algorithms are treated as an internal operational tool of the platform, with no recognition of algorithmic systems as managerial authority; legal safeguards are limited to individual requests for clarification, leaving the structural impact of automated decisions on working conditions largely unregulated.	✓ Algorithmic systems are legally recognized as a form of managerial control, triggering enforceable duties of transparency, collective access to information, and human oversight over automated decisions that shape work allocation, evaluation, and termination.
Fair Representation	× The legal classification of drivers as partners structurally excludes them from collective labour rights, effectively denying access to trade unions, collective bargaining, and meaningful social dialogue.	✓ Legal recognition of platform drivers as workers automatically activates collective labour rights, granting access to trade unions, collective bargaining mechanisms, and institutionalized social dialogue.

Source: processed by the author

Based on Table 4, the contrast between Indonesia and Spain reflects two fundamentally different models of State intervention in labour law. Indonesia adopts a model of regulatory accommodation, whereby platform work is governed through sectoral ministerial regulations that formally recognize platform operations while deliberately avoiding intervention in the underlying employment relationship. By classifying drivers as partners, the State embraces contractual formalism – understood as an approach that treats the written contract as legally determinative regardless of the factual realities of economic dependence and control – and relies heavily on private contractual autonomy rooted in freedom of contract. This normative choice produces clear legal causality: the absence of fair pay stems from the lack of wage-based regulation; deficient social protection follows from the denial of worker status; failures in fair management persist because algorithmic control is framed as a neutral internal tool rather than

employer authority; and deficits in fair representation arise because partnership status structurally excludes drivers from collective labour rights.

Spain, by contrast, adopts a model of regulatory integration, embedding platform work directly into its general labour law through the Riders' Law. At its core lies the presumption of employment, which shifts the burden of proof onto platforms to demonstrate the absence of an employment relationship, thereby preventing contractual form from prevailing over economic reality. This reflects a functional approach to labour regulation, in which legal classification turns on how work is organized, managed, and controlled in practice rather than on formal contractual labels. At the same time, Spain prioritizes labour protection over private autonomy, recognizing that in contexts of structurally unequal bargaining power, State intervention is not an exception but a necessity. By treating algorithmic management as a contemporary form of subordination and imposing mandatory labour standards, Spain affirms the labour law logic that freedom of contract must yield to the protection of the weaker party.

The Spanish experience may be positioned as a normative reference model insofar as it operationalizes core labour law doctrines, particularly the presumption of employment, burden shifting, and algorithmic accountability, to address structural power asymmetries inherent in platform work, thereby offering a principled point of reference for legal reform in Indonesia as follows:

1. Normative reclassification: Indonesia should adopt a presumption of employment for platform drivers, coupled with a shift of the burden of proof onto platforms seeking to deny worker status. This mechanism ensures that legal protection is anchored in the factual organization of work, not in contractual labels derived from unequal bargaining positions.
2. Procedural guarantees to govern algorithmic management: Algorithmic transparency, due process, and anti-discrimination safeguards must be recognized as labour rights, reflecting the reality that algorithmic systems function as instruments of managerial authority shaping access to work, income, and job security.
3. Collective empowerment: The explicit recognition of drivers' rights to organize, bargain collectively, and participate in social dialogue. Legal protection must extend beyond individual grievance mechanisms to restore collective voice as a counterweight to unilateral platform control.
4. Legislative Anchoring: Integrating platform work into the Manpower Law – rather than regulating it through fragmented, sectoral instruments – preserves systemic coherence and prevents the creation of a structurally inferior class of workers excluded from core labour protections.

Drawing on Spain's experience in implementing the Riders' Law, legal reform in Indonesia can commence by adopting key components that have proven effective in ensuring decent work for platform drivers. Given the inequality of bargaining power between the parties, it is insufficient for the state to act merely as a facilitator or passive regulator; rather, the state must function as a normative actor, actively exercising substantive legal intervention to secure effective legal protection.⁸⁷ Accordingly, Indonesia's national law must not remain

⁸⁷ Adnan Hamid and Adilla Meytiara Intan, 'Legal Protection for Informal Sector Workers in Employment Development in Indonesia: Challenges and Opportunities', *International Journal of Research in Business and Social Science*, 13.5 (2024), 880-92 <<https://doi.org/10.20525/ijrbs.v13i5.3630>>.

stagnant amid the transformation of the digital economy and the increasingly complex labour structure. Instead, it must adopt a progressive, adaptive, and contextual approach capable of addressing emerging challenges and safeguarding the constitutional entitlement to decent work and sustainable livelihood, as enshrined under Article 27(2) of the 1945 Constitution.

4. Conclusions

The comparative evaluation of Indonesia and Spain reveals a stark divergence in the normative construction of platform labour relations. Spain integrates platform work into general labour law – through the presumption of employment and recognition of algorithmic control – ensuring decent work standards as enforceable legal rights. By contrast, Indonesia’s partnership classification entrenches contractual formalism, systematically excluding drivers from fair pay, social protection, collective bargaining, and meaningful safeguards against algorithmic management. Without reclassification, any sector-specific regulation will remain palliative, leaving Indonesia’s framework in direct conflict with the Constitution’s mandate to protect labour rights, rather than providing transformative protection. Legal reform is therefore imperative, drawing on Spain’s key regulatory components: normative reclassification, procedural guarantees to govern algorithmic management, collective empowerment, and legislative anchoring to general labour law.

Beyond regulatory reform, this study provides practical implications for policymakers, labour unions, and platform companies. Policymakers may draw on the Spanish model as a reference for drafting inclusive labour laws; unions can leverage the Fairwork standards to advocate for platform workers; and platforms can proactively align business practices with decent work principles to foster sustainable industrial relations. Ultimately, harmonizing national law with international standards is essential to safeguard justice, dignity, and equity for all platform workers in Indonesia.

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