

STATUS HUKUM DAN PERLINDUNGAN PEKERJA ECONOMY GIG DALAM HUKUM KETENAGAKERJAAN INDONESIA

ABSTRAK

Disrupsi ekonomi digital mentransformasi struktur ketenagakerjaan Indonesia dan menempatkan jutaan pekerja gig dalam kerentanan akibat kekosongan norma hukum positif. Korporasi platform kerap berlindung di balik status administratif dan asas kebebasan berkontrak untuk melegitimasi praktik kemitraan semu. Penelitian hukum normatif ini bertujuan menganalisis implikasi kekosongan norma tersebut serta mengonstruksi strategi transformasi hukum ketenagakerjaan nasional. Menggunakan Teori Transformasi Hukum Nonet-Selznick dan Hukum Progresif Satjipto Rahardjo, penelitian ini menunjukkan hukum nasional masih terjebak pada fase otonom yang kaku karena belum mampu menjangkau subordinasi modern berupa manajemen algoritmik. Melalui uji silang komparatif terhadap putusan Mahkamah Agung Inggris (worker limb-b) dan Ley Rider di Spanyol, disimpulkan bahwa Indonesia perlu mensintesis pendekatan moderat Inggris guna mencegah pelarian modal. Penelitian ini merekomendasikan pembentukan kategori hukum sui generis baru, yakni Pekerja Platform Digital (Dependent Contractor). Reformasi progresif ini wajib ditopang instrumen transparansi algoritma serta penerapan jaring pengaman sosial melalui sistem pungutan mikro terotomatisasi. Konfigurasi hukum responsif ini akan membebaskan pekerja dari penindasan algoritmik sekaligus menjaga fleksibilitas bisnis ekonomi digital di Indonesia.

Kata kunci: Ekonomi Gig; Kemitraan Semu; Manajemen Algoritmik; Kontraktor Bergantung; Hukum Progresif.

LEGAL STATUS AND PROTECTION OF GIG ECONOMY WORKERS UNDER INDONESIAN LABOUR LAW

ABSTRACT

The disruption caused by the digital economy is transforming Indonesia's employment structure and placing millions of gig workers in vulnerable positions due to gaps in positive law. Platform corporations often rely on their administrative status and the principle of freedom of contract to legitimize sham partnership arrangements. This normative legal research aims to analyze the implications of these regulatory gaps and to construct a strategy for transforming Indonesia's national labor law framework. Drawing on Nonet and Selznick's Theory of Legal Transformation and Satjipto Rahardjo's Progressive Law Theory, this study demonstrates that national law remains trapped in a rigid autonomous phase because it has yet to adequately address modern forms of subordination, particularly algorithmic management. Through a comparative cross-examination of decisions of the Supreme Court of the United Kingdom concerning limb (b) workers and Spain's Rider Law, the study concludes that Indonesia needs to synthesize a moderate approach based on the British model in order to prevent capital flight. This study recommends the establishment of a new sui generis legal category, namely Digital Platform Workers (Dependent Contractors). This progressive reform must be supported by algorithmic transparency instruments and the implementation of a social safety net through an automated micro-contribution system. This responsive legal framework would liberate workers from algorithmic exploitation while preserving the flexibility of digital economy businesses in Indonesia.

Keywords: Gig Economy; Sham Partnership; Algorithmic Management; Dependent Contractor; Progressive Law.