

Justice Social in the Age of Gig Economy: Reconstructing Legal Positivism to Draft Regulations Digital Jobs

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Abstract. The era of the gig economy has change landscape global employment, including in Indonesia, with emergence platform-based digital jobs such as online motorcycle taxis, workers freelance, and freelancer. Although offer flexibility, system This present challenge significant regulation, especially in protect rights digital workers. Existing regulations, which are dominated by law positivism, often focused on certainty law but fail to accommodate justice social for workers. As a result, many digital workers are in a legal status that is not clear, without social protection and basic rights. Research This aims for reconstruct law positivism to be able to compile regulation equitable digital jobs. With approach philosophical and normative, research This analyze weakness law positivism in context digital work, highlighting challenge main such as worker status (employee vs independent contractor), protection social, and relationships complex work in digital platforms. Based on analysis of literature law, international regulation, and studies case, research proposes a reconstruction model law that integrates principal social justice in framework law positivism. Research results show that law positivism need transform from approach formalistic to a more approach adaptive and inclusive. Reconstruction This includes: (1) recognition of legal status hybrid digital workers, (2) compilation mechanism protection universal social for worker gig economy, and (3) development system supervision based on technology for supervise digital platform compliance with regulation. Research novelty This lies in the development of regulatory models based on law Accommodating positivism justice social for digital workers in the gig economy era. This model offers practical and theoretical solutions. For create a system balanced regulation between certaifor law and protection rights workers, at the same time become runway for legal reform employment in the digital era.

Keywords: Gig economy; law positivism; social justice; digital work; regulation.

INTRODUCTION

Digital revolution has brought significant changes in various aspects of life humans, including in field economy and employment (Brynjolfsson & McAfee, 2014). One of the transformation big one that appears is development phenomenon gig economy, which is characterized by work based on digital platforms such as online motorcycle taxi driver, worker freelancers, and providers service other through platforms such as Grab, Gojek, Upwork, and Fiverr (De Stefano, 2016). The system offers flexibility and opportunities economy new for millions of people but also brings challenge complex structural.

In one side, gig economy give contribution big to economy, creating opportunity dynamic work in the middle limitations field work conventional. However, on the other hand, the working model creates serious challenges in context regulations, especially in protecting the rights of digital workers. Most of them worker gig economy status as contractor independent (independent contractors), which makes them No entitled on protection social base like guaranteed health, insurance power work, leave,

and pension (Rolf, 2021). This creates gap protection law between traditional workers and digital workers.

Inequality regulation This the more complex Because approach the law used tend dominated by paradigm law positivism. Legal positivism, which emphasizes certainty law through formal and systematic regulations, often not consider principal justice substantive and context social economy from subject law. In the context of digital work, law positivism shows its limitations in answer need dynamic gig economy (Susskind, 2017). This is seen from lack of regulations that are special arrange protection rights digital worker or adjustment towards the relationship model new job.

As For example, online motorcycle taxi drivers in Indonesia often face uncertainty of legal status: whether they worker still or partner independent business (Junaidi, 2020). This status Not only influence rights them but also create inequality power between workers and platform companies. In addition, no existence framework clear and inclusive laws cause Lots digital workers do not own access to mechanism adequate protection.

Condition This show that law positive that exists Not yet capable accommodate change structure economy generated by digital technology. Approach the law is too formalistic Not only at-risk cause injustice social but also can slow down innovation and growth the digital economy himself (Scholz, T. 2016).

Therefore that, is needed approach new in regulation digital jobs that can answer needs of the times. One of relevant approach is reconstruct law positivism with enter element justice social. Reconstruction This aiming for create framework law that does not only give certainty law but also protect rights digital workers in fair and equitable. With approach this, law expected can become responsive instrument to change social, without sacrifice principles base justice. This aiming for fill in gap the with to study repeat approach law positivism in arrangement digital work, as well as formulate a more regulatory model adaptive and inclusive for gig economy in the digital age.

Legal Positivism : Concept and Criticism

Legal positivism is one of paradigms the most influential law in development knowledge modern law. Paradigm This emphasizes that law is regulations made by legitimate authorities and must be applied in a firm way without considering moral factors or values subjective outside law That Alone.

The Basic Theory of Legal Positivism

John Austin

Austin, one of the pioneer's main law positivisms, defining law as a "command" from sovereign party to society, supported by the threat sanctions. Concept This known as command theory and emphasizes importance authority law as guarantor certainty and obedience.

Jeremy Bentham

Bentham focused on utility law as an instrument for creating happiness the biggest for the greatest happiness for the greatest number of people. support codification law to ensure clear, consistent and enforceable rules are accessible to the public.

HLA Hart

Hart developed theory law positivism with draft primary rules (rules that regulate) behavior) and secondary rules (rules that regulate creation, changes and trials law). Hart also introduced the concept of "rule of recognition" as base legitimacy law in a system law. Hart's approach emphasizes that law is system independent and autonomous, regardless of moral values or politics.

Criticism of Legal Positivism

Although give contribution big in create certainty law, law positivism faces various criticism, especially in context justice social and social change:

Justice Substantive

Legal positivism is often considered ignore principal justice substantive. In practice, valid law according to positivism can just be No fair morally or social. For example, discriminatory laws still considered valid if in accordance with procedure its manufacture, without noticing the impact on the public.

Legal Morality

Critics like Lon L. Fuller argue that law No canseparated fully from morality. Fuller proposed principles internal morality of law, such as clarity, consistency, and fair application, as element important in legitimacy law.

Legal Flexibility

In a context of a dynamic society, law positivism often considered too stiff and not capable of responding to changes social, technological and economic changes in a way fast. In the gig economy era, for example, the approach formalistic law No can accommodate need protection complex digital workers.

Humanization of Law

Approach positivism often criticized Because to put forward certainty and compliance law, so that not enough notice aspect humanity. In the context of digital work, things This seen from lack of regulations that protect rights worker as vulnerable individuals in structure economy platform based.

Relevance in the Digital Age

Criticisms This show the need reconstruction law positivism to be more responsive to modern challenges, including in arrangement gig economy. Fair law Not only question certainty procedural, but also about give equal protection to all the parties involved, especially those who are in position weak in a way structural. This chapter becomes runway for studying How law positivism can reconstruct for create more regulation inclusive and equitable.

Gig Economy and Digital Jobs

Definition of Gig Economy and the Role of Digital Platforms

Gig economy refers to the ecosystem work where individuals involved in work based on project or contract term short, often facilitated by digital platforms. In the system this, relationship Work traditional replaced by pattern Work flexible depending on demand.

Digital platforms such as Gojek, Grab, Upwork, and Fiverr play role centrally in connect worker with consumer or companies that need service.

Gojek and Grab: These platforms facilitate service transportation, shipping food, and logistics, with involving drivers as partners.

Upwork and Fiverr: These two platforms provide room for worker freelance (freelancer) offers skills like design graphics, writing, and development device soft to global clients.

The main characteristics of gig economy include:

Flexibility: Workers own freedom in determine time and type job taken.

Dependence on technology: Digital platforms function as intermediary, managing contracts, payments and evaluations worker.

Fragmentation job: task often divided become work small or specific and limited projects duration.

Challenge Regulation in the Gig Economy

Although they offer flexibility and new opportunities, the gig economy presents various challenges for system laws and regulations, especially regarding legal status workers and protection rights they.

Employee Status: Employee vs Independent Contractor

One of issue main is the uncertainty of legal status workers. Many digital platforms classify workers as independent contractors rather than permanent employees.

Independent Contractor: Worker considered as entity independent responsible answer full on management time, tools work, and results work.

Employee: This status gives workers the right to guarantee social, leave, and protection law other.

Contractor status independent is often used by platforms to avoid not quite enough answer law and costs additional, such as insurance power work and benefits health. This is causing injustice Because worker No own access to protection decent social.

Protection Social

Workers in the gig economy generally No own access to guarantee social, such as:

Insurance health and energy Work.

Pension fund.

Protection of accident Work or termination connection Work in a way unilateral.

Condition This makes more digital workers prone to risk financial and health, especially in situation emergency like COVID-19 pandemic.

Worker's Rights

Living wage: Absence standard consistent minimum wage across platforms.

Fair working hours: Although flexibility is excellence, workers often forced For Work in long time for get adequate income.

The Gap power: Relationship between workers and platforms are often asymmetrical, where the platform has full control on system evaluation, algorithms, and contracts.

Relevance Challenge This in Context Regulation

Uncertainty of legal status workers and the lack of protection social show that regulation moment This Not yet adequate for accommodate dynamics gig economy. System law traditional dominated by law positivism Not yet capable overcome challenge This in a comprehensive way. Therefore, is needed approach newer one responsive and inclusive to create regulation fair digital jobs, which will discussed more carry on in study This.

Justice Social in Legal Perspective

Theory of Justice Social

Justice social is principles that emphasize distribution source power, rights and obligations in a way fair in society. In the context of law, justice social aiming for ensure that law Not only give certainty, but also able to ensure fair treatment for all individuals, especially vulnerable groups.

John Rawls: Theory of Justice

John Rawls proposed the theory known as justice as justice as fairness. Principle the main thing includes:

Principle freedom: Every individual owns equal rights on a free basis, so far freedom they can respect in a way equivalent to everyone.

Principle difference (difference principle): Inequality social and economic allowed provided give benefit the biggest for the least benefited in public.

Equality Opportunities: All individuals must have equal access to position or role social without discrimination.

In context regulation digital work, Rawls' theory is relevant for identify How regulation can reduce inequality between workers and digital platforms, with focus on protection rights vulnerable workers.

Aristotle: Justice Distributive

Aristotle divides justice becomes several types, one of them is justice distributive, which is related to distribution benefits, burdens and rights in society. Principles This emphasizes that distribution must be based on proportions or needs, not absolute similarity.

In context gig economy, justice distributive can interpret as effort for ensure that benefit economy generated by digital platforms is distributed in a way fair, with consider contribution workers and needs they will protection social.

Principle Justice Distributive in Legal Regulations

Principle justice distributive gives framework for to design regulation the law that ensures distribution fair rights and obligations within public.

Implementation in The Context of Legal Positivism

Legal positivism often focusses on certainty and legality, but not enough consider principal justice distributive. In the arrangement of digital work, things reflected from more regulation prioritize platform interests rather than rights worker.

Integration of Justice Distributive in Regulation Digital Jobs

Living wage: Regulation must ensure that digital workers receive proportional compensation with contribution they.

Protection social: Right to guarantee health, insurance and security Work must integrated to in framework regulation.

Participation Workers: Regulations must give worker voice in taking decisions that affect them, for example through formation union digital workers.

Relevance in the Gig Economy Era

In context gig economy, theory justice social functioning as runway philosophical for formulate regulations that are not only to uphold certainty law but also ensure balance between rights and obligations various parties. Approach This important for create system inclusive and adaptive law to challenge socio-economic in the digital era.

This chapter show importance integration principles justice social in reconstruct law positivism, so that regulation digital work can more welfare oriented social.

Framework Theoretical Reconstruction of Legal Positivism

Approach Normative and Philosophical for Reconstructing Legal Positivism

Legal positivism, with focus on legality and certainty law, giving framework important in system modern law. However, changes in social, technological, and economic, such as emergence gig economy, requires law positivism for development so that you can accommodate social justice. Reconstruction law positivism needs approach normative and philosophical that allows adjustment with need public contemporary.

Approach Normative

Analysis existing rules: Approach normative involving assessment against applicable legal norms for identify lack in create social justice.

Formation of new norms: New norms designed for answer challenges that have not been covered by law positive tradition, such as protection digital workers in gig economy.

Compliance with principle base law: Reconstructed norms still must be in harmony with principle base law like certainty, order, and justice.

Approach Philosophical

Principle justice social: Approach philosophical use draft justice social, such as theory Rawls' justice, for direct law positivism to more goals substantive.

Humanization law: Philosophy law that emphasizes values humanity, such as welfare workers and recognition to rights they, become element key in reconstruction law positivism.

Legal flexibility: Reconstruction must also consider need will flexibility law for respond change fast in digital society.

Integration of Elements Justice Social in Positive Law

Reconstruction law positivism aims to integrate element justice social to system law without sacrificing principle base law positivism. This integration can be done through the following steps:

Improvement of the Rule of Law Principle

Principle rule of law in law positivism expanded for covers dimensions social, so that law Not only ensure certainty, but also pay attention to impact to group the most vulnerable communities, such as digital workers.

Adjustment of Legal Norms

Existing legal norms are set up to ensure that they support distribution of fair rights and obligations.

For example, regulations that classify digital workers as contractor independent need customized for give equal rights with worker still.

Approach Contextual in Law enforcement

Enforcement law must consider context social and economic for ensure that implementation law No create inequality new.

In the gig economy, this means ensure that platform algorithms do not cause discrimination or exploitation workers.

Development New Legal Instruments

Regulation new designed for arrange connection Work in gig economy, encompassing confession on rights digital workers, such as protection social, security minimum wage, and access to mechanism fair complaint.

Relevance Framework Theoretical

Framework theoretical This gives runway for formulate a legal model positivism that can accommodate justice social in the gig economy era. Reconstruction This ensures that law is still relevant in facing modern challenges and can function as an instrument for creating a more fair and prosperous society.

This chapter become bridge between draft theoretical law and application in practice in regulation fair digital jobs.

METHOD

This research uses law normative with combination approach philosophy and sociology. Approach This chosen for explore connection between theory law, justice social, and regulatory digital work inside framework law positivism.

Normative Legal Approach

Study law normative focus on analysis against existing legal norms, both written and unwritten in regulation legislation or applicable in practice law. Approach This will be used for research and study the regulations that govern digital workers and the gig economy, as well as analyze justice in existing regulations. Approach normative This help for understand How law applies in the real world and for evaluate weakness or injustice in system applicable law.

Analysis Document: Research will study existing regulations related to digital work, including the law on power work, digital tax, and policies that apply in various countries in arranging platform economy.

legal review: Comparison between system existing laws in various countries will be done for understanding difference in protection digital workers, as well as to see potential for a more regulatory model Good.

Approach Philosophical

Approach This used for dig theories justice, as proposed by John Rawls, and links it with application law in context gig economy. Approach This will highlight How principles justice social can integrate in law positive which is rigid. With the use of theory of social justice, researchers will formulate base philosophical for reconstruction law positivism, to ensure that regulation digital work not only fulfils certainty law but also supports welfare social digital workers.

Approach normative-ideological: Analyzing How law can accommodate principal justice social through formulation and reconstruction of existing legal norms.

Criticism of law positivism: Analyzing whether law positivism can function in a way effective in arranging digital work and how reconstruction law can create balance between certainty law and social justice.

Approach Sociological

This is used for analyzing interaction between law and society, in particular How existing regulations influence life social and economic digital workers. Approach sociological will help for understand dynamics social events that occur in gig economy and how digital workers face uncertainty work and social protection.

Case study: Research This will use studies case for analyzing situations where digital workers face injustice or uncertainty consequence existing regulations.

Approach qualitative: Involving interviews and observations to digital workers and platforms for getting description real about the challenges they face face it related with regulation applicable law.

Data Types and Sources

In research this, the data used is shared into two main categories: primary data and secondary data. Each has its own important role in support analysis and producing relevant findings.

Primary Data

Related Legal Regulations Digital Jobs and the Gig Economy Primary data in study This in the form of regulation legislation that regulates digital jobs and the platform economy in Indonesia and other countries. The regulation under review covers various aspects, starting from Constitution employment, regulations digital taxation, up to regulation specific about digital workers like online motorcycle taxi drivers, freelancers, and workers based on other platforms. Primary data will also cover policy government related protection social and rights workers in system gig economy. Some examples of the regulations that will be analyzed among others:

Law No. 13 of 2003 about Employment (as base law employment in Indonesia).

Law No. 11 of 2020 regarding Job Creation, which is influential to arrange worker freelancers and platform workers.

Regulation about digital tax, which can influence ways compilation arrangement to workers in the sector This.

The policies and regulations of other countries that have more formerly arrange gig workers, for example Constitution freelance workers in European countries or policy protection digital workers in the United States.

Secondary Data

Legal Literature

Secondary data will cover various book text, article journals and studies the law that discusses Topic law positivism, social justice, and regulatory digital work. Literature This will be used for dig theories based on relevant laws, such as:

Positivism Legal Theory (Bentham, Austin, Hart).

Theory of Justice Social (John Rawls, Amartya Sen, and other social theories) related related with distribution source power and protection rights worker).

Literature about the Gig Economy and regulations internationally related digital workers.

Academic Journal

Journals law, sociology, and economics that study Topics regarding the gig economy, regulations digital work, as well as impact social from development digital economy will used. Some relevant journals among others:

Journal of Labor and Employment Law

Journal of Digital Economy

Industrial Relations Research Journal

International Journal of Law in the Digital Age

Report International

Reports from international institutions, such as the International Labor Organization (ILO), the Organization for Economic Co-operation and Development (OECD), and the World Economic Forum (WEF), which analyzed global trends in gig economy and protection rights digital workers, will become reference important. Reports This often includes in-depth empirical data about condition digital jobs in various countries and provide guides about regulations that can be adopted.

ILO report on " Future of Work " and policies protection workers in the digital age.

OECD report on the influence of digital economy on labor market and protection social platform workers.

Study of digital tax policy and its impact on companies and workers released in various countries.

Data Collection Methods

In research this, method data collection used consists of from studies bibliography and analysis document law. Second method This chosen for obtain data that is relevant, comprehensive, and can be deep for support analysis to regulation digital work as well reconstruction law positivism in context gig economy.

Literature Study is the main method in study this, where researchers will study various reference related literature with Topic law positivism, justice social, and regulatory digital work. The literature that will be used includes:

Books the law that discusses theories base law, such as law positivism, social justice, and theory law in context digital economy.

Journal articles that discuss digital law, challenges regulation to digital workers, as well as analysis about the injustice that occurred in gig economy.

Relevant dissertations and theses that have been discussed issue similar or introduce theory and analysis related law in context digital and social economy.

Document report international from institutions such as the OECD, ILO, and WEF regarding global trends in regulation digital work and protection rights workers in gig economy.

Literature study aiming for:

Gather theories relevant laws with study This.

Understand perspective law related justice social in regulation digital work.

Laying the foundation theoretical for reconstruction law justice - oriented positivism social in the gig economy era.

Analysis Legal Documents Study this will also use analysis document law for to study various regulation related legislation with digital jobs and gig economy regulation in Indonesia and other countries. Analysis This aiming for evaluation:

The rules national governing body digital workers, such as Employment Law and regulations digital tax.

Document policy government related with protection digital workers, guarantee social, as well as rights worker.

Comparison regulation between countries related with arrangement digital economy, including regulations in more countries proceed in arrange gig economy, such as the United States, the United Kingdom, and European countries other.

Steps analysis document law includes:

Identification regulation main influencing factors digital workers and the gig economy.

Evaluation lacks or injustice that exists in existing regulations, as well as identify gap law.

Comparison between national law and law international and practice the best in other countries.

Analysis document law This aims for understanding to what extent the existing law arranges digital workers, assess justice from regulation and analyze it What only what is needed reconstructed so that the regulation the fairer for digital workers.

Data Analysis Techniques

In research this, technique data analysis used is approach qualitative based on theory law and social justice. Approach qualitative allow researcher for explore deep related issues with regulation digital work in context gig economy, as well as identify How law positivism can reconstructed for create more regulation fair for digital workers.

Steps in technique data analysis are as follows:

Analysis Normative to Regulation Legislation

Interpretation regulation exists with referring to the principles base law positivism (as developed by Austin, Bentham, and Hart), as well as its implementation in context digital jobs and the gig economy.

Identification lacks or injustice in existing regulations, especially related with arrangement right digital workers who don't acknowledge or are protected in a way adequate.

Evaluation relevance law positivism in respond challenge regulation digital work, with to criticize whether principles certainty law in law positivism Already Enough For overcome problems faced workers in the sector This.

Philosophical Analysis to Justice Social

Approach philosophy used for dig theories justice social (as explained by John Rawls and Amartya Sen), as well as How principles can integrate in framework law positivism for create justice in regulation digital work.

Implementation principal justice distributive for evaluating how far is the distribution rights, benefits and obligations in gig economy Already fulfil standard justice social. Principles This will help in formulate a more regulatory model fair for digital workers, with notice welfare social and protection rights workers.

An analysis of the connection between law positive and morality, assesses how far the law positivism can accommodate element morality that supports justice substantive in policy employment in the digital era.

Construction of the Positivist Legal Reconstruction Model

Development of reconstruction model law positivism that integrates principles justice social to in policy existing law, for formulate regulation fair digital jobs. This model aims to answer challenge the law that emerged from inequality right between platform workers and workers conventional.

Systematics compilation policy with reference to the experiences of other countries that have applied regulations to more digital workers inclusive and fair. For example, looking at implementation regulation workers loose in developed countries already notice the rights digital workers in deeper.

Synthesis Findings and Conclusions

Synthesis of the data obtained from studies bibliography, analysis document laws, and theories social justice for compile conclusion that provides recommendation for maker policy.

Withdrawal conclusion based on results analysis that suggests change or reconstruction law positivism in regulation digital work to be more accommodate principal justice social for workers in the gig economy.

DISCUSSIONS

Conditions of Legal Positivism in Regulation Digital Jobs

In the section this, research will analyze condition law existing positivism in regulation digital jobs, both in Indonesia and in other countries. Focus main analysis This is for understand How law positivism dominates regulation digital jobs today This operating and its impact to protection rights digital workers. Here are several important points that will be discussed in sub- chapter This:

Regulation Digital Jobs in Indonesia

Employment Law and regulations related other No in a way explicit arrange digital worker or workers in the gig economy sector. Digital workers such as online motorcycle taxi drivers (Gojek, Grab), freelancers, and other digital platform workers, often No acknowledged as employee with rights full as worker conventional.

Worker Status: Many digital workers in Indonesia are still classified as as worker off or contractor independent, which is not protected by rights worker traditional like minimum wage, guarantee social, and leave. The dominant positivistic law in Indonesia, which is more focus on formal legal status such as connection bound work, not yet capable accommodate flexibility and complexity connection digital work.

Uncertainty: In case This, Indonesian law often trapped in rigid definition about the status of workers. In fact, digital workers often Work with flexible way, which makes it difficult implementation definition traditional in law employment. This causes uncertainty about the rights of digital workers and protection the law that they get.

Regulation of Digital Jobs in Other Countries

United States and European Union has start developing more regulation adaptive to digital workers. For example, in California, a law known as AB5 has changed methods defining worker status in the gig economy. Although Still There is Lots Of controversy, change This show effort for confess protection for digital workers.

The European Union has also proposed guidelines for protection workers in the gig economy sector, with considering the right workers and guarantees social they. Countries like Spanish and

French even has apply regulations that require digital platform company for give rights certain for worker off them.

Comparison regulation This show that even though developed countries start adapting more laws responsive to need digital workers, many from these countries Still face challenge big in balancing principal certainty law (positivism) with justice desired social worker.

Domination Formalistic Legal Approach in Digital Jobs

Approach Formalistic Legal Positivism: Legal positivism, with his tendency towards certainty law and clarity in definition connection work, often Not Enough flexible for accommodating complexity connection work in the gig economy era. Approach This too prioritize formal definition such as connection Work still or contract employees, who do not in accordance with characteristics digital work that is temporary and based project.

Impact on Digital Workers: Impact from approach This is injustice in giving rights workers. Digital workers often marginalized in matter access to guarantee social, benefits and protection law others who are traditional given to worker full time or bonded worker contract. Approach formalistic This No can overcome challenge reality digital work that is often not have fixed working hours and a clear location.

Limitations of Legal Positivism in Handle Need Justice Social

Legal positivism focusses on assertiveness rules that are set and often ignore dimensions justice substantive. In the context of digital work, justice social need flexibility law for protect welfare social worker without sacrifice principal certainty law.

With dominant law rigid positivism, digital workers often No to obtain adequate protection although they Work in similar conditions with worker traditional, for example with Work throughout time, below pressure, and with high risk without adequate protection.

Legal Challenges in Protect Digital Worker

In the section this will discuss challenges the law that emerged in effort protect digital workers in context gig economy. Digital workers, who are involved in work flexible and platform- based like online motorcycle taxi drivers, worker freelancers, often face legal status issues that are not clear and injustice in protection rights them. Here are several challenges and main issues faced by digital workers:

1. The Issue of the Legal Status of Digital Workers

One of challenge main in protecting digital workers is unclear legal status they. Workers in the gig economy sector, such as online motorcycle taxi drivers (Gojek, Grab), platform workers (Upwork, Fiverr), or courier introduction goods, often classified as "independent contractors" or worker off, no as worker still or employees. This is bringing implications big in matter protection law, such as rights on minimum wage, guarantee social, insurance health, benefits retirement, and rights leave.

Independent Contractor vs. Employee: Many countries, including Indonesia, are facing difficulty in determine the status of digital workers. In the system law rigid positive, digital workers are considered as contractor independent, which in turn No get rights that are usually obtained by employees remain. Often, digital workers do not consider as part from connection work regulated by law existing employment.

Limitations of Legal Positivism: Legal positivism traditional, which focuses on certainty laws and regulations clear law, no own adequate definition for accommodating characteristics flexible digital work. This is causing confusion regarding legal status workers, who are often at-risk losing protection that should be given by the state.

2. Gap Protection of Workers ' Rights in Gig Economy System

The significant difference in protection rights digital workers is also a big challenge in implementation policy just law. System gig economy often places workers in a more complicated situation vulnerable and not own equal protection with conventional workers. Some frequent gaps between protection happen among others:

Fair Wage Rights: Digital workers often don't have a clear agreement about the wages received. Digital platforms such as Gojek, Grab, or Upwork have payment models based on project or per task, which often makes wages No fixed and not transparent. In addition, workers No own minimum wage guarantee or right on higher wages tall during working hours certain.

Guarantee Social and Health: Digital workers, who do not acknowledge as employees still, have no own access to guarantee society which includes health insurance, benefits retirement, or right leave. In many cases, gig economy workers must pay insurance health and protection alone, without existence help or support from the platform where they work. Gap This causes uncertainty in terms of workers and worsens social inequality.

Unstable Jobs and Risks Security Work: Uncertainty in digital jobs create risk for Worker. Workers often Work with contracts that are not clear and do not have protection related termination connection Work or inability Work Because reason health or accident work. This shows the need Updates system law that can give guarantee stability and security for digital workers.

Issue Welfare Workers: Most of them digital workers are in a situation that is highly dependent on the income earned every day, without guaranteed income still or insurance from the platform where they work. Workers like online motorcycle taxi drivers or courier introduction goods often must Work in pressure tall for meet revenue targets daily, without protection to risks that can happens, like accident or decline income.

3. The Gap Between Justice and Legal Certainty in Legal Positivism

Legal positivism, which focuses on the principle's certainty law and clarity rules, is often not adequate for overcoming dynamics flexible and full digital work uncertainty. Approach This often-ignored dimensions justice substantive, which is very important in context digital work. Some problems that arise Because tension between certainty law and justice social in law positivism among others:

Legal Certainty vs. Justice Social: Rigid positivism law gives more Lots attention to certainty and clarity regulations. However, in gig economy sector, certainty law No always reflect justice true social. Often, workers No get rights they Because unclear legal status they in system flexible work. This is showing need for reconstruction law positivism that can be more responsive to dynamics changing social and economic conditions.

Injustice in System Regulations: System existing law is often more profitable than the platform party that has power bigger, while more workers prone to No get fair access to rights base them. Therefore, changes in regulations that can accommodate welfare workers as well as give more protection fair for them.

Positivist Legal Reconstruction Model For Fair Regulation

In facing the challenges laws faced by digital workers are needed a reconstruction law more positivism flexible and responsive to need developing social and economic. Reconstruction This must capably integrate principal justice social for create regulations that are not only notice certainty law but also provides fair protection for digital workers in the gig economy era. Here are several components main in the reconstruction model law positivism for create fair regulation in the sector digital jobs:

1. Integration Principles of Justice Social in Regulation Digital Jobs

Principle justice society, which focuses on distribution rights and obligations in a fair way, must become based in compilation regulations that govern digital workers. In the context of the gig economy, the principle This can be applied through several methods following:

Justice Distributive: Justice distribution in matters of access to social rights, protection health, insurance and welfare digital workers must be introduced in new regulations. The state can provide guarantee universal social security for digital workers that include insurance health, benefits retirement, and access to the protection program social others, without looking at employment status they as contractor independent.

Justice Procedural: Fair regulation must ensure a transparent process in determination wages and rights others, with consider aspect welfare workers. Procedure determination rates fair and clear wages, as well as mechanism effective complaint for digital workers, need formulated so that all parties get equal treatment.

Empowerment Worker: Remember limited bargaining power of digital workers, systems law must give room for workers to unite, negotiate, and fight for rights they. Government and digital platforms can adopt policy for facilitating formation union workers or association digital workers who can protect and advocate their rights.

2. Hybrid Status Model for Digital Worker

Legal status clear and fair digital workers are essential in creating regulations that provide optimal protection. Hybrid status model is one of the solutions for overcome the problem of the status of digital workers who are often trapped in ambiguity between worker permanent and workers off.

Hybrid Status: Digital workers, both online motorcycle taxi drivers and other freelance workers, can give legal status a hybrid that combines element from both: employee and independent contractor. This model gives several right based workers still, like protection social and minimum wages, while maintaining flexibility desired by workers and platforms.

Flexibility with Protection: Hybrid status This allows workers to enjoy freedom in choosing working hours and jobs, but still protected with access to rights base like guarantee social and protection from treatment No fair in place Work.

Role of State and Platform: State is necessary to give clear law for hybrid status models this, while digital platforms can also set up for fulfil social obligation, they like give contribution to guarantee social workers, giving right leave, and making sure protection fair wages.

3. Protection Universal Social for Digital Worker

One of the most lacking aspects that get attention in regulation digital workers is social protection. Digital workers often work without guarantee proper social, because they classified as contractor independent which is not fulfil condition for get various form protection social offered to worker still.

Protection Universal Social: One of the solutions that can applied in reconstruction law positivism is with introduce regulation protection universal social For digital workers, that ensures that all digital workers, no care about their status as employee or contractor, get access to service health, insurance retirement, and other programs that include protection to risk work (such as accident work) and unemployment.

Application of Tax for Financing Social: System tax progressive can apply to digital platforms for fund protection programs social this, with contribution from platform parties and workers. This can help create system protection more social fair, funded by the party receiving it profit directly from digital economy.

4. Mechanism Supervision Platform Based

For ensure that existing regulations applied in a way effective and fair, mechanism supervision platform-based need developed. This will overcome problem non-transparency in connection between workers and digital platforms as well give more protection Good for worker.

Oversight by Government Agencies and Platforms: Government can form a supervisory body independent in charge for monitor digital platform compliance with existing regulations. This agency can Work The same with a platform for develop system transparency, such as tariff audits fair wages, checks to condition work, and evaluation quality work carried out by workers.

Mechanism Complaints: Digital workers must give the channel easy complaint accessible and protected. Governments and platforms must provide means for worker for report action discriminatory or the injustice that occurred and ensure that they No will charge risk or sanctions on use channel complaint the.

Implementation Technology for Supervision: Blockchain technology or other digital systems can be used to track transactions, working hours, and payments to ensure that the right worker is protected with more transparency.

Reconstruction model law positivism This proposes three elements main for creating fair regulation in digital work: hybrid status, protection universal social, and mechanisms supervision based. With integration principal justice in social in regulation digital work, reconstruction This aims to overcome the injustice that exists in the gig economy and provide more protection strongly for digital workers, at the same time ensure that certainty law is still guarded.

Implementation of this model Not only repair existing inequalities but also optimize welfare social in an increasingly working world digital- based, flexible, and dynamic.

CONCLUSION

In research this, has found that law positivism, although focus on certainty law, often not Enough capable to accommodate justice social in context digital work. Some identified weaknesses in implementation law positivism in regulation digital work is as following:

The Ambiguity of Digital Worker Status: Legal Positivism traditionally categorizes worker into two rigid categories, namely worker permanent and workers off. This is No covers dynamics flexible digital jobs, such as online motorcycle taxi driver or freelance workers on digital platforms. Ambiguity This creates injustice, where digital workers do not get adequate protection although they have their own attachment to digital platforms.

Lack of Protection Social for Digital Workers: Most of them digital workers, especially in the gig economy, no own access to guarantee social, such as insurance health, retirement, or unemployment allowance. This is caused by non-regulation considering flexibility digital work and classification as contractor independent which is not entitled on social protection given to worker still.

Formalistic Legal Approach: Legal positivism often emphasizes too much on certainty law with ignore element justice substantive. In the context of digital work, things This result in regulations that are not notice aspect welfare social workers, which is more often focused on profits economics and market interests.

Based on findings said, we can conclude that existence reconstruction law positivism for ensure that regulation digital work not only gives certainty law but also guarantees social justice for workers. Reconstruction This proposes three main components for ensure that system law can be more responsive to need digital workers, namely:

Hybrid Status Model: Digital workers must give a clear status that combines element worker permanent and workers off. With hybrid status this, digital workers can obtain basic rights, such as social protection and recognition on existence they in system digital economy, without sacrifice flexibility that becomes characteristics typical from the gig economy.

Universal Social Protection: Digital workers must obtain access to universal social protection, which includes guaranteeing health, retirement, insurance accident work, and other programs that can ensure they are welfare, without depending on employment status they.

Mechanism Supervision Platform Based: For ensure that applicable regulations are applied in a way effective, necessary. There is a mechanism supervision platform -based, which utilizes technology for ensure transparency, accountability and protection rights worker.

Importance reconstruction law positivism This lies in the unification principal certainty law with justice social. Fair regulations must capably give adequate protection for digital workers, reducing inequality, and create climate more work safe and prosperous climate in the gig economy era. With Thus, the law Not only will become tool for reach certainty law only, but also to become more instruments humane and responsive to change social and economic.

Reconstruction this is also expected can become reference for maker digital policies and platforms in formulate fair and inclusive policies and regulations, as well as push creation a more digital economy sustainable and prioritize welfare worker.

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