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A Criminological Study of the Double Victimization of Online Motorcycle Taxi Drivers in Traffic Accidents Without Legal Protection Under Labor Law

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Abstract: The growing gig economy in Indonesia presents serious challenges in legal protection for workers, including online motorcycle taxi drivers. They are vulnerable because they face double risk: being both victims of traffic accidents and those without adequate employment protection. This double victimization arises from a legal vacuum regarding the employment relationship between drivers and app companies, which has traditionally been constructed as a partnership. Consequently, drivers are excluded from formal protection as stipulated in Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023 concerning the Stipulation of the Government Regulation in Lieu of the Job Creation Law into Law. This legal uncertainty also makes it difficult for drivers to access social security, including BPJS Ketenagakerjaan (Employment Social Security Agency), which is supposed to provide protection against workplace accidents. From a criminological perspective, online motorcycle taxi drivers experience multiple victimization processes, not only because they are vulnerable to traffic accidents in public spaces, but also because legal policies favor the interests of app companies over field workers. Therefore, regulations are needed that explicitly recognize the status of gig economy workers, including requiring app companies to register drivers in employment social security schemes. A criminological approach can form the basis for formulating fairer policies must protect drivers as legal subjects, not simply positioned as business partners.

Keyword: Double Victimization, Online Motorcycle Taxis, Employment Law, Gig Economy, Social Security.

INTRODUCTION

The gig economy in Indonesia has seen rapid growth in recent years, particularly in the online transportation sector. (Kamarudin, 2024) Digital platforms such as online motorcycle taxis (ojek online) have emerged as an efficient mobility solution for urban communities, while also creating new, flexible employment opportunities. This app-based work model allows individuals to work anytime and anywhere, without being tied to a formal

employment contract, attracting many people seeking additional income or alternative employment. (Ferdila, 2021) However, this flexibility also carries its own consequences, as drivers' employment status is often not recognized as formal workers, creating vulnerability to various social and economic risks. Recent data shows that millions of active users utilize online motorcycle taxi services daily, while the number of registered drivers reaches hundreds of thousands to millions, directly contributing to the national digital economy, both through daily transactions and supporting community mobility. (Anggraeni, 2021) The presence of online motorcycle taxi drivers has transformed the urban transportation landscape, while also posing new challenges to labor regulations and legal protection for informal workers employed through digital platforms.

Online motorcycle taxi drivers face significant risks every time they perform their work. Traffic accidents pose a significant threat because drivers operate on congested and accident-prone roads, often with aging vehicles or unsafe road conditions. Accident statistics show that online motorcycle taxi drivers are among the most vulnerable to serious injury or even death due to road collisions. (Nasution, 2023) This risk extends beyond physical injury to financial risk, as medical expenses or loss of work are not always covered by the app company, given that drivers are categorized as partners rather than employees. Beyond the risk of accidents, drivers also face significant work pressures, including demanding daily trip targets, a rating system that demands high performance, and intense competition among drivers, all of which contribute to stress and income uncertainty. (Santoso, 2023) This uncertainty forces drivers to work longer hours or take more trips to make ends meet, increasing the risk of accidents and fatigue exponentially.

Furthermore, working as an online motorcycle taxi driver has significant social and psychological consequences. Long working hours and the pressure of travel targets often lead to chronic stress, fatigue, and long-term health problems such as spinal disorders and cardiovascular problems. This situation is exacerbated by the lack of social protection, making every accident or illness a single burden for the driver and their family. Financially, drivers often have to bear the costs of vehicle repairs, medical expenses, and lost income due to the inability to work. (Lestari, 2023) This situation highlights the fragile position of drivers amidst high work pressure and minimal legal guarantees or social protection.

The characteristics of work in the gig economy further complicate the problems faced by online motorcycle taxi drivers. While flexible work schedules are free to choose, they also eliminate the certainty of workers' rights typically afforded in formal employment, such as accident insurance, sick leave, or pension benefits. As partners, drivers lack direct access to BPJS Ketenagakerjaan or other social protection programs, requiring them to shoulder any risks that arise. (Aditia, 2023) Furthermore, the digital nature of contractual relationships makes it difficult for drivers to pursue legal claims in the event of disputes or accidents, as existing regulations still emphasize protection for formal workers. (Tangkudung, 2024) This phenomenon shows a structural gap between drivers' contributions to the digital economic ecosystem and the protection they receive as workers.

Online motorcycle taxi drivers in Indonesia face a significant gap in legal protection due to their ambiguous status under the Job Creation Law. Law No. 11 of 2020 concerning Job Creation, which amends and refines some provisions of the Manpower Law (Law No. 13 of 2003), focuses on flexible employment relationships in the formal and informal sectors, including the digital economy. However, online motorcycle taxi drivers are still positioned as "partners" of app companies, not employees, so formal workers' rights, such as occupational safety and social security, do not automatically apply to them. Articles 59 and 79 of the Job Creation Law emphasize the need for worker protection, but do not explicitly cover platform workers or gig economy partners, thus perpetuating the legal gap. Law No. 6 of 2023,

amending the Job Creation Law, emphasizes flexible employment relationships, but the protection of gig economy workers remains unspecified. (Farhan, 2023)

The differences between formal and gig economy workers become even more pronounced when viewed in terms of access to social security. Formal workers are entitled to participate in the BPJS Ketenagakerjaan program, which covers work accident insurance, old-age security, pension insurance, and death insurance (Articles 4 and 15 of Law No. 24 of 2011 concerning BPJS). Conversely, online motorcycle taxi drivers with company partner status are not automatically registered for this scheme, leaving them without adequate social protection when facing occupational risks. (Zuama, 2021) This unclear status makes it difficult for drivers to claim their rights, as they are not formally recognized workers, making it difficult to access the social and legal protection they should receive.

The difficulty for online motorcycle taxi drivers in accessing BPJS Ketenagakerjaan is a serious problem. Many drivers are not registered or do not understand the self-registration mechanism, while others do not receive support from the app company. It poses significant financial risks when accidents occur, as medical expenses, treatment, and loss of income are entirely borne by the driver and their family. Article 15 of Law No. 24 of 2011 emphasizes the obligation of BPJS Ketenagakerjaan participation for workers, but its implementation has not yet covered gig economy workers with partner status. As a result, drivers remain vulnerable, facing physical, social, and economic risks without adequate protection. (Aris, 2024)

This phenomenon can be analyzed through the concept of double victimization in criminology. Double victimization occurs when someone is victimized more than once, either directly or as a result of inadequate social and legal systems. In the context of online motorcycle taxi drivers, the first victimization occurs due to a traffic accident that results in physical injury or material loss. The second victimization occurs due to the inability of the legal and social security systems to protect them, resulting in victims not receiving the compensation, treatment, or legal protection they deserve. (Cheysa, 2024)

The impact of double victimization on online motorcycle taxi drivers is complex. Socially, they experience stigma and struggle to maintain family well-being when injured or lose income. Economically, financial losses from accidents and medical expenses must be borne solely, while opportunities for compensation are very limited. From a psychological perspective, this experience creates stress, anxiety, and feelings of injustice, which impact drivers' overall productivity and quality of life. (Rahmanda, 2022) This phenomenon demonstrates that the current legal and social protection systems are incapable of addressing the risks faced by gig economy workers, particularly online motorcycle taxi drivers.

Thus, the gap in legal and social protection leaves online motorcycle taxi drivers chronically vulnerable. Although the Job Creation Law and the BPJS Employment Law have established the rights of formal workers, drivers' status as partners prevents them from fully enjoying these rights. The double victimization they experience underscores the urgency of formulating more inclusive regulations that recognize drivers' status as workers with clear rights while simultaneously providing adequate legal and social protection. A criminological approach can provide a basis for policymakers to formulate fair and comprehensive solutions, so that drivers are no longer doubly victimized by physical accidents and a lack of legal protection.

Online motorcycle taxi companies have policies that emphasize drivers as partners or business associates, rather than formal employees. This status allows companies to exempt themselves from the obligation to provide benefits, social security, or legal protection that formal workers are entitled to. The algorithm-based work system, ratings, and incentives implemented by companies emphasize efficiency and productivity, but do not always consider driver safety, welfare, and rights. This unclear status widens the gap between the

protections drivers receive and the profits earned by the company, leaving drivers with all the physical and financial risks of the job.

An analysis of the imbalance between company interests and worker protections reveals a structural bias in the gig economy. Companies prioritize platform growth, optimizing operational costs, and customer loyalty, while relatively neglecting their responsibility for driver safety and well-being. This creates social injustice, as drivers are vulnerable to accidents, financial loss, and psychological distress. The rating system and algorithms, which should facilitate work efficiency, instead become control tools that increase pressure, increasing the risk of double victimization. This gap underscores the need for regulations that balance company interests with worker protection, including requiring companies to register drivers in social security programs and provide clear legal protection.

The need for more inclusive regulations is an urgent need that cannot be postponed, especially amidst the rapid development of the digital economy. Current regulations, although strengthened by the Job Creation Law and amendments to the Manpower Law, still do not explicitly stipulate the status of online motorcycle taxi drivers as workers with clear rights and protections. A policy is needed that explicitly recognizes drivers as legal subjects entitled to social security, occupational safety protection, and access to compensation mechanisms in the event of an accident. Such regulations would close the legal loopholes that have led to drivers being double victims and improve fairness in the gig economy ecosystem.

The urgency of this research from a criminology and labor law perspective lies in its ability to provide a more comprehensive understanding of the phenomenon of double victimization of online motorcycle taxi drivers. This research is expected to serve as a basis for policymakers to formulate fair regulations, including strengthening legal and social protections for platform workers. Furthermore, this research also contributes to the academic literature by adding to the literature on the legal, social, and criminological impacts of the gig economy. For drivers, this research can serve as a reference for understanding their rights, while for the wider community and policymakers, it emphasizes the importance of striking a balance between digital economic innovation and worker protection.

METHOD

This study uses a normative juridical research method with a statutory and conceptual approach, which aims to analyze the legal status, rights, and protection of online motorcycle taxi drivers within the framework of employment and social security law. The statutory approach is carried out by examining applicable legal provisions, including the Job Creation Law (Law No. 11 of 2020 and Law No. 6 of 2023), Law No. 24 of 2011 concerning BPJS Employment, and articles related to occupational safety and workers' rights. The conceptual approach is used to understand basic theories of employment, the gig economy, and double victimization from a criminological perspective. The data sources for this study are secondary, in the form of legal documents, scientific journals, academic literature, government regulations, and publications related to the digital economy and online motorcycle taxis. Data collection techniques are carried out through library research and a systematic review of legal documents. Furthermore, the data analysis technique used is qualitative analysis with a descriptive analytical method, which aims to interpret laws and regulations, compare regulations related to the protection of formal workers and gig economy workers, and formulate legal implications and relevant policy recommendations for online motorcycle taxi drivers in the context of double victimization.

RESULTS AND DISCUSSION

The Legal and Social Protection Gap for Online Motorcycle Taxi Drivers

Online motorcycle taxi drivers in Indonesia face an ambiguous legal position because they are categorized as partners or intermediaries of app companies, rather than formal workers. Under the Job Creation Law (Law No. 11 of 2020), which was updated through Law No. 6 of 2023, employment relationships in the digital economy sector are regulated with an emphasis on flexibility and partnership, but do not explicitly recognize drivers as employees entitled to employment protections. This legal status places drivers in a vulnerable position because they do not have the same rights as formal workers, including the right to occupational safety, social security, or compensation in the event of an accident. As partners, drivers are subject to the internal regulations of app companies, which often emphasize efficiency and productivity, rather than legal protection and worker welfare. This difference contributes to a significant gap in the recognition of the rights and legal protections for online motorcycle taxi drivers. (Izzati, 2022)

The differences in rights and obligations between driver partners and formal employees are evident in terms of responsibilities and benefits. Formal workers are entitled to a fixed salary, leave, social security, health benefits, and protection from occupational risks as stipulated in the law. In contrast, online motorcycle taxi drivers must bear operational costs, the risk of accidents, and potential loss of income themselves, as there is no company obligation to cover these costs. As partners, drivers lack direct access to legal mechanisms that typically protect formal workers, so their rights are often not officially recognized. This lack of clarity creates structural injustice, as drivers continue to contribute significantly to company revenue and the digital economy ecosystem, yet they do not receive adequate legal protection. (Syaihuputra, 2025)

From an employment perspective, legal protection for online motorcycle taxi drivers is significantly limited compared to formal workers. Article 59 of the Job Creation Law emphasizes the need for occupational safety and health protection for workers, while Article 79 states the employer's obligation to provide safe and decent working conditions. Article 86 of the previous Manpower Law also affirms workers' rights to protection from the risk of workplace accidents. Furthermore, Article 15 of Law No. 24 of 2011 concerning the Social Security Agency for Employment (BPJS Ketenagakerjaan) regulates mandatory social security participation for workers, including occupational accident insurance, old-age insurance, and death insurance. (Amin, 2021) However, this provision only applies to workers with formal status, so online motorcycle taxi drivers with partner status are not automatically registered in the BPJS Ketenagakerjaan system.

These formal worker rights include compensation in the event of a workplace accident, sick leave or other leave, health protection, and social security that ensures the survival of workers and their families. Formal workers have the legal certainty to claim these rights, both through internal company mechanisms and through legal channels in the event of violations. This protection is the basis for workers' well-being and security, enabling them to work with a sense of psychological and financial security and with minimal risk. Without such protection, workers face a high risk of loss of income, physical injury, and psychological distress.

However, online motorcycle taxi drivers are unable to enjoy these rights because they are not formal employees. This unclear status leaves drivers facing the risk of self-inflicted injuries, including medical expenses in the event of an accident, loss of income due to inability to work, and potential legal issues related to compensation claims. It constructs a form of double victimization, where drivers are both physical victims of the accident and victims of a legal system that does not recognize their rights. This condition reflects a

structural gap between the legal protection stipulated in the law and its implementation for gig economy workers.

Online motorcycle taxi drivers face significant difficulties in accessing social security, particularly BPJS Ketenagakerjaan (the Social Security Agency for Employment). Many drivers are not automatically registered by app companies, while independent registration requires administrative expertise and costs that not all drivers can afford. As a result, when an accident occurs or income is lost due to illness or inability to work, drivers must cover all costs themselves. This uncertainty poses significant economic risks and increases their vulnerability as informal sector workers, whose status is not fully recognized in the legal and labor systems. The contrast between formal workers and online motorcycle taxi drivers is increasingly stark: formal workers have access to social security and legal protections that guarantee their well-being, while gig economy drivers often find themselves in a position of complete lack of protection.

The risks drivers face is not only physical due to traffic accidents but also systemic due to the lack of legal and social protection. From a criminological perspective, this phenomenon can be categorized as double victimization. Drivers are victimized twice: first, they suffer physical injury or material loss due to accidents; second, they do not receive the legal protection or compensation that should be guaranteed by the state through social security and labor regulations. This situation reflects structural injustices within the legal system and the digital economy, where high-risk workers are not afforded the same protections as formal workers.

This double victimization has far-reaching social, economic, and psychological impacts on drivers and their families. Socially, drivers often face stigma, difficulty maintaining family well-being, and psychological stress due to the high risk of their work. Economically, they must bear the costs of medical treatment, vehicle repairs, and lost income, which can lead to poverty or financial instability. Psychologically, this uncertainty creates stress, anxiety, and feelings of injustice, which indirectly impact drivers' productivity and quality of life. This phenomenon demonstrates that legal and social gaps exacerbate drivers' vulnerabilities, so their risks arise not only from their physical environment but also from the very systems that are supposed to protect them.

This protection gap has long-term impacts on drivers' well-being. Without social security and legal protection, the risk of accidents or loss of income can result in prolonged financial losses, even affecting drivers' ability to meet basic family needs. This creates a cycle of vulnerability that is difficult to break, as each accident or health problem further weakens drivers' economic standing and widens the social gap between formal and gig economy workers.

The implications of this phenomenon underscore the urgent need for additional regulations or policies that address legal and social gaps. Provisions are needed that require app companies to register drivers in the BPJS Ketenagakerjaan program and provide them with equal protection as formal workers, including the right to compensation, occupational safety, and social security. Such policies would not only reduce the risk of double victimization but also improve social equity in the digital economy, allowing drivers to work safely and prosperously.

The Role of Application Companies and the Urgency of Inclusive Regulation

Online motorcycle taxi companies treat drivers as partners or intermediaries, rather than formal employees, so their employment relationships are not regulated like those of formal workers. This status allows companies to exempt themselves from the obligation to provide benefits, social security, or legal protections that workers are entitled to. The algorithm-based work system, ratings, and incentives implemented by companies require

drivers to achieve specific targets to maintain income and performance, but do not always prioritize driver safety, health, and well-being. As a result, drivers must independently bear the physical risks, workload, and income uncertainty, creating structural vulnerabilities in the digital economy.

The imbalance of interests between companies and drivers is increasingly evident as companies prioritize operational efficiency, platform growth, and customer loyalty over worker protection. Internal policies that emphasize targets and rating systems force drivers to work longer hours and take higher risks, increasing the likelihood of accidents and financial losses. This disparity in protection creates a double victimization, where drivers not only suffer physical casualties from accidents but also suffer losses due to a lack of legal and social protection. Formal workers, on the other hand, have access to social security, accident compensation, and clear employment rights, making online motorcycle taxi drivers significantly more vulnerable than formal workers.

The need for more inclusive regulations is urgent to balance company interests and driver protection. These regulations must explicitly recognize drivers as legal entities with clear rights to social protection, occupational safety, and access to compensation mechanisms. Companies are required to register drivers with the BPJS Ketenagakerjaan program or other equivalent protection schemes to minimize the financial and physical risks resulting from workplace accidents. Furthermore, additional regulations are needed to ensure that platform growth does not compromise worker welfare and that every company policy is evaluated from a social justice and worker protection perspective.

This research is urgent because the driver protection gap phenomenon requires a thorough scientific understanding as a basis for policymakers. This research can provide robust data and analysis regarding occupational risks, the impact of double victimization, and the inequality of legal protection in the gig economy. The research findings are also expected to serve as a reference for app companies to adjust their internal policies to be fairer and align with worker protection principles. Therefore, this research plays a strategic role in providing practical solutions while supporting the formulation of more effective and inclusive regulations.

The contribution of this analysis is not limited to policymakers and companies but is also important for academics and drivers themselves. For academics, this research enriches the literature on the digital economy, labor law, and criminology, particularly regarding double victimization and the protection of platform workers. For drivers, this research can raise awareness of their rights and encourage advocacy for social protection and occupational safety. Using a data-driven approach and criminological analysis, this research helps identify legal loopholes that have left drivers vulnerable to physical, financial, and social risks.

The policy implications of this research's findings are broad. The results can be used as a basis for formulating fairer and more inclusive regulations, ensuring companies are accountable for driver safety and well-being. Inclusive regulations have the potential to reduce the risk of double victimization, improve driver well-being, and balance company interests with workers' rights. A criminological and labor law approach is crucial in strengthening this protection framework, ensuring that platform workers are no longer vulnerable due to regulatory gaps or company policies that prioritize efficiency and business growth.

CONCLUSION

Based on the previous discussion, it can be concluded that online motorcycle taxi drivers face significant gaps in legal and social protection. Their status as partners or intermediaries with app companies places them in a vulnerable position, without adequate access to social security, occupational safety protection, or compensation for accidents.

Algorithm-based and rating-based work systems exacerbate the risk of double victimization, where drivers become both physical victims of accidents and victims of a legal system that does not recognize their rights. The imbalance between company interests and driver protection demonstrates that existing regulations, including the Job Creation Law and the BPJS Employment Law, do not effectively cover gig economy workers, creating social, financial, and psychological vulnerabilities for drivers and their families.

Suggestions suggest that more inclusive and robust regulations are needed to close this legal and social gap. App companies are required to register drivers with the BPJS Employment program or other equivalent protection schemes and adapt work systems to minimize physical and financial risks to drivers. Policymakers also need to formulate policies that balance the interests of platform growth with workers' rights, so that drivers are recognized as legal subjects with clear rights. In addition, further research is needed to map field conditions in more detail, support driver advocacy, and strengthen the scientific basis for formulating fairer, safer, and more sustainable regulations and company policies in the digital economy sector.

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