

CHAPTER I

INTRODUCTION

1.1 Background

Civil law is a branch of law that regulates legal relationships between legal subjects based on the principles of equality, freedom of contract, and responsibility.¹ Legal relationships that arise in socio-economic life are often embodied through agreements, which serve as the main source for the emergence of rights and obligations.² One form of agreement that has developed within the scope of civil law is the employment agreement, namely an agreement between a worker and an employer concerning the performance of certain work in return for specific compensation.³ The basic principle of civil law, as set out in Article 1338 paragraph (1) of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata/KUHPerdata), states that all agreements legally made shall bind the parties as law.⁴ This provision affirms the binding force of an agreement and provides the foundation for the formation of legal relationships in the world of work in Indonesia.

The imbalance of position between workers and employers requires protective legal rules in order to achieve justice and protection for the weaker

¹ Aprilia, D., Putra, D. E., Khusnah, L. H., Ruddiah, N. Z., Sundari, S., & Winata, V. M. (2024). Hukum Perdata Sebagai Penghubung Antara Perseorangan Dengan Badan Hukum. *Lentera Ilmu*, 1(2), hlm. 26-35. Diakses melalui: <https://journal.ciraja.com/index.php/JLI/article/view/49>

² Suyanto, dkk., *Aspek Hukum Dalam Perekonomian (Legal Aspects in Economy)*. Academia Publication. 2024, hlm. 59.

³ Sinaga, N. A. (2017). Peranan perjanjian kerja dalam mewujudkan terlaksananya hak dan kewajiban para pihak dalam hubungan ketenagakerjaan. *Jurnal Ilmiah Hukum Dirgantara*, 7(2), hlm. 39. Diakses melalui: <https://journal.universitassuryadarma.ac.id/index.php/jihd/article/view/132>

⁴ R. Subekti. *Hukum Perjanjian*. Intermasa. 2008, hlm. 6.

party.⁵ Such protection is realized through the establishment of labor law, which has a dual orientation, namely guaranteeing workers' rights while also maintaining business continuity. This branch of law constitutes a concrete form of state intervention to ensure that the principle of social justice under Article 27 paragraph (2) and Article 28D paragraph (2) of the 1945 Constitution of the Republic of Indonesia is implemented in practice. Labor law does not merely regulate contractual relationships but also carries a social function to protect human dignity in the world of work.⁶

The regulation of employment relationships in Indonesia obtains its main legal basis from Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law.⁷ Article 1 point 15 explains that an employment relationship is a relationship between an employer and a worker/laborer based on an employment agreement, which contains the elements of work, wages, and command. These three elements serve as the main indicators for determining the existence of an employment relationship in the legal sense. Article 51 paragraph (1) affirms that an employment agreement may be made either in writing or orally, provided that it satisfies the validity requirements of an agreement as stipulated in Article 1320 of the Indonesian Civil Code. The application of these provisions carries the legal consequence that the

⁵ Charda, U. (2014). Reformasi Politik Hukum Ketenagakerjaan Dalam Kebijakan Pemerintah Indonesia. *Jurnal Wawasan Yuridika*, 31(2), hlm. 138. DOI: <https://doi.org/10.25072/jwy.v31i2.79>

⁶ I Nyoman Putu Budiarta, *Hukum Outsourcing: Konsep Alih Daya, Bentuk Perlindungan, dan Kepastian Hukum*, Setara Press, Malang, 2016, hlm. 5.

⁷ *Ibid.*, hlm. 2.

determination of an employment relationship does not solely depend on the formal form or terminology used in an agreement but must also be assessed based on the fulfillment of the elements of work, wages, and command.⁸ The element of work reflects the existence of activities performed by the worker for the employer. The element of wages indicates the presence of compensation as a form of reward for the work performed. The element of command indicates the existence of subordination or the employer's control over the worker. The fulfillment of these three elements becomes the basis for determining whether a person has the status of a worker under labor law, regardless of the terminology used in the legal relationship between the parties.⁹

The development of information technology has given rise to a new work system that differs from conventional patterns of employment relations. The emergence of an app-based digital economy model marks a major transformation in the structure of the labor market. According to Don Tapscott (1996) in his work *The Digital Economy: Promise and Peril in the Age of Networked Intelligence*, the app-based digital economy is an economic system that utilizes information technology and internet networks as the main medium in the production, distribution, and exchange of goods and services.¹⁰ This term is also used in the 2022 study by Statistics Indonesia concerning Indonesia's digital economy, which highlights the increase in the number of

⁸ Zaeni Asyhadie, *Hukum Ketenagakerjaan di Indonesia: Prinsip dan Dasar Hukum Ketenagakerjaan*. RajaGrafindo Persada, Depok, 2018, hlm. 111.

⁹ *Ibid.*, hlm. 185.

¹⁰ Don Tapscott, *Six Themes for New Learning From: The Digital Economy: Promise and Peril in The Age of Networked Intelligence*, *Educom Review*, 31, 1996, hlm. 52-54.

platform-based workers as part of the transformation of national employment.¹¹ The 2021 report of the International Labour Organization entitled *The Role of Digital Labour Platforms in Transforming the World of Work* explains that digital platforms have created new types of work that often fall outside the framework of formal employment relationships as traditionally recognized in labor law.¹² The 2021 report of the Organisation for Economic Co-operation and Development explains that the digital economy includes all economic activities that depend on digital technology, data, and online platforms that connect service providers and users directly through applications.¹³

This work model is also frequently referred to as the gig economy because it relies on a flexible, demand-based work system or an on-demand system.¹⁴ In practice, workers in this model are often referred to as partners and are not always placed in a direct employment relationship with the application company. On the one hand, the term partner may describe a flexible work pattern; on the other hand, it may create problems when its use is not aligned with the reality of the employment relationship that actually occurs. When workers continue to perform work regularly, receive compensation, and are subject to certain arrangements or supervision, the use

¹¹ Badan Pusat Statistik. (2022). *Statistik Ekonomi Digital Indonesia 2022*. Jakarta: BPS.

¹² International Labour Organization. (2021). *The Role Of Digital Labour Platforms In Transforming The World Of Work*. Geneva: ILO.

¹³ Organisation for Economic Co-operation and Development. (2021). *The Digital Economy Outlook 2021*. Paris: OECD Publishing. DOI: <https://doi.org/10.1787/1f5b0e9a-en>

¹⁴ Khristian Edi Nugroho Soebandrija, dkk., *GIG Economy Concepts, Opportunities and Challenges*, Diandra Kreatif, Yogyakarta, 2021, hlm. 10.

of the term partner must be examined further so as not to create uncertainty regarding legal status within the labor system.

The presence of app-based digital economy workers gives rise to new legal issues. An employment relationship that initially involved only two parties has now developed into a more complex relationship and may involve workers, application companies, and labor service provider companies.¹⁵ This phenomenon raises questions regarding the boundaries of legal relationships and the respective responsibilities of each party in protecting workers' rights. Such a construction of legal relationships is related to the mechanism of transferring part of the implementation of work to another company, commonly known as an outsourcing system. Based on Articles 64 to 66 of the Manpower Law and Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours, and Rest Periods, companies may transfer part of their work to another company through a work contracting agreement or the provision of worker/labor services.¹⁶ Nevertheless, the outsourcing system should not eliminate legal protection for workers who perform work for the benefit of the user company.

The presence of an outsourcing system in the app-based digital economy sector cannot always be easily understood through conventional patterns of employment relations. The implementation of an indirect employment relationship may create problems when the formal status of workers, the legal basis of the employment relationship, and the division of responsibilities between the service provider company and the application

¹⁵ *Ibid.*, hlm. 15.

¹⁶ *Ibid.*, hlm. 21.

company are not clearly formulated.¹⁷ The statutory provisions on outsourcing have provided a normative basis for worker protection, but the complexity of app-based employment relationships requires further analysis regarding who formally establishes the employment relationship and who factually controls the work. The lack of clarity in employment agreements, the use of partnership terminology, and the division of roles between labor service provider companies and application companies may create serious problems in the practice of legal protection for workers.

These problems are evident in the work system of SPX Express couriers, also known as Shopee Express. Shopee Express operates as a logistics and goods delivery service within Shopee's e-commerce ecosystem.¹⁸ In the performance of their work, couriers may be connected to labor service provider companies, yet their daily work is carried out to support Shopee Express's service operations. Such a relationship raises questions regarding how the legal relationship of couriers should be qualified, particularly when couriers continue to be referred to as partners, while in practice they perform work that is tied to a distribution system, time arrangements, targets, and certain supervision mechanisms. In this context, the elements of work, wages or compensation, and command must be analyzed substantively to assess whether the legal relationship formed is

¹⁷ *Ibid.*, hlm. 10.

¹⁸ Firmansyah, D., Hutasoit, R., Danuavit, T. I. V. S. I., & Aji, E. (2025). Analisis Keberhasilan Shopee Express dalam Mengembangkan Bisnis Logistik di Tingkat Global. *SMART: Strategy of Management and Accounting through Research and Technology*, 1(1), hlm. 1. Diakses melalui: <https://www.academia.edu/143883095/>

closer to a partnership relationship or an employment relationship under labor law.¹⁹

The issues experienced by couriers cannot always be understood merely as an absence of protection, but are also related to the clarity of the legal basis for the protection provided. In app-based work practices, certain forms of protection or facilities resembling an employment relationship may be found, while the formal status of workers is still maintained under a partnership construction. This condition raises juridical questions as to whether the protection provided has a certain legal basis, whether such rights apply uniformly, and how protection is provided when disputes arise, access to work is terminated, or the legal relationship between the parties comes to an end. Therefore, the legal issue does not only lie in the existence or absence of certain rights, but also in legal certainty regarding status, the basis for granting rights, and the guarantee of protection that should attach to workers within the labor system.

Such a construction of legal relationships also creates confusion as to who should be responsible for the legal protection of couriers. A labor service provider company may be the party that formally recruits and places couriers, while the application company may be the party that factually benefits from the work and has influence over the implementation of work through its operational system. This condition blurs the boundaries of legal responsibility

¹⁹ Syafrianita, S., Purnomo, A., & Nasrudin, M. F. (2025). Investigasi Hubungan Antara Advanced Technology, Logistics Service Cost, dan Logistics Performance di Shopee Express Bandung Raya. *LAND JOURNAL*, 6(1), hlm. 255. DOI: <https://doi.org/10.47491/landjournal.v6i1.4038>

between the two companies.²⁰ The partner status attached to couriers has the potential to create uncertainty regarding which party is obliged to be responsible for the certainty of the employment relationship, protection against occupational risks, the right to compensation, working time arrangements, and protection when the employment relationship or access to work ends.

This situation demonstrates a gap between positive law and social reality in app-based employment relationships. Labor law norms have provided a basis for employment relationships, outsourcing, and worker protection, but the development of digital work models has created more complex patterns of legal relationships. In fact, Article 28D paragraphs (1) and (2) of the 1945 Constitution affirms every person's right to fair legal certainty as well as the right to work and receive proper compensation. Labor law must be able to adapt to the development of digital work models without disregarding the principle of worker protection.

The study of employment relationships in the context of the app-based digital economy is important because it concerns three fundamental aspects. First, the legal position of digital workers under partnership status must be analyzed in order to prevent inconsistencies between the label of the legal relationship and the reality of the employment relationship. Second, the legal responsibilities between labor service provider companies and application companies must be clearly explained in order to avoid liability shifting. Third, legal certainty in the implementation of the outsourcing system must be

²⁰ *Loc cit.*, Firmansyah (2025), hlm. 5.

strengthened so that each party understands its rights and obligations proportionally.

This study departs from the need to answer legal issues concerning how the legal relationship between the parties should be qualified and how legal protection must be enforced so that workers in the app-based digital economy do not remain in a regulatory gray area. Based on the background above, the author intends to conduct research entitled **“LEGAL PROTECTION FOR APP-BASED DIGITAL ECONOMY WORKERS UNDER AN OUTSOURCING SYSTEM (A CASE STUDY OF SHOPEE EXPRESS COURIERS WITH PARTNERSHIP STATUS).”**

1.2 Research Problems

Based on the background described above, the research problems can be formulated as follows:

1. What is the legal relationship between Shopee Express couriers, labor service provider companies, and the Shopee Express application company within an outsourcing system under Indonesian labor law?
2. What are the legal responsibilities of labor service provider companies and the Shopee Express application company in providing legal protection for couriers under partnership status through an outsourcing system?

1.3 Research Objectives

In accordance with the research problems described above, the objectives of this study are as follows:

1. To analyze the legal relationship between Shopee Express couriers, labor service provider companies, and the Shopee Express application company within an outsourcing system under Indonesian labor law, as well as the legal position of couriers as app-based digital economy workers.
2. To analyze the legal responsibilities of labor service provider companies and the Shopee Express application company in providing legal protection for couriers under partnership status through an outsourcing system.

1.4 Research Benefits

1.4.1 Theoretical Benefits

1. To deepen the understanding of, and to serve as a practical application of, the theories that the author has obtained during her studies at the Faculty of Law, Universitas Pembangunan Nasional Veteran Jawa Timur.
2. To serve as a reference for readers in conducting legal research, particularly on the Legal Protection of App-Based Digital Economy Workers through an Outsourcing System under Partnership Status.

1.4.2 Practical Benefits

1. This research is expected to serve as informational material for the public who wish to understand the Legal Protection of App-Based Digital Economy Workers through an Outsourcing System under Partnership Status.

2. This research serves as a graduation requirement in the Law Study Program, Faculty of Law, Universitas Pembangunan Nasional Veteran Jawa Timur.

1.5 Originality of the Research

Table 1.1 Results of Previous Research Relevant to the Title Raised by the Author.

No.	NAME, YEAR, TITLE	RESEARCH PROBLEMS	SIMILARITIES	DIFFERENCES
1.	Cahyaningrum, Regita Pramesti, (2025), <i>Perlindungan Hukum Kepada Gig Worker Gudang Logistik Terhadap Wanprestasi Oleh Penyedia Platform Digital Dalam Hubungan Kemitraan Berbasis Gig Economy</i> . (Undergraduate Thesis, Universitas Pembangunan Nasional “Veteran” Jawa Timur).	1. What is the form of liability of digital platform providers for acts of breach of contract experienced by Gig Workers? 2. What is the legal protection for Gig Workers if digital platform providers commit a breach of contract?	Discusses legal protection for app-based digital economy workers (gig workers) in a partnership relationship and highlights the weakness of legal protection caused by partnership status, which affects the fulfillment of workers’ basic rights.	The previous research focuses on breach of contract, namely unilateral wage reduction, and the civil liability of platform providers, whereas this research focuses on the structure of legal relationships and the legal responsibilities of the parties within the outsourcing system of Shopee Express couriers under labor law.
2.	Rizky Novi Amanda. (2023). <i>Implementasi Perjanjian Kemitraan Berbasis Ekonomi Gig Di Perusahaan Gojek Di Kota Pekalongan</i> . (Undergraduate Thesis, State Islamic University (UIN) K.H. Abdurrahman Wahid Pekalongan).	1. How is the implementation of gig economy-based partnership agreements at Gojek Company in Pekalongan City? 2. How does the substance of the gig economy-based partnership agreement at Gojek Company in Pekalongan City conform to the provisions of contract law?	Discusses app-based digital economy workers under partnership status, particularly in the context of the gig economy, and highlights the imbalance of the legal position of partners in their legal relationship with digital platform companies.	The previous research focuses on the implementation and validity of partnership agreements under contract law, whereas this research specifically discusses legal protection, legal relationships, and the legal responsibilities of the parties within the outsourcing system of Shopee Express couriers under labor law.

3.	Ivan Arofik Syaifudin, (2025), <i>Perlindungan Hukum Pekerja Gig atas Ketidakpastian Penghasilan Perspektif Undang-Undang Ketenagakerjaan dan Prinsip Keadilan Ibnu Taimiyah (Studi di Dinas Tenaga Kerja, Penanaman Modal, dan Pelayanan Terpadu Satu Pintu Kota Malang)</i> . (Undergraduate Thesis, State Islamic University Maulana Malik Ibrahim Malang).	1. What is the legal protection for gig workers against income uncertainty from the perspective of the Manpower Law? 2. What is the legal protection for gig workers against income uncertainty from the perspective of Ibn Taymiyyah's principle of justice?	Discusses legal protection for app-based digital economy workers who work under partnership status and highlights the weakness of legal protection in Indonesia's labor system for such workers.	It has a different object and focus of study. This research specifically discusses the legal relationship and legal responsibilities between Shopee Express couriers, labor service provider companies, and application companies within an app-based outsourcing system, whereas the previous research focuses on the income uncertainty of gig workers from the perspective of justice.
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The novelty of this research lies in the focus of study that specifically places app-based digital economy workers, namely Shopee Express couriers, within the construction of an outsourcing system combined with partnership status. Unlike previous studies that generally examine legal protection for gig workers from the perspective of civil breach of contract, the validity of partnership agreements, or income uncertainty viewed from the aspect of justice, this research specifically analyzes the legal relationship and division of legal responsibilities among three legal subjects, namely couriers, labor service provider companies, and application companies. By focusing on app-based work through an outsourcing system from the perspective of Indonesian labor law, this research not only examines the form of legal protection that should be provided to workers under partnership status, but also juridically

explains which party is legally responsible for fulfilling workers' rights. Therefore, this research contributes novelty in the form of an analysis of a combined employment relationship model between an outsourcing system and a digital platform, which has not been discussed in depth in previous studies.

1.6. Research Method

1.6.1. Type and Nature of Research

Legal research is a scientific activity conducted to examine and analyze legal issues systematically by using methods, approaches, and logical legal reasoning. The main purpose of legal research is to find answers to legal issues that arise in society through the examination of prevailing legal norms, principles, concepts, and doctrines.²¹

Legal research does not only function to understand law as written in statutory regulations, but also to interpret and construct the law in order to provide solutions to the legal problems encountered. Legal research is a process of discovering legal rules, legal principles, and legal doctrines in order to answer legal issues prescriptively within the framework of legal science.²²

The type and nature of research in this undergraduate thesis are normative juridical legal research and descriptive-analytical research. Normative juridical legal research is research that focuses on law as

²¹ Jonaedi Efendi & Johnny Ibrahim. *Metode penelitian hukum: normatif dan empiris*. Prenada Media, 2018, hlm. 6.

²² Nur Hikmatul Auliya, Helmina Andriani, Roushandy Asri Fardani, Jumari Ustiawaty, Evi Fatmi Utami, Dhika Juliana Sukmana, and Ria Rahmatul Istiqomah. *Metode penelitian kualitatif & kuantitatif*. Pustaka Ilmu, 2020, hlm. 16.

norms or rules applicable in society, so its main focus is library research.²³ Normative juridical legal research is research that views law as a system of norms, which includes legal principles, legal rules in statutory regulations, court decisions, as well as doctrines or opinions of legal scholars.²⁴ Normative juridical legal research does not focus on collecting field data, but rather on analyzing legal norms that regulate a particular event or legal relationship.

Based on the type and nature of the research, this undergraduate thesis uses normative juridical legal research to analyze the legal protection of app-based digital economy workers through an outsourcing system, particularly Shopee Express couriers under partnership status. This research focuses on examining labor law norms that regulate outsourcing systems, partnership relationships, and the division of legal responsibilities among workers, labor service provider companies, and application companies.

Through a normative approach, the author seeks to identify and analyze the extent to which the applicable statutory regulations are capable of providing adequate legal protection for digital economy workers who work within app-based and outsourcing-based employment relationship patterns. By using normative juridical legal research, this study is expected to provide comprehensive and systematic legal arguments in answering the research problems

²³ *Loc cit.*, Jonaedi Efendi & Johnny Ibrahim, 2018, hlm. 9.

²⁴ Irwansyah, *Penelitian Hukum*, Mirra Buana Media, Yogyakarta, 2021, hlm.174.

proposed, as well as to contribute ideas to the development of legal protection for digital economy workers in Indonesia.

1.6.2. Approach

A research approach is the perspective or analytical standpoint used by the author to examine and resolve the legal issues that become the object of research.²⁵ The statutory approach provides a strong normative foundation, while the conceptual approach functions to fill legal gaps and deepen the analysis of legal protection for app-based digital economy workers through an outsourcing system.

The author uses the statutory approach and the conceptual approach. These two approaches are used complementarily to obtain an in-depth legal understanding of the legal protection of app-based digital economy workers through an outsourcing system.

The statutory approach is an approach carried out by examining and reviewing various statutory regulations related to the legal issues being studied. This approach places statutory regulations as the primary legal material in normative legal research. According to Jonaedi Efendi and Johnny Ibrahim, the statutory approach is conducted by examining all statutory regulations related to the legal issue being addressed, both vertically and horizontally, in order to determine the consistency and synchronization of the applicable legal norms.²⁶

²⁵ *Ibid.*, hlm. 175-176.

²⁶ Jonaedi Efendi & Johnny Ibrahim. *Metode penelitian hukum: normatif dan empiris*. Prenada Media, 2018, hlm. 10.

The statutory approach is used to examine labor law regulations related to outsourcing systems, partnership relationships, and legal protection for workers, particularly app-based digital economy workers. Through this approach, the author analyzes various legal provisions contained in Law Number 13 of 2003 concerning Manpower, Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, and Government Regulation Number 35 of 2021, in order to assess the extent to which these norms provide legal protection for Shopee Express couriers who work through an outsourcing system under partnership status.

In addition to the statutory approach, this research also uses the conceptual approach. The conceptual approach is an approach based on doctrines, concepts, principles, and views of legal scholars that have developed in legal science. This approach is used when statutory regulations have not clearly regulated, or still create ambiguity of norms regarding, the legal issues being studied. The conceptual approach is carried out by examining legal concepts and the views of legal scholars in order to build relevant legal arguments in answering the legal issues encountered.²⁷

Through the conceptual approach, the author seeks to construct the legal position of digital economy workers who are situated within a combined employment relationship pattern between partnership and

²⁷ *Ibid.*, hlm. 12-15.

outsourcing, which has not been explicitly regulated in statutory regulations. The conceptual approach also assists the author in interpreting labor law norms so that they can be applied appropriately to the phenomenon of platform-based work.

By using the statutory approach and the conceptual approach simultaneously, the author is able to analyze the legal issues in this research comprehensively and systematically. The statutory approach provides a strong normative foundation, while the conceptual approach functions to fill legal gaps and deepen the analysis of legal protection for app-based digital economy workers through an outsourcing system.

1.6.3. Sources of Legal Materials

Sources of legal materials are all materials used as the basis of analysis in legal research to answer the legal issues being studied. In normative juridical legal research, sources of legal materials play an important role because this research relies on library studies that focus on applicable legal norms.²⁸ Therefore, accuracy in determining and classifying sources of legal materials greatly affects the quality and sharpness of the legal analysis conducted.

Based on the type and nature of the research used, namely normative juridical legal research, the sources of legal materials in this study consist of primary legal materials, secondary legal materials, and tertiary legal materials.

45. ²⁸ Muhaimin, *Metode Penelitian Hukum*, Mataram University Press, Mataram, 2020, hlm.

a. Primary Legal Materials

Primary legal materials are legal materials that are binding and have direct legal force because they originate from applicable statutory regulations.²⁹ Primary legal materials are used as the main basis in analyzing legal issues related to the legal protection of app-based digital economy workers through an outsourcing system. The primary legal materials used in this research include:

- 1) The 1945 Constitution of the Republic of Indonesia;
- 2) The Indonesian Civil Code, Staatsblad Number 23 of 1847 concerning Burgerlijk Wetboek voor Indonesië;
- 3) Law Number 13 of 2003 concerning Manpower;
- 4) Government Regulation Number 35 of 2021 concerning Fixed-Term Employment Agreements, Outsourcing, Working Hours and Rest Periods, and Termination of Employment;
- 5) Government Regulation Number 49 of 2025 concerning Wages;
- 6) Regulation of the Minister of Manpower Number 7 of 2026 concerning Outsourced Work.

²⁹ *Ibid.*, hlm. 56.

b. Secondary Legal Materials

The secondary legal materials in this research include:

- 1) Legal literature such as books, journals, and previous research results related to the legal protection of app-based digital economy workers.
- 2) Legal literature such as books, journals, and previous research results related to outsourcing systems under partnership status.

c. Tertiary Legal Materials

Tertiary legal materials are used as supporting materials to provide additional understanding of the legal terms and concepts used in this research.³⁰ Tertiary legal materials function to assist the author in interpreting and understanding primary legal materials and secondary legal materials. The tertiary legal materials used in this research include dictionaries such as the Great Dictionary of the Indonesian Language (Kamus Besar Bahasa Indonesia/KBBI), encyclopedias, magazines, and other supporting sources.

d. Non-Legal Materials

The non-legal materials used by the author in this research serve as supporting materials to provide information regarding contracts and work systems of labor service provider companies and application companies. Non-legal materials are obtained

³⁰ *Ibid.*, hlm. 67.

through interviews with Shopee Express couriers and Shopee Express logistics partners.

1.6.4. Procedure for Collecting Legal Materials

The procedure for collecting legal materials is the stage carried out by the author to obtain and compile various legal materials related to the legal issues being studied. In normative juridical legal research, the collection of legal materials is not conducted through field data collection, but through library research, which aims to examine legal norms, legal principles, and legal doctrines related to the object of research. Therefore, accuracy and systematics in the procedure for collecting legal materials are very important to support in-depth legal analysis.

The library research method is conducted by identifying and classifying various legal materials related to the legal protection of app-based digital economy workers through an outsourcing system. The process of identifying legal materials is carried out by tracing statutory regulations, legal literature books, scientific journals, previous research results, as well as doctrines and opinions of legal scholars related to the research topic.

The stages of collecting legal materials begin with tracing primary legal materials, particularly statutory regulations that govern labor law, outsourcing systems, partnership relationships, and legal protection for workers. Subsequently, the author collects secondary legal materials in the form of literature and scientific works that provide

explanations, interpretations, and analyses of the legal norms that have been identified. Tertiary legal materials are then used as supporting materials to help understand the terms, concepts, and legal definitions used in this research.

In addition to printed library sources, the collection of legal materials is also carried out through electronic media and internet searches, such as official government websites, scientific journal databases, and credible online legal publications. All legal materials that have been collected are subsequently classified and selected based on their relevance to the research problems, so that only legal materials directly related to the object of research are used in the analysis process.

1.6.5. Analysis of Legal Materials

The analysis of legal materials in this research is carried out using a qualitative method that is descriptive-analytical in nature. The qualitative analysis method is conducted by examining and interpreting legal materials in the form of statutory regulations, legal principles, legal doctrines, and opinions of legal scholars related to the research issues. This analysis is conducted without using statistical data, but rather through legal reasoning in order to obtain an in-depth understanding of the legal issues being studied.³¹

The legal materials that have been collected are analyzed by examining the relationship between legal norms, assessing the

³¹ Nur Hikmatul Auliya, Helmina Andriani, Roushandy Asri Fardani, Jumari Ustiawaty, Evi Fatmi Utami, Dhika Juliana Sukmana, and Ria Rahmatul Istiqomah. *Metode penelitian kualitatif & kuantitatif*. Pustaka Ilmu, 2020, hlm. 34.

consistency and synchronization of statutory regulations, and identifying the existence of legal gaps, ambiguity of norms, or disharmony of regulations related to partnership relationships and outsourcing systems in the context of app-based work.

The author also uses legal interpretation to understand the meaning and purpose of the applicable legal norms, through grammatical, systematic, and teleological interpretation. Such interpretation is used to assess the extent to which labor law norms can be applied to the legal relationship between Shopee Express couriers, labor service provider companies, and application companies. The results of this analysis are then linked to relevant legal concepts and doctrines in order to build an in-depth legal argument.

1.6.6. Writing Systematics

The writing of this undergraduate thesis research is arranged systematically to provide a coherent and easily understandable flow of discussion in examining the issue of legal protection for app-based digital economy workers through an outsourcing system. This undergraduate thesis is divided into five interrelated chapters and is arranged based on the research problems.

The first chapter, introduction, contains a general and comprehensive overview of the main issues that form the basis of this research. This chapter functions as an introduction before entering the main discussion of the undergraduate thesis. This chapter describes the research background, research problems, research objectives, and

research benefits. In addition, the introductory chapter also contains the research method used as the basis for the preparation of this undergraduate thesis, which includes the type and nature of research, research approach, sources of legal materials, procedure for collecting legal materials, analysis of legal materials, and writing systematics. The final part of this chapter is followed by a literature review as the theoretical and conceptual foundation of the research.

The second chapter of discussion is directed at answering the first research problem concerning the legal relationship between Shopee Express couriers, labor service provider companies, and the Shopee Express application company within an outsourcing system under Indonesian labor law. The discussion in this chapter is divided into two subchapters. The first subchapter discusses the legal relationship between couriers, labor service provider companies, and the Shopee Express application company within an outsourcing system. The second subchapter discusses the legal position of Shopee Express couriers as app-based digital economy workers within an outsourcing system.

The third chapter of discussion is directed at answering the second research problem concerning the legal responsibilities of labor service provider companies and the Shopee Express application company in providing legal protection for couriers under partnership status through an outsourcing system. The discussion in this chapter is divided into two subchapters. The first subchapter discusses the legal responsibility of labor service provider companies in providing legal protection for

couriers through an outsourcing system. The second subchapter discusses the legal responsibility of the Shopee Express application company in providing legal protection for couriers through an outsourcing system.

The fourth chapter, closing, is the final part of the undergraduate thesis, which contains conclusions and recommendations. The conclusions are formulated based on the results of the analysis of the two research problems discussed in the previous chapters, while the recommendations are addressed to the government or digital platform business actors and outsourcing companies as an effort to improve and strengthen legal protection for app-based digital economy workers through an outsourcing system in Indonesia.

1.7. Literature Review

1.7.1. General Review of Legal Protection

1.7.1.1. Definition of Legal Protection

According to Satjipto Raharjo, legal protection means providing protection for human rights that have been harmed by others, and such protection is given to society so that people may enjoy all the rights granted by law.³² Legal protection arises from the need to create balance in legal relationships, particularly when there is an imbalance in the position of the parties.³³ Legal protection is not only understood as a dispute resolution mechanism, but also as preventive and repressive

³² Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2014, hlm. 53.

³³ *Ibid.*, hlm. 54.

efforts provided by the state to guarantee legal certainty, justice, and legal utility.³⁴

Doctrinally, legal protection is understood as every form of legal effort provided by the state to legal subjects in order to protect their legitimate interests.³⁵ This concept places law as a means of ensuring that the rights possessed by a person are not only recognized normatively, but can also be realized and enforced in practice.³⁶ Legal protection has a normative dimension related to regulation in statutory provisions and an implementative dimension related to the implementation of those norms by law enforcement officials and relevant institutions. The concept of legal protection is closely related to the principles of legal certainty and justice. Legal certainty requires clear, consistent, and predictable rules so that legal subjects understand their rights and obligations.³⁷ Justice requires that law be able to provide proportional and non-discriminatory treatment to every person.

Legal protection can be understood as a set of norms and legal mechanisms aimed at guaranteeing the fulfillment of the rights of legal subjects fairly and certainly, especially in legal

³⁴ *Ibid.*

³⁵ Suliyono, A. (2025). Perlindungan Hukum terhadap Tenaga Kerja Informal di Era Digital: Perspektif Hukum Ketenagakerjaan dan Hukum Administrasi Negara. *Jurnal Pro Hukum*, 14(1), hlm. 5. Diakses melalui: <http://journal.unigres.ac.id/index.php/JurnalProHukum/article/view/3129>

³⁶ *Ibid.*, hlm. 2.

³⁷ Agustinus Sihombing, *Hukum Perlindungan Konsumen*. Azka Pustaka, Sumatera Barat, 2023, hlm. 2.

relationships marked by an imbalance in the position of the parties.³⁸ This concept of legal protection serves as an important theoretical foundation in research concerning the legal protection of app-based digital economy workers through an outsourcing system, because it determines how law should function in protecting workers from employment relationship practices that may be detrimental and fail to provide legal certainty.

1.7.1.2. Forms of Legal Protection

Legal protection is generally divided into two forms, namely preventive legal protection and repressive legal protection.³⁹ This division is used to explain the role of law in preventing violations of rights and in enforcing the law when such violations have occurred. Preventive legal protection is a form of protection provided before a legal violation occurs. This form of protection aims to prevent arbitrary actions through legal regulations that are clear, transparent, and understandable to legal subjects. Preventive legal protection is realized through statutory regulations, the establishment of legal standards, and supervisory mechanisms that provide certainty regarding the rights and obligations of the parties.

Repressive legal protection is a form of protection provided after a legal violation has occurred. This protection

³⁸ *Ibid.*, hlm. 25.

³⁹ *Ibid.*, hlm. 2.

functions as a means of restoring rights and enforcing the law through dispute resolution mechanisms and the imposition of sanctions for violations that occur. Repressive legal protection aims to restore justice and provide legal certainty for the harmed party.⁴⁰ These two forms of legal protection complement one another in ensuring the protection of the rights of legal subjects fairly and proportionally within a legal system.

1.7.1.3. General Review of Workers

Workers are legal subjects who have a central role in employment relationships and serve as the main object of protection in labor law. The juridical definition of workers is regulated in Article 1 point 3 of Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023, which states that a worker or laborer is every person who works by receiving wages or compensation in another form.⁴¹ This formulation affirms that the element of receiving compensation is the main characteristic that distinguishes workers from other legal subjects in economic activities.

The concept of workers in labor law cannot be separated from the existence of an employment relationship. An employment relationship arises from an employment

⁴⁰ *Ibid.*

⁴¹ Alam, S., & Arif, M. (2020). Perlindungan Hukum Terhadap Pekerja: Perspektif Tanggung Jawab Konstitusional Negara. *Kalabbirang Law Journal*, 2(2), hlm. 126. DOI: <https://doi.org/10.35877/454RI.kalabbirang154>

agreement between a worker and an employer that contains the elements of work, wages, and command.⁴² The element of work indicates the existence of activities or services performed by the worker. The element of wages indicates compensation as a consequence of the work performed. The element of command indicates the existence of a relationship of subordination, namely the position of the worker who is under the direction and control of the employer. The fulfillment of these three elements becomes the main basis for determining a person's status as a worker under labor law.

The definition of workers also has social and economic dimensions. Workers are viewed as parties who sell their labor and expertise in order to obtain a decent livelihood.⁴³ The position of workers in an employment relationship is generally weaker than that of employers, both economically and in terms of power.⁴⁴ This condition underlies the emergence of labor law, which is protective in nature and places workers as subjects who must receive special protection from the state.

The definition of workers from a legal perspective is not solely determined by the term used in an agreement, but by the

⁴² Chamdani, C., Endarto, B., Kusnadi, S. A., Indrajaja, N., & Syafii, S. (2022). Perlindungan Hukum Terhadap Pekerja/Buruh Yang Putus Hubungan Kerja Sebelum Masa Kontrak Kerja Berakhir. *Jurnal Kepastian Hukum dan Keadilan*, 4(1), hlm. 12. DOI: <https://doi.org/10.32502/khk.v4i1.4672>

⁴³ Willy Farianto, *Pola Hubungan Hukum Pemberi Kerja dan Pekerja: Hubungan Kerja Kemitraan & Keagenan*, Sinar Grafika, Jakarta, 2019, hlm. 62.

⁴⁴ *Ibid.*, hlm. 63.

substance of the legal relationship that occurs. The assessment of worker status must be carried out based on the facts of work implementation and the fulfillment of the elements of an employment relationship. This substantive approach is important to prevent practices that obscure legal status, which may harm workers and eliminate the normative rights that should be protected by law.

1.7.2. General Review of the App-Based Digital Economy

1.7.2.1. Definition of the App-Based Digital Economy

The app-based digital economy is a phenomenon that has emerged alongside the rapid development of information and communication technology, which has changed conventional patterns of employment relations. This economic system utilizes digital technology and internet networks as the main means of connecting service providers and service users through application platforms. Economic activities no longer depend on direct employment relationships of a traditional nature, but are mediated by digital systems that regulate work distribution, payment mechanisms, and supervision of work implementation.

The definition of the app-based digital economy is explained by De Stefano in his article entitled *The Rise of the Just-in-Time Workforce: On-Demand Work, Crowdwork, and Labor Protection in the Gig-Economy*. De Stefano states that

the app-based digital economy is a work system that uses online platforms as intermediaries between service providers and service users. Workers in this system perform work based on demand and receive payment per task or per job.⁴⁵ These characteristics show that the employment relationship is flexible and non-continuous, and depends on the availability of demand on the platform.

The app-based digital economy demonstrates a shift in the role of companies from direct employers to managers of digital systems that regulate employment relationships indirectly. Platforms do not only function as technical intermediaries, but also carry out managerial functions through tariff determination, incentive systems, and sanctions based on the application system.⁴⁶ This condition creates a new character of employment relationship that differs from conventional employment relationships, thereby creating its own challenges within the framework of regulation and legal protection.

The definition of the app-based digital economy shows that this work system cannot be understood merely as a free partnership relationship, but rather as a modern employment

⁴⁵ De Stefano, V. (2015). The rise of the just-in-time workforce: On-demand work, crowdwork, and labor protection in the gig-economy. *Comp. Lab. L. & Pol'y J.*, 37, 471.

⁴⁶ Muhammad Azizi, Elvina Safitri, Kushariyadi, Anriza Witi Nasution, Hubbul Wathan, Ardi Azhar Nampira et al. *Digital Ekonomi: Transformasi Ekonomi Di Era Digital*. Nawala Gama Education, Jambi, 2025, hlm. 2.

relationship that has its own structure, control, and supervisory mechanisms. This conceptual understanding becomes an important basis for examining the position of workers and the legal implications arising from the implementation of app-based work systems in labor practice.

1.7.2.2. Digital Economy Workers in the Indonesian Labor System

App-based digital economy workers are a group of workers who carry out work activities through digital platforms by utilizing information technology as the main means of performing work. The existence of digital economy workers shows a significant change in the structure of employment in Indonesia, particularly in the way work is organized, supervised, and compensated. App-based work systems present a model of employment relationship that differs from the conventional pattern of employment relations that has so far been explicitly regulated in labor law.⁴⁷

The Indonesian labor system is basically built upon the concept of an employment relationship marked by the elements of work, wages, and command as regulated in the Manpower Law.⁴⁸ his legal framework is designed to regulate direct employment relationships between workers and

⁴⁷ Neyfa, B. C., & s Salsabila, G. (2016). Perancangan aplikasi e-canteen berbasis android dengan menggunakan metode object oriented analysis & design (ood). *Jurnal Penelitian Komunikasi dan Opini Publik*, 20(1), hlm. 83. Diakses melalui: <https://jurnal.kominfo.go.id/index.php/jpkop/article/viewFile/532/426>

⁴⁸ Asri Wijayanti. *Menggugat Konsep Hubungan Kerja*. Vol. 1. Lubuk Agung, 2011, hlm. 99.

employers. The development of the app-based digital economy creates its own challenges because the employment relationship that is formed is often not explicitly stated as an employment relationship, but is instead constructed as a partnership relationship or platform-based cooperation.⁴⁹

v In practice, digital economy workers are often placed outside the category of formal workers because there is no juridical recognition of an employment relationship. The use of the term partner in contracts or platform policies becomes the basis for application companies to deny worker status. This condition causes digital economy workers not to receive normative protection as regulated in labor law, such as minimum wage guarantees, social security, working hours, and protection against termination of employment. The determination of worker status based solely on contractual classification has the potential to obscure the substance of the employment relationship that actually occurs.⁵⁰

Digital economy workers still show characteristics of workers in a substantive sense, especially when the performance of work is under the control of the platform system. Such control may take the form of tariff arrangements, work allocation, performance assessment systems, and algorithm-based sanctions. These mechanisms reflect a

⁴⁹ *Ibid.*, hlm. 25.

⁵⁰ *Ibid.*, hlm. 27.

relationship of subordination, which is a typical characteristic of an employment relationship in labor law, even though it is not always formally recognized by application companies.

The position of digital economy workers in the Indonesian labor system remains within a regulatory gray area to this day. The applicable statutory regulations have not specifically regulated the status and protection of app-based workers. This regulatory gap or ambiguity creates legal uncertainty for digital economy workers and opens opportunities for employment relationship practices that harm workers. This condition shows the need for a more adaptive legal approach to ensure that the labor system is capable of providing adequate legal protection for workers in the digital economy era.

1.7.3. General Review of Outsourcing Systems and Partnership

1.7.3.1. Definition of the Outsourcing System

An outsourcing system is a mechanism for transferring part of the implementation of work from one company to another company based on an agreement.⁵¹ The concept of outsourcing has developed as a work organization strategy to improve efficiency, flexibility, and the company's focus on its core business activities.⁵² The outsourcing system involves

⁵¹ Pradana, G. T. F. R., Faudina, R. I., & Astuti, J. A. (2026). Implikasi Hukum Penolakan Buruh terhadap Sistem Outsourcing Pasca Undang-Undang Cipta Kerja. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 4(1), hlm. 814. DOI: <https://doi.org/10.61104/alz.v4i1.3143>

⁵² *Ibid.*, hlm. 809.

more than one legal subject, namely the user company, the service provider company, and the workers who perform the work.

The definition of the outsourcing system in Indonesian labor law is regulated in Law Number 13 of 2003 concerning Manpower, as amended by Law Number 6 of 2023. Article 64 states that a company may transfer part of the implementation of work to another company through a work contracting agreement or the provision of worker/labor services made in writing. This regulation affirms that outsourcing is a legally valid mechanism as long as it fulfills the requirements and conditions stipulated in statutory regulations.

The outsourcing system in labor law has the character of an indirect employment relationship. Workers are formally bound by an employment relationship with the labor service provider company, while the work performed is intended for the benefit of the user company.⁵³ This construction of legal relationships creates a trilateral employment relationship, in which responsibility and authority over workers are divided between the service provider company and the user company in accordance with the agreed agreement.

⁵³ Shalihah, F. (2017). Perjanjian kerja waktu tertentu (pkwt) dalam hubungan kerja menurut hukum ketenagakerjaan indonesia dalam perspektif ham. *UIR Law Review*, 1(2), hlm. 153. DOI: <https://doi.org/10.25299/uirlrev.2017.1.02.955>

The regulation of outsourcing systems aims to provide legal certainty and protection for workers who perform work through this mechanism. Statutory regulations establish certain limits and requirements so that the outsourcing system is not used to avoid the obligations of employers toward workers.⁵⁴ Provisions concerning the types of work that may be outsourced, the protection of workers' normative rights, and the responsibilities of service provider companies and user companies are important parts of maintaining the balance of interests among the parties.

1.7.3.2. Partnership Status in Employment Relationships

Partnership status in employment relationships is a concept of legal relationship based on the principle of cooperation between parties who have equal positions and stand independently.⁵⁵ Partnership generally arises from a civil agreement that emphasizes the principles of freedom of contract, voluntariness, and the proportional distribution of roles and risks.⁵⁶ Each party is not in a relationship of subordination, but cooperates to achieve a common objective based on an agreement.

⁵⁴ Febrianti, L., Sambah, T., & Seruni, P. M. (2023). Komparasi Alih Daya Undang-Undang Ketenagakerjaan dengan Undang-Undang Cipta Kerja Tahun 2023. *Jurnal USM Law Review*, 6(3), hlm. 1194. DOI: <https://doi.org/10.26623/julr.v6i3.7965>

⁵⁵ Dewanta, I. M. T., Rizal, M. C., & Farid, M. L. R. (2023). Menyoal Tuntutan Driver Online terhadap Perubahan Hubungan Kemitraan Menjadi Hubungan Kerja dalam Perspektif Hukum Ketenagakerjaan Indonesia. *DiH: Jurnal Ilmu Hukum*, hlm. 55. DOI: <https://doi.org/10.30996/dih.v19i1.7387>

⁵⁶ *Ibid.*, hlm. 57.

The concept of partnership is fundamentally different from an employment relationship in labor law. An employment relationship is marked by the elements of work, wages, and command, which reflect a subordinative relationship between workers and employers.⁵⁷ Partnership does not recognize the element of command in the sense of direct control over the implementation of work, because the parties in a partnership have the freedom to regulate the manner and time of work implementation in accordance with the agreement made. This difference places partnership as a legal relationship outside the regime of labor law.

Partnership status in employment practice is often used in certain sectors that emphasize flexibility and the independence of business actors. The party referred to as a partner is positioned as a legal subject who carries out activities independently and is responsible for the business risks undertaken. The consequence of partnership status is that the normative provisions of labor law do not apply, such as minimum wages, employment social security, working hours, and protection against termination of employment.

The determination of partnership status cannot be carried out solely based on the term or classification used in an agreement. The assessment of the status of a legal relationship

⁵⁷ *Ibid.*, hlm. 58.

must be carried out based on the substance of the relationship that occurs in practice.⁵⁸ A legal relationship that factually shows the existence of the elements of work, compensation, and control or command has the potential to be qualified as an employment relationship, even though the parties refer to it as a partnership. This substantive approach is important to prevent the misuse of partnership status as a means of avoiding employer obligations.

Partnership status in employment relationships shows the potential conflict between the principle of freedom of contract and the principle of worker protection. The freedom of the parties to determine the form of their legal relationship must still be limited by legal provisions aimed at protecting the party in a weaker position.⁵⁹ Understanding partnership status and its difference from employment relationships becomes important as a basis for assessing the conformity of the application of partnership in labor practice with the principles of justice and legal protection.

1.7.4. Theory of Legal Protection

The theory of legal protection is a framework of thought that explains the function of law in protecting the rights and interests of legal subjects from harmful or arbitrary actions. This theory places law as a

8. ⁵⁸ Eddy Pratomo. *Hukum Perjanjian International*. Elex Media Komputindo, 2016, hlm.

⁵⁹ *Ibid.*, hlm. 16.

normative instrument aimed at realizing legal certainty, justice, and legal utility.⁶⁰ Legal protection from a theoretical perspective is not only understood as an effort to enforce the law after a violation has occurred, but also as a preventive mechanism so that violations of rights can be avoided from the outset.⁶¹

Philipus M. Hadjon explains that legal protection is the protection of human dignity and the recognition of human rights possessed by legal subjects based on the applicable legal provisions. According to Hadjon, legal protection is realized through two forms, namely preventive legal protection and repressive legal protection.⁶² Preventive legal protection aims to prevent disputes by providing legal subjects with the opportunity to submit objections or obtain certainty before a decision is made, while repressive legal protection functions to resolve disputes and restore rights after a violation has occurred.

Satjipto Rahardjo views legal protection as part of the purpose of law to provide protection to society. Legal protection is not only formal through statutory regulations, but must also be capable of providing substantive justice. According to this view, law must not be understood rigidly, but must be able to adapt to social reality in order to protect the weak and prevent structural injustice.⁶³

⁶⁰ Salim HS & Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*, Raja Grafindo Persada, Jakarta, 2013, hlm. 259.

⁶¹ *Ibid.*, hlm. 230.

⁶² Phillipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Indonesia*, Bina Ilmu, Surabaya, 1987. hlm. 29.

⁶³ Satjipto Raharjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2000, hlm.53.

The theory of legal protection is also related to the idea of the rule of law state, which places the state as the party responsible for guaranteeing the protection of citizens' rights. Through the formation of legal norms and law enforcement mechanisms, the state has an obligation to ensure that every legal relationship takes place fairly and does not harm certain parties.⁶⁴ Legal protection becomes a means of correcting imbalances in the position of the parties in legal relationships, particularly in relationships that are subordinative in nature.

The theory of legal protection provides a conceptual basis for assessing the effectiveness of a legal system in protecting the rights of legal subjects. The success of legal protection can be seen from the clarity of norms, the consistency of legal application, and the ability of law to provide fair remedies for the harmed party.⁶⁵ This theoretical framework becomes an important foundation in analyzing legal relationships and responsibilities for legal protection in various forms of employment relationships that develop in modern society.

The legal basis of the concept of legal protection in the Indonesian legal system can be traced through the principle of the rule of law state contained in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which affirms that Indonesia is a state based on law. This principle is further strengthened through the guarantee of human rights protection as regulated in Article 28D paragraph (1) of the

⁶⁴ *Ibid.*, hlm. 55.

⁶⁵ *Ibid.*, hlm 58.

1945 Constitution, which grants every person the right to recognition, guarantees, protection, and fair legal certainty. In addition, various sectoral statutory regulations also implement the concept of legal protection through preventive and repressive mechanisms, whether in the form of administrative supervision, dispute resolution, or the restoration of rights through judicial processes. Therefore, the theory of legal protection is not merely conceptual, but has a strong normative foundation in the constitution and the Indonesian statutory regulatory system as an instrument to guarantee the balance of rights and obligations of the parties in legal relationships.