

Legal Protection for Gig Workers in the Digital Economy: A Critical Review of Labor Relations in Indonesia

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ABSTRACT

The rapid growth of the digital economy in Indonesia has given rise to gig work arrangements, characterized by short-term, task-based employment facilitated through online platforms. While offering flexibility and new income opportunities, gig work often operates outside the scope of traditional labor laws, leaving workers without adequate legal protection. This study employs a normative legal analysis to critically review Indonesia's industrial relations framework in addressing the rights and obligations of gig workers. The research examines relevant national legislation, judicial decisions, and comparative legal approaches from other jurisdictions, alongside international labor standards. Findings reveal that the current legal framework is insufficient to address the unique characteristics of platform-mediated work, resulting in legal uncertainty over employment classification, limited access to social protection, and weak collective bargaining rights. Drawing from comparative models and ILO conventions, the study recommends legal reforms to define gig work, introduce hybrid employment categories, extend mandatory social protection coverage, recognize gig worker associations, and establish specialized dispute resolution mechanisms. These measures are essential for balancing labor protection with the flexibility and innovation of the digital economy in Indonesia.

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1. INTRODUCTION

The rise of the digital economy has fundamentally altered the nature of work, creating new opportunities and challenges in labor relations, with the gig economy—short-term, task-based employment facilitated through digital platforms such as ride-hailing services, food delivery applications, freelance marketplaces, and other online labor platforms—emerging as one of the most significant developments. In Indonesia, the

gig economy has expanded rapidly over the past decade, driven by increased internet penetration, the proliferation of smartphones, and shifting consumer preferences toward on-demand services, thereby creating flexible income opportunities for millions of workers, particularly those seeking supplementary earnings or alternative employment outside the formal sector. This transformation offers various opportunities, such as flexibility and autonomy that allow individuals to set their own schedules and balance work with

personal life, which is particularly beneficial for those with other commitments like caregiving responsibilities [1], [2], low barriers to entry as digital platforms provide easy access to work without significant upfront investment or specialized skills [3], and the ability to generate multiple income streams, which is advantageous in uncertain economic climates [1]. However, the gig economy also presents notable challenges, including the lack of social protections since workers often do not have access to health insurance, retirement plans, or paid leave, raising concerns about their long-term economic welfare [2], [3], reduced job security and limited rights due to their classification as independent contractors rather than employees, which restricts their ability to collectively bargain [2], and the implications of algorithmic control and heightened competition that may exert downward pressure on wages [3].

However, the rapid growth of gig work in Indonesia has outpaced the development of legal and institutional frameworks to protect the rights of workers engaged in such arrangements, as most gig workers are classified as independent contractors rather than employees, thereby excluding them from protections under Indonesia's core labor laws such as the Manpower Law (Law No. 13 of 2003) and related regulations, which limits their access to minimum wage guarantees, overtime pay, occupational health and safety protections, and formal dispute resolution mechanisms. This legal grey area places gig workers in a precarious position without the safeguards afforded to employees [4], with many operating under a partnership model that often results in "misclassified partnerships" where rights and protections are denied due to legal loopholes [5]. The absence of specific regulations further means gig workers lack social security benefits [6], while electronic work contracts used by digital platforms often favor the platforms, exacerbating financial insecurity and limiting access to social protection [7]. Potential solutions proposed include expanding the legal definition of "workers," creating a third employment

category, and establishing independent legislation to safeguard gig workers' rights [4], with international comparisons to the EU and the US showing that implementing minimum standards for gig worker protection can enhance welfare [5], [7].

Industrial relations in Indonesia have traditionally relied on a binary distinction between employers and employees, with labor unions, collective bargaining agreements, and state regulations serving as the primary mechanisms for worker protection; however, the gig economy disrupts this model through decentralized and digitally mediated work arrangements that blur the boundaries between employment and self-employment, creating significant legal uncertainty regarding employment status, rights, responsibilities, and the enforcement of social protection schemes such as the Badan Penyelenggara Jaminan Sosial (BPJS). In many cases, gig workers are classified as partners rather than employees, excluding them from the protections afforded to regular workers [6], while the lack of clear legal definitions and regulatory frameworks leaves them vulnerable to exploitation and without access to essential rights like fair wages and social security [8]. Current regulations do not sufficiently protect gig workers, in contrast to regions like the European Union that have implemented minimum standards for their protection [7], leading to recommendations for reforming civil law to govern gig economy work relationships, leveraging technology to improve legal oversight [7], and establishing specific regulations to define work relationships between gig workers and companies alongside socialization and education on the importance of social security [6]. Furthermore, while Indonesia's labor regulations have historically emphasized statutory rights and collective bargaining [9], these mechanisms do not adequately address gig workers' needs, prompting calls for the government to bridge the gap between statutory rights and voluntary working conditions and to encourage voluntary agreements between employers and workers [9].

The lack of adequate legal safeguards has heightened concerns about gig workers' vulnerability to unfair treatment, income instability, and occupational risks, a situation exacerbated by the asymmetrical bargaining power between platform operators—often large corporations with significant market control—and individual workers lacking collective representation, thereby threatening to undermine the principles of fairness, equality, and social justice embedded in Indonesia's labor law. This study critically reviews the legal protection available to gig workers in Indonesia within the framework of industrial relations, employing a normative legal analysis to assess the extent to which existing labor laws, contractual arrangements, and institutional mechanisms accommodate the distinctive characteristics of gig work. Drawing on comparative experiences from other jurisdictions and international labor standards, it proposes recommendations for reform aimed at addressing legal and institutional gaps, with the ultimate goal of contributing to the development of an industrial relations system that balances the adaptability of the digital economy with the protection of vulnerable workers.

2. LITERATURE REVIEW

2.1 *The Gig Economy and Digital Labor Platforms*

The gig economy in Indonesia, represented by ride-hailing services like Gojek and Grab, as well as food delivery and online freelancing platforms, reflects a global shift toward flexible, short-term work mediated by digital platforms, reshaping labor market dynamics and offering both opportunities and challenges. Flexibility and autonomy allow workers to manage schedules, diversify income, and improve work-life balance [1], but often at the expense of job security, clear legal status, and access to traditional labor rights and benefits [1], [10]. It also transforms interactions between workers, employers, and platforms acting as intermediaries [11], challenging traditional workforce management and requiring new HR

strategies [12]. For businesses, gig work provides cost-effective, on-demand labor, while policymakers face the challenge of balancing worker protection with economic growth and innovation in this evolving sector [1].

2.2 *Legal Framework for Labor Relations in Indonesia*

Indonesia's labor relations framework, primarily governed by Law No. 13 of 2003 and Law No. 21 of 2000, does not adequately cover gig workers, who are often classified as independent contractors or partners, thereby excluding them from standard labor protections such as minimum wage, paid leave, and access to dispute resolution mechanisms. This classification, coupled with the absence of specific regulations, creates legal uncertainty regarding social security and employment rights [6], [13], leaving a significant protection gap that current labor laws fail to address [14], [15]. The imbalance in bargaining power between gig workers and digital platforms further exacerbates these challenges, often resulting in unfair electronic work contracts favoring the platforms [13]. To address these issues, recommendations include establishing dedicated regulations for gig workers, enhancing legal oversight through technology, and providing education on labor rights and the importance of social security [6], [13], with comparative experiences from regions such as the European Union highlighting the value of minimum protection standards to improve welfare and financial security [13].

2.3 *Industrial Relations and Collective Representation*

The industrial relations framework in Indonesia is traditionally anchored in a tripartite system involving the government, employers, and employees, with labor unions playing a pivotal role in collective bargaining; however, gig workers—often classified as non-employees—face significant challenges in unionizing and negotiating fair terms due to their exclusion from

formal labor protections and the absence of legal recognition for their informal associations. Although Indonesia has ratified all eight ILO Core Conventions, including those on freedom of association and collective bargaining [16], gig workers remain outside these protections as independent contractors, limiting their ability to form recognized unions [13]. In response, informal associations such as driver cooperatives and online rider groups have emerged, yet their lack of formal legal status restricts their influence in negotiations and leaves them with limited bargaining power to advocate for better working conditions [13], [17]. Current regulations fail to adequately protect gig workers, resulting in financial insecurity and lack of access to social security [13], prompting calls for civil law reforms to establish minimum protection standards similar to those in the European Union [13].

2.4 International Labor Standards

The International Labour Organization (ILO) underscores the importance of extending labor protections universally, including to gig workers, by adapting labor laws to new work arrangements in response to the transformative impact of digital labor platforms on the world of work, necessitating the application of key conventions such as Convention No. 87 on Freedom of Association and Convention No. 98 on the Right to Organise and Collective Bargaining to ensure decent working conditions and social protection for all workers regardless of contractual form. These conventions advocate for fundamental rights like freedom of association and collective bargaining as essential to fair labor practices and social justice [18], [19], supported by the ILO's tripartite structure involving workers, employers, and governments in developing labor standards for all employment forms, including non-traditional work [20]. However, current labor laws that distinguish between employees and self-

employed individuals often exclude gig workers, highlighting the need to redefine employment categories to ensure they receive appropriate protections and to address sham contracting by presuming worker status unless proven otherwise [21]. Effective national implementation of ILO conventions remains critical, as seen in countries like Poland and Georgia where legislative gaps hinder full application [22], with reforms benefiting from state consultations with social partners to modify existing systems and strengthen protections for self-employed and gig workers in an evolving labor landscape [19].

2.5 Previous Studies in the Indonesian Context

The gig economy has disrupted traditional labor classifications, sparking debate over whether a new worker category is necessary, as the binary distinction between employees and independent contractors is increasingly seen as inadequate to address the complexities of gig work. Traditional labor laws primarily differentiate between employees and self-employed individuals, leaving many gig workers in a legal gray area without the protections of traditional employment [21], [23], while the rise of digital platforms has further blurred employment boundaries, excluding gig workers from key labor rights [24]. To bridge this gap, some scholars propose a "dependent contractor" category as an intermediate status between employee and independent contractor, offering partial benefits and protections without granting full employee status [25], [26], an approach already adopted in countries such as Canada, Italy, and Spain with mixed outcomes, including risks of misclassification and rights erosion [25]. However, critics contend that introducing a new category could create confusion and weaken labor rights, advocating instead for expanding existing employee definitions to encompass gig workers

[21], amid concerns that a separate category might fail to resolve broader issues of precarious work and could inadvertently legitimize exploitative practices [25].

3. RESEARCH METHODS

3.1 *Research Approach*

This study employs a normative legal analysis approach, which focuses on examining legal norms, statutory provisions, and doctrinal interpretations relevant to the protection of gig workers in Indonesia's digital economy. The normative legal method is appropriate for assessing the adequacy of existing laws, identifying legal gaps, and proposing reforms based on principles of justice, fairness, and compliance with international labor standards. The approach prioritizes a law-in-books perspective, analyzing formal regulations and their alignment with labor rights principles.

3.2 *Research Specifications*

The research is descriptive-analytical in nature. It seeks to describe the current legal framework governing industrial relations in Indonesia and to critically analyze its capacity to address the unique challenges faced by gig workers. The analysis is conducted systematically, evaluating the compatibility of national laws with global best practices and international labor conventions.

3.3 *Sources of Legal Material*

The study utilizes three types of legal materials: Primary Legal Materials, comprising binding sources such as Law No. 13 of 2003 on Manpower, Law No. 21 of 2000 on Trade Unions, Law No. 11 of 2020 on Job Creation (and its amendments to labor provisions), government regulations related to social security (BPJS) coverage, and relevant Indonesian court decisions on employment classification disputes; Secondary Legal Materials, including scholarly works, journal articles, legal commentaries, and research reports that interpret or critique

primary legal sources, along with studies on the gig economy from both Indonesian and international perspectives for comparative analysis; and Tertiary Legal Materials, consisting of reference tools such as legal dictionaries, encyclopedias, and indexes used to clarify terminology and concepts.

3.4 *Data Collection Method*

Legal materials were collected through documentary research, which involved reviewing national legislation and official government publications, analyzing reports from the International Labour Organization (ILO) and other reputable international bodies, and examining academic literature and case law databases to identify judicial interpretations and relevant precedents.

3.5 *Data Analysis Technique*

The analysis was conducted through a qualitative, prescriptive process that began with compiling and classifying relevant legal materials based on their relevance to gig work, industrial relations, and labor protection, followed by interpreting legal provisions using grammatical, systematic, and teleological methods to understand their meaning, interrelation, and intended purpose. This was complemented by a comparative analysis of the Indonesian legal framework with selected foreign jurisdictions such as the United Kingdom, United States, and other ASEAN countries, as well as with ILO standards, to identify best practices. Finally, the adequacy of existing laws was evaluated against the realities of gig work, and reform recommendations were proposed to strengthen legal protection and industrial relations mechanisms.

4. RESULTS AND DISCUSSION

4.1 *Overview of Gig Work in Indonesia's Digital Economy*

Indonesia's gig economy has witnessed exponential growth, driven by technological innovation, increased internet penetration, and changing consumer behavior. Digital platforms

such as Gojek, Grab, Maxim, Shopee, Tokopedia, and Upwork have created millions of short-term work opportunities ranging from transportation and delivery to online freelance projects. While these platforms have contributed to economic inclusivity by absorbing underemployed and low-skilled workers, they have also introduced structural vulnerabilities due to the absence of comprehensive labor protections. Field studies reveal that gig workers in Indonesia value the flexibility and independence offered by these platforms; however, they face unpredictable income, lack of occupational safety guarantees, and exclusion from social protection schemes. The contractual designation of gig workers as “partners” (*mitra*) rather than employees is a central factor behind these gaps, as it enables platform companies to bypass employer obligations under Indonesian labor law, leading to vulnerabilities such as income instability and lack of social security.

Despite offering low barriers to entry and flexible work arrangements attractive to many workers [3], the gig economy also exposes them to significant risks. Unpredictable income, absence of occupational safety measures, and exclusion from benefits like health insurance and retirement plans threaten their financial security and overall welfare [13], [27]. The current legal framework in Indonesia does not adequately protect gig workers, as electronic work contracts often favor platforms [13], reinforcing power imbalances between workers and companies and creating opportunities for exploitation [8]. Concentrated mainly in major urban centers like Jakarta [28], the gig economy’s rapid expansion underscores the urgent need for regulatory reforms to redefine gig workers’ employment status, ensuring fair wages, adequate social security, and equitable treatment within Indonesia’s evolving labor market.

4.2 Adequacy of the Current Legal Framework

The primary legal instruments governing labor relations in Indonesia—such as Law No. 13 of 2003 on Manpower, Law No. 21 of 2000 on Trade Unions, and relevant implementing regulations—are designed for conventional employer–employee relationships and do not explicitly address digitally mediated work arrangements, resulting in a misalignment between statutory definitions and the realities of gig work. In practice, gig workers are excluded from minimum wage protections under Government Regulation No. 36 of 2021, paid leave and overtime compensation mandated for formal employees, BPJS Ketenagakerjaan and BPJS Kesehatan coverage unless opted for voluntarily, and formal collective bargaining rights, since most gig worker associations are not recognized as trade unions under Law No. 21 of 2000. This exclusion generates legal uncertainty regarding rights, responsibilities, and dispute resolution, while the absence of explicit provisions on platform-mediated work hampers enforcement by labor inspectors, forcing classification disputes to be settled through the courts.

These legal gaps manifest in several key areas: gig workers are not entitled to minimum wage protections or benefits like paid leave and overtime pay that formal employees enjoy [7], [14]; they are often classified as independent contractors, excluding them from mandatory social security schemes such as BPJS Ketenagakerjaan and BPJS Kesehatan (Stevania & Hoesin, 2024); and most gig worker associations lack recognition as trade unions, limiting their ability to negotiate collectively [29]. Misclassification as “partners” rather than employees further restricts access to labor rights and protections [30], while the lack of clear legal definitions for gig work complicates enforcement, leaving disputes to lengthy court processes [6], [13].

4.3 Comparative Perspectives and Lessons Learned

Comparative legal developments in other jurisdictions offer potential pathways for reform, showing that legal frameworks can evolve to recognize hybrid work arrangements and balance flexibility with essential protections. In the United Kingdom, the Supreme Court's decision in *Uber BV v. Aslam* (2021) classified ride-hailing drivers as "workers," granting them rights such as minimum wage and paid leave, thereby creating an intermediate legal category between employees and independent contractors [31], [32]. This ruling reflects a broader UK trend toward expanding worker protections in the gig economy and addressing issues like sham self-employment and precarious working conditions [32], [33]. In California, USA, Assembly Bill 5 (AB5) presumed gig workers to be employees unless specific criteria were met, aiming to extend employee benefits to them [34], but Proposition 22 later exempted app-based transportation and delivery services from AB5 while still mandating certain benefits such as healthcare subsidies and minimum earnings [34].

In the Philippines, draft legislation proposes extending mandatory social security and health insurance coverage to gig workers regardless of employment classification, aiming to secure essential protections without changing the core nature of gig work [34]. Together, these models illustrate that governments can adopt varied approaches to address gig workers' vulnerabilities—whether by creating intermediate employment categories, presuming employee status with certain exemptions, or extending specific protections universally—offering valuable insights for Indonesia as it considers reforms to its labor laws in response to the rise of platform-mediated work.

4.4 Alignment with International Labor Standards

The International Labour Organization (ILO) has consistently emphasized that all workers, regardless of contractual form, are entitled to fundamental labor rights, with key conventions relevant to gig work including Convention No. 87 on Freedom of Association, Convention No. 98 on the Right to Organise and Collective Bargaining, and Convention No. 102 on Social Security (Minimum Standards). Indonesia has ratified Conventions No. 87 and 98, obligating the state to ensure that gig workers—despite being classified as independent contractors—can form associations and engage in collective bargaining; however, the absence of enabling national legislation for platform workers means these rights remain largely theoretical. Classification as independent contractors excludes gig workers from the legal scope of collective labor rights, such as freedom of association and collective bargaining, restricting their ability to organize collectively and, in some cases, leading to violations of fundamental rights [35], [36]. Legal and regulatory barriers, including labor regulations and antitrust laws, further impede collective activities by treating them as potentially anti-competitive, while the lack of national provisions to operationalize ratified ILO conventions leaves gig workers without effective legal recourse [37]. Evolving European frameworks that expand access to collective rights for platform workers offer potential models, alongside proposed national law reforms aimed at facilitating representation and collective action [36], with a human rights-based approach to labor protection ensuring all workers, including gig workers, enjoy fundamental rights such as collective bargaining [38].

4.5 Policy and Legal Reform Needs

Analysis of the existing framework highlights several urgent needs for reform, including the

introduction of a clear statutory definition of gig work to reduce ambiguity in worker classification and align national laws with international standards such as those proposed by the ILO and the EU (Kobron-Gasiorowska, 2023; Undari & Sugiyama, 2024), as well as the adoption of a hybrid worker category that grants core labor rights—such as minimum wage, working hours regulation, and social security—while preserving the flexibility characteristic of gig work [4], [39]. Extending mandatory BPJS Ketenagakerjaan and BPJS Kesehatan coverage to all gig workers through a cost-sharing mechanism between workers, platforms, and the state is also essential to address their precarious position [4]. Furthermore, amending Law No. 21 of 2000 to explicitly recognize gig worker associations for collective bargaining would empower them to negotiate better terms and conditions, given the importance of collective bargaining in regulating platform work [40]. Finally, establishing specialized tribunals or dispute resolution procedures for conflicts between gig workers and platforms would offer a more efficient and accessible alternative to lengthy civil litigation [41].

4.6 *Balancing Flexibility and Protection*

One of the primary challenges in regulating gig work is balancing the preservation of its flexibility with the need to ensure fair treatment, as over-regulation risks reducing job opportunities while under-regulation perpetuates exploitation and economic insecurity. A balanced regulatory framework that adapts core principles of labor law to the realities of digital platform work offers the most viable solution. Drawing from comparative models, Indonesia could adopt a tiered protection system guaranteeing universal access to social security, minimum income thresholds, occupational safety

obligations, and the right to organize and bargain collectively—measures that would align the national labor market with global trends while safeguarding worker welfare in the rapidly evolving digital economy.

5. CONCLUSION

The emergence of the gig economy presents both transformative opportunities and regulatory challenges for Indonesia's labor market; while digital platforms have created new income streams and broadened access to work, they have also exposed structural weaknesses in the industrial relations framework, as existing labor laws—designed for conventional employer–employee relationships—do not accommodate the flexible, task-based, and digitally mediated nature of gig work. The normative legal analysis in this study reveals critical gaps, including the absence of a legal definition for gig work, exclusion from core labor protections such as minimum wage and social security, lack of formal recognition for worker associations, and inadequate dispute resolution mechanisms. Comparative experiences from jurisdictions such as the United Kingdom, California, and the Philippines demonstrate that legal systems can adapt by introducing hybrid worker categories, mandating social protection coverage, and safeguarding collective bargaining rights without eroding the flexibility valued in gig work. To achieve fairness, inclusivity, and sustainability in the digital economy, Indonesia must reform its industrial relations framework by clearly defining the legal status of gig workers, extending universal social protection, recognizing their right to organize, and establishing specialized dispute resolution mechanisms—reforms that will not only protect vulnerable workers but also enhance the growth and legitimacy of the nation's gig economy in line with international labor standards.

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