

The Legal Status of Gig Workers in Indonesia: Between Independent Partners and Employees in the Perspective of Labour Law

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Abstract

The rapid growth of the digital economy in Indonesia has given rise to the phenomenon of gig workers, including online ride-hailing drivers, delivery couriers, and digital freelancers. While platform-based work provides a high degree of flexibility, it also raises serious concerns regarding the legal status of its workers. At present, gig workers are categorized as “partners” by platform companies rather than employees, thereby excluding them from the protection of labour law. This legal ambiguity exposes workers to vulnerabilities such as the absence of social security, lack of entitlement to fair wages, and the risk of unilateral termination. In practice. This study aims to analyze the legal status of gig workers in Indonesia by examining existing labour regulations, the digital contracts applied by platform companies, and comparative approaches adopted in other countries such as the United Kingdom, Canada, and Spain. The research employs a normative-juridical method through statutory analysis, contractual examination, and case studies, complemented by relevant international literature. The findings indicate a significant regulatory gap. Gig workers cannot be fully classified as employees, yet they cannot be treated as entirely independent contractors either. Consequently, this paper recommends the establishment of a new legal category, namely gig workers or dependent contractors, which combines work flexibility with fundamental labour protections. This proposed regulation should be incorporated into labour law reforms or specific implementing regulations. This research is expected to provide practical contributions for national labour policy formulation and enrich academic discourse on labour law in the digital economy era.

Keywords: gig workers, legal status, employment relationship, labour protection, dependent contractor.

1. Introduction

The emergence of the digital economy in Indonesia has transformed the nature of work and employment relations in unprecedented ways. Platform-based businesses such as ride-hailing, food delivery, and digital freelancing have introduced a new form of work commonly referred to as the gig economy. According to the Indonesian Ministry of Communication and Informatics, the number of digital platform users has increased rapidly over the past decade, driven by technological innovation and the demand for flexible working arrangements (Kementerian Kominfo, 2022). This development has led to the rise of gig workers—individuals who provide services through digital applications such as Gojek, Grab, or Shopee Food, typically under short-term and on-demand arrangements rather than permanent employment contracts (Prassida & Yuniarto, 2021). The increasing penetration of digital platforms in Indonesia can be visualized in Figure 1, which shows the steady rise of gig economy workers across major urban areas in the last five years.

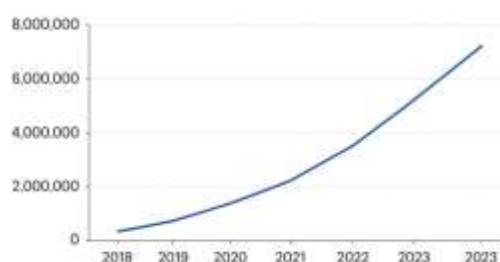


Figure 1. Growth of Gig Workers in Indonesia (2018-2023)

Source: Kominfo/ILO (2023)

While the gig economy offers flexibility and income opportunities, it also poses significant legal and social challenges. Platform companies generally classify their workers as “partners” (mitra) instead of employees, which effectively excludes them from the protection of Indonesia’s labour law (Rachmawati & Suwandi, 2020). Consequently, gig workers are deprived of rights such as minimum wage guarantees, working-hour limits, social security, and protection against arbitrary termination (ILO, 2021). This classification creates ambiguity regarding the nature of the employment relationship and raises questions about whether existing labour regulations are sufficient to protect workers in the digital era. To better understand the nature of this ambiguity, Table 1 compares the key characteristics between employees, independent contractors, and gig workers under current Indonesian law.

Table 1. Comparison of Employment Status under Indonesian Labour Law

Aspect	Employee	Independent Contractor	Gig Worker (Platform Partner)
Legal Basis	Law No. 13/2003	Civil Code	Platform Terms & Conditions
Contract Type	Employment Agreement	Service Engagement	Digital Partnership Contract
Supervision	High	Low	Moderate (via app algorithm)
Benefits	Full labour rights	No labour rights	Partial/none

Aspect	Employee	Independent Contractor	Gig Worker (Platform Partner)
Termination	Regulated	By contract	Unilateral (by platform)

Source: Processed by Authors (2025) based on Indonesian Labour Law and Platform Agreements

The ambiguity surrounding the legal status of gig workers is not unique to Indonesia. Similar debates have emerged worldwide. The United Kingdom’s Supreme Court decision in *Uber BV v Aslam* (2021) recognized drivers as “workers” entitled to minimum wage and paid leave. Likewise, Canada and Spain have adopted hybrid categories—known as dependent contractors—to balance work flexibility with legal protection (De Stefano, 2020; Stewart & Stanford, 2017). These developments illustrate a global trend toward redefining employment relationships within platform-based labour systems. The regulatory gap can also be conceptualized through Figure 2, which illustrates the position of gig workers within Indonesia’s existing binary classification of employment relationships.

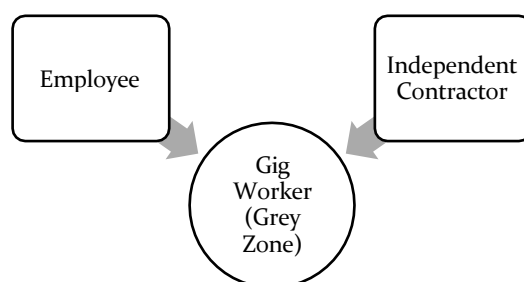


Figure 2. Legal Position of Gig Workers in the Employment Classification System

Source: Processed by Authors (2025)

In Indonesia, the current legal framework—primarily Law No. 13 of 2003 on Manpower as amended by Law No. 11 of 2020 on Job Creation—still adheres to a binary classification between “employees” and “independent contractors.” This dichotomy leaves gig workers in a legal grey zone. Although they perform tasks under the direction and supervision of digital platforms, they are not formally recognized as employees under statutory definitions (Putri et al., 2023). As a result, the legal relationship between platforms and their workers lacks certainty, both in terms of rights and obligations. A comparative overview of selected jurisdictions is presented in Table 2, showing how different countries have approached the classification of gig workers in recent years.

Table 2. Comparative Legal Recognition of Gig Workers in Selected Countries

Country	Legal Category	Rights Granted	Key Regulation/Case
United Kingdom	Worker (Hybrid)	Minimum wage, leave	Uber BV v Aslam (2021)
Canada	Dependent Contractor	Partial protection	Canada Labour Code
Spain	Employee (Presumption)	Full protection	“Rider’s Law” 2021

Country	Legal Category	Rights Granted	Key Regulation/Case
Indonesia	Partner (Unregulated)	None	Platform Terms

Source: Processed by Authors (2025) based on International Legal Sources

Although prior studies have examined the economic aspects of platform work (Setiawan & Amalia, 2020; Nurhadi & Sari, 2022), few have explored its legal classification through a normative-juridical lens, leaving a significant analytical gap in Indonesian labour law scholarship. Previous studies on gig work in Indonesia have predominantly focused on the socio-economic dimensions, such as income security and worker well-being (Setiawan & Amalia, 2020; Nurhadi & Sari, 2022). However, there remains limited research addressing the legal classification and regulatory implications of gig workers from a labour-law perspective. This research seeks to fill that gap by analyzing the legal status of gig workers in Indonesia and assessing whether existing regulations adequately protect their rights.

Therefore, the main objective of this study is to examine the legal position of gig workers in Indonesia through a normative-juridical analysis of labour law provisions, digital platform contracts, and comparative approaches from other jurisdictions. The study aims to identify the legal gaps that contribute to the vulnerability of gig workers and propose the establishment of a new legal category—dependent contractors—as a balanced framework combining flexibility and protection. This paper contributes to the ongoing discourse on labour-law reform in Indonesia and offers policy recommendations to align national legislation with the realities of digital-era employment.

2. Research method

This research employs a normative-juridical method, which focuses on analyzing written legal materials as the main data source. The approach aims to understand the legal position of gig workers within the Indonesian labour law system and to identify possible reforms to address the current legal ambiguity. The study does not collect primary field data, as its analysis relies on the examination of statutory regulations, contractual provisions, and comparative legal doctrines. The research design integrates three analytical dimensions: (1) statutory analysis of national labour regulations, (2) contractual examination of platform-based partnership agreements, and (3) comparative study of international legal frameworks governing gig workers. These dimensions ensure that the analysis remains comprehensive, doctrinally grounded, and policy-oriented. To provide a clearer overview of the applied methodology, Table 3 presents the summary of research approaches and their respective objectives.

Table 3. Research Approach and Purpose

Approach Type	Description	Purpose
Statutory Approach	Examines national laws and regulations governing employment relations, including Law No. 13 of 2003 on Manpower, Law No. 11 of 2020 on Job Creation, and Government Regulation No. 35 of 2021.	To identify the legal foundation and potential regulatory gaps regarding gig workers.
Conceptual Approach	Analyzes theoretical concepts of “employment,” “partnership,” and “dependent contractor” in both Indonesian and comparative legal doctrines.	To clarify key terminologies and legal interpretations.
Comparative Approach	Reviews legal frameworks from United Kingdom, Canada, and Spain that have redefined gig work relations.	To propose relevant models for the Indonesian context.

Source: Processed by Authors (2025)

2.1. Data Sources and Collection Techniques

The data used in this study consist solely of secondary legal data, which are categorized into three types:

1. Primary legal materials, including statutory instruments such as Law No. 13 of 2003 on Manpower, Law No. 11 of 2020 on Job Creation, Government Regulation No. 35 of 2021, and related ministerial decrees issued by the Ministry of Manpower.
2. Secondary legal materials, including textbooks, peer-reviewed journal articles, and previous studies discussing labour relations, digital platforms, and the gig economy (Stewart & Stanford, 2017; De Stefano, 2020; Rachmawati & Suwandi, 2020).
3. Tertiary legal materials, including legal dictionaries, encyclopedias, and official documents that provide contextual clarification.

Data were collected through library research and document review, focusing on relevant statutory texts, academic commentary, and comparative reports from international organizations such as the International Labour Organization (ILO, 2021). To illustrate the data collection process, Figure 3 below presents the procedural stages of the normative legal research design.

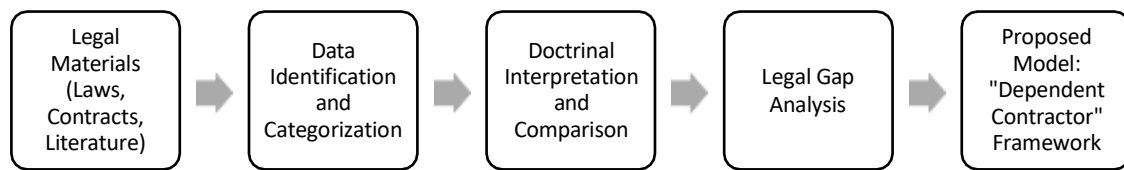


Figure 3. Data Collection and Analysis Framework

Source: Processed by Authors (2025)

2.2. Data Analysis Technique

The data obtained from legal documents and secondary sources were analyzed qualitatively using doctrinal interpretation and comparative evaluation. The analysis focused on identifying inconsistencies in the current legal classification of gig workers and evaluating possible regulatory solutions. The stages of data analysis are presented in Table 4, outlining the systematic steps taken in this study.

Table 4. Stages of Data Analysis

Stage	Description	Expected Output
1. Identification	Review and classify relevant legal norms and literature.	Mapping of existing legal framework.
2. Interpretation	Apply doctrinal and hermeneutic analysis to legal definitions and contractual terms/	Clarification of “employment” and “partnership” concepts.
3. Comparison	Evaluate international regulatory models from selected countries.	Identification of best practices for Indonesia.
4. Synthesis	Formulate the concept of new legal category for gig workers.	Recommendation: Dependent Contractor model.

Source: Processed by Authors (2025)

2.3. Analytical Framework

This study’s analytical framework integrates statutory, conceptual, and comparative analyses to comprehensively evaluate the legal position of gig workers. The framework demonstrates how each methodological component supports the formation of policy recommendations. Figure 4 presents the conceptual structure of the research framework developed by the authors.

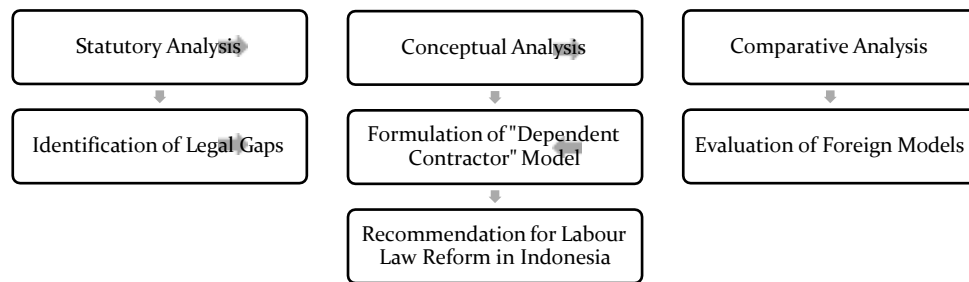


Figure 4. Analytical Framework of the Study

Source: Processed by Authors (2025)

3. Results and Discussion

3.1. Legal Status of Gig Workers under Indonesia Labour Law

The analysis of Indonesia’s labour regulations reveals that the legal position of gig workers remains ambiguous and unregulated within the current statutory framework. Law No. 13 of 2003 on Manpower and its amendment under Law No. 11 of 2020 on Job Creation define “employment relations” (*hubungan kerja*) strictly based on the existence of elements of work, wages, and orders. In practice, however, digital platforms such as Gojek, Grab, and Shopee Food classify their workers as “partners” rather than employees. This classification leads to a legal consequence: gig workers are excluded from labour protections such as minimum wage, social security (BPJS), overtime pay, and protection against unilateral termination (Rachmawati & Suwandi, 2020). The contractual structure applied by platforms uses partnership agreements governed by civil law, not employment law. As a result, gig workers occupy a “grey area” between employee and independent contractor status. To clarify the distinction, Table 5 presents a synthesis of legal elements distinguishing employment and partnership relationships based on statutory and contractual analysis.

Table 5. Comparison between Employment Relationship and Platform Partnership Agreement

Legal Element	Employment Relationship	Partnership Agreement (Gig Platform)	Legal Implication
Legal basis	Law No. 13/2003 on Manpower	Civil Code (KUH Perdata)	Not recognized under labour law
Control & Supervision	Direct employer control	Algorithmic & indirect control	Creates functional dependency
Wages	Determined by employer	Commission-based (per task)	No minimum wage guarantee
Social Protection	Mandatory (BPJS)	Optional (self-enrolled)	No automatic coverage
Termination	Requires legal procedure	Can be unilateral via system	No due process protection

Source: Processed by Authors (2025)

3.1.1. Algorithmic Supervision and Functional Dependence

Although gig workers are formally labeled as independent partners, the platforms' operational systems demonstrate a high level of control similar to employment relationships. The platforms determine work allocation, pricing, and performance evaluation through algorithmic management. This indicates that gig workers are economically and functionally dependent on the platform a key indicator of an employment relationship in substance if not in form (De Stefano, 2020). This pattern is illustrated in Figure 5, showing how the digital platform regulates worker activities through algorithmic commands and customer ratings.

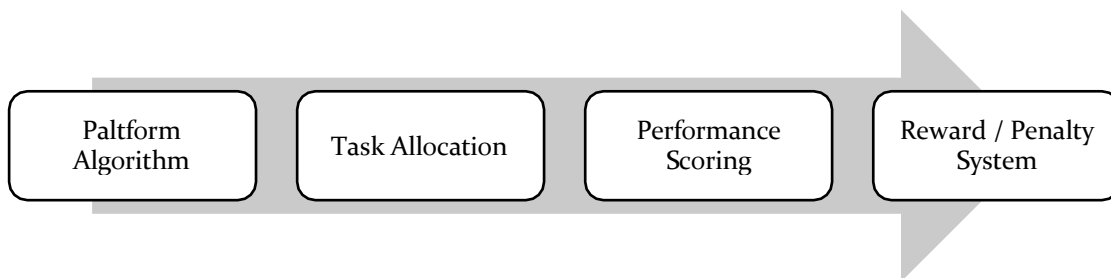


Figure 5. Algorithmic Management in Platform-Based Work

Source: Authors (2025), adapted from De Stefano (2020)

The existence of this functional dependency demonstrates that the legal classification of gig workers as “partners” does not reflect the actual working condition. It therefore calls for a reconsideration of the binary classification under Indonesian labour law, as this dependency fulfills one of the essential elements of an employment relationship “*under the orders of an employer*”.

3.1.2. Contractual and Regulatory Inconsistency

Further document review reveals inconsistencies between statutory provisions and contractual practices. While national labour law provides strict procedural requirements for employment termination, platform contracts often permit unilateral deactivation of worker accounts due to algorithmic violations, such as low acceptance rates or poor customer ratings. To highlight the disparity between legal norms and actual practice, Figure 6 visualizes the mismatch between statutory labour protection and platform-based contractual obligations.

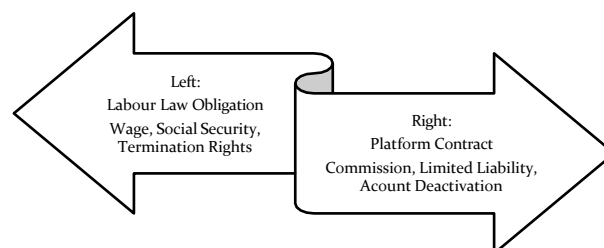


Figure 6. Discrepancy between Labour Law Obligations and Platform Contracts

Source: Authors (2025)

This inconsistency suggests that while platforms avoid employer responsibilities, they still exercise employer-like control, producing a de facto employment relationship without corresponding de jure recognition. This aligns with the findings of Setiawan & Amalia (2020) that digital platforms operate as employers “in disguise,” exploiting the legal loophole between civil and labour law domains.

3.2. Comparative Analysis and Global Legal Developments

Global trends in labour law show a progressive shift toward recognizing gig workers under hybrid legal categories. The United Kingdom, through the *Uber BV v Aslam* (2021) case, officially classified ride-hailing drivers as “workers” a middle ground between employee and contractor, thereby granting them minimum wage and paid leave rights. Canada and Spain have adopted similar approaches, introducing the dependent contractor and Rider’s Law categories to protect platform-based workers (Stewart & Stanford, 2017; De Stefano, 2020). To contextualize Indonesia’s position, Table 6 presents a comparative overview of legal classifications and protections across selected countries.

Table 6. Comparative Legal Recognition of Gig Workers

Country	Legal Classification	Main Rights Granted	Key Reference
United Kingdom	Worker (Hybrid)	Minimum wage, paid leave	<i>Uber BV v Aslam</i> (2021)
Canada	Dependent Contractor	Partial labour protection	Canada Labour Code
Spain	Employee (Presumption)	Full social and labour rights	“Rider’s Law” (2021)
Indonesia	Partner (Undefined)	None, expect civil contract rights	Platform Terms & Conditions

Source: Processed by Authors (2025)

The comparative analysis indicates that Indonesia’s legal framework is still in its preliminary stage compared to other jurisdictions. The absence of an intermediate category between “employee” and “contractor” leaves gig workers legally vulnerable. Hence, the recognition of a new legal category—dependent contractor—could serve as a policy solution to bridge flexibility and protection. This reform aligns with global practices emphasizing decent work principles and equal treatment, as advocated by the International Labour Organization (ILO, 2021). Establishing such a category within Indonesian labour law would ensure that gig workers receive basic social and economic protection while retaining the flexibility characteristic of platform-based work.

4. Conclusion and Recommendations

The findings of this research reveal that the legal status of gig workers in Indonesia remains undefined within the existing framework of labour law. Although gig workers operate under the supervision and control of digital platforms, they are not formally recognized as employees and therefore lack access to statutory labour protections such as minimum wage, social security, and job security. This condition places gig workers in a legal grey area, resulting in structural vulnerability and uncertainty in their employment relations. The study concludes that the current binary classification of labour relations—dividing workers strictly into “employees” and “independent contractors”—is no longer adequate in addressing the complexities of digital platform work. The analysis demonstrates that gig workers exhibit characteristics of both categories, leading to inconsistencies between the law’s intent and the practical realities of the gig economy. Accordingly, this research recommends the adoption of a new legal category, namely the “dependent contractor”, which acknowledges the functional dependence of gig workers on digital platforms while maintaining work flexibility. Such a framework would balance the economic freedom of gig workers with essential labour rights, including fair wages, access to social protection, and protection against unfair termination. For policy implementation, it is suggested that the Indonesian government incorporate this new category within upcoming labour law reforms or derivative regulations under the Ministry of Manpower. Additionally, inter-ministerial coordination between the Ministry of Manpower, Ministry of Communication and Informatics, and BPJS Ketenagakerjaan is necessary to ensure integrated protection for platform-based workers. Finally, further research should expand this normative-legal analysis with empirical studies examining the socio-economic impact of the gig economy and the effectiveness of potential regulatory interventions. Such interdisciplinary research will strengthen the foundation for inclusive, adaptive, and future-oriented labour law in Indonesia’s digital era.

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