

The Urgency of a Special Regulation for Gig Workers: Addressing Legal Gaps in Contemporary Industrial Relations

Eka Nur Istiyanti

Human Resource Development Center, Ministry of Manpower – Republic of Indonesia

Correspondence: ekanuristiyanti8@gmail.com

Abstract

The rapid development of the gig economy in Indonesia has fundamentally transformed the structure of employment relations and posed significant challenges to the national labor law system, which remains oriented toward conventional forms of employment. This study aims to analyze the existing legal gaps in the protection of gig workers, assess the adequacy of the current positive legal framework, and formulate the urgency of establishing a special regulation that is adaptive to the dynamics of contemporary industrial relations. The research employs a normative juridical method using statutory, conceptual, and comparative approaches. The findings reveal that Indonesia has not yet established any legal instrument explicitly governing the status and protection of gig workers. Gig workers are classified as partners or independent contractors, and therefore excluded from normative labor rights such as social security, minimum wage, occupational safety, and access to industrial dispute resolution mechanisms. The algorithm-based employment model creates a form of concealed subordination, generating economic dependency that is not legally recognized. This condition results in a regulatory deficit, weakening workers' bargaining power and the overall sustainability of the national industrial relations system. The study recommends strategic measures, Reformulation of the definition of employment relationships in positive law, including the establishment of a specific regulation for platform-based employment relations, the expansion of social security coverage for gig workers, and the development of digital-based dispute resolution mechanisms. Accordingly, the creation of a special regulation for gig workers constitutes a national strategic necessity to close existing legal gaps and reinforce social justice within industrial relations in the digital economy era.

Keywords: gig workers, employment relationship, legal protection, hybrid regulation, labor law.

1. Introduction

The development of the gig economy has become one of the most significant transformations in global labor dynamics over the past decade. This phenomenon marks a paradigm shift from traditional employment relationships characterized by hierarchical and contract-based arrangements toward a more flexible, temporary, and digitally mediated work model. The emergence of various app-based platforms such as Grab, Gojek, and ShopeeFood represents a new form of digital capitalism, where algorithms act as managerial entities that organize work distribution, determine pay rates, and

automatically evaluate workers' performance (De Stefano, 2015). Consequently, the gig economy not only introduces innovation into the structure of the labor market but also challenges the conceptual boundaries of what constitutes a "worker," the nature of employment relationships, and normative labor rights within modern labor law systems. These transformations have far-reaching implications not only economically but also socially particularly for workers who lose income stability and social protection. This evolution demands an adaptive legal response from national labor systems, which, in Indonesia, remain oriented toward formal and subordinative employment models.

Globally, the expansion of the gig economy has shown an unprecedented growth rate. Recent estimates suggest that the number of digital platform workers will reach approximately 435 million by 2025 (Gig Economy & Freelance Work Statistics, 2025), a sharp increase compared to the International Labour Organization (ILO, 2023), which recorded around 164 million workers. Asia is the fastest-growing region, with projections indicating 23.5 million gig workers in India by 2029–2030 (World Economic Forum, 2025). This trend highlights a global structural shift toward decentralized, algorithm-driven, and digitally efficient labor systems. However, this model also generates significant legal and social uncertainty, as most gig workers are not formally recognized as employees and, consequently, are excluded from wage protection, social security, and the right to organize. This phenomenon is not only a global concern but also reflects similar challenges currently faced by Indonesia within its industrial relations framework.

In Indonesia, the rapid digitalization of the national economy has given rise to comparable dynamics. Statistics Indonesia (BPS, 2025) reports that the number of informal workers reached 86.58 million people, representing approximately 59.4 percent of the total labor force a figure that substantively includes digital platform workers. The proportion of informal employment has remained between 56 and 60 percent throughout 2020–2025, indicating structural stagnation in Indonesia's labor transformation. Although the labor force increased from 131.03 million in 2020 to 145.77 million in 2025, this growth was not accompanied by a proportional expansion of formal sector employment, which remained between 39 and 43 percent. This condition demonstrates that national economic growth has been predominantly absorbed by informal sectors and flexible work models such as the gig economy, which still lack adequate social protection and legal safeguards. The informal sector's contribution of 36 percent to Indonesia's Gross Domestic Product (UNDP, 2025) underscores its strategic economic role, while simultaneously highlighting systemic vulnerability in terms of social security and legal employment status, as shown in Figure 1.

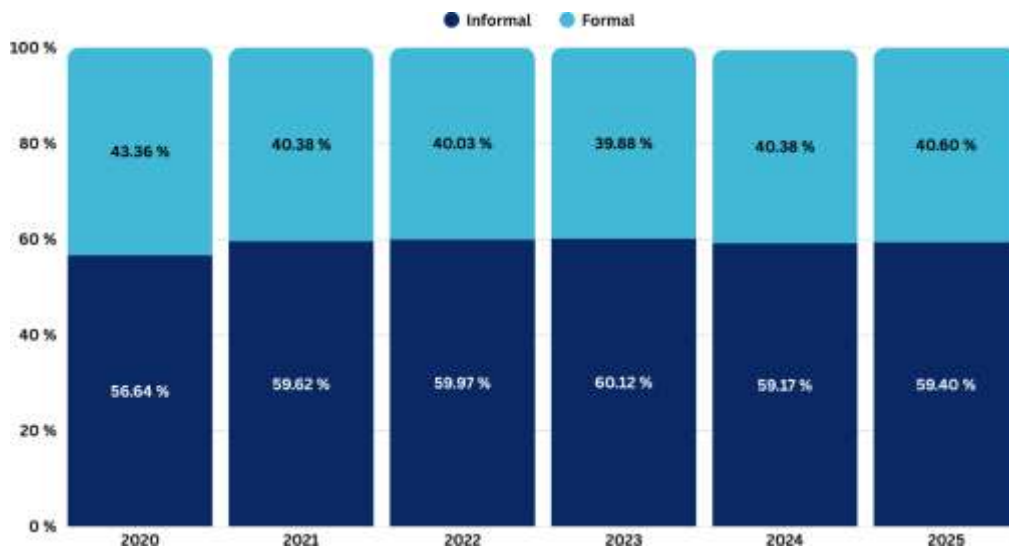


Figure 1. *Proportion of Formal and Informal Workers in Indonesia, 2020–2025*

Source: Statistics Indonesia (BPS), processed by the author (2025).

This figure illustrates that informal employment continues to dominate Indonesia’s labor market, maintaining a proportion of 56–60 percent during the 2020–2025 period. Although the total labor force has consistently increased, the structural composition of the workforce has not significantly shifted toward the formal sector. This pattern confirms that Indonesia’s economic growth remains largely supported by informal labor including gig workers operating on digital platforms who remain outside the scope of formal social protection and labor law systems. (Indonesia, n.d.)

This situation indicates that Indonesia’s challenges are aligned with global trends concerning the vulnerability of gig workers within the digital economy. Numerous international studies have addressed similar issues, particularly regarding the social and economic dimensions of gig work. Previous research (De Stefano, 2016; ILO, 2023; World Economic Forum, 2025) has explored income inequality, work flexibility, and limited access to social protection among gig workers. However, in Indonesia, legal scholarship on labor issues remains largely formalistic and has yet to thoroughly examine the normative void in regulating digital platform workers.

Twenty years since its enactment, Law Number 13 of 2003 concerning Manpower amended by Law Number 6 of 2023 on Job Creation (hereinafter referred to as the Manpower Law), has served as the principal legal framework governing industrial relations in Indonesia. Nonetheless, the rise of the digital economy presents new challenges to the national labor law system. To date, there is no legal classification that explicitly distinguishes digital platform workers from formal employees, creating ambiguity in determining their legal status and entitlements (Muhyiddin, Annazah, Tobing, Habibi, Fauziyah, et al., 2024)

From a labor law perspective, there is a fundamental distinction between partnership relations and employment relations. The former is based on civil agreements under Article 1338 of the Indonesian Civil Code, while the latter derives from employment contracts regulated under the Manpower Law. This distinction signifies that partnerships do not contain elements of subordination between the

contracting parties. Consequently, employers are not bound by obligations to provide normative protections for workers. This legal gap has often been exploited by companies to engage labor without formal employment contracts, thereby avoiding the statutory obligations imposed by labor law.

In practice, gig workers are still classified as independent contractors rather than formal employees under the Manpower Law. As a result, they are excluded from normative protections such as minimum wage guarantees, social security, paid leave, and access to dispute resolution mechanisms. This condition creates a significant legal vacuum, in which the flexibility offered by digital platforms is not accompanied by adequate protection of workers' fundamental rights (Muhyiddin, Annazah, Tobing, Habibi, Fauziyah, et al., 2024). Furthermore, the partnership relationship between platforms and workers often embodies a form of concealed subordination algorithmic subordination that places workers in a position of dependent contractors: formally independent, yet economically and operationally dependent on algorithmic systems and unilateral corporate policies (De Stefano, 2016; Nugraha & Suharto, 2021). This reflects a complex transformation of industrial relations, in which the boundary between employer and worker has become increasingly blurred in the digitalized employment landscape.

These circumstances affirm that Indonesia's existing labor law framework remains inadequately adaptive to the transformation of industrial relations in the digital economy. On one hand, the gig economy significantly contributes to economic growth and job creation; on the other hand, the absence of specific regulations has resulted in a structural imbalance between labor market flexibility and the protection of workers' normative rights. Therefore, establishing a special regulation for gig workers is an urgent necessity to close the existing legal gaps and to ensure equilibrium between economic efficiency and social justice within the modern labor system.

This study seeks to address this regulatory gap by proposing a hybrid legal framework capable of accommodating the unique characteristics of platform-based employment while reinforcing an adaptive, inclusive, and equitable foundation for contemporary industrial relations in the digital era. Conceptually, this study contributes to strengthening the theoretical foundations of digital labor law and provides a normative basis for formulating a special regulation for gig workers that balances labor flexibility with the protection of workers' rights. Unlike previous studies, this research emphasizes a normative juridical analysis to identify the legal gaps and the urgency of establishing adaptive regulations in line with the dynamics of contemporary industrial relations. Furthermore, it adopts a comparative approach, drawing upon legal practices from jurisdictions such as the European Union, the United Kingdom, and India, to enrich the conceptual framework for developing a more responsive national legal system toward the evolution of the digital economy.

Based on the foregoing background and identified problems, this research aims to analyze the legal gaps in protecting gig workers in Indonesia and to formulate a hybrid regulatory framework that ensures a balance between flexibility and normative labor protection. The study employs a normative juridical method with statutory, conceptual, and comparative approaches to assess the relevance of existing labor norms to platform-based employment practices.

2. Research method

2.1. Research Approach and Type

When This study employs a normative juridical research method, incorporating three primary approaches: the statutory approach, the conceptual approach, and the comparative approach. The statutory approach is utilized to examine the existing positive legal norms governing employment relations and workers' protection in Indonesia, with the objective of identifying the absence of a specific regulation for gig workers. The conceptual approach is applied to analyze legal principles and doctrines in labor law that are relevant to the transformation of employment relations in the digital economy. Meanwhile, the comparative approach is used to contrast the legal protection models for gig workers across several jurisdictions such as the European Union and the United States in order to develop an argumentative basis for establishing the urgency of a special regulation in Indonesia.

2.2. Types and Sources of Legal Materials

The data employed in this research are secondary legal materials, consisting of three categories:

1. Primary legal materials, including national legislation such as *Law Number 13 of 2003 on Manpower* and *Law Number 6 of 2023 on Job Creation*, as well as international regulatory instruments used for comparative analysis, such as the *EU Directive on Platform Work (2023)* and the *California Assembly Bill No. 5 (AB5)*.
2. Secondary legal materials, comprising previous studies, scholarly journals, academic articles, and reports published by international organizations such as the ILO, OECD, and the World Bank, which discuss the transformation of employment relations, the gig economy, and digital labor protection.
3. Tertiary legal materials, such as law dictionaries, legal encyclopedias, and statutory indices, which are used to clarify legal concepts, terminology, and interpretations relevant to the analysis.

2.3. Data Collection Techniques

Data collection was conducted through library research, by systematically reviewing primary, secondary, and tertiary legal materials obtained from academic databases, legal repositories, accredited journals, and official government publications.

The research process consisted of the following stages:

1. Identifying legal issues concerning the status and protection of gig workers within Indonesia's labor law system;
2. Inventorying and classifying relevant primary and secondary legal materials;
3. Conducting a comparative analysis of national and international legal norms to identify the regulatory gap in gig-worker protection; and

4. Constructing legal reasoning and formulating policy recommendations for the development of a special regulation governing gig workers.

2.4. Data Analysis Techniques

Data analysis was carried out using a qualitative normative analysis, which consisted of three main stages: interpretation of legal norms, systematization of relevant rules, and legal construction aimed at formulating a regulatory framework aligned with the characteristics of platform-based employment relations in the digital era.

3. Results and Discussion

3.1. Legal Vacuum in the Protection of Gig Workers in Indonesia

The findings indicate that Indonesia's labor law system still lacks any positive legal instrument that explicitly regulates the status and protection of gig workers (Lesmana & Samudra, 2025). No provision in Law No. 13 of 2003 on Manpower or Law No. 6 of 2023 on Job Creation recognizes employment relationships mediated by digital platforms. Both statutes remain anchored in a conventional paradigm that places workers under the direct command of employers (subordination).

The absence of norms specifically governing digital work relationships leaves gig workers without a clear legal standing within the national labor law system. In practice, they are treated as business partners (independent contractors) who cooperate on the basis of partnership agreements rather than employment contracts (Rahman et al., 2024). As a result, they do not receive normative rights that attach to formal employment, such as social security, minimum wage, occupational safety and health (OSH) protection, paid leave, and access to industrial dispute-settlement mechanisms.

This situation reflects a legal vacuum where factual work relationships that clearly exist in the digital economy are not matched by recognition and protection in positive law. In this context, Indonesian labor law lags behind technology-mediated forms of modern work, creating a gap between social reality and legal norms (a normative gap). (Rahman et al., 2024)

Structurally, this legal vacuum significantly affects the sustainability of national industrial relations. According to Statistics Indonesia (BPS, 2025), around 59.4 percent of the workforce remains in the informal sector, including gig workers operating under platform-based models. This indicates that a substantial share of the national workforce is working outside the system of statutory labor protections.

Accordingly, the absence of specific regulations for gig workers has produced a new class of workers who actively contribute to the digital economy yet operate without legal recognition, without social protection, and without certainty regarding employment status. These facts underscore the urgency of labor-law reform that is more adaptive to the changing structure of industrial relations in the digital era.

3.2. Normative Legal Analysis of the Indonesian Labor Regulatory Framework

This normative juridical analysis aims to assess the extent to which Indonesia's labor law framework is capable of adapting to the characteristics of employment relationships within the gig economy. As previously discussed, there is currently no positive legal instrument that specifically regulates gig workers (Sudirman & Disemadi, 2023a). This section examines the normative foundations contained in existing legislation and evaluates their relevance to algorithmic-based labor relations.

Under Indonesia's positive law, the existence of an employment relationship is defined in Article 1 point 15 of Law No. 13 of 2003 on Manpower as a relationship between an employer and a worker/employee arising from an employment agreement that contains three essential elements: work, wage, and order. These three elements serve as the main parameters for determining the existence of a formal employment relationship.

Furthermore, Articles 50 to 55 of the Manpower Law affirm that an employment relationship can only arise from an employment agreement between the employer and the worker, which establishes reciprocal rights and obligations and is inherently subordinative. The element of "order" signifies the existence of a hierarchical relationship that forms the legal basis for normative protections such as social security, minimum wage, and occupational safety and health (OSH) standards.

However, in the context of platform-based digital work, the element of "order" is not explicitly present. Digital platforms claim that their relationship with workers is a voluntary partnership grounded in flexibility and autonomy. Legally, this model classifies gig workers as independent contractors subject to the principle of freedom of contract, as stipulated in Article 1338 of the Indonesian Civil Code (KUHPerdata).

This principle grants parties the freedom to determine the contents, form, and conditions of their agreements according to mutual consent, provided that they do not contravene laws, morality, or public order. In the platform context, this principle renders the relationship civil in nature, not employment in nature.

Although freedom of contract is a fundamental doctrine of civil law, its application within industrial relations presents serious problems. Ideally, the principle of *lex specialis derogat legi generali* should apply meaning that labor law (as a special law) overrides general civil law to protect the weaker party. Yet, within the gig economy, the opposite occurs: civil law predominates, thereby eliminating the protective function of labor law.

Consequently, gig workers are not legally recognized as formal employees and therefore are excluded from fundamental labor rights such as social security, occupational safety, minimum wage, paid leave, and job security. This situation reflects a misclassification of employment status, where factual employment relationships are incorrectly categorized as contractual partnerships to avoid employers' normative obligations.

Moreover, this study confirms that the relationship between platforms and gig workers exhibits a form of disguised employment through algorithmic management a digital control mechanism that

regulates work processes, including order distribution, pricing, performance evaluation, and account deactivation. Even in the absence of direct human supervision, algorithmic systems establish economic dependency and control that fulfill the control test and dependency test widely recognized in modern labor law doctrines. (A. Setiawan et al., 2025)

This phenomenon signifies the emergence of a modern employment relation—a hybrid form of work that cannot be fully classified as a civil partnership yet also fails to meet the formal requirements of traditional employment. Consequently, the definition of employment in Law No. 13 of 2003 and its amendment in Law No. 6 of 2023 on Job Creation has not yet accommodated the realities of algorithm-mediated labor relations.

3.3. Comparative Analysis of International Regulations on the Protection of Gig Workers

The analysis shows that several countries have taken progressive steps to adapt their legal systems to the changing patterns of employment in the digital economy. Unlike Indonesia, which continues to experience a regulatory deficit and lacks explicit provisions regarding gig workers, a number of jurisdictions have developed new legal frameworks that recognize platform-based employment relationships and provide minimum social protection for digital workers.

At the European Union level, the most comprehensive initiative is reflected in the Directive on Platform Work (2023), which introduces the presumption of employment principle where platform workers are presumed to be employees unless proven otherwise by the company. This approach shifts the burden of proof from workers to platforms, thereby strengthening the legal protection of those who are structurally weaker. In addition, the Directive mandates algorithmic transparency, requiring companies to disclose the underlying logic of algorithmic systems that determine work allocation, pricing, and performance evaluation. Thus, the European Union not only recognizes the existence of digital work relationships but also extends traditional labor protections to modern forms of algorithmic supervision. This approach aligns with the *lex socialis* principle in Indonesian labor law namely, that the law must protect the weaker party even though such a framework has yet to be applied domestically.

In the United Kingdom, recognition of gig workers was reinforced by the landmark case (Adams-Prassl, 2023). The Supreme Court ruled that Uber drivers fall within the category of workers a legal status situated between employee and independent contractor entitling them to minimum wage, rest breaks, and protection from unfair termination. The Court found that Uber's level of control over its drivers met the elements of subordination and economic dependency, despite the written contract labeling the relationship as a "partnership." This ruling introduced the principle of substance over form, emphasizing that the law must assess the factual realities of work rather than rely solely on contractual terms. Conceptually, this principle is highly relevant to Indonesia, where many gig workers are, in practice, subordinate to algorithmic control yet remain unrecognized by law.

Meanwhile, Spain has adopted an even more assertive stance through the Ley Riders (Rider Law) of 2021, which explicitly classifies delivery-service riders as employees. The regulation obliges platform companies to grant all formal employment rights, including social security, occupational

safety and health (OSH) protection, and the right to unionize. Spain also guarantees workers' rights to understand the basis of algorithmic decision-making (algorithmic accountability), ensuring transparency and preventing disproportionate digital control. This model demonstrates that a state can uphold digital innovation without compromising social justice principles.

In the United States, approaches vary across states. California's Assembly Bill No. 5 (AB5) applies the ABC Test to determine whether a person is truly an independent contractor or is, in substance, an employee. However, political pressure from major technology companies led to the enactment of Proposition 22 (2020), which establishes a compromise status of "independent contractor with limited protections." Although less comprehensive, this policy nonetheless acknowledges that platform workers require a distinct regulatory framework outside the traditional binary of employee and employer.

In Asia, India has emerged as a pioneer through its Code on Social Security (2020), which formally recognizes gig and platform workers as a new legal category. The statute extends national social-security coverage through a tripartite contribution system involving the state, platforms, and workers. India's approach reflects an awareness that digital workers play a vital role in the modern economy and that the state must guarantee their basic social-protection rights, even without formal employment status.

When compared to these jurisdictions, Indonesia remains substantially behind. To date:

1. There is no legal recognition of gig workers as a distinct labor category;
2. The *presumption of employment* principle has not been adopted to address power imbalances between platforms and workers; and
3. There is no regulation on algorithmic transparency to protect workers from automated decisions affecting their income or work access.

The absence of such provisions indicates that Indonesia's labor-law system remains entrenched in a paradigm of *manual subordination* rather than *algorithmic control*. Consequently, gig workers who, in practice, satisfy the elements of "command" and "economic dependency" as established under the *control test* and *dependency test* in modern labor-law doctrine are still excluded from formal legal protection.

An essential lesson from these international experiences is that protecting gig workers does not necessarily require granting full employee status. Instead, it can be achieved through a hybrid regulatory framework that balances digital-economy flexibility with social-justice principles. The European and Indian models demonstrate that states can harmonize economic efficiency with social responsibility through normative recognition of emerging forms of work.

In the Indonesian context, this comparative analysis underscores the urgent need to reformulate the national labor-law framework not only to align it with technological developments but also to restore the social function of labor law as mandated in the Preamble and Article 27(2) of the 1945 Constitution. Failure to adapt will prolong the regulatory lag and deepen the existing legal vacuum,

thereby perpetuating a generation of digital workers who remain economically productive yet legally unprotected amid national economic growth.

3.4. Implications of the Legal Vacuum for the Protection of Gig Workers in Indonesia

The absence of legal norms within Indonesia's labor-law framework has created a significant power asymmetry between digital platforms and gig workers. In this situation, all instruments of production and work distribution are unilaterally controlled by companies through algorithms. This condition has fundamentally transformed the pattern of industrial relations, in which the relationship between workers and employers is no longer mediated by an equitable social contract but by a digitally governed system fully controlled by corporations. Consequently, a new form of industrial relations has emerged one that operates without mechanisms for negotiation, collective guarantees, or worker representation (Muhyiddin, Annazah, Tobing, Habibi, Fauwziyah, et al., 2024)

The lack of regulation has caused gig workers to operate within a legal grey area they work under strict supervision and algorithmic evaluation systems, yet they are not legally recognized as formal employees (A. S. Setiawan, 2025). The implications of this legal vacuum are multidimensional, encompassing legal, economic, and social dimensions :

1. High Work Risks Without Protection

Gig workers, particularly in the ride-hailing and delivery-service sectors, face a high risk of occupational accidents, yet they are not covered by mandatory employment-injury or social-protection schemes as stipulated in Law No. 24 of 2011 on BPJS (Social Security Agency). The absence of legal recognition means that platforms bear no juridical obligation to assume liability for these work-related risks. As a result, the social and economic burdens arising from occupational accidents are entirely transferred to individual workers.

2. Absence of Mechanisms for Improving Working Conditions

In formal employment relationships, workers have institutional channels for negotiation through labor unions or company regulations. However, gig workers lack any collective representation because their legal status is not recognized as "employees." Platform companies exercise absolute authority to alter algorithms that determine fares, bonuses, and incentive systems without any consultation or bargaining process. In this context, the legal vacuum serves as *de facto* legitimacy for structural imbalance between platform owners and workers.

3. Limited Access to Justice

When disputes occur such as account deactivation or access suspension gig workers have no formal legal recourse under Indonesia's existing mechanisms for industrial dispute settlement (Indra & Nawangsari, 2025). Digital termination of employment (via automated systems) is often executed without prior notice or an opportunity for defense. The absence of an adequate appeals mechanism effectively eliminates the principle of due process of law, which should be a fundamental element of labor-law protection.

This situation places gig workers in a high-risk and low-protection sector a category of workers characterized by elevated vulnerability and minimal legal safeguards (Satria, 2025). Constitutionally, this condition contradicts Article 27(2) and Article 28D(2) of the 1945 Constitution, which guarantee every citizen's right to obtain decent work, fair treatment, and equitable remuneration. In other words, the legal vacuum surrounding gig workers is not merely a normative issue but also a constitutional violation of citizens' rights to social protection and industrial justice (Rahman et al., 2024b)

From an industrial-relations perspective, the absence of protective norms also weakens the state's function as regulator and protector in ensuring social justice across all layers of the workforce (Alfarizi et al., 2025). The state appears to have lost its balancing role between capital and labor, while digital platforms act as *de facto* regulators of employment relations without public accountability.

As a result, a new class of digital workers has emerged those who work without legal recognition (work without law), produce without protection (work without rights), and contribute to the national economy without status security (work without status) (Hadiati, 2024). This condition marks a form of social regression in Indonesia's labor system shifting from the principle of *labor protection* toward an extreme model of *market flexibility* which ultimately threatens the long-term sustainability of industrial relations in the digital era (Octavia, 2022).

3.5. The Urgency of Establishing a Hybrid Regulatory Framework for Gig Workers

The findings indicate that the absence of legal norms regulating gig workers has resulted in a serious regulatory deficit within Indonesia's labor law system. The country is at a critical juncture where existing labor legislation has not yet adapted to the realities of digital work, while millions of workers now depend on employment arrangements that are fully mediated by algorithms (Tobing, 2024). This situation calls for the establishment of a new legal framework that is adaptive, visionary, and contextually responsive to the transformation of modern industrial relations structures.

The urgency of developing a hybrid regulatory framework arises from the need to bridge two seemingly opposing poles: the flexibility of the digital economy and the protection of workers' normative rights. Such a hybrid framework is not intended to rigidly subsume gig workers into the formal employment category; rather, it seeks to create an intermediate legal regime a middle-ground legal structure that recognizes the realities of digital labor while upholding social justice and the fundamental principles of labor protection (De Ruyter & Brown, 2019).

At least three fundamental considerations reinforce the urgency of establishing this framework:

1. Juridical Aspect

Law No. 13 of 2003 on Manpower and Law No. 6 of 2023 on Job Creation fail to address the characteristics of algorithmic-based work relations, which, although non-hierarchical in form, still exhibit functional subordination. The elements of "command" and "supervision," which form the basis of employment relationships under positive law, continue to be interpreted manually (manual subordination); yet, in the digital context, control is exercised through algorithmic management systems (algorithmic control). The absence of legal recognition for this form of algorithmic subordination deprives gig workers of a juridical foundation for

claiming normative protection. Accordingly, a paradigm shift in labor law has become imperative to ensure that the *lex socialis* principle where labor law must protect the weaker party remains relevant in the digital era.

2. Socio-Economic Aspect

Empirical evidence demonstrates that gig workers have become an integral component of the national economy. They contribute to the growth of the service sector and the expansion of employment opportunities, yet they operate under vulnerable employment conditions without social security, occupational-safety protection, or income stability. This situation has created a dual labor-market structure: on one side, protected formal workers; on the other, unprotected digital workers. A hybrid regulatory framework is therefore essential to close this structural gap, ensuring that digital-economy transformation not only benefits corporations but also guarantees a fair and equitable distribution of welfare.

3. Justice and Industrial Relations Stability Aspect

The legal vacuum has widened the power asymmetry between platforms and workers, whereby all work instruments are unilaterally controlled by digital systems without space for negotiation or collective protection. This imbalance threatens the stability of national industrial relations, which ideally should be grounded in social dialogue and worker participation. Hence, the new legal framework must ensure procedural fairness, algorithmic transparency, and access to digital justice as integral components of industrial democracy in the platform era.

Accordingly, the urgency to establish a hybrid regulatory framework for gig workers does not merely stem from a legal necessity but represents a constitutional obligation of the state to guarantee protection for all citizens engaged in work, as mandated by Article 27(2) and Article 28D(2) of the 1945 Constitution of the Republic of Indonesia. Without progressive legal intervention, Indonesia risks perpetuating an imbalanced labor system one in which technology advances rapidly while the law lags behind, leaving workers confined within a space devoid of protection. (Hermanto et al., 2025)

3.6. Economic and Social Impacts of the Regulatory Gap on Gig Workers

The absence of specific regulations governing gig workers has not only created a normative legal vacuum but has also produced tangible consequences for Indonesia's economic structure and social justice. Within the rapidly expanding digital economy, gig workers have become an essential component of the modern production chain, providing transportation, logistics, and creative-economy services yet they operate without legal recognition or adequate social protection (De Ruyter & Rachmawati, 2020).

Economically, gig workers contribute significantly to Indonesia's Gross Domestic Product (GDP). Their flexible work model enhances the efficiency of goods and service distribution while expanding labor participation within the digital sector (Latri et al., 2024). However, this contribution is not accompanied by structural recognition within the formal labor system. Since gig workers are not legally classified as employees under Indonesian labor law, they lack access to national social security, minimum-wage protection, and occupational-accident compensation. Consequently, they bear the full

burden of production risks without normative protection from either the state or digital platforms.(Hukum et al., 2025)

This situation creates an economic paradox: gig workers serve as key drivers of the digital economy yet remain legally invisible. The uncertainty surrounding their employment status results in highly volatile incomes. According to the International Labour Organization (ILO, 2023), earnings among Indonesia's platform workers fluctuate by 40 to 60 percent per month, depending on algorithmic configurations and market demand. The absence of social insurance and compensation mechanisms amplifies the risk of new forms of poverty, as even minor disruptions such as work accidents, account deactivation, or changes in platform policy can directly affect the livelihoods of workers and their families.(Sudirman & Disemadi, 2023b)

Beyond individual instability, this regulatory vacuum also undermines the national economic system. When most digital workers operate outside the formal sector, the state's potential revenue from taxation and social-security contributions remains underutilized. This widens the gap between the rapid growth of the digital economy and the state's ability to ensure equitable wealth distribution. In other words, the digital economy continues to grow, but not inclusively.

From a social perspective, the lack of legal regulation deepens structural inequalities between platform companies and gig workers. All production and distribution mechanisms are fully controlled by the platforms through algorithmic systems (Ayu, 2024). Gig workers lose bargaining power and negotiation space, as their employment relationships are mediated by applications without mechanisms for social dialogue or collective protection. The algorithm-based rating system creates psychological pressure and job insecurity, as reputation and work access can be lost solely due to unilateral consumer evaluations.

This phenomenon represents a new form of precarious employment work without legal certainty, social protection, or collective representation. On one hand, platforms gain substantial profits from digital efficiency; on the other, workers bear all economic risks without protection. This imbalance produces a digital power asymmetry that threatens to erode workers' dignity as subjects of law.

Furthermore, the legal uncertainty surrounding gig workers has broader social implications, ranging from declining quality of life and structural poverty risks to the erosion of worker solidarity. If this condition persists without legal intervention, Indonesia risks cultivating a new generation of workers who are economically productive yet socially vulnerable commonly referred to as the "new working poor." Such a condition contradicts the constitutional mandate guaranteeing the right to decent work and livelihood, as enshrined in Article 27(2) and Article 28D(2) of the 1945 Constitution of the Republic of Indonesia.

In conclusion, the absence of gig work regulation not only reflects the law's delayed adaptation to social transformation but also highlights the state's inadequate role in safeguarding human labor amid digital transitions. Without a fair and adaptive legal framework, Indonesia's digital economy will continue to evolve within a paradox—technologically inclusive but socially exclusive.

4. Conclusion and Recommendations

The findings of this study demonstrate that the development of the gig economy in Indonesia has created a *legal vacuum* and generated a *regulatory deficit* in the protection of workers. Therefore, the state bears a constitutional obligation to promptly respond through the establishment of a legal framework that is adaptive to the dynamics of the digital era.

The recommended legal policy directions include:

1. Reformulation of the definition of employment relationships in positive law

The government needs to revise the elements of “command” and “supervision” in Law No. 13 of 2003 on Manpower and Law No. 6 of 2023 on Job Creation to encompass the concept of *algorithmic subordination*, which characterizes modern digital employment relationships. This reformulation will expand the scope of normative protection for workers who are, in practice, engaged in platform-based employment.

2. Establishment of a special regulation for gig workers as *lex specialis*

Regulatory reform can be pursued through the issuance of derivative regulations (*lex specialis*), either in the form of a Government Regulation or a Ministerial Regulation, that explicitly recognizes gig workers as legal subjects within labor law. In the long term, amendments to the Manpower Law may be considered to ensure structural harmonization and legal certainty. Such a special regulation must also include effective mechanisms for supervision and law enforcement to ensure platform compliance with labor standards.

3. Expansion of social security coverage for gig workers

Gig workers should be integrated into the national social security system, including occupational accident insurance, health coverage, and other basic social protection programs. The contribution scheme should be designed proportionally between workers and digital platforms to ensure system sustainability and distributive justice.

4. Development of a digital-based dispute resolution mechanism

A rapid, transparent, and fair mechanism is required to resolve disputes between workers and digital platforms. This mechanism should guarantee the right to contest algorithmic decisions that affect workers’ income or access to work, thereby upholding the principles of *fair trial* and procedural justice within digital industrial relations.

Accordingly, the Government of the Republic of Indonesia must take concrete steps to formulate and enact a special regulation for gig workers as part of the national labor law reform. This policy serves as a strategic legal instrument in modern labor law to ensure a balance between economic efficiency and social justice within the framework of digital industrial relations.

References

- Adams-Prassl, J. (2023). Uber BV v Aslam: '[W]ork relations ... cannot safely be left to contractual regulation.' *Industrial Law Journal*, 51. <https://doi.org/10.1093/indlaw/dwac027>
- Alfarizi, M., Noer, L. R., & Noer, B. A. (2025). Technological Support, Hybrid Work, and National Employment Policies: Catalysts for Worker Productivity and SDG 8 Achievement in Indonesia's Gig Economy. *Jurnal Ketenagakerjaan*, 20(1). <https://doi.org/10.47198/jnaker.v20i1.440>
- Ayu, R. (2024). Role of Gig Economy Participation in Shaping Worker Economic Security in Indonesia. *International Journal of Sociology*, 8(3), 14–23. <https://doi.org/10.47604/ij.s.2830>
- De Ruyter, A., & Brown, M. (Eds.). (2019). Working in the gig economy: International trends. In *The Gig Economy* (pp. 33–54). Agenda Publishing. <https://doi.org/10.1017/9781788210065.003>
- De Ruyter, A., & Rachmawati, R. (2020). Understanding the working conditions of gig workers and decent work: Evidence from Indonesia's online ojek riders. *Sozialpolitik. Ch*, 2(4), 2–4.
- De Stefano, V. (2015). The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowd Work and Labour Protection in the "Gig-Economy." *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.2682602>
- Hadiati, D. (2024). Legal Protection for Online Transportation Service Drivers as Platform Workers in Indonesia: Perlindungan Hukum untuk Pengemudi Layanan Transportasi Online sebagai Pekerja Platform di Indonesia. *Peradaban Hukum Nusantara*, 1(1), 36–59. <https://doi.org/10.62193/245kqc30>
- Harikedua, A. L. (n.d.). THE GIG ECONOMY AND REMOTE WORK IN JAYAPURA CITY: IMPLICATIONS FOR WORKER WELFARE AND LABOR POLICY. . . *COSTING*.
- Hermanto, H., Hendriks, P., & Vermeer, S. (2025). The Disruption of Labor Law in the Platform Economy: Towards a Normative Reconfiguration. *Rechtsnormen Journal of Law*, 3(2), 190–198. <https://doi.org/10.70177/rjl.v3i2.2216>
- Hukum, J. I., Politik, D., Putra, R. K., Ramadhan, A. S., Widhiati, G., Imalia, T., Kapsah, & Info, A. (2025). Perlindungan Hukum bagi Pekerja Gig Economy: Perspektif Hukum Perdata di Indonesia. *Perkara : Jurnal Ilmu Hukum Dan Politik*. <https://doi.org/10.51903/perkara.v2i4.2227>
- Indonesia, B. P. S. (n.d.). *Keadaan Pekerja di Indonesia Februari 2025*. Retrieved November 7, 2025, from <https://www.bps.go.id/id/publication/2025/06/11/8452fd3b9a9d4110ae7a535d/keadaan-pekerja-di-indonesia-februari-2025.html>
- Indra, & Nawangsari, S. A. (2025). Legal Protection for Gig Economy Workers from the Perspective of Labor Law in Indonesia. *Hakim: Jurnal Ilmu Hukum Dan Sosial*, 3(1), 937–954. <https://doi.org/10.51903/hakim.v3i1.2289>
- Latri, A. A., Riyanto, R. K., Firdaus, M. B., & Arjuna, M. G. S. (2024). Hak Pekerja di Era Gig Economy: Perlindungan Hukum Bagi Pekerja Lepas dan Kontrak. *Media Hukum Indonesia*

- (MHI), 2(2). <https://doi.org/10.5281/zenodo.11770886>
- Lesmana, S. J., & Samudra, M. M. (2025). Legal Protection of Gig Economy Workers: A Comparative Study in Indonesia, Malaysia, and Singapore. *SASI*, 31(3), 201–218. <https://doi.org/10.47268/sasi.v31i3.3006>
- Muhyiddin, M., Annazah, N. S., Tobing, H. H., Habibi, N., Fauziyah, F., & Harsiwie, R. I. P. (2024). The Ambiguity of Employment Relationship in Indonesia's Gig Economy: A Study of Online Motorcycle Taxi Drivers. *Jurnal Ketenagakerjaan*, 19(3), 262–280. <https://doi.org/10.47198/jnaker.v19i3.416>
- Muhyiddin, M., Annazah, N., Tobing, H., Habibi, N., Fauwziyah, F., & Harsiwie, R. (2024). *Perlindungan Hukum dan Sosial bagi Pekerja Gig: Membangun Kerangka Regulasi yang Inklusif bagi Pekerja Ojek Online di Indonesia*. <https://doi.org/10.13140/RG.2.2.32456.84482>
- Octavia, J. (2022). Regulating Algorithms: The Next Frontier in the Platform Economy Debate. *Indonesian Quarterly*, 50(3). <https://journals.csis.or.id/index.php/iq/article/view/2005>
- Rahman, R. A., Hajdú, J., & Nathanael, V. (2024). Digital Labour Platformer's Legal Status and Decent Working Conditions: European Union and Indonesian Perspective. *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 157–175. <https://doi.org/10.24090/volksgeist.v7i1.10366>
- Satria, I. (2025). Perlindungan Hak Pekerja Gig Economy melalui Perspektif Hukum Ketenagakerjaan. *Nomos : Jurnal Penelitian Ilmu Hukum*, 5, 127–134. <https://doi.org/10.56393/nomos.v5i1.2723>
- Setiawan, A. S. (2025). Reforming Gig Economy in Indonesia: A Sustainable Model to Support 8% Economic Growth. *APINDO SMEs and Sustainability Journal*, 1(1), 10–10.
- Setiawan, A., Sunandar, F., Juaeni, A., Triestanto, J., & Saputra, M. (2025). Analysis of Digital Employment Contracts on Gig Economy Platforms: Between Flexibility and Exploitation. *International Journal of Law Crime and Justice*, 2, 54–64. <https://doi.org/10.62951/ijlcj.v2i3.723>
- Sudirman, L., & Disemadi, H. S. (2023a). Gig Economy: Unleashing the Potential of Digital Banking in Indonesia's Employment Regulations. *Lentera Hukum*, 10(2), 301–330. <https://doi.org/10.19184/ejlh.v10i2.39688>
- Sudirman, L., & Disemadi, H. S. (2023b). Gig Economy: Unleashing the Potential of Digital Banking in Indonesia's Employment Regulations. *Lentera Hukum*, 10(2), 301–330. <https://doi.org/10.19184/ejlh.v10i2.39688>
- Tobing, H. (2024). The Gig Economy Dilemma: Exploring Alternatives to Create Decent Work for Online Motorcycle Taxi Drivers in Indonesia. *Jurnal Ketenagakerjaan*, 19(2), 168–183. <https://doi.org/10.47198/jnaker.v19i2.340>