
A Third Way for Indonesia's Gig Economy: A Hybrid Legal Model for Worker Protection and Productivity

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Abstract

Indonesia's binary legal framework (Worker vs. Independent Contractor) is failing to protect gig workers, whose de facto status is more accurately described as "dependent self-employment." Trapped in a legal vacuum characterized by imbalanced contracts and algorithmic management, these workers lack access to essential rights, including social security, occupational safety standards, and fair dispute resolution mechanisms.

Using a juridical-normative and reform-oriented approach, this paper formulates a sui generis hybrid regulatory model. This model comprises two substantive pillars: (1) a digital contractual justice framework featuring three technical interventions (mandating algorithmic explainability, introducing a partial reversal of the burden of proof, and implementing an ex-ante review of standard contracts delegated to the Business Competition Supervisory Commission (KPPU)); and (2) a fundamental safety net adapted from labor law (mandating BPJS social security co-contributions and adapting the industrial relations dispute pathway).

Beyond legal substance, this research designs an executable policy roadmap for implementation. This roadmap is proposed via a (Draft) Presidential Regulation that adopts an "enforced self-regulation" model. This mechanism is to be orchestrated through the establishment of a "National Tripartite Digital Partnership Council" and introduced via a phased rollout utilizing Regulatory Sandboxes (inspired by Kenya) and Pilot Programs (inspired by China).

Ultimately, this paper not only deconstructs the existing legal framework's failures but also offers a technical, institutionally consistent regulatory blueprint. This model, reinforced by the emerging ASEAN regional policy convergence (citing Malaysia and Singapore), provides a viable pathway to fostering a gig economy ecosystem in Indonesia that is simultaneously fair, productive, and sustainable.

Keywords: Gig Workers, Gig Economy, Hybrid Regulation, Legal Protection, Employment Relations.

1. Introduction

The digital economy, driven by innovative platforms, has emerged as a fundamental pillar of Indonesia's contemporary socio-economic landscape. At the heart of this transformation lies the gig economy, a partnership-based labor model that has proven capable of absorbing millions of workers in a remarkably short period. The e-Conomy SEA 2024 report projects that Indonesia's digital economy Gross Merchandise Value (GMV) will reach \$90 billion in 2024, the largest in Southeast Asia (Google et al., 2024, p. 82). The human scale is equally massive; the Ministry of Manpower estimated there were approximately 4 million gig workers in Indonesia as of 2023 (Naibaho, 2025, p. 4885). This phenomenon, however, did not emerge in a vacuum. It is deeply rooted in Indonesia's existing labor market structure, which is dominated by the informal sector—a segment comprising 59.40% of the total workforce as of February 2025 (Rachman, 2025). The gig economy is thus best understood as a modern manifestation of deep-rooted informality, now institutionalized through sophisticated technology (Surdiasis et al., 2023, p. 10).

However, beneath this narrative of progress lies a critical paradox. The "partnership" model that forms the foundation of the gig economy inherently places its workers within a profound legal vacuum. On one hand, they are not recognized as "Workers" entitled to protection under Law Number 13 of 2003 on Manpower, as amended by Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation, which has been enacted as Law by Law Number 6 of 2023 on the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law (hereinafter collectively referred to as the "**Manpower Law**" or the "**Job Creation Law**"), as platforms strategically design their business models to circumvent the legal element of "command" (*perintah*) (Satria, 2025, p. 128). On the other hand, they are not "equal Partners" as envisioned by the Indonesian Civil Code ("ICC"), as the relationship constitutes an imbalanced adhesion contract. This imbalance is reinforced and executed through "algorithmic management"—a new, opaque, and automated form of subordination (Surdiasis et al., 2023, p. 8). Consequently, millions of gig workers are left vulnerable to exploitative conditions, ranging from severe income precarity to excessive working hours that far exceed the average of other workers (Asmara et al., 2021, p. 10; World Bank, 2021, p. 154).

This situation raises two fundamental research questions. First, why has Indonesia's rigid, binary labor law framework, which strictly divides "Workers" from "Independent Contractor," failed to provide essential protections for gig workers? Second, how can a new regulatory model be designed to foster a gig economy ecosystem that is both fair and grounded in legal certainty? In response, this paper argues that the essential path forward for Indonesia is the adoption of a responsive hybrid regulation. This model—which synthesizes protective norms from labor law, consumer protection law, and is informed by competition law principles—is necessary to balance the pace of innovation with the state's constitutional obligation to protect its citizens. To analyze the current framework's failure and formulate this new solution, this research employs the theory of Responsive Regulation as its primary analytical lens. This theory, with its "enforcement pyramid" concept, offers a pragmatic and adaptive approach uniquely suited to governing a dynamic sector like the gig economy without stifling innovation (Braithwaite, 2017, p. 117; van der Heijden, 2020, p. 3).

This research offers several original contributions to the legal discourse in Indonesia. Conceptually, it is the first to systematically propose a synthesis of three relevant legal regimes, filling a gap where existing literature remains trapped in the "employee vs. contractor" binary (Rachmayani, 2025, p. 25). On a policy level, this paper moves beyond problem identification to offer an implementable regulatory blueprint. Furthermore, diverging from prior studies that tend to import models from developed nations (Afifah, 2024, p. 227), this research offers a new perspective by drawing insights from regulatory innovations in fellow Global South nations, such as Malaysia, Brazil, etc (A.T & Ambedkar, 2024, p. 705; Zanatta et al., 2024, p. 15). To maintain analytical depth, this research focuses specifically on gig workers in the ride-hailing and logistics courier sectors in Indonesia, and will not delve deeply into the adjacent issues of taxation or data protection.

2. Research method

This research employs a juridical-normative approach with a distinct reform-oriented focus. The normative legal method was selected as the primary tool to diagnose the core legal problem by analyzing and interpreting existing legal norms, principles, and doctrines, particularly those within Indonesian labor and civil law (Marzuki, 2017, p. 47). However, this study does not stop at a mere description of positive law. Its reform-oriented nature drives the analysis beyond identifying this normative failure and toward the prescriptive formulation of a new, implementable regulatory model designed to address the identified legal vacuum.

To answer complex research questions, this study utilizes three analytical approaches simultaneously. First, the statute approach is the primary tool used to interpret and analyze positive law, both to identify the existing legal vacuum (Section 3.1) and to build the juridical foundation of the proposed hybrid model (analyzing the Manpower Law, Consumer Protection Law, Industrial Relations Dispute Settlement Act, and MSME Law in Section 3.2.1). Second, the conceptual approach is employed to analyze and construct the core legal doctrines that form the prescriptive argument, including dependent self-employment, algorithmic management, enforced self-regulation, and the partial reversal of the burden of proof. Third, the comparative law approach is used strategically, not for direct legal transplantation, but as a reform-oriented tool to inform policy design. Precedents from fellow Global South nations (Brazil, Kenya, China) and other key jurisdictions (EU, Malaysia, Singapore) are analyzed to validate the solution's feasibility and identify global best practices adaptable to the Indonesian context.

To support these approaches, the research relies comprehensively on secondary data, classified into two main categories. First, primary legal materials consist of binding statutes, including the 1945 Constitution, the Indonesian ICC, Manpower Law, Law Number 8 of 1999 on Consumer Protection, and other relevant regulations. Second, secondary legal materials comprise the core evidence base, including academic literature (journals, books, dissertations), in-depth research reports (including the seven primary research reports utilized in this paper), policy papers, and relevant comparative legal materials.

The data collection technique employed was a systematic literature review, an approach involving the structured identification, selection, and critical analysis of literature (Jesson, 2011, pp. 88–90). This process was executed in three main steps: (1) initial identification and mapping of the existing discourse; (2) systematic searching of relevant academic and institutional databases; and (3) selection, classification, and data extraction, where the most relevant sources were chosen and their information systematically extracted for analysis.

The collected data were analyzed using a qualitative approach with an interpretive-critical method (Creswell & Poth, 2016, pp. 47 & 145). This method was selected as the research aims to understand and interpret the meaning behind legal texts, identify their underlying inconsistencies, and construct a new conceptual framework. The analysis followed three interconnected stages. The first stage involved interpretation and description of relevant statutes. The second stage was a critical analysis and identification of the regulatory gap, demonstrating the failure of the current binary legal framework (Section 3.1). The third stage involved synthesis and model construction, where findings from the critical and comparative analyses were synthesized to build the proposed hybrid regulatory model, addressing both its substantive design (Section 3.2.1) and its procedural implementation (Section 3.2.2).

Overall, this research framework moves logically from problem identification to policy solution formulation. It begins by deconstructing the failure of the existing legal framework. Then, using multiple analytical approaches, it synthesizes relevant domestic legal norms with lessons from comparative jurisdictions to construct an adaptive hybrid regulatory model that is implementable within the specific socio-legal context of Indonesia.

3. Results and Discussion

3.1. The Failure of Indonesia's Binary Manpower Law: Why the Worker/Independent Contractor Dichotomy Fails to Provide Essential Protection and Legal Certainty for Gig Workers

The gig economy, a tangible manifestation of the digital transformation, has rapidly evolved into a new ecosystem where work is structured as independent projects or temporary tasks accessed via on-demand platforms, rather than conventional employment. In Indonesia, this is most visibly represented by major transportation and e-commerce platforms like Gojek, Grab, Shopee, and Lazada. This model is highly profitable for these corporations; they gain access to a workforce comparable to traditional employees but are absolved of the legal and financial obligations mandated by Indonesian labor law, such as essential protections and benefits.

Gig workers, classified across sectors such as mobility, deliveries, and services (Darmawan & Muttaqin, 2023, p. 776), offer unique advantages to platforms, including efficiency and adaptability to consumer demand. This structure, however, primarily benefits the platforms by drastically reducing fixed costs, such as salaries and benefits, as they pay only for completed tasks without incurring responsibility for worker protection (Hartono & Tarigas, 2025, p. 2).

This lack of corporate responsibility is the root of the problem: gig workers are not legally protected and do not receive essential safeguards. While Indonesian law clearly defines the rights of "Workers," gig workers fail to meet this classification under Manpower Law.

This situation exposes a fundamental regulatory gap created by a binary legal framework (dichotomy), which rigidly separates "Workers" from "Independent Contractor" and thus fails to address the challenges of this new form of labor. Consequently, gig workers are predominantly classified as "partners," not workers (Fadhlulloh et al., 2023, p. 309), based on partnership agreements, while some parties also classify them as informal workers.

It is clear from these definitions that the primary legal test distinguishing a Worker from an Independent Contractor is the existence of an "employment relationship" (*hubungan kerja*). Article 1(15) of the Manpower Law defines this relationship as one "between an employer and a worker based on an employment agreement, which contains elements of work, wages, and command."

The constitutive elements of this relationship are: "work" (the activity performed by the worker), "wages" (compensation from the employer), and "command" (a subordinate relationship where the worker must obey the employer's orders).

The following table compares the characteristics of a formal worker, an independent contractor, and the reality of a gig worker in Indonesia, based on the Manpower Law and the Indonesian ICC.

Table 18. Comparison of Views on Gig Workers based on Manpower Law, ICC, and Their Practical Realization

Aspects	Formal Work (Manpower Law)	Independent Contractor (ICC)	Gig Worker Realization (Practical Analysis)
Legal Protection	Manpower Law	ICC (Art. 1601e on Cooperation Agreement)	There are no specific comprehensive regulations yet.
Employment Relationship Status	Officially bound by an employment contract with a company, a direct employment relationship between employer and employee involving orders and wages.	No employment relationship exists, but only a partnership relationship/independent contractor (based on a cooperation agreement) with no direct orders given.	Informal in nature, the relationship between the company that owns the Platform and the workers is unbalanced, even though it is described as a "Partnership."

Aspects	Formal Work (Manpower Law)	Independent Contractor (ICC)	Gig Worker Realization (Practical Analysis)
Employee's Obligation	Performing work based on the Company's orders and regulations	Execute agreements independently and professionally	Performing work in accordance with the platform's requests, using standards and algorithms determined unilaterally.
Employer's Obligation	Providing wages, social security, leave entitlements, holiday allowances, and employment protection	Providing compensation in accordance with the agreement in the Cooperation Agreement	The platform only charges a fee per order, without any obligation to provide employment protection.
Employee's Status	Workers/laborers under the company	Independent Contractor	Referred to as partners, but dependent on a unilateral system/platform
Work Hour	Regulated by the company	Determined jointly or by the Partners/Independent Contractors	Arranged by the platform or chosen by the worker themselves (highly flexible)
Wage/Income	Fixed monthly salary and allowances	Based on the Cooperation Agreement or business results	Based on how many orders/gigs can be completed (not fixed)
Supervision	Under the supervision of the company	Not directly supervised (equal relationship)	Not directly supervised, but controlled by algorithms/platforms
Essential Employee Rights	Employment Social Security, Health Social Security, holiday	Not required to be provided by the partner, unless both parties agree	Without insurance coverage, most people register for BPJS independently on their own.

Aspects	Formal Work (Manpower Law)	Independent Contractor (ICC)	Gig Worker Realization (Practical Analysis)
	allowances, Leave		
Access to Labor Unions	Freedom of association and organization	Not guaranteed in a partnership relationship	It is difficult to form a union because of the legal status of " Independent Contractor."
Examples of Professions	Office workers, civil servants, factory workers	Lawyers, consultants, independent contractors	Online motorcycle taxi drivers, app couriers, digital freelancers

Source: Author's various sources of legislation and references in the bibliography

This comparison demonstrates that gig workers fit into neither the "Worker" nor the "Independent Contractor" category. While labeled as "partners," they are far more vulnerable than traditional independent contractors, placing them in a legal "grey area" defined by uncertainty. This "misclassified partnership" has become a widespread problem in Indonesia, rooted in two key issues: first, the growth of a precarious labor market, and second, a critical legal loophole, as the Manpower Law fails to define or recognize the concept of "partnership" at all (Izzati & Sesunan, 2022, p. 58).

The rise of the gig economy is inextricably linked to digital platforms, which have designed a "flexible" work model explicitly to avoid the formal employment relationship and its attendant obligations. Platforms utilize formal contracts—typically partnership or service rental agreements—to bypass legal requirements such as social security, minimum wage, and paid leave. This "on-demand" business model prioritizes flexibility, scale, and minimal fixed labor costs (Stanford, 2017, p. 399). Platforms thus strategically shift their responsibilities, positioning themselves not as employers but as neutral technology providers, thereby externalizing all risks onto the gig workers.

Furthermore, platforms maintain complete control over data, algorithms, and evaluation systems, leaving workers blind to the logic behind decisions affecting their livelihood. This unilateral control of information creates a structural imbalance that, in a labor context, constitutes a form of 'digital subordination.'

While platforms portray the relationship as a simple partnership, de facto elements of an employment relationship persist. The first element is unilateral control, or subordination. This is executed through "algorithmic management"—a technological mechanism that effectively monitors and directs workers. Although workers are ostensibly free to set their own hours, this freedom is governed by controlling algorithms that automate task distribution, manage ratings, apply penalties, and dictate peak working times.

The second element is economic dependency. Many gig workers rely on platform work as their primary, not supplemental, source of income, making them entirely dependent on the platform for their livelihood. The presence of these two classic elements—control (subordination) and economic dependency—demonstrates that the gig relationship strongly mirrors a traditional employment relationship.

This reality clashes with the formal legal test. Gig workers remain in a "grey area" because they are deemed to fail the constitutive elements of employment: (1) The "employment agreement" is replaced by a "partnership agreement"; (2) The "wage" is replaced by a performance-based pay scheme adhering to a "non-performance, no-pay" principle, distinct from a fixed monthly salary; and (3) The formal "command" element is legally absent, even though it is substantively replaced by algorithmic management.

This mismatch—de facto control versus de jure partnership—places gig workers in a legal void unrecognized by Indonesian prevailing law. To explain this phenomenon, the International Labour Organization (ILO) has introduced the concept of "dependent self-employment." This refers to workers who are formally self-employed but are economically dependent on a single client (the platform) and subject to significant operational control. The position of gig workers in Indonesia is far more accurately described by this new paradigm than by the rigid, binary dichotomy of worker/partner.

The law's failure to correctly categorize these workers leads directly to the loss of essential rights. The first and most critical impact is the lack of access to social security programs mandated by Law Number 24 of 2011 on the Social Security Administering Bodies. As they are not considered formal "Workers," platforms have no legal obligation to enroll them in fundamental programs for old-age (JHT), work accident (JKK), death (JKM), or pension (JP) benefits (Listhyaningrum, 2024, p. 317).

The second impact is the loss of income protection. Gig workers are not entitled to the minimum wage protections stipulated in the Manpower Law. Their income is entirely dependent on the number of completed tasks and is subject to unilateral changes in platform incentive schemes, leaving them in a state of extreme financial precarity (Suhartono et al., 2024, p. 9).

The third impact is the neglect of Occupational Safety and Health (OSH). Although gig workers in transportation and logistics face high risks on the road, platforms frequently abdicate all OSH responsibilities, arguing they are not employers. This contradicts the spirit of Law Number 1 of 1970 on Work Safety, which was intended to protect all labor, regardless of location.

As long as gig workers remain classified under partnership agreements and outside the legal definition of a "Worker," these essential rights will remain unattainable. The rigid dichotomy of worker versus independent contractor has failed to protect those in dependent self-employment, resulting in significant negative consequences. This framework failure demonstrates that the solution does not lie in forcing a binary classification, but rather in designing a new, hybrid regulatory model. Therefore, the subsequent sections of this paper will detail the substance of this proposed hybrid model.

3.2. Beyond the Binary: A Hybrid Regulatory Model for the Indonesian Gig Economy

Having identified the failure of the existing binary legal framework, this analysis now shifts from problem diagnosis to solution formulation. This section answers the second research question by detailing the proposed hybrid regulatory model for Indonesia's gig economy. The discussion is divided into two main parts: first, an elaboration of the legal substance of the model, and second, an analysis of the strategy and process for its implementation.

3.2.1. Designing the Substance: Synthesizing Contractual Justice, Social Safety Nets, and Institutional Oversight

The most effective solution lies not in a binary choice—forcing status as either "full employee" or "pure partner"—but in the development of a hybrid regulatory model. This model pragmatically "unbundles" and adapts fundamental principles from two primary legal regimes: (1) Consumer Protection Law, to guarantee contractual justice and transparency; and (2) Manpower Law, to guarantee basic rights to social security, safety, and fair dispute resolution (Ashadi & Rekan, 2025). Although gig workers are formally service providers, the dynamics of their relationship with digital platforms—particularly their weak bargaining power against take-it-or-leave-it standard form contracts—closely mirror the vulnerabilities of consumers. Therefore, the first step in constructing this hybrid model is to borrow the analytical framework of Law Number 8 of 1999 on Consumer Protection ("**Consumer Protection Law**") to establish contractual equilibrium between the parties.

This equilibrium begins by adopting the principle of information transparency to counter the power asymmetry created by "algorithmic management." This "black box" system,¹ when applied within partnership agreements, arguably violates the right to "true, clear, and honest information" mandated by Articles 4(c) and 7(b) of the Consumer Protection Law (Utami et al., 2026, p. 26). Regulation must mandate comprehensible explanations of algorithmic processes, payment schemes, rating systems, and the basis for contract terminations. Furthermore, the partnership agreements themselves, as standard form contracts, must be subject to the prohibitions against unfair clauses under Article 18 of the Consumer Protection Law (Guntur, 2020, p. 38). Practices such as embedding clauses for unilateral changes, exoneration clauses that transfer the platform's liability, or arbitrary termination clauses lacking due process must be explicitly prohibited (Lestari et al., 2023, p. 251; Mawanda & Muhshi, 2019, p. 41; Morong et al., 2025, p. 10).

However, the argument for merely applying the Consumer Protection Law analogously faces fundamental challenges from both technology and judicial precedent. First, the extreme information asymmetry of algorithmic "black boxes" makes the legal obligation of transparency nearly impossible to fulfill. Second, it presents an impossible burden of proof for workers; in a civil dispute, workers lack the access to prove that their losses were caused by systemic bias, as the burden of proof rests entirely on them, per Article 1865 of the ICC and Article 163 of the *Herzien Inlandsch Reglement* (HIR). Third, the argument fails due to the historical weakness of judicial enforcement against unfair standard clauses. Indonesian jurisprudence frequently prioritizes the principle of *pacta sunt servanda*

¹ The term 'black box' describes a system where inputs and outputs are observable, but the internal decision-making process remains opaque or uninterpretable to humans. This opacity raises serious concerns about transparency and accountability (Lainez & Gardner, 2023, p. 2; Wijaya, 2020, p. 17).

(freedom of contract) under Article 1338 of the ICC over the protective spirit of Article 18 of the Consumer Protection Law.²

Addressing these three fundamental challenges demands a solution beyond the simple analogous application of the Consumer Protection Law. The most robust policy argument, therefore, is the establishment of a *sui generis* (specialized) legislation for platform-based partnerships. This new regulation must proactively remedy these identified weaknesses through three primary policy interventions.

First, the legislation must mandate algorithmic explainability, a standard that goes far beyond general transparency. Regulatory developments in the European Union, such as the Platform Work Directive, show a clear trend toward granting an explicit "right to explanation" to all platform workers, regardless of their employment status (Aloisi & Potocka-Sionek, 2022, pp. 30–33). To ensure these explanations are meaningful, a minimum technical standard should be adopted, prioritizing Counterfactual Explanations. This model is superior because it provides a clear, actionable pathway for workers to understand how they can achieve a different outcome in the future (Verma et al., 2024, pp. 2–3).

This solution is not without its own challenges. Technically, there is an accuracy-interpretability trade-off,³ where the most accurate models are often the most opaque (Fabeyo, 2025, p. 133). A more insidious risk is fairwashing,⁴ where the explanation mechanism itself is manipulated to hide underlying bias. Furthermore, this transparency mandate creates a fundamental conflict between the platform's right to protect its trade secrets and the worker's right to an explanation (Kilic, 2024, pp. 1 & 5). While trade secret protection is legitimate, it is not absolute and is often used as a shield to avoid accountability (Kilic, 2024, p. 2). The existence of these risks confirms the critical necessity of third-party audits by accredited, independent bodies to serve as "trust infrastructure," supplemented by controlled access for regulators and researchers via "secure data enclaves" (Digital Regulation Cooperation Forum, 2022; Villasenor, 2024, p. 506).

Second, to solve the impossible burden of proof, the regulation must introduce a partial reversal of the burden of proof in disputes related to algorithmic decisions. The justification for this reform is rooted in the established legal principle that rigid adherence to conventional evidentiary burdens is unjust when the essential facts are exclusively within the control of one party, making the exercise of one's rights "practically impossible" (Asimakopoulou, 2023, p. 86). The opacity of the "black box" effectively nullifies due process and undermines the worker's fundamental right to access to justice (Shepherd, 2025, p. 25).

This approach aligns with established precedent in EU anti-discrimination law, which shifts the burden of proof (not merely the burden of production) to the defendant once a *prima facie* case of

² Judicial practice shows a tendency to revert to the basic civil law principle that a signed agreement acts as law for the parties (*pacta sunt servanda*, Art. 1338 of the ICC), often ignoring severe imbalances in bargaining power. This is evident in disputes ranging from parking cases (Supreme Court Decision Number 1264 K/Pdt/2003) to banking disputes (District Court Decision Number 65/Pdt.G/2011/PN.SMG), where courts frequently prioritize sectoral law or freedom of contract over consumer protection principles.

³ The accuracy-interpretability trade-off refers to the fact that the most accurate AI models are often the most difficult to explain logically.

⁴ Fairwashing is a practice where an explanation mechanism is itself manipulated to conceal underlying biases and provide an illusion of fairness (Goethals et al., 2025, p. 2).

discrimination is established (European Commission, 2004). Adapting this, a practical three-stage framework can be designed for algorithmic disputes in Indonesia:

- (1) The gig worker (plaintiff) must first establish a *prima facie* case by demonstrating three core facts: their work is subject to algorithmic management, they suffered a specific adverse action, and the platform failed to provide a meaningful explanation (Shepherd, 2025, pp. 27–28).
- (2) Once the *prima facie* case is met, the burden of proof shifts to the platform to affirmatively prove its decision was fair, accurate, and legitimate. This forces substantive disclosure of decision parameters and system audits, which can be managed via in-camera (closed-door) judicial review to protect legitimate trade secrets (Deepashree. R, 2025, pp. 545–546).
- (3) The worker, now equipped with this disclosure, has a final opportunity to meet their burden by demonstrating that the platform's justification is merely a pretext for an unlawful action (Harvard Law Review, 2025). This mechanism not only balances the scales of justice but also creates a powerful *ex-ante* incentive for platforms to design fairer systems from the outset.

Third, to systemically address the weak enforcement of standard clauses, the regulation must adopt an effective *ex-ante* review mechanism. The debate between *ex-ante* (preventive) and *ex-post* (reactive) intervention is a false dichotomy. The most effective modern regulatory models exist on a spectrum that intelligently combines elements of both (Schwartz & Gilson, 2013, p. 176). International best practice shows a convergence toward a hybrid model of "prevention through enforcement." Rather than relying on inefficient administrative pre-approval, jurisdictions like Australia and Germany compel *ex-ante* self-compliance from businesses. This is achieved by creating severe and credible *ex-post* consequences for violations, such as massive financial penalties or highly efficient collective action lawsuits (Lutz, 2023; Stephens Lawyers & Consultants, 2023).

Designing the institutional framework for this model in Indonesia requires solving the jurisdictional fragmentation between various agencies. A comparative institutional analysis reveals unique strengths and weaknesses: the Ministry of Manpower possesses deep subject-matter expertise on worker protection; the Financial Services Authority (OJK) has relevant *ex-ante* experience in its sector; and the Business Competition Supervisory Commission (KPPU) has expertise in analyzing market power.

Of these candidates, the KPPU holds a distinct advantage, as its jurisdiction for this task is the most legally robust and relevant. Normatively, an individual gig worker qualifies as a "Micro Enterprise" (Usaha Mikro) under the definition in Law Number 20 of 2008 on Micro, Small, and Medium Enterprises (MSMEs) and the quantitative criteria in Government Regulation Number 7 of 2021. Therefore, the partnership relationship between a platform (a Large Enterprise) and its gig workers (Micro Enterprises) *de jure* falls within the KPPU's existing mandate to oversee partnerships. Critically, this justification is rooted in the MSME partnership mandate, not competition law (Law Number 5 of 1999), thus remaining consistent with the focus of this paper.

Given this jurisdictional fragmentation, the most strategic solution is the formation of an inter-agency task force, ideally orchestrated by the Coordinating Ministry for Political, Legal, and Security Affairs to provide high-level political authority. This task force would be responsible for implementing

the "prevention through enforcement" model, with the KPPU as the primary enforcer mandated to issue blacklist/greylist guidelines against unfair clauses (e.g., unilateral changes, exoneration, termination without cause) and to impose significant sanctions (Braucher, 2013, p. 21).

Ensuring contractual justice, however, is only the fundamental first step. This protection, while critical, only addresses the procedural and power imbalances in the contract formation. To build a truly comprehensive framework, the hybrid model must go further to address the substantive vulnerabilities workers face daily. This demands the construction of a fundamental safety net rooted in social and physical protection, "unbundling" essential rights traditionally found in labor law and adapting them for the gig economy.

The first pillar of this safety net is mandatory social protection via a co-contribution scheme for the BPJS Ketenagakerjaan program. As existing voluntary models have proven ineffective, regulation must obligate platforms to enroll all active partners in the Work Accident (JKK) and Death Benefit (JKM) programs and to contribute to a portion of the premiums, in line with international standards (Brimblecombe et al., 2023, pp. 2–7; Huda, 2024, p. 3; Lestari et al., 2023, p. 254; Utami et al., 2026, p. 27). This implementation also creates a crucial "regulatory entry point" for enforcing other policies.

The second pillar is the proactive adaptation of Occupational Safety and Health (OSH) standards from Law Number 1 of 1970. The regulatory paradigm must shift from reactive (post-accident insurance) to preventive (addressing risk at its source) (Farhan, 2022, p. 61; Lestari et al., 2023, p. 255). Since platforms, as system designers, create or exacerbate many risks (e.g., fatigue from incentive structures), they must be assigned a duty of care. This includes technology-based prevention, mandatory safety education, and providing access to personal protective equipment (PPE).

The third pillar, which serves as the functional prerequisite for enforcing all other proposed rights, is a structured, state-supervised dispute resolution mechanism. This requires a fundamental juridical reform: the recommended *sui generis* legislation must explicitly expand the material jurisdiction of the Industrial Relations Court (*Pengadilan Hubungan Industrial* or "**PHI**"). This expansion would adapt the existing framework of Law Number 2 of 2004 on Industrial Relations Dispute Settlement ("**PPHI Law**") (Nainggolan, 2019, pp. 53–55). This model adopts a tiered pathway, starting with mandatory bipartite negotiation (Article 3, PPHI Law). If that fails, the dispute proceeds to tripartite mediation facilitated by a government mediator at the local manpower office (Articles 4 & 8, PPHI Law). Only after mediation fails can a party file a claim with the PHI (Article 83(1), PPHI Law).

Crucially, this adapted PPHI mechanism functions as the enforcement bridge that connects the contractual justice pillar with the fundamental safety net. This is the pathway workers will use to practically claim their new proposed rights, such as the right to algorithmic explanation. Within this mediation or in the PHI courtroom, the partial reversal of the burden of proof would be applied as the specific procedural law to test the validity of the platform's algorithmic decision. Thus, both pillars of protection—contractual and substantive—are bound into a single, functional, and enforceable system.

Collectively, this framework of contractual justice and a fundamental safety net forms the core substance of the proposed hybrid model. However, formulating this legal substance is only half the journey. The model's success will ultimately depend on designing the ideal regulatory process and

implementation strategy—a challenge addressed in the following section, with a focus on implementation models from peer nations like Malaysia and Singapore.

3.2.2. A Co-Regulatory and Legislative Approach: The Ideal Model for a Fair, Productive, and Balanced Gig Ecosystem

Having outlined the substantive "what" of the hybrid regulatory model in the previous section, the policy formulation remains incomplete. The model's ultimate success hinges on designing the ideal implementation process and approach—the "how." This section argues that effective implementation in Indonesia must move beyond rigid, top-down regulation and instead adopt an adaptive, multi-stakeholder framework. This implementation framework is built on two primary components: the design of a co-regulatory governance model involving all key actors, and a comprehensive analysis of its ecosystem-wide impacts.

The design of an ideal governance model must begin with a paradigm shift from pure self-regulation to enforced self-regulation. The voluntary self-regulation model has proven inadequate, lacking credible enforcement mechanisms and often prioritizing business interests (World Economic Forum, 2020). Enforced co-regulation, in contrast, strategically resolves this dilemma. The model clearly divides roles: the Government sets non-negotiable minimum standards and acts as the final overseer, while Industry is given the flexibility to design and implement the technical rules to achieve those standards (Watkin, 2023, p. 15).

The first executable technical step for the Indonesian government is to establish the legal and institutional foundation by issuing a (Draft) Presidential Regulation on Digital Partnerships. This pragmatic step aligns with initiatives already underway at the Ministry of Manpower (Kemnaker) to draft a regulation for online motorcycle taxi drivers (Herawati, 2025).

To be effective, this proposed (Draft) Presidential Regulation must technically mandate three fundamental components: (1) Recognition of a Hybrid Status, legally acknowledging the "Partner/Independent Contractor" status but attaching non-negotiable basic rights; (2) Delegation of Oversight Mandates, explicitly assigning the KPPU as the ex-ante reviewer of standard clauses and Kemnaker as the overseer of social security implementation; and (3) Formal Institutional Establishment, mandating the creation of a "National Tripartite Digital Partnership Council."

Two of these technical components are based on specific strategic justifications. The recognition of a Hybrid Status aligns with an emerging ASEAN policy convergence: both Malaysia (via the Gig Workers Bill 2025) and Singapore (via the Platform Workers Act) have also opted not to reclassify status, but rather to mandate platform contributions to their national social security systems (SOCSO and CPF, respectively) (Uchiyama, 2025). Furthermore, establishing a Tripartite Council led by the Coordinating Ministry for Political, Legal, and Security Affairs is crucial for overcoming jurisdictional fragmentation, breaking down bureaucratic silos, and providing the high-level political authority needed for policy orchestration.

The operationalization of this Tripartite Council is the core of the co-regulation model. The Government's Role (Kemnaker/Kemenko) is to act as the Council's Facilitator and Arbiter, ensuring the (Draft) Presidential Regulation's minimum standards are met. The Platform's Role (e.g., GoTo,

Grab, Indonesian E-Commerce Association (idEA)) is as Council members obligated to draft an "Industry Code of Conduct" containing the technical implementation rules (e.g., API integration for BPJS, algorithm audit standards). In these negotiations, platforms are expected to actively use a "cautionary tale" narrative, citing alleged worker reductions in Spain or the UK to frame the debate as "flexibility vs. unemployment" (Redaksi, 2025).

Completing these two actors, Indonesian Gig Worker Representatives must function as equal social dialogue partners. The primary challenge to their participation is internal fragmentation between the "reclassification" camp (led by the SPAI union) and the "partnership reform" camp (led by the Garda association) (Naufal, 2025, p. 202; Rahayuningsih, 2025). To institutionalize their participation, Indonesia can draw from various global models: from the pragmatic compromises of the IDG New York (Scheiber & Isaac, 2016), to the formal algorithmic consultation rights in the EU PWD (Fredman et al., 2025, p. 439), to the digital collective action innovations from the Global South like StopClub Brazil (Doctorow, 2025).

The technical mandate of this National Tripartite Council must be clearly distinguished from individual dispute resolution. The Council will focus on policy-level disputes (macro), such as negotiating the "Industry Code of Conduct" or systemic algorithmic changes. Conversely, for individual disputes (micro)—such as an individual account termination or a payment dispute—the Council will instead strengthen the pathway designed in Section A. This pathway adapts the PPHI Law, where the tripartite mediation stage remains handled by government mediators at the local manpower office (Suku Dinas Tenaga Kerja), per Article 8 of the PPHI Law. The Tripartite Council's role is to support these local offices by (a) setting technical guidelines for mediators on digital partnership disputes and (b) providing a list of certified expert mediators.

Finally, the proposed (Draft) Presidential Regulation must mandate a phased rollout to mitigate market disruption, an approach tested in other Global South nations. The first procedural step is the use of a Regulatory Sandbox. Adopting the precedent from Kenya (which piloted portable benefits) (Mercy Corps Ventures, 2022, pp. 16 & 35–36), Indonesia could run a six-month sandbox to test the technical integration of the BPJS Ketenagakerjaan API with 1-2 platforms in one city. Following a successful sandbox, the second step is a Pilot Program. Adopting the model from China (which launched work-injury insurance in 7 pilot provinces) (International Labour Organization, 2025, pp. 1–3), the (Draft) Presidential Regulation could be enforced in 3-5 major provinces for one year to gather impact data before a full national rollout.

This four-stage technical pathway—(1) Legal Foundation via (Draft) Presidential Regulation, (2) Operationalization of the Tripartite Council (for macro-policy), (3) Institutionalization of the individual dispute pathway (via PPHI Law at local offices), and (4) Phased Rollout (via Sandbox/Pilot)—transforms co-regulation from an academic idea into an executable policy roadmap.

The implementation of this technical roadmap is projected to have significant positive impacts across the entire ecosystem. At the micro-level, the most direct impact for workers will be an increase in job security and income stability. Legally binding contracts will transform the precarity workers currently face from unilateral policy changes (Cahyaningrum & Yudhantaka, 2025, pp. 16–18). A

quantitative study in Indonesia has proven that "job protection" and "income" are the two most statistically significant factors affecting worker well-being (Sitorus & Kornitasari, 2024, pp. 547–548). This regulation will directly address unstable income and extreme working hours while providing a fundamental safety net through universal access to Social Security (BPJS Ketenagakerjaan), for which participation is currently low due to the structural barriers of the partnership model (Huda, 2024, p. 12; Raditya, 2025, pp. 57–58; Syarifudin, 2024, p. 326).

For platforms, compliance is not merely a cost but a strategic business case. Empirical evidence demonstrates that platforms with a "good" reputation attract workers 100% faster and at a lower cost (Benson et al., 2020, p. 1804). Investments in worker well-being also correlate with increased productivity and loyalty (World Economic Forum, 2025, p. 11). Conversely, the cost of non-compliance—particularly from worker misclassification—is extremely high, encompassing massive fines, class-action litigation, and operational losses from high worker turnover (Celestin & Sujatha, 2024, p. 82; Collier et al., 2017, p. 18).

At the macro-level, protecting gig workers will positively impact the national economy. First, it fosters more inclusive digital growth by formalizing parts of the informal workforce (Andrian, 2025, pp. 2–3) and preventing a "race to the bottom" in labor standards (Permana, 2024, pp. 3–6). Neighboring countries like Malaysia (Gig Workers Bill 2025) and Singapore (Platform Workers Act) have already proven that protection and innovation can co-exist (Uchiyama, 2025). The following comparative table outlines the hybrid regulatory approaches being taken in the ASEAN region:

Table 19. Comparison of Regulatory Feature between Indonesia, Malaysia, and Singapore

Regulatory Feature	Indonesia (Status Quo)	Malaysia (Gig Workers Bill 2025)	Singapura (Platform Workers Act)
Employee Status	Partners (Gray Area)	No reclassification, but specific rights are regulated (Hybrid Model)	Remain self-employed, but with new obligations
Social Security	Voluntary (Low participation)	Mandatory contributions to SOCSO by platforms	Mandatory joint contribution (50/50) to CPF
Contract Rules	Not regulated, unilateral	Must be transparent (rates, duration, etc.)	Not specified in the source
Dispute Resolution	There is no formal mechanism	Three-tier structure: Internal, Mediation, Gig Workers Tribunal	Income protection & accident compensation system
Right to Organize	Not formally recognized	Explicitly guaranteed	Not specified in the source

Source: (Aris et al., 2024; Hakim, 2025, pp. 2–3; Lesmana & Samudra, 2025; Uchiyama, 2025)

Second, regulation will enhance national productivity by preventing a "low-skilled labor trap" and triggering a "virtuous circle" of productivity (Huda, 2024, p. 16; Sitorus & Kornitasari, 2024, p. 540). Third, fair regulation will function as an effective "safety valve" to reduce social conflict. Disruptive public strikes and protests will be channeled into structured dispute resolution mechanisms, thus preserving the economic stability required for long-term growth (Asih et al., 2022, pp. 76–79).

4. Conclusion and Recommendations

Indonesia's binary labor law framework, which recognizes only "Workers" and "Independent Contractors," has fundamentally failed to provide adequate protection for gig workers. Trapped in a legal grey area, gig workers fall outside the scope of formal employment protections. The concept of "dependent self-employment," as defined by the ILO, most accurately describes their status: while formally classified as independent, they are economically and operationally dependent on digital platforms. The resulting partnership agreements are therefore inherently exploitative, a relationship rooted in systemic misclassification.

In response to this framework failure, this paper formulates a comprehensive "Third Way" hybrid regulatory model tailored for the Indonesian context. This model is designed to bridge the gap between worker protection and the flexibility of the platform business model. Substantively (as detailed in Section 3.2.1), it mandates: (1) a **contractual justice framework** featuring algorithmic transparency, a partial reversal of the burden of proof, and an *ex-ante* review of standard contracts by the KPPU; and (2) a **fundamental safety net** adapted from Manpower Law, mandating BPJS social security contributions and adapting the PPHI Law's dispute resolution pathway. Procedurally (as detailed in Section 3.2.2), this paper proposes an implementation roadmap via a (Draft) Presidential Regulation, establishing a National Tripartite Council and mandating a phased rollout using *regulatory sandboxes* and *pilot programs*.

The implementation of this hybrid model demands significant political will and technical action from the **Government**. It is recommended that the **Executive (President)** finalize the **(Draft) Presidential Regulation on Digital Partnerships**, ensuring it mandates at a minimum: (a) the recognition of a Hybrid Status with mandatory BPJS (JKK/JKM) contributions; (b) the establishment of the National Tripartite Council (coordinated by the Coordinating Ministry); and (c) the delegation of *ex-ante* contract review to the KPPU. Concurrently, the **Legislature (the House of Representative or DPR)** is urged to initiate amendments to the PPHI Law to formally **expand the jurisdiction of the Industrial Relations Court (PHI)** to cover these new partnership disputes.

This co-regulatory model cannot function without the proactive participation of **Digital Platforms**. The recommendation for industry is to shift from defensive advocacy (which utilizes the "flexibility vs. unemployment" cautionary tale) toward **proactive compliance**. The strongest argument for this shift is the **business case**: evidence shows that fair practices improve worker retention and

productivity while mitigating the severe legal and financial risks of misclassification (Benson et al., 2020, p. 1804; Celestin & Sujatha, 2024, p. 82).

Balance within the proposed National Tripartite Council can only be achieved if **Worker Representatives** have strong bargaining power. Given their current internal fragmentation (e.g., the reclassification camp, SPAI, vs. the reform camp, Garda), the technical recommendation is for these groups to form an **issue-based strategic alliance**. Despite ideological differences, this coalition is crucial for unifying their voice to pursue universal demands (such as social security, algorithmic transparency, and fair commissions) and ensuring they have solid collective bargaining power within the Council.

Ultimately, this paper is not merely a critique of a legal vacuum. Its primary contribution is the formulation of a **technical and executable reform-oriented solution**, reinforced by precedents from the Global South and emerging ASEAN regional convergence. For the next stage, **further ex-post impact research** is required. Once this proposed (Draft) Presidential Regulation is implemented, in-depth quantitative and qualitative research will be necessary to objectively measure the effectiveness of this hybrid model in improving worker welfare and achieving its stated goals.

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