

The Gray Area of Employment Relationship in The Gig Economy and The Direction of Labor Law Reform

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ABSTRACT

This study aims to analyze why the labor regulatory framework in Indonesia has not been able to provide legal certainty and protection for gig workers and formulates directions for labor law reform. This research employs a normative legal method with a descriptive-analytical approach, using statutory, conceptual, and comparative legal analyses to assess the compatibility of existing legal norms with digital labor practices. The novelty of this study lies in its substantive interpretation of legal relations in the gig economy, emphasizing the factual fulfillment of employment relationship elements rather than the formal designation of partnership status. The findings show that Indonesia's labor regulations remain predominantly designed for conventional employment relationships, leaving gig workers without sufficient legal recognition and social protection. Accordingly, labor law reform should encompass the redefinition of employment relationships in the Labor Law, recognition of gig workers as workers based on the substance of their working relationship, expansion of social security through the Wage Earner Scheme, stronger state oversight of algorithmic management, broader occupational safety and health protection covering digital and psychosocial risks, and the establishment of adaptive implementing regulations capable of keeping pace with technological innovation and the digital economy.

Keywords: Employment Relationship, Gig Economy, Gig Workers, Labor Law Reform, Legal Certainty.

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1. INTRODUCTION

Advances in digital technology over the past two decades have brought about changes in the global economy, particularly through the emergence of the digital platform-based economy, often referred to as the gig economy (Wardana et al., 2020). This economic model is characterized by the use of software and digital algorithms as the primary means of conducting economic activities (Renan & David, 2017), such as matching the supply and demand for goods and/or services, in a relatively faster timeframe compared to conventional methods, across space and time, and on a massive scale (Rachmawati et al., 2021). In the realm of employment, the gig economy has a positive impact by introducing new forms of work and a shift from conventional employment relationship toward modern ones (Hartono & Tarigas, 2025).

According to BPS labor statistics, gig workers are generally included in the self-employed category. The proportion of workers in this category has shown a steady increase since 2014, coinciding with the rapid expansion of digital platforms such as Gojek and Grab. In 2024, self-employed workers represented approximately 20.7% of the total labor force, equivalent to around 31.5 million people. This growth reflects the increasingly significant role of the gig economy in generating employment opportunities, particularly in the service sector, where digital platforms have facilitated greater participation in flexible and individually based forms of work (Institute for Development of Economics and Finance, 2025).

In other words, in addition to being seen as capable of creating jobs by generating new forms of employment, the gig economy marks the beginning of a transformation in modern labor law (Vallas & Schor, 2020). In

Indonesia, the rise in unemployment caused by the COVID-19 pandemic has led to a shift in employment, with many permanent workers transitioning to gig workers in order to earn an income to meet their basic needs (Alam et al., 2022).

The International Labour Organization (ILO) states that the gig economy is one of the most significant changes brought about by digitalization. A key component of the gig economy is the digital platform, where services are provided by platform owners at specific locations, but workers can perform their tasks remotely. Its growth in recent years has opened up new markets for the business world and created jobs, as it offers workers flexibility in terms of working hours and location (International Labour Organization, 2025).

The ILO notes that Indonesia is among the top 15 countries with the highest number of gig workers in the world. The percentage of gig workers relative to the total workforce in Indonesia has reached approximately 1.5% (Mediana, 2024). This phenomenon is clearly evident in Indonesia through the presence of online transportation platforms, goods and food delivery services, and app-based freelancers, all of which have seen a significant increase. Several online shopping platforms frequently hire freelancers to promote their products through live streaming, which can be done anytime, anywhere (Firdasanti et al., 2021). Unfortunately, the expansion of the gig economy has not been accompanied by legal certainty regarding workers' status, creating a gray area in employment relationships that impacts the fulfillment of workers' rights (Ruyter et al., 2019).

The gray area surrounding employment relationships is one of the main problems in the gig economy. The relation between gig workers and the platform owner where they perform their work is not legally classified as an employment relationship, but rather as a partnership. The concept of an employment relationship under conventional labor law can be found in Article 1, Point 15 of Law No. 13 of 2003 (UU Ketenagakerjaan), which states: "An employment relationship is a relation between an employer and a worker/laborer based on an employment contract, which includes the elements of work, wages, and instructions." Instructions, as one of the elements of an employment relationship, imply that one party in the relation is under the leadership or authority of the other party and must therefore comply. This illustrates that the positions of the two parties are not equal. This difference stems from the unique nature of the employment relationship, namely its subordinate character (Wijayanti, 2014).

Normatively, the relation between gig workers and platform owners is framed as a partnership under civil law. However, upon substantive examination, this relation exhibits the elements of an employment relationship, thereby creating a discrepancy between statutory law and practical realities on the ground (Wardhana & Rasji, 2025). This is evident when gig workers are deemed independent partners, yet in practice, these workers remain subject to various regulations serving as systematic and ongoing control mechanisms (Corujo, 2017). This control does not take the form of direct orders, as found in conventional employment relationships where an employer issues instructions to workers, but is instead implemented through algorithms that determine job distribution, the income workers will receive, performance evaluations, and sanctions such as unilateral termination of access. This means that gig workers remain under the control of another party—namely, the platform owner where they work—even though the form of work instructions differs from those in conventional employment contexts. The flexibility touted as a key advantage of gig workers often turns out to be illusory, as workers must still adjust their time, location, and work intensity to maintain performance and access to work in order to sustain their income (Salleh et al., 2023). This gray area in the employment relationship directly impacts gig workers' access to standard labor rights. Since gig workers are not classified as being in an employment relationship, they cannot benefit from protections regarding minimum wage, social security for health and employment, occupational safety and health, or the right to form unions.

In Indonesia, this issue is becoming increasingly complex because the positive legal framework for labor relations remains deeply rooted in the conventional employment relationship paradigm. National laws such as the UU Ketenagakerjaan, UU 6/2023 on the Enactment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (UU 6/2023), Government Regulation (PP) No. 35 of 2021 on Fixed Term Employment Contracts, Outsourcing, Working Hours and Rest Periods, and Termination of Employment (PP 35/2021), and the Minister of Transportation Regulation No. 12 of 2019 on the Protection of Safety for Motorcycle Users Used for Public Interest (Permenhub 12/2019), are only responsive to the app-based transportation sector. In fact, the development of digital technology has given rise to various new types of work that are not limited to platform drivers alone. This phenomenon indicates that the gig economy has expanded

extensively and across sectors, making it no longer appropriate for regulations to focus solely on a specific type of work. Furthermore, the use of partnership schemes by platforms further exacerbates regulatory gaps, as there are no clear regulations to scrutinize or limit their implementation, leaving the majority of gig workers outside the scope of labor law protections.

Labor law reforms addressing gig workers have not yet been systematically implemented in Indonesian labor law. UU 6/2023 and its implementing regulations have not yet addressed substantive provisions for gig workers. This inevitably creates a gap between the reality of digital-based work and the available legal instruments, leaving gig workers in a legally vulnerable position. Therefore, a study on "The Gray Area of Employment Relationship in the Gig Economy and the Direction of Labor Law Reform" is highly relevant and urgent, not only to address workers' protection needs but also to ensure that labor law remains relevant and adaptive amid the digital economic transformation. This paper aims to analyze the existing labor regulatory framework for gig workers in Indonesia and to direct labor law reforms that can provide more responsive legal protection for gig worker relations. The synthesis of prior literature on this subject is summarized in Table 1.

Table 1. State of the Art

Name and Year	Research Focus	Findings	Gaps
Kamarudin & Arif (2024)	The Gig Economy: Opportunities and Challenges in the Era of Flexible Work	The gig economy boosts income and work flexibility, but it also leads to income uncertainty and a lack of social protection and mental health support. Therefore, collaboration between the government and platforms is needed to strengthen protections and policies that support workers' well-being (Kamarudin & Arif, 2024).	It has not yet detailed which specific regulatory provisions need to be updated in future labor laws.
Indra & Nawangsuri (2025)	Legal Protection for Gig Economy Workers from the Perspective of Labor Law in Indonesia	Most gig workers remain vulnerable, characterized by a lack of social security, inadequate wages, the absence of formal contracts, and income instability. This highlights the need for clearer and more adaptive regulations to reduce job uncertainty and protection gaps (Indra & Nawangsuri, 2025).	It has not yet detailed which normative points need to be updated in future labor law.
Wiguna & Aditya (2026)	The Gap in Legal Protection for Gig Workers in Indonesia's Labor Law	The existing legal framework remains oriented toward traditional employment relationships and does not yet recognize gig workers, thereby placing gig workers in a vulnerable position. More adaptive legal reforms are needed to address this regulatory gap without neglecting the protection of workers' fundamental rights (Wiguna & Aditya, 2026).	It has not yet detailed which normative points need to be updated in future labor law.

Studies on the gig economy in labor law have generally focused on debates regarding worker status and the expansion of normative protections; however, they remain limited to partial and sectoral approaches. The

uniqueness and contribution of this research lie in its analysis of the gray area of employment relationships in the gig economy through an approach centered on the substance of the employment relationship, rather than solely on the formal status of the partnership as defined by Indonesian positive law. This study demonstrates that algorithmic control, rating systems, and unilateral access termination mechanisms constitute modern forms of the element of direction in an employment relationship; thus, the relationship between gig workers and platforms fulfills the elements of an employment relationship as defined in labor law. Furthermore, this study not only identifies legal gaps that cause uncertainty regarding the status of gig workers but also outlines directions for regulatory reform, including the recognition of platform workers, the expansion of occupational safety and health protections to cover psychosocial risks, integration into the social security system for workers, and oversight of platform algorithm management. These findings can serve as a basis for lawmakers and the government in designing labor policies that are more adaptive to digital transformation, thereby providing legal certainty, protecting workers' rights, and striking a balance between digital economic innovation and social justice in the future.

2. RESEARCH METHOD

The research in this paper is a juridical-normative study, which analyzes applicable legal norms, legal doctrines, and court decisions regarding employment relationships in the gig economy. The research conducted in this study employs a normative legal approach that focuses more on legal principles and legal structures (Asyrof, 2006). The approaches used include the statutory approach, the conceptual approach, and the comparative approach. The legal materials analyzed consist of primary legal materials in the form of relevant legislation, secondary legal materials in the form of scientific literature, journals, and previous research findings, as well as tertiary legal materials as supporting sources. The collection of legal materials was conducted through a literature review, while the analysis employed a qualitative method by systematically and argumentatively interpreting and constructing legal norms. The choice of a normative approach is based on the research objective, which focuses on examining and critiquing the construction of positive law in regulating gig workers, particularly regarding the discrepancy between the formal structure of partnership relations and the substance of employment relationships in practice. Thus, this approach is relevant for identifying gaps in legal norms and formulating the need for labor law reforms that are more adaptive to the development of platform-based work.

3. RESULTS AND DISCUSSION

3.1. The Labor Regulatory Framework in Indonesia for Gig Workers

The normative definition of a worker is found in Article 1 point 3 of UU Ketenagakerjaan, which states: "A worker is any person who works in exchange for wages or other forms of compensation." "A person who works as a permanent worker/paid worker or as a laborer/worker/staff member is considered a formal worker (Hendro et al., 2021)." Meanwhile, others (self-employed, those assisted by temporary/unpaid workers, agricultural self-employed, non-agricultural self-employed, and family workers/unpaid workers) are categorized as informal workers (Afifah, 2024).

PP 35/2021 is one of the implementing regulations of UU 6/2023, which amends several provisions of the Labor Law. Under Article 4 (2) of PP 35/2021, there are two types of employment contracts based on their duration: fixed-term employment contracts (PKWT) and indefinite-term employment contracts (PKWTT). Workers whose employment relationship is based on a PKWT are often referred to as contract workers, where the work performed is "temporary in nature, work completed within a specific timeframe, seasonal work, work on a new product being explored or tested, or work that is completed immediately upon execution." (Article 5 PP 35/2021). Meanwhile, workers whose employment relationship is based on a PKWTT are often referred to as permanent workers. Workers whose employment relationship is based on PKWTT perform work that is continuous in nature, and whose job positions, if not filled, would affect the production of a business activity.

Online transportation drivers, app-based couriers, and livestreamers on online marketplace apps are examples of gig workers we encounter in our daily lives (Manyika et al., 2016). Specifically for online transportation drivers, based on the provisions of Article 15 (1) of Permenhub 12/2019, their status as partners is recognized, namely that "The relation between the Application Company and the Driver is a partnership." Meanwhile, for other gig workers, to date, no explicit legal regulations have been found that govern their status (Alam et al., 2022).

A partnership is defined as “cooperation in business ties, whether direct or indirect, based on the principles of mutual need, trust, reinforcement, and mutual benefit, involving micro, small, and medium sized enterprises (MSMEs) and large business (Article 1 paragraph (13) UU 20/2008).” Meanwhile, an employment relationship is “a relation between an employer and a worker based on an employment relationship that includes the elements of work, wages, and instructions (Article 1 Paragraph 15 UU 13/2003).” Although both are legal relations arising from an agreement in a contract, a partnership is not the same as an employment relationship. A partnership is based on the principles of mutual need, mutual trust, mutual reinforcement, mutual benefit, upholding business ethics, and having equal legal standing (Article 104 PP 7/2021). Meanwhile, a legal relation can only be categorized as an employment relationship if it fulfills three aspects: work, the existence of wages, and the existence of instructions. The distinctive characteristic of a legal relation arising from an employment relationship is the aspect of “instructions”. The employment relationship between the worker and the employer serves as the fundamental basis for determining the rights and obligations of each party toward one another, whether categorized as a fixed-term employment relationship (PKWT) or an indefinite-term employment relationship (PKWTT) (Asyhadie & Kusuma, 2019).

The aspect of command demonstrates that although workers and employers are legally equal before the law, their social and economic positions are not equal. Employers hold a higher position than workers, as it is the employer who issues work instructions and pays the worker’s wages once the worker has performed the assigned work. This unequal status in social and economic terms is a distinctive characteristic that distinguishes the legal relation arising from an employment relationship from legal relations arising from other contracts; this distinctive characteristic is referred to as subordination.

A worker’s status within a company is crucial in determining their rights under the law (Turia, 2025). Gig workers, such as online transportation drivers, are categorized as partners and recognized as independent partners; however, in reality, the relation between workers and platform owners is not one of equal standing, as would be expected in a partnership classified under positive law. Gig workers cannot freely determine how much work they will do, what percentage of the profit they will receive for the work performed, and the imposition of sanctions remains within the authority of the platform owner, which tends to be done unilaterally. Therefore, the relation categorized as a partnership between gig workers and platform owners in reality tends to exhibit subordination, where the platform owner holds a higher position than the worker (Pinsof, 2016).

Furthermore, the three aspects of an employment relationship—work, wages, and instructions—can also be found in the partnership between gig workers and platform owners. First is the work itself: gig workers receive assignments distributed via the platform’s algorithm, such as picking up and dropping off passengers or goods, or conducting live-streamed product sales. Second are instructions in the form of the platform’s policies and terms—where they perform their work—which are typically algorithm-based. Third is wages: upon completing the assigned tasks, gig workers receive compensation. In substance, gig workers have the potential to meet the criteria for an employment relationship (Nasution, 2025). Unfortunately, however, the current legal framework classifies gig workers as independent partners. With their legal status as partners rather than workers, this means that platform owners, as employers, have no obligation to fulfill the normative rights of gig workers as stipulated in labor law, and gig workers also lack access to these basic workers’ rights.

“By nature, gig workers are flexible and not bound by formal contracts; they do not receive social benefits such as health insurance, pensions, or annual leave like other permanent workers (Wood et al., 2019).” In Indonesia, gig workers face the reality that job distribution is based on platform algorithms, meaning job requests can come in continuously and there appear to be no clear limits on working hours (Ma et al., 2022). This situation is also linked to the income earned by gig workers: the more jobs they complete, the higher their earnings. However, gig workers lack the job security enjoyed by formal workers under fixed-term (PKWT) or permanent (PKWTT) contracts.

Social security programs provide basic protection for workers, offering security and certainty against workplace risks. These programs serve as a safeguard for workers’ incomes and those of their families in the face of various risks, with funding schemes that remain affordable for both employers and workers (Helweldery, 2019). Specifically for gig workers, the Social Security Administration for Employment (BP Jamsostek) classifies gig workers as “non-wage earners” and allows them to enroll in Old Age Benefits (JHT), Work Accident Benefits (JKK), and Death Benefits (JKM), with the contribution burden falling on the workers themselves. “Gig plat-

forms define gig workers as partners, so responsibility for occupational health, training, and welfare shifts to the individual worker rather than the company (Permana, 2023)."

This legal gray area creates potential for the exploitation of gig workers, as their status falls outside the scope of labor law protections and instead falls under civil law. Their legal status as partners, despite fulfilling the aspects of an employment relationship, is compounded by the absence of comprehensive labor law. This is also perceived as detrimental to gig workers because they are vulnerable to disputes, and if a dispute arises, it cannot be resolved through industrial relations dispute resolution (Keban & Hernawan, 2021). "Many cases of unilateral account termination or drastic reductions in incentives never reach the courts because workers are not recognized as workers, and therefore lack legal standing as parties in an employment relationship (Nasution, 2025)." Amin Maulana, in his journal article titled "Penyelundupan Hukum dengan Menggunakan Hubungan Kemitraan Pada Status yang Seharusnya Hubungan Kerja yang Dilakukan oleh Perusahaan dengan Pekerjanya" states that "Legal evasion through the use of partnership agreements in situations that should be employment relationships aims to allow companies to avoid obligations regarding the provision of rights in the event of unilateral termination (Maulana, 2020)."

To sharpen the normative analysis, this discussion does not stop at a description of the rules, but explicitly examines whether the elements of an employment relationship are present in gig economy practices. The elements of work and wages are tangibly present through the performance of tasks and platform-based payments, while the element of direction is manifested in algorithmic control that determines access to work, performance evaluations, and even sanctions. This pattern indicates the presence of subordination, albeit not in the form of direct instructions. Thus, substantively, the relation between the platform and gig workers meets the characteristics of an employment relationship, not merely a partnership as constructed in positive law. This discrepancy underscores that the use of partnership schemes has the potential to serve as a disguise for an employment relationship, thereby weakening worker protections. Therefore, an update to labor norms is necessary to explicitly reconstruct the concept of an employment relationship to encompass platform-based relations, so that gig workers are recognized as workers with equal rights and protections, not merely as partners.

From the above discussion, it can be concluded that the current labor law framework has not yet accommodated the dynamics of the labor market in line with technological advancements, particularly for gig workers. The absence of labor laws that specifically regulate gig workers in detail creates ambiguity regarding their definition, which in turn affects their legal status. So far, existing positive law only regulates the status of online transportation drivers as partners, while other forms of gig workers have not been specifically regulated in legislation. This situation impacts the fulfillment of the rights of gig workers, who do not have access to labor law protections because they are not considered to be in an employment relationship, even though the three substantive aspects of an employment relationship are present in the relation between gig workers and platform owners.

3.2. The Direction of Labor Law Reforms Regarding Gig Economy Employment Relationship

Revisions to labor regulations are crucial for achieving order and fairness (Giyono, 2021). UU 13/2003 has been amended twice through UU 11/2020, specifically in Chapter IV on Labor. Subsequently, UU 11/2020 was repealed following the enactment of UU 6/2023. Unfortunately, even with the latest amendments in UU 6/2023, Indonesia's labor laws have yet to address the rise of gig workers, despite the phenomenon having emerged in Indonesia since the launch of the Gojek app back in 2015. Current legal regulations regarding gig workers in Indonesia only address online transportation drivers, who are categorized as partners under Indonesian positive law through Permenhub 12/2019.

A review of the Academic Paper on the Draft Law on Labor (NA RUU Ketenagakerjaan) dated August 23, 2025, reveals that Chapter II, which covers theoretical studies and empirical practices, includes a theoretical analysis of the gig economy in discussion point number 7. The Academic Paper states that the gig economy encompasses two forms of work: first, crowd work, such as on freelance platforms where jobs are openly posted through the platform so that anyone, anywhere, can work according to the job's requirements; and second, working on demand or by order through digital platforms (Prestianawati et al., 2023).

The theoretical analysis of the gig economy in the draft NA RUU Ketenagakerjaan Bill signals a positive shift, with strong potential for the recognition of gig workers as "workers" within the realm of "employment

relationship,” rather than as independent partners. Under these conditions, it is hoped that the national labor legal framework will provide workers with legal protections in economic, social, and technical aspects. If the latest labor law is enacted, all regulations under the law should align the substance of the provisions regarding gig workers to prevent regulatory dualism that could lead to ambiguous interpretations of gig workers, thereby affecting their legal status and rights.

Global developments in the gig economy have begun to be addressed through adaptive regulatory updates. This comparative landscape is outlined in Table 2.

The Constitution of the Republic of Indonesia explicitly stipulates in Article 27 (2) that “Every citizen of the Republic of Indonesia has the right to work and a decent standard of living.” This provision serves as the highest legal basis establishing that the state is responsible for protecting every citizen’s right to obtain work and a decent standard of living. Therefore, there is an urgent need for regulations governing gig workers in Indonesia to fulfill this constitutional mandate. Technological advancements impacting the labor sector, on one hand, bring positive effects by creating new job opportunities, thereby being seen as capable of absorbing labor. However, on the other hand, legal protection for workers and legal certainty must be in place to ensure gig workers have access to their labor rights. The government’s active role in bridging technological innovation and worker welfare is critically needed, given the mandate of Article 27 (2) of the Constitution of the Republic of Indonesia, which states that the right to decent work and a decent livelihood is a fundamental right of every person.

The urgency of regulating gig workers within the framework of labor law can be examined through two legal theories: the theory of legal certainty and the theory of legal protection for workers. The theory of legal certainty is a fundamental principle in the formulation of legislation; this theory requires that labor laws and regulations be clear, consistent, and enforceable. This theory is relevant to ensuring the legal status of gig workers within the framework of labor law. The clarity of gig workers’ legal status undoubtedly impacts their access to and fulfillment of their rights, the nature of legal protection afforded to them, as well as the enforcement of the law in the event of rights violations and the mechanisms for resolving industrial relations disputes.

The urgency of regulating gig workers relates to the fulfillment of workers’ basic rights as outlined in the theory of labor law protection. There are three aspects of labor law protection in Indonesia: social protection, technical protection, and economic protection (Asikin, 2007). Clear regulations for gig workers within the labor law framework will certainly guarantee gig workers’ access to basic workers’ rights, thereby ensuring that labor law protection can be provided comprehensively. The legal vacuum regarding gig workers certainly hinders the realization of legal certainty and labor law protection.

Comparing regulations of gig workers in various countries can serve as a reference for adopting another country’s legal framework into the national legal framework. “The adoption of laws is an effort to streamline the legal implementation process in a country, to address potential legal gaps in certain fields (Djuniarti, 2018)”, one of which is the field of labor. By examining countries with legal systems similar to Indonesia’s, such as Switzerland and the Netherlands, where both nations have explicitly declared that gig workers are in an employment relationship, this concept can be adopted by the national legal framework to fill legal gaps. Of course, the adoption of regulations from other countries is not done wholesale but through adaptation to the national socio-economic, political, and legal contexts. Indonesia has previously engaged in the practice of adopting foreign laws into its national labor laws. The launch of the Indonesian Social Security Driver (Perisai) program by BP Jamsostek is an example of a Japanese model adopted into the national legal framework in the field of labor (Badan Riset dan Inovasi Nasional, 2025). This history demonstrates that it is not out of the question for Indonesia to adopt regulations from other countries regarding the gig economy into its national regulations.

Through an analysis of the relation between gig workers and platform owners—which, in substance, meets the criteria of an employment relationship rather than a partnership—and by considering the positions of both parties, which “quietly” reflect a subordinate rather than a collaborative dynamic, the authors argue that labor law—specifically the “ius constituendum” of labor law—should explicitly stipulate that the status of gig workers is that of “workers,” not “partners.” This would ensure that gig workers can enjoy access to basic workers’ rights and legal labor protections. This is crucial to providing legal certainty and justice for gig workers in the future.

The reformulation of labor regulations is imperative in response to the growth of the gig economy in the

Table 2. Comparison of the Legal Status and Protection of Gig Workers in Various Countries and Lessons Learned for Indonesia

Country/Region	Legal Status of Workers	Forms of Protection	Lessons Learned for Indonesia
European Union	Classified as workers if there is platform control (Euro-pean Council, 2025)	Full access to labor rights; the burden of proof lies with the platform if it wishes to prove that the legal relation in question is not an employment relationship (Nasution, 2025)	Should adopt the principle that gig workers are, by default, workers, unless proven otherwise.
California (US)	Classified as workers (AB5 Act) (Nasution, 2025)	Minimum wage, social security, labor protections	Affirming worker status is essential to ensure legal certainty and protection.
Japan	Freelancers subject to specific regulations	Protection for workers is ensured through the requirement for a written agreement that transparently sets forth the terms of employment, provides for fair compensation, and guarantees payment. These regulations also provide protection against unilateral termination of contracts or delayed payments. Workers employed for over 1 year can request adjustments for work-life balance (Kawai, 2023).	Minimum protections may be provided, but they are insufficient without recognition as a worker.
Spain	Recognized as workers (Rider Law)	Full employment protection (Fadhulloh et al., 2023)	Explicit recognition as a worker is more effective than partnership schemes.
United Kingdom	Worker status (between workers and self-employed)	Minimum rights (wages, leave, working hours) (Fadhulloh et al., 2023)	An intermediate model can serve as a transition, but should still lead to the recognition of an employment relationship.
Switzerland	Recognized as an employment relationship	Protection under labor law (Fadhulloh et al., 2023)	The substance of the employment relationship must take precedence over the partnership label.
Netherlands	Recognized as an employment relationship	Full protection as a formal worker (Fadhulloh et al., 2023)	Clarification that partnerships must not be used to disguise an employment relationship.
Singapore	Gig workers category (hybrid model)	Limited protections (social security, basic standards) (Fadhulloh et al., 2023)	The hybrid model can serve as a first step, but normative clarification is needed to avoid creating a gray area.

labor sector. To date, the national legal framework in the labor sector still relies on conventional employment relationships characterized by direct work orders, fixed and clearly defined working hours, a physical workplace, and real-time work monitoring at the workplace. Currently, with the advancement of technology impacting the labor sector, existing labor regulations are perceived as failing to adequately cover gig workers in providing comprehensive legal protection for workers. Consequently, a legal vacuum exists for gig workers who, in practice,

bear work-related risks akin to formal workers, yet are not, by law, covered under labor regulations. The directions for labor law reform that can be pursued include:

1. **Redefining employment relationship through the revision of the Labor Law.** This is crucial as an initial step toward providing comprehensive legal protection for gig workers. The concepts of work, workers, and employment relationships within the Labor Law must be redefined. Regulations must be expanded to cover digital platform-based work that is structurally controlled by technology and algorithms. Thus, labor law can substantively cover employment relationships (including aspects of work, wages, and instructions) without being constrained by the contractual basis of the relation unilaterally established by the platform owner.
2. **Expanding the scope of labor law protection by recognizing gig workers as “workers.”** This expansion represents a transformation of labor law, shifting its focus from the formal status of workers toward protection based on occupational risks. Consequently, as long as the relation meets the criteria of an employment relationship and/or involves occupational risks comparable to those faced by formal workers, comprehensive labor law protection—covering technical, economic, and social aspects—must be provided.
3. **Integrating the direction of labor law reform with the employment social security system.** Currently, gig workers can be provided with employment social security protection under the status of “Non-Wage Earners,” and the burden of contributions falls on the gig workers themselves, not the platform owner. Therefore, the focus should be shifted toward the “Wage Earner” participant status. This is crucial and underscores that occupational risks in the gig economy are the responsibility of the state and the employer (platform owner), not solely the individual worker’s risk.
4. **Strengthening the state’s role in regulating platform-based labor relations.** Labor oversight must be expanded to cover algorithmic management practices, unilateral platform access termination, and potential discrimination stemming from digital systems. Without a strong state presence, the gig economy risks perpetuating new forms of labor exploitation that are difficult for the law to address.
5. **Explicitly including occupational safety and health (OSH) protections for gig workers in national legislation.** Workplace risks in platform-based work are no longer limited to physical, biological, and/or chemical aspects but also include psychosocial risks and mental health disorders arising from algorithmic control, rating systems, and work target pressures that tend to exert mental, rather than physical, strain. Therefore, the concept of OSH must be expanded to accommodate the characteristics of digital work risks, and platforms must be held accountable for the prevention and management of these risks.
6. **Establishing implementing regulations under the law regarding digital platform-based work.** These specific regulations are needed at the technical level to address aspects not covered at the general level of the law. Without specific technical regulations, legal protections for gig workers remain declarative and difficult to implement.

4. CONCLUSION

This study confirms that, substantively, gig workers meet the elements of an employment relationship, even though they are normatively constructed as a partnership under positive law. This situation highlights the weakness of Indonesia’s positive law, which remains oriented toward conventional employment relationships and has not yet been able to encompass platform-based work relations, thereby creating a gap in legal protection. Therefore, a comprehensive and structured labor law reform is required, encompassing the redefinition of the employment relationship in the Labor Law, the recognition of gig workers’ status as workers, the strengthening of social security protection by classifying gig workers as wage-earning workers, strengthening the state’s role in overseeing algorithmic control, expanding the concept of occupational safety and health to include digital and psychosocial aspects, and establishing adaptive technical regulations that keep pace with technological advancements.

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Statement on AI Usage

During the preparation of this manuscript, the author used Grammarly solely to improve grammar and text readability (proofreading). The author has reviewed and edited the entire manuscript and bears full responsibility for the final substance of this article.

REFERENCES

- Afifah, E. (2024). Studi perbandingan regulasi hukum bagi pekerja ekonomi GIG di sektor transportasi: Indonesia dan California. *Jurnal Restorasi Hukum*, 7(2), 209–235. <https://doi.org/10.14421/tfkj5t58>
- Alam, A., Nur, R., Singadimedja, H. N., & Surjanti, R. (2022). Tanggung jawab penyedia platform terhadap gig worker dalam hubungan kemitraan atas wanprestasi pembeli ditinjau dari Kitab Undang-Undang Hukum Perdata. *Padjadjaran Law Review*, 10(2), 1–15. <https://doi.org/10.56895/plr.v10i2.1025>
- Asikin, Z. (2007). *Dasar-dasar hukum perburuhan*. RajaGrafindo Persada.
- Asyhadie, H. Z., & Kusuma, R. (2019). *Hukum ketenagakerjaan dalam teori dan praktik di Indonesia*. Kencana.
- Asyrof, H. A. M. (2006). Asas-asas penemuan hukum dan penciptaan hukum oleh hakim dalam proses peradilan. *Majalah Varia Peradilan*, 21(252), 78–88.
- Badan Riset dan Inovasi Nasional. (2025, January 8). *Jaminan sosial bagian penting strategi pembangunan menuju Indonesia negara maju 2045*. <https://www.brin.go.id/news/122985/jaminan-sosial-bagian-penting-strategi-pembangunan-menusu-indonesia-negara-maju-2045>
- Corujo, B. S. (2017). The ‘gig’ economy and its impact on social security: The Spanish example. *European Journal of Social Security*, 19(4), 293–312. <https://doi.org/10.1177/1388262717745751>
- Djuniarti, E. (2018). Adopsi hukum asing ke dalam hukum nasional (Tinjauan terhadap perjanjian bank syariah). *Jurnal Penelitian Hukum De Jure*, 18(4), 497–512. <https://doi.org/10.30641/dejure.2018.V18.497-512>
- European Council. (2025). *EU rules on platform work*. Council of the European Union. <https://www.consilium.europa.eu/en/policies/platform-work-eu/>
- Fadhulloh, Q. H., et al. (2023). Perbandingan kedudukan hukum gig workers economy di Indonesia, Belanda, dan Inggris. *Fundamental: Jurnal Ilmiah Hukum*, 12(2), 312–318.
- Firdasanti, A. Y., et al. (2021). Mahasiswa dan gig economy: Kerentanan pekerja lepas (freelancer) di kalangan tenaga kerja terdidik. *Jurnal PolGov*, 3(1), 196–210. <https://doi.org/10.22146/polgov.v3i1.2866>
- Giyono, U. (2021). *Pembaharuan hukum ketenagakerjaan di Indonesia*. PT RajaGrafindo Persada.
- Hartono, M., & Tarigas, N. (2025). Konsep fleksibilitas dalam gig worker dan pengaruhnya pada kinerja perusahaan jasa: Literature review. *Jati Undip: Jurnal Teknik Industri*, 20(1), 1–10. <https://doi.org/10.14710/jati.20.1.1-10>

- Helweldery, A. E. R. (2019). Sanksi atas pelanggaran terhadap pelaksanaan jaminan sosial ketenagakerjaan menurut Undang-Undang No. 24 Tahun 2011 tentang Badan Penyelenggara Jaminan Sosial (BPJS). *Lex Et Societatis*, 7(5), 30–38. <https://doi.org/10.35796/les.v7i4.24720>
- Hendro, A. D., Khiat, D., Wibisono, R. S., Nike, R., & Mahendradani, R. (2021). Identifikasi kriteria pekerja informal terhadap pemilik usaha makan-minum di Jakarta. *Indonesian Business Review*, 4(1), 115–125. <https://doi.org/10.21632/ibr.4.2>
- Indra, & Nawangsuri, S. A. (2025). Legal protection for gig economy workers from the perspective of labor law in Indonesia. *Jurnal Hukum Ketenagakerjaan*, 3(1), 45–58.
- Institute for Development of Economics and Finance. (2025). *Narik tiap hari, hak perlu dihargai: Rekomendasi untuk RUU Pekerja Platform Indonesia*. IDEF.
- International Labour Organization. (2025). *Digital labour platforms*. ILO. <https://www.ilo.org/digital-labour-platforms>
- Kamarudin, O., & Arif, A. (2024). Ekonomi gig: Peluang dan tantangan di era kerja fleksibel. *Currency: Jurnal Ekonomi dan Perbankan Syariah*, 3(1), 362–373. <https://doi.org/10.32806/ccy.v3i1.321>
- Kawai, H. (2023). Legal protection of freelance workers in Japan: Act on Improvement of Transactions between Freelancers and Business Operators. *Japan Association of Occupational Health Law and Environmental Law*, 1(1), 21–36.
- Keban, Y. T., & Hernawan, A. (2021). *Menyoal kerja layak dan adil dalam ekonomi GIG di Indonesia*. IGPA Press.
- Ma, W., Baek, J., Qi, M., Li, J., & Liu, B. (2022). The influence of overeducation on Chinese workers' job satisfaction from China Household Tracking Survey (2014–2018). *International Journal of Environmental Research and Public Health*, 19(23), 16032.
- Manyika, J., Lund, S., Jacques, B., Robinson, K., Jan, M., & Mahajan, D. (2016). *Independent work: Choice, necessity, and the gig economy*. McKinsey Global Institute.
- Maulana, A. (2020). Penyelundupan hukum dengan menggunakan hubungan kemitraan pada status yang seharusnya hubungan kerja yang dilakukan oleh perusahaan dengan pekerjaannya. *Jurnal Suara Keadilan*, 2(1), 17–28. <https://doi.org/10.24176/SK.V21I1.5676>
- Mediana. (2024). *Indonesia masuk negara yang memiliki pekerja platform daring terbanyak*. Kompas. <https://www.kompas.id/artikel/indonesia-masuk-negara-yang-memiliki-pekerja-platform-daring-terbanyak>
- Nasution, N. H. (2025). Perlindungan tenaga kerja dalam gig economy dan e-commerce. *Jurnal Hukum dan Kewarganegaraan*, 14(3), 3–6. <https://doi.org/10.3783/causa.v2i9.2461>
- Permana, M. Y. (2023). *The gig economy as a stepping stone career trajectories of online platform workers in Indonesia*. The London School of Economics and Political Science (LSE). <https://blogs.lse.ac.uk/seac/2023/11/13/the-gig-economy-as-a-stepping-stone-career-trajectories-of-online-platform-workers-in-indonesia/>
- Pinsof, J. (2016). A new take on an old problem: Employee misclassification in the modern gig-economy. *Michigan Telecommunications and Technology Law Review*, 22(2), 340–373.
- Prestianawati, S. S., et al. (2023). Analisis determinan tenaga kerja yang bekerja pada GIG economy. *International Journal for Multidisciplinary Research (IJFMR)*, 5(4), 1–12. <https://doi.org/10.36948/ijfmr.2023.v05i04.4612>
- Rachmawati, R., Safitri, L., Zakia, L., Lupita, A., & Ruyter, A. D. (2021). Urban gig workers in Indonesia during COVID-19: The experience of online 'ojek' drivers. *Work Organisation, Labour & Globalisation*, 15(1), 32–46. <https://doi.org/10.2307/j50010512>
- Renan, B. A., & David, A. B. (2017). Platform inequality: Gender in the gig economy. *SSRN Electronic Journal*, 2, 293–431. <https://doi.org/10.2139/ssrn.2995906>

- Ruyter, A. D., Brown, M., & Burgess, J. (2019). Gig work and the Fourth Industrial Revolution: Conceptual and regulatory challenges. *Journal of International Affairs*, 72(1), 37–50.
- Salleh, N. M., Norfitriani, S., Shukry, M., & Jokinol, V. M. C. (2023). Analyzing the challenges, effects, and motivations of gig economy workers. *International Journal of Academic Research in Business and Social Sciences*, 13(5), 2138–2150. <https://doi.org/10.6007/IJARBSS/v13-i6/17514>
- Turia, A. L. (2025). Guaranteed wages and social security for daily workers at PTP Nusantara XIV Awaya. *Justisi*, 11(2), 678–689. <https://doi.org/10.33506/js.v11i2.4089>
- Vallas, S. P., & Schor, J. B. (2020). What do platforms do? Understanding the gig economy. *Annual Review of Sociology*, 46, 273–294. <https://doi.org/10.1146/annurev-soc-121919-054857>
- Wardana, V. H. K., Herlina, M. G., Bangsawan, S., & Tuori, M. A. (2020). Regulatory developments in the gig economy: A literature review. *Binus Business Review*, 21(2), 145–156. <https://doi.org/10.21512/tw.v21i2.6758>
- Wardhana, A. P. K., & Rasji, R. (2025). The legal status of gig economy workers in Indonesia's digital platform industry (2022–2025). *Indonesian Journal of Law and Economics Review*, 21(1), 1–14. <https://doi.org/10.21070/ijler.v21i1.1402>
- Wiguna, S. M. A., & Aditya, I. B. Y. (2026). Kekosongan norma perlindungan gig workers economy dalam hukum ketenagakerjaan Indonesia. *Jurnal Media Akademik*, 4(1), 1–12. <https://doi.org/10.62281/6evwxc27>
- Wijayanti, A. (2014). *Hukum ketenagakerjaan pasca reformasi*. Sinar Grafika.
- Wood, A. J., Graham, M., & Hjorth, I. (2019). Good gig, bad gig: Autonomy and algorithmic control in the global gig economy. *Work, Employment and Society*, 33(1), 56–75. <https://doi.org/10.1177/0950017018785>