

## Reconfiguring Indonesia's Labor Law Framework to Address Protection Gaps in the Gig Economy Era Following the Constitutional Court's Decision

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### Abstract

*The Indonesian labor market is shifting toward greater flexibility, driven by a surge in layoffs in the post-Covid-19 period (2020-2024), limited employment opportunities in the manufacturing sector, the demographic bonus, and the rapid expansion of platform-based industries and digital commerce. This shift has contributed to the rise of the gig economy, which has yet to provide adequate job security and decent working conditions. This paper examines the growing employment uncertainty within the gig economy and discusses how the government can respond through fairer and more responsive regulations to support a decent standard of living and sustainable worker welfare. This study employs a normative legal research method with legislative and conceptual approaches, relying on secondary data in the form of primary materials and scholarly literature from reputable academic sources. The findings indicate the need to revise labor laws, as mandated by Constitutional Court Decision No. 168/PUU-XXI/2023, which calls for the prompt enactment of a new Labor Law capable of providing holistic protection. Lessons from several developed countries highlight the need for regulatory synchronization both vertically, between laws and their implementing regulations, and horizontally, between the Manpower Law and other related policies. Labor regulations should cover both formal and informal workers through a work-life balance approach for all, with the aim of promoting fairness, welfare, and sustainable decent work. Thus, the framework of labour protection needs to be recalibrated to include gig workers.*

**Keywords:** *Constitutional Court Decision No. 168/PUU-XXI/2023; Decent work; Gig Workers; Job Creation Law; Labor Law;*

### 1. INTRODUCTION

The transformation of the labor market is inevitability for countries affected by global economic shifts from an industrial-based economy to a service- and information-based economy,<sup>1</sup> including Indonesia. The Indonesian labor market is experiencing a significant transformation characterized by increasing flexibility in employment relationships. The rise of the gig economy exemplifies this shift, as many jobs that once depended on physical presence or office-based work are now being replaced by digitally mediated services, such as online transportation platforms, digital freelancers, and creative professionals. Since

<sup>1</sup> Natasha A Webster & Qian Zhang, 'Intersectional Understandings of the Role and Meaning of Platform-Mediated Work in The Pandemic Swedish Welfare State', *Digital Geography and Society*, Vol. 3 (2002), 1-13 DOI: [10.1016/j.diggeo.2021.100025](https://doi.org/10.1016/j.diggeo.2021.100025).

the early 1980s, the concept of flexibility has been a central theme in industrial relations discourse, gradually replacing rigid, bureaucratic, and hierarchical work arrangements.<sup>2</sup>

The current landscape indicates a significant shift in employment patterns, with many jobs moving from formal to informal sectors and increasingly becoming fragmented under the gig economy model.<sup>3</sup> This transformation is consistent with long-anticipated social changes associated with the rise of information technology, as predicted by Daniel Bell in his seminal late-1970s work, *The Coming of Post-Industrial Society*. Based on his observations on the rapid advancement of computer and information technologies,<sup>4</sup> Bell introduced the widely recognized post-industrial theory. This theory holds that structural changes in society are primarily driven by transformations in the nature of knowledge, characterized by exponential scientific growth, the proliferation of intellectual technologies, the institutionalization of systematic research, and the codification of theoretical knowledge.<sup>5</sup>

The transformation of the labor market is driven not only by digitalization but also by the ongoing crisis within the manufacturing sector. The Confederation of National Trade Union (KSPN) has documented a persistent trend of layoffs in Indonesia's industrial sector since the outbreak of the Covid-19 pandemic. Between 2020 and 2021, layoffs peaked, with 386,877 workers dismissed and more than 1.1 million furloughed.<sup>6</sup> Ministry of Manpower data, compiled from regional manpower offices through the Manpower Service Information System and Application, show that 25,114 workers were affected by layoffs in 2022 across 34 provinces,<sup>7</sup> followed by 26,400 workers in 2023 across 26 provinces.<sup>8</sup> By September 2024, approximately 15,114 garment industry workers had lost their jobs as a result of company downsizing or closure.<sup>9</sup> In total, at least 58 companies, including those in the textile and related industries, were declared bankrupt between 2022 and early 2025.<sup>10</sup> Most notably, PT Sritex, one of Indonesia's largest textile corporations, was declared bankrupt and carried out mass layoffs affecting thousands of employees by March 2025. This escalating wave of industrial layoffs has pushed a significant number of workers out of the formal sector, driving many to seek alternative livelihoods in the gig economy.

The gig economy sector in Indonesia is divided into several categories of work, including mobility, delivery, and the services-sector activities, as well as freelance work.<sup>11</sup> Many workers affected by layoffs in the case described above often transition into informal employment due to their accessibility within the gig economy, particularly in app-based delivery and transportation services. The digital economy, including the gig economy, is

<sup>2</sup> Steven P. Vallas, 'Rethinking Post-Fordism: The Meaning of Workplace Flexibility', *Sociological Theory*, Vol. 17 No. 1(1999), p68-101, DOI: [10.1016/j.diggeo.2021.100025](https://doi.org/10.1016/j.diggeo.2021.100025).

<sup>3</sup> Lauri Goldkind, and John G. McNutt menyatakan beberapa sinonim dari istilah gig ekonomi, sharing economy atau collaborative consumption. Kesemuanya ini dimaknai sebagai mekanisme dalam pekerjaan berbasis teknologi dalam distribusi barang dan jasa. Lihat dalam Lauri Goldkind, and John G. McNutt, 'Vampires in the Technology Mist: The Sharing Economy, Employment and the Quest for Economic Justice and Fairness Digital Future', *Ethics and Social Welfare*, p1-13. Doi <https://doi.org/10.1080/17496535.2018.1512139>.

<sup>4</sup> Fitri Mutia, (2021). Masyarakat Post-Industri dalam Pemikiran Daniel Bell, *Antologi Teori Sosial*. Airlangga University Press. Surabaya, 75-95. ISBN 978-602-473-716-0.

<sup>5</sup> Wan Fariza Alyati, Wan Zakaria & Jabal M. Buaben. (2021). 'The Theory of Post-Industrial Society Teori Masyarakat Pasca-Industri'. *Akademika*, 91(1), 139-149 <https://doi.org/10.17576/akad-2021-9101-12>.

<sup>6</sup> Kementerian Ketenagakerjaan. Diakses melalui <https://satudata.kemnaker.go.id/data/kumpulan-data/55>.

<sup>7</sup> Kementerian Ketenagakerjaan. Diakses melalui <https://satudata.kemnaker.go.id/data/kumpulan-data/954>.

<sup>8</sup> Kementerian Ketenagakerjaan. Diakses melalui <https://satudata.kemnaker.go.id/data/kumpulan-data/1224>.

<sup>9</sup> Kumparan.com. <https://kumparan.com/kumparanbisnis/daftar-pabrik-tekstil-yang-tutup-per-september-2024-ada-14-ribu-buruh-kena-phk-23d7pYEqAFI/full>. Accessed on 4 November 2024.

<sup>10</sup> Tempo.co, <https://www.tempo.co/ekonomi/api-buka-bukaan-soal-58-perusahaan-tekstil-kolaps-sejak-2022-33-di-antaranya-gulung-tikar-1180132>. Accessed on January 2025.

<sup>11</sup> Nisa Zulfani, 'GIG Economy: Untung Atau Rugi?', *KIME FEB UNNES* < <https://sites.unnes.ac.id/kimefe/2024/07/gig-economy-untung-atau-rugi/> >. Accessed on March 2025.

projected to contribute positively to Indonesia's overall economic development,<sup>12</sup> with an estimated market value reaching USD 100 billion by 2025.<sup>13</sup>

However, despite its considerable economic potential, a study conducted by researchers from Gadjah Mada University found that these benefits have not been accompanied by improvements in workers' welfare and fairness.<sup>14</sup> One of the main challenges is the absence of clear and specific regulations governing the gig economy in Indonesia. To maximise the gig economy's potential for the national economy in a legally sound and structured manner, The state must play a stronger and more proactive role in responding to economic and regulatory transformations. This perspective aligns with the arguments of labor law expert Chris Howell, who maintains that regulatory transformation fundamentally positions the State as the leading actor.<sup>15</sup>

Currently, Law No. 13 of 2003 on Manpower, as amended by Law No. 6 of 2023 which stipulates Government Regulation in Lieu of Law (Perppu) No. 2 of 2022 on Job Creation as Law ('Job Creation Law') (overall will be referred as 'Manpower Law'), primarily regulates employment relationships within the formal sector. The regulatory framework remains centered on conventional employer-employee arrangements that characterize formal employment. Thus, it has not adequately accommodated the informal workers whose work arrangements fall outside traditional employment structures and have increasingly emerged alongside technological advancements, including, gig workers.<sup>16</sup>

This regulatory disparity between formal and informal workers reflects a failure to uphold the human rights and constitutional principles that guarantee every citizen the right to decent work<sup>17</sup> and equality before the law. While the existing legal framework primarily protects workers engaged in formal employment relationships, individuals operating outside such arrangements remain only partially covered by regulation. This structural imbalance raises concerns of unequal treatment in the fulfillment of employment-related rights and undermines broader principles of legal and social justice.

Within this broader category of informal workers, gig workers constitute a distinct group whose work arrangements are largely mediated by digital platforms and technological advancements. Although not all informal workers are gig workers, platform-based workers exemplify the regulatory challenges arising from the digital transformation of labor. The absence of a clear legal classification for gig workers creates significant vulnerabilities, including uncertainty over employment status;<sup>18</sup>

<sup>12</sup> Ellyaty Priyanka, Sir Handayani Nasution, *GIG ECONOMY dan Potensinya untuk Pemberdayaan Perempuan di Indonesia* (Yogyakarta: Center for Digital Society, 2020).

<sup>13</sup> Sakina Rakhma Diah Setiawan, Kompas.com. Tahun 2025 Nilai Ekonomi Digital Indonesia 100 Miliar Dolar AS, < <https://money.kompas.com/read/2018/11/19/142253126/tahun-2025-nilai-ekonomi-digital-indonesia-100-miliar-dollar-as> > . Accessed on 2025.

<sup>14</sup> Yeremias T. Keban, Ari Hernawan, Arif Novianto (editor). 2021. *Menyoal Kerja Layak dan Adil dalam ekonomi Gig di Indonesia*, IGPA Press, Yogyakarta. P.iv.

<sup>15</sup> Crist Howell, 'The Transformation of French Industrial Relations: Labor Representation and the State in a Post-Dirigiste Era', *Politics & Society*, Vol. 37 No. 2 (2009), 229-256, <https://doi.org/10.1177/0032329209333993>.

<sup>16</sup> Akhdan Adityo Latri, dkk, *Workers Rights In The Era of The Gig Economy: Legal Protection For Freeland and Contract Workers*: *Media Hukum Indonesia*, Vol. 2, No. 2, 2024, 37. DOI: <https://doi.org/10.5281/zenodo.11770886>.

<sup>17</sup> Abdul Kadir Jaelani, Ahmad Dwi Nuryanto, Rakotoarisoa Maminirina Fenitra, M. Misbahul Mujib, and Resti Dian Luthviati, 'Legal Protection of Employee Wage Rights in Bankrupt Companies: Evidence from China', *Legality : Jurnal Ilmiah Hukum*, 31.2 (2023), 202–23 <https://doi.org/10.22219/ljih.v31i2.25874>.

<sup>18</sup> Rofi Aulia Rahman, József Hajdú, Valentino Nathanael Prabowo, 'Digital Labour Platformer's Legal Status and Decent Working Conditions: European Union and Indonesian Perspective', *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi*, Vol. VII Issue 1, (2024). DOI: 10.24090/volksgeist.v7i1.10366.

limited access to social security,<sup>19</sup> health insurance, and pension schemes<sup>20</sup> typically available in formal employment; as well as economic instability arising from fluctuating demand and algorithmic work allocation. Moreover, the absence of a direct and legally recognized employment relationship restricts collective representation and leaves gaps in legal protection for the work they perform.<sup>21</sup>

Such challenges are not unique to Indonesia. Many countries lack comprehensive regulatory frameworks capable of responding to the realities of the post-industrial era, which is increasingly shaped by automation and digitalization, as envisioned by Daniel Bell. For instance, China, as one of the world major economic power, has yet to establish a unified legal standard for determining whether freelancers should be classified as employees, temporary workers, or self-employed individuals, largely due to the legal status of online platform work remains explicitly undefined.<sup>22</sup> As senior economist Friedman observes, the lack of formal employment relationships positions gig workers as “*independent contractors*” or “*consultants*” operating under flexible agreements, where no strong formal employment relationship is clearly recognized.<sup>23</sup>

While the Job Creation Law has introduced certain references to the gig economy, its provisions remain limited and do not provide a clear and comprehensive legal basis for the protection of gig workers. Within Indonesia’s civil law system, where citizens’ rights must be expressly stipulated in written statutes, the absence of explicit provisions governing the legal status and protection of gig workers creates significant legal uncertainty.<sup>24</sup> Given this regulatory deficiency, it is unsurprising that the re-enactment of the Job Creation Law has generated considerable controversies, particularly following the Constitutional Court’s earlier ruling in Decision No. 91/PUU-XVIII/2020, which declared the initial version conditionally unconstitutional. This ruling further demonstrates the persistence of structural regulatory gaps.<sup>25</sup> Although the revised 2023 version of the Job Creation Law sought to address several structural issues, it did not establish a coherent legal framework for gig workers. Through Decision No. 168/PUU-XXI/2023, the Constitutional Court again required legislative correction, emphasizing the continuing gap between labor market transformation and adequate statutory protection (‘Decision 168’).<sup>26</sup>

This regulatory gap constitutes the central concern of this paper. It critiques the Job Creation Law for prioritizing licensing simplification and investment promotion over labor protection. In response, the article proposes a strategy that emphasizes the role of the state in managing labor market flexibility, while drawing on comparative best practices in gig economy regulation to support the proposed strategy.

<sup>19</sup> Alexandra J. Ravenelle, Ken Cai Kowalski, and Erica Janko, The Side Hustle Safety Net: Precarious Workers and Gig Work during COVID-19, *Sociological Perspectives*, Volume 64, Issue 5. <https://doi.org/10.1177/07311214211005489>.

<sup>20</sup> in Malaysia also found this vulnerability, can be read in Khairunisa Abd Samad, dkk, ‘Is the well-being of gig workers in Malaysia better? The reality of pain and gain’, *International Review of Applied Economics*, Vol. 37, 2023-Issue 4, 2023. DOI: 10.1080/02692171.2023.2240243.

<sup>21</sup> SMERU, <https://smeru.or.id/id/article-id/melindungi-pekerja-ekonomi-gig-dari-kerentanan-bagaimana-peran-inovasi-teknologi>, diakses tanggal 24 Oktober 2024.

<sup>22</sup> Shanyun Xiao, p.13.

<sup>23</sup> Gerald Friedman, ‘Workers without employers: shadow corporations and the rise of the gig economy’, *Review of Keynesian Economics*, Vol. 2 No. 2, 2014, pp. 171–188 DOI: <https://doi.org/10.4337/roke.2014.02.03>.

<sup>24</sup> Januardo Sulung Partogi Sihombing, Retno Saraswati, Yunanto, Arida Turymshayeva, ‘The Regulation of Legal Protection for Poor Communities Toward Justice in Indonesia and the Netherlands’ *Journal of Human Rights, Culture and Legal System*, Vol. 4, No. 2 (2024), 331–353 <https://doi.org/10.53955/jhcls.v4i2.274>.

<sup>25</sup> Mahkamah Konstitusi Republik Indonesia, 91/PUU-XVIII/2020, 25 November 2021.

<sup>26</sup> Mahkamah Konstitusi Republik Indonesia, 168/PUU-XXI/2023, 31 October 2024.

This paper examines whether, and to what extent, the Indonesian government should regulate gig workers in a new Manpower Law in response to Decision 168, which mandates the revision of the 2003 Manpower Law to reflect contemporary labor-market developments. It further analyzes how Indonesia's labor-law framework should be reconfigured in light of the relevant legal and institutional constraints, as well as the implications that such reform may entail, through a normative legal research methodology integrating statutory, conceptual, and comparative analysis.

The statutory approach involves a comprehensive inventory and analysis of existing employment-related regulations in Indonesia, with particular attention to the extent to which gig workers are recognized, accommodated, and protected within these regulations, followed by the formulation of legal conclusions. The conceptual approach is employed to develop the State's legal strategy in responding to the labor market transformation and addressing employment uncertainty within the gig economy. The comparative approach is used to assess whether the proposed strategies are compatible with Indonesia's legal system and broader societal context. The objective of this conceptual paper is to identify the necessary legal measures and strategic actions required of both workers and the government to solve the existing regulatory gap.

## 2. ANALYSIS AND DISCUSSION

### 2.1 The Imbalance of Manlabor Flexibility and Legal Protection in Job Creation Law

Countries such as India, Brazil, Mexico, South Africa, and the Philippines exhibit labor-market characteristics similar to those of Indonesia. In these countries, the informal sector and gig economy play a critical role in economic activities, prompting governments to develop formal policies responses aimed at managing flexible work while ensuring a balance between adaptability and worker protection.

The Philippines government regulates the job market through legislation, including the Labour Code of the Philippines<sup>27</sup> and other contract workers' related regulations, which permit flexibility in the type and duration of employment contracts while seeking to protect the most vulnerable workers. Mexico has sought to regulate the workforce through the Federal Labor Law,<sup>28</sup> which protects workers' rights while providing flexibility regarding work arrangements, including temporary and freelance contracts. The country has also introduced reforms aimed at increasing labor-market flexibility without neglecting social protection.<sup>29</sup> In South Africa, the Basic Conditions of Employment Act (BCEA)<sup>30</sup> establishes minimum employment standards to protect workers while still allowing room for flexible employment contracts, particularly in the informal sector.<sup>31</sup> These regulatory developments have also highlighted the need for more

<sup>27</sup> Presidential Decree No. 442, May 01, 1974, containing chapter of minor workers, including domestic workers, home-workers.

<sup>28</sup> Mexican Federal Labor Law, New Law published in the Official Gazette of the Federation on April 1, 1970

<sup>29</sup> María Aurora Lacavex Berumen, Yolanda Sosa y Silva García, Jesús Rodríguez Cebreros, 'Recepción De Las Nuevas Formas De Contratación Laboral En México', *Revista Latinoamericana de Derecho Social*, Núm. 12, 2011, pp. 3-62. DOI: 10.22201/ijj.24487899e.2011.12.9646.

<sup>30</sup> South Africa Labour Laws April 12<sup>th</sup> 2024, Undang-Undang Ketentuan Dasar Ketenagakerjaan (BCEA) merupakan bagian penting dari undang-undang ketenagakerjaan di Afrika Selatan, yang dirancang untuk mengatur dan melindungi kondisi ketenagakerjaan mendasar bagi para pekerja.

<sup>31</sup> Bridget Kenny and Edward Webster, 'Eroding the Core: Flexibility and the Re-Segmentation of the South African Labour Market', *Critical Sociology*, 1998, 24: 216. DOI: 10.1177/089692059802400304.

specific rules governing platform-based domestic work.<sup>32</sup> India passed the Labour Code on Social Security in 2020,<sup>33</sup> which extends coverage to gig workers and self-employed workers. In Brazil, the Consolidation of Labor Laws (CLT) includes provisions applicable to both permanent and temporary workers.<sup>34</sup> More recent labor reforms have further increased labor-market flexibility by granting companies more control in managing work hours and contracts, while still maintaining state supervision.<sup>35</sup> Singapore passed the Platform Workers Bill, effective on January 1, 2025. Under this Law, taxi drivers, online transportation drivers, and freelancers who rely on digital platforms for income are entitled to greater employment protection.<sup>36</sup>

The Indonesian government passed the Job Creation Law (Omnibus Law) to improve the investment climate and facilitate business licensing amid global economic challenges. This law is intended to attract more investors to stimulate jobs creation. One of the urgent reasons for this law is the high unemployment rate, which the COVID-19 pandemic has further exacerbated. Through this law, the government sought to reduce bureaucratic barriers and give greater flexibility to the business world to generate employment more rapidly. Labor regulations in Indonesia are considered too rigid and hinder the development of the informal and flexible sectors. Although the gig economy proliferates, the Job Creation Law does not explicitly regulate gig workers, who are often considered independent partners rather than workers.<sup>37</sup> They do not enjoy formal employment protections, such as minimum wage and social security, although a separate way of adapting social security for gig workers with low and fluctuating incomes is necessary.<sup>38</sup>

Thus, despite its title, the Job Creation Law has ironically yet to offer an effective solution to the problem of job creation. Rather, it appears to have facilitated business actors while granting employers greater freedom to engage contract workers than was permitted under Law No. 13 of 2003, particularly in relation to its provision regarding fixed-term employment contracts (*perjanjian kerja waktu tertentu*; ‘PKWT’).

Table 1 Reality and Social Impact of the Job Creation Law

Job Creation Law	Realization And Social Impact On Society
Facilitating investors through the licensing system	Investment data are still debated; BKPM data show an increase, but what people feel is increasingly challenging is getting a job until it appears #desperate listed on the LinkedIn profile by Gen Z.

<sup>32</sup> Abigail Hunt dan Emma Samman, ‘Domestic Work and the Gig Economy in South Africa: Old wine in new bottles?’, *Anti Trafficking Review*. DOI: 10.14197/atr.201220156.

<sup>33</sup> Bill No. 121 of 2020 The Code On Social Security, 2020.

<sup>34</sup> Brazil - Decree-Law No. 5,452: Consolidation of Labor Laws.

<sup>35</sup> José Luis Oreiro, Luciano Ferreira Gabriel, Stefan Wilson D’Amato, Kalinka Martins da Silva, ‘Labour Market Reforms in Brazil (2017-2021): An Analysis of the Effects of Recent Flexibilization on Labor Market Legislation’, *PANOECONOMICUS*, 2023, Vol. 70, 4 (Special Issue), p601-625 DOI: <https://doi.org/10.2298/PAN2304601O>.

<sup>36</sup> Jack Linchua Qiu, Renyi Hong, and Adam Badger, Auditing Gig Work Platforms: Fairwork’s Research, Advocacy, and Impact, *Singapore Labour Journal* Vol 0, 1 (2023), p22-38 DOI: <https://doi.org/10.1142/S281103152300013X>.

<sup>37</sup> Rofi Aulia Rahman, József Hajdú, Valentino Nathanael Prabowo, p. 158.

<sup>38</sup> Borja Sua rez Corujo, ‘The ‘Gig’ Economy and its Impact on Social Security: The Spanish example’, *European Journal of Social Security*. 2017 Vol. 19(4) p.293–312. DOI: 10.1177/1388262717745751. Read also Eka Nanda Ravizki and Nazma Swastika Aries Purnami (2023), ‘Guardians of autonomy: A comparative analysis of safeguarding independent selfemployed workers in Indonesia and Europe’, *Cogent Social Sciences*, 9:2, 2273956, p1-14. DOI: 10.1080/23311886.2023.2273956.

<p>Expanding employment opportunities by allowing work flexibility (short-term contracts)</p>	<p>It has yet to have an impact. The non-professional working community has become increasingly marginalized by a fixed-term contract work system that does not provide certainty and job security because their labor is straightforward and can be replaced with cheaper labor.</p>
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Companies now find it easier to contract freelancers without complying with strict labor regulations, leaving gig workers vulnerable due to insufficient legal protections. Gig economy workers are often unprotected in terms of social security<sup>39</sup> and job security, and yet these challenges have not been effectively addressed in the Job Creation Law. Additional regulatory measures are therefore required to ensure that gig workers receive basic rights and protections. Sisson and Marginson have highlighted that the changes in the global economy, including the emergence of the digital and gig economy, demand a more responsive regulatory framework to ensure workers are well protected. In the context of the gig economy, these two experts agree that current labour regulations are often inadequate to protect gig workers. They further emphasized the importance of legal reforms that accommodate job flexibility in the gig sector without sacrificing essential workers’ rights, such as access to social benefits, health insurance, and protection from the adverse effects of excessive labor market flexibility.<sup>40</sup>

In summary, the latest Job Creation Law passed in 2023 (Law No. 6 of 2023) has a predominantly positive impact on flexibility as desired by employers, but it has less impact on providing certainty of balance and protections for workers, as outlined in the following matrix.

Table 2 Impact of Flexibility on Business Actors and Workers in Law 6/2023

Business actors	Community/ Workers
Registration procedures alone are enough to simplify licensing for low-risk businesses. This would help the business establishment process and reduce bureaucratic obstacles, making it easier to regulate startups and MSMEs, key gig economy actors.	The growth of this type of low-risk business depends on whether it comes from the middle class or from large corporations that establish small businesses to avoid bureaucracy and taxes and obtain banking facilities.

<sup>39</sup> Christina Behrendt, Quynh Anh Nguyen, and Uma Rani, ‘Social protection systems and the future of work: Ensuring social security for digital platform workers’, *International Social Security Review*, Vol. 72, 3 (2019) p17-41, <https://doi.org/10.1111/issr.12212>.

<sup>40</sup> Keith Sisson & Paul Marginson. 2003. *European Integration and Industrial Relations: Multi-level Governance in the Making*. Palgrave Macmillan (:) Valeria Pulignano, “Work And Employment Under The Gig Economy”, *Partecipazione e conflitto*, Vol.12(3) 2019 p629-639, DOI: 10.1285/i20356609v12i3p629.

Flexible in hiring workers with a fixed-term contract system or outsourcing workers as the limitation of the period of work completion and certain types of work are no longer the main requirement for contracts and outsourcing.

Workers' bargaining power is weakening because contracts and outsourcing will eliminate the organization's spirit. Workers are only fighting for the work contract to be extended, even though they do not have a strong enough legal reason to sue for the agreement not being extended if the work still exists.

Layoffs are made more accessible; they do not require permission from the industrial relations court and only need to be notified of the worker. This gives employers flexibility in managing labor needs according to business conditions.

No effort is made to defend the right to work because unilateral layoffs become legal.

Severance pay has been reduced from a maximum of 32 to 25 times the salary.

Severance pay cannot guarantee income security in the event of termination of the employment relationship. The law provides monetary compensation equivalent to one month's salary when a fixed-term contract ends or when the employer terminates the employment relationship before the contract expires. However, such protection does not extend to freelance workers.

Flexibility in wage schemes based on units of time and results. In the gig economy, workers are often paid based on output (assignment or project), and this law provides the legal basis for such arrangements.

This system does not guarantee income certainty for workers. For example, when workers are unable to work for any reason, including illness, they lose income, unlike workers in employed under the permanent contract or in other forms of stable employment.

Job Loss Guarantee without requiring employers to pay additional contributions, provided that they have already enrolled their workers in work-accident insurance and death-benefit insurance schemes.

The Job Creation Law contains a "job loss guarantee" program, but it is not intended to guarantee the protection of all types of workers (permanent, contractual, and flexible). It is effective only in the event of termination of employment experienced by permanent workers before the contract ends.

The Job Creation Law makes working hours regulations more flexible. This is relevant for the gig economy, where workers often self-regulate their working hours based on specific projects or tasks.

This law allows workers to agree with companies regarding more flexible working hours.

Workers can work for one or more employers, but this can impact occupational health without control as binding provisions on working hours, rest, or leave are not binding, which can affect the risk of work accidents.

Previous research<sup>41</sup> reveals that while the number of jobs may increase, many jobs created are irregular (short-term contracts or outsourcing), thereby intensifying job uncertainty, especially for informal workers and those in the gig economy sector.<sup>42</sup> Musakhonovich et al. stated that the rationale for establishing employment regulations is to protect workers' basic rights, encourage equal opportunities and treatment without discrimination, and improve the welfare of workers and their families, while still taking business progress into account.<sup>43</sup>

This phenomenon can be understood through post-industrial theory, which was developed by sociologists and economists in the twentieth century to describe the transition from industrial society to one increasingly based on information and service. At the core of this theory is the proposition that economic and social transformation is marked by the decline of manufacturing employment and the rapid expansion of the service, technology, and knowledge sectors. Ulrich Beck and Anthony Giddens further developed the concept of a risk society that focuses on the uncertainties and risks arising from technological developments and globalization in a post-industrial society.<sup>44</sup> This is related to flexible, uncertain, and often temporary working methods. In the modern context, post-industrial theory is closely related to work flexibility policies, especially in the era of the gig economy, freelancing, and remote work. Some critical aspects of work flexibility in a post-industrial society are that companies are likelier to choose knowledgeable and proficient workers in information technology, either by contract or even without contracts (freelancers) or project-based labor. This is done to reduce long-term costs and facilitate adaptation to market changes. Workers' mastery of information technology allows them to work from anywhere, anytime. Many companies now provide flexibility in time and place of work as part of their modern policies. In this sense, flexible working hours (flexitime), remote work, and short-term contract systems are part of an effort to adapt to changes in the economic and social environment.

As Warren discussed, in this post-industrial country, the state must adopt a work-life balance approach for gig workers to overcome society's risk<sup>45</sup> to support workers'

<sup>41</sup> Christiayu Natalia & FX Gugus Febri Putrantoc, 'Kerentanan Kesejahteraan Gig Worker di Indonesia Pascapandemi', *Jurnal Ekonomi Indonesia* Vol. 12, 2 (2023) p173-186 DOI: <https://doi.org/10.52813/jei.v12i2.479>.

<sup>42</sup> Rina Ayu, International Journal of Sociology, Role of Gig Economy Participation in Shaping Worker Economic Security in Indonesia, Vol 8, Issue 3, No.2, pp. 14-23, 2024, DOI: <https://doi.org/10.47604/ij.s.2830>.

<sup>43</sup> Mamasiddikov Muzaffarkhon Musakhonovich, Esanov Azamat Esirgapovich, Abdul Kadir Jaelani, Wan Mohd Khairul Firdaus Wan Khairuldin, Resti Dian Luthviati, 'The Protection of Labor Rights on the Court System', *Journal of Human Rights, Culture and Legal System* Vol. 4, No. 3 (2024) 742-764, DOI: <https://doi.org/10.53955/jhcls.v4i1.115>.

<sup>44</sup> Nur Hadiyati, 'Sintesa Pemikiran Ulrich Beck Tentang Risiko Yang Ada Di Dunia Dan Samantha Besson Tentang Pertentangan Dalam Pembentukan Hukum', *Jurnal Crepido Jurnal Mengenai Dasar-Dasar Pemikiran Hukum: Filsafat dan Ilmu Hukum*. Volume 03, Nomor 02 (2021) 76-85, <https://doi.org/10.14710/crepido.3.2.76-85>.

<sup>45</sup> Tracey Warren, 'Work-life balance and gig work: 'Where are we now' and 'where to next' with the work-life balance agenda?', *Journal of Industrial Relations* 2021, Vol. 63(4) 522-545. DOI: 10.1177/00221856211007161.

and companies' welfare and productivity. This stands in contrast to flexibility that often only benefits companies (e.g., through temporary contracts or freelancers without work protection), focusing on how flexibility can improve work-life balance, worker independence, and job satisfaction. In this context, the balanced allocation of time between work and personal life, including recreation, hobbies, and family becomes essential. Work-life balance is a situation where a person can manage and divide time and energy between work and personal life.<sup>46</sup>

Several essential aspects of the work-life balance concept explained by Warren are also worth noting. First, flexibility gives workers more control in determining working hours or managing their schedules to increase worker satisfaction and engagement. Furthermore, work-life balance should be treated as a central priority in the design of flexible work arrangements. In this case, workers can work remotely or use flexible work schedules to adjust work commitments to their personal lives better. Second, companies should provide stronger support for workers' mental and physical well-being through fair wages, old age savings, other social security schemes, access to health services, and flexible leave. Third, with flexible career growth, career growth opportunities should be tailored to flexible work styles, such as training and development that can be accessed online or self-paced learning modules that can be done at any time. Fourth, with regard to improved communication and technical support, Warren (2021) emphasized that companies must facilitate effective communication and provide technical support to ensure that employees feel flexibly connected to the team and not isolated. Taken together, Warren (2021) framework offers a useful basis for addressing labor-related problems, especially those associated with uncertainty and imbalance in employment relations. Flexibility designed to improve worker welfare can also reduce turnover rates and increase productivity within the company.

Based on the post-industrial society phenomenon foreseen by Daniel Bell and described above, Indonesia needs to prepare better regulations that act as a balanced law ruling the rights of formal and informal workers, including gig workers. The absence of these considerations in Indonesia's existing labor-law, particularly the Job Creation Law, led the Constitutional Court (Mahkamah Konstitusi), as the institution authorized to conduct constitutional review, to declare in Decision 168 that several provisions of Job Creation Law No. 6/2023 lack binding legal force unless implemented in accordance with the court's interpretation, which is binding (*erga omnes*) on state administrators and all citizens.<sup>47</sup> This circumstance reverses the flexibility that has been legalized to a little stiff again.

It should be noted that despite the Decision 168 ruling that several matters are conditionally unconstitutional, changes to the protection for freelancers and gigs are not affected.

## **2.2 Strategies for Reconfiguring Labor Regulatory Framework Through Vertical Synchronization and Horizontal Harmonyzation**

The implementing regulation of Law No. 6/2023 has yet to be issued; the current effect is the Government Regulation issued during the 2020 Job Creation Law (Law

<sup>46</sup> Iza Zorec, Jan Hočevár, Luka Eržen, 'The Interplay Among Work Overload And Time Management In Predicting Job Performance And Work-Life Balance', *Dynamic Relationships Management Journal*, Vol. 10, No. 2, p47-65, DOI: 10.17708/DRMJ.2021.v10n02a04.

<sup>47</sup> Heru Setiawan, I Gusti Ayu Ketut Rachmi Handayani, M. Guntur Hamzah, Hilaire Tegnan, 'Digitalization of Legal Transformation on Judicial Review in the Constitutional Court', *Journal of Human Rights, Culture and Legal System*, Vol. 4, No. 2, July 2024, pp. 263-298, DOI: <https://doi.org/10.53955/jhcls.v4i2.263>.

11/2020). The implementing regulations that regulate wages, working hours, rest hours, foreign workers, specific employment contracts and outsourcing, and others are currently increasingly inconsistent with the law. This inconsistency arises from the Constitutional Court ruling on the constitutional review of Law No. 6 of 2023 against the 1945 Constitution of the Republic of Indonesia, which granted the petition thereby altered the regulatory framework governing employment. At the same time, the ongoing reform process presents an opportunity to better accommodate the protection needs of gig workers, as discussed below. Accordingly, responding to the Constitutional Court's decision requires reconfiguring Indonesia's labor-law framework through vertical synchronization between statutes and their implementing regulations and horizontal harmonization across related legal regimes.

Decision No. 168 reviews a range of provisions concerning foreign workers, fixed-time work agreements, outsourcing, working hours and weekly breaks, sectoral wages, severance pay, and the determination of the minimum wage, all of which primarily relate to workers in standard or formal employment arrangements. However, the decision does not directly engage with non-standard work arrangements typical of the gig economy, leaving key protection gaps for gig workers largely unaddressed within the current reform agenda.

Horizontal synchronization, for example, occurs between the Labor Law and Social Security System Law. Social security, currently managed by the Social Security Administration Agency (BPJS), requires conformity about programs and technical matters. Regarding the BPJS program, regulating job loss insurance is necessary not only for workers with permanent contracts but also for the most vulnerable contract workers and gig freelancers who have lost their jobs. In technical terms, flexible rules need to be established for flexible workers to pay contributions. A flexible payment system, for example, can be applied because the fluctuation of freelance workers' income should not hinder their social security protection.<sup>48</sup> A freer time frame should be allowed to declare workers' inactivity from membership as this can be due to the inability to pay as a result of irregular income as well. Bieber and Moggja argue that the expansion of the gig economy entails substantial human costs, particularly because it shifts economic risk from capital owners to workers<sup>49</sup> without being accompanied by an equal bargaining position for workers.

Therefore, in the view of the Constitutional Court judges, non-standard workers have not been touched. This situation can occur because, from the beginning, the judicial review applicant also did not include the issue of wages, labor protection, and employment relations, which are the problems of non-standard workers. The emergence of non-standard workers is due to structural issues in the form of formal jobs that the state cannot provide.<sup>50</sup>

<sup>48</sup> Yashodhan Ghorpade, Amanina Abdur Rahman, Alyssa Jasmin, 'Social Insurance for Gig Workers Insights from a Discrete Choice Experiment in Malaysia', Policy Research Working Paper 10629, © World Bank. <http://hdl.handle.net/10986/40741> License: [CC BY 3.0 IGO](https://creativecommons.org/licenses/by/3.0/)." (2023), <https://doi.org/10.1596/1813-9450-10629>.

<sup>49</sup> Friedemann Bieber dan Jakob Moggja, 'Risk Shifts in the Gig Economy: The Normative Case for an Insurance Scheme against the Effects of Precarious Work', *The Journal of Political Philosophy* Vol 29, Number 3 (2021), pp. 281–304. DOI: 10.1111/jopp.12233.

<sup>50</sup> Lucille Mattijssen, Dimitris Pavlopoulos, Wendy Smits, 'Occupations and the Non-Standard Employment Career: How the Occupational Skill Level and Task Types Influence the Career Outcomes of Non-Standard Employment', *Work, Employment and Society* Vol 34, 3 (2020), <https://doi.org/10.1177/0950017020902984>.

### 2.3 Strategy Involving the Role of the State in Job Market Flexibility

France serves as a relevant example to Indonesia in regard to the transformation of the labor market directed by the state, particularly given that it shares similarities with the Indonesian legal system, which is the civil law system.<sup>51</sup> In France, the government's role is substantial in determining industrial relations by making the labor market relatively rigid due to strict rules on wages, employment termination, licensing, and other aspects. Since 2006, this rigidity has been widely debated, especially among employers. However, due to strong resistance from the labor unions, efforts to revise the Manpower Law were delayed until the law was ultimately amended through the Job Creation Law in 2021.<sup>52</sup> This law remained in place until it was amended later through the second Job Creation Law in 2023.

Indonesia has made at least two notable attempts at implementing state-directed labor market flexibility. The first was in 2006 during the administration of President Susilo Bambang Yudhoyono, through Presidential Instruction (Inpres) No. 13 of 2006. This presidential instruction set out government strategies to promote investment, including in the field of employment, by fostering industrial relations conducive to job creation. To support this initiative, the government formed a team of academics from several leading universities in Indonesia to conduct academic studies, of which the author was involved as an assistant to a professor at the University of North Sumatra. The National Development Planning Agency (Bappenas) also participated by reviewing potential revisions to the Manpower Law.

Inpres No. 3 of 2006 mandates the revision of particularly rigid matters regarding (1) Termination of Employment, Severance Pay, and other Rights of Workers; (2) Collective Labor Agreement; (3) Wages; (4) Fixed-time work agreements; (5) Outsourcing; (6) Permit to Employ Foreign Workers; and (7) Long Rest. Ultimately, the plan to revise Manpower Law received strong opposition from workers/laborers and, thus, was abandoned.

The second major attempt was during President Joko Widodo's administration, which unilaterally enacted the Job Creation Law with minimal public consultation. Finally, the Job Creation Law (2021) changed many things ruled by previous presidents, including Susilo Bambang Yudhoyono's policies. The lesson from this event is that in the early twenty-first century, the government's efforts to introduce labor flexibility through top-down regulations faced substantial rejections from workers. One of the main factors constraining the labor market flexibility was resistance from labor unions, particularly in relation to wage regulation.<sup>53</sup>

Returning to the role of French government in labor market transformation through decentralization with greater corporate autonomy and eased rigid and centralized labor market regulations, the state remains the leading actor in the reconstruction of the industrial relations system. Meaningful reform will not be possible without the active role of the state. The government remains deeply involved in regulating the relationship between the working class and the capitalist and political elites. Howell interpreted this

<sup>51</sup> M. Jeffri Arlinandes Chandra, Rofi Wahanisa, Ade Kosasih, Vera Bararah Barid, 'Preview Of Draft Laws Practice Indonesia And France: Current Discussions On Common Areas Of Interest', *Russian Law Journal* Vol. 11 No. 3 (2023), <https://doi.org/10.52783/rj.v11i3.1991>.

<sup>52</sup> Petra Mahy, Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments, *Asian Journal of Comparative Law* Vol.17 (2022), 51-75 doi:10.1017/asjcl.2022.7.

<sup>53</sup> Anna Galik, Monika Bak, Katarzyna Bałandynowicz-Panfil, Giuseppe T. Cirella, Evaluating Labour Market Flexibility Using the TOPSIS Method: Sustainable Industrial Relations, *Sustainability* Vol 14 (2022) p526, <https://doi.org/10.3390/su14010526>.

as the economic system of dirigisme.<sup>54</sup> Dirigisme is an economic doctrine in which the state plays a vital role. It involves not only regulating but also intervening in the market economy. Unlike the non-interventionist approach (*laissez-faire*), dirigisme includes indicative planning, state-directed investment, and tax and subsidy instruments to incentivize market entities to meet the country's economic objectives.<sup>55</sup> However, as this concept falls outside the author's area of expertise, it will not be reviewed further.

## 2.4 Good Practices in Managing Workers with the GIG Economy Policy

Drawing on good practices from other countries would benefit Indonesia, given its abundant human resources and the demographic bonus that is expected to expand the labor force through its projected peak period, in contrast to many developed countries facing demographic decline.<sup>56</sup>

With the "Shipyard" Worker Status, the UK introduced the concept of "worker," which falls between independent and permanent workers. Gig economy workers in the UK<sup>57</sup> can be recognized as "workers," which gives them some fundamental rights such as minimum wage, rest time, and paid time off but still provides flexibility regarding working hours and contracts. For example, a court ruling in the Uber case in the UK in 2021 stipulated that Uber drivers are "workers" and are thus entitled to a minimum wage and social security, even though they work flexible hours.<sup>58</sup>

Spain became one of the first European countries to introduce "Ley Riders," which stipulates that gig workers such as cyclists for delivery companies (such as Uber Eats and Deliveroo) should be considered corporate workers rather than independent contractors.<sup>59</sup> Under this law, they are entitled to minimum wage, social benefits, and other labor protections comparable to those afforded to permanent worker. Even so, they still have the flexibility to determine their work schedules.<sup>60</sup>

With the Social Protection for Self-Employed Workers, Germany has a mandatory insurance system for independent workers, including gig workers, who must contribute to pension and health insurance programs.<sup>61</sup> This system protects workers even if they work flexibly. Additionally, Germany also ensures that self-employed workers can participate in unemployment insurance and thus have a safety net in case of a decrease in income.<sup>62</sup>

France implements the Right to Social Security for Gig Workers. Gig workers are protected by employment laws that give them access to social security, such as health

<sup>54</sup> Crist Howell, 'The Transformation of French Industrial Relations: Labor Representation and the State in a Post-Dirigiste Era', *Politics & Society* Vol. 37 No. 2 (2009), <https://doi.org/10.1177/0032329209333993>.

<sup>55</sup> Wikipedia, [https://en.wikipedia.org/wiki/Dirigisme#Economies\\_with\\_dirigisme\\_or\\_similar\\_policies](https://en.wikipedia.org/wiki/Dirigisme#Economies_with_dirigisme_or_similar_policies).

<sup>56</sup> Zulkifli Siregar, Zulkifli Nasution, Rujiman, Agus Purwoko, 'Strategies for Sustainable Development: Leveraging Demographic Factors in Indonesia's Regions', *Journal of Ecohumanism*, 3(3) (2024) p2052–2063. <https://doi.org/10.62754/joe.v3i3.3472>.

<sup>57</sup> Tanel Kerikmäe, 'Gig economy workers in the European Union: towards change in their legal classification', *Revista CIDOB d'Affers Internacionals* n.º 131, p. 117-139, DOI: [doi.org/10.24241/rci.2022.131.2.117](https://doi.org/10.24241/rci.2022.131.2.117).

<sup>58</sup> L. Holloway, 'From the public sector to the gig economy', *IPPR Progressive Review*, 28(1) (2021), p46–51. DOI: [10.1111/newe.12246](https://doi.org/10.1111/newe.12246).

<sup>59</sup> Maria Luisa Perez Guerrer, and Miguel Rodriguez Pinero Royo, 'Social security for Spain's platform workers: Self-employed or employee status?', *International Social Security Review*, Vol. 74 (3-4) (2021) p177–194 <https://doi.org/10.1111/issr.12283>.

<sup>60</sup> Borja Suarez Corujo, 'The 'Gig' Economy and its Impact on Social Security: The Spanish example', *European Journal of Social Security*, Vol. 19 No.4 (2017) 293–312 <https://doi.org/10.1177/1388262717745751>.

<sup>61</sup> Fabian Beckman, Sabrina Glanz, Fabian Hoose, Serkan Topal, 'Investigating social protection amongst platform workers in Germany: forced individualisation, hybrid income generation and undesired regulation', *Journal of Social Policy* first view p1-19 DOI: <https://doi.org/10.1017/S0047279424000217>.

<sup>62</sup> Frank Wießner, Katalin Evers, Michael Schleinkofer, 'A Quantum of Solace – An Examination of the Voluntary Extended Unemployment Insurance for the Self-employed in Germany', *Sozialer Fortschritt*, Vol. 65, No. 7 (2016), pp. 171-178, <https://doi.org/10.3790/SFO.65.7.171>.

and unemployment insurance. France also enacts strict regulations that ensure gig workers have access to minimum rights, even if they do not have permanent employee status.<sup>63</sup> Under this system, companies that hire gig workers are required to contribute to their social-security coverage, thereby helping to protect workers' welfare without eliminating labor-market flexibility.<sup>64</sup>

In Italy, government legislation classifies non-standard or gig workers as subordinate workers.<sup>65</sup> However, ambiguity around the definition of freelance work continues to spark debate, as the classification remains unclear and inconsistent. To address this issue, the government has supported the development of social dialogue through the Trade Union representing Gig Workers.<sup>66</sup> In response, gig workers, especially those in the delivery sector, have organized to advocate for their rights. The Italian government actively promotes social dialogue between gig workers, platform companies, and the government to create fair work standards. These unions assist gig workers in negotiating wages and working conditions, ensuring they have collective protection without losing work flexibility.<sup>67</sup>

Australia has progressively begun to regulate protections for gig workers, although the regulatory framework remains under development.<sup>68</sup> The Australian Federal Government, along with several state governments (such as Victoria and New South Wales), has taken significant steps to ensure that workers in the digital economy receive adequate protections. One of the initial regulatory approaches has been to recognize gig workers as a distinct category of independent workers while addressing legal loopholes that previously allowed platform workers, including those engaged by Uber, Deliveroo, and DoorDash to be classified solely as independent contractors. However, regulation on matters such as minimum wage, leave entitlements, and employment insurance has yet to be fully established.

In 2023, the Australian Government announced a major labour law reform initiative through the "Closing Loopholes Bill", aimed at providing basic protections for digital platform workers. The bill also empowers the Fair Work Commission to set minimum employment standards, including minimum pay rates, termination provisions, and mechanisms for dispute resolution applicable to platform workers.<sup>69</sup> This reform represents an important step toward recognizing so-called "employee-like workers"—namely individuals who perform work under a high levels of control yet are not formally classified as employees.

Some Australian states, such as Victoria, have introduced Voluntary Fair Conduct and Accountability Standards for gig economy platforms, which address income

<sup>63</sup> Antonio Aloisi, Platform work in Europe: Lessons learned, legal developments and challenges ahead, *European Labour Law Journal* Vol. 13 - 1 (2022), <https://doi.org/10.1177/20319525211062557>.

<sup>64</sup> Oleg M. Yaroshenko, Vladyslav S. Tkachenko, Denys A. Puntus, Galina O. Yakovleva, Olena O. Konopeltseva, 'Models of Social Protection for Workers in the Gig Economy: Legal Challenges and Prospects', *Science of Law* No. 3 (2024), p1-7, DOI: 10.55284/sol.v2024i3.139.

<sup>65</sup> Marco Biasi, 'The On-Demand Work (Mis)classification Judgments in Italy. An Overview', *Italian Labour Law e-Journal* Vol. 12 Issue 1(2019), DOI: <https://doi.org/10.6092/ISSN.1561-8048/9694>.

<sup>66</sup> Michele Forlivesi, 'Alla ricerca di tutele collettive per i lavoratori digitali: organizzazione, rappresentanza, contrattazione' (Looking for collective protection for digital workers: organization, representation, bargaining), *Labor and Law Issues* Vol.4 No.1 (2018), p37-58, <https://doi.org/10.6092/ISSN.2421-2695/8370>.

<sup>67</sup> Antonio Aloisi, 'Il lavoro 'a chiamata' e le piattaforme online della 'Collaborative Economy': nozioni e tipi legali in cerca di tutele' (On-Demand Work and Online Platforms in the Collaborative Economy), *Labour Law Issue* Vol. 2 No.2 (2016) p16-56, <https://doi.org/10.6092/ISSN.2421-2695/6490>.

<sup>68</sup> Anthony Forsyth, 'Playing Catch-Up but Falling Short: Regulating Work in the Gig Economy in Australia', *King's Law Journal*, (2020) p1-14, DOI: 10.1080/09615768.2020.1789433.

<sup>69</sup> Marjorie Jerrard, Greg J Bamber, and Tui McKeown, 'Impact of regulatory and other changes on Australian unions' strategies and campaigns, 2023–2024', *Journal of Industrial Relations* Vol. 66, Issue 5 (2024) p721-741, <https://doi.org/10.1177/00221856241294106>.

transparency, fair dispute resolution, workplace safety, and freedom of association. Although these standards are not legally binding, they create moral and reputational pressure on platforms to adopt fairer labor practices.<sup>70</sup>

At the federal level, the Australian Government is also advancing a broader initiative known as the Digital Platform Work Reforms, which seeks to: establish specific legislation governing platform-based work, and ensure all workers, including independent contractors, have access to grievance mechanisms and dispute-resolution procedures. Several gig platforms have already been required—or have voluntarily chosen—to provide basic protections such as: accident insurance (for example, Uber offers on-trip accident insurance), safety training, and emergency features within their apps.

There have also been key legal precedents, such as *Franco v Deliveroo* (2021), in which the Fair Work Commission ruled that a Deliveroo driver was entitled to be treated as an employee, given the significant degree of control the platform exerted over how the work was performed.<sup>71</sup> This case helped to establish a legal interpretation that, despite being formally classified as contractors, gig workers may still be entitled to employment rights where the actual working relationship is marked by economic dependence and a significant degree of platform control.

The Netherlands has a Flexible Work Policy to provide minimal protection for non-standard workers, including gig workers. The country's contract-based work flexibility model allows gig workers to enjoy several benefits, such as health insurance and leave benefits. Workers can also participate in unemployment insurance and pension systems, even in the gig economy model.<sup>72</sup>

South Korea has introduced Minimum Protections for Gig Workers by expanding the scope of labor laws to cover wages, working hours, and other working conditions. The government also focuses on improving social security for independent and non-standard workers.<sup>73</sup>

Collectively, these regulatory approaches demonstrate that strengthening gig worker protection does not necessarily require eliminating labor flexibility. However, given that the socio-economic structures, labor market composition, and institutional capacities of these countries differ from those of Indonesia, their regulatory models cannot be replicated wholesale. Instead, Indonesia may adapt relevant elements, such as clearer statutory recognition, structured social security integration, and coordinated institutional oversight, within its own civil law system and regulatory hierarchy.

Tables 1 and 2 above demonstrate that, although the Job Creation Law has introduced greater flexibility in employment relations, including for non-permanent workers such as gig workers, the existing framework remains insufficient in guaranteeing substantive protection of gig workers' rights. The current legal structure still lacks specific implementing regulations within the statutory hierarchy that are capable of providing legal clarity and enforceable standards. In particular, the absence of comprehensive Government Regulations and coordinated integration with social security institutions

<sup>70</sup> Andrew Stewart and Penny Williams, 'Regulating the Fairness of Work Contracts in the Gig Economy', *Federal Law Review* Volume 51, Issue 4, December 2023, Pages 466-486, <https://doi.org/10.1177/0067205X231205049>.

<sup>71</sup> Alex Veen, Tom Barratt, Caleb Goods, 'Platform-Capital's 'App-etite' for Control: A Labour Process Analysis of Food-Delivery Work in Australia', *Work, Employment and Society* 00(0) p1-19, DOI: 10.1177/0950017019836911 j.

<sup>72</sup> Qolbi Hanif Fadhlulloh, Aidul Fitriadi Azhari, Rizka, 'Comparison of the Legal Position of Gig Economy Workers in Indonesia, the Netherlands, and the UK', *Fundamental: Jurnal Ilmiah Hukum*, Volume 12 Nomor 2 Juli-Desember (2023) DOI: 10.34304, 307-322.

<sup>73</sup> Statista.com, Gig Economy in South Korea – Statistics and Facts. <https://www.statista.com/topics/10056/gig-economy-in-south-korea/#topicOverview>.

under the Social Security Administration Agency (BPJS) illustrates that flexibility has not yet been matched by adequate institutional safeguards.

Due to these regulatory deficiencies, legislative reform has become crucial. The Manpower Law must be revised in alignment with the Constitutional Court's decisions to explicitly incorporate provisions governing gig workers within the main statutory text. Such reform should not merely accommodate labor market flexibility but must also ensure legal certainty, balanced protection, and work-life safeguards consistent with contemporary post-industrial realities. Given that labor regulation extends to the periods before, during, and after employment, the legal framework should comprehensively address both formal and informal work arrangements within a unified and coherent statutory structure.

### **3. CONCLUSION**

Indonesian labor law, particularly the Manpower Law, must evolve in response to social and economic change if it is to function effectively as an instrument of social engineering aimed at promoting an inclusive economy, sustainable growth, and decent work for all. To accommodate these objectives, the draft of a new Manpower Law should include a dedicated section on gig workers, in case regulating them through a specific, separated statute is not feasible. Conceptually, many gig workers who perform platform-mediated work are economically dependent on platform companies: they do not independently set prices, they lack meaningful access to the market, and yet they generally provide their own work equipment and facilities. Accordingly, it is important to extend legal protection to ensure decent wages, working hours aligned with occupational health and safety standards, and access to employment-related social security, including unemployment insurance to provide income support for a defined period, as well as access to labor-market opportunities and skills training. Reconfiguring the Manpower Law in this way also requires readiness on the part of both employers and workers to recognize the consequences of legal reform, including the creation of new rights and obligations. Workers may be required to allocate a portion of their income to social security contributions and to comply with working-hour rules and occupational health and safety standards, while employers, in ensuring that workers' earnings meet a decent standard of living, may need to adjust business processes in ways that could affect consumers. Lessons from jurisdictions of advanced countries such as the United Kingdom, Spain, France, Australia, the Netherlands, among others suggest that business activity should not be oriented solely toward the gains of one party (employers) while disregarding the interests and welfare of workers.

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