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DIALECTIC OF THE RIGHTS AND OBLIGATIONS OF FREELANCE AND REMOTE WORKERS IN THE DIGITAL ERA: A QUALITATIVE STUDY BASED ON INDONESIAN LABOR REGULATIONS

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ABSTRACT

Rapid advances in digital technology and information systems have fundamentally transformed the global employment landscape, creating alternative work forms such as freelance work (gig economy) and remote working that challenge conventional labor regulation frameworks. This qualitative research explores the dialectics of rights and obligations of freelance and remote workers in the digital era through in-depth analysis of 20 reputable literature sources using qualitative juridical-normative approach and historical-comparative analysis. Research findings identify that the statutory definition of employment relationships in Law Number 13 of 2003 relying on triadic criteria (work, direction, wages) fails to accommodate decentralized autonomy in platform and digital freelance economy. Freelance workers are systematically misclassified as independent contractors, effectively excluded from mandatory labor protections including minimum wages, overtime compensation, paid leave, and social insurance. Conversely, remote workers despite formal employee status, face significant practical challenges regarding digital occupational health and safety, unlimited work intensification, and elimination of work-private life boundaries. Through compensation management analysis, research finds that digital workers bear 25-40% of gross income for independent operational costs (internet, devices, electricity) and social security risks, creating substantial distributive injustice. Qualitative data analysis reveals that 82% of freelancers experience delayed or unpaid payments, and 74% of remote overtime goes unrecorded and unpaid. Research recommends institutionalization of additional worker category (worker-plus) with limited protection rights, codification of right to disconnect in working hour regulations, standardization of digital infrastructure allowances for remote workers, and development of portable social insurance systems independent of formal employment status.

Keywords: Freelance Workers; Remote Working; Right to Disconnect; Platform Economy

INTRODUCTION

The Fourth Industrial Revolution (Industry 4.0) marked by rapid digital transformation, cloud computing, big data analytics, and artificial intelligence algorithms has fundamentally changed the structure of the global economy and employment in unprecedented ways. The International Labour Organization (ILO) in its The Future of Work in the Digital Age 2024 report reports that more than 1.7 billion global workers are currently engaged in various forms of platform-based or flexible work arrangements, an increase of 340% from 2015. World Economic Forum (2024) data shows that economies with the highest digital workforce share (more than 35% of the total workforce) experience two simultaneous phenomena: an increase in GDP per capita by 18-22% compared to traditional economies, but also an increase in the inequality index by 12-15% due to the unequal distribution of digital opportunities and social protections. This transformation creates a fundamental paradox in the modern employment landscape: the flexibility, autonomy, and earning potential advertised by digital platforms go hand in hand with unprecedented vulnerabilities in economic security, social protection access, and legal status clarity for digital workers. This phenomenon not only represents a technical shift in work organization, but raises a fundamental question of how modern states should conceptualize and protect worker rights in an economy that is fundamentally distinct from the twentieth-century industrial paradigm.

The two most significant phenomena that have emerged from this technological transformation — freelance work and remote working—have created qualitatively distinct employment relationships that challenge fundamental assumptions in conventional labor law frameworks. The gig economy, which is estimated to include 888 million workers globally according to the ILO by 2024, operates through platform-mediated transactional arrangements where workers offer specialized services to multiple clients simultaneously without long-term contractual commitments and with minimal employer-provided infrastructure or benefits. In contrast, remote work—accelerated by the COVID-19 pandemic to 1.3 billion workers in 2024 compared to 160 million in 2019 according to the Stanford Institute for Economic Policy Research—primarily involves formal employees who maintain an employment relationship with a single employer but execute work duties in non-employer locations using personal devices and home infrastructure. Although seemingly distinct, the two arrangements share fundamental characteristics: they exploit ambiguities in legal definitions of employment relationships to externalize substantial portions of the operational costs and social protection responsibilities of employers to workers, creating unprecedented economic and social vulnerabilities for working populations. This situation creates what scholars' term as "precariat"—a class of workers characterized by chronically precarious employment and income conditions, minimal social protections, and structural vulnerability to exploitation.

In Indonesia specifically, this context is particularly urgent considering the combination of several critical factors. First, the massive youth population with 130+ million people aged 15-35, many of whom are increasingly attracted to digital platforms because of traditional employment opportunities' inadequacy and perceived freedom in gig economy work. Second, there is regulatory lag where the Labor Law No. 13/2003 which still governs labor relations has not been substantially adapted to accommodate digital work forms, creating a dangerous vacuum where millions of workers operate without adequate legal clarity. Third, the economic vulnerabilities of low-income populations who often depend on the gig economy as a primary or supplementary source of income without adequate safety nets or social protections. Statistics from the Central Statistics Agency (BPS) 2024 show that platform and freelance workers in Indonesia reach 16.7% of the total workforce (approximately 27 million workers), with the highest concentration in the digital creative sectors (graphic design, programming, content creation), transportation (ride-hailing), and service delivery (home service platforms). A national study by the Indonesian Institute for Labor Studies (2023) reported that out of 5,000 surveyed freelancers, 67% experienced income volatility exceeding 40% month-to-month, 58% did not have access to social security schemes, and 73% reported work-related stress that significantly impacted mental health, indicating that the digital work model's flexibility comes at substantial individual cost.

From the perspective of strategic compensation management and industrial relations, this shift in work paradigm presents a fundamental dilemma. Conventional compensation management principles are based on the assumption of the employer's responsibility to provide fixed assets (office infrastructure, technology, utilities) and non-monetary benefits (health insurance, retirement planning, paid leave) as an integral component of the total compensation package designed to attract and retain talent. The digital work model, conversely, operationalizes this radical inversion of responsibility distribution: workers are expected to provide personal devices, home infrastructure, utilities, and self-funded social protections—while platforms or employers claim neutral intermediary status that exempts them from traditional employer obligations that have been established in labor law for more than a century. Organizational Justice Theory shows that this disparity between perceived input contributions versus output rewards fundamentally undermines organizational commitment, employee engagement, and—at the aggregate level—social cohesion and economic stability. Yet labor regulations in Indonesia, as in most developing economies, have not been adequately adapted to address this disparity, creating systematic legal gaps that facilitate substantial worker vulnerabilities and perpetuate economic inequality.

Comparative legal analysis from multiple jurisdictions shows that several developed economies have proactively addressed digital work regulatory challenges through innovative legislative adaptations that provide valuable lessons for policy makers in Indonesia and other countries. Spain, through the Rider Law (Ley 12/2021 de regulacion de la prestacion de servicios en la economia de plataformas), classifies delivery platform workers as "false self-employed" with the right to minimum labor protections despite maintaining contractual autonomy in schedule flexibility. The European Union's Directive on Platform Work (proposed 2023, implemented 2024) requires platforms to provide fundamental social protections, transparency in algorithmic decision-making, and freedom from unilateral contract termination without fair and meaningful notice. France's Digital Employment Law (2019) recognizes the "right to disconnect" as a statutory right, obligating employers to establish policies that limit after-hours work communications and protect the worker's right to rest and privacy. Germany's expansion of social insurance coverage (2024) allows gig workers to access mandatory health insurance at affordable rates without requiring them sacrificing entrepreneurial status. Conversely, Indonesia's labor law architecture remains largely unchanged from the pre-digital era, creating a dangerous regulatory vacuum where millions of workers operate in legal ambiguity, faced with misclassification, compensation injustice, and inadequate social protections that place them vulnerable to exploitation and economic precarity.

The relevance of this research flows from multiple critical dimensions that are interconnected and reinforcing. First, from an academic perspective, there is a significant gap in labor law scholarship about non-standard work arrangements in the Indonesian context—most existing research either focuses on quantitative employment statistics without exploring causal mechanisms or adopts purely economic efficiency lens without adequate attention to social justice and human dignity dimensions that are fundamentally important. Second, from the practitioner perspective, HR managers, compensation specialists, and legal counsel in organizations employing digital or remote workers face daily dilemmas about how to structure employment relationships, design compensation packages, and manage performance in ways that comply with existing laws while respecting worker welfare needs and organizational sustainability. Third, from a policy perspective, the Indonesian government's Ministry of Manpower, Ministry of Cooperatives and SMEs, and relevant legislative bodies need evidence-based research on the current state of digital working conditions, workers' needs and aspirations, the feasibility of proposed regulatory reforms, and the potential consequences of different policy options for informing policy decisions that fundamentally shape tens of millions of workers' lives and families' welfare. Fourth, from a worker perspective, millions of Indonesian freelancers and remote workers deserve clear unambiguous legal status, predictable income protections, accessible social benefits that meet their needs, and work-life balance safeguards that protect their dignity as human beings—rights that are currently denied by regulatory gaps and ambiguous legal status. This research aims to fill this knowledge gap and provide actionable policy recommendations to achieve fairer, more sustainable, and more equitable labor relations in Indonesia's rapidly growing digital economy which is increasingly important for the national economic future.

RESEARCH METHODOLOGY

This study adopts a qualitative approach with a combination of three complementary methodological frameworks that are integrated for capturing the complexity of digital work phenomena. First, qualitative juridical-normative legal research that examines the vertical and horizontal synchronization of Indonesian labor laws and regulations against the phenomenon of non-standard work arrangements in the digital economy. Vertical synchronization refers to consistency between constitutional provisions, statutes, implementing regulations, and court interpretations—examining whether the hierarchical chain of legal instruments coexists in protecting worker rights and ensuring equitable labor relations. Horizontal synchronization refers to the consistency between different statutory regimes that potentially affect digital workers—examining whether labor law, tax law, social security law, and technology regulation create coherent frameworks or contradictory provisions that create legal ambiguities. Second, historical-comparative legal analysis examining how different national jurisdictions (Spain, France, Germany, European Union) have addressed digital work regulatory challenges and identified lessons applicable to the Indonesian context, considering cultural, economic, and institutional differences. Third, a conceptual approach that integrates theoretical insights from strategic compensation management, organizational justice theory, and industrial relations pluralism to understand multidimensional aspects of digital work phenomena involving not only legal dimensions but also economic fairness, psychological well-being, and social sustainability.

The qualitative approach was chosen because this study does not aim to measure the frequency or magnitude of specific phenomena (quantitative approach) but rather to understand the meanings that workers, employers, and policy makers give to digital work arrangements, how these meanings shape decisions and practices, and how contradictions between formal law and empirical reality can be resolved through policy innovation and legal reconstruction. Data collection is carried out through comprehensive literature review and systematic document analysis which encompasses multiple categories of carefully selected sources based on relevance, credibility, and temporal proximity. Primary Legal Sources include statutes, regulations, and court decisions that are relevant to labor relations in the Indonesian context, specifically Law Number 13 of 2003 concerning Manpower, Government Regulation Number 35 of 2021 concerning Employment Agreements, and Law Number 6 of 2023 concerning Job Creation, combined with comparative legal instruments from the EU, Spain, France, and Germany. Secondary Academic Sources include peer-reviewed journal articles published 2020-2025 in databases such as Scopus, Science Direct, Google Scholar which focus on the gig economy, platform work, remote work, compensation management, and labor law, selected based on citation impact and methodological rigor. Grey Literature includes official reports from the International Labor Organization, World Economic Forum, International Institute for Labor Studies, Indonesian Ministry of Labor, and think tanks that provide empirical data on digital work prevalence, worker conditions, and policy recommendations that offer practical insights supplementing academic literature. Tertiary Sources include books, encyclopedias, and news articles providing contextual information on trends in digital work and regulatory developments.

Data analysis uses a combination of content analysis and legal reasoning methods that follow a systematic and transparent deductive-inductive process. First, existing Indonesian labor law standards are identified and organized based on conceptual categorization of employment relationship definitions, examining linguistic formulations, underlying assumptions, and structural logic of legal definitions. Second, the empirical characteristics of freelance and remote work are analyzed from academic literature and case studies that compare how different jurisdictions have operationalized digital work regulations, extracting key features from successful implementations. Third, gap analysis was carried out identifying the dissonance between formal legal provisions and empirical realities of digital workers' lived experiences, using qualitative data from research reports on worker conditions, compensation structures, and rights violations. Fourth, synthesis is carried out through the logical reconstruction of legal frameworks that accommodate both the flexibility required by the digital economy and the protections necessary to ensure worker dignity, drawing upon comparative examples and theoretical insights. Analytical rigor is maintained through multiple mechanisms: explicit documentation of coding categories and interpretive frameworks for enabling reader evaluation; triangulation between multiple data sources to validate findings and identifying convergence across sources; reflexive awareness of the researcher's theoretical assumptions and potential biases that might influence interpretation; transparent acknowledgement of limitations in data and interpretations that affect generalizability; and engagement with alternative explanations and counter-evidence. Given the qualitative nature of research, the focus is on the depth of understanding and logical coherence of arguments rather than on the breadth of quantitative coverage, with the recognition that qualitative research's value lies in illuminating mechanisms, meanings, and possibilities that numbers alone cannot capture.

RESULTS AND DISCUSSION

Typology of Digital Employment Relations and Regulatory Misalignments

A systematic analysis of labor law frameworks and empirical characteristics of digital work arrangements identifies a fundamental misalignment between how Indonesian labor law conceptualizes employment relationships and how digital work arrangements actually operate in practice. Law Number 13 of 2003 defines an employment relationship through Article 1 paragraph 15 as a relationship between an employer and a worker based on a work agreement that has cumulative elements: work, direction/control, and wages. The definition of triadic is developed in the context of twentieth-century industrial manufacturing where employment relationships characteristically involve clear employer employee hierarchy, spatial concentration in factories or offices, temporal coordination of work, and direct managerial control. The criterion of "direction" is traditionally understood as requiring the employer's right to dictate not only what work results are expected but also how the work is done prescribing detailed procedures, methods, and timing of work performance. This criterion functionally works for industrial-era employment but proves deeply problematic when applied to digital platform work where algorithmic management mechanisms replace human supervision.

Freelancers in the gig economy operate in fundamentally different structural contexts that undermining the applicability of traditional triadic criteria. The platform architecture permits workers to exercise substantial autonomy in deciding when to work, which projects to accept, and how to accomplish tasks characteristics that are traditionally associated with independent contractor status. Simultaneously, however, platforms exercise pervasive control through algorithmic mechanisms that are often more comprehensive and invasive than traditional managerial oversight: algorithms determine price unilaterally, allocate tasks automatically based on proprietary criteria, monitor performance in real-time through continuous data collection, impose penalties automatically for perceived failures, and can terminate access to work opportunities through account deactivation without meaningful due process or opportunity for workers to contest decisions. This phenomenon scholars term as "algorithmic management" or "algorithmic control" form of labor control that is mediated through software systems and data analytics rather than human supervisors, yet functionally similar to traditional managerial authority in its coercive capacity. The platform classifies workers as "independent contractors" or "business partners" exploits this ambiguity, claiming that the absence of traditional supervisory direction exempts them from employer responsibilities despite exercising substantial control through algorithmic means.

The implications of this misclassification extend far beyond semantic or technical legal distinctions affecting fundamentally what protections workers can access. Indonesian law mandates that "workers" (employees) are entitled to comprehensive protections: minimum wage that ensures living standards, overtime compensation, paid leave, protection against arbitrary termination, access to collective bargaining, and mandatory social insurance coverage (BPJS Ketenagakerjaan covering work accident, old age, death). Conversely, "independent contractors" or "business partners" presumptively exempt from these protections are responsible for self-funding social protections, bearing the full risk of income volatility, and lacking the legal right to collective bargaining or dispute resolution mechanisms provided to employees. Empirical research compiled from multiple Indonesian research institutes and worker advocacy organizations shows that freelancers routinely experience problematic practices precisely because of misclassification: wage theft occurs when platforms unilaterally withhold payments as "dispute resolution" mechanisms lacking transparency or meaningful appeal processes; payment delays of 30-60 days occurring without interest or explanation; absence of income guarantees despite work completion; inability to form unions or collectively negotiate rates; vulnerability to sudden account deactivation without warning or explanation; and total absence from social insurance coverage which forces workers to personally finance health care, disability insurance, and retirement savings. This situation creates a class of effectively unprotected workers who are legally classified as independent operators despite being economically dependent on access platforms for income generation.

Compensation Management: Cost Externalization and Distributive Injustice

The compensation structure analysis of digital workers reveals a systematic pattern of cost externalization where operational expenses and risk bearings that are historically borne by employers are shifted to individual workers, creating substantial hidden costs that are not reflected in stated payment amounts. In conventional employment relationships, employers provide not only wages but also workplace infrastructure that includes office space, utilities, technology equipment, internet connectivity, and facility maintenance—costs that are integrated into operational budgets. Additionally, employers bear social protection costs—mandating contributions to health insurance, disability insurance, workers compensation, unemployment insurance, and retirement schemes. When workers transition from conventional employment to digital platform work, formal company provision of these components ceases, yet actual necessity for accessing them doesn't disappear—necessitating that workers personally acquire and finance these components.

For platform freelancers, the cost structure represents a substantial portion of gross income. Workers must purchase and maintain personal computing devices (laptops, smartphones), with replacement costs occurring every 3-5 years averaging Rp 8-15 million; continuous internet connectivity through home broadband or mobile data plans, costing IDR 300,000-500,000 monthly; dedicated workspace in a home or coworking facility, costing IDR 500,000-2,000,000 monthly depending on location; and electricity for powering devices and workspaces, costing Rp 200,000-400,000 monthly. In addition to operating costs, freelancers must self-finance social protections: health insurance through BPJS Kesehatan Mandiri costing approximately Rp 400,000 monthly; voluntary retirement savings contributions from mandiri (BPJS Ketenagakerjaan classes 1 requiring Rp 100,000 monthly); disability and life insurance from private providers costing IDR 200,000-300,000 monthly; and maintaining emergency reserves for income gap periods when work is unavailable. Mathematical calculation shows that the total monthly costs for single freelancers range from IDR 2.1 million to IDR 4.2 million representing 25-40% of the median freelancer income of IDR 8-10 million monthly. This phenomenon creates what economists call "hidden precarity"—a situation in which nominal income appears adequate but real income after accounting for externalized costs falls substantially below living wage benchmarks established for maintaining a dignified standard of living.

The impact of systematic cost externalization becomes particularly visible when examining comparative compensation models. Conventional employee earning similar nominal amount as freelancer (Rp 8-10 million monthly) typically receives approximately Rp 3-4 million in non-monetary benefits (employer-provided health insurance, retirement contributions, paid leave value, facility access), resulting in a total compensation package of Rp 11-14 million. Freelancers receiving IDR 8-10 million nominal income but bearing IDR 2.1-4.2 million in personal operational costs effectively receive real compensation of only IDR 4-6 million—representing a 40-50% reduction compared to nominally equivalent employee positions. This injustice is intensified by asymmetric risk distribution: conventional employees are protected from income volatility through guaranteed minimum monthly payment, income continuation during illness or disability through sick leave benefits, and income replacement in case of job loss through severance provisions and unemployment insurance. Conversely, freelancers entirely bear income risk—experiencing substantial income volatility (averaging 40-60% month-to-month variation in research samples), no compensation for non-work periods whether due to illness, personal emergency, or market downturn, and no income replacement mechanism creating financial catastrophe when work is unavailable for extended periods.

Organizational Justice Theory conceptualizes situations like these as involving severe distributive injustice a situation where the allocation of organizational resources, rewards, and burdens is perceived as unfair based on a comparison of inputs (contributions) versus outcomes (rewards). When freelancers contribute equivalent effort, time, and skill as conventional employees but receive substantially lower total compensation and bear disproportionate costs and risks, distributive justice principles are considered violated—creating what research identifies as significant psychological and motivational consequences. Beyond individual-level effects, systematic distributive injustice creates macro-level economic concerns: workers forced into low real income necessarily constrain consumption, reducing domestic aggregate demand which is important for economic growth; precarious workers accumulate insufficient retirement savings, creating future burden upon government social assistance systems; and health impacts of chronic stress associated with income insecurity create long-term public health burdens through increased disease prevalence requiring costly treatment interventions.

Work Intensification and Right to Disconnect for Remote Workers

Remote workers are distinct from gig economy freelancers in maintaining formal employee status with single employers facing qualitatively different but equally serious work-related challenges that are centered upon breakdown of temporal and spatial boundaries separating work from personal life. In conventional office-based employment, physical separation from the workplace provides a natural boundary: workers leaving office space with the expectation that work demands terminate until subsequent day or scheduled return. Work communication channels are historically bounded by office hours, with emergency communications outside formal hours exceptional and recognized as extraordinary demands. Digital remote work infrastructure eliminates traditional spatial boundaries when employees work from home or arbitrary locations, and simultaneously creates expectations for constant availability that blurring work-life separation. Research from multiple occupational psychology studies found that remote workers experience substantially extended working hours: empirical studies have found that remote workers work an average of 2-3 additional hours per day beyond contracted hours (typically 8 hours), with additional work occurring before official shift start time, after shift end time, and during mealtimes or personal breaks. This extension is driven by a combination of factors: technological affordance of always-on connectivity enabling asynchronous communication that creates expectations for rapid response; cultural normalization of working during off-hours as demonstrating commitment and work ethic; and poorly managed manager expectations in remote contexts leading to increased monitoring and pressure for visibility.

This work intensification has documented negative consequences for worker well-being. Occupational health research consistently identifies correlations between extended working hours and elevated rates from: work-related stress and burnout (prevalence rates 35-45% higher in high-hour remote work versus office-based equivalent); anxiety and depression (diagnosed rates 25-30% higher); sleep disturbances and insomnia; cardiovascular health problems including hypertension; and family relationship conflicts arising from reduced time for personal relationships and household responsibilities. Particularly concerning is the phenomenon termed "telepressure" psychological pressure to respond immediately to work-related communications that research indicates correlates with stress levels, reduced well-being, and impaired work-life balance. Unlike physical office contexts where workers can visually see colleagues taking breaks or leaving for day, remote contexts obscure work-rest patterns, creating competition wherein visible continuous connectivity signals superior commitment, incentivizing workers to exceeding healthy boundaries. Additionally, blurred home/work boundaries create what occupational health researchers' term "boundary transgression" involuntary blending of work responsibilities with family space, creating what some describe as the "colonization" of private life by work demands.

Indonesian labor law recognizes the right to rest and recovery, with Article 79 of Law Number 13 of 2003 jo. Government Regulation Number 35 of 2021 establishing maximum working hour limits (40 hours/week in regular circumstances, maximum 6 hours overtime daily and 14 hours weekly possible but requiring "agreement" between parties). Theoretically, these regulations should protect remote workers from excessive hour demands—but practical enforcement proves highly problematic. Overtime hour calculation proves nearly impossible in remote contexts: absent clear temporal boundaries of office departure, difficult to define precisely when work ends for overtime calculation purposes. Monitoring mechanisms designed for conventional workplaces (timeclock records, supervisor observation, payroll hour tracking) prove inadequate for remote work contexts where hours are literally invisible unless workers voluntarily report. Research findings show that 74-82% of remote workers' overtime hours remain unrecorded in official company systems—creating a situation where workers actually work substantially beyond legal maximums but company compensation systems are not registering violations. When overtime goes uncompensated, situation represents clear statutory violation but proves nearly unenforceable when workers are hesitant to formally claim violations, fearing retaliation through negative performance evaluations or employment termination.

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