



Proportional And Equity Work Agreements In The Gig Economy Era

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Abstract. This study aims to determine the impact of the Gig Economy by connecting 204.7 million Indonesians in early 2022 with the internet on Gig workers in the perspective of Labor law. The regularity and harmonization of work relations regulated in Law Number 13 of 2003 concerning Manpower in Indonesia has regulated all minimum elements in work relations with the purpose to protect parties bound in work relations. The research question asked in this research is how to arrange work agreements that are proportional and fair in the 5.0 era. The research method used is normative juridical by using statutory, concept and case approaches. The legal material analysis technique used is analytical descriptive juridical. From the results of the research conducted, it was found that the change from the conventional economic system to an online system had an impact on the emergence of legal relations carried out online, including work relations. As a form of regulation of employment relations for Gig Workers, different legal provisions are needed, formulation of work agreements that take into account legal rights, obligations and responsibilities for companies and workers who work independently (Gig Workers) as a foundation that reflects balance (proportionality) and protection for parties as a form of justice. It is concluded that the impact of the Gig economy due to digital transformation creates Gig Workers who should be bound in a work agreement that comprehensively regulates rights, obligations, time, work results and legal responsibilities..

Keywords: Independent worker, work agreement, Gig Economy.

1 Introduction

According to the data at the beginning of 2022, there are at least 204.7 million people in Indonesia who are connected to the internet, meaning that 73.7% of Indonesia's population has used internet facilities. The internet is not only a tool for communication, but the internet is also used as a tool for building the economy through various fields, both real and service segments. The use of the internet has succeeded in transforming people's ways of carrying out productive activities that are oriented to market needs. With a smartphone, people can already carry out various activities to supplement their usual income. This condition then becomes the embodiment of the Gig Economy. There are many versions of the Gig Economy, but basically the gig

economy is a work ecosystem that gives everyone the possibility to work independently regarding work time and place of work. The gig economy offers a variety of new opportunities for the labor market, not limited to job levels from blue collar to white collar. The impact of the Gig Economy is what gives rise to Gig Workers.

The gig economy with its Gig Workers is estimated to have generated the equivalent of 246 billion dollars by 2021. Freelance-based design and technology work is becoming a popular job. According to research results published by Payoneer, here are some gig workers that have emerged in the era of the global gig economy.

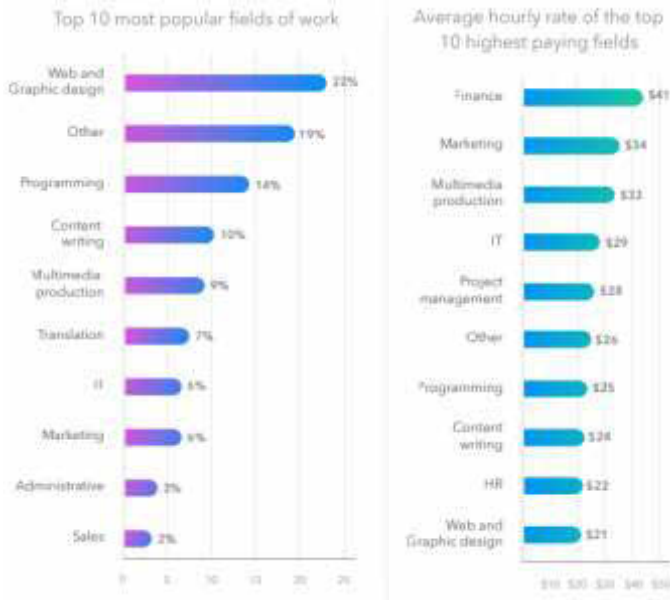


Fig. 1. The most popular fields are not the ones providing the highest pay

Based on BRodmin data, the contribution of Gig Workers to the growth of the global Gig Economy is projected to reach \$17.4 in 2023, from the achievement in 2022 which reached \$350 billion. The results of the Gig Worker survey show that 79% of respondents who work independently say they are happier than their previous job.

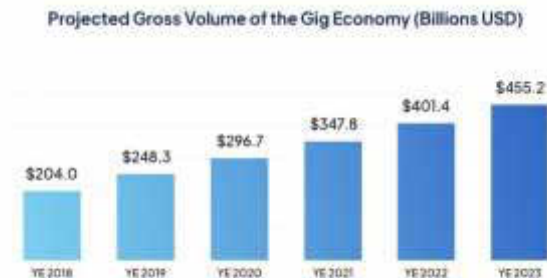


Fig. 2. Projected gross volume of the gig economy

Gig economy statistical indicators can be seen in the emergence of companies that are more interested in optimizing the presence of professional workers to increase their productivity. While these gig economy statistics show how interested companies and professionals are in leveraging them, experts believe the never-before-seen number of gig workers could trigger burnout in its workforce, which could lead to a drop in hourly pay if clients prefer gig workers. The quote is lower.

In the future, it looks like there will be more people participating in economic development by becoming gig workers. Interestingly, gig workers are administratively classified as informal workers with no full involvement with the company and a steady income. Of course this will present challenges as well as new opportunities for various industries. Gig Workers have a way of working with a contract system, but it is not permanent for a period after one contract is completed, the worker will move on to another task. Gig Workers are indirectly controlled by Third Parties.

The increase in the number of Gig Workers is supported by the increase in on demand workers or workers ready to work which can now be ordered online. Forbes magazine predicts that in 2030, the millennial generation will not feel comfortable working with models leaving at 08 in the morning to work and 17 o'clock going home. Such a pattern of working capital will be considered old-fashioned and boring for the next 10 years.

Changes in the habits of companies recruiting workers must of course be accompanied by an ecosystem or legal instruments that unite internal companies and gig workers. For freelancers, it will be easy for them to work wherever and whenever flexibly, but for those who lack skills, it will certainly be difficult to find work. Based on the background mentioned above, the research that is important to be appointed is on what are the work agreements made by Gig Workers with Entrepreneurs that can reflect proportionality and be fair to all parties.

2 Research Methods

The statute approach is carried out by examining all laws or regulations that are related to the legal issues being discussed. This statutory approach is used because this research focuses on studying the norms in a rule of law, especially those related to employment. While the research method chosen and used in this study is normative juridical. Besides that, also using a conceptual approach (conceptual approach) the author also provides an overview and complements with views and doctrines in the science of law, it is hoped that this will give birth to notions, legal concepts and legal principles that are relevant to the issues raised or faced. This qualitative approach looks more at the meaning of substantive issues concerning values, principles and applicable legal norms related to employment issues.

Normative juridical research was chosen to put more emphasis on the use of primary legal materials that have binding powers that are authoritative. Primary legal material consisting of the applicable laws and regulations along with their derivatives. Research originating from primary legal materials also does not leave secondary legal materials for additional legal materials which this research hopes will be more complete. Tertiary

legal materials are also not left behind to complete and make this research more comprehensive. As for tertiary legal materials, legal materials provide instructions from primary legal materials and secondary legal materials in the form of general dictionaries, legal dictionaries, large Indonesian dictionary and English dictionary. The analysis used in this study is descriptive qualitative analysis, namely conducting an analysis by describing or explaining existing regulations related to the problem discussed, namely the impact of changes in the concept of work for work relations, so that a conclusion can be drawn.

3 Result And Discussion

Based on the basic principle of thought that is used to determine an action as an ordinary action or legal action is whether or not there is a legal relationship which then gives rise to legal consequences, whether originating from an agreement and or originating from a law as referred to in the provisions of Article 1233 BW which finally there gave rise to an engagement. The discussion in subsequent articles which concretely explains agreements and engagements that arise due to law, has implications for binding legal consequences. The legal relationship arising from the engagement will bring legal consequences for the parties. Based on this, the author deems it necessary to discuss in the field of labor law the model of the legal relationship that occurs and includes the impact of changes in work patterns on special employment agreements (different from other general agreements) or better known as the *sui generis contractus*.

3.1 Employment Relations

3.1.1 Work Relations in the perspective of Law Number 13 of 2003 concerning Manpower.

The definition of an employment relationship as the relationship between the entrepreneur and the worker/laborer is based on a work agreement which has the following elements: work, wages and instructions. The subjects in the employment relationship are employers and workers. Entrepreneurs are defined as: a) natural persons, associations or legal entities that run a company owned by themselves; b) individuals, partnerships or legal entities that independently run a company that does not belong to them; and c) individuals, partnerships or legal entities located in Indonesia representing companies as referred to in letters a and b that are domiciled outside the territory of Indonesia. While workers are defined as everyone who works by receiving wages or other forms of compensation.

The employment relationship must be seen as a relationship based on the will of the parties by designating the position of the two parties based on the rights and obligations of workers towards employers and the rights and obligations of employers towards workers, the embodiment of the will of the parties is formulated in the form of a work agreement. The work agreement itself is an agreement between the worker/laborer and the employer or employer which contains the terms of work, the rights and obligations of the parties. The form of the agreement can be made in writing or not written/oral.

This exchange of rights and obligations must be carried out in a balanced way to reflect justice and legal protection. It is hoped that the existence of the Labor Law can become a positive instrument as a preventive measure for all parties who have a direct interest in work agreements, as stated by Prof. Sadjipto, who defines legal protection in two preventive and repressive categories.

3.1.2 Work agreements as the basis of employment relations.

As the main pillar and as the initial foothold of the employment relationship, an understanding of the Employment Agreement is indispensable. Work agreements must be made on the basis of: a) agreement of both parties; b) ability or ability to carry out legal actions; c) the existence of the agreed upon work, and d) the agreed upon work does not conflict with public order, morality and regulations in force. If the work agreement above is made and contradicts the provisions referred to in a and b, then the work agreement is declared to violate subjective legal requirements and can be canceled. Meanwhile, if it conflicts with the provisions in letters c and d, then the work agreement is null and void because it does not fulfill the objective of legal requirements for making the agreement as stipulated in article 1320 BW.

The Manpower Law regulates the materials that must be regulated in the work agreement as stipulated in Article 54 paragraph (1), the work agreement contains at least: a) the name, address of the company and type of business; b) name, gender, age and address of the worker/laborer; d) position or type of work; d) place of work; e) the amount of wages and payments thereof; f) working conditions which contain the rights and obligations of employers and workers/laborers; g) the start and validity period of the work agreement; h) the place and date the work agreement was made and i) the signatures of the parties to the work agreement. The material in the work agreement must not conflict with company regulations, collective labor agreements and applicable laws and regulations.

3.1.3 Employment Agreement Framework.

The work agreement is an agreement between the employer and the worker, so the work agreement cannot be retracted or changed, except with the agreement of the parties. Work agreements can end when : a) the worker dies, b) the term of the work agreement ends, c) there is a court decision and/or decision from an Industrial Relations Settlement Institution that has permanent legal force or d) there are certain circumstances or events included in the agreement which can lead to the termination of the employment relationship. Conversely, work agreements do not end due to the death of the entrepreneur or the transfer of company rights due to a legal event (sale, inheritance or grant).

Work agreements themselves consist of 2 types, namely work agreements made for a certain time (PKWT) or for an unspecified time (PKWTT). It is called PKWT because the work agreement made is based on a timeframe or the completion of a particular job. PKWT can only be made for certain jobs, namely : a) work that is one time or temporary in nature, b) work that is estimated to be completed in a short time and a maximum of 3 (three) years, c) work that is seasonal in nature, or d) work related to certain products,

new activities or additional products that are still in trial or exploration. Work agreements for a certain time cannot be held for permanent jobs, this work agreement can be extended and renewed.

3.2 The legal impact of changes in the employment relationship system

It turns out that it's not only because of the gig economy that has caused a change in the work relations system in Indonesia, the condition of Covid-19 with the issuance of the Decree of the Minister of Manpower Number 104 of 2021 as outlined in the Presidential Decree (Keppres) of the Republic of Indonesia Number 12 of 2020 regarding the establishment of Non-Natural Disasters CORONA VIRUS DISEASE 2019 (Covid-19) as a National Disaster is a strong starting point related to changes in the work relations system.

There are at least 4 (four) points stated in the first point which reads "declare non-natural disasters caused by the spread of Corona Virus Disease 2019 (COVID-19) as a national disaster". The impact is that many companies experience financial difficulties, some employers take policies that are detrimental to workers/laborers, such as the policy of workers being furloughed, but not given wages (unpaid leave), changes in the amount of wages, laying off workers and ending in termination of employment (PHK). The impact will certainly increase the number of unemployed which can cause social unrest. Employment relations that have ended for workers causing workers to lose their livelihood is the beginning of unemployment with all its consequences, so to guarantee peace and certainty of workers' lives there should be no layoffs.

The guidelines specifically aim to: 1) provide guidelines for adjusting the work system in the employment relationship between employers and workers/laborers to prevent and minimize the spread and reduce the risk of Covid-19 in companies or workplaces, 2) provide guidelines in implementing remuneration for companies that have experienced the effects of the covid-19 pandemic and the imposition of restrictions on business activities in order to continue to fulfill the rights of workers/laborers, 3) encourage employers and workers/laborers to prioritize dialogue in resolving work relations issues so as to prevent termination of employment.

This guide covers:

1. Implementing a work from home (WFH) system and working in an office/workplace or WFO, in this system workers may do work either through the WFH or WFO system in accordance with orders issued by employers and still receive wages. The implementation of WFH and WFO can be carried out by considering a proportional system (for example 50% WFH and 50% WFO) or by using a system of level of need taking into account government regulations and or possibly by reducing working hours.
2. Implementation of wages and other worker/laborer rights, the application of WFA and WFO is determined not to mean that workers do not receive wages, but workers will still receive wages, and for employers who are directly affected due to Covid-19 can make wage adjustments based on an agreement between employers and workers/laborers and is carried out in a fair and proportional manner while taking

into account the survival of workers/laborers and business continuity. Wages must also continue to be given to workers who are laid off, if the employer is unable to afford it then the employer and worker must make an agreement which is the result of a dialogue that is carried out in deliberation based on kinship, transparency and good faith. This agreement must be made in writing at least contains; amount of wages, method of payment and time period.

3. Measuring to prevent termination of employment. The government seeks dialogue to find the best solution in maintaining the continuity of business and work. Termination of employment is the last step that can be taken after going through various efforts. Alternatives that can be taken include: a) adjusting the workplace, b) adjusting working hours, c) temporarily laying off workers/laborers temporarily, d) making adjustments to the amount and method of payment of workers/laborers' wages, e) reducing facilities and/or or gradual worker/laborer benefits, f) not extending the term of the work agreement for a certain time, g) pension for workers/laborers who meet the requirements. All alternative steps must be carried out in dialogue to get an agreement. Finally, if layoffs cannot be avoided, then the settlement will still be through statutory provisions.

The fact is that the Covid-19 pandemic has become a real trigger for the work pattern of Gig Workers in Indonesia, which is something that cannot be avoided. In addition to the conditions created by the impact of Covid-19, the need for professional work is not directly tied to time and work location, but is tied to work results. A working relationship that is based on a proportional employment agreement will help protect the parties bound by the agreement from unprofessional actions committed by one of the parties and this will create justice.

Gig Economy, New Normal has real implications for the emergence of Gig Workers whose work contracts must be formulated differently compared to regular work contracts. The principles of contractual proportionality, integrity, professional work, results-oriented work, not tied to 1 (one) employer and compensation in the form of wages (remuneration) above the minimum wage standard accompanied by legal consequence (legal consequence) will reflect the values of justice in the parties to the agreement.

Article 50 of Law Number 13 of 2003 concerning Manpower specifically regulates work relations. Work relations between employers and workers/laborers occur because of a work agreement. Imam Soepomo defines the working relationship as a relationship that exists between workers and an employer. In practice, the working relationship is no longer one employer and one worker, but one worker works for several employers/companies. In fact, it is no longer oriented towards a top-down and top-down relationship, but rather a sub-ordination relationship. These practices can be found in entrepreneurs who are members of a particular business group. Such a model can be seen in companies that have business affiliations spread across different entities. This may occur in the form of: 1) Workers are transferred from one company to a different company with a legal entity within the same business group or what is known as a mutation; 2) workers do work for several companies that are members of a business group or commonly known as job sharing; and 3) workers assigned temporarily in

companies that are members of a business group or commonly known as job assignments.

Not only that, in work practice there is also a work model in which time rules are no longer part of the work agreement, work time rules are adjusted to existing conditions, the needs of the employer and the readiness of the workers. Even with the advent of the Indonesian National Qualifications Framework (KKNI) which provides an illustration of a framework for evaluating the qualifications of Indonesian human resources that juxtaposes, equalizes and integrates the education sector with the training sector and work experience in a work capability recognition scheme that is adapted to the structure of various work sectors. The IQF that has been set is expected to represent the embodiment of the quality and identity of the Indonesian nation in relation to the education system, the national job training system and the national learning outcomes evaluation system that produces quality and productive national human resources. The impact of following the IQF is the emergence of the Indonesian National Work Competency Standards (SKKNI) which is a formulation of work capability that includes aspects of knowledge, skills and/or expertise and work attitudes that are relevant to the implementation of the duties and conditions of the stipulated positions. SKKNI is developed by ensuring the suitability of needs in the workplace so that SKKNI can be used to design and implement the results of training in the world of work. It is hoped that this will become the basis for appreciation for every worker who has contributed his energy and thoughts to the company, thus increasing the national productivity level. The SKKNI stipulated by the Minister of Manpower must still have an impact on shifting work patterns, patterns of authority distribution and patterns of accountability before the law.

The gig worker era shifted more rapidly when the Covid-19 Pandemic was declared a national disaster. A statement from the government that explicitly stipulates that the Covid 19 outbreak is a national disaster. It is stipulated in the Presidential Decree (Keppres) of the Republic of Indonesia Number 12 of 2020 concerning the determination of Non-Natural Disasters with the spread of CORONA VIRUS DISEASE 2019 (Covid-19) as a National Disaster. There are at least 4 (four) points stated in the first point which reads "declare non-natural disasters caused by the spread of Corona Virus Disease 2019 (COVID-19) as a national disaster". There are many new regulations as an effort to deal with disasters and including in the field of Manpower, including the issuance of Minister of Manpower Decree Number 104 of 2021 concerning Guidelines for Implementing Work Relations during the Corona Virus Disease 2019 (Covid-19) Pandemic Period for legal relations between employers and worker. Covid, which has been running for more than 2.5 years, has created a new work climate and in fact has not been able to recover as before.

On the other side, Indonesian labor regulations are known to be rigid, at least from the business perspective. This rigidity is making businesses do everything possible to avoid being bound by employment relationship as the costs are considered too high, and thus, classifying its workers into partnership model is a 'solution' to this issue. To make things worse, the Indonesian government tends to believe in the notion of rigidity of labor law, hence trying to loosen it up through the revision of the Manpower Law (Law Number 13 of 2003) in the Job Creation Law (Law Number 11 of 2020). The

reduced state control over labor law in Job Creation Law can be clearly seen in many provisions, from the term of the fixed-term contract to paid leave. The effort to deregulate the labor law through Job Creation Law will lead to a more flexible labor market, then make labor more precarious (Pulignano, 2019). In this labor market condition, precariousness becomes the alternative to unemployment, which make more people willing to accept any available job, even with reduced benefit (Rubery et al., 2018), such as the job with a partnership model that offers no employment protection whatsoever.

So that the work agreement that is made for gig workers should at least contain the standard terms of the work agreement plus the terms of work results and the resulting legal consequences. Described as the following table:

Table 1. the substance of the Gig Worker Agreement

Description	Reff	Order	Wage	Work	Specific result	Legal Consequence
Employment	Standard Agreement	√	√	√	x	x
Gig Worker	Standard Agreement +	√	√	√	√	√

The additional the above 2 (two) material and work agreement substance is hoped to make balance on the suitable work agreement arrangement, and as a result the work productivity can increase professionalism and responsibility.

4 Conclusion

It can be concluded that the emergence of the Gig Economy has had an impact on the emergence of Gig Workers and the Covid-19 Pandemic has become a trigger for accelerating changes in the concept that occurs in employment contracts as the main basis for a working relationship between employers and workers. The concept of a work agreement which is regulated in detail in Law no. 13 of 2003 concerning Manpower, it is certain that it must undergo a shift and be returned to objective and proportional work agreements which are based on the general provisions of the agreement, namely the provisions on freedom of contract, the principle of good faith and the principle of *pacta sunt servanda* contained in articles 1320 BW and 1338 BW without having to ignoring the provisions of article 1339 BW. The formulation of a standard work agreement without being bound by terms of time and place of work, but bound by work results means that work agreements must also be accompanied by legal responsibility for work results along with legal consequences that arise (legal consequence), to be agreed upon by the parties as a form implementation of work agreements that are proportional and fair. Concretely, the parties bound by the Gig Work Agreement must realize that the legal relationship is based on a professional legal relationship that is oriented towards a balance of exchange of rights and obligations between parties and all must be carried out based on professional values to obtain the intended end result.

4.1 A Subsection Sample

Please note that the first paragraph of a section or subsection is not indented. The first paragraphs that follows a table, figure, equation etc. does not have an indent, either.

Subsequent paragraphs, however, are indented.

Sample Heading (Third Level). Only two levels of headings should be numbered. Lower level headings remain unnumbered; they are formatted as run-in headings.

Sample Heading (Forth Level). The contribution should contain no more than four levels of headings. The following Table 2 gives a summary of all heading levels.

Table 2. Table captions should be placed above the tables.

Heading level	Example	Font size and style
Title (centered)	Lecture Notes	14 point, bold
1 st -level heading	1 Introduction	12 point, bold
2 nd -level heading	2.1 Printing Area	10 point, bold
3 rd -level heading	Run-in Heading in Bold. Text follows	10 point, bold
4 th -level heading	<i>Lowest Level Heading.</i> Text follows	10 point, italic

Displayed equations are centered and set on a separate line.

$$x + y = z \tag{1}$$

Please try to avoid rasterized images for line-art diagrams and schemas. Whenever possible, use vector graphics instead (see Fig. 3).

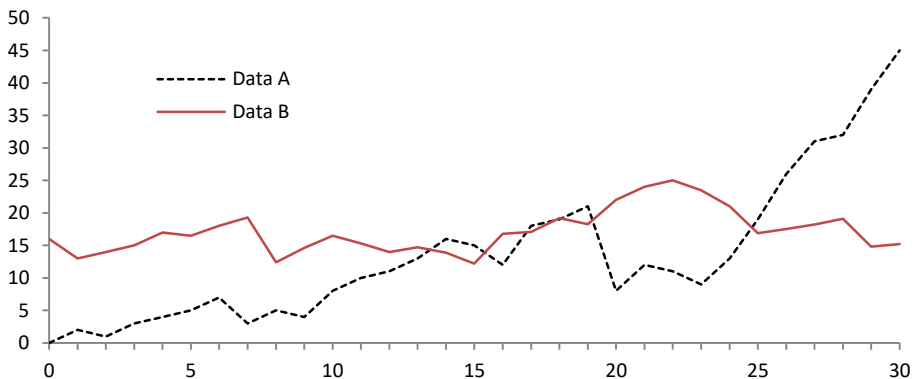


Fig. 3. A figure caption is always placed below the illustration. Short captions are centered, while long ones are justified. The macro button chooses the correct format automatically.

For citations of references, we prefer the use of square brackets and consecutive numbers. Citations using labels or the author/year convention are also acceptable. The following bibliography provides a sample reference list with entries for journal articles [1], an LNCS chapter [2], a book [3], proceedings without editors [4], as well as a URL [5].

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