

## ***Digital Employment Contracts and Legal Protection for Marketing Freelancers in Indonesia***

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### ***Abstract***

*The rapid expansion of Indonesia's digital economy has introduced new contractual models that blur the legal distinction between employees and independent freelancers, creating uncertainty in the enforcement of rights and obligations. This study examines the legal construction of digital employment contracts between companies and digital marketing freelancers and analyzes the adequacy of legal protection mechanisms under Indonesian civil law. Employing a normative juridical approach with statutory and conceptual analysis, this research evaluates the Civil Code (particularly Article 1320), Law No. 11/2008 on Electronic Information and Transactions, Law No. 6/2023 on Job Creation, Law No. 27/2022 on Personal Data Protection, and Law No. 28/2014 on Copyright. The study finds that the validity and enforceability of digital employment contracts depend on compliance with Article 1320 of the Civil Code and Law No. 11/2008, supported by fair dispute resolution and data protection clauses. However, legal protection for digital marketing freelancers remains fragmented, lacking comprehensive integration of employment law, intellectual property rights, and social security provisions. This study contributes by integrating multiple legal dimensions of employment law, copyright, and data protection into a coherent analytical framework for freelancer protection, offering a foundation for developing adaptive Digital Labor Law in Indonesia's platform-based economy.*

**Keywords:** *Digital Marketing; Employment Contracts; Freelancers; Legal Protection*

### **1. INTRODUCTION**

The expansion of Indonesia's digital economy has introduced new contractual models that blur the legal distinction between employees and independent freelancers, creating uncertainty in the enforcement of rights and obligations. The emergence of the gig economy, driven by technological advances and internet accessibility, has fundamentally transformed traditional employment relationships. Digital marketing freelancers—professionals engaged in social media strategy, search optimization, creative design, digital promotions, and performance analytics increasingly operate independently across different locations and time zones, working on short-term projects through digital platforms or direct agreements without permanent employment status.<sup>1</sup>

In Indonesia, freelance work in digital marketing is becoming increasingly popular, particularly among Generation Z, who prioritize flexibility and independent work. However, despite significant opportunities, platform-based digital work presents unstable working conditions and inadequate social security. Workers face income uncertainty, a lack of labor rights protection, and skills gaps in rapidly evolving technological fields. The uncertainty of employment status represents a fundamental legal issue, as Pratiwi, Pujiastuti, and Arifin

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<sup>1</sup> Nina Mia Aristi and Ahmad Raf'ie Pratama, "Peran Freelance Marketplace Dan Media Sosial Dalam Online Gig Economy Jasa Professional," *Techno.Com* 20, no. 1 (2021): 1–12, <https://doi.org/https://doi.org/10.33633/tc.v20i1.4261>.

demonstrate that "the form of employment agreement has direct implications for workers' legal protection".<sup>2</sup>

This study employs the theory of legal protection developed by Satjipto Rahardjo, which emphasizes the state's obligation to provide both preventive and repressive protection for legal subjects' rights. Additionally, Gustav Radbruch's concept of legal certainty (*rechtssicherheit*) serves as a theoretical foundation for analyzing the adequacy of existing regulations in providing predictable and enforceable legal frameworks for digital employment relationships.

The tension between legal norms and practice is evident: while Indonesian civil law and the Electronic Information and Transactions Law recognize electronic contracts, the implementation of protection for digital marketing freelancers remains ineffective due to the absence of social protection instruments and wage certainty mechanisms. The current regulatory framework, primarily designed for conventional employment relationships, fails to accommodate the unique characteristics of project-based digital work, creating a normative gap with significant legal consequences for freelancer protection.

Previous literature has addressed legal safeguards for freelancers from multiple perspectives. Aristi and Pratama analyzed the role of freelance marketplaces and social media in the online gig economy, but focused primarily on platform dynamics without examining the legal aspects of digital work agreements comprehensively. Mahardika discussed legal protection for digital freelance workers, emphasizing the urgency of specific regulations, though the study remained general without examining the digital marketing sector's unique characteristics related to intellectual property rights and personal data. Muslim, Handayani, and Hadiyanto provided important perspectives on adapting agreement laws to digital technology and personal data protection, emphasizing harmonization between traditional contract law and digital-era protection requirements.<sup>3</sup>

Three critical limitations emerge from this literature review. First, no study has specifically analyzed the legal construction of digital work agreements between companies and digital marketing freelancers and their essential elements from a normative juridical perspective. Second, previous studies have not integrated various dimensions of legal protection relevant to digital marketing freelancers, including employment aspects, intellectual property rights, personal data protection, and legal certainty of electronic agreements into a comprehensive analytical framework. Third, research examining the effectiveness of existing regulations in providing real protection to freelancers working outside traditional employment schemes remains limited.

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<sup>2</sup> A S Pratiwi, E Pujiastuti, and Z Arifin, "Implikasi Bentuk Perjanjian Kerja Terhadap Perlindungan Hukum Bagi Pekerja Pada Usaha Mikro Dan Kecil," *Jurnal USM Law Review* 7, no. 3 (2024): 1897–1910, <https://doi.org/10.26623/julr.v7i3.11030>.

<sup>3</sup> Alwan Hadiyanto Muslim Muslim, Pristika Handayani, "Kerangka Hukum Perjanjian Yang Efektif Dan Aman Di Era Globalisasi: Adaptasi Terhadap Teknologi Digital Dan Perlindungan Data Pribadi," *Jurnal USM Law Review*, 2024, <https://doi.org/https://doi.org/10.26623/julr.v8i2.12013>.

In practice, many digital agreements between companies and digital marketing freelancers lack adequate legal protection elements. Critical aspects often overlooked include clauses on service scope, clear rights and obligations, fair dispute resolution mechanisms, payment and performance guarantees, consumer personal data protection, and intellectual property rights arrangements for creative work such as social media content, advertising designs, and digital campaign materials.<sup>4</sup>

From a labor law perspective, despite several legal bases, specific protections for freelancers remain inadequate. Law No. 6/2023 on Job Creation provides more structured juridical status for freelance workers, particularly within fixed-term employment frameworks. However, many digital marketing freelancers remain unprotected as their flexible, project-centered work does not align with conventional employment norms.<sup>5</sup>

This study addresses two pivotal research questions: (1) What is the appropriate legal construction for digital employment agreements between companies and digital marketing freelancers under Indonesian civil law and e-transaction regulations? (2) What legal protection mechanisms should accompany these agreements to ensure fairness, legal certainty, and balanced rights for all parties?

Through normative juridical analysis integrating statutory and conceptual approaches, this research aims to provide constructive insights for shaping inclusive digital contract models and reinforcing legal assurance for digital marketing freelancers in Indonesia. The study not only describes digital work phenomena but also analytically examines how Indonesian civil law (Civil Code, Electronic Information and Transactions Law, Personal Data Protection Law, Copyright Law, and Job Creation Law) can serve as the basis for freelancer legal protection.

## 2. METHOD

This research employs a normative juridical approach centered on evaluating existing positive legal standards, covering statutory enactments, essential legal principles, and established theoretical doctrines that guide legal reasoning and practice.<sup>6</sup> This approach is specifically chosen to examine legal norms and relevant legal theories concerning legal protection for digital freelancers, rather than merely describing general phenomena. The research addresses legal relationships between parties in digital-based employment contracts, requiring a systematic analysis of applicable legal provisions.<sup>7</sup>

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<sup>4</sup> Dona Budi Kharisma et al., "The Nature of Fairness in Contracts: An Electronic Contract Perspective," *Jurnal Hukum Novelty* 16, no. 1 (2025): 85–100, <https://doi.org/10.26555/jhn.v16i1.29650>.

<sup>5</sup> Haposan Sahala Raja Sinaga, Mega Gabriella Taruli, and Rr. Ani Wijayati, "Pengaturan Jenis Pekerjaan Dan Jangka Waktu Pekerja/Buruh Alih Daya Pasca Berlakunya Undang-Undang Nomor 6 Tahun 2023," *Hakim: Jurnal Ilmu Hukum Dan Sosial* 2, no. 2 (2024): 359–66, <https://doi.org/https://doi.org/10.51903/hakim.v2i2.1828>.

<sup>6</sup> D Rachmayani, "Perlindungan Hukum Untuk Pekerja Lepas: Menyikapi Tantangan Di Era Gig Economy," *Jurnal Pembaharuan Hukum*, 2024, <https://doi.org/https://doi.org/10.31949/jpl.v7i1.11866>.

<sup>7</sup> Ratih Damayanti Aura Anisah, "Perlindungan Hukum Bagi Pekerja Freelance: Analisis Regulasi, Tantangan, Dan Akses Jaminan Sosial Di Indonesia," *Media Hukum Indonesia (MHI)* 2, no. 4 (November 2024), <https://doi.org/https://doi.org/10.5281/zenodo.14241772>.

The research specification is descriptive analytical: descriptive in identifying existing legal norms and analytical in evaluating their adequacy in protecting freelance digital marketers.<sup>8</sup> This dual specification enables a comprehensive examination of both the substance of legal provisions and their practical application in digital work contexts.

The analysis draws on a structured body of legal materials. Primary materials include statutory instruments that regulate civil obligations, electronic information, employment relations, and intellectual property rights. Secondary materials encompass doctrinal writings, academic commentaries, and peer-reviewed legal scholarship addressing the evolution of contract law and labor regulation in digital contexts. Tertiary materials serve as conceptual support, ensuring precision in defining legal terms, interpreting doctrinal concepts, and positioning the study within established legal discourse.

Data collection is conducted through extensive doctrinal research, examining legal texts and scholarly works that critically engage with the digitalization of labor relations. The qualitative analysis comprises several interconnected methods. The normative conceptual analysis evaluates whether digital contract formations meet essential legal requirements such as consensualism, freedom of contract, and legal certainty, and how these principles function when applied to electronically mediated agreements. The comparative-interpretative analysis situates Indonesia within the broader international regulatory debate by assessing how other jurisdictions recognize electronic evidence and regulate digital labor arrangements. This comparison illuminates Indonesia's strengths and regulatory gaps in responding to technological disruptions in employment structures. The critical gap analysis identifies the absence of explicit statutory provisions governing electronic freelance contracts within employment law, thereby exposing potential legal vulnerabilities when contractual requirements are not satisfied within digital platforms. The law in action perspective further evaluates whether the protections available in written law are effectively implemented in practice, particularly within platform-based work environments where contractual enforcement often depends on the policies and algorithms of private digital intermediaries.

This methodological framework enables systematic dissection and contrast of juridical norms to discern alignment between doctrinal concepts and practical applications, thereby drawing substantive insights on legal forms and protection measures for digital freelancers.

### **3. RESULTS AND DISCUSSION**

#### **3.1 Legal Construction of Digital Employment Agreements**

Digital employment agreements between companies and digital marketing freelancers constitute legally binding electronic contracts that regulate rights, obligations, and

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<sup>8</sup> Faizin, "Digital Employment Contract Practices (Contentpreneur Mediapreneur) Media Industry in Indonesia," *Jurnal Hukum Ekonomi Dan Bisnis Islam*, 2024, <https://doi.org/10.33474/hukeno.v7i4.20802>.

responsibilities between parties.<sup>9</sup> Under Indonesian positive law, the validity of these contracts rests on two fundamental legal pillars: the Civil Code's general contract principles and specific electronic transaction regulations. Digital technology has reshaped traditional employment models, particularly influencing organizational practices in the digital marketing sector. Remote work, as noted by Nuriskia and Nugroho, brings challenges in supervision, working hours, and social security provision.<sup>10</sup> This situation is highly relevant to freelancers in the field of digital marketing who work without direct supervision and without fixed working hours, similar to the legal vulnerability experienced by migrant workers operating outside conventional jurisdictions.<sup>11</sup>

Article 1320 of the Civil Code stipulates four cumulative requirements for an agreement to be considered valid. First, the agreement must be based on the consent of the parties who bind themselves voluntarily. Second, the parties must have the legal capacity to enter into an agreement. These two conditions relate to the subjective validity of the agreement, which, if not met, can result in the agreement being voidable. In addition, the agreement must also have a clear and specific object and a cause that does not conflict with the law. These two elements relate to the objective validity of the agreement, so that if they are not met, the agreement becomes null and void from the outset.

Law Number 11 of 2008 concerning Electronic Information and Transactions, which has been amended by Law Number 19 of 2016, provides special recognition for electronic agreements. Article 5 paragraph (1) states that Electronic Information and/or Electronic Documents are legally valid evidence, while paragraph (2) emphasizes that Electronic Information and/or Electronic Documents, as referred to in paragraph (1), are an extension of legal evidence in accordance with the provisions of procedural law applicable in Indonesia. This legal recognition confirms that digital employment agreements have the same legal standing as written agreements, as long as they meet the four requirements for a valid agreement as stipulated in Article 1320 of the Civil Code.

In actual practice, digital employment agreements manifest in three principal forms, each with distinct legal characteristics and evidentiary value:

First, Digital Documents with Certified Electronic Signatures: These contracts, created in PDF or standard document formats, are executed through certified electronic signature service providers such as PrivyID, Mekari Sign, or DocuSign. Under Articles 11 and 12 of Law No. 11/2008, certified electronic signatures issued by registered Electronic Certification Providers (*Penyelenggara Sertifikasi Elektronik*) carry presumptive

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<sup>9</sup> Rahmad Satria and others, "Keabsahan Perjanjian Digital Dalam Transaksi Elektronik Berdasarkan Undang-Undang Informasi Dan Transaksi Elektronik," *Jurnal Kajian Sosial*, 2024, <https://doi.org/https://doi.org/10.56338/jks.v8i1.6708>.

<sup>10</sup> Centia Sabrina Nuriskia and Andriyanto Adhi Nugroho, "Perlindungan Hukum Pekerja Dalam Penerapan Sistem Remote Working Sebagai Pembaharuan Sistem Kerja," *Jurnal USM Law Review* 5, no. 2 (2022): 678–92, <https://doi.org/10.26623/julr.v5i2.5555>.

<sup>11</sup> M Junaidi and K Khikmah, "Perlindungan Hukum Dan Penempatan Pekerja Migran Indonesia Di Luar Negeri," *Jurnal USM Law Review* 7 (2024), <https://doi.org/10.26623/julr>.

authenticity and legal certainty equivalent to handwritten signatures. The certification system includes cryptographic verification, timestamp accuracy, and identity authentication, providing the highest level of legal protection for both parties.<sup>12</sup>

A comparative analysis reveals that Indonesia's recognition of electronic signatures aligns with international standards. Singapore's Electronic Transactions Act (Chapter 88) similarly recognizes secure electronic signatures with legal equivalence to handwritten signatures, while the EU's eIDAS Regulation establishes a tiered system of electronic signatures with qualified electronic signatures carrying the strongest legal presumption. Indonesia's framework, though not as technologically detailed as the EU system, provides adequate legal certainty for digital employment contexts.

Second, Platform-Based Agreements: Digital freelance platforms such as Jobstreet, Freelancer.com, Upwork, Projects.co.id, and Sribu.com facilitate agreement formation through "click-wrap" or "browse-wrap" mechanisms. When freelancers click "Accept" or "Agree" after reviewing terms and conditions, they manifest the consent required under Article 1320 (1) of the Civil Code. Despite their seemingly informal nature, these agreements constitute valid contracts provided all parties possess contractual capacity and the agreement concerns lawful objects.<sup>13</sup>

Platform-based agreements often integrate protective features including escrow payment systems, reputation management mechanisms, and internal dispute resolution facilities. These features, while not mandated by law, provide practical safeguards that supplement formal legal protection. Comparative studies of gig economy regulation in Malaysia and Singapore demonstrate similar platform-based protection mechanisms, though Indonesia's legal framework provides less comprehensive worker classification and protection standards.<sup>14</sup>

Third, Email and Digital Communication Agreements: Agreements concluded through official email or authenticated digital communications remain legally binding under Article 5 of Law No. 11/2008. The evidentiary value of such agreements depends on demonstrating: (1) authenticity of sender identity, (2) integrity of message content, and (3) accessibility of the electronic record. While less formal than certified signatures, email agreements suffice for establishing contractual relationships, provided they contain essential agreement elements and parties' clear manifestation of consent.

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<sup>12</sup> Nurjana Lahangatubun and Andi Mulyono, "Public Trust and the Legal Validity of Electronic Signatures in Indonesia," *Kyadiren Journal of Law and Policy Studies* 5, no. 1 (2025), <https://doi.org/https://doi.org/10.46924/jihk.v7i1.311>.

<sup>13</sup> Hera Alvina Satriawan et al., "Legality of Digital Contracts in Indonesian Positive Law Perspective," *Jurnal Ilmu Hukum Dan Dinamika Sosial* 6, no. 2 (2024): 45–58, <https://doi.org/https://dx.doi.org/10.58258/jihad.v3i1>.

<sup>14</sup> Sri Jaya Lesmana and Muhammad Mpu Samudra, "Legal Protection of Gig Economy Workers: A Comparative Study in Indonesia, Malaysia, and Singapore," *SASI* 31, no. 3 (2025): 201–18, <https://doi.org/https://doi.org/10.47268/sasi.v31i3.3006>.

To ensure legal certainty and proportional fairness, digital employment contracts must incorporate comprehensive essential clauses. The following analysis examines each element's legal foundation and practical implications:

First, party identification: Complete identification serves multiple legal functions. Under Article 1320(2), parties must possess legal capacity to enter into contracts. Comprehensive identification, including full legal names, identity documents, addresses, tax identification numbers, and for companies, authorized signatory details, enables verification of capacity and facilitates enforcement. The legal consequence of inadequate identification may render contracts voidable under Article 1330 if a party lacks capacity.

Second, scope of work: This clause operationalizes the "specific subject matter" requirement in Article 1320(3). For digital marketing freelancers, the scope must specify: service types (social media management, content creation, advertising campaigns, performance analytics), measurable work targets, platforms utilized, quality standards with objective criteria, and task limitations. Ambiguous scope provisions violate the certainty principle and may render contracts void for impossibility (Article 1320 jo. Article 1332). Detailed scope clauses provide preventive legal protection by minimizing interpretive disputes.

Third, duration and deadlines: Temporal elements must align with Government Regulation No. 35/2021 on Fixed-Term Employment Agreements. Article 10(3)-(4) specifies that if daily-based contract work exceeds certain durational thresholds, the relationship may automatically convert to permanent employment, fundamentally altering legal consequences, including severance obligations. Clear duration provisions prevent unintended employment status conversion.<sup>15</sup>

Fourth, remuneration and payment: Article 88 of Law No. 13/2003, as amended by Law No. 6/2023, establishes principles of fair and adequate compensation. While freelancers are not subject to minimum wage provisions applicable to permanent workers, remuneration clauses must specify: fee amount and calculation method, payment mechanisms (bank transfer, e-wallet), payment schedules, installment schemes, penalty provisions for delays or substandard performance, tax obligations, and operational cost allocations. Failure to pay agreed remuneration constitutes a breach under Articles 1243-1246 of the Civil Code, entitling the aggrieved party to damages.<sup>16</sup>

Fifth, intellectual property rights: This clause is critical for digital marketing work, which produces copyrightable creative content. Under Article 1(1) of Law No. 28/2014 on Copyright, copyright arises automatically upon creation or realization (declarative principle). Article 16(2) allows copyright transfer only through explicit written agreements.

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<sup>15</sup> Yudith Ilela, Adonia Ivonne Laturette, and Sarah Selfina Kuahaty, "Penerapan Sistem Perjanjian Kerja Waktu Tertentu Dalam Perspektif Hukum Positif Indonesia," *Pattimura Magister Law Review* 4, no. 2 (2024): 226–38, <https://doi.org/10.47268/pamali.v4i2.2144>.

<sup>16</sup> Arnis Setiani Isma, Sakka Pati, and Marwah Marwah, "Legal Protection for Workers for Late Payment of Wages: The Principles of Justice Perspective," *Al-'Adl* 15, no. 1 (2022): 31–41, <https://doi.org/10.31332/aladl.v15i1.2939>.

Therefore, digital employment contracts must clearly specify: (1) whether copyright remains with the freelancer-creator or transfers to the company, (2) the scope of permitted use if copyright transfers, (3) compensation for copyright transfer, and (4) moral rights preservation, including attribution. Absent clear provisions, copyright remains with the freelancer under Article 34, potentially creating post-contract disputes.<sup>17</sup>

Sixth, the provisions for contract termination are an important element that provides preventive and repressive protection for the parties. Based on civil law principles, a contract may terminate due to expiration of the term, completion of work, mutual agreement, breach, or force majeure. Unilateral termination without valid cause gives rise to damages as stipulated in Articles 1243 and 1246 of the Civil Code, including actual losses, lost profits, and incurred costs. Formulating clear termination clauses, including notice periods and compensation formulas, can reduce the risk of disputes and ensure proportional protection for both freelancers and companies.<sup>18</sup>

Seventh, electronic signatures and approval: Digital contracts must incorporate validated electronic signatures, accurate timestamps, and clear identity verification. Certified electronic signatures under Law No. 11/2008 carry presumptive validity, shifting the burden of proof to parties challenging authenticity. This procedural advantage provides significant evidentiary protection for freelancers in dispute resolution proceedings.<sup>19</sup>

Legal analysis shows that digital employment agreements are essentially valid and binding as long as they meet the requirements of Article 1320 of the Civil Code and the provisions on the validity of documents and electronic signatures in Articles 5 and 11 of the Electronic Information and Transactions Law. However, this formal legitimacy is not accompanied by normative clarity because Law 13/2003 and its derivative regulations, including Minister of Manpower Decree 100/2004, are still oriented towards conventional employment relationships and do not yet regulate the characteristics of digital work. The ambiguity in the classification between workers and independent contractors is further reinforced by the limitations of the three-element test (work, wages, orders) in Article 1(15) of the Manpower Law, creating uncertainty regarding the protection of freelancers. Furthermore, the cross-border nature of digital work raises issues of jurisdiction and choice of law that are not accommodated in the national legal framework, especially when contracts involve foreign platforms and clients and the use of copyrights abroad.

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<sup>17</sup> Maria Tambunan, Bernat Panjaitan, and Nimrot Siahaan, "Legal Protection of Copyright Based on Law Number 28 of 2014 Concerning Copyright," *Journal of Social Research* 2, no. 4 (2023): 1355–62, <https://doi.org/10.55324/josr.v2i4.807>.

<sup>18</sup> Mu'adil Faizin, Ulfatul Hasanah, and Heni Rahayu, "An Analysis Of Employment Termination For Freelance Workers: A Justice Approach From Islamic Economic Law," *Jurnal Hukum Ekonomi Syariah* 16, no. 1 (2024): 45–60, <https://doi.org/https://doi.org/10.24042/asas.v16i1.22571>.

<sup>19</sup> Nurmin K Martam, "The Effectiveness Of Electronic Signatures In Civil Contracts In The Digital Era," *International Journal of Law and Contemporary Justice* 5, no. 2 (2023): 112–25, <https://doi.org/https://doi.org/10.62951/ijlcj.v1i4.276>.

Thus, digital employment agreements possess equal legal standing to written contracts, provided that consent, capacity, lawful cause, and object requirements under the Civil Code are fulfilled, and electronic signatures comply with verification standards under the Electronic Information and Transactions Law. However, comprehensive legal certainty requires regulatory updates specifically addressing digital work's unique characteristics, clear worker classification criteria, and harmonized rules for cross-border digital employment relationships.

### **3.2 Legal Protection Mechanisms for Digital Marketing Freelancers**

Legal protection for digital marketing freelancers operates through a three-tier hierarchical framework: normative protection (legislation and regulation), institutional protection (state agencies and platform mechanisms), and substantive protection (enforcement and remedies). This structure aligns with Satjipto Rahardjo's legal protection theory, which distinguishes between preventive protection (preventing violations) and repressive protection (remedying violations after occurrence).

Pursuant to Article 1320 of the Civil Code, Article 57(1) of Law No. 13/2003, as amended by Government Regulation No. 35/2021, mandates that all fixed-term employment contracts be documented in writing, formulated in the Indonesian language with Latin characters. The legal consequence is decisive: failure to create written agreements automatically converts the relationship into permanent employment (PKWTT) from its inception. This provision, though designed for traditional employment, provides substantial protection for freelancers by requiring formal documentation and creating a strong evidentiary foundation.<sup>20</sup>

The written agreement requirement serves multiple protective functions: establishing clear legal certainty regarding rights and obligations, providing conclusive evidence in dispute resolution, creating psychological security through formal rights recognition, and enabling regulatory oversight and enforcement. However, the provision's effectiveness depends on freelancers' awareness and bargaining power to insist on written agreements a significant practical limitation in asymmetric commercial relationships. Remuneration Protection: Article 88 of Law No. 13/2003, as amended, establishes principles of fair and adequate compensation. For digital marketing freelancers, protection encompasses: payment correspondence with contractual terms, punctual payment according to agreed schedules, protection against arbitrary deductions except as authorized by tax law, and compensation rights for payment delays. While freelancers are not subject to minimum wage provisions, fairness and adequacy principles provide normative standards for evaluating remuneration agreements.<sup>21</sup>

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<sup>20</sup> Ratna Artha Windari Anak Agung Ayu Ngurah Riska Suhariani, Dewa Gede Sudika Mangku, "Perlindungan Hukum Terhadap Tenaga Kerja Yang Mengalami Keterlambatan Pembayaran Upah Pada UD Darma Kreasi Jaya," *Jatayu* 6, no. 2 (2019), <https://doi.org/https://doi.org/10.23887/jatayu.v2i1.28770>.

<sup>21</sup> Isma, Pati, and Marwah, "Legal Protection for Workers for Late Payment of Wages: The Principles of Justice Perspective."

Delays or non-payment of fees are the most common violations experienced by digital freelancers. The escrow system on the platform provides practical protection by withholding payment until the work is completed and approved. Although not legally required, this mechanism effectively reduces the risk of non-payment and reflects the principle of remuneration protection.

Intellectual property protection is also important for freelancers in the field of digital marketing. Law No. 28 of 2014 on Copyright recognizes exclusive rights to works automatically upon their creation. This protection includes moral rights, which are non-transferable and cover recognition of the work, preservation of the integrity of the work, and the right to sue for infringement, as well as economic rights, namely the right to obtain economic benefits from the work. Economic rights can only be transferred through a written agreement with fair compensation. With a combination of escrow mechanisms and copyright protection, digital freelancers obtain sufficient legal protection, both in terms of remuneration and management of rights to creative works.<sup>22</sup>

The normative framework adequately protects freelancers' intellectual property rights in principle. However, practical enforcement challenges arise from: freelancers' limited awareness of copyright law, standard contract terms favoring automatic copyright transfer to companies, inadequate compensation for copyright transfers, and limited enforcement resources for individual freelancers facing infringement by better-resourced companies.

Personal Data Protection: Law No. 27/2022 on Personal Data Protection establishes comprehensive principles for data processing. Digital marketing freelancers, who frequently manage sensitive consumer data, business strategies, and confidential corporate information, benefit from provisions requiring: lawful data processing bases, purpose limitation, data minimization, accuracy, storage limitation, integrity and confidentiality, and accountability.<sup>23</sup>

However, the implementation of personal data protection still faces a number of significant obstacles. The absence of implementing regulations that detail compliance standards makes it difficult for many parties, including freelancers, to understand their legal obligations and limitations in data processing. In addition, the supervisory agency that should have been established under Law No. 27 of 2022 is not yet fully functional, so there is no authority that consistently monitors and enforces personal data violations. The low level of public literacy regarding rights and obligations related to personal data protection further exacerbates the situation, as both freelancers and companies often do not understand the correct data management standards. Furthermore, there is no clarity regarding the

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<sup>22</sup> Vizta Dana Iswara, Elza Syarief, and Lu Sudirman, "Intellectual Property Protection in Startup-Freelancer Relationships: An Analysis of the Legal Vacuum in Copyright and Trade Secrets," *Journal of Law and Policy Transformation* 9, no. 2 (2024): 198–210, <https://doi.org/10.37253/jlpt.v9i2.9836>.

<sup>23</sup> Putri Mayang Seruni Hasnati Hasnati, "Consumer's Personal Data Protection in the Digital Era," *Jurnal Ius Constituendum* 9, no. 1 (2024), <https://doi.org/https://doi.org/10.26623/jic.v9i1.8061>.

allocation of legal responsibility when freelancers process data on behalf of companies, creating uncertainty about which party should bear the legal risk in the event of a violation.

Regarding social security protection, Law Number 24 of 2011 concerning the Social Security Administration Agency requires all Indonesian citizens, including self-employed workers, to participate in social security programs. In this context, digital marketing freelancers have the right to obtain protection through the National Health Insurance (JKN) program organized by BPJS Kesehatan, as well as work accident insurance, old age insurance, and pension insurance programs organized by BPJS Ketenagakerjaan.<sup>24</sup> Normatively, this provision provides a strong legal basis for freelancers to obtain adequate social protection, although its implementation still faces challenges in the field.

Although freelancers are legally entitled to social security protection, their participation rate remains very low. This situation is caused by several fundamental obstacles, primarily a lack of awareness regarding the importance of social security and the burden of contributions that must be borne entirely by freelancers without any contribution from employers, which is considered burdensome for self-employed workers with fluctuating incomes. In addition, the registration process tends to be complicated, and the perception that the benefits received are not commensurate with the costs incurred further discourages freelancers from participating. The gap between normative rights and practical access creates a significant weakness in the protection of freelancers, leaving them vulnerable to health risks, work accidents, and inadequate old-age security.<sup>25</sup>

Institutionally, the Ministry of Manpower actually has the authority to regulate and enforce labor relations. However, its institutional capacity to supervise digital workers is still very limited. The focus of supervision has so far been more on traditional labor relations, while jurisdiction over platform-based digital work is not yet fully clear. This challenge is exacerbated by limited resources to monitor workers who are spread across various regions and work online without a centralized physical workplace. The law enforcement approach is still reactive, rather than preventive or systematic, so that violations of freelancers' rights often go unnoticed or are not dealt with effectively.

The Personal Data Protection Agency, mandated by Law No. 27/2022 but not yet fully operational, will theoretically provide institutional protection for freelancers' data rights. Its effectiveness will depend on adequate resourcing, clear enforcement powers, and willingness to protect individual data subjects against larger corporate entities. Platform-Based Protection Mechanisms: Digital freelance platforms provide supplementary institutional protection through internal policies and systems. Analysis of Sribu.com one of

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<sup>24</sup> “Undang-Undang Republik Indonesia Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial” (2011).

<sup>25</sup> D Falya and R Dirkareshza, “Urgensi Peraturan Pajak Dalam Aktivitas Endorsement Yang Dilakukan Oleh Influencer Instagram,” *Jurnal USM Law Review* 4, no. 2 (2021): 756–76, <https://doi.org/10.26623/julr.v4i2.3962>.

Indonesia's prominent freelance marketplaces, illustrates how platforms operationalize legal protection principles:

Preventive protection mechanisms on digital platforms are built through a series of instruments that serve to reduce the potential for violations before the employment relationship begins. One of the main mechanisms is the Terms of Service, which is an electronic agreement that regulates the use of the platform, the rights and obligations of the parties, and the operational standards that must be complied with. Based on the Electronic Information and Transaction Law and its amendments, these provisions have binding force similar to a written contract, so that the parties are obliged to comply with the requirements set by the platform. Another important mechanism is the escrow payment system, which is the most significant protection instrument for freelancers.<sup>26</sup> Through this system, clients are required to deposit funds in advance before work begins. These funds are securely stored by the platform and will only be transferred to the freelancer after the work is declared complete and approved by the client. In this way, protection of remuneration rights can be effectively guaranteed because the risk of arrears or payment uncertainty, which are the most common forms of violation in digital work, can be eliminated.

The platform also implements identity verification for clients and freelancers to reduce the risk of fraud and increase accountability in digital working relationships. In addition, the rating and review-based reputation system serves to create a transparent digital track record. This mechanism encourages parties to maintain quality performance and professional behavior, while providing more reliable information in the process of selecting clients and freelancers. All communications that occur through the platform are automatically documented, so that they can be used as credible evidence in the event of a dispute. This documentation strengthens the legal position of freelancers because every instruction, change in work, and agreement can be clearly proven through the system's track record. Through this series of mechanisms, the digital platform provides relatively more structured and reliable preventive protection compared to conventional work relationships that do not use technological intermediaries.<sup>27</sup>

Government Regulation No. 71/2019 on Electronic Systems and Transactions establishes reliability, security, and proper operation requirements for electronic systems. Platform compliance with these standards provides legal certainty and trust for users.<sup>28</sup> When disputes arise, such as rejection of work results without clear grounds, excessive requests for revisions, or delays in payment approval even though the work has been

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<sup>26</sup> Didi Achjari Ratna Dewi Kusumawati, "Peran Escrow Services Sebagai Variabel Pemoderasi Di Marketplace," *Jurnal Ekonomi Indonesia* 8, no. 2 (2019), <https://doi.org/https://doi.org/10.52813/jei.v8i2.22>.

<sup>27</sup> Alan Benson, Aaron Sojourner, and Akhmed Umyarov, "Can Reputation Discipline the Gig Economy? Experimental Evidence from an Online Labor Market," *Management Science* 66, no. 5 (2020): 1802–25, <https://doi.org/10.1287/mnsc.2019.3303>.

<sup>28</sup> Pemerintah Pusat Indonesia, "Peraturan Pemerintah (PP) Nomor 71 Tahun 2019 Tentang Penyelenggaraan Sistem Dan Transaksi Elektronik," Pub. L. No. 71 (2019).

completed according to the terms, freelancers can file a claim through the internal dispute resolution mechanism provided by the platform. In this process, the platform will conduct a thorough investigation by reassessing the suitability of the work with the initial project specifications, examining all documented communications between the parties, assessing the quality and completeness of the work submitted, and considering the arguments or objections submitted by each party. Through this mechanism, the platform strives to provide a proportional resolution based on the available objective evidence.

The decisions made by the platform can vary, ranging from providing full payment to freelancers if the work meets the specifications and the rejection is deemed unreasonable, to setting partial payments if there are minor deficiencies in the work. In some cases, the platform may also provide an opportunity for additional revisions accompanied by additional compensation if the changes are deemed proportional. Conversely, if the freelancer is proven to have substantially failed to fulfill their obligations, the platform may decide to refund the client. All of these decisions are binding on platform users as they form part of the previously agreed terms and conditions of service. However, the platform's decision does not preclude parties who feel aggrieved from pursuing formal legal channels if the internal resolution is deemed unfair.<sup>29</sup>

The dispute resolution mechanism provided by the platform demonstrates how private governance structures can operationalize normative legal principles into practices that are more accessible, efficient, and suited to the characteristics of digital work. However, this mechanism still has a number of limitations. Its enforcement power is much weaker than court decisions, so its success is highly dependent on the voluntary compliance of the parties. In addition, the potential for bias towards clients cannot be ignored, given that clients are often the main source of income for platforms. The absence of an internal appeal mechanism also limits the scope for correction of decisions that may not be entirely objective. Furthermore, platform decisions do not have precedential value, so they cannot be used as a reference for resolving similar cases in the future.

Protection against unilateral termination of employment is also an important issue in digital employment relationships. Many companies treat relationships with freelancers as ordinary service transactions that can be terminated at any time without valid reasons or without providing adequate compensation. However, if the working relationship in fact meets the elements of an employment relationship as defined in the Labor Law, namely the existence of work, wages, and orders, then the legal protections applicable to permanent employees can be enforced. In such circumstances, unilateral termination without a clear

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<sup>29</sup> Nabiela Ramadhani, Anita Afriana, and Deviana Yuanitasari, "Online Dispute Resolution as A Mechanism for Resolving Consumer Disputes in The Marketplace in Seeking Justice," *Eduvest – Journal of Universal Studies* 5, no. 5 (2025): 4984–99, <https://doi.org/https://doi.org/10.59188/eduvest.v5i5.51166>.

legal basis can be considered a violation, which opens the door for freelancers to claim compensation or restoration of rights in accordance with the provisions of the law.<sup>30</sup>

In employment relationships that are clearly classified as independent contracting, protection against unilateral termination refers to the general provisions of contract law in the Civil Code. Articles 1243 and 1246 regulate the consequences of default, so that any termination of a contract without a valid reason beyond breach of contract, force majeure, or mutual agreement may be considered a breach of contract. In such circumstances, the aggrieved freelancer is entitled to claim damages covering actual losses (*damnum emergens*), lost profits (*lucrum cessans*), and expenses incurred as a result of the breach. Normatively, the legal consequences are very clear, but the effectiveness of enforcement depends heavily on the freelancer's ability and willingness to pursue legal proceedings, which are often considered costly and time-consuming, especially if the contract value is relatively small.

In employment relationships that are clearly classified as independent contracting, protection against unilateral termination refers to general legal provisions. Dispute resolution mechanisms play an important role in providing legal protection for digital marketing freelancers, especially when dealing with issues such as late payments, unilateral termination without cause, disputes over the quality of work, and intellectual property rights violations. Access to fair and proportional dispute resolution mechanisms is a fundamental requirement for contractual relationships between freelancers and companies to proceed on an equal footing and avoid exploitative practices.

The dispute resolution process generally begins with direct negotiations between the freelancer and the company. This stage relies on open communication and good faith to find a mutually beneficial solution without involving a third party. If negotiations fail to produce an agreement, the parties can proceed to mediation. Mediation can be conducted informally through a respected third party or formally through a certified mediation agency. This process is known to be faster and less costly than litigation, making it a very relevant option for freelancers with limited resources.<sup>31</sup>

In situations where the contract contains an arbitration clause, disputes can be resolved through arbitration institutions such as the Indonesian National Arbitration Board (BANI) or other agreed institutions. Arbitration decisions are final and binding, and cannot be appealed or reviewed. The advantage of this mechanism is its efficiency and high legal certainty, but on the other hand, it limits the opportunity for freelancers to seek redress if the decision is deemed unfair. If all of the above mechanisms fail to produce a resolution or are not agreed upon by the parties, freelancers still have the right to file a civil lawsuit in a

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<sup>30</sup> Askana Fikriana and Khairani Khairani, "Tinjauan Pemutusan Hubungan Kerja Sepihak Menurut Hukum Ketenagakerjaan Dan Perlindungannya," *Seikat: Jurnal Ilmu Sosial, Politik Dan Hukum* 2, no. 6 (2023): 547–51, <https://doi.org/10.55681/seikat.v2i6.1014>.

<sup>31</sup> R Kusuma and Z Asyhadie, "Mediated Dispute Resolution in the Distribution of Outsourced Labor in the Gili Tramena Area," *Journal Indonesia Law and Policy Review* 5, no. 1 (2023): 1–11, <https://doi.org/10.56371/jirpl.v5i1.154>.

District Court. Through this litigation channel, freelancers can demand fulfillment of performance or compensation based on the provisions of the Civil Code, including referring to Articles 1243 and 1246 concerning default and potential claims for specific performance as translated from the provisions of Article 1238.<sup>32</sup> Court decisions are binding and enforceable, providing strong formal legal protection, although the process often requires more time and money.

Through this multi-level mechanism, the Indonesian legal system actually provides a variety of dispute resolution channels for digital marketing freelancers. However, its effectiveness is highly dependent on accessibility, freelancers' understanding of the law, and the balance of bargaining power in contractual working relationships. Although in theory a tiered dispute resolution system provides freelancers with broad access, in practice, there are various obstacles that limit its effectiveness. Litigation costs that are disproportionate to the value of the contract, lengthy court proceedings, and judges' lack of expertise in handling digital labor disputes make formal channels less attractive. The imbalance in bargaining power between freelancers and companies with greater resources further weakens freelancers' courage to demand their rights. In addition, the absence of a class action mechanism makes it difficult to collectively address systemic violations.

Electronic Evidence: Article 5(1)-(2) of Law No. 11/2008 recognizes electronic information and documents as valid legal evidence. Electronic contracts, email correspondence, message logs, and communication screenshots may be presented in any dispute resolution proceedings. However, maintaining evidentiary credibility requires demonstrating integrity, authenticity, and traceable accountability under Government Regulation No. 71/2019.<sup>33</sup> Freelancers must proactively preserve electronic evidence, as platforms may not retain data indefinitely.

From a human rights perspective, protection for freelance workers in the field of digital marketing is related to a number of fundamental rights guaranteed in the 1945 Constitution, including the right to work as stated in Article 27 paragraph (2), the right to fair and decent working conditions as stipulated in Article 28D paragraph (2), and the right to legal certainty and equal treatment before the law as affirmed in Article 28D paragraph (1). The labor standards set by the International Labor Organization (ILO) include the principles of fair wages, reasonable working hours, safe working conditions, and the right to collective bargaining, which basically apply to all forms of work. However, their

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<sup>32</sup> Dendely Wiyan Sutanmitrano, "Analisis Strategis ADR Sebagai Alternatif Litigasi Dalam Sengketa Kontrak Bisnis," *Eksposisi Hukum* 5, no. 2 (2022): 45–58, <https://doi.org/https://doi.org/10.30863/ekspose.v24i1.10287>.

<sup>33</sup> Petty Febrian and M Saleh, "Penerapan UU ITE Dalam Menilai Kedudukan Dan Keabsahan Pembuktian Elektronik Pada Perkara Perdata," *Hukum Dan Ekonomi* 5, no. 4 (2022): 88–102, <https://doi.org/10.33474/hukeno.v5i4.11058>.

application to freelance workers remains a globally debated issue, given that their legal status is often not fully accommodated within the traditional labor framework.<sup>34</sup>

Indonesia's legal framework provides formal recognition of freelancers' rights but lacks comprehensive mechanisms ensuring substantive enjoyment of these rights. The regulatory gap between traditional employment law and contemporary digital work realities creates precarious conditions for many freelancers, particularly those lacking bargaining power, legal knowledge, or financial resources to enforce nominal rights.

Evaluating the effectiveness of legal protection for digital freelancers must consider not only the normative provisions written in legislation (law in books), but also how these provisions are implemented in practice (law in action). A comprehensive analysis shows that despite a fairly comprehensive regulatory foundation, there are still various substantive and structural gaps in its implementation. In terms of strength, Indonesia already has a legal framework that recognizes the validity of digital contracts, so that the legal relationship between clients and freelancers has clear legitimacy.

Intellectual property rights protection for freelancers is guaranteed through automatic copyright mechanisms, while the personal data protection framework normatively provides guarantees for data security and processing, although its implementation is still limited. At the practical level, platforms provide additional protection through escrow systems and internal dispute resolution mechanisms, plus civil legal remedies such as compensation for breach of contract. However, the effectiveness of this protection is still hampered by the absence of specific regulations governing the characteristics of digital work, the unclear status of workers that creates ambiguity about rights and obligations, and low social security participation that leaves freelancers in a vulnerable position.

From an institutional perspective, the government's ability to conduct supervision and law enforcement is still limited, mainly due to the cross-platform, cross sector, and even cross-jurisdictional nature of digital work. Access to formal dispute resolution mechanisms is also often hampered by costs, time, and the imbalance of bargaining power between freelancers and clients or platforms. In addition, the level of legal literacy among freelancers is still low, so many of them do not understand their rights, obligations, and the available protection mechanisms. The fragmentation of regulations spread across various laws makes it even more difficult for freelancers to understand the integrated protection framework because there are no integrated guidelines. All of these factors indicate that the effectiveness of legal protection for digital freelancers is currently stronger at the normative level than at the implementative level. Steps are needed to harmonize regulations, strengthen institutional

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<sup>34</sup> Indra and S A Nawangsari, "Legal Protection for Gig Economy Workers from the Perspective of Labor Law in Indonesia," *Jurnal Ilmu Hukum Dan Sosial* 3, no. 1 (2025): 937–54, <https://doi.org/10.51903/hakim.v3i1.2289>.

capacity, and improve literacy and access to legal protection in order to address this gap in a sustainable manner.<sup>35</sup>

Ultimately, legal protection for digital marketing freelancers remains fragmented, requiring the state to establish an integrated legal framework ensuring preventive and repressive safeguards under national law. Current provisions provide formal recognition but lack substantive mechanisms ensuring effective protection, particularly regarding social security, dispute resolution access, and enforcement against better-resourced commercial parties.

#### 4. CONCLUSION

This study concludes that the legal construction of digital work agreements between companies and digital marketing freelancers cannot be understood solely as valid contracts under the Civil Code and the Electronic Information and Transactions Law, but must be viewed as a new normative entity that requires the integration of contract law principles, personal data protection regimes, and copyright. Although the positive legal framework has provided a basis for the legality of digital contracts, this study shows that the effectiveness of protection remains weak due to the uncertainty of worker status, weak social security, and the absence of dispute resolution mechanisms tailored to the characteristics of platform-based work. These findings emphasize the need for more structural legal reform through the drafting of specific regulations on digital work or the reformulation of provisions in labor law to recognize non-conventional work models. The novelty of this research lies in its integrative approach, which for the first time combines contract law, intellectual property rights, and personal data protection as an integrated analytical framework for digital employment relationships. The overall analysis provides a normative basis and direction for the development of a Digital Labor Law that is adaptive to the dynamics of the platform economy and capable of ensuring a balance between market flexibility and adequate legal protection for digital workers.

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<sup>35</sup> Melyana R Pugu, Sigit Sugiardi, and Bahrun Thalib, "Regulatory Challenges in the Face of the Gig Economy and Cross-Border Remote Work," *International Journal of Social Science, Education, Communication and Economics* 4, no. 2 (2024): 1–15, <https://doi.org/10.54443/sj.v4i2.510>.

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