

## The Legal Protection for Informal Workers in Indonesia

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**Abstract.** *The Indonesian Constitution, as well as the highest legal basis, the 1945 Constitution, contains the rights of every citizen. These include the right to obtain decent work and legal protection, as stated in Article 27 paragraph (2) and Article 28D paragraph (1) and paragraph (2). The current Employment Law, as the legal basis for employment in Indonesia, still limits worker qualifications only based on work agreements as regulated by the Employment Law. In fact, the workforce population in Indonesia is currently dominated by informal workers, which has an impact on informal workers who are still far from access to legal protection due to the current legal instruments that limit worker categories. This study examines legal protection for informal workers in Indonesia. This study is a normative legal study, examining legal norms using theories including the legal protection theory put forward by Satipdjo Rahardjo. The results of the analysis indicate a legal vacuum in the protection of informal workers, so that changes are needed in the legal system and policies to create special regulations that can explain the rights and obligations of informal workers, as well as provide a clear legal status.*

**Keywords:** Evidence; Job; Persecution; Visum et Repertum; Worker.

### 1. Introduction

Indonesia, as a democratic state that upholds the values of welfare and justice for its people, reflects these ideals through *Pancasila* and the 1945 Constitution of the Republic of Indonesia (*Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*) as the foundation of the nation. The provisions regarding the rights of every citizen are contained in Article 27 paragraph (2) of the 1945 Constitution, which states that "Every citizen shall have the right to work and to a livelihood worthy of human beings." The right to work is not only a constitutional right but also a human right — an inherent and inalienable right of every individual — thereby affirming the fundamental entitlement of all people.

This principle is reinforced by Article 28D paragraph (2), which stipulates that "Every person shall have the right to work and to receive fair and proper remuneration and treatment in employment." Furthermore, the State has the obligation to provide legal protection for all its citizens, as mandated by Article 28D paragraph (1): "Every person shall have the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before

the law." These constitutional provisions form the basis and reference that every citizen is entitled to decent work, fulfillment of human values, and legal protection in employment relations.

The labor sector in Indonesia is divided into two categories: the informal sector (informal workers) and the formal sector (formal workers). Informal workers are individuals who work independently, flexibly, and without a permanent employment relationship, while formal workers are those employed under a work agreement as regulated in Law No. 13 of 2003 on Manpower (*Undang-Undang Ketenagakerjaan*). The Manpower Law demonstrates the State's efforts to guarantee the rights of workers; however, it primarily focuses on formal employment. This situation contrasts with current labor dynamics — according to data from the Central Statistics Agency (Badan Pusat Statistik/BPS), as of 2025, informal workers constitute 59.40% of the workforce, while formal workers account for only 40.60%.

This data reveals a legal vacuum in the current Manpower Law, which still restricts the qualifications of workers eligible for protection. In reality, the number of informal workers continues to increase, creating a significant gap in legal protection for this group. Therefore, research focusing on and reinforcing the legal protection of informal workers in Indonesia is urgently needed.

Previous studies indicate that the main problem lies in the inapplicability of existing norms. Y. Adinda and J. H. Akbar (2024) emphasized the challenges in ensuring decent wages for informal workers due to the absence of clear standards and accessible dispute-resolution mechanisms. They advocate for regulatory reform that establishes a new legal framework, rather than simply extending formal labor law provisions to the informal sector. Such reform should also involve local governments, through local regulations that can provide subsidies and facilitate the formation of informal worker organizations — serving as a bridge between ground-level needs and the national legal framework.

Similarly, Endang Suprapti, Arihta Esther Tarigan, et al. (2024) found that protection for informal workers under the Job Creation Law (UU Cipta Kerja) remains weak, with many protective provisions omitted. Current protection efforts remain fragmented, with the most tangible form being social security schemes. For instance, Rosalina and Setyawanta (2020) highlighted the importance of Law No. 18 of 2017 on the Protection of Indonesian Migrant Workers as a specific regulation providing clearer safeguards for informal migrant workers. Meanwhile, Adha (2020) and Fadilah & Jamaludin (2024) analyzed workers in the digital economy sector, showing that the classification of such workers as "partners" by digital platforms deprives them of fundamental labor rights, underscoring the need for stricter regulations.

While prior research has primarily focused on specific informal worker groups or limited aspects such as social security, this study seeks to analyze the broader position of informal workers within Indonesia's labor regulation framework. It argues for a wider qualification of worker protection that encompasses informal employment and aims to strengthen academic

foundations while providing policy recommendations toward a more inclusive protection system for informal workers.

## **2. Research Methods**

This research is a normative legal study, which examines existing legal norms, particularly in the field of labor law. The specification of this research is descriptive, with data consisting of secondary data derived from primary, secondary, and tertiary legal materials. The primary legal materials in this study include the *1945 Constitution of the Republic of Indonesia*, *Law No. 13 of 2003 on Manpower*, and *Law No. 6 of 2023 on the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law*. The secondary legal materials consist of legal textbooks and scholarly writings, while the tertiary legal materials include information from websites and news sources. The data collection technique used in this research is library research. The approaches applied are the statute approach and the conceptual approach. Data are collected through literature review and document analysis, then analyzed qualitatively to describe the regulatory conditions and practices of legal protection for informal workers, as well as to identify gaps between legal norms and their implementation.

## **3. Result and Discussion**

Law No. 13 of 2003 on Manpower, which remains in force and serves as the main reference for labor law in Indonesia, limits the scope of workers to those employed under *fixed-term employment agreements* and *indefinite-term employment agreements*. As the principal legal framework governing labor relations, the law provides no specific definition or regulation concerning informal workers. Its provisions focus primarily on employment relationships bound by work agreements between employers and employees—typically found in the formal sector. In essence, the Manpower Law only covers formal labor relations (work contracts, wages, and corporate supervision). Meanwhile, millions of informal workers such as daily laborers, small traders, and domestic workers remain outside its coverage because they lack a legally recognized employment relationship.

The Manpower Law defines an employment relationship as a connection between an employer and a worker/laborer based on a work agreement encompassing elements of work, wages, and authority. This definition is consistent with the revised provisions introduced by Law No. 6 of 2023 on the Stipulation of the Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law. Since a formal employment relationship normatively requires both a contractual basis and a hierarchical (subordinative) relationship, independent, non-time-bound, or output-based work, typically found in the informal sector—does not fall under the legal category of “employment relations” and is consequently excluded from the protection of formal labor law.

The direct implication of this exclusion is a legal protection gap for informal workers across critical areas, including the right to minimum wages, occupational safety and health, social security, and access to dispute-resolution mechanisms. Satjipto Rahardjo’s theory of legal

protection emphasizes the State's role in safeguarding vulnerable citizens; the absence of legal safeguards for informal workers highlights the weakness of this function. Meanwhile, drawing on John Rawls's theory of justice, particularly the *Difference Principle*, labor law policies should ideally provide the greatest benefit to the least advantaged namely, informal workers.

Numerous legal and empirical studies indicate a mismatch between on-the-ground realities and the current legal framework, making it difficult for informal workers to realize their fundamental rights. Consequently, this group faces systemic economic and social vulnerabilities. The central issue, therefore, is not merely the absence of regulation, but the misalignment between the function and design of existing norms, which leaves many workers outside the reach of legal protection.

This study demonstrates that legal protection for informal workers in Indonesia remains partial, administrative, and non-substantive, necessitating systemic reform through the establishment of specific regulations that separately govern the non-formal sector beyond conventional labor frameworks.

Legal protection is defined as an effort to safeguard legal subjects by preventing potential violations or by imposing coercive measures when necessary. Its objective is to achieve justice, utility, and legal certainty—in other words, to maintain social order and realize the fundamental principles and ideals of law. Legal protection can take both written and unwritten forms, serving to define boundaries and ensure the fair application of law.

According to Philipus M. Hadjon, there are two types of legal protection afforded to citizens:

1. Preventive legal protection, which gives individuals the opportunity to express objections or concerns before government decisions are made—using laws and regulations to prevent violations and to define the limits of obligations; and
2. Repressive legal protection, which addresses conflicts after they occur through the imposition of sanctions such as fines, imprisonment, or other legal penalties.

Referring to this definition, the first action the government must take is to establish legal regulations that explicitly include informal workers within the scope of labor protection, particularly under national labor legislation.

International case studies from countries that have introduced social protection schemes for informal workers are often used as references for developing contextual solutions. Despite the existence of numerous juridical studies and limited field surveys, the current literature remains constrained—national participation data are fragmented, research definitions vary between studies, and most analyses remain descriptive or normative without representative empirical testing.

Furthermore, in designing a framework for the legal protection of informal workers, Indonesia could adopt models from other countries. For example, India's *Unorganised Workers' Social*

*Security Act (2008)* provides social protection for informal workers; the Philippines' *Magna Carta for Workers in the Informal Economy (MAWIE)* ensures legal protection and financial support; and Thailand, through its Social Security Office (SSO), offers a voluntary social security scheme for informal workers. These approaches suggest that Indonesia could adopt a status-based regulatory model, rather than one dependent solely on formal employment relationships, to broaden the scope of protection.

Given the current regulatory and implementation weaknesses, many legal scholars and researchers have called for the creation of a dedicated legal framework governing informal workers. The following section presents a comparative table of informal worker protection models in three Asian countries, which may serve as a reference for future labor law reform in Indonesia.

Country	India	Philippines	Thailand
<b>Name of Regulation / Scheme</b>	Unorganised Workers' Social Security Act	Magna Carta for Workers in the Informal Economy (MAWIE)	Voluntary Social Security Scheme for Informal Workers (S.40 Scheme)
<b>Year and Legal Basis</b>	Enacted in 2008 under the Ministry of Labour and Employment	Final draft since 2014, formulated by the Department of Labor and Employment (DOLE)	Officially launched in 2011, based on the amended Social Security Act (1990)
<b>Coverage / Social Benefits</b>	<ul style="list-style-type: none"> <li>- Health and maternity insurance</li> <li>- Accident and life insurance</li> <li>- Social pension for the elderly</li> <li>- Educational scholarships for children of informal workers</li> </ul>	<ul style="list-style-type: none"> <li>- Legal recognition of informal workers</li> <li>- Access to social security, training, business credit, and occupational health</li> <li>- Protection from discrimination and harassment</li> </ul>	<ul style="list-style-type: none"> <li>- Health and accident protection</li> <li>- Death benefits</li> <li>- Retirement savings (co-contributed by the government)</li> <li>- Sickness and maternity benefits</li> </ul>
<b>Main Implementing Institution</b>	National Social Security Board (NSSB) and State Social Security Boards	DOLE in collaboration with Social Security System (SSS) and PhilHealth	Social Security Office (SSO) under the Ministry of Labour
<b>Key Features &amp; Innovations</b>	<ul style="list-style-type: none"> <li>- Legally defines "unorganised workers"</li> <li>- Mandates state governments to establish social protection schemes</li> <li>- Maintains a national database of informal workers</li> </ul>	<ul style="list-style-type: none"> <li>- Recognizes informal workers as part of the national labor force</li> <li>- Applies human rights and gender equality principles</li> <li>- Ensures participation of informal worker organizations in policymaking</li> </ul>	<ul style="list-style-type: none"> <li>- Voluntary enrollment system</li> <li>- Government subsidizes up to 50% of contributions</li> <li>- Digital system for registration and payment</li> </ul>

<b>Relevance to Indonesia</b>	Serves as a model for an umbrella law providing decentralized social protection for informal workers	Offers inspiration for Indonesia to explicitly recognize informal workers within labor law and include fundamental social rights	Relevant as an example of integrating informal workers into the national social security system (BPJS Ketenagakerjaan) through a voluntary subsidized scheme
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India emphasizes a national legal framework that binds all local governments, reinforcing the State's responsibility to guarantee the welfare of informal workers. The Philippines stands out for its focus on social recognition and empowerment, not merely economic protection. Thailand excels in practical implementation through a voluntary contribution scheme subsidized by the government, which has proven effective in increasing the participation of informal workers in social security programs.

Indonesia's Manpower Law remains too narrow in scope, as it focuses only on formal employment relationships. New regulations must accommodate informal workers by ensuring their basic rights—such as access to social security, occupational safety, and protection from exploitation. Furthermore, such regulations must provide a strong legal basis for local governments to implement informal worker protection policies that are adaptive and locally relevant.

This study highlights a significant gap in both research and policy within Indonesia's labor sector, particularly concerning the legal protection of informal workers. Most previous studies have focused on issues of labor formality, industrial relations, and minimum wage policies, but few have examined in depth the legal mechanisms applicable to workers without formal contracts.

In addition, gaps also appear in the implementation of social policies. Programs such as *BPJS Ketenagakerjaan* and other social security initiatives have not yet reached the entire informal workforce due to administrative, economic, and informational barriers. Data from the Central Statistics Agency (BPS) in 2025 show that 59.40% of Indonesia's workforce consists of informal workers, while only about 19% of them are registered with *BPJS Ketenagakerjaan*.

According to the Satu Data Kementerian Ketenagakerjaan in the *General Labor Profile Report* (February 2025), the working-age population (PUK) reached 216.79 million people, with the labor force (AK) comprising around 70.60% of that total. Based on BPS data cited in reports from the Ministry of Manpower and various media, as of February 2025, informal workers accounted for approximately 59.40% (around 86.58 million people), while formal workers accounted for 40.60% (around 59.19 million people). This indicates that the majority of Indonesia's workforce remains in the informal sector—a trend consistent with previous years.

Regarding coverage, as of September 2025, data from the *Satu Data Portal of the Ministry of Manpower* recorded 42 million active participants in *BPJS Ketenagakerjaan*. According to Bisnis.com, the Supervisory Board of *BPJS Ketenagakerjaan* revealed that participation among informal workers remains very low, with only around 10.36% of total non-wage workers

enrolled in the program. Although the overall number of participants is large, the proportion of informal workers who are actually covered remains relatively small, indicating a social protection gap for this group.

According to BPS data (February 2025, *Labor Conditions Report*), the average monthly income of workers is IDR 2.84 million. Formal workers (employees/laborers) earn an average of IDR 3.09 million per month, while informal workers (self-employed or casual workers) earn significantly less: in the agriculture sector, their average net income is only IDR 1.38 million per month, and in the non-agriculture sector, IDR 2.03 million per month.

These figures demonstrate a clear disparity between formal and informal workers. Formal workers earn around IDR 3.09 million per month, while informal agricultural workers earn less than half that amount (IDR 1.38 million). This reflects a structural inequality in Indonesia's labor market, where informal or self-employed work tends to yield much lower income.

In terms of layoffs and social protection, data from the *Satu Data* platform show that between January and August 2025, 44,333 workers were laid off. The Minister of Manpower stated that the Ministry now relies on *BPJS Ketenagakerjaan*'s Job Loss Guarantee (JKP) data as the primary reference for recording layoffs, as it provides more accurate figures than reports from regional manpower offices. The JKP program provides 60% of wages for six months to workers affected by layoffs—provided they are registered under *BPJS Ketenagakerjaan*. However, reports indicate that participation among informal (non-wage) workers remains minimal, meaning that this guarantee does not yet cover all affected workers, particularly those outside the formal system.

These facts demonstrate that more than half of Indonesia's labor force still lacks access to legal protection and social security. Therefore, revision of labor regulations has become an urgent necessity. This study reinforces the understanding that legal protection for informal workers requires not only regulatory reform but also structural transformation in the design of national labor policies and their implementing regulations.

The Job Creation Law (UU Cipta Kerja) and its derivative regulations have sparked ongoing debate regarding worker protection: some argue that it potentially weakens labor protections, while others emphasize its role in increasing labor market flexibility. Various studies and policy briefs highlight that the Job Creation Law remains inadequate in recognizing and protecting non-standard and informal workers, and has yet to establish specific protection schemes for platform-based workers.

The main barriers to legal protection for informal workers can be categorized as follows:

Type of Barrier	Explanation	Impact

<b>Regulatory</b>	The Manpower Law only covers informal workers with formal employment relationships. lack legal recognition.
<b>Structural</b>	Coordination between central and regional governments remains weak. Regional policies lack a strong legal foundation.
<b>Administrative</b>	The process of registering for social security is difficult for informal workers to access. Low participation rate of informal sector workers in BPJS programs.

Compliance of local governments with the implementation of regional regulations (*Perda*) concerning informal workers remains inconsistent. Although several regions have enacted regulations, such as those on community welfare or the placement of local labor—their implementation in practice is often suboptimal. This is due to various constraints, including limited budgets, shortages of technical personnel, lack of accurate data on informal workers at the sub-district or village level, and low participation of informal workers in the policymaking process at the regional level.

Statistics on violations or legal disputes within the informal sector indicate that official data from the Ministry of Manpower and government data portals record numerous cases such as strikes, workplace accidents, and labor complaints. For instance, in 2024, hundreds of thousands of workplace accidents and hundreds of strike cases were officially reported. However, many issues experienced by informal workers remain unrecorded because they are often handled through Legal Aid Institutes (LBH) or non-governmental organizations (NGOs), causing official government data to underrepresent the true scale of legal problems in the informal sector.

Findings from LBH and NGOs reveal a high prevalence of violations of informal workers' rights, including unlawful termination of work, non-payment of normative entitlements, workplace violence, and weak enforcement of occupational safety and health (OSH) standards. This situation strengthens the indication that official data suffers from significant under-reporting and fails to fully reflect the actual conditions faced by informal workers.

The main factors contributing to low reporting rates and fragmented data in this sector include limited access of informal workers to formal complaint mechanisms, low participation in social security programs (such as *BPJS Ketenagakerjaan* or *BPUM*), and weak coordination and data integration between government agencies—especially at the local level. These conditions result in public policies that lack accuracy and fail to address the root causes of legal issues in the informal sector. There are normative recommendations:

1. Enact a specific law on the protection of informal workers.
2. Develop a new categorization system for workers based on employment status (independent, freelance, domestic workers, etc.).

3. Grant authority to local governments to formulate *Regional Regulations (Perda)* on the protection of informal workers.
4. Integrate a digital system linked to the National Identity Number (NIK) to simplify social security registration for informal workers.

#### **4. Conclusion**

Informal workers in Indonesia contribute significantly to the nation's economic growth. However, in reality, Indonesia's labor law instruments still fail to provide adequate and substantial legal protection for informal workers. Based on literature review, applied legal theories, and findings from previous studies, it can be concluded that legal protection for informal workers in Indonesia remains weak and insufficiently accommodated within the national labor law system. This research aims to emphasize the need for clear and concrete protection for informal workers. The government should formulate a specific regulation on informal workers that encompasses aspects such as employment relations, minimum wages, social security, and occupational safety, while taking into account the unique characteristics of the informal sector. Future legal and public policy research should also expand comparative studies on informal worker protection frameworks in other countries, enabling Indonesia to adopt a more progressive and adaptive regulatory model suited to its socio-economic context.

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