

# Gig Workers, No Guarantees: Industrial Relations and Non-Traditional Work Contracts

<sup>1</sup>Emily Felicia Anak Louis, <sup>1</sup>Noor Shahidatul Mohd Daud, <sup>1</sup>Syazwani Husna Zulkifli, <sup>2</sup>Gurprit Singh Sarjit Singh, <sup>1</sup>Ashran Idris, <sup>1</sup>Mohd Haris Abdul Rani\*

<sup>1</sup>Faculty of Law, University Technology MARA, Malaysia

<sup>2</sup>Faculty of Business, Accountancy & Law, SEGi University & Colleges

\*Corresponding Author

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## ABSTRACT

This article examines the evolving status of gig workers within Malaysia's legal and industrial relations framework, critically assessing the inadequacy of current laws to meet the principles of industrial justice and international labour standards. The rapid expansion of digital platforms has led to the emergence of non-traditional work contracts that offer flexibility but lack fundamental protections typically afforded to formal employees. While schemes such as the Self Employment Social Security Scheme and voluntary contributions under i-Saraan exist, their non-mandatory nature limits coverage and fail to address broader concerns of social protection, job security and collective bargaining. The article explores how lifestyle philosophies such as minimalism and maximalism intersect with gig work preferences, while also foregrounding the psychological and emotional toll of precarious labour. Through doctrinal legal analysis and comparative study with jurisdictions such as the United States and Spain, the study identifies significant gaps in legal recognition and institutional safeguards. The findings underscore the structural vulnerabilities of gig workers, highlighting algorithmic control, absence of due process and exclusion from union representation as key deficits. The article concludes that a comprehensive reform of Malaysia's labour laws is necessary to introduce a distinct legal category for gig workers, ensure mandatory contributions to social protection schemes and extend workplace rights that align with international benchmarks. This reform must also include emotional well-being provisions to create a more resilient and inclusive future for gig work.

**Keywords:** Gig workers; Labour law; Social protection; Platform economy; Industrial relations.

## INTRODUCTION

The gig economy in Malaysia has grown rapidly in recent years, especially with the rise of digital platforms like Grab, Foodpanda, and Shopee (Mohd Shakil, 2024). These platforms offer short-term, flexible jobs that attract many Malaysians looking for income opportunities (MyDIGITAL Corporation, 2024). However, while gig work provides flexibility and independence, it also exposes workers to legal and social risks (Taylor et al., 2023). Gig workers, unlike the traditional employees, are not covered by the protection provided by key labour laws (Makhtar et al., 2022). According to the International Labour Organization, gig workers are considered as independent contractors after considering the informal and self-reliance characteristics of the work (Harun et al., 2020). This gap especially in the absence of the legal protection of the gig workers raises the pressing problems on the way the gig workers are treated under the Malaysian law and what ought to be essential changes that ought to be taken place to improve the lot of these workers. The main standard in Malaysia for the gig workers can be seen in the Self-Employment Social Security Act 2017 (Act 789). This particular legislation led to the establishment of the Self Employment Social Security Scheme (SKSPS) by the Social Security Organisation (SOCISO), which offers protection for workplace related injuries to self-employed individuals, which ultimately includes gig workers. However, participation in this scheme is not mandatory and many of the gig workers are not registered yet due to the irregular earnings or ignorance (Perkeso, 2023).

The next existing option is i-Saraan, which is a form of voluntary contribution scheme under the Employees Provident Fund (EPF) which provides an opportunity for self-employed persons to save up their money for their future retirement. Despite how this scheme is a method for gig workers to build up their financial security in the future, it is not mandatory, and oftentimes low contributions are observed pursuant to this scheme (Bantuan Terkini, 2025). Despite the availability of these schemes, gig workers are still excluded from many protections given to formal employees under current employment laws like the Employment Act 1955 and the Employees' Social Security Act 1969. This is due to the fact that gig workers are yet to be considered to fall within the ambit of persons employed under 'contract of service' (Makhtar et al., 2022). The Malaysian government has acknowledged these issues and announced plans to introduce the Gig Workers Bill, expected to be tabled in Parliament in 2025. This Bill is said to propose legal recognition for gig workers, clearer rules for platform companies, and a structure for mandatory contributions to social protection schemes (Bernama, 2025).

At the same time, it is important to consider the various factors which influence individuals to opt for gig working alongside the pursuit of analysing the legal challenges which arise due to the inadequacy of the legal framework governing Malaysia's gig economy. Some might be enticed to gig work not merely due to the income aspect, but it also reflects an individual's personal values about how life and work should be balanced which can be perceived through the viewpoint of minimalism and maximalism.

Despite the differences which divide individuals into these two categories of life philosophies, gig work could offer a work life which corresponds with both the minimalist and maximalist lifestyle. Gig work is able to offer individuals who subscribe to the minimalist lifestyle a career life which aligns with the core values of their philosophy. Minimalists opt for a lifestyle in which they would be able to step away from the unnecessary things in life and to live an intentional life focusing on what is important (Jain et al., 2023). Gig work offers individuals an advantage where there is flexibility in their careers which undoubtedly would result in a better work life balance. Gig working allows individuals to have more autonomy on what they choose in their career be it the ways to carry out their work, the workload, the type of work they wish to do, the location of their next project, the pay they expect from their labour as well as the duration they wish to contract with anyone who seek their services (Warren, 2021).

Gig working does not only bring numerous benefits to the gig workers, but it also presents challenges. Gig workers oftentimes lack the basic benefits afforded to traditional employees such as paid leave, retirement plans as well as any health insurance which results in the gig workers having to manage these requirements independently (Mohd Shakil, 2024). Further, another challenge faced by gig workers is that it leads to the risk of sudden termination of contract which itself is a concern of career stability particularly since gig workers obtain their current projects from those who seek their services (Bahu, 2024). However, despite the existing challenges, the gig economy still persists as there are still individuals who find gig working worthwhile due to the various benefits especially for those who have specific lifestyle choices such as minimalists and maximalists.

The inherent benefit of gig work is that it allows individuals to have a better work-life balance as they have the freedom to schedule their work and to choose the working location of their choice. Hence, this said freedom offered by gig work aligns with the minimalist lifestyle of prioritizing one's own well-being as well as to live an intentional life (Jobya, 2023). On the flipside, gig work might be enticing to maximalists due to the fact that gig work is able to offer maximalists the opportunity to grow and to have a variety of experiences. As such, maximalists find gig work to be able to provide them with the dynamic lifestyle filled with constant learning and development of new skills. This feature of the gig work conforms to the work life that maximalists aim for that is to not be stuck in a repeating work routine with lack of variation (Bahu, 2024).

This article includes the perspective of Industrial Relations to critically examine the status of gig workers in Malaysia. This study also uncovers the ongoing issue of inadequacy of Malaysian labour law in meeting the standard of industrial justice in the purview of gig work. According to the Webbs, they understood the term 'industrial democracy' to encompass collective bargaining and democracy within trade unions. To further understand the meaning of industrial democracy, it is regarded as the participation, association or decision making within a business or work place (Müller-Jentscht, 2018). This is especially pertinent to the problem of

gig workers due to the fact that these workers have difficulties expressing their problems and concerns due to a lack of advocacy and representation. Due to the absence of the collective bargaining power, it may cause detectable inequality in the gig economy (Mohd Shakil, 2024). The problem of the absence of collective bargaining power can be observed in the case of the gig economy in Malaysia because the gig workers cannot join in and establish a trade union (Mohamad Amin, 2023).

The existing legal system in Malaysia, covering the gig workers which is critically evaluated in terms of the international labour standards, has important weaknesses in protection and recognition. The International Labour Organization (ILO) is significant in the system of industrial relations in Malaysia. The ILO has established a bright baseline by its campaign on what is described as decent work which entails security of employment, access to social protection and guarantee of basic labour rights (Ghai, 2003). However, the current regulatory strategy used in Malaysia does not support all these requirements, especially in the gig economy. Consequently, most gig workers can frequently receive inconsistent proceeds and not be aware since they are not included in it (Perkeso, 2023).

This is contradicted with the ILO Recommendation No.198 which stressed the need for the transparent employment relations in order to access the protective measures and the rights for the worker (International Labour Organization [ILO], 2006). The ILO is also crucial to foster a good relationship between governments, employers and workers. The rules and principles of the ILO can aid in ensuring gig workers will obtain fair treatment similar to that of normal workers (ILO, 2025). This is particularly important when looking into how the gig economy is expanding in Malaysia, hence, requiring the safeguard of workers' rights for these increasing numbers of independent workers.

The legal uncertainty surrounding gig workers in Malaysia stems from the contracts they sign with these digital platforms. Gig workers classification often creates uncertainty because their actual working arrangements may not align with the employment status stated in their contracts (Wilson, 2024). The more essential matter is the substance of the working relationship, which is assessed by evaluating the actual terms and conditions of the contract and the structure of the working relationship, instead of labels given to these workers (IRS, 2025). This is particularly seen where, while the contracts claim to offer freedom to gig workers, the platform still controls how work is done and their wages (ILO, 2018). This is usually seen in microtask platforms and many gig economy platforms where they classify workers as independent contractors rather than employees.

For example, Amazon Mechanical Turk (AMT) explicitly states in its terms of use that workers carry out tasks independently and are not considered employees of either AMT or the task requesters. As a result, they are not entitled to typical employee benefits such as paid leave, health insurance, retirement plans, or workers' compensation in instances of injury. This strategy is intended to shift liability away from platforms, allowing them to avoid providing the legal protections and social benefits typically required under labour laws or collective agreements (ILO, 2018). ILO Recommendation No. 198 emphasizes that unclear employment relationships must be resolved to ensure fair competition and protect workers. It highlights that clear employment status is essential both for worker protection and for better social governance (Stefano et al., 2021). Thus, a thorough analysis of the terms of the contract signed with companies must be done to examine whether it is in compliance with international labour standards.

All in all, this article examines Malaysia's current legal framework available for gig workers, the loopholes in Malaysian gig worker's protection and discusses whether proposed reforms are adequate. The terms of the gig workers' agreements with the digital platforms are so vague and misleading that the workers do not even know if they are the employees or the independent contractors and due to this they have been subsequently denied vital workplace protections. The legal recognition, social protection and the minimum labour rights are vital to the reconstruction of Malaysia's labour law to better reflect the changing world of the gig economy. It is crucial therefore that the gig contracts are properly reviewed to the extent that they are compliant with the international labour standards with the fair rights for the gig workers. By critically reviewing legal documents, academic literature as well as comparisons with other countries such as the United States and Spain, this article aims to assess the gaps in legal protection of gig workers in relation with the industrial relations concept.

## LITERATURE REVIEW

### Malaysia

The gig economy has transformed the global labour market, unfortunately in Malaysia, it is insufficiently regulated (Makhtar et al., 2023). Scholars have widely observed that gig workers are often excluded from the conventional labour protections, which has raised critical legal and socio-economic concerns (Makhtar et al., 2023; Amin, 2023). The lack of legal recognition of gig workers as employees under the existing frameworks like the Employment Act 1955 in Malaysia lead to significant protection gaps, particularly concerning social security, collective bargaining, and dispute resolution mechanisms (Amin, 2023; Journal of Malaysian Legal Studies, 2021). Recent data indicate that gig workers constitute approximately 26% of Malaysia's workers and are disproportionately located in metropolitan areas and in sectors such as e-hailing, food delivery, and freelance digital services. Young adults between the ages of 18–34 makeup over 60% of this group, and there is almost an equal number of women as there are men although women dominate the home-based digital freelancing (Department of Statistics Malaysia, 2024).

Furthermore, the empirical studies in Peninsular Malaysia show that gig workers often experience income instability, absence of social insurance, and a lack of occupational safety standards (Abdullah et al., 2024). Although these workers contribute substantially to Malaysia's digital economy, their precarious status is uncertain and leaves them vulnerable to exploitation (Makhtar et al., 2023). Furthermore, the traditional industrial relations models are not well adapted for the non-standard work arrangements such as freelancing, platform-based delivery, and ride-hailing services (Samad et al., 2023). On Malaysian platforms like Grab and Foodpanda, the algorithmic management determines work allocation, pay rates, and performance evaluations, often without transparency for workers. These opaque algorithms contribute to unpredictable earnings and unilateral deactivations, exacerbating worker precarity (Muldoon & Raekstad, 2022; Duggan et al., 2023).

Efforts to extend protection are being made little by little. For instance, the gig workers have been encouraged to register under the Societies Act 1966 to form associations (Journal of Malaysian Legal Studies, 2021). However, these associations lack the bargaining power typically afforded to trade unions, raising questions about their effectiveness in promoting and protecting workers' interests (Amin, 2023). This state of affairs is also made worse by the fact that the Industrial Relations Act 1967 does not cover independent contractors like gig workers and eligible to join a union although this representation is what has helped millions of Malaysia's formal sector workers from being marginalized under the former government (Amin, 2023). Similarly, there is also increasing discussion on whether the installation of a universal basic income or compulsory insurance schemes as safety nets (Uchiyama, Furuoka, & Md. Akhir, 2022). Apart from the Self-Employment Social Security Scheme (SESSS), which is administered by SOCSO, Malaysia also offers the i-Saraan which is a voluntary savings programme under the Employees Provident Fund to help self-employed persons build retirement savings. Nonetheless, the labour force participation remains low, less than 15% participation due to irregular salary and limited awareness of the scheme among the gig workers (Employees Provident Fund, 2023; Perkeso, 2023).

In contrast, Japan has now begun to introduce developing guidelines at the international level leading to fair contract and platform accountability (JILPT, 2024). In comparison, Malaysia still lacks statutory definitions and guidelines that can differentiate between an employee, an independent contractor, and a gig worker (Amin, 2023). Some platforms voluntarily decide to provide insurance or welfare contributions, this is not compulsory and non-binding (Oxford Department of Social Sciences, 2024). Singapore's Advisory Committee on Platform Workers suggested mandatory Central Provident Fund contributions, work-injury compensation, and a waged "living allowance" for platform workers to balance the trade off between flexibility and protection (Ministry of Manpower Singapore, 2022). These steps also provide a practical model for Malaysia to consider. The International Labour Organization (ILO) has also emphasized the freedom to associate and the right to collective bargaining should be granted to all workers, irrespective of their forms or arrangements of employment (ILO, 2025).

The scholars suggest that the gig work in Malaysia might be regulated on a human rights basis (Makhtar et al., 2023). The decent work principles enunciated by the International Labour Organization must be incorporated

into the national labour laws to facilitate fair wages, safe working environments and collective rights (Makhtar et al., 2023). The recent studies also highlighted the psychological and emotional cost of gig work and the necessity for a stronger welfare system (Anuar et al., 2024). The research suggests that the high stress and burnout and feelings of isolation among the gig workers are connected to the aspects of algorithmic control, income volatility and lack of social support. This situation is exacerbated by the fact that there are no employer provider benefits, either in the form of counselling services or paid time off sick leaves (Lang et al., 2023).

This is also an area for criticism in Malaysia where the researchers have looked at how the platform of capitalism actually works (Journal of Industrial Relations, 2024). The food delivery riders recently showed the growing dissatisfaction as a result of unfair algorithms about the wage deductions that are impossible to unravel and the employment contracts with no transparency whatsoever about the terms and conditions thereof (Journal of Industrial Relations, 2024). Such resistance highlights the needs for legal reform that will benefit both parties in order to address this imbalance of power (Makhtar et al., 2023). The informal unions and the gig workers associations have urged the government to provide clearer rules and regulations including the minimum payment guidelines. Their organizing raises issues of legal recognition and collective bargaining rights to address the dispute over pay and working conditions (Uchiyama, 2023).

While the Malaysian government has established programmes such as SOCSO's Self-Employment Social Security Scheme (SESSS), participation remains voluntary and the compliance is not enforced, which in turn contributes to exacerbating inequality (Uchiyama, Furuoka, & Md. Akhir, 2022). Consequently, the literature overwhelmingly recommends for either amending existing laws or enacting a new Gig Workers Act that is relevant to current digital labour conditions (Amin, 2023; Makhtar et al., 2023).

## United States

The gig economy in the United States has grown rapidly in recent years, with millions of workers participating in various freelance, digital platform based and contract-based jobs with a surge particularly in online apps such as Doordash, Lyft and Uber. Gig work gained popularity during the Covid pandemic especially due to the fact that people were instructed to stay indoors and hence, had to utilise online delivery services such as Doordash and Uber Eats which ultimately resulted in the increase of gig workers (Delouya, 2023).

In a study by the University of Chicago, it was discovered that there is an increase in the number of individuals who reported their income to originate from online platform gig-based careers to the Internal Revenue Service where the number rose up from approximately one million close to five million workers. This major increase is an obvious indication that the number of people utilizing online platforms for gig working as their source of income is gradually increasing (Garin et al., 2023).

Flex, a trade group that includes companies like Uber, DoorDash, Grubhub, HopSkipDrive, Instacart and Lyft had reported that over 23 million individuals had earned money via these online platforms within the last year (Delouya, 2023). Nevertheless, similar with gig working in Malaysia, in the United States, gig workers opt for online platform-based gig working due to its numerous benefits despite the fact that the gig economy does not include these workers the access to employee benefits typically afforded to traditional employees.

According to Erica Groshen, the former commissioner of the Bureau of Labor Statistics, gig working opens an opportunity for individuals to save themselves from unemployment in instances where they are dismissed from their workplace (Delouya, 2023). This statement is further supported by Jordan Nickerson, a visiting professor at MIT Sloan who concurred that gig work can function as a temporary safeguard for individuals to still have means to earn money while waiting for their regular careers to return to the way it was (Walsh, 2020).

However, in recent years, the rise of the gig economy has sparked intense debate about the rights and protections of gig workers who are dependent on these app-based jobs. These jobs offer flexibility, but they often lack the benefits and protections typically provided to employees. In America, if you are a gig worker which equates to an independent contractor, you are deemed self-employed (Internal Revenue Service, 2025). This means that those who are self-employed are limited from the protection and rights afforded to traditional employees.

Those self-employed are excluded from the basic rights offered to normal employees such as leaves for when the worker is ill, healthcare insurance, minimum wages or social protection (Katiyatiya, 2024). This lack of social and legal framework for the protection of gig workers raises concerns as to whether the welfare of gig workers are going to persist in this direction in the future or otherwise. According to Lane (2020), digital platform companies should not only have autonomy over the technicalities of the gig economy but also must bear responsibility for the welfare of the workers who are dependent on these platforms as their source of income. This contention is further supported by (Johnston et al., 2019), where they argue that gig workers are not provided with the necessary employment protections and if we are to place accountability on the companies running the online platforms in the gig economy, we are undoubtedly creating a better protection and stability economically for the gig workers.

In response to growing concerns, California passed Assembly Bill 5 (AB5) in 2019, signed by Governor Gavin Newsom and came into effect in January 2020, with the objective to ensure better treatment for gig workers by viewing gig workers as permanent workers instead of independent contractors (Rhinehart et al., 2016). Under the AB5, it aims to alter the current situation where gig workers are lacking social protections under the law by introducing the “ABC test” to ascertain whether a worker should be categorized as a traditional worker or independent worker (O’Brien, 2020). Pursuant to the ABC test, a worker is assumed as an employee and it imposes a burden on part of the employer to prove that the person is not a worker, instead is an independent contractor.

The three test under the ABC test are as follows; first, the worker has autonomy in their career with no direct and close control of the company, second, the job performed by the worker falls out of the company’s central business and third, the worker does not only offer their services to the company but is also contracted to other customers or businesses. The introduction of the AB5 resulted in significant impact in the changes of status for gig workers, ultimately providing them with employment benefits such as overtime pay, insurance, minimum wage and sick leaves (Hyman, 2024). Through the codification of AB5, digital platform companies which run the gig economy can no longer exclude gig workers from their entitled employment rights and protections (O’Brien, 2020).

Nevertheless, with the enactment of the Assembly Bill 5 (AB5), it has faced opposition from online platform companies like Uber and Lyft which argued that the set of requirements under the AB5 law imposes a higher standard than previously applied. Despite a Superior Court Judge's mandate to these companies to categorize their drivers contracted under them as employees which would provide them similar advantages to that of traditional employees, these companies have decided to resist compliance and do not intend to do so; sticking with their usual business activities (Ghaffary, 2019).

According to Uber’s chief legal officer, Tony West, he contended that the Uber drivers should not be categorized as employees as their job scope falls outside of Uber’s core business which he explains their business as a tech platform for many types of digital marketplaces. In a criticized stance by Uber, it has stated that Uber is a mere app which connects riders with the drivers instead of a transportation company (Rosenblatt, 2019). This opposition to the AB5 law was made not just by Uber but also other digital platform companies essential in the gig economy such as Lyft and Doordash to which these companies had all contributed \$30 million each in the funding intended for a new California ballot proposal with the hopes to overturn the AB5 (McCarthy, 2019). In 2024 however, these big gig economy companies celebrated their victory in their efforts to not comply by AB5 where the the Supreme Court of California decided to approve the voter-approved law; Proposition 22, which gives a green light to these companies to remain classifying their drivers and delivery workers as independent contractors and not employees.

Under this newly passed law, these gig workers are regarded as independent contractors and at the same time are afforded certain benefits however, not encompassing thorough protection like those provided to traditional employees (Sumagaysay, 2024). The introduction of Proposition 22 indirectly jeopardises gig workers’ protection as they are now ineligible to obtain employment benefits and hence, is unjust to them. Law lecturer at UC Irvine, Veena Dubal whose main study is in labour inequality opined that the decision made by the Supreme Court of California was a disappointing one.

Further, professor emeritus at Stanford Law School and the previous chairman of the National Labor Relations Board emphasized that Proposition 22 is a major blow to workers who are already disadvantaged (Sumagaysay, 2024). In short, this shows how in a developed country like the United States, gig workers and those advocating for these workers are still in constant effort in the pursuit of laws which would ultimately aid the gig workers in ensuring they are afforded the same basic employment rights and protections provided to traditional workers.

## Spain

Spain is regarded as one of the most active countries in the sphere of labour reform in the platform economy, especially regarding app-based workers. delivery riders. In 2021, Royal Decree-Law 9/2021, sometimes referred to as the Riders Law was passed in Spain. The law, which requires mandatory food delivery gig workers employed by online services such as Glovo, Deliveroo, etc. and Uber Eats need to be considered as employees, not as independent contractors (Ministerio de Trabajo y Economía social, 2021). This legal trend established Spain as the pioneering European Union(EU)member state to codify clearly and successfully the rights of gig workers with regard to amplified worker mobilisation and legislation problems.

The 2020 decision of the Spanish Supreme Court had a heavy influence on the passage of the Riders Law Tribunal Supremo, (2020), where it was decided that the riders of Glovo started to work under the control of the company. supervision and was therefore entitled to the same rights and protection as to formal employment. The court made it clear that the algorithmic style of control of the platform was quite successful in managing the allocation of tasks, wages, and performance evaluation, diminishing the independence of workers and emphasizing their dependence on the platform, financially. These results correlate with criticisms internationally regarding the lack of transparency in digital governance of gig work as indicated in Malaysia and the United States (Duggan et al., 2021).

It is among the significant parts of the Riders Law which is to allow algorithmic transparency. Under this legal obligation, the platform companies are obligated to provide information with the input of their algorithms on the primary working conditions. As an example, it may include the distribution of orders, scoring of performance, and the calculation of pay. This is a massive move away towards eliminating the black box systems that the gig economy has revolved around. Through these transparency practices, legal experts denote the following conditions, Spain hopes to restore the balance of power between hi-tech giants and employees. additional oversight over artificial decision making by people (European Commission, 2021).

Such aggressive regulatory strategy was strongly opposed by platform firms. Most stakeholders argued that the new law erodes the flexibility of workers and increases the cost of operation. Deliveroo withdrew fully to the Spanish market on the basis that it found the regulatory framework unworkable. Subcontracting agreements invested in by such platform companies like Glovo and others have been done to make sure that they do not assume direct employer duties, which brings about suspicion about the issue of compliance and enforceability (De Stefano & Aloisi, 2022). The effect of administrative reforms has not been successful since platform avoidance techniques remain to be the significant difficulties in enforcement.

The reforms that Spain took in the legislation process encouraged other territories to execute the same kind of change. The European Commission came up with its Proposal of a Directive on Platform Work in 2021 due to the innovative way that employment presumption and algorithmic responsibility are approached in Spain (European Commission, 2021). The Spanish system of labour protection fails to promote its benefits to the ride hailing and freelance digital workers, who are unprotected (Pesole et al., 2018).

The Spanish model is a judicial benchmark that was created to maintain the people who work within the gig economy with the available laws of the labour market without transitioning the fully flexible character of the gig. The Spanish legal system shows the way to create statutory recognition and collective representation and inclusive protection in the case of Malaysia where the protection is dispersed and done on a voluntary basis. The statutory rights have been strengthened as well as the validity of the claims made by workers has been licensed through the law showing their importance to the society.

## METHODOLOGY

This paper is undertaken as a juridical normative study using the doctrinal analysis of the law to determine how well the labour law in Malaysia governs gig work in the light of principles of industrial justice, social security, and international labour. It studies the current legal framework and court interpretations of the situation and protection of the gig workers. A comparative study is conducted with references to some international examples, whereas global labour instruments offer normative comparisons. The article refers to primary legal sources, as well as assortment of academic and policy source materials to critically assess adequacy of Malaysian legal response to the gig economy.

## FINDINGS AND DISCUSSION

The aspiration that the gig economy workers have flexibility, freedom and control over their work is generally an illusion. Although they are officially defined as an independent contractor, such classification confines them outside of Malaysia's main labour legislations which for example means that they get no guarantee of minimum wages, no annual leave, no social security assurance and there is no right to collective bargaining too. This can be seen clearly by Malaysia's having the Employment Act 1955 that covers only legal workers and not gig workers. Although the Self-Employment Social Security Act 2017 provided watered-down coverage, it only offers very limited coverage for work related injuries, as the participation in the scheme is voluntary and many gig workers work unregistered as it makes them an easy target. This distinction is frequently cemented by contracts which are careful to avoid the traditional terms as if this will somehow make it look like the worker is independent. But in fact, the platform companies exert significant control through algorithmic management systems that allocate the work, evaluate the performance and determine how much the workers earn. These are the systems that watch and shape the workers' behaviour with little transparency and accountability and leave the workers with no clear or just form of appeal. In the meantime the flexible job that is promised is often not a matter of being your own boss or choosing your hours, but the digital straightjacket of you have got to be available all the time and do as you are told with none of the job security or institutional support that the old system provided. Nowhere is this inequity more apparent than in the complete lack of any due process proceeding, forcing employees to resolve case disputes without due process and without any right to counsel. This disconnection between the legal status and the real working situations reveals an underlying weakness that leaves the gig workers at a significant downside in the job market. As the gig work keeps growing all over Malaysia, it is getting progressively pressing to rework on the present laws and embrace the lawful classifications that mirror the hybrid and reliant nature of the platform-based work. So, without such alterations the gig workers will stay stuck in a routine of duty with no security, adaptability without steadiness and work without lawful acknowledgement. Additionally, the vulnerability and irregularity in many gig works can negatively influence a gig worker's capacity to arrange the long-haul plans or save up assets. Although the flexibility of this kind of work allows some workers to adjust their times as required, the variability in the work easy and earnings stream is also likely to entail pressure. For the business to develop sustainably, new approaches are expected to create trust and ensure sensible treatment of all contributors to the gig work economy.

The structural inconsistencies within the gig economy create the systemic vulnerabilities for the gig workers. All that includes jobs securities, unpredictable ebbs and flows of income and no institutional support. Comparing the gig work to the traditional employment, it can be seen that there is no stability and transparency. The gig workers are struggling to hold down work in which labour is precarious and largely unregulated. The changes in the employment relationships as well as the workplaces posed by the usage of the computerized systems have been accompanied by a shift to work allocation, performance standard and the payment structures being determined more and more algorithmically. Here, the gig workers experience terms of engagement which can be unilaterally changed without warning on the potential one sided change and cannot bargain. There are no strong legal protections that means many gig workers can do nothing about the unilateral changes to the contracts, reduced their wages or deleted accounts without explanation. This is the modern precarity which is managed digitally but at the same time systematically unaccountable. The disparity between the legal description on the one hand and the actual reality on the other becomes greater as the gig company expands and mature. All this throws the races more wide open and adds to the feeling of tenuous job



security. The urgent action is required to fill this gap in the law and that can only come through law reform that recognizes the nature of platform-based work and affords equal protection to all gig workers, regardless of the particular type of the gig work they do.

The framework of social protection in Malaysia for the gig workers is currently fragmented, voluntary and ineffective in providing meaningful security. Never realizing consistent participation from the start, it has developed a rough ride and never gained real traction. There are two main reasons for this which are because many gig workers have unpredictable income streams and making voluntary contributions is difficult to them and that many gig workers are still suspicious about the prospects of a long-term government program without monthly contributions. Not being compelled to participate, there is no shield for such plans. This is very worrying especially in the time of sickness, injury or unexpected disturbances where the absence of the company policy will also leave the gig economy workers financially vulnerable. The economic fragility of that gap is not simply about the personal struggle but also symptomatic of a much wider systemic failure to include the gig workers into the national security system. From the experience of other countries that have introduced mandatory and comprehensive protective arrangements, effective laws which can be enforced. This is essential to deliver fair labour protection. Hence, Malaysia must rethink its ground and reorient towards a right based, compulsory model that ensures our gig workers are given core protections regardless of whether they are an employee or not.

Gig work is an economic decision for many people, but it is also based on the values and lifestyle. For others, especially those who believe in minimalist ideals usually will choose gig work because gig work provides autonomy, a flexible schedule, a chance to organize their lives around their priorities rather than around the structures of a corporation. This appeals to the ability to pick and choose your own jobs, have your own set of hours and in a way to be independent outside the corporate ladder. Some are attracted to the hustle and bustle of the gig work which offers constant simulation in the form of different jobs and new opportunities to diversify one's income or follow new interests. This lifestyle insight underlines the fact that the gig work is not a second resort so much as a value driven and calculated choice. However, it is that the freedom it delivers so often masks the fragility of the work, its lack of a guaranteed wage or health insurance or union representation, all of which make many gig workers financially vulnerable. As highlighted by Khazanah Research Institute (2022), almost two-thirds of the gig and informal workers in Malaysia earn less than RM2,000 per month and majority of these groups of workers are not covered under SOCSO or EPF, and this has significantly reduced their capacity to attain long term security valuation. Although Government implemented schemes like i-Saraan or the Self-Employment Social Security Scheme (SKSPS) have been launched, the take up is optional and fragmented leaving the onus on the individual and not the platform to protect his own. What this shows is that autonomy around gig work can be illusory in the absence, or unavailability, of structural safety nets. What makes this look like a gig is that without rights that can be enforced or institutions that can be relied on, what might be interpreted as flexibility in a job can just easily be understood as an economically desperate search for survival. In the other words, while the gig work may have an appeal to some ways of life, that appeal should be critically evaluated against the structural vulnerabilities that mediate and limit the lived experiences of those within the gig economy.

The psychological impact of the gig work requires particular scrutiny because such jobs often present serious threats to the mental health of gig workers. The emotional and institutional support structures we need to keep us psychologically healthy are far from guaranteed to gig workers as compared with traditional employment. Algorithmic management can be a pressurized environment due to the performance constantly monitored and evaluated. The gig workers must remain perpetually on call, assessed graded and sometimes being automatically dismissed. This coldly efficient data driven model of the computerized operations cuts human interaction out of the working process and breeds feelings of loneliness and estrangement. The lack of fellowship, managerial backing, constructive feedback and meaningful supervision gives rise to a working atmosphere where the individual feels disoriented, expendable and invincible. The unstable incomes, irregular working hours and the ceaseless pressure to keep active on the platform in account of maintaining the raw minimum of earnings make this matter worse. A 2022 report by the International Labour Organization found that gig workers throughout Asia suffer significantly more psychological strain as a result of long hours, social isolation and rating systems employed by platform operators. Likewise, Khazanah Research Institute (2024) argues that Malaysian gig workers express heightened anxiety about unpredictable income and a sense of

estrangement from sources of assistance, the lack of collectivity as a result of individual oriented platform work. Gig workers have to deal with their own psychological difficulties when they lack sick pay, guaranteed breaks or access to employers provided the psychiatric benefits. Over the time, this incessant emotional pressure often leads to greatly heightened levels of stress, burnout and eventually for some individuals even chronic mental illness. Any future regulatory status must be serious about these issues of mental health and also should incorporate them within the framework of law and economics. We must understand that the gig workers' well-being includes more than just economic and legal stability. It also means emotional resilience, access to a healthy workplace. Constructing this new future of work means we need to think about ways to bring both together.

The gig workers in Malaysia are virtually falling outside of its industrial relations system. In Malaysia, only employees under the contracts are allowed to join the trade unions or participate in collective bargaining according to the labour laws but the gig workers who are legally independent contractors are disqualified from these institutional mechanisms. As a result they cannot bargain for higher wages as an effective group, they cannot even bargain for greater job safety and protection, they also cannot promote better industrial relations as a whole. The gig worker is being cut off from the other workers and has limited opportunities for governing the terms of its work particularly when it comes into conflict with large platform companies. Although some attempts have been made to organize informal community-based grouping among the gig workers, these organizations are not legally recognized and are unable to claim any formal authority to represent their members in disputes of an industrial nature. They only exist as a sort of moral shield, yet they have no real protection under the Malaysian's statutory labour law. Such a denial of collective voice conflicts with the central ideals or industrial democracy which presume that all workers irrespective of contractual form, have the right to participate in the joint decision making and workplace control. This power imbalance between the high growth digital platforms and the gig workers is drafted into the law which means that it makes the gig workers structurally vulnerable and means that they face strong digital platforms alone without the collective bargaining power.

Malaysia's upcoming laws for the gig economy are not ideal and need to be revamped to cater to the realities of modern-day employment. The rise of the platform economy has fundamentally transformed the nature of the relationship between the work and the labour, but the Malaysian regulatory landscape still depends on the outmoded categorisation and long-established concept related to employment. Although the Gig Worker Bill is a welcome signal of the legislative intent, it is likely to have little impact if it does not address the gig worker's overdetermination of vulnerability. The reformation cannot stop at the employment status reclassification, but it must establish mandatory social protection, extend labour standards to platform work and intervene to secure fairness and responsibility in the operation of algorithms. The law should also be changed so that there are ways to resolve the disputes that are open, transparent and sensitive to what it is about gig work that makes it distinctive. The enforcement of the rules by technical classifications or contractual loopholes that allow the platform companies to evade the labour responsibilities should be the understanding that's all gig workers, whether they work through the apps or more in the traditional places of work are entitled to the economy dignity, legal protection and the sweep of benefits that flows from it. It is only with such sweeping restructuring that Malaysia can guarantee that its labour laws are accessible and future-proofed ready to capture the new challenges emerging with the digital economy.

## RECOMMENDATION

To overcome the structural weakness of gig workers in Malaysia, a change of paradigm is required, a shift that does not alienate gig workers in a strict dual distinction between an employee and independent contractor enshrined in the Employment Act 1955. Even the existing legal framework does not address this fact because the flexibility of the gig version of contractual independence masks the facts of control and dependence. A special act like the Gig Workers Protection Act needs to be enacted because current legislation ignores the reality of gig work and needs to give access to the minimum labour standards. Based on the Royal Decree-Law 9/2021 in Spain and ILO Recommendation No. 198, this Act should introduce the third legal framework that would support the flexible working patterns and provide the gig workers with the necessary protections such as the minimum wage provisions, social protection access, and the right to resolve disputes. Although there is a positive development towards that in the proposed Gig Workers Bill 2025, stronger promises are required in

order to guarantee that the legislation seeks to deal with the underlying structural imbalance and to provide affirmative protection to gig workers, beyond the lip service. This recognition at the legislative level would serve not only as a de-obfuscation of the legal category but also as the source of a restoration of honour and safeness of platform-based labour.

Along with the necessity to change the legal status, social protection is also considered another urgent problem because the voluntary schemes proved to be ineffective and inefficient in Malaysia. Even though the Self-Employment Social Security Scheme (SESSS) and i-Saraan are in place to carry out this safety net, they have been poorly enrolled and their voluntary nature has led to very low coverage. To address the same, the Self-Employment Social Security Act 2017 should be revised, and a statutory duty should be imposed on platform firms to contribute to respect of the workers. By doing so, the law must also consider making such contributions paid entirely by the companies like the SOCSO system towards formal employees so that the gig workers are not saddled with the burden of making contributions. This would ease participation levels and workers would experience better insurance covers at reduced rates. An alternative model would be the Central Provident Fund in Singapore where the contribution by the businesses entails retirement, medical, as well as accidental benefits to all types of workers. The institutionalisation of the co-payment system will enable Malaysia to enhance social insurance mechanisms without exposing platform firms to externalisation in the name of gig independence.

Lastly, any new law concerning the protection of gig workers should address not only physical but also mental health and emotional wellbeing. There is overwhelming evidence linking algorithmic management, precarity in income and social isolation to psychological damage to gig workers within the academic literature. The scope of the legal regimes such as Occupational Safety and Health Act 1994 should be made more extensive so that platform companies could be legally bound to provide essential well-being provisions, such as access to counselling services, paid sick leaves and other forms of support. The results of such reforms include recognition that economic security needs to be balanced with emotional strength and the validation of the fact that any form of work, however it is classified, should be afforded lawful protection with dignity.

## CONCLUSION

The gig economy has exposed eye-opening shortcomings in Malaysia's labour edifice tagging not the least, the abject lack of protection of the nonstandard worker. While the gig work is welcomed by many people due to the ability to set their own working hours, it often hides a reality of economic instability, lack of legal protections and no real voice in collective decisions. The current voluntary schemes and out of date categories of work do not capture the complexity inherent in platform work as it is lived and experienced by workers trying to rationalise algorithmic control and emotional strain. This paper has demonstrated how the existing system is unpleasant and how it fails even to pass the test of industrial democracy and of collective participation. Reforms are possible that the other countries like Spain and the United States illustrate is that change is possible and can be effective. Malaysia should not stop at rhetoric and put into place a rights based and enforceable model that provides the gig workers legal certainty, social protection and also industrial recognition. If the nation is to have any hope of seeing its digital economy end up in line with principles of fairness, dignity and sustainable work, we must not wait that long.

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