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### LABOUR RIGHTS PROTECTION FOR PLATFORM WORKERS: LESSONS FOR MALAYSIA

<sup>1</sup>Siti Suraya Abd Razak <sup>2</sup>Harlida Abdul Wahab, & <sup>3</sup>Ahmad Jusoh

<sup>1&3</sup>Universiti Teknologi Malaysia, Malaysia

<sup>2</sup>Universiti Utara Malaysia, Malaysia

<sup>1</sup>Corresponding author: [sitituraya@utm.my](mailto:sitituraya@utm.my)

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#### ABSTRACT

Digital labour platforms have emerged as a solution to unemployment issues around the world over the past decade. The flexibility and independence offered on digital labour platforms have attracted workers to perform gig work on digital platforms. Issues such as unfair payment systems and unjust terminations of contracts by platform providers have affected the sustainability of digital labour platforms in Malaysia. This study aims to achieve two research objectives. The first is to examine the labour rights issues surrounding platform workers. Canada has taken immediate steps to enact a statute and has amended its existing legislation to ensure its platform workers are protected. Therefore, the second objective of this study is to analyse how Canada provides labour protection for the country's platform workers. The objectives of this study are achieved through adopting a qualitative method by way of content analysis of journal articles and relevant government statutes. Semi-structured interviews with relevant ministries and government agencies were conducted, and the results were analysed. A comparative analysis method was used to compare the legislative frameworks in Malaysia and Canada. It is suggested that Malaysian policymakers should refer to the Digital Platform Workers' Rights Act 2022 (DPWRA) and the Employment Standards Act 2000 (ESA) in formulating protection for platform workers. This study underlines the urgent need for integrated policy reforms to ensure fair and sustainable digital labour practices in Malaysia.

**Keywords:** Digital economy, digital labour platform, employment rights, flexibility, gig work.

## INTRODUCTION

The rise of digital technology has caused significant changes in the global work market and is a driving force of the sharing economy. Sharing economy is a socioeconomic structure that enables the sharing of assets and resources between people, organisations, and/or governments, made possible via digital platforms. It provides access to control resources and assets and improves their use. Sharing economy is defined as a system of exchange of goods and resources between platform providers and users that uses digital platforms (Malaysia Digital Economy Corporation, n. d.). Platform operators can communicate with providers and users to facilitate the exchange of products and assets between them. In this sharing economy system, platform operators, providers and users can exchange various kinds of assets. The platform and gig economies are interchangeably called the sharing economy. There are four types of sharing economy: physical assets sharing, intangible assets sharing, goods sharing and money sharing. This study focuses on physical assets sharing, which refers to temporary access to underutilised physical assets and intangible assets sharing, which means temporary access to less tangible things, for instance, sharing of time and skills. Sharing economy models have disrupted the employment landscape, resulting in the birth of the term digital labour platform. The digital labour platform is a concept where work can be performed on web-based platforms. In this concept, work is outsourced via open call and location-based apps, generally to undertake local, service-oriented jobs like delivery or domestic service. Examples of sharing economy platforms in Malaysia are Grab, MyCar, LalaMove, Kiddocare, Fastjobs and so on.

Sharing economy services have become increasingly popular in recent years, and this trend is expected to continue. The overall value of the global sharing economy is predicted to reach USD794 billion by 2031, up from USD150 billion in 2023. The sharing economy concept offers potential as an innovative driver for growth and promotes worker inclusivity. In Malaysia, more than 1.2 million Malaysians have earned RM4 billion in income since 2016 through a sharing economy programme initiated by the Malaysia Digital Economy Corporation (MDEC). Over 20,000 Malaysian companies and over 1.4 million job seekers from Malaysia are said to have registered on a digital platform known as FastGig (Pang, 2022). As of 2025, Malaysia's gig workforce continues to expand. In March 2025, the Human Resources Minister reported that approximately 1.16 million Malaysians were engaged in gig work across various sectors (The Star, 2025). The COVID-19 pandemic years recorded the highest number of gig workers working on digital platforms in Malaysia. According to a recent study, 4 out of 10 Malaysians entered the gig economy prior to the COVID-19 pandemic outbreak after quitting their full-time jobs (Zurich Insurance Group & Oxford University, 2020). Digital labour platforms offer a variety of work opportunities for platform workers. Platform workers are individuals who provide goods or services to clients, customers, or businesses through digital labour platforms. They can work from anywhere and at any time they want as freelancers. Digital labour platforms also enable people to generate additional income while maintaining their full-time jobs. Flexibility has become the main attraction for working on digital labour platforms especially for vulnerable groups such as youths, people with disabilities and women.

However, despite the growing trend of digital labour platforms, policymakers and regulators are facing new challenges. The government must address issues like employment rights, fair pay, safe working conditions and social protection for workers on digital platforms. This is due to the status of platform workers as freelancers or independent contractors, which excludes them from any labour rights and protection under various laws, in particular the Employment Act 1955 (Act 265). There remain substantial weaknesses in the protection of labour rights, i.e. platform workers' rights to representation, pay, job security, social security protection, working hours and safety and health (Xu & Liu, 2021).

Platform workers, especially those who work using location-based apps, are not protected by insurance or compensation benefits from platform providers despite working conditions that expose them to injury and road accidents. Additionally, platform workers are confronted with issues such as suspension of accounts without proper justification from the platform provider, being imposed with penalties due to the app's working algorithms and having to endure abuse from clients.

Platform workers are also underpaid as the Minimum Wages Order 2012 does not cover their position as contract for service workers. These issues are also harming the largest group of workers on the digital labour platforms, namely, young workers. A study suggests that more young people are going into informal and "non-standard" jobs (Lin et al., 2018). The lack of protection for young platform workers who work on digital labour platforms has reduced their interest in participating in the digital economy and increased unemployment rates. Based on recent statistics, Malaysia is among the countries that are highly affected by the brain drain issue. Recent numbers show that up to 6% of the workforce has moved abroad (Department of Statistics Malaysia, 2022). There are several interconnected problems with the sharing economy that need a comprehensive strategy and coordinated effort to close gaps and develop the best outcomes for users, platforms, and the market. The sharing economy is included in the 13th Malaysia Plan for 2026–2030, and the government is attempting to regulate the gig economy sector to ensure gig worker welfare. Appropriate regulations are expected to ensure fair competition for businesses and adequate protection for workers. Engaging with and tackling such difficulties will be critical in capitalising on the potential opportunities arising from the digital economy and labour platforms to promote decent work and accelerate progress towards the Sustainable Development Goals.

This study aims to achieve two research objectives: to examine the labour rights issues surrounding platform workers in Malaysia and to analyse the labour rights protection in Canada and steps taken by the Canadian government to ensure the labour rights of platform workers are protected. The first part of this study explains the literature review of this area. This is followed by a discussion of the research methodology adopted to achieve the research objectives. The next section of this paper discusses results and findings. This paper is concluded with its contribution and recommendations for future work.

## **METHODOLOGY**

The objectives of this study are achieved through adopting qualitative methods. The first objective is to examine the labour rights issues surrounding platform workers in Malaysia, which is attained through a content analysis method. In this study, the content analysis was conducted on the Employment Act 1955 and the Industrial Relations Act 1967. Journal articles were downloaded from library databases (Scopus and Web of Science) and search engines by using keywords such as digital labour platform, labour rights, employment law, sharing economy and gig work. Case laws related to the contract of service and platform workers in Malaysia were also analysed. Apart from that, this study conducted interviews to gather data from respondents. Interviews with experts are important; tapping into their thoughts addresses the underlying obstacle that many issues of interest in the social sciences in general are not easily observable, documented, or made transparent (von Soest, 2023). In this study, semi-structured interviews with officials from relevant ministries were conducted to get their views on the position of platform workers and labour rights issues they face. After classifying the obtained data, the frequencies of each theme or category throughout the data were counted.

Content analysis was used to achieve the second objective, that is, to analyse the labour rights protection in Canada and the steps taken by the Canadian government to ensure the labour rights of platform workers are protected. The contents of parliament statutes, in particular, the Employment Standards Act 2000 and the Digital Platform Workers' Rights Act 2022, were analysed. Texts from magazines, newspapers, and speech transcripts were analysed as part of content analysis (Ellingson, 2013). Besides, comparative analysis was used to compare the legal frameworks on digital labour platforms in two countries. The legal framework on labour rights in Canada was examined to gain insight into how the Canadian government provides better labour protection for its platform workers. Canada was selected for comparative purposes as it shares a common law legal system with Malaysia. Therefore, a similar government system to Malaysia enables the Malaysian government to adapt the model legislation with ease. For this study, workers on digital labour platforms are referred to as platform workers and the employers are referred to as platform providers. The scope of this study is confined to gig workers who operate through digital labour platforms.

## **LABOUR RIGHTS AND PROTECTION IN MALAYSIA**

### **The Employment Act 1955**

In Malaysia, the Employment Act 1955 was enacted to govern the relationship between employer and employee and establish minimum employment rights for workers. It encompasses provisions concerning employment rights such as maximum working hours, holidays and leave, payment of wages, protection for female workers, termination of employment contract and sexual harassment. However, the Employment Act 1955 is limited in application to Peninsular Malaysia and the Federal Territory of Labuan. Sabah and Sarawak are governed, respectively, by the Sabah Labour Ordinance and the Sarawak Labour Ordinance. The Employment Act 1955 is applicable to private sector workers in Malaysia and those who fall under the definition of "employee" as mentioned under the Act:

- (i) any person who has entered into a contract of service; and
- (ii) any person who, irrespective of the wages he earns in a month, has entered into a contract of service with an employer in pursuance of which:-
  - a) he is engaged in manual labour, including such labour as an artisan or apprentice;
  - b) is engaged in the operation or maintenance of any mechanically propelled vehicle operated for the transport of passengers or goods or for reward or for commercial purposes;
  - c) supervises or oversees other employees engaged in manual labour employed by the same employer in and throughout the performance of their work;
  - d) is engaged in any capacity in any vessel registered in Malaysia; or
  - e) is engaged as a domestic employee.

According to Section 2, an employee is defined as any person who works under a contract of service. A contract of service is a contract that governs the relationship of employer and employee, which can be made in writing or verbally, expressed or implied.

### **Determining Contract of Service**

The Employment Act 1955 protects a person hired under a contract of service. Both full-time and part-time workers are subject to the provisions of the Employment Act 1955 as long as it can be proven that

it is a contract of service (Nadzri et al., 2025a). Any terms in the employment contract that are less favourable than the Employment Act 1955 shall be void and have no legal and binding effect. The changing of any terms and conditions of an employment contract can only be made with the mutual consent of both parties (Mir & Mahmud, 2003). The Employment Act 1955 does not cover a contract for service. A contract for service is a contract between an employer and an independent contractor. There is no employer-employee relationship in this type of contract. Workers under contract for service are governed by the terms of their employment contract set by the employer and usually provide their services on a freelance basis. They work on a temporary or project basis (Ashari, 2004). Thus, the person is not an employee within the purview of the Employment Act 1955.

The courts have introduced principles to determine whether a person is under a contract of service or contract for service. There are five tests used to identify the type of contract that governs the employment relationship. They are: control test, independence test, economic reality test, integration test and mixed test. The control test was mentioned in the landmark case of *Ready Mixed Concrete (South East) Ltd v. Minister of Pensions and National Insurance [1968] 2 QB 497*, where the Court in its judgment stated that:

I must now consider what is meant by a contract of service. A contract of service exists if these three conditions are fulfilled. (i) The servant agrees that, in consideration of a wage or other remuneration, he will provide his own work and skill in the performance of some service for his master. (ii) He agrees, expressly or impliedly, that in the performance of that service he will be subject to the other's control in a sufficient degree to make that other master. (iii) The other provisions of the contract are consistent with its being a contract of service.

In the judgment, it is highlighted that the degree of control imposed by an employer over its employee will determine the type of relationship. If the employer can control how an employee performs their work, it is assumed that the employee is under the contract of service. In Malaysia, the control test is preferred by the courts in determining the type of contract. This application can be observed in the case of *Bata Shoe Company (Malaya) Ltd v. Employees Provident Fund Board [1967] 1 MLJ 120*. In this case, the Court decided that, as the employer did not have sufficient control over the salesman, the salesman was not an employee of the company. For this reason, the employer was not bound to contribute to the Employees' Provident Fund. The courts have looked into how much an employer controls its workers to determine whether a person is an employee of the company. In the case of *Kool FM Radio Sdn. Bhd. v. Mahkamah Perusahaan & Anor, KL High Court, Judicial Review No. WA-25-146-05/2020*, the High Court held that the radio announcer, though engaged via a contract for services, was effectively an employee because Kool FM exercised significant control; imposing daily hours, office duties, fixed salary paid directly, and an integral role in the business. Thus, she was qualified as a "workman" and entitled to unfair dismissal protection.

### **Protection under the Employment Act 1955**

It is important for an employee to be covered under the Employment Act 1955 as it provides minimum benefits for employees, such as stating the minimum requirement for holidays and leave for employees, rules for payment of wages and setting the maximum working hours and rest break for employees. In the case of *Chin Swee Hin Sdn. Bhd. v. Mohamed Arif bin Khalid [1977] 2 MLJ 31*. The Court held that:

The definition of wages in Section 2 of EA is clear and unambiguous. The aim of the Act is to protect the labourers from exploitation and it could not therefore be their intention of the legislature that substantial amount of remuneration in cash paid to labourer could be excluded for purposes of calculating overtime pay by just calling it food allowance. As the food allowance paid to the Respondent by the Appellant was part and parcel of the contract of service, there is no reason why it should not also be included for purposes of calculating overtime pay.

In the said case, the employer failed to include food allowance in calculating overtime payment of the employee. The Court held (counting on the fact that food allowance was part of the definition of wages under Section 2 of the Employment Act 1955) that the employer was wrong in failing to include food allowance in the calculation of overtime payment. The Court, in its judgment, highlighted that it is the intention of the Parliament to set minimum standards for workers in Malaysia and the law must be interpreted with the aim of protecting workers. Thus, it can be observed that the Employment Act 1955 plays an important role in protecting workers from exploitation by their employers.

### **VULNERABILITY OF PLATFORM WORKERS**

The control test is applied in determining the employment relationship between a platform provider and a platform worker. The question arises whether a platform provider can control a platform worker in performing their work. A platform worker has the freedom to choose when and where they want to perform the work and is not bound by working hours set by the platform provider, as practised in the traditional work setting. The relationship ends once the platform worker has completed their tasks and the platform provider has paid for the service. The lack of control factor in digital labour platforms indicates that the platform worker has the independence to determine their way of work and thus should be treated as a contract for service (Razak et al., 2025). Consequently, as a platform worker is under contract for service, their labour rights are not subject to the Employment Act 1955. Instead, these rights are covered on an individual basis, in which the terms of the employment contract are based on mutual consent between the platform worker and the platform provider (Razak et al., 2025). Worryingly, some of the contractual terms might be biased towards the employer and expose the platform workers to exploitation by platform providers.

The same goes for a platform worker's position under the Industrial Relations Act 1967. In the case of *Loh Guet Ching v. Menteri Sumber Manusia & others [2022] MLJU 2503*, a platform worker working as an e-hailing driver filed an unfair dismissal claim to claim for reinstatement to the Ministry of Human Resources. The ministry declined the unfair dismissal application, based on the reason that she was not a workman as defined under the Industrial Relations Act 1967. She subsequently brought her application to the Industrial Court. Before the Court could hear the unfair dismissal application, she had to prove that she was a workman as defined under the Industrial Relations Act 1967.

Section 2 defines a workman as:

Any person, including an apprentice, employed by an employer under a contract of employment to work for hire or reward and for the purposes of any proceedings in relation to a trade dispute includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of that dispute or whose dismissal, discharge or retrenchment has led to that dispute.

The Court in its judgement stated that “an independent contractor, who is engaged through a contract for services, is not a workman under the Act.” According to the Court, there was no employment contract established between the e-hailing driver and the platform provider. The relationship between them was a commercial arrangement in which the e-hailing driver acted as an independent third party. Furthermore, the driver used her own vehicle to carry out transport services through the provider’s platform. Additionally, the platform provider did not contribute to her provident fund and social security fund. This is a landmark case in Malaysia that fixed a standard for platform workers as not being categorised as a workman under the Industrial Relations Act 1967 and directly disqualified them from receiving benefits under the Industrial Relations Act 1967.

### **Platform Work as Informal Employment**

The preceding analysis shows that platform work can be categorised as informal employment (Sazali, 2021). According to Amanina et al. (2024b), informal employment refers to those workers who are not covered by retirement savings, a pension or employment injury insurance in their employment. The platform worker’s status as a self-employed worker has excluded them from benefits under the Employment Act 1955 and Industrial Relations Act 1967. Three main issues in digital labour platforms are safety and health, instability of income and abuse and exploitation by platform providers (Amanina et al., 2024c). According to a ministry representative (Respondent 2):

Platform workers’ main concern is their income stability. They are not concerned much about other labour protections. They are mostly worried about the low payment rate issue, deduction of payment and the algorithm of the platform provider’s system.

The statement highlights that platform workers’ foremost concern lies in income stability, reflecting the precarious nature of digital labour platforms. Unlike traditional employees who value broader labour protections such as social security, collective bargaining, or workplace safety, these workers prioritise fair and predictable earnings (Razak & Shukor, 2025). Their anxieties over low pay rates, arbitrary payment deductions, and opaque algorithmic systems indicate structural vulnerabilities inherent in platform-mediated labour. Algorithms play a central role in controlling key aspects of digital labour platforms (Wu et al., 2023). These encompass how tasks are assigned, how workers are evaluated, and how payments are calculated. Despite their importance, the inner workings of these algorithms are often unclear or inaccessible to platform workers (Deranty & Corbin, 2022). This lack of transparency leaves many workers uncertain about how their performance is judged or how decisions affecting their income and job opportunities are made. According to Tan et al. (2022), remote working conditions on digital labour platforms also pose a risk to workers due to the lack of workplace protection. Location-based platform workers are especially vulnerable to workplace accidents and injuries because social insurance does not cover them (Amanina et al., 2024a).

Apart from that, platform workers are not subject to the Minimum Wages Order 2024. This is because platform workers are classified as independent contractors rather than employees. This distinction is crucial because the Minimum Wages Order 2024 only applies to workers employed under a contract of service (paragraph 2 of the Minimum Wages Order 2024). Without such a contract, platform workers fall outside the scope of statutory wage protections (Nadzri et al., 2025b). The courts have reinforced this view, as seen in the Loh Guet Ching case, where e-hailing drivers were held not to be employees under existing laws. Consequently, platform workers are currently excluded from receiving minimum wage protection guaranteed by the Minimum Wages Order 2024. Seeking representation through a trade union is also challenging for platform workers. The Trade Unions Act 1959 does not apply to platform

workers because they are not classified as employees under a contract of service. Their only current option is to form associations under the Societies Act, but these do not confer trade union rights or collective bargaining power. Extending labour rights to platform workers can mitigate the precarious character of their work.

According to the ministry officer (Respondent 2):

The issue on working condition and fair pay of platform workers are actually related to the definition of the platform worker itself. How the law defines platform worker, freelancer and independent contractor? We should be clear on the relationship between platform worker and platform provider, is it fall under informal employment? For now, there is yet a standard definition of platform worker in Malaysia.

According to Respondent 2, the debate on platform workers' rights to fair pay and decent working conditions is inseparable from the definitional challenge surrounding their legal status. In Malaysia, platform workers are engaged under contracts for service, rather than contracts of service, excluding them from statutory protections afforded to employees. This ambiguous categorisation blurs the employment relationship between the worker and the platform provider, raising questions of whether such arrangements fall within informal employment. The absence of a standard legal definition of "platform worker" in Malaysia perpetuates regulatory gaps, leaving this growing labour segment without adequate labour rights or protections.

According to Respondent 1:

The law concerning labour rights for young workers should also be revisited as they are the largest group working in digital labour platform in Malaysia. Young workers are exposed to various abuse and mistreatment by clients and platform providers due to their status in employment contract.

This statement highlights the need for urgent reconsideration of the legal framework for young workers, which refers to the Children and Young Persons (Employment) Act 1966. This is because young workers represent the largest demographic engaged in Malaysia's digital labour platforms. Statistics show that youths comprise the largest number of platform workers in Malaysia (Malaysia Digital Economy Corporation, 2024). Despite their significant participation, these workers remain highly vulnerable to exploitation, including unfair treatment, delayed payments and arbitrary termination, primarily because they operate under contracts for service rather than contracts of service. The main legislation that regulates the employment and labour rights protection of young workers in Malaysia is the Children and Young Persons (Employment) Act 1966 (CYPE). This law emphasises the provision of labour rights protection for young workers in Malaysia. According to the Act, a person who is under the age of 15 is considered a "child" while a person who is 15 years of age or older but under the age of 18 is considered a "young person" (Section 2). Therefore, children and young people aged between 15 and 18 are protected by this law. However, the International Labour Organisation states that young workers aged from 15 to 24 years are considered "young workers". This regulation clearly is not consistent with the CYPE. This discrepancy indicates that individuals aged 18 to 24 years do not fall under the protection of the CYPE, potentially leaving them without specific safeguards for labour rights under this legislation. Furthermore, the existing status as independent contractors while working on digital labour platforms excludes them from the protective ambit of employment legislation. Consequently, the absence of enforceable safeguards exposes young platform workers to systemic

abuse, highlighting the need for tailored legal reforms to strengthen protections and ensure fair treatment in the gig economy. Additionally, young workers lack awareness of their labour rights. Lack of career growth and financial literacy also makes them vulnerable in the digital labour platform employment landscape (Respondent 1).

Based on the data presented, there is a dire need for the government to address these vulnerabilities while maintaining the nature of work on digital labour platforms. A clear definition of a platform worker and the type of contract involved in digital labour platforms must be included in statutory regulations (Amanina et al., 2024d). Enhanced platform worker protection can be advantageous in and of itself because it can make workers more resilient to both immediate and future shocks, thereby making them more productive.

## **LABOUR RIGHTS PROTECTION FRAMEWORK IN CANADA**

### **Background**

Canada is selected for comparative purposes in this study as it shares a common law legal system with Malaysia. As a Commonwealth country, the political system of Canada is a constitutional monarchy with a parliamentary system of government. The Canadian government consists of three arms: the legislature, the executive and the judiciary. Therefore, a similar government system to Malaysia means that the Malaysian government can adapt the model legislation with ease. Canada is divided into 10 provinces and 3 territories. There are four main regions in Canada: Western Canada, Central Canada, Atlantic Canada, and Northern Canada. Two political parties, the central-left Liberal Party of Canada and the centre-right Conservative Party of Canada dominate the country's political system. Currently, Canada is ruled by the Liberal Party of Canada, which, in its policies, recognises all forms of rights and favours a free market economy in its economic system. The key industries of Canada that contribute to its gross domestic product (GDP) are the services sector, manufacturing and construction. The GDP of Canada in 2023 was reported to be USD2.218 trillion with a GDP growth rate of 2.51% (YCharts, 2024). Canada had a population of an estimated 40.77 million in 2023 and a labour force participation of 20.17 million with a 5.4% unemployment rate (Statistics Canada, 2024a).

The main legislation applies to federally regulated industries such as banking, interprovincial and international transport by air/rail/road, telecommunications, broadcasting, ports, postal service, pipelines and others in the Canada Labour Code. For workers not working under federally regulated industries, the workers refer to employment standards in the provinces or territories where they work.

In Canada, a platform worker is described as a worker who enters into short-term contracts to complete specific tasks (Aird & Berlis LLP, 2025). Platform workers make up an increasingly large proportion of Canada's workforce (Statistics Canada, 2024b). Statistics show that there is an increase in Canadian workers who perform platform work. The number grew from 5.5% in 2005 to 10% in 2020 (Employment and Social Development Canada, 2023). In 2022, around 250,000 Canadian platform workers were registered with ride-sharing and delivery services as the most common type of digital platform work (Employment and Social Development Canada, 2023). Platform workers, especially the location-based workers, complain about facing low and unpredictable wages, being terminated from the job without proper warning, and being deprived of workers' compensation coverage in case of injury while performing the job (Employment and Social Development Canada, 2023). Due to this situation, policymakers in Ontario and British Columbia have taken steps to enact laws that protect platform workers.

## **Digital Platform Workers' Rights Act 2022**

The Government of Ontario has enacted the Digital Platform Workers' Rights Act 2022 (DPWRA), which has been in force since July 1 2025. It spells out minimum rights for platform workers, whether or not they are employees under the ESA (Bill 88, Working for Workers Act, 2022). The DPWRA applies to both workers who perform platform work in Ontario and the operators of these digital platforms. The DPWRA lists obligations for platform providers, which include:

- (i) To record, retain and keep readily available for inspection all prescribed information relating to each platform worker who accesses the digital platform.
- (ii) To provide in writing, information on how a worker's pay will be calculated, the recurring pay period and pay day for the worker, and the factors used to determine whether work assignments are offered to workers within 24 hours after a platform worker is given access to the digital platform.
- (iii) To pay minimum wage according to the ESA for assignment time and should not include any tips or gratuities paid in the assigned work.
- (iv) To not withhold or make deductions from any amounts earned by platform workers, including tips or gratuities.
- (v) To provide a notice of removal before removing a platform worker from accessing the digital platform. The notice must explain the grounds for removal.

A platform worker who believes that the platform provider has contravened the DPWRA may file a complaint with the Ministry of Labour, Immigration, Training and Skills Development. The penalty depends on the position of the platform provider, either an individual or a corporation.

However, the DPRWA does not cover all types of platform workers. It only protects platform workers working for ride-sharing, delivery, courier or other prescribed services. This can be observed from the way the word "digital platform work" is defined under the DPRWA, which states:

Subject to the regulations, the provision of for payment ride share, delivery, courier or other prescribed services by workers who are offered work assignments by an operator through the use of a digital platform (Section 1).

This means that Ontario policymakers do not convert platform workers into 'employees' under the ESA, but instead enact a specific law to protect the platform workers, limiting it to specific types of platform workers instead of covering all of them. The enactment of DPRWA has caused mixed reactions from the stakeholders. Some platform workers complain that the DPRWA is not sufficient, as it does not take into account the engaged time (actively working) and unengaged time (waiting for orders or customers) in the calculation of minimum wage. It also does not cover basic rights such as paid sick leave, statutory holiday pay, overtime, and rights to make Employment Insurance (EI), Canada Pension Plan (CPP), or Workplace Safety and Insurance Board (WSIB) contributions (Wilson, 2025). Uber, one of the major platform providers, has announced that it would integrate the DPRWA in its policies (Uber Canada, 2025).

## **Amendment of the Employment Standards Act 2000**

In British Columbia, the government took a different approach from Ontario. Instead of enacting a new law, an amendment has been made to the Employment Standards Act 2000 (ESA). The primary labour

law in British Columbia that sets minimum employment standards is the ESA, together with the Employment Standards Regulation. In November 2023, the Labour Statutes Amendment Act was passed to amend the ESA with the objective of providing protection for platform workers. The amendment came into force on September 3 2024. Similar to DPWRA, the protection only covers platform workers in specific areas. This can be seen in how the word ‘online platform worker’ is added in ESA (Section 1): “a person who performs prescribed work that the person accepts through an online platform”. The policy interpreted that an online platform worker performs either or both of the following kinds of work:

- (i) Delivery services: Picking up online orders of food, drinks, groceries or other goods from sellers, and delivering the orders to customers.
- (ii) Ride-hail services: Transporting passengers who submit requests via an online platform that connects workers with passengers” (Government of British Columbia, 2024).

Through this amendment, ESA deems online platform workers as employees and directly makes platform workers eligible for the minimum rights covered under the ESA. However, not all employment rights under the ESA apply to the platform workers. For instance, platform workers are not entitled to overtime, paid sick leave, statutory holidays or vacations. Some provisions under the ESA that cater to platform workers are:

- (i) Delivery services workers and ride-hail services workers have their own minimum hourly wage rate. The baseline minimum wage is \$20.88, and the current minimum wage, in effect as of June 1 2025, is \$21.43. Tips or gratuities should be excluded (Section 18.2).
- (ii) Platform provider to inform platform workers on where a rider or product is to be picked up and where they will be delivered (within 300 m of their actual locations), and an estimate of the money that will be paid for a platform work offer (Section 45.30).
- (iii) Platform provider to provide wage statements to delivery services workers and ride-hail services workers every payday (Section 45.31).
- (iv) Platform provider to give notice to the platform worker in case of suspension (Section 45.32).
- (v) Platform provider to provide written reasons for permanently removing a worker’s access to an online platform (Section 45.33).

The added clause in the ESA is a stepping stone for Canada in extending labour rights to platform workers (Ministry of Labour, 2023). The amendment was made by the Canadian government to bring fairness and predictability to platform workers and to accommodate them as the sector continues to expand (Levy & Vassos, 2024). Despite the positive development of the ESA and positive feedback from the platform workers, the absence of overtime pay, holidays, vacations and a minimum wage calculation that does not include waiting time has been criticised by platform workers (Phan, 2025). While major digital platform companies state that they support the amendment of ESA, they warn that it could raise costs and reduce demand from clients (Unifor, 2024). Additionally, DoorDash has implemented a regulatory response fee to cover the increasing operational costs (DoorDash, 2024).

## LESSONS FOR MALAYSIA

The Malaysian government has also taken proactive steps to provide protection to platform workers. In 2025, the Parliament passed the Gig Workers Bill (the Bill). The aim of the Bill is to protect the rights of platform workers, to provide for the obligations of platform providers, regulate the terms and conditions of service agreements made between platform workers and platform providers, provide for a dispute resolution mechanism, provide for the establishment of a Consultative Council and provide for the establishment of a Platform Workers Tribunal (Gig Workers Bill 2025).

The Bill uses the term “gig worker” and defines it as “an individual who—

- (i) is a citizen or a permanent resident of Malaysia;
- (ii) enters into a service agreement with a contracting entity for the performance of—
  - a) any service with any contracting entity that is a platform provider; or
  - b) any service as specified in the Schedule with any contracting entity that is not a platform provider; and
- (iii) receives earnings for the service”- (Section 1).

While a “platform provider” is interpreted as “any digital intermediary system provider who connects the service by a gig worker to a service user” (Section 1). The passing of the Bill will cover all types of gig workers and is not limited to platform workers. However, the employment relationship between platform worker and platform provider is not known as contract of service as defined under the EA, Labour Ordinance of Sabah, the Labour Ordinance of Sarawak and the Occupational Safety and Health Act 1994 [Act 514] or a “contract of employment” as defined under the Industrial Relations Act 1967 [Act 177] (Section 1).

The Bill spells out the obligations of the platform provider to specify in the service agreement the details of the parties in the agreement, period of the agreement, the services provided, the obligations of the parties, rate and details of earnings of the worker, method of payment of earnings and any benefits or tips and gratuities (if any) (Section 3). The platform worker also has the right to receive earnings for the service performed and to be consulted and informed if there is any variation of the terms and conditions of the service agreement. The platform worker also shall not be terminated from his service without just cause or excuse and shall be provided with any dispute resolution mechanism (Section 8(1)). Additionally, the platform provider has the obligation to inform the platform workers about the automated monitoring systems through electronic means used by the platform provider to monitor, supervise or evaluate the platform workers, including the consequences arising from them. The platform workers must also be informed of the automated decision-making systems through electronic means used by the platform provider to make decisions relating to assignment of service and platform workers’ working conditions, and shall be provided with the non-automated review mechanism to the systems used by the platform provider for the said purpose (Section 8(2)).

Malaysia has followed in the footsteps of Ontario in enacting the Bill. A specific law similar to the DPWRA has been enacted to protect the employment rights of platform workers. However, there are some differences. While the DPWRA is more focused on platform workers (in the area of ride-sharing, delivery and courier), the Bill provides a wider protection to all types of gig workers, including platform workers. The wide interpretation of a gig worker under the Bill imposes obligations on all platform providers, including local and small platform providers. More focused legislation towards the major players of platform work, such as e-hailing and p-hailing, should be enacted first, modelled on DPWRA.

Although the Bill provides protection in terms of right to information, right of earnings, transparency in deactivation, right to dispute resolution mechanism and right to form an association, it does not cover basic rights such as paid leave and holidays, overtime payments, statutory contributions under the Employment Provident Fund and right to form a trade union. This is because the service agreement is not categorised as a contract of service.

Malaysia's policymakers can learn from the British Columbia approach in amending the main labour legislation to include platform workers. Perhaps the Malaysian EA can be amended to include the platform worker as an "employee". This action will automatically provide platform workers with basic protections under the EA, but the Act can also limit the protection for platform workers, as is done by British Columbia in amending its ESA. Instead of covering all types of platform workers, the EA should only cover platform workers in e-hailing and p-hailing as the first move. The Minimum Wages Order could also be amended to cover platform workers, similar to what has been done in the DPWRA and ESA. This amendment to the Minimum Wages Order should also include the baseline minimum wage for platform workers.

Striking the right balance between regulation and flexibility remains a key policy challenge in governing the gig economy (Respondent 2). Concerns have been raised that excessive regulation of platform workers may disrupt the flexibility and competitiveness of the digital labour market. Over-formalisation risks undermining the very autonomy and flexibility that attract individuals to gig work in the first place (Wahab et al., 2025). Some platform workers themselves resist being fully formalised, as they value independence, choice of working hours, and freedom from rigid employment structures. However, this perspective must be balanced against the need for basic labour protections, such as fair pay and social security.

## **CONCLUSION**

This study examines the labour rights issues in digital labour platforms in Malaysia and analyses the protection provided by Canada for its platform workers. Findings revealed that platform workers are facing issues of wages, lack of social security protection and absence of just termination procedures in the current setting. Canada also faced similar challenges and took action by enacting a specific law for platform workers known as DPWRA and amending the ESA by including platform workers. This inclusion qualified platform workers for basic employment protections. The introduction of the Gig Workers Bill 2025 is timely and appropriate. The hope is that it will have a positive impact on platform workers. The legislation can be refined by limiting the scope of protection to certain platform workers, amending the Minimum Wages Order, and legislating minimum wages for platform workers. Protecting platform workers is an essential component of the country's economic well-being and sustainable development. This would safeguard their overall welfare and enhance their quality of life, including the guarantee of a secure work environment, appropriate working schedules, and protection against any form of prejudice or mistreatment. This study enriches the theoretical understanding of labour dynamics in the digital age by examining how regulations can protect platform workers. It also provides actionable insights and recommendations for policymakers to develop and implement policies that safeguard platform workers while fostering innovation and economic progress. Guidance for platform providers to improve their corporate social responsibility practices and comply with labour regulations is also included.

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