

LEGAL CERTAINTY OF ONLINE MOTORCYCLE TAXI DRIVERS IN THE PERSPECTIVE OF COMPARISON WITH MALAYSIA (STUDY OF THE 2025 MALAYSIAN GIG WORKERS LAW)

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Abstract

The emergence of the gig economy, driven by advancements in technology, carries notable legal consequences, particularly in Indonesia. This research highlights the lack of legal clarity concerning online transportation (ojek online) drivers, who represent a key segment of gig workers. These drivers are designated as "partners," a classification that fails to grant them comprehensive legal protections or certainty. The aim of this study is to examine the legal standing of ojek online drivers amidst this regulatory gap, focusing on their rights as workers under Indonesian law and how it compares to Malaysia's Gig Workers Act 2025. To conduct this analysis, the study utilizes a normative juridical method, incorporating a conceptual approach, a case study approach, and a comparative analysis. The research draws from various sources including primary legal materials, secondary legal materials, and tertiary legal materials, which are evaluated prescriptively. The results reveal that the lack of explicit legal regulations governing ojek online drivers in Indonesia creates significant potential for uncertainty. Malaysia's Gig Workers Act 2025 may provide an exemplary framework for regulatory improvements in Indonesia. Establishing a definitive legal structure would not only enhance certainty and fairness for approximately seven million online motorcycle taxi drivers but also benefit other gig workers in Indonesia, whose numbers are anticipated to rise alongside technological growth. The establishment of a separate classification for gig workers—including online ride-hailing drivers—as implemented in Malaysia, could serve as a reference for Indonesia in providing legal certainty without eliminating the flexibility that is inherent to the gig economy phenomenon.

Keywords: Online Transportation Drivers, Gig Workers, Legal Comparison

INTRODUCTION

The Constitution of the Republic of Indonesia of 1945 (Constitution of the Republic of Indonesia of 1945) as the highest constitution/basic law in the legal system in Indonesia which is the main basis for all laws and regulations mandates that legal certainty and equal treatment before the law are the rights of everyone. This is stated in Article 27 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states "All citizens have the same position in the law and government and are obliged to uphold the law and government without exception". Then, Article 28 (D) paragraph (1) of the 1945 Constitution of the Republic of Indonesia which reads "Everyone has the right to fair legal recognition, guarantee, protection, and certainty and equal treatment before the law". Equality of rights before the law in the context of employment is also very relevant, especially with the rampant dynamics in the relationship between workers and companies or employers. The principle of equal rights before the law is very fundamental, considering that the employment sector is a vulnerable field to injustice and discrimination, including differences in treatment based on gender, labor exploitation, and uncertainty about the rights of contract workers. Law Number 13 of 2003 concerning Manpower - which has undergone changes to several provisions through the ratification of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of the Job Creation Law, mentions the definition of worker in Article 1 Number 3, namely "Worker is any person who works by receiving wages or rewards in other forms". This definition is general and includes many different types of work, both in formal and informal employment relationships – only as long as one receives wages or rewards for the work done. Furthermore, as stipulated in Article 1 number 15 of Law Number 13 of 2003 concerning Manpower, the employment relationship that has been known in Indonesia is a relationship that occurs because of the existence of a work agreement between an employer and a worker/laborer, which fulfills at least three elements, namely, work, wages, and orders.

The discussion of the context of the definition of workers and employment relations based on this Law is an interesting thing to observe along with the development of digital technology that always encourages the birth of phenomena in various fields of life, including in the business world. The *gig economy phenomenon* was born along with technological developments, with implications for legal aspects. Work models that are independent, flexible, or freelance, as well as directly connected to customers, are the main characteristics of this phenomenon. One of the initial business models was an application-based transportation service or popularly called online *motorcycle taxis*. Application-based transportation modes in Indonesia began in 2010. At that time, a brand called Gojek stood as a motorcycle taxi booking service *via a call center*, with only about 20 drivers. The transformation then occurred in 2015, when Gojek launched a *mobile app*, which was followed by mass adoption in the business.

The development of this business is increasingly rapid, marked by the entry of global players. An application called Uber was present in 2014 in Jakarta, which although it had experienced licensing problems, was then able to officially operate in 2015. Subsequently, the Grab application appeared, which then expanded services on GrabBike and GrabCar, until it was *rebranded* in 2016. In 2018, Uber left Southeast Asia and handed over its operations to Grab. After that, this business

market in Indonesia was dominated by two big players, Grab and Gojek, although several other brands were born for similar services. A similar transportation phenomenon is also developing in many countries in the world, one of which is Malaysia. The MyTeksi service (the forerunner of Grab) was first launched in 2012 in Kuala Lumpur. As the regional expansion continued, MyTeksi changed its name to GrabTaxi and then Grab. In 2014, Malaysia was also one of the early markets for Uber, which introduced the UberX service in Kuala Lumpur. The fierce competition between Grab and Uber continued until 2018, when Uber exited Southeast Asia after its acquisition of Grab. Since then, Grab has become a dominant player in Malaysia.

The number of Indonesian *gig* workers in this field continues to grow. Until 2025, the Ministry of Transportation of the Republic of Indonesia estimates that there will be around seven million driver-partners joining various *platforms*, serving transportation, food delivery, and online logistics. Meanwhile, in Malaysia, the number of application-based transportation (*E-hailing*) drivers until November 2023 amounted to 128,901 drivers. This data is based on the number of *e-Hailing Vehicle Permits/EVPs* issued by APAD (Land Public Transport Agency) – a government agency under the Ministry of Transport (MOT) which is equivalent to the Directorate General of Land Transportation in Indonesia. In addition, there are more than 200,000 *P-hailing* (a term for app-based food delivery/package/courier drivers) based on data as of January 23, 2024 submitted by the Ministry of Communication and Digital Malaysia. The *ILO* (International Labour Organization) flagship report in 2021 also maps how digital platforms – including online motorcycle taxi drivers, food delivery drivers, and online freelancers – are transforming conventional work organizations, and raising regulatory challenges, as well as social protection. In response to these developments, both Indonesia and Malaysia have begun to implement a number of regulations related to this form of business. In Indonesia, regulations began to be formed in 2016–2017 through the Regulation of the Minister of Transportation Number 32 of 2016 and the Regulation of the Minister of Transportation Number 26 of 2017 which regulates application-based rental transportation, which then in 2017 some of the provisions in it were canceled by the Supreme Court. Official recognition of online motorcycle taxis as a transportation service began to appear in 2019, when the Government issued Regulation of the Minister of Transportation Number 12 of 2019 concerning the Implementation of Special Rental Rules, and Decree of the Minister of Transportation Number 348 of 2019 which regulates safety standards and lower and upper limit tariffs.

Meanwhile, Malaysia initially gave legal recognition to *E-hailing* when Parliament passed the *Land Public Transport (Amendment) Act 2017*, which amended the *Land Public Transport Act 2010 (Act 715)*, and incorporated *e-hailing activities* into the legal framework of transport. Since October 12, 2019, all drivers are required to have a *Public Service Vehicle (PSV) licence, Electronic Vehicle Permit (EVP)*, *e-hailing stickers*, and meet the requirements for vehicle insurance and inspection. Even so, the employment status of *e-hailing drivers* was unclear. They are legally recognised as licensed drivers under transport arrangements, but are not automatically categorised as workers under the *Employment Act 1955*. This means that they do not enjoy formal rights such as paid leave, minimum wage, or severance pay. However, the Malaysian Government

through the MOT and APAD is now strengthening this protection, with the passage of the *Gig Workers Bill* at the end of August 2025.

In Indonesia, although the definition of worker as mentioned above is anyone who works by receiving wages or other forms of rewards, the employment status of online motorcycle taxi drivers is still in a gray area. The special legal rules for *online transportation* since the beginning have only emphasized technical aspects, such as the calculation of fares and safety standards alone. *The platform* places *ojol drivers* as "partners", not employees, so the employment relationships formed are not fully subject to the provisions of the Labor Law. As a result, the normative rights that should be inherent in workers cannot be automatically granted. This condition has the potential to give birth to a number of problems. One of the main ones is the legal uncertainty about the status of drivers which makes it difficult for them to claim their rights as workers when a dispute occurs, including when it has to proceed to court. The issue of judicial competence came to the fore, until the case did not have time to enter the essence of the case, because it had stumbled upon this problem. In the latest development, the pressure for regulatory needs like the one Malaysia has also resonated in Indonesia. This is marked by the emergence of a proposal in Parliament for workers in the *digital platform-based gig* sector to be integrated in the revision of Law Number 13 of 2003 concerning Manpower. Then, at the end of September 2025, the House of Representatives of the Republic of Indonesia approved the Bill on *Gig Economy Workers* - also called the Freelance Worker Bill or the Gig Economy Worker Protection Bill as one of the 67 priority bills in the 2026 National Legislation Program (Prolegnas).

Looking at the explanation above, the question that will be discussed in this article is how does the certainty of the legal status of online motorcycle taxi drivers in Indonesia currently reflect a legal vacuum, especially in terms of the protection of workers' rights based on the Labor Law Number 13 of 2003? Then, what can be observed from the Malaysian *Gig Workers Act 2025* in addressing the legal vacuum in Indonesia? Because, without a clear legal framework, the potential for industrial conflicts, welfare uncertainty, and socio-economic risks will continue to increase. Therefore, delving into the discussion of legal certainty for online motorcycle taxi drivers from the perspective of legal certainty, by comparing the laws between Indonesia and Malaysia as two countries experiencing similar conditions, is a relevant issue to be studied. This is important in order to find a fair, sustainable, and regulatory model that is in accordance with the characteristics of the digital economy and its rapid development, especially in an effort to respect the equal rights of citizens before the law, as mandated in the 1945 Constitution of the Republic of Indonesia.

Problem Formulation

What is the legal status of online motorcycle taxi drivers, especially in terms of protecting workers' rights based on laws and regulations?

How does it compare to Malaysia's *Gig Workers Act 2025*?

RESEARCH METHODS

This study uses a normative juridical method with a conceptual approach (*conceptual approach*), case approach (*case approach*), and comparative approaches (*comparative approach*). The sources of this research are primary legal materials, secondary legal materials, and tertiary legal materials that are analyzed prescriptively. So that It aims not only to describe comparisons, but also to analyze how they are applied. According to Peter Mahmud Marzuki, this kind of normative legal research is intended to provide legal arguments on the issues raised by examining legal norms, principles, and theories in the context of the application of positive law.

1. Research Approach

This research uses several complementary legal approaches, namely:

a. Statute Approach

This approach is carried out by examining laws and regulations that are directly related to research problems, including:

Constitution of the Republic of Indonesia in 1945

Civil Code

Law Number 13 of 2003 concerning Manpower

Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes

Gigs Workers Bill 2025, Malaysia

Employment Act 1955, Malaysia

Industrial Relations Act (IRA) 1967, Malaysia

b. Pendekatan Konseptual (*Conceptual Approach*)

This approach is used to understand legal theories and doctrines that are relevant to the research conducted in answering legal certainty for online motorcycle taxi drivers in Indonesia.

c. Case Approach

Several cases that have existed in Indonesia are taken as comparative material to delve deeper into the subject matter in this study. These cases can be seen, among others, from court decisions that have existed, namely:

Decision of the Medan District Court Number 191/Pdt.G/2020/PN Mdn dated October 7, 2020

Decision of PT Medan Number 104/Pdt/2021/PT MDN dated May 6, 2021

South Jakarta District Court Decision Number 595/Pdt.G/2023/PN Jkt.Sel dated November 21, 2023

RESULTS AND DISCUSSION

Legal Subjects and Legal Protection

The subject of law is any party who is able to be a supporter of rights and obligations (*bearer of rights and duties*). In tradition *civil law* Indonesia, the subject of the law includes: *natural person*, and legal entities (*legal person*), which is an entity recognized by law as a holder of rights and obligations. Human beings are recognized as subjects of law from birth to death, as stipulated in Article 1 of the Civil Code (KUHPercivil), which states that everyone enjoys civil rights from birth and loss at the time of death. Sudikno Mertokusumo emphasized that the subject of law as a supporter of rights and obligations, by distinguishing the ability to have rights (general) and the ability to act (can be restricted). Legal subjects as bearers of rights and obligations are automatically entitled to legal protection to maintain balance in society. Legal subjects as recognized by law as supporters of rights and obligations, namely human beings (persons) and legal entities related to legal protection in the form of recognition, guarantees, protection, and legal certainty that are fair to everyone, as stated in the 1945 Constitution of the Republic of Indonesia Article 28D paragraph 1. According to Satjipto Rahardjo, the relationship between the subject of the law and the protection of the law is reciprocal, where the right to protection is balanced by the obligation to respect the law.

Philipus M. Hadjon then defined Legal protection as protection of human dignity and recognition of human rights owned by legal subjects based on legal provisions to prevent arbitrariness. He also said, legal protection is the state's obligation to the subject of the law, which not only includes rights but also demands obedience to the law to maintain social harmony. While Satjipto Rahardjo said that legal protection is basically the protection of human rights that are harmed by others, which is given so that people can enjoy all the rights granted by the law. This principle is also contained in the 1945 Constitution of the Republic of Indonesia which affirms that Indonesia is a state of law in Article 1 paragraph 3, as well as Article 27 paragraph 1 which mentions every citizen with the same position in law and government. The 1945 Constitution of the Republic of Indonesia also guarantees fair legal recognition, guarantee, protection, and certainty for citizens as stated in Article 28D paragraph 1. Furthermore, the protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the State, especially the Government (Article 28I paragraphs 4–5).

Then, focusing on the employment context according to the theme of this research, Legal protection is interpreted as a set of norms that balance employment relations to be fair and humane, covering the pre-employment–work-period–post-employment phase. The balance of fair and humane work relations is an important part of the meaning revealed by Lalu Husni. In Indonesia, Employment regulations are regulated in the Law Number 13 of 2003 concerning Manpower–where some of the provisions have been amended with the coming into force Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022. At Article 1 number 15 Law Number 13 of 2003 is said to be that employment relations are the relationship between employers and workers/laborers based on employment agreements, which have elements of work, wages, and orders. Law Number 2 of 2004 concerning Industrial Relations

Dispute Settlement (PPHI) in Article 1 number 9 menyebutkan Employee/laborer is any person who works by receiving wages or other forms of remuneration. However, the definition of workers does not stop there. There are provisions about employment relationship, which is the relationship between the employer and the worker/laborer based on the employment agreement, which must have elements of employment, wages and orders. A work agreement is a form of agreement between the employer and the worker/laborer, which concerns these three elements. There is also a description of the elements of command, work and wages as follows:

The existence of an element of command

The existence of an element of order gives rise to the existence of other people's leaders, where without orders, there is no work agreement. This element distinguishes between employment relationships and other relationships. Workers/laborers are required to submit to the employer's orders. This shows that there is an unequal position of workers/laborers and entrepreneurs or employers. There is a subordinate relationship, where one party is the ruling party, while the other party is the ruled party.

The existence of an element of work

The agreed work is the object of an agreement between the worker/laborer and the employer or employer. The work must exist and be carried out by the worker/laborer himself on the order of the employer. The employment agreement has legal consequences in the form of rights and obligations for the parties.

The existence of an element of wages

Wages are an important element in employment relationships. Wages are workers' rights that are received and declared in the form of money in exchange from the employer or employer to labor workers that are determined and paid according to an employment agreement.

LEGAL STATUS OF ONLINE MOTORCYCLE TAXI DRIVERS

The development of digital technology that always encourages the birth of phenomena in various fields of life. This is also included in the business world related to the relationship between workers and employers in the context of employment law. The *gig economy phenomenon* was born along with technological developments, with implications for legal aspects, including in terms of fulfilling the three elements in the above employment relationship. Work models that are independent, flexible, or freelance, as well as directly connected to customers, are the main characteristics of this phenomenon. One of the initial business models was an application-based transportation service or popularly called online *motorcycle taxis*. In addition to Indonesia, this online-based transportation phenomenon is also developing in many countries in the world, one of which is in Malaysia. Behind the online transportation service, there are exploitative nuances against *drivers* because of the difference in employee status. The company has succeeded in

creating an illusion that seems to depict the existence of an equal position between the company and *the driver* with the status of "partner".

In Indonesia, ojol drivers are classified as "partners" based on Article 15 of the Regulation of the Minister of Transportation Number 12 of 2019. The relationship between the driver and the platform company is considered a partnership, not *an employment relationship*. The Constitutional Court Decision Number 41/PUU-XVI/2018 strengthens this by stating that two-wheeled vehicles are not public transportation, so the application company is not a formal employer. This classification provides flexibility, where drivers can choose orders without the obligation of fixed working hours. However, drivers are not included in the object of Law Number 13 of 2003 concerning Manpower. In the study, Sonhaji took the topic of the relationship between the application company and the ojol, assessing that there is no working relationship in the relationship between driver partners and Gojek. This is because the wage element in the agreement between the two is not fulfilled. Driver-partners are required to share the wages they receive from consumers with Gojek, so that the relationship that occurs is a profit-sharing cooperative relationship. Then, in Asep Iswahyudi Rachman's research, it was concluded that drivers are partners and not employees of Grab so they cannot sue for matters related to Law Number 13 of 2003 concerning Manpower.

This condition creates legal uncertainty, and creates obstacles – one of them – when disputes are resolved civilly. This partner status is based on the Regulation of the Minister of Transportation Number PM 108 of 2017 concerning the Implementation of Transportation of People by Public Motorized Vehicles in Routes Carried Out Online, nor does it explicitly integrate it into Law Number 13 of 2003 concerning Manpower. As a result, the normative rights of online motorcycle taxi drivers cannot be obtained. For example, the minimum wage or full social security from BPJS Ketenagakerjaan, although they are subject to the applicator's algorithmic control such as route determination, tariffs, and account deactivation sanctions. In 2025, this situation will become a hot issue. The government through the Ministry of Manpower (Kemnaker) and the Ministry of Transportation (Kemenhub) is formulating new rules to recognize the status of online motorcycle taxi drivers as formal workers or MSME actors, with a study involving experts. However, until October 2025, this regulation is not final, so protection remains minimal. Ojol drivers only receive partial protection through the BPJS Employment self-help program or Law Number 11 of 2020 concerning Job Creation (Job Creation Law), which regulates flexible but not specific employment relationships for ojol. This vacancy creates vulnerabilities, such as lack of access to occupational safety and accident compensation.

Civilly, ojol drivers are recognized as legal subjects through *partnership agreements*, which are regulated in the Civil Code Book III concerning Engagement. A partnership agreement is a general form of legal relationship between one party and another party on the basis of partnership, which does not meet the elements of the employment relationship (employment, wages, orders). As a subject of law, online motorcycle taxi drivers are bound by the agreement as stipulated in the general provisions of the Civil Code Book III, especially Article 1338 jo Article 1320, so that it applies as a law for the parties. This distinguishes it from formal employment relationships, where

drivers are recognized as independent partners with civil rights and obligations. It contains the principle of *pacta sunt servanda*, where a valid agreement is binding on the parties like the law. R. Subekti views the principle in Article 1338 as the foundation of legal certainty in the agreement. *Pacta sunt servanda* provides sacred binding power, but it must be balanced with good faith to avoid abuse. Mariam Darus Badruzaman also emphasized the *pacta sunt servanda* as a basic principle that guarantees freedom of contract, but with ethical and social limitations. Thus, disputes such as account deactivation, unfair commission deductions, or order cancellations are considered as breach of agreement, not employment disputes. The settlement follows the arbitration or mediation clause in the partnership agreement, and if it fails, enters the District Court (PN) as a general civil competence (Civil Procedure Law Article 118 HIR).

However, this scheme often faces significant obstacles related to judicial competence. Article 24 of the 1945 Constitution of the Republic of Indonesia regulates the judicial power to be exercised by the Supreme Court (MA) and the judicial bodies under it, namely the General Court, Religion, Military, State Administration (TUN), and by the Constitutional Court (MK). The general principles of a simple, fast, low-cost, independent, impartial, and judicial structure are reregulated in Law Number 48 of 2009 concerning Judicial Power. It regulates the type of competence, namely absolute competence that regulates the type of case according to its environment - General Court, Religion, Military, TUN, Constitutional Court and special courts, which are determined by the law that establishes each court. Then relative competence, related to the (geographical) area of the court that is authorized to examine a case. For example, in civil cases, the general benchmark is the domicile of the defendant according to the provisions of Article 118 of the HIR. Then in the criminal realm, the main benchmark where a criminal act occurred (*locus delicti*) based on Article 84 of the Criminal Code. Furthermore, it is regulated about the competence of each judicial environment, where the first is the General Court (District Court/High Court) which is authorized to examine civil and criminal cases for the general public. Based on the provisions of Law Number 2 of 1986 as amended by Law Number 8 of 2004 and Law Number 49 of 2009 concerning the General Judiciary. In it, there are special Courts within the General Court, namely the Corruption Court, the Commercial Court, and the Human Rights Court, including the Industrial Relations Court (PHI) which handles disputes of rights, interests, and termination of employment (PHK) as stated in Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes.

Based on the description of judicial competence above, it can be seen that the Industrial Relations Court is only authorized over formal labor disputes, based on the rules in Article 56 of Law Number 13 of 2003 concerning Manpower. This means that online motorcycle taxi drivers who have a dispute related to their work must file a lawsuit with the District Court - because the three elements of the employment relationship as described at the beginning are not met. The filing of a lawsuit at PHI was rejected because it was considered not an employment relationship, because the online motorcycle taxi driver and the service provider were partners. However, in its realization, the issue of judicial competence remains a scourge that frustrates online motorcycle taxi drivers in seeking justice. This condition can be reflected, for example, in the case of Darajat Hutagalung

(*driver*) who sued PT Solusi Transport Indonesia (Grab) and PT Teknologi Pengangkutan Indonesia (TPI) for unlawful acts in partnership programs. In the Medan District Court Decision Number 191/Pdt.G/2020/PN Mdn dated October 7, 2020, it was stated that the court had no authority. At the appeal level, PT Medan's Decision Number 104/Pdt/2021/PT MDN dated May 6, 2021, upheld the decision of the Medan District Court, and charged the appellant an appeal case fee of IDR 150,000.

Another case occurred when Danny Stephanus (*driver*) sued PT Grab Teknologi Indonesia, with the Ministry of Finance c.q. the Directorate General of Taxes as a co-defendant. The South Jakarta District Court's Decision Number 595/Pdt.G/2023/PN Jkt.Sel dated November 21, 2023 states that the decision to grant the absolute competency exception is that the South Jakarta District Court does not have the authority. Finally, the dispute related to Income Tax 21 on the balance of *ojol driver* partners stops at the issue of competence and not the subject matter. Philipus M. Hadjon said, in the context of the state of law, this kind of competency barrier violates the principle of legal certainty for legal subjects. Satjipto Rahardjo who said that legal protection must be progressive is a postulate that can be discussed more deeply.

A similar polemic also occurred in Malaysia, which is the country used as a comparison material in this study. A Malaysian national named Loh Guet Ching, who works as a Grab driver, filed a lawsuit against the Minister of Human Resources and the Director General of Corporate Relations because the Minister refused to refer a lawsuit against MyTeksi Sdn Bhd (Grab) over his unfair dismissal to the Industrial Court. This dispute stemmed from an incident between Loh and his passenger at Senai Airport, Johor in November 2018. The Federal Court rejected Loh's appeal against the Court's ruling, which upheld the Human Resources Minister's refusal to refer Loh's alleged unfair dismissal to the Industrial Relations Tribunal. Loh's application was rejected by a three-judge panel, which ruled that the postulated statement did not meet the provisions of Article 96, *The Courts of Judicature Act 1964*. During the trial, Loh's lawyers asked the court to set six legal questions, stating that those questions pertained to whether *e-hailing* drivers and *gig* workers should file dismissal disputes with the Industrial Relations Court or the Civil Court.

The big question that arose at that time was whether Grab drivers – or *gig workers* in general – fall under the category of "*workman*" under the *Industrial Relations Act* (IRA) 1967, i.e. people employed under employment agreements. So, the Minister should refer Loh's case to the Industrial Court. In this section, the Malaysian Government at that time viewed that those in the *gig business model* could not be categorized as "*workman*" (worker) who were subject to the 1967 IRA. Then, on July 9, 2021, a decision appeared on the *judicial review* application submitted by Loh for this case, where the High Court rejected the application. November 27, 2023 – The *Court of Appeal* upholds the ruling that *gig* workers are not workers subject to the 1967 IRA. Finally, on July 22, 2024, the Federal Court upheld the ruling. Thus, the position of *gig* workers who were not recognized as workers in the prevailing labor regime at the time made access in labor disputes closed. Before the 2025 era, the debate over the status of "*workman*" under the 1967 IRA was decided through *judicial review* on the Minister's decision, which stated that *online drivers* are not "*workmen*".

COMPARISON OF INDONESIA AND MALAYSIA

In the latest development, Malaysia has taken a step forward through the ratification of the *Gig Workers Act 2025* at the end of August 2025. Here is a comparative summary of how online motorcycle taxi drivers in Indonesia are under partner status, compared to gig workers in Malaysia – including online transportation drivers now regulated in the *Gig Workers Act 2025*.

	Indonesia	Malaysia
Key legal frameworks	The definition of <i>employment relations</i> according to Law Number 13 of 2003, the relationship between employers and workers based on employment agreements with elements of employment, wages, and orders. If these three elements are not proven, the relationship is generally positioned as a civil partnership (not a working relationship).	Use the term <i>service agreement</i> and exclude it from the <i>contract of service</i> in the <i>Employment Act 1955</i> —meaning that <i>gig workers</i> are not employees under the general employment regime.
Are gig workers considered employees?	Not. Only if the elements of Article 1 number 15 of Law No. 13 of 2003 are proven to be work-wage-orders, then the relationship can be qualified as an employment/employee relationship. Otherwise, remain a "partner".	Not. The definition of a <i>service agreement</i> is not included in the <i>contract of service</i> " (Clause 2). An employment contract (<i>employee</i>) in the <i>Employment Act 1955</i> is defined separately as an agreement in which a person agrees to employ another person as an <i>employee</i> .
Minimum content of the agreement	There is no standard format regarding partnerships in the Labor Law; The online motorcycle taxi sector is regulated limited through the Ministry of Transportation's regulations on safety and tariffs, not the format of employment contracts.	Clause 3 states that the <i>service agreement</i> must contain the parties, the period, the type of service, the obligations of the parties, the amount and method of payment, as well as benefits.
Payments and discounts	Tariffs and commissions are regulated sectorally by the Ministry of Transportation KP Number 564 of 2022 (tariff guidelines) and KP Number 1001 of 2022 (in practice understood as a limit of ≤ 20 percent application deduction.	Clause 11: if the contract does not regulate, wages/ <i>earnings</i> must be paid ≤ 7 days from the completion of the service. Clauses 12–13 govern deductions and income slips.
Account deactivation	There are no specific norms at the legal level; Permenhub Number 12 of 2019 focuses on safety/service standards.	In Clause 14: <i>the platform</i> may disable access in accordance with the terms of the contract or due to <i>misconduct</i> .
Dispute resolution	There is no special mechanism internal/tribunal for online motorcycle taxi driver partners in sectoral regulations. The dispute path depends on the qualifications of the relationship (civil or employment). The Ministry of Transportation's regulations do not establish a special dispute mechanism.	Tiered and clear: <i>Internal grievances</i> must be provided (except for individuals/ <i>sole proprietors</i>) and must be completed ≤ 30 days (Clause 17). (ii) if it fails/is not satisfied, a conciliation will be held by the Director General of Industrial Relations (Clauses 18–21). The next stage is at the <i>Gig Workers Tribunal</i> , where the judgment is binding and can be appealed to the <i>High Court</i> (Clauses 24, 42–45).

Social security	Generally, through the BPU (Non-Wage Recipient) independent scheme at BPJS. However, there is no mandatory deduction and deposit by the <i>platform</i> .	Require <i>platforms</i> to register <i>gig workers</i> in the <i>Self-Employment Social Security Act 2017</i> (Act 789) and deduct contributions (Clauses 81–84).
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From the table above, it can be seen that *the Gigs Workers Act 2025* defines *gig workers* and *contracting entities* using the term *service agreement*. The mention of *service agreements* straightforwardly distinguishes it from *contracts of service* (*Employment Act 1955*) and *contracts of employment* (IRA 1967). This means that this framework does not classify *gig workers* as employees in the applicable labor law, but forms a separate regime with accompanying rights. So, the basic rights of *gig workers* - without changing their status to employees, remain attached. Then, related to disputes, the Law mentions the obligation to provide *internal grievances*. *Internal grievance* in the *Gigs Workers Act 2025* as an internal dispute resolution mechanism provided by the *contracting entity* in the *service agreement* to handle and resolve complaints/disputes concerning *gig workers* - except for individual entities/*sole proprietors* (sole proprietor). If this step fails, conciliation is carried out through the Director General of Industrial Relations, and can be proceeded to the *Gig Workers Tribunal* – with a binding decision, and can be appealed to the High Court. Individual entities in the 2025 Gig Workers Bill refer to individuals who are contract entities. The definition of a contract entity explicitly includes individuals and incorporated/registered entities, as well as *platform providers*. Thus, when the dispute resolution article mentions "other than an individual or *sole proprietor*", it means that the obligation to provide *internal grievance* only applies to those who are not individuals and are not the sole owners of the business. *Sole proprietor* is a form of business owned by one person and not a separate legal entity from the owner, registered under *the Registration of Businesses Act 1956* (ROBA 1956). So that in a dispute, if the opposite person is not an individual/sole owner, the entity is required to have and run an *internal grievance* with a deadline of 30 days, before proceeding to the next phase.

The Gigs Workers Act 2025 protects the rights of *gig workers*, establishes the obligations of *contracting entities*, regulates the terms and conditions of *service agreements* made between contracting entities and *gig workers*, provides a dispute resolution mechanism, establishes a *Consultative Council*, establishes a *Gig Workers Tribunal* (*Gig Workers Tribunal*), as well as regulating other related matters. Further in the explanatory chapter of this Act it is explained, a *gig worker* is defined as an individual who is a citizen or permanent resident of Malaysia; enters into a *service agreement* with a contracting entity for the performance of any services with a contracting entity that is a *platform provider*; or any service as specified in the schedule (*schedule*) with a contracting entity that is not a platform provider; and receive earnings for the service. Earnings means any payment owed to a *gig worker* under a *service agreement*, but does not include tips and gratuities, as well as other benefits received by *gig workers*. Then, a platform provider is any digital intermediary system provider that connects services by *gig workers* with service users. Status *service agreement* means any agreement, whether oral or written and whether express or implied, between a contracting entity and a *gig worker* who provides a service in Malaysia in exchange for income, but does not include a *contract of service* as defined in *the Employment Act 1955* (Act

265), *Labour Ordinance of Sabah* (Sabah Cap. 67), *Labour Ordinance of Sarawak* (Sarawak Cap. 76), and *Occupational Safety and Health Act 1994* (Act 514), or *contract of employment* as defined in the *Industrial Relations Act 1967* (Act 177). Nabiyla Risfa Izzati also assessed that the ratification of the *Gigs Workers Act 2025* provides formal recognition for gig workers, even though it is in a special category. Through formal recognition, gig workers can get various benefits such as getting social security, prohibiting *platforms* from unilaterally changing rates, and prohibiting discriminatory practices by *platforms*. The rule provides protection for *gig workers*.

CONCLUSIONS

The framework of Law Number 13 of 2003 concerning Manpower requires three elements of employment relations (work–wages–orders). In practice, ojol drivers are positioned as "partners" based on transportation sectoral regulations, so they are not automatically subject to formal labor regimes. As a result, normative rights such as minimum wage, severance pay, leave, social security as a wage earner and access to industrial relations courts are not fully attached. Social protection is generally self-help in the non-wage recipient (BPU) category. The dispute that was stopped on the issue of absolute competence (PHI vs PN) resulted in the subject matter not being tested, causing a vacuum and legal uncertainty in the status of online motorcycle taxi drivers.

On the other hand, Malaysia chose *lex specialis* Through Verification *Gig Workers Act 2025* that admits workers *Gig* through *service agreement* (outside *contract of service Employment Act 1955*). This law stipulates the minimum content of the contract, payment deadlines, deduction and income slip rules, account deactivation mechanism, and a tiered dispute resolution mechanism with binding results. Social security is also required with registration and contributions under the framework of independent employment protection. This mechanism can provide certainty of status, remedial access, and predictability without forcing re-classification into employees. Based on this scheme, a policy can be recommended for Indonesia, instead of forcing a full re-classification into employees, Indonesia can adopt the Malaysian model: admitting workers *Gig* In a special category with clear minimum protections, a definite dispute mechanism, and mandatory social security, so that legal certainty increases -while maintaining flexibility as a characteristic of this work-, the cost of disputes decreases, and substantive justice for online motorcycle taxi drivers is more guaranteed. This scheme can be included in the The Freelance Worker Bill or the Gig Economy Worker Protection Bill is one of the 67 priority bills in the 2026 National Legislation Program (Prolegnas) that has been approved by the House of Representatives on September 2025.

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