

Philippines: Amid legal gaps, app workers push for rights in courts, on streets

Last of two parts

Friday 14 February 2025, by [ILAGAN Karol](#) (Date first published: 9 January 2025).

Technological innovations like ride-hailing and food-delivery applications are supposed to improve people's lives, yet their advancement has far outpaced existing laws, creating challenges in ensuring that the benefits are evenly distributed.

Workplaces are required to secure permits and undergo inspections before they can legally operate. For instance, a restaurant cannot open to the public without clearance for fire safety, sanitation, and other standards. These measures are in place to prevent accidents and ensure the safety of both workers and customers.

But what if the “workplace” is an app powered by algorithms? Who inspects how it operates? Who evaluates the algorithm and ensures it doesn't encourage problematic behaviors? And if workers or customers encounter problems, who ensures that these issues are addressed by the app company?

Philippine laws have yet to adequately address issues concerning apps and algorithms, leaving their regulation limited. This gap often burdens Filipino workers who depend on these platforms as their primary source of income. They are left to educate themselves about their rights and find ways to advocate for fairer conditions.

While ride-hailing and food delivery work is branded as “gig work,” the reality is far from the casual nature implied by the term. Many workers endure grueling shifts of 12 to 15 hours a day. But because riders and drivers are classified as “independent contractors” rather than regular employees, they are excluded from the protections and benefits typically afforded to employees.

Algorithmic transparency, a minimum

John Jay Chan, organizer with the National Union of Food Delivery Riders, had a long list of concerns about wages, safety, job security, and algorithmic transparency.

Indeed, [when apps are gamified](#) operating using profit-driven algorithms that impact working conditions, transparency is a minimum. Chan said that while some riders, including himself, have somehow figured out how to make the most of the app, transparency is still key especially because many platform workers have not completed tertiary education or are generally unfamiliar about how algorithms exactly work.

“For many riders, this is their only job... Some of them haven't finished (college). Some of them don't understand English yet. Transparency then is so vital because the riders are dependent on the app... they don't have the capability to question the app itself,” Chan said.

This, he said, is compounded by the fact that the company has full control of and access to the

information on the app.

Chan was a rider for LalaMove and then later Grab. Early in 2024, he said he was permanently suspended by Grab over protests he and other riders organized against the company.

Among the major issues that Chan's organization had to deal with include the fare restructuring, coupled with the 100% deduction of the senior citizen and person with disability (PWD) discounts from drivers' earnings.

For workers burdened with a daily "boundary" or "hulog" payment, along with other daily expenses, it can be difficult to focus on anything beyond their immediate needs. However, Chan observed a positive shift: More workers are beginning to think beyond the present and are starting to consider their long-term future.

"For example, 'yung kawalan ng maayos na insurance. Maraming rider, hindi pa yan naiisip ngayon kasi ang insurance ay magagamit mo lang kapag may nangyari masama. So hindi naman natin hinihiling na may mangyari masama pero hindi nila nare-realize yung importance nun (For example, about the lack of proper insurance, many riders do not think about that now because insurance is typically known to be used only when bad things happen. It's not like we want bad things to happen but they haven't realized its importance yet)," Chan said.

Chan emphasized the need to connect all the separate issues to the bigger issue of the workers not having proper representation. App workers, who are treated as freelancers, are not often given the proper venue to be included in policy making. Companies, he said, can control what can be changed or not changed.

"Kaya 'yan yung pinaka nagiging complication. Kaya may problema sa fare, may problema sa insurance, may problema sa hubs, may problema sa permits. Dahil hindi naman talaga na-re-represent nang maayos yung mga rider para kasama dapat sila sa paggawa ng mga pulisiya (That becomes the main complication. That is why there's a problem with the fare, insurance, hubs, and permits. That's because riders are represented properly when policies are crafted)," he said.

Who oversees apps?

PCIJ reached out to the Department of Trade and Industry (DTI), Land Transportation Franchising and Regulatory Board (LTFRB), Department of Labor and Employment (DOLE), and the Department of Information and Communication Technology (DICT) to better understand the framework covering apps and app workers. Only DOLE and DICT gave PCIJ interviews.

Director Alvin Curada of the Department of Labor and Employment said that while constitutional and legal frameworks ensure the protection of workers, these protections have limitations.

Curada, who heads the Bureau of Working Conditions, explained that unlike regular employees who are legally entitled to mandatory benefits under the Labor Code and other labor regulations, riders and drivers are usually classified as "independent contractors."

Many gig workers worldwide have challenged the lack of recognition of their employment status, successfully securing labor rights and benefits in several countries. Among the most notable victories was a [landmark ruling](#) by the UK Supreme Court, which classified Uber drivers as "workers" of the company. This decision granted them employment rights, including minimum wage and paid vacation.

In the Philippines, delivery riders staged protests, particularly during the early years of the Covid-19 pandemic when they played a critical role in providing services to people confined in their homes. These protests led the DOLE to issue Labor Advisory No. 14 in 2021, titled “Working Conditions of Delivery Riders in Food Delivery and Courier Activities.”

The advisory provides that all delivery riders who are deemed employees shall also enjoy the right to security of tenure, self-organization, and collective bargaining. However, the advisory stopped short of explicitly defining whether delivery riders or gig workers should be classified as employees or independent contractors.

“But considering this unique working arrangement on the platform, determination can be difficult – are they considered employees or not?” Curada said in a mix of Filipino and English.

The labor advisory thus set out separate terms for delivery riders who are deemed independent contractors or freelancers. They shall be governed by their respective contract or agreement with the digital platform company, which stipulates the following provisions, including but not limited to:

- Payment of fair and equitable compensation which shall not be lower than the prevailing minimum wage rate;
- Facilitation of registration and coverage under the SSS, Philhealth and Pag-IBIG;
- Compliance with applicable occupational safety and health standards such as but not limited to the use of standard protective helmet and personal protective equipment (PPE), and attendance at regular trainings and seminars on road and traffic rules and road safety to be arranged by the digital platform company in coordination with relevant government agencies; and
- Arrangement with concerned local government units and/or merchants or groups of merchants in setting up designated waiting areas for delivery riders.

Monitoring apps

PCIJ asked Curada if DOLE is able to check whether companies are able to follow the labor advisory given that it also covers independent contractors.

Curada didn’t have data at the time of the interview but said that he would check.

The DOLE advisory was highly criticized because it was largely vague about the status of the workers. The labor department only advised the application of the “four-fold test,” “the economic reality test,” and “independent contractor test” to determine the kind of relationship that exists between workers and companies.

The Philippines currently lacks a law that clearly defines the terms and conditions of employment for riders and drivers. As a result, workers seeking recognition as employees rather than independent contractors are often advised to bring their demands to labor courts.

The Labor Code, the primary legal framework for labor issues, was promulgated in 1974 during the martial law era, and has not been updated to address modern gig-economy challenges.

A recent landmark ruling that could reshape the landscape is the Supreme Court decision in the case of [Ditiangkin, et al. v. Lazada](#). In this case, the high court recognized an employer-employee relationship between Lazada, one of the country’s leading e-commerce platforms, and five of its

riders who filed an illegal dismissal complaint against the company.

Applying the four-fold test, the high court, with Senior Associate Justice Marvic Leonen as the ponente, ruled in favor of the riders. The decision declared them employees of Lazada, entitling them to reinstatement to their positions with full back wages, including payment for holiday pay and reimbursement of the cash bonds they had advanced to the company. This ruling is seen as a potential game-changer for gig workers, setting a precedent for similar cases.

The successful case of [Food Panda delivery workers in Davao](#) could also serve as a significant precedent for establishing employment relationships for delivery riders and gig workers.

In January 2023, the National Labor Relations Commission (NLRC) Regional Arbitration Branch in Davao affirmed the [ruling](#) that FoodPanda Philippines had committed illegal dismissal. The company was ordered to pay the workers P2.24 million. This amount also included back wages, 13th month pay, leave pay, and separation pay - the same labor benefits guaranteed to workers under the Labor Code.

A labor lawyer's perspective

For Evelyn "Leo" Battad, a labor law professor at the College of Law of the University of the Philippines Diliman, the known relationship between ride-hailing and food-delivery apps and their workers shows indicators of an employer-employee relationship.

Battad explained the four-fold test in the context of the Supreme Court's ruling on the Lazada case. A key aspect of this test is the "control test," which is essential in determining whether an employment relationship exists. This test examines whether the employer or company has authority over both the outcome of the work and the means and methods used to achieve it.

For example, a janitor rendering services as an independent contractor is not instructed by a company on how to perform his or her duties. However, if the janitor is supervised, that is, being told which floor polisher to use, then supervision exists, which points to an employer-employee relationship.

If the company is only concerned about the end result and not how the work is done, the relationship leans towards that of an independent contractor.

As for the "independent contractor test," Battad cited the *Fuji vs. NLRC* case, which established that independent contractors are expected to provide special or unique skills.

"In the case of Grab drivers, for example, is driving considered a unique skill? So 'yun, suspect na naman," the lawyer said.

Businesses often argue that they have no control over gig workers because the setup differs from a traditional office job, such as an 8 a.m.-5 p.m. schedule, where employers can directly oversee work. However, Battad stressed that the reality, based on interviews with riders and drivers, tells a different story.

"Companies claim workers have freedom to choose their hours, rest whenever they want, and so on. But that's not entirely true. If your livelihood depends on this job, you're constantly on the lookout for work opportunities," Battad said.

For instance, drivers and riders often feel pressure to accept tasks or meet certain incentives.

Companies monitor performance through metrics, like customer feedback and even track locations in real time through apps. For those working exclusively with one platform, flexibility is largely an illusion.

More test cases for workers

Battad emphasized that the logical next step is to enact legislation that clearly defines and regulates the terms and conditions of employment for riders, drivers, and gig workers in general. In the meantime, the lawyer advocated for more test cases, like the Lazada and FoodPanda rulings, which demonstrate the potential for platform workers to secure labor protections and recognition through legal channels.

DOLE's Curada also said there is an urgent need for legislation and a review of the regulatory framework to adapt to emerging work arrangements.

"And in most countries, katulad sa atin, hiram din ang mga authorities on saklawan sila because 'yung legal frame natin ay, una siguro luma 'yung ating legal frame, hindi siya prospective so that when our legal framework is... We're trying to fit yung ating legal framework na na-formulate noon with the new work and employment arrangement, hiram din tayo (And in most countries, like ours, it's difficult for authorities to cover them because our legal frame is not prospective so when our legal framework is... We're trying to fit our legal framework that was formulated before with the new work and employment arrangement, it's difficult for us (government)," he said.

Curada also raised an important point about alternatives to the traditional employer-employee relationship. Some workers, he noted, may prefer to remain outside this framework while still being afforded adequate protections.

The DOLE director said that the country's legal framework is based on the existence of an employer-employee relationship. But a question being raised too is whether there is a need to fit gig workers into this mold or whether protections can be created outside this framework.

"For instance, ensuring they are covered by social security programs, safety, and health insurance. This is a policy issue that likely requires new legislation. Our current framework struggles to accommodate these new arrangements," he added.

Curada highlighted that some workers value the flexibility of gig work, which might be constrained by traditional employment standards. There are workers, he said, who want to be part of the employer-employee framework because it offers protection. But there are trade-offs: adhering to wage and benefit standards could limit earning potential, reduce opportunities to work for multiple employers, or constrain flexible schedules - like working only in the afternoons to care for children in the mornings.

DOLE has since proposed a regional initiative for Association of Southeast Asian Nations (ASEAN) member-states to address post-pandemic work and employment arrangements.

At the legislative front, several bills in Congress aim to address the challenges riders and drivers face. Sen. Risa Hontiveros' Senate Bill No. 1373, also known as the "Protektadong Online Workers, Entrepreneurs, Riders at Raktera (POWERR) Act," seeks to establish regulatory standards for gig workers' services.

Among the proposed bills, Hontiveros' POWERR Act stands out for its inclusion of a provision on

algorithmic transparency. This provision grants workers the right to be informed about any decisions or actions made or influenced by algorithmic systems, addressing a critical issue in the gig economy where algorithms often dictate the terms of work.

The National Union of Food Delivery Riders has also taken proactive measures by drafting a “Charter of Rights or Magna Carta for Delivery Riders,” which the group seeks to incorporate into pending legislation. This proposal highlights the urgent need for comprehensive laws that not only safeguard the rights of gig workers but also ensure fairness and accountability in the digital platforms that regulate their work.

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- With additional research by Jabes Florian Lazaro and Rosemarie Corpin, PCIJ, December 2024

This Philippine Center for Investigative Journalism report was produced in partnership with the Pulitzer Center’s AI Accountability Network.