

**THE CONTEMPORARY CHALLENGE
AND GOVERNMENT RESPONSES ON
DELIVERY PLATFORM WORKER
RIGHTS AND BENEFITS IN TAIWAN:
THE "MOL GUIDANCE 2019" AND THE
"TAIPEI CITY ORDINANCE 2019"**

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THE DELIVERY PLATFORM WORKER AND ITS CONTROVERSY IN TAIWAN

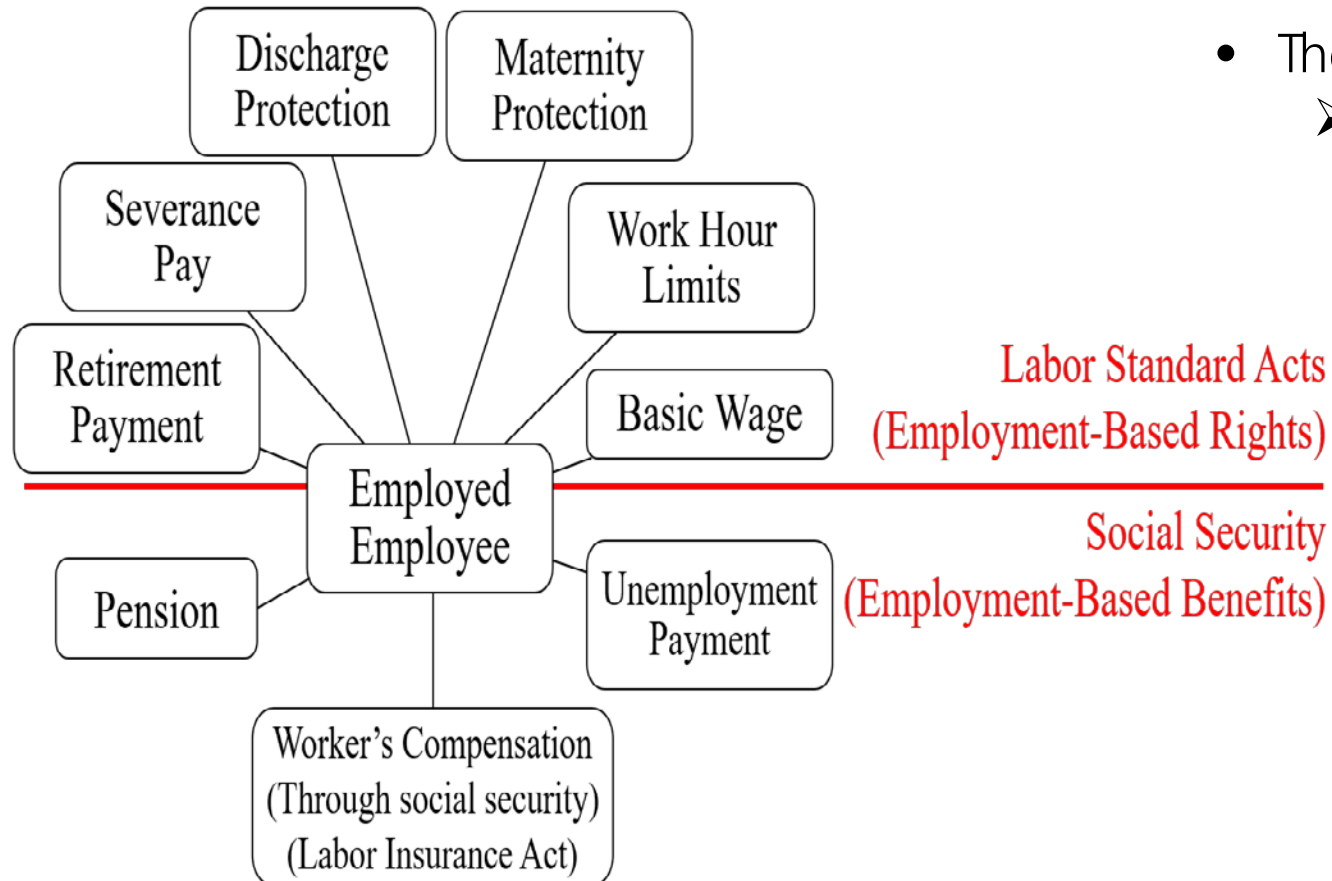
- The status quo of the gig platform workers in Taiwan:
 - Without official statistic numbers, an organization ran survey on 300 delivery agents, and found
 - ✓ 70 % work as the full-time worker, and in these full-timers, their salary can range from NT 180000 (U.S. \$6000) to NT 20000 (U.S. \$650). Average monthly salary for all of the 300 agents is NT 42000 (U.S. \$1400).
 - ✓ In the meantime, the average of college-graduate workers is only NT 30000 (U.S. \$1000)
- The classification issue for gig platform worker has been a long-term debate in Taiwan. The employer-employee dichotomy is still the presumed model to decide whether the workers eligible for employee protection and social security protection from the employer.
 - The gig platform worker is hardly to be considered an employee under the “dependency” that subordination of the employer.



THE DELIVERY PLATFORM WORKER AND ITS CONTROVERSY IN TAIWAN

- The unfit employer-employee dichotomy has been challenged but no appropriate solution appeared.
 - In October 2019, after the two tragic car accidents that took away two delivery agents' lives in three days.
 - **No worker compensation** due to non-employee status
 - **No any form of social security insurance payment** due to non-employee status
 - The fact that the agent was working long hours and in the rush to deliver the food to the client.
 - The general public starts to question that how could a person work so hard to generate profit for the platform and restaurant is not an employee with proper legal protection?

DIFFERENCES BETWEEN AN EMPLOYEE AND AN INDEPENDENT CONTRACTOR IN TAIWAN: EMPLOYMENT-BASED LABOR RIGHTS AND SOCIAL SECURITY BENEFITS



- The current employer-employee dichotomy model
 - An employee is eligible for
 - ✓ Work hour cap with overtime pay
 - ✓ Minimum wage
 - ✓ Severance pay
 - ✓ Discharge protection
 - ✓ Retirement payment
 - ✓ Full set of social security protection
 - Worker compensation
 - Unemployment insurance...

MOL "GUIDANCE ON DETERMINATION OF LABOR CONTRACT"

- The MOL re-emphasize the court precedents and its departmental policy on determining worker status : the worker's "individual dependency", the "organizational dependency", and the "economy dependency. "
- The individual dependency indicators (example):
 - The **work time** is under the instruction or control of the company
 - The **way to perform duty** is under the instruction or control of the company
 - The worker **cannot reject job assignment** from the company
 - The worker **must perform the duty personally**. An agent cannot be used without prior company consent.

MOL "GUIDANCE ON DETERMINATION OF LABOR CONTRACT"

- The economic dependency indicators (example):
 - The necessary equipment, tools, materials, and machines to perform job duty is not prepare, manage, and maintain by the worker.
 - The worker **must use the equipment provided or instructed by the company** to perform job duty
- The organizational dependency indicators (example):
 - The worker is included into the company inner structure and perform the job duty as a team
 - The worker is **required by the company to have a routine work schedule, shift, and on-call.**

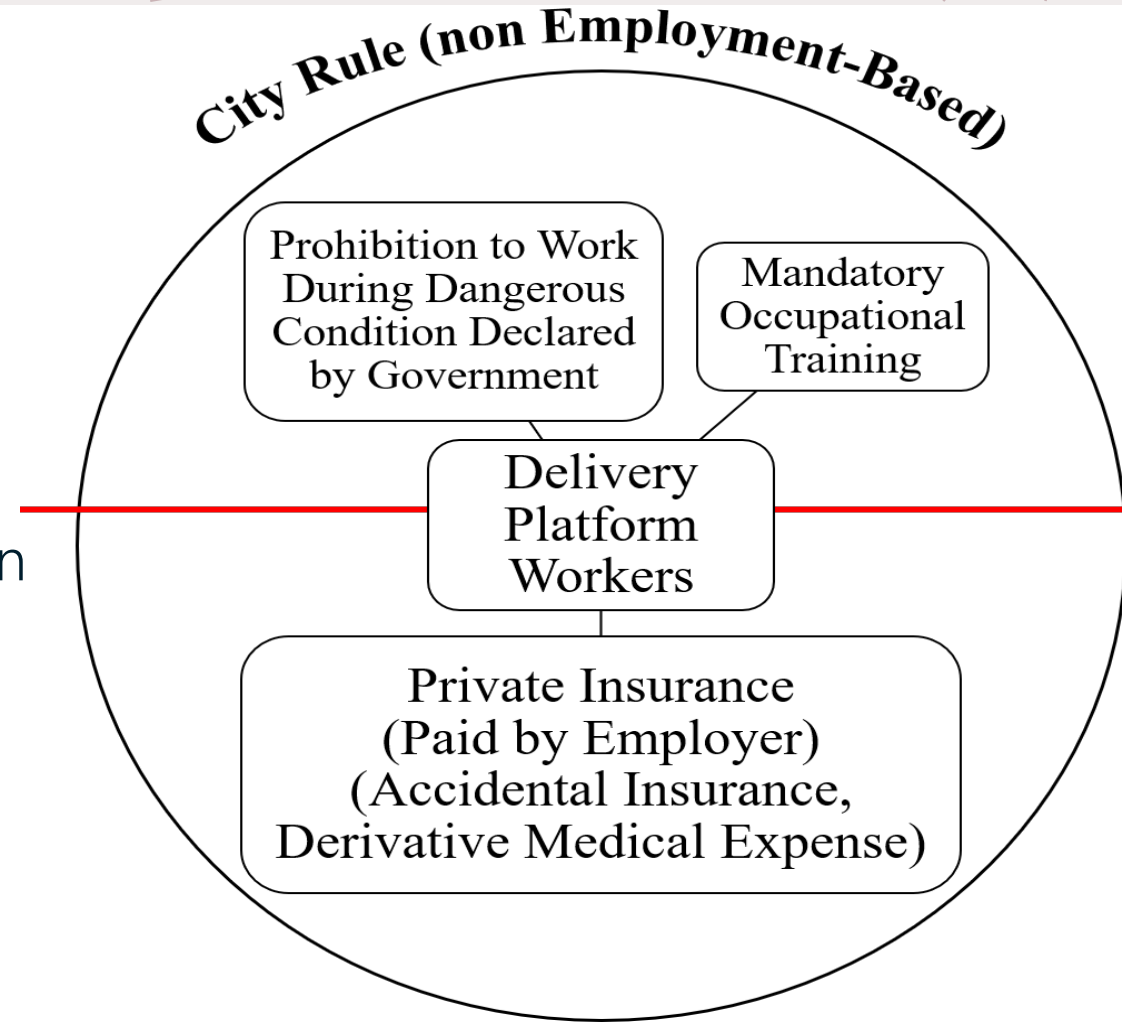
THE SWIFT RESPONSES FROM THE PLATFORM BUSINESS

- Substantially alter the work rule regards to delivery agent way and restriction on delivery job.
 - No more scheduled shift and penalty. (i) (o)
 - Predeclare the route of the assignment and the agent is free to reject without penalty. (i)
 - Allow the agent to sub-contract the delivery task to another agent. (i)
 - No longer evaluates the outfit of the agent. (i)
 - No longer requires the agent to purchase and use its platform logo box and equipment. If agent uses platform logo product, the agent gets advertisement payment. (e) (see the photo)
- Try to maintain independent contractor status.



"TAIPEI CITY GOVERNANCE AND SELF-REGULATORY ORDINANCE" ON DELIVERY PLATFORM BUSINESS

- Set aside the controversy of employer-employee dichotomy, look at what the workers urgently need
 - Safety and health working condition
 - Prohibit to work under government declares dangerous condition
 - Platform to provide mandatory occupation training
 - Minimum level of insurance coverage
 - Require the platform to purchase private insurance to cover accident expenses and derivative medical expenses



CONCLUSION

- It is just the beginning of clarifying the legal status and proper solution for platform workers.
- Both the central and local government are striving to provide temporary protection for these controversial workers.
 - MOL: apply the employer-employee dichotomy and the current court precedents
 - City : enact city ordinance to require employer to provide private insurance coverage and necessary training, prohibit dangerous assignment.
- The final solution is still under discussion.

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- Thank you for your attention.