

How to improve working conditions for gig workers in Thailand?

- Prapan Leenoi¹

EXECUTIVE SUMMARY

While Thai platform workers enjoy flexibility and independence, they are deprived of security at work resulting from unclear employment status. Given insufficient benefits generated from platforms, gig workers can only be protected under social security schemes for informal workers which provide less coverage compared to formal employees. Those workers are also experiencing income security issues and lack bargaining power that leads to unfair job benefits. This policy brief suggests that the Thai government should consider including gig workers in formal employment to be eligible for benefits and social protection. Alternatively, the government should promote existing security schemes for gig workers and regulate platforms to provide the minimum standard of working conditions. Furthermore, collective bargaining should be encouraged to enable more negotiation between platforms and platform workers.

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KEYWORDS

Gig workers, platform economy, Thailand

Introduction

Like in other countries, Gig or platform economy is rapidly expanding in Thailand. According to Google, Temasek, and Bain & Company, the market value for food delivery and ride-hailing businesses in Thailand was \$1.1 billion in 2020 and is projected to reach \$7 billion in 2025 [1]. COVID-19 has also accelerated the revenue growth of key platform companies such as Grab, LINE MAN, Food Panda, and Gojek since the demand for food delivery is surging during lockdowns. Moreover, the number of platform workers has been rising due not only to the growing gig economy but also its ability to absorb those who lost their jobs or income as a result of the pandemic. Flexibility is the most prominent advantage of gig work while the condition of work is the key challenge for platform workers. As of March 2020, 29% of all Grab riders in Thailand was a full-time rider working more than 8 hours a day [2], but to earn a good income, those workers need to work at least 10 hours per day. Besides, platforms deduct approximately 25% of platform workers' income as commission fees although they provide little benefit to their riders (no health insurance, holidays, pension funds, and so on) [3]. Whereas some argue that platforms provide opportunities that are better than alternative work outside the platform, others argue that platform workers are getting exploited by platform companies through work status, income, and welfare given [4]. Therefore, this new group of workers emerging from digital disruption seems not to achieve decent work yet and requires better working conditions and social protection.

This policy brief begins to analyze the current situation of Thai gig workers' welfare. It then identifies the problems facing Thai platform workers in terms of employment status, social security, pay, and collective bargaining as well as challenges for platforms. Finally, the policy brief provides recommendations on how to improve working conditions for Thai gig workers.

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Policy Challenges

Current Situation of Thailand's Platform Economy

During the past decade, platform businesses in Thailand have been rapidly expanding in terms of the numbers of players and their revenues, especially those offering location-based services (food delivery and ride-hailing). Regarding the main players, Food Panda was the first food delivery platform operating in Thailand in 2012. It currently provides services in 76 provinces (the highest coverage) with approximately 600,000 riders across Thailand. LINE MAN has partnered with 200,000 restaurants, the most in the market so far [5]. Meanwhile, Grab and Gojek are the two platforms providing both food delivery and ride-sharing services. Finally, Robinhood was the latest food-delivery platform entering the market in late 2020. It is now expanding its business by offering zero delivery fees during the recent lockdown in Bangkok and vicinities. One of the reasons why platform businesses have grown significantly in Thailand is the high number of internet users, which attracted platform technology companies to invest in Thailand [4]. Although they are not yet profitable, their revenues are increasing, particularly in the post-COVID era, as displayed in Table 1.

Table 1 Revenues of key platform companies in Thailand

| Platform | Unit: \$ million | 2017 | 2018 | 2019 | 2020 | Riders |
|--|---------------------|--------|--------|---------|---------|---------|
| Food Panda (since 2012)  | Revenue | 6.52 | 8.03 | 25.36 | 135.63 | 600,000 |
| | Loss | -1.23 | -4.30 | -39.20 | -111.47 | |
| GRAB (since 2014)  | Revenue | 15.76 | 35.94 | 98.99 | | 100,000 |
| | Loss | -30.55 | -22.06 | -51.15 | | |
| LINE MAN (since 2016)  | Revenue | | | 1.55 | 33.06 | 200,000 |
| | Loss | | | -4.87 | -34.55 | |
| Gojek (since 2019)  | Revenue | | | 0.00004 | 7.31 | 50,000 |
| | Loss | | | -0.07 | -17.53 | |
| Robinhood (since Nov 2020)  | Revenue | | | | 0.003 | 15,000 |
| | Loss | | | | -2.72 | |

Source: Department of Business Development and Thansettakij

The growing platform businesses are associated with the high gig population in Thailand. Even though there has been no official data on gig workers, the number of those, who either rely 100% on gig work or take gig jobs as a side job, is expected to rapidly rise. Apart from the surging demand for food delivery and ride-hailing, what motivates Thai people to work in the gig economy is flexibility. Gig workers enjoy their ability to manage their own time as they can work whenever they want. Gig work can also be their part-time job and generate more income. After the pandemic, it is expected that the number of Thai platform workers has risen since those whose full-time jobs were affected by COVID-19 might join the gig economy.

Despite some advantages mentioned earlier, many challenges are facing Thai gig workers including the lack of social protection resulting from the unclear employment status, unreasonable pay, income insecurity, as well as the lack of collective bargaining which will be elaborated later.

Employment Status

One of the key ongoing debates regarding gig workers in Thailand has been on employment status. Nowadays, Thai platform workers, like in many other countries, are recognized as independent

contractors, partners, drivers, riders, freelancers, and informal workers. These statuses are supported by those (especially platform companies) who have argued that gig workers have more flexibility and independence in working than general employees do. Specifically, platform workers can decide where, when, and how often they want to work. Moreover, some ride-hailing companies have argued that they are technology companies connecting drivers and passengers, rather than transportation service providers [4]. That is why those drivers are not considered as their employees and they are not required to provide benefits to those workers according to the labour laws.

On the other hand, many gig workers and civil society in Thailand have argued that there is an employer-employee relationship between platform companies and platform workers [6]. That is, platforms can control the amount of work assigned to riders and may give penalties when those workers refuse the requests from clients or fail to finish their jobs. Also, platforms can set rules to control behaviors and work practices of gig workers, such as dressing, smoking, and advanced notice about delayed arrivals [7]. Accordingly, gig workers should be viewed as formal employees and entitled to social protection under Thai labour laws.

However, as the current Thai labour laws do not classify gig workers as employees of platform companies, they are thus excluded from fundamental benefits and labour protection under Thailand's Labour Protection Act, Labour Relations Act as well as Occupational Safety, Health and Environment Act. These include the minimum wage, working hours, leaves, social security, and so on. Therefore, what can be concluded is that although Thai platform workers can enjoy flexibility from the gig work, they are still at risk of being exploited by platform companies and hence need more social protection [4].

Job Benefits and Social Protection

Job benefit and social protection is one of the key concerns for gig work. According to the ILO surveys of 12,000 workers in 100 countries, 50% of workers in app-based taxi and delivery reported having health insurance while 30% of those are covered by employment injury and only 17% has pension benefit. A very small proportion reported having unemployment insurance and disability insurance [8]. This is also in line with the Thai context that 71% of Thai gig workers reported experiencing a lack of job benefits, according to the Economic Intelligence Center (EIC) survey of 9,387 respondents in August 2017 [9]. Gig workers cannot enjoy the benefits that formal employees are typically provided such as leaves, holidays, health insurance, work uniforms, transportation subsidies, and pension fund. Furthermore, although some platforms in Thailand claim that they provide accident insurance to their riders, there are certain conditions to be met. For example, riders must work for that platform for at least 6 months and work as if they are full-time riders (8 hours a day or more) [7]. That is why many platform workers are not covered by accident insurance.

The fact that Thai platform workers are not regarded as employees hinders them from the decent compulsory benefits under Section 33 of the Social Security Act (SSA). In Thailand, workers can be protected under the SSA which consists of three types of insurers. 1) workers under Section 33 who are private employees. In this mandatory plan, employees, employers, and the government contribute a certain percent of the worker's salary to the social security fund. The benefits for these types of insurers include illness, disability, childbirth, child welfare, death, unemployment, and pension. 2) voluntary insurers under Section 39 who were insured under Section 33 and left the job for no longer than 6 months. They are provided with the same benefits except for the unemployment benefit. 3) informal workers under Section 40 who voluntarily opt in. Those workers can be insured for illness, disability, and death for the \$2.2/month plan, plus pension benefit for the \$3.1/month plan, and plus child welfare for the \$9.3/month plan (see Table 2). Due to the current status of the Thai gig workers, they can only apply for the voluntary plans under Sections 39 and 40.

The problem in Thailand is that many riders decided not to participate in the plans under Sections 39 and 40. One reason could be that these plans do not incentivize workers to join as they offer fewer benefits compared to those under Section 33, especially the cheapest plan under Section 40. For this reason, some gig workers may think that it is not worth their money. In fact, some of them may not be able to afford the premium or not even be aware of such programs. This is associated with the notably lower number of persons insured under voluntary programs. According to the survey from Thailand's National Statistics Office, there were 20.4 million workers in 2020 (53.8% of total employment) who are not protected or have no social security at work (not insured under Sections 33, 39, and 40). This can be concluded that many Thai workers including platform workers still lack social security.

Table 2 Benefits for insurers under Thailand's Social Security Act

| Benefit | Formal workers (Mandatory plan) | Informal workers (Voluntary plan) | | | |
|--|------------------------------------|--------------------------------------|--------------|--------|--------|
| | Section 33 | Section 39 | Section 40 | | |
| | | | Plan 1 | Plan 2 | Plan 3 |
| Illness | Yes | Yes | Yes | Yes | Yes |
| Disability | Yes | Yes | Yes | Yes | Yes |
| Childbirth | Yes | Yes | No | No | No |
| Child Welfare | Yes | Yes | Yes | No | No |
| Death | Yes | Yes | Yes | Yes | Yes |
| Unemployment | Yes | No | No | No | No |
| Pension | Yes | Yes | Yes | Yes | No |
| Number of insured persons (As of April 2021) | 11.05 Million | 1.85 Million | 3.57 Million | | |

Source: Social Security Office

Income Security

Another challenge for gig workers is adequacy and security of income. According to the EIC survey, 80% of Thai gig workers reported facing insecurity from uncertain income. Unsurprisingly, platform workers are faced with unpredictable income as they do not know when the next job will come [9]. In Thailand, platform workers are paid by piece rates varying by distance, location, and company. Platform workers can also receive extra income if the number of their rides per day or week meets a certain threshold [7]. In sum, the harder they work, the higher they earn. This in turn results in excessive hours worked and a higher risk of accident due to a race against time.

Since platform workers cannot take leaves with pay just as formal employees, they will earn zero income whenever they are sick or cannot do their jobs. In addition, it is common these days to see plenty of riders from various platforms in front of a restaurant. As more people are participating in gig work to seize the opportunities in this sector, the share of income earned by each rider may be lower. Also, with higher competition in the platform economy accelerated by the pandemic, some companies such as LINE MAN are lowering their piece rate, resulting in protests against that action recently. The competitions among platforms and riders themselves thus significantly affect the income security of gig workers.

Collective Bargaining

One of the main reasons why Thai platform workers cannot achieve decent work is the lack of freedom of association and collective bargaining. According to the Leeds Index of Platform Labour Protest, the number of cases of labour protest is increasing over time across the world. The top three prominent causes of protest are pay, working conditions, and employment status [10]. In Thailand, there are unofficial unions of platform workers which are likely to unite to support one another or call for changes from platforms. However, this type of association has less bargaining

power, is neglected by platform companies sometimes, and hardly leads to legal or structural reforms [7]. In terms of freedom of association and collective bargaining, Thailand has not ratified ILO Conventions Nos 87 and 98². Actually, it is not easy to form a trade union in Thailand and even more difficult for platform workers who do not have employee status.

Challenges Facing Platforms

From platform companies' point of view, it is difficult for them to provide benefits unless gig workers are regarded as employees. However, taking all gig workers as their formal employees or providing more benefits to gig workers could raise the substantial cost. As major platforms in Thailand are not yet profitable (see Table 1) since they are expanding their businesses, they may not want to pay additional costs for gig worker's welfares. There hence appears to be a need for government intervention, but too restrictive regulation may harm the platform economy which is growing rapidly these days [4]. Recently, the Electronic Transactions Development Agency is drafting a royal decree on regulating digital platforms. The law may include requirements such as notification of doing business and local representatives. Aiming for fair and transparent platforms as well as improved consumer protection, the new rules could create more challenges for platform companies in Thailand [11].

In terms of initiatives to improve working conditions, many platforms around the world have been working to help gig workers. For example, Cabify in Peru provides a saving plan for riders from certain percent of their weekly income, Deliveroo in France offers sick pay, Uber in Europe launched Partner Protection program to provide insurance coverage for riders, and Deliveroo in Europe established Rider Forum for sharing ideas and feedback, encouraging voice and participation of gig workers [12]. However, these actions are still limited in Thailand.

Recommendations Proposed

- 1. Establish a tripartite committee to move towards the legal definition of platform workers as employees.** The government, specifically the Ministry of Labour, may classify gig workers as employees so that they will be given benefits according to mandatory participation in Section 33 under SSA which provides greater coverage compared to Sections 39 and 40 for informal workers. While there has been a continuing debate on the employment status of gig workers in almost every part of the world, the case of the United Kingdom is different as it now recognizes platform drivers as employees of platform companies. Moreover, Vietnam has adopted the new Labour Code 2019 which came into force in January 2021. According to the new labour code, Vietnamese gig workers or freelancers may be considered as formal employees if the employer-employee relationship exists or a contract between two parties includes job description, salary, management, and supervision condition [4] [13]. Whereas viewing all platform workers as employees could be highly controversial in Thailand since it requires platforms to contribute to the social security fund and provide employee benefits in line with labour laws, the government may reform step-by-step by amending the social security law to include some gig workers who meet criteria such as working over a certain number of hours for only one platform. However, the formalization of gig workers could be a long-term solution as a mandatory contribution to the social security fund provides better social protection to them. Therefore, the Ministry of Labour may conduct a feasibility study of such legal reform as well as establish a tripartite committee, consisting of platform workers, platform companies, and the government, which is responsible for that matter.

² The ILO Conventions No. 87 (Freedom of Association and Protection of the Right to Organize Convention) and No. 98 (Right to Organize and Collective Bargaining Convention) are two of the eight fundamental Conventions.

- 2. Promote existing social security schemes applicable for gig workers.** While platform workers are not regarded as employees, it is essential for the Social Security Office to encourage them to have social protection. As the number of insured persons under Sections 39 and 40 is far lower than that under Section 33, some self-employed persons may not be aware of such schemes or realize the importance of insurance. Another possible option is to establish a separate scheme for platform workers just as in Malaysia where a specific welfare scheme was initiated for gig workers, but the participation rate is still low [4]. To adopt such a scheme in Thailand, the government must ensure insurance premium is reasonable compared to the benefits and can incentivize platform workers to opt in.
- 3. Regulate platform companies to provide the minimum standard of working conditions.** These days the government has little regulation over how platforms treat gig workers because there is no specific law for this new form of employment. The Ministry of Labour should consider issuing new laws governing platform companies to provide minimum benefits to platform workers. These include minimum pay, maximum hours worked, occupational safety and health, and so on. Although many platforms in Thailand offer accident insurance to their riders, the conditions for such benefits are complicated and difficult to be met once gig workers experience an accident. However, there needs to be a thorough study and negotiation before implementing such policy in order not to overly harm platforms' financial status and eventually consumers.
- 4. Encourage freedom of association and collective bargaining.** Presently, platform workers have little bargaining power and are at risk of being exploited by platforms. The government should promote social dialogue in the form of collective bargaining by ratifying the ILO convention Nos 87 and 98 regarding freedom of association and collective bargaining. These are the two fundamental conventions Thailand has not yet ratified due to, as the government said, the security of the country. Collective bargaining will enable gig workers to negotiate with platforms regarding minimum piece rate, accident insurance, fair algorithms, and working hours, whether they are classified as employees or not [8]. This will be the key step to providing fundamental rights for any workers, not just gig workers.

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