

RESEARCH SUMMARY

## Labor Laws and the Growing Gig Economy: Distinguishing between Independent Workers and Employees

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The emergence of digital platforms that use contractors to provide their services has renewed public interest in the nature and legal status of independent workers. These workers take up commissioned tasks without guarantee of further employment. How do work characteristics on digital platforms differ from work characteristics in traditional employment? And what does that mean for public policy?

Liya Palagashvili and Paola A. Suarez seek to answer those questions in “[Employee vs. Independent Worker: A Framework for Understanding Work Differences](#).” The authors develop a framework for understanding differences between employees and independent workers and test more than 900 occupations in the United States. Their results show statistically significant differences in the two types of jobs and suggest that the laws should continue to reflect this reality.

### 1099 WORKER OR W-2 WORKER?

- Independent workers are legally classified as *self-employed* or *independent contractors* (1099 workers), whereas workers in traditional employment jobs are classified as *employees* (W-2 workers).
- This means that independent workers are often out of the purview of labor laws and regulations that apply to those who are legally classified as employees.
- Many digital platforms are facing legal challenges for “misclassification” of employees as 1099 contractors. Some state policies, such as California’s Assembly Bill 5 (AB5), are attempting to severely limit independent work opportunities. National legislation, such as the Protecting the Right to Organize Act (PRO Act) introduced in Congress in February, attempts to reclassify independent workers as employees.

### WORK PERFORMED BY INDEPENDENT CONTRACTORS DIFFERS SIGNIFICANTLY FROM WORK PERFORMED BY EMPLOYEES

- There are real work differences between employees and independent workers beyond the fact that jobs are nonpermanent in nature for independent workers.
- Specifically, gig and independent workers rely less on interdependent team production, and they are more individual-output-based. For example, if a taxi driver represents one extreme (on the “independent work” side of the spectrum), an education administrator would represent the opposite extreme.

- Policies such as the PRO Act and AB5 thus overlook the diversity of work characteristics across independent and traditional work arrangements by attempting to fit both types of jobs into the same legal worker classification.

### **A POSSIBLE WAY FORWARD**

The growth of independent workers presents a new challenge to significant portions of labor law because many, if not all, healthcare and retirement plan benefits associated with work are currently provided only to employees. Further research on portable benefits policies may present a solution to this challenge posed by the growth in independent workers.