

# The Gig Economy's Legal Frontier: Lessons From Global Jurisdictions For Vietnamese Labour Law Reform

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## Abstract

The gig economy represents a prominent form of digitally mediated work, where individuals obtain income by providing services and goods through online platforms and applications. While this model has contributed to economic dynamism and expanded income opportunities in many countries, it has simultaneously generated intense debate over the protection of workers' entitlements, including social security, benefits, and stable earnings. Platform-based labour often falls outside traditional employment frameworks, creating a regulatory "grey zone" in which responsibilities between intermediaries and workers are unclear and the risk of rights violations increases. In response, several jurisdictions have begun to experiment with new legal instruments, case law developments, and policy guidelines aimed at clarifying employment status and strengthening safeguards for gig workers, thereby seeking a more sustainable balance between innovation and labour protection. In Vietnam, the swift expansion of the gig economy, notably within urban contexts, has outstripped the capacity of existing labour regulations to adapt, resulting in inadequate legal protection for platform-based workers. Through a comparative examination of selected foreign legal frameworks and judicial practices, this paper explores how different jurisdictions safeguard the rights of gig workers and recommends legal and policy reforms to enhance Vietnam's recognition, regulation, and protection of workers in the gig economy.

**Keywords:** GIG economy, International, Rights of Workers, Suggestions, Vietnam.

## Introduction

The rapid advancement of information and communication technologies has been reshaping production and employment structures worldwide (1). Through online platforms and mobile applications, a growing share of workers now engage in task- or project-based activities rather than long-term standard employment, attracted by the promise of flexibility and autonomy over working time and work organisation (2). Furthermore, the rise of platform-based jobs has sparked heated discussion about ethics, regulation, and broader social impacts, with a central concern being how to ensure the protection of workers' basic rights (3, 4). In numerous cases, platform companies characterise their engagement with drivers, couriers and other service providers as purely commercial partnerships, thereby distancing themselves from obligations relating to minimum earnings, social insurance and health coverage and exposing gig workers to volatile incomes and weak social security. An expanding corpus of international research has investigated the definitional ambiguities surrounding employment status in the

gig economy, worker classification dilemmas, and the adequacy of traditional labour-law regimes in addressing these novel employment configurations (3-5).

Studies have emphasized that platform workers frequently exist on the blurred boundary between subordinate employment and independent contracting, falling outside the scope of traditional labour protections and facing difficulties in accessing social insurance, collective bargaining and dispute-resolution mechanisms (6). Comparative research has also documented diverse regulatory experiments, including the introduction of new statutory tests, hybrid worker categories and case-law developments that seek to clarify the legal status of gig workers (2, 7, 8).

Recent developments in several jurisdictions illustrate both the potential and the limits of current regulatory approaches. In countries such as Australia, amendments to instruments like the Fair Work Act (Loophole Bill 2023) have been used to define the condition of workers in the digital economy who occupy an intermediate status

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between employee and independent contractor, to extend certain protections to platform drivers (9). In the UK, landmark Supreme Court decisions in cases involving Uber and Deliveroo have clarified, albeit in different directions, how the worker-platform relationship should be characterised for the purposes of employment rights and collective bargaining (10). Or in the US there are precedents related to gig labor. In other contexts, such as Spain and China, lawmakers and regulators have issued targeted legislation and policy guidelines to govern ride-hailing, delivery services and the healthy development of gig platforms, while leaving some aspects of the employment relationship intentionally open (11, 12). These experiences show that jurisdictions are actively experimenting with new legal tools, but a coherent and transferable model of protection for gig workers has yet to emerge.

Vietnam has likewise experienced a rapid spread of platform-based services and a growing number of workers engaged in gig activities, particularly in urban areas (13). However, the current legal framework centred on the 2019 Labour Code and related instruments provides only limited and fragmented guidance on how to establish the legal nature of the relationship between platforms and workers, as well as strategies to extend labour and social security protections to this cohort of workers. In practice, ride-hailing and delivery platforms tend to rely on business cooperation agreements that place workers outside the scope of labour law, which raises questions about working time, income security, access to social insurance and long-term sustainability of such employment. Although certain Vietnamese studies highlight the intersection between digital and gig economy expansion and the socio-economic characteristics of platform workers, comprehensive legal analyses remain scarce, particularly those contrasting foreign regulatory frameworks with Vietnam's context and delineating viable pathways for legislative reform.

Against this backdrop, the present article addresses two interrelated gaps. First, it seeks to systematise how selected jurisdictions have approached the legal regulation of gig workers' rights, focusing on the interaction between statutory instruments, case law and policy guidelines. Second, it examines to what extent these foreign experiences can inform ongoing

debates on labour-law reform in Vietnam, where protections and legal recognition for platform workers are still underdeveloped. The overarching aim of the study is to analyse the legal responses to gig work in a number of representative countries and to derive lessons and recommendations that are tailored to Vietnam's institutional and socio-economic context. Specifically, the article pursues three objectives: to elucidate the conceptual framework and principal characteristics of the gig economy and its workers; to examine the key legal and policy measures adopted in selected foreign jurisdictions to protect individuals engaged in platform-mediated work; and to formulate proposals for improving Vietnamese labour and social-security law so that it better recognises, regulates and protects workers in the gig sector.

Conceptually, this paper posits that the extent of platform control, workers' economic dependence, and the integration of their tasks with the platform's core business constitute pivotal criteria for establishing an employment relationship and the attendant rights. By combining a qualitative, comparative legal analysis with a focus on these criteria, the study offers a novel contribution to the Vietnamese literature: it brings together foreign legal experiences on gig-worker protection, evaluates their strengths and limitations and develops context-sensitive recommendations for reforming Vietnam's labour-law framework in the digital era.

## Methodology

This study employs a qualitative methodology centered on legal doctrinal analysis and comparative regulatory assessment of gig economy frameworks. Such an approach proves apt for probing normative inquiries regarding the character of platform employment relationships and the sufficiency of prevailing labour legislation, as it allows for in-depth interpretation of statutes, case law and policy documents without relying on quantitative data. Data were drawn from secondary sources, including legal texts, judicial decisions, policy guidelines and peer-reviewed academic literature on gig workers' rights. Sources were identified through a systematic search strategy using databases such as Google Scholar, HeinOnline, SSRN and official websites of governments, courts and international organisations like

the International Labour Organization (ILO). Key search terms included “gig economy labour rights”, “platform workers employment status”, “Uber drivers case law”, “AB5 California”, “Uber v Aslam UK”, “China gig platforms occupational injury insurance”, “Vietnam gig economy labour code” and variations thereof, covering the period from 2015 to 2024 to capture recent developments. Inclusion criteria were applied to select relevant materials: documents in English or Vietnamese addressing legal protections for gig or platform workers; primary sources such as statutes, case law and regulations from selected jurisdictions (US, UK, China); and secondary sources from peer-reviewed journals or authoritative reports providing legal analysis. Exclusion criteria eliminated non-legal materials (e.g., purely economic reports), inaccessible full texts, non-peer-reviewed blogs or opinion pieces, and studies predating 2015 unless foundational. Relevant data were extracted using a structured template covering key elements: definition and classification of gig workers; criteria for

determining employment status (e.g., control, economic dependency); specific protections extended (e.g., minimum wage, social insurance, collective bargaining); limitations or challenges observed; and implications for Vietnam. Synthesis involved thematic coding and comparative analysis across jurisdictions, organised around common criteria such as the source of regulation (statute, case law or policy) and the scope of worker protections. This descriptive approach prioritises clarity in presenting legal rules before analytical interpretation in the discussion. Countries were selected as research samples based on their representative regulatory experiences as shown in Table 1. The US provides insights into state-level litigation and ballot initiatives like AB5 and Proposition 22; the UK exemplifies case-law development through Uber and Deliveroo rulings; and China illustrates policy guidelines for platform growth alongside occupational injury schemes. These choices ensure diversity in legal traditions and stages of gig economy development while maintaining comparability.

**Table 1:** Research Sample and Reasons for Sample Selection

State	Legal Documents/Case Law	Reason
The US	Case law: O'Connor v. Uber; Cotter v. Lyft - Legislation: AB5 Law (bill); Proposition 22 (approved).	The US records a notably high volume of litigation concerning gig workers' rights; It is also among the earliest jurisdictions to adopt statutory measures on gig workers' protections, even though these provisions remain incomplete.
The UK	Case law: - Aslam and others v. Uber - Independent Workers Union of Great Britain v. Deliveroo	Through two landmark Supreme Court decisions, the nature of employment relations in the gig sector was clarified, triggering recognition of workers' rights under the Employment Rights Act 1966
China	- Guidelines for healthy business in the GIG sector - Regulations on technology taxi business	Although China's gig economy has expanded very quickly, its legal framework still offers only limited and fragmented safeguards for platform workers' rights.

The reliability of data sources was ensured by prioritising peer-reviewed publications, official legal texts and reports from reputable organisations. The research design follows a five-step process for reproducibility: (a) identify jurisdictions and conduct keyword searches; (b) screen documents using inclusion/exclusion criteria; (c) extract data into a thematic template; (d) perform comparative synthesis; and (e) derive Vietnam-specific recommendations.

## Results and Discussion

### Introducing the Gig Economy and Key Legal Issues

The gig economy refers to a work model built around temporary, flexible jobs arranged via online platforms (14). Its defining feature is a tripartite structure encompassing the digital platform, service providers, and customers.

However, platforms are not uniform, scholarship distinguishes between pure intermediaries and dominant platforms that impose work rules and exercise reward and punishment powers over workers, commonly found in food delivery and passenger transport sectors (15). This second category generates significant power imbalances and lies at the heart of contemporary legal disputes worldwide.

While offering flexibility in time and location, where workers may perceive themselves as "their own boss" (14), the gig economy harbours a profound paradox. This formal flexibility often conceals tight control exercised through algorithms, exposing workers to exclusion from fundamental labour rights (16). Algorithmic management of tasks, performance, and pay creates a form of subordination invisible in traditional contracts but highly effective in practice.

Based on skill differentiation and task nature, gig workers can be categorised into several groups (17, 18). Location-based, mid-skill workers (ride-hailing drivers and delivery couriers) emerge as the most vulnerable. They are economically dependent on platforms, subject to algorithmic control, and most easily classified as independent contractors, making them the central focus of global legal reform efforts.

A core contradiction becomes apparent: technological innovation fuels economic growth while simultaneously eroding traditional worker protection frameworks (3, 19). The result is a "legal grey zone" where platform responsibilities toward workers remain ambiguous. The core legal quandary across jurisdictions revolves around ascertaining the authentic character of platform-worker relationships through the lens of actual control and economic dependency, rather than relying on contractual labels. Resolving this classification challenge is the precondition for any effective system of gig worker protection. This study proceeds from the premise that resolving this classification challenge is the precondition for any effective system of gig worker protection.

### **Criteria for Determining Employment Status**

The central question confronting all three jurisdictions is how to distinguish genuine self-employment from employment relationships disguised under partnership contracts. Despite

differing legal traditions, the substantive criteria applied reveal significant convergence focusing on two core elements: control and economic dependence.

In the United States, the evolution from common law tests to the ABC test under California's *Dynamex* ruling and Assembly Bill 5 marks a decisive shift toward a stricter, multi-factor standard (20). Under the ABC test, the hiring entity bears the burden of proof, demonstrating that the worker: (A) remains free from the entity's control and direction; (B) performs tasks outside the entity's usual business; and (C) maintains an independently established trade, occupation, or business (20, 21). This approach makes it much harder for platforms to label workers as independent contractors, particularly because prong (B) focuses directly on their core business activities (20). However, the subsequent political backlash through Proposition 22 in California reveals that even sophisticated statutory tests can be undermined by platform lobbying power, resulting in a hybrid regime exempting app-based transportation companies from the ABC test while granting limited benefits (22). This demonstrates that legal innovation alone is insufficient without sustained political commitment to worker protection.

In the United Kingdom, the three-tier classification system (employee, worker, self-employed) developed through case law, with the intermediate "worker" category playing a pivotal role. The UK Supreme Court in *Uber BV v. Aslam* emphasised that employment status must be determined by the "reality of the relationship" rather than contractual labels (23). Applying this principle, the court found Uber exercised significant control over drivers through fare setting, performance monitoring, and disciplinary sanctions, classifying them as "limb (b) workers" entitled to minimum wage and paid leave (23). Conversely, in *IWGB v. Deliveroo*, the court reached an opposite conclusion because delivery riders possessed genuine substitution rights, indicating absence of control and thus no employment relationship for collective bargaining purposes (24, 25). These contrasting outcomes underscore that while control remains determinative, its application is intensely fact-specific (26, 27). The UK experience thus offers both promise and caution: judicial vigilance can

pierce contractual veils, but case-by-case determination creates uncertainty.

In China, neither statutory law nor judicial precedents have established clear criteria for distinguishing platform workers from independent contractors (12). Official policy documents deliberately avoid defining this relationship, using open-textured language that permits platforms to choose "cooperation contracts" over labour contracts (28). Article 8 of the 2016 Interim Measures for Online Ride-Hailing Services requires platforms to sign "labour contracts or other agreements" with drivers (29) a formulation creating intentional ambiguity. While academic commentary and sporadic court rulings have begun invoking concepts analogous to control and economic dependence (30), the absence of a unified legal test leaves workers in a precarious position (31, 32). This strategic ambiguity reflects a deliberate policy choice prioritising platform growth and economic stability over comprehensive labour protection (31).

Synthesising these experiences, the US and UK have developed relatively sophisticated legal tests applied by courts to scrutinise platform relationships closely, while China maintains ambiguity as a matter of state policy. Yet beneath these differences lies shared recognition that formal contractual labels cannot be dispositive. Control, whether exercised through direct supervision or algorithmic management and economic dependence must serve as the foundation for determining employment status.

### **Scope of Worker Protections**

The extent of labour and social security safeguards afforded to gig workers differs markedly between jurisdictions, underscoring divergent policy priorities in reconciling employment flexibility with worker security.

In the United Kingdom, The middle-tier "worker" status provides access to key legal protections like minimum wage, paid holiday leave, and mandatory rest periods (32). This model has proven effective in extending basic safeguards to platform workers such as Uber drivers while preserving flexibility that full employee status would preclude (7). The UK approach recognises that platform workers often occupy a middle ground-economically dependent yet formally autonomous and that a binary employee/independent contractor framework cannot capture this reality. However, the

Deliveroo ruling sounds a cautionary note: not all gig workers qualify even for this intermediate tier, leaving a significant portion without access to collective labour rights (24). Benefits remain inaccessible to those who cannot establish the requisite degree of subordination.

In the United States, protections are fragmented and often contingent on classification outcomes. Employee status unlocks a full package of workplace rights: minimum wage, overtime pay, unemployment insurance, injury compensation, and union representation rights (25). Conversely, where platforms maintain independent contractor classification as under California's Proposition 22 - workers receive only limited benefits: guaranteed earnings (120% of minimum wage for engaged time), healthcare stipends, and occupational accident insurance, but no full labour rights (22). Proposition 22's explicit creation of a hybrid regime raises profound questions about whether such piecemeal protections can adequately address the structural vulnerabilities of platform work. The US experience also reveals that protections are shaped by the relative power of platform capital, labour movements, and state actors in an ongoing contest over the distribution of risks and rewards.

In China, protections remain remarkably limited, reflecting a deliberate policy choice to prioritise platform growth and economic stability (31). The 2021 pilot programmes for occupational injury insurance represent the first targeted effort to extend a single social security benefit to platform workers, but coverage is confined to work-related injuries and explicitly excludes healthcare, pensions, or unemployment benefits (28, 33). These programmes are framed as "work accident insurance" rather than "industrial injury insurance" to avoid triggering full labour law obligations (28). Access to minimum wage, collective bargaining, and union representation remains practically non-existent for most gig workers (34, 35). The Chinese approach thus represents a minimalist model calibrated to address the most visible social risks while maintaining structural flexibility for platform capital.

Comparing these three models reveals a spectrum of protective possibilities. The UK's intermediate model offers a judicially tested compromise extending core protections to those demonstrating

control. The US model oscillates between comprehensive protection and hybrid minimalism, with outcomes determined as much by political contestation as legal principle. The Chinese model pursues a minimalist, state-managed approach addressing immediate social risks while avoiding fundamental reconfigurations of platform-labour relations.

### **The Role of Institutions**

Differences in the roles of legal institutions reflect not only legal traditions but also profound policy choices on regulating the gig economy.

In the UK, courts played a pioneering role. Through pivotal judgments like *Uber BV v. Aslam* and *IWGB v. Deliveroo*, judicial bodies have reinterpreted and extended established legal doctrines to contemporary labour arrangements, preempting the need for statutory intervention. This approach offered flexibility and timeliness based on case facts. However, rulings were only valid within specific case contexts, lacked systematicity, and made creating a stable, predictable legal framework difficult (24, 36).

In the United States, the institutional landscape is more complex. Federal and state courts initiated significant changes, but legislatures also played prominent roles as demonstrated by California's AB5. Particularly noteworthy is the referendum initiative with Proposition 22, allowing platforms to use massive financial resources to override elected legislation (22). This reveals that the legal battle over gig workers' rights is also a power struggle where financial and lobbying advantages can reshape public policy. The result is a fragmented, inconsistent system of worker protection dependent on political balance.

In China, the executive branch holds absolute dominance. Courts play a secondary role with virtually no room for creating precedents. Guiding opinions and pilot programs issued by ministries and the State Council are the main regulatory tools (12, 28). This top-down approach allows flexible policy adjustment and experimentation without amending basic labour law, prioritising macroeconomic stability and gig economy growth (31). This represents "controlled pragmatism": the state accepts legal grey areas to foster digital economy development while intervening minimally to mitigate serious social unrest. However, this approach sacrifices systemic worker rights for growth.

Each country reflects a different regulatory philosophy, the UK trusts courts to adapt laws to practice; the US creates a multi-institutional arena where power is dispersed and fiercely competitive; China maintains centralized executive power to manage development cautiously. This demonstrates that choosing which institution plays a dominant role reflects how each country balances technological capital power, worker rights, and state role in the digital age.

### **Current Situation and**

### **Recommendations for Vietnam**

Vietnam's gig economy has developed remarkably rapidly, especially since ride-hailing platforms such as Grab entered the market, followed by Be Group and Gojek (37). By 2022, Vietnam's digital economy ranked second in both scale and growth rate among Asian economies (38). Hundreds of thousands of workers participate in gig activities, particularly in transportation and delivery services (39). However, this rapid growth has not been accompanied by a corresponding legal framework, creating a "grey zone" where workers operate without recognition or protection as "employees."

#### **The core problem "Sham contracts" in the Vietnamese context**

The Vietnam 2019 Labour Code at Article 13(1) defines an employment relationship based on hiring and using labour, remuneration, and management and supervision. Platforms such as Grab and Be circumvent this framework by signing business cooperation contracts with drivers, referring to them as "partners" or "collaborators" (40). Formally, they argue they are merely intermediary platforms and drivers are not subject to direct management (41).

Yet operational reality tells a different story. These platforms exercise control through algorithmic management: setting fares, allocating rides, evaluating drivers through ratings, and maintaining inspection teams. Violations result in account suspension or contract termination (41). This constitutes "management and supervision" in algorithmic form. Drivers are formally autonomous but practically constrained by systems determining their income and continued access to work.

Comparing this with international experience reveals the true nature of the problem. Business cooperation contracts in Vietnam bear striking

similarities to the "sham contracts" examined by UK courts in *Snook v. London & West Riding Investment Ltd* and *Consistent Group Ltd v. Kalwak* (32, 42). As the UK Supreme Court clarified in *Uber BV v. Aslam*, when a platform sets prices, monitors performance, and imposes disciplinary measures, this is not an equal partnership but an employment relationship (23).

### **Consequences of non-recognition of employment relationship**

First, regarding working time, "flexibility" has become invisible compulsion. Studies show technology motorbike drivers typically work 8-11 hours daily (43) and may reach 75.6 hours weekly (44) nearly double the 48-hour weekly limit under the Vietnam Labour Code. No maximum hours or overtime protections exist to safeguard health.

Second, regarding wages, gig workers receive no minimum wage guarantee under Articles 90(2) and 91(1) of the Vietnam Labour Code (45). Income depends entirely on ride volume and can fall below minimum wage (46). "Flexibility" transfers all income risk to workers while platforms profit steadily.

Third, regarding social security, this is the most severe consequence. Article 168(1) mandates compulsory social insurance in employment relationships (47). However, because they are not recognised as employees, hundreds of thousands of technology drivers remain outside compulsory social security, with only about 7% participating voluntarily (48). The 2024 Social Insurance Law and amended 2025 Employment Law expand coverage to contracts involving management and supervision, but the root problem remains: compelling platforms to sign labour contracts rather than cooperation agreements.

Fourth, regarding job stability, gig workers face constant precarity through short-term contracts terminable at any time without cause (49).

Fifth, regarding collective rights, rights to establish organisations and bargain collectively are reserved for "employees." Without recognition, gig workers lack collective mechanisms to rebalance power with platforms.

### **Lessons from comparative analysis and choices for Vietnam**

First, regarding criteria for determining employment relationships, Vietnam cannot continue relying on contractual labels. Experience from the UK and US demonstrates the need for

clear legal framework based on relationship substance. Criteria should include: whether the platform sets prices and work methods; whether the platform maintains monitoring and penalty systems; whether workers lack contract negotiation rights; whether work constitutes the platform's core business; and whether worker income depends primarily on specific platforms. When these criteria are satisfied, the relationship is substantively an employment relationship.

Second, regarding scope of protection, a differentiated approach is needed. Workers in dependent relationships should be recognised as employees entitled to full Labour Code protections. Genuinely independent workers could be governed by a separate flexible framework ensuring minimum protections: minimum income mechanisms, voluntary accident insurance, and rights to establish professional associations.

Third, regarding institutional roles, Vietnam's civil law tradition means relying on courts to develop precedent as in the UK is unlikely. The executive-led approach of China with pilot programmes may be more institutionally feasible, but must avoid sacrificing worker rights for growth. Vietnam should consider legislative clarification of substantive criteria, judicial training, executive enforcement capacity, and institutional channels for worker collective voice.

Fourth, regarding the lesson from Proposition 22, the failure of AB5 before platform pressure sounds a warning bell. Vietnam must anticipate platform responses to pro-worker reforms and prepare countermeasures including public awareness, enforcement capacity, and transparency requirements.

Fifth, regarding the Chinese cautionary tale, China's minimalist approach shows states can contain protective interventions but raises questions about sustainability. Workers excluded from protection may eventually mobilise; international pressure may intensify; and legal order legitimacy may erode.

Vietnam stands at a crossroads. One path maintains the "grey zone," accepting gig economy growth traded against worker insecurity. Another path learns from international experience to construct a differentiated legal framework based on relationship substance, protecting workers without stifling new business models. This choice reflects the state's commitment to shaping a fair

and sustainable labour market in the digital era. The question is not whether Vietnam can afford to protect gig workers, but whether it can afford not to, as social costs accumulate and legal order legitimacy depends on addressing new forms of vulnerability.

## Conclusion

The gig economy has become an inevitable global trend, creating employment opportunities while exposing workers to a "legal grey zone" where basic labour protections often do not apply. This study's comparative analysis of the US, UK, and China reveals that advanced legal systems increasingly determine employment relationships based on substantive criteria - control and economic dependence rather than contract form. The UK's "worker" tier and California's ABC test represent significant breakthroughs, while China's cautious pilot programs demonstrate incremental recognition of gig worker protection needs. Vietnam faces similar challenges, with platforms using business cooperation contracts to evade labour obligations parallel to the "sham contracts" addressed in UK precedents. Without addressing this root issue, recent expansions of social insurance coverage will remain ineffective. Vietnam should codify clear legal criteria based on control and economic dependence, establish a differentiated protection framework for genuine independent workers, and strengthen worker representation mechanisms.

This study has limitations: its scope is confined to three countries, excluding ASEAN approaches; it relies on secondary data without field surveys; and recommendations require piloting before broad application. Future research should expand comparative analysis to ASEAN countries, conduct empirical surveys with gig workers, and evaluate outcomes of China's pilots and California's Proposition 22 hybrid model.

## Abbreviations

ILO: International Labour Organization, US: United States, UK: United Kingdom.

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## Author Contributions

Dang Thi Thu Huyen: conceptualization, Nguyen Duy Dzung: writing, final approval of the

manuscript, Tran Nguyen Quang Ha: final approval of the manuscript.

## Conflicts of Interest

No conflict of interest of this paper.

## Data Availability

The data are available from the corresponding author on a reasonable request.

## Declaration of Artificial Intelligence (AI) Assistance

AI was used solely for language correction in this article.

## Ethics Approval

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