

FAIRWORK BANGLADESH RATINGS 2021: LABOUR STANDARDS IN THE GIG ECONOMY

Executive Summary

This first Fairwork report for Bangladesh examines gig workers' rights in what is a relatively young market and capital-intensive sector. Overall, the scores awarded to platforms in Bangladesh in the first year were very low, reflecting an absence of labour protections in the wider informal economy as well as in the platform economy, and substantial room for improvement in subsequent scoring rounds.

The informal economy contributes around 43 percent of Bangladesh's GDP,¹ with the gig economy in particular growing exponentially in the last decade. The ridesharing industry is amongst the largest segments, worth USD 259 million, and represents 23 percent of the transportation sector.² The remote platform economy (aka "cloudwork") generates USD 100 million annually.³ Within the next five to seven years, the estimated market value of ridesharing start-ups in the country is likely to reach USD 1 billion.⁴

The platform economy model continues to attract workers in Bangladesh as they feel the sector can offer a regular cash flow and flexible working hours. However, the annual Fairwork Bangladesh ratings show that the working

¹ Khondker, B. H. (n.d.). *Insights into the informal sector of Bangladesh*. Retrieved November 27, 2021, from <https://www.thefinancialexpress.com.bd/views/insights-into-the-informal-sector-of-bangladesh>

² 'Uber-Pathao' ride-share's impact on Dhaka – Policy Research Institute. (2018, April 28). Policy Research Institute. <https://www.pri-bd.org/economy/uber-pathao-ride-shares-impact-on-dhaka/>

³ Zaman, A. (n.d.). *A freelancing boom is reshaping Bangladesh and its economy*. Retrieved November 27, 2021, from <https://theprint.in/world/a-freelancing-boom-is-reshaping-bangladesh-and-its-economy/252971/>

⁴ TBS News. (2020, February 18). *With 7.5m rides a month, ridesharing services take over Bangladesh*. The Business Standard. <https://www.tbsnews.net/economy/75m-rides-month-ridesharing-services-take-over-bangladesh-45453>

conditions of platform workers are far from desirable. They continue to face unfair labour practices and lack protections afforded to employees.

Key Findings

Fair Pay: Only one platform, Lily, provided documentary proof that workers are guaranteed a minimum monthly wage of BDT 8100. However, despite Lily's actions to ensure minimum wage was met, it fell short of the *living wage* threshold in Dhaka.

There are incidents of net income deficit—16 out of 103 ridesharing workers interviewed were working for a loss due to work-related costs, high platform fees, and the cut taken by intermediaries. These workers continue to work for various platforms to generate everyday cash flow, making the debt trap deeper.

Fair conditions: Two platforms (Pathao and Pathao Food) could provide evidence of best practices and policies to ensure workers' safety. There have been several significant – though ad-hoc – efforts by almost all platforms to protect workers during the pandemic, yet the efficacy of these efforts are contested by workers' testimonies. Ninety two out of 103 gig workers interviewed feared for their safety and security while on the job. Four platforms (Truck Lagbe, Foodpanda, Pathao, Lily) said they were developing an insurance policy for their workers, though only two could provide evidence of ongoing efforts in practice.

Fair contracts: Performance by platforms in Bangladesh varies when it comes to evidencing accessible terms and conditions in the local context. An essential criterion for awarding the point for this principle is the ready access to terms and conditions in the local language and the employer's responsibility to notify periodical changes in those contracts actively. All workers have to sign up with terms and conditions embedded in their mobile apps, but these terms and conditions do not always provide sufficient assurance to workers. Only one platform – Foodpanda, received a point for this principle. In Bangladesh,

intermediation is rife in the gig economy, with many workers contracted to non-driving partners or fleet partners. These partners loan or rent their cars to workers by entering into a private and informal ‘arrangement’ with workers and sharing in their earnings.

Fair management: No platform received any point on Principle 4, that is fair management. Workers from most platforms mentioned they were not supported when seeking redress for arbitrary penalisation and deactivation. In several cases, workers said that the platform used an automated system to inform them of deactivation, and there was no human consultation or explanation. Two platforms (Pathao and Lily) actively pursue inclusivity and diversity, recruiting transgender communities and women as gig workers.

Fair representation: We found that workers in four platforms (Uber, Pathao, Obhai, CarBangla) have been active in Dhaka Ridesharing Drivers Union (DRDU). However, platforms have not recognised or entered into collective bargaining with this body. Platforms’ legal obligation to recognize and engage with unions is unclear and contested. Some workers interviewed felt platforms punished them for their participation in union activities.

EDITORIAL

Gig-based platforms in Bangladesh form a relatively young, market-intensive, and growing sector that has so far evaded worker protections, and as a result, workers experience high levels of precarity and risk. Gig workers in Bangladesh—including ride-sharers, delivery drivers, domestic workers—often face dangerous conditions and high levels of insecurity, perpetuated by the business models and policies of digital labour platforms.

However, insecurity is a significant factor in the lives of the majority of workers in Bangladesh, where (in contrast to high-income economies) most work is informal. So, while gig workers in Bangladesh evidently face significant risks and

precarity in their day-to-day lives, we found in some respects that their relative conditions are actually *better* than their counterparts elsewhere in the informal economy, suggesting an urgent need for improved livelihoods, job opportunities and worker protections across the board.

While some have claimed that the expansion of the platform model to other sections of the labour market will provide a pathway to achieve these improved livelihoods, the fairness scores we present in this report show that platforms overwhelmingly lack policies to guarantee and protect workers' rights, and that the growth of the platform model risks institutionalising a sub-tier of rights below those of employees. We believe, however, that all workers should be protected by the same minimum standards.

The fairness scores we present in this report suggest substantial room for reform and regulation of platform practices, strongly rooted in labour rights. We think the lowness of the scores achieved can be explained by (a) a lack of priority given by platform management to the five principles of fair work that underpin this report, and the fact that (b) changing the legal framework to recognise the rights of gig workers is time consuming, and will require extensive policy analysis and consultation by all the relevant stakeholders.

For gig workers in Bangladesh, as elsewhere, the terms and conditions they accept when they sign up to a platform through a mobile app are the main basis of their relationship with that platform. And depending on what they sign, they won't necessarily receive the same rights and protections as those given to formal employees. While they might be in a relatively better situation compared to those workers in other sectors of the economy who work completely on verbal agreements, recognition of gig workers as workers/employees under the Labour Act (the Act uses both 'worker' and 'employee') would enhance the rights of the gig workers under current legal frameworks, and better support them in organising and engaging in collective bargaining.

All of this takes place against the background of the COVID-19 pandemic, which has significantly impacted Bangladesh's economy. Gig workers, alongside other essential workers, have played an important role in keeping the wheels of the economy moving while facing a significant health risk to themselves. Despite this ongoing challenge to the economy, Bangladesh is on course for rapid economic progress, and growth in the digital economy—especially the platform economy—will be a major sector absorbing a large number of unemployed young women and men in the future. It is time to think about how those workers will be protected.

The adoption and normalisation of more robust rights, safety and protections—including recognition of platform workers under the Labour Act—will be an important starting point to make the gig economy fairer and more sustainable for everyone. We are keen to continue to collaborate with platforms, civil society organisations, policymakers, and workers to help bring this about.

We hope that this report will help set the agenda of fairer working conditions for the gig workers of Bangladesh, and that it will inspire platforms to improve their positions in the next round of scoring, to take place in 2022. Indeed, we are hopeful of an improvement in scores in the next report, with platform management teams already having indicated to us their willingness to adopt Fairwork principles going forward.

THE FAIRWORK FRAMEWORK

Fairwork evaluates the working conditions of digital platforms and ranks them on how well they do. Ultimately, our goal is to show that better, and fairer, jobs are possible in the platform economy.

To do this, we use five principles that digital platforms should comply with in order to be considered to be offering ‘fair work’. We evaluate platforms against these principles to show not only what the platform economy is, but also what it can be.

The five Fairwork principles were developed at a number of multi-stakeholder workshops at the International Labour Organisation. To ensure that these global principles were applicable in the Bangladeshi context, we then revised and fine-tuned them in consultation with platform workers, platforms, trade unions, regulators, academics, and labour lawyers in Bangladesh.

Further details on the thresholds for each principle, and the criteria used to assess the collected evidence to score platforms can be found in the Appendix.

01 The five principles

1. Fair Pay

Workers, irrespective of their employment classification, should earn a decent income in their home jurisdiction after taking account of work-related costs. We assess earnings according to the mandated minimum wage in the home jurisdiction, as well as the current living wage.

2. Fair Conditions

Platforms should have policies in place to protect workers from foundational risks arising from the processes of work, and should take proactive measures to protect and promote the health and safety of workers.

3. Fair Contracts

Terms and conditions should be accessible, readable and comprehensible. The party contracting with the worker must be subject to local law and must be identified in the contract. Regardless of the workers' employment status, the contract is free of clauses which unreasonably exclude liability on the part of the platform.

4. Fair Management

There should be a documented process through which workers can be heard, can appeal decisions affecting them, and be informed of the reasons behind those decisions. There must be a clear channel of communication to workers involving the ability to appeal management decisions or deactivation. The use of algorithms is transparent and results in equitable outcomes for workers. There should be an identifiable and documented policy that ensures equity in the way workers are managed on a platform (for example, in the hiring, disciplining, or firing of workers).

5. Fair Representation

Platforms should provide a documented process through which worker voice can be expressed. Irrespective of their employment classification, workers should have the right to organise in collective bodies, and platforms should be prepared to cooperate and negotiate with them.

02 Methodology Overview

Scoring platforms according to the Fairwork principles relies on a range of different data sources collected by the in-country research teams. These data include desk research, evidence submitted by the platforms and semi-structured interviews with both workers and management from each platform.

Desk research

The process starts with desk research to ascertain which platforms are currently operating in the country of study. From this list the largest and most influential platforms are selected to be part of the ranking process. If possible, more than one platform from each sector (ie. e-hailing or food delivery) are included to allow for comparisons within each sector. The platforms included in the ranking process are both large international ones as well as national/regional ones. Desk research also flags up any public information that could be used to score particular platforms (for instance the provision of particular services to workers, or ongoing disputes).

The desk research is also used to identify points of contact or ways to access workers. Once the list of platforms has been finalized, each platform is contacted to alert them about their inclusion in the annual ranking study and to provide them with information about the process. All platforms are asked to assist with evidence collection as well as with contacting workers for interviews.

Platform interviews

The second method involves approaching platforms for evidence. Platform managers are invited to participate in semi-structured interviews as well as to submit evidence for each of the Fairwork principles. This provides insights into the operation and business model of the platform, while also opening up a dialogue through which the platform could agree to implement changes based on the principles. In cases where platform managers do not agree to interviews, we limit our scoring to evidence obtained through desk research and worker interviews.

Worker interviews

The third method is interviewing platform workers directly. A sample of 5-10 workers are interviewed for each platform. These interviews do not aim to build a representative

sample. They instead seek to understand the processes of work and the ways it is carried out and managed. These interviews enable the Fairwork researchers to see copies of the contracts issued to workers, and learn about platform policies that pertain to workers. The interviews also allow the team to confirm or refute that policies or practices are really in place on the platform.

The interviews were semi-structured and made use of a series of questions relating to the 10 Fairwork (sub)principles. In order to qualify for the interviews, workers had to be over the age of 18 and have worked with the platform for more than two months.

Putting it all together

This threefold approach provides a way to cross-check the claims made by platforms, while also providing the opportunity to collect both positive and negative evidence from multiple sources. Final scores are collectively decided by the Fairwork team based on all three forms of evidence. Points are only awarded if clear evidence exists on each threshold.

How we score

Each of the five Fairwork principles is broken down into two points: a basic point and a more advanced point that can only be awarded if the basic point has been fulfilled. Every platform receives a score out of 10. Platforms are only given a point when they can satisfactorily demonstrate their implementation of the principles. Failing to achieve a point does not necessarily mean that a platform does not comply with the principle in question. It simply means that we are not – for whatever reason – able to evidence its compliance.

The scoring involves a series of stages. First, the in-country team collates the evidence and assigns preliminary scores. The collated evidence is then sent to external reviewers

for independent scoring. These reviewers are both members of the Fairwork teams in other countries, as well as members of the central Fairwork team. Once the external reviewers have assigned their scoring, all reviewers meet to discuss the scores and decide final scoring. These scores, as well as the justification for them being awarded or not, are then passed to the platforms for review. Platforms are then given the opportunity to submit further evidence to earn points that they were initially not awarded. These scores then form the final annual scoring that is published in the annual country Fairwork reports.

Further details on the Fairwork Scoring System are in the Appendix.

OVERVIEW OF THE GIG ECONOMY IN BANGLADESH

Bangladesh is a South Asian country with a population of 164.7 million living in only 133,981 km². At the time of its independence in 1971, Bangladesh was a country of a mostly rural population, with 90 percent of its people living outside cities.⁵ Dhaka, the capital, is now home to about 20 million people. Dhaka's population is double that of London's, and it is home to 10 percent of the country's population.⁶

Increased access to economic and livelihood opportunities in Dhaka continues to foster rural-to-urban migration. However, these opportunities have also led to severe income inequalities. The top 10 percent of income earners share 42.9 percent of national income (the top one percent share 16.3 percent), and the bottom 50 percent share just 16.3 percent of income.⁷ Despite this wide inequality, Bangladesh achieved the status of a lower-middle-income country in

⁵ .Mazid, M. A. (2019, September 19). *Bangladesh: The State of Income Equality*. The Financial Express. <https://thefinancialexpress.com.bd/views/bangladesh-the-state-of-income-inequality-1571497852>

⁶ World Population Review. (n.d.). *Dhaka Population 2021 (Demographics, Maps, Graphs)*. <https://worldpopulationreview.com/world-cities/dhaka-population>

⁷ .ibid

2015, and it is on target to leave the UN's list of Least Developed Countries (LDC) in 2026.⁸

Bangladesh is a country of paradox, having achieved impressive human development goals against a background of stark income inequality. It is one of the few countries globally that has met the targets of several Millennium / Sustainable Development Goals, as well as making remarkable achievements in hitting other targets. For example, the UN has acknowledged that Bangladesh has met most aspects of eradicating extreme poverty and hunger (MDG 1).⁹ Bangladesh has also met its target of reducing the under-five child mortality rate (MDG 4) ahead of schedule. The government's political will and development commitments, with support from development partners, have contributed to these impressive developmental achievements. However, the informal economy—and the piece-rate workers who drive it—continues to be the backbone of the country's economic development.

The gig economy in Bangladesh has grown exponentially in the last decade. The online freelancing segment of the gig economy includes some 500,000 active workers, with about 300,000 of these engaged in location-based gig work.¹⁰ Bangladesh's ridesharing industry is worth USD 259 million, representing 23 percent of the transportation sector. Within the next five to seven years, the estimated market value of ridesharing start-ups in Bangladesh is likely to reach USD 1 billion.¹¹

⁸ *Bangladesh Overview: Development news, research, data | World Bank.* (n.d.). Retrieved November 27, 2021, from <https://www.worldbank.org/en/country/bangladesh/overview#1>

⁹ Bangladesh Planning Commission and Bangladesh Rice Research Institute, & Sen, S. (2018, February 15). *Achievement of MDGs and Adaptation of SDGs: Bangladesh Context.* http://brri.portal.gov.bd/sites/default/files/files/brri.portal.gov.bd/page/637ff401_77bd_4246_a17a_589f890b050b/SDGs%20presentation%20for%20BINA%2012.02.18_f.pdf

¹⁰ A freelancing boom is reshaping Bangladesh and its economy. *The Print.* June 23, 2019. Retrieved on October 05, 2021: <https://theprint.in/world/a-freelancing-boom-is-reshaping-bangladesh-and-its-economy/252971/>

¹¹ TBS News. (2020, February 18). *With 7.5m rides a month, ridesharing services take over Bangladesh.* *The Business Standard.* <https://www.tbsnews.net/economy/75m-rides-month-ridesharing-services-take-over-bangladesh-45453>

Almost two-thirds of the gig workers we interviewed in this study (60 of 103) belong to the lower-middle income group, and are the sole earners in a family. Around a third (39 of 103) belong to upper-middle-class categories. Only five of the workers we interviewed belong to the low-income group. Around two-thirds of our interviewees (69 of 103) are domestic migrants, with most (93 of 103) living in a city and therefore enjoying relatively better living conditions, compared with those in rural areas and slums. Only four of the gig workers we interviewed lived in a slum. We can see from our interviews that the platform economy is overwhelmingly male dominated, with some exceptions. One platform (Lily) has a significant presence of women employees.

Gig Workers and the Informal Economy

Unlike in the industrialised countries of the global North, where the majority of work is formalised and subject to a high level of protection and regulation, in Bangladesh, a formal employment relationship is not the norm. According to the Labour Source Survey,¹² in the last quarter of 2017, there were 60.7 million workers in Bangladesh, of whom 18.5 million were women. Of these, 51.4 million (16.7 million women) were informal workers.

In total, around 85 percent of work is therefore informal, occurring within agriculture, services (e.g. domestic work), hired (day) labourers, self-employment, and industry (e.g. workers in backward-linkage sectors), where payment is made per piece of output.^{13,14} With regards to the urban–rural divide of informal employment, 88% of the population in rural areas and 77% in urban areas are in informal employment. In rural areas, 93.3 percent of working women are in informal employment, compared to 87.4 percent in urban areas.

¹² Ibid

¹³ Bangladesh Bureau of Statistics. (2018, January). *Labour Force Survey: Bangladesh 2016–2017*. Ministry of Planning.

¹⁴ Danish Trade Union Development Agency, (2020). *Labour Market Profile Bangladesh -2020*. <https://www.ulandssekretariatet.dk/wp-content/uploads/2020/07/LMP-Bangladesh-2020-Final-rev.pdf>

Overall, only 8.2 percent of women are engaged in formal work, compared to 17.9 percent of men.

Informal work generally comes with poor conditions and few or no protections. Most informal workers usually work under contractors or sub-contractors, without any appointment letter or set daily wage. It is uncommon for a family to receive compensation if an informal worker dies at work. Platform workers are not considered formal workers, instead being classified by platforms as independent contractors. Similarly to the informal economy, platform work is characterised by precarity and an absence of legal rights. From a regulatory perspective, therefore, platform workers face similar challenges to informal workers in gaining access to rights and protections.

The Rise of Digital Labour Platforms in Bangladesh

Bangladesh's platform-based gig economy got its start in 2016, with the arrival of Uber. Since then, many new platforms have emerged in the market, with the major industries being ridesharing (Uber, Pathao), transportation (Truck Lagbe), delivery (Foodpanda, Paperfly), and domestic work (Hello Task). While the "contract workers" model remains dominant in Bangladesh, one exception is Lily, a ridesharing platform, which ensures a minimum wage to its workers through a formal employment contract.

The rise of the platform economy would not have been possible without the labour of its workers, many of whom have come to rely on the gigs from platforms for their financial sustenance. The high number of workers working in Bangladesh's gig economy could be explained by multiple factors, including:

An extended mobile ecosystem: The digital labour economy has benefitted from increased teledensity as a result of government policies to promote

competition. According to GSMA,¹⁵ Bangladesh now has 170 million mobile phones serving 90 million unique mobile subscribers,¹⁶ corresponding to 54 percent teledensity. Similarly, Bangladesh has 102 million mobile internet connections, serving 47.1 million unique subscribers, representing 28 percent of the total population. The 4G network now covers 95 percent of the population.¹⁷

Online payment: Increased mobile phone access is a critical factor behind the steady rise of online payment. Though online payment has yet to become a force in the platform economy, digital transactions in Bangladesh increased from USD 19.76 million in 2016 to USD 232.71 million in 2019. It was estimated to reach USD 470 million in 2020, due to the surge in online transactions during the ongoing pandemic.¹⁸

Digital entrepreneurs: In Bangladesh, there are currently 2,000 web-based enterprises and 50,000 Facebook-based entrepreneurs.¹⁹ With around 46 million Facebook accounts in Bangladesh,²⁰ the platform gives businesses opportunities to contact clients on a far more expansive and diverse scale, and has thus become a vehicle for a range of labour transactions to occur.

The growth of platform services during the pandemic:

¹⁵ Okeleke, K. (2021, March). *Achieving mobile-enabled digital inclusion in Bangladesh*. GSMA, London. <https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2021/03/Achieving-mobile-enabled-digital-inclusion-in-Bangladesh.pdf>

¹⁶ Subscribers differ from connections since a unique user can have multiple connections.

¹⁷ Okeleke, K. (2021, March). *Achieving mobile-enabled digital inclusion in Bangladesh*. GSMA, London. <https://www.gsma.com/mobilefordevelopment/wp-content/uploads/2021/03/Achieving-mobile-enabled-digital-inclusion-in-Bangladesh.pdf>

¹⁸ .e-CAB. (2020, January 10). e-Commerce in Bangladesh. Retrieved from <http://e-cab.net/resource-center/bangladesh-e-commerce-sector/>

¹⁹ Desk, T. O. (2021, July 6). *In Bangladesh, there are presently 2,000 web-based enterprises and 50,000 Facebook-based entrepreneurs*. Tech Observer. <https://techobserver.in/2021/07/06/facebook-based-entrepreneurs-surges-to-50000-in-bangladesh-amidst-pandemic/>

²⁰ Statista. (2021, September 10). *Countries with the most Facebook users 2021*. <https://www.statista.com/statistics/268136/top-15-countries-based-on-number-of-facebook-users/>

Bangladesh, like other countries, has seen a surge in the gig economy during the COVID-19 pandemic, with demand for home delivery growing as a result of social distancing requirements. Food Panda (the online shopping and grocery platform) saw a 300 percent year-on-year growth in 2020.²¹ Chaldal (a grocery platform) has reported that their online order volume has increased by more than 150 percent, and Daraz (an online marketplace) has hired more than 7,000 gig workers in the last two years.²²

Socio-cultural context: Historically, the informal sector has dominated Bangladesh's labour market, and the gig economy offers a new avenue of flexible employment opportunities. Despite precarity, regular and established payment processes attract workers to take up gig work. Workers feel the gig economy can provide a regular cash flow, and flexible working hours allow people to work at their convenience.

THE LEGAL CONTEXT

As digital labour platforms have grown to capture a large segment of Bangladesh's workforce, concerns regarding the wellbeing of workers and the overall working conditions provided by platforms are now more relevant than ever. The core issue is the denial of worker rights and protections by the platforms, with platforms typically classifying gig workers as independent contractors rather than employees. As a result, workers are deprived of the benefits associated with formal employment, including sick leave, casual leave, annual leave, insurance, gratuity, etc.

The lack of employment contracts, and outsourced recruitment via third-party recruitment agencies, obfuscate the relationship between workers and platforms. However, platforms typically retain significant control over the labour

²¹ *Gig economy: The rise of self-employed workers.* (2021, August 20). The Independent Bangladesh. <https://m.theindependentbd.com/post/267012>

²² *ibid.*

process, through their automated systems of work allocation, surveillance, and discipline. This has led many to argue that workers are not independent contractors, but are in fact workers for the platforms. This has yet to be clarified by regulators in Bangladesh. In 2017, the government issued The Ridesharing Guideline²³ to regulate ridesharing companies and providers. However, the guideline does not lay down a clear legal guideline / protection for platform workers. The legally non-binding guideline deals with the question of what constitutes ridesharing services, liabilities of ridesharing platforms, and other issues.

The key legal debate here centres on whether gig workers fall within the definition of ‘worker’ as defined in the Bangladesh Labour Act. By classifying their labour force as independent contractors, platforms are not legally bound to ensure a minimum or living wage to gig workers, or a host of other benefits and obligations. A 2018 amendment to the Labour Act does not explicitly recognise informal workers as a specific category of workers (section 4). The 'classification of workers' list includes apprentice, *badli*,²⁴ seasonal workers, casual, temporary, probation, and permanent workers. It is not clear whether gig workers (as independent contractors) fall into any of these categories.

Platforms’ classification of their workers, and their resultant exclusion from the provisions of the Labour Act, have consequences for workers’ ability to collectively organise and make demands. The Bangladesh Constitution respects and protects freedom of association, and the Labour Act 2006 sets out the legal process to register, assemble and demand rights. According to a report by the International Labour Organisation,²⁵ the number of trade unions and their members have been on the rise in Bangladesh: “In 2019, 184 federations, 8,195 sector-specific unions, of which, 45 active Ready-Made Garment (RMG)

²³ Niloy, S., & Masum, O. (2018, May 5). Ridesharing guidelines: Rules or restrictions? *Bdnews24.Com*. <https://bdnews24.com/bangladesh/2018/05/05/ride-sharing-guidelines-rules-or-restrictions>

²⁴ A practice to hire a worker to replace temporary or probationary workers' temporary absences.

²⁵ ILO RMG Programme (2018). *Trade Unions in Bangladesh: Promoting Safe and Healthy Workplaces in the Ready-Made Garment (RMG) Sector*. https://www.ilo.org/dhaka/Informationresources/WCMS_615874/lang--en/index.htm

federations and 3,497 RMG unions, were part of the trade union movement.”²⁶ However, these unions are mostly (80 percent) concentrated in the informal economy, targeting informal workers. The Industrial Relations Ordinance, which regulates trade union activities, prohibits certain types of formal workers, including teachers, nurses, supervisory staff and workers in export processing zones, civil service and security force employees, from organising themselves into trade unions.

Whether Bangladesh’s legal frameworks support platform workers’ collective representation remains unclear. For example, section 176 of the Bangladesh Labour Act, 2006 specifies that it is a right of the ‘worker-employee’ to form trade unions. On the other hand, the Bangladesh Labour Act requires 20 percent of member-employee representation to form a union. Gig workers thus face a double barrier to unionisation, being classified as independent contractors rather than employees by platforms, and by the fact that it is logistically difficult to collect signatures from 20 percent of the workers of these organisations in order to form a union. Some have argued²⁷ that they deserve recognition and protection under the Labour Act, 2006, since they occupy a crucial portion of the country's workforce and national productivity, and provide a significant contribution to GDP.

Bangladesh has ratified seven of the eight core Conventions of the ILO, including Conventions 87 and 98, which highlight the right of "Freedom of Association" and "Freedom to Organise and Collective Bargaining". These are implemented in domestic law through the Bangladesh Labour Act, 2006 and the Bangladesh Labour Rules, 2015. Despite the existence of a framework affirming workers’ right to collective association, the legal debate continues regarding its relevance and application to informal workers more broadly, as well as to platform workers.

²⁶ .Ibid.

²⁷ Barrister Rahman, A.G, Co-founder Legal Circle, personal communication (2021, June 08)

While large gaps in employment protections exist in practice, Article 15 of The Constitution of Bangladesh lays out provision for the protection of all workers' rights, affirming the responsibility of the state to provide workers with "basic necessities of life, right to guaranteed employment, quality working conditions with rest/recreation and reasonable wage" irrespective of sector. Finally, Article 20 directs the state to consider that "(W)ork is a right, a duty and a matter of honour for every citizen who is capable, and everyone shall be paid for his work based on the principle "from each according to his abilities, to each according to his work"."

Despite these constitutional provisions, as previously discussed, insecurity and lack of formal recognition and rights are neither novel nor unique to the platform economy in Bangladesh—the country has yet to define, recognise, and protect workers across the entire informal sector. A study by the Bangladesh Institute of Labour Studies (BILS)²⁸ reported that some 88 percent of informal workers—such as those doing windshield cleaning at traffic lights, or manual construction work—do not get appointment letters, and 82 percent do not have citizenship identity cards. They may not declare their income, or pay taxes—as a result of which their contributions are usually excluded from the GDP.

According to BILS, by employing 86.2 percent of the workforce, the informal economy neither complies with labour laws nor promotes decent work.²⁹ In most cases, casual workers face vulnerabilities in the workplace for lack of legal coverage; some 61 percent of the youths in the above study reported the practice of job dismissal without prior notice.³⁰ The government's lack of policy, will, and commitment to supporting informal workers has a direct and critical impact on platform workers—an impact which has only been exacerbated by the ongoing COVID-19 pandemic, and the associated threats to income security and wellbeing.

²⁸ Khan, S. (2020). *Pension: A dream for informal sector workers*. Bangladesh Institute of Labour Studies. Dhaka

²⁹ Khan, S. (2018, December 22). *Pension: A dream for informal sector workers*. The Financial Express. Retrieved 1 December 2021, from <https://thefinancialexpress.com.bd/public/index.php/views/columns/pension-a-dream-for-informal-sector-workers-1545495095>

³⁰ Ibid.

Fairwork Scores

Scores out of 10

Food Panda: 1

Lily: 1

Pathao: 1

Pathao Food: 1

Car Bangla: 0

Hungrynayki: 0

Obhai: 0

Shohoz Foods: 0

Truck Lagbe: 0

Uber: 0

Fair Pay

While a minimum wage equivalent income was reported by the workers of seven out of ten platforms, only one platform (Lily) can evidence that workers are guaranteed to have a minimum monthly wage of USD 94.50 (BDT 8100) after their costs and waiting time are taken into account. Despite Lily's action to ensure a minimum wage, it fell short of the living wage threshold. It should be mentioned here that as there is no minimum wage or wage equivalent income set for platform workers by the government, we use the government-set threshold for ready-made garments instead. When assessing minimum and living wage, scorers considered workers' operational costs, including mobile phone data costs, fuel, monthly instalments (or hiring costs) on capital assets such as cars, cycles or other relevant types of equipment, and additional associated maintenance costs. As there is no official consensus amongst local organisations on the living wage, the score was based on the Global Living Wage's gross living wage per month for a family of four in Bangladesh (at USD 255).

Several platforms pointed out that the Bangladesh Labour Act, 2006 (last amended in 2018) does not include gig workers in its classification of workers, using this to justify their position that there is no breach of law. Some platform managers also strongly felt that the minimum wage principle was not relevant to this context, since informal workers in Bangladesh have historically depended on multiple sources of income. However, the Fairwork principles fundamentally hold that *all* work should provide a minimum wage that is sufficient to live on for the equivalent proportion of time worked, despite the classification of workers or the existence of multiple income sources. In the case of Uber, Pathao, Obhai, and Truck Lagbe we encountered multiple examples where the net incomes of workers were negative. This is predominantly due to combination of two factors: working through intermediaries, and the high share of income claimed by the platform.

Fair Conditions

Two platforms (Pathao and Pathao Foods) provided evidence of practices and policies to ensure workers' safety, and they received points in principle 2.1 (fair conditions). We acknowledge several significant (albeit ad hoc) efforts by almost all platforms during the pandemic; yet the efficacy of these efforts are contested by workers' testimonies. The scoring was based on platforms' policies or established practices that go beyond the pandemic.

Four platforms (Foodpanda, Pathao, Truck Lagbe and Lily) reported that they were developing an insurance policy for their workers. We therefore hope to be able to award 2.1 to more platforms in subsequent scoring rounds. Almost all (89 percent) of the gig workers we interviewed feared for their safety and security while on the job. This was largely connected to the risks posed by COVID-19, but also included harassment while on the job.

Fair Contracts

Performance by platforms in Bangladesh varies when it comes to evidencing accessible terms and conditions in the local context. The essential criteria for awarding the point for this principle include: the legal jurisdiction must be

consistent with the country in which the worker works, workers must have ready access to terms and conditions which should be communicated in full in clear and comprehensible language that workers could be expected to understand, and the employer's responsibility for actively notifying workers of any changes to these contracts. Only one platform (Foodpanda) can meet these scoring conditions for Principle 3.1 since Uber's terms and conditions continue to state that the governing law for arbitration is in the Netherlands³¹.

The relationship between the workers and platform employers reflects the historical power dynamics between master–employer and servant–worker. According to platforms, there is no need for an employment contract for workers over and above the terms and conditions set unilaterally by the platform, and which workers must accept by ticking the 'agree' button in the mobile app. However, while these terms and conditions (which are sometimes presented in English) may be valid for the use of the app, they are unlikely to ensure legal protections and safety measures, particularly given they classify workers as independent contractors.

Almost half (47 of 105) of the workers we interviewed mentioned that they understood the terms and conditions. If we go by platform, most (8 out of 10) of the workers we interviewed from Shohoz Foods mentioned that they had read and understood the terms and conditions, followed by HungryNaki (7 out of 10), Uber and Pathao Foods (6 out of 10), Pathao and Foodpanda (5 out of 10), Lily and Obhai (4 out of 10), and Truck Lagbe (2 out of 10).

Fair Management

No platforms received points for fair management. Deactivation and termination without prior consultation or due process are a significant concern for gig workers in Bangladesh. Workers from most platforms felt that they were not supported when seeking redress for arbitrary penalisation and deactivation. In several cases, workers said that deactivation happened via an automated system, and there was no human consultation or explanation. While Obhai and

³¹ See <https://www.uber.com/legal/en/document/?name=general-terms-of-use&country=bangladesh&lang=en>

Shohoz generally appeared to have better communications and support in practice, an essential criterion for this principle is that there is a formal due process in place for punitive decisions affecting workers, a condition no platform satisfied. Workers also felt that platforms could improve their clarity and dependability when communicating with them.

With regard to 4.2, almost every gig worker said they felt no discrimination by their employer. However, a few workers mentioned discrimination from clients based on religion. No platform had a formal policy of protection of workers from discrimination by the clients. Lily and Pathao make proactive efforts towards diversity and inclusion, actively recruiting transgender communities and women as gig workers. However, having not received 4.1, they were unable to achieve 4.2. Nevertheless, we strongly support and encourage such efforts to ensure that the platform industry is genuinely diverse.

Workers interviewed have both good and bad experiences while communicating with the platforms. The incidence of good experiences (36 respondents) and bad experiences (39 respondents) are almost equal, whereas others have no experience (20 respondents) and some mixed experiences (10). More than one-third of the gig workers having bad experiences need to be taken seriously by the platforms.

Fair representation

No platform scored a point for principle 5, which assesses freedom of association. Platforms do not recognise formal associations of gig workers due to their (lack of) employment classification. Thus, the voice of gig workers is missing when it comes to negotiations with the platforms. Some platforms have informal arrangements of dialogue, but they do not tend to formalise it.

Policymakers and labour rights activists could do a lot in Bangladesh to protect gig workers' rights. At the moment, platforms do not have a legal obligation to recognise and engage with unions. Workers in four platforms have been active in

DRDU. However, platforms do not need to listen to these collective voices. Some workers interviewed felt platforms punished them for their participation in union activities, a trade union representative mentioned targeted actions against those who participated in protests organised by DRDU.

Workers do have opportunities to engage with their peers. We found that 99 out of 103 gig workers meet other workers in their platform, and 90 out of 103 are members of an online group. We found that, with the exception of some workers for Food Panda, Lily, and Truck Lagbe, all the workers in other platforms meet their peers either face to face or online, with 82 mentioning having discussed wages and working conditions, and 22 having discussed unions and activism.

PLATFORM IN FOCUS

Pathao

Pathao and Patho Food have the most extensive gig services in Bangladesh (and Nepal). It offers a range of twelve services, including ridesharing, food delivery and e-commerce. It also delivers parcels, food, and essential products (peer-to-peer on-demand delivery). Pathao is valued at over USD 100 million.

The platform is the largest of the two-wheeled ridesharing companies and second largest in delivering food in Bangladesh. In addition, the company handles 40 percent of all deliveries of courier business outside Dhaka and 40 percent of its e-commerce merchants are women.

Pathao treats workers as independent contractors, and payment transactions with workers are mostly in cash (roughly 90 percent). At the moment, Pathao does not reimburse its workers for mobile phone costs. However, it is negotiating with a major mobile operator so drivers could have free data to use the Pathao app.

In partnership with Green Delta Insurance, Pathao has recently published a detailed plan on its insurance policy to its workers. However, the implementation and benefits of this policy remain to be seen.

Pathao has a help centre and customer walk-in centre that includes workers with information available online in Bangla (and English). In addition, Pathao and Pathao Food have an emergency support button (panic button) to connect drivers to emergency services through their app.

During the pandemic, Pathao distributed 5000 items of safety gear such as helmets, masks and hand sanitiser to their frontline workers, which covers approximately 3% of the gig workers registered with it. In addition, they have actively collaborated with Aspire to Innovate (A2I), the ICT Division and the Ministry of Health and Family Welfare to get 10,000 riders vaccinated during the

pandemic. Furthermore, riders can access a covid safety checklist on the app that provides some health and safety guidelines before going online for work. Pathao also requires riders to upload a selfie wearing a mask before starting work.

Despite scoring one out of ten, Pathao had the greater potential to score higher, up to 6, by making relatively straightforward changes. For example, it could earn a point under Fair Management, if the company changes its right to refuse (work) and unilateral authority to deactivate workers under terms and conditions.

Pathao/Pathao Food has entered a memorandum with an NGO, TransEnd, resulting in the active recruitment of transgender communities. However, it does not have an anti-discrimination policy in place that could have earned another point. We hope to work closely with Pathao and Pathao Food (as with other platforms) to improve their scores in the next year's report.

Other notable good practices

Lily provides another example of a better performing platform in Bangladesh. Lily began its journey as a ridesharing platform by hiring women workers, and continues to recruit women actively. As Lily's workers have formal employment contracts, the platform pays a fixed minimum wage of BDT 8,100. On top of that, workers are entitled to performance-based incentives.

WORKER STORIES

Monzer

About three years ago, Monzer* moved to Dhaka from a town located in the southwest of Bangladesh. Dropping out of high school after year ten and trying many other jobs over the years, he started driving for a ridesharing platform. He believed that the work would be flexible and would offer a decent income and working conditions. After two years at the platform, Monzer now works over 50 hours a week. Despite his gruelling 14-hour daily shifts, he fails to cover even a third of his living expenses.

Monzer told us that the income insecurity of the job was the most significant risk. The COVID-19 pandemic affected him strongly, as the reduced driving hours meant a 50 percent loss of his regular income. Moreover, he was worried that the platform didn't provide him with any personal protection equipment, or financial support in case of sickness while working. Monzer felt unsupported by the platform: "I want them to establish new policies that benefit riders instead of exploiting them," he said. However, Monzer appreciates his relationship with the community of rideshare workers in Dhaka, and he meets them regularly in person and online. He told us that the workers are vocal about their experiences with platforms, and they regularly discuss and share their experiences.

Monzer is a member of the DRDU, even though his platform doesn't recognise workers' associations. He believed that it was important to discuss workers' issues with his peers before approaching the platform". He joined other rideshare workers in a strike earlier in the year, telling us that "we stood together with empty plates in our hands, to ask the platforms and the government to ensure income and food security for our families." The most important change he would like to see is the platform's commission, which he says is exorbitant and exploitative.

Barna

Barna* was a bright, studious girl living in Khulna with her family, who aspired to finish her studies and eventually work. Her parents, however, had different plans for her. They wanted to marry her off, and forcefully fixed a marriage proposal for her. So Barna took the bold step of fleeing from her family to Dhaka with the bridal jewellery. Having decided to live her life on her own terms, she pawned her jewellery, bought essentials and started doing odd jobs. Having heard about a particular ridesharing platform three years ago, she joined, and has worked for it regularly since. She enjoys the flexibility of the work and appreciates the sense of independence. She told us that the platform gives her a good amount of work, and that she earns significantly more than in her previous job.

The work is not without its risks, though, and she spoke about the perils of working in the streets of Dhaka as a woman: "men often harass the female workers and make us feel insecure. Once, I was even attacked by hooligans and had to be taken to the hospital". Though her platform organises risk awareness training for its women workers, she was advised to call the police in emergencies.

Barna was grateful that her income was not affected by the COVID-19 pandemic, as the platform guarantees a minimum wage and provides her with sufficient protective equipment. She also appreciated that the platform provided sick pay to workers. While she is generally satisfied with her work, Barna's true passion is roller skating: "If I had the chance, I would focus on skating full-time for the National Roller-Skating Team!"

**Names changed to protect worker identity*

THEME IN FOCUS

Platform Debt

Platform debt refers to a situation when a gig worker's monthly work-related costs exceed their earnings. Sixteen of the 103 ridesharing workers we interviewed were not making any net income from their work. The net income deficit ranged between BDT (-)66,100 and BDT (-)100. The platforms where workers interviewed had net income deficit were: Uber [6 workers], Pathao [4], Obhai [3], Truck Lagbe [3]. High maintenance costs, working through middlemen and high share of revenue sharing resulted in such cases. The number of cases of net income deficit is highest among the Uber drivers we interviewed, with a maximum net income deficit of up to BDT 66,100 per month.

These workers continue to work for various platforms to generate everyday cash flow, making the debt trap deeper. To cover their losses, workers may deplete their savings over time, or borrow from relatives. Monthly instalments, excessive commission, and customers' refusal to pay an extra fare for a longer route were common reasons for this. Ten workers reported that customers did not pay the full fare, and it became the worker's responsibility to bear the loss. For example, customers force drivers to take the longer route due to traffic or avoid a long wait, resulting in a mismatch with the original fare determined by a route-based algorithm.

Lack of platform accountability and support was another reason for losing money. For example, two workers reported their customers requested a temporary stop but never returned – however, the platform charged them. There was also an occasion of a platform charging a higher commission without prior notification.

Five workers said they received their work via intermediaries or non-driving partners (see next section). These intermediaries form syndicates and receive

priority orders and charge extra from workers if they were to be prioritised for work.

Intermediation

The rideshare platforms in Bangladesh largely follow the globally standard model of operation, where individual workers sign up as independent contractors using their vehicles through the platform app, and the platform matches drivers with customers by acting as the facilitator of transactions. However, in Bangladesh, intermediation is rife in the gig economy: many workers are contracted to non-driving partners or fleet partners. These partners loan or rent their cars to workers by entering into a private and informal ‘arrangement’ with workers and appropriating their earnings. As the existence of intermediaries is particularly widespread in Bangladesh's gig economy (and widely present in other South Asian countries), this practice deserves attention.

There are three intermediary models: the first model is where the drivers enter a fixed contract with the vehicle owner. The drivers commit to paying a fixed monthly sum to the owner, and in return, they get to operate the vehicle and retain the earnings from the platform for themselves. In the second model, the driver and owner go into a profit-sharing agreement. Here, the owner allows the driver to operate their vehicle and instead of charging a fixed monthly sum, the worker agrees to share a part of their monthly earnings with the owner. Finally, in the third model, the owner pays the worker a fixed monthly salary. In this model, the driver acts as an employee of the vehicle owner and receives all the earning.

One worker said he had to forego up to 50 percent of the income he earned from the platform to pay the intermediaries. In some cases, workers who sign up to drive through intermediaries are not even formally recognised by the platforms they work for. Workers who have intermediaries on a contract and profit-sharing basis do not find it profitable, and may incur debt.

At the same time, intermediaries who have taken loans and invested in multiple vehicles before the pandemic remain worried about their return on investments. As operation and maintenance costs continue to be incurred and monthly interest rates from loans pile up, the intermediary providers we interviewed are dismayed by their prospects of making profits. Moreover, due to the ubiquity of the intermediary model, most rideshare platforms in Bangladesh formally recognise it and offers services to facilitate the process through their apps while restricting their responsibilities to facilitate transactions.

In sum, the use of intermediaries makes the worker more vulnerable by creating exploitative power dynamics between intermediaries and workers. Furthermore, it allows the platform to be unaccountable while it benefits from the active recruitment of non-driving/fleet partners.

IMPACT AND NEXT STEPS

This publication is the first annual report of Fairwork ratings for Bangladesh platforms, and we see a significant potential to build momentum and create impact.

The immediate impact of this report is that participating platforms are now familiar with the principles of fair work for gig workers, which will allow them to reshape their policies and operations to address better the issues faced by the gig workers in Bangladesh. The report may also facilitate the policymakers to think about a roadmap for creating better working conditions by updating policies and legal frameworks. Moreover, it may allow the gig workers to better organise themselves and engage with the platform owners for fair deals.

Working with the platforms

Through the ranking exercise the Fairwork gained visibility amongst platforms. For example, Food Panda has agreed to publish its data and privacy policy in the local language and Bangladesh context, which may help them to earn a point in

future. As we notice platforms are keen to score well on the Fairwork league table, we create spaces to discuss this report to develop their reputational interests to implement fair practices. As Fairwork's theory of change is about changing actual practices, we view that our work can go to the next level of relationship with platforms. This includes creating one-to-one discussion spaces, organising advocacy activities with labour activists, civil society organisations and researchers. The specific activities include a) organising briefing sessions on Fairwork principles, b) providing a self-assessment toolkit on Fairwork principles and c) providing data analytics support where appropriate.

Policymakers and regulators

The Fairwork Bangladesh team has already begun consultation with platform legal experts, who contributed to ridesharing guidelines and government regulators during this publication. Our overall goal is to advocate protecting workers' legal and fair rights by making the government recognise platform workers and informal workers in the Bangladesh Labour Act.

Civil Society Organisations

As Fairwork's theory of change revolves around engagement-led change, we intend to leverage our partnerships with civil society organisations that work on technology and labour. We bring Fairwork principles to the attention of our partners, including Bangladesh International Labour Organisation, Policy Research Institute in Dhaka, and Central Policy Research, to create a loose network to advocate and engage with policymakers and regulators.

Workers and workers' associations

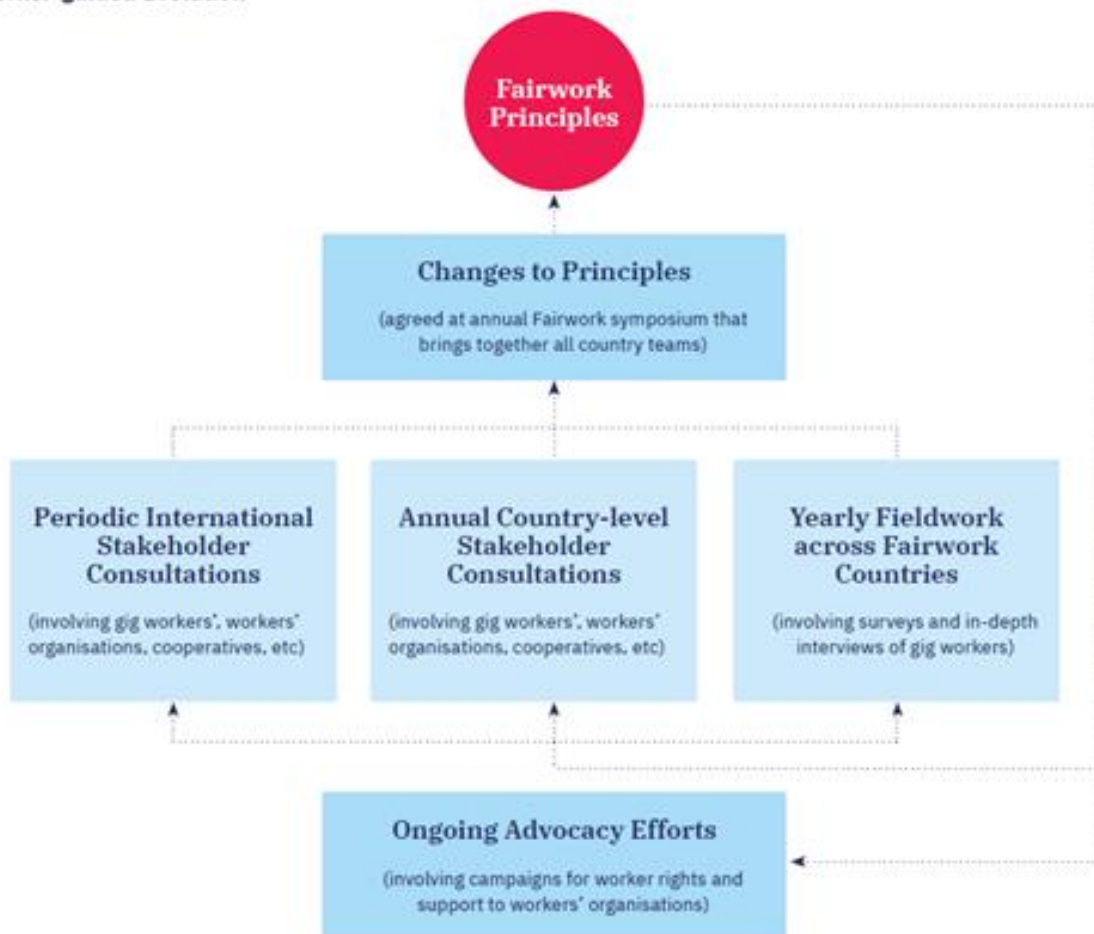
The Fairwork principles and findings are intended to be used as a resource by workers in organising and demanding minimum standards and conditions of fair work are met. Wherever possible Fairwork engages with workers and workers organisations to ensure that we are responsive to their experiences, and supporting their needs and demands. Dhaka Ridesharing Drivers Union has been

very resourceful to us during this research, and we intend to explore their representation in all spaces where possible.

Mainstream media

We believe that human stories can move individuals and policymakers to bring about social change. Our ongoing partnership with The Business Standard (our media partner), Daily Star, and BDNEWS24.com will help raise public awareness of workers' rights. As part of our advocacy work, we will work closely with journalists so they can report sensitively on issues related to platform workers.

Fairwork's Principles: Continuous Worker-guided Evolution



There is nothing inevitable about poor working conditions in the gig economy. Notwithstanding their claims to the contrary, platforms have substantial control over the nature of the jobs that they mediate. There is no basis for denying the gig workers the key rights and protections that their counterparts in the formal sector have long enjoyed. Our scores show that the gig economy, as we know it today, already takes many forms, with some platforms displaying greater concern for workers' needs than others. This means that we do not need to accept low pay, poor conditions, inequity, and a lack of agency and voice as the norm. We hope that our work – by highlighting the contours of today's gig economy – paints a picture of what it could become.

The Fairwork Pledge

As part of this process of change, we have introduced a Fairwork pledge. This pledge leverages the power of organisations' procurement, investment, and partnership policies to support fairer platform work. Organisations like universities, schools, businesses, and charities who make use of platform labour can make a difference by supporting the best labour practices, guided by our five principles of fair work. Organisations who sign the pledge get to display our badge on company materials.

The pledge constitutes two levels. This first is as an official Fairwork Supporter, which entails publicly demonstrating support for fairer platform work, and making resources available to staff and members to help them in deciding which platforms to engage with.

A second level of the pledge entails organisations committing to concrete and meaningful changes in their own practices as official Fairwork Partners, for example by committing to using better-rated platforms where there is a choice. More information is available on the Pledge, and how to sign up, on the Fairwork website.

Appendix: Fairwork Scoring System

The five Principles of Fairwork were developed through an extensive literature review of published research on job quality, stakeholder meetings at UNCTAD and the ILO in Geneva (involving platform operators, policy makers, trade unions, and academics), and in-country stakeholder meetings held in India (Bangalore and Ahmedabad), South Africa (Cape Town and Johannesburg) and Germany (Berlin). This appendix explains the Fairwork scoring system.

Each Fairwork Principle is divided into two *thresholds*. Accordingly, for each Principle, the scoring system allows one ‘basic point’ to be awarded corresponding to the first threshold, and an additional ‘advanced point’ to be awarded corresponding to the second threshold (see Table 1). The advanced point under each Principle can only be awarded if the basic point for that Principle has been awarded. The thresholds specify the evidence required for a platform to receive a given point. Where no verifiable evidence is available that meets a given threshold, the platform is not awarded that point.

Table 1: Fairwork Scoring System

Principle	Basic Point		Advanced Point		Total
Fair Pay	1	+	1	=	2
Fair Conditions	1	+	1	=	2
Fair Contracts	1	+	1	=	2
Fair Management	1	+	1	=	2
Fair Representation	1	+	1	=	2
Maximum possible Fairwork Score:					10

A platform can therefore receive a maximum Fairwork Score of ten points. Fairwork scores are updated on a yearly basis.

Principle 1: Fair Pay

Threshold 1.1 – Pays at least the local minimum wage after costs (one point)

Platform workers often have substantial work-related costs to cover, such as transport between jobs, supplies, or fuel, insurance, and maintenance on a vehicle.^{li} Workers' costs sometimes mean their take-home earnings may fall below the local minimum wage. Workers also absorb the costs of extra time commitment, when they spend time waiting or travelling between jobs, or other unpaid activities necessary for their work, which are also considered active hours.^{liii} To achieve this point platforms must demonstrate that work-related costs do not push workers below local minimum wage.

The platform must satisfy the following:

- Workers earn at least the local minimum wage, or the wage set by collective sectoral agreement (whichever is higher) in the place where they work, in their active hours, after costs.

In order to evidence this, the platform must either: (a) have a documented policy that guarantees the workers receive at least the local minimum wage after costs in their active hours; or (b) provide summary statistics of transaction and cost data. In case of (b), the platform must submit:

- An estimate for work-related costs, which are then checked by the Fairwork team through worker interviews; and,
- A weekly earnings table for any three-month period over the previous twelve months, in the format shown below. This is a two-way relative frequency table, which should contain information on the percentages of workers whose average weekly take-home earnings and active hours are distributed as follows in Table 2.

Table 2: Earnings Table

		WORKER EARNINGS AFTER COSTS (E)			
		[1] $e < M$	[2] $M \leq e < 1.5M$	[3] $1.5M \leq e < 2M$	[4] $2M \leq e$
ACTIVE HOURS (H)	$h < 0.9F$ (part-time)	%	%	%	%
	$0.9F \leq h < 1.2F$ (full-time)	%	%	%	%
	$1.2F \leq h$ (full-time plus overtime)	%	%	%	%

- Table Notes:

1. h = Average active hours worked by worker per week
2. e = Average weekly earnings of worker
3. F = the number of hours in a local standard working week.
4. M = the local weekly minimum wage, calculated at F hours per week. The table's header row and column are filled out by the Fairwork team, before giving it to the platform for completion.
5. The rows represent workers who work part-time, full-time, and more than full-time. The percentages in each row should add up to 100%.
6. The table is to be filled with four columns of data: Column [2] with the percentages of part-time, full-time, and full-time with overtime workers who earn less than the minimum weekly wage (X), and so on until Column [5].

Threshold 1.2 – Pays at least a local living wage after costs (one additional point)

In some places, the minimum wage is not enough to allow workers to afford a basic but decent standard of living. To achieve this point platforms must ensure that workers earn a living wage.

The platform must satisfy the following:

- Workers earn at least a local living wage, or the wage set by collective sectoral agreement (whichever is higher) in the place where they work, in their active hours, after costs.^{[iii],[iv]}

If the platform has completed Table 2, the mean weekly earnings minus the estimated work-related costs must be above the local minimum wage.

Principle 2: Fair Conditions

Threshold 2.1 – Mitigates task-specific risks (one point)

Platform workers may encounter a number of risks in the course of their work, including accidents and injuries, harmful materials, and crime and violence. To achieve this point platforms must show that they are aware of these risks and take steps to mitigate them.^[v]

The platform must satisfy the following:

- There are policies or practices in place that protect workers' health and safety from task-specific risks.
- Platforms take adequate, responsible and ethical data protection and management measures, laid out in a documented policy.

Threshold 2.2 – Provides a safety net (one additional point)

Platform workers are vulnerable to the possibility of abruptly losing their income as the result of unexpected or external circumstances, such as sickness or injury. Most countries provide a social safety net to ensure workers don't experience sudden poverty due to circumstances outside their control. However, platform workers usually don't

qualify for protections such as sick pay, because of their independent contractor status. In recognition of the fact that most workers are dependent on income from the platform for their livelihood, platforms can achieve this point by providing compensation for loss of income due to inability to work.

The platform must satisfy BOTH of the following:

- Platforms take meaningful steps to compensate workers for income loss due to inability to work commensurate with the worker's average earnings over the past three months.
- Where workers are unable to work for an extended period due to unexpected circumstances, their standing on the platform is not negatively impacted.

Principle 3: Fair Contracts

Threshold 3.1 – Provides clear and transparent terms and conditions (one point)

The terms and conditions governing platform work are not always clear and accessible to workers.^[vi] To achieve this point, the platform must demonstrate that workers are able to understand, agree to, and access the conditions of their work at all times, and that they have legal recourse if the platform breaches those conditions.

The platform must satisfy ALL of the following:

- The party contracting with the worker must be identified in the contract, and subject to the law of the place in which the worker works.
- The contract is communicated in full in clear and comprehensible language that workers could be expected to understand.
- The contract is accessible to workers at all times.
- Every worker is notified of proposed changes in a reasonable timeframe before changes come into effect; and the changes should not reverse existing accrued benefits and reasonable expectations on which workers have relied.

Threshold 3.2 – Does not impose unfair contract terms (one additional point)

In some cases, especially under ‘independent contractor’ classifications, workers carry a disproportionate amount of risk for engaging in the contract. They may be liable for any damage arising in the course of their work, and they may be prevented by unfair clauses from seeking legal redress for grievances. To achieve this point, platforms must demonstrate that risks and liability of engaging in the work is shared between parties.

Regardless of how the platform classifies the contractual status of workers, the platform must satisfy BOTH of the following:

- The contract does not include clauses which exclude liability for negligence nor unreasonably exempt the platform from liability for working conditions.
- The contract does not include clauses which prevent workers from effectively seeking redress for grievances which arise from the working relationship.

Principle 4: Fair Management

Threshold 4.1 – Provides due process for decisions affecting workers (one point)

Platform workers can experience arbitrary deactivation; being barred from accessing the platform without explanation, and losing their income. Workers may be subject to other penalties or disciplinary decisions without the ability to contact the platform to challenge or appeal them if they believe they are unfair. To achieve this point, platforms must demonstrate an avenue for workers to meaningfully appeal disciplinary actions.

The platform must satisfy ALL of the following:

- There is a channel for workers to communicate with a human representative of the platform. This channel is documented in the contract and available on the platform interface. Platforms should respond to workers within a reasonable timeframe.
- There is a process for workers to meaningfully appeal low ratings, non-payment, payment issues, deactivations, and other penalties and disciplinary actions. This process is documented in the contract and available on the platform interface.^[vii]
- In the case of deactivations, the appeals process must be available to workers who no longer have access to the platform.

- Workers are not disadvantaged for voicing concerns or appealing disciplinary actions.

Threshold 4.2 – Provides equity in the management process (one additional point)

The majority of platforms do not actively discriminate against particular groups of workers. However, they may inadvertently exacerbate already existing inequalities in their design and management. For example, there is a lot of gender segregation between different types of platform work. To achieve this point, platforms must show not only that they have policies against discrimination, but also that they seek to remove barriers for disadvantaged groups, and promote inclusion.

Platforms must satisfy ALL of the following:

- There is a policy which ensures the platform does not discriminate on grounds such as race, social origin, caste, ethnicity, nationality, gender, sex, gender identity and expression, sexual orientation, disability, religion or belief, age or any other status.
- Where persons from a disadvantaged group (such as women) are significantly under-represented among its workers, it seeks to identify and remove barriers to access by persons from that group.
- It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.
- If algorithms are used to determine access to work or remuneration, these are transparent and do not result in inequitable outcomes for workers from historically or currently disadvantaged groups.
- It has mechanisms to reduce the risk of users discriminating against workers from disadvantaged groups in accessing and carrying out work.

Principle 5: Fair Representation

Threshold 5.1 – Assures freedom of association and the expression of worker voice (one point)

Freedom of association is a fundamental right for all workers, and enshrined in the constitution of the International Labour Organisation, and the Universal Declaration of Human Rights. The right for workers to organise, collectively express their wishes – and importantly – be listened to, is an important prerequisite for fair working conditions. However, rates of organisation amongst platform workers remain low. To achieve this point, platforms must ensure that the conditions are in place to encourage the expression of collective worker voice.

Platforms must satisfy ALL of the following:

- There is a documented mechanism for the expression of collective worker voice.
- There is a formal policy of willingness to recognise, or bargain with, a collective body of workers or trade union, that is clearly communicated to all workers.^[viii]
- Freedom of association is not inhibited, and workers are not disadvantaged in any way for communicating their concerns, wishes and demands to the platform.^[ix]

Threshold 5.2 – Supports democratic governance (one additional point)

While rates of organisation remain low, platform workers' associations are emerging in many sectors and countries. We are also seeing a growing number of cooperative worker-owned platforms. To realise fair representation, workers must have a say in the conditions of their work. This could be through a democratically-governed cooperative model, a formally recognised union, or the ability to undertake collective bargaining with the platform.

The platform must satisfy at least ONE of the following:

1. Workers play a meaningful role in governing it.
2. It publicly and formally recognises an independent collective body of workers, an elected works council, or trade union.

3. It seeks to implement meaningful mechanisms for collective representation or bargaining.

^[ii] Work-related costs include direct costs the worker may incur in performing the job. This may include, for instance, transport in between jobs, supplies, vehicle repair and maintenance, fuel, road tolls and vehicle insurance. However, it does not include transport to and from the job (unless in-between tasks) nor taxes, social security contributions or health insurance.

^[iii] In addition to direct working hours where workers are completing tasks, workers also spend time performing unpaid activities necessary for their work, such as waiting for delivery orders at restaurants and travelling between jobs. These indirect working hours are also considered part of active hours as workers are giving this time to the platform. Thus, ‘active hours’ are defined as including both direct and indirect working hours.

^[iii] Where a living wage does not exist, Fairwork will use the Global Living Wage Coalition’s Anker Methodology to estimate one.

^[iv] In order to evidence this, the platform must either: (a) have a documented policy that guarantees the workers receive at least the local living wage after costs in their active hours; or (b) provide summary statistics of transaction and cost data. In case of (b), the platform must submit: (1) An estimate for work-related costs, which are then checked by the Fairwork team through worker interviews; and, (2) a weekly earnings table for any three-month period over the previous twelve months, in the format shown in Table 2.

^[v] The starting point is the ILO’s Occupational Safety and Health Convention, 1981 (C155). This stipulates that employers shall be required “so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health”, and that “where necessary, adequate protective clothing and protective equipment [should be provided] to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects on health.”

^[vi] The ILO’s Maritime Labour Convention, 2006 (MLC 2006), Reg. 2.1, and the Domestic Workers Convention, 2011 (C189), Articles 7 and 15, serve as helpful guiding examples of adequate provisions in workers’ terms and conditions, as well as worker access to those terms and conditions.

^[vii] Workers should have the option of escalating grievances that have not been satisfactorily addressed and, in the case of automated decisions, should have the option of escalating it for human mediation.

^[viii] For example, “[the platform] will support any effort by its workers to collectively organise or form a trade union. Collective bargaining through trade unions can often bring about more favourable working conditions.”

^[ix] See the ILO’s Freedom of Association and Protection of the Right to Organise Convention, 1948 (C087), which stipulates that “workers and employers, without distinction, shall have the right to establish and join organisations of their own choosing without previous authorisation” (Article 2); “the public authorities shall refrain from any interference which would restrict the right or impede the lawful exercise thereof” (Article 3) and that “workers’ and employers’ organisations shall not be liable to be dissolved or suspended by administrative authority” (Article 4). Similarly the ILO’s Right to Organise and Collective Bargaining Convention, 1949 (C098) protects the workers against acts of anti-union discrimination in respect of their employment, explaining that not joining a union or relinquishing trade union membership cannot be made a condition of employment or cause for dismissal. Out of the 185 ILO member states, currently 155 ratified C087 and 167 ratified C098.

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