Fairwork
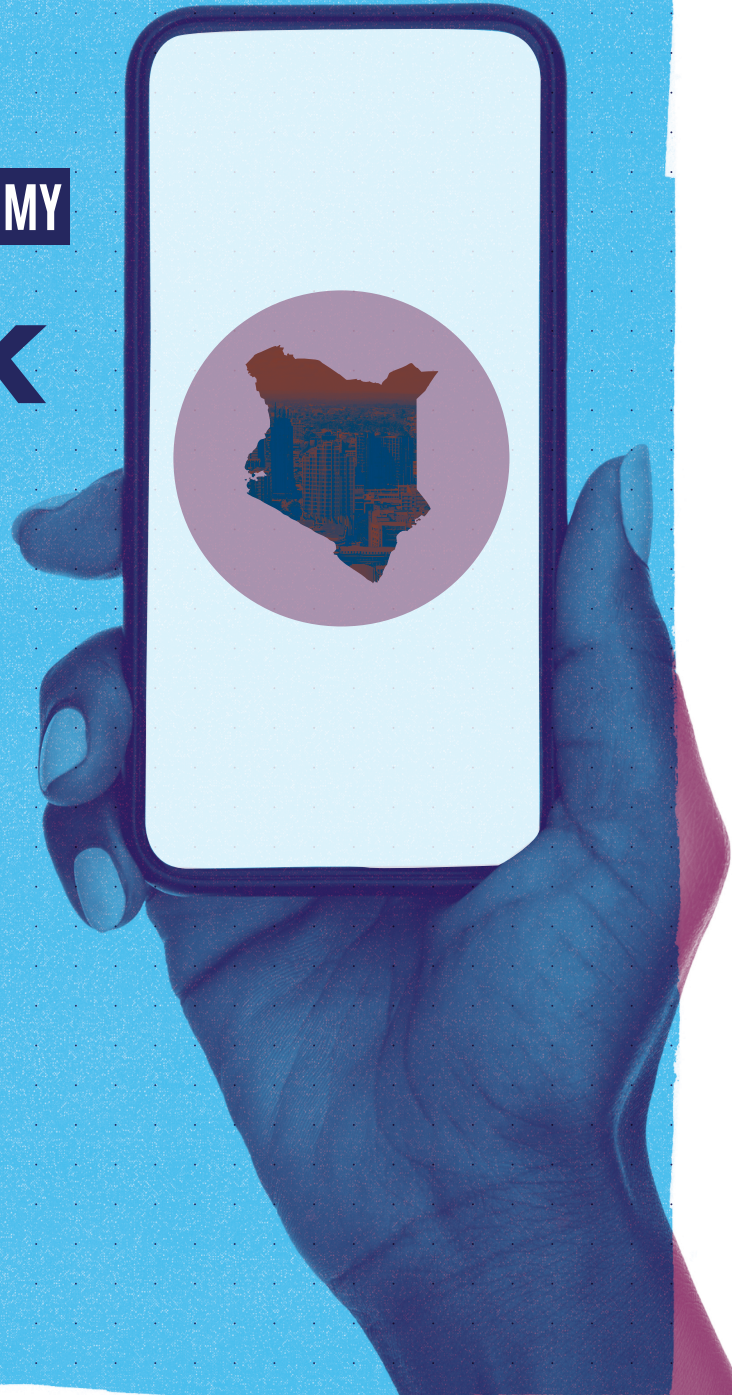
THE PROMISE AND PERIL OF PLATFORM WORK IN THE KENYAN PLATFORM ECONOMY

Fairwork Kenya Ratings 2023

CONTENTS

Executive Summary

This Fairwork report for Kenya represents the third in our continual assessment of digital labour platforms in Kenya, and our advocacy for progressive changes that impact platform workers. The report examines the progressive landscape of the Kenyan platform economy, based on regulatory changes and platforms' policy changes. Following the National Transport Safety Authority (NTSA) policies on guidelines for ride-hailing from last year, the major highlight in this report is that while some of these policies have been introduced, platform workers are yet to reap the benefits of these changes.

This is because platform companies have been slow to adopt NTSA guidelines and in some cases, have sought ways to circumvent them, leaving platform workers to suffer the brunt of unfair working conditions. However, some platforms such as Little Ride, Little Delivery, and Glovo have been proactive in making changes this year and they have also worked to introduce and bolster social protection benefits and other avenues to improve the overall working conditions.

The transition to a new government immediately after the COVID-19 pandemic had an impact on the general economy. The global upheavals of 2019-2022 also affected fuel supply, foreign exchange availability and importation of goods. Platform workers ended up choosing whether to continue with the business with outstanding loans and expenses or leaving the industry and trying to earn a living elsewhere.

Nonetheless, there have been gradual improvements in the ride hailing and delivery industry compared to two years ago when the Fairwork Kenya project began. Over the years, delivery platforms like Glovo and Little Delivery have been more receptive to making changes to fair conditions, contracts and management. Principle one – fair pay remains a challenge to sufficiently evidence for most platforms, especially with the continuous rising inflation and operational costs that workers have to take on.

This has led to most workers preferring to work long hours on multiple apps to increase their earnings, which indirectly affects their health, wellbeing, and all-round safety. Despite NTSA policy guidelines of 2022, which capped the commissions platforms could take at 18 percent, many of the workers we spoke to, report that their running costs have risen much higher since the policies were introduced. Low levels of awareness of worker rights, social protection entitlements and data protection and privacy have undermined the advancement of fundamental rights.

Our Fairwork ratings for this year cover 12 platforms across the ride-hailing and delivery services sectors, namely, Bolt, Bolt Food, Faras, Glovo, Indrive, Jumia Food, Little Delivery, Little Ride, Uber, Uber Eats, Wasili and Yego. These platforms have been assessed against the five principles of Fairwork – fair pay, fair conditions, fair contracts, fair management, and fair representation — giving each a fairness rating out of ten. Glovo, Little Ride and Yego lead the table with three points over ten. Little Delivery has two points, Bolt has one point, and the other seven platforms did not provide sufficient evidence to achieve any points. As per our methodology, we only give points to platforms when they provide verifiable evidence that they satisfy the principle.

Key Findings

FAIR PAY

For platforms to earn the first point for Fair Pay, we check to see that platform workers earn the minimum wage after work-related costs.

This year, out of the 12 platforms we evaluated, only one (Glovo) was able to sufficiently evidence that all platform workers earn at least the local minimum wage of KES 135.90 per hour or KES 15,201 per month after worker-related costs.[1]

For the second point, we check that platform workers earn a living wage after work-related costs. We could not find sufficient evidence that platform workers earned the local living of KES 180.46 or KES 31,279 monthly after costs in any of the 12 platforms.[2]

FAIR CONDITIONS

For platforms to earn the first point, we check that there are policies in place to prevent task-specific risks. We could not find sufficient evidence that any of the 12 platforms had policies in place to effectively protect workers against risks arising from their work. While some platforms provided certain measures such as safety training and emergency buttons to mitigate risks and protect workers, we did not find enough evidence on other aspects of the principle.

The second point checks that platforms ensure safe working conditions and provide a safety net for workers. We did not find sufficient evidence that all the 12 platforms provide adequate safety nets for any of their platform workers who are unable to work due to illnesses, accidents or other unforeseen circumstances.

FAIR CONTRACTS

For platforms to earn the first point, we check that they provide clear and transparent terms and conditions for their workers.

Only five platforms (Bolt, Glovo, Little Ride, Little Delivery and Yego) provided sufficient evidence that their terms and conditions are clear and transparent, and subject to Kenyan rather than a foreign country's law.

For the second point, we check that platforms ensure that no unfair clauses are imposed. We found that some platforms have clauses in their Terms and Conditions (Ts & Cs) which exclude them from liabilities concerning the working relationship and shifting the risks stemming from the relationship onto the workers. Therefore, none of the platforms earned the second point.

FAIR MANAGEMENT

For platforms to earn the first point, we check that they provide due process for decisions affecting workers.

Only four of the 12 platforms (Glovo, Little Ride, Little Delivery, Yego) evidenced the provision of due process for decisions affecting platform workers. These four also showed effective communication channels and an appeal process in instances where workers were deactivated from the platform.

For the second point, we check for equity in the management process by platforms. While some platforms such as Glovo, Little Ride, and Little Delivery have adopted a clear anti-discrimination policy, we could not find sufficient evidence in any of the 12 platforms that they meet all aspects of this principle. Therefore, none of them earned the second point.

FAIR REPRESENTATION

For platforms to earn the first point, we check that they assure freedom of association and expression of collective worker voice.

Two of 12 platforms (Little Ride and Yego) provided evidence that they ensure freedom of association and collective worker voice. Both platforms also possess MOUs with platform associations with clear terms for workers to collectively negotiate earnings and working conditions. For the second point, we check for evidence that platforms support democratic governance. We could not find sufficient evidence that any of the platforms have formally and publicly recognised an independent collective body of workers or trade union. In addition, we could not find evidence that platform workers play meaningful roles in contributing to decisions affecting their work; nor are there mechanisms to facilitate collective bargaining.

Platforms Should Prioritise Workers' Safety

In recent years, there has been a heightened focus on the safety issues associated with platform work in Kenya. This increased scrutiny has been particularly pronounced following an unfortunate incident in June this year, involving the abduction of two women by platform workers.[3] There have been several reported cases of platform workers being physically assaulted by customers, with a notable recent incident in August this year [4] According to drivers we interviewed in this study, platforms often do not respond swiftly to safety concerns of platform workers. These incidents highlight the urgent need for strong safety protocols and streamlined reporting systems to be implemented by these platforms. These measures should guarantee that the well-being and security of platform workers remains of paramount concern.

PLATFORMS OFTEN DO NOT RESPOND SWIFTLY TO SAFETY CONCERNS OF PLATFORM WORKERS.

When we examine their safety information, it becomes apparent that some platforms recognize the importance of safety of both workers and customers, with a lesser priority placed on platform workers. These safety measures encompass a variety of strategies. One approach involves user verification, which ensures the credibility of both driver and client profiles. Additionally, many platforms have integrated emergency features, like SOS buttons, which pledge to offer immediate assistance when necessary. Further precautions consist of the introduction of spontaneous verification selfies and PINs to confirm that users are getting into the correct ride.

Platforms also stress the significance of driver and rider ratings, aiming to promote mutual trust and responsibility. However, these ratings are often biased towards customers, leaving platform workers to face the consequences of low ratings which can lead to arbitrary deactivations without any appeal process.

Since platforms facilitate physical meetings between workers and customers, ensuring the safety and well-being of both parties is a pertinent issue. In the case of ride-hailing, the nature of the job often requires drivers to pick up and drop off passengers in various locations, making them vulnerable to a range of offline challenges such as harassment, theft, or even violence. Ride-hailing companies in Kenya claim to have implemented robust safety measures and protocols, including establishing clear guidelines for passenger behaviour, conducting thorough background checks on drivers, and providing channels for effective communication and incident reporting. Nevertheless, there are still complexities involved in these technology-mediated measures. Responses to emergencies may be delayed or come too late.[5] By prioritising the physical safety of platform workers, ride-hailing and delivery platforms can strive to create an environment that fosters trust, confidence, and mutual respect. A safe and secure platform worker will also impact the safety of customers and the platform economy ecosystem at large.

Despite the presence of guidelines and statements, there is an opportunity for platforms to improve their practices and ensure the protection of workers.[6] Platforms should emphasise substantive actions that effectively address the worries of platform workers and bolster safety, moving beyond merely reacting after tragic events have already happened.

Relying solely on public relations efforts is insufficient; platforms must exhibit concrete steps and proactive measures to resolve reported complaints. Transparency is vital in this endeavour, with platforms expected to furnish comprehensive reports detailing the actions taken in response to workers' issues and acknowledging the importance of policies and regulations in the platform economy that safeguard and champion the rights of platform worker.

The insights presented in this report suggest that platform work – despite the perils involved – still promises a better tomorrow for Kenyan youth, women and people of low skills. If the platforms prioritised the safety of platform workers not only in letter but also in spirit, then Kenyan platform workers would be one step closer towards fair work.

FAIRWORK KENYA TEAM

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Towards Decent Labour Standards in the Platform Economy

Fairwork evaluates and ranks the working conditions of digital labour platforms. Our ratings are based on five principles that platforms should ensure in order to be considered to be offering basic minimum standards of fairness. We evaluate platforms annually against these principles to show not only what the platform economy is today, but also what it could be.

The Fairwork ratings provide an independent perspective on labour conditions of platform work for policymakers, platform companies, workers, and consumers. Our goal is to show that better, and fairer, jobs are possible in the platform economy.

The Fairwork project is coordinated from the Oxford Internet Institute and the WZB Berlin Social Science Center. Our growing network of researchers currently rates platforms in 39 countries across 5 continents. In every country, Fairwork collaborates closely with workers, platforms, advocates and policymakers to promote a fairer future of platform work.
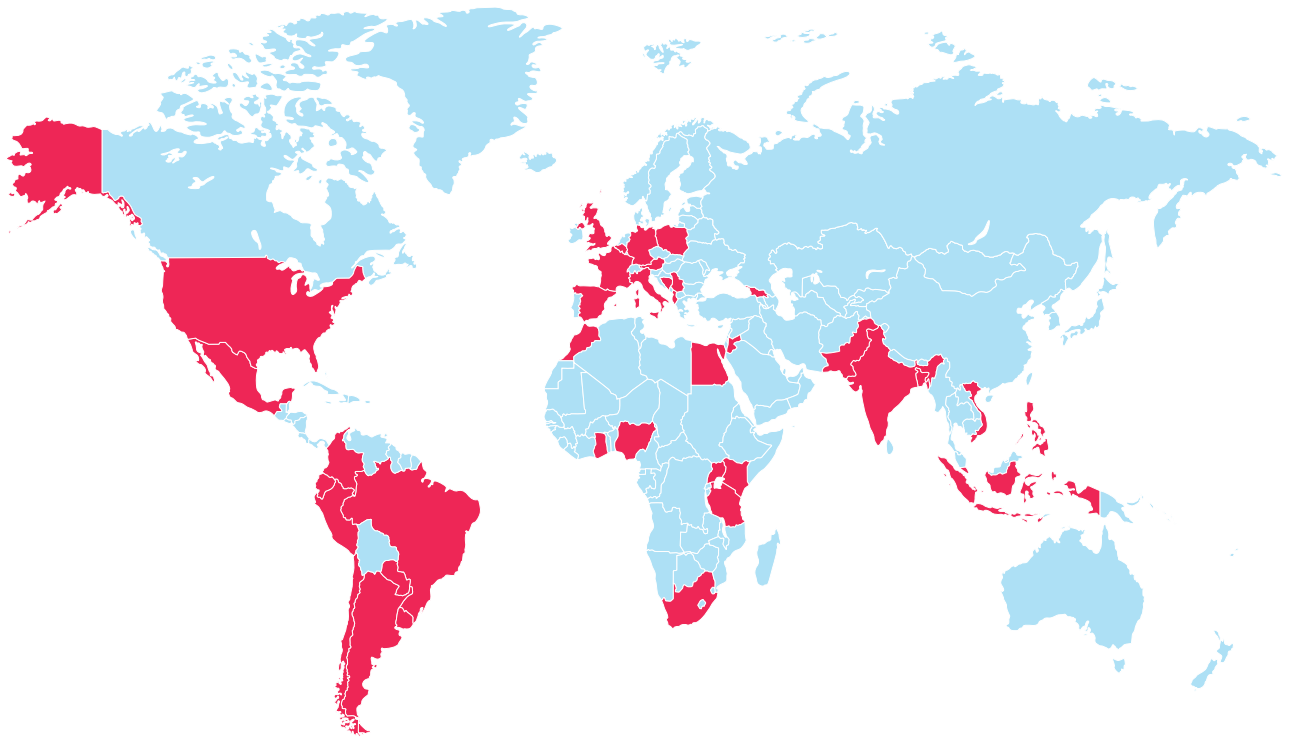
Fairwork countries

Figure 1. Fairwork currently rates platforms in 39 countries worldwide.

AFRICA

Egypt, Ghana, Kenya, Morocco, Nigeria, South Africa, Tanzania, Uganda

ASIA

Bangladesh, India, Indonesia, Jordan, Lebanon, Pakistan, Philippines, Singapore, Vietnam

EUROPE

Albania, Austria, Belgium, Bosnia and Herzegovina, France, Georgia, Germany, Italy, Poland, Serbia, Spain, United Kingdom (UK)

SOUTH AMERICA

Argentina, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay

NORTH AMERICA

Mexico, United States (US)

The Fairwork Framework

The five principles

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

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.
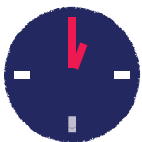
Fair Conditions

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.

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 service user and/or the platform.

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).

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.

Methodology Overview

The Fairwork project uses three approaches to effectively measure fairness of working conditions at digital labour platforms: desk research, worker interviews and surveys, and interviews with platform management. Through these three methods, we seek evidence on whether platforms act in accordance with the five Fairwork Principles.

We recognise that not all platforms use a business model that allows them to impose certain contractual terms on service users and/or workers in such a way that meets the thresholds of the Fairwork principles. However, all platforms have the ability to influence the way in which users interact on the platform. Therefore, for platforms that do not set the terms on which workers are retained by service users, we look at a number of other factors including published policies and/or procedures, public statements, and website/app functionality to establish whether the platform has taken appropriate steps to ensure they meet the criteria for a point to be awarded against the relevant principle.

In the case of a location-based work platform, we seek evidence of compliance with our Fairwork principles for location-based or 'gig work' platforms, and in the case of a cloudwork platform, with our Fairwork principles for cloudwork platforms.

Desk research

Each annual Fairwork ratings cycle starts with desk research to map the range of platforms to be scored, identify points of contact with management, develop suitable interview guides and survey instruments, and design recruitment strategies to access workers. For each platform, we also gather and analyse a wide range of documents including contracts, terms and conditions, published policies and procedures, as well as digital interfaces and website/app functionality. Desk research also flags up any publicly available information that could assist us in scoring different platforms, for instance the provision of particular services to workers, or the existence of past 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 finalised, 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 6-10 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.

Workers are approached using a range of different channels. For our 2023 ratings, we used our tried and tested participant recruitment methods and snowballing from prior interviews. In all these strategies informed consent was established, with interviews conducted both in person and online.

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. All interviews were conducted in English.

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 first point and a second point that can only be awarded if the first 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.

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07/10

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Overview of the Platform Economy in Kenya

The country's economy is a mix of agriculture, service and industry sectors. In recent years, there has been significant growth in the service sector particularly telecommunications, tourism and financial services and despite the disruption by the COVID-19 pandemic and the 2022 general elections, this sector has seen rebound growth. Additionally, the informal sector, which largely supports the formal sector in employment of the Kenyan workforce, employed approximately 19.6 million people in 2022, corresponding to 83 percent of the employed Kenyan population.[9]

The overall digital economy is currently the fastest growing sector in Kenya, and Kenya's young and well-educated workforce is one of the factors enabling the country not only to be a leader in ICT but also mobile money.[10]

According to Accenture's Africa iGDP forecast, the digital economy is set to rise to KSHs. 1.4 trillion (approximately 9.6 billion USD) by 2025, this will account for 9.25 percent of Kenya's GDP. Further, the e-Conomy Africa 2020 report projects that by 2050, Kenya will account for 15.17 percent of the Internet economy in Africa.[11] This projected growth largely rests on a number of digital infrastructure initiatives implemented in the country, aimed at increasing mobile and internet penetration in the country and unlocking opportunities for economic growth and development. Inclusive Internet Index 2022 ranks Kenya at 58 globally in terms of availability, affordability, relevance and readiness of internet, implying that Kenya has the potential to thrive in the digital economy.

Kenya's platform economy is valued at $109 million and employed over 35,000 workers in 2019 which accounted for 0.2% of the country's gross domestic product (GDP).[12] This is anticipated to grow at a rate of 33 percent annually, employing over 90,000 workers by the end of this year.[13] Kenya has many platforms operating in different sectors, with over 23 platforms in the ride-hailing sector alone. [14]

This year, we evaluated seven ride-hailing platforms and five delivery platforms. This impressive growth has also been pushed by local technology companies and start-ups that are creating solutions for unemployment and working to challenge international players in the ride-hailing and delivery industries. These and other factors in smaller towns have seen platforms diversifying to alternative motorised rickshaws (Tuk-tuks) and electric bicycles, which are more suited to female delivery riders who cannot afford cars or who would not want to use motorbikes, which are considered dangerous. As a result of smartphone penetration, these smaller towns offer room for growth, especially for local platforms.

Even with such developments, Kenya still faces a lot of challenges related to income and gender inequality and unemployment. A report by Oxfam reveals that Kenya has the one of the fastest growing numbers of super-rich people in the world and over the next decade as per predictions the number of the super-rich in Kenya will have risen by 80 percent, with a persistently huge gap between the rich and the poor. Additionally, the report highlights that economic policy in Kenya is holding back women empowerment, for instance, 96 percent of women in rural areas work on farms and yet only 6 percent of women in Kenya own these farms.[15]

KENYA'S PLATFORM ECONOMY IS VALUED AT $109 MILLION AND EMPLOYED OVER 35,000 WORKERS IN 2019.

With a large and growing population of young people, the youth unemployment rate stood at 13.4 percent in 2022 with the most affected age group being 25-29 with an unemployment rate of 17.6 percent.[16] This is a significant concern in the country as each year, many young people enter the job market with no guarantee that they will secure employment.

The government has been working on initiatives to promote skill development, job creation and entrepreneurship in the digital space. However, even as digital platforms continue to grow there is still no regulatory framework provided by the Kenyan labour law to formally identify and recognize digitally enabled jobs and promote social protection and welfare of these workers, leaving them vulnerable to exploitation.

The high cost of living is also a major challenge, with a current inflation rate of 7.3 percent[17] as the shilling weakens against the dollar. The global price impacts of the war in Ukraine have adversely affected the price of basic commodities like wheat and fuel. Currently, even as food inflation slowed down and prices for housing, water and electricity eased, transport prices have increased by 13 percent after the government raised the VAT on petroleum products from 8 percent to 16 percent from July 1st, therefore, Kenyans have had to dig deeper into their pockets to pay for transportation.[18] This greatly affects those in online platforms working in ride-hailing and delivery services.

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What Makes a Worker an Employee?

For the third year of our scoring exercise, we have seen minimal changes in the legal landscape in Kenya, especially in the ride hailing sector. Fundamental principles and rights at work are enshrined in Kenya's Constitution. This is reinforced in Kenya's labour laws and other labour-related laws and regulations. The legislation does not, however, accord platform workers the required protection as they suffer low levels of coverage, weak platform compliance and low enforcement.[19] In this regard, we have sought to understand how labour laws and social protections have been applied to platform workers by understanding how platforms have characterised their relationship with them.

With the continued practice of classifying platform workers as self-employed, the current labour laws still do not apply to these workers, including, among other things, protection from unfair dismissal and provision of National Social Security and National Hospital Insurance. We have however seen a change, with some platforms in the ride-hailing and delivery sectors now providing private insurance to cover health costs, severe injuries, and death and burial benefits. While platforms claim that treating workers as independent contractors is empowering for workers—giving them more autonomy over their working hours, for example—there is a lack of consensus among commentators and stakeholders in Kenya as to whether workers are indeed liberated—or harmed—by these practices.

In our research we have observed that labour platforms have persisted with a contractual classification of their workers that has continued to pose challenges for working conditions, including low earnings, unfair termination of accounts, income volatility, and the absence of a safety net in the event of illness, injury or inability to work. Under these conditions, workers are unlikely to experience the autonomy that platforms claim they have, instead being dependent on and controlled by them. Due to the high costs which workers are forced to absorb, The majority of platform workers work an average of 12 hours a day, with some working between 18 and 24 hours.

And in extreme cases where drivers multi-app, some work between 18 to 24 hours and even sleep in their vehicles, with deleterious effects on their health and wellbeing.

Kenya - Nairobi / Shutterstock

Platforms also hold a lot of power in setting the terms and conditions, which they do unilaterally, without any consultation with workers. Because platforms do not classify their workers as employees, in most cases they are able to avoid the costs associated with complying with labour protection legislation, and also bypass social dialogue processes.

Kenya's employment legislation for platform work was updated in 2022, with a legal notice under the NTSA which in principle was aimed at amending different elements of the relationship between transport network companies, owners, drivers, and passengers.[20] These included a standardised commission for all platforms, revised security and protection, reporting systems, capped working hours and data protection. Despite these stipulations, platform workers still experience unfair working conditions, which we discuss further in the "Theme in Focus" section.

Though digital work is touted as the future of work in Africa and while platform work can indeed provide livelihoods to those outside of existing labour markets, if it is to present a solution for the future of work in Africa, key shortfalls in job quality need to be addressed. Even where platform workers are not extended the full legal benefits of full-time employment, we expect platforms to still provide them with a number of basic rights, including fair pay, training opportunities, and a social safety net.

Further conversations need to be had amongst stakeholders in the industry to make it more conducive for more platform workers to join and view it as a decent way to earn a living.

THE MAJORITY OF PLATFORM WORKERS WORK AN AVERAGE OF 12 HOURS A DAY, WITH SOME WORKING BETWEEN 18 AND 24 HOURS.

While policymakers have identified work in the digital economy as an engine of development and income opportunities, there is still more to be done to make the platform economy more sustainable. Focus needs to shift to the benefits of digital labour platforms at both a community and macro level. Even though the number of platform workers is rising steadily, the bulk of the profits generated go back as capital flight to the home countries of these international platforms. As a result, the Kenyan platform worker is working in a highly competitive environment where their service is an undifferentiated product, and thus—absent minimum protections—subject to a race to the bottom in prices and working conditions.[21]

Fairwork Kenya Scores 2023

Minimum standards of fair work

Platform	Score										
Glovo	3 /10	●	●	●	○	○	○	○	○	○	○
Little Ride	3 /10	●	●	●	○	○	○	○	○	○	○
Yego	3 /10	●	●	●	○	○	○	○	○	○	○
Little Delivery	2 /10	●	●	○	○	○	○	○	○	○	○
Bolt	1 /10	●	○	○	○	○	○	○	○	○	○
Bolt Food	-	○	○	○	○	○	○	○	○	○	○
Faras	-	○	○	○	○	○	○	○	○	○	○
InDrive	-	○	○	○	○	○	○	○	○	○	○
Jumia Food	-	○	○	○	○	○	○	○	○	○	○
Uber	-	○	○	○	○	○	○	○	○	○	○
Uber Eats	-	○	○	○	○	○	○	○	○	○	○
Wasili	-	○	○	○	○	○	○	○	○	○	○

THE BREAKDOWN OF SCORES FOR INDIVIDUAL PLATFORMS IS AVAILABLE AT

WWW.FAIR.WORK/KENYA

Explaining the scores

Fair Pay

For platforms to be awarded this principle, the platform should take steps to ensure workers earn at least the local minimum wage after costs.

This year, out of the 12 platforms we evaluated, "only one (Glovo) was able to sufficiently evidence that all platform workers" earn at least the local minimum wage of KES 135.90 per hour or KES 15,201 per month after worker-related costs.[22]

When assessing minimum earnings, we considered workers' earnings and their spending, such as the cost of providing task-specific equipment and paying work-related costs out of pocket, including vehicle repairs and maintenance, petrol, mobile phone data and insurance.

To award the second point, we check whether all workers earn the local living wage of KES 180.46 hourly or KES 31,279 monthly after worker-related costs.[23] We could not find sufficient evidence that platform workers earned the local living wage after costs in any of the 12 platforms.
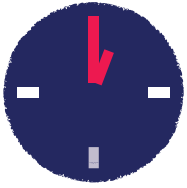
Fair Conditions

For platforms to achieve the first point of this principle, they should take the necessary steps to ensure that practices and policies are in place to mitigate task-specific risks while undertaking deliveries or driving.

For this year, we did not find sufficient evidence that any of the 12 platforms evaluated ensure that practices and policies are in place to mitigate the risks involved in ride-hailing or undertaking deliveries. Glovo and Little Ride were close to earning this point because of the risk-mitigation measures they have put in place thus far for their platform workers. For example, both platforms provided safety trainings, emergency buttons, and have enlisted emergency services to help platform workers in critical situations.

For the second point, platforms should also take the necessary steps to ensure they provide workers with a social safety net.

We could not find sufficient evidence that any of the 12 platforms provide such safety nets to their workers, such as sick pay, accident insurance, maternal and paternal leave, and other proactive policies that provide income security to workers who cannot work for an extended period. Therefore, we could not award points to any of the 12 platforms for the second principle threshold.

Fair Contracts

To meet the first point, the platform should ensure that workers can understand, agree to, and access their work conditions at all times and have legal recourse if the other party breaches those conditions.

Only five of the 12 platform services (Bolt, Glovo, Little Ride, Little Delivery and Yego) provided evidence that their terms and conditions are clear and transparent. The terms and conditions (T&Cs) were also accessible in digital and physical copies to their platform workers, and these workers were identified in their contracts and are subject to Kenyan law. The T&Cs also do not include any clauses that revert legal frameworks in Kenya.

Finally, we found sufficient evidence for all four platforms that they take adequate, responsible and ethical data protection for their workers.

To meet the second point, platforms should show that there are no unfair clauses in workers' terms and conditions, particularly clauses that exclude platforms from shared liabilities and further prevent workers from seeking redress for grievances arising from the working relationship. None of the 12 platforms could demonstrate that their terms and conditions were free of clauses that are unfair to platform workers.
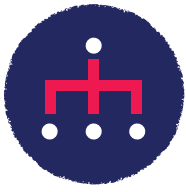
Fair Management

With algorithmic management and automated responses, platform management appears distant from platform workers. For platforms to meet the first point of this principle, they should take appropriate steps to provide due process for decisions affecting their workers.

Of the 12 platforms we scored, only four (Glovo, Little Ride, Little Delivery and Yego) could provide sufficient evidence of due process for decisions affecting workers. Glovo possesses effective communication channels via emails and live chat, with quick response times and physical contact hours between Monday and Friday. The platform also conducts a monthly survey to understand and provide solutions for worker concerns. Arbitrary termination or deactivation is a big concern for platform workers, who lack the recourse available to formal employees. Based on the evidence provided by Glovo, platform workers are not deactivated or suspended unless pertaining to issues of fraud, as stated in the terms and conditions. Platform workers are contacted more than once before any sanction is considered and can appeal any decision via the available communication channels.

Little Ride and Little Delivery also possess similar practices to Glovo, including effective communication channels such as in-app chat support, emails, dedicated customer support, and office visits.

The customer support has an escalation matrix (high, medium and low), where queries are responded to based on urgency. Little Ride signed an MOU with the Organisation of Online Drivers (OOD) association, with clear terms on what constitutes suspension/disciplinary action and the actions taken by the platform if this occurs. Within platform workers' contracts, it is also clearly written that they can appeal disciplinary measures. Yego also possess good communication channels with a 24/7 human representative, open office policy where drivers can always walk in if there are issues. Platform workers typically are not suspended or deactivated on the platform based on ratings and company policy. In extreme cases such as fraud, there is due process and an avenue for workers to appeal .

To get the second point, platforms should take appropriate steps to ensure equity in the management process by adopting anti-discrimination policies and other proactive policies that include disadvantaged groups such as women, disabled people and others.

We did not find sufficient evidence for any of the 12 platforms to be awarded a point. However, Little Ride, Little Delivery and Glovo have made decent progress under this threshold by adopting an anti-discrimination policy and measures to remove barriers to access by disadvantaged groups such as women.

Fair Representation

The right for workers to be listened to and to organise and collectively express their concerns without being inhibited is a vital prerequisite for fair working conditions. For platforms to achieve the first point in this principle, they need evidence that workers are assured of freedom of association and expression.

Only two of [12] platforms (Little Ride and Yego) provided evidence that they ensure freedom of association and

collective worker voice. Both platforms also possess MOUs with platform associations with clear terms for workers to collectively negotiate earnings and working conditions.

For the second point, platforms need to provide evidence that they support democratic governance. We did not find sufficient evidence that any of the platforms meet the criteria for this threshold. Therefore, no platform was awarded this point.

Little Ride

Little is a pan-African "everyday everything" app and one of Africa's largest ride-hailing service companies, serving cities across Kenya, Uganda, Tanzania, Ethiopia, Somalia, Senegal, Ghana and India. The Little app offers mobility, delivery and payment solutions.

Little comes first in this year's rating, with a score of 3/10. The platform provides sufficient evidence to meet principle 3.1, 4.1 and principle 5.1. This year we scored both the ride-hailing and delivery aspect of the platform company.

While some policies cut across the delivery and ride-hailing aspect of the platform, this section mainly focuses on its ride-hailing service, Little Ride.

We recognize and appreciate that the terms and conditions are clear and comprehensible, and that there is good accessibility to the T&Cs afterwards as also confirmed by Little Ride's platform workers. These T&Cs are subject to Kenyan law and do not revert the prevailing legal frameworks in the country. In addition, there is a more comprehensive data protection policy by Little that ensures responsible and ethical data protection.

Principle	First point		Second point		Total
Principle 1: Fair Pay	○	Ensures workers earn at least the local minimum wage after costs	○	Ensures workers earn at least a local living wage after costs	○
Principle 2: Fair Conditions	○	Mitigates task-specific risks	○	Ensures safe working conditions and a safety net	○
Principle 3: Fair Contracts	●	Provides clear and transparent terms and conditions	○	Ensures that no unfair contract terms are imposed	1
Principle 4: Fair Management	●	Provides due process for decisions affecting workers	○	Provides equity in the management process	1
Principle 5: Fair Representation	●	Assures freedom of association and the expression of worker voice	○	Supports democratic governance	1

Little Ride's total score Fairwork **03**/10

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In terms of communications, Little Ride possesses adequate channels for their workers to voice their concerns and appeal any disciplinary concerns. Based on Fairwork's recommendation, the platform further added a statement in their suspension policy for drivers to appeal any disciplinary issue. Little Ride also complies with the NTSA policy that requires the platform to give drivers the opportunity to appeal or challenge disciplinary measures. In line with this, Little Ride has a signed MOU with the Organisations of Online Drivers, agreeing to comply to commissions of no more than 18% per trip; a clear explanation on the fare calculation based on kilometres per trip; committing to notify the OOD of any changes to the T&C's before they are made, and finally, committing to keep drivers safe and provide the necessary communication channels to support them on the job and in emergency situations.

While Little Ride failed to obtain points for principles 1, 2, 3.2, and 4.2, the platform is making progressive steps to meet these points in the future. For principle 2, the platform provides safety training, and there is an SOS button which is linked to a security company that responds effectively in critical situations. The platform also possesses health/life insurance for platform workers and their families to fall back on, in instances of death or disability. Further, Little Ride possesses benefit packages which contribute towards rent and school fees, as well as a loan initiative that enables workers to opt in and save a portion of their earnings per trip which they can access in times when they are unable to work.

The platform has also included an anti-discrimination policy in its T&Cs. Customers who discriminate against their workers on the basis of race, religion, national origin, disability, sexual orientation, sex, marital status and so forth risk losing access to their account. The platform is also committing to investigate and dismantle barriers to equal participation for underrepresented or disadvantaged groups.

LITTLE RIDE HAS A SIGNED MOU WITH THE ORGANISATIONS OF ONLINE DRIVERS, AGREEING TO COMPLY TO COMMISSIONS OF NO MORE THAN 18% PER TRIP.

Regardless of some of these positives, the platform still has to do more to ensure that all their platform workers experience fair work by developing proactive policies across the five principles. More critically, the platform still has much to do to evidence that all workers earn the minimum wage and living wage after costs. From our interviews, while workers have the tendency to earn a decent amount, they often also have high operational costs which limits their earnings and their ability to make a living from this work. In addition, the platform will also need to do more, i.e., beyond an MOU, to ensure that it supports democratic governance for all platform workers.

Workers' Stories

Mercy*

Mercy has worked for popular ride-hailing platform for two and a half years as a driver and also doing deliveries. As the sole breadwinner in her family, she could not depend on her law practice because not having a law firm of her own meant jobs were often seasonal, therefore, she opted for a job with a consistent and reliable income that would comfortably sustain her family. Despite the desire for a consistent and reliable income, Mercy has had to adapt to the fluctuating prices that come with working for the platform especially from Monday to Thursday when there are fewer clients, meaning she works longer during the weekends to compensate for the slow days during the week.

As a driver on the platform, she has to cater for all the expenses incurred and has not seen the platform try to ease the burden on its drivers by taking up some costs. She has not received any safety training. She has had to learn to be positive even when she deals with rude customers who always yell and want her to hurry up even in traffic because the platform does not take any steps to mitigate these risks such as investigating such customers when drivers file complaints and acting against them like deactivation of accounts when these complaints persist. Mercy will continue to work on the platform until something better comes along, but she wishes that the platform started taking driver reviews seriously because many drivers are suffering and yet the platform is not doing anything about it.

Hakuna.Mazaza / Shutterstock

David*

David has been working for popular food delivery platforms doing regular deliveries. During the COVID-19 pandemic, he had to pause his dream of becoming an electrical engineer and had to look for a means to make ends meet. Working on two platforms and looking for other boda-boda jobs (i.e., waiting for passengers in estates and marketplaces) seems to be the only way David can put food on the table.[24] He works for 14 hours a day for one of the delivery platforms and at times spends up to 10 hours with no deliveries: "I wish it was possible for more orders to be there, I would be working more and earn extra." David feels that it is not possible to earn a living working on the platform due to the costs incurred, prompting him to look for other sources of income like other platforms doing food delivery (or just any form of delivery).

David has faced a myriad of challenges working for the platform. He has had to work in adverse weather conditions, explaining to us that at times he has to ride his motorcycle in the rain to get the delivery on time, and at times has to deal with clients who are unavailable once he has reached the address and a platform support team that takes too long to respond thus leaving him stranded. Additionally, he is the one to pay if the order is damaged (e.g., the order is rained on or the food gets to the customer when cold), otherwise his account will get deactivated.

David continues working on these platforms because he has no alternative. Working late into the night and facing deactivation twice from the platform are some of the things he has had to endure to earn a living. His wish is that the platform should pay more attention to the realities of riders – especially because of all the burden on them – and realise that the job is not easy.

*Names changed to protect worker's identity

Sandor Szmutko / Shutterstock

Evaluating the Impact of NTSA Policy Changes on Kenya's Platform Economy

Since its inception, ride-hailing services have provided new transportation alternatives that appeal to the population of the African continent, especially the youth.

They are currently the popular public transportation option in major cities. In Kenya, ride-hailing services have effectively disrupted older types of public road passenger transport.[25] Customers are drawn to them because they provide convenience at a reasonable cost. They also appeal to people who prefer private transportation for their privacy, safety, and quicker time it takes to travel with these platforms.

As such, this disruptive business model for transport demands a modernised regulatory framework focusing on concerns like licensing, the protection of personal data, taxation, health, safety, etc. Until 2022, Kenya, NTSA relied on the Transport and Safety Act No. 33 of 2012[26] to govern ride hailing services. Some of the provisions included:

• Obtain a licence from the NTSA

• Ensure that their drivers are licensed and insured

• Ensure that their vehicles are roadworthy

• Comply with the NTSA's safety standards

However, in the past, the regulatory body has not been active in enforcing these regulations. The only incident that targeted the ride hailing industry was in 2019, where NTSA moved to court to impound operations of one company in what they termed as illegal operations, as the company was accused of using the wrong licensing to operate and was operating in routes, they were not allowed to operate in.

However, in 2022, the Kenyan platform economy witnessed a pivotal moment with the introduction of the NTSA regulation. The transport regulating body (NTSA) enacted regulations that impacted the ride-hailing sector. These changes have brought both progress and challenges to the forefront, reshaping the landscape for platform workers and companies alike. The major changes in NTSA regulations include:

Licensing Requirements:

NTSA's policy changes introduced stringent licensing requirements for transport network companies (TNCs) operating in Kenya. This move aimed to formalise the industry and ensure a higher level of accountability. On April 15, 2023,[27] NTSA listed 14 platforms as licensed in accordance with the NTSA regulation, 2022.

Framework for Governance:

By extending its comprehensive framework to encompass drivers and passengers, NTSA streamlined operations and enhanced passenger and driver safety. Part of the requirements that promote safety include background checks, vehicle inspection, incident reporting, and safety training.

Commission Cap:

Perhaps the most noteworthy change was NTSA's imposition of an 18% cap on the commission charged by ride-hailing companies. While this remains one of the most contested issues, some platforms, such as Little, have complied without much pushback.

Despite these important changes, there are still ongoing challenges and unresolved issues. These entail the following:

Pricing Mechanisms:

The NTSA regulation, 2022 does not explicitly capture pricing mechanisms for ride-hailing services in Kenya. However, the regulation does require operators to be transparent about their pricing. The regulation also prohibits operators from charging excessive prices. This has sparked a heated debate among the various stakeholders.

On the one hand, this gap has resulted in drivers continuing to shoulder operational costs, with platforms using various pricing strategies that may not align with drivers' interests. On the other hand, platforms continue to enjoy the freedom of defining prices, which is a win for them.

Some people, especially drivers and civil society organisations concerned with the platform economy, feel that NTSA should take an active role in pricing.[28] They argue that the body should define some ground rules, such as a starting fare, to address issues of under-pricing or lower costs that do not consider inflation rates, as is the case in the current economic climate. Platforms, on the other hand, continue to champion against price regulation, citing that it will stifle innovation.

Compliance Concerns:

Some prominent ride-hailing platforms, such as Uber and Bolt, have not fully complied with the 18% commission cap.[29] To bypass this regulation, it emerged from our stakeholder workshop that platforms have introduced hidden charges, reducing drivers' earnings and highlighting the need for greater pricing transparency. As of this reporting, through the help of the Transport Workers Union of Kenya (TAWU), online drivers have presented a petition to parliament shedding light on this issue.

Regulating Competition:

The government's role in regulating competition among platforms remains uncertain. Intense competition on pricing has led to challenges in ensuring fair wages for platform workers.

Enforcement Gaps:

Despite the existence of regulations, there has been limited enforcement to ensure full compliance by platform companies. This lax enforcement has allowed some platforms to continue operating in violation of established rules, adversely affecting workers.

Labour Considerations:

Ride-hailing businesses have referred to their drivers as independent contractors since their start. This implies that drivers are not eligible to employment-related protections and benefits, such as social security and health insurance. There is currently no employment law protection for drivers on ride-hailing apps under Kenyan law. The few considerations in terms of benefits have solely been platform driven.

Platform Changes

The NTSA policy changes have kickstarted a transformative phase in Kenya's platform economy. Platforms have the ability to improve conditions for their workers, while continuing to provide income opportunities. In consultation with the Fairwork team, three platforms agreed to implement eight changes to their policies or practices:

Fair Contracts:

- **Little Ride** and **Little Delivery** included the standard contract between the platform and its drivers on the website to improve accessibility.

Fair Management:

- Although platform workers on the Little platform could appeal deactivations, and in most cases, the platform investigates such disciplinary issues before taking action, this was not documented. **Little Ride** and **Little Delivery** have now included a clear statement for workers to appeal any disciplinary decisions.

- **Little Ride** and **Little Delivery** have added an anti-discrimination policy to their terms and conditions, which is also on their website. The platform has further committed to investigating and dismantling barriers to equal participation for underrepresented or disadvantaged groups such as women.

- As part of their Couriers' Pledge initiative, **Glovo** has improved its anti-discrimination policy where platform workers should not be discriminated against based on race, gender, religion, disability, age, ethnicity, national origin, ancestry, sexual orientation and/or opinion.[30] The policy also includes an anti-sexual harassment statement.

- Also, as part of the Pledge initiative, **Glovo** has started an initiative called 'Project Dada' for women, with a clear aim of dismantling barriers to equal participation for underrepresented or disadvantaged groups. This initiative grants extra safety to women through the help of an SOS button due to the level of violence and harassment experienced.

Pathways to change

This is the third year of the Fairwork Kenya ratings. While there is some progress with some platforms, more work needs to be done. As Fairwork's reach and visibility increases, we see four avenues for contributing to the continued improvement of the Kenyan platform economy (see Figure 2).
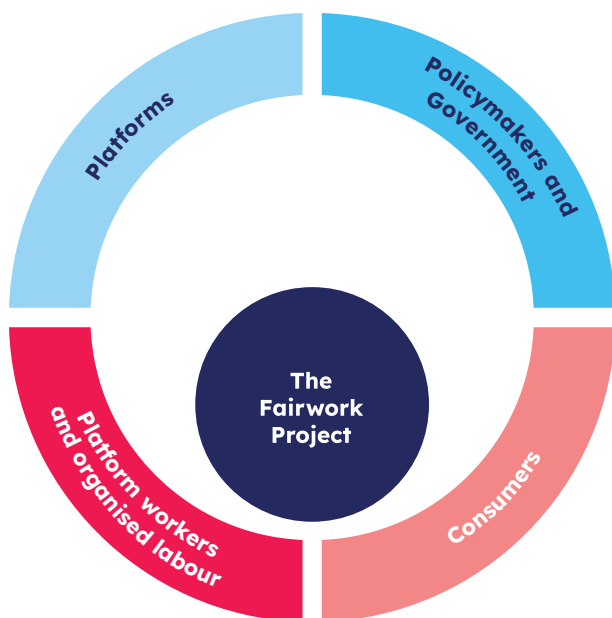

Figure 2: Fairwork's Pathways to Change

Fairwork's theory of change relies on a humanist belief in the power of empathy and knowledge. If they have the economic means to choose, many consumers will be discerning about the platform services they use. Our yearly ratings give consumers the ability to choose the highest scoring platform operating in a sector, thus contributing to pressure on platforms to improve their working conditions and their scores. In this way, we leverage consumer solidarity with workers' allies in the fight for fairer working conditions. Beyond individual consumer choices, our scores can help inform the procurement, investment and partnership policies of large organisations. They can serve as a reference for institutions and companies who want to ensure they are supporting fair labour practices.

Platform

One of the direct ways to create a fairer platform economy in Kenya starts by engaging with digital labour platforms. Building on the success of our last two report launches, platforms have become more familiar with Fairwork ratings, and they engaged more with Fairwork this year. For example, this year, we have actively engaged with eight out of the 12 platforms. Little and Glovo have made changes to policies and practices that impact their workers. While this is progressive, the Fairwork Kenya team aims to build on these engagements to improve more practices and policies in the coming years.

Consumers

Second, we believe that, given the opportunity to make more informed choices, many consumers will choose the most ethical option when faced with a choice between a poor-scoring platform and a better-scoring one. Our yearly ratings allow consumers to select the highest scoring platform operating in a sector, thus contributing to pressure on platforms to improve their working conditions and scores. While the scores have been generally low this year, the aim will be to continue to put pressure on platforms through our engagement and research, which will urge platforms to score better and consumers to support better scoring platforms in Kenya.
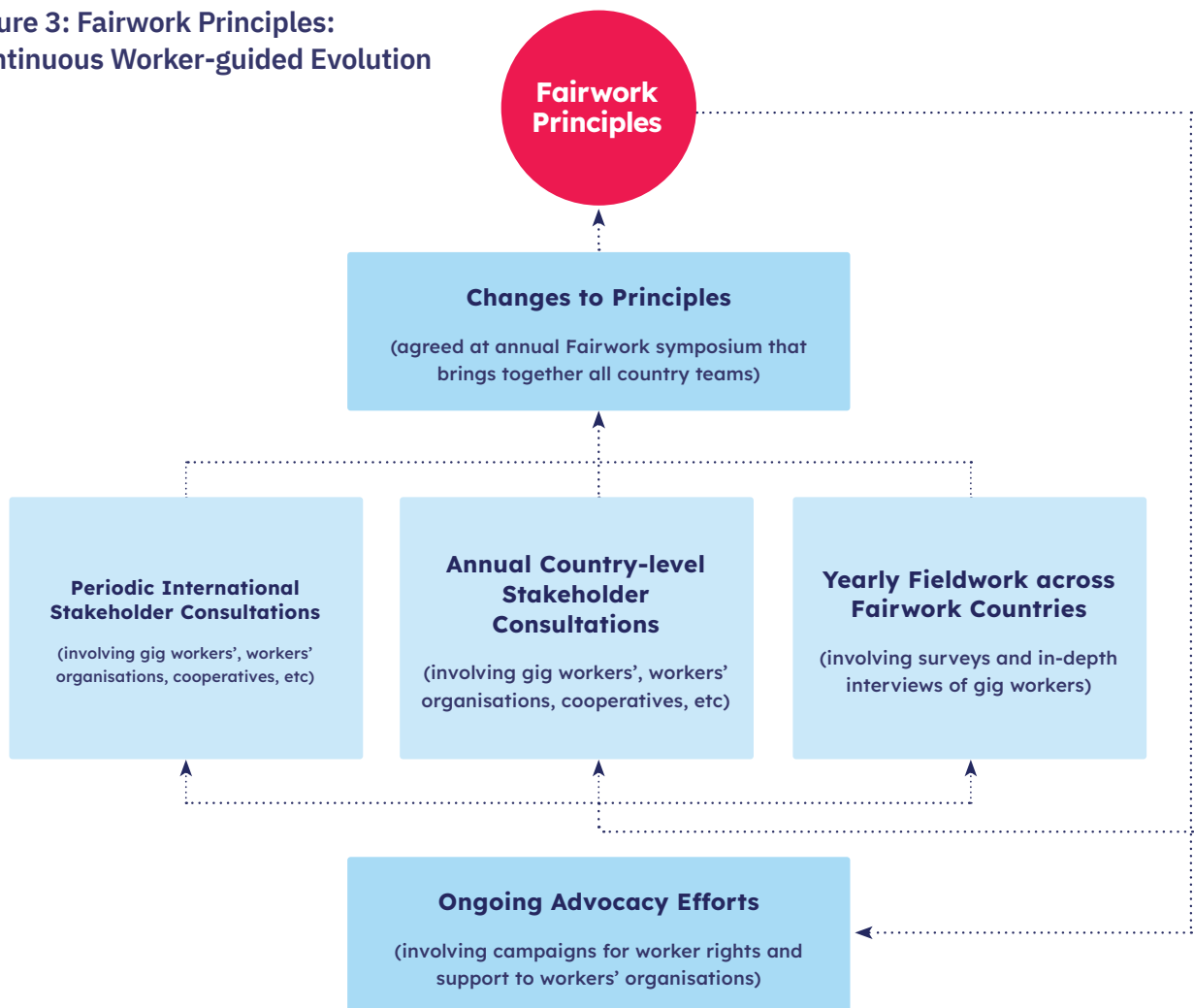
Policymakers and Regulators

Thirdly, Fairwork aims to continue engaging with policymakers to advocate for the rights and protection of all platform workers in Kenya. This can be in the form of dialogues, workshops, and seminars with government representatives. The foremost issue that policymakers should pay attention to is the provision of adequate and meaningful protections for workers regardless of their employment classification. This should also extend to social protections such as overtime compensation, health insurance, accident insurance, and maternity and paternity benefits. While some platforms are currently making efforts to include some of these benefits for workers, policymakers can introduce basic and mandatory social protection benefits that will be stipulated in law. In addition to reduced commissions, policymakers should also ensure that platforms pay workers at least the minimum wage for all their active hours worked.

Platform Workers and Worker Associations

Workers and workers' organisations are at the core of Fairwork's model. First, our principles have been developed and are continually refined in close consultation with workers and their representatives (see Figure 2). Our fieldwork data and feedback from workshops and consultations involving workers inform how we systematically evolve the Fairwork principles to align with their needs.

Figure 3: Fairwork Principles: Continuous Worker-guided Evolution

Fairwork Principles

Changes to Principles

(agreed at annual Fairwork symposium that brings together all country teams)

Periodic International Stakeholder Consultations

(involving gig workers', workers' organisations, cooperatives, etc)

Annual Country-level Stakeholder Consultations

(involving gig workers', workers' organisations, cooperatives, etc)

Yearly Fieldwork across Fairwork Countries

(involving surveys and in-depth interviews of gig workers)

Ongoing Advocacy Efforts

(involving campaigns for worker rights and support to workers' organisations)

Second, through continual engagement with workers' representatives and advocates, we aim to collectively support workers in asserting their rights. Some of such initiatives include providing a solidarity merchandise on our website with free posters which helps spread awareness of the challenges platform workers experience and facilitates an increase in collective worker groups. A key challenge in the platform economy is that workers are often isolated, atomised, and competing with one another. Furthermore, regulators do not fully comprehend the extent of platform work, and the independent contractor classifications which platforms exploit. As such, the platform work model by design prevents workers from connecting and developing solidarity networks. But unions and associations in Kenya, such as the Transport Workers Union (TAWU), Organisation of Online Drivers Association (OOD) and others have sought to represent platform workers in the ride-hailing sector. Some workers we interviewed indicated their interest in joining a union or collective worker body. While this is mainly a reality for mainly ride-hailing platforms, we urge collective worker bodies to form associations in the delivery and domestic platform work sectors in Kenya. Our principles can provide a starting point for envisioning a fairer future of work and setting out a pathway for workers to work together.

The fifth Fairwork Principle, on the importance of fair representation, is a crucial way in which we aim to support workers to assert their collective agency in Kenya.

There is nothing inevitable about poor working conditions in the platform economy. Despite their claims to the contrary, platforms have substantial control over the nature of the jobs that they mediate. Workers who find their jobs through platforms are ultimately still workers, and there is no basis for denying them the key rights and protections that their counterparts in the formal sector have long enjoyed. Our scores show that the platform 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 platform economy – paints a picture of what it could become.

Djohan Shahrin / Shutterstock

The Fairwork Pledge

As part of this process of change, we have introduced the 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 better labour practices, guided by our five principles of fair work. Organisations who sign the pledge get to display our badge on organisational 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 ON THE PLEDGE, AND HOW TO SIGN UP, IS AVAILABLE AT

WWW.FAIR.WORK/PLEDGE

Fairwork
Official Partner
Together for Fair Platform Work

Fairwork Scoring System

Which companies are covered by the Fairwork principles?

The International Labour Organisation (ILO) defines a "digital labour platform" as an enterprise that mediates and facilitates "labour exchange between different users, such as businesses, workers and consumers"[31]. That includes digital labour "marketplaces" where "businesses set up the tasks and requirements and the platforms match these to a global pool of workers who can complete the tasks within the specified time"[32]. Marketplaces that do not facilitate labour exchanges - for example, Airbnb (which matches owners of accommodation with those seeking to rent short term accommodation) and eBay (which matches buyers and sellers of goods) are obviously excluded from the definition. The ILO's definition of "digital labour platform" is widely accepted and includes many different business models[33].

Fairwork's research covers digital labour platforms that fall within this definition that aim to connect individual service providers with consumers of the service through the platform interface. Fairwork's research does not cover platforms that mediate offers of employment between individuals and employers (whether on a long-term or on a temporary basis).

Fairwork distinguishes between two types of these platforms. The first, is 'location-based' platforms where the work is required to be done in a particular location such as delivering food from a restaurant to an apartment, driving a person from one part of town to another or cleaning. These are often referred to as 'gig work platforms'. The second is 'cloudwork' platforms where the work can, in theory, be performed from any location via the internet.

The thresholds for meeting each principle are different for location-based and cloudwork platforms because location-based work platforms can be benchmarked against local market factors, risks/harms, and regulations that apply in that country, whereas cloudwork platforms cannot because (by their nature) the work can be performed from anywhere and so different market factors, risks/harms, and regulations apply depending on where the work is performed.

The platforms covered by Fairwork's research have different business, revenue and governance models including employment-based, subcontractor, commission-based, franchise, piece-rate, shift-based, subscription models. Some of those models involve the platforms making direct payments to workers (including through sub-contractors).

How does the scoring system work?

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, policymakers, trade unions, and academics), and in-country meetings with local stakeholders.

Each Fairwork Principle is divided into two thresholds. Accordingly, for each Principle, the scoring system allows the first to be awarded corresponding to the first threshold, and an additional second point to be awarded corresponding to the second threshold (see Table 1). The second point under each Principle can only be awarded if the first 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.

A platform can therefore receive a maximum Fairwork score of ten points. Fairwork scores are updated on a yearly basis; the scores presented in this report were derived from data pertaining to the 12 months between March 2023 and September 2023 and are valid until September 2024.

Table 1 Fairwork: Scoring System

Principle	First point	Second point	Total
Principle 1: Fair Pay	Ensures workers earn at least the local minimum wage after costs	Ensures workers earn at least a local living wage after costs	2
Principle 2: Fair Conditions	Mitigates task-specific risks	Ensures safe working conditions and a safety net	2
Principle 3: Fair Contracts	Provides clear and transparent terms and conditions	Ensures that no unfair contract terms are imposed	2
Principle 4: Fair Management	Provides due process for decisions affecting workers	Provides equity in the management process	2
Principle 5: Fair Representation	Assures freedom of association and the expression of worker voice	Supports democratic governance	2

Maximum possible Fairwork Score   10 /10   Fairwork

Principle 1: Fair Pay

1.1 - Ensures workers earn 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[34]. Workers' costs sometimes mean their take-home earnings may fall below the local minimum wage[35]. 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, such as mandatory training, which are also considered active hours[36]. To achieve this point platforms must ensure that work-related costs do not push workers below local minimum wage.

The platform takes appropriate steps to ensure both of the following:

- Payment must be on time and in-full.

- 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[37].

1.2 - Ensures workers earn 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 work-related costs do not push workers below local living wage.

The platform takes appropriate steps to ensure 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[38] [39].

Principle 2: Fair Conditions

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 basic steps to mitigate them.

The platform must satisfy the following:

- Adequate equipment and training is provided to protect workers' health and safety from task-specific risks[40].

- These should be implemented at no additional cost to the worker.

- The platform mitigates the risks of lone working by providing adequate support and designing processes with occupational safety and health in mind.

2.2 – Ensures safe working conditions and 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 they earn from platform work, platforms should ensure that workers are compensated for loss of income due to inability to work. In addition, platforms must minimise the risk of sickness and injury even when all the basic steps have been taken.

The platform must satisfy ALL of the following:

- Platforms take meaningful steps to ensure that workers do not suffer significant costs as a result of accident, injury or disease resulting from work.

- Workers should be compensated 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.

- The platform implements policies or practices that protect workers' safety from task-specific risks[41]. In particular, the platform should ensure that pay is not structured in a way that incentivizes workers to take excessive levels of risk.

Principle 3: Fair Contracts

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[42]. 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 other party 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/terms & conditions are presented in full in clear and comprehensible language that all workers could be expected to understand.

- Workers have to sign a contract and/or give informed consent to terms of conditions upon signing up for the platform.

- The contracts/terms and conditions are easily accessible to workers in paper form, or via the app/platform interface at all times.

- Contracts/terms & conditions do not include clauses that revert prevailing legal frameworks in the respective countries.

- Platforms take adequate, responsible and ethical data protection and management measures, laid out in a documented policy.

3.2 – Ensures that no unfair contract terms are imposed (one additional point)

In some cases, especially under 'independent contractor' classifications, workers carry a disproportionate amount of risk for engaging in a contract with the service user. 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 contractual status of the worker is classified, the platform must satisfy ALL of the following:

- Every worker is notified of proposed changes in clear and understandable language within 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.

- The contract/terms and conditions neither include clauses which exclude liability for negligence nor unreasonably exempt the platform from liability for working conditions. The platform takes appropriate steps to ensure that the contract does not include clauses which prevent workers from effectively seeking redress for grievances which arise from the working relationship.

- In case platform labour is mediated by subcontractors: The platform implements a reliable mechanism to monitor and ensure that the subcontractor is living up to the standards expected from the platform itself regarding working conditions.

- In cases where there is dynamic pricing used for services, the data collected and calculations used to allocate payment must be transparent and documented in a form available to workers.

Principle 4: Fair Management

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 potentially losing their income. Workers may be subject to other penalties or disciplinary decisions without the ability to contact the service user or 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 an easily accessible channel for workers to communicate with a human representative of the platform and to effectively solve problems. 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 and effectively appeal low ratings, non-payment, payment issues, deactivations, and other penalties and disciplinary actions. This process is documented in a contract and available on the platform interface[43].

- 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.

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:

- The platform has an effective anti-discrimination policy laying out a clear process for reporting, correcting and penalising discrimination of workers on the platform 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[44].

- The platform has measures in place to promote diversity, equality and inclusion on the platform. It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.

- Where persons from a disadvantaged group (such as women) are significantly under-represented among a pool of workers, it seeks to identify and remove barriers to access by persons from that group.

- If algorithms are used to determine access to work or remuneration or the type of work and pay scales available to workers seeking to use the platform, 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

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[45] for the expression of collective worker voice that allows ALL workers, regardless of employment status, to participate without risks.

- There is a formal, written statement of willingness to recognise, and bargain with, a collective, independent body of workers or trade union, that is clearly communicated to all workers, and available on the platform interface[46].

- Freedom of association is not inhibited, and workers are not disadvantaged in any way for communicating their concerns, wishes and demands to the platform, or expressing willingness to form independent collective bodies of representation[47].

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. In a written document available at all times on the platform interface, the platform publicly and formally recognises an independent collective body of workers, an elected works council, or trade union. This recognition is not exclusive and, when the legal framework allows, the platform should recognise any significant collective body seeking representation[48].

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Please note that this report contains sections in common with other Fairwork reports, notably the Fairwork Framework, parts of the Impact and Next Steps section and the Appendix.

ENDNOTES

A COLLABORATION BETWEEN

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1 The hourly calculation is for a 'general worker or labourer' based on figures from WageIndicator which draws from the Labour Institutions Act (No 12 of 2007), The Regulations of Wages Order 2022.http://kenyalaw.org/kl/fileadmin/pdfdownloads/LegalNotices/2022/LN125_2022.pdf

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34 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.

35 The ILO defines minimum wage as the "minimum amount of remuneration that an employer is required to pay wage earners for the work performed during a given period, which cannot be reduced by collective agreement or an individual contract." Minimum wage laws protect workers from unduly low pay and help them attain a minimum standard of living. The ILO's Minimum Wage Fixing Convention, 1970 C135 sets the conditions and requirements of establishing minimum wages and calls upon all ratifying countries to act in accordance. Minimum wage laws exist in more than 90 per cent of the ILO member states.

36 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 and undertaking mandatory training (i.e., training activities that must be completed for workers to continue accessing work on the platform). 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.

37 In order to evidence this, where the platform is responsible for paying workers the platform must either: (a) have a documented policy that ensures the workers receive at least the local minimum wage after costs in their active hours; or (b) provide summary statistics of transaction and cost.

38 Where a living wage does not exist, Fairwork will use the Global Living Wage Coalition's Anker Methodology to estimate one.

39 In order to evidence this, where the platform is responsible for paying workers the platform must either: (a) have a documented policy that ensures 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 evidencing all workers earn a minimum wage aftercosts.

40 The ILO recognises health and safety at work as a fundamental right. Where the platform directly engages the worker, 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."

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42 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.

43 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.

44 In accordance with the ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation and applicable national law.

45 A mechanism for the expression of collective worker voice will allow workers to participate in the setting of agendas so as to be able to table issues that most concern them. This mechanism can be in physical or virtual form (e.g. online meetings) and should involve meaningful interaction (e.g. not surveys). It should also allow for ALL workers to participate in regular meetings with the management.

46 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."

47 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.

48 If workers choose to seek representation from an independent collective body of workers or union that is not readily recognized by the platform, the platform should then be open to adopt multiple channels of representation, when the legal framework allows, or seek ways to implement workers' queries to its communication with the existing representative body.
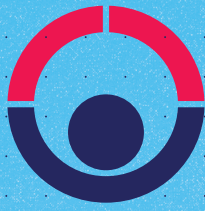
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