



# The Role and Importance of Public Policies. How Do Governments Should Intervene to Protect the Rights of Employees in Digital Labour Platforms

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**Abstract:** Platform work has gained policy attention in recent years due to the expansion and diversification of business models and their growth in terms of employment and income. Today, we are all facing new forms of employment, which are directly influencing employment policies, the labour market, the informality of the economy, and the creation of new jobs. Working on digital platforms is one of the new forms of employment created in recent years, as a result of the development of technology and digitalization. Employees engaged in digital work platforms are encountering major challenges, such as obtaining employee status, employment contracts, and the lack of a legal framework. On the other hand, states with their law enforcement bodies are facing challenges in designing appropriate policies for this category of employees. The purpose of this paper is to address the importance of public policies and the role played by governments, together with law enforcement bodies, to create the right package of public policies and the legal framework, in order to respect the principle of decent work in digital work platforms. . Using the qualitative method, in this paper, the purpose of drafting public policies by governments, to guarantee the rights at work for employees of digital platforms, will be mainly related to the work contract, working time, payments, insurance at work, the storage of personal data, and the evaluation of work through algorithms.

## 1. INTRODUCTION

Today we all talk about digital work, and digital work is a very important part of digitalization of work. Digital platforms are directly affecting the country's economy, the formalization and informality of the economy, and a re-dimension of the concept of work and the performance of work. All types of platforms, such as delivery platforms, location-based platforms, and platforms that operate online affect the business process of a country's production, distribution, demand, supply, and matching operations. Location-based platforms, including the delivery sector and the taxi sector, play a special role in delivering goods or providing services, with customers booking taxis through the application and paying for the driver's vehicle.

Work in digital platforms is often organized in the request to perform some small tasks that directly affect the production process in a certain country. The European Commission has defined digital work platforms as internet-based companies that facilitate and organize work provided by employees or self-employed, for third-party clients, the model of creating such a business is based on technology and algorithms (European Commission, 2021). This has created what is widely known as "work on digital platforms" which refers to a wide range of agreement/arrangement such as casual work, dependent self-employment, informal work, piecework, workplace, group work, a wide range of sectors (Work, 2019). A platform creates a collaborative environment and

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sets the rules for all participants. The ecosystem created by digital work platforms includes parties that use the platform to engage in value-creating interactions, however, the ecosystem may also include other actors, such as data partners or industry actors that do not participate directly in the platform (Parker et al., 2016). Digital labour platforms are designed to act as intermediaries between producers and consumers, facilitating a direct connection between them. Platforms also provide the infrastructure and governance conditions for labour exchange and facilitate related compensation (Parker et al., 2016).

Digital labour platforms have a very wide geographical spread, statistical data shows that more than 500 digital work platforms are operating in Europe, and more than 28 million people within the EU work through these platforms and it is expected that this number is likely to reach 43 million people by 2025 (Eurofound, 2018). The main problem or challenge faced by employees engaged in digital platforms is closely related to their legal status. Digital platforms classify workers as self-employed and conclude service contracts with them and not employment contracts. Referring to labour legislation in almost every country, the legal status of the employee is closely related to the benefits of the rights at work, rights guaranteed in the labour law. Being classified as self-employed, these workers are excluded from benefiting from social schemes. The ineffectiveness of the social protection scheme affects labor costs that are unfairly charged to be paid by the employee and not by the employer. All these are in open contradiction with the international principles of decent work.

According to the guidelines of the National Organization for Labour and Employment, workers have informal work if their employment relationship, in law or practice, is not subject to national labour legislation, income tax, social protection or rights to employment benefits such as notice, severance pay, etc (International Labour Conference, 2015). For these reasons, it is necessary to create the right policies by the states in an independent manner in their national legislations, as well as the drafting of a regulatory framework at an international level. Drafting a legal framework would help not only in guaranteeing the rights of work for these categories of employees but also in regulating employment policies for digital employees. The purpose of this article is to identify the problems in digital platforms, the challenges faced by employees and the proposals for the drafting of appropriate policies that should be drawn up by the governments of the countries and why not the drafting of an international convention by the International Labour Organization. The International Labour Organization is a United Nations agency that aims to establish international labour standards, promote rights at work, social dialogue, and increase social protection. The challenge for all of us is to implement and take measures to guarantee the standards set by the ILO, but respecting them in the digital world of work and in the time of the development of artificial intelligence is challenging.

## 2. THE CHALLENGES OF WORKING ON DIGITAL LABOUR PLATFORMS

The biggest challenge that paves the way for other challenges and the lack of enjoyment of rights at work, is the legal status of the employee. Employees of digital platforms are classified as self-employed and are therefore exempt from any legal benefits enjoyed by employers who are in a traditional employment relationship. This shows that the whole world was unprepared for this new crowd of workers, who are not really enjoying any of the rights at work provided for in the national legislation. Although they are classified as self-employed, they actually have very little control over their work, they cannot set prices, they are required to wear uniforms, they cannot choose the order of their tasks, or they are dependent on the client in different ways (Lane, 2020). Control can be exercised through technology-enabled monitoring, with the algorithm taking the place of a traditional manager (Lane, 2020). The only reason why the workers of the digital labour

platforms are classified as self-employed by the digital platforms is to avoid these platforms from the obligations that the employers have according to the legal provisions in the labor legislation. Treating them as self-employed creates what today is called the grey area of employment or false self-employment (Dieuaide & Azaïs, 2020).

Due to the lack of classification as employed, employees of digital platforms are also excluded from social insurance schemes, they cannot benefit from a minimum wage, maternity leave, medical report, unemployment compensation in case of accidents at work, unpaid vacations, they do not contribute to the future pension scheme, etc (Behrendt & Nguyen, 2019). Failure to benefit from social protection schemes leaves workers vulnerable to labour market excesses, undermines their rights and dignity, exacerbates poverty and inequality, and threatens the implicit social contract of modern societies (Behrendt & Nguyen, 2019). Another challenge for working on digital platforms is the unstable salary and the lack of minimum wage guarantee. This comes as a result of the organization of work in some sectors of digital platforms, for example, the employees of the platforms that operate online, perform small, frequent tasks but in a short time frame, this leads to a lack of calculation in the right way of their remuneration for these employees, their remuneration is calculated in work volume and not in regular hours (Stefano, 2016).

According to delivery or taxi digital labour platforms, the employees are paid only for the delivery without counting the route that the taxi driver or motorbike takes to deliver the order or the client, or not calculating the time it takes to wait for the client. This situation will bring instability in income for the workers of the digital platforms, creating other challenges for the state bodies in drafting the appropriate policies. One day there may be a lot of work, but the next day very little, making financial planning difficult (Wood et al., 2019). Guaranteeing the minimum wage for employees of digital platforms would bring many changes in their employment contracts. The minimum wage guarantees a standard of living at a minimum level, for all employees who have an individual employment contract, guaranteeing them an income to meet the basic needs for food, shelter, and health care. On December 14, 2022, the European Parliament adopted the Directive (EU) 2022/2041 (European Parliament and Council, 2022) on minimum wages, which guarantees the appropriate legal standards for the minimum wage for all member countries of the European Union, intending to improve working conditions and protection of employees. The purpose of this directive is to promote the connection of collective contracts, or organizations of workers in digital platforms, to help them have access to salary forecasts in this sector of the economy. The conclusion of collective contracts and the engagement of employees in different unions will orient more towards the increase of demands to have a minimum wage. All member countries of the European Union must have a system of minimum wages, the level of which must cover the expenses and basic demands of the employees. The Directive (EU) 2022/2041 (European Parliament and Council, 2022) encourages all member states to create clear mechanisms for guaranteeing the minimum wage, including, in addition to employees, trade unions.

Work on digital platforms is closely related to the operation of algorithms. Algorithms are used in these platforms for many work processes, for example in the division of tasks, in the evaluation of the employee for the work done, the analysis of the data of the users of the platform, etc. Algorithms serve as mediators and connectors between customers and workers in a fast and efficient way. When a customer is looking for a taxi, the algorithm helps him to find and contact the taxi that is located closest or the taxi employee that has the best ratings from customers. However, this working relationship related to algorithms makes some work processes in digital platforms to be automated, such as employee evaluation, dismissal, and exit from the profile in the application, all of these are challenges to be solved in such a way that the rights at work for platform employees are respected and

developed (Möhlmann et al., 2021). These algorithms play a key role in how digital platforms such as Uber, Upwork, Fiverr, and other gig economy platforms operate, often replacing the traditional role of human managers (Rosenblat & Stark, 2017). The right to organize in a union and the conclusion of collective contracts are two of the basic rights in the work that the employees of the digital platforms are not in conditions to enjoy. The lack of benefit from these rights is directly related to their classification as independent workers and not as employees. Even these rights are mainly related to the traditional employment contract which is regulated by the contracts provided for in the labour law. Employees often work independently from each other, they do not have an office or an area where they gather, physical interaction is limited, and in many cases, they do not know each other and do not even know where they have colleagues. This type of organization prevents the workers of the platforms from being organized in a union or collective talks since the unity of the unions is solidarity and joint action (Aloisi, 2016). For these reasons, public policy intervention is necessary and in an urgent need to ensure more equal rights for employees of digital platforms.

### **3. THE IMPORTANCE OF DRAFTING PUBLIC AND LEGAL POLICIES TO REGULATE WORK ON DIGITAL PLATFORMS.**

The importance of proposing and adopting appropriate legal policies and measures to regulate the labour relationship in digital work platforms is of vital importance. First of all, it is important to guarantee a safe, fair working environment, with opportunities for all employees. Secondly, it is important to create an economy with low levels of informality, the more workers are employed on digital platforms and without employment contracts, the more informality we will have in the labour market, and therefore in the economy of a country. The inclusion of platform workers in social protection schemes means more monetary income for the state budget, which translates into more social protection for the entire population. The use of platforms and new employment modalities in general generates not only challenges but also opportunities for increasing social protection, the fact that the platforms work through electronic means of payment means that income is often observable, thus preventing informal transactions (Apella et al., 2023). The new labour agreements that have recently emerged should be seen as new opportunities to design more worthy and comprehensive policies to benefit from social protection. In this context, the first initiative that should be taken is precisely the determination of the legal status of these employees. States in their national legislations, by drafting specific legal provisions, must recognize these employees with the legal status of employees. This legal provision carries in itself great importance in the definition of legal agreements in digital work platforms. Recognition as an employer before the law means the guarantee of all basic rights at work. Thus, these employees have the right to benefit from a minimum wage, rights to paid vacations, and protection against unfair dismissal from the platform.

An opening in legal terms would be the drafting of a convention by the International Labour Organization, which would aim to regulate labour contracts on digital platforms. The drafting of a convention would oblige the member states of the ILO through ratification to adopt a legal framework that would meet the standards established in the convention. The drafting of a convention by the ILO is closely related to the mission of creating this organization at an international level, the ILO has been subject to criticism on many fronts, it remains the main body of the UN charged with establishing labour standards, with the unique quality of tripartism, and therefore a key factor in ensuring a framework of decent work standards in this field (Fredman et al., 2021). The drafting of policies to regulate employment in digital platforms should focus on three important issues, firstly empowering the employees of digital platforms by classifying them as employed and not self-employed, secondly guaranteeing basic rights and freedoms at work and finally providing concrete legal measures for fair competition between digital platforms.



Concerning safety and health at work, platform workers encounter difficulties in their work environment. The problems of the lack of health and safety are also related to the fact of lack of an employment contract, and a legal framework for welfare, otherwise, since this employment agreement is not regulated, in cases of job insecurity, these employees have nowhere to direct their complaints. The delivery and transport sectors are more at risk and they face more security risks at work. According to studies, a large number of workers on digital platforms are excluded from occupational health and safety insurance schemes, “facing significant risks without adequate support for their physical and mental well-being” (Aloisi & De Stefano, 2022). The pressure that these employees have to accomplish as quickly as possible, hurrying to deliver orders and having a high ranking in a job affects and causes high levels of stress and fatigue (Aloisi & De Stefano, 2022). The nature of algorithm-based work pushes workers to high intensity, increasing the risks of accidents due to reduced concentration and fatigue (Huws et al., 2017).

For the reasons added above, the intervention of state bodies is necessary in the drafting of legal provisions that regulate accidents at work, workloads at work, benefits in cases of accidents at work, and the establishment of a special body to monitor working conditions. A helpful policy for the control of work in digital platforms is the expansion of the powers of the Labour Inspectorate to monitor working conditions, safety and health in digital work. A more important step in designing the right policies for the employees of digital platforms is the collection of data and the analysis that should be done on the characteristics and needs of the employees. Being that the work on these platforms is something new, the collection of data can be difficult, however, it can be a good instrument to orient policies towards more urgent issues, where the intervention of state bodies is necessary. A new series of policy briefs will address the economic rationale for platform work regulation, reviewing ad-hoc regulations of platform jobs around the world, considering the evidence on the impact of platform regulation on employment and discussing how the regulation of the work of the platform can coordinate and inform the general policy of the labor market (World Bank, 2023).

#### 4. INTERNATIONAL PRACTICES AND LESSONS FOR PUBLIC POLICY

In 2021, Spain adopted legislation known as the “Rider Law” (Spain, 2021), which aimed to regulate the employment status of digital platform workers, addressing issues such as the lack of social protection, unstable income, and lack of employment stability. This law aims to classify platform workers as employed, earning the right to benefit from the rights and freedoms in the employment relationship. The law has addressed the element of the algorithm in this work relationship, forcing the platforms to be transparent in the way the algorithm will work for the evaluation of the employee, how the work will be distributed to all employees and above all the conclusion of the work contract. After the approval of the law, there was an improvement in working conditions because some platforms implemented the law and changed the work structure by adapting it to the legal provisions, even though some platforms and employees expressed their opposition saying that the flexibility they had before was very necessary. This law constitutes one of the first cases in Europe where a state forces such a classification for platform workers, creating a precedent that can be followed in other countries (Todolí-Signes, 2021).

France approved the “Status of Professional Mediation” in 2016 (République française, 2016), the purpose of this legal act is to provide employees of digital platforms with access to their rights at work. This act emphasizes the importance of collective bargaining to reach an agreement in determining wages and other working conditions. It also implies that employees should have access to information and training, as well as the opportunity to form unions to protect their interests (Gomes, 2022). Regarding the right to benefit from social schemes, the law provides that all

employees, regardless of employment status, must be subject to the benefit of the right to social protection (European Agency for Safety and Health at Work, 2022). However, even in the case of the French law, there were cases from platforms and workers who opposed these changes in the law. Some even went to court while others challenged the law by rejecting its implementation and classifying the jobs as independent. This has caused a wide debate at the political and social level in France, about how this new sector should be regulated (Guinea et al., 2024)

In 2021, Italy adopted Law No. 128/2021 “Provision regarding the protection of the rights of workers of digital platforms (Italy, 2021)”<sup>3</sup>, the purpose of this law is to classify them as self-employed and to provide these workers with social, economic and legal protection. Italian law has been clearer in the provision of legal provisions, both in relation to legal status and the benefit of the right to social protection. As for the functioning of the algorithm, the law provided mandatory provisions that forced the platforms to take all measures to increase the transparency of how the algorithm works and the evaluation of the work and the distribution of their work daily. This legal provision related to algorithms is a step towards reducing the asymmetry of information and power between employees and platforms (Aloisi, 2020). Also, some employees prefer the flexibility offered by self-employment status, giving rise to a wide-ranging debate on balancing flexibility and protection (Ratti, 2021).

The United Kingdom does not yet have a specific law that regulates detailed working conditions and rights for employees of digital platforms, however, some attempts and court decisions have had a role in regulating this employment contract. One of the issues that has marked the history of the legal classification of digital employees, is the decision given by the Court of Appeal of the United Kingdom, which recognized Uber employees as employees (Court of Appeal (Civil Division) Uber BV v. Aslam, 2019). A group of drivers of the Uber platform asked to know the status of the employee, they emphasized that it is necessary to have the right to enjoy the legal provisions for employees, to have better working conditions, to have rights at work, specifying the need minimum wage and paid holidays. These include the creation of a national registry for work platforms and the standardization of working conditions to ensure better protection for employees (Adams-Prassl, 2022).

## 5. CONCLUSION

The drafting of policies by law enforcement bodies in the country has a special importance in the promotion of rights at work, in the promotion and implementation of basic principles at work, the implementation of the concept of decent work. Respecting the rights at work is a legal obligation for every country governed by the rule of law. The importance of drafting appropriate policies for labour relations on the platform is also of great importance for the development of the economy of a country, to fight not only poor working conditions but also to control the informality of the economy. Employment policies are another important element that should be oriented towards regulating the technology element in labour relations and be seen as inclusive. Work on digital platforms is developing at a high speed, while all this development is accompanied by the lack of determination of legal status, bringing legal gaps regarding minimum protection, regular salary, social security and paid vacations. Well-structured policies also have an impact on the proper taxation of these employees and the correct declaration of the population that is employed on digital platforms. Moreover, these policies create a stable basis for economic development, promoting a fair and stable labour market, where workers' rights are protected and working conditions are safe and predictable.

<sup>3</sup> Law No. 128/2021. Provisions regarding the protection of workers on digital platforms. Official Gazette of the Italian Republic, August 12, 2021.

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