

LOST IN A CROWD: HOW CROWDWORKERS ARE DENIED THEIR RIGHTS AT WORK

Part of the Taken for a Ride Series



INTERNATIONAL
LAWYERS ASSISTING
WORKERS NETWORK

This report was prepared by Professor Miriam A. Cherry for the International Lawyers Assisting Workers (ILAW) Network. The ILAW Network is a membership organization composed of over 1,400 trade union and workers' rights lawyers in over 100 countries. The mission of the ILAW Network is to unite legal practitioners and scholars in an exchange of information, ideas and strategies in order to best promote and defend the rights and interests of workers and their organizations wherever they may be.

The information contained in this report is provided for informational purposes only and should not be construed as legal advice on any subject matter. Information in this report may not constitute the most up-to-date legal or other information. The report contains links to other third-party websites, the ILAW Network does not recommend or endorse those contents, the links are only for convenience for the reader. The views expressed are those of the individual authors - not those of the ILAW Network as a whole. No reader should act or refrain from acting on the basis of this information without first seeking legal advice from counsel in the relevant jurisdiction.

Table of Contents

1. INTRODUCTION	4
2. CONNECTIONS TO PREVIOUS REPORTS	5
3. DEFINITIONS AND BACKGROUND	6
3.1 DEFINING WORK IN THE DIGITAL PLATFORM ECONOMY	6
3.2 SIZE OF THE CROWDWORK SECTOR	8
3.3 DEMOGRAPHICS AND MOTIVATIONS	9
4. CROWDWORK AS INVISIBLE LABOUR	10
5. LEGAL ISSUES AND PRECEDENTS FOR CROWDWORKERS	13
6. DIRECTIONS FOR THE FUTURE OF WORK:	19
6.1 OFF THE ROAD	19
6.2 ADDITIONAL GOALS FOR CROWDWORK	19
6.3 ILO PROPOSED STANDARD	20
6.4 CONCLUSION	22

Lost in a Crowd: How Crowdworkers are Denied Their Rights at Work

Part of the *Taken for a Ride* Series

By Miriam A. Cherry

Upon waking, I look at my phone. No messages, so I turn on my laptop and get it looking for some work. As I brush my teeth, an alarm goes off ... I grab my laptop and head to the kitchen to get breakfast, but before I can crack an egg the alarm goes off again. This time it is a survey that takes me over an hour, but when I get to the last page it tells me I don't qualify and that I won't be paid for what I had done up to that point. ... I need \$100 today to pay the rent, buy some groceries, and pay for my daughter's school trip, but I'm not sure I'm going to get it. By bedtime, after being at my computer for over 12 hours, I only have \$20. Tomorrow I'll have to work extra hard, or maybe skip breakfast, or I might not make the rent.

-Kristy Milland, Former Crowdworker
and Founder of Turker Nation¹

1. INTRODUCTION

If asked about digital platform work, most people would immediately think about rideshare and delivery drivers. Transportation-related platforms have become so ubiquitous and enmeshed in everyday routines that “Uber” is now used as a verb, and “uberization” means the adoption of a digital platform business model.² Rideshare and delivery, however, are only one part of the overall landscape of digital platform labour. In the last decade, many businesses have been shifting toward computer-intermediated methods of working. On-demand platforms have expanded to provide many kinds of location-based in person services, including tasks as diverse as home repair, beauty and cosmetic styling, and domestic cleaning services. Beyond in-person services, studies estimate that there are over one hundred and fifty million workers across the world who work on digital platforms, performing various data-related tasks completed wholly on the computer.

Computer crowdwork has in fact become a transnational business endeavour, creating a scalable on-demand workforce that provides the back-office services that power many internet sites and new technologies. Across the world, computer crowdworkers are performing microtasks in transcription and data annotation, as well as performing longer-term freelance contracts to perform many tasks, including software programming and accounting. To the end user of many websites or artificial in-

¹ Kristy Milland, *Crowd Work, The Fury and the Fear*, DIGITAL EMPLOYMENT AND WORKING CONDITIONS IN EUROPE (Foundation for European Progressive Studies, 2016), https://gallery.mailchimp.com/2454a7ce7948205bbd7c24311/files/kristy_milland_chapter_edited.pdf

² Uber notes that it has over 7 million drivers on its platforms around the world each month. Dara Khosrowshahi, *Only on Uber: Helping to make driving and delivering safer, fairer, and easier*, UBER, (Sep. 17, 2024), <https://www.uber.com/newsroom/onlyonuber24/#:~:text=There%20are%20more%20than%207,day%20in%20and%20day%20out.>

telligence technologies, however, such work is obscured or invisible, with human work often disguised or attributed to computers. While many of the tasks posted are done so by requesters in the EU and the United States, the work has often been offshored and carried out by workers in the Global South. More recently, crowdworkers in Kenya, Uganda, and India have been involved in piecework training of artificial intelligence (AI) large language models like ChatGPT.³ While work has traditionally been conceived of as a localized activity, and largely regulated on a local level, many forms of crowdwork are truly multinational enterprises.

The next section of the report sets out the connections between the previous *Taken for a Ride* reports with the current document, noting the differences and similarities in the analysis. The third section provides certain definitional terms as well as information about the workers within these sectors, including what we know about their location, education, gender, and disability status. Section 4 focuses on the ways in which the problems of crowdworkers are coextensive with many of the workers' invisibility. Some of these concerns include the low rate of remuneration as well as difficult working conditions on digital platforms. Then, Section 5 turns to legislation and decisional law. While most of the court cases focus on rideshare and delivery, (at least until recently), this section describes such litigation, as well as the extent of recent legislation. Finally, the last section contains some responses to the ILO proposed standards as well as additional thoughts on where this might be heading – on unpaved roads. Given the growing importance of crowdwork, as well as the ILO's proposed standards on decent work in the platform economy, it is important to include the millions of other non-rideshare digital platform workers in that discussion. The ILO standard's provisions on collective rights could be strengthened through a rebuttable presumption of employment and through tailoring the protections to the needs of all platform workers. Because of the multinational nature of many of these digital labour platforms, a cooperative and coordinated approach to regulation and enforcement is imperative to the delivery of worker rights.⁴

2. CONNECTIONS TO PREVIOUS REPORTS

As noted in the Introduction, there are significant connections between the analysis of rideshare and delivery drivers with that of other location-based gig workers and

computer crowdworkers. Given the visibility of rideshare platforms, the vast majority of legal proceedings regarding the threshold issue of employment status have involved rideshare and delivery companies. As extensively documented in ILAW's previous publications, *Taken for a Ride*⁵ and *Taken for a Ride 2*,⁶ national legislatures, courts, and administrative bodies around the world have considered various frameworks for regulating delivery and transportation network companies with sometimes inconsistent and contradictory results.⁷ Rideshare drivers have protested and sought redress in courts over a series of worker rights issues. In those lawsuits, rideshare and delivery drivers noted low rates of remuneration.⁸ Others noted the lack of typical benefits that would normally accompany employment status, such as a lack of overtime and safety regulation. Drivers have complained about summary dismissal and termination from platforms, often with no notice or redress.⁹

Other matters have also been litigated concerning the dense boilerplate in platforms' terms of services as well as the forum where the cases would be heard. In *Uber Technologies v. Heller*, Canada's Supreme Court invalidated Uber's terms of service for unconscionability.¹⁰ There, the opinion noted that the cost of the arbitration proceeding would have comprised "all or most of the gross annual income [Heller] would earn working full-time as an Uber driver."¹¹ As such the court concluded that "the fees impose a brick wall between Mr. Heller and the resolution of any claims he has levelled against Uber."¹² Courts in the United Kingdom have also acknowledged the problematic nature of online terms of service.¹³ In particular, in *Aslam Farrar v. Uber*, the U.K. Employment Appeals Tribunal noted the "unequal bargaining positions" of the parties given that many Uber drivers who spoke English as a second language would be unable to decipher "dense legal documents couched in impenetrable prose."¹⁴ The tribunal also remarked that Uber's

⁵ Jason Moyer-Lee & Nicola Kountouris, *The "Gig Economy": Litigating the Cause of Labour*, *Taken for a Ride*, Litigating the Digital Platform Model, ILAW NETWORK (Mar. 2021), [Issue-Brief-TAKEN-FOR-A-RIDE-English.pdf](#) [hereinafter "*Taken for a Ride*"]

⁶ Jason Moyer-Lee, *The Analysis, Taken for a Ride 2: Accelerating Towards Justice*, ILAW NETWORK (Dec. 2022), [ISSUE-BRIEF-Taken-for-a-Ride-2.pdf](#) [hereinafter "*Taken for a Ride 2*"].

⁷ *Id.*

⁸ *Id.*

⁹ *Taken for a Ride* 1.

¹⁰ *Uber Tech. v. Heller*, [2020] S.C.R. 16, para. 4 (Can.).

¹¹ *Id.* at para. 47, 93.

¹² *Id.*

¹³ *Aslam Farrar v. Uber*, Appeal No. UKEAT/0056/17/DA (Employ. App. Trib. 2017).

¹⁴ *Aslam Farrar* at ¶93.

³ See, e.g. Billy Perrigo, *Exclusive: OpenAI Used Kenyan Workers on Less Than \$2 Per Hour to Make ChatGPT Less Toxic*, TIME MAGAZINE, Jan. 18, 2023.

⁴ Miriam A. Cherry, *Crowdwork, Conflicts of Law, and Global Supply Chains*, 94 TUL. L. REV. 183 (2020).

terms of service were “an excellent illustration of the phenomenon of ... ‘armies of lawyers’ contriving documents in their clients’ interests which simply misrepresent the true rights and obligations on both sides.”¹⁵

In *Heller*, as well as in other cases, an additional issue is jurisdiction, since in many instances the terms of service on many platforms either calls for arbitration or litigation in a distant forum.¹⁶ As a result, courts around the world have spent the better part of a decade grappling with the employment and status issues of rideshare and delivery drivers, noting that the on-demand economy work model seemed to include some elements of both employment and independent contracting. Many courts also noted the amount of control that platforms like Uber and Lyft had over the terms of work, whether through the monitoring of GPS data, the use of customer rating systems, and other methods of algorithmic management.

Taken for a Ride 1 & 2 demonstrate that there have been a wide range of regulatory approaches used in the context of rideshare and delivery platform work. Those have included independent contractor status, employee status, a presumption of employment status, and a hybrid or intermediate category. In some instances, the initial decision concerning employment status was rapidly reversed either through legislation or the authority of an appeals court. In some instances, the decisions about status were highly political, implicating labour unions, governments, and platforms, existing taxi services, and other businesses outside the platform economy. Despite the regulatory confusion,¹⁷ digital platform workers have continued to press for their rights.

There have also been setbacks.¹⁸ For example, during the

2020 coronavirus pandemic, platform workers in many countries were temporarily granted parity with employees, as they constituted essential workers.¹⁹ But once the pandemic was declared over, those rights were abruptly brought to a halt in many jurisdictions, and workers were returned to the *status quo* of incomplete or non-existent worker protections. In the next section, we will examine the definitions of platform work and its many forms and iterations over the years.

3. DEFINITIONS AND BACKGROUND

3.1 DEFINING WORK IN THE DIGITAL PLATFORM ECONOMY

The term “platform work” (also referred to as “gig work”) encompasses many forms of computer intermediated work. Rather than having an assigned worker take on particular tasks as work arises, crowdwork breaks down tasks into its constituent parts. Then, these smaller tasks are offered via a platform on a computer or mobile phone typically as part of an “open call.”²⁰ Workers sign in when they are available, and workers are paid based on the number of tasks that they complete. Work is closely tracked and monitored, and generating data (for later development and training of AI) is often a valuable component of the work. Rather than a traditional boss, digital labour platforms generally rely on algorithmic management and customer ratings-based systems to control the quality of worker performance.²¹ One of the hallmarks of platform work is the supposed flexibility of tasks and working hours, which has created a host of problems with existing forms of employee classification.

The umbrella term “platform work” is further divided into two main categories.²² One form of work takes place on a website or app, but the services are rendered and received in the real world. As such, the service is location-based, or in the parlance of the ILO, provided *in situ* (Latin for “in the original place”). The rideshare and delivery drivers featured in the first two *Taken for a Ride* re-

¹⁵ Aslam Farar at ¶96.

¹⁶ South Africa Tech. Services v. NUPSAW, SATAWU, et al., Case No. C 449/17 (Labour Court, Capetown 2018) (holding that remedy for South African rideshare drivers was against the parent company in the Netherlands).

¹⁷ For example, just within the U.S., there are some jurisdictions that consider rideshare drivers to be independent contractors, while others have attempted to legislate an employee classification. Two jurisdictions have recently classified gig workers as independent contractor “plus,” with some, but not all, of the rights that employees would have. Washington State has taken the approach of creating a driver’s resource center that assists drivers in contesting deactivations, whereas a Massachusetts ballot initiative focuses on union representation and rights for drivers.

¹⁸ On the one hand, gig work has been seen as a *sui generis* problem, not easily regulated because of its hybrid nature that combines elements of employment and independent contracting. On the other hand, many of the types of work that gig workers engage in are forms of work that far predate the gig economy and in fact have been jobs that have been in existence for hundreds if not thousands of years (transportation has long been a significant business, for thousands of years).

¹⁹ Miriam A. Cherry, *Employment Status for “Essential Workers”: The Case for Gig Worker Parity*, 55 LOYOLA L.A. L. REV. (2022); Michelle Cheng, *How the Pandemic Made Instacart “Essential,”* QUARTZ, Dec. 5, 2020, <https://qz.com/1940943/how-instacart-became-essential-in-the-pandemic/>.

²⁰ For various common characteristics of work in the gig economy, see Miriam A. Cherry, *Beyond Misclassification: The Digital Transformation of Work*, 37 COMP. LAB. L. & POL’Y J. 577 (2016).

²¹ ANTONIO ALOISI & VALERIO DE STEFANO, *YOUR BOSS IS AN ALGORITHM* (BLOOMSBURY 2022).

²² Valerio De Stefano, *“Just-in-Time Workforce”: On-Demand Work, Crowdwork, and Labour Protection in the “Gig-Economy,”* 37 COMP. LAB. L. & POL’Y J. 471 (2016).

ports all provided local transportation, with their phone's GPS signals used to connect them with the platform and with their riders.²³ But location-based gig work includes much more than rideshare and delivery. If we subtract those two forms of work from the equation, we see that the work that is left crosses many occupational fields.²⁴ Platforms for many different types of services – home repair, furniture assembly, dog walking, assorted tasks and odd jobs, pet-sitting, beauty and hair care, and shopping in stores all require a physical presence and results in the real world. Care work, too, is being moved onto platforms. Gig-nurses and nursing assistants now commonly pick up extra shifts at hospitals to augment their pay through platforms.²⁵ Consider also the online platform TaskRabbit, which began as a U.S.-based site for odd jobs. A high number of TaskRabbit's users were seeking help with the construction of furniture they purchased at Swedish retail giant IKEA. Skilled assemblers and carpenters began to use TaskRabbit to find customers. Upon noticing the trend, IKEA acquired TaskRabbit in 2017.²⁶ As a result, a Swedish company took over a platform that had operated in the U.S. and U.K. After the acquisition, the TaskRabbit platform expanded operations to six additional countries.

The second category, crowdwork, takes place wholly on the computer. The work can be performed remotely, in a place of the worker's choosing, or in some instances, in a centralized office setting. Crowdwork shares similarities to locationally-based work, in that larger tasks are often broken down into smaller parts. The skill required for the tasks varies, as does the remuneration. Some tasks may be quite simple, requiring humans only for purposes of doing what the computer cannot, due to limitations on optical recognition. This could be as simple as confirming a number or letter is transcribed correctly. However,

there are much more complicated tasks that fall under this umbrella, such as solving complicated software programming tasks. Sometimes these more complex tasks are set up as longer-term contracts that continue until the problem is solved.²⁷

In other instances, workers act as temporary workers or as freelancers. For example, the Israeli platform "Fiverr" connects its 380,000 freelancers with people or businesses in need of computer-based services. While at its inception, all of the tasks had cost \$5, (and hence the name of the platform) online assignments today can range into the hundreds or thousands of dollars and focus on tasks like video editing, writing, translation, digital marketing, and animation.²⁸ "Upwork," with 18 million freelancers on the platform, is one of the largest crowdwork platforms (to give a sense of how enormous that number is, Uber reported in its investor filings that the company had 7 million drivers on its platforms in total across the world). Headquartered in Mountain View, California, Upwork hosts and parcels out computer programming, graphic design, and other freelance tasks across various skill levels. Task requesters around the world post on Upwork, and workers from almost every country are available to work on those tasks. Upwork has an especially large labour force in Africa, where over 123,000 users were registered as of 2019.²⁹ Other types of computer-intermediated work are also part of crowdwork, including content creation and social media work, depending on how it is organized.³⁰

²³ For a discussion of systems of control and surveillance in rideshare, see, e.g. Alex Rosenblat & Luke Stark, *Algorithmic Labor and Information Asymmetries: A Case Study of Uber's Drivers*, 10 INT'L J. COMM. 3758 (2016).

²⁴ In the questionnaire distributed to ILAW members, these other categories were defined by excluding rideshare and delivery: "This questionnaire is seeking information on digital platform labor other than Rideshare, Uber, Lyft, or other forms of delivery. Examples of digital crowdwork would be platforms like Upwork and Amazon's Mechanical Turk. Digital labor platforms would also include platforms for care work services, including those that manage childcare and eldercare, and is increasingly used to include content creators, like those who film or edit clips for YouTube, Instagram, or other social networking sites."

²⁵ Katie J. Wells & Funda Ustek Spilda, *Uber for Nursing: How an AI-Powered Gig Model is Threatening Health Care*, ROOSEVELT INSTITUTE (2024), https://rooseveltinstitute.org/wp-content/uploads/2024/12/RI_Uber-for-Nursing_Brief_202412.pdf.

²⁶ Jeff John Roberts, *IKEA's Latest Acquisition Will Help Assemble Your IKEA Furniture*, FORTUNE (Sept. 28, 2017), <https://fortune.com/2017/09/28/ikea-task-rabbit/>.

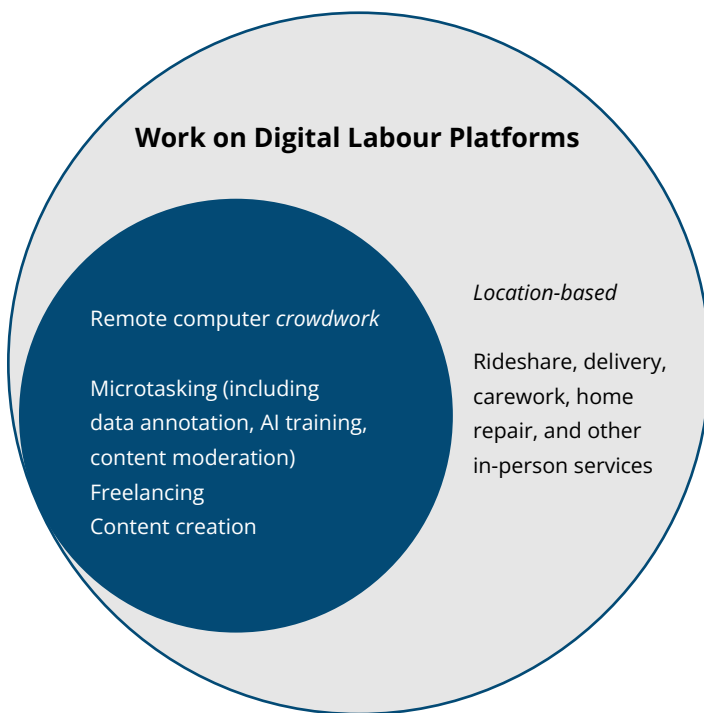
²⁷ Richard Heeks, *Decent Work and the Digital Economy: A Developing Country Perspective on Employment Impacts and Standards in Online Outsourcing, Crowdwork, Etc.*, DEVELOPMENT INFORMATICS, Working Paper no. 71, 3 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3431033.

²⁸ www.fiverr.com.

²⁹ Mohammad Amir Anwar & Mark Graham, *Between a rock and a hard place: Freedom, flexibility, precarity and vulnerability in the gig economy in Africa*, 25 (2) COMPETITION & CHANGE 244 (2021).

³⁰ Workers in these sectors have attempted to unionize and also have created their own apps to share information. However, for purposes of time and space, discussion of these sectors will be limited.

The following chart examines the relationship between different types of work on digital labour platforms:



Computer crowdwork performed only in cyberspace pre-dated the advent of rideshare apps, and in fact, pioneered many of the characteristics that we more generally associate today with location-based platforms. For example, Amazon's Mechanical Turk (AMT) paved the way for other on-demand platforms that use micro-tasking. (AMT currently has approximately 200,000 workers). AMT, which billed itself as a scalable market for labour, invited requesters to submit large tasks to them, such as building an e-commerce website. Then, the tasks that went into building the website were broken down into smaller chunks that could be completed by individuals working remotely and that required only the knowledge of one or two skills, like being able to write a product description or to paste in links to other similar products. Other chunks involved more complicated requests. These tasks might take anywhere from a few seconds, to minutes, to perhaps a few hours. Workers were paid by the task and only received credit if their work was satisfactory to the requester. At first seen as a novelty, micro-taskers on AMT were paid in Amazon credit, then in small increments.³¹ Clickwrap contracts and terms of service (TOS) from Amazon asserted that AMT's crowdworkers were independent contractors, and thus not subject to the protections of labour and employment law. Both requesters and workers could log in from anywhere in the world, with Amazon governing their interactions with

each other. Our ILAW partner in India notes that MTurk workers in the country often report low pay, inconsistent availability of work, and a lack of a mechanism for resolving grievances with the platform.³²

3.2 SIZE OF THE CROWDWORK SECTOR

It is difficult to take a snapshot of the workers in each sector of the on-demand economy, let alone a definitive conclusion of how many workers there are overall. Part of the reason for this difficulty is the fact that online work is often precarious, and as such, is not reported accurately to labour or tax authorities (in any of the countries where the platform is hosted or where the work takes place). Workers who perform tasks on platforms part-time or as supplementary income in some instances are often excluded. Finally, another concern with documenting how many crowdworkers exist is that much of the information on how many workers – and where they are located – is that platforms consider these statistics to be proprietary business information. To the extent that platforms take surveys or reveal demographic or working time information, there have been questions about the accuracy of that reporting. For example, in the context of rideshare, researchers have questioned the accuracy of some statements that Uber made on behalf of its workforce, as well as the methodologies of the questions that the company has used in its surveys.³³

Although precise numbers are elusive, researchers have surveyed online crowdworkers to discern more information about their income, background, and demographics. A research project sponsored by the European Research Council analysed the data and found that as of 2020 there were 163 million workers on crowdworking platforms.³⁴ The same study concluded, however, that a smaller subset was using the platforms on a regular basis.³⁵ If these numbers are correct, that would mean that the number of (other) digital platform workers would be approximately ten times larger than the estimated number of drivers, couriers, and delivery workers.

³² Sarita Bhattacharjee, *The Digital Assembly Line: Insights on Indian Crowdworkers Using Amazon Mechanical Turk*, ECONOMIC AND POLITICAL WEEKLY (2020).

³³ Janine Berg & Hannah Johnston, *Too Good to Be True? A Comment on Hall and Kreuger's Analysis of the Labor Market for Uber's Driver-Partners*, 72(1) INT'L. LAB. REV. 39 (2019).

³⁴ Otto Kassi et al., *How many online workers are there in the world? A data-driven assessment*, OPEN RESEARCH EUROPE, EUROPEAN COMMISSION (2021), <https://open-research-europe.ec.europa.eu/articles/1-53/v4>.

³⁵ *Id.*

³¹ See, e.g. Moshe Marvit, *How Crowdworkers Became the Ghosts in the Digital Machine*, THE NATION, Feb. 5, 2014 (noting low rate of pay for completion of crowdwork tasks).

3.3 DEMOGRAPHICS AND MOTIVATIONS

The demographics are more difficult to generalize for location-based tasks because of the wide variety of tasks performed and the diversity of the workers conducting those tasks. Sex segregation is an ongoing issue in many occupations, whether those are practiced in traditional ways or through an online system. For example, the statistics of workers performing home repair (generally referred to as “handymen”) are largely male. A home repair online platform will reflect that underlying statistical issue in its providers as well.³⁶ Similarly, if women’s occupational opportunities apart from platforms are limited or segregated, those limitations will be mirrored on online platforms. Researcher Isha Bhallamudi chose to examine Indian workers on beauty platforms because those platforms employed an overwhelming number of women workers.³⁷ She discovered that beauty platforms could be a site of empowerment, particularly for women whose husbands disapproved of work outside of the home. At the same time, the platforms were a study in precarity, with some of the workers reporting that they were squeezed by platforms, unable to earn back the training and certification fees required for work.³⁸

A recent study of 54 digital platforms that provided domestic and care work in Latin America showed extreme instability and precariousness in the sector, particularly in Brazil.³⁹ The authors, however, held out hope that platforms (if properly regulated) could bring some formalization to a sector long viewed as casual and informal. A study of domestic workers on the SweepSouth platform in South Africa found that wages were depressed for the (largely female) workforce. With no social benefits or union representation, and with increased pressure to work at higher intensity based on customer rating systems, the outlook for digital platforms to raise the standard of living seems remote.⁴⁰ These studies,

however, noted that platform work need not equate to exploitation. They cited instances where formalization and stabilization were achieved through direct hiring of housecleaners as employees of the platform. Citing Batmaid, a cleaning services platform that has had success in Switzerland, the Netherlands, and Poland, the authors note that it is possible to have housecleaning provided on a platform that pays fairly.

When platform workers have a voice and input into operational decisions through freedom of association and collective bargaining, working conditions improve. A 2024 study of Danish crowdworkers noted a rise in online work, particularly within the information, communication, and transport sectors.⁴¹ The increased number of online workers were “explicitly comprised of young, non-Danish workers with limited education”⁴² with women making up 73% and 80% of the housecleaners on the two platforms that they studied.⁴³ Due to the educational constraints, sex-segregation, and precarity, these workers needed the protections of unions to bargain for fair conditions and remuneration. The Danish trade union, 3F, bargained for worker rights with online grocery shopping service Nemlig.com, resulting in increased wages and a growth in the number of workers on the platform overall.

Danish housecleaning platform Hilfr also saw a positive outcome. 3F negotiated a collective agreement for the platform workers, introducing the “Super Hilfr” category. These Super Hilfrs were all workers who had performed at least 100 hours of cleaning on the platform. According to the agreement, Super Hilfrs are to be considered employees under this agreement, granting them minimum wages, paid annual leave, pension rights, and sick leave.⁴⁴ Workers who spent a significant amount of time working for Hilfr (and thus were treating it more like part-time or full-time work) were able to regularize their status and receive benefits.

In India, our ILAW partner reports that organizations like the Self-Employed Women’s Association (SEWA) and the National Platform for Domestic Workers (NPDW) have worked to represent domestic workers, including those connected to digital platforms. These groups advocate for minimum wages, social security, and formal recogni-

³⁶ It would be an interesting question to see if online work would either reinforce or reduce occupational segregation.

³⁷ Isha Bhallamudi, “It’s Always Been Women’s Work”: Tracing Gender, Technology, and Work in India Through an Account of AI-mediated Beauty Work, UC IRVINE ELECTRONIC THESIS AND DISSERTATIONS (2024), <https://escholarship.org/uc/item/6k42w860>.

³⁸ *Id.* at 135.

³⁹ Lorena Poblete, et al., *La intermediación digital en el trabajo domestic remunerado en America Latina: una prouesta analitica para su estudio*, REVISTA DE ESTUDIOS SOCIALES 3 (2024), <https://revistas.uniandes.edu.co/index.php/res/article/view/10077/9466>.

⁴⁰ Wandile Sibiya & David du Toit, *Sweeping up decent work: paid domestic work and digital platforms in South Africa*, 30:3 GENDER & DEVELOPMENT, Dec. 7, 2022, <https://www.tandfonline.com/doi/full/10.1080/13552074.2022.2126199>. For an in-depth analysis of the sector in the EU, see Antonio Aloisi & Nastazja Potocka-Sionek, *House of gigs. Domestic workers, algorithmic management and the Plattform Directive*, SSRN (March 3, 2025), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5161650.

[cfm?abstract_id=5161650](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5161650).

⁴¹ Kristoffer Lind Glavind & Gerard Kinge Oosterwijk, *Employment Terms of Platform Workers: Data-Driven Analysis of Online Platforms in Denmark* (Foundation for European Progressive Studies, 2024), [Employment-terms-of-platform-workers-1.pdf](https://www.feps.eu/publications/employment-terms-of-platform-workers-1.pdf)

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

tion under labour laws. Workers associated with Urban Company (a platform offering services such as cleaning, beauty, and caregiving) have protested against unfair practices like high commissions, lack of control over work conditions, and penalties for rejecting tasks.⁴⁵ In 2021, workers in Delhi staged demonstrations demanding better pay structures, reduced platform commissions, and safer working environments.⁴⁶ The Indian Federation of App-Based Transport Workers (IFAT), which has primarily been focused on the ride-hailing and delivery platforms, has also raised issues pertaining to other works in the gig economy, including domestic and caretaking work. Research highlights the overlap between India's informal economy and the formalized structures introduced by platform work. Platforms such as BookMyBai and Helpe-r4U formalize job placement for domestic workers but often lack robust regulatory oversight.⁴⁷

If it is difficult to survey location-based platform workers because there is so much diversity in the tasks they perform, the challenge becomes even more difficult in surveying a vast sector with millions of workers who are working across the world, often from their home computers. To bridge the information gap, the ILO has conducted studies of the demographics of platform workers, particularly of computer crowdworkers. These studies, published in 2016⁴⁸ and 2018,⁴⁹ were among the first to survey the platform workforce in an attempt to quantify how much these workers earned, what tasks they accepted, and to note their concerns. The authors of those studies remarked that crowdworkers were a highly educated group of workers yet were engaged in many deskilled tasks that were extremely underpaid. The ability to work from home and to engage in family or care work seemed to be the motivation for disabled workers and caregivers (majority female) to accept the low pay of crowdwork. To track the numbers more accurately, the ILO also supported the creation of the Online Labour Index (OLI) in 2020, which collects data about crowdworkers. The latest update to the OLI has become more ambitious and now

tracks six Russian and Spanish -language online platforms as well as estimates of women workers.⁵⁰ Because platforms are evolving quickly – some that seemed ascendant ten years ago are now defunct – the numbers, types of work, and demographics are shifting quickly. In the next section, we will see why some of the problems in quantifying crowdwork is due to its invisible nature.

4. CROWDWORK AS INVISIBLE LABOUR

Computer crowdwork in support of many large marketplace, social media, and AI platforms – from Amazon to Meta and ChatGPT – is mostly invisible to end users and consumers. Rideshare drivers have lights and signs on their cars and are able to see each other (and potentially join each other in protest). But crowdworkers, working from home, dispersed over large distances, or otherwise working in relative isolation, lack that kind of in-your-face visibility. A study of online platform workers in Romania noted that crowdworkers “represent one of the most ignored categories of workers in Romania, a sort of a black hole in the universe of work.”⁵¹ The silence of crowdworkers often comes along with a feeling of detachment and disempowerment.

In fact, some companies have deliberately hidden the presence of workers to make their products or services seem more technologically advanced than they actually are, so as to appeal to consumers. For example, during the last five years, Amazon promoted a technology in its stores called “Just Walk Out.” The concept was that customers would be able to shop within the store, select their items, and bypass any checkout lines or need to scan items.⁵² Instead, the items would be tracked, and the amount of the items would be automatically deducted from customers’ accounts. The technology was in place in Amazon Go convenience stores and many thought that the technology to implement such cashless and hassle-free stores was a game-changer. But in April

⁴⁵ SEWA, *Organizing Domestic Workers in the Digital Era*, available at SEWA.

⁴⁶ Domestic Workers Protest for Better Rights, THE HINDU (2021).

⁴⁷ Ambika Tandon & Aayush Rathi, *Platforms, Power, and Politics: Perspectives from Domestic and Care Work in India* (2021), Centre for Internet and Society.

⁴⁸ Janine Berg, *Income security in the on-demand economy: Findings and policy lessons from a survey of crowdworkers*, 74 CONDITIONS OF WORK AND EMPLOYMENT SERIES, UN-ILO (2016), https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_protect/@protrav/@travail/documents/publication/wcms_479693.pdf.

⁴⁹ Janine Berg, et al., *Digital labour platforms and the future of work: Towards decent work in the online world*, ILO REPORT (2018), <https://www.ilo.org/publications/digital-labour-platforms-and-future-work-towards-decent-work-online-world>.

⁵⁰ Fabian Stephany, et al., *Online Labour Index 2020: New ways to measure the world's remote freelancing market*, BIG DATA & SOCIETY, Sept. 15, 2021, <https://journals.sagepub.com/doi/10.1177/20539517211043240>.

⁵¹ Felicia Rosioru, *The Status of Platform Workers in Romania*, 41 COMP. LAB. L. & POL'Y J. 423, 425 (2020) (“Due to the lack of visibility, we shall focus less on crowdworkers. It is very difficult, for the moment being, to gather detailed information on crowdworkers in Romania; the track of their work gets “lost” in the virtual space, the beneficiary (as well as the worker) being often “hidden” under code.”).

⁵² Parmy Olson, *Amazon's AI Stores Seemed Too Magical. And They Were*, BLOOMBERG NEWS, Apr. 3, 2024, <https://www.bloomberg.com/opinion/articles/2024-04-03/the-humans-behind-amazon-s-just-walk-out-technology-are-all-over-ai-embedded-checkout=true>. But see Emma Roth, *Amazon insists Just Walk Out isn't secretly run by workers watching you shop*, THE VERGE, Apr. 17, 2024 (quoting Amazon spokesperson as stating that while people are involved in the checkout process, humans do not run everything).

2024, reports surfaced that in fact “Just Walk Out” was not automatic at all – it required the assistance of 1,000 crowdworkers from India.⁵³

Other platforms and websites have touted their use of automated algorithms or artificial intelligence systems powering their operations, while hiding the contributions of human workers.⁵⁴ For example, researcher Antonio Casilli reported an instance where a French business touted AI solutions for luxury brands seeking to appeal to wealthy and influential customers. The business, however, had no AI development to speak of, instead transferring research requests to Francophone workers in Antananarivo, Madagascar.⁵⁵ Casilli notes that “whole villages in Mozambique and Uganda are put to work in this way, clicking on images and transcribing segments of text.”⁵⁶ Economist Uma Rani describes this dynamic as a process of “deceptive AI,” in which users are told that there is a technology that seems revolutionary, while meanwhile the job is performed by underpaid people living and working in poverty, for the most part, in the Global South.⁵⁷

One digital job in which a lack of support is present is in social media content moderation. As users post status updates, pictures on Instagram, Facebook, Twitter/X, or videos on YouTube, content moderators silently work behind the scenes, deleting posts that are too disturbing for social media users to see, and indeed are in violation of the technology company’s own policies.⁵⁸ While most people think that the content moderation is done automatically by algorithms, in fact groups of workers in the global south, frequently the Philippines and Kenya, are engaged in this high stress, psychologically damaging

work.⁵⁹ Unfortunately, these workers see the absolute worst side of humanity, including videos depicting violence and sexual abuse.

A 2024 lawsuit by 140 former online content moderators in Nairobi, Kenya has focused on the psychological harm workers suffered while cleaning up social media for Meta.⁶⁰ A growing number of workers in Kenya perform content moderation or provide back-office work to other Internet services, part of what Kenyan government officials have termed the “Silicon Savannah.” In the lawsuit, the former workers alleged that “they weren’t adequately warned about the brutality of some of the text and images they would ...be reviewing” and were not offered appropriate counselling support.⁶¹ According to court filings, the workers were paid between “1.46 and 3.74” U.S. dollars per hour, of the \$12 USD per hour that Sama (Meta’s subcontractor) received for their time.⁶² Meanwhile, Meta argued that it had no physical presence in Kenya, so the court lacked personal jurisdiction. While these kinds of efforts to outsource and offshore seem like clever ways to evade responsibility, the Kenyan court ruled that the workers could continue their case against Meta.⁶³

Many have pointed to the need for better pay, breaks from the work, psychological support, and other forms of assistance for content moderators. But content moderation is low-paid and looked down upon as the equivalent of a digital janitor. The workers are out of sight, and out of mind.

Data annotators also live and work in various areas of Africa, Venezuela, India, and the Philippines, parts of the world with high education rates and high unemployment rates. As part of an invisible workforce, these clickworkers have been powering many technological advances, manually, task by task. For example, human workers label pedestrians walking in the street and objects lying in

⁵³ Rimjhim Singh, *Amazon’s “just walk out” checkout tech was powered by 1,000 workers*, BUS. STANDARD, Apr. 4, 2024, https://www.business-standard.com/companies/news/amazon-s-just-walk-out-checkout-tech-was-powered-by-1-000-indian-workers-124040400463_1.html. Amazon has since replaced “Just Walk Out” with another technology called “Dash Carts” that allow for items to be calculated when they are placed in the basket, at the same time steering shoppers to items they were searching for.

⁵⁴ MARION G. CRAIN, ET AL., *INVISIBLE LABOR: HIDDEN WORK IN THE CONTEMPORARY WORLD* (UNIVERSITY OF CALIFORNIA PRESS 2016).

⁵⁵ ANTONIO CASILLI, *WAITING FOR ROBOTS: THE HIRED HANDS OF AUTOMATION 1-2* (U. CHI. PRESS, 2019).

⁵⁶ *Id.* at 2.

⁵⁷ Uma Rani & Rishabh Kumar Dhir, *AI-enabled business model and human-in-the-loop (deceptive AI): implications for labor*, in *HANDBOOK OF ARTIFICIAL INTELLIGENCE AT WORK* (EDWARD ELGAR PUBLISHING) (EDS. M. GARCIA-MURILLO, I. MACINNES, & A. RENDA) (2014).

⁵⁸ MARY L. GRAY & SIDDHARTH SURI, *GHOST WORK: HOW TO STOP SILICON VALLEY FROM BUILDING A NEW GLOBAL UNDERCLASS* (HARPER BUSINESS, 2019); SARAH T. ROBERTS, *BEHIND THE SCREEN: CONTENT MODERATION IN THE SHADOWS OF SOCIAL MEDIA* (YALE UNIV. PRESS 2019).

⁵⁹ Andrew Arshat & Daniel Etcovitch, *The Human Cost of Online Content Moderation*, HARV. J. L. & TECH., Mar 2, 2018, <https://jolt.law.harvard.edu/digest/the-human-cost-of-online-content-moderation>; Thomas Stackpole, *Content Moderation is Terrible by Design*, HARV. BUS. REV., Nov. 9, 2022, <https://hbr.org/2022/11/content-moderation-is-terrible-by-design>.

⁶⁰ Robert Booth, *More than 140 Kenya Facebook Moderators Diagnosed with Severe PTSD*, THE GUARDIAN, Dec. 18, 2024, <https://www.theguardian.com/media/2024/dec/18/kenya-facebook-moderators-sue-after-diagnoses-of-severe-ptsd>.

⁶¹ Niamh Roew, *“It’s destroyed me completely,”: Kenyan moderators decry toll of training AI models*, THE GUARDIAN, Aug. 2, 2023, <https://www.theguardian.com/technology/2023/aug/02/ai-chatbot-training-human-toll-content-moderator-meta-openai>.

⁶² *Id.*

⁶³ *Id.*

the road so that autonomous vehicles will not hit them. People are now teaching AI to spot abnormalities on X-rays and to recognize diseases on a variety of diagnostic medical tests.⁶⁴

“You ...come into a fairly sterile environment. You probably don’t have your own workspace, because there are three shifts, so someone else will be sitting in your spot when you clock out. You... log into a proprietary system or interface developed by the company that needs the moderation, and you start to access queues of materials. A flagged piece of content is served to you — there might be some contextual information, or there might be very little — and you make a judgment call about whether to delete the content based on ... the company’s policies. When you close the case, you get another one. This is your process throughout the day, working through the queue. Sometimes there’s specialization — someone may work specifically on hate speech... — but even the run-of-the-mill cases ... can be pretty awful.

Professor Sarah Roberts⁶⁵

All of this advancement, however, is dependent upon human workers who must train the programs. This includes inevitable corrections when AI-generated responses are nonsensical, strange, or bizarre. For example, the popular large language model ChatGPT has been known to “hallucinate,” meaning that if it does not know the answer to a question, then it will make up facts. Attorneys in the U.S. have been disciplined and sanctioned for citing non-existent cases and holdings that ChatGPT recommended they use.⁶⁶ Although AI technology and large

language models continue to be developed, they are still largely dependent on human workers to help the programs with sorting. To teach an AI system to recognize prompts that would create poor results (like hate speech or discussions of sexual abuse), large language models must be told exactly what they should avoid. The large language model does not and cannot “think” for itself, nor does it have common sense, but instead must follow its pre-programmed rules.⁶⁷

In 2023, images leaked onto social media that contained pictures of the insides of people’s homes, taken from an angle that indicated the photographs were filmed from the floor. Investigative journalists tied the photos back to iRobot, the company that manufactures Roomba, an automatic vacuuming tool for the home. In order to train the vacuums to clean more efficiently, the company was using data from inside employees’ houses. Some of the images were taken inside bathrooms, including one where a person was using the toilet. It was unclear whether the workers understood that the roombas were taking photographs or that the images were not secure.⁶⁸ iRobot had hired a data annotation company, ScaleAI, to analyse and tag the data that the roombas generated. The data from the vacuums was sent to poorly paid platform workers in the Global South, who were performing labelling tasks remotely from their home computers. The platform workers in Venezuela were not trying to leak information but were simply unfamiliar with home layout and were seeking help with some of the labelling tasks in online social media groups.⁶⁹ In the aftermath of the leak and the investigation, iRobot eventually terminated Scale AI’s contract. Interestingly, ScaleAI’s home page does not describe the use of human beings to label data overseas anywhere on its home page.⁷⁰ But despite the high valuation, the use of AI in its company name, and a lack of any references to offshoring or human workers, Scale AI is just another crowdsourcing website. Scale AI parcels out data annotation tasks around the world, using a plat-

ChatGPT. A Judge Fined Them \$5000, AP, June 22, 2023, <https://apnews.com/article/artificial-intelligence-chatgpt-fake-case-lawyers-d6ae9fa79d0542db9e1455397aef381c>; Sara Merken, New York Lawyers Sanctioned for Using Fake ChatGPT Cases in Legal Brief, Reuters, June 26, 2023, <https://www.reuters.com/legal/new-york-lawyers-sanctioned-using-fake-chatgpt-cases-legal-brief-2023-06-22/>.

⁶⁷ Mayank Kejriwal et al., *Can AI Have Common Sense?* NATURE, Oct. 7, 2024.

⁶⁸ Eileen Guo, *How Roomba Tester’s Private Images Ended up on Facebook*, MIT TECH. REV., Jan. 26, 2023, <https://www.technologyreview.com/2023/01/26/1067317/podcast-roomba-irobot-robot-vacuums-artificial-intelligence-training-data-privacy-consent-agreement-misled/>.

⁶⁹ *Id.*

⁷⁰ <https://scale.com/>

⁶⁴ Alice Park, *How AI is Changing Medical Imaging to Improve Patient Care*, TIME MAG., Nov. 4, 2023, <https://time.com/6227623/ai-medical-imaging-radiology/>.

⁶⁵ Thomas Stackpole, *Content Moderation is Terrible by Design*, HARV. BUS. REV., Nov. 9, 2022 (quoting Sarah Roberts).

⁶⁶ Larry Neumeister, *Lawyers submitted bogus case law created by*

form work model and independent contractor status to pay its workers as little as possible.

In contrast to these AI examples, rideshare companies have maintained a comparatively high profile. Part of that difference is marketing and branding, as rideshare platforms expand into new markets in an effort to appeal to new users. Both Uber and Lyft conducted public offerings in 2019, with Uber using the proceeds from stock sales to expand its operations in additional countries.⁷¹ Major rideshare providers have also acted in highly visible ways politically, publicly backing legislation, lobbying government regulators for exemptions from regulation, and contributing to political campaigns.⁷² In sum, the reason that many people think the on-demand economy consists mostly of transportation workers is that rideshare and delivery driving has been one of the most visible and prominent components of the on-demand economy. Rideshare drivers have also maintained a visible presence, whether that is by marching in the streets, picketing in front of corporate headquarters,⁷³ or engaging in strikes to achieve recognition in countries across the world.⁷⁴

Despite its visibility, however, rideshare driving also contains a component of invisible labour as well. The data that drivers generate while using their apps helps to train predictive algorithms that can tell whether a driver is going too fast, not paying attention, or is taking an inefficient route. These “hidden” parts of the work as data-generation centres have been mostly overlooked,⁷⁵ but are a major part of the rideshare business model. The data generated by rideshare workers is critical to developing and maintaining information about road conditions, speed, and safety hazards that will be used to inform and program autonomous vehicles.⁷⁶ While we

have examined some of the consequences of invisibility for computer crowdworkers, in the next section we will explore the small, but growing, body of work law that applies to non-rideshare platform workers.

5. LEGAL ISSUES AND PRECEDENTS FOR CROWDWORKERS

Since the inception of the on-demand economy, there have been a set of significant and recurring issues that crowdworkers have raised with union representatives, courts, and legislators. These concerns have led in many instances into the litigation that began in the mid-2010s and that have continued into the present. Many have noted that these jobs have no path forward and no way for crowdworkers to develop or market their skillsets. The areas of concern also include low rates of pay – often subsistence or wages far below the U.S. minimum wage of \$7.25USD, and often poor wages even in areas with lower costs of living. Numerous researchers have found that the average rate of pay on many of the online crowdwork platforms is less than \$2 USD per hour.⁷⁷ Other concerns include the expenditure of time to search for work that pays decently; overwork without overtime; and income instability and volatility.

Workers have also been concerned about arbitrary rejection of work as well as wage theft. On Amazon Mechanical Turk, if a requester decides that work is of poor quality, under the rules of the platform requesters may retain the work, but do not have to pay workers. The rules therefore set up a one-sided incentive where requesters can essentially decide to stiff their workforce arbitrarily. This sort of opportunistic behaviour by requesting companies was the impetus for the genesis of the rating system Turkopticon.⁷⁸ The Turkopticon platform allows workers to rate the requesters on measures such as the timeliness of payment, and to report instances of wage theft, particularly “mass denials” where companies release thousands of tasks to workers that they promise to pay for, but then never do. Lastly, workers want the benefits that would normally accompany employment (but that misclassification prevents), including freedom of association and collective bargaining.

[other-data-for-possible-autonomous-service-in-dallas/](#).

⁷¹ *Lyft and Uber's Plans to Go Public*, PBS NEWS, Mar. 29, 2019.

⁷² See, e.g. Katie J. Wells, et al., *Insider Uber's Political Machine*, THE N.Y. REVIEW, May 9, 2024. See also Shannon Bond, *California Voters Give Uber, Lyft a Win But Some Drivers Aren't So Sure*, NPR, Nov. 5, 2020 (noting that rideshare companies spent \$200 million on California ballot initiative overturning employee status for rideshare drivers).

⁷³ For example, protestors picketed Uber during the pandemic because of a lack of PPE and safety protections for rideshare drivers. See *Activists hold candlelit vigil outside Uber HQ for delivery drivers who died during the pandemic*, RT, Dec. 23, 2020, <https://www.rt.com/news/510530-activists-vigil-delivery-drivers-covid/>.

⁷⁴ See, e.g. Jessica Howard, *Uber and Bolt drivers strike on Valentine's Day*, BBC, Feb. 14, 2025, <https://www.bbc.com/news/articles/c4g7189x9wno>.

⁷⁵ KAREN LEVY, *DATA DRIVEN: TRUCKERS, TECHNOLOGY, AND THE NEW WORKPLACE SURVEILLANCE* (2022).

⁷⁶ Greg Gardener, *Uber to Collect Mapping, Other Data for Possible Autonomous Service in Dallas*, FORBES, Sept. 17, 2019, <https://www.forbes.com/sites/greggardner/2019/09/17/uber-to-collect-mapping->

⁷⁷ Will Douglas Heaven, *AI Needs to Face Up to Its Invisible Worker Problem*, MIT REVIEW, Dec. 11, 2020 (quoting Professor Saiph Savage on her studies of crowdwork remuneration). See also M. S. Silberman et al., *Responsible Research with Crowds: Pay Crowdworkers at Least Minimum Wage*, 61 COMM.'S ACM 39 (2018).

⁷⁸ www.turkopticon.net; Lily Irani & M. Six Silberman, *Stories We Tell About Labor: Turkopticon and the Trouble with “Design,”* https://wtf.tw/text/turkopticon_stories.pdf

A case of first impression was heard in 2012 when Christopher Otey, a crowdworker in the state of Oregon, sued online labour platform Crowdfunder for violations of the U.S. Fair Labor Standards Act (FLSA) and Oregon's state labour / minimum wage laws in a class action lawsuit.⁷⁹ According to the plaintiff's allegations, Crowdfunder had a workforce of several hundred thousand workers, to whom it paid an average of \$2-3 per hour, below U.S. and Oregon minimum wage. The complaint noted that the company in some instances paid workers in online gaming credits and quoted the CEO of the company as saying "we almost trick the game players into doing something useful for the world while playing these games. Just to do 10 minutes of real work that a real company can use and we'll give you a virtual tractor."⁸⁰ The CEO also recorded a video noting that the company did not use trickery, threats, or enslavement in the hiring process, and remarked that Crowdfunder "was not operating a 'digital sweatshop.'"⁸¹ Yet the company provided no explanation for why the platform could not pay workers the minimum wage.⁸²

In 2013, the Northern District of California granted the Plaintiffs' Motion for Conditional Certification of a Collective Action and allowed the lawsuit to proceed against Crowdfunder.⁸³ After a series of motions, the case eventually settled for \$585,507, which included payments to those class members who were identified as earning less than the minimum wage as well as covering their attorney's fees. Under the FLSA, a federal court must review any settlement agreement reached to ensure it is a fair and equitable settlement (because it impacts other workers, beyond the litigants in the case). On July 2, 2015, the court approved the settlement.⁸⁴

After the settlement in Crowdfunder, attention shifted to the battle over rideshare driver classification. But there was some action beyond rideshare and delivery in New York City, where the city council passed a series of worker protection laws, including the "Freelance isn't Free" Act.⁸⁵ The Act established certain protections for freelance workers, including the right to a written contract, timely and full payment, as well as protection from retaliation.⁸⁶ In addition, new legislation in New York city has extended

employment discrimination and sexual harassment protection laws to independent contractors. During the pandemic, the New York City Council mandated certain protections for food delivery workers, including a mandated minimum wage and access to bathrooms. On December 21, 2024, the New York State Fashion Workers Act was enacted to protect workers in the modelling industry, regardless of employee or independent contractor status.⁸⁷ The new law also covers social media influencers and performing artists, providing protections for content creators.⁸⁸ An ILAW member from Italy also notes that the national social security institute (INPS- Istituto Nazionale della Previdenza Sociale) has announced that from 2025 content creators and influencers will be protected by Italy's social security system.

Five years after Otey, another computer crowdwork case was decided in Germany. In 2020, the German Federal Labour Court (BGA) determined that a worker on a digital labour platform performing microtasks was an employee.⁸⁹ The microtasks for the platform involved taking pictures of goods for presentation to retail outlets and gas stations, and needed to be completed within two hours of the task being sent out.⁹⁰ While the plaintiff was not obligated to take on tasks, when he did do so he received experience points that made him eligible for a higher rate of pay. As such, the court reasoned, the defendant organized the work in such a way that it controlled the place, time, and content of performance.⁹¹ Such control signified employee status under German law. As a result, the court noted that the panoply of rights available to traditional workers would also be available to crowdworkers including "working hours, vacation claims and employee protection, such as protection against discrimination for employees in atypical employment relationships and especially collective protection rights in the event of restructuring."⁹²

Although these cases stood in isolation for some time, new cases have recently been filed and have the potential to reshape how the legal system interacts with

⁷⁹ NY, S.B. 9832.

⁸⁰ *Id.*

⁸¹ German Federal Labour Court (No. 9 AZR 102/201, Dec. 1, 2020); *German Federal Labour Court decision on the case of a crowdworker and relative salary*, INDUSTRIAL RE. & LAB. L. BULL., (Jan. 2021).

⁸² *Id.*

⁸³ *Can "crowdworkers" be employees? A German Federal Labour Court ruling and its potential consequences for restructuring*, IUS LABORIS, Dec. 20, 2023, <https://iuslaboris.com/insights/can-crowd-workers-be-employees-a-german-federal-labour-court-ruling-and-its-potential-consequences-for-restructuring/>

⁸⁴ *Id.*

⁷⁹ Otey v. Crowdfunder, 2012 WL 6913384, ¶37 (N.D. Cal. 2012).

⁸⁰ *Id.* at ¶42.

⁸¹ *Id.*

⁸² *Id.*

⁸³ Washington State, House Bill 2076 (2022).

⁸⁴ Otey v. Crowdfunder, 2015 WL 12518062 (N.D. Cal. 2015).

⁸⁵ Freelance Isn't Free Act, Local Law 140 (2016).

⁸⁶ *Id.*

non-rideshare platform workers. For example, our ILAW South Korean partner noted that the Seoul Central District Court recently ruled that the plaintiffs who participated in the production of game content by the defendant, an internet broadcaster operating a YouTube game content channel, were in fact employees under the Labor Standards Act.⁹³ However, the court noted that the question of employee status was one that needed to be determined on a case-by-case individualized basis. The ruling concluded that “since the staff of YouTube broadcasters are all different in terms of work content, work form, and work intensity, it is not possible to classify them as a job type called ‘YouTube staff’ and then uniformly determine whether or not they are employees.”⁹⁴

In India, there have been efforts to include content creators such as YouTubers and social media influencers in the labour and employment laws. The 2021 Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, requires digital content creators to follow specific codes of ethics and grievance mechanisms. While these regulations primarily focus on content moderation, they signal the government’s increasing oversight of the gig-like work performed by online creators. Further efforts include legislation proposed in 2024, the Broadcasting Regulation Bill (“Bill”).⁹⁵ The Bill aims to regulate online content creators by treating them as “broadcasters” if their content crosses specific thresholds. Having been deemed a broadcaster under the law, content creators might then need to comply with a three-tier grievance redressal mechanism, establish a content evaluation committee, and notify the government of their operations. The Bill primarily focuses on addressing content regulations but raises concerns about the treatment of independent creators, as it could impose obligations similar to formal broadcasters without providing labour protections or benefits. Many content creators are opposed to the Bill, arguing that it imposes undue restrictions on their work and could compromise their independence and privacy.⁹⁶ While some of these laws are still in the draft or proposal stage, our ILAW member in India notes that the ongoing discussions and policy developments indicate a shift toward some regulation of this emerging workforce.

In addition, our ILAW member indicates that India’s social security code has been amended to also cover and extend social security benefits to platform workers.⁹⁷ A dedicated fund finances welfare schemes for platform workers, with contributions from aggregators ranging between 1% to 2% of their annual turnover, subject to a cap of 5% of payments to workers. The code also outlines provisions for life and disability coverage, accident insurance, health and maternity benefits, and old-age protection for gig and platform workers. In 2021, the government introduced the e-Shram Portal, which registers unorganized workers and platform workers so as to create a national database that will be used to facilitate access to benefits.⁹⁸ By September 2022, specific modules for platform workers had been integrated, and at that time approximately 38,000 such workers registered. However, these changes to the Social Security Code have yet to be implemented fully, with multiple government agencies reviewing various policies. Several states have initiated localized frameworks to regulate domestic and care work, which could extend to platform workers in these sectors. Certain Indian states, such as Karnataka⁹⁹ and Tamil Nadu, have begun exploring welfare provisions for platform workers across industries.¹⁰⁰ Tamil Nadu’s efforts include a proposed Digital Workers Welfare Board, aimed at registering platform workers and offering benefits. In Rajasthan, policy drafts aim to address gaps in workers’ rights, wages, and protections, while confronting challenges such as algorithmic surveillance.¹⁰¹ The proposed frameworks would encompass in-situ workers engaged in domestic and care services.¹⁰² Currently, a Public Interest Litigation (PIL) concerning the rights of platform workers is pending in Kerala. PIL litigation is a way that citizens (even if not directly impacted) may enforce the

⁹⁷ Ministry of Labour & Employment, Code on Social Security, 2020 Provides for Framing of Suitable Social Security Schemes for Gig and Platform Workers, Press Information Bureau (Mar. 13, 2023), <https://labour.gov.in/sites/default/files/pib1906433.pdf>

⁹⁸ Ministry of Labour & Employment, *e-Shram Portal: An Initiative to Register Unorganized Workers*, Press Information Bureau (Sept. 8, 2022), <https://pib.gov.in/PressReleasePage.aspx?PRID=1858606>.

⁹⁹ *The Gig is Up: Pros and Cons of the Karnataka Gig Workers Bill*, MONDAQ (Dec. 6, 2023), <https://www.mondaq.com/india/employee-rights/1356782/the-gig-is-up-pros-and-cons-of-the-karnataka-gig-workers-bill>.

¹⁰⁰ Ambika Tandon & Aayush Rathi, *Platforms, Power, and Politics: Perspectives from Domestic and Care Work in India*, CENTRE FOR INTERNET AND SOCIETY (2021).

¹⁰¹ *The Rajasthan Platform-Based Gig Workers Act: Pioneering a Welfare Framework*, BUSINESS STANDARD (Nov. 2023), <https://www.business-standard.com/article/gig-economy/rajasthan-gig-workers-act-2023-details-12311220001.html>.

¹⁰² Employees Provident Fund Organisation & NLSIU, *Collaboration on Welfare Schemes for Gig Workers*, National Law School of India University (Jan. 23, 2023), available at <https://nls.ac.in/news/epfo-gig-workers/>.

⁹³ Moon Ki-hoon, Ministry extends labor protections to YouTube production staff injured during shoot, Korea Herald, Aug. 19, 2024, <https://www.koreaherald.com/article/3456665>.

⁹⁴ *Id.*

⁹⁵ Broadcasting Regulation Bill, 2024: <https://www.tsclcd.com/broadcasting-services-bill-2024-india#:~:text=The%20Bill%20updates%20definitions%20of,the%20definition%20of%20%E2%80%9Cintermediary%E2%80%9D>.

⁹⁶ *India’s Broadcast Bill: What It Means for Online Creators*, Medianama (Aug. 2024), medianama.com.

rights of others who may be unable to do so themselves and is usually focused on social action and rights. The litigation concerns the creation of a Platform Workers' Welfare Board to address rights and benefits for workers involved in digital platform work, including skill-based and creative freelance projects.¹⁰³

Shifting to examine recent litigation in the United States, in 2024, the City Attorney for San Francisco sued and later settled a misclassification lawsuit with gig staffing company WorkWhile.¹⁰⁴ In June 2024, the City of San Francisco sued the on-demand platform for misclassifying thousands of hospitality and food service workers as independent contractors. The platform workers were placed in hospitality positions where they were working alongside regular employees of businesses and were performing the same tasks as those employees. WorkWhile agreed to pay \$1 million to 7,500 platform workers as restitution for a lack of paid sick leave and overtime. More importantly, WorkWhile also agreed to reclassify the workers as employees.¹⁰⁵

Another San Francisco company, Scale AI, (which we saw previously running a crowdwork platform in Nairobi, Kenya) is being sued in the U.S. for allegedly misclassifying its U.S. workers and paying them less than the required state statutory minimum wage. In December 2024, Steve McKinney filed a lawsuit in San Francisco Superior Court against Scale AI, alleging that the business had misclassified workers as independent contractors and also engaged in widespread wage theft.¹⁰⁶ The complaint documents instances of workers performing off-the-clock work and then being denied compensation for the overtime hours worked. McKinney is also one of the lead plaintiffs in an action filed in the U.S. District Court for the Northern District of California focusing on the alleged disturbing and psychologically damaging prompts that Scale AI workers were subjected to, all the while being told that they were developing AI for scientific applications.¹⁰⁷ In essence, the complaint alleged that the company engaged in bait-and-switch misrepresentations in their hiring practices and negligently exposed workers to material damaging to mental health.¹⁰⁸ Attorney Glenn Danas estimated that there were between 10,000 and 20,000 workers who had been wrongly misclassified as

independent contractors in California, claiming that "[t]his is another really strong example of a company that's been massively enriched at the expense of workers."¹⁰⁹

Then, on January 3, 2025, Amber Rogowicz, a former worker at Scale AI's corporate subsidiary Outlier AI, filed a lawsuit alleging that she and other workers were misclassified as independent contractors. The lawsuit alleges that the per hour pay fell \$1 an hour lower than California's statutory minimum wage. Rather than a class action, Rogowicz brought the case under California's Private Attorney General Act (PAGA), which allocates the majority of any recovery from the case to the state. Separately, a news article dated March 6, 2025, reported that the U.S. Department of Justice was investigating Scale AI for a lack of compliance with minimum wage laws, retaliation, and misclassification as independent contractors.¹¹⁰

Many recent regulatory initiatives in the U.S. that were compromise bills have left computer crowdworkers out of the discourse. For example, the controversy over worker status in California entirely bypassed many crowdworkers. Proposition 22, the ballot initiative that rolled back protections for rideshare workers specifically focused only on App-Based Drivers.¹¹¹ Washington State's 2023 bill established a hybrid third category focused only on rideshare.¹¹² The bill specifically referred only to rights for rideshare drivers and set up an ombuds for those drivers who were deactivated by the platform. On the one hand, this means that crowdworkers are not a part of halfway or hybrid third category law giving only partial rights. On the other hand, neglecting to mention crowdworkers and non-rideshare platform workers leaves them without even those minimal protections. Being invisible can have negative consequences for digital platform workers.¹¹³

Throughout these various policy discussions, litigations, and proposed legislation, unions have had an important role in raising awareness of, and supporting worker rights in, these new fields of endeavour. German trade

¹⁰³ John Doe v. State of Kerala, W.P. (C) No. 4567/2023 (pending).

¹⁰⁴ *State of California v. Workforce as a Service, Inc.*, No. CGC-24-615401 (Super. Ct. San Francisco County, Cal. Dec. 4, 2024).

¹⁰⁵ *Id.*

¹⁰⁶ *McKinney v. Scale AI, Inc.*, No. CGC-24-620481 (Super. Ct. San Francisco County, Cal. Dec. 10, 2024).

¹⁰⁷ *Schuster v. Scale AI, Class Action Complaint*, Case 4:25-cv-00620-KAW (N.D. Cal., Jan. 17, 2025).

¹⁰⁸ *Id.*

¹⁰⁹ Troy Wolverton, *Suit charges SF's Scale AI with misclassifying workers, wage theft*, S.F. EXAMINER, Dec. 12, 2024, https://www.sfexaminer.com/news/technology/scale-ai-lawsuit-charges-sf-tech-startup-with-wage-theft/article_b6b3781a-b827-11ef-8cc7-c320ca742702.html.

¹¹⁰ Charles Rollet, *Scale AI is being investigated by the US Department of Labor*, TECHCRUNCH, Mar. 6, 2025.

¹¹¹ California Proposition 22, App-Based Drivers as Contractors and Labor Policies Initiatives (2020), [https://ballotpedia.org/California_Proposition_22_App-Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_\(2020\)](https://ballotpedia.org/California_Proposition_22_App-Based_Drivers_as_Contractors_and_Labor_Policies_Initiative_(2020)).

¹¹² House Bill 2076 (Washington State, 2022).

¹¹³ Likewise, the ILAW partner for Italy noted that the only digital platform labour laws are for rideshare and food delivery drivers, with no corresponding coverage for other gig workers or computer crowdworkers.

union IG Metall has consistently advocated for rights on digital labour platforms. They have done so through articulating a set of principles (the Crowdfunding Code of Conduct) and providing an ombuds service to help resolve work disputes on those platforms agreeing to the Code.¹¹⁴ Since 2021, IG Metall has also supported FairTube, a non-profit collaboration between the union and the YouTubers Union.¹¹⁵ Workers on platform Appen, a digital annotation service, have also organized and formed a union in cooperation with Alphabet's union. And a group of workers completing tasks for Meta, Bytedance, and OpenAI have formed the first African union focused on rights of online content moderators. In South Korea, our ILAW partner noted that the Webtoonists' Union, an organization of webtoonists, who are workers on exhibition platforms, has been organized and is active. The Swedish Trade Union Confederation, the Federation of Dutch Trade Unions, and the App Drivers and Couriers Union (now a branch of the Independent Workers' Union of Great Britain) have also advanced the rights of platform workers.¹¹⁶ In the Philippines, BIEN (Business process outsourcing Industry Employees Network) has been actively promoting the rights of platform workers who provide the back office support behind many popular websites and technology services.¹¹⁷ According to ILAW's partner in Italy, trade union UilTucs (one of the most representative Italian TU in trade and services sector) have proposed to represent crowdworkers, but so far without a successful outcome.

The largest step forward came in 2024 in the form of the European Directive on Platform Work (the "Directive"). The Directive provides a clear advancement of worker rights in the platform economy. The Directive aims to improve working conditions in the on-demand economy by facilitating the determination of employment status; promoting transparency, fairness and human oversight of systems of algorithmic management; and the harmonisation of rules that would apply in cross-border work situations.¹¹⁸ Containing a rebuttable presumption of employee status, the Directive notes that platform con-

tracts "shall be legally presumed to be an employment relationship where facts indicating direction and control, in accordance with national law, collective agreements or practice in force in the Member States and with consideration to the case-law of the Court of Justice, are found."¹¹⁹ If the digital platform decides to contest a worker's employee status, the platform has the burden of proof to show the workers are not employees. Member states are to "ensure that the legal presumption does not have the effect of increasing the burden of requirements on persons performing platform work or their representatives to determine their correct employment status."¹²⁰ The Directive also contains provisions allowing either workers or national authorities to initiate a determination of the correct employment status.¹²¹

Importantly, the Directive disregards the parties' attempts to label their relationship as independent contracting.¹²² This is important because misclassification often has had its genesis in adhesion contracts that platforms insert into online terms of service. Rather than give credence to a one-sided contract of adhesion, the Directive clarifies that the determination will be based on the substance of the working relationship. This focus on substance is in accord with the "primacy of facts" doctrine, a longstanding principle in EU labour and employment law. The Directive clarifies that employment status is to be determined by examining "the actual performance of work, including the use of automated monitoring systems or automated decision-making systems in the organisation of platform work[.]"¹²³ As such, the Directive effectively closes the "bogus self-employment" loophole that digital labour platforms had exploited for years to deny workers their rights. The default is employee status, with exceptions for only the rare or marginal situation where workers are truly running a separate and independent business. Because the Directive does refer to national law, there will likely be some nuances to its implementation in EU Member Nations, but overall, this is a major advance for the rights of platform workers to access certain rights. The Directive certainly increases the ability of digital platform workers to be able to organize and collectively bargain

¹¹⁴ Thomas Gegenhuber, et al., *Building Collective Institutional Infrastructures for Decent Platform Work: The Development of a Crowdfund Agreement in Germany*, ORGANIZING FOR SOCIETAL GRAND CHANGES (Mar. 29, 2022).

¹¹⁵ Valentin Niebler & Annemarie Kern, *Organising YouTube, Trade Unions in Transformation* (Sept. 2020).

¹¹⁶ Agnieszka Piasna, *New wine in old bottles: organizing and collective bargaining in the platform economy*, 11 (1-2) INT'L J. LAB. RES. 36, 42-3 (2022).

¹¹⁷ BIPO Industry Employees Network, <https://bienphilippines.wordpress.com/>

¹¹⁸ EU Directive 2024/2831 of the European Parliament and of the Council (Oct. 23, 2024), Ch. 1, Art. 1, ¶1.I

¹¹⁹ Directive, Art. 5 ¶1.

¹²⁰ Directive, Art. 5 ¶2.

¹²¹ Directive, Art.5, ¶¶4-5.

¹²² Directive, Ch. 1, Art. 2c ("person performing platform work" means an individual performing platform work, irrespective of the nature of the contractual relationship or the designation of that relationship by the parties involved.')

¹²³ Directive, Ch. II, Art. 4 ¶2.

The Directive also includes a broad and expansive definition of those digital platform workers to whom it applies. The definition of digital labour platform includes a website or mobile app using automated monitoring or decision-making systems where people work for payment in response to a request from a “recipient of the service.”¹²⁴ It does not matter if the platform worker is providing ride-hail or is engaged in other forms of location-based work. The language of the Directive makes it clear that there is coverage “irrespective of whether that work is performed online or in a certain location[.]”¹²⁵ The Directive’s Preamble discusses this issue at some length, noting that platform work “can be performed exclusively online by means of electronic tools (online platform work) or in a hybrid way combining an online communication process with a subsequent activity in the physical world (on-location platform work).”¹²⁶ The Preamble explains the reach of the Directive further:

“[T]he increased complexity in the structural organisation of digital labour platforms goes hand in hand with their fast-paced evolution, often creating systems with a variable geometry in the organisation of work ... This might also be the case for microwork or crowdwork platforms, which are a type of online digital labour platform that provide businesses and other clients with access to a large and flexible workforce for the completion of small tasks that can be performed remotely using a computer and internet connection, such as tagging. Tasks are split up and distributed to a large number of individuals (the crowd) who can complete them asynchronously.”¹²⁷

The discussion of “variable geometry” shows an understanding that digital labour platforms will likely experiment with different methods and structures for their businesses over the years, but that if they are providing labour services, the Directive would still

apply. The Preamble’s direct discussion of the computer crowdwork model (quoted above) also makes it clear that the protections apply to all digital platform workers, not just rideshare and delivery. Certain limits apply to what counts as a digital labour platform. The Preamble notes that some online sites, which merely connect people or aggregate advertisements of services are not to be considered employers. To become an employer, a platform must organise work and take a more active role, for example, in the provision of work or supervision of such either directly or through algorithmic management. The Directive’s Preamble also notes that platforms are more likely to be seen as employees if they are taking an active role, like processing payments to workers.¹²⁸

Once a platform comes within the ambit of the definitional section, the Directive grants its workers additional rights. Under the Directive, there will be limits on the type of information that can be collected from platform workers. Those limitations include information on workers’ emotional states, private conversations, information about workers’ membership in a protected class, or biometric data.¹²⁹ In addition, there are limits on the use of algorithmic management. The Directive notes the need for human participation in decisions concerning termination or deactivation of access to the platform. The Directive also provides for the occupational health and safety of workers both online and in the real world. Online platforms are prohibited from using monitoring systems that put “undue pressure on platform workers[.]”¹³⁰ For those who are providing services in the real world, the Directive requires the establishment of preventative measures against discrimination, as well as reporting channels for workers to report violence and harassment.¹³¹ Finally, the Directive addresses instances where workers have rented out their accounts, leading to forced labour or work by minors, etc. The Directive contains an anti-retaliation provision that prevents the dismissal or termination of any platform worker for exercising their rights under the Directive.¹³² Finally, the Directive instructs Member States to “encourage the exercise of the right to collective bargaining in platform work[.]”¹³³ With that review of many of the legislative initiatives and case law decisions up until present day, we will now turn to the roadmap for the future.

¹²⁸ Directive, Preamble, ¶20.

¹²⁹ Directive, Ch. III, Art. 7, ¶1.

¹³⁰ Directive, Ch. III, Art. 12, ¶3.

¹³¹ Directive, Ch. III, Art. 12, ¶5.

¹³² Ch. V, Art. 23, ¶1.

¹³³ Ch. VI, Art. 25.

¹²⁴ Directive, Ch. I, Art. 2 (1)(a).

¹²⁵ Directive, Ch. I, Art. 2(1)(a)(iii).

¹²⁶ Directive, Preamble, ¶5.

¹²⁷ Directive, Preamble, ¶19.

6. DIRECTIONS FOR THE FUTURE OF WORK

6.1 OFF THE ROAD

As we have seen throughout this report, the assembly line has moved online.¹³⁴ Crowdwork and similar technologies have presented significant challenges to existing systems of labour regulation. Despite the dedicated efforts of many platform workers, unions, and government representatives over the past fifteen years, the speed of change has been uneven. Some policy initiatives have great promise yet have stalled. And others – like the EU Directive on Platform Work, have put workers in pole position.

After an extensive discussion of worker rights on ride-share and delivery platforms, *Taken for a Ride 2* listed the goals for advancing rights in the on-demand economy. *Taken for a Ride 2*'s recommendations suggested numerous action points. Those focused on the following goals: providing platform workers with a voice and a seat at the table; achieving parity of rights for rideshare drivers and other workers; a test for employee status that would be broader and more inclusive of new forms of work; and that workers have access to justice, rather than being forced to accept mandatory forced arbitration or litigation in a foreign jurisdiction. With respect to all of these goals, *Taken for a Ride 2* urged governments and regulators to become “serious” about worker rights, instead of ignoring work on online platforms.¹³⁵

The policy solutions set out in *Taken for a Ride 2* are all interventions that are applicable across the platform economy. Whether completely online or performing real-world tasks outside the eye-catching context of ride-share and delivery platform, many workers have pressed for a seat at the table and for collective rights, parity, employee status, and access to justice. With that in mind, there are certain additional rights that pertain specifically to forms of crowdwork beyond rideshare and delivery. In particular, crowdworkers have repeatedly noted the need for solutions that are contextualized to their particular realities, concerns, and problems.

Discussion on best practices for digital labour platforms was initiated as early as 2010, when a class at Harvard Law School brainstormed ways to make online work a

better proposition for those performing it.¹³⁶ Other interventions followed, including a 2016 policy paper by German union IG Metall.¹³⁷ Since that time, the organization Fairwork has developed extensive principles, and has been rating platforms on well they perform on these measures. These ratings assigned include grades on fair pay, conditions, contracts, management, and representation.¹³⁸

This report adds to the goals in *Taken for a Ride 2* so as to be inclusive of computer crowdworkers and the concerns that typically arise for them. Those elements include fair remuneration; protection of crowdworkers from psychological harm; greater transparency both for workers when accepting tasks and also for global supply chains; and the promotion of career paths for gig workers. The next section explores each of points and why they are important in advancing the rights of crowdworkers.

6.2 ADDITIONAL GOALS FOR CROWDWORK

Almost all accounts that tell the stories of crowdworkers note the low rates of pay provided for tasks. There are accounts of journalists working online and failing to make the U.S. minimum wage of \$7.25 per hour.¹³⁹ Workers have developed strategies to deal with these low rates of remuneration, from creating message boards and contributing ratings to Turkopticon, to writing their own automated programs to seek out the highest paying tasks. But the search costs of finding the tasks or writing code to find tasks are significant, and that search time is unpaid. Workers also report that the workload on platforms is highly uneven. On some days the competition for available work is high, and tasks are difficult to come by. On other days, workers feel they must keep accepting and performing tasks because they find a plethora of opportunities and do not know how long those tasks will be available. The volatility in tasks leads to an unstable income stream, which is a significant source of stress for many crowdworkers. As such, minimum wages are important in online crowdwork, and platforms could develop systems that had more orderly guidelines on seeking work and signposts about when tasks would be released to the system.

Accompanying this element of fair remuneration, crowdworkers have also noted a high rate of wage theft

¹³⁴ Randall Stross, *When the Assembly Line Moves Online*, N.Y. TIMES, Oct. 30, 2010.

¹³⁵ *Taken for a Ride 2*, p. 37. While not expressly discussing why regulators might ignore the gig economy, between donations provided to political campaigns by platform companies, the popularity or necessity of certain apps, to provider, we can understand the dynamics have been one-sided.

¹³⁶ See, e.g. Miriam A. Cherry & Winifred Poster, *Crowdwork, Corporate Social Responsibility, and Fair Labor Practices*, RESEARCH HANDBOOK ON DIGITAL TRANSFORMATIONS (F. Xavier Olleros & Majlinda Zhegu, eds. 2016).

¹³⁷ M. Six Silberman, *Frankfurt Paper on Platform-Based Work*, IG Metall (2016).

¹³⁸ Fairwork Principles, <https://fair.work/en/fw/principles/>.

¹³⁹ Marvit, *supra* note 31 and discussion, Section 5, *supra*.

on platforms. This is a common practice, because on some platforms, task requesters who are paying the platform a commission have many rights, and workers comparatively far fewer. For example, on Amazon Mechanical Turk, platforms have the right to reject work, without necessarily providing a reason for doing so. The requester can then keep the work, but the crowdworkers in that situation would not get paid for that time. There have been repeated instances over the years where requesters have rejected tasks on MTurk en masse.¹⁴⁰ While workers have also developed strategies for dealing with mass rejections, in many cases workers are stiffed and not paid for the time that they worked. When workers attempt to resolve these problems with the platform, they are either ghosted or given the runaround. There is no one there to respond to questions, and for the small amount that the tasks pay, workers for the most part eat the losses and move on. These unpaid amounts add up when they are aggregated across millions of tasks performed by millions of workers. Other workers report arbitrary deactivation from crowdwork platforms. Effective conflict resolution systems are necessary for resolving these disputes.

Other matters to be addressed include worker health and safety. For crowdwork there is a need to design jobs in ways that are not just economically efficient, but that are protective of workers' mental health. Online content moderators and data annotators have noted that the work they perform can, at its best, be emotionally draining. At its worst, these jobs can leave workers with damaging long-term psychological problems. Having to watch violent content and videos and read hate speech on a virtually continuous basis will inevitably take a toll. Workers need breaks, support, and variation in the tasks that they assigned, so that they do not become overwhelmed.

Transparency is a complement to adequate wages and an understanding of what (safe) work entails. Full disclosure helps workers better understand the tasks that they are taking on and what the time commitment will be. On some crowdsourcing websites, it is not clear how much time or skill is required to complete the task. So, for example, a task might be listed one way in the description. But, when a worker accepts the task and begins, the task is more time consuming or difficult than the way it was described. This has the net effect of decreasing a worker's wage and could become either misleading or considered another form of wage theft. In some instances, the notion of transparency relates to the overall project and aim of the crowdwork - the "big picture" of the work that is being

performed. If work is manipulated and broken down into its smallest components, crowdworkers have no idea if the overall aim is toward a goal they agree or disagree with. Tagging photos that helps artificial intelligence develop certain skills may be laudable, but photo tagging could also be used in other contexts that a worker might disagree with. The value of transparency also should extend to consumers. Many deceptive and exploitative forms of labour are emerging behind the systems of crowdwork. If requesters do not know who the workers are and what the conditions are behind the platform, how can they practice ethical sourcing and supply chains? Further, many website users are convinced that they are using artificial intelligence systems, when in reality, the work is being crowdsourced at low rates of pay. How will consumers know if they are receiving a service or product that has been made in a digital sweatshop? Finally, crowdwork does not offer workers training or the ability to make progress in their careers. Often there is no opportunity for workers to develop their skills. Even for skilled freelancers, they may not receive any feedback on their work and because the jobs are one-off transactions, there is no ability to apply the knowledge learned from one contract to future work for that requester. Even more troubling is the fact that the most educated workers are often pulled away from working in rewarding careers om their own communities to do de-skilled work.

6.3 ILO PROPOSED STANDARD

New interventions, like the EU Directive on Platform Work discussed in Section 5, as well as the ILO's proposed standard on decent work in the platform work are particularly important at this time.¹⁴¹ The world of work is increasingly transnational and interconnected, and the need for uniform global standards is ever more essential for worker rights as well as the continued growth of the platform economy. This particular moment is critical as work in the general economy is increasingly becoming ever more similar to work on digital labour platforms. Even if employed by one company, workers may be receiving their work tasks through an internal or computer-intermediated platform. Most workers now can do at least some portion of their work remotely. Rather than typical, long-term employment, or semi-"permanent" employment, and increasing amount of what used to be standard work is becoming more precarious and unstable.

¹⁴⁰ Brian McInnis, et al., *Taking a HIT: Designing around Rejection, Mistrust, Risk, and Workers' Experiences in Amazon Mechanical Turk*, CHI CONFERENCE (2016).

¹⁴¹ Realizing decent work in the platform economy, International Labour Conference, 113th Session 2025, UN-ILO, I.L.C.113/V(2), <https://www.ilo.org/sites/default/files/2025-02/ILC113-V%282%29-%5BWORKQ-241129-001%5D-Web-EN.pdf>.

The ILO standard, like the EU Directive, contains similar wording and language, which indicates that there will be broad coverage of platform workers beyond rideshare and delivery. There is much that is laudable in the ILO proposed standard. From the definitional section, it is clear that computer crowdworkers will also be covered by the proposed standard.¹⁴² Further, there is a provision termed “No less favourable treatment,” which encourages Member States to ensure that platform workers have parity with workers in the traditional economy.¹⁴³ The proposed standard includes a guarantee of minimum wage, and encourages some compensation for waiting time (although there are not many details about how that would be calculated).¹⁴⁴ While the provisions in the proposed standard concerning tips are more likely aimed at rideshare and delivery drivers, those provisions could also be applicable to other location-based platform work, like pet sitting or housecleaning. The proposed ILO standard contains provisions for protecting workers’ data privacy that are similar in effect to the language in the EU Directive.¹⁴⁵ Finally, one last section of note concerns access to justice. The proposed standard states that Members “should take measures to ensure that digital platform workers have access to dispute resolution mechanisms and remedies in the territory in which the digital platform worker resides or carries out work via digital labour platform, regardless of where the platform is established[.]”¹⁴⁶

Some parts of the standard, however, could be clarified or strengthened to tailor the provisions to the particular problems that non-rideshare platform workers and computer crowdworkers must contend with. First, and most importantly, the proposed standard does not adequately protect collective rights. Although there are many statements in the proposed standard that purport to strengthen the collective rights of workers, there is a weakness in its implementation. Many nations have written their laws in such a way that **only employees** may join unions, organize, and bargain collectively. (There are reasons for that restriction, mostly stemming from concerns about market collusion). Independent contracting businesses cannot typically form a cartel and act together without running afoul of anti-competition laws. For example, in the United States, without employment status, workers cannot receive the protections of the National Labour Relations Act. Unfortunately, the proposed standard takes

no position on employment status. A rebuttable presumption of employment in line with the EU’s Platform Work Directive would be a much stronger position on encouraging collective rights.

There are other provisions that seem more tied to the context of rideshare, delivery, and other *in situ* work. For example, in discussing occupational health, reference is made to occupational disease. However, there is no mention of psychological damage or trauma, which is a major concern for workers in the content moderation and data annotation. Finally, the enforcement mechanisms for these provisions are mostly left up to the laws of the Member states. But because these platforms are truly transnational, there might be more than one country that would have an interest in various aspects of enforcement. If requesters are in many countries, the operators of the platform are in another country, and the workers are in still yet more countries, there is a significant data flow between the countries. If a privacy violation of workers’ rights happens outside of the jurisdiction where the workers are located, who will be able to enforce those rights (and where?) There are many more complicated scenarios but suffice it to say that there should be a recognition that there may be more than one Member that will have an interest in enforcement. With the Maritime Labour Convention (“MLC”), many states may seek to enforce the standards (the country that is the flag of convenience, the one where the vessel’s owners reside, the location of the many workers who are on board, or the actual physical location of the goods and where they are passing on shipping lanes). The MLC provides a very detailed series of regulations about inspection and enforcement.¹⁴⁷ Because so many different jurisdictions have enforcement authority, the Maritime Convention has been successfully implemented. It is uncertain what the enforcement mechanism will look like for the proposed platform work standard, but the MLC may provide an effective template for such regulations.

¹⁴² ILO Standard §A(3), 149.

¹⁴³ ILO Standard at §38, 154.

¹⁴⁴ ILO Standard at §56, 156.

¹⁴⁵ ILO Standard at §67, 157.

¹⁴⁶ ILO Standard at §71, 158

¹⁴⁷ Maritime Labour Convention, 2006, as amended.

6.4 CONCLUSION

Many commentators have praised digital labour platforms for making certain forms of employment more accessible to disabled workers, to caretakers, and to workers in the Global South. Platforms, requesters, and workers all have a stake in the development of these new forms of work. At the same time, many have criticised digital labour platforms as undermining or evading labour laws. Misclassification of workers has been common, and global competition has created a race-to-the bottom dynamic on platforms. Throughout the past decade, these labour problems have stubbornly persisted. Crowdworkers around the world, but particularly in the Global South, are currently working at the margins of the digital economy. Many platform workers are invisible to each other, to those who have requested the tasks, and to the end-users who receive the service.

Yet, with the EU Directive on Platform Work and the possibility of a strengthened standard setting at the ILO, there is hope that this dynamic is changing. A rebuttal presumption of employee status would result in actual parity between workers on digital labour platforms and those in the traditional economy. As more work migrates to platforms, or to companies using some internal variation on a platform, these rights are more important than ever. If the ILO acts now to strengthen its proposed standard, then platform workers will no longer be crowded out of protection.

The International Lawyers Assisting Workers (ILAW) Network is a membership organization composed of trade union and workers' rights lawyers worldwide. The core mission of the ILAW Network is to unite legal practitioners and scholars in an exchange of information, ideas and strategies in order to best promote and defend the rights and interests of workers and their organizations wherever they may be. Please contact us at admin@ilawnetwork.com with any missing or new judgments, as well as links to any academic analysis or commentary and we will be sure to include them in subsequent issues.