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4 Minimum wages for online labor platforms?

Regulating the global gig economy

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1. Background

In 2018, over half of the world's population was connected to the internet. The rise of the so-called "gig economy" has enabled internet users to find work that they might not otherwise have been able to obtain. Over the last four years' researchers based at the Oxford Internet Institute have been at the forefront of wide-ranging research into conditions on the "online labor platforms" which constitute a global remote gig economy. Online labor platforms enable clients to access labor power potentially from anywhere in the world. According to one estimate, this has created a USD5 billion market for online work that is served by 48 million workers (Kuek et al., 2015). These platforms have been the focus of much of our research. Such platforms are global in nature, and involve the remote buying and selling of digital labor which is by its nature highly mobile and "non-geographically sticky" (also known as "crowdwork" this is work that can, in theory, be done from anywhere).

Collectively we have interviewed 250 remote gig economy workers across ten countries and four continents. We have interviewed workers in Kenya, Uganda, Ghana, Malaysia, Nigeria, the Philippines, South Africa, the United Kingdom, the United States and Vietnam as well as other stakeholders such as platform CEOs and government and trade union officials. We have also conducted a survey of 679 Asian and African workers; analyzed six months of transaction data from one of the world's largest platforms and undertaken observation at dozens of gig worker community events. It is this wealth of research which informs our following discussion (Anwar and Graham, 2017, 2018; Graham, Hjorth and Lehdonvirta, 2017; Graham et al., 2017; Graham and Anwar, 2018a, 2018b; Wood et al., 2019a, 2019b; Wood, Lehdonvirta and Graham, 2018). The platforms that we looked at were global in nature, and in this response we focus on "non-geographically sticky work" (i.e., "crowdwork" or work that can, in theory, be done from anywhere).

2. Introduction

Any discussion of platform minimum wages is worth foregrounding with a few key points. First, it is clear that pay rates are not the most important issue relating to the quality of platform work. In fact, pay rates were often significantly higher

than what was available locally and were often considered to constitute decent pay. More important issues to emerge from our qualitative interviews and supported by our survey research were the limited social contact which workers experienced, that they often worked long or irregular unsocial hours at intense speeds, that many felt they had little security and some had low incomes. Nevertheless, the downward pressure on pay rates created by the individualized and competitive design of online labor platforms contributed to these outcomes. However, they were also due to an oversupply of workers relative to clients, meaning that there were inadequate earning opportunities to meet the needs of all workers and this in turn generally weakened the bargaining position of workers. Therefore, while implementing minimum wages on online labor platforms might alleviate some of these problems by increasing pay rates at the bottom, doing so might also exacerbate these problems by reducing the supply of clients (by making the platforms less attractive) while increasing the supply of workers (by making the work more attractive). Thus, any intervention to increase a platform's pay rates would require increases in the quality of the services provided in order not to reduce demand and exacerbate the weak position of labor. However, in the long run the elimination of low-productivity jobs which are unable to sustain a living wage is not necessarily bad thing. As minimum wages can force employers to invest in automation and new working methods which increase productivity and thus create new jobs which have the potential to provide decent wages (Kaufman, 2010).

Second, our empirical research highlights how the competition on many online labor platforms is international. What is more, we find that many workers perceive themselves as threatened with replacement by workers in other countries who are able to work for less due to the lower cost of living in that country. This international aspect is a key consideration in thinking about minimum wages, as any intervention is likely to unevenly affect workers living in diverse contexts. For example, a minimum wage set at North American or Western European levels would erode the comparative advantage of workers in lower income countries. This is not to suggest a race to the bottom in wages, but rather a need to make sure that minimum wages do not become an overly protectionist measure at the cost of workers in the Global South.

Third, our research has detailed that some platforms have implemented global minimum wages – mainly as an attempt to ensure quality by pricing out low-quality workers. However, a major issue with these minimum wages is that they relate only to hourly paid work when much of the work is paid on the basis of a fixed price per project. This means that the effective wage can be below the minimum hourly rate.

3. Discussion: labor market principles for online labor platforms

There is currently insufficient empirical data to fully evaluate the likely labor market consequences of online labor platform minimum wages. Instead we suggest some general labor market principles which we believe should be applied to online labor platforms.

First, all work that is done happens somewhere. Therefore, paid work undertaken through online labor platforms should fall under at least one set of national jurisdictions. There are few countries on the planet that do not have some form of regulated labor standards and minimum wage regulations. Therefore, online labor platforms must not exist as mechanisms for the avoidance of labor regulations. Just because a digital platform is used to connect a client with a worker, does not mean that the underlying economic and regulatory geography of that work should be ignored (Graham and Anwar, 2018a; Wood et al., 2019a).

We should, as a starting point, adopt the principle that we do not need to reinvent the wheel. Online labor platforms should ensure that the relevant labor laws – including the classification of workers – are being followed. This is not an unusual expectation and it is widely accepted that conventional labor market intermediaries, such as employment agencies and labor brokers, have this responsibility.

When considering this issue it is useful to draw upon the discourse surrounding what is known as “tax dodging”. Both tax evasion and tax avoidance are forms of tax dodging. While only tax evasion is illegal, as only these activities break the letter of the law, both evasion and avoidance are generally seen as harmful and immoral. We argue, therefore, that what matters, when thinking about labor regulation avoidance is the spirit of the law, not the letter of law.

Online labor platforms not only have a responsibility to ensure that the letter of the law is being followed but also the spirit of those laws. This is especially important regarding employment classification as minimum wages often only apply to those classified as “workers” or “employees”. In the spirit of the law, “self-employed contractors” are widely understood as being equal parties to those with whom they are entering into contracts with and thus do not require minimum wages. Conversely, “employees” are regarded as being the more vulnerable party in the relationship and in need of special protections such as minimum wages. However, in the contemporary labor market, many independent contractors are best understood as “self-employed workers” as they are in a vulnerable position due to dependence on their clients and therefore in need of protections. Therefore, the spirit of these laws dictates that self-employed workers i.e., the vulnerable self-employed should be entitled to minimum wages as well as other protections outlined in relevant labor laws.

Importantly online labor platforms tend to be based upon a business model which is premised upon creating dependency. For example, there is evidence from the local gig economy that it is impossible for Uber to make sustainable profits in a competitive marketplace (Horan, 2017). Platforms usually earn income from each transaction which takes place between workers and clients. Therefore, the success of the platform rests upon keeping the worker and client using the platform, however, workers and clients tend to develop trust and confidence which can enable repeat business to bypass the platform. In order to curb this behavior, platforms utilize a number of mechanisms, which actively seek to create worker dependency. This is not to say workers do not take their work outside the platforms but to be successful the platforms must seek to limit their ability to do so. Most platforms include exclusivity clauses in their terms of services which can

hinder workers and clients doing business outside of the platforms. The control and ownership of data also acts to lock users into a platform in an attempt to prevent them from taking their platform profiles and reputations with them to another platform (see Rosenblat and Stark (2016) and Shapiro (2017) for similar findings regarding the local gig economy). Finally, platforms have monopolistic tendencies due to the benefits of “network effects”. A network effect is a phenomenon whereby each additional user increases the value of the platform for all users. The network effect can make it difficult for new platforms to compete with established ones, as a new platform is of little value unless everyone switches platform at the same time. However, the online gig economy seems to be oblivious to, or ignore, the problems of platform dependency and the fact that as a result labor regulations should apply to workers. An employer based in Germany who sources work from a worker based in Kenya (via a platform based in the US) rarely has any knowledge of Kenyan labor law and nor do the platforms suggest that they should.

4. Concluding analysis and future recommendations

It is also important to note that many countries’ minimum wage regulations include piece work. Under these laws employers are usually required to calculate a minimum piece rate which is not less than the hourly minimum. In some countries, such as the United Kingdom, the law also ensures that a “fair” minimum piece rate is one which is achievable by workers who are less skilled or more fatigued than the average worker (Gov.uk, 2018). Platforms should use the wealth of data they collect on work tasks to calculate piece rates. These rates should be cross-checked, verified and regulated by state bodies. However, there will be some situations where the time taken to complete an average task undertaken by an average worker will be too variable for the platform to accurately or meaningfully calculate. For example, the time taken to complete some programming tasks may vary significantly due to the specific problem and whether the worker has encountered something similar before. Therefore, where average productivity cannot be adequately measured or meaningfully calculated a piece rate payment method must be recognized as unsuitable and platform workers should instead be paid on an hourly basis.

In addition, EU labor law includes a posted worker directive which stipulates that “posted workers” (someone sent by their employer to carry out a service in another EU member state on a temporary basis) should be remunerated in accordance with host countries’ laws and practices. Online labor platforms enable labor to be sent digitally to the client’s country and therefore the posted worker directive should apply to EU remote gig workers. This is an approach which could be adopted more widely and updated to recognize the fact that while the work is being undertaken in the client’s location via the internet the costs of reproducing labor will be dependent on the worker’s physical location. Therefore, minimum wages should be adjusted by purchasing power parity, perhaps with platforms adjusting their minimum rates every year (this could be perhaps verified by an independent body like the Fairwork Foundation). A benefit of doing so would

be that it avoids unfairly disadvantaging workers in countries with lower labor costs.

Second, (and perhaps somewhat paradoxically), platforms should get rid of their global minimum wages. Global minimums send a message to clients that if they pay above the minimum then they are in compliance with relevant local regulations. However, it is entirely possible for workers to earn above platform minimum wages, but below their client's national/local minimum wages

Third, we acknowledge that there might be claims that any attempts to enforce minimum wages could be unenforceable given the global and dispersed geographies and networks of online work. However, our research shows that the vast majority of demand for digital work comes from just five countries. Furthermore, a small handful of platforms mediate the vast majority of that work. These two facts demonstrate that initial barriers to regulation are not due to a dispersed geography or dispersed network of work. These topological and geographical bottlenecks in the global trade of digital work offer potential sites in which regulation can be enforced (we realize that many of the other submission to this call deal with some of the specifics of "how to do regulation" and we therefore leave the details of that discussion to others).

We hope that some of these suggestions can help to bring about a fairer set of relationships between the employing class, the governing class and the working class. Online gig work has brought income and jobs to many, but that does not mean that we should expect it to function as an unregulated labor market.

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