



## Fairwork Pakistan Ratings 2022

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**LABOUR STANDARDS IN THE  
PLATFORM ECONOMY**

# **Pakistan Ratings 2022**



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# Executive Summary

This first Fairwork report for Pakistan covers seven digital labour platforms spanning four different sectors (ride hailing, food delivery, e-commerce delivery, and personal care services). Pakistan has the sixth largest labour force in the world but the majority is part of the informal economy, and unemployment levels are high.<sup>1</sup>

There have therefore been high hopes that digital labour platforms might provide flexible, easily-accessible opportunities for workers to earn their livelihood. In practice, though, there are issues with the platform economy model. This report examines the working conditions in Pakistan's platform economy, with the aim of showing not only where our platform economy stands today, but also what it can be in the future with the adoption of decent work standards.

An OECD estimate from 2018 showed the global proportion of platform workers to be between 1.5 to 3 percent in countries with particularly active platform economies.<sup>2</sup> **With some 1.5 million platform workers, Pakistan has nearly two percent of its labour force engaged in the platform economy through online and location-based services.** It therefore ranks as a particularly active platform economy.

The platform economy involves digital labour platforms engaging workers through cloudwork and location-based work. Cloudwork is performed online and is location-independent. In this report, we rate key platforms providing location-based work which matches the worker and client via an app for local services including transportation, delivery and home services.

Seven location-based platforms in Pakistan have been evaluated against Fairwork's five principles - Fair Pay, Fair Conditions, Fair Contracts, Fair Management, and Fair Representation - giving each platform a rating out of ten. Platforms are only given a score when they

can satisfactorily demonstrate with evidence their compliance to the principles. This means that failing to achieve a point does not necessarily mean that a platform does not comply with the principle in question, but that it was not able to demonstrate its compliance. This in itself is important, as clear and institutionalised rules and regulations are a key aspect of fair working conditions.

Gharpar, a local platform offering beauty services at home, is tied with Uber and Foodpanda, a global ride-hailing platform and an international food delivery platform respectively, in the current table with a score of one point each. In this scoring round, we were unable to award any points to the remaining four platforms: Cheetay (food delivery), Careem (ride-hailing), Bykea (ride-hailing) and Daraz (e-commerce delivery) under the Fairwork principles.

With such limited evidence that Pakistan's platforms are meeting decent work standards, there is an urgent need for improvements to platform work across a whole swathe of issues. A key contribution of this report is an outline of new legislation to help achieve this, and we look forward to working with government, platforms and worker representatives to ensure Pakistan's platform economy provides decent work for the large number of workers that depend upon it.

platform is Uber, moving up from two points in 2021 to four points in 2022. As per our methodology, we only give points to platforms when they have provided verifiable evidence that they satisfy the principle.

# Key Findings



## FAIR PAY

**Workers on only one of the seven platforms, Gharpar, were able to consistently earn above the minimum wage after costs, which for 2021 was PKR 22,602 (ca. USD140) per month or PKR 109 (ca. USD0.70) per hour.**

When assessing minimum wages, the scoring took into account not only the amount paid by the platform to the worker for hours worked, but also the cost of providing task-specific equipment and paying work-related costs out of pocket. The scoring also included waiting times between jobs. Considering these additional costs—unpaid waiting time, travel costs (such as rising petrol prices), and vehicle maintenance—we could not evidence that the other platforms would meet this threshold. Moreover, when extending this net calculation to consider a living wage, assessed as PKR 28,700 (ca. USD180) per month for 2021, or PKR 138 (ca. USD0.87) per hour, none of the platforms could fulfil the criterion of fair pay.



## FAIR CONDITIONS

**There are numerous risks that platform workers face in the course of their work, ranging from road safety issues to crime and violence.**

Uber is the only platform to evidence that they are aware of these risks and that they take action to protect workers from some of the risks that arise during the course of their jobs, such as through road safety training, providing emergency assistance, and ethical data protection measures. This international ride-hailing platform was able to score the first point of this principle. None of the other platforms were able to evidence sufficient basic safety measures, nor were they, including Uber, able to provide evidence of policies or procedures to adequately protect their workers' vulnerability to income loss due to unexpected or external circumstances.



## FAIR CONTRACTS

**Not all platforms have clear and accessible terms and conditions, and only one platform has been awarded the first point for fair contracts (Foodpanda).**

The contract provided by Foodpanda is public and accessible to its riders, and has been made comprehensible to the majority, in consultation with the Fairwork Pakistan team, by translating it into the national language, Urdu. Contracts not being accessible to workers at all times was a major issue identified on some of the platforms. Moreover, our research showed that some platforms have clauses in their terms and conditions unfairly limiting or excluding liability on the part of the platform.



## FAIR MANAGEMENT

**We could not evidence that any of the platforms we studied provided due process for decisions affecting their workers, including avenues for workers to meaningfully appeal disciplinary action.**

Our research indicated that workers often found the appeals process as inadequate, or they felt they are disadvantaged for voicing concerns. In consultation with the Fairwork Pakistan team, one platform (Gharpar) has implemented an anti-discrimination policy. Notwithstanding this, there was insufficient evidence that platforms studied this year provide genuine equity in their management process; for example, in removing barriers to employment of under-represented groups or in having effective means to stop users discriminating against workers from disadvantaged groups.



## FAIR REPRESENTATION

**We could not award a point on this principle to any of the platforms we studied.**

Gharpar was the only platform which came close to providing meaningful collective worker voice mechanisms, in the form of its Gharpar Monitor Meetings. For the remaining platforms there was insufficient evidence to warrant a score. No platform formally adheres to even basic worker rights such as observing the right of workers to freedom of association, documenting a process for expression of collective worker voice, or guaranteeing that workers will not be penalised for associating or expressing demands.

## EDITORIAL

# Platform Workers in an Informal Economy

**Pakistan's labour force of 76 million is one of the top ten largest in the world.<sup>3</sup> Nearly 90 percent of this workforce is part of the informal economy,<sup>4</sup> which contributes more than half of the country's GDP: a whopping US\$180 billion each year.<sup>5</sup> Those working in the informal economy do so out of necessity rather than choice in order to earn a livelihood.**

Yet their livelihoods are precarious as they lie outside the protections afforded to formal employment. Informal economy workers are not under the purview of effective labour inspection, and they miss out on social protection programmes such as those which have benefitted formal workers during the COVID-19 pandemic.<sup>6</sup>

Informal, non-standard employment has always existed in many forms in Pakistan, but the advent of the platform economy in the country seems to be something new; based around new technologies and breaking with historical precedents. It is associated with notions of independence, flexibility and freedom, either as a supplemental source of income, or alternatively as a means by which workers seek to earn their entire livelihood. Workers have bought into this vision of a new way of working and of micro-entrepreneurship, with one 2020 Uber experience survey finding that around 75 percent of workers preferred "flexibility and independence" over being a worker under "archaic" labour legislation.<sup>7</sup>

With these positive images and promises, platforms have grown in Pakistan, including those offering location-based work in transportation (Uber, Careem, Bykea), food delivery (Foodpanda, Cheetay), e-commerce delivery (Daraz) and domestic/personal care services (Gharpar). Following the model of independence and flexibility and micro-entrepreneurship, those who work for them are classed as independent contractors rather than workers. Yet the reality of work behind the image of modernity and a "break from the past" is one that is rather familiar from the history of the informal economy.

Platform workers operate in a grey area that falls outside the rights offered for employed workers in Pakistan's labour legislation. Considered to be self-employed, they are not included in the country's Ehsaas programme of social protection, nor in the COVID-19-related social protections offered for workers, despite being particularly vulnerable to loss of employment during the pandemic.<sup>8</sup> The invisible

hand of the algorithm that manages them may seem to work perfectly when it rewards a high-performing individual, but less so when it automatically removes a worker from the platform; often for reasons unknown to that worker. Stiff competition within the platform economy can also lead to a race to the bottom, with payments decreasing over time and working hours thus increasing in order for workers to earn enough for their families to live on. When faced with the reality that flexibility can also mean “loss of job security, various kinds of benefits including leaves, compensation in the event of workplace accidents and social protection”, worker attitudes towards flexibility can become a lot less positive.<sup>9</sup>

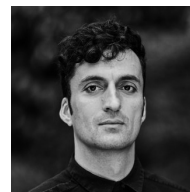
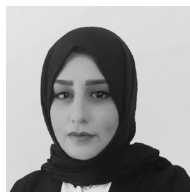
A central problem is that employment legislation in Pakistan has not kept pace with the digital revolution. The country’s Ehsaas Strategy may laud employment creation through online freelancing and platform work but, unless such work is better regulated, workers will remain deprived of their rights. Critical labour protections, fundamental labour rights, an adequate living wage, limits on maximum working hours, and protection of worker

health and safety, must be available to all – irrespective of their employment status. Job creation alone is not enough to create a sustainable future of work in Pakistan. Platform work must therefore be transformed into decent work by regulating it, rather than continuing with the current laissez-faire approach.

The Fairwork Project has been initiated in Pakistan to show not only where the platform economy stands today, but also what it can be in the future. Key platforms in Pakistan have been evaluated in this report against five principles of Fairwork: Fair Pay, Fair Conditions, Fair Contracts, Fair Management, and Fair Representation. We hope that the findings in this report and our recommendations will prompt the government to bring forward a much-needed labour law targeting these location-based platform workers, will set into motion the provision of decent work standards for workers by platforms, and will raise awareness of platform workers’ rights. As a start, this report includes a blueprint for regulating platform work in Pakistan (Appendix A).

## FAIRWORK PAKISTAN TEAM

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## THE FAIRWORK PROJECT

# Towards Decent Labour Standards in the Platform Economy

**Fairwork evaluates and ranks the working conditions of digital platforms. Our ratings are based on five principles that digital labour platforms should ensure in order to be considered to be offering basic minimum standards of fairness.**

We evaluate platforms annually against these principles—developed through multiple multi-stakeholder workshops at the International Labour Organisation—to show not only what the platform economy is today, but also what it could be. The Fairwork ratings provide an independent perspective on labour conditions of platform work for policymakers, platform companies, workers, and consumers. Our goal is to show that better, and fairer, jobs are possible in the platform economy.

The Fairwork project is coordinated from the Oxford Internet Institute and the WZB Berlin Social Science Center. Our growing network of researchers currently rates platforms in 30 countries across 5 continents (Figure 1). In every country, Fairwork collaborates closely with workers, platforms, advocates and policymakers to promote a fairer future of platform work.

# Fairwork countries

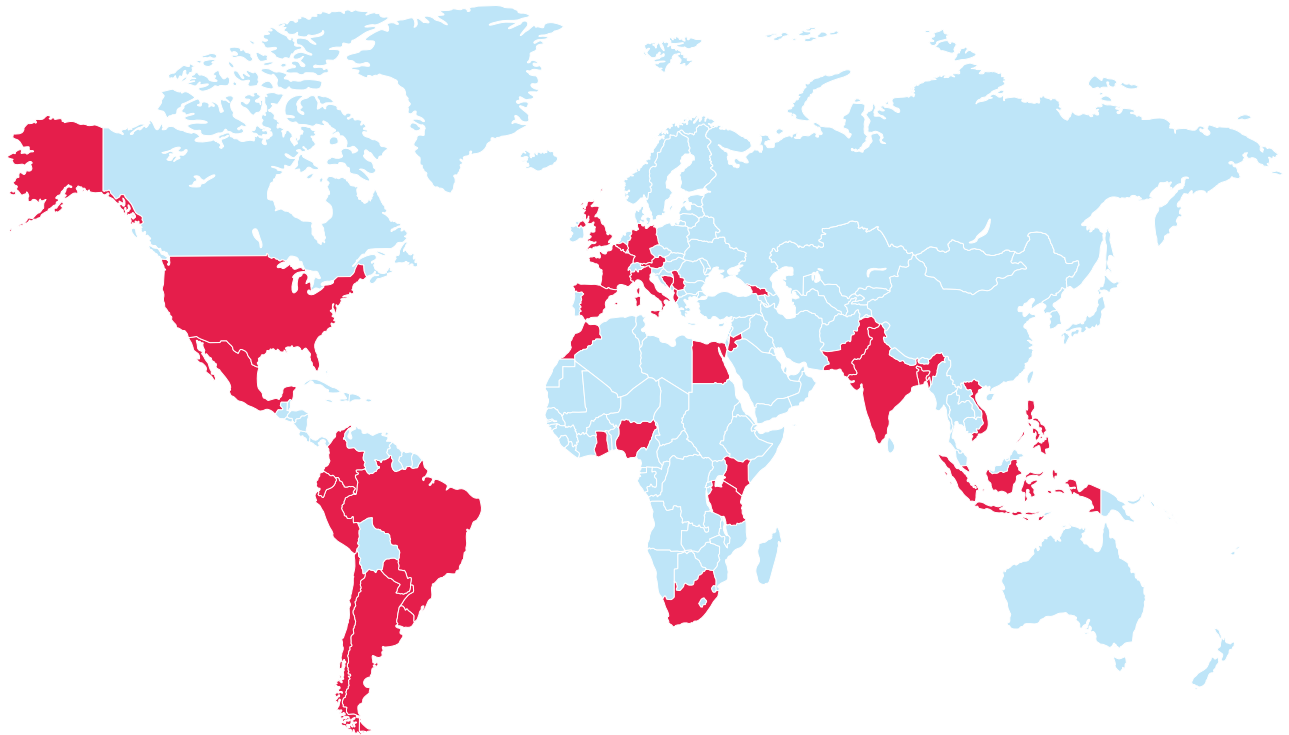


Figure 1. Fairwork currently rates platforms in 30 countries worldwide.

## AFRICA

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

## ASIA

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

## EUROPE

Albania, Austria, Belgium, Bosnia, France, Georgia, Germany, Italy, UK, Serbia, Spain

## SOUTH AMERICA

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

## NORTH AMERICA

Mexico, USA

# The Fairwork Framework

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

To do this, we use five principles that digital labour platforms should ensure to be considered as offering 'fair work'. We evaluate platforms against these principles to show not only what the platform economy is, but also what it can be.

The five Fairwork principles were developed through multiple multi-stakeholder workshops at the International Labour Organisation.

**FURTHER DETAILS ON THE FAIRWORK SCORING SYSTEM ARE IN APPENDIX B.**



## STEP 1

# The five principles



### Fair Pay

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



### Fair Conditions

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



### Fair Contracts

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



### Fair Management

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



### Fair Representation

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

## STEP 2

# Methodology

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

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

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

### Desk research

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

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

### Platform interviews

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

### Worker interviews

The third method is interviewing platform workers directly. A sample of 5-10 workers are interviewed for each platform. These interviews do not aim to build a representative sample. They instead seek to understand the processes of work and the ways it is carried out and managed. These interviews enable the Fairwork researchers to see copies of the contracts issued to workers, and learn about platform policies that pertain to workers. The interviews also allow the team to confirm or refute that policies or practices are really in place on the platform.

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

## Putting it all together

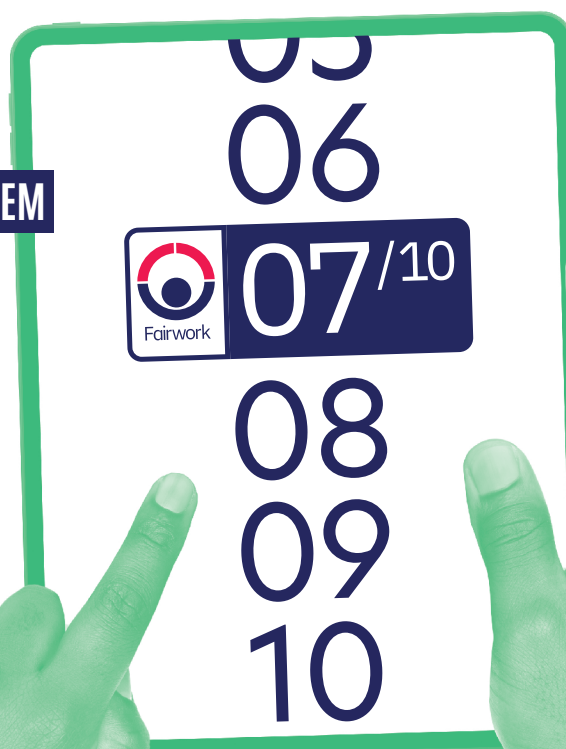
This threefold approach provides a way to cross-check the claims made by platforms, while also providing the opportunity to collect both positive and negative evidence from multiple sources. Final scores are collectively decided by the Fairwork team based on all three forms of evidence. Points are only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

## How we score

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

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

**FURTHER DETAILS ON THE  
FAIRWORK SCORING SYSTEM  
ARE IN APPENDIX B.**



## BACKGROUND

# Overview of Pakistan's Platform Economy

The last decade has seen a massive growth in the global platform or “gig” economy. According to a 2021 ILO report, the number of online web-based labour platforms has tripled, with the number of taxi and delivery platforms growing almost tenfold in the last decade.<sup>10</sup>

Fairwork estimates the size of the world's platform economy to be between 14 to 55 million workers, with the upper number increasing to 440 million workers when broader definitions of platform work are considered, and when all workers, irrespective of the number of hours they spent at platform work in the past year are counted.<sup>11</sup>

The platform economy involves online marketplaces (also referred to as digital labour platforms) engaging individuals for two types of short-term tasks: cloudwork and location-based work. Cloudwork is performed online and is location-independent. It consists of work like software development, data entry and translation services, among others. Location-based work matches the worker and client via an app for local services including transportation, delivery and home services.

Oxford University's Online Labour Index (OLI) finds Pakistan to have the third-largest population of professionals in the global cloudwork industry after India and Bangladesh, with a market share of around 12 percent.<sup>12</sup> One estimate is that the current number of active cloudworkers (earning at least US\$100 per month) in Pakistan is 100,000,<sup>13</sup> while the Pakistan Freelancers Association estimates the overall number

of IT-related freelancers in the country as one million.<sup>14</sup> In relation to the location-based platform economy in Pakistan, our own desk research has led to an estimate of around half a million workers.

A 2018 report by the OECD estimated the global proportion of platform workers to be around 0.3 percent of the total labour force in developing countries, but between 1.5 to 3 percent in countries with particularly active platform economies.<sup>15</sup> If we estimate that there are some 1.5 million platform workers from a total labour force of 76 million,<sup>16</sup> Pakistan would have nearly 2 percent of its labour force engaged in the platform economy through online and location-based services. It therefore ranks as a particularly active platform economy.

In the Global South, of which Pakistan is a part, the platform economy can contribute to employment generation, work formalisation, enable access to new markets, and create flexible work opportunities, particularly for women.<sup>17</sup> However, the platform economy can also contribute to wage reduction over time, create precarious employment conditions, prioritise platform and client needs over worker needs, and contribute to growth of the gendered division of labour.<sup>18</sup> Concerns

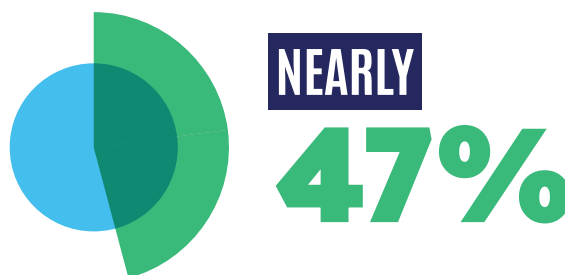
have therefore arisen that the platform economy in Pakistan is encouraging a race to the bottom regarding working conditions, particularly in terms of long working hours (averaging 55 hours/week in the ride-hailing sector and 62 hours/week in the food delivery sector), incomes falling over time, and lack of representation and social protection.<sup>19</sup> These issues have been further exacerbated by the coronavirus pandemic.

**WHILE PLATFORM WORK WAS INITIALLY SEEN AS A PART-TIME ACTIVITY TO EARN A LITTLE EXTRA INCOME, IT HAS NOW BECOME THE PRIMARY SOURCE OF INCOME FOR THE MAJORITY OF THE WORKERS ENGAGED IN THE SECTOR.**

Pakistan's platform economy has rapidly developed in recent years. Since the introduction of ride-hailing, food delivery and domestic services at the end of 2015, a section of the population has increasingly relied on these services; something which has only increased during the pandemic.<sup>20</sup> Moreover, the platform economy has opened up pathways to livelihoods for a large swath of the population - while platform work was initially seen as a part-time activity to earn a little extra income, it has now become the primary source of income for the majority of the workers engaged in the sector.<sup>21</sup> As already noted, estimates by the Centre for Labour Research indicate that around 500,000 have found employment in Pakistan's location-based platform economy, with the majority engaged in ride-hailing and delivery services.

**THE MAJORITY OF THESE WORKERS HAVE LOW LEVELS OF EDUCATION, SOME AS LOW AS 6TH GRADE/PRIMARY SCHOOL ONLY**

Several factors lie behind the growth of Pakistan's platform economy. First, an increase in connectivity: teledensity stands at 84 percent, with 184 million cellular subscribers in 2021, of whom 100 million are 3G/4G subscribers.<sup>22</sup> Such connectivity not only means that there is a wider market for workers, but also one for potential platform consumers as well. Declining opportunities for rural employment is another factor. Agricultural employment has decreased by almost 4 percent in the past six years,<sup>23</sup> and our worker interview data finds that the majority of the workers we spoke to migrated from rural to urban settings prior to joining the platforms. The data also indicates that the majority of these workers have low levels of education, some as low as 6th grade/primary school only. Many have opted to join platforms because it was 'easy' and had fewer barriers to entry, such as educational requirements, in comparison to other jobs.



**growth of cloudwork markets during first six months of pandemic**

While there are no reliable figures on the location-based platform economy, statistics on its cloudwork counterpart illustrate that many are opting for less traditional forms of employment. Pakistan is one of the fastest growing markets for cloudwork, witnessing a growth of 47 percent during the first six months of the pandemic.<sup>24</sup> Indeed, many workers have joined the platform economy in the last two years owing to pandemic-related lay-offs, something that is backed up by worker interview data obtained by the Centre for Labour Research.

Turning to location-based services, the convenience offered by ride-hailing apps has allowed them to become a staple for the part of the population that can afford such services. Ride-hailing has overtaken



## WITH INCREASING PETROL PRICES, AN ECONOMIC SLUMP FUELED BY THE PANDEMIC, AND A LACK OF INCREASE IN FARES, THE EARNING POTENTIAL ON THESE PLATFORMS IS DWINDLING



conventional taxi services in major cities, as booking a ride through an app is far more convenient than flagging down a taxi on the road, and conventional taxi drivers have reported earning significantly less since the introduction of the platforms.<sup>25</sup> The increasing traffic and petrol prices in the country mean many would rather use such services, even when they own a car, than navigate crowded roads and lack of parking. Furthermore, ride-hailing has helped provide, to a certain extent, safer avenues of transport for women who may not have had any prior mode of movement.

According to a report by the Asian Development Bank, 85 percent of women in Karachi stated that they face physical and verbal harassment on public transport by either the staff or other passengers, while a UN Women report found that 90 percent of women in Lahore have faced sexual harassment on public transport.<sup>26</sup> Moreover, while motorbikes are a widely used mode of transport that is not difficult to afford, driving one is still considered taboo for women in Pakistan. They are thus reliant on the male members of their family if they are to travel via this method.<sup>27</sup> Where many women may not have regularly availed themselves of public transport such as taxis, vans, and buses due to these reasons, they are inclined to make use of private rides due to the safety and convenience it offers. While these services are not entirely free of sexual and gender-based harassment - female passengers have complained that Uber and Careem's reporting mechanisms are unreliable and that their complaints not taken seriously<sup>28</sup> - the

easier access to ride-hailing services not only benefits women and their empowerment but also the economy in the long run.

Despite these benefits for consumers and the positive employment growth of the platform economy, it is not without its fair share of problems. There have been concerns about increasing worker exploitation due to several factors. One is the balance of supply and demand. The number of drivers engaged in these platforms is increasing steadily, leading to an upsurge in the supply of labour, but the consumer base is not seeing the same level of growth.<sup>29</sup> Ride-hailing is mostly used only by the middle-upper class: a potential customer base of no more than 5 million individuals out of a total population in Pakistan of more than 210 million.<sup>30</sup> As a result, drivers have witnessed a decrease in the number of rides they are able to earn in a day. Furthermore, in the initial years of the two services (Uber and Careem), many incentives were offered to build a robust driver network. However, following the business merger of the two platforms, such incentives are now no longer offered. This has led to an even bigger fall in the amount of income for each driver.<sup>31</sup> Combine this with increasing petrol prices, an economic slump fueled by the pandemic, and a lack of increase in fares, then the dwindling earning potential from these platforms is evident.<sup>32</sup>

Turning to food-delivery services, Foodpanda has recently come under investigation for monopolistic practices.<sup>33</sup> In July 2021, the Competition Commission

of Pakistan launched an inquiry against the platform for entering into an agreement that is prohibited under the Competition Act 2010. Initially, restaurants could opt to use Foodpanda's platform for orders but could also send out their own riders for deliveries. As of 2019, though, under a new agreement, restaurants on the platform are now only allowed to use Foodpanda riders and must let go of their own delivery staff.<sup>34</sup> While the platform's reason for this is to have total control over the delivery chain, it has likely led to a significant concentration of the workforce as riders previously employed by these restaurants shifted to work for Foodpanda instead.

## THE PLATFORM ECONOMY IS AT RISK OF MONOPOLIES. AND THE RESULTING POWER THAT PLATFORMS HOLD OVER WORKERS, PAVES THE WAY FOR WORKER EXPLOITATION.

Regarding all these developments, it is evident that the platform economy is at risk of monopolies. And the resulting power that platforms hold over workers, paves the way for worker exploitation. Due to desperation fueled by a pandemic-related economic recession and layoffs, and the easy entry provided by this market, workers have been willing to accept poor working conditions in exchange for a livelihood. Those conditions persist, in part, due to the lack of classification of platform workers as employees, meaning that many current labour regulations are not applicable to them.

Workers are not afforded an ensured minimum wage, and suffer a lack of protection due to not being provided social security, sick leave, protective equipment, and the right to organise. Furthermore, their fate often lies in the hands of an (arguably flawed) algorithm. Platform workers are classified as "independent contractors", despite their terms of work resembling much of an employer-employee relationship. One such example would be that while these platforms do not provide sick leave, workers' performance ratings are affected if they do not log onto the application on any single day, or in some cases a number of

consecutive days. If they do not log on for long enough, they are unfairly deactivated from the platform. Workers must not only put up with these increasingly unfair working conditions, but unsafe conditions as well. Countless incidents of muggings and shootings have been reported by platform workers in Pakistan, and there have been incidences of murder as well.<sup>35</sup> All of this has placed enormous pressures on workers, which has sometimes led to a reaction. In March 2022, for example, a three-day strike of Foodpanda workers in Karachi was announced by the Foodpanda Riders' Union, demanding fair wages and better working conditions. The major grievances included reduced delivery payment rates, deactivation of workers if two orders were cancelled, and non-payment of remuneration in a timely manner.<sup>36</sup>

Despite this, and despite the many challenges just identified, the platform economy has received very little attention in Pakistan. Data and reliable statistics on workers, users, and platform performance are hard to come by for the major platforms, and are practically non-existent for the smaller ones. There is also no consistent evaluation of the working conditions on the platforms. It is in order to help fill this gap that the research reported here has been undertaken, providing a step towards a better and more systematic understanding of platform work in Pakistan.

## THE LEGAL CONTEXT

# Towards a Fairer Platform Economy

**Lack of regulation of the platform economy is creating a whole generation of unprotected workers, but basic labour protections or universal labour guarantees should be accessible to everyone irrespective of contract/employment status.**

To ensure a fairer platform economy in Pakistan (in line with the 2030 UN Sustainable Development Agenda), applying current legislation or enacting relevant new laws is a precondition for securing rights for platform workers. The platform companies and workers in Pakistan operate in an ambiguous legal and policy context, much the same as in other Fairwork countries. At present, uncertainty regarding relevant laws exists, with the two major problems being the classification of workers and the applicability of sector-specific regulations.

The majority of platform workers in Pakistan are treated by the platforms' service agreements as independent contractors/self-employed rather than employees. This places workers in a commercial rather

than employment relationship with the platform and limits their access to basic employment rights, such as minimum wages, decent working hours, social security and collective bargaining. Not only do platforms avoid the obligations of employment of workers, but they also identify themselves as "technology companies", and hence enter a legal grey zone in which the applicability of sector-specific labour regulations becomes quite limited. Nevertheless, there do exist certain laws which could be applied to the digital labour platforms operating in Pakistan. We examine these in some detail below, looking at both national legislation and also at provincial-level legislation in the two locations in which most platform workers are active: the Islamabad Capital Territory (ICT) and Punjab.

Regulatory authorities could ensure fair wages for platform workers through three major items of labour legislation: the Industrial and Commercial Employment (Standing Orders) Ordinance 1968, the Punjab Minimum Wages Act 2019, and the Payment of Wages Act 1936. The 1968 Ordinance and 2019 Act define a



## THE 1973 CONSTITUTION OF PAKISTAN STATES THE FUNDAMENTAL RIGHT OF FREEDOM OF ASSOCIATION FOR ALL WORKERS

worker in open-ended terms, which could include platform workers and could therefore make the platforms responsible for providing minimum wages to their workers. In addition, the Minimum Wages Ordinance 1961, which is applicable in the Islamabad Capital Territory, and the Punjab Minimum Wages Act 2019, call for minimum rates of wages for all classes of workers in any category or grade, while the Payment of Wages Act 1936, applicable both in ICT and Punjab, regulates the payment of all kinds of remuneration. The Minimum Wage Boards, constituted under these laws, could notify the minimum wage rates for platform economy workers, especially those in transport, delivery and domestic services.

Alongside these generic regulations are sector-specific laws which could be applied. For example, via the Punjab Domestic Workers Act 2019, it would be possible to legally regulate payment of minimum wages for platform workers providing services in clients' homes, if the platform companies could be considered as employment agencies under the Fee-Charging Employment Agencies (Regulation) Act 1976. Likewise, work and rest hours for ride-sharing and delivery workers could be regulated, at least in Punjab, via the Punjab Shops and Establishments Ordinance 1969, and the Road Transport Workers Ordinance 1961.

Provision of health and safety conditions for all platform workers could be regulated through Acts like the Punjab Occupational Safety and Health Act 2019, which includes protection for the self-employed, the Workmen's Compensation Act 1923 and Provincial Employees' Social Security Ordinance 1965, which provide sickness and injury benefits, the Shops and Establishments Ordinance 1969, which allows sick leave, and the Employees Old-Age Benefits Act 1976, which stipulates old age pension, invalidity and survivors' pensions for workers. In addition, the Electronic Crimes Act 2016 includes applicable clauses for data protection.



Tea Talk\_shutterstock

Many terms and conditions in the service agreements that platform workers sign with platforms can limit these workers' access to their rights and impede their efforts to contest any platform decisions. However, these restrictive clauses could be seen as legally overridden by other laws such as the Industrial and Commercial Employment (Standing Orders) Ordinance 1968, the Road Transport Workers Ordinance 1961, and the Punjab Domestic Workers Act 2019. These oversee the presence of rightful terms and conditions in agreements such as having a written contract with work hours, an employment termination process, and the undertaking of liability by platforms. The Consumer Protection Acts (for ICT and Punjab) could also be used here as well, to ensure that platforms take liability for their actions by regarding workers as consumers of the platforms' technology. Matters that could be considered unfair trade practices under this Act are the amount or range of earnings "promised" in order to attract workers, and failure to include other relevant information which can have an impact on the worker's earnings, such as higher working hours needed to earn that advertised amount. For instance, the Islamabad CPA 1995 holds companies liable for false or misleading advertisements such as for recruitment, and the Punjab CPA 2005 makes service providers liable for faulty or defective services and requires a duty of disclosure about their services to consumers.

Regarding potential grievances raised against platform workers, there are cases of arbitrary deactivation, penalties, and disciplinary actions without the opportunity to appeal. However, the Punjab Industrial Relations Act 2010 provides a grievance redressal process, and the Industrial and Commercial Employment (Standing Orders) Ordinance 1968 legally prevents any dismissal of a worker without due process. Furthermore, the Punjab Minimum Wages Act 2019 protects all classes of workers against discrimination on the basis of religion, sex, political affiliation, sect, colour, caste, creed and ethnic background. Other laws that can apply to the platform economy include the Protection

Against Harassment of Women at the Workplace Act 2010 in Punjab, the Punjab Disabled Persons (Employment and Rehabilitation) Ordinance 1981, and the ICT Rights of Persons with Disability Act 2020.

Finally, and in relation to fair representation, the 1973 Constitution of Pakistan states the fundamental right of freedom of association for all workers. More recently, the Punjab Industrial Relations Act 2010 allows workers the right to organise, to collectively bargain by specifying the method of determination and functions of a collective bargaining agent, and also gives workers the right to set up a works council. In addition, this Act prevents any unfair labour practices against workers involved in trade unions, thereby encouraging the expression of collective worker voice. These laws could be applied to platform workers.

The key issue, then, is what currently prevents all of this broad-sweep legislation from being specifically applied to platform workers? In the main, this stems from the lack of court cases brought in order to clarify the law. While there is no certainty on the direction of judgements, this could allow for legal rulings directing the explicit inclusion of platform workers within the scope of these existing laws; hence providing them with rights that are currently absent. Were rulings to exclude platform workers, then new legislation will be required. There are already some positive signs that new laws will address the current legal grey zone. For example, the new Islamabad Protection of Home-Based Workers Bill, which has already been approved by the federal Cabinet, recognises online platform workers and has provisions regarding the extension of social security benefits to them.

More generally, for the platform economy to evolve in an inclusive and sustainable way, progress in regulating the rights of platform workers - through legislation, and through social dialogue among the relevant stakeholders, especially digital labour platforms, platform workers and the government - is essential.



Minimum standards of fair work

FoodPanda 01 /10 ● ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

Gharpar 01 /10 ● ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

Uber 01 /10 ● ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

Bykea 0 /10 ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

Cheetay 0 /10 ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

Careem 0 /10 ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

Daraz 0 /10 ○ ○ ○ ○ ○ ○ ○ ○ ○ ○ ○

The breakdown of scores for individual platforms can be seen on our website: [www.fair.work/ratings](http://www.fair.work/ratings).

### Scoring League Table

The platform scores in this report rely on data gathered using the Fairwork Framework as laid out in the Methodology section. After desk research was conducted, workers from all platforms were interviewed, and evidence was collected from the management of the seven rated platforms. Appendix B provides further details of the evidence used to score each point, and how it was gathered.

# Explaining the scores

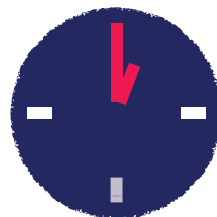


## Fair Pay

**For only one of the seven platforms, Gharpar, was there sufficient evidence that its workers earn above the minimum wage after costs.**

While 80 percent of workers we interviewed across the other platforms were able to show that their gross earnings were above the minimum wage, evidence showed that workers' net earnings often did not meet the standard of PKR 109 per hour after taking into account work-related costs: fuel, mobile data, transportation between jobs, insurance, vehicle lease or rent, and its repair and servicing. Adding in waiting times—when workers are logged in to the platform app, waiting for work but unable to do anything else—then far fewer workers saw their true net earnings exceed the minimum wage.

Moreover, when extending this net calculation to consider a living wage, we could not evidence that any of the platforms met the threshold for this principle. Worse, it was found that some workers on the ride-hailing platforms are earning negative income: their costs being higher than their income, trapping them in a cycle of debt if they had taken out loans to obtain their vehicle. As discussed below in the Theme in Focus, a key cause of negative income has been decreased demand in part due to COVID-19, and increasing transport-related costs, such as a significant rise in petrol prices.



## Fair Conditions

**There are numerous risks that platform workers face in the course of their work, ranging from road safety issues to crime and violence.**

From our triangulated evidence sources, only Uber could be evidenced to be providing a sufficient response to this, given its provision of emergency assistance, insurance, and training for workers, alongside a data privacy policy.

While other platforms provided some of these elements such as having accident insurance or a data policy, they could not be evidenced to meet the threshold criteria sufficiently fully to mitigate the range of risks that workers face.

A number of the platforms undertook schemes to provide short-term sick pay for workers unable to work when infected with COVID-19. Unfortunately, none of the platforms had extended these schemes to provide an ongoing basis of income compensation for those workers who, through no fault of their own, were unable to work due to sickness or injury. Gharpar had created a savings scheme for workers to access in an emergency but this was not akin to sick pay. Thus no platform could be awarded the second point for Fair Conditions.



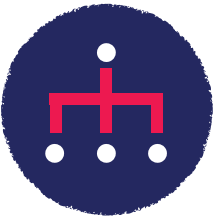


## Fair Contracts

**Not all platforms have clear and accessible terms and conditions, and only one platform—Foodpanda—has been awarded the first point for this principle.**

The contract provided by Foodpanda is public and accessible to both current and prospective workers, and has been made comprehensible to the majority, in consultation with the Fairwork Pakistan team, by translating it into the national language, Urdu.

Our research indicated that for the majority of platforms, the contract is either in English or is not accessible to the workers at all times. In some cases, the contract is not subject to Pakistani law, making it difficult for workers to seek legal or other forms of redress for any grievances that might arise against the platform. This asymmetry between workers and platforms was also found in relation to risk and liability. No platforms were able to evidence contracts with clauses that fairly shared liability with workers; instead liability and risk were often loaded onto the workers.



## Fair Management

**Fair Management means that platforms provide due process for decisions affecting their workers (e.g. temporary deactivations or permanent dismissal from the platform), and provide workers with an avenue for meaningful appeal against these and any other disciplinary actions taken by the platform.**

We could not evidence that this was a shared practice among the platforms studied. Our evidence showed undocumented, or inadequate appeals processes, or workers being disadvantaged if they voiced concern about a decision made about them. We did not find sufficient evidence to award a point to any of the platforms studied.

While many platforms prohibit their workers from discriminating against users on grounds such as race, social origin, caste, ethnicity, nationality, gender, sex, gender identity and expression, disability, religion or belief, age or any other status, no parallel provision was found that clearly protected workers from discrimination by customers or others. In consultation with the Fairwork Pakistan team, one platform (Gharpar) has implemented an anti-discrimination policy protecting both beauticians and customers, but has yet (at the time of writing) to formally and publicly document it. Furthermore, equity in management means more than simply having anti-discrimination policies, but also taking practical measures to remove barriers and promote equality of opportunity for under-represented and disadvantaged groups, including measures to ensure algorithmic decision-making is fair for all groups. As yet, we could not find any evidence for this.



## Fair Representation






**Freedom of association for workers is a fundamental right enshrined in the Pakistan Constitution, yet we could not find sufficient evidence that any of the platforms enabled this for their workers.**

Gharpar was the only platform which came close to providing a mechanism for collective worker voice, in the form of its regular Gharpar Monitor Meetings. However, these meetings could not yet be evidenced to be an open and formal policy of the platform assuring freedom of association. Likewise with the other platforms, there was a lack of evidence that they were recognising a collective worker body, documenting a mechanism for expression of collective worker voice, or assuring that workers will not be penalised for associating or expressing demands collectively. Even this does not fully equate to Fair Representation - there needs to be some counter-balance to the asymmetry of power between platforms and workers, so workers can have a meaningful say in their conditions of work. This was not found in any of the platforms, and so no additional point was awarded under Fair Representation.

## PLATFORM IN FOCUS

# Gharpar

Gharpar, a local startup founded in 2016, is a personal service provider platform which delivers at-home beauty services for women.<sup>37</sup>

 <b>Principle 1: Fair Pay</b>	<input checked="" type="checkbox"/> Ensures workers earn at least the local minimum wage after costs	<input type="checkbox"/> Ensures workers earn at least the local living wage after costs	<b>1</b>
 <b>Principle 2: Fair Conditions</b>	<input type="checkbox"/> Mitigates task-specific risks	<input type="checkbox"/> Provides a safety net	<b>0</b>
 <b>Principle 3: Fair Contracts</b>	<input type="checkbox"/> Provides clear and transparent terms and conditions	<input type="checkbox"/> Ensures that no unfair contract terms are imposed	<b>0</b>
 <b>Principle 4: Fair Management</b>	<input type="checkbox"/> Provides due process for decisions affecting workers	<input type="checkbox"/> Provides equity in the management process	<b>0</b>
 <b>Principle 5: Fair Representation</b>	<input type="checkbox"/> Assures freedom of association and the expression of collective worker voice	<input type="checkbox"/> Supports democratic governance	<b>0</b>

Total



Claiming to be an “Uber for beauty services”,<sup>38</sup> Gharpar began in Lahore and then spread to Rawalpindi and Islamabad, with aspirations to scale to at least three more cities. It currently has some 150 beauticians operating via the platform and 30,000 registered clients.

Calling itself a social enterprise, the platform entered a market dominated by physical salons which it perceived to be very varied in terms of service standards and pricing. It claims to empower and upskill beauticians, to make them financially self-sufficient through well-paid economic opportunities, and consequently to have helped lift at least 100 households out of poverty.<sup>39</sup> It has partnered with Akhuwat (a leading microfinance institution in the country), which offers interest-free loans to beauticians to buy the toolkits they need to provide on-demand beauty services. Once they are set up with a toolkit, the platform then trains its workers on issues ranging from beauty services to digital and financial literacy. The latter is seen as particularly important because all payments are made to the beauticians via a mobile wallet.<sup>40</sup> This enables beauticians to have control over their monthly earnings making it much less likely, as compared to cash payments, that their income would be appropriated by other household members.

**WHILE GHARPAR STATED IT CHARGED A 30 PERCENT COMMISSION TO THE BEAUTICIANS, THE WORKERS THEMSELVES TOLD US THAT THE FIGURE WAS 40 PERCENT**

Gharpar claims that beauticians previously earning a minimum wage can now earn three times that amount.<sup>41</sup> We were unable to verify this directly, and it was noted that, while Gharpar stated it charged a 30 percent commission to the beauticians, the workers themselves told us that the figure was 40 percent. Nonetheless, we were able to evidence that beauticians did earn the minimum wage after allowing for costs. We could not evidence that beauticians are also able to earn the living wage.

Basic safety measures, such as risk awareness training and customer verification is present. Gharpar has clear mechanisms to seek immediate

assistance in case of an emergency. Gharpar has taken steps to protect their workers' safety by enabling contact with beauticians at all times they are at the customer's location, as well as allowing a beautician to decline a service in the event she feels uncomfortable with a customer, and through taking action against customers who receive more than one complaint against them. However, there was insufficient evidence of ethical data protection and data management measures relating to the platform beauticians, and maternity and sick leave were provided but unpaid.

Any proposed changes in the contracts are discussed by Gharpar with the beauticians and then applied. Gharpar provides clear and comprehensible contracts, but workers stated that the contracts were only accessible to them on demand, by contacting the company office. All beauticians understand (through verbal explanation) what is written in the contracts before signing them; however, we could not evidence that these contracts are also made available in Urdu, the national language, which the workers would be expected to understand.

Despite scoring one out of ten in this round, the platform has the potential to score higher by bringing about a few changes. For instance, through introducing ethical data protection and management measures for beauticians in their privacy policy, Gharpar could earn a point under Fair Conditions. By making the contract accessible to the beauticians at all times and in the national language, Urdu, Gharpar could score a point under Fair Contracts. And through clearer documentation on its Monitor Meetings, Gharpar could score a point under Fair Representation.

Gharpar's focus is on recruiting from low income and minority backgrounds. It had investigated recruitment of transgender beauticians, but did not proceed with this after it undertook surveys which found a clear lack of acceptance among its client market. Nonetheless, given its culture of anti-discrimination, Gharpar, in consultation with the Fairwork Pakistan team, recently developed an anti-discrimination policy which applies to their workers. We hope to work closely with Gharpar (as with all other platforms in Pakistan) to improve the pay and conditions that they provide for their workers, and hence to improve their scores in the next version of the report.

# Workers' Stories

**Amna\* has been working for Careem for the last three years. Originally from Sialkot, Punjab, the 47-year-old joined the platform for her family's survival. Holding a Masters, Amna was previously teaching at an academy, earning a meagre PKR 10,000 (US\$ 57) per month.<sup>42</sup> Looking to put food on the table for her family, Amna started applying for various jobs.**

"I went for jobs like in real estate and sales offices, but the environment wasn't good. The character of the men wasn't good," she told us. With Careem claiming that drivers could earn PKR 60,000 (US\$340) to PKR 70,000 (US\$400) every month, Amna finally sold her jewellery to get a car - costing around PKR 650,000 (US\$3,700) - and joined Careem. In the beginning, Amna was able to earn roughly the amount promised. However, after about a year it all started to go downhill.

Working an average of 11 hours a day without a day off, Amna is not even able to cover her costs, let alone earn the minimum wage. "Some drivers I talked to lived and slept in their car and got only 2-3 hours of sleep so that they could earn as much money as possible," shared Amna while staring at the cars passing by. Getting fewer rides than before (major reasons being low fares and fewer customers because of the platform offering few customer discounts), and having to maintain an old car, Amna is facing a significant loss. Male drivers are given bonuses on a rides-based system whereas female drivers are given bonuses on an earnings-based system, which Amna is relieved to have, since these bonuses<sup>43</sup> are comparatively much

easier to earn. However, she wishes the bonus system returned to the more generous one Careem used to offer in the beginning.

Taking a leave of two months after her father's death negatively affected her ranking as well. Careem has four ranks; Bronze (35 percent commission), Silver (30 percent commission), Gold (25 percent commission) and Platinum (20 percent commission). Amna used to be ranked Gold but had to start again from the bottom when she returned, and at the time of interview had only reached Silver.

Aside from the lack of earnings, Amna also fears for her safety, particularly at night. She tries to avoid isolated areas at night but sometimes cannot. She mentioned that Careem does not compensate for any accident or mishap: "We have to bear the cost ourselves because they don't take any responsibility for us," she told us. She also feels that Careem gives preference to the customer over the driver. Once Careem blocked Amna's ID due to a customer complaint. After dropping off a customer, who complained about something to Careem, they blocked her ID for two days: "Careem did not accept or believe my side of the story because I had given the customer a 5-star rating after I dropped him off. I didn't know he would be complaining later about something. This was taken as evidence by Careem that since I had given the customer a 5-star rating, the customer's complaint and bad rating of me was more acceptable compared to my appeal."

"If a customer misbehaves during ride," she adds, "I am supposed to call Careem's helpline and tell them I am cancelling the ride because of such reason, so that I don't get any penalty for cancelling after accepting the ride as only three cancellations can be done." Amna

gets an option to block a customer after a ride ends. There is an emergency button in the app as well: "Once I accidentally clicked on it and they responded in like a second. If needed, they tell us we will dispatch police," Amna shares.

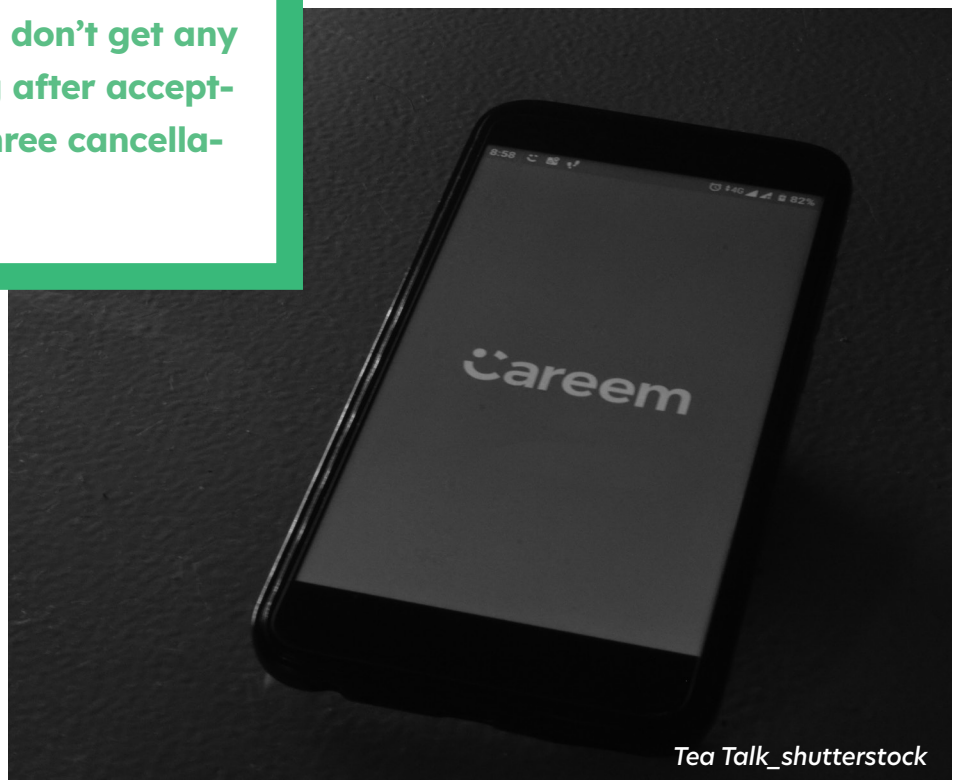
Amna has no knowledge of any contract or terms and conditions for drivers, even though her driver account ID was set up in Careem's office. She also does not know of any anti-discrimination or anti-harassment policy at Careem. "Sometimes men cancel when they find out I am a woman. But all this happens before the ride so no chance for complaint. A complaint can be made only after accepting the ride, and you can call Careem and tell them you are cancelling a ride for this reason such as misbehaviour of a customer during the

ride, which I once did. Another time, when I was going to pick a male customer and was on the phone with him, he was telling me to take a U-turn but there was no U-turn there, it was much ahead and he said, "Oh you are a woman so you can't understand directions." I haven't heard about any anti-discrimination policy or gender discrimination policy for Careem drivers."

There is no formal communication channel available for Amna to approach Careem about her rights. She is not part of any informal group, and has no connection with any other female drivers on Careem as she has never met any of them.



**"If a customer misbehaves during ride," she adds, "I am supposed to call Careem's helpline and tell them I am cancelling the ride because of such reason, so that I don't get any penalty for cancelling after accepting the ride as only three cancellations can be done."**



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**Kabir\* is a local of Rawalpindi, Punjab and had been working for Bykea for two months. The 29-year-old takes ride-hail passengers as well as deliveries of groceries and supplies in the twin cities, Islamabad and Rawalpindi. Educated until middle school, he left his previous job at Careem, where he earned around PKR 45,000 (US\$260) a month, to join Bykea, a local platform which he believes provides better bonuses and incentives to its riders.**

Here he earns around PKR 50,000 (US\$290) a month, working 13 hours on average every day. Despite this, Kabir does not even make minimum wage after costs. He believes Bykea's helmets are being misused by some riders who do offline work using these helmets - he wants the company to take action against this and not let its name be misused.

He also feels that Bykea is not taking enough responsibility for the safety of its riders. There is no emergency button for riders on the app. Kabir has had narrow escapes with mobile phone snatchers twice in the past. "Both times the motorcycle police patrol were near, so the attempts of the snatchers were unsuccessful," Kabir told us. "Bykea has given guidelines to call a helpline and then file a report with the police station in case of mobile snatching or robbery. If a mobile is snatched then half the amount for it will be paid by Bykea, but I hear that some riders have been paid and some have not been paid. If a customer misbehaves and is not willing to pay the money for the ride, we can complain to Bykea and they give us our money after two days. This has happened with me twice, but whether they refund us or not depends on their mood."

Bykea claims to cover accident, disability, death and phone snatching under insurance if that happens during delivery or ride. "They say we give free insurance but they haven't told us in detail about what insurance they give, and I haven't asked", adds Kabir. Bykea riders are allowed to rate customers, though he is not aware of the company taking action, even when low ratings and complaints are made against customers.

\*Names changed to protect worker identity

Kabir did not go through the terms and conditions of his contract with the platform when Bykea's office staff created his rider account ID. What he also found as a big problem was that he observed the office creating accounts for some riders without using their national identity cards. Such irregularities are not new to him now. Any changes in terms and conditions are notified through in-app messages: "Sometimes they inform us before the change is applied and sometimes they apply the change first and then tell us, like they did recently when they increased the commission rate from 15 percent to 20 percent."

Bykea does not seem to have any anti-discrimination or anti-harassment policy for its riders. "Sometimes I get customers who ask me if I am Punjabi or Pathan, and things like that. I have complained to Bykea about such customers but haven't got any satisfactory response. Another guy was misbehaving during a ride and I complained about him to Bykea. They just say they are investigating but I haven't been informed of any action taken. There doesn't seem to be any help or policy from Bykea," complained Kabir.

Kabir knows of no official channel for Bykea's riders to ask for their rights. "Company makes their own policy and does not consult with us," he says. As part of a WhatsApp group of three to four riders, they have visited the Bykea office twice. "They have people in front doing their work saying actions will be taken but nothing happens," sighs Kabir. He mentioned a protest that happened in Karachi because Bykea increased the commission there from 10 to 15 percent and then 20 percent. Although he followed the news about the protest, he did not hear if Bykea blocked any IDs of the riders who were part of it. If a trade union is formed, Kabir aims to only join it if it works for the rights of the riders.





More recently, location-based platforms have sought to improve the representation of women in their workforces. By 2021, Careem had registered 1,586 women; albeit from a total of at least 700,000 registered drivers.<sup>52</sup> As noted in our worker stories, the platform also allows a differential bonus scheme for male and female drivers, in recognition of the different challenges and responsibilities faced by the two groups. Furthermore, both Foodpanda and Cheetay have partnered with the Women on Wheels<sup>53</sup> initiative to create employment opportunities for women,<sup>54</sup> and the first female Foodpanda rider was registered in 2019.<sup>55</sup> A separate issue is the question of whether these jobs are creating new livelihoods for women: our sample was small but only two of the seven women platform workers we interviewed were unemployed prior to joining the platform.

The work being created must also avoid reproducing the wider gender inequalities in Pakistan, including the 34 percent gender wage gap,<sup>56</sup> and the treatment of women by men. Beyond the forms of discrimination by male customers noted in our worker story of Amna, are cases of sexual harassment. One driver who worked for both Uber and Careem told us that she received a multitude of unsolicited calls (back when drivers' phone numbers were part of the information shared with customers), however, she did not report such incidents to management as she did not consider this harassment, suggesting a lack of sexual harassment training by the company.<sup>57</sup> Platforms must ensure that the opportunities being offered to women are free of such issues and must take active steps to address these. This would not only make the job safer for drivers who are women, but for female passengers as well. The same must apply to other already marginalised segments of society, and to the platform economy at large.

**THE WORK BEING CREATED MUST ALSO AVOID REPRODUCING THE WIDER GENDER INEQUALITIES IN PAKISTAN, INCLUDING THE 34 PERCENT GENDER WAGE GAP, AND THE TREATMENT OF WOMEN BY MEN**





# Negative Income

An unexpected phenomenon emerged as we undertook the worker interviews for this report: a number of workers reported that their monthly costs (fuel particularly, but also vehicle repair, internet data and insurance) were greater than their income. In other words, in net terms, they were actually paying to work for the platform.

To check what was happening, we interviewed workers at three different times - September and November 2021, and January 2022. Some workers in all three periods reported costs exceeding income: just 5 percent of motorcycle delivery workers, but 56 percent of ride-hailing drivers. In terms of the size of negative income reported, four-fifths reported a net income deficit of more than PKR 10,000 (US\$60) per month, and one reported losing nearly PKR 40,000 (US\$225) per month. Even allowing for some over-reporting of costs, this suggests the very real likelihood of negative incomes among some workers.

**SOME WORKERS IN ALL THREE PERIODS REPORTED COSTS EXCEEDING INCOME: JUST 5 PERCENT OF MOTORCYCLE DELIVERY WORKERS, BUT 56 PERCENT OF RIDE-HAILING DRIVERS.**

A key cause of negative income is likely to have been a fall-off in demand from autumn 2021 due in part to COVID-19. This may have particularly reduced the number of higher-fare / longer-journey customers, with the knock-on effect that drivers could not earn the bonuses that make up a significant proportion of their income. As they drove fewer miles, drivers' transport-related costs fell but the lack of higher-fare journeys and bonuses meant income fell even more steeply during the latter half of 2021; a problem exacerbated by the 30 percent rise in petrol prices

between summer and autumn 2021. For a few workers, the risk of negative income is heightened because they are renting or financing their vehicle and have to pay this cost every month, regardless of income, on top of other costs. However, the prevalence of this was much less than found in Fairwork's report for Bangladesh (2021), because the majority of drivers we spoke to in Pakistan owned their own vehicle.<sup>58</sup>

To understand drivers' response to negative income, in early 2022, we re-contacted those ride-hailing drivers who had reported it in 2021. Roughly a quarter had scaled back their hours to work only part-time on their main platform, and now also worked for another platform, inDriver (which does not ask for any commission, and allows the fare to be negotiated between driver and passenger) or ran their own private transport services in parallel with their part-time platform work. Some 20 percent had quit their main platform, either shifting over completely from Uber or Careem to inDriver or looking for a different form of work. The remainder had just kept going; some in the hope that things would pick up. There seems to be some validity in this hope, given that driver gross income fluctuates a lot: the income reported by each driver in the later interviews (2022) was on average more than 70 percent different (higher for most but lower for a few) from what those same drivers had reported earning during the earlier interviews (2021). But some appeared to be experiencing prolonged negative income, remaining in the job because they felt they had no other option (which may be true for those who have loans to repay), and perhaps because the cashflow of income, and its separation from expenditure gives them the illusion that they are earning. They may be locked in a vicious cycle of loss or debt from which they cannot break unless the balance between income and costs improves significantly. Perhaps in partial recognition of these issues, in May 2022, Uber and Careem announced that commissions were being cut to 0 percent in Islamabad.<sup>59</sup>

## MOVING FORWARD

# Next Steps in Regulating Platform Work in Pakistan: Summary of a Proposed New Law

Almost four million young people enter the working-age population of Pakistan every year, according to UNDP data, yet jobs are created for only one million of them. With the resulting high youth unemployment and only one-fifth of women joining the labour force, there is an urgent need to create more jobs – something which has been a government priority.

In recent years, Pakistan has experienced significant growth in the platform economy, and there are hopes that this could provide one route for creation of the much-needed jobs. This includes both types of platform work: on-location (for example, ride-hailing, delivery, domestic and personal care services) and cloudwork (software development, data entry, translation, digital design, etc.).

In terms of on-location work, ride-hailing and delivery workers appear to be almost omnipresent in the major cities of Pakistan, and the Centre for Labour Research estimates an active workforce of roughly half a million workers. Our research indicates that most workers in food delivery are young, while ride-hailing involves workers of all ages. We also found that most of the workers we interviewed treat platform work as their

primary or only source of income, with less than 10 percent of workers treating platform work as their secondary income source.



LESS THAN

10%

treat platform work as secondary income source

## REGULATORY INSTITUTIONS HAVE NOT KEPT UP WITH CHANGES IN THE EMPLOYMENT LANDSCAPE - NOT JUST IN PAKISTAN, BUT THE WORLD OVER.

Regulatory institutions have not kept up with this change in the employment landscape - not just in Pakistan, but the world over. As already described in the Legal Context section, digital labour platforms treat their workers as self-employed. However, reflecting what one would find in a formal employment relationship, the platforms unilaterally determine employment and working conditions while using algorithmic management tools to monitor and evaluate work, and to impose sanctions where needed. While platforms claim that workers can choose to work through the platform, workers often have no bargaining power and have to accept the terms imposed by the platforms. This misclassification in employment status (that is, considering them to be independent contractors rather than workers) by some platforms excludes them from the purview of labour law and all associated rights. The government has so far adopted a laissez-faire approach in regulating platform work. The provincial governments tried to implement motor vehicle legislation on ride-hailing platforms some years ago; however, no relevant action was taken.

Employment misclassification not only robs about half a million workers of various labour law protections, but also allows evasion of employment-related social protection levies and contributions worth billions of rupees per annum. Consider this example to understand the cost of misclassification. Labour legislation in Pakistan requires employers to register workers with provincial employees' social security institutions (PESSIs) and employees old-age benefits institution (EOBI). The total contribution rate is 11 percent of a worker's wage. If the worker's wage is treated as the currently applicable minimum wage (20,000 rupees per month), the platform contribution should be 2,200 per month per active worker. If we calculate this contribution evasion for 500,000 workers, the total is 13.2 billion rupees per annum. This amount could be used to provide workers with social protection in case of sickness or occupational accidents, with health care for themselves and their families, and with support during COVID-19-induced lockdowns - which platform workers took hardest, since government protection (i.e. prohibiting employers from dismissing workers during lockdowns) did not



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apply to them. Placing digital labour platforms under the jurisdiction of labour law can therefore make the employment-related social protection system sustainable by expanding the economy's tax base.

But this is not only about social contributions. The misclassification deprives platform workers of the right to minimum wages and a decent standard of living, the right to overtime pay, the right to annual leave, the right to sick leave, the right to equal treatment, and most importantly, the right to unionise and bargain collectively.

**THE DRAFT LEGISLATION PROPOSED BY THE CENTRE FOR LABOUR RESEARCH GIVES PLATFORM WORKERS ALL WORKPLACE RIGHTS AND COVERS ALL FAIRWORK PRINCIPLES PLATFORMS. PLATFORMS WOULD BE REQUIRED TO REGISTER AND DEPOSIT THEIR WORKERS' CONTRIBUTIONS TO SOCIAL PROTECTION BODIES. THE PLATFORMS WOULD ALSO BE REQUIRED TO SHARE THEIR DATA ON PLATFORM WORKERS WITH THE GOVERNMENT.**

The Centre for Labour Research has been working in collaboration with the Wage Indicator Foundation and the Fairwork project to draft legislation intended to protect the rights of platform workers in the country (see Appendix A). The draft legislation addresses the major concerns about platform work in Pakistan: it eliminates the chances for worker misclassification by setting various conditions, and ensures transparency and accountability in algorithmic management.

While legislation in India (yet to be implemented) only requires platforms to provide social security benefits for the platforms, the draft legislation proposed by the Centre for Labour Research gives platform workers all workplace rights and covers all Fairwork principles: Fair Pay (the right to a minimum wage, working hour

restrictions, and premium wage payments for work on public holidays, during night hours and inclement weather), Fair Conditions (health and safety protection of platform workers, right to various kinds of leave including but not limited to annual leave, sick leave, maternity leave, plus social protection and various cash benefits from the PESSIs and EOBI including old-age pensions, data protection and data portability rights), Fair Contracts (right to comprehensible employment contracts, platforms to follow the labour legislation of their national jurisdiction, no exclusion of platform liability), Fair Management (grievance redressal mechanisms, protections from multiple forms of discrimination and harassment including sexual harassment), and Fair Representation (mandatory works council requiring social dialogue at the level of the platform, and most of all, the right to unionise and bargain collectively).

Under this draft legislation, the platforms would be required to register and deposit their workers' contributions to the social protection bodies. The platforms would also be required to share their data on platform workers with the Government. Given the Supreme Court of Pakistan's decision on sub-contracting, the draft legislation includes contractors and sub-contractors used by the digital labour platforms in the definition of employee. The draft legislation covers only the on-location platforms since cloudwork platform workers are already covered under the Islamabad Capital Territory HomeBased Workers Bill, approved by the Federal Cabinet in 2020.

While it is essential to recognise the job creation potential of digital labour platforms, it is also imperative that people working through these platforms experience decent working conditions. Enacting legislation for the protection of platform workers is not only in line with the Constitution of Pakistan (Article 25 guaranteeing equality before the law and equal protection of the law), but it also conforms to the *Riyasat e Madina* model that the state aspires to. Moreover, under the Objectives Resolution, which is part of the Constitution of Pakistan, the legislature must ensure an egalitarian society based on the Islamic concept of fair play and social justice. Therefore, the legislature should act now and bring platform workers under the protection of labour law, for which the Appendix A draft can be seen as a template.

# The Fairwork Pledge

In addition to proposing new legislation, and as part of the Fairwork project's process of change, we have introduced a Fairwork pledge. This pledge leverages the power of organisations' procurement, investment, and partnership policies to support fairer platform work.

Organisations like universities, schools, businesses, and charities who make use of platform labour can make a difference by supporting the best labour practices, guided by our five principles of fair work. Organisations who sign the pledge get to display our badge on company materials.

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

committing to concrete and meaningful changes in their own practices as official Fairwork Partners, for example by committing to using better-rated platforms where there is a choice.

To date, organisations in Germany, India, Kenya, Turkey, the UK and the US have signed up as Supporters and Partners, and we look forward to those in Pakistan following these examples. More information is available about the pledge, and how to sign up, on the Fairwork website: [www.fair.work/pledge](http://www.fair.work/pledge)



# APPENDIX A

## Draft of Platform Legislation

A Bill to provide for the regulation of working conditions and protection of the rights of persons performing platform work, mediated through the digital labour platforms

**WHEREAS** it is expedient to formulate a law for ensuring basic labour protections for the platform workers, bringing them into the coverage of social protection and devising a mechanism for settlement of disputes between platform workers and digital labour platforms and matters ancillary thereto.

It is hereby enacted as follows:

### 1. Short title, extent and commencement

- (1) This Act shall be called the **Islamabad Capital Territory Platform Workers Protection Act, 2022**.
- (2) It extends to the whole of the Islamabad Capital Territory.
- (3) It shall apply to all digital labour platforms providing on-location services, regardless of where the digital labour platform is registered or incorporated.
- (4) It shall come into force at once.

### 2. Definitions

In this Act, unless there is anything repugnant in the subject or context:

- (i) "Active hours" means the hours that a platform worker is logged in to the platform application and includes the working and waiting hours;
- (ii) "contractor" means a person, natural or legal, who agrees to carry out an assignment for an economic gain for themselves or for the benefit of the digital labour platform and includes any sub-contractor or intermediary between the digital labour platform, contractor and the platform worker;
- (iii) "contribution" means the sum of money payable to the Islamabad Capital Territory Employees Social Security Institution (IESSI) as determined and prescribed by the Governing Body of the IESSI in respect of platform workers as envisaged under special social protection schemes prepared by IESSI and Employees Old-Age Benefits Institution (EOBI);
- (iv) "child" means a person who has not attained the age of eighteen years;
- (v) "department" means the Islamabad Capital Territory Labour Department;
- (vi) "dependents" means a wife or a needy husband, dependent parents and any unmarried child under the age of eighteen years in case of son and twenty-one years or marriage whichever is earlier in case of daughter dependent upon the insured person and a disabled child for life or recovery whichever is earlier;
- (vii) "Digital labour platform" means any natural or legal person providing a commercial service which meets all of the following requirements:
  - (a). it is provided, at least in part, through a website or a mobile application;
  - (b). it is provided at the request of a recipient of the service, in exchange for payment;
  - (c). it involves, as a necessary and essential component, the organization of work performed by individuals at a certain location.

- (viii) "disablement" means a condition caused by an employment injury during the course of employment or engagement for work which, as certified by a medical practitioner authorized for the purpose as shall be provided in the rules, has permanently reduced or is likely to reduce permanently an insured person's earning capacity. The disablement shall be "minor" where the loss of earning capacity is less than twenty per centum, "partial" where the loss of earnings capacity ranges from twenty-one per centum to sixty-six per centum and "total" where the loss of earning capacity is in excess of sixty-six per centum;
- (ix) "discrimination" means any distinction, exclusion or preference made on grounds such as sex, religion, gender, caste, ethnic background, race, colour, creed, sect, age, language, marital status, pregnancy and maternity, disability, trade union membership, gender identity, political opinion, residence, and place of birth, which has the effect of nullifying or impairing equality of opportunity or treatment in the world of work;
- (x) "dispute" means any dispute or conflict between a platform worker and a digital labour platform concerning rights provided under this Act;
- (xi) "employer" in relation to a digital labour platform means any person or body of persons, whether incorporated or not, who or which enters into an arrangement to provide work either directly or indirectly or through any contractor, sub-contractor or intermediary any platform worker under an agreement of employment or service agreement, whether written or oral, implied or express and shall include any agent, manager or representative provided that at least two of the following conditions are met:
- (a). The digital labour platform effectively determines or sets the limits for the level of remuneration;
  - (b). The digital labour platform requires the person performing platform work to respect specific binding rules with regard to appearance, and/or conduct towards the recipient of the service or performance of the work;
  - (c). The digital labour platform supervises the performance of work or verifies the quality of the results of the work, including by electronic means or customer reviews;
  - (d). The digital labour platform effectively restricts the platform worker, including through sanctions, in organising work, in particular, the discretion to choose the working hours or periods of absence, to accept or to refuse tasks or to use subcontractors or substitutes; and
  - (e). The digital labour platform effectively restricts platform workers from building a client base or performing work for any third party.
- (xii) "employment injury" means a personal injury to a platform worker caused by accident or by such occupational diseases as may be specified in the rules, arising out of and in the course of employment;
- (xiii) "Government" means the Islamabad Capital Territory Administration;
- (xiv) "harassment" unwanted verbal or non-verbal conduct that is not of a sexual nature but which is related to the education, language abilities, colour, caste, domicile, religion, creed, political opinion, age, gender, sex, race, socio-economic status or disability of a worker with the purpose or effect of violating the dignity of such worker or of creating an intimidating, hostile, degrading, humiliating or uncomfortable environment for such a worker.
- (xv) "intermediary" means a person or a legal entity or a body corporate who contracts on behalf of the digital labour platform with a sub-contractor for an economic profit all or part of a job to which the subcontractor has agreed to perform, for the benefit of the digital labour platform;
- (xvi) "insured person" means a platform worker who is registered with EOBI and/or IESSI under spe-

- cial social protection schemes for platform workers;
- (xvii) "invalidity" means a condition, other than that caused by an employment injury, as a result of which an insured person is permanently incapacitated to such an extent as to earn from their usual or other occupation more than one-third of the normal rates of earning in their usual occupation;
  - (xviii) "platform work" means a work arrangement outside of a traditional employer-employee relationship in which organizations or individuals use a digital labour platform to access other organizations or individuals to solve specific problems or to provide specific services, including but not limited to ride-hailing, delivery, domestic and care services or any such other activities which may be notified by the Government from time to time, in exchange for payment;
  - (xix) "Platform worker" means a person who performs work or participates in a work arrangement through a digital labour platform and earns income from such activities while performing work at a certain location;
  - (xx) "prescribed" means prescribed by rules made under this Act;
  - (xxi) "rules" means the rules made under this Act;
  - (xxii) "sexual harassment" means any unwelcome sexual advance, request for sexual favours, stalking or cyberstalking or other verbal, visual or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish a platform worker for refusal to comply to such a request or is made a condition for employment;
  - (xxiii) "sub-contractor" means a person, natural or legal, who contracts with a primary contractor to perform, for an economic profit all or part of a job to which the primary contractor has agreed to perform, for the benefit of the digital labour platform
  - (xxiv) "victimization" means any act or omission by the digital labour platform or a person acting on behalf of the platform that affects, to the platform worker's detriment, of such platform worker with respect to any term or condition of their employment
  - (xxv) "wages" means remuneration payable in cash, payable through banking instruments to a platform worker, not being less than the minimum rates of wages declared under the Minimum Wages Ordinance, 1961 (XXXIX of 1961) without taking account of deductions for any purposes, under a contract of service or contract for service, expressed or implied and shall be deemed to include any dearness allowance or other addition in respect of the costs of living;
  - (xxvi) "Workplace" means the place of work or any place where services are rendered or performed by platform workers, including but not limited to ride hailing and delivery vehicles, private homes, and other places where the activities are carried out and includes any situation that is linked to work.

### **3. Establishment of Platform Workers Protection Council**

The Government shall establish and notify a Platform Workers Protection Council under the administrative control of Islamabad Capital Territory Labour Department and chairpersonship of the head thereof. It shall comprise not more than fifteen members with representation from the Ministry of Interior, Ministry of OP&HRD, Ministry of Information Technology and Telecommunication, Islamabad Traffic Police, National Commission on the Status of Women, digital labour platforms, platform workers' representatives, independent experts, and civil society organizations working on protection of the rights of platform workers.



#### **4. Functions of Platform Workers Protection Council**

- (1) In addition to the functions entrusted to it by the other provisions of this Act or by the rules, the Council shall monitor and oversee the: -
  - (i). identification and mapping of platform workers by the Islamabad Capital Territory Labour Department in different economic sectors and geographical areas of Islamabad Capital Territory;
  - (ii). registration of platform workers and digital labour platforms by the Islamabad Capital Territory Labour Department in the manner prescribed by rules;
  - (iii). registration of digital labour platforms;
  - (iv). maintenance of record of registration of platform workers by platforms in the manner prescribed by rules; and
  - (v). provision of information to the platform workers and digital labour platforms concerning rights and responsibilities under this Act.
- (2) The Council shall coordinate with concerned institutions and authorities to facilitate:
  - (i). in the initiation of special social protection schemes by IESSI and EOBI;
  - (ii). in fixation of minimum wage for different categories of platform workers by the Minimum Wage Board established under the minimum wages law in force in Islamabad Capital Territory.

#### **5. Right to Employment Contract**

- (1) Every engagement of a platform worker shall be subject to the issuance of an employment contract in the prescribed manner, both in English and Urdu, showing the terms and conditions of their employment, including nature of work, name and addresses of all the parties to the contract who shall be subject to the local legal jurisdiction under the local labour laws. The contract shall be accessible to the platform workers at all times in the mobile application of the digital labour platform. The contents of the employment contract shall be verbally explained to the worker in plain local language.
- (2) The contract shall specify wages, method of calculation and periodicity of payments, terms and conditions relating to termination, including deactivation or penalties, and whether the contract is temporary or permanent.
- (3) Arbitration clauses that place unreasonable burdens on platform workers or have the effect of nullifying the enforcement of platform workers' rights, as guaranteed under this Act, shall be null and void.
- (4) The digital labour platform shall notify workers of the proposed changes to the contract in a reasonable timeframe. The changes shall take effect only once these have been communicated to the Works Council and its advice has been taken into account. Contract changes that reverse existing accrued benefits and reasonable expectations on which workers have relied shall be null and void.
- (5) The contract shall not include clauses which exclude liability for negligence or unreasonably exempt the platform from any liability, nor clauses that prevent workers from effectively seeking redress for grievances arising from the working relationship.
- (6) The provisions on extension and termination of employment contracts for platform workers shall be prescribed under rules.
- (7) No child under the age of eighteen years shall be allowed to work in platform work in any capacity.

## **6. Right to Equal Treatment**

- (1) A digital labour platform shall ensure that no platform worker is subjected to direct or indirect discrimination, harassment or sexual harassment.
- (2) A digital labour platform shall protect workers against discrimination by customers or users by disallowing requirements by customers or users which would have the effect of discriminating directly or indirectly against workers on any of the grounds mentioned in subsection (1).
- (3) Where persons from a disadvantaged group are significantly under-represented among its workers, the platform shall seek to identify and remove barriers to access by persons from that group, in consultation with the Works Council.

## **7. Right to Social Protection**

- (1) The platform workers shall be registered with the IESSI and EOBI. The benefits for the platform workers shall include old-age benefits, old-age grant, survivors' benefits, invalidity benefits as are provided under the Employees Old-Age Benefits Act, 1976 (xiv of 1976) or the law in force in the Islamabad Capital Territory and sickness benefits and medical care during sickness and medical care of dependents, injury benefits, disablement pension and survivor's pension as are provided under the Provincial Employees Social Security Ordinance, 1965 (W.P. Ordinance x of 1965) or the law in force in the Islamabad Capital Territory and the special rules made thereunder for platform workers, leading to the launch of separate social security schemes for platform workers.
- (2) The level of benefits, contribution rates and qualifying conditions shall be determined under EOBI and special IESSI schemes for platform workers.

## **8. Right to Freedom of Association**

Platform workers shall have the right to form and join organizations or unions of their own choice and the right to collective bargaining, as provided under the Industrial Relations Act 2012.

## **9. Works Council**

- (1) Every digital labour platform having work arrangement with 100 or more platform workers shall constitute, in the prescribed manner, a work council consisting of equal representatives of the platform and the platform workers.
- (2) The Works Council shall function for securing and preserving good labour management relations and shall look after the following matters:
  - (i). laying down the principles of remuneration and introduction of new remuneration methods;
  - (ii). settlement of differences and disputes through bilateral negotiations;
  - (iii). measures for facilitating good and harmonious working conditions in the establishment;
  - (iv). vocation training.
- (3) The management shall not take any decision in the following matters without the consultation in writing with the workers' representatives:
  - (i). framing of service rules and policy about the discipline of workers;
  - (ii). in-service training of workers;
  - (iii). regulation of daily working hours and breaks;
  - (iv). setting premium rates for work during unsocial hours, night hours and inclement weather;

- (4) The digital labour platform shall provide information to the Works Council regarding parameters, rules and instructions on which the algorithms or artificial intelligence systems are based that may affect working conditions, access and maintenance of employment, including profiling of platform workers.

The workers' representatives may, on their own initiative, give advice in writing concerning the matters specified in sub-section (2) and, where they do so, the management shall convene a meeting of the Council within two weeks of the receipt of the advice to discuss its merits.

- (5) The management shall give reply to the workers' representatives within six weeks of the receipt of their advice given under sub-section (2) or sub-section (3), and any such advice shall not be rejected except by the person holding the highest position in the management of the establishment.
- (6) The Works Council may call for reasonable information about the working of the platform from its management, and the management shall supply the information called for by the Council.
- (7) The Works Council shall meet at such intervals as may be prescribed.

## 10. Working hours and holidays

- (1) No platform worker shall be required to work for more than eight hours in a span of twenty-four hours. The weekly working hours shall not exceed forty-eight hours per week.
- (2) The maximum active hours of work for platform workers in a week shall not exceed fifty-six hours. For working hours beyond 48 hours per week, the digital labour platform shall pay wages at least at the rate of one and one-quarter time (125%) the ordinary rate. For platform workers working during the night hours (09:00 pm to 05:00 am), the digital labour platform shall pay wages at least at the rate of one and one-tenth (110%) of the ordinary rate. For platform workers working during inclement weather, the digital labour platform shall pay wages at the rate of at least 105% of the ordinary rate. For platform workers working on gazetted holidays, the digital labour platform shall pay wages at the rate of at least 130% of the ordinary rate.
- (3) Every platform worker shall be entitled to a holiday of at least twenty-four consecutive hours in a seven-day period.
- (4) Every platform worker shall be allowed annual leave in a prescribed manner with average wages for a period of fourteen calendar days after having worked through the digital labour platform for 2496 hours.
- (5) Every platform worker shall be entitled to sick leave in a prescribed manner with average wages for a total period of eight days in a year on a pro-rata basis.
- (6) No child under the age of eighteen years shall be allowed to work in platform work in any capacity.

## 11. Wages

- (1) A platform worker shall be paid such wages within such period of time as may be specified in the employment contract, but such wages shall in no case be less than the minimum wages specified by the Government under the minimum wage legislation, applicable in the Islamabad Capital Territory. The digital labour platform shall determine separate hourly rates under active hours, for actual working and waiting hours, **provided** that the hourly rate for waiting hours shall not be less than three-fifths of the hourly minimum wage rate, applicable in the Islamabad Capital Territory.

**Provided further** that the actual wages earned for active hours shall not be less than the applicable minimum wages.

- (2) The digital labour platform shall pay wages to the platform worker at regular intervals of not more than a fortnight.
- (3) All wages shall be paid to the platform workers in a prescribed manner.
- (4) No digital labour platform shall pay to a platform worker, wages payable, at the rates less favourable than those at which wage is paid to the platform workers of the opposite sex performing the same work or work of a similar nature or of equal value.
- (5) There shall be no deduction from the wages of a platform worker except in the following cases:
  - (i). payment of tax or contribution in the amount to be paid by the platform worker;
  - (ii). compensation for loss to the digital labour platform due to the platform worker's willful act or gross negligence, with written consent to be obtained from the platform worker;
  - (iii). other payments as specified by law or rules;
  - (iv). The deduction under sub-section 5(b) and 5(c) of section 11 shall not be more than 15% of the wages the platform worker is entitled to receive during each wage-period.
- (6) The deduction for payment of income tax or contribution by platform workers to social protection schemes shall be in line with the rates notified by the respective institutions.

## **12. Digital labour platform's responsibilities with regard to occupational safety and health**

- (1) Every digital labour platform shall:
  - (i). take all possible and reasonably practicable measures to ensure the safety and health of the employees at the workplace;
  - (ii). ensure systematic and effective identification of the existing and new hazards at the workplace on a regular basis;
  - (iii). inform the platform workers in an understandable manner and in an accessible written form, before any work commences, the hazards associated with their work, risks involved, and the preventative and protective measures that need to be taken;
  - (iv). provide such information, instructions and training, as is necessary to ensure occupational health and safety of workers;
  - (v). provide adequate protective clothing and protective equipment as may be approved by the Government to the platform workers, without any cost to them, if hazards cannot otherwise be eliminated or controlled, in order to prevent every risk of harm and of adverse effects on health;
  - (vi). maintain in the general register particulars of all accidents including dangerous occurrences, commuting accidents and suspected cases of occupational diseases at the workplace and submit the extracts thereof to the Government;
- (2) Occupational safety and health measures shall not involve any expenditure for the workers.
- (3) The digital labour platforms engaged in food delivery shall agree with the food service establishments, including restaurants and cafés however excluding private homes, to allow the use of toilet facility on the premises of such food service establishments by the platform workers when they are there to pick up such establishment's food or beverage for consumer delivery. The rules shall further prescribe the use of toilet facilities by platform workers.

### **13. Duties of Platform Workers**

- (1) Every platform worker shall ensure:
  - (i). reasonable care for their own safety and that of other persons who may be affected by their acts or omissions at the workplace without willfully doing anything to endanger themselves or other persons;
  - (ii). proper use of any protective clothing and protective equipment;
  - (iii). their escape from the place of imminent and serious danger and report forthwith to the digital labour platform of such situation

Provided that a platform worker who has removed themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health shall not be penalized.

### **14. Transparency regarding automated monitoring and decision-making systems**

- (1) The digital labour platforms must inform platform workers of:
  - (i). automated monitoring systems which are used to monitor, supervise or evaluate the work performance of platform workers through electronic means;
  - (ii). automated decision-making systems which are used to take or support decisions that significantly affect those platform workers' working conditions, in particular their access to work assignments, their earnings, their occupational safety and health, their working time, their promotion and their contractual status, including the restriction, suspension or termination of their account.
- (2) Digital labour platforms shall provide the information referred to in subsection 1 in the form of a document that may be in electronic format. The information shall be presented in a concise, transparent, intelligible and easily accessible form, using clear and plain language.
- (3) Digital labour platforms shall make the information referred to in subsection 2 available to platform workers' representatives, inspectors, Dispute Resolution Committee and National Industrial Relations Commission upon their request.

### **15. Data Protection**

- (1) Digital labour platforms shall not process any personal data concerning platform workers that are not intrinsically connected to, and strictly necessary for, the performance of the contract between the platform worker and the digital labour platform. In particular, the digital labour platform shall not:
  - (i). process any personal data on the emotional or psychological state of the platform worker;
  - (ii). process any personal data relating to the health of the platform worker, except in cases as prescribed in rules;
  - (iii). process any personal data in relation to private conversations, including exchanges with platform workers' representatives;
  - (iv). collect any personal data while the platform worker is not offering or performing platform work.
- (2) The digital labour platform shall allow portability of transaction and reputation data for platform workers, as prescribed in rules.

## **16. Dispute resolution committee**

- (1) The Government may, by notification in the Official Gazette, appoint a tripartite-plus Dispute Resolution Committee, as prescribed under rules, headed by the Director Labour, to hear and decide for any specified area, all claims, complaints and disputes arising out of and in connection with enforcement under this Act:
- (2) Where an action contrary to the provisions of this Act deprives a person of their due right under this Act, such person themselves, or any legal practitioner or any official of a registered trade union or association authorized in writing to act on their behalf, or any Inspector under this Act or of any heirs of an employed person who has died, may apply to such committee for direction:

Provided that every such application shall be presented within ninety days from the date on which the violation occurred or from the date on which the payment was due to be made, as the case may be.

- (3) The parties shall be given full opportunity to defend their case.

## **17. Appeal**

Any party aggrieved by the decision of the dispute resolution committee may, within thirty days of such a decision, file an appeal to the National Industrial Relations Commission established under the Industrial Relations Act, 2012 and the decision of Commission on such appeal shall be final.

## **18. Powers of the dispute resolution committees**

- (1) Every dispute resolution committee shall, while holding an enquiry regarding a dispute or complaint under this Act or the rules made thereunder, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:
  - (i). enforcing the attendance of any person and examining them on oath;
  - (ii). compelling the production of documents and material objects;
  - (iii). issuing commissions for the examination of witnesses; and
  - (iv). such other matters as may be prescribed.

## **19. Penalties**

- (1) A digital labour platform who fails to comply with or contravenes any provisions of the Act shall be punished with a fine which for the first offence may extend to one hundred thousand rupees but shall not be less than fifty thousand rupees and for a second or subsequent offence with fine which may extend to one hundred and fifty thousand rupees but shall not be less than one hundred thousand rupees.
- (2) Any digital labour platform or any such person who willfully obstructs a labour inspector in the exercise of any power in compliance of this Act, or fails to produce on demand thereunder any evidence, statement or other documents, shall be punished with a fine which may extend to one hundred and fifty thousand rupees but shall not be less than one hundred thousand rupees.

## **20. Labour inspectors**

- (1) The Government may notify labour inspectors of the respective areas of jurisdiction for the purposes of ensuring compliance with the provisions of this Act.
- (2) An Inspector notified under sub-section (1) shall be deemed to be a public servant within the meaning of the Pakistan Penal Code, 1860 (Act XLV of 1860).

## **21. Functions and powers of labour inspectors**

- (1) The Inspector appointed under section 20 shall, for the purpose of the execution of this Act, have the powers described in their certificate of appointment, as may be prescribed.
- (2) No person shall intentionally delay or obstruct the Inspector in the exercise of his powers referred to under sub-section (1), and he shall be liable to comply with the provisions of this Act, rules, regulations or bye-laws and produce any register, certificate, notice or document under his custody, and he shall not prevent or attempt to conceal or prevent, any person from appearing before or being examined by such Inspector in the execution of his duties under this Act.

## **22. Power to make rules**

- (1) The Government may make rules for carrying out the purpose of this Act.

## **23. Maintenance of record**

- (1) Every digital labour platform shall keep such records and shall submit to the ICT Labour Department, at such times, in such form and containing such particulars relating to persons employed by the digital labour platform, as may be prescribed in the rules.

## **24. Prohibition on exclusionary practices**

- (1) Any provision in an employment contract is void in so far as it purports—
  - (i). to exclude or limit the operation of any provision(s) of this Act; or
  - (ii). to preclude a person from bringing proceedings under this Act before the Dispute Resolution Committee.

## **25. Prohibition on Victimization**

- (1) The digital labour platform shall not victimize a platform worker for:
  - (i). performing any duty or exercising any right under the relevant statutory provisions;
  - (ii). making a complaint or representation as regards any rights granted under this Act; and
  - (iii). giving evidence in proceedings in respect of the enforcement of the relevant statutory provisions.

## **26. Indemnity**

No suit, prosecution or other proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or rules made thereunder.

## **27. Removal of difficulties**

If any difficulty arises in giving effect to any provision of this Act, the Government may, by notification in the Official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty.

## APPENDIX B : FAIRWORK SCORING SYSTEM

### Which companies are covered by the Fairwork principles?

The International Labour Organisation (ILO) defines a “digital labour platform” as an enterprise that mediates and facilitates “labour exchange between different users, such as businesses, workers and consumers”<sup>60</sup>. That includes digital labour “marketplaces” where “businesses set up the tasks and requirements and the platforms match these to a global pool of workers who can complete the tasks within the specified time”<sup>61</sup>. Marketplaces that do not facilitate labour exchanges—for example, Airbnb (which matches owners of accommodation with those seeking to rent short term accommodation) and eBay (which matches buyers and sellers of goods)—are obviously excluded from the definition. The ILO’s definition of “digital labour platform” is widely accepted and includes many different business models<sup>62</sup>

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

Fairwork distinguishes between two types of these platforms. The first, is ‘geographically-tethered’

platforms where the work is required to be done in a particular location such as delivering food from a restaurant to an apartment, driving a person from one part of town to another or cleaning. These are often referred to as ‘gig work platforms’. The second is ‘cloudwork’ platforms where the work can, in theory, be performed from any location via the internet.

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

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



## How does the scoring system work?

The five Principles of Fairwork were developed through an extensive literature review of published research on job quality, stakeholder meetings at UNCTAD and the ILO in Geneva (involving platform operators, policymakers, trade unions, and academics), and in-country meetings with local stakeholders.

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

only be awarded if the first point for that Principle has been awarded. The thresholds specify the evidence required for a platform to receive a given point. Where no verifiable evidence is available that meets a given threshold, the platform is not awarded that point.

A platform can therefore receive a maximum Fairwork score of ten points. Fairwork scores are updated on a yearly basis; the scores presented in this report were derived from data pertaining to the 12 months between November 2020 and November 2021, and are valid until November 2022.

Table 1 Fairwork: Scoring System

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

Maximum possible Fairwork Score



## Principle 1: Fair Pay

### 1.1 Ensures workers earn at least the local minimum wage after costs (one point)

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

The platform takes appropriate steps to ensure:

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

### 1.2 Ensures workers earn at least a local living wage after costs (one additional point)

In some places, the minimum wage is not enough to allow workers to afford a basic but decent standard of living. To achieve this point platforms must ensure that work-related costs do not push workers below local living wage.

The platform takes appropriate steps to ensure:

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

## Principle 2: Fair Conditions

### 2.1 Mitigates task-specific risks (one point)

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

The platform must satisfy the following:

- There are policies or practices in place that protect workers' health and safety from task-specific risks.

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

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

Platform workers are vulnerable to the possibility of abruptly losing their income as the result of unexpected or external circumstances, such as sickness or injury. Most countries provide a social safety net to ensure workers don't experience sudden poverty due to circumstances outside their control. However, platform workers usually don't qualify for protections such as sick pay, because of their independent contractor status. In recognition of the fact that most workers are dependent on income they earn from platform work, platforms can achieve this point by ensuring that workers are compensated for loss of income due to inability to work.

The platform must satisfy BOTH of the following:

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

## Principle 3: Fair Contracts

### 3.1 Provides clear and transparent terms and conditions (one point)

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

The platform must satisfy ALL of the following:

- The party contracting with the worker must be identified in the contract, and subject to the law of the place in which the worker works.
- The contract is communicated in full in clear and comprehensible language that workers could be expected to understand.

- The contract is accessible to workers at all times.
- Every worker is notified of proposed changes in a reasonable timeframe before changes come into effect; and the changes should not reverse existing accrued benefits and reasonable expectations on which workers have relied.

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

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

Regardless of how the the contractual status of the worker is classified, the platform must satisfy BOTH of the following:

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

## Principle 4: Fair Management

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

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

The platform must satisfy ALL of the following:

- There is a channel for workers to communicate with a human representative of the platform. This channel is documented in a contract and available on the platform interface. Platforms should respond to workers within a reasonable timeframe.
- There is a process for workers to meaningfully appeal low ratings, non-payment, payment issues, deactivations, and other penalties and disciplinary actions. This process is documented in a contract and available on the platform interface.
- In the case of deactivations, the appeals process must be available to workers who no longer have access to the platform.
- Workers are not disadvantaged for voicing concerns or appealing disciplinary actions.

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

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

Platforms must satisfy ALL of the following:

- There is a policy which ensures the platform does not discriminate on grounds such as race, social origin, caste, ethnicity, nationality, gender, sex, gender identity and expression, sexual orientation, disability, religion or belief, age or any other status.
- Where persons from a disadvantaged group (such as women) are significantly under-represented among a pool of workers, it seeks to identify and remove barriers to access by persons from that group.
- It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.

- If algorithms are used to determine access to work or remuneration or the type of work and pay scales available to workers seeking to use the platform, these are transparent and do not result in inequitable outcomes for workers from historically or currently disadvantaged groups.
- It has mechanisms to reduce the risk of users discriminating against workers from disadvantaged groups in accessing and carrying out work.
- It takes practical measures to promote equality of opportunity for workers from disadvantaged groups, including reasonable accommodation for pregnancy, disability, and religion or belief.
- If algorithms are used to determine access to work or remuneration, these are transparent and do not result in inequitable outcomes for workers from historically or currently disadvantaged groups.
- It has mechanisms to reduce the risk of users discriminating against workers from disadvantaged groups in accessing and carrying out work.

## Principle 5: Fair Representation

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

Freedom of association is a fundamental right for all workers, and enshrined in the constitution of the International Labour Organisation, and the Universal Declaration of Human Rights. The right for workers to organise, collectively express their wishes - and importantly - be listened to, is an important prerequisite for fair working conditions.

However, rates of organisation amongst platform workers remain low. To achieve this point, platforms must ensure that the conditions are in place to encourage the expression of collective worker voice. Whether or not platforms set the terms on which workers are retained by service users, platforms must demonstrate that they have taken appropriate steps to ensure that workers are informed of their rights (and have mechanisms in place to help protect those rights) and that workers are directed to appropriate collective bodies or trade unions.

Platforms must satisfy ALL of the following:

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

### 5.2 Supports democratic governance (one additional point)

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

The platform must satisfy at least ONE of the following:

1. Workers play a meaningful role in governing it.
2. It publicly and formally recognises an independent collective body of workers, an elected works council, or trade union.
3. It seeks to implement meaningful mechanisms for collective representation or bargaining.

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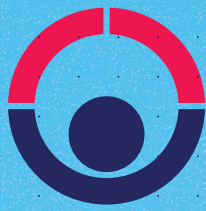
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