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Frankfurt Paper on Platform-Based Work

**Proposals for platform operators, clients, policy makers,
workers, and worker organizations**

Copenhagen • Frankfurt • Seattle • Stockholm • Vienna • Washington

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“Crowdsourcing” refers to the practice of outsourcing work to an unspecified “crowd.” Contemporary crowdsourcing is typically performed over the internet through a technological intermediary, often called a “platform.” In the last ten years, private individuals and organizations of all sizes and in all sectors have begun to use crowdsourcing as an alternative to hiring employees or specific contractors. While crowdsourcing was first applied to small, low-wage information tasks performed over the internet, the model of “platform-based work” has since been applied to a huge array of services, including both remote and in-person services and low- and high-wage work. Platforms now act as labor brokers for industrial and graphic design, engineering, programming, administrative tasks, marketing and customer service, scientific research, transportation and logistics (i.e., taxi and delivery services), domestic work, retail quality control (i.e., “mystery shopping”), legal services, accounting, and sex work. Workers on such platforms are often classified by platform operating companies as independent contractors, and are therefore typically excluded from the legal and social protections established for employees over the last hundred years.

On 13-14 April 2016 in Frankfurt am Main, Germany, the first International Workshop on Union Strategies in the Platform Economy convened staff members of the above-listed organizations, along with legal and technical experts from Asia, Europe, and North America, to discuss:

- the already-existing and potential future economic and social consequences — positive and negative — of the growth of crowdsourcing and platform-based work in local, national, and international labor markets;
- the role of unions and other worker organizations in realizing the promise of platform-based work to provide labor market access to large groups of previously excluded people, including workers in “developing” countries, and to offer all workers unprecedented freedom and flexibility in their working lives — while retaining elements of the “traditional” employment relationship hard won in the last two centuries of labor struggle, such as:
 - minimum wage,
 - the reasonable expectation to earn a living in a 35- to 40-hour work week,
 - affordable access to health care,
 - compensation in case of injury on the job,
 - integration into national social protection systems such as social security,

- legal protection from discrimination, abuse, and wrongful dismissal, and, crucially,
- the right to organize, take collective action, and negotiate collective agreements;

that is, in summary, the role of worker organizations in realizing the promise of online labor platforms to make “good work” available to many more people;

- the possibilities for a “co-operative turn” in labor-management relations in the “platform economy,” in which workers, clients, platform operators, investors, policy makers, and worker organizations work together to improve outcomes for all stakeholders; and
- potential recommendations for platform operators, clients, policy makers, researchers and research funders, and other actors in the platform economy.

The remainder of this document lists key themes that emerged in the Workshop discussion.

Key Points of the Workshop Discussion

Compliance with national law and international principles

- Online labor platforms must comply with applicable laws, including existing tests of employment status (i.e., employee vs. independent contractor), wage laws, taxation requirements, relevant labor market regulation, relevant international labor conventions such as prohibitions on forced labor and child labor, anti-discrimination law, and requirements for contributions into social protection systems such as social security, as well as relevant collective agreements.
- Instead of using technology to “work around” the letter and spirit of existing laws, platform operators should work together at municipal and national levels with workers, clients, worker organizations, and policy makers to ensure that platform-based work complies with relevant laws, *including laws in the worker’s jurisdiction*, if those laws entitle the worker to greater protections than those offered by the

platform operating company's country of registration.

Clarification of employment status

- Many operators of online labor platforms deny that they are employers, and require workers to agree that they are “independent contractors” or “self-employed persons” rather than employees. Platform operators nonetheless control the basic conditions of work: they decide “how often and in what context [customers and workers] are exposed to each other, what information is collected by [customers and workers], and how this information is displayed” — and set “policies about what trades are permissible, how entry is gained, what contracts and prices are allowed, and so on.”¹ Even when platforms do not set wages directly, they may take steps to regulate the balance of available work and workers, for example by restricting registration of new workers or increasing prices during periods of high demand.
- Many platforms exert control over workers; some exert more control than other firms exert over “traditional” independent contractors. Indeed, through technology, some platforms exert more control than many firms do over traditional employees, even if that control is indirect. Based on this control, some workers contest the “independent contractor” classification, arguing that they are employees of the platforms. In some cases, workers have initiated legal proceedings alleging misclassification.
- Other workers, however, embrace the independent contractor classification. These workers either believe that the classification is accurate or expect that the benefits offered by employee status would be outweighed by the loss of freedoms associated with contractor status.

¹ Ajay Agrawal, John Joseph Horton, Nicola Lacetera, and Elizabeth Lyons. 2015. “Digitization and the contract labor market: a research agenda.” In Avi Goldfarb, Shane Greenstein, and Catherine Tucker, eds., *Economic Analysis of the Digital Economy*. United States National Bureau of Economic Research.

- All workers who find themselves classified as independent contractors but controlled as employees — for example, punished for refusing to accept tasks assigned by the platform — are on the losing end of an unfair arrangement that disproportionately benefits clients and platform operators.
- **The question of employment classification presents a trade-off.** The more control a platform exerts over workers, the more likely it is to be considered an employer under the law — and therefore to be responsible for paying the associated costs. Workers, worker organizations, policy makers, and well-intentioned platform operators must work together to ensure that workers *on any platform* who are in practice employees are classified as employees.
- Platform-based workers who are currently classified as contractors may fear that a transition to employee status could entail a loss of freedom, especially freedom to choose tasks and working times. We propose however that online labor platforms could support employment arrangements that offer clients, platforms, *and employees* flexibility and freedom within the minimum standards of the employment relationship. Workers, platform operators, worker organizations, and policy makers should work together to realize this possibility.

Right to organize

- Because they shape the conditions under which workers and clients interact with each other and with the platform, platform operators are appropriate negotiating partners for platform-based workers seeking to improve their conditions of work. In some cases, clients may also be appropriate negotiating partners.
- A platform's policies and information flows affect all workers on the platform regardless of whether they are employees or independent contractors. **Laws that prohibit platform-based workers classified as independent contractors from organizing and negotiating collective agreements with platform operators should therefore be reassessed.**
- **We affirm in the strongest possible terms the central importance of workers' right to organize.** This right is enshrined in the major international declarations

of fundamental and universal human rights, both broadly and with respect to work specifically — the Universal Declaration of Human Rights and the ILO (International Labour Organization) Declaration on Fundamental Principles and Rights at Work — and for good reason. Research shows that worker organizing has for decades been correlated with the economic well-being of working people and the development and maintenance of the middle class in “developed” economies. Unsurprisingly, countries in which regulatory and economic change has weakened organized labor have also experienced increasing income and wealth inequality.

Wages

- Research shows that many platform-based workers — perhaps a majority in developed countries — earn (after expenses, before taxes) less than minimum wage, or the relevant collective agreement’s lowest wage, in their jurisdictions. This situation poses a risk to established labor standards and prevailing social norms.
- We understand that the aim of guaranteeing minimum wage to platform-based workers faces at least four challenges:
 - Payment for platform-based work may be piece- or project-based, not time-based.
 - Operators may not have direct control over the volume of work on their platforms.
 - Workers performing information work remotely may finely “interleave” work with other activities, such as caring for dependents in the home.
 - Because workers can often begin working without prior screening (e.g., qualification tests), platform operators and clients often have no guarantee that work produced will be usable. Minimum wage guarantees without some combination of worker screening and quality control could create significant financial risk for clients.
- We understand that many online labor platforms have international worker populations, with workers facing a very broad range of costs of living potentially

competing for the same work.

- We understand that workers who rely primarily or exclusively on online labor platforms as a source of income in countries with high standards of living may have no other access to paying work, for a wide range of reasons (e.g., remote location, care responsibilities, disability, criminal record), and may therefore be willing to work for less than minimum wage.
- *The above challenges notwithstanding, we affirm that as much work as possible conducted over online labor platforms should pay at least minimum wage (after expenses, before taxes) in the worker's jurisdiction and regardless of the worker's legal status or access to other work opportunities. We call on clients and platform operators to work together with workers, worker organizations, and, as appropriate, policy makers, to reach this goal.*
 - Adopting this goal does not preclude piece- or project-based pay. It does however imply that clients and/or platform operators should estimate how long a task is expected to take a worker with appropriate qualifications, and set pay accordingly. Notably, several platforms already implement "minimum wages," even for piece- or project-based work. While it may at present be difficult to implement these policies perfectly, this does not mean they should not be implemented.

Social protection

- *Regardless of employment classification, platform-based workers should have access to social security protections — public and/or private, as nationally appropriate — including unemployment insurance, disability insurance, health insurance, pension, maternity protection, and compensation in the event of work-related illness or injury. Contributions to relevant accounts should be shared — as appropriate by national context — between workers, platforms, clients, and the state, and should be pro-rated, portable, and, if nationally appropriate, mandatory.*

Dispute resolution

- Some platforms explicitly disclaim responsibility for resolving disputes between clients and workers. But platform design shapes expectations, interactions, and outcomes between clients and workers. On platforms where clients are given the power to refuse payment for completed work, platform operators' refusal to mediate disputes may contribute to an environment where actions that would be considered wage theft in other work contexts are legal or even normal.
- While we understand that the large scale of some platforms may pose a challenge, **we therefore propose that platform operators work — with workers, clients, researchers, worker organizations, and other actors as appropriate — to develop transparent, accountable methods for resolving disputes between clients and workers, and, as needed, between workers.**

Transparency

- A wide range of processes that shape platform-based workers' ability to find work and receive payment for work completed are, on many platforms, opaque to both workers and clients. These include processes for assigning tasks (if tasks are assigned to workers by the platform), computing worker reputation and other qualifications, evaluating work, and taking actions such as account closure (the online equivalent of dismissal) based on client ratings of worker performance.
- In work performed online, workers often perform work without knowing the final application or client. Major brands often obscure their use of online labor platforms by posting tasks under the names of employees, intermediaries, or project groups.
- Municipal, regional, national, and international policy makers have very limited access to data describing the number and value of transactions conducted over online labor platforms, the geographical locations and demographics of clients and workers, or the importance of platform-based work to the business strategies of firms and the livelihood strategies of workers. In short, the knowledge base required to make sound policy is missing. While platform operators do not have

all of this information, they have a significant share of it.

- **We propose therefore that platform operators, researchers, workers, worker organizations, policy makers and other actors as appropriate work together to increase transparency in the world of platform-based work.** Platform operators should expect to be asked to share relevant data, anonymized as necessary, with policy makers, researchers, and social partners. Increasing transparency has two goals: to allow workers and clients to make better informed decisions while acting *in* or choosing between online labor platforms, and to allow policy makers to develop sound policy to *govern* online labor platforms. Specifically, we propose that the above-listed actors work together to:
 - clarify “internal” platform processes to all platform actors;
 - improve workers’ access to information about who they are working for and the final application of their work; and
 - develop ongoing data- and information-sharing practices and infrastructures to provide policy makers the information required to develop sound policy and ensure compliance with applicable regulation.

Continuous improvement

- We recognize that platform-based work is evolving. Hence, governance of platform-based work should also evolve to make work transacted on the platforms more fair and equitable, and to meet established standards of “good work.”

Co-operative labor-management relations

- In our conversations with them, we find that many platform operators wish to create good jobs that serve the long-term needs of both clients and workers, not socially unsustainable arrangements to which workers are driven for lack of alternatives. We find that most platform operators do not aspire to profit from workers’ necessity and clients’ indifference.

- **We propose therefore that the growth of platform-based work presents a novel opportunity for the development of a “co-operative turn” in labor-management relations.** The “traditional” conflictual processes of labor-management relations have secured crucial rights for workers over the years and will continue to be important. But insofar as platform operators understand that their own long-term well-being, and that of society at large, is bound up with the ability of workers — regardless of legal status — to secure good work, future labor-management interactions may be organized around interests deeply shared by all parties. This possibility offers the hope of great gains for all parties.

Concluding Remarks

We close this document with a brief reflection on the founding principle of the International Labour Organization: “Labor is not a commodity.” This is a philosophical principle that asserts the fundamental and universal dignity of human beings, regardless of the indifference with which they may be treated in any given social, political, or economic context. This principle has clear implications for policy, including centrally the protection of the right of workers to organize. This principle — and its policy implications — is just as crucial to a decent society in the “information age” as it was in the industrial era. We believe that information technology, shaped wisely, holds great promise for expanding access to good work. We look forward to working with workers, clients, worker organizations, researchers, journalists, platform operators, and other stakeholders to realize this promise.