



ROADMAP TO JUSTICE:

HOW KYRGYZSTAN'S PLATFORM ECONOMY WORKERS CAN STAND FOR THEIR RIGHTS



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The SOLIDARITY CENTER is the largest U.S.-based international worker rights organization helping workers attain safe and healthy workplaces, family-supporting wages, dignity on the job and greater equity at work and in their community. Allied with the AFL-CIO, the Solidarity Center assists workers across the globe as, together, they fight discrimination, exploitation and the systems that entrench poverty—to achieve shared prosperity in the global economy.

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INTRODUCTION

In recent years, millions of workers have entered into full- or part-time work via a digital platform. This digitally mediated employment, according to the Global Commission on the Future of Work, is expected only to increase. Although more common in other regions of the world, work mediated through a digital platform is relatively new in Central Asia. The digital platform share in the economy in Kyrgyzstan is growing, and with that growth, an increasing number of people are working through these platforms.

Due to its growth, the vulnerability of workers in this sector has also become more apparent, especially for marginalized groups. This is in part due to the misclassification of workers working for digital platforms as independent contractors. As in many countries, digital platform companies wield significant political and economic power and have lobbied governments to mischaracterize their relationship with drivers. As such, they have shifted the risks and liabilities onto workers while at the same time reaping the rewards and limiting their responsibility. Today, most people working for a digital platform in Kyrgyzstan do so outside of the labor law, with no rights or basic social protections.

Workers and unions in many countries have fought to pressure legislative bodies and courts to recognize an employment relationship and enforce the corresponding labor laws. In the Central Asian region, politicians and policymakers have not paid enough attention to this issue. Discontent among such workers is starting to grow and has already led to a strike in Kyrgyzstan. One of the driving forces enabling platform companies to grow rapidly in this and other countries is their market monopolization strategy, in which drivers continue to work despite their grievances because they cannot find alternative opportunities.

This report will provide an overview of the employment situation of platform workers (drivers) in the Kyrgyzstan market, using the example of one of the market platform leaders: Yandex Go (Yandex). Yandex runs a multitier system in which it partners with owners of fleets of vehicles, which then enter into a separate commercial contract with drivers. Drivers use the Yandex app but have no labor relationship with Yandex or the partners, some of whom are not even officially registered in Kyrgyzstan. As such, drivers are in a situation of extreme precarity.

METHODOLOGY

The present study consisted of three phases, as shown in **Table 1**.

Table 1: Report Structure

Phase 1: Market Analysis	An analysis of the platform economy market in Kyrgyzstan, including a description of the main actors and policies
Phase 2: Assessment of Gig Workers' Needs	A study on the views of drivers to better understand their concerns and expectations
Phase 3: Legal Analysis	A legal analysis of the labor legislation as it applies to platform-based employment

Table 2: Sample Distribution

TARGET GROUP	SAMPLE
Gig platform drivers (e.g., for Yandex) with at least one year of experience	CATI: 200
Activist-drivers, members of trade unions or protest participants	IDI: 1
Drivers whose rights were violated while working for a platform	IDI: 3
Vulnerable groups of drivers (e.g., women, internal migrants)	IDI: 2
Representatives of companies in the taxi and platform industries	IDI: 2
Civil liability organizations: specialized NGOs, NPOs, associations	IDI: 1
Experts/opinion leaders in the taxi and platform economy industries	IDI: 1

CATI, computer-assisted telephone interview; IDI, in-depth interview; NGO, nongovernmental organization; NPO, nonprofit organization.

The largest part of respondents (47 percent) in the quantitative survey was represented by people ages 22 to 35; 30 percent were people ages 36 to 45, 16 percent were people ages 46 to 65, 5 percent were people ages 18 to 21, and 2 percent were older than age 65. Roughly 99 percent of the respondents were male, and 97 percent live in Bishkek, with only 3 percent internal migrants.

OVERVIEW

This is the first study on digital platforms and labor relations in Central Asia, and it examines the situation of workers working for Yandex in Kyrgyzstan.

The first section of this report describes the current position of platforms in Kyrgyzstan, identifying market leaders (of which Yandex is one). It also includes information on Yandex's registration and its method of operating in the Kyrgyzstan market through partners.

The second section describes the employment conditions of Yandex drivers.

The third section consists of three subsections: 1) the results of a survey of drivers on their working conditions; 2) the drivers' concerns and demands regarding their work with the platform; and 3) an overview of the law and assessment of how platform drivers can collectively bargain for their rights.

The fourth section provides legislative and international norms on the prohibition of discrimination and examines the specific concerns of female drivers and internal migrant drivers.

At the end of the report, general conclusions and recommendations made by local experts are presented to protect platform drivers' labor rights and improve their working conditions.

1. ANALYSIS OF THE GIG PLATFORM MARKET IN KYRGYZSTAN

The recent development of digital infrastructure in the country is among the factors contributing to the transformation of economic activities in the sphere of courier and taxi services in Kyrgyzstan. According to statistical data, the digital economy accounted for 0.4 percent of Kyrgyzstan's GDP in 2017.¹ However, work is needed to improve the national accounting system to accurately determine the true share of the digital economy in the GDP.² The current strategies of the Kyrgyz government to integrate the digital economy into its development plan are multifold and still evolving.

The main components of the digital economy are:

1. Consumption/e-commerce
2. Development investment
3. Public administration
4. Export-import activities

Consumption as a form of virtual commerce accounts for the largest share of the total digital economy.³

Key Corporate Players in the Kyrgyzstan Market

The emerging market of digital platforms in the Kyrgyz Republic is relatively small and mostly relies on the business-to-consumer model, which represents the core of the market. As for the presence of foreign platforms, there are large Russian platforms in industries such as social media, internet search engines and taxi ordering services, among others. Those transnational platform companies include Yandex Go,⁴ 2GIS,⁵ Lalafo (<https://lalafo.com/>) and Glovo (<https://glovoapp.com/>). Official statistics do not contain data on the volume and market share of the abovementioned companies in Kyrgyzstan. Because most internet and online service users live in large cities, which enjoy well-developed digital infrastructure, the gig economy is mostly concentrated in the capital of Kyrgyzstan.

Regulation

There is no legislative basis to regulate digital platforms, a fact that these companies are using to their advantage. A law on electronic commerce has been introduced by the Ministry of Economy several times since the early 2000s, but it has not yet been adopted.⁶

Transport

According to the National Statistical Committee, 31.1 million people used taxi services in Kyrgyzstan in 2020, which is 5.3 million people or 14.5 percent fewer than in 2019. The decline in passenger transportation in 2020 was due to the severe restrictions put in place during the lockdown and state of emergency declared across the country because of the COVID19 pandemic. At the moment, there are more than 70 taxi services in Kyrgyzstan, some of which have merged and most of which operate in Bishkek. One of the market leaders in Bishkek is the Yandex service. Yandex was launched in Bishkek in November 2017, but the service can also be used in Osh, the second largest city in Kyrgyzstan. According to the Russian Federation's Unified State Register of Legal Entities, the company's main activity is the development of computer software.

Yandex Market Share

According to in-depth interviews (IDI), Yandex's market share is 70 percent. The remaining 30 percent comes from local taxi services, including BiTaxi (Namba Taxi), Jorgo, SMS Taxi, Taxi Udacha and others. According to data from a Jogorku Kenesh (Supreme Council of Kyrgyzstan) deputy, approximately 5,000 drivers are connected to the application. In 2019, following an appeal by the Association of Taxi Operators and Carriers of Kyrgyzstan, the activities of Yandex were subjected to a major investigation by the State Agency of Antimonopoly Regulation, with company representatives from Moscow also participating in the process. However, the investigation did not find that the company had committed any violations of fair competition.⁷

Yandex Business Model in Kyrgyzstan

Yandex arranges commercial agreements with partner companies in Kyrgyzstan to provide taxi services. The company sends its partners the drivers' data, and the partners then connect drivers to the Yandex service. As such, these partners are intermediaries between Yandex and the drivers. In exchange for their connection service, the partners receive part of the rate, which is deducted by Yandex, for each order. According to information published on the official website of Yandex

Go, 44 partners are operating in Kyrgyzstan.⁸ Based on the terms and conditions of Yandex's offer, it can be concluded that Yandex does not have any direct relations with its drivers and that local companies are not affiliates of the platform. The relationships between the participants are regulated by civil law.

When it comes to the relationship between Yandex and its drivers, according to the terms on its official website,⁹ Yandex states that the company allows any legally capable person who has the right to drive a passenger taxi and perform activities as a taxi driver and/or entrepreneurial activities as a carrier to use the service in order to obtain a taxi service driver card. Of course, Yandex sees its role as an intermediary between consumers of ride services and the drivers. As explained below, the facts would indicate that subordination and control exist, which would point to the existence of a labor relationship. This is an open legal question in the country and will require either Kyrgyz courts or regulators to determine whether there is a labor relationship falling under the scope of the labor code.

Drivers consider this model unfair. A representative of a large local taxi service is convinced that only the aggregator is in a winning position, whereas the drivers are always in a losing position. In turn, a representative of one of Yandex's partner companies believes that each participant within these relations has a choice and also pointed out the transparency and openness of the Yandex system.

2. DIGITAL PLATFORM DRIVERS' LEGAL STATUS

Relevant Legislation and Practice

According to Law No. 214 of August 3, 2015, regarding the promotion of employment, taxi drivers provide transportation services as individuals carrying out entrepreneurial activities on the basis of voluntary patents or as individual entrepreneurs¹⁰ or by opening a legal entity. Digital platform drivers de jure work under the self-employed status, meaning that they are not classified as the employees of the platforms or their partner companies. Thus, their relationships are in the nature of partners, which thereby excludes them from the possibility of being regulated by the labor code.

The Kyrgyz Republic legislation regarding road transportation defines the general rules of passenger transportation for all individuals and legal entities engaged in commercial activities in the field of road transportation. Accordingly, it is possible to carry out entrepreneurial activities in passenger transportation in the Kyrgyz Republic by opening an LLC (for taxi activities for passenger transportation) or purchasing a voluntary license. The Kyrgyz Republic legislation on road transportation defines a taxi as a passenger car intended for the transportation of people and luggage by road, equipped with a taximeter and having appropriate distinctive signs.

Taxi drivers use mobile taximeter applications. Prior to 2009, passenger transportation by road, which also included taxis, was subject to licensing. Obtaining a license required having an employment or civil law contract for transportation services, a patent, and insurance. However, in order to promote employment and support small- and medium-sized businesses, amendments were made to the Kyrgyz Republic legislation regarding licensing. Thus, the Ministry of Transportation lost the function of state regulation of the industry.

Looking at the work of digital platforms through the example of taxi aggregators, the following aspects can be made out:

1. Platform intermediary, which provides access to the application
2. Contractors (taxi drivers)
3. Customers (passengers)

Status of Digital Platform Workers

Being users of the platforms on the basis of self-employment, without a formal labor relationship, has led to the drivers receiving consistently low wages and lacking control over scheduling as well as basic health and safety protections—including insurance, in the case of traffic accidents.¹¹ This is an essential issue for taxi drivers in Kyrgyzstan as their work carries the serious risk of being injured (e.g., in an accident) during their working hours. Indeed, it would appear that drivers are misclassified. Although the platform companies in Kyrgyzstan (in this case, Yandex) either state that the relationship between the individuals performing the work and the service providing the app-based platform is not employment or specify that workers are acting as self-employed individuals and freelancers, in fact, the facts of the drivers' work within the country clearly reflects an element of subordination and control by the company.¹²

The labor code defines *labor relations* as the relationship between an employee and an employer based on the employee's personal completion of work duties for remuneration (work in accordance with a certain specialty, qualifications or position), with subordination to the internal work regulations, on the condition that the employer provides the working conditions established by law, collective agreements, other agreements and work contracts.¹³ These relations are established on the basis of a work contract concluded by both parties in accordance with the labor code.¹⁴

Evidence of Platform Company Control Over Workers

Contracts

Yandex's partner companies register the drivers themselves. The job seekers who enter into platform work have no other choice than to agree on the terms and conditions provided solely by the company. Moreover, they have no opportunity to make any changes to the proposed job offer and, in many cases, are not even aware of the conditions. Further, the drivers are given the tools—namely, a car (if they do not have one of their own)—and the terms and rules of work are explained verbally. Cash proceeds from drivers are accepted by the company representative personally, meaning that, de facto, the representative practically controls the drivers' work process, and non-cash transfers are simply recorded in internal documentation—probably for further settlements with Yandex.

Only a few partners have their own websites, on which basic information about the benefits of working for Yandex is available. These websites give drivers the opportunity to register by filling in an application for connection to the service, according to the Yandex website (<https://1200-yandextaxi.kg/>). Based on an analysis of the websites¹⁵ of Yandex's partners existing in Kyrgyzstan, the following options for connecting to the application were identified:

- Online registration via the Yandex Pro app (Taximeter)
- Online registration by filling out an application on the official Yandex website¹⁶ or on the website of a Yandex partner
- Registration by phone or via WhatsApp
- Office-based registration with the help of company staff

Drivers willing to work via the Yandex app can choose any method of connecting to the service, whichever they find most convenient. One of the most widespread and simple ways of registration is online via the Yandex Pro (Taximeter) Android-based application. When registering, drivers must specify their contact information and also accept the terms and conditions of the Yandex offer,¹⁷ the role of which is to generate a driver card to provide taxi services. In the case that a particular taxi service is interested in a driver's card, it can contact the driver in order to further arrange an agreement with them. If several taxi services are interested, the driver has the opportunity to choose the taxi service with which they prefer to work. If drivers do not want to or cannot register online, they can contact Yandex partners by phone or go directly to their office. In the latter case, the contract can be signed in writing at the office.

The public offer of the local Yandex partner company represents the primary contract on the basis of which drivers operate. This means that the rights and obligations established between the company and drivers are regulated by the civil code of the Kyrgyz Republic.¹⁸ Thus, drivers are deprived of the state guarantees of labor rights and freedoms provided by the labor code. The offer agreements do not address the issues of incentives, bonuses, liability for administrative offenses, or termination and suspension of work, but they do refer to additional documents that constitute an inalienable part of the signed contracts. In practice, however, drivers are familiar only with the terms of their offer agreement, lacking any additional annexes or other documents.

According to the data, the rules related to the payment of incentives and bonuses and the termination or suspension of work are regulated by Yandex itself rather than by its local partners. It can therefore be argued that Yandex manages (or co-manages) the process. Meanwhile, local partners keep records of taxi drivers and monitor the timely payments of interest rates for the information services provided. A representative of a local Yandex partner company said in an interview¹⁹ that local partners operate on a public offer without accepting drivers as employees. The company maintains²⁰ that it is not an employer and only sells information to drivers.

According to the labor code regulations,²¹ if gig workers prove in court that their civil law contract actually covers labor relations (i.e., that they are performing work in a certain specialty or according to a specific qualification, with subordination to internal labor regulations, under provision of labor conditions by the employer), the civil contract will be null and void, and the employer will be forced to conclude an employment contract. When activating the app, taxi drivers are obliged to follow certain rules and guidelines established by the platforms and apps. This was the case in Belgium, France and the Netherlands, where trade unions went before the court.²² To date, in Kyrgyzstan, not a single case of drivers challenging their labor relations with Yandex before court has been recorded.

They think they are employees of these apps, that they are employees of Yandex. And they do it all in this format, as if they were employees. In reality, they are independent contractors. So, we have a bit of a hybrid situation on our hands: In fact, they are employees, but legally they are contractors, who have to work with their own patent.
(Representative of a trade union and lawyer)

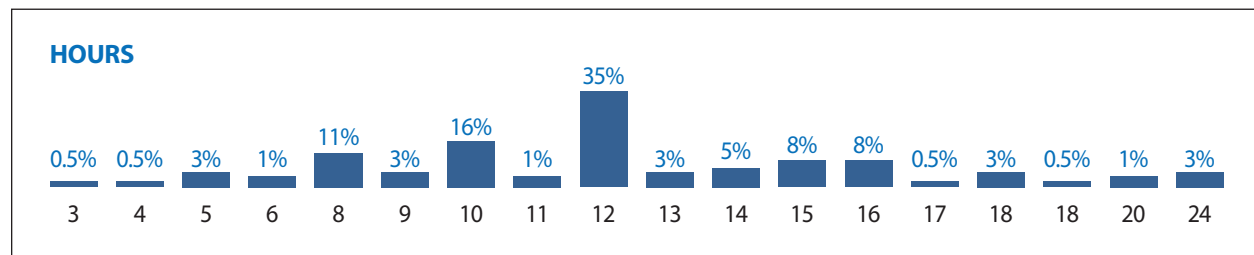
Legal uncertainty, lack of awareness among drivers, fear of loss of income and a lack of social guarantees are some of the reasons why drivers refuse to apply to the court in seeking employment status to ensure protection of their labor rights.

Management and Discipline

There is no requirement for drivers to work a minimum number of hours, but the app sets a maximum threshold. For example, to prevent accidents from occurring, drivers cannot work for more than 14 hours continuously. The app records the number of both working hours and rest, thereby preventing the user of the app from working beyond the norm. Drivers work a minimum of six hours, an average of eight hours and a maximum of 12 hours per shift. This depends on a number of factors, including whether or not they have a main job (other than driving a taxi), how much free time they have and the goals they have set for their income, to name a few.

During the quantitative phase of the study, the maximum time worked by drivers per shift was identified as follows in **Figure 1**.

Figure 1: Maximum Number of Hours Worked by Drivers



The greatest share of respondents (35 percent) indicated that their maximum shift lasts 12 hours. Overall, 69 percent of the respondents have worked a maximum shift of up to 12 hours (inclusive).

However, by using a variety of methods, Yandex encourages drivers to take more orders. For example, one of the ways used to motivate drivers in this manner is via the app's activity tracker. The activity is used as an indicator of the drivers' performance, one that increases with the number of completed trips and decreases with any canceled or skipped orders. Canceling an order leads to the loss of points and may lead to suspension or termination from the app. Each subsequent level provides access to rewards and privileges. As their level increases, drivers acquire more benefits. Some of these help them manage their schedule with greater flexibility, whereas others allow them to resolve service issues more quickly. A new level is assigned each month on the basis of the points accumulated during the previous month.

No Substitution

The contract's terms and conditions, which limit the drivers' rights, include a prohibition against transfer of the right to connect and provide access to information to third parties, which means that drivers are not entitled to allow third parties to use the application and cannot replace their services with another person.

Vehicle Branding

One of Yandex's innovations is the lack of requirement to use taxi roof signs and other branded uniforms, with the exception of branded cars, which are owned only by a limited number of drivers. These drivers receive the system status of branded car drivers and are given priority in the distribution of orders, which enables them to receive a greater number of requests with a shorter waiting period. This method is used by Yandex to encourage drivers to brand their cars in order to earn more and receive a better working schedule, route and pay rate.

Customer Rating System

The quality of the drivers' work is assessed by each passenger. At the end of the trip, the app sends out a notification inviting the passenger to evaluate the quality of service (i.e., to rate the drivers' work). Drivers' ratings are calculated on the basis of this review and serve as a personal quality indicator within the Yandex service. This system is entirely managed by the company and linked to the earnings that drivers receive for their work.

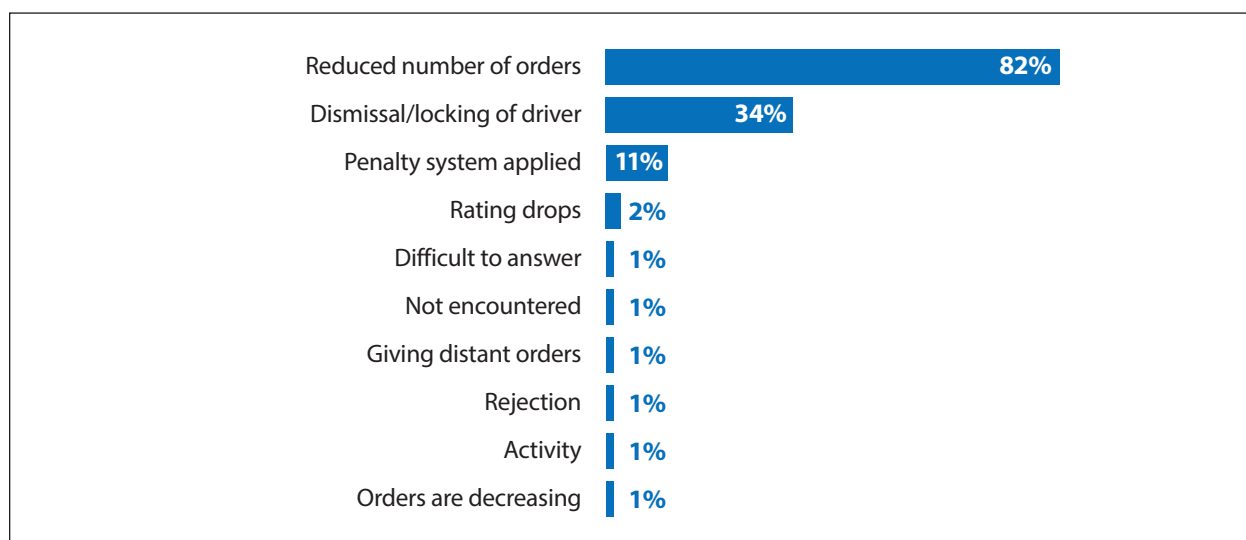
In particular, Yandex motivates drivers to take more orders and receive high marks for them, as rating matters for the following reasons:

- Ratings open access to the service.
- If a rating falls below 4.4, the driver's access to the service and, consequently, orders is denied.
- Ratings determine the priority for order allocation.
- Ratings determine whether or not a driver can receive orders on fares (classes) higher than that of economy. For example, in Bishkek, drivers must have a rating of at least 4.75 to receive orders on higher fares, such as Comfort and Comfort+.

When drivers receive a poor review from a client and their rating is subsequently lowered, they don't have the opportunity to challenge the decision by presenting their point of view. In this case, the application is on the side of the client, who is right by default. The client is notified that the driver will no longer provide services to them. The drivers' contract should contain detailed information on their administrative liability and right to appeal if they decide to challenge the review. The study did not reveal any situations in which drivers were aware of this opportunity or intended to take legal action.

The quantitative survey also included questions about drivers' ratings. The main concern expressed by the respondents is that a downgrade leads to a decrease in the number of orders (82 percent of responses); additionally, drivers can be blocked or disconnected from the app (32 percent of responses).

Figure 2: Consequences of Rating Downgrade



Drivers need to maintain a high rating by providing high-quality service. If they refuse to complete an order, they risk losing points, which affects their rating. It is the rating that plays a determining role in the earnings that drivers receive and whether they will continue working on the app, because users can be blocked if their rating drops. Thus, despite the fact that Yandex refuses to recognize that, in practice, it does manage drivers' work, the abovementioned situation shows that drivers' rating increases based on their performance, which is indeed managed by the company and enables them to earn more money. It should be noted that there are no measures to guarantee transparency in the client's review, as the rating process is purely subjective. Accordingly, it can be noted that drivers' workload, benefits and administrative liability are regulated by Yandex, and therefore the relationship between the company and its drivers can be associated with employment.

Earnings

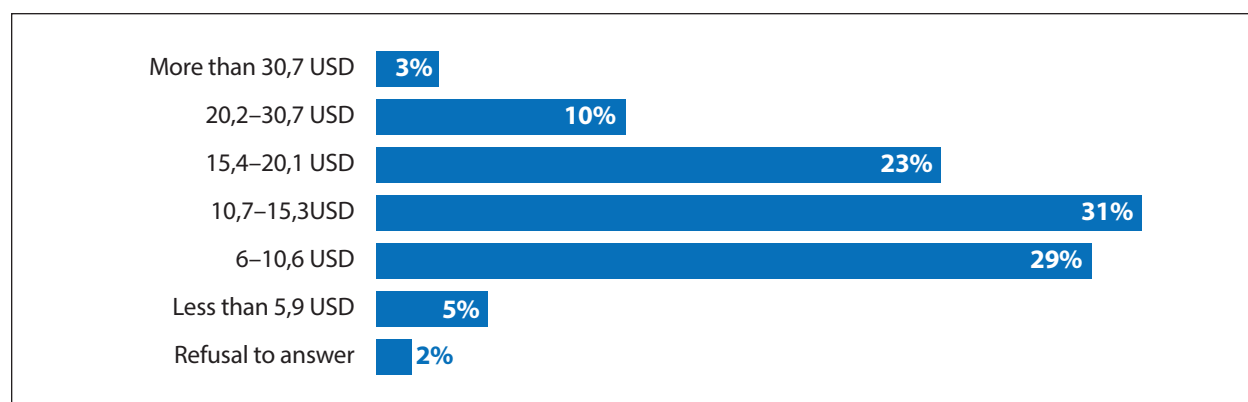
With the exception of the minimum daily income bonus mentioned above, minimum wage is not guaranteed to drivers, whose income directly depends on the results of their work. Remuneration is paid for each ride completed minus the commission, which is transferred to Yandex and its local partner. On average, the commission paid by drivers to the app and local partner is about 15 percent: 12 percent goes to Yandex, and 3 percent goes to local partners.²³ It is worth noting that the amount of this commission has increased over time. Thus, when Yandex entered the Kyrgyz market, the commission in the basic economy fare was 5 percent, with 2 percent for Yandex and 3 percent for the local partner. Taxi drivers have repeatedly raised the issue of a rate hike and held a rally on February 16, 2021.

Petrol is getting more expensive, the commission has gone up, we have to work from morning till night, we can't earn money for our families like we used to. At the same time there is no representative office where we can go, talk to them, explain our situation. Technical support responds automatically and without any explanation we can be disconnected from the service. In the case of an accident, Yandex Taxi does not help in any way. (Yandex driver's testimony)

According to the drivers, it is not easy to switch to another taxi service due to the fact that most of the orders come to Yandex, so the drivers are forced to work for that company. However, the company responded to the strikes by ensuring that drivers did not contact Yandex directly. This, as mentioned earlier, is not possible due to the absence of official company representation within the Kyrgyz market.²⁴

According to the survey, a third of the respondents earn an average of \$6 U.S. dollars (USD) to \$10.6 USD (500 to 900 Kyrgyzstani som [KGS]) per shift, and another third earn \$10.7 USD to \$15.3 USD (901 to 1,300 KGS) per shift.

Figure 3: Level of Income Earned by Drivers on the Platform

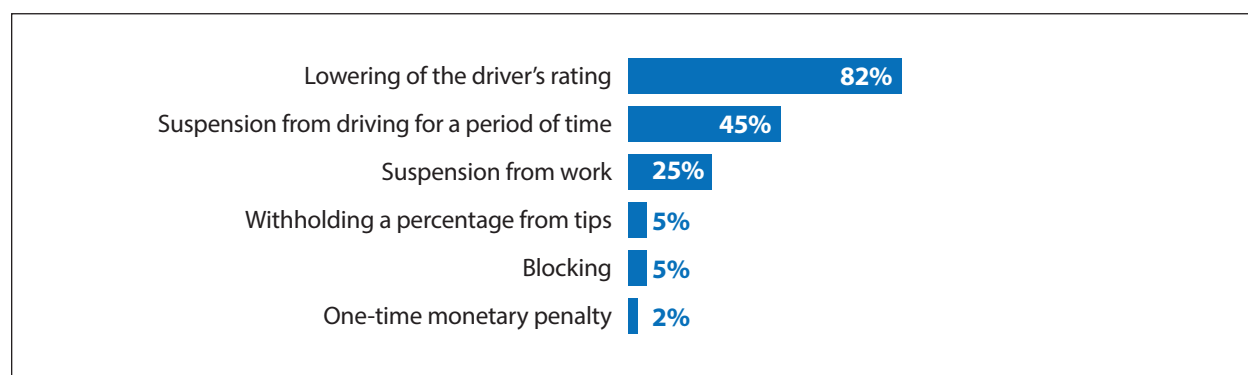


As for the benefits available to drivers, these are limited to incentives, promotions and bonuses and are in fact not benefits, but rather a way for partner companies to attract drivers to work for them.

Disciplinary Liabilities of Drivers

According to 46.5 percent of the respondents, Yandex can apply penalties to drivers. Generally speaking, the list of reasons for penalization is wide-ranging and covers but is not limited to customer complaints (87 percent), noncompliance with sanitary norms (23 percent) and being late for an order (22 percent). Therefore, the company effectively manages drivers' administrative liability. In most cases, the drivers see their rating downgraded and may be suspended for a fixed period of time or dismissed altogether, which can effectively lead to the termination of their employment.

Figure 4: Measures Taken Against Drivers



Views From Platform Drivers

This section will summarize the study's findings on the specific advantages that drivers stated they gained from working for a platform as well as the disadvantages to their work, the reasons that originally drew them to the work, their needs as workers, some of the hazards they face and their ideas for improvements.

Advantages

The study identified the following advantages of working with a taxi aggregator:

- IDI respondents noted that the program is easy to use.
- The program provides the opportunity to earn additional income while working at a primary job.
- The program offers improved personal safety due to the largest transport platform's (Yandex) ownership of a database of fairly extensive client background information, which gives drivers an additional layer of safety that they would not have with other taxi jobs.
- There is a photo inspection to assess vehicles' condition:

Now Yandex has photo checks; at least they can see your car, see its general condition, whether it is damaged. You go through a photo check once every 10 days. With other companies, it was even worse: They gathered everyone once every two months, inspected the cars, or even once every six months, and that's it. (Second driver interviewee)

Disadvantages

The study revealed the following difficulties arising in the activities of platform transport workers and, in particular, taxi workers:

- Drivers' powerlessness in relation to their customers:

You take an order, a customer calls you back and says, "I want a smoking car," and I say, "Sorry, my car is non-smoking." He gives me a bad review and insults me, even though he hasn't even seen me....I am left completely helpless, and I can't complain to anyone, can't charge him or even blacklist him. (Second driver interviewee)

- The misclassified status of workers by the platforms:

Another disadvantage—let's take my specific situation—is that, in reality, no contracts are signed, there are no obligations....There is no insurance, no payments to the social fund, there is no work record. No documents are signed, it does not go anywhere officially. (First driver interviewee)

- The lack of transparency of the remuneration system and application of fines.
- The lack of insurance for vehicles and drivers. Drivers must bear the expenses related to accidents on their own, not to mention that they also don't have the possibility to apply for medical assistance in that case.

- The lack of support in difficult situations (e.g., lack of a platform system for safety, dangerous clients):

I accidentally pressed the “driver assistance” button several times—there is such a button right on the app—but I didn’t see any results. Such a function technically exists, yes. But if I need help, or if I need to make an emergency call, or let’s say I am being attacked—there is no response. This function is not tied to the traffic police, or to anyone else. (Third driver interviewee)

- The lack of compensation for car care (e.g., car wash, minor repairs).
- The lack of legal support for drivers.
- Program failures.
- The lack of direct operational communication with Yandex:

You can’t get anything from anyone. There is no phone number, no communication, and their office is not even in our country. That is a huge disadvantage. Regardless of what happens, the best you can do is send them your claims in writing. This is not convenient for me; I prefer to talk to a person. (First driver interviewee)

In addition, the survey revealed a number of problems and difficulties faced by taxi drivers. A total of 23 percent of the respondents complained about conflicts with passengers; others mentioned the cancellation of orders (12 percent) and their lack of capability to cancel orders at their own initiative (10 percent), among other issues. In addition, taxi drivers not only have to face scandalous customers; they also sometimes have customers who leave without paying their fare (7 percent).

Drivers’ Recommendations for Improvements

During the IDIs, respondents made recommendations that would help improve and simplify their work as well as make it more efficient:

- Yandex should have a city office to monitor the vehicles’ technical condition.
- Bonuses and other transactions from Yandex should go directly to the drivers; as of now, Yandex deducts a commission from them directly (bypassing the intermediary):

... 1.5 percent per order, and the rest goes to the driver. If I have my own car and I am registered in Yandex with the app, I have to transfer money from every order, not on a daily basis, but maybe once a month—they register it in the system—by a simple transfer from one card to another, for example. Every month they bring up a certain amount that I have earned, I give them 1.5 percent, and I keep the rest. (First driver interviewee)

- Yandex should supply employment contracts.
- The drivers should have both car and driver insurance.
- Drivers’ work regulations should be formally approved on both sides (i.e., by both drivers and companies).
- Yandex should reduce the number of deductions and commissions from the drivers.

During the survey, respondents also noted that Yandex must introduce car and medical insurance (according to 46 percent and 41 percent of the respondents, respectively), cover transportation costs (according to 38 percent of the respondents) and introduce pension contributions (according to 33 percent of the respondents). Respondents also discussed the need for Yandex to officially employ drivers (28 percent) and demand from Yandex a fixed minimum wage (18 percent).

Despite some positive aspects of the platform's usability, the number of complaints and disadvantages identified in the survey were much higher than the number of advantages and included aspects such as drivers' safety, lack of insurance, high interest charged by the platform and its partners, and drivers' helplessness and insecurity in facing the platform to assert their rights due to their uncertain working status with the platform. Thus, drivers would like to be able to cover their expenses, receive social guarantees in the form of insurance, work under better safety conditions and enter into an official employment relationship.

3. THE RIGHT TO ORGANIZE AND CONDUCT COLLECTIVE BARGAINING

Current Organizing Structures Available to Platform Workers

The labor law does not specifically protect the rights of workers on digital platforms; however, it does not restrict their association and bargaining rights under the trade union law. The legislation of the Kyrgyz Republic allows workers—including self-employed taxi drivers—to unite within preexisting trade unions. Additionally, workers can form nonprofit organizations (NPO)²⁵ to defend their interests, although these organizations do not have the formal right to bargain collectively or strike.

Workers' Inclusion in Collective Bargaining and Union Membership

The labor code of the Kyrgyz Republic regulates the issue of social dialogue. According to the code, social dialogue is the interaction of public authorities, employers' associations and trade unions in determining and implementing social and economic policy in the field of labor relations. Social dialogue should be considered as an exchange of information between the state authorities, employers and employees. According to Article 26 of the labor code, social dialogue takes the form of collective bargaining, mutual consultations on the regulation of labor relations and other directly related relations, safeguarding employees' labor rights and improving the legislation of labor (e.g., working conditions, protection of equal rights and opportunities, freedom to form trade unions, etc.)

In addition, if there is no primary trade union in the workplace or there is a trade union organization with fewer than half the membership of employees, employees have the right to entrust (on contractual terms) their representation to an elected trade union organization or another representative at their convention. In this way, the legislature allows employees to exercise the right to choose to organize within a trade union or to authorize others to defend their labor rights if they encounter difficulties in establishing their own trade union. In this case, other representatives are hired on contractual terms. However, the International Labour Organization (ILO) committee requested the Kyrgyzstan government "to amend the above-mentioned provisions so as to ensure clearly that the position of a representative union, even if it does not represent 50 per cent of the workforce, is not undermined by elected representatives in the collective bargaining process."²⁶

Notably, Yandex has engaged in acts of anti-union discrimination. According to one of the Yandex drivers, who is also a trade union member, all of those who participated in the March 2021 protest were blocked for an indefinite amount of time from using the Yandex app. The Yandex help desk failed to respond to the drivers' claims, and as a result, many openly protested Yandex's measures.²⁷ This case contradicts all constitutional and international rights and constitutes a discriminatory approach by Yandex against its drivers.

Views of Platform Workers

The results of the quantitative survey revealed that 55 percent of drivers most often solve their problems on their own. Only 8 percent of the respondents reported teaming up with their colleagues to find a solution.

According to the survey, when asked if they were aware of the drivers' primary trade union, 59 percent of the respondents answered yes, and 41 percent of them responded that they were unaware of it. When asked if they had attempted to form a trade union, with half of them stating that they had not even attempted to do so, 8 percent stating they had, and another 8 percent responding that there was already a trade union in place. Additionally, 3 percent of drivers answered that they did not have any right to form a trade union.

When asked about Yandex's reaction to the drivers' attempts to form a union, 58 percent respondents stated that Yandex either was strongly opposed or held a neutral position (although one not in support of the initiative). Consequently, only 11 percent of the respondents stated that they were actually unionized.

The interviewees voiced the need to unite and involve lawyers:

I think it would be nice to have at least someone watching your back. For example, I get blocked for no reason, and I go to the union to get all the how's and what's figured out. Let there be a person who'd sit there and communicate with the Moscow office and get me reinstated. (Second driver interviewee)

Therefore, given the progress of digital platforms to generate change in terms of working conditions as well as the increased involvement of a significant number of Kyrgyz Republic citizens in gig platform work, the labor code and related legal acts, as well as the country court, practices should be amended, improved and supplemented to protect the labor rights of gig workers. These amendments are important to prevent drivers from being perceived simply as additions to an app or a platform. Gig workers are not only facing dehumanization, but also struggling for the recognition of the human nature of their activities in the gig economy and protection of their fundamental labor rights. These changes would also mitigate harsh customer reviews and their subsequent negative impact on drivers' ability to carry out their activities. Moreover, the lack of social security and insurance for drivers places them in a vulnerable position, as all responsibility for their work and any possible consequences fall on their shoulders. In addition, the relevant mandate of a union could significantly improve platform drivers' working conditions.

Ensuring Equality and Nondiscrimination

Gender Discrimination in Employment

Kyrgyzstan has ratified the ILO's eight core conventions, including the Equal Remuneration Convention and the Discrimination Convention, the latter of which deals with employment and occupation. Based on these standards, in an attempt to eliminate various forms of discrimination, the Kyrgyz Republic has adopted laws regarding the state's guarantees for gender equality²⁸ and social protection measures for people with disabilities. This legislation guarantees equal access and freedom of choice in employment; equal remuneration for work of equal value, regardless of gender; the right to obtain information in order to apply to a job in the public sector; the obligation of employers to create an adequate working environment; the establishment of quotas for the employment of people with disabilities; and other regulations against discrimination.

The labor code defines direct and indirect forms of discrimination such that discrimination is understood as the restriction of citizens' labor rights on grounds unrelated to their professional qualities. The labor code's article prohibits several bases of discrimination, including gender, age, nationality, language, and property or official status. However, the ILO's Experts on the Application of Conventions and Recommendations (CEACR) has underscored the importance of raising awareness and promoting effective equality in employment and occupation. Further, the ILO expressed its concern about the exclusion of women from certain categories of work and highlighted that any restrictions must be justified and introduced based on scientific evidence and, when in place, periodically reviewed in the light of technological developments and scientific progress to determine whether they are still necessary for the purposes of protection. Furthermore, the CEACR noted certain provisions in the labor code that may further reinforce and prolong stereotypical gender roles existing in the family and society at large.²⁹

The laws protecting women from violence and harassment at the workplace have not been efficiently implemented due to a lack of efficient enforcement mechanisms. For example, in the framework of a study conducted by the Association of Women Judges, supported by the United States Agency for International Development's (USAID) program for collaborative governance, 877 women and girls from various workplaces and universities were anonymously interviewed in Bishkek, Kara-Balta, Osh and Tokmok. A total of 23 percent of the working women surveyed and 21.9 percent of the students surveyed reported having been subjected to sexual harassment. An overwhelming majority of the interviewees declared that they did not know whom to turn to with this problem and that, even if they did know, they feared being judged. Not once did they turn to law enforcement for help.³⁰ To improve the situation, a group of deputies of the Jogorku Kenesh (Supreme Council) proposed a draft bill in May 2021 aimed at enforcing the rights of workers to personal integrity and protecting workers from harassment at their places of employment. The draft bill plans to amend the labor legislation in terms of the protection of workers from sexual harassment and to implement the provisions of ILO Convention 190 (Eliminating Violence and Harassment in the World of Work). No decision has yet been made regarding this bill. Moreover, Kyrgyzstan still has not ratified the convention.

Prohibition of Discrimination in Platform Work

The cases of discrimination against digital platform drivers have not been reviewed by the Labor Inspection so far, perhaps because this service accepts only the claims of people working under the labor code, which, at the moment, does not apply to digital platform workers. The Kyrgyzstan ombudsman, who has the mandate to review all cases of discrimination within the country, has not yet issued any reports about platform drivers notwithstanding their experiences with employment discrimination.

Women in Platform Work

To further explore the violation of female gig platform drivers' rights, one female driver who has faced similar problems was interviewed within the course of this research. A main challenge identified by female drivers working for gig platforms is related to safety issues. The respondent noted her lack of safety in such situations due to the platform system's limited capacity to provide support. The worker noted that not only does Yandex not have a system in place that provides immediate support to workers when they face danger in the line of work, but also the very nature of the work requires training to diffuse confrontation. Additionally, the harm that comes to workers after dealing with violence, theft, threats and other issues negatively affects them.

As noted in the interviews, response to these types of situations is limited by the platform's capacity. Drivers, especially those who are female, do not have faith in others protecting them and are thus forced to ensure their own safety. Yandex cannot do anything at the time of conflict. In terms of salary, the platform provides equal working conditions for female and male drivers, including in terms of remuneration.

Interestingly, the share of women in passenger transportation in Kyrgyzstan is extremely low. Thus, during the interview, discriminatory stereotypical attitudes toward women behind the wheel were noted. Female drivers are also unprotected in the case of harassment by clients. For example, the abovementioned respondent noted that she solves these cases on her own; however, some women cannot withstand this type of pressure. In these cases, the female drivers can turn to law enforcement for help; however, as has been seen thus far in Kyrgyzstan, according to the USAID study, not one victim of harassment has done so due to their lack of awareness and fear of societal judgement.

As usual, when harassment starts, I have to take measures. I had to physically kick one young man out of the car, for example. Other young men say things like: You are very interesting, let's talk, do you want coffee? I say, Yes, I do, go home, I'll be right there.... But I had an acquaintance, much younger than me, who got a job as a taxi driver. I helped her with advice, tutored her. She couldn't work and quit rather quickly because of constant harassment from customers. (Female driver interviewee)

Thus, it can be noted that the risks faced by female drivers are related primarily to the lack of awareness about their rights, the society's deeply rooted stereotypical approach, the drivers' uncertainty of antidiscriminatory provisions and the lack of gender-sensitive regulations. Moreover,

in many areas, women continue to be discriminated against and disadvantaged, often as a result of the poor implementation of protective laws and regulations.

Migrants' Rights in Gig Platforms

It is essential for Kyrgyzstan to prohibit discrimination against people on the basis of race, color and nationality and to respect civil, political, social and cultural rights under Article 2(1) of the International Covenant on Civil and Political Rights and Article 2(2) of the International Covenant on Economic, Social and Cultural Rights. Also, as a state party to the International Convention on the Elimination of All Forms of Racial Discrimination, Kyrgyzstan must prohibit all forms of discrimination on the grounds of race, color, origin, and national and ethnic background.

In order to ensure antidiscrimination toward internal migrants in Kyrgyzstan, the Kyrgyz Republic's legislation regarding internal migration, adopted in 2002, regulates this type of migration on the territory of Kyrgyzstan. Article 3 details the principles of Kyrgyzstan's internal migration policies and includes, among other items, the inadmissibility of any discrimination or impairment of rights and freedoms on the grounds of origin, sex, race, nationality, language, religion, political and religious beliefs or any other conditions and circumstances of a personal or public nature. In addition, Article 40, which establishes guarantees for forced migrants (i.e., Kyrgyz citizens who have been forced to leave their homes and resettle due to manmade or environmental threats or disasters), includes a guarantee that these parties shall not be discriminated against in the exercise of any rights and freedoms on the grounds that they are forced migrants.

Due to the lack of external migrants in the field of gig platform drivers, the researchers decided to interview internal migrants. However, it is worth noting that the low level of enjoyment of economic and social rights by certain ethnic groups, particularly "the extremely low living standard of the Mugat, characterized by a high unemployment rate...and discrimination against Uzbeks in access to work" became a concern of the Committee on the Elimination of Racial Discrimination (CERD) in its 2018 periodic report.³¹

The respondents interviewed stated that there were no difficulties during the recruitment process. However, according to some, their lack of Russian-language skills has created certain obstacles during their use of the platform's app. At the same time, it should be noted that Yandex has to ability to influence and facilitate the drivers' work and simplify market access by developing a Kyrgyz-language version of the app.

When getting a job, I had difficulties with the language, because the app is in Russian. I have difficulties with the Russian language, I can't communicate with clients very well. Sometimes, I can't explain anything to the city folk, as they mostly speak Russian. And some of them can get cheeky and start haggling, so it's hard to talk to them because of the language barrier. I might misunderstand them. I am rarely able to explain myself in Russian, I keep running out of vocabulary. Sometimes, when calling a client, I find it difficult to explain to them where I am. The application itself is in Russian, I think it could have been made in Kyrgyz, too. (Migrant driver interviewee)

It is worth noting that one of the interviewed drivers reported encountering a problem with colleagues and the traffic police, who committed the most serious discriminatory attacks against him based on his migration status.

If you stop near local taxi drivers, they will chase you away. Cops can also stop you, say that I am clearly not a local, and despite the fact that there are passengers in the car, they start checking my documents. These are the disadvantages. (Migrant driver interviewee)

Thusly, despite the antidiscrimination laws and adopted international agreements, discrimination in Kyrgyzstan remains a significant problem, one that affects all vulnerable groups, including female drivers and migrant workers. Gig drivers belonging to these groups are in a particularly vulnerable position; in the absence of any assistance from the app, they must bear the risks on their own. It is recommended that the relationship between drivers and platform companies be classified as employment in order to prevent discrimination against workers, including aggregators and taxi drivers; that labor rights be protected and enforced; and that occupational safety at work be ensured.

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS	RECOMMENDATIONS
The contractual relationship of Kyrgyzstan's gig platforms are regulated by the general rules of the civil law. Thus, the status of platform workers is uncertain and lacks labor rights protection, despite the fact that these workers perform the routine job that falls under the labor relationship.	Amend legislation and define the legal status of platform workers in a way that ensures the guarantees and mechanisms of the protection of labor rights.
Gig platforms in Kyrgyzstan do not simply provide information services to the workers, but as the employers determine the scope of their work, provide benefits, bonuses and apply disciplinary sanctions for potential violations with no guarantees to challenge the decision prior to its deliberation.	<p>Recognize the employment relationship between drivers and the platform company via legislation and/or the court practice in order to ensure the workers' protection by the labor code.</p> <p>Additionally, amend the information in the drivers' contract to detail procedures in regard to their administrative liability and indicate their right to appeal if they wish to challenge the reviews.</p>
Platform workers lack knowledge about their employment status, labor rights and liabilities under the signed agreement.	Provide an information campaign to drivers about their rights. Thus, the government of Kyrgyzstan, together with the trade unions and civil society representatives, are advised to conduct a massive information campaign for drivers to ensure equality, safety and labor rights protection.
According to the assessment of drivers' needs, official employment contracts, social guarantees of drivers (e.g., health and transportation insurance) and expense coverage, together with the fixed minimum rate of remuneration, have been identified as needs to ensure the protection of drivers' labor rights through efficient social dialogue with stakeholders.	To meet drivers' needs and ensure protection of their labor rights, create employment contracts, ensure protection of their social rights and occupational safety and health, and introduce a fixed rate of remuneration. Furthermore, initiate, develop and enhance efficient social dialogue and make decisions based on the consultations, negotiations and consensus. The government is advised to encourage social partners to engage in social dialogue and take steps to mediate the reconciliation process.

CONCLUSIONS	RECOMMENDATIONS
<p>Collective bargaining can be initiated at different levels as the law does not impose restrictions on the model and system. Kyrgyz Republic legislation offers a choice to gig employees to create and defend their labor rights through a trade union or to create or participate in a collective bargaining agreement. However, in terms of the response to the survey conducted under this research (i.e., Yandex's reaction to the drivers' attempts of union's creation), 58 percent respondents responded that Yandex was either strongly opposed or held a neutral position, one not in support of the initiative.</p>	<p>Provide a thorough campaign to raise awareness on trade unions' rights and the importance of the collective bargaining process in defense of workers' rights.</p>
<p>Although terms regarding direct and indirect discrimination as well as sexual harassment have been introduced by the law, legislation still lacks the gender-sensitive provisions in the code. Additionally, the exclusion of women from certain categories of work is identified as a problem that must be considered by the law. Furthermore, certain provisions in the labor code may further reinforce and prolong stereotypical gender roles that exist in the family and in society at large.</p> <p>The research revealed that discrimination against female drivers is mainly related to safety issues, stereotyping approaches and harassment by customers; however, the company does not provide any incentives to engage women in platform work, and there are no efficient guarantees in place to avoid workplace incidents and safety violations of female drivers.</p>	<ol style="list-style-type: none"> 1. Introduce and develop a gender-sensitive strategy and incentives for women to ensure their engagement and interest in platform work. 2. Amend the labor code to ensure gender equality and the safety of female drivers, using a gender-sensitive approach. 3. Ratify ILO Convention 190. 4. Provide a massive awareness-raising campaign for female workers and the public.
<p>A main problem faced by migrants, as a vulnerable group of workers, is related to occupational safety issues.</p> <p>Generally, drivers' safety is a significant issue in gig work. The Occupational Safety and Health standards and regulations do not apply to informal labor relations or any other form of contractual relations under civil law contracts; therefore, drivers working for platform companies do not fall under the protection of the labor law and consequently are not subjected to the authority of labor inspection.</p>	<p>Ensure state control over the proper implementation of labor legislation, including regarding occupational hazards and workers' safety.</p> <p>The platform companies are advised to introduce efficient internal mechanisms to ensure app workers' safety, focusing especially on vulnerable groups of workers, during work time.</p>

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