International Labour Organization | PROSPECTS

Blended Webinar

Community of Practice on Digital Skills and Jobs in Kenya

Fifth Thematic Discussion: Governance Frameworks, Labour and Social Protections for Decent Work in the Digital Economy

EXTENDED REPORT

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Thematic Areas: Governance frameworks, labour and social protections for decent work in the digital economy
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Objective

The 5th Thematic Session of the Community of Practice (CoP) on Digital Skills and Jobs in Kenya discussed the need to build an inclusive digital economy in Kenya that safeguards labour rights, ensures job security, fair wages, and grants access to social protection.

Key points discussed

- High-growth sectors such as digital trade, Business Process Outsourcing (BPO), freelancing, online entrepreneurship, and platform work are creating new opportunities but also pose challenges in ensuring workers' access to labour rights and social protection.

- Unlocking the job creation potential of the digital economy requires inclusive policies, strong inter-ministerial coordination, and effective social dialogue. Establishing policy and regulatory frameworks that align with the principles of decent work is critical for attracting foreign investment and positioning Kenya as a leader in technology adoption.

- Key priorities for Kenya include ensuring job security, fair wages, and comprehensive social protection. Additionally, incentivizing formalization through taxation and other complementary measures can promote compliance with international labour standards. These steps are vital to ensure that the growth of the digital economy translates into equitable and sustainable development for all workers.

Social protection challenges for digital platform workers

- **Exclusion from social protection**: Most platform workers are classified as contractors, excluding them from essential social protections like health insurance, pensions, and paid leave. This exclusion is further compounded by a tiered structure that exacerbates inequalities. Highly skilled workers tend to have greater access to resources and opportunities, while semi-skilled workers face challenges such as limited upward mobility and weak bargaining power. Low-skilled workers are the most vulnerable, often exposed to exploitation due to minimal resources and a lack of viable

- **Transparent contracts**: Unclear payment structures and unfair terms remain significant challenges for platform workers, often leading to delayed or inadequate compensation. Implementing escrow systems, already adopted by some platforms, could help address these issues by holding funds securely until agreed-upon conditions are met, ensuring timely and fair payment for workers.

- **Trust deficit**: A significant trust gap exists between digital workers and government institutions, driven by limited worker participation in policy design and insufficient awareness of available protections. To rebuild trust, it is essential to create platforms for meaningful worker participation in policymaking processes. Digital workers, particularly those from marginalized and vulnerable groups, must have a voice in shaping policies that impact their livelihoods. This can be achieved through sustained policy and regulatory dialogue in platforms mirroring the CoP practices.

- **Platform cooperativism**: It is critical to modernize international labour standards to reflect the realities of digital work and promote decent work principles globally. One potential solution lies in platform cooperativism, which emphasizes worker-owned and governed platforms. By prioritizing worker welfare over profits, such models can help address power imbalances, foster equitable decision-making, and align with the ILO's vision of advancing social justice and promoting fair working conditions in the digital economy.

- **Data and algorithmic governance**: Strong governance is needed to eliminate biases in algorithms and ensure equitable treatment, especially for marginalized groups like persons with disabilities. Kenya's National Data Strategy aims to establish a robust framework for responsible data management, privacy, and equitable digital job access.

- **Portable benefits and Digital Jobs Strategy**: The Ministry of Information, Communication & Digital Economy (MICDE) is developing systems to provide portable benefits for digital workers, ensuring access to social protections across platforms and continuity despite job changes.

Formalization of digital work

- **Employment classifications:** Hybrid employment models should be introduced to balance flexibility and security for platform workers. To encourage formalization, platforms that provide social protections such as health insurance and pensions should be incentivized through tax benefits.

- **Training and upskilling initiatives:** Programmes like SasaKazi, internships, and tailored training initiatives are crucial for equipping youth with digital skills and integrating them into the formal digital economy. Digital platforms should support career progression by offering continuous professional development opportunities.

- **Adopting emerging and good practice:** Law and practice from established economies, such as the EU and France, can serve as reference for Kenya. These models mandate benefits like accident coverage and pensions for platform workers, distinguish employment categories, and enforce compliance through contributory systems. Innovative solutions, such as escrow payment systems, should also be adopted to ensure fair compensation for both workers and clients.

- **Strengthening effective worker's representation and collective action:** Enforcing compliance with labor laws and supporting worker representation are essential steps in granting platform workers fundamental rights, including the ability to organize and engage in collective bargaining. Adopting and upholding principles such as fair pay, fair contracts, and fair representation is critical to safeguarding workers' rights, promoting transparency, and creating equitable working conditions. These measures not only protect workers from exploitation but also build trust between workers, platforms, and regulatory bodies.

- **Taxation and economic integration:** Innovations such as digital IDs should be leveraged for tax compliance and formalization of platform work. Collaborative, multi-sectoral approaches are needed to integrate digital work into Kenya’s broader economic strategy and ensure its alignment with national development goals.

Summary of interventions

Setting the scene

▶ Lola Brittain, Oxford internet Institute: International Governance Frameworks for the Digital Economy

- The global, internet-enabled labour market, including platforms like location-based services, cloud work, and BPOs, poses significant risks to workers. According to the Fairwork Project, these risks include low pay, non-payment, overwork, job insecurity, unfair contracts, opaque management, and weak bargaining power.

- Fairwork evaluates platforms based on five principles: Fair Pay, Fair Conditions, Fair Contracts, Fair Management, and Fair Representation. In 2023, Kenyan platforms scored poorly, with Glovo, Little Ride, and Yego scoring 3/10, Little Delivery 2/10, and Bolt 1/10, reflecting insufficient adherence to labour standards.

- Fairwork has driven over 300 improvements across 64 companies, promoting better pay, conditions, and worker protections while influencing policymakers to strengthen regulations for platform workers.

Panel discussion 1
Kenya’s governance frameworks for the digital economy

Moderated by Wambua Nyamai Ag CEO- Kenya National Federation of Jua Kali Associations

▶ Milka Mbuthia- iWorkers Kenya

- Social protection for digital platform workers in Kenya remains inadequate, as they are classified as independent contractors, limiting access to structured protections like health insurance or pensions. This vulnerability is worsened by the "willing buyer, willing seller" dynamic, which disproportionately affects lower-tier workers who lack resources and options, unlike their higher-tier counterparts.

- Bridging the trust gap between platform workers and the government is essential. Transparent reforms, active worker participation in policy design, and educational campaigns on the benefits of government-led social protection programs can help build trust and drive enrolment.

- Given the cross-border nature of digital work, Kenya need to continue working with organizations like the ILO to develop frameworks for transnational social protection. Social insurance schemes funded through worker contributions and government subsidies present a viable solution to ensure protections for all platform workers.

▶ Njihia Njoroge, CEO, Bingwa

- The traditional employer-employee model often fails to align with the flexible and dynamic nature of platform work. Digital platforms like Bingwa support regulations by fostering trust and reliability between workers and clients through innovative approaches, such as escrow systems that ensure fair payment upon job completion.

- Modern workers prioritize flexibility and mobility, but traditional labour regulations often lag behind, creating gaps in protections for gig workers. The misclassification of gig workers adds to this challenge, limiting their access to benefits and protections.

- One solution is establishing regulatory sandboxes that allow platforms to test innovative policies in a controlled environment, balancing platform growth with worker well-being. Platforms should also offer portable benefits accessible across platforms and tailor support based on workers' skill levels—skilled, semi-skilled, and unskilled—promoting empowerment, career progression, and equitable protections.

Cecilia Mutua, Ministry of Information, Communication & Digital Economy

- Kenya recognizes the transformative potential of the digital era and is collaborating with the African Union and the East African Community to develop comprehensive data governance frameworks. A cornerstone of this effort is the *National Data Strategy*, which aims to manage data responsibly by balancing privacy, security, and usability. The strategy will guide data hosting for researchers and public access, fostering both innovation and accountability.
- While open data focuses on making non-sensitive data publicly accessible to drive transparency and innovation, data governance ensures the responsible management of all data, protecting privacy and security. Public education efforts are underway to clarify these distinctions.
- In partnership with the ILO and the Ministry of Labour and Social Protection, the Ministry of Information, Communications, and the Digital Economy is advancing the Digital Jobs Strategy. A key element is the development of a digital ID system to enable equitable access to finance, supply chains, and essential services, empowering marginalized groups and promoting economic inclusion.
- The Digital Jobs Strategy also prioritizes algorithmic governance, requiring platforms to disclose how algorithms function to ensure fairness, eliminate bias, and prevent the exclusion of vulnerable groups, including people with disabilities. These initiatives aim to promote transparency, accountability, and inclusivity while safeguarding against the misuse of sensitive data.

Kephas Odhiambo, Ministry of Labour & Social Protection

- The Ministry is working to establish a minimum wage for digital workers and is considering the creation of a Wages Council to set fair wages and working conditions tailored to the gig economy. To ensure compliance, enforcement mechanisms will be strengthened through the Labour Commission and the Occupational Safety and Health Office, with a focus on upholding labour laws and protections for digital workers.
- In collaboration with the ILO, the Kenyan government is advancing the implementation of key conventions, such as Convention 102 on Social Security (Minimum Standards), to enhance social protection for all workers, including those in the digital economy. Support for collective bargaining through organizations like TAWU is being prioritized to empower digital workers to negotiate for improved conditions.The Kenyan government is collaborating with the ILO to implement conventions like Convention 102 on Social Security (Minimum Standards) to enhance social protection for all workers, including those in the digital economy, while supporting collective bargaining through organizations such as TAWU to empower digital workers to negotiate for better conditions.
- To address conflicts involving digital platforms, the government is developing dedicated dispute resolution mechanisms. Additionally, it is exploring ways to extend workers' compensation to digital workers, ensuring they are safeguarded against job-related injuries and risks. These initiatives aim to create a fairer, more secure environment for digital workers while fostering equitable growth in the gig economy.

▶ **Annarosa Pesole, ILO Labour Market Specialist**
Presentation on "Promoting compliance and formalization in the platform economy"

- Digitalization is transforming labor through advancements in algorithms, data analytics, digital platforms, unbundling of tasks, and shifts in the global value chain. Platform work, often a secondary income source, is marked by irregular patterns and widespread classification of workers as independent contractors, increasing risks of informality and disguised self-employment. Many platforms also lack formal registration in operating countries, complicating oversight.
- Countries can learn from ILO Member States by implementing clear communication protocols between platforms and workers, defining reporting timelines, and sharing data with authorities like labor inspectorates and social security institutions. These efforts align with milestones such as the Meeting of Experts on Decent Work in the Platform Economy (2022) and the ILO's agenda for decent work in the platform economy at the 113th Session in June 2025.
- Digitalization is reshaping work through automation, remote opportunities, evolving employment models, and new skill demands. Strategic action from policymakers, organizations, and workers is essential to balance opportunities and challenges in this shifting labor landscape.

Panel discussion 2
Promoting compliance and incentivizing the formalization of digital jobs

Moderated by Teresios Bundi Muriithi, GIZ Gig Economy Advisor

▶ **Ross Stewart- CEO, Global Careers Africa at CCI**

- Engaging proactively with policymakers is essential to address the unique challenges and opportunities faced by the digital workforce. This collaboration should focus on developing comprehensive, evidence-based policies that strike a balance between the flexibility inherent in digital work and the security needed to protect workers' rights.
- Such advocacy should also emphasize the importance of aligning local regulations with international labor standards, ensuring that digital workers are afforded protections similar to those in traditional employment settings. Key areas for policy focus include fair pay, transparent contracts, social protection access, and mechanisms for worker representation.Collaboration can further explore innovative approaches, such as portable benefits systems and tax incentives, to encourage the formalization of platform work.
- BPOs should prioritize continuous training and upskilling programs to equip employees with critical skills for the evolving digital economy. Additionally, fostering a positive, inclusive work culture that emphasizes well-being and work-life balance can enhance employee morale, boost productivity, and improve retention.

▶ **Humphrey Muchuma, CEO & Founder, Inua AI**

- Successful practices at Inua AI include ensuring employees receive competitive wages and benefits that meet labour law standards and incapusalate the 5 principles of Fairwork while prioritizing continuous professional development through tailored training programs that equip them with the skills needed for emerging technologies, fostering financial stability, job satisfaction, and competitiveness in the evolving digital economy.

- Inua AI has also established transparent policies on work hours, grievance redressal, and equal opportunity to maintain a positive and inclusive work environment. Clarity in contracts and compliance with Kenyan labour regulations are fundamental principles guiding Inua AI internal policies and practices.
- As a business, it is crucial to carefully balance competitive pricing with sustainable profit margins. This approach enables firms to invest in employee welfare, ensuring their well-being and productivity while maintaining our position as a viable and competitive enterprise in the global market.

Magdalene Kariuki- Associate Director Africa Practice

- Redefining employment classifications to include platform workers is essential, distinguishing between web-based platforms (e.g., Upwork) and location-based platforms (e.g., Uber). This approach allows for tailored standards that address the specific challenges of each type of digital work, such as algorithmic management, flexible scheduling, and the nature of worker-platform relationships.
- Kenya can benefit from adopting international labour standards by learning from jurisdictions such as France and the EU. For example, France's 2016 law clearly defines contractors, subcontractors, and self-employed workers on digital platforms, providing much-needed clarity on rights and obligations. This differentiation could help address the unique vulnerabilities faced by gig workers while fostering accountability among platforms.
- Inspired by the EU's directive, which requires social protections for online workers starting February 2024, Kenya could introduce mandates for platforms to provide unemployment insurance, pensions, and accident coverage. Establishing a contributory system, funded jointly by workers, platforms, and government subsidies, would create a sustainable framework for social protection. Such initiatives would ensure gig workers receive adequate safeguards while fostering formalization and compliance within the digital economy.

Kephas Odhiambo, Ministry of Labour & Social Protection

- The Kenyan government is implementing a multi-sectoral approach to promote the formalization of digital jobs, involving key partnerships between the Ministry of Labour and Social Protection (MoLSP), the Ministry of Trade, the Ministry of ICT and Digital Economy, and the Attorney General's Office. This coordinated effort aims to tackle pressing issues such as tax compliance, social security contributions, and the classification of digital workers to ensure their rights and obligations are clearly defined.
- The **Labour Laws Amendment Bill**, recently tabled for public review, reflects the government's commitment to modernizing legal frameworks to address the unique needs of platform-based work. Additionally, the Amendment Bill on Special Economic Zones (SEZs) and Business Process Outsourcing (BPOs) seeks to create an enabling environment for digital job growth by enhancing infrastructure, regulatory clarity, and formalization incentives.
- Ongoing public consultations are integral to refining these proposed measures, ensuring they address the needs of all stakeholders. This participatory approach aims to foster inclusive implementation, driving sustainable growth in Kenya's digital economy while protecting workers' rights and enhancing compliance within the sector.

Challenges identified and recommendations

Kenya's governance frameworks for the digital economy

- **Challenge:** Digital workers, particularly those on platforms, often face insufficient social protection, including the absence of minimum wage guarantees, health insurance, and pension schemes.

- **Recommendation:** Establish comprehensive social protection measures, including a framework for portable benefits that ensure health insurance, pensions, and other protections are accessible across multiple platforms.

- **Challenge:** Many digital workers experience unfair pay, excessive working hours, and unsafe working conditions, exacerbated by unclear worker classifications.

  Recommendation: Develop and enforce clear regulations to address these challenges. This includes setting minimum wage standards, defining fair pay practices, and establishing safe working conditions, while ensuring proper worker classification to align rights and protections with their roles.

- **Challenge:** Individualized contracts and the lack of collective bargaining power leave workers vulnerable to exploitation.

  Recommendation: Facilitate the formation of worker organizations or unions to empower digital workers with collective bargaining power to negotiate for better working conditions.

- **Challenge:** The absence of regulations for platform algorithmic transparency and accountability results in unfair treatment and excessive surveillance of workers.

  Recommendation: Establish a regulatory sandbox to incentivize international platforms to register locally and pilot flexible policies that balance platform growth with worker protection. Incorporate international best practices, such as centralized reporting mechanisms, to enhance transparency, accountability, and fairness in platform work while formalizing the sector.

- **Challenge:** The absence of clear frameworks for resolving disputes between digital workers and platforms, coupled with the misclassification of workers as independent contractors, restricts access to labour protections, benefits, and fair treatment.

  Recommendation: Platforms to adopt fair pay systems, such as escrow payment models, to ensure secure and timely payment for workers while protecting clients. Implement transparent algorithmic governance to promote fairness and inclusivity, particularly for marginalized groups such as people with disabilities. Develop classification systems based on workers' skill levels to provide tailored support, benefits, and opportunities for career progression.

Compliance and formalization of digital jobs

- **Challenge:** The dynamic and evolving nature of digital work makes it challenging for platforms to comply with existing labor laws and regulations, often leaving gaps in worker protections.

  Recommendation: Develop a comprehensive, adaptive policy framework for digital work that incorporates input from key stakeholders, including platform operators, gig workers, labour unions, and government agencies. This framework should address the unique characteristics of digital labour by defining clear employment classifications, such as hybrid statuses between employees and independent contractors, to ensure appropriate rights and benefits. Providing flexibility for platforms to innovate while safeguarding worker protections. Regularly reviewing and updating the policy to keep pace with advancements in the digital economy.

- **Challenge:** Balancing business growth with the need to ensure decent working conditions remains a complex and pressing issue.

Recommendation: Introduce tax incentives or grants for platforms that prioritize worker welfare by offering social protections such as health insurance, minimum wages, and pension contributions. Establish accessible, digital-friendly dispute resolution mechanisms to mediate conflicts between workers and platforms, ensuring fair, transparent, and timely outcomes.

- **Challenge:** Ensuring tax compliance for platform workers and platforms is particularly challenging, within the largely informal economy.

  Recommendation: Introduce tax incentives or reduced rates for platforms and workers who formalize their operations, encouraging voluntary compliance while transitioning workers from the informal to the formal economy. Promote the adoption of digital IDs linked to tax registration for gig workers, enabling seamless integration with platforms and government databases to simplify tax compliance and monitoring.

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