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Trade union responses to organizing workers on digital labour platforms: A six-country study

Shyamali Ranaraja
Attorney-at-law, Katugastota, Sri Lanka

Introduction

The new millennium has seen the rapid rise of the digital economy as the preferred means for organizing standard economic and sociocultural activities. Kenney and Zysman (2016) describe access to digital technology as providing individuals and households with greater convenience and wider choices and, as a result, causing remarkable changes in purchasing and consumption behaviour. Digitization is credited with helping enterprises to conduct their businesses online and providing global reach that would not have been available in traditional economic models. Digitization has also been credited with helping transformations in the world of work. However, there is another dimension to the digital economy that is receiving less attention – union organizing. The challenge for trade unions is to organize workers in the digital economy to harness its potential benefits while minimizing its adverse effects.

This paper examines the changing dynamics of the employment relationship in the digital economy and the resulting implications for the continuous adaptation of freedom of association and protection of the workers' right to organize in the Asia-Pacific region, in order to identify what might constitute appropriate trade union responses to organizing in the digital economy. The analysis is informed by interviews with trade unions in six focus countries: Bangladesh, India, Malaysia, Mongolia, Sri Lanka and Thailand. The countries have been selected to represent different legal jurisdictions and demographics, so that the impact of a range of digital work arrangements on the core research questions of freedom of association and collective bargaining may be examined to develop broader recommendations for action by trade unions and governments. However, as all of the trade unions interviewed worked mostly with workers on digital labour platforms, and in particular delivery- and travel-related platforms, the paper focuses on how trade unions are overcoming the challenges created in organizing and protecting workers engaged on these labour platforms.

The five questions guiding the paper's exploration are:

1. What are the types of work arrangements that are visible in the digital economy (including digital labour platforms) in the six countries?
2. What are trade union organizing responses to platform work in the region and are there any specific country case examples?
3. How have union organizing approaches been adapted to opportunities and challenges associated with platform work?
4. Are there examples of "organizational creativity" within the unions to respond to platform work?
5. How are unions responding to losses in social insurance/protection, algorithmic management and the erosion of decent work that might be associated with digital labour platforms?

The conclusion the paper reaches provides a justification for the statement that trade unions need to be more proactive in identifying and approaching all types of digital platform workers, and not only those who are easily recognizable and visible, if better rights are to be pursued collectively and protected.

The digital economy and the world of work: A contextual background

The technology that spurred the growth of the digital economy can be identified as the development of easy-to-use and freely available software technologies, the growth in artificial intelligence, availability of cloud computing and storage, and blockchain technologies. Similarly and simultaneously, the introduction of high-speed connectivity and high-capacity data storage solutions permitted the exchange of large amounts of data and information between customers and businesses, at a low cost and high speed that had been hitherto unimaginable. Hardware development led to the introduction of affordable smart devices for customers and businesses, which supported the rapid growth of the digital economy.

The digital economy has also impacted on employment in a number of ways (ILO 2021).

- Digital platforms have introduced algorithmic management of work processes and performance, which automates the allocation and evaluation of work and calculation of payments.
- Platform operations have changed the organization of work by shifting the responsibility for investing in capital assets and the operational costs to the workers, thereby reducing the risk to platforms. For instance, capital equipment, such as computers on online web-based platforms or vehicles on location-based platforms, which would traditionally be the responsibility of the platform operator, are instead provided by the workers themselves, who also bear the costs related to fuel, maintenance, purchase of licences or internet charges.
- Platforms have changed traditional employment relationships: they usually have a small core workforce directly employed by the platform and a large outsourced workforce (often in remote locations) who perform set tasks on the platform, which is provided by the operator. The outsourced workers are usually categorized as self-employed or independent contractors by the platforms and by labour regulators, and payments to these workers are governed by terms-of-service agreements determined by the operator, which do not usually include any other benefits or protections.
- Digital labour platforms have also created a new model of outsourcing work to a global workforce with skills and expertise that may be unavailable locally or are more cost-effective; at the same time, location-based platforms have also enabled businesses in the hospitality, restaurant and retail sectors to expand their customer base and improve

efficiency; in particular since the outbreak of the COVID-19 pandemic, many such businesses have also relied on delivery platforms to continue their operations.

However, it has become apparent that, as with any technology or innovation, the digital economy has both desirable and undesirable consequences. It raises issues of competition, data privacy, social and labour protection for workers in the digital economy, safety and security for customers, and taxation for governments – all of which require a re-evaluation of existing laws and regulations. It may also amplify existing development challenges, including inequalities, both globally and nationally. Regulatory authorities have been slow to respond to early challenges: as one commentator puts it succinctly: "It's [an] old …. trick: just start doing something, let legislators and judges take their usual 10 years to grasp what's going on, and by that time it will be too late to undo anything [the Company] has accomplished" (Smith 2019).

The challenge, then, for governments and regulators is to act speedily to set standards and limits to harness the potential benefits of the digital economy while minimizing its adverse effects.

The impact on trade unions and membership

The ILO identified the emergence of online digital platforms as one of the major transformations that has taken place in the past decade with regard to labour and conditions of work. This new form of work was found to have disrupted not only existing business models, but also the employment model upon which these business models relied: the traditional master-servant relationship. Workers have undoubtedly transitioned towards work on digital labour platforms because of the opportunity these platforms provide to work from anywhere at a time of their choosing and to take up any job that suits them, or multiple jobs simultaneously (ILO 2021).

There are however, many risks in engaging in such work in terms of security and status of employment, such as whether workers earn an adequate income and enjoy social protection, health protection and other benefits – in short, whether the digital economy will create decent work. These questions have become even more relevant in the current global COVID-19 pandemic, owing to the rapid and widespread loss of employment, the decimation of thriving economic sectors that has impacted livelihoods, and the ensuing increase in poverty in the most vulnerable groups in every country.

The rapid increase in work in the digital economy has also been identified as one of the factors placing further stresses on trade unions and workers' organizations, which were facing many new and old threats in various parts of the world. Visser (2019) identifies industrial decline, developments in technology, digitization and globalization as factors that have changed employment union membership and outlines four possible futures for the trade union movement:

- **marginalization** – decreasing rates of unionization and ageing unions;
- **dualization** – defending current positions and servicing members closest to them;
- **replacement** – a process of replacing trade unions by others, such as non-governmental organizations (NGOs), social movements, States, employers or other intermediary agencies;
- **revitalization** – innovating tactics and coalitions to strengthen trade unions as strong, relevant, democratic and representative actors in organizing and servicing the "new unstable workforce" (as Visser calls it) in the global North and South.

A recent research paper described the impact of the growth of the digital economy on labour as follows:

> The potential disruptive effects of platforms on labour markets are large and outweigh their importance as a current source of employment. Amidst various attempts to come to grips with platform work through unions, cooperatives, works councils and Internet tools, we are only at the beginning and much has yet to be invented. Advocates contend that platform work can economically benefit socially marginalized groups including the unemployed, geographically isolated, and refugees, although this does not seem to have been important in the case of Uber. (Hall and Krueger 2018).

Which of Visser's four possible futures will occur in specific environments, or whether a combination of these outcomes will occur, remains to be seen. However, it is self-evident that trade unions will need to plan for various possibilities in order to remain relevant and to assist their members to overcome the numerous challenges that they are likely to face in the digital economy, especially when working on digital labour platforms.

The transformation of the employment relationship in the digital economy

Most national employment law systems are based on the traditional employment relationship of master and servant, based on a contract of employment. Much of the focus of the ILO in its first century of work was on ensuring that workers were not exploited or disadvantaged, by defining the parameters of this traditional employment relationship to include "disguised employment relationships"[1] in an attempt to address the unequal bargaining power between employers and workers. Most recently, the Employment Relationship Recommendation, 2006 (No. 198), sought to clarify the ambiguities that arise in determining whether a work arrangement constitutes an employment relationship but also, much more importantly, recognized that other challenges are likely to undermine the

[1] "A disguised employment relationship is one which is lent an appearance that is different from the underlying reality, with the intention of nullifying or attenuating the protection afforded by the law or evading tax and social security obligations. It is thus an attempt to conceal or distort the employment relationship, either by cloaking it in another legal guise or by giving it another form. Disguised employment relationships may also involve masking the *identity of the employer*, when the person designated as an employer is an intermediary, with the intention of releasing the real employer from any involvement in the employment relationship and above all from any responsibility to the workers." (Employment Relationship Recommendation, 2006 (No. 198)).

traditional concept of employer and worker in the future. The Preamble to Recommendation No. 198 therefore refers to the traditional idea that labour law "seeks, among other things, to address what can be an unequal bargaining position between parties to an employment relationship", but also recognizes that international guidance on the scope of the employment relationship should remain relevant over time, and that "in the framework of transnational provision of services, it is important to establish who is considered a worker in an employment relationship, what rights the worker has, and who the employer is". However, even that Recommendation did not foresee the extent to which the employment relationship would be transformed in the digital economy.

The ILO Centenary Declaration for the Future of Work recognized the need for members to work individually and collectively to "respond to challenges and opportunities in the world of work relating to the digital transformation of work, including platform work" on the basis of "tripartism and social dialogue" but reaffirmed "the continued relevance of the employment relationship" (ILO 2019). The Declaration was based on widespread consultations with tripartite members and key experts, and acknowledged that digital and platform-based work was expected to expand in the future. The ILO also recognized that "digital labour platforms provide new sources of income to many workers in different parts of the world, yet the dispersed nature of the work across international jurisdictions makes it difficult to monitor compliance with applicable labour laws. The work is sometimes poorly paid, often below prevailing minimum wages and no official mechanisms are in place to address unfair treatment" and recommended the development of an "international governance system for digital labour platforms to require platforms (and their clients) to respect certain minimum rights and protections" (Global Commission on the Future of Work, 2019). The Declaration therefore encapsulates the dilemma of the digital economy and digital labour platforms: extending the decent work principles developed within the framework of the employment relationship to the digital economy and digital labour platforms, which are built on a refusal to recognize any such employment relationship.

Digital and platform work is now global in its reach and usage, but no uniform or universal definition exists for workers providing services in the digital economy. Most legal systems provide for terms and conditions of employment, as well as rights at work, only where there is an employment relationship, even though the definition of what constitutes an employment relationship differs. Regulation of work arrangements in the digital economy is also challenging, owing to the physical, geographical and digital separation between the worker and the provider of such work (which would be the employer in traditional employment relationships): any user in the digital economy may disguise their location and identity using virtual personal networks and when users and providers of digital work are connected only through technology and often based in different jurisdictions, the application of employment laws becomes problematic and, in many instances, unenforceable across national boundaries.

In some instances, the nature of work performed in the digital economy by these workers may even exceed the scope of duties required of a worker in a traditional employment relationship. For instance, workers in the digital or platform economy may be tasked with assisting in processing and organizing the basic data that are required for the platform to function; not only have platform operators reduced costs by being able to call on a virtually unlimited supply of platform workers, but they have also eliminated the need for additional workers to input data and manage systems at entry level. These data are essential for machine learning and training algorithms for future automation (UNCTAD 2019). For instance, on ride-hailing and delivery platforms, the drivers also feed data into the company database in addition to transporting people. Those data are then used to automate the management of the company's operations, such as dispatching drivers or surge pricing, without the drivers being aware that they are providing additional services to the platform operator; the drivers receive no additional compensation for such work, and are often at a disadvantage as a result of providing real-time information (Chen and Qiu 2019).

Owing to the very nature of work in the digital economy, there are no precise data on the employment status of workers, although much of the available research indicates that there are almost no platform workers with a traditional employment relationships (Hauben, Lenaerts and Kraatz 2020). In fact, many of the platform operators ensure that the publicly available terms and conditions of signing up on their platforms emphasize that workers (such as drivers in ride-sharing and taxi service providers/facilitators) are "independent contractors" or "independent third party drivers".

The terminology used by platform operators is clearly intended to remove any point of intersection between the platform operators and any platform worker. DiDi (a ride-hailing platform operator in China and Mongolia), in particular, has extended this exclusion of liability to including in its Driver Agreement the right of indemnification by the worker in the event that any authority deems the relationship to be that of employer and employee, as well as recovery of employee benefits ordered to be paid if an employment relationship is recognized. Whether the right to such an indemnification will be pursued, or can be legally pursued at all, is doubtful, but it is noteworthy that the platform operator considered it sufficiently important that it included a specific reference in the agreement.

It is therefore clear that platform operators will attempt to distance their platform from the presumption of any employment relationship with digital economy workers.

Impact of the pandemic on the digital labour economy

By 2020, the global unemployment rate had reached 6.5 per cent, up 1.1 percentage points from the previous year; in Central and Southern Asia, the increase was higher at 1.3 percentage points (UN 2021). The number of people unemployed worldwide increased by 33 million, reaching 220 million. This figure is projected to fall to 205 million. Although unemployment decreased slightly in 2022, signalling the possible start of a post-pandemic economic recovery, the United Nations projects that the global unemployment rate will remain above its 2019 level of 5.4 per cent, at least until 2023.

It is interesting to note that some of those who became unemployed as a result of the pandemic may have transferred to the digital economy as platform workers. A recent ILO report stated that "there has been an increase in both labour demand and supply for such work on online web-based platforms between 2017 and 2020. The onset of the COVID-19 pandemic and the resultant switch to remote work and teleworking have led to an increase in demand for such work from mid-April to June 2020, unlike previous years. The data shows that supply has been rising faster than demand, including during the COVID-19 crisis" (ILO 2021). The latter point could adversely impact the ability of workers to obtain work and earn a substantial amount of income. Other characteristics of platform work, such as not being eligible for social security coverage, have also created significant challenges for all platform workers during the pandemic, and especially for those on location-based platforms, particularly women, who face various occupational safety and health risks that have been exacerbated by the pandemic.

Country level analysis

The following countries were selected for further study on the impact of the digital economy on the employment relationship and the consequences for workers' organizations: Bangladesh, India, Malaysia, Mongolia, Sri Lanka and Thailand. Except for India and Malaysia, these countries have adopted a traditional approach to defining an employer, an employee and the employment relationship, which excludes non-traditional employment relationships from coverage under national labour laws. India and Malaysia have recognized work arrangements in the digital economy, such as gig work and gig workers, for the purpose of providing social security. This approach is a relatively recent one, and the practical impact and operation of these provisions and the limits of such coverage are not yet evident. However, the clear intention to extend coverage of at least some benefits to workers in the digital economy in these two countries, with their rapidly developing digital labour platforms and other types of digital work, is a welcome one, and may provide guidance to other countries looking to resolve the challenges of enforcing protections built up in the context of traditional employment relationships and extending them to emerging work arrangements in the digital economy.

From the perspective of organizing digital workers, most platforms classify these workers as independent contractors; in all the countries studied in this report (except Thailand), this classification precludes workers from forming or joining a union and engaging in collective bargaining. "Even where unionization is possible, the predominance of non-standard work arrangements may present challenges to achieving effective union recognition and bargaining. Thus, platform workers experience myriad challenges when attempting to build a collective voice and structure and create lasting and enforceable employment regulation“ (Visser 2019). The right to form and join trade unions is often dependent on a direct employment relationship with a single employer, and the very nature of the digital economy makes it unlikely that a direct relationship could be established.

Organizing workers in the digital economy: Trade union experiences in six countries

Trade union representatives from each of the countries were interviewed using a briefing note forwarded prior to the interview which identified focus areas for discussion (the interview notes are annexed to this paper). Since the focus areas were broadly comparable for each country, the responses are grouped described under the relevant question for ease of discussion. However, it must be noted that all the trade unions interviewed focused almost entirely on the platform economy, and primarily the app-based taxi-hailing and delivery platforms. This was probably due to the visibility of and large numbers engaged in these sectors; most trade unions stated that they have focused on organizing these platform workers as an entry point into organizing workers in the digital economy more generally. This approach can be considered as a practical way in which to commence the effort to resolve the many issues faced by digital workers, as it is more likely that trade unions would be able to campaign for reforms or to obtain better terms for locally operating digital labour platform workers – an approach which could, in turn, be extended to other gig and digital workers who are less accessible and less likely to pursue collective action against platform operators and digital commerce companies. Attempts to organize other types of workers on cross-border digital labour platforms is seen as too difficult, given the complexity of reaching out to such workers and the location of platform operators outside national jurisdictions. The discussion therefore focuses on locally operating digital labour platform workers in each country. The responses of trade unions in the six countries are summarized below, based on the common interview questions addressed to all participants.

Protection available to digital economy workers, especially with regard to trade unionization

Only two of the countries, India and Malaysia, extended coverage of employment legislation to workers in the digital economy, as they were generally considered as independent workers or self-employed persons. In Thailand, a recent Royal Decree that focused on the digital economy contained provisions intended to protect consumer rights and to ensure registration of platform operators and tax arrangements. However, no provision was made with regard to the rights of workers in the digital economy and it was not likely that any further provision would be made at present. In Mongolia, a new labour law was adopted in July 2021; while it made specific provision for employment contracts, probationary employment, seasonal work and remote work, workers in the digital economy would not be covered under this law, as there would not be any employment agreement with platform operators in order to enjoy the rights and protections provided under the law. The draft law had been reviewed over a period of nine years, and these provisions were intended mainly to encourage formalization of the employment of herders, rural agricultural workers and domestic workers, rather than extending coverage to workers in the digital economy.

India is in the process of consolidating 44 pieces of central Government labour legislation into four comprehensive labour codes: (a) the Code on Wages, 2019 (“Code on Wages“); (b) the Occupational Safety, Health and Working Condition Code, 2020 (“OSHW Code“); (c) the Industrial Relations Code, 2020 (“IR Code“); and (d) the Code on Social Security, 2020 (“Social Security Code”).[2] While the other codes are in various stages of enactment, the Social Security Code, for the first time, applies to certain non-traditional types of occupations and workers, such as gig workers, platform workers and unorganized workers, for the provision of social security benefits. The scope of the term “employee” has been extended to include contract workers and to require an employer to make some social security contributions (such as provident fund contributions) for such workers. Public interest litigation filed by the Indian Federation of App-based Transport Workers seeks to have platform workers treated as unorganized workers under the Unorganised Workers’ Social Security Act, 2008, so that they would be entitled to all social security benefits under the Act; the unions contend that the failure to do so violated workers’ right to work, livelihood, and right to equality of opportunity guaranteed under the Constitution (Anand 2020). If successful, this initiative will strengthen the position of gig workers, as such workers must then be recognized for employment-related benefits.

Malaysia has implemented two programmes to introduce social security to platform-based and other workers through the Self-Employment Social Security Scheme, established under the Self-Employment Social Security Act 2017. This is a compulsory scheme for the self-employed that explicitly includes e-hailing drivers and provides protection for self-employed insured persons against employment injuries, including occupational diseases and accidents during work-related activities. The latter is the provision which allows the self-employed and those who do not earn a regular Voluntary Contribution with Retirement Incentive (i-Saraan) income under the Employees’ Provident Fund to make voluntary contributions towards their retirement and, at the same time, to receive additional contributions from the Government (Kidd 2020).

2 The Social Security Code amalgamated the following pieces of central labour law legislation: (a) The Employee’s Compensation Act, 1923; (b) The Employees’ State Insurance Act, 1948; (c) the Employees’ Provident Funds and Miscellaneous Provisions Act, 1952; (d) the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; (e) the Maternity Benefit Act, 1961; (f) the Payment of Gratuity Act, 1972; (g) the Cine-Workers Welfare Fund Act, 1981; (h) the Building and Other Construction Workers Welfare Cess Act, 1996 [a cess is a tax or levy]; and (i) the Unorganised Workers’ Social Security Act, 2008.

These initiatives from two different countries approach the issue of protection for workers in the digital labour economy through the provision of social security, probably thanks to the ability to provide social protection without being restricted by the need for an employment relationship.

Impact of the increasing shift to the digital economy on current trade union members

In each country, it was considered that trade union members, and especially non-unionized entrants to the labour market, were increasingly taking up work in the digital economy. Several reasons were highlighted for this, such as the impact of the pandemic (all six countries), the reluctance of youth to accept outdated workplace norms and their interest in being able to determine their working conditions themselves (Malaysia), the increased flexibility of digital and platform work (all countries), the relatively higher earning potential in the digital economy, and the lack of control by superiors and managers that traditionally restricts freedom in the workplace. Working conditions were difficult and most workers had no understanding of the algorithms and technological criteria used by the platforms to calculate wages and commissions, but the relatively younger workers preferred the flexibility of working when they wanted to and only as much as they needed to, to achieve their limited aspirations.

The Malaysian trade union representatives highlighted the fact that workers did not realize that the platform operators had passed on to them both the cost of equipment and capital and the risks of platform and digital economy work. The riders/drivers also bore a higher risk arising from possible accidents, non-payment of fares and cancellations, and had no formal or informal social security system to rely on in emergencies. However, many younger workers did not wish to look ahead at problems they considered to be unlikely to matter to them for some time, and focused only on the flexibility and freedom to determine their own working hours and routines on the platforms, seeing this as an advantage. The union representatives stated that the unions could not take this view and that they were studying different mechanisms to provide a social security system and health insurance for these workers. Trade union officials stated that they were collaborating with international organizations to raise awareness among digital platform workers about the advantages of joining labour unions and on workers' rights, such as healthcare and social security.

One of the main problems appeared to be the legal impediment preventing trade union members who had lost their employment (due to the COVID-19 pandemic or for any other reason) from continuing to be members of the trade union, as only workers or employees with a contract of employment were usually entitled to become members of trade unions. In Sri Lanka, a trade union member had to be a "workman", and a non-worker could be elected as an office-bearer only under limited circumstances. Although it was likely that unemployed workers who moved into the digital platform economy would not be entitled to become, or continue as, members of a trade union, the unions in Sri Lanka did not consider this to be a significant threat to their strength of membership, possibly because it is unlikely that any action would be taken by any authority to disqualify such workers from holding membership.

Only India permitted digital economy workers, informal workers or contract workers to join a trade union (this appeared to be justified under the definition of “unorganized workers”, although it was not clear whether the right had been established judicially). In most other countries, ride-hailing or digital commerce workers had formed trade associations and then become affiliated to a trade union or a trade union federation in order to campaign for workers’ rights (such as in Sri Lanka).

Impact of the COVID-19 pandemic on union members

Most trade unions noted that the pandemic continued to cause loss of employment among their members and other workers, but that their respective governments did not have specific initiatives in place either to generate employment or to provide unemployment benefits for such workers. Most members who had lost their employment looked to join the platform economy, but since increasing numbers of workers meant that earnings would reduce for individual workers, there was some degree of uncertainty whether they would be able to continue employment in the digital economy.

However, respondents were generally of the opinion that workers on digital labour platforms reported higher earnings that those in comparable traditional employment relationships (Malaysia, Sri Lanka); this may be due to the non-application of compulsory social security and point-of-payment tax deductions on the earnings of digital platform workers, which would reduce the take-home earnings of other workers.

In this context, it is interesting to note that some initiatives exist in other countries, such as the cooperative of workers in London, United Kingdom, that have banded together to form locally owned delivery platforms as an answer to the proliferation of global labour platforms (Islington Council 2021). While it is unlikely that these would become as popular or as profitable as the global labour platforms, they can attract customers to locally owned and operated platforms by promoting concepts of sustainability and local pride in helping home-grown businesses.

Impact of digital platform work on trade union operations and collective bargaining

Digital work arrangements affect workers in two ways, as can be seen by the discussion with trade union respondents across countries. In the first instance, in many countries, an employment relationship is a prerequisite for exercising the right to freedom of association by forming or joining a trade union. In the absence of such a relationship, the legal definitions do not recognize the right of a worker in the digital economy to join a trade union. Although compliance may not be reviewed or enforced by any regulatory authority because of practical difficulties, in the event of any challenge to working conditions or any other matter, the worker would first need to establish the right to be a member of a trade union before the complaint can be heard. Otherwise, the worker's lack of standing is likely to prevent any relief being sought and granted.

Secondly, trade unions, too, seem to focus on outreach programmes based on ease of access to platform workers, such as ride-share and delivery workers, rather than online workers, such as crowdworkers, who work from home or on their own, which makes it difficult to organize or even contact them. Although no survey of workers was planned within this research study, anecdotal evidence from the trade union representatives indicates that such workers are generally unaware of any legal rights related to employment in the digital platform economy and do not know whether they would have the right to join a trade union. A recent survey of digital labour platforms (Berg et al. 2018) recommends a number of initiatives that may overcome the challenges faced by trade unions in reaching workers on cross-border platforms, including providing a mechanism for workers to rate platforms that provide work. However, in the context of the increasing supply of such workers created by the pandemic, especially in the region being studied, it would be difficult for trade unions to utilize these mechanisms.

With regard to collective bargaining, there is no compulsory recognition of trade unions for bargaining purposes in several of the countries, thus making the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), a matter of mutual agreement rather than of right. Sri Lanka, although acknowledging the duty of the employer to recognize a trade union with more than 40 per cent of the workforce in its membership for bargaining purposes, has been criticized by researchers and the ILO as having an arbitrary and impractical threshold for recognition. Therefore, even where the right of recognition exists, provisions vary from country to country in ensuring that right.

Collective agreements are provided for in the national legislation of all the countries, and have entered into practice at workplace, industry and national level. However, there are no collective agreements covering digital labour platform workers in any of the six countries studied, and none of the trade unions were pursuing such initiatives. In Sri Lanka, a group of drivers signed up to a ride-hailing platform had formed an association with the assistance of a mainstream trade union. However, they had not attempted to register as a trade union, but instead operated as a society registered with the relevant local government authority (YouCab.lk 2019). They had very successfully engaged with the platform operator and concluded a memorandum of understanding (MOU) on various aspects of the conditions of work, and continued to focus on strengthening their membership.[3] Although there were reports that another ride-hailing platform operator had introduced a life and health insurance scheme for drivers, workers were not aware of such a scheme, and stated that they

[3] The MOU would not fall within the definition of a collective agreement in relevant Sri Lankan legislation, as the workers would not be considered to be employees of the relevant operator organization, nor would the latter be considered as an employer.

needed assistance much more than insurance, since they had to bear the high operating costs entirely by themselves.

Helping digital workers to obtain workers' rights and ensure freedom of association

With the exception of India, most countries did not consider that an association of digital platform workers could be registered as a trade union, as long as the workers themselves were categorized as independent workers or excluded from employment legislation. However, many organizations had devised other strategies to reach workers in the digital and platform economy, with the intention of encouraging them to organize in some way.

- In **Bangladesh,** traditional trade unions are helping platform workers to lobby the Government and the platform operators to provide basic rights in employment. Recently, trade unions supported the Dhaka Ride-Sharing Drivers Union in presenting six demands to the Government, namely: (1) to end all kinds of police harassment; (2) recognize app-based riders as workers; (3) set commission at 10 per cent instead of 25 per cent for all types of rides; (4) organize parking space for ride-sharing vehicles in Dhaka, Chittagong and Sylhet; (5) exempt the listed ride-sharing vehicles from Advance Income Tax as public transportation; and (6) return the taxes collected from the listed vehicle owners the previous year (Dhaka Tribune 2021). While there is no response as yet from the Government, the fact that the drivers' union was able to successfully enforce a 24-hour strike in providing rides is indicative of its underlying bargaining power.
- **Malaysia** is reaching out to younger workers in the digital economy to join the Malaysian Trades Union Congress (MTUC), regardless of their employment status. The intention is that, although the young workers are not interested in long-term benefits, focusing more on maximizing earnings, the union is attempting to provide longer-term perspectives by negotiating with the Government.
- **Mongolia** introduced a web-based application, the Confederation of Mongolian Trade Unions (CMTU)'s app, that can be downloaded on a mobile smartphone. The app contains information on the nearest branch of the trade union and similar matters, and is targeted primarily at the 30 per cent of the labour force who are categorized as independent workers and work as herders in remote areas that cannot be reached in person. The digitization that took place after the pandemic has helped in this regard, as most workers have been forced to improve their information and communication technology skills and even collective bargaining is conducted virtually.
- **Thailand** is organizing platform workers through social media and online petitions by building networks with civil society organizations. The activist organization assisted a union of 500 food delivery riders in launching an online campaign on the Change.org website to persuade platform operators to provide medical insurance for workers. The petition was supported by 4,000 signatories.

Some of the trade unions stated that, although they did not have specific data, membership of trade unions was negatively impacted during the pandemic and was likely to be further affected by the growth of the digital economy: first, workers who transferred to work in the digital economy as a result of loss of employment in the pandemic or for other reasons often moved away from their previous workplaces in order to reduce the costs associated with work in the platform economy (such as to move to a location that had higher demand for platform services and e-commerce) and thus were unable to continue their membership; and second, such workers were not entitled to remain members since they were no longer categorized as workers. Trade unions were also uncertain of their right to campaign on behalf of such workers other than by encouraging them to form collectives and associations that could then be affiliated with the trade union in some way.

The right to freedom of association of all workers and employers, "without distinction whatsoever" is recognized in Article 2 of the Freedom of Association and Protection of the Right to Organise Convention (1948), No. 87. A worker in the digital economy must thus be able to join a trade union, irrespective of any employment relationship. However, even where the Convention has been ratified, restrictions at national level make it difficult for workers and trade unions to determine whether workers in the digital economy are also protected. For instance, while the Constitution of Sri Lanka establishes the fundamental right of every citizen to form and join a trade union, restrictions of that fundamental right in pre-existing legislation make the right to become a member of a trade union conditional on the existence of a contract of employment. Therefore, the right of a worker in the digital economy to become a member of a trade union needs to be stated without ambiguity, in order to better protect rights in employment.

Conclusions and recommendations: Overcoming challenges in organizing workers in the digital economy

Conclusions

The foregoing summary of discussions with trade union representatives in the six countries highlighted a distinction in efforts to organize workers based on visibility: each trade union focused on platform-based ride-hailing and delivery workers, clearly because of the higher likelihood of identifying such workers, and the relative ease of approaching them; the ability to identify and negotiate with employers within the country's boundaries and legislative systems was also a reason for this focus, as opposed to approaching platform operators outside national boundaries. There were no reports of any attempts to organize other types of workers, such as e-commerce workers or crowdworkers; the response to a specific question asking whether the respondent trade union had attempted to organize such workers was that there was no way to identify them, and even if there were, it was unlikely that they would be interested in joining trade unions or organizing collectively, as they did not face the same issues as ride-sharing and delivery workers. There was no evidence of the trade unions making use of the technology that the workers themselves were using to obtain and perform work (the internet, digital platforms and social media), to encourage and interest the workers to organize and to join a trade union.

Therefore, the responses to the research questions are based on the responses of trade unions relating to the "offline" platform workers that form their focus group, but the recommendations include the larger population of workers in the digital economy.

Recommendations

The need for better use of digital technology by trade unions: It is clear from the foregoing discussion that trade unions in the countries studied need to be more proactive in identifying and approaching all types of digital platform workers, and not only those that are easily recognizable and visible, if better rights are to be collectively pursued. The ILO has recognized that "workers' organizations need to adopt innovative organizing techniques – including the use of digital technology to organize labour" (Global Commission on the Future of Work 2019). Workers across diverse workplaces and countries can be organized through digital means and engage in new forms of connected action. Digital technology provides workers' organizations with the potential to connect with workers outside traditional workplaces and offer new services, such as the mining of data to design effective strategies and the sharing of information about crowdworking platforms or portable benefits.

While much can be gained from forging alliances with other collectives in civil society, this is no substitute for organizing workers, whether self-employed women in the informal economy, rural workers or workers on digital labour platforms. Workers in the informal economy have often improved their situation by organizing, and working together with cooperatives and community-based organizations. Workers' organizations therefore need to adopt inclusive organizing strategies, expanding membership to workers on digital labour platforms where possible.

There are examples of successful efforts from other countries that can provide guidance on organizing workers in digital workplaces. Inspired by the success of the German union IG Metal in organizing workers who were creating content on the YouTube online platform, the Spanish Unión General de Trabajadores reached out to people who make their living creating online content, and is now in the process of setting up a union for content creators and developing guidance for collective bargaining in the social media sector. In Serbia, unions successfully protested against Government plans to impose higher taxes on some groups of self-employed workers such as translators (Voet 2021). In Belgium, very basic organizing techniques have been used, where trade unions offered warm beverages and bicycle repair services at points where delivery drivers congregated in order to drive the organizing of platform workers.

Exploring different models of workers' organizations: Where national-level legislation does not recognize the right of digital workers to join trade unions, experiences from other countries indicate that workers have set up works councils and other organizations, which can play a useful role in paving the way to obtaining the right to form or join trade unions. For instances, works councils may provide a collaborative platform with employers for improving health and safety, as has been done in Sri Lanka with a society of digital labour platform workers. While these associations or "non-unions" are no substitute for trade unions, in some legal environments it may be useful for trade unions to explore these mechanisms further to serve as stepping stones to organizing workers in each country.

Seeking judicial expansion of the standard definition of the employment relationship: As is evident from the series of judicial decisions that have recently changed the definition of the employment relationship by platform operators, it may be possible for trade unions in other countries to seek similar interventions based on the local circumstances in each country. Most judiciaries in the region have proved amenable to progressive interpretation of laws based on trends in other jurisdictions; therefore, as in India, public interest litigation or similar initiatives may provide some advantage for workers and trade unions.

Bilateral or multilateral agreements at State level based on international standards: The issue of the lack of jurisdiction to enforce national legislation across boundaries will need to be resolved at the level of the States concerned. If countries that provide digital workers can enter into such agreements with the States where operators and digital economy players are located or registered, some progress could be made on ensuring respect for minimum standards in employment of such workers regardless of the nature of the employment relationship. In addition, the development of international standards may also serve to define and establish norms for digital workers, despite the absence of the protection of standard employment contracts or the employment relationship.

Annex. Interview notes (supplemented by written responses to questions)

▶ Bangladesh

Question	Trade union participant: Socialist Labour Front
Has digital/gig work affected the members of your labour/ trade unions?	▶ Some problems arise due to e-commerce ▶ The unions believe that e-commerce is exploitative of workers ▶ If an e-commerce company is shut down, management is shifted to another country but workers are not provided for ▶ No set working conditions, job security or trade unions ▶ E-commerce companies use marketing to bolster their reputation ▶ Ride-share operators face many issues: • they are staging demonstrations and trying to create an organization • they say that there is no scope to organize themselves within the law ▶ Ride-share operator organizations are created but are not registered or recognized ▶ The unions work as ethical organizations to raise awareness, etc., but not as traditional trade unions ▶ Digital/gig work is a new area of employment but it is not governed by the country's labour law ▶ Question is how to raise the ride-share operators' demands and how to recognize nearly 700 000 ride-share operators? ▶ The unions are trying to improve the digital/gig sectors in their labour law • are digital/gig workers treated as workers? • what are their rights? • how can they organize? • what are their risks? • how can they be compensated? • if they have accidents, how can they be supported? • how can their families be compensated in the event of death?
Is it correct that people look down on gig workers?	▶ People see it as a "no other option" situation ▶ Unemployment and uncertainty push these workers to get a job ▶ The common sentiment is that any job is better than unemployment ▶ Only 30 to 40 per cent of students come from solvent families, but 60 per cent of students have to find jobs ▶ This allows e-commerce to exploit students without providing any materials
Do these workers want to join unions or associations?	▶ Unions and associations are trying to organize these workers, but are facing two problems: • they are afraid that they will lose their jobs if the employers know they are forming a union • the workers think that it is a temporary job so there is no sense of belonging ▶ There is no provision for forming a union in their labour law
Is there a provision for forming labour unions?	▶ Provision is made for any contracted employee to form a union to enjoy the same benefits as any other employee ▶ Problem is that there is a contract (e.g. with Uber), but no identifiable contractor

Question	Trade union participant: Socialist Labour Front
Has the Government tried to regulate this at all?	▶ Government says it does not plan to formulate a law, but says it should regulate the e-commerce business; no mention of workers' rights or recognition ▶ First the unions want to get recognition for gig workers, so that they can define the worker's rights • appointment • what kind of goods they provide • any conditions about leave or days off with pay, etc. • there is a gap between the labour law and the digital economy
Do you see the sector growing?	▶ It is growing very fast ▶ The unions think that within a very short time this will be the main sector of their informal economy ▶ A lot of young people are going abroad, sometimes illegally ▶ The huge pressure of unemployment is scope for the growth of e-commerce companies, especially with many cheap and well-educated workers ▶ Traffic jams are a serious issue in getting to workplaces, so many workers prefer to work from home ▶ If employment is increased, then young people may not be forced to go into gig work ▶ However there are many areas where workers are working for a very low salary ▶ It is a lucrative job for young people until they get to 30–35 years, when they need a secure job
Do you see that young people are looking only at the income and not at the other benefits?	▶ There are many discussions around the benefits you might get ▶ Young people think they do not need the benefits, as these are not a priority at their age ▶ The unions believe that young people are being exploited because of their lack of awareness

<table>
<tr><th colspan="2">India</th></tr>
<tr><th>Question</th><th>Trade union participants: RSS and BMS*</th></tr>
<tr><td>Have you any experience with unionization?</td><td>Unionizing all gig workers
Issue is that permanency is becoming a thing of the past
One issue in India is that everything is becoming contractual
An advantage India has is the Industrial Disputes Act (applied 1978 Bangalore)
Social Security Code is attempting to define gig workers (law passed, rule-making in process)
Every gig worker should be compensated with 6/7 social security benefits under the Code
Employees State Insurance Scheme aids gig workers as well
At present these workers are classified in the unorganized workers' category
Gig workers are covered by:
Industrial Disputes Act
Shops And Establishments Act
Using the term "aggregator" may create legal confusion, as this is not included in the category of employer; however, an employer relationship may be established, as the aggregator must make contributions
Issue is that, in almost all emerging sectors, unionization is very slow
Once workers feel there is a lack of benefits or insecurity, then they will approach unions
Uber workers etc. have started agitating
In some categories they register specific unions, but otherwise they are enrolled in general unions</td></tr>
<tr><td>Is there any problem with joining the unions?</td><td>At present there are no bars to joining unions</td></tr>
<tr><td>Have any of them tried to speak to platform operators for better conditions or more information?</td><td>Issue is the question of jurisdiction
The matter comes up within the purview of state government, but the employer will be outside the latter's jurisdiction
No direct settlements in writing as yet</td></tr>
<tr><td>Have workers formed any cooperatives outside of unions?</td><td>This will not be useful, as under the Industrial Disputes Act and Trade Unions Act, they must form as unions
Any other organizations will not be covered by labour law
Many NGOs in the sector are registering as unions</td></tr>
<tr><td>Where the labour authorities are concerned, have they been helpful with resolving disputes?</td><td>In India generally that problem does not exist, as trade unions are well organized
Only in certain areas, such as special economic zones, are union activities discouraged, as foreign nationals request union-free workplaces</td></tr>
<tr><td>Where other things such as working from home are concerned, have workers been approached to join unions or do they look after their own interests?</td><td>Those who are unionized have no issues, as young people prefer to work from home
However, physical workplaces are returning</td></tr>
</table>

Question	Trade union participants: RSS and BMS*
For cloud workers with remote employees, how do they benefit from union activities?	▶ In most towns, there will be business process outsourcing companies ▶ The managers of these companies will be based in the locality and classified under the Shops And Establishments Act ▶ Relationship with foreign nationals is a contractual relationship, but payment is through local employers ▶ Most are unionized and will have protections
Recent Supreme Court decision re garment workers	▶ Prior to this judgment there were several judgments ruling that they are extended industrial workers and covered by protections ▶ Home-based workers are also counted as workers of the particular industry ▶ Under new laws, supply-chain workers are employees only of their direct employer ▶ This is causing issues related to accidents and workplace safety ▶ It is also an issue because the direct employer will employ too few employees for benefits to apply ▶ If there are many layers between the worker and the end-user company then, too, benefits will not apply
Will the new codes being passed bring some clarity to the law?	▶ All four codes have been passed, but only the Social Security Code recognizes gig workers ▶ General law will apply in these cases
India issues with labour courts	▶ If employee count is fewer than 50, employers will be outside the scope of occupational safety and health regulations
Do you think workers will leave this system?	▶ Workers want to be gig workers ▶ Skilled workers will bargain with employers, but employers will bargain with unskilled workers
Why do you think employees want to be gig workers?	▶ Highly skilled, in-demand workers will try to move from company to company ▶ Efficient workers will change companies for small advantages

* BMS: Bharatiya Mazdoor Sangh (Indian Workers' Union); RSS: Rashtriya Swayamsevak Sangh (National Volunteer Organization).

Malaysia

Question	Trade union participant: Malaysian Trades Union Congress
Has digital/gig work affected the members of your labour/trade unions?	▶ A major driver of development is the digital economy because of the pandemic ▶ Malaysia is one of the first developing countries to import digital services provided by non-residents ▶ Close to 4 million freelance workers and 700,000 workers engaged in e-hailing services in Malaysia (April 2021) ▶ Government has included the digital economy in its Twelfth Malaysia Plan ▶ Freedom to select the worker's job and flexibility are some reasons for the popularity of the gig economy ▶ Concern: Rights of gig economy workers are not protected by the Employment Act of 1955 and do not receive the benefits outlined in it ▶ Working from home and the digital economy are the new norm in Malaysia ▶ Example: HSBC Malaysia shifted to digitization, which removed the jobs of a number of people (Solution; upskill or re-skill workers) ▶ Workers can work for multiple digital principals ▶ Very difficult to organize gig economy workers ▶ Labour unions want to advise the Government on how to handle the situation
Has your members' work shifted to gig/digital economy work?	▶ Yes ▶ Unions cannot represent gig workers because the Employment Act of 1955 does not classify them as workers ▶ Tourism industry has been affected and its biggest labour union has shut down ▶ Workers move to gig/digital work after their job is terminated by their employers ▶ Labour unions are collaborating with international organizations to organize workshops to raise awareness of joining labour unions and workers' rights (job security/health/benefits) ▶ Labour unions introduce workers/members they meet to the sector unions and government-sector organizations to help the latter to participate in awareness-raising efforts ▶ Gig unions are classified as trade associations ▶ The impression is that the workers want flexible hours and contracts "for service" not "of service", which is where there is a conflict ▶ Workers maximize their earnings by working for multiple companies, but do not have as many rights ▶ People do leave the labour unions for gig/digital work ▶ Labour unions cannot form federations with trade associations

Question	Trade union participant: Malaysian Trades Union Congress
Have there been attempts to talk to the platform owners about forming unions?	▶ Unions can only discuss proposals, because platform owners know that the workers are not covered by the 1955 Employment Act ▶ Workers can be dropped at any time, and their commission can also be reduced ▶ Workers are considered to be independent contractors ▶ Trade associations and ruling party held meetings on 6 September 2021 to strategize ways of pushing for all workers to be protected under the 1955 Employment Act ▶ Example: Alongside the New Zealand Supreme Court decision, a recent case was referred to the High Court and dismissed because of the exemption under the 1955 Employment Act; case now being sent to appeals court
Do you expect the current situation to be reversed post-pandemic?	▶ Outlook is optimistic that it will be reversed ▶ Post-pandemic, the gig/digital economy may continue, but at the moment the concern is to recognize and protect the workers ▶ Employers are now comfortable with the gig economy, Government has also allocated some funds for gig economy ▶ Malaysian Trades Union Congress understands that the gig economy and e-commerce are connected now and that the e-commerce boom is related to the gig economy ▶ The Congress says that it must now learn to live with the gig economy ▶ But the Congress understands that the country cannot stifle e-commerce initiatives
What rights do digital economy workers want?	▶ Demographic is mostly younger (30–40 years), tech-savvy individuals ▶ Workers want to maintain their flexible work style ▶ Malaysia does not have any rules to limit gig/digital workers to one principal employer ▶ As the 1955 Employment Act creates “obstacles” in the workplace, such as the bureaucratic hierarchy of having managers and supervisors, workers prefer to go from that stressful fixed environment to a more free environment in the gig/digital economy ▶ Opinion is that they are not looking at the holistic approach and benefits provided to them under the 1955 Employment Act, such as working only for a single employer for a longer period of time; trade unions need to take a longer-term view and provide for compensation for loss of employment, old-age benefits, healthcare, etc. ▶ Workers’ commission income can also be much higher than that of full-time workers (approx. US$3,000 per month for some workers, which they would never get as employees) ▶ However, there is a need to establish a floor price for commission, as principals can change this at any time
What are your recommendations for teaching platform workers about how the platforms and algorithms work to bargain better?	▶ At the moment, the gig/digital workers are collaborating among themselves (anecdotal evidence) ▶ Unions are speaking to platform providers, leaders and owners to get a better idea of how the platform works ▶ The unions need to have the information about platform operations to start bargaining ▶ The root cause of the minimum benefits enjoyed by gig/digital economy workers should be addressed first before this can be done

▶ Mongolia

Question	Trade union participant: Confederation of Mongolian Trade Unions (CMTU)
Has digital/gig work affected the members of your labour/trade unions?	As a union, how have your operations been affected? ▶ In the last two years the union has had a tough time because of coronavirus, like everyone else. so it has had to shift its union activity into the digital realm ▶ Digital activity is affecting its work intensively, especially in the last two years ▶ Not only its own organization, but the whole nation, has had to adapt to the situation by using more digital platforms and applications, so it is proposing to work and connect all trade union members using social platforms and applications ▶ In the previous year, it had produced a CMTU application, through which it connects its members; the members can use it to join the union at sector and enterprise level ▶ Through the union, the members can reach the information they need at whatever time they need it ▶ Seventy per cent of the union's work is now conducted using a digital platform or social platform; even collective bargaining and collective agreements are conducted through social platforms ▶ We see that the percentage of trade union members is not decreasing as much as in the nation as a whole; however, the level of trade union involvement is decreasing in some job sectors, which may be connected to digitization of those jobs (some terms, such as pay calculations, are set digitally and cannot be negotiated) ▶ We also see that this is connected to the priorities of the CMTU, which is actively engaging with the Government, always using social dialogue and protection agreements, and reminding the Government that it should not forget the issues affecting the workers, such as wages and social security ▶ The new labour law was adjusted in July 2021, and the whole process took almost nine years, but the CMTU is actively engaged in the adoption of new labour laws ▶ This labour law has several new kinds of regulations, such as access to information and the gig economy ▶ It is involved with new trends like the gig economy, remote work and digitization ▶ The union thinks that the new law is much more advantageous for the gig economy and workers
How will the new labour law that was passed in July help workers in the digital economy?	Was it a very difficult process to get the law passed? ▶ Yes: it took nine years ▶ Took many governments and cabinets to achieve ▶ The implementation of the new labour law was scheduled for January 2022, so CMTU's priority is now to advocate for the new law and train facilitators; the union is also actively planning to train all its trade union community leaders and activists to promote the new law

Question	Trade union participant: Confederation of Mongolian Trade Unions (CMTU)
Will this still allow workers shifting to the gig economy to join trade unions?	▶ Since 2019, one priority of CMTU has been engaging with work in the information economy ▶ One of its priorities is promoting the informal economy ▶ It is conducting a new survey on the informal economy, which is included in the gig economy ▶ CMTU would like to cooperate actively with the Government and employers to formalize informal workers (ongoing project with ILO and the Government) ▶ The informal sector is quite large in Mongolia, and includes herders and platform workers ▶ Another project by the ILO for formalizing herders is under way ▶ Through this project, CMTU also actively engages with the herders; the latter group accounts for 30 per cent of the working population of Mongolia ▶ CMTU is focusing on herders to train them and also recruit them formally into the trade union committee ▶ Herders may not have good internet connectivity to access the digital economy ▶ The project is also developing an app for the herders and other workers, which they can use to search for possible trade union committees that they can join; through this, they can access podcasts and other information ▶ The union assumes that it will work ▶ The week before the information was gathered, Brother Nyandiwa went to one of the provinces (his home province); he met with the herders in person and they said that, if this project is going so well, it is a really necessary project for them, but they are very busy, always engaging with the livestock ▶ CMTU sees that it can implement the project easily with its affiliated organizations; it has 36 affiliated organizations in 21 provinces, and it uses these to connect the herders in the provinces ▶ Through this project, it is also actively engaging with other Government organizations and other NGOs; the main goal is formalizing herders into trade unions and informing them about what the trade unions can do and their goals ▶ Anyone can download the application and, once they log in, they can search for trade unions they can join
Can a self-employed person join the trade union?	▶ Any herder can join the trade union, because every province has provincial trade unions, and each province has approx. 10–20 subprovinces (som) which they can also join ▶ Note: It seems as though anyone can join unions
Do they have cooperatives they can bargain with as herders?	▶ They can sign collective bargaining agreements at the primary (som) level with the governor of the som (a som is the second-level administrative division, below a province) ▶ Every collective has a collective agreement with the som ▶ The herder issue is a part of that agreement ▶ There is a lot of interest in keeping informal workers as part of the trade union

Question	Trade union participant: Confederation of Mongolian Trade Unions (CMTU)
Do they access any other markets for selling their produce and e-commerce type things?	▶ The project is just beginning, so the union chose two example provinces and is connecting with the governor of the province and with the herders, using the same social platforms that they are using ▶ The technology is difficult to use, because internet access is not so good, but they try to reach the herders by using the same social platforms that they use ▶ Also the public service is not good enough at the som level, so the union tries to reach the herders by encouraging them to join the trade union
Do young people join trade unions?	▶ Mongolia is a young country, but the unemployment rate among young people is very high, so this means that many join the gig or platform economy ▶ The union has a youth committee, and they are trying to engage with young people, but one of the problems that they face is that the young people are not informed about what trade unions are ▶ The youth committee head and secretary is not a permanent position, but they are trying to connect with the young people who are already members of the trade unions ▶ The trend is towards digitization ▶ Only three or four people work in one company, so it is hard to get them into the trade union and they do not know or want to join the trade union ▶ Sister Namuun is secretary of the youth committee of the organization; every year the union tries to engage with young people, but engaging with the young workers is hard, especially with the coronavirus pandemic; however, the union can reach them using digital platforms
Do they see the digital economy growing in Mongolia?	▶ The digital economy is growing bigger ▶ Women, including young women, are learning about the possibilities of the digital economy, so the union is trying to shift its work as much as possible into the digital sphere ▶ The employment outlook says that the digital economy is growing and will continue to grow, even after the pandemic
Can digital workers working online join trade unions?	▶ It is a new area of activity for the trade unions ▶ It is difficult to accommodate the unions ▶ According to the new labour law, workers can join unions and benefit from the collective bargaining agreement ▶ They have not gained any experience yet in recruiting workers into the union and how to let them know about the unions ▶ The Government recently organized a digital nation forum which young people are interested in ▶ The only concern is how the union can influence the working conditions and the labour-market issues in which they are involved ▶ Also how it can use the labour law and engage in the labour market
Other issues	▶ Recently, CMTU has been actively engaging with the new social protection package, so it is actively engaging with the Government ▶ Its priority is to look into the deployment of social protection, which has not been made available to the people in the last 20 years ▶ All workers, including digital and informal workers, can receive benefits under the social protection package ▶ Everyone can join the voluntary social security package ▶ All workers come under the Ministry of Labour and Social Protection

▶ Sri Lanka

Question	Trade union participants: All Island Association to Protect the Rights of Taxi Owners and Drivers and two others, facilitated by the National Union of Seafarers of Sri Lanka (NUSS)
Has digital/ gig work affected the members of your labour/ trade unions?	▶ Have formed an association of taxi-drivers, registered as a company limited by guarantee; it is not a trade union, but the association is affiliated with the NUSS
Have there been attempts to talk to the platform owners about forming unions?	▶ The association has entered into an agreement with one ride-hailing platform operator (YouCab), and has attempted to enter into a dialogue with other companies; however, it has not been successful
What rights do digital economy workers want?	▶ With the pandemic, drivers have faced even more difficulties, as their daily earnings are insufficient to maintain the vehicle, manage operating costs and support their families
Do you have any control over the algorithm or the calculation?	▶ Previously, the platform app indicated a live calculation of the rate, so that the waiting charge, enhanced charges, etc. and the final charge calculation were clear, but now only the final charge is shown when the ride is ended and if there is an error in the signal or network coverage, sometimes a shorter distance is indicated and there is no way for the rider/driver to challenge this; also, the platform operator is more concerned with maintaining customer satisfaction, and is not concerned with rider/driver issues
Other issues	▶ The sector is not covered by any regulations or guidelines of the State, and therefore the platform operators give priority to customers and to their own interests at the expense of the riders/drivers; regulation by the State is needed to make the situation more equitable

▶ Thailand

Question	Trade union participant: State Enterprises Workers' Relations Confederation (SERC)
Has your members' work shifted to gig/ digital economy work?	▶ The union has seen that digitization has resulted in a shift by many sectors to the digital sector ▶ For factories, full digitization is costly, so not many factories have achieved full digitization ▶ More digitization in the banking sector, thanks to labour-intensive tasks being replaced by digitization; staff such as tellers have been laid off ▶ The union has seen situations where some workers cannot keep up with digitization and the workplace does not want to train them, so they become unemployed ▶ Digitization creates jobs in platform employment ▶ In Thailand, platform workers are informal workers ▶ They do not experience the impact that a trade union can make, because informal workers are not recognized and cannot unionize ▶ Informal workers cannot be protected, because unions are not strong enough to bargain collectively ▶ Platform food delivery workers have been trying to unionize to negotiate with their employers ▶ The organizing of the foreign domestic worker platform is in the initial stages, so the union cannot negotiate much, but it believes this is a start to protecting their employment conditions ▶ During the pandemic, many businesses have suffered, so the result is fewer members for the trade unions ▶ Some of the formal workers have been informalized because they have returned to rural areas to continue farming on inherited land or have engaged in platform work ▶ There is no existing legal law or framework to provide protection for platform workers ▶ The union is trying to improve the situation through the digital workers' rights bill, but thinks it has fallen short in this regard, because the bill is unilaterally drafted by ministers and they have not properly understood the position of the workers ▶ Earlier in 2021 the Ministry of Labour said that, with the arrival of digital work, it was going to draft the bill based on an hourly rate ▶ Instead of the Ministry of Labour trying to protect platform workers, it chose to promote hourly paid employment, which the union thinks will provide less protection

Question	Trade union participant: State Enterprises Workers' Relations Confederation (SERC)
A Royal Decree was drafted to protect platform operators, but nothing on worker protection. Any opinion on this?	▶ In the light of the digital economy, the Royal Decree was an investment promotion so that businesses could promote companies; usually they do not focus on worker protection but, with more development, this may happen ▶ The union is looking for opportunities to promote worker protection through the Royal Decree ▶ Because of the military Government in Thailand and the recent election, officials may not be in the right state of mind to listen to any arguments ▶ Digitization is a new sphere for trade union workers and leaders, so they do not really understand a strategy to assess and assist them ▶ Usually they only assist workers in traditional workplaces for common issues and are not equipped to assist digital/platform workers ▶ Right now, trade unionists are rather disoriented, because they do not have a clear understanding of digitization ▶ The other issue is that, five years ago, some trade unions discussed digitization and agreed to transfer knowledge to informal workers, but they are actually still preoccupied with internal activities rather than sharing knowledge
Overall, what are the things that can be done to organize these workers? Do you think that crowdfunded initiatives can have an impact on platform operators?	▶ The union thinks that there are some restrictions on joining with the Solidarity Centre (an international NGO) ▶ It thinks that demonstrations are good for public awareness and can generate support for protection ▶ However, just petitioning is not enough to pressure the legislators into enacting a law to protect informal workers ▶ It thinks the next step it can take to raise support and awareness is to help formal workers to unionize and to educate informal workers ▶ If all workers are united, people working in the gig economy can gain both visibility and strength when they are recognized ▶ The way to address this is to ensure that people working in the gig economy have protection under the law ▶ The public campaign by the Solidarity Centre is a good first step, but the trade unions need more cooperation from both types of workers to address organizing and collective bargaining ▶ The problem is that currently, under Thai law, workers are categorized differently and governed under different types of law e.g. formal workers are governed by formal law, while gig workers are governed by informal law and cannot unionize ▶ The union can see that sometimes workers with protections do not pay attention to helping informal workers ▶ The public campaign is a good way to help people understand the issue but, if they want to protect workers, they need to take action to organize them and unite to exert leverage and pressure to create impact
Do you know if any Thai workers have gone to court to get themselves recognized? Have they tried to use any laws to get recognized?	▶ The union does not think that this approach is used in Thailand in terms of recognition of its workers by the Thai Chamber of Commerce ▶ It has not tried this owing to its workers being classified as informal workers ▶ The Thai labour solidarity centres have petitioned the Government to recognize informal workers, but the Government did not accept the petition ▶ The workers in the gig economy are not protected by the scope of the existing law

Question	Trade union participant: State Enterprises Workers' Relations Confederation (SERC)
With regard to collective bargaining and organizing in the private sector what do you experienced? Are these used in Thailand and what issues do you face?	▶ The unions think that, even in government sectors, it can be seen that many workers have been changed over to informal working on a short-term contract basis, e.g. health workers, nurses, minor employees, etc. ▶ They are not hired on a permanent contract ▶ Thai pharmaceutical trade unions also recognize that informalized workers in the public health sector present a big issue ▶ Thai pharmaceutical organizations have themselves continued to help workers negotiate with the Government to improve their pay and working conditions ▶ During the pandemic, the Government had to devote a lot of money to economic stimulation and cut the public health budget, so it cut temporary health worker contracts from 3–5 years to 1 year contracts which gives workers less job security ▶ After negotiation with the public health authorities, the latter decided to reinstate 3–5 years contracts rather than 1 year contracts ▶ The unions also use the Thai labour solidarity centres as a platform to negotiate with the Government by submitting petitions ▶ In recent years, the unions have advocated for informal workers using the union platform, because there are many gaps in social security packages both formal and informal workers
If you were able to change things, what are the three most important things you would request for informal workers?	▶ The union would like to see more industrial unions and more laws to promote industrial unions in Thailand. Usually there are enterprise-level unions, which cannot cope with digitization of work on their own ▶ Traditional workplaces have a smaller number of workers, which means they have less power to negotiate ▶ In-house (enterprise-level) unions cannot really be effective in helping the members to show solidarity in helping workers ▶ The unions would like to see workers, especially formal workers, trained in strategies in the new forms of employment ▶ The unions need to think "outside the box" in negotiating and cope with the new changes of digitization and informalization, and change the house union mentality ▶ The unions would like to see the law strengthened with new tools to protect employment ▶ The unions like to see Government protect workers rather than companies ▶ Example: German workers have policies to keep jobs in Germany rather than outsourcing jobs ▶ In Thailand, if workers are in the formal sector and informalized, they lose workers' protection, because informal workers do not have protection ▶ The unions need to make sure that workers stay in their jobs as long as possible to ensure their welfare ▶ If the unions do not get proper working conditions and pay, they cannot help their workers

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