

SYMPOSIUM ON THE CHALLENGES AND PROSPECTS OF NOVEL TYPES OF BUSINESS AND HUMAN RIGHTS LITIGATION

THE ROLE(S) PLAYED BY TRADE UNIONS IN STRATEGIC LITIGATION AGAINST DIGITAL LABOR PLATFORMS

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Introduction

This contribution examines the role(s) played by trade unions in initiating, conducting, and supporting strategic litigation aimed at clarifying the status and rights of workers in the platform economy. It considers how union involvement can shape the outcomes of such cases and the broader benefits this engagement brings. Drawing upon cases from jurisdictions around the world, the discussion identifies both the opportunities and the challenges encountered by unions in pursuing strategic litigation of this kind. The analysis concludes that trade unions have a pivotal role to play in efforts to secure better recognition of, and working conditions for, platform workers through litigation. They possess the resources, expertise, and collective power needed to challenge entrenched business models and structural asymmetries in the platform economy, making them key drivers of systemic change through litigation.

The Platform Economy: Opportunities and Challenges

The responsibility of business enterprises to respect and uphold fundamental labor rights and standards is firmly entrenched in the business and human rights framework.¹ However, the increasing prevalence of non-standard forms of work² has presented new challenges in efforts to ensure that businesses provide conditions of work that align with the fundamental rights of workers. The rise of the gig economy, and in particular the platform economy, is a prime example in this regard.³ An ever-increasing reliance on digital labor platforms like

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¹ Among others, United Nations Human Rights Council, [Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework](#), Prins. 11–13, UN Doc. A/HRC/17/31 (Mar. 21, 2011); Organisation for Economic Co-operation and Development, [OECD Guidelines for Multinational Enterprises on Responsible Business Conduct](#), Chs. IV–V (2023); International Labour Organization, [Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy](#) (6th ed. 2022).

² See generally International Labour Office, [Non-standard Employment Around the World: Understanding Challenges, Shaping Prospects](#) (2016).

³ There is no universally accepted definition of either the “gig economy” or the “platform economy.” For the purposes of this contribution, the gig economy refers to a labor market characterized by the prevalence of short-term contracts or freelance work in place

Uber, Lyft, and Deliveroo by consumers and workers alike has brought to the fore questions surrounding the nature and classification of the relationship between workers and the corporations operating these platforms, as well as the rights, benefits, and protections to which platform workers are entitled.

There can be no doubt that the platform economy has brought numerous benefits. It provides consumers greater choice and flexibility in seeking out and acquiring goods and services, and in turn offers workers greater flexibility and convenience by allowing them to balance work with other commitments such as study or family responsibilities. Digital labor platforms also afford more income-generating opportunities to a broader range of workers, including many groups that tend to be marginalized in, or excluded from, the traditional labor market, such as women, people with disabilities, young people, and migrants.

However, with these benefits have come several significant challenges, particularly when it comes to securing the rights of workers and preventing exploitation. Many such challenges stem from the fact that platform companies have routinely sought to capitalize on legal lacunae in domestic frameworks in order to classify persons performing work for them as independent contractors, rather than employees. As a consequence, platform workers are routinely denied the basic rights, protections, and benefits that accompany employee status under domestic labor law.⁴ Beyond this, platform workers are often subject to long working hours in highly competitive contexts, and may struggle to find ongoing and secure work.⁵ Further, occupational health and safety problems tend to be rife in many types of platform work, particularly ride-sharing and delivery services, and in many cases are exacerbated by a lack of training and the pressures that come from income being so directly linked to completing tasks.⁶

Other challenges include the difficulties platform workers face in unionizing and engaging in collective action, for both legal and practical reasons.⁷ A further concern is the privacy and data protection implications of using online platforms to process, transmit, and store large quantities of workers' personal data,⁸ as well as the use of artificial intelligence and algorithmic systems to make decisions about matters affecting workers.⁹ With respect to artificial intelligence, digital labor platforms' use of algorithmic systems to make decisions about task allocation, complaint resolution, and account suspension and deactivation raises serious concerns. This includes questions of fairness and transparency, the risk of improper discrimination or differentiation between particular workers, and whether impacted workers are able to challenge decisions and access a remedy in appropriate cases.¹⁰

of permanent employment, with individuals providing services on demand, for a specified period of time and generally without any ongoing commitment, while the platform economy is a subset of the gig economy, encompassing arrangements in which third-party digital or app-based platforms act as intermediaries by connecting workers with consumers and facilitating such transactions.

⁴ International Labour Organization, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 197–202 (2021).

⁵ International Labour Conference, *Promoting Employment and Decent Work in a Changing Landscape*, 109th Sess., ILO Doc. ILC109/III(B) (2020).

⁶ *Id.* at 138.

⁷ Felix Hadwiger, *Realizing the Opportunities of the Platform Economy Through Freedom of Association and Collective Bargaining* 11 (ILO Working Paper No. 80, Sept. 2022).

⁸ Frank Hendrickx, *Protection of Workers' Personal Data: General Principles* 8 (ILO Working Paper No 62, May 2022).

⁹ Valerio De Stefano & Antonio Aloisi, *Fundamental Labour Rights, Platform Work and Human Rights Protection of Non-standard Workers*, in RESEARCH HANDBOOK ON LABOUR, BUSINESS AND HUMAN RIGHTS LAW 359 (Janice Bellace & Beryl ter Haar eds., 2019).

¹⁰ Janine Berg et al., *Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World*, INTERNATIONAL LABOUR OFFICE 6–9 (2018).

Trade Union Involvement in Platform Economy Litigation

In addition to featuring prominently in the work of the International Labour Organization,¹¹ regional organizations,¹² and domestic legislatures,¹³ over the last decade these issues have been litigated in hundreds of cases brought against platform companies before courts and tribunals across the globe.

From employment (mis)classification to algorithmic decision making, each of the challenges identified above has been the subject of legal contestation. In many such cases, trade unions have played a significant role. This includes directly bringing or intervening in claims against platform companies, organizing or recruiting claimants, offering financial, practical, legal, or logistical support, and raising awareness. The resources and expertise that unions can draw upon or offer individual workers or groups of workers in mounting these challenges have been instrumental in securing major victories for platform workers around the world.

Union involvement in cases of this nature is a rational extension of their representational function and mandate to protect workers' interests. It can offer several distinct strategic advantages that enhance both the efficacy and broader impact of such efforts.

First, as direct representatives of workers, unions are uniquely positioned to gather information and evidence of potential legal violations, which can help to overcome the significant information and power asymmetries that exist between individual workers and platform companies. Their institutional capacity to collect data and document patterns of non-compliance and connections with workers and other actors allow them to construct sophisticated case strategies and more robust evidentiary bases than any individual worker could. Second, unions typically possess greater financial and logistical resources than individual workers, which assist them in pursuing complex and sometimes protracted strategic litigation. Their familiarity with the legal marketplace, established relationships with members of the profession and ability to engage expert advisors all contribute to a higher level of professionalization and sustainability in mounting legal challenges.

Third, unions are relatively insulated from the forms of retaliation that individual workers might face. In the platform economy, where employment status is precarious and algorithmic management systems can unilaterally deactivate or terminate the accounts of workers, this insulation is particularly significant: it enables legal action without exposing individual claimants to undue personal or economic risk.¹⁴ Finally, the public profile and visibility that trade unions enjoy enable them to garner awareness and frame litigation as part of a broader campaign for accountability and fairness in digital labor markets.¹⁵ Their ability to attract media attention and mobilize public opinion can amplify the reputational pressure that litigation carries for digital labor platforms, encouraging not only compliance with legal outcomes but also voluntary changes to corporate practices. Taken together, these advantages demonstrate that union participation in platform economy strategic litigation is not

¹¹ See especially International Labour Conference, *Decent Work in the Platform Economy*, 114th Sess., ILO Doc ILC.114/Report V(3) (Aug. 15, 2025).

¹² See, e.g., Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 Oct. 2024 on Improving Working Conditions in Platform Work, 1–26, OJ L 2024/2831 (2024).

¹³ See, e.g., Real Decreto-ley 9/2021, de 11 de mayo, por el que se modifica el texto refundido de la Ley del Estatuto de los Trabajadores (May 11, 2021) (Spain); Ley 21.431, de 11 de marzo de 2022 (Mar. 11, 2022) (Chile); Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024 (Feb. 26, 2024) (Austl.).

¹⁴ Zane Rasnača, *Special Issue Introduction: Collective Redress for the Enforcement of Labour Law*, 12 EUR. LAB. L.J. 405, 409 (2021); Giovanni Gaudio, *Litigating the Algorithmic Boss in the EU: A (Legally) Feasible and (Strategically) Attractive Option for Trade Unions?*, 40 INT'L J. COMP. LAB. L. & INDUS. REL. 91, 101 (2024).

¹⁵ Giovanni Gaudio & Caterina Giulia Guidetti, *Trade Unions, Strategic Litigation and Digital Labour Platforms: A Case Study of the CGIL*, 2/2024 AMBIENTE DIRITTO 623 (2024).

merely instrumental, but transformative. It has the potential to shift the balance of power between platforms and workers, and embed individual disputes within a wider struggle for policy and legislative change and structural reform.

Trade Unions' Roles in Platform Economy Strategic Litigation

Having outlined the strategic rationale for trade union involvement in litigation relating to the platform economy, it is useful to turn to the specific forms such involvement may take. The nature and extent of trade union involvement have varied considerably across cases and jurisdictions, reflecting different strategic choices, institutional capacities and political climates (both internal and external). However, it can be broadly categorized into five main forms: (1) directly bringing claims; (2) intervening in, joining or otherwise supporting claims brought by platform workers or other entities; (3) organizing and recruiting claimants for strategic test cases; (4) providing diverse forms of financial, practical, legal, or logistical support to claimants; and (5) raising public awareness through media engagement and coalition building. Understanding these different modes of engagement is essential to appreciating the multifaceted role that unions play in advancing platform workers' rights through the courts.

The most direct and visible form of trade union involvement in platform worker litigation occurs when unions themselves initiate legal proceedings against platform companies. This can be done in one of two ways, with the union either acting as a representative entity of workers (where procedural rules relating to standing permit) or directly promoting a claim to enforce its own rights. Acting as the primary litigant can offer various strategic advantages to unions. It enables them to leverage their institutional resources, legal expertise, and collective standing to contest practices that affect multiple workers or raise broader systemic issues.¹⁶ In this way, it also allows them to maintain greater control over case strategy, framing legal issues in ways that advance broader labor rights objectives and benefit entire categories of platform workers rather than specific individuals. Such an approach may also overcome some practical impediments to bringing proceedings that individual workers face, such as limited resources, a lack of understanding of legal rights, or a fear of retaliation.

Various examples of this mode of involvement can be identified from jurisdictions around the world. In the Netherlands, the Federation of the Dutch Trade Movement, a national trade union federation, has filed a series of legal claims against online food delivery platform Deliveroo on behalf of its riders relating to matters spanning from social protection rights to employment classification. While the former claim was unsuccessful,¹⁷ the latter proceedings resulted in the Supreme Court finding that, rather than independent contractors, Deliveroo riders were properly classified as employees and entitled to various rights and protections under Dutch labor law.¹⁸

Similar victories were achieved in the Philippines in the context of a claim brought by an informal workers' group, the Davao United Delivery Riders Association, before the National Labor Relations Commission. The case led to a ruling that delivery riders for online food delivery company Foodpanda were in an employment relationship with the platform and were therefore entitled to particular benefits and rights.¹⁹ In the United Kingdom, the Independent Workers' Union of Great Britain launched proceedings before the Central Arbitration Committee seeking recognition by Deliveroo as an entity entitled to conduct collective bargaining on

¹⁶ See generally Rasnača, *supra* note 14; Gaudio, *supra* note 14.

¹⁷ *Deliveroo v. Federation of the Dutch Trade Movement*, Case No. 22/00968 (Sup. Ct. Neth. Nov. 24, 2023).

¹⁸ *Deliveroo v. Federation of the Dutch Trade Movement*, Case No. 21/02090 (Sup. Ct. Neth. Mar. 24, 2023).

¹⁹ Case No. MAC-10-017677-2022 (Nat'l Labor Relations Comm'n Philippines Jan. 4, 2023).

behalf of riders for the platform in certain areas of London,²⁰ unsuccessfully arguing its claim as far as the Supreme Court.²¹ And in India, a still-pending claim brought by the Indian Federation of App-Based Transport Workers against government entities and various digital labor platforms, including Ola, Uber, Swiggy, and Zomato, seeks recognition of workers for these platforms as employees under social security laws and other labor laws so as to secure various employment-related benefits and rights.²²

Beyond directly initiating proceedings, a second way that unions have been involved in platform worker litigation is by intervening in or joining claims brought by workers or other entities. This form of involvement allows unions to support workers' claims while remaining in a secondary position, either by formally joining proceedings as a party, intervening as an interested stakeholder, or submitting an amicus curiae brief. In addition to circumventing requirements of standing, participation of this kind enables unions to contribute their resources, expertise, and collective voice to advance workers' interests and broader systemic objectives without bearing the full responsibility and costs associated with initiating litigation. It also maintains the agency and autonomy of the primary claimants.

This form of involvement can be identified in cases from around the world. In South Africa, a series of unfair dismissal disputes were filed with the Commission for Conciliation, Mediation and Arbitration by individual drivers against the ride-sharing platform Uber.²³ These proceedings were later joined and consolidated by two unions, the National Union of Public Service and Allied Workers and the South African Transport and Allied Workers Union, which (albeit unsuccessfully) used the individual workers' grievances to pursue claims based on the existence of an employment relationship between Uber and its drivers.²⁴ An amicus curiae brief recently filed with the Californian Supreme Court by a coalition of labor organizations and workers' groups in *Castellanos v. State of California* is a less formal example of this type of involvement.²⁵ The case was itself jointly brought by a group of individual platform workers and a union, the Service Employees International Union. It concerned a constitutional challenge to a Californian statute that had the effect of classifying persons performing work for app-based transportation or delivery platforms as independent contractors rather than employees and thereby exempting them from workers' compensation and other employment-based benefits.²⁶ Although the workers' challenge was ultimately unsuccessful, the significant union involvement and support it garnered at various levels is nevertheless noteworthy.

A third mode of union involvement in platform economy litigation is the organization and recruitment of claimants, particularly through the identification and pursuit of strategic test cases. Through this form of engagement, unions leverage their organizational capacity and community connections to identify workers willing to mount challenges against platform companies, coordinate their efforts, and strategically select cases that

²⁰ *Independent Workers' Union of Great Britain v. RooFoods Limited T/A Deliveroo*, Case No. TUR1/985(2016) (Cent. Arb. Comm. United Kingdom Nov. 14, 2017).

²¹ *Independent Workers' Union of Great Britain v. Central Arbitration Committee* [2023] UKSC 43. For previous appeals, see *R (on the Application of the Independent Workers' Union of Great Britain) v. Central Arbitration Committee* [2018] EWHC 3342; *Independent Workers' Union of Great Britain v. Central Arbitration Committee* [2021] EWCA Civ 952.

²² *Indian Federation of App-Based Transport Workers v. Union of India*, Case No. W.P.(C) 1068/2021 (Pending, Sup. Ct. India 2021).

²³ *Uber South Africa Technology Services (Pty) Ltd v. National Union of Public Service and Allied Workers & South African Transport and Allied Workers Union* [2017] ZACCMA 1 (CCMA July 7, 2017).

²⁴ *Uber South Africa Technology Services (Pty) Ltd v. National Union of Public Service and Allied Workers & South African Transport and Allied Workers Union* [2018] ZALCCT 1 (Lab. Ct. of Cape Town Jan. 12, 2018).

²⁵ *Amicus Curiae Brief of National Employment Law Project, Rideshare Drivers United, California Labor Federation, Gig Workers, Castellanos v. State of California*, Case No. S279622 (Cal. Sup. Ct. Apr. 10, 2024).

²⁶ *Castellanos v. State of California*, Case No. S279622 (Cal. Sup. Ct. Jul. 25, 2024).

address systemic issues or establish legal precedents with broader implications.²⁷ Such a role positions unions as architects of litigation strategy, allowing them to shape the landscape of platform worker regulation by determining which issues are litigated, in which forums, and at what time.

This mode of involvement has manifested in multiple jurisdictions. In the United Kingdom, the landmark case of *Uber BV v. Aslam*²⁸ illustrates how worker-organizers can themselves act as strategic test claimants. Yaseen Aslam and James Farrar, founders of the App Drivers and Couriers Union, initiated a case that ultimately led the Supreme Court to find that Uber drivers are entitled to minimum employment protections, including the national minimum wage and paid holidays. While Aslam and Farrar led the litigation as claimants, their case also benefited from support provided by other unions at various stages of the proceedings.²⁹ In the United States, the New York Taxi Workers' Alliance has similarly leveraged strategic test claimants to mount multiple cases against platform companies, including proceedings concerning wage theft,³⁰ as well as a challenge to improper log-off procedures.³¹ Through the identification and coordination of test claimants, these organizations have advanced systemic challenges to platform companies' practices while strategically determining which issues are litigated and in which forums.

Financial, practical, legal, or logistical support for workers who bring claims against platform companies represents a fourth critical mode of union involvement in platform litigation. This mode of engagement may encompass a wide range of activities, from directly funding legal proceedings and covering claimants' costs to supplying legal expertise and representation or other expert advice, facilitating evidence gathering, and providing post-litigation support to help enforce favorable judgments or navigate settlements. Through this multifaceted support, unions can assist individual workers or groups of workers to sustain their claims through often lengthy and complex litigation processes, while simultaneously advancing broader labor rights objectives and worker solidarity.

This mode of involvement can be identified in cases from around the globe. The Transport Workers' Union of Australia, for example, has offered legal representation to platform workers in a number of cases challenging platform companies' classification of workers as independent contractors rather than employees.³² The union's in-house legal team has acted as solicitors for the claimants in these cases, taking primary responsibility for case management, court appearances, and all aspects of legal representation. The union also provided legal and other support to an Uber driver whose account was unfairly deactivated in a recent case before the Full Bench of the Australian Fair Work Commission. In that case, the complainants secured a landmark decision awarding the worker lost pay for the period during which he was unable to earn income through the platform.³³ In Italy, the Confederazione Generale Italiana del Lavoro, a large national trade union center, has been instrumental in gathering evidence and information to support claims brought by platform workers against companies.³⁴

The fifth, and final, key form of trade union involvement in platform worker litigation involves raising public awareness through media engagement and coalition building. This form of engagement leverages unions'

²⁷ Trevor Colling, *What Space for Unions on the Floor of Rights? Trade Unions and the Enforcement of Statutory Individual Employment Rights*, 35 INDUS. L.J. 140 (2006).

²⁸ [2021] UKSC 5.

²⁹ Yaseen Aslam & Jamie Woodcock, *A History of Uber Organizing in the UK*, 119 S. ATL. Q. 412 (2020).

³⁰ See *Aleksanian v. Uber Technologies Inc.*, No. 1:19-cv-10308 (S.D.N.Y. Nov. 6, 2019); *Haider v. Lyft, Inc.*, No. 1:20-cv-02997 (S.D.N.Y. Apr. 13, 2020).

³¹ *Islam v. Lyft, Inc.*, No. 1:20-cv-03004 (S.D.N.Y. Apr. 13, 2020).

³² See, in particular, *Deliveroo Australia Pty Ltd v. Franco* [2022] FWCFB 156; *Klooger v. Foodora Australia Pty Ltd* [2018] FWC 6836.

³³ *Mohammad Shareef Hotak v. Rasier Pacific Pty Ltd* [2025] FWCFB 214.

³⁴ See Gaudio & Guidetti, *supra* note 15.

communication capacity and public profile to publicize workers' grievances, highlight systemic issues, and build wider support for legal challenges to platform companies' practices.³⁵ Strategic media campaigns and collaborative advocacy efforts not only enhance the visibility of individual cases, but also contribute to shifting public and political attitudes toward platform work and workers' rights, thereby placing pressure on both platform companies and policymakers to address systemic challenges faced by platform workers. Unions can also utilize decided cases in broader efforts to advocate for legislative and policy change.

Several notable examples elucidate this form of involvement. Representatives of the Confederazione Generale Italiana del Lavoro, for instance, have dedicated significant effort toward attaining media exposure for claims brought against platforms in Italy.³⁶ In one case, a press release about a claim brought by a platform worker in relation to employment classification was picked up by local press. This led to the claimant and a union representative appearing on a television program to discuss the case and the precarious working conditions faced by platform workers more broadly, as well as to highlight the need for reform.³⁷ In addition to securing media coverage for individual cases, unions have deployed coalition-building strategies to advance broader campaigns for platform worker protections. In Australia, for example, the Transport Workers' Union has relied on media releases, public surveys, and coalition pressure to raise awareness around platform worker litigation.³⁸

Conclusion

By initiating proceedings, intervening in existing claims, organizing test claimants, providing material support, or amplifying impact through media and coalition-building, unions have demonstrated their capacity to advance platform workers' interests in ways that individual workers alone could not achieve. The cases discussed throughout this contribution illustrate that union involvement in strategic litigation concerning platform work is not merely supplementary to individual workers' claims; rather, it is transformative. Unions leverage their institutional resources, legal expertise, and public profile to mitigate the power asymmetries that characterize the relationship between workers and digital labor platforms, while shifting litigation from isolated disputes to components of broader campaigns for systemic reform.

Ultimately, trade unions have proven to be indispensable actors in efforts to secure meaningful protections and recognition for platform workers through litigation. In this way, union-led litigation operates within the broader business and human rights landscape, reinforcing corporate accountability for labor rights and contributing to the implementation of international standards. The continued engagement of unions in this space is essential to ensuring that the promise of fundamental labor rights extends to all workers, regardless of their employment classification.

³⁵ Gaudio, *supra* note 14, at 100.

³⁶ Gaudio & Guidetti, *supra* note 15, at 632–33.

³⁷ *Id.*, referring to *Marco v. Foodinho*, Case No. 3570/2020 (Trib. Palermo Nov. 24, 2020).

³⁸ See Transport Workers' Union of Australia Press Release, *Transport Workers' Union Wage Theft Case Against Deliveroo* (Aug. 28, 2019).