Fairwork Foundation-IIITB Online Platform Labour Workshop
5 July 2018, International Institute of Information Technology Bangalore

The Agenda: The Fairwork Foundation, in collaboration with International Institute of Information Technology Bangalore (IIITB), organized a workshop on online platform labour on the 5th of July 2018. The workshop was held at IIIT-Bangalore. The workshop was held to discuss and deliberate on the principles of fairness in relation to platform work, established during workshops conducted by the Fairwork Foundation in other countries. The workshop was designed as a multi-stakeholder meeting to gauge what might be considered as 'fair' online work in the Indian context, and how the principles could be contextualized and operationalized in the Indian context. The inputs from various stakeholders was meant to provide the basis for carrying out further research in India. Workshop participants included members of academia, international think tanks, research organizations, labour unions, platform representatives, lawyers and online workers (see Appendix 1 for a list of attendees).

Session 1
The first session began with a presentation by Dr Uma Rani, Senior Economist at the Research Department of the International Labour Organization, who drew on global surveys to highlight the issues faced by online workers. These included work-life imbalance due to location in a different time zone from employers, lack of a clear employment relationship, lack of regulation etc.. She emphasized that the issues faced by Indian workers were not very different from those seen globally.

Mark Graham of the Fairwork Foundation then enumerated the nine factors in relation to which the principles examine the fairness of work, namely:

1. Pay - remuneration, frequency and organization
2. Conditions - clarity of work, safety
3. Contracts - the extent to which contracts reflect employment relationships, whether they are in line with employment laws
4. Equality - discrimination in different areas of work: hiring, management, deactivation
5. Communication - lines of communication for workers, especially a human being within platform, and with customer
6. Managements - disciplinary procedures, deactivation
7. Governance
8. Use of data - how worker data is collected and used, and workers' consent to use of data
9. Representation- ability for workers to have a voice, dispute resolution processes, possibility for collective bargaining

The debate on the principles brought forth the following points:

- in the absence of platform workers at the workshop, is it appropriate for the participants at the workshop, to decide on the principles of Fairwork? Or, is it more appropriate to think of the participants as allies, to improve or change existing conditions?

- the principles of Fairwork can be divided into dimensions of work (such as pay, conditions, contracts, communication, management, data) and principles/ dimensions of fairness (equality, accountability, transparency etc.). Each dimension of fairness can be applied to the dimensions of work.
- the categories of communication, management and governance, leave little space for the worker to be heard. Further, in the platform economy, it is the client and not the management who assesses the worker. Thus, there is a need for a principle to govern the client's assessment mechanism, since that mechanism can lead to discrimination against workers. While the platforms themselves may not be discriminatory, they need to acknowledge their responsibility and take action against discriminatory practices. In this connection, certification can play a role.
- the lack of a voice for the digital worker has parallels with the status of workers, such as weavers, in India's traditional economy. State and market intervention have a huge impact on the interests of weavers; a key question is how weavers can be made a mandate of the state. Increasing the visibility viz-a-viz consumers choices regarding what they engage with, is a means to tie the interests of the market and the weaver. Once things become more visible the question becomes what are the pressure points for buyers, workers, market? A similar question can be raised for digital workers.
- the applicability of the Fairwork principles will depend on the category of microwork being referred to – eg. Airbnb vs. micro worker vs. Uber driver.
- issues of pay need to be extended to cover issues of long term benefits, skill development (so that the worker can keep up with what is expected, build up their own skills etc.).
- need for a doctrine to determine the jurisdictional reach of labour laws when applied to online platform labour. Should the labour laws of the origin country/city prevail or should it be those of the worker's country/city? While platforms do not make clear the conditions and labour laws in the country of origin, they should not be paying less than the minimum wage in the place of residence of the worker. The local embeddedness of platforms, around issues such as wage or tax compliance, are central to governance.
- the auction process traditionally involves one worker in conflict with others. Will this re-emerge in online platform labour? Since replacing the lack of transparency of algorithmic reviews with manual review by a human will strike at the scalability of platforms, how are these issues to be managed?

Session 2
This session began with platform representatives and worker representatives sharing their experiences of the relationship between workers and platforms.
- Sean Blagsvedt, the founder of Babajobs.com, called for the creation of better marketplaces, which are fair and conducive for everyone to work. He highlighted the importance of trust, stating that, historically, the most successful societies, whether they were those that made the most money or conquered others, had higher levels of trust. He cited examples of innovations from the past 20 years that have made marketplaces better, such as eBay which introduced ratings, TripAdvisor which introduced customer reviews, Uber and Ola which improved the cab experience and increased the salaries of drivers. What makes for better marketplaces, where customers earn more and are happier with the outcomes? At Babajob, workers with a verified identity were paid more and people on both sides were happy. Platforms were not necessarily the enemy, they

provided an opportunity to build better marketplaces.

- Saritha T P of Portea gave a brief introduction to the 'healthcare at home' industry and said that there were not many regulations governing an industry that was new in India. Portea itself is currently in its fifth year. Unlike more recent entrants to the industry who work on a purely platform model, Portea combines online and offline work. The platform employs part-time workers because they cannot afford full timers. It also provides employment to women who may not be able to otherwise work, and to a seasonal workforce who have agricultural work during certain periods of the year. The organization makes significant investments in the latter. Since health care is a high-risk industry, every worker has to go through the same certification processes. Platform workers have the same opportunity to earn as full timers and, sometimes, had better incentives. There is no differentiation in certification, rewards or career progression between offline and online workers. They have to go through the same set of employee surveys, and customers are blacklisted if they misbehave with any employee, regardless of whether they were platform workers or permanent employees.
- **Nitin Pamnani** of iTokri spoke about how people perceive digital platforms as fragile and unstable, and want the human face back. He said that when he co-founded iTokri six years back, they hired online labour because they didn't have enough resources to build an entire firm. They found huge price differences between the US and other parts of the world. How then does one justify pay? It depends largely on the geographical location of the labour - it is therefore very important to take the local context into account.

Platform representatives were followed by workers' representatives.

- **K Prakash**, State Vice President for the Center of Indian Trade Unions and President of the KSTDC Taxi Drivers Union, agreed with the principles of Fairwork. He was critical of the change in labour laws, stating that it was leading to the workforce becoming increasingly informalized and unorganized. Labour laws were being violated and, in the IT sector, for example, the employer-employee relationship did not exist since firms are exempt from the Industrial Disputes Act. Associations can be formed but they are not recognized, even in industries with labour laws. In a changing economy that was not complying with the labour laws, the exploitation of workers will increase with no protection from the state. Thus, it is essential to demand stronger labour laws from the state, whereas 44 existing labour laws were being replaced by 4 codes. With the state itself was giving up the laws, or supporting them only when they were beneficial to employers, a discussion regarding compliance with the law (one of the Fairwork principles under "contracts") would not be useful. Firm such like Ola and Uber do not comply with any of these laws and offer lower fares. They engage in unfair competition, making it hard for existing taxis to compete with them. The Transport Department says that they can only fix a maximum price but not the minimum. Thus, there is no law to control Ola and Uber.
- **Tanveer Pasha**, the founder of the OUT (Ola, Taxi for Sure and Uber Owners and Drivers Association), said that although the applications and technology were good, the implementation led to unfair competition. For instance, drivers were not paid for the distance traveled to the customer's doorstep. Similarly, the technology gave poor estimates of the distance-time ratio. As a result, customers are often forced to wait longer, become impatient and vent their frustration on the drivers. He highlighted

another incident when a charge of threatening a lady passenger was levied on the driver without verifying his identity. He likened the technology firms to criminals who were always thinking about evading prison, and raising profits, with little consideration paid to drivers and users. **Drivers are called partners and, therefore, do not come under labour laws.** There was also confusion with respect to the geography of arbitration – cases in India are to be solved elsewhere.

Following these points, Mark Graham and Jamie Woodcock said that Fairwork standards were meant to amplify the positives of online labour and disincentivize their drawbacks. To that end, certification is one means that had worked in other parts of the economy. Even if certification was not a goal, a ranking of platforms along the principles, in different contexts, could be pursued since most big firms are sensitive about their image. Rankings that are made public can be an effective way of pressuring firms to create better working conditions. Firms also rely on investors to whom they submit regular reports. Those reports would be affected by bad rankings.

The following points emerged in the plenary discussion that followed:

- a ranking system that placed some firms above others, shaming some and acknowledging others would be a useful tool, at least a process if not a solution, or a tactical means of achieving certain goals.
- there were historical examples of ranking gone wrong - such as digital rights. The scale is always limited by the best performer.
- university rankings, as an example of rankings, had an impact on educational institutions, but can be problematic to the extent that they do not include certain parameters. Similar problems can arise with the rankings of platforms and, thus, a need to be sensitive to the differences in the structure and models of platforms.
- useful to think about whom the certification process matters to, and how the principles can be used improve the experiences of consumers.
- certification can be inward looking and therefore a need to ask if it should be the only entry point or if/how it should it be combined with regulation.
- the local and national regulatory standards established by the state typically do not extend to the global platform economy. Even if the state cannot regulate platforms, someone else must fulfill that role to protect worker interests.
- certifications have not worked in many cases in India. Both peer and state certification, have become expensive.
- possibility of the Fairwork Foundation creating a forum akin to a Glass Door for platform workers, to collect data from workers and then aggregate their experiences in different firms.

Session 3
In this session, the participants broke out into 4 groups to discuss -
1. The major issues facing workers in digital economies
2. Ways in which these issues can be addressed, and the importance of the Fairwork principles in addressing them
3. The role of certification in dealing with the problems of the workers - in what way, and in which areas, can certification be used to bring about change?

Group 1
- need for a democratized debate about the gig economy, including workers, because workers aren't aware of the gig economy or their rights
- workers must be able to negotiate their pay, conditions, contracts, and governance.
- certification is useful where labour laws exist and function well. In a country like India, where labour laws do not apply to a large number of people, strengthening the laws must be a priority.
- certification implies a bypassing of the labour laws, which doesn't necessarily improve conditions of workers.
- argument is not against technology but that capital alone can't drive technology. There is an assumption that the state cannot do anything. However, state intervention and regulation is necessary to have a fairer playing field .

These points raised three questions:

- to what extent does the label of being "innovative" affect the role of the state? Has fetishizing entrepreneurship amidst a drive to privatize the economy made the state reluctant to regulate digital economies?

- what leverage do we have over the state? Will *collectivization* (an example cited was the Karnataka for Employment campaign, which asks the state to take responsibility for under- and unemployment) and a *communication process*, that makes workers realize what the gig economy is, and to organize workers to push the state to do its job, provide the leverage?

- what happens in the period when a state overcomes its reluctance to establish or expand labour laws intervenes, especially since all private initiatives have their limits?

Group 2
- importance of increasing the transparency in the rules that govern these platforms. A notice period must be mandated before any rules are changed.
- workers need a well-defined redressal mechanism to establish which the state must play a role.
- making data/information available to workers so that it helps them make better choices with a Glass door type initiative. If the state refuses to take the lead, the information can be crowdsourced. Information will not solve everything, but it does help make choices. Changing legislation is important but, since it may take too long, the problem should be addressed from many directions.

As a counterpoint:

- when there isn't a regulatory backstop about how low wages can go, crowdsourcing may lead to workers bringing each other down i.e., it may not necessarily be an information problem.

- when workers endorse some online platforms and not others, one can be selective, but only if there is a choice. When workers do not have a choice, it makes no difference .

Group 3
- should there a limit to the number of hours a worker works per day? Are the targets set by the platform realistic?
- should there be a minimum or predictable pay, a guaranteed income?
- should platforms, such as Uber, pay per ride to a social security or welfare fund?
- should there be open source softwares for workers to use?

Group 4
- the challenges of the gig economy have to be contextualized in the broader economy. Employment relationships are changing regardless of the platform economy. To improve it on the platform economy, a new matrix needs to be found, not the existing formal economy
- since most workers in India do not have a contract or social protection anyway, they do not see the platform as exploitative in any way. It is a better than the alternatives open to them.
- Fairwork principles which are important in India are pay, and transparent and accessible mechanisms for dispute resolution, while the principles that are not a priority are contracts and use of data.
- to what extent does certification take away responsibility from the regulator?
- need to examine the history of success and failure of certification in India, including the misuse of certification by firms