

ILO Proposed Instrument & Barriers to Digital Trade

Sadhana Sanjay
IT for Change



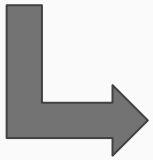
1. What is the platform economy?

Understanding platforms and platformisation



What is a platform?

- Digital infrastructures that enable two or more groups to interact [and] position themselves as intermediaries



Digital labour platforms use platform infrastructures to facilitate the matching of labour demand and supply



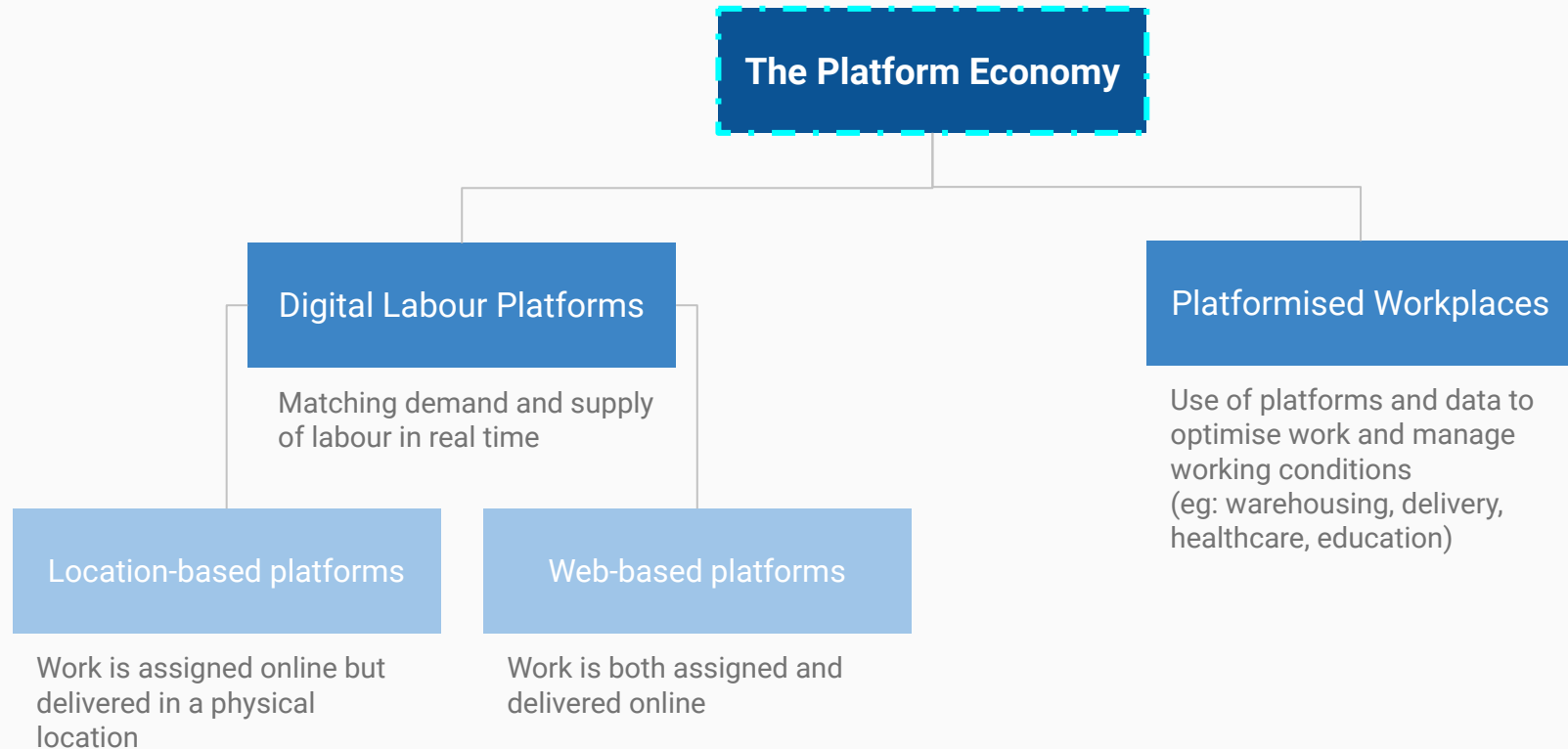
The “platformisation” of work

Platformisation is defined as the **penetration of infrastructures, economic processes and governmental frameworks of digital platforms** in different **economic sectors and spheres of life**, as well as the **reorganisation of cultural practices and imaginations** around these platforms.

- Poell, T. & Nieborg, D. & van Dijck, J. (2019). Platformisation. Internet Policy Review, 8(4)

In the world of work work, platforms are (re)organising labour relationships, deepening power asymmetries and increasing precarity and alienation

Breaking down the platform economy



Understanding data

- In a simple word, data is **information**
- In the last few decades, Big Tech's rise to power can be attributed almost entirely to its control over **data, which is transformed into “intelligence” through cloud computing**
- **Data colonialism** is a new term to describe how tech companies, located in the North, essentially “steal” data from developing countries
- Data is now better understood as an **economic and social resource vital for development**

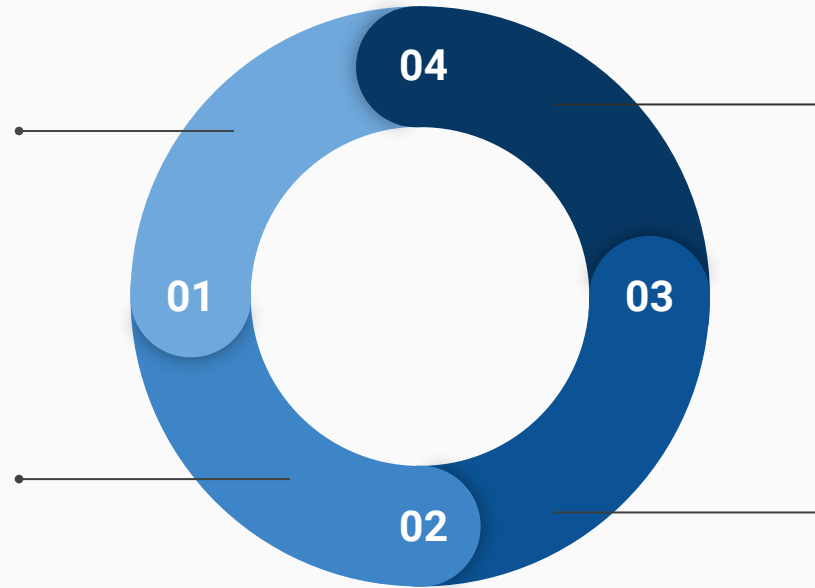
Role of data in digital labour platforms

Worker data

Platforms collect data on workers movements, time spent, quality of tasks, customer ratings, etc.

Conversion to "intelligence"

This data is converted to "data intelligence" through the use of sophisticated computing mechanisms



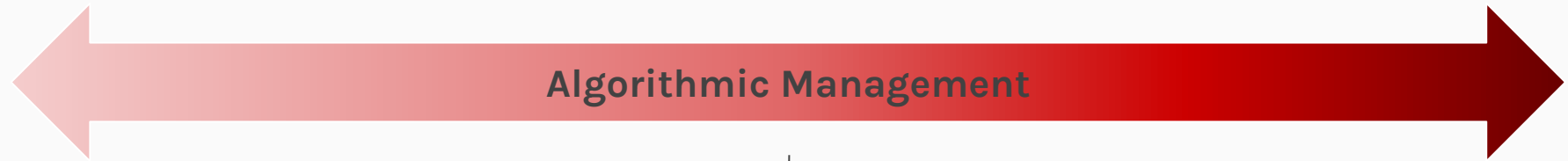
Decision-making

"Trained algorithms" make decisions regarding how workers perform tasks and determine nearly everything in relation to their working conditions

Feeding into algorithms

This intelligence is used to train algorithms, which require large volumes of data to function

Algorithms – The Central Logic of Platforms



Partially
automated

Wholly
automated



- Allocation of tasks
- Determination of remuneration
- Monitoring completion of work
- Rating quality of work
- Enforcing compliance with platform rules
- Overall coordination and control

Decent work issues in the platform economy

Diluting fundamental labour safeguards

- Absence of social security and welfare
- No redressal for occupational injuries or guarantees of safety
- Income insecurity and fluctuations
- Difficulty in organising and collective bargaining



New frontiers for decent and dignified working conditions

- Unexplained offboarding and termination
- Arbitrary and opaque decision-making
- Surveillance of workers
- Commodification of workers' data and hyper-extractivism
- Gamified work environments

Regulating the platform economy

- The **precarity of work** in the platform economy and **deepening power asymmetries** between workers and platforms has seen growing attention in recent years
- **Different jurisdictions have taken different approaches** towards regulating the platform economy
- Culminated in **widespread acceptance of the need to regulate** the platform economy at a **multilateral level**.



ILO Proposed Instrument on Standards Setting for the Platform Economy

- Fifth agenda item for the 113th Session of the International Labour Conference (2025)
- First discussion
- Accompanied by a report outlining the key components of governance in the platform economy, *Realising Decent Work in the Platform Economy*

Overview of ILO's Approach

- Focus on digital labour platforms, rather than platformization as a whole
- Definition of “intermediary” does not include the use of third-party algorithmic management systems deployed in the workplace
- Only partial recognition of the central role played by algorithms, rather than arguing for transparency and accountability for all algorithms in public and private sectors
- Recognition of workers' data rights at an individual level, but not collectively

Algorithms and governance

**Platform
Economy
Governance**



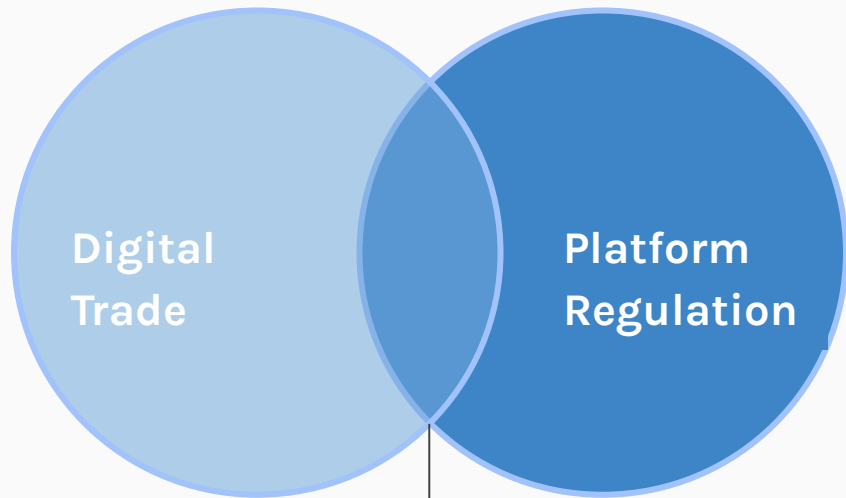
**Algorithmic
& data
Governance**

1. Obstacles in Digital Trade

Understanding how digital trade rules affect platform regulation



Intersection of digital trade & platforms



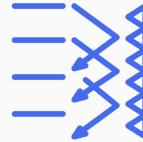
Key Intersecting Issues

- Cross-border data flows
- Source code disclosure
- Moratorium on electronic transmissions

1. Cross-border data flows

Approaches in digital trade

- Emphasis on enabling liberalised and free cross-border flow of data
- Restrictions on requirements to store data locally
- Exceptions exist for legitimate public purpose in some instances, but these are left undefined and open to very restrictive interpretation



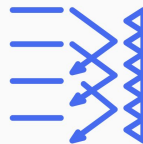
Obstacles to platform regulation

- Curtails workers rights to collectively and meaningfully own and control their data
- Precludes the creation of alternative forms of data governance (eg: worker data commons and data stewardships)
- Exacerbates inequalities between the Global North and South
- Impedes the conducting of algorithmic audits

2. Source code disclosure

Approaches in digital trade

- Digital trade rules discourage and often prohibit compulsory disclosure requirements regarding computer code
- These provisions prohibit governments and their agencies from requiring the transfer of, or access to, source code.



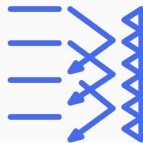
Obstacles to platform regulation

- Algorithms and code are central to the operation of digital labour platforms, and this prohibition limits the ability of governments to regulate them effectively
- Algorithmic bias and discrimination cannot be audited and prevented effectively
- Companies can encode illegal and exploitative practices in algorithms without accountability (eg: wage gap on AMT)

3. Moratorium on tariffs on e-transmissions

Approaches in digital trade

- Imposing tariffs or customs duties on electronic transmissions has been under a moratorium, which has been renewed several times
- The WTO JSI on e-commerce notes that no party shall impose any customs duties, with no exceptions carved out



Obstacles to platform regulation

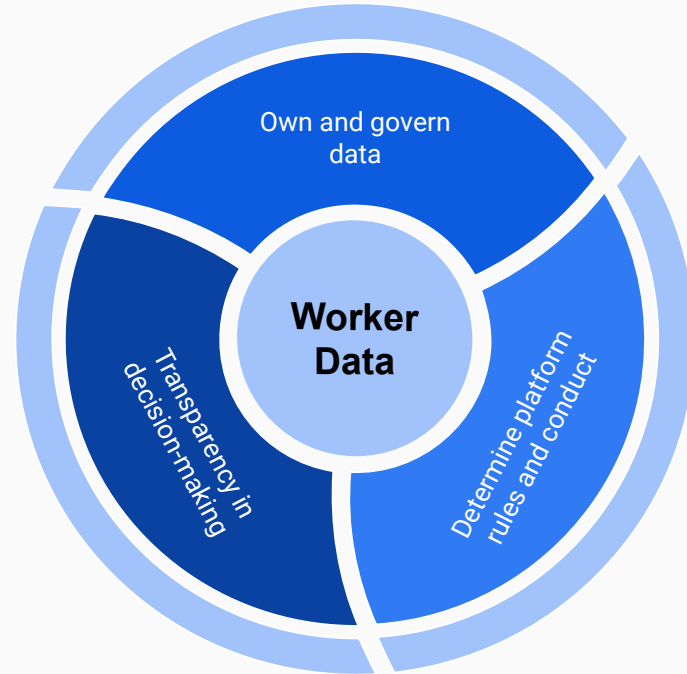
- Protecting the rights of platform workers and enabling their dignified and decent working conditions also requires a strong welfare net
- This moratorium results in losses of revenue for the Global South, essential for building robust welfare systems

3. Centering workers in digital trade

How to protect platform workers and digital workers in digital trade rules



An inclusive and just platform economy



Making digital trade work for workers

- **Data Flows with Data Rights**
 - Privacy, security and freedom from surveillance
 - Economic rights over data
 - Collective rights at the community and national level
- **Auditability and transparency in AI and algorithms**
 - No prohibitions on source code disclosure
 - Data localisation to verify how algorithms are trained
- **Just taxation and revenue sharing in the digital economy**
 - Taxation on e-transmissions and digital services
 - Corporate tax in jurisdictions where they have a presence
- **Recognise the interplay of digital trade with other trade provisions**
 - ISDS
 - Regulatory coherence
 - Labour law