

LABOUR AND SOCIAL JUSTICE

PROUDLY DELIVERED BY APP

The struggle of Latin America's first union
for platform workers

**Laura Perelman, Marcelo Mangini,
Bárbara Perrot, María Belén Fierro
and Martina Sol Garbarz**
September 2020



Digital platforms have expanded dramatically in Argentina as elsewhere.



“Associates» started to identify themselves as workers, and in order to resist against exploitative conditions they organized a first digital strike and founded the union APP.



Having created public awareness about the platforms' business model, the union is now battling for recognition under Argentinean labor law.



LABOUR AND SOCIAL JUSTICE

PROUDLY DELIVERED BY APP

The struggle of Latin America's first union
for platform workers

»**Trade Unions in Transformation 4.0**« examines unions' strategic actions to mobilize power resources in a »new world of work« in which capital uses digital technology to re-organize the labour process. The Global Trade Union Programme of the FES aims to understand how the power balance between capital and labour is impacted and how workers are responding to the threats of the digital rollback towards greater exploitation and precariousness of workers. Pursuing a dialogue and action-oriented approach, the project ultimately intends to contribute to trade unions' strategic reflections, experimentation and purposeful transformation.

Content

INTRODUCTION	2
ON-DEMAND JOB PLATFORMS IN ARGENTINA	2
EMPLOYMENT CHARACTERISTICS	4
ALGORITHMIC MANAGEMENT OF WORK	6
ORGANISING THE UNION	6
POWER RESOURCES FOR THE ORGANISATION OF WORKERS OF PLATFORMS THAT USE LABOUR: LESSONS LEARNT FROM THE APP	10
CONCLUSION	14
Bibliography.....	15

INTRODUCTION

This article explores the organisational process experienced by digital platform workers in Argentina from the analytical perspective of the power resources theory (PRT).¹ The investigation focuses, above all, on the rise and establishment of the Association of Platform Workers (its acronym in Spanish is APP), the first union of platform workers in the region, within the context of the establishment and expansion of the most important companies that are now in control of the domestic market. In analysing this process, we first describe the specific characteristics of the platform workers group and their approach to organising labour within the sector. These factors are vital to attaining an understanding of the unionisation process and its origins. This study also reconstructs the conflict between workers and companies in order to shed light on the latter's strategies and actions of power accumulation in changing contexts.

At the beginning of the unionisation process, the capacity of workers to associate with the help of pre-existing networks and identities has played a fundamental role and helped catalyse collective action as a union entity. As will be shown throughout the document, at the time of the first conflicts many workers had already been in permanent contact with each other via digital social networks like Whatsapp groups and Facebook friends. Such groups resulted above all from friendships between fellow migrant citizens and social links which developed in connection with delivery work, and became a basic resource for the coordination of demands and actions.

The expansion of the workers' associative capacity was stopped by strong opposition from the company, where the first collective action had started, resulting in anti-union measures targeting the core of workers who were spearheading the process of aggregating workers' demands and representing their interests before the platform. Within the context of the »regulatory void«, and due to the lack of legal protection, the main representatives were dismissed (in digital language: permanently blocked) and have not yet been »readmitted« to their jobs.

As we relate in the article, APP responded to the companies' efforts to dismantle the emerging organisation with an offensive strategy at the institutional level aiming at »forcing« government authorities to take regulatory action. Such state intervention has aimed – and still aims – at overcoming the structural limitations platform workers face by granting them the recognition and coverage provided by the guarantees and protection laid down in Argentine labour legislation. The issues labour courts are currently addressing following a legal complaint against anti-union practices will be particularly interesting, as will be the decisions issued by the Ministry of Labour, Employment and Social Security in response to the APP's application for recognition as a representative union entity. Finally, it should be stressed

that there is another strategy towards strengthening the organisation which aims at raising public awareness of the conflict between workers and platforms and questions the common understanding of delivery riders as self-employed workers or, to adopt platform parlance, as »partners« or »collaborators«.

Thus, disputes at the institutional level are mirrored at the level of narratives and symbols, with the APP trying to participate in the public debate and arouse attention for platform workers' perspective and demands.

This analysis has drawn on a variety of sources. First, secondary sources were identified, such as previous studies, surveys and news information from national and international media regarding both the platform economy in general and platforms offering on-demand jobs in particular. Second, key insiders were interviewed to analyse the process of trade union organisation of platform workers.² Finally, administrative and judicial records were consulted which are directly related to the institutionalisation of APP and recognition of the work-related nature of employees' activities. These aspects are presented in detail in this article.

It should be stressed that the term »delivery platforms« is reductionist and lacks the precision required for a comprehensive characterisation of companies' business activities. Apart from deliveries, the services offered by companies include, among others, sales of goods, processing of customer orders, invoicing, collection of payments, and supplier advertising. However, as the specialised literature and the media commonly refer to »delivery platforms«, the present document also refers to these simply as »platforms«.

ON-DEMAND JOB PLATFORMS IN ARGENTINA

The massive use of digital platforms has enabled new forms of selling and buying goods and services. At the same time, new business models have emerged under the leadership of those platforms which attract large numbers of users and,

¹ See Schmalz (2017).

² On the basis of a semi-structured questionnaire, six persons were interviewed in depth: three workers from the sector with links to the APP, two legal representatives, and an expert in trade union issues. The questionnaire for workers covers various dimensions, including occupational identity, personal experience with the process of organising platform workers in the City of Buenos Aires (CABA), their perception regarding capacities, and the use and effectiveness of the available power resources for trade union action and organisation. The interviews with legal representatives and the trade union expert focused on business models and company organisation, the different modalities of the most important service platforms to manage and organise work, links and correlations between the union's organisation and its struggle, the process of union organisation, the institutional context, and associational capacity. Quotes from the interviews do not reveal the interviewees' identities because of their involvement in the union conflict with the companies of the business activity and their lack of protection against possible retaliatory measures.

as a result, monopolise »network effects«.³ Initially, the use of digital platforms was associated with the »collaborative economy« and its fundamental objective of facilitating or enabling the horizontal exchange of goods and services between individuals. According to this scheme, platforms act exclusively as intermediaries, while expanding the possibilities of adding value to under-utilised personal goods to limits previously unheard of. In recent years, the concept of collaborative economy has been broadly used to characterise a cluster of emerging companies operating digital platforms to organise and manage their business activities.⁴

Of course, neither do all digital platforms operate the same way nor do they all provide services of a similar nature. Therefore, it is necessary to distinguish between those platforms which provide intermediary services with IT support from others which actually offer services on an on-demand job basis. In this case, platforms generally have direct control of the prices, terms and conditions of service provision, and have title to IT support as an essential asset for the development of this kind of business activity. This distinction is of central importance when it comes to establishing the kind of applicable regulations in each case, both from a tax perspective and from the perspective of labour legislation,⁵ as both characteristics offer a clear indications of the service providers' status as dependent workers.

Platforms demanding labour can be classified according to the kind of services they offer in person or virtually at a given location and the qualification levels required to operate the service (Madariaga et al., 2019). Both issues are key to the evaluation of the obstacles and potentials of trade union organisation and collective action among the workers. Employment created in activities which are offered in person have a direct impact on the local labour market. On the contrary, work that is carried out online tends not to be specifically localised and implies consequences at a local level, the dimensions of which are difficult to assess. Furthermore, such work may be carried out on the basis of varying regulations, according to the localisation of platform owners, clients requiring the service, and workers doing the job. The specific qualification and training levels required will also influence the structural power of workers related to the ease with which they may be replaced in the event of a conflict.

So-called »delivery platforms« belong to the category of platforms using labour which realise their central business activity on the basis of physical presence without a need for specific qualifications. Besides this, they are the prime example of platforms which are the true service providers:

they organise the work and the conditions of its provision, determine rates of pay unilaterally, concentrate client data and contacts, and reserve the right to »disconnect« workers, among other features which will be discussed later.

The most important platform companies operating in Argentina have only recently established themselves on the market. PedidosYa, a pioneering company in the sector, was founded in Uruguay back in 2009, while Rappi from Colombia and Glovo in Spain started their activities in 2015 and arrived in Argentina in 2018. All companies share their recent origin and their high-performance business model featuring an exponential growth of their operations, with millions of active users, presence in a number of countries, and unlimited access to the capital market.

So, how can the amazing success of this business model be explained? It is based on three intrinsically linked pillars: attraction of massive numbers of customers, increasing market value, and extreme cost reductions. Cost optimisation is a fundamental condition for the competitive growth of companies within the platform economy, as it creates very compact business structures which specialise in developing algorithms, attracting customers, and expanding operations. Accordingly, Glovo, Rappi and PedidosYa together have an overall workforce of 8,000 people covering more than 30 million customers in about 40 countries. The working areas of this qualified staff include software development, customer attention, finance and marketing. However, such a compact scheme implies an intensive demand for labour dedicated to marketing and distribution activities. At present, there are more than 150,000 workers, who are not recognised as company employees and, instead, are treated as self-employed workers; or, as they are called by the company, as »entrepreneurs«, »associates« or »collaborators«, »*rappitenderos*« or »*glovers*«.

Refusing to recognise the employment relationship with the vast majority of their staff is part of these companies' strategies to reduce labour costs and compete in the market by offering the lowest prices and thereby increase both their scale of users and their market value. Special attention in this context needs be devoted to PedidosYa, the only company to set up its own fleet of delivery vehicles which were driven by company employees. The project was realised in April 2018, when the company inaugurated its first logistics hub in the city of Buenos Aires and registered RepartosYa, a separate business unit which employed up to 1,700 workers. However, in February 2019, less than a year after its launch, PedidosYa laid off 450 marketing and distribution workers and began its transition to the »associate« and »collaborator«-based model of its competitors. As Ariel Burschtin, one of its founders, explains, »nowadays, this is the sector's operational model worldwide, and this is how we see our future«.⁶

³ Srnicek (2018) introduced the concept of »network effects« to characterise the valuation process of platforms as they attract more customers. The increase in a platform's customer volumes operates as an incentive for others to link into it so as to increase their potential for links and transactions on the net.

⁴ At present, this emerging economy has led to new concepts such as »digital economy«, »gig economy«, »on-demand economy«, and most recently, »platform economy«. See Serrano Olivares (2009).

⁵ See, for example, Eurofund (2018).

⁶ Interview with Ariel Burschtin, op. cit.

The legal status of workers has provoked conflicts and protests in various countries of the region, including Chile, Colombia and Peru. In other countries such as Argentina, Spain, Italy and France, delivery workers took trade union action, including work stoppages.⁷ When these protests and strikes were carried out, new experience was gained with unionisation, partly in coordination with existing unions, and partly as steps towards the establishment of new organisations. In some countries, delivery workers elected committees of delegates at a company level, which were then integrated into management boards, and now engage in collective bargaining (Ottaviano et. al., 2019). In addition, the dispute over the recognition of the employment relationship is also the subject of legal action. In Spain, where Glovo was founded, there has been a clear tendency for the conflict between workers and the company to be submitted to the courts. However, the dispute has not yet been brought to a final conclusion, and a scenario of increasing labour unrest, on top of the judiciary's limited capacity to solve the fundamental legal conflict, has encouraged legislative intervention to establish a specific legal framework for platform workers (in the European Union, Portugal, France and the United States).

EMPLOYMENT CHARACTERISTICS

Despite the strong expansion of platform activities in Argentina in recent years, there are no official statistics regarding the scale of employment and working conditions within the sector. The heterogeneity of the business – in terms of sector-specific features as well as management and business models, etc. – makes it even more difficult to perform a precise empirical diagnosis.

The Survey of Platform Workers (ETP) carried out by the Center for the Implementation of Public Policies Promoting Equity and Growth (CIPPEC), the Inter-American Development Bank (IADB) and the International Labour Organisation (ILO) in 2018 are the main sources of empirical information currently available. These offer data allowing one to characterise platform workers according to their socio-demographic profile and their participation in the labour market.⁸ Such information is essential in order to become acquainted with and understand the structural conditions of the labour market which provides the framework and influences the structure of opportunities for unionisation of the sector's workers. Although the data retrieved by the survey are limited to the year 2018, this period aligns with the initial moment in the collective organisation process leading to the APP's foundation.

Based on an analysis of demographic characteristics, a number of prevalent features can be identified with regard to workers. The sector is strongly male-dominant, with a high prevalence of young men with above-average levels of education. Men account for 90% of the sector's employees, 70% are between 18 and 29 years of age, with an average age of 27 years, well below the general average in the labour market. Regarding education, 40% have completed the tertiary education level or university studies.⁹ This means that many workers are overqualified for an activity requiring low qualification levels. This is probably associated with features characterising the migrant population, which has been employed on a massive scale in the sector.

The strong concentration of migrant workers, many of them recently arrived Venezuelans, is indeed another striking feature of activities. As we shall see, this shared sense of belonging will be of relevance in the analysis of the association process which fuelled the APP's rise.¹⁰

As for labour integration, according to the ETP most workers are employed under the terms of the single tax regime. However, the percentage of workers paying retirement contributions or covered by health insurance is much lower.¹¹ This fact might appear to suggest that parts of business activities had not been recorded in any administrative register at the time of the survey.¹² The extensive use of the single tax regime is evidence that the »delivery platforms« operating in Argentina avoid recognition as employers in order to define themselves as intermediaries between users and deliverers.

Access to delivery platform employment is characterised by low barriers which leave platforms in a privileged position to recruit workers, who would otherwise find it difficult to integrate into the labour market. In the case which is the object of this investigation, requirements are limited to a mobile device to connect to the platform, some basic training regarding the application and its functions, registration as a single taxpayer (originally, this does not appear to have been an essential condition), and access to a bank account. Such low barriers explain, to a certain extent, the presence of young workers, whose cohort faces above-average unemployment levels and recently arrived migrants in need of

⁷ In July 2019, Glovo workers carried out their first nationwide strike, with its epicentre in the cities of Barcelona, Madrid and Zaragoza, to demand an end to the algorithmic management of their working times and to protest against their status as sham self-employed workers.

⁸ The survey covered workers at 16 platform companies; in the »delivery platforms« segment it included workers at Rappi and Glovo. For more references, see Madariaga et. al. (2019).

⁹ Only 5% of those employed in non-qualified tasks in the City of Buenos Aires and Greater Buenos Aires had tertiary or had completed university education, while 13% had not completed university education (data based on EPH, first quarter 2019).

¹⁰ The workers who responded to the ETP included a high percentage of recent migrants (less than 5 years in the country), mainly from Venezuela: 83% in the case of Rappi and 65% in the case of Glovo. By contrast, migrant workers represent just 8% of all occupied persons in the City of Buenos Aires and Greater Buenos Aires (EPH, first quarter 2019).

¹¹ The number amounts to 98% of the Glovo and Rappi workers interviewed.

¹² In the case of Glovo, 90% of workers contribute as single taxpayers; this percentage is only 58% in the case of Rappi. The percentage of those stating that they had health coverage was slightly lower (Glovo 69%, and Rappi 54%).

generating an immediate income that will allow them to put down roots in the country.

The ease of gaining access to employment seems to go hand in hand with a large turnover of staff. According to the ETP, the average seniority in both platforms was 2 months. But it should be stressed that Rappi and Glovo had started their platform operations in the country only a few months before the survey. Nevertheless, workers with whom we spoke shared the perception that many workers stayed with the platforms for short periods of time, but they also mentioned that multi-platform employment and/or rotation between platforms is quite common. Therefore, disassociation with a platform is not necessarily equivalent to leaving the activity altogether, so the phenomenon of rotation might be more prevalent in the platform business than in the economy in general. In addition, the same survey revealed that workers relied heavily on the income expected from platform work, which was identified as the main activity by 85% of workers; in addition, 60% stated that they were working full-time and had exceedingly long working hours of at least 48 hours per week. Nevertheless, one-third of workers interviewed felt positive about the possibility to manage their time schedule, while another third appreciated the chance to improve their income. The final third, above all migrants and young people, stated that they had taken up their job because they had not found employment elsewhere. In any case, as our interviews indicate, taking up a platform job due to the lack of alternatives does not imply that workers do not appreciate the possibility to manage the times they find convenient, and that they disconnect from platforms when they need to make sure that their activity is compatible with other activities, such as care work within the family.

Media coverage, academic analysis and documents of international organisations have so far afforded little attention to the gender dimension of the platform economy. This dearth of interest is quite remarkable in the context of persisting gender inequalities in employment and the specific vulnerability of women with regard to changes in the world of labour. Women suffer from higher unemployment rates and worse conditions of employment as well as precariousness due to their specific kind of labour integration and wages. The ETP provides an overall picture based on the gender disaggregation of the persons surveyed. According to the information generated by the survey, a majority of workers are men (73.7%). However, substantial differences can be observed between the platforms. For instance, IguanaFix, a platform offering home repair services, revealed a 100% male presence, while among companies specialised on the transport of people and the marketing and distribution of goods, more than 90% of persons surveyed were men. The presence of men is almost total in the companies covered by our research: Rappi has a male presence of 97%, followed closely by Glovo with 95.5%. Men are also a majority of the workforce at MercadoLibre, Freelancer and Workana, where the participation of women amounts to 35%. In contrast, the accommodation service platform Airbnb has a female participation rate of 57%, while Zolvers, a company dedicated to contracting employees for private households and

care services, is the only platform with a female participation of 100%.

The ETP also identifies differences between men and women regarding necessary qualification levels for the tasks they are required to perform for the platform, as 8 out of 10 men are engaged in technical and operational tasks, while 7 out of 10 women perform tasks without any qualification requirements. When Zolvers is taken into account, this proportion decreases considerably, although it is still higher than in the case of male workers.¹³

This general characterisation reveals that employment in the platform sector tends to replicate and reproduce at least two fundamental aspects of existing gender inequalities in the labour market:¹⁴ male predominance and occupational segregation. The gap between the participation of men and women in the labour market amounts to approximately 20 percentage points, a difference which is replicated by the rate of occupation. At the same time, the integration of women in the labour market reproduces the tasks which have been traditionally assigned to them in the household, namely the areas of caring and domestic work. Women's occupations are concentrated in the areas of health, education and domestic work. The latter activity accounts for 6.5% of overall employment of employed women (and 21.5% of female workers). There is a 96.4% prevalence of women in domestic services.

The exclusion and segmentation of women is a structural pattern of the labour market which can be explained by deeply rooted social stereotypes, biases and gender-based inequalities. Such inequalities are related to the gender-specific division between paid productive work and unpaid reproductive work, which means that traditionally women have been burdened with domestic work and personal care. According to data gathered by a survey of unpaid labour and the use of time which the National Institute of Statistics and Census (INDEC) carried out as a special module of its Annual Urban Household Survey (EAHU) during the third quarter of 2013, men spent 3.4 hours per day on such tasks, while women dedicated 6.4 hours to these on average, i.e. almost twice as much.¹⁵

During the interviews, maternity and/or care responsibilities were mentioned as obstacles to being able to work the hours and/or time segments, for which platforms pay the

¹³ These data reflect the perceived qualification or, more specifically, the perception of men and women regarding qualification levels required for the tasks they perform. There is reason to suggest that this perception is associated with a gender bias, for example, the lack of visibility and value of household and care work. Women in charge of such activities probably perceive them as an extension of the tasks they perform in their homes.

¹⁴ The data used to characterise the labour market have been published in «Las brechas de género en la Argentina. Estado de situación y desafíos» [»Gender gaps in Argentina: current situation and challenges«], Ministry of Economy and Production, 2020.

¹⁵ INDEC (2013), «Encuesta sobre trabajo no remunerado y uso del tiempo. Tercer trimestre 2013» [»Survey of unpaid labour and the use of time. Third quarter 2013«]. TITULO original corregido (N. del T.)

best rates and benefits. Insecurity and the exposure of workers to assault and robbery on the streets are yet another difficulty, as women are more vulnerable, particularly during night shifts. Furthermore, the lack of a physical work space limits their access to toilets and protected rooms. Last but not least, there are strong gender stereotypes in society which locate delivery services in the sphere of male activities.

Against this background, the APP's election of a woman as secretary-general, the organisation's most important position, deserves special attention. This choice is something new taking into account broader union tradition, in which only few women have gained access to important positions in traditional unions. As the APP has shown, the number of women working in the sector is increasing; however, their presence is still clearly lower than that of men, and even fewer women are prepared to engage in trade union activity. So, there is a challenge to increasing the participation of women in the sector, but also in union organisation.

ALGORITHMIC MANAGEMENT OF WORK

The implementation of algorithmic management of work is one of the central innovative features of labour organisation through digital platforms. In the absence of a regulatory framework for platform activities, companies do not provide any information at all about the parameters which regulate the allocation and distribution of tasks, rate calculations, the management of waiting periods, the scoring system, bonuses and/or sanctions. Therefore, the main feature of this management approach is its lack of publicity and/or transparency. As workers explain, their understanding of the algorithm is inductive and incomplete; it is based on the system's impact on the intensity of their working days, the wages they earn, the working conditions the system imposes, and the controls workers are subject to. The system's opacity is intensified by the introduction of successive unilateral changes which companies have failed to communicate.

One of the basic functions of algorithm-based management involves matching available workers with work demands of varying intensity according to days and time segments; in other words, guaranteeing that workers are connected to the platform, when they are needed, and that they accept the orders they are assigned. For instance, the implementation of qualification ranking systems is one of the elements platforms have developed to adjust their work management to the demand of service orders. Under such systems, workers' performance is evaluated as a condition for the possibility to gain access to »better« orders in terms of distance, rates, gratifications and bonuses. The evaluations received by workers and their ranking positions ultimately affects both the duration and intensity of their working day and their income. However, workers do not know the specific parameters which underlie their evaluation and determine their ranking position. Workers with whom we spoke stated that to their knowledge algorithm calculations combine several factors – the number of service orders accepted and

rejected, the time needed for delivery, user opinions, hours connected to the net, and job seniority – but that they do not know the formula for the weighting of these factors by the algorithm. Moreover, in their opinion the manner in which they are ultimately ranked is not free of a certain amount of arbitrariness.

Based on our interviews, we came to the conclusion that platform companies have different labour management policies, for example relating to the (non-)existence of previously agreed working hours or unspecified connection hours, the more or less flexible rate composition, the importance of performance-oriented gratifications, and the kind of sanctions applied. These differences could be associated with, among other factors, the market segment targeted by the companies, the loyalty of the customers they are targeting, and the technological support available.

Leaving aside these differences, companies have in common a modular approach to the organisation of working days and labour intensity with the aid of systems offering incentives rewarding work under rule-based conditions and sanction the autonomy of workers to organise their working days by restricting their freedom to accept or reject offers and/or manage the times they connect to the platform. This approach has been implemented by successive changes and adjustments of the algorithm allocating the service orders in order to guarantee workforce availability, mobility, low costs and operational malleability.

As companies have begun to position themselves in the local market with the help of business deals and increasing customer acquisition, they have started to implement more aggressive strategies aimed at improving competitiveness and territorial expansion. These dynamics have resulted in the loss of workers' autonomy and intensification of the pace of work, while increasingly challenging companies' claim and promise: »Be your own boss«.

ORGANISING THE UNION

The association strategy: collective organisation, strikes, unionisation

The first step towards organising platform workers was taken by a group of delivery workers who were providing their services to Rappi, which culminated in the establishment of the Association of Platform Workers (APP). This began at an early stage, then developed to a breath-taking pace, characterised by a strategy of carrying out union interventions at various levels within the context of labour disputes, in response to company actions, and with the aim of building institutional opportunities.

The process was initially triggered by the company's unilateral decision to change the algorithm for the allocation of orders. At the time, Rappi had been operating in the country for six months, and its »disembarkment« strategy had concentrated on contracting distributors for the creation of a company fleet and drawing up contracts with food and

restaurant chains which would allow it to offer its services in the busiest neighbourhoods for this kind of business (Central Business District, Recoleta, Palermo, Belgrano).

At this initial stage, orders were offered in a collective pool, allowing workers to visualise the available orders and to choose or reject them at their convenience. In the following stage, however, the company rolled out a more aggressive strategy by increasing the intensity of work. This strategy was implemented by means of three fundamental changes in the algorithm operation: orders were assigned personally, the most senior workers were allocated the most remote – and hence worst-paid – points of delivery, and a system of bonuses and sanctions pegged to the percentage of accepted and rejected orders was implemented, which included the temporary suspension of those workers who had rejected more orders than expected by the platform. These changes were aimed at offering incentives to new delivery drivers in order to encourage expansion of services to other neighbourhoods of the city.

Workers were not informed of the changes that had been introduced in the order assignment system and only discovered them due to the effects on their working days and earnings. As a matter of fact, workers had the feeling that they were »pedalling more and earning less«, while they lost the freedom to manage the duration and intensity of their working days. They voiced their discontent in Whatsapp groups, where they shared information about work-related issues, including enquiries, advice and help as well as borrowing and/or sale of working utensils and equipment. At that time, Rappi's delivery staff did not exceed 1,000 workers, many of whom knew each other and met regularly while they were waiting for orders in places of highly concentrated demand (for instance, the crossroads and squares of Palermo). A vast majority of them participated in chats and Whatsapp groups, where they shared work-related information and made friends. In addition, young migrants – i.e., the majority of those employed in the sector – shared previous links based on the support networks they had established at the time their compatriots had arrived and established residence in the country. This meant that many workers shared their places of residence, their spaces of socialising and recreation, or personal friendships based on their common identity as migrants.

Within this context of discontent, a group of senior and more experienced delivery riders of the company took the initiative to call an initial meeting of workers to discuss the changes in their working conditions. This meeting took place at the time of peak labour demand at three squares in the City of Buenos Aires on Sunday, 15 July 2018. During their meeting, workers decided to remain connected to the application and receive the assigned orders, only to turn them down about two hours later. In taking this action, which was the result of improvisation at the meeting, Rappi delivery riders carried out Latin America's first *digital strike*. One of the workers described the action in which he had participated as follows: »We met and carried out the first strike against a platform, in this case against Rappi.

Of course, we let the majority of colleagues, who wanted to work, take orders. No measures were taken to prevent them from doing so, except us telling them: 'open your eyes, join us, these are the reasons'. When they arrived, they looked at us, they wanted to know, and then they joined us; everything peacefully. So, we took the orders, and then we told support that we had a puncture, or that our bike had broken down, or that we had had an accident with our motorbike. As a result, the orders were freed again and could be accepted by other colleagues. In a sense, it was like a chain.« As rejections accumulated, Rappi increased its rates to motivate workers to accept the increasing number of orders. After the action had finished, rates began to decrease, although they remained above the original level. Workers celebrated this outcome as a victory achieved through their collective action. In addition, the company stopped charging the cost of the transport box which had previously been sold to the delivery riders.

The day after the strike, workers elected spokespersons for each region and decided to convene at the company's offices, where they were received by managers, to whom they voiced their demands: reversal of the changes to the terms of service provision and return to the possibility to turn down inconvenient orders, increased rates per ride, and a plan for a transition to formal employment contracts, starting with the contracting of 50 riders, to be followed by 30 riders each following month. The company rejected the possibility to suspend any of the changes it had introduced to its algorithm. Besides this, the messenger union's delegates at the meeting accepted Rappi's offer to ensure that five workers could join EnvíosYa. This offer was rejected by workers as insufficient, however, and because it changed the employment relationship with the company.

During the following months, workers started an informal dialogue with Rappi, but were unable to achieve any progress regarding their demands. In this context, one of the workers' delegates was permanently »blocked« by the platform, i.e. she was disconnected from the business activity. Against this background, workers discussed the need and expedience of moving forward towards the formal establishment of a union organisation. They opted for this strategy as a defence against the risk of an anti-union offensive; activists had become visible to the company and could be identified and sanctioned. The union group was able to provide legal protection in order to carry on its union activity and strengthen the process of organising the workers.

According to the interviews, contacts with advocates specialised in labour legislation and the system of professional associations which had been established during the conflict proved essential. The legal counselling and assistance provided by these legal activists was crucial to making sure that organisational progress would not be completely blocked by the companies' anti-trade union actions.

On 1 October 2018, a group of 53 platform workers met at the Autonomous City of Buenos Aires' Manuel Belgrano Square for the founding assembly of the Association of

Platform Workers (APP). On 3 October, the organisation appeared before the Ministry of Labour, Employment and Social Security, where it submitted a formal application for registration as a union with the Labour Department's National Office of Trade Union Associations.

The same day, after presenting its application for registration, the APP's secretary-general sent a formal note to the companies informing them of the establishment of the union organisation, the appointment of its interim governing institutions and its application for registration with the Labour Department. The same note specified the scope of the representation the APP intended to achieve and identified the members of its Executive Committee, stating their names, national identification numbers and the companies where they work, and asked the companies to refrain from taking retaliatory action or adopting discriminatory measures. Such proceedings are common when a union starts moving towards formal recognition to make sure that its representatives receive the protection afforded to associations. However, none of the companies acknowledged receipt of the notification, and Rappi immediately put an end to the ongoing informal dialogue with organised workers. In the ensuing weeks, the number of offers received by APP-affiliated workers started to diminish, a fact that was interpreted as an anti-union move on the part of the company. On 11 November, delivery riders went to Rappi's headquarters at Villa Crespo and requested a meeting with company managers. The trade union delegates were received by non-managerial staff for an improvised meeting in the entrance hall in the presence of four policemen and three other unidentified persons. At the beginning, workers asked for the policemen to be withdrawn, presented their demands and requested the establishment of a formal channel for dialogue. When their request to withdraw the police was rejected, workers accepted continuation of the meeting, but decided to film it. In response, company representatives assumed an intimidating demeanour, and the meeting came to an immediate end. A few hours later, members of the APP's Executive Committee were permanently blocked by the company. When one of the committee members requested an explanation from Rappi's technical support unit, he was informed that blocking had been ordered by the operations manager, and that he was »on a list«.

Rappi's blocking of the APP's entire Executive Committee had negative consequences for the development of the organisation at the associative level. On the one hand, the delegates' dismissal affected their relationship with the workers and their capacity to represent their demands vis-à-vis the company. On the other hand, the anti-union actions of the companies were also a means to discipline workers, given the companies' ability to identify individual activists and block them unilaterally without the possibility to appeal the measure. At present, the threat of being laid off (blocking) has a demobilising effect on the sector's workers. The capacity of platform companies to discipline and demobilise is based on their refusal to recognise the services offered by

workers as labour activity, thereby limiting access to labour rights and union protection.

All of this was possible due to the lack of public intervention to regulate the relationship between platform companies which require labour and their workers. Against this background, the APP adopted an offensive institutional strategy to achieve regulatory intervention by government authorities, appealing both to the labour courts and to the Ministry of Labour, Employment and Social Security. In both instances, the union filed complaints regarding two key issues affecting the sector's workers: (a) the nature of the employment relationship between platform companies and delivery riders, and (b) the right of workers to engage in trade union activities and to have union representation.

The dispute before the labour court

In response to the permanent blocking of workers who were members of the Executive Committee, the APP sought an injunction before a labour court requiring »RAPPI ARG. SAS to immediately cease its anti-union and discriminatory practices (cfr. Act 23.592, Art. 1) and to unblock access to its digital mobile application to allow their access to the digital platform to continue providing their delivery services«.¹⁶

The complaint filed by the APP denounces the unilateral modifications the company carried out with the algorithm for assigning tasks and the company's failure to comply with labour standards. In this connection, it is argued that unilateral control including the possibility to introduce modifications as the company sees fit and as indeed practised by the company with the help of the algorithm exceeds the management powers of an employer as recognised by Contract of Employment Law. The complaint then moves on to address the issue of qualification of the work-related link between the workers and the company based on the recognition of the claimants' status as trade union representatives and the activities they perform as part of the trade union organisation APP, and taking into account a number of arguments which »allow us to presume – at least, a priori – the existence of an employment relationship between RAPPI ARG. SAS and the undersigned«, which include, among other things, that the company is a platform dedicated to services for the delivery of goods, a business activity for which it receives a benefit, for which it exercises its powers as an employer to guide and control the persons who actually provide the service; that it uses a software application, based on which it contracts workers, assigns tasks, monitors workers' performance, receives its benefits and applies disciplinary measures which may include reductions in commissions paid, the non-assignment of orders and even the permanent blocking of a user, which in this case is equivalent to dismissal; that the company also uses a system of bonuses and sanctions to assign more deliveries

¹⁶ Judicial Power of Argentina, National Labour Tribunal of First Instance N° 37, file N° 46618/2018 »Rojas Luis Roger Miguel y otros c/ Rappi ARG SAS s/medida cautelar«, definitive interlocutory sentence N° 1141, Buenos Aires, 19 March 2019.

to workers with better scores according to the regularity of their provision of service.

The first instance ruling by the judge in charge accepted the injunction sought by the claimants and ordered Rappi »to cease, without delay, its anti-union conduct and to immediately unblock the claimants' access to its digital mobile application« so they could resume the provision of their services under the same conditions they had been subject to until the day of their dismissal.

It is worth analysing the judge's grounds for her decision. First, in her view the plausibility of the assertion that workers offered their services »on demand« according to the instructions of the platform had been demonstrated; »which, of course, does – by no means – imply making a judgment or taking a position regarding the merits of the dispute and, above all, the nature of the relationship between the parties.« Second, she highlights the administrative procedure of registering the APP as a union at the Argentine Ministry of Labour as proof of the claimants' union activity. Furthermore, she understands that the company had been notified about their appointment as union representatives, which gave them »special protection« (trade union rights). Finally, she confirms the existence of a permanent blocking against workers belonging to the Executive Committee and verifies the existence of an infringement of the freedom of association. In conclusion, the judge upholds the arguments supporting the injunction sought by APP workers.

Rappi appealed the ruling, challenged the first instance judge and refused to reintegrate the dismissed workers.¹⁷ On 19 July 2019, the National Appeal Chamber decided on the appeal submitted by Rappi deferring the decision about the injunction until the presentation of proof and instructing the judge to decide upon the substantive question, i.e. the existence of the work-related nature of their links. At the same time, it rejected the challenge the company had brought against the acting judge and reaffirmed the competence of the labour court system to decide the substantive question. Thus, the legal case turned from an injunction to an ordinary judicial file, in which the employment relationship had to be demonstrated. The first-instance judge upheld the fines ordered following non-compliance with the ruling and proceeded to address the substantive question.

At present, the case is at the stage of collecting evidence prior to the hearing of witnesses in court. It is possible that the company will be subject to examinations of its IT systems to obtain evidence regarding the history of working orders, payments realised and the day the claimants were blocked. It will also have to allow access to the mechanisms and the scope of its algorithmic management and supervision of workers (order assignment system, elaboration of the ranking, sanctions, etc.).

With respect to this issue, the court case will be particularly relevant to recognition of the rights of the sector's workers. This relevance goes beyond qualification of the employment relationship and includes recognition of platform workers' right to form a union and create a union body to represent them. From this perspective, a favourable decision would set an important precedent and turn this experience into a landmark case or a leading case in the development of case law.

The procedure of union registration

The application to register the APP as a trade union entity was submitted on 3 October 2018. Ever since, proceedings have been tedious, and the Ministry of Labour, Employment and Social Security's Office of Trade Union Affairs has not yet issued a decision. Analysis of the administrative treatment of the file, observations and objections by the competent authorities and the response by the workers' organisation offer some insight into the substantive conflict caused by the APP and the political nature of its struggle for recognition.

There was basically no news regarding the file for almost a year. As described in the foregoing, during this period the workers organised in the APP were harassed and sanctioned by Rappi, with the company blocking all members of the organisation's Executive Committee. The only element added to the file was an administrative report dated October 2018, in which the Office of Trade Union Affairs noted the absence of any proof of employer social security contributions by the platform companies where workers offer their services. This report served as the basis for its opinion one year later, in which it disputes the application submitted by the workers on the basis of Article 19 of Decree 467/88 regulating the Professional Associations Law (Law 23,551). This article stipulates that »the list of members must include their place of work. The enforcing authority may request proof that members actually work in the activity, occupation, profession, category or company which constitute the personal environment of the union association.« As a result, the impossibility of workers to prove their employment relationship with the platform companies has become the main obstacle against institutional recognition of the APP.

In its formal reply to the ministry's proceedings and its requirement to demonstrate the working relationship, the APP stresses the status of total informality, precariousness and lack of protection of the organisation's workers, as companies refuse to recognise that they manage the digital platforms. Once again, the APP explains that it is precisely due to a situation that makes it impossible to comply with the requirements of a system which denies the labour-based nature of the relationship that there is an urgent need for regulating intervention by the enforcing authority to ensure legal recognition of the APP as a first-level union entity.«

Such recognition would imply, on the one hand, that the State has intervened in defining the legal status of workers and classification of the employment relationship. But above all, it would imply that the APP is in a condition to perform union activities under the umbrella of a regulating framework which could protect it against companies' anti-union

¹⁷ The company's failure to comply with the court order resulted in an accumulated fine. Finally, the judge reaffirmed the company's obligation to pay this debt, which it subsequently did.

actions. The statement submitted by its legal counsel put special emphasis on this aspect by referring directly to the dismissal (definitive blocking of the application) of the members of the Executive Committee as the only response to the official notification of the union's foundation.

At this point it is important to note the institutional structure and the historical context in which the application for the registration of the APP as a union was submitted. Concerning the first aspect, it should be stressed that Argentina has a long-standing, robust trade union structure with a comparably high membership rate compared with the majority of countries in the region. The essential features of the union structure have developed on the basis of the institutional design, with the main contours and features being established in the 1940s and 1950s, during Peron's first and second presidency: granting union status to the trade unions with the most members, the prevalence of branch or professional unions over company-based unions, exclusive participation of unions with union status in collective bargaining, and the authority of the State to approve or contest collective bargaining agreements between unions and companies or the chambers representing them, and its authority to grant workers' organisations the status or their registration as unions (Marshall and Perelman, 2004).

The differences regarding the powers to intervene between unions with legal personality and unions which are simply registered go beyond their representation in collective bargaining and include legal protection of grass-roots representatives, the possibility to establish alternative income sources other than membership fees, and the management of their own social security institutions. However, a union's legal status does not necessarily affect its activity, as unions with a simple registration are allowed to collect membership fees, and they may file complaints against discriminatory treatment before a labour court when delegates are laid off.

State intervention in the years of the neoliberal, employer-friendly government of President Mauricio Macri (2015-2019) worked toward a reduction in the power of trade union associations through two channels: notifications of unions with little activity to »regularise« their situation, and refusal to register new unions. For example, during the first two years of the government's term, only 9 organisations were registered, compared to an average of 60 annual registrations during the period 2003/2015.¹⁸ Although the Ministry of Labour's refusal to register the APP was part of an official policy aimed at discouraging the creation of new unions, the administrative process included some unique features which shed light on the regulatory challenges the platform economy imposes.

The particular controversy with respect to the administrative file provides abundant material for the analysis of the institutional dimension of trade union power resources in the

context of the new challenges posed by the platform economy in general and, more specifically, that work-on-demand platforms impose. Recognition of the APP as a first-level union entity met with institutional obstacles at two fundamental levels: (a) at the structural level, with the regulatory framework not taking into account the specific, exceptional features of the predominant labour management model of on-demand labour platforms, and (b) at the circumstantial level, due to state interventions opposed to the extension of the space of worker representation.

In addition, the absence of union protection has heightened the vulnerability and lack of protection of the group and weakened its capacity to increase organisational density, carry out collective action and engage in a dialogue and negotiations with companies.

POWER RESOURCES FOR THE ORGANISATION OF WORKERS OF PLATFORMS THAT USE LABOUR: LESSONS LEARNT FROM THE APP

The power resources approach focuses on the capacity of trade union organisations to develop strategic actions in defence of the interests of workers (Schmalz, 2017). To this end, unions count on different resources and face various restrictions and challenges, depending on a number of factors. These include, among other things, the positions of workers in the production structure, the general situation of the labour market and the employment structure of a given business, the regulatory framework of the trade union activity, the level of workers' associational activities and possibilities to defend and forward their interests in public debates.

The above factors can be distinguished and grouped analytically as dimensions of trade union power: structural power, associational power, institutional power and societal power. All power resources are interconnected, so each of them affects power aggregation capacity in other spheres. However, there may be more or less favourable scenarios for power aggregation in each of the dimensions, or other ones in which a weakness in one sphere may be offset by strength of another. Therefore, the power resources approach proposes a relational, dynamic and history-oriented approach to analysing the evolution of trade union organisations. This perspective is also proposed as a tool to strengthen trade union action, starting from the empirical analysis of learning processes, achievements and setbacks generated by workers' organisational experiences.

For this reason, it will be particularly interesting to reconstruct the APP's process of inception and organisation, taking into account, above all, the novelty that platforms that make use of labour deny basically all workers the labour nature of the relationship and the right to organisation and collective action.

In the following sections we analyse the organisational process of the APP and identify the strategies it has pursued

¹⁸ For more information about the actions taken by the Ministry of Labour during this period, see Ventrici (2019).

to address both restrictions at the structural level and the management changes the company has carried out to increase its control and discipline of workers.

Structural power

Structural power refers to the position of wage-earners in the economic system and the kind of dependency relationships between the social partners of a company. This primary power resource is based on the possibility to interrupt or limit the benefits of capital through actions such as strikes, work stoppages, the occupation of production facilities, etc.

In the case of delivery platforms, the interruption of the production cycle may have adverse effects on companies due to the significance of the on-demand feature for the delivery business. As described in our investigation, when workers go on digital strike it causes orders to pile up rapidly, putting a substantial strain on the algorithms' capacity to ensure an adequate provision of service. What is even more important: Disruptive action has a negative impact on the relationship between companies and consumers, it affects companies' reputation, and it impacts their capacity to retain clients.

Within this context, the possibilities of workers to interfere with the cycle of capitalist accumulation depend on certain specific characteristics of the platform economy. One of these relates to the territorial decentralisation of the business and the fragmentation of the workforce. The majority of workers do not carry out their tasks on the company premises, which they visit on occasion when they need technical support. As noted in the foregoing, since 2018 these conditions have been intensifying as a consequence of two critical processes:

- a. *The intensification of algorithmic management and the technical subordination of work:* All delivery platforms have made successive changes in the operation of their *algorithm* with the aim of intensifying the technical subordination of workers to meet the fluctuating needs of *on-demand* delivery services. As has been explained, the changes which have been introduced (rankings, bonuses, disincentives and/or sanctions if orders are turned down, and disconnection) promote the atomisation of workers and impose permanent mobility on them, eliminate waiting and free times, while disrupting and impeding personal contacts between workers;
- b. *The exponential growth of business activity and the massive incorporation of workers:* Towards the middle of 2018, Rappi had less than 2000 workers; 500 of them worked during the hours of peak demand and had personal contacts among each other, as they shared spaces at crossroads and restaurants, and as compatriots who lived in the same neighbourhoods and buildings. At present, the company has about 13,000 active workers; however, it is difficult to specify how many workers operate within the city limits of Buenos Aires (CABA).

In addition, the limits on structural power aggregation of workers through exercising their production power are

associated with other labour market-related structural conditions and the characteristic features of employment in the platform business. Such conditions establish the *market power* of workers in terms of their position in the economy and the labour market. This position is characterised by precarious labour integration into a low-qualification business activity within a context of increasing unemployment, which has a much stronger impact on this group mainly made up of young people and migrants.

Besides this, greater job rotation may affect, to a certain extent, the organisation's capacity and the collective action of workers, although it has been shown that it is difficult to ascertain the precise scope of rotation in the business and between platforms. The interviews also drew attention to the existence of multi-platform work and rotation between platforms over time, a phenomenon which might well facilitate the emergence of a collective identity of workers employed in the business.

In any event, it has become clear that both the low entrance barriers of the activity and the excess of labour supply have a significant impact on the capacity to interrupt the production process, as there is a huge reserve army available to take orders that others reject. And, as a consequence of the opaque algorithmic management, workers are unaware of the possible effects that participating in a collective action might have on the allocation of orders and the rates they earn.

Leaving aside structure-related restrictions and strengths, the workers' capacity to carry out disruptive actions depends largely on their ability to organise structures that promote their interests, including union associations at different levels of representation and political parties.

Associational power

Traditionally, the unionisation rate has served as a relevant indicator of the power of union organisations, the willingness of workers to engage in collective action, and the representativeness of their leaders vis-à-vis the union rank and file (Perelman 2009). However, unionisation is a phenomenon of a varying nature and meaning depending on the socio-institutional context and the legal recognition of unions; in Argentina the second factor is decisive.¹⁹ Legally recognised union entities have tools at their disposal which strengthen the independence of their economic power from active membership levels and allow them to use these resources to create incentives to join the union. This situation is substantially different from that of workers' associations, which lack this status and, even worse, are not legally recognised as union organisations (Marshall y Perelman 2004).

¹⁹ High unionisation levels can reflect the efficacy of an administrative mechanism, while unionisation levels do not necessarily deny the existence of the capacity to organise and take collective action (Fregue and Kelly 2003).

In the initial phase of the APP, power aggregation concentrated on its associational capacity and willingness to engage in collective action on the part of a core group of workers, who led the process of demand aggregation and representation before the companies. As we have seen, the first actions were based on social relationships within the previous context of structural efforts to »boost the mass« of persons performing platform work. The capacity to associate was sustained by pre-existing networks and identities based on the shared migrant condition of workers. Public spaces for social interaction such as strategic meeting points, where numerous workers come together due to the concentration of businesses and, with this, a high demand for delivery services. Although such networks are still operational, the aggregation of associational power has been limited because the organisation has not been able to count on an institutional framework which would offer workers a minimum coverage to sustain their union actions without being subject to severe sanctions by the companies.

The foundation of the APP coincided with a unique window of opportunity, when workers were able to display highly relevant organisational capacities in a context of scarce material resources and in the absence of legal and institutional protection.

At an early stage, workers began to move towards the establishment of a collective space that would be capable of adopting their own strategy in union activities, including the organisation of assemblies, the execution of direct actions – strikes and mobilisations –, and the establishment of a trade union organisation with the ambition of being recognised as a first-level union entity.

On their way to forming a union, workers moved towards the institutionalisation of their organisation through a founding assembly which elected representatives, drew up and adopted statutes, and drafted a list of members, thereby complying with legal requirements regulating the registration of trade union associations. This associational capacity was strengthened due to access to cooperation networks which compensated for the organisation's lack of resources. As we have noted, during this process legal counselling and assistance provided by legal activists specialised in labour legislation and justice was of critical importance.

The decision to submit an urgent request for registration as a union organisation was defensive and resulted from the threat that Rappi might take retaliatory and anti-union measures. Against this background, the absence of a decision in favour of registration of the APP by the Ministry of Labour has left union activists without protection and created adverse consequences for the organisational process under their leadership. As a matter of fact, a month after constitution of the APP had been formalised, Rappi dismissed all the members of the Executive Committee. What is equally important: This action sends a disciplinary message to the other union members and all workers in the business.

Due to blocking by the platform, the members of the Executive Committee faced a serious constraint on their capacity to represent the group before the companies, but also in public and in the media. At the same time, the lack of organisational resources such as a strike fund meant that these union leaders had to assign priority to their daily reproduction. The interviews revealed, however, that they are still members of the organisation. But the blocking of APP representatives within a context of lacking legal guarantees and the total absence of protection against the companies had a deterrent effect on other workers who might have joined the organisation.

As a result, the APP's capacity to increase its associational power by strengthening its organisation both in terms of resources (integration of members, access to funding and infrastructure) and institutional and symbolic legitimacy in order to aggregate demands, promote interests and engage in a dialogue and negotiations with the companies was severely restricted. As has been explained, this happened in the context of strong transformations of working conditions and organisation. On the one hand, increased control and sanctioning mechanisms were put into place against the rejection of orders. On the other hand, both the expansion of the platforms to include new geographical regions, which led to an increased dispersal of workers, and a massive recruitment of new workers had a negative impact on the organisation's capacity to coordinate the demands and actions involving a major part of the group of workers. Against this background, the organisation's actions to achieve the recognition of platform workers' right to unionisation and guarantees against anti-union actions has been at the centre of a strategy to consolidate the organisational progress that had already been achieved previously and to reduce the worst disadvantages at the structural level which had been suffered under the new circumstances.

As part of these efforts to organise workers, in 2019 the Association of Platform Workers (APP) initiated the drafting of an application aimed at facilitating communication between the union and its members. The application is designed to upload news, documents and digital union membership as well as complaints and georeferenced alerts. Testing of the application by the first group of workers started at the beginning of 2020.

Institutional power

From the perspective of the power resources approach, institutional power refers to the capacity of workers to represent their interests within an existing institutional structure, but it also includes the capacity of organised workers to participate in the creation of new institutions which may be the result of their struggles and negotiations (Schmalz, 2017).

As we have seen, the platform workers who joined together to create the APP initially pursued a defensive strategy within the context of the intensifying conflict between workers and the company, Rappi. In the beginning, the APP's founding assembly and the application for registration as a union entity reflected the urgency of the need to obtain

guarantees and trade union protection. Therefore, the APP's desire to aggregate institutional power, i.e. to make use of institutions for its own purposes, results from the need to ensure the organisation's survival given the threat that the company will act to break up the union.

As explained in the foregoing, the quest for institutional guarantees by workers had to address the challenge posed by the absence of recognition of their labour activity and the union-like nature of their interventions. The tedious processing of the APP's application for registration as a union entity is proof of this challenge.

Within this context, the judicial strategy becomes essential in the aggregation process of institutional power. The court case brought by the APP contributes a new dimension to the dispute for institutional recognition because of the claim to a right of workers to set up a union organisation. It should be pointed out that unlike other court cases which deal with the nature of the contract between a company and a dismissed worker, the local court focuses on a collective right, such as the right to establish and join a union. This discussion has been possible because, unlike other cases in which workers have turned to the courts after their union had already come into existence, in this case they had already applied for registration as a union entity and notified the companies of their activity as union representatives – and, equally important, because they had been dismissed because of their union activity. As explained in the previous section, this fact was taken into account by the first instance ruling. However, the nature of the labour relationship between workers and the company still remains to be established. Interestingly enough, the ruling analysed already held that proof of trade union membership of workers laid off by the company would be understood as a recognition of an employment relationship. Therefore, the anti-union nature of the companies' actions are inextricably linked to denial of the employment nature of the relationship.

In summary, actions which had initially been of a defensive nature eventually turned into an offensive institutional strategy with the objective of forcing the State to recognise the union, obtain legal protection and extend the structure of opportunities for the aggregation of associational and structural power. The case also illustrates an innovative dual strategy, in which the struggle for recognition of the labour-based nature of the relationship has paved the way towards the recognition of a right to set up a union; at the same time, union registration and mobilisation in the name of freedom of association has been turned into an instrument for the recognition of the employment relationship.

Societal power

In their quest for visibility and social legitimacy, workers carried out an intense communication campaign with the aim of amplifying the impact of the »first strike of platform workers in the region« and making their working conditions and the nature of their demands visible. This campaign took place parallel to the actions taken at the level of internal organisation and state institutions. The presence in the media

and social networks had the aim of informing and raising awareness among the general public, but also among current and potential platform users and clients. As part of this effort to enhance visibility, workers who were APP members contacted and established links with academic institutions and research institutes, social affairs communicators in the national and local media, and representatives of trade unions and political parties. Thanks to these efforts, the conflict between workers organised in the APP and platform companies received extensive coverage by the national press and specialised media outlets. Furthermore, the visibility contributed to increasing the legitimacy of APP and its representatives among the group of workers. Currently, the organisation is receiving numerous questions as well as requests for contact and counselling by workers engaged in the platform activity.

The activism of workers and representatives of the organisation in the media and social networks have led to the questioning of the platform companies' business activities in our country. Lending visibility to employment conditions and the demands of workers have added a voice and a critical perspective to the image and the discourse of innovation, flexibility, autonomy and entrepreneurship displayed by the companies involved ever since they began operations. Currently, media coverage of the platform business tends to include the dimension of tendency for labour conflict, although such coverage may be limited to questioning whether workers are really self-employed. In the area of academic studies and research, there is now an increased interest in the problem, while numerous efforts are being made to generate data and information to characterise and analyse digital platform employment and the associated debates.²⁰

Specific actions carried out by the APP include marches by workers and representatives of social movements to the Ministry of Labour in support of the APP's application for registration as a union entity, presentation of the organisation's governing institutions in the media, publication of articles and interviews in newspapers and other media, and the production of audio-visual material. Finally, the organisation publishes regular updates on the latest labour, business and political and legislative developments. All of these actions have contributed to raising awareness among a number of users with regard to the working conditions faced by delivery workers, or have at least added to their visibility.

²⁰ Examples include, among other things, the research carried out by Madariaga et. al (2019), the investigations about employment in delivery platforms realised by the ILO (not yet published) and ECLAC (2020), and the inclusion of the problem in academic forums and seminars by institutions such as ASET, Flacso, Torcuato Di Tella University, and UNGS.

CONCLUSION

This study has analysed the organisation process of the APP, the region's first union for platform workers, within its varying contexts since the establishment of so-called »delivery platforms« down to the present. Based on various sources, we have reconstructed the actions and strategies of the workers who established the APP and are seeking to achieve recognition along two main dimensions: the right of platform workers to associate and set up a union, and the employment nature of the relationship with platform companies.

Throughout our research we have tried to highlight a number of factors which make the APP a relevant and, at the same time, exceptional case.

In the first place, the APP constitutes the organisational response of workers who are affected by the new employment modalities linked to the development of e-business within the context of the »legal void« and denial of labour rights to basically the entire group of workers. Without a doubt, the decline of labour contracts as the organising principle underlying this business activity is a new resource which is related to employers' practices of outsourcing risks and adjusting costs. Therefore, this situation adds value to the APP's experience, as it is not locally limited. Instead it implies serious challenges to platform workers at the international level as a consequence of the dearth of regulatory frameworks for platform economies in most countries.

Second, the union organisation emerged at an early stage as part of the associational effort and the realisation of direct actions by workers within the exceptional context which platform business activity offered in its initial phase, before its expansion and move towards mass levels. As we have seen, the APP initially emerged as a defensive response to the blocking (dismissal) of a union activist and the threat to intensify the level of punishment and sanctions against workers who had participated in the first digital strike and who had acted as spokespersons of the workers vis-à-vis the company where the conflict had begun.

Within this particular context, the APP has tried to turn an exception into a virtue, as it decided to adopt an offensive institutional strategy with the aim of »forcing« state authorities to adopt regulatory action. This approach seeks to overcome the structural limitations workers engaging in this business activity have to confront through their recognition and coverage by the guarantees and protective mechanisms of Argentine labour law.

At present, the dispute that has been initiated by the APP before the labour courts and before the Ministry of Labour remains unresolved, and this dispute will decide upon the recognition of the group of workers who offer their services to platforms at two levels: their status as workers who are linked to the companies, and their right to set up a union organisation.

In our opinion, it needs to be stressed that the discussion about the right to associate has broader implications beyond the activity itself. On the one hand, recognition of this right would establish a fundamental precedent in the context of the breath-taking transformations that the production system and labour relations are currently going through, including progress in technological intermediation, dispersal of the labour force, and the emergence of »atypical forms of work«.

On the other hand, given the negative impact of the processes which we referred to relating to the organisation's capacities, the aggregation of demands, the representation of interests in other forms of employment, and the case of the APP might offer a model for the design of new forms of trade union organisation and action with a view to the revitalisation of trade unionism.

BIBLIOGRAPHY

Berg, Janine; Furrer, Marianne; Harmon, Elli; Rani, Uma, y Silberman, M. Siix. 2018. «Digital labour platforms and the future of work. Towards Decent Work in the Online World». *ILO Report*.

Del Bono, Andrea. 2018. «El trabajo en las plataformas digitales: los riesgos de la uberización del empleo en tiempos de crisis». *Nodal*.

ECLAC, 2020 «Los trabajadores de plataforma y su regulación en Argentina», documento de proyecto. Goldin, A. https://repositorio.cepal.org/bitstream/handle/11362/45614/1/S2000322_es.pdf

Eurofound. 2018. «Employment and working conditions of selected types of platform work». Publications Office of the European Union, Luxemburg.

Frege, Carola, and Kelly, John. 2003. «Union revitalization strategies in comparative perspective». *European Journal of Industrial Relations*, 9 (1).

Gullo, Emiliano. 2018. «Capitalismo con tracción a sangre». *Revista Anfibia*, September 2018.

ILO. 2018. «Informality and non-standard forms of employment», G20 Employment Working Group meeting, February.

ILO. 2018. «La calidad del trabajo en la economía de plataformas», February 2018.

ILO. 2019. *Trabajar para un futuro más prometedor. Comisión Mundial sobre el futuro del trabajo.* Geneva: ILO.

ILO. 2017. «Trabajar en cualquier momento y en cualquier lugar: consecuencias en el ámbito laboral», February.

ILO. 2019. «Declaración del Centenario de la Organización Internacional del Trabajo.»

INDEC. 2013. «Encuesta sobre trabajo remunerado y uso del tiempo. Tercer trimestre 2013».

L20 Statement to the G20 Labour and employment Ministers Meeting Mendoza, Argentina, 6-7 September 2018.

Madariaga, Javier; Buenadicha, César; Molina, Erika, and Ernst, Christoph. 2019. «Economía de plataformas y empleo ¿Cómo es trabajar para una app en Argentina?». CIPPEC-IADB-ILO. Buenos Aires, 2019.

Marshall, Adriana, and Perelman, Laura. 2004. «Sindicalización: Incentivos en la normativa socio-laboral». *Cuadernos del IDES*, No. 4, August.

Ministry of Economy and Production. 2020. «Las brechas de género en Argentina. Estado de situación y desafíos».

OECD. 2019. «*OECD Employment Outlook 2019: The Future of Work.*»

O'Farrell, Juan. 2019. «El capitalismo de plataformas, ¿una nueva burbuja financiera?». *La Nación*, 5 May 2019.

O'Farrell, Juan; Ottaviano, Juan Manuel. 2018. «Menos desocupación y más precariedad». *Página 12*, 2 April 2018.

Ottaviano, J.M.; O'Farrell, J. and Maito, M. 2019. «Organización sindical de trabajadores de plataformas digitales y criterios para el diseño de políticas públicas». Análisis / Friedrich Ebert Stiftung Argentina, 49. Buenos Aires: Friedrich Ebert Foundation.

Perelman, Laura. 2009. «Sindicalización y motivaciones individuales.» Paper presented at the National Congress of Labour Studies, 5 to 9 August 2009, Buenos Aires.

Perelman, Laura. 2019. «Fotodelivery en tiempos de plataformas.» *Cohete a la luna*.

Scasserra, Sofia. 2019. «El despotismo de los algoritmos. Cómo regular el empleo de las plataformas.» *Revista Nueva Sociedad*, January/February 2019.

Schmalz, Stefan. 2017. «Los recursos de poder para la transformación sindical.» *Revista Nueva Sociedad*, October 2017.

Serrano Olivares, Raquel. 2017. «Nuevas formas de organización empresarial: Economía Colaborativa –o mejor, economía digital a demanda–, trabajo 3.0, laboralidad». In *Economía colaborativa y trabajo en plataformas: realidades y desafíos*, edited by Miguel Rodríguez et. al. Albacete: Bomarzo.

Srnicek, Nick. 2018. *Capitalismo de plataformas.* Buenos Aires: Caja Negra.

Ventrici, Patricia. 2009. «Estado y sindicatos en el retorno neoliberal. Una caracterización de algunos ejes estratégicos de la gestión del (ex) Ministerio de Trabajo». Paper presented at the 14th National Congress of Labour Studies, 7 to 9 August 2019, Buenos Aires.

ABOUT THE AUTHORS

Laura Perelman holds a degree in Sociology (University of Buenos Aires) and a MA in Political Science (University of San Martín). She is a researcher at the Center of Social Research of the Institute of Economic and Social Development (IDES) and an advisor on labour issues of the Ministry of Labour, Employment and Social Security of Argentina. Her research specializes on the labour market, collective bargaining, the reorganisation of production and outsourcing and work on demand based on digital platforms.

Marcelo Mangini has a degree in International Studies and a MA in Political Science (Torcuato Di Tella University). He is a senior analyst of the Ministry of Labour, Employment and Social Security of Argentina.

Bárbara Perrot holds a degree in Economics (University of Buenos Aires) and a MA in International Economics and Regulation (University of Paris 13). She works as a specialist on labour market issues with the Division of Labour Studies at the Ministry of Labour, Employment and Social Security of Argentina.

María Belén Fierro is the assistant secretary of the Association of Platform Workers. She is a degree student in Medical Laboratory Analysis (Higher Institute of Health Studies).

Martina Sol Garbarz is a lawyer (University of Buenos Aires). She holds a postgraduate degree in Political Communication of the Latin American Faculty of Social Science (FLACSO) and has specialized on data journalism and visualisation (University of Texas). She works as an editor with the communication outlet El Cohete a la Luna. Member of the Center for Legal and Social Studies (CELS).

IMPRINT

Friedrich-Ebert-Stiftung | Global Policy and Development
Hiroshimastr. 28 | 10785 Berlin | Germany

Responsible:
Mirko Herberg | International Trade Union Policy
Phone: +49-30-269-35-7458 | Fax: +49-30-269-35-9255

www.fes.de/gewerkschaften

To order publications:

Julia.Schultz@fes.de

Commercial use of all media published by the Friedrich-Ebert-Stiftung (FES) is not permitted without the written consent of the FES.

PROUDLY DELIVERED BY APP

The struggle of Latin America's first union for platform workers



The article analyses the rise and establishment of the Argentinian Association of Platform Workers (APP), the first union of platform workers in the region, within the context of the establishment and expansion of the most important companies that are now in control of the domestic market. The investigation also reconstructs the conflict between workers and companies, so as to shed light on the workers' strategies and actions of power accumulation in changing contexts. In terms of associational power, the article analyses the particular characteristics of this group of workers and the forms labour has been organised in the sector, including the development of an app designed to serve the organisa-



tional purposes of the union. In the field of structural power, it points out that the interruption of the work cycle with the help of a digital strike interferes with service provision and affects the relation between companies and clients and impacts the companies' reputation and capacity to build customer loyalty, although it recognises that the realisation of such measures has to overcome serious difficulties. As to societal power, the article stresses that workers rolled out an intensive campaign in the media and social networks to amplify – vis-à-vis the general public and consumers – the impacts of the "first strike of platform workers in the region" and to create visibility for their working conditions and the na-



ture of their demands. In terms of institutional power, after the companies' first attempt to dismantle the APP, the organisation rolled out an offensive strategy at the institutional level with the aim to oblige state authorities to introduce the regulatory intervention needed to overcome the structural limitations platform workers have to face through the organisation's recognition and its coverage by the guarantees and protection mechanisms of the Argentinian labour law. At present, the action brought by the APP has not yet been resolved, neither by the labour courts nor by the Ministry of Labour of Argentina.

For further information on this topic:
<https://www.fes.de/lnk/transform>