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FUTURE OF WORK(ERS) RESEARCH PROJECT

ON-DEMAND PLATFORM WORKERS IN COLOMBIA: A LABOUR RELATIONSHIP IN DISGUISE

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About the author

Dr Juana Torres Cierpe has worked during 2020 as a consultant for the International Transport Workers' Federation. She holds a bachelor's in sociology from the Universidad de Chile; an MA in sociology from EHESS in France, a master's in Labour Policies and Globalisation from Kassel University; and a PhD in political sciences from Kassel University. She has more than five years of consulting experience, having previously worked for organisations such as the United Nations Development Programme, the United Nations Economic Commission for Latin America and the Caribbean and the Food and Agriculture Organisation.

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The Southern Centre for Inequality Studies (SCIS) is the first research institute of its kind in the global South. It draws on the intellectual resources of the University of the Witwatersrand and partner institutions in South Africa and beyond, to host an interdisciplinary research and policy project focused on understanding and addressing inequality in the global South. Research foci include wealth inequality, black economic empowerment, the gender pay gap, Covid-19 and the future of work(ers). The Future of Work(ers) research project explores how digital technologies are reshaping the world of work and the impact of these changes on inequality. The project defines work broadly to include both productive and reproductive activities in the formal and informal economy. It conceives of the development and application of digital technologies as a contested terrain. It is particularly interested in how collectives of workers shape what digital technologies are developed, how and to what end; and the economic and social policies that have been leveraged in response. In order to capture the diversity of the global South the project has selected the following case countries: Colombia, Ethiopia, India, Mozambique and South Africa.

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Abstract

This article is a study on the future of digital work in Colombia. It focuses on the case of workers in on-demand platforms, as they are the workforce most relevant to the notion of digital labour in the country. The research question was: What are the stakes of the legal vacuum in which on-demand platform workers find themselves? The methodological approach in the research paper consisted of analysis of secondary data (statistics and academic journal articles). The article consists of two parts. Part one gives an account of the labour changes of the past 30 years. These changes are analysed within the framework of neoliberal implementation, emphasising the phenomenon of informality. Part two concentrates on showing the situation of workers in the on-demand platform in Colombia. The problem of informality, into which this type of worker falls, is taken as an essential phenomenon. The section first shows a typology of the platforms operating in the country, where the on-demand platform workers perform. It then explores the implications of the legal vacuum that their situation involves. Finally, it analyses some studies that provide specific data regarding on-demand platform workers.

Keywords: Colombia, digital labour, neoliberalism, informality, on-demand platform workers.

Introduction

This article explores the subject of digitalisation and the future of labour in Colombia by focusing on the specific conditions of app workers – recognised in this article under the notion of the on-demand platform economy (which includes services such as delivery, messaging and transport).[1] A study carried out at Fedesarrollo[2] by Fernández and Benavides (2020) shows that the most significant presence in the Colombian labour market is the workers performing tasks through on-demand platforms such Uber, Rappi, Cabify, *Mensajeros Urbanos*, and so on.

This study aims to explore the legal vacuum in which on-demand platform workers find themselves in Colombia and the consequences of this. The first step to address this issue is to understand the notion of digital labour, coined by the Italian scholar Antonio Casilli. According to him, 'digital labour designates value-adding activities performed by humans on internet platforms. As a field of study, it focuses on circumstances where employer-employee relationships and modes of remuneration are superseded' (Casilli, 2017:3934). His definition highlights the production of value that all digital interactions involve. According to Casilli, the appearance of digital labour as a field of study is a criticism of the appropriation of user-generated content, which

ends up feeding the profits of the digital industries. It is also a complaint about the increasing precariousness that content producers face in the marketing of their contributions (Casilli, 2015).

Casilli defines digital platforms as 'coordinating mechanisms that match supply and demand by algorithmically arbitrating the interests of multiple constituencies' (Casilli, 2017:3935). The algorithmic aspect of these applications is a crucial point for understanding the lack of autonomy these workers experience in their daily performance. For Lozano and Reilly (2018), the algorithmic functioning explains why on-demand platform workers are not within the spectrum of independent work. Indeed, it forces them to perform duties, which escapes the logic of a self-employed worker (Lozano and Reilly, 2018). Casilli points out that the concept of digital labour addresses four areas that give rise to a typology of analysis: on-demand platforms, microwork platforms, online social platforms and smart platforms.[3] In the case of on-demand platforms, they connect customers to independent providers of goods or services via mobile applications and portals to allocate material and information resources in real-time (Casilli, 2017).

Casilli develops important arguments that allow understanding of the problem of digital labour at a global level, but not necessarily within national frameworks. This point is interesting for addressing a form of work that transcends borders and promotes what workers in the digital world have in common regardless of the differentiation between Western and non-Western countries. An essential goal of the digital labour perspective is, paraphrasing the author, *making invisible productive activities visible*. To address this idea of non-boundary labour, Casilli brings up the concept of coloniality, which opposes the former concept of colonialism. While the latter alludes to the sovereignty exercised by an empire over a colony, coloniality refers to long-standing models of power that are the result of colonialism. However, it is a concept that defines aspects such as culture, inter-subjective relations, labour, or the production of knowledge far beyond the limits of colonial administrations (Casilli, 2017). In this way, problems based on the interaction of gender, race and work are recognised as characteristic of Western and non-Western platforms. Digital labour represents a universal workforce dynamic, where race and gender differences play out on a global scale, naturalising the exploitation of low paid and unpaid users (Casilli, 2017).

How does this theoretical framework of digital labour interact with Colombian reality? Colombia is a country marked by enormous social and economic contrasts. High rates of poverty, informality and unemployment coexist in this territory, within the framework of high economic growth and technological advances. The country is marked by violence, forced displacements and a policy of militarisation, together with a recognised democracy; it's history is marked by the absence of

military coups and the promulgation of a constituent constitution in 1991 (a unique process in the region). Colombia is characterised by constant respect for their election processes, but with little alternation in power, as two right-wing parties (or their factions) have governed from 1957 to date. It is a country with significant development of information communication technologies, with strong legislation that accompanies and promotes them, but with a legal vacuum in the rights of platform workers. Therefore, this type of worker normally is counted in the country's informal figures, deprived of all labour rights.

It is essential to know the national context – focusing on the Colombian labour market – to address the legal vacuum faced by on-demand platform workers in Colombia. Knowing the Colombian labour market provides an insight into the problem of informality in this country. This article shows how informality strongly affects these workers. Furthermore, the status to which these workers have access (self-employed workers) has a substantial impact on the legal vacuum in which they carry out their job.

The structure of this article consists of two parts. The first section of the article seeks to give an account of the context that preceded the situation of the on-demand platform workers. This background relates to the labour transformations experienced during the 1990s and 2000s, within the implementation of neoliberal measures. This part aims to show that labour market flexibility promotes informality in the country. According to Fedesarrollo, most workers on the on-demand platform are self-employed or informal workers – and the former often fall into the informal category (Fernández and Benavides, 2020). It therefore highlights labour transformations over the past 30 years, placing particular emphasis on those aspects that have stimulated – or at least not stopped – the informality phenomenon.

The second section, which addresses the specific problem of on-demand platform workers, is divided into three sub-sections. First, it presents a typology of on-demand platform workers in Colombia, based on Casilli's classification. Second, it considers why people working for on-demand platforms are in a legal vacuum (which in turn is linked to their situation of informality). It explains the legal vacuum through the notion of a *zone grise* (grey area), coined by Alain Supiot (2019). Through this concept, the author describes a space between the salaried and the independent labour status. It is an area which presents a relationship of non-recognised subordination. Also, based on Honeth's theory, it discusses the problem of non-recognition that these workers suffer, by not being identified as such. Finally, it reviews some studies that provide factual data about these workers. Despite the scarcity of investigations, it is possible to carry out a

general overview of their situation. Finally, the article concludes with a reflection on the future of labour in Colombia, concentrating on the case of on-demand platform workers.

Transformations in the labour market after 1990: neoliberalism does not stop informality

Neoliberalism in Latin America began to impose itself in the 1980s when the previous economic model based on import substitution began to decline. The public debt in each country increased, and the Washington Consensus started to gain ground; its primary goal was to reduce the external debt of the region. Its economic policy measures included privatisation, deregulation, liberalisation and decentralisation, among others. However, although the reforms were economic, the transformation in the countries was political (Quijano, 2004). In this sense, the role of the state is crucial and explains why dictatorships are essential to the neoliberalism implantation in the region. They managed to eradicate any political project that had the state as an object, putting it indefinitely in a permanent 'state of siege' (Victoriano, 2010).

In Colombia, the path towards neoliberalism also opened in the 1980s. However, it did so by distinguishing itself in some respects from its neighbouring countries. During the 60s and 70s, while the neighbouring countries signed their first agreements with the IMF under dictatorships, Colombia did so during a period of considerable political stability (Bushnell, 1996). The coalition that ended the last Colombian dictatorship in 1957, the National Front, governed the country until 1978, with power alternating between two parties from the right-wing, the liberal and the conservative. Since then, Colombia has been governed by one of these parties or by factions of them. David Bushnell notes, 'The forces that ended the dictatorship remained united, with such success that Colombian politics became almost boring'[4] (Bushnell, 1996:305).

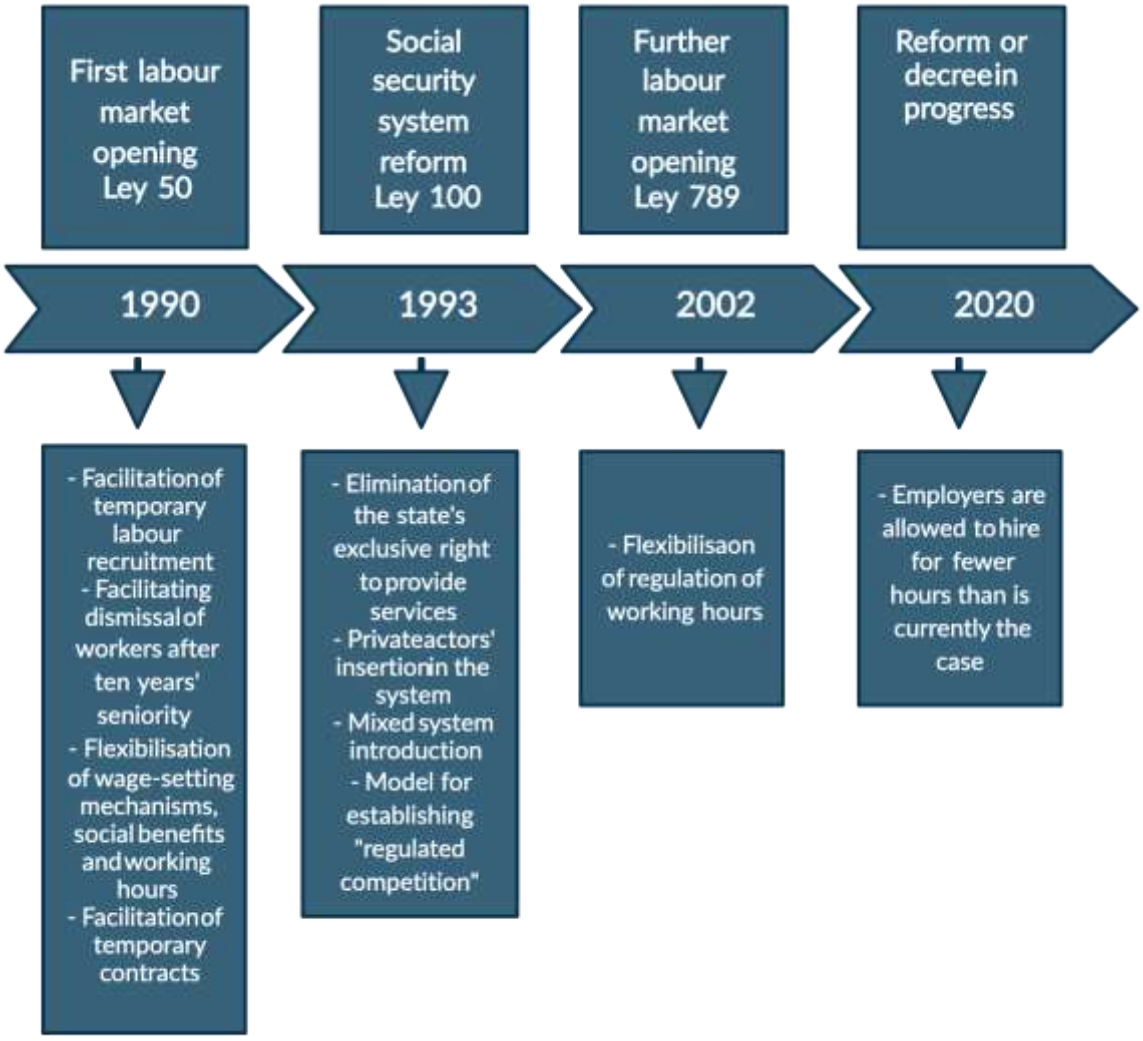
Several authors agree that the establishment of neoliberalism in Colombia took place in the early 1990s, under the mandate of the liberal César Gaviria (in office from 1990 to 1994). The new president promoted a constituent assembly to achieve an agreed exit from the late-1980s economic crisis. As a result, in 1991, the government established a new Carta Magna, a product of a democratic process, that showed yet another of Colombia's particularities in the Latin American neoliberal scenario (Estrada, 2006).

The new constitution combines two different ideological trends: societal democratisation and economic opening of Colombia (Castaño, 2002; Estrada, 2006). Beyond the democratic origin of this new Carta Magna, the course of the 1990s shows that the global market's international opening prevailed over democratisation. In Estrada's opinion, 'The constitutional texture of the regulations

on what could be defined as an economic system was sufficiently broad to allow the legal development of a neoliberal economic model'[5] (Estrada, 2006:210).

From the 1990s to the present, Colombia has implemented three relevant labour market reforms. Two of these changes were carried out during the 1990s and one in the 2000s. Currently, the government of Iván Duque is discussing a new labour transformation. **Figure 1** is a summary of the modifications of the labour market in Colombia during the past 30 years.

Figure 1: *Chronology of legislative transformations in the labour world in Colombia*



Source: Author's

The first reform dates back to 1990 (Ley 50) and aims to make the labour market more flexible by removing its rigidities.[6] Gaviria made the hiring regime and wage-setting mechanisms more flexible, making the contract cheaper and facilitating layoffs. He also encouraged temporary employment (Farné and Nupia, 1996; Estrada, 2006). According to Guevara, there were two trends

resulting from this reform. On the one hand, it promoted the reduction of working time, with a corresponding decrease in income. On the other hand, it aimed to redistribute workers' income (Guevara, 2003). Among the positive aspects of this law are the increase in maternity protection and the encouragement of the formation of trade unions (although with a very low quorum).

The next reform, in the 90s, affected workers directly. It occurred under Gaviria administration in 1993 and aimed to change the social security system. This reform was known as Ley 100 and introduced a dual system of social security. Under this system, there is a public scheme, based on the principle of solidarity, and another one founded on individual savings and administered by private financial institutions.

However, Arrieta (2011) sees shortcomings in both systems. Concerning the public scheme, the author notes that there is an imbalance in distribution that ends up benefiting people with higher incomes. Furthermore, there has been a high rate of disaffiliation because of unemployment and contributors' flight to the private system (Arrieta, 2011). Regarding the personal savings system, Arrieta notes that there is no redistribution of the resources generated over time among its members but imbalances between the contributors with the highest income and those with the lowest. Additionally, Arrieta points out that the solidarity contribution generated by this fund is practically insignificant[7] (Arrieta, 2011). Thus, the reform of the contributions system did not eradicate poverty or reduce inequality. Both factors play a crucial role in the phenomenon of informality in Colombia.

After the end of the 1990s, the neoliberal reforms implemented by the Colombian governments had not produced the expected results. Social indicators in the nineties showed two trends that went in different directions. On the one hand, there was an increase in the concentration of income distribution, a decrease in poverty in urban areas, and an increase in poverty in rural areas. On the other hand, there was a significant increase in access to social services for the poorest, especially in rural areas (Sánchez and Núñez, 1999:167).[8] One of the aspects that explains better access to social services is the policy of targeting, where the state assists the most vulnerable sectors. This policy does not necessarily guarantee social rights provision as a universal right, but rather that it is a matter of targeted assistance (Barozet and Espinoza, 2016).

The decade of the 90s ended with a significant economic recession. The Pastrana government (1998-2002) finished with an increase in poverty and unemployment, a rise in the fiscal deficit and a resurgence of war (Estrada, 2006). According to Estrada, 'the 1990s growth [was] associated with an increase in the household's indebtedness (housing and consumption loans), entrepreneurs

(investments in innovation or speculation) and the state (financing of the fiscal deficit). The above would have generated a kind of prosperity in debt"[9] (Estrada, 2006:267). However, faced with this scenario, the Colombian elite did not question neoliberalism as the cause of the country's socio-economic problems. On the contrary, their analysis claimed that Colombia's problems were due to the softness of the neoliberal reforms implemented at the beginning of the decade[10] (Estrada, 2006).

In this scenario, Alvaro Uribe's administration implemented a third reform in the labour market at the beginning of the 2000s. 'This reform made labour contracts more flexible, eliminated overtime pay and cut extra payments for Sundays and public holidays for workers; it imposed a public sector adjustment policy below inflation"[11] (Nieto, 2011:128)

Currently, the government of Iván Duque is scrutinizing further labour reform, which his administration intends to approve in 2021. The discussion about this new reform has generated resentment in Colombian society because it seeks to lower the price of employment as the remedy that Duque proposes to end informality. It aims to make it possible for people who do not reach a minimum wage to do so by allowing employers to hire for less than the statutory working time. The debate raises the question of whether this is labour reform in disguise. According to Duque's administration, this is not a reform but a decree that encourages recruitment. However, the economist Jairo Guillermo Isaza Castro observes that this new decree may encourage hiring for short hours and, therefore, for a lower salary (Vanguardia, 2020). On the other hand, workers will have to live on wages below a minimum wage and, moreover, in even more unstable conditions than in the past: there would no longer be any duration or income restrictions on hiring.

The labour scenario of the past 30 years has not managed to curb the high levels of informality in the country. The central driver of these transformations has been the reduction in the cost of the payroll. These measures are beneficial for enterprises, in that they allow the hiring of low-cost labour. Colombia has therefore cultivated an ideal terrain over the past 30 years for the proliferation of on-demand platform workers. Companies that make use of this type of work encourage labour informality. They evade taxes, do not pay social contributions to their workers and establish disguised employment relationships. For this reason, this section discusses, in depth, the phenomenon of informality in Colombia, to frame the subsequent discussion about the situation of on-demand platform workers Colombia.

Informality in Colombia: a scenario for the proliferation of on-demand platforms workers

The phenomenon of informality plays an essential role in understanding the Colombian labour market and the situation of on-demand platform workers. Informality is a recurrent category into which on-demand workers regularly fall.

Among the many factors that explain informality in the country, poverty is one, and is related to the relationship between the countryside and cities. Indeed, Colombia is a country that never had a real agrarian reform (Estrada, 2006), which is why there has never been an adequate distribution of land in the countryside (Jiménez, 2009 Nieto, 2011). Besides, armed conflict played a vital role in the links amongst poverty, informality and forced displacement. The groups that participated in this conflict were extreme left-wing forces (guerrillas), paramilitaries and drug traffickers. According to Nieto, the problem that these armed groups brought with them was the existence of a permanent war that favoured the traditional landowner structure. 'The rural nature of the Colombian conflict means that almost all displaced households came from rural areas and were engaged in agricultural work'[12] (Ibáñez and Velázquez, 2008:5). Upon arrival in the cities, where industrial employment exists, people found that they did not have the specific qualifications for such employment (Ibáñez and Velázquez, 2008).

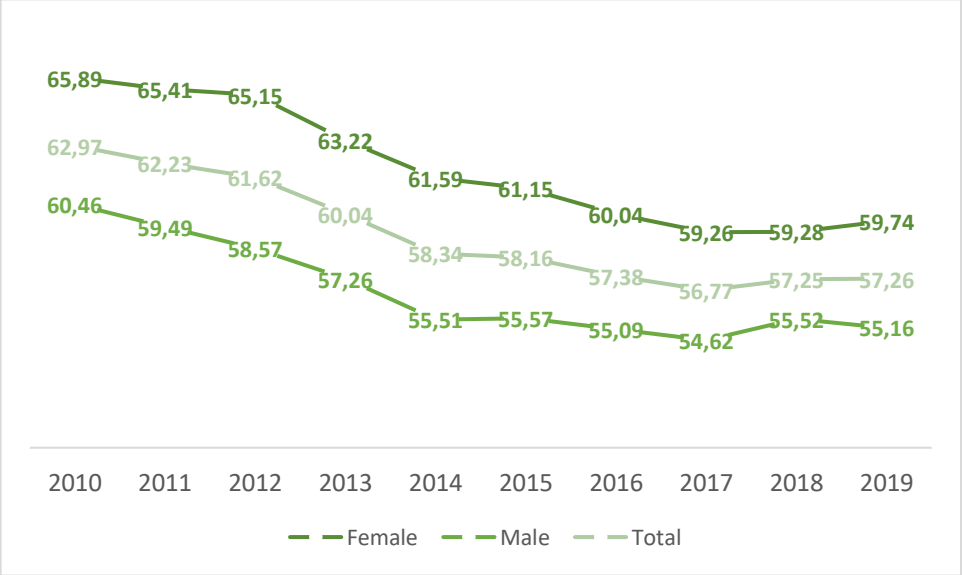
The problem of displacement due to armed conflict was born decades ago, before the implementation of neoliberalism. However, it is a phenomenon that the Colombian governments have not managed to eradicate during the past 30 years. There are even authors who indicate that the state has increased the levels of violence since 2000. From Pastrana's presidency (1998 to 2020) onwards, the United States developed a strategy of intervention in Colombia – Plan Colombia – through which it promoted a military policy against drug trafficking[13] (Tejedor, 2012). This plan complements the Democratic Security policy (*Seguridad Democrática)* initiated by Uribe (2002 to 2010) and continued by Santos (2010 to 2018), which extends the military approach to guerrillas and paramilitary groups (Nieto, 2011). Both administrations assumed that there was a terrorist threat instead of internal armed conflict in Colombia. For Nieto, Colombia was the only country where the two hegemonic elements of the current world order combined: neoliberalism and war, what he calls in his own words *neoliberalismo armado* (Nieto, 2011) – armed neoliberalism. Thus, forced displacement movements did not stop; people forced to leave the countryside and work in the city are a phenomenon that accompanies the country until today.

The constitution of 1991 established that, to be able to contribute to the social security system, people must access at least one minimum salary. An expert in economics belonging to the

Colombian study centre, Fedesarrollo, pointed out to me that there are at least three elements that explain informality in Colombia. First is the existence of a significant number of workers who do not earn a minimum wage. The recent phenomenon of immigration has contributed to increasing informality, whether it is immigration from other countries (mainly Venezuela) or from the countryside. A second element considered by the expert is the existence of informal companies in the Colombian market. This type of company accounts for around 50% of the total (Fernández, 2018). The existence of independent worker status is the third element that the expert considered to be an influential factor in the phenomenon of informality (expert interview, 2020).

Independent workers in Colombia must pay contributions if they reach the minimum wage. However, this does not always result in independent workers earning a minimum salary and not falling into informality (expert interview, 2020). **Figure 2** below shows recent trends in informality in Colombia.

Figure 2: *Informality rate in Colombia,. 2010 to /2019 (*% of working age population)

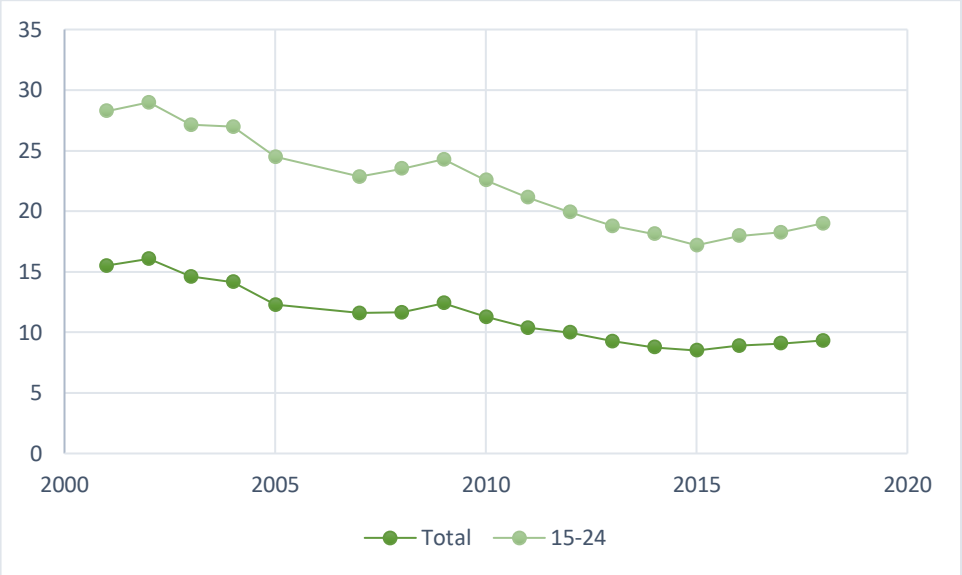


Source: ILO data base Collection and SDG labour market indicators

The figure above shows that the rate of informality in Colombia has been high during the past ten years, and remains around 60%. However, there are two phenomena to note. On the one hand, the rate of informality is higher among women than among men. According to Ochoa and Ordoñez (2004), women in Colombia tend to work outside the home to supplement the family income. However, they do this by combining it with domestic work (Ochoa and Ordoñez, 2004). Therefore, women tend - or can afford - to look for more flexible jobs in terms of hours. On the other hand, there has been a significant decrease in informality for both men and women since 2012. Concerning the second phenomenon, it is necessary to point out the tax reform of 2012

that consisted of reducing payroll costs to companies by making the contract cheaper (Expert interview). According to the *Banco de la República* report, 'After the post-reform period, some firms were released from payment of up to 13.5% of the total payroll' (Romero, 2016).

Figure 3: *Unemployment as a % of total population over 15 and among young people (15–24), 2000 to 2020*



Source: ILO data base, Collection: SDG, Collection: ILOEST (ILO modelled estimates)

Another phenomenon that accompanies and increases informality is unemployment. As can be seen in the graph, unemployment is falling for both young people and the total population. In 2001, the unemployment rate for the whole population was 15.49% and for young people it was 28.27%. At the end of the period, in the year 2019, the unemployment rate reached 10.2% for the total population, while for young people it has fallen to 20.41%. One element that explains the high levels of unemployment in Colombia at the beginning of this period is the economic recession at the end of the 1990s. The decline in these trends over the last decade seems to be explained by the tax reform of 2012, which reduced the payroll for enterprises. Despite the above, the high level of unemployment among young people is a fact to consider, since they are likely to enter into the digital economy quickly and, therefore, into informality. To the above, one must add the high percentages of young people who are not engaged in any activity (not in education, employment or training).

Table 1: *Proportion of youth (aged 15-24 years) not in education, employment or training, 2015 to 2019 (%)*

Year	Female	Male	Total
2015	29.87	12.03	**20.94**
2016	29.24	12.75	**20.98**
2017	30.28	13.3	**21.78**
2018	31.07	14.14	**22.59**
2019	32.37	15.55	**23.95**

Source: ILO data base- Collection: SDG -- Collection: ILOEST -- ILO modelled estimates (ILOEST)

Table 1 above shows that the trend of young people having no ties to any activity has increased in recent years. Although the trend is a more significant among women than among men, the total is alarming, as this is a population that is more likely to engage in the digital economy.

The last fact suggest for analysis in the informality phenomenon in Colombia is that of the self-employed worker. As noted, a significant proportion of informal workers have this status. While not all of these workers fall into informality, they are an essential component of the digital workforce. **Table 2** below shows trends in the status of workers.

Table 2: *Employment status of total population and youth, 2000 to 2020 (%)*

	Youth: 15-24		Total (population over 15)	
Year	**Employees**	**Self-employed**	**Employees**	**Self-employed**
2000	55.11	44.9	47.98	52.02
2005	57.4	42.6	49.12	50.88
2010	55.14	44.86	46.6	53.4
2015	58.19	41.81	48.95	51.05
2020	57.38	42.62	49	51

Source: ILO data base- Collection: SDG -- Collection: ILOEST -- ILO modelled estimates (ILOEST)

As can be seen from the table above, half of the workers have self-employed status. At the beginning of the period analysed, the percentage of workers in the whole population with this status was 52%. At the end of the period, in 2020, the figure rose slightly to 51%. This figure is impressive, insofar as online demand platform workers belong either to this status or to informality (Fedesarrollo, 2020). Added to this is the youth, who, although they do not exceed the total population in the self-employed group, still have levels of self-employment over 40%.

Informality is a phenomenon that Colombian governments have not managed to control. The structural problem of forced displacement, which increasingly influences informality, has become constant. In the past 20 years, forced displacement has risen, but with the addition that the state is now an agent. Labour reforms have tended to lower the price of labour, without satisfactory

results in terms of unemployment, poverty and informality. The decreases observed in informality or unemployment are slight. On the issue of inequality, the Gini coefficient shows no downward trend. In fact, according to Economic Commission for Latin America and the Caribbean (ECLAC), it fell from 0.56 in 2002 to 0.52 in 2018. This section, therefore, has sketched a scenario that is conducive to the proliferation of on-demand platform work without control. The following section analyses this type of labour in depth.

Living in a legal vacuum – the case of the on-demand platform workers

This section seeks to address the objective that drives this article: to explore the legal vacuum in which workers of on-demand platforms in Colombia find themselves and its consequences.

First, this section addresses some theoretical aspects that allow for the elaboration of a typology of the leading work platforms that exist in Colombia, under the notion of digital labour as developed by Antonio Casilli. Second, it discusses the idea of a legal vacuum, which leads to the conclusion that workers are living in an unrecognised labour situation – that is, labour disguised as collaboration. In this regard, the research takes Alain Supiot's notion of *zone grise* (grey zone), a concept that approaches the problem of the legal vacuum in the labour relationships. Moreover, Honneth's theoretical work is useful in addressing the situation of non-recognition in which digital workers live. Finally, the consequences are discussed, based on the analysis of data on digital workers in Colombia.

Towards a classification of workers under the digital labour label: a typology for Colombia

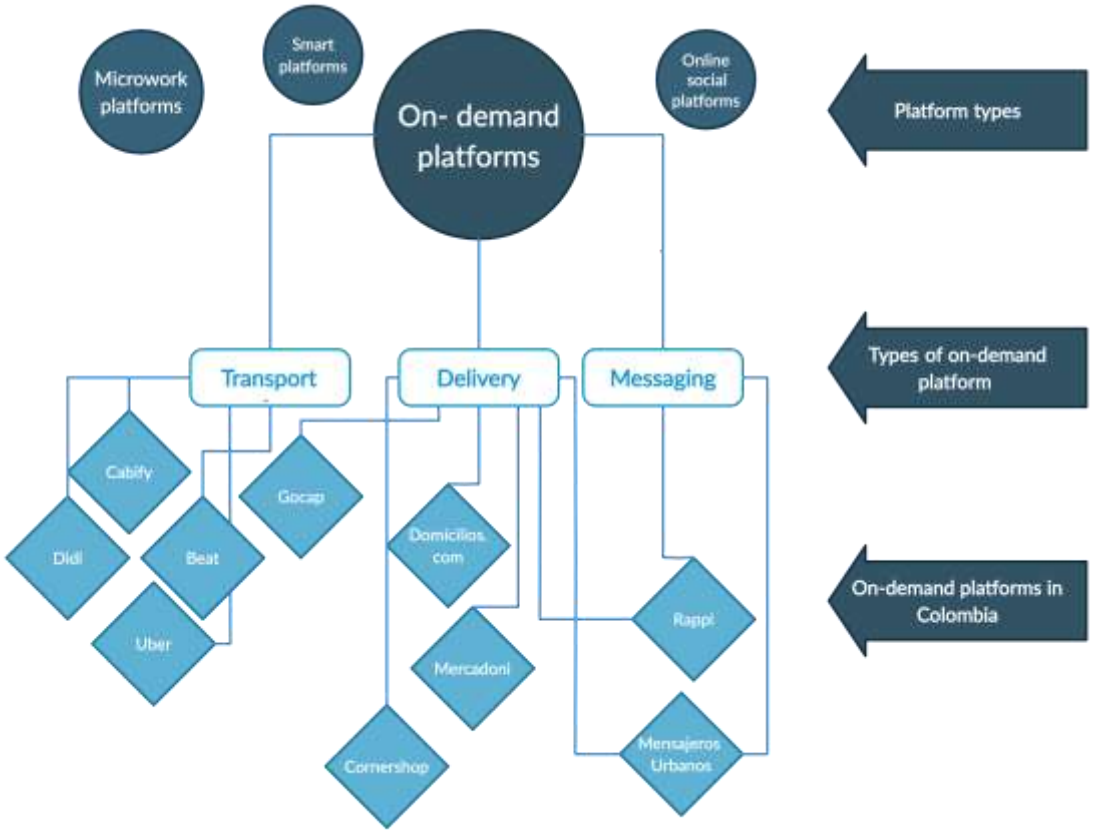
In the introduction to this article, the notion of Casilli's digital labour was introduced as the central axis for understanding the situation of platform workers in Colombia. Casilli establishes that digital labour involves value-adding in all activities performed by humans on the Internet (Casilli, 2015). All digital interactions involve the production of value, but disguised in costumes such as collaborators or consumers.

The concept of digital work criticises two aspects: on the one hand, the appropriation of user-generated content that is commodified by the digital industries; on the other hand, it denounces the constant precariousness of content producers. This notion evolves from its focus on free labour 'giving way to new analysis showing that digital labour is a continuum of unpaid, micropaid, and poorly paid human tasks' (Casilli, 2017:3935).

Under the notion of digital labour, the author develops a descriptive typology of the types of platforms where digital workers work. The typology includes the following four categories: online

social platforms, smart platforms, microwork platforms and on-demand platforms. This article addresses the issue of on-demand platform workers, as it is the area of most crucial proliferation in the number of companies and workers, and where one observes the most significant problems of labour conditions. The typology presented in **Figure 4** below draws on the classification developed by Casilli, the work of Fernández and Benavides, and my research.

Figure 4: *Digital platforms in Colombia, elaborating on-demand platforms*



Source: Author's design based on Casilli's typology and Fernandez and Benavides' study

In the above typology, there are three levels. The first level corresponds to the four existing platforms in Colombia incorporated in the notion of digital labour. For both online and smart platforms, despite the existence of value production, users are considered as consumers and not as workers, as there is no reward involved. In Casilli's own words, 'Like social platforms, recognition of digital labour embedded in smart systems is still wanting' (Casilli, 2017:3938).

Regarding online social platforms, Casilli points out they bring together communities of producers and consumers who exchange cultural goods. Social platforms work on unpaid activities carried out by users, from which the platforms extract benefits. In Casilli's words, 'A major weakness of the hedonistic argument against digital labour ("if users feel happy and self-actualised, online participation cannot be considered as work") is that it only focuses on user-generated content and

overlooks two other sources of profits for social platforms: users' metadata and click work' (Casilli, 2017:3937). Low-intensity behaviours carried out online as users, such as logging in, lurking or clicking, are valuable assets for technology companies. According to the Ministry of Information and Communication Technologies (Ministerio de Tecnologías de la Información y la Comunicaciones de Colombia, 2020), social network-based platforms have increased considerably in recent years. Facebook and Twitter are the most popular among Colombians, with 15 million and 6 million users respectively.

The second category where there is no economic reward corresponds to smart platforms. According to Casilli's definition, in this category, one observes the presence of connected objects and smart environments, which absorb data from the behaviours of the people who use them. 'Switching on, configuring, wearing, or updating a connected object; inhabiting, programming and operating a smart house: these are all repeated operations that are required for the production of data' (Casilli, 2017:3939). The company Domotica offers an example of this type of application in Colombia. It consists of a system that allows the user to control various movements in the house (open the curtains, manipulate lights, activate the security, turn off the children's TV, and so on) from a smartphone or the tablet (Domotica, 2020).

The other two categories in the first level of the typology are microwork and on-demand platforms. According to Casilli, in these two forms of digital work, it is possible to directly observe disguised working relationships, as they involve a monetary reward. Casilli points out that the microwork platforms are crowdsourcing services that bring together recruiters and workers to carry out little, repetitive, and often untrained activities. Examples of this type of task are transcribing or translating short texts. These are standardised tasks in the field of human-based computing. In Colombia, a study developed by Fedesarrollo and conducted by Fernández and Benavides shows that the penetration of this type of platform – such as Workana - exists in the country's market but is relatively marginal (Fernández and Benavides, 2020).

Finally, at the first level is the category corresponding to on-demand platforms, which this article focuses on. According to Casilli, they are 'platforms that connect costumers with independent goods or services providers using mobile apps and portals to allocate material and informational resources in real time' (Casilli, 2017:3935). The Uber phenomenon is perhaps the most emblematic case of this type of digital labour; however, it is a type of job that has spread to more platforms in transport, delivery or messaging. Focusing on the objective of this article, the typology continues to delve into these platforms at the following levels.

The second level of the typology shows the specific zones in which on-demand platforms exist in Colombia. They correspond to transport, delivery and messaging. At the third level, one can observe the ten leading companies operating in Colombia under the label of on-demand platforms.

Among the on-demand platforms in Colombia, two operate in more than one area (as shown in the typology). These companies are *Mensajeros Urbanos* and Rappi, which carry out services in the delivery and messaging domains, being the only ones in the latter field. Under the delivery classification, there are four more companies: Domicilios.com, Cornershop, Mercadoni and Gocap. The transport sector comprises four companies: Didi, Cabify, Beat and Uber.

Some facts or data about some of these companies in Colombia to keep in mind include Rappi's case, which is striking as it is the only unicornstart-up company in the country. A unicorn company acquires this status when it is valued at US$1 billion.[14] According to Fernández and Benavides, there are only 16 unicorns in Latin America, of which Rappi is one (Fernández and Benavides, 2016).

Colombia is the first country in Latin America to expel Uber from its territory. Cotech, a taxi company, filed a lawsuit against Uber for unfair competition. A state regulator (*Superintendencia de Industria y Comercio*) awarded the judgement in favour of Cotech, and on January 31st, 2020, Uber announced its withdrawal from the country. In this allegation, Uber pointed out that Colombia is not complying with its free-trade agreement with the United States. In mid-March, 2020, Uber returned to operate in Colombia. The company proposed a new formula for its return, which consists of a car rental system that includes drivers. The lease becomes concrete at the time of the user's call, the application being the meeting point between the two parties to conclude the car rental contract (BBC News Mundo, 2020). Taking into account the on-demand platforms operating in Colombia, the situation of legal vacuum under which its workers live needs to be analysed.

Workers from on-demand platforms in Colombia: a labour relationship in disguise

The working conditions of the workers of the on-demand platforms in Colombia determine a labour situation located in the *zone grise,* which means that certain groups of workers belong neither to a group of employees nor are self-employed (Leiva, 2012). Alain Supiot points out that the employment contract defines the regulation of the relationship between the worker and the employer. The basic principle of an employment contract is the existence of subordination (Supiot, 1999). The employment contract presupposes a form of lease. Since an employer cannot lease

labour, the contract presupposes the worker's willingness to submit to a relationship of work. This is how the bond of subordination appears (Supiot, 2000).

The constitution promulgated in 1991 guarantees the right to work in Colombia. Since 1945, Colombia has defined an employment contract as an employment relationship between a natural person and another natural or legal person. It is a mutual agreement that stipulates a specific task to be accomplished by the worker, for which he or she receives remuneration. If these three conditions – assignment, salary and subordination – come together, then, according to Colombian law, there is an employment contract, whether it is verbal or written (Melo, 2019).

In the case of the workers of the on-demand platform in Colombia, their situation falls within this *zone grise*. In Colombia, digital work is a self-employed activity, which is either informal or independent. Abdelnour and Bernard (2018) indicate that the self-employed worker, in this context, assumes the full risk of the service, in investment, customer search and physical danger. These workers are also not entirely independent from the organisation of the activity. Indeed, the platforms calibrate the process of the task, and the customers control the prices (Abdelnour and Bernard, 2018). These platforms exercise control over their workers in several ways: by applying sanctions to them, through the demand-allocation algorithm, and though the company setting prices. The obligations entailed in the terms of reference when workers register on the platform are also a form of control (Abdelnour and Bernard, 2018).

The on-demand workers, who become dependents under an independent's status, are a part of what Casilli called *entreprécariat* (precarious entrepreneur) (Casilli, 2019). Based on this concept, he explains the situation of workers who have the false impression that they are 'bosses of themselves' in a relationship of subordination. As he points out, a specific form of digital-based labour obedience is surfacing on digital platforms. There is neither economic nor social dependence of an employee on his employer. Rather, there is an economic and social subordination that does not guarantee either the stability of an occupation or the social responsibility for the self-employed (Casilli, 2019).

The situation of the *zone grise* experienced by the workers of the on-demand platform leads to a series of problems. Apart from those linked to the lack of labour rights, one can consider that they also suffer from a lack of recognition. The German author Axel Honneth reflects on three forms of recognition: love, social rights and social esteem. The second one, he considers, is the basis of human dignity because it implies the recognition of the person as a subject of rights (Honneth,

1992). The workers of the on-demand platform suffer from this lack of social recognition, as they suffer from the absence of access to labour rights.

Angie Melo points out that administrations in the 2010s have promulgated three laws in Colombia concerning the digital world. However, none of them has addressed the working conditions of the on-demand platform workers. The first law (Law 1341) was enacted in 2009 to promote the development of information and communication technologies. Through this law, the state recognises the importance of ICTs for the development of Colombian society and the improvement of the country's skills (Melo 2019). In 2015, the Santos administrations improved this law by promulgating a decree (Decree 1078) that gives better protection to consumers and their privacy. The third law (Law 1221) of 2008 addresses the issue of teleworking (Melo, 2019).

The law of 2008 defines telework as 'a form of work organisation, consisting of the performance of paid activities or the provision of services to third parties using information and communication technologies - ICTs - as support for the contact between the worker and the enterprise, without requiring the physical presence of the worker at a specific workplace'[15] (Congreso de Colombia, 2008). This law recognises three types of workers. The first type of worker is 'autonomous'. They correspond to people who use their own homes or another place to develop their professional activity. They are workers who always work outside the company and only come to the office on some occasions. Second, there are 'mobile' workers, who do not have a workplace established and whose primary tools for developing their professional activities are information technology and communication. Third, one finds the category 'supplementary'. They are remote workers who perform two or three days a week at home and the rest of the time in an office (Congreso de Colombia, 2008).

This law, which seeks to give guarantees and protection to teleworkers, does not cover platform workers. Although they may fall within the definition of mobile workers, the law does not seek to protect them. As Mena points out, companies that operate through platforms do not consider their operators as workers but as partners or collaborators (Melo, 2019)

Currently, there is a bill in the Colombian chamber that seeks to address the situation of these workers. Senator Rodrigo Lara initiated the bill in 2018 (Bill 082) (Actualícese, 2020). The law, which has yet to be approved by the relevant authorities, aims to reform the labour code, including a chapter about on-demand platform worker. The *ley* proposes to standardise the situation of people who receive more than two minimum wages by performing on digital platforms. The focus of the rule is to establish that companies must enrol their workers in the social security system.

The platforms, as employers, must pay 50% of the health and pension amounts. Further, to operate, their workers must register with the occupational risk system to compensate consequences arising from occupational accidents.

Exceptionally, Domicilios.com is the only platform that pays contributions for its workers. When faced with this bill, its director, Camilo Sarastim pointed out: 'This is a great initiative to level out inequitable burdens within the market, because some applications – like ours – do pay for the social security of their workers' (Castilla, 2019)

While both aspects – social security and accident prevention – are essential for the protection of workers, the project may be insufficient. Indeed, it is also necessary to address the everyday working conditions of these workers (access to toilets, hours of rest, delivery of work tools such as bicycles, and so on). Holiday rights, medical leave, maternity leave and so forth also need to be addressed.

Besides the legal vacuum experienced by the on-demand platform workers, it is necessary to observe a general panorama of Colombia. One of the significant problems that Colombia has had in the past 30 years has been informality. According to the present study, neoliberal reforms have tended to liberalise the labour market. The reforms implemented by the various administrations have sought to reduce the cost of the payroll and to make working hours more flexible. However, making the labour contract cheaper does not reduce informality or poverty in the country. To be able to pay contributions, it is necessary to earn a minimum wage, a figure that half of Colombian workers do not earn. Making it compulsory for workers on the on-demand platform to pay their contributions is a significant step forward, but it does not overcome this problem. The bill falls into the Colombian trap of the informal status of the minimum wage. Moreover, it is not only the problem of contributions but, as we have already pointed out, the working conditions.

It is necessary to know some trends in the situation of the on-demand workers, to understand the informality trap and the legal vacuum they are in. To this end, the following section presents some studies on this subject. Despite the scarcity of data, these investigations provide an overview of the situation of these workers in Colombia.

An overview of the situation of workers in on-demand platforms in Colombia

Among the studies that exist in Colombia regarding on-demand platform workers, the present research considers three to be essential. The first (published in 2019 by the Inter-American Development Bank (IDB) and named, *Who Drives on Ride-Hailing Platforms in Latin America? A Profile*

of Uber Drivers in Brazil, Chile, Colombia and Mexico) analyses the profile of Uber's drivers. The second study, *Las plataformas digitales, la productividad y el empleo en Colombia* (Digital platforms, productivity and employment in Colombia), developed by Fedesarrollo, is the most recent, published in July 2020. The third is titled *¿Quiénes son los 'rappitenderos' en Colombia?* (Who are the 'rappitenderos' in Colombia?), produced by La Universidad del Rosario in 2019.

The IDB study raises more general issues regarding the transport platforms, as it seeks to take an 'x-ray' of the region. As this includes Colombia, it provides some interesting insights to observe the panorama of this type of worker in the country. According to this study, the demand for services delivered by transport platforms has grown enormously in recent years. The regional factors that explain this rise are urbanisation, the need for efficient transport – Latin America being the third largest car-owning region in the world – and the high levels of informality on the continent. The research also shows the platform is the most important one in Latin America for transport services. For the company Uber, Latin America became the region with the second highest revenue (Azuara, González and Keller, 2019).

Concerning the x-ray that this organisation carried out on drivers from transport platforms in Colombia, the study[16] shows the following: the majority of drivers on transport platforms in Colombia are men (94%), have higher education (71%) and are, on average, 38 years old. The majority of respondents in Colombia work via Uber, comprising 72%. At the time of the study, only 36% of those polled said they were contributing to the social security system. There is a significant decrease in contributions, compared to 68% who were contributing before working on the platform (Azuara, González and Keller, 2019).

Two facts stand out in this study. The first is that only 51% would stop working on the transport platforms if they could move to a full-time job (Azaura, González and Keller, 2019). Unfortunately, the study does not investigate the reasons that respondents would not move. However, one can extrapolate that half of the respondents would like to have more stability. The second is that the minimum hourly wage for these workers working on the transport platforms is $10.5 (Azaura, González and Keller, 2019). However, the official minimum hourly wage in Colombia is close to one dollar per hour. The study does not specify how many hours a driver works. At these rates, a driver would need to use only one hour a day to reach the minimum wage that a worker makes working eight hours a day. Here one can assume that the drivers do very few hours a week.

The second study is probably the most ambitious, as Fedesarrolloseeks to take a national picture of the situation of on-demand platform workers.[17] This is not a study focused on working

conditions, but instead on the economic magnitude of the platform sector and its impact on productivity and employment. From the picture of the on-demand platform workers, the study estimates that there are a total of 200 000 workers (equivalent to 0.9% of the country's employment). The average salary of these workers is 785 000 pesos per month, which is less than the established minimum wage. The study notes that the platforms' service providers are mostly men (92%), the majority reside in the capital city, Bogotá (54%), and in general, they are a young workforce (34% are under 28 years old). The study also characterises these workers as having high levels of education, with 51% having successfully completed some form of higher education (Fernández and Benavides, 2020).

The third investigation analyses the case of the workers performing for the Rappi platform. Rappi is a company that provides messaging and delivery services. The Universidad Del Rosario, together with its labour observatory, carried out a survey of 318 workers on this platform, known as *rappitenderos (*a way to call them partners). It is important to remember that Rappi is one of the most significant companies among the on-demand platforms in Colombia, and one of the biggest in the region.

In my opinion, this is the most conclusive study carried out on workers of the on-demand platforms. Although the sample is smaller than the other two investigations, it is the only one that addresses the working conditions of workers in depth. Moreover, it is the only study that corresponds to the facts that this section presents later – an example being the demands of the recent union created by workers from the on-demand platforms in Colombia.

In terms of the profile of these workers, the study indicates that the majority are men (83.6%). Most of the *rappitenderos* are young: 50% were between 26 and 35 years old, and 36.2% between 18 and 25. Of the total respondents, 53.1% have a secondary education. Concerning their social origin, 45.6% come from *estrato* 2[18] and 38.4% from *estrato* (Universidad del Rosario, 2019).

As far as social protection is concerned, the results that this study reveals are alarming. Of the total number of respondents, 81.4% said that Rappi is their only source of income and 75.5% of the workers indicated that the company does not demand that they wear protective gear. The survey also revealed that 66.2% have self-employed status (Universidad del Rosario, 2019).

But the most striking results come next: 93.4% of these workers do not contribute to the pension system. Of this total, 61.7% have never contributed to this system. The survey reveals that 91.2% of workers have no affiliation with the General System of Occupational Risks, while 63.2% admit

to having suffered occupational accidents and 66.7% have contracted occupational diseases in the last two years Of the total sample, 57% of the workers reported being Venezuelan migrants. A fascinating fact shown by this study is that while most of the respondents are not part of a union at all, most consider that a union should exist (Universidad del Rosario, 2019).

The three studies agree that workers from the on-demand platforms are mostly young and male. Tangentially, all three investigations give an account of aspects of precariousness involved in this type of work. However, only the Universidad del Rosario survey directly addresses the question of such conditions. Its survey shows how the work of the on-demand platform falls within informality. Most of the workers cannot pay their contributions, probably because they do not touch the minimum wage required to pay contributions. Fedesarrollo's research shows that the average worker does not earn the minimum.

Finally, it is interesting to observe the social responses that have emerged in the face of the situation of workers from on-demand platforms. On the one hand, companies decided to create a guild. On the other hand, workers formed a trade union.

In May 2020, 11 digital platform companies in Colombia created a guild called *Alianza In*. It is a unique business association in that it is the first in the region to bring together only companies of this kind. 'The guild will have the challenge of talking to different interest groups such as regulators, public opinion and the government to generate greater confidence in the system and develop proposals that help develop investments, security and responses to situations such as the current pandemic' (Patiño, 2020) The participant companies are Rappi, Didi, Beat, Uber, Gocap, Cabify, Grin, Domicilios.com, Muvo, *Mensajeros Urbanos* and Polymath Ventures. All these companies have been operating in Colombia for fewer than ten years.

The workers from the on-demand platforms also responded to the employment situation in question by creating their own association. At the beginning of October 2020, on-demand platform workers announced the creation of the union *Unidad de Trabajadores de Plataformas* (Unidapp – Federation of platform workers). The union declared that 'Today a new stage begins for platform workers in the country. We are a solid trade union organisation, ready to take our demands to all judicial, legal and administrative bodies until we have labour rights' (Mejía, 2020). Various organisations, such as NGOs and the *Central Unitaria de Trabajadores* (CUT), supported the union's foundation. Among the grievances of the workers are unjustified blockades, unfair tariffs, the point system that generates unfair competition, fraud, corruption and the sale of equipment. They also demanded the right to job security and transparency regarding tips. These companies

also do not allow their workers to demonstrate against working conditions. When they hold a demonstration, workers get blocked from the application.

To illustrate the main differences between these two associations, a table summarising them is shown below.

Table 3: *Differences between company and workers associations in Colombia*

	Alianza in	**Unidad de Trabajadores de Plataformas**
Type of association	Company guild	Trade union
Year of birth	2020	2020
Participants	11 on-demand platform companies in Colombia	Workers performing under in-demand platforms
Objectives	Investment and promoting confidence in the system that their companies represent	Obtaining labour rights, in particular regularizing the areas in which on-demand companies are failing
Support	Private enterprises	NGOs and *Central Unitaria de Trabajadores*

Source: Author's design

Another important fact before the creation of the union is that a court in Bogotá recognised the employment relationship between a worker and the Mercadoni platform. The worker's lawyer managed to show through emails and chats that the worker receives orders from the company. In other words, he succeeded in demonstrating the existence of a relationship of subordination. The court ordered the firm to pay severance and holiday pay and social security contributions.

It is interesting to note that, in its petitions, the union seeks recognition of its labour rights. The problem lies precisely in the definition of 'collaborators, self-employed or independent workers' – designations that do not recognise their work. The studies, as well as my reflections in this article, show the existence of a disguised form of work. The job of on-demand platform workers falls into a grey area, where there is a legal vacuum of which they are victims. Companies make use of this legal vacuum with the formula of naming their workers as collaborators. However, it is the task of the Colombian state to give recognition to these workers. As we have reflected, however, the problem of informality and self-employed status is a problem that cuts across the Colombian labour market.

Conclusions

This article sought to explore the legal vacuum suffered by on-demand platform workers in Colombia, as well as its consequences. From the beginning, the concept of digital labour developed

by Casilli was the basis for understanding this problem because it recognises that, in all digital interactions, there is production and extraction of value. The concept also involves the idea of coloniality to understand that digital labour is not only a problem of eastern countries but a global one. Digital workers in both hemispheres share a lack of rights and the denial of their status as workers. Coloniality opens a door for the study of the global South, insofar as it allows for the recognition of a problem of identity of workers at the worldwide level.

This paper began with a review of the neoliberal unfolding in Colombia over the past 30 years, focusing on the labour market. Three reforms have affected it during this period, and another one is in progress. The reforms have sought to make labour more flexible, mainly by reducing the cost of payroll. However, although the reforms have affected unemployment and, slightly, informality, the levels remain high. This review concludes that economic liberalisation does not reduce poverty or unemployment. Both are essential elements that affect informality directly.

The problem of informality in Colombia has a long history. One of the initial factors that explain it, according to my hypothesis, is the rural-urban situation and forced displacement. For a worker not to be in the informal economy, he or she must contribute at least a minimum wage to the social security system. The data show that, despite the reforms making the employment contract cheaper and encouraging hiring, half of all Colombians are under the condition of informality. Informality is a crucial factor in understanding the conditions of workers in on-demand platforms because most of them fall into this category.

After having introduced the issue of informality in Colombia, the article analysed the situation of workers in on-demand platforms. The first section provided a typology of companies operating under the notion of digital labour and on-demand platforms. This classification came from Casilli's theoretical approach, the data of a study developed by Fedesarrollo, and my own research. The categorisation reveals that ten leading companies are operating in Colombia in the areas of transport, messaging and delivery.

From a theoretical point of view, the second section gave an account of how work in on-demand platforms represents a disguised working relationship. For this purpose, the idea of a *zone grise* emerged, revealing a legal vacuum inherent in this type of work. In this zone, workers suffer from a lack of recognition of their status as workers. Non-recognition opens up a problem of identity. Axel Honeth recognises that the recognition of social rights is a source of dignity. Workers on the on-demand platforms do not have access to labour rights. Therefore, they suffer from a lack of recognition in social terms as well.

Based on three studies, the previous section analysed the labour conditions of workers on the on-demand platforms. Of the three investigations, only the University of Rosario survey examined the working conditions. Although this enquiry only covered the workers of one company, it gives an account of the reality which the workers in the on-demand platforms complain about themselves. All three studies described a similar profile of the type of workers who work for the platform companies: they are male and young. The three investigations show that this type of work has precarious conditions.

In particular, the study by the Universidad del Rosario explains the high level of precariousness in which the workers of the on-demand platforms operate. The study reveals that the workers of the Rappi platform do not have access to social security, protection against occupational accidents or safety equipment in their work. Further, the survey demonstrates that the majority of Rappi's workers have this job as their only source of income. Finally, the majority of the workers believe that there should be a union to protect them although most of them are not members of any labour association.

This section ended by presenting the two sides of the picture. On the one hand, the companies that operate via platforms created a guild. On the other hand, the workers of these companies formed a union.

The establishment of a guild by the companies is an initiative in line with the country's economic guidelines. Companies seek to protect their businesses from possible labour regulations – as in the example of Uber, which left the country because of the allegation of unfair competition. They also aim to develop better innovations and partnerships to improve their economic benefits.

There is also the creation of the union. The workers demand recognition of their status as workers and not as collaborators. They live in a labour relationship in disguise: under subordination but without labour rights.

Both sides of the coin reflect Colombia's inequalities. On the one hand is a thriving economy that exhibits significant progress in this area, on the other, the citizens who live in conditions of poverty and informality. The result of this discrepancy is a country marked by enormous social inequality.

Following this analysis, the question of the future of work in Colombia, mainly digital labour, becomes subject to several factors. The response of the various administrations to the problems

linked to the labour market has been to reduce the price of work. Colombia is a country that has fallen into a trap of informality.

In this trap of informality, digital labour falls quickly. Companies operating through on-demand platforms meet all the conditions for evading labour formality. In this context, Colombia must legislate in favour of its workers, not only in terms of access to labour rights, but also by improving working conditions. To change the situation of workers with on-demand platforms, Colombia must legislate against these international companies. Although these enterprises operate globally, their workers perform in the national space. The state has a responsibility to guarantee decent working conditions for workers within its territory.

Notes

[1] The typology of platform work developed in this study is based on digital labour theory of Antonio Casilli. This theory as well as the typology will be discussed in the following sections.
[2] Fedesarrollo is a private, non-profit Colombian foundation dedicated to research on economic and social policy issues.
[3] The typology developed by Casilli is the basis for the construction of our digital-labour workers' classification in Colombia. I build my typology in depth in the second section of this article.
[4] Own translation
[5] Own translation
[6] This labour reform is part of the three axes of economic openness of the Gaviria administration (capital, labour, goods and services).
[7] Due to these problems, the Uribe administration made a series of modifications to the dual system in 2003. Among them, affiliates had to increase their contribution rate. The contribution period for access to the minimum old-age pension was also enlarged. Self-employed workers were obliged to pay contributions (Arrieta, 2011). This social security law continued to mutate, and in 2005 the Uribe administration included new provisions. In the latest arrangements, the president augments the weeks of contribution gradually. Also, all previously existing special regimes were eliminated, except for the Public Force and the President of the Republic (Arrieta, 2011)
[8] Own translation
[9] Own translation.
[10] During the 90s, unlike countries such as Chile, the establishment of neoliberalism did not mean an extreme decrease in the size of the state. The privatisation of public companies or social services is a phenomenon that is increasing in the second wave of neoliberalism in Colombia, after the 2000s.
[11] Own translation
[12] Own translation.
[13] An army mission with precedents in the Gaviria government.
[14] Named after the mythical animal to suggest a rare event.
[15] Own translation.
[16] In 2018, the IDB partnered with Uber Technologies Inc. to study the potential impact of digital transport platforms on the region's labour markets. This report is based on an original survey implemented in collaboration with Uber, and applied to a sample of 5 251 drivers using the platform in Brazil, Chile, Colombia and Mexico. In Colombia there were 1 152 surveys.
[17] The study conducted by Fedesarrollo did 4 843 surveys with workers from on-demand platforms.
[18] Colombia divides its citizens into six sectors to classify them socio-economically. *Estratos* (strata) 1, 2 and 3 correspond to the lowest income groups.

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