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Velez Osorio, Veronica

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FUTURE OF WORK(ERS) RESEARCH PROJECT

NOT A FAIRY TALE: UNICORNS AND SOCIAL PROTECTION OF GIG WORKERS IN COLOMBIA

Veronica Velez Osorio,

Southern Centre for Inequality Studies, University of the Witwatersrand

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SOUTHERN CENTRE FOR INEQUALITY STUDIES

About the author

Ms Veronica Velez Osorio is a consultant and researcher on labour policies and social protection. She is based in Berlin and holds an M.A. in Labour Policies and Globalisation from the University of Kassel and the Berlin School of Economics and Law. She has worked as a researcher at Escuela Nacional Sindical (National School for Trade Unions) in Colombia. She is currently working as a consultant for the International Transport Workers' Federation on a research project. She has been working as a researcher at SCIS on the project 'Technology and the Future of Work'.

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About the Southern Centre for Inequality Studies

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

In Colombia there has been little social dialogue or democratic debate about how to effectively extend labour and social protections to digital platform gig workers. Rappi Inc. is a digital platform founded in Bogota, Colombia, in 2015, with the support of Colombian public institutions. Through the platform, customers can buy consumer goods such as meals, groceries, medicine, and so on. In 2019, Rappi Inc. became one of the most valuable digital technology companies in Latin America with a value of over $1 billion turning into what the venture capital business called a unicorn company. There is no regulatory framework in Colombia that enforces the continued relevance of employment relations in the platform economy. Therefore, the rapid growth of Rappi Inc. has not been accompanied by the fair redistribution of profits, due to gig workers being classified as 'independent contractors', which sharpens the asymmetries between capital and labour. Rappi Inc. workers have responded by forming the Movimiento Nacional de Repartidores de Plataformas Digitales (MNRP, National Movement of Digital Platform Workers) and also by recently forming a trade union that operates through an app, Unidapp. These workers are actively disputing the current trajectory of digital work in Colombia.

Furthermore, the paper analyses debates about the possibilities of a universal basic income as anti-poverty-focused social protection, in the midst of intensifying calls for one in response to the crisis resulting from the Covid-19 pandemic. The government launched the Programa Ingreso Solidario (PIS, Solidarity Income Programme) to address the decrease in work-related incomes of poor households. The discussions on basic income have opened the debate on crucial public agenda issues, such as tax reform, public debt and vertical expansion of social protection, among others social demands.

Key words: social protection, gig workers, gig economy, digital platforms, future of work, universal basic income, contributory social protection, publicly-funded social protection, Colombia.

Introduction

The advance of digital technologies is leading to profound changes in the world of work and there is widespread concern about their potential impact on inequality across Latin America. In Colombia, there has been little social dialogue or democratic debate about how to effectively extend labour and social protections to gig workers. The absence of labour and social protections in the gig economy in Colombia threatens to plunge platform workers into precarious employment relationships as 'independent contractors'. Through the case of gig workers of the Colombian digital platform Rappi Inc., this paper explores the limitations of social protection coverage for platform workers in Colombia. Drawing on a rights-based paradigm, the paper describes how

global platform shareholders on the one hand, and local workers' organisations on the other, have sought to shape the future of work in Colombia through national politics. The paper also analyses debates about the possibilities of universal basic income, which have intensified in response to the crisis generated by the Covid-19 pandemic.

The paper is divided into five thematic sections. In the first part, the paper describes the working conditions of Rappi Inc. workers. It exposes the asymmetric power relations between wealthy shareholders of the digital platform and 'independent contractors', in the context of weak regulatory frameworks for decent work in the digital economy. The second part points to tensions in the historical development of social protection in Colombia, focusing on the right to health, pensions and poverty-relief grants, and their impact on inequality in the last three decades. The third section presents the formal and some informal modes of social protection in the country. It includes references to the governing principles related to social security contained in the constitution, laws, jurisprudence and the peace agreement. The fourth part of this working paper describes the contributory and publicly-funded schemes of employment-based social protection benefits and non-contributory cash transfers. A comparative table illustrates the level of benefits, the eligibility requirements and the sources of funding of both schemes. Finally, the fifth section points out the recent developments in the country of providing anti-poverty cash transfers in response to the crisis caused by the Covid-19 pandemic. Specifically, it focuses on the debates about a universal basic income as a way to expand social protection coverage. The paper ends by pointing out some conclusions about the tensions in the regulation of digital work in national policies, from the shareholders of the digital platforms and the organized gig workers. It also presents some possible responses to the social calls to address the recent crisis of falling labour incomes in households.

Rappi Inc.: independent contracting and the lack of minimum social protection.

In the past decade there has been a growth in the gig economy around the world and Colombia is no exception. Rappi Inc. is a digital platform founded in Bogotá in 2015, with support from the Colombian Ministry of Information and Communication Technologies (Fiquitiva Martinez, 2019). Through Rappi Inc.'s platform, customers can buy meals, items from the supermarket, medication and other consumer goods. Deliveries are made by Rappi Inc.'s 'independent contractors' who use bicycles and motorbikes to deliver orders in an average of 30 minutes to an hour. Initially, the delivery application was limited to large cities but has rapidly expanded across Latin America (Fiquitiva Martinez, 2019). Today, Rappi Inc. is a registered holding company in Delaware, USA, with subsidiaries in nine Latin American countries and 300 cities (Dinero.com, 2019; Rappi, 2020).

Rappi Inc.'s exponential growth can be explained partially by its success in attracting investors. In early 2018, it received a contribution of $185 million; in September 2018, it received a contribution of $220 million, becoming the new Latin American unicorn for the financial world (Nieto, 2019). In 2019, the Japanese SoftBank Group Corp. invested US$1 billion in Rappi Inc. (The Wall Street Journal, 2019), making the delivery platform one of the most valuable digital technology companies in Latin America (Fieser, 2019). In the midst of the Covid-19 pandemic, the company raised more than US$300 million in investments, according to its press release (Lopez, 2020; Market Screener, 2020). However, the company's rapid growth has not been accompanied by the fair redistribution of profits, due to the misclassification of Rappi Inc. workers as independent contractors.

Although the International Labour Organization (ILO) affirms the continued relevance of employment relations in the *Declaration for the Future of Work* (ILO, 2019), there is no regulatory framework in Colombia that enforces these in the platform economy. At present, Rappi Inc. contractors are excluded from labour and social protections, which places workers and their families at greater risk of falling into poverty and relieves company shareholders from the burden of responsibility for employment relations. This type of digital platform work follows a similar pattern of exploitation across the global South. As Meagher (2019) argues, 'The race to the top in technology development means that digital job creation in low and lower-middle income countries will largely be concentrated in low-quality digital service work and a race to the bottom in labour standards' (Meagher, 2019: 675).

As Berg et al. (2018) warned in their report, *Digital Labour Platforms and the Future of Work*, multinational platform operators are drawn to countries with limited labour and social regulations and weak worker organisation. However, delivery services such as Rappi Inc. are bound to specific locations and cannot easily transfer operations to countries with lower labour costs in order to maximise profits. Given the rapid growth of digital platforms in Colombia, the introduction of labour and social protections across the sector would not necessarily eliminate the demand for delivery services or the supply of platform apps.

A recent study of Rappi Inc. found that delivery platforms are an inadequate form of social incorporation for young workers and further marginalise migrant workers (Jaramillo Jassir, 2020); 57% of all respondents were Venezuelan migrants, with no access to employment-based social security or publicly-funded social protection. Because migrant workers in Colombia have fewer options, they are under pressure to accept precarious positions. Approximately 90% of Venezuelan migrant workers have informal jobs and delivery platforms offer little by way of an alternative (Galvis Molano, Sarmiento Espinel and Silva Arias, 2020). According to the study, 59.7% of

Venezuelan migrants were the primary breadwinner in their family and 58.2% reported having dependent children.

The lack of social protection poses a major risk to access to health services, which is of greater concern during a pandemic crisis. Gig workers have continued to serve society uninterruptedly during the national confinement measures against Covid-19. The survey mentioned above and the study by Jaramillo Jassir (2020) inquired into the level of social protection of gig workers. In terms of affiliation to the health system, 53.9% of respondents said they were not affiliated to the health system, meaning that they don't belong even to the publicly-funded health system, so they don´t get benefits. Only 13.6% said they were on the contributory health system.

With regard to the risks of disability, death, accidents at work and occupational diseases, gig workers also have no insurance. Far from being in an office, their activities take place in a dangerous scenario, riding a bicycle or motorbike in the middle of city traffic. The study cited by Jaramisso Jassir (2020) indicated that 93.4% of the respondents were not affiliated to the pension system. Also, 91.2% stated that they were not affiliated to the occupational risk protection system, and 63.2% affirmed that they had suffered occupational accidents. Similarly, 66.7% of those surveyed said they had suffered from occupational diseases during their service for Rappi Inc., especially respiratory diseases.

According to Babajanian and Hagen-Zanker (2012), improving social protection requires understanding and addressing the existing patterns of inequality, discrimination and structural disadvantage to implement a system able to overcome marginalisation and provide incentives for social inclusion. Those structures of exclusion and disadvantage remain unaffected in work for Rappi Inc. The model reinforces an aggressive process of accumulation of capital through the exploitation of informal labour and expands inequality of income when it allows remuneration below the minimum wage.

The World Bank's *World Development Report on the Changing Nature of Work* points to the promise of digital technologies (WDR, 2019). According to this report, the rise of digital platforms presents an 'opportunity to millions of people who do not live in industrialised countries or even industrial areas' (WDR, 2019:3). However, the case of Rappi Inc. illustrates that the expansion of digital platforms does not necessarily lead to an improvement in the living conditions of workers in the country. Indeed, there is a growing body of research that points to severe risks and challenges faced by workers in ensuring decent working conditions with the introduction of labour-saving

technologies (Anner, Pons-Vignon and Rani, 2019). In the developing world the rise of automation and digital employment threatens to further exacerbate inequality (Meagher, 2019).

In addition, the WDR (2019) proposes eliminating employers' contributions to social security and shifting the entire burden of financing universal social protection on to the state. By doing so, it would become harder to hold capital directly responsible for financing social welfare (Meagher, 2019). Decoupling employment from social protection is neither desirable nor fair, and will exacerbate the marginalisation of migrant gig workers who have no access to publicly-funded social protection. It would also affect the sustainability of the whole system since it is mainly the contributions of formal labour that have financed the other social protection scheme.

During the second half of 2020, various legislative initiatives were introduced by the Colombian Congress to regulate digital platform work (Dinero.com, 2020). The initiative with the broadest consensus was promoted by the ruling *Centro Democrático* (Democratic Center) and the right-wing *Cambio Radical* (Radical Change). It aims to regulate the working conditions of platform workers and to extend social security benefits to personnel contracted by location-based digital platforms such as Rappi, Uber and others, as per the National Development Plan (2018, art 348).

However, the initiative defines platform workers as independent contractors and allows companies to pay significantly lower social security contributions in comparison to national standards for formal sector workers. According to the initiative, the total social security contribution would be calculated on the basis of only 40% of the salary rather than 100%, which is the norm in the formal sector. In addition, platform workers would be responsible for a higher share of the total contribution. According to the initiative, they would have to pay 50% of the contribution as opposed to only around 30% in the formal sector. Furthermore, because platform workers' incomes are generally below the minimum wage, the initiative proposes their inclusion into the publicly-funded social protection system, placing an increased burden on the state. If the initiative is approved, digital platforms will be relieved of the responsibility for contributing to social security, with negative implications for the sustainability of the entire social protection system. As Anner et al. (2019) argue, when the state opts for short-term economic gains over sustainable growth, technological development has a damaging impact on social protection.

An approach to the regulation of digital platforms should start with recognising the employment relationship between the company and platform workers. As stated by the ILO in its *Centenary Declaration for the Future of Work* (ILO, 2019: 5), states need to move towards 'strengthening the institutions of work to ensure adequate protection of all workers, and reaffirming the continued

relevance of the employment relationship as a means of providing certainty and legal protection to workers, while recognising the extent of informality and the need to ensure effective action to achieve a transition to formality'. Additionally, labour and social protections for platform workers should be at least equivalent to the labour standards for other formal sector workers. It is crucial that national regulations adhere to the commitments contained in international conventions on decent work, as well as in ILO Recommendation 202 on National Social Protection Floors. Ultimately, regulating digital work requires strengthening democracy and enabling workers to shape the use and control of new technologies.

With the Covid-19 crisis, the market share of digital platforms in Latin America grew substantially (UN ECLAC, 2020a). As demand for platform services increased, so did company profits. However, the conditions of platform work have not improved. Platform workers are excluded from social protections, from occupational health and safety insurance, from the contributory health care system and from paid sick leave benefits. And yet, in the context of the Covid-19 pandemic, platform workers are more vulnerable to falling ill because they provide essential services to society. Indeed, with the rapid expansion of Rappi Inc., there has been a proliferation of informal work, which has reproduced patterns and structures of exclusion, exploitation and inequality, and sharpened the asymmetries between capital and labour in Colombia.

Critically, Rappi Inc. riders have not stood by quietly. Rather, they responded by forming, initially, the *Movimiento Nacional de Repartidores de Plataformas Digitales* (MNRPD, National Movement of Digital Platform Workers), and recently by creating a trade union of platform workers that is also operating through an app: *Unidapp* (ENS, 2020). The trade union is led by Colombian and Venezuelan leaders, who aim to organise workers on all digital platforms and not just those in the delivery or transport industry. Union membership can be obtained through the app and additionally, virtual assemblies can be held through it, in the exercise of freedom of association. In addition, they have a strategy to present *acción de tutela* – 'protection action', which is an inexpensive judicial instrument for the rapid protection of violated or endangered fundamental rights – throughout the country, seeking recognition of decent work rights and therefore of the employment link with the digital platform. They have already obtained favourable rulings, which have helped them to put pressure on the political debate in the country. In addition, the union's leaders advocate, in several cases successfully, to lift the blockages placed by the platform on some deliverers, and thus gain greater sympathy among them. They have the support of the *Central Unitaria de Trabajadores* (CUT, Central Confederation of Workers of Colombia), and now aim to expand their membership. They are also carrying out an international strategy of coordinating

strike actions with other food delivery organisations. Several organisations in Mexico, Argentina, Chile and Ecuador in Latin America, and more than 15 organisations in other parts of the world, have been participating in these strikes. They are gaining a strong presence and sympathy on the web and social networks (Facebook group MNRPD, n.d.). These young men and women are disputing the way digital work is developing in Colombia and are seeking to actively participate in the creation of regulations for fair digital work in Colombia.

The current tensions between the stakeholders in the digital platforms and the organised gig workers engaged in the regulation of digital work mirror a history of political tensions and clashes in the country. The next section will provide an overview of some of the changes that have taken place in social protection in the past 30 years, some of which have come as a result of political movements in the country.

Tensions in the historical development of social protection in Colombia

In the past 30 years, Colombia has experienced important changes in social protection schemes. This section divides the analysis into three decades (1990 to 1999, 2000 to 2009, and 2010 to 2019) for methodological reasons. In each section, a short description is presented of some events in the social, economic and political fields of the country. Then the developments and the horizontal expansion of coverage of health, pension and anti-poverty benefits are analysed, and their impact on inequality is assessed.

The 1990s: constitutional change and the era of the Washington Consensus

In 1991, a new national constitution was adopted. The process of constitutional reform implied political plurality and provided an important mandate for widespread public spending. Simultaneously, in Latin America, the process of neoliberal restructuring took place in many countries in the region. In Latin America, the term neoliberal is widely used to describe the multiplicity of policy shifts that have taken place, with a common assumption that states have been 'hollowed out' and turned into residual institutions with low operating power (Molyneux, 2008). The set of political and economic measures known as the Washington Consensus imposed free-market mandates in the region from US-based institutions. In Colombia, this process of change was driven by the right-wing government and called 'Economic Opening'. It brought a series of measures to allow foreign products to enter freely into the Colombian market. It was during this decade that contributory and publicly-funded social protection schemes were created, but it was also when their provision was commodified.

Within the National Constituent Assembly, the right to health and its provision was discussed in different ways and received diverse mentions in the constitution. Sometimes it is defined as a citizens' right, other times as a public service to be accessed through the market and at the same time as part of the inalienable right to social security (Alzate Mora and Vargas-Chaves, 2020). The Colombian state decided to subsidise the demand for health services and privatise a significant part of the supply. As mentioned by Sánchez Torres and Nuñez Mendez (2000), during the 1990s, around 80% of the tax financing for health was used for demand subsidies. The horizontal extension of health coverage grew, including both contributory and publicly-funded schemes. National health insurance rose from 23.7% of the population in 1993 to 57.2% in 1997 (Nuñez Mendez, 2009), with 19.5% in the publicly-funded scheme, 37.7% in the contributory scheme and 42.8% not affiliated (DANE, 1997). Despite the growth in coverage, the system presented structural problems related to the pursuit of profit for the private operators. It made the system conflictual from the beginning and one that requires constant judicial enforcement. This means that impoverished citizens generally get access to medical attention when a judge orders the health operators to allow it. This system was also affected by an enormous disparity in services between urban and rural areas, with a lack of basic health services in many of the latter.

Concerning the pension schemes, two systems were operating in parallel: the public and the private one. Both pension schemes were designed to grant the right to a pension to those with stable employment in the formal economy. Workers in the informal economy who did not contribute to a pension scheme, or did not have stable employment, were excluded. In the late 1990s, the country suffered an economic recession, with a significant drop in its GDP growth rate. This generated great political interest in designing and carrying out conditional transfer programmes to avoid a recession due to the fall in household consumption. The programme 'Families in Action' (*Familias en acción*) started as the emblematic programme of conditional cash transfers to poor people in Colombia. However, since the beginning, the programme presented some problems in the selection of grant recipients. According to Sánchez Torres and Núñez Méndez (2000:37), the amount of public subsidy aimed at highly vulnerable people that was appropriated by income quintiles 4 and 5 represented 2% of GDP in 1993 and 1997. The grant had a negligible impact on inequality, however. In the year 1991, the Gini coefficient was 0.53 and by the year 1999 it was 0.57 (ECLAC–CEPALSTAT, 2016). This high coefficient can be explained in part by the lack of development of a comprehensive social protection system, which is in fact organically linked to inequality.

The 2000s: peak of violence and 'war against terrorism'

The start and development of the first decade of the 2000s was marked by a dramatic increase in violence in the country, leading to high levels of internal displacement, targeted assassinations, and homicides (Centro Nacional de Memoria Historica, 2018). The right-wing government of that time recategorised the armed conflict, which historically had rural and political roots, as terrorism. Public spending shifted to strengthening the armed forces and combating guerrilla groups.

It should be noted, however, that significant progress in horizontal expansion of access to health was achieved during that decade. Towards the end of the decade, in 2008, the proportion of the population affiliated to the health system was 86%. This represents an increase of 29 percentage points from 12 years before. Among people with health insurance, 48.5% were in the contributory scheme, whereas 51.1% were in the publicly-funded scheme. The population without affiliation accounts for 13.8% (DANE, 2008). However, considered in detail, the data shows a failure of the system that led to further deepening of inequalities. Following Núñez Méndez (2009), some points explain the regressive effects of the social security system. Firstly, although most members of income quintile one belonged to the publicly-funded scheme (87.6%) and most members of income quintile five belonged to the contributory scheme (77.6%), the participation of the rich in the publicly-funded regime increased to 12.3% in 2008. This represents an increase of eight percentage points compared with the 2003 data. Secondly, although health programmes generated a reduction of 4.78 percentage points in poverty, with the publicly-funded scheme having the greatest impact on reducing poverty and inequality, the cumulative impact of subsidies was regressive. This is because pension subsidies were highly targeted. The study carried out by Núñez Méndez (2009: 67) on pensions states that '86.3% of public spending is captured by the richest, and only 0.1% reaches the poorest'. The effect of public pension contributions was regressive and increased inequality by 1.6 percentage points (Núñez Méndez, 2009).

Different programs of cash transfers for elderly people, rural workers, families, and vulnerable people took place during the 2000s. The Families in Action programme continued as the flagship measure for poverty-relief by the right-wing governments at the time. Some studies have shown that even the increase in the number of subsidies was not sufficient to compensate for the rise in income inequality in the country. Subsidies account for a reduction of 1.08 percentage points in poverty and 1.49 in extreme poverty, but in the aggregate, monetary subsidies, instead of reducing inequality, increased it by 1.63 points on the Gini coefficient (Nuñez Mendez, 2009: 71-2) because, as said before, massive pension subsidies went to the wealthiest people in the country.

According to national statistics, the Gini coefficient was at 0.57 at the beginning of the decade – 2002 – and 0.56 by its end in 2009 (DANE, 2002 -2016). The researchers Tangarife López and Correa Montoya (2010) suggest that inequality in the country may be more significant, as national statistics are based on surveys of households with working-class incomes, not including the households of the country's wealthiest. Moreover, as the decade came to an end, the national poverty level remained at 45.5% and extreme poverty at 16.4% in 2009, showing that the policy of targeting as an instrument for the elimination of inequality failed.

The 2000s: development strategy based on free trade agreements and peace agreement

In 2010, the Colombian economy experienced significant growth of 4.3% in its GDP, which was remarkable considering that the previous decade closed with a marginal increase of 1.5% (Tangarife et al., 2010). The national productive structure has a strong base in the extractive sector expanded by free trade agreements signed by the country. Right-wing governments imposed the idea that facilitating foreign investment would improve the welfare of the population. However, the comparative advantage of the country was determined by low labour costs based on anti-union strategies and precarious work (Tangarife López, 2019). Social protection covered only about 42.7% of the economically active population in 2011, with the greatest lack of protection among informal workers (Tangarife López, 2019). There has been a problem of social distribution in the process of economic growth in Colombia. The country follows the trend identified by Molyneux (2008) in Latin America, where social provision has always lagged behind growth.

In 2016, amidst social tensions and political polarisation, the Colombian peace agreement was signed between the state and the *Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo* (FARC-EP, the Revolutionary Armed Forces of Colombia - People's Army). The government elected later in 2018 did not support the peace negotiations. This explains, to a large extent, the slow progress in the implementation of the agreement. For example, two national plans for integral rural reform were approved in 2018, but no progress was observed in 2019 (UN High Commissioner for Human Rights, 2020). In recent years, many human rights violations continue to occur in the country and are of grave concern to the national and international community. Between 2016 and July 2020, 971 social leaders and human rights and land defenders have been killed in the country (Indepaz, Cumbre Agraria andMarcha Patriótica 2020). Although the text of the agreement remains intact without any ulterior reform, Colombia still has significant challenges ahead to achieve lasting peace.

As for the right to health, according to statistics at the end of this decade, the country is close to reaching universal coverage of its nationals. Official data shows that 92.8% of the population is

affiliated to the health system; while 48.4% are in the contributory scheme, 51.3% are the publicly-funded one (DANE, 2019). However, there is a general perception that health services are of low quality and inefficient in their provision. The horizontal expansion of social protection via health coverage has not been accompanied by a significant vertical expansion that addresses the quality of services. Targeting of health subsidies continues to fail at present, and a significant amount of health subsidies are received by those who are wealthy. The lowest income quintile receives 32.7% of subsidised expenditure in health, while the wealthiest quintile participates in only 34.8% of the contributory scheme (Moller, 2012). Besides, the system has not modified its privatised nature. In 2008, a study by the national ombudsman stated that every 34 seconds, a citizen in Colombia initiates an *amparo* action against a health intermediary for access to health services (Tangarife López, 2019). In addition, the UN High Commissioner for Human Rights (2020:12) observed enormous challenges to the fulfilment of the right to health in rural areas: 'In rural areas of Amazonas, Antioquia, Arauca, Caquetá, Guainía, Putumayo and Vaupés, there were no health centres accessible to the populations or facilities were in poor conditions, lacking personnel and medication'. Thus, even with positive statistics, Colombia still has immense challenges in providing universal and high-quality health services.

Pension coverage remains remarkably low in Colombia in recent years. By 2010 only 16% of the population of retirement age received a pension, even though 30% of the population made contributions to the pension system (Moller, 2012). The remainder of the people did not manage to reach the required number of years of contribution, so they only receive their savings back. In 2005, a constitutional reform on pension issues was approved, which sought to increase tax reserves and reduce the use of public resources by eliminating special pension regimes (Arrieta Mendoza, 2011). It also mandated that monthly allowances cannot be less than one minimum wage or more than 25 minimum wages. But it did not address the issue of increasing the minimum coverage by this right, which was highly criticised by social sectors (National Trade Union School, 2005). According to Tangarife López (2019), 72.6% of people aged 60 or more live in poverty or under economic dependence. As regards the contributions of the state to pensions, 97.4% of these are received by affluent people, and even the richer ones in the fifth quintile receive 86.3% of them (Moller, 2012). These transfers had the effect of increasing the Gini coefficient by 1.63 points, which contrasts with the experience of other countries in the Latin American region, where pension expenditure typically reduces income inequality (Moller, 2012:16).

When considering the allowance programme for those who do not receive a pension, known as Periodic Economic Benefits (BEPS), its short reach is evident. In 2018 there were 1.270.050

members in the programme, but only 293.289 people could put money aside, clearly because they have no savings capacity (Tangarife López, 2019). In the same year, the BEPS delivered life annuities with a value equivalent to about 13% of the minimum wage, a value below the extreme poverty line (Tangarife López, 2019). On the other hand, the means-tested benefit for low-income elderly people, called 'Colombia Mayor', does not have sufficient allocations, and its value is only 7% of the minimum wage (Tangarife López, 2019). The situation becomes more difficult when considering the projections of increased poverty and extreme poverty as a cause of the crisis unleashed by Covid-19. According to the estimates of the Economic Commission for Latin America and the Caribbean (UN ECLAC, 2020b), poverty and extreme poverty are expected to increase in the country and the whole region. They forecast an increase of 5.1 percentage points in poverty in 2020 compared to the previous year, reaching 34.1% of the population in 2020. Extreme poverty is also estimated to have changed by four percentage points, and it will reach 14.3% in 2020, according to ECLAC, if adequate measures are not put in place. Within a scenario of downward economic and social mobility, it is also expected that the middle classes will be at greater risk of falling into vulnerability. Although some conditional transfer and poverty alleviation programmes have been implemented in the country, economic measures continue to focus on economic orthodoxy and macroeconomic stability. The historical link can partly explain that social policy in Latin America has forms of path dependency (Molyneux, 2008).

The Gini coefficient was 0.56 in 2010 and 0.51 in 2016 (DANE, 2002-2016). According to ECLAC estimations, in 2020 the Gini coefficient in Colombia may increase by between 4.0% and 4.9% if the necessary measures are not taken to supplement non-labour income of households (UN ECLAC, 2020b). Furthermore, the UN body constantly points out that Colombia is among the countries with the highest levels of inequality in Latin America. Not surprisingly, international agencies warn that 'if the average income growth and wealth distribution remained the same from 2008 until 2017, Colombia would not meet the Sustainable Development Goal of reducing extreme poverty to three percent by 2030' (UN High Commissioner for Human Rights, 2020:11).

Formal and informal modes of social protection in the institutional architecture of the state

Recognising that globalisation has an impact on national legal systems, and that the production of regulations responds to more complex and multifaceted dynamics that take place even outside the country, this section presents a limited synthesis of social protection principles in institutional law in Colombia.

The current Colombian constitution was enacted in 1991. It proclaims and defines, for the first time, the Republic of Colombia as a social state of law. The major significance of that definition is that it highlights a strong commitment to social justice (Arango, 2010; Rodríguez Garavito, 2011; Uprimny, 2001, 2011). The national constitution states in its Article 48 the right to social security, and the role of the state and private entities in extending its coverage. The article defines social security as a public service linked to the principles of efficiency, universality and solidarity. Additionally, Article 13 declares the responsibility of the state in protecting vulnerable or marginalised people and fostering conditions for integration and equality. In articles 42 to 46, the text expands on provisions related to the right to social protection. It states certain social, economic and cultural rights for the protection of the family, pregnant women and the elderly. Children' right to health is declared as a fundamental right in the constitution, and as such, it can be immediately enforced through a constitutional remedy called *tutela* (protective) action. The national constitution is therefore characterised for some authors as aspirational constitutionalism, which aims to reach social progression and a better future for the society (Garcia Villegas, 2013).

By contrast, other authors such as Alzate Mora and Vargas-Chaves (2020) consider that the orientation of the constitution is shaped primarily by the historical moment of its enactment, namely the process of capitalist restructuration of the 90s in Latin America towards the configuration of neoliberalism. In this sense, the constitutional dispositions allowed the privatisation of the provision of social services and endorsed the introduction of public-private competence for their procurement (Jaramillo Jassir, 2002). The consequences were the opening of new markets for providing public services and the commodification of social rights, with access-barriers determined by the economic capacity of the citizens. The role of the state started to be limited to supervising that the markets operate in legal conditions (Alzate Mora and Vargas-Chaves, 2020).

When considering Colombian legislation on the matter, a milestone is Act 100 of 1993, which created the *Sistema de Seguridad Social Integral* (SSSI, General Social Security System). This system is made up of four sub-systems: the General Social Security System for Health, the General Social Security System for Pensions, the General Occupational Risks System and Complimentary Services. The health system has two regimes, the contributory and the publicly-funded, and the first one was created with a more comprehensive plan of health services and medicines than the second one. Additionally, the Act created the *entidad promotora de salud* (EPS, health promotion entities) intermediaries responsible for collecting contributions for the health system and managing access to services. They can be public, private or of mixed ownership. Later, the congress issued

Act 1751 of 2016, which stated the fundamental right to health for the whole Colombian population and redesigned the SSSI. This act eliminated the difference between the health services plans of the contributory and the publicly-funded schemes, expanding the coverage of social security vertically. Also, it declared the duty of the state in reducing inequalities in the social determinants of health, meaning the differences in social, economic and nutritional factors, among others, that partly determine whether people fall sick.

The jurisprudence of the Colombian Constitutional Court had supported, since its creation in 1991, the horizontal and vertical expansion of social protection coverage. Case law has established some core principles related to labour and social security law. These principles can transcend legislative majorities and open a window for achieving material justice through judicial actions (Goyes Moreno and Hidalgo Oviedo, 2012). Among them are found the principle of inalienability of the right to social security, the principle of progressivity in social rights and the vital minimum income principle. The first one acknowledges the connection of social protection with human dignity, its recognition in international human rights treaties and its provision as universal public service to claim its inalienability (Constitutional Court, Decision T-136, 2019). The second means the duty of immediate satisfaction of minimum levels of social protection, plus the obligation of the state to take action to develop social rights in a reasonable time, and the prohibition against withdrawing them (Constitutional Court, Decision C-294, 2019). The principle of vital minimum income seeks to guarantee the material means of citizens to have an appropriate living standard (Constitutional Court, Decision T-136, 2019). It is therefore essential to recognise the role of the judicial activism of the constitutional court in expanding the right to social protection in Colombia. It was thanks to the jurisprudence development that the right to health was embedded for the first time within the category of a fundamental right (Constitutional Court Decision T-760, 2008).

The Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, which was signed by the state and FARC-EP in the year 2016, deserves an important mention. The agreement aims to put an end to the conflict that took place for more than 50 years, achieving political solutions for the structural causes of the conflict. On the topic of social protection, three out of the six thematic chapters the agreement have relevance. From the very first chapter, called 'Comprehensive rural reform', the agreement sets an agenda for eradicating extreme rural poverty and reducing gaps between rural and urban areas to promote equality (UN High Commissioner for Human Rights, 2020). Its article 1.3.3.5 states that elderly rural workers without pensions will receive a permanent cash transfer from the state. Also, those who cannot work due to an occupational illness or work accident should receive an economic subsidy from the state. Further

on, in chapter four, it addresses the solution to the drugs problem by stating that drug consumption should be treated as a matter of public health within the social protection system, rather than in the criminal system (article 4.2). Additionally, chapter five, about the rights of the victims of the conflict, creates the Integrated System of Truth, Justice, Reparation and Non-Repetition. The paradigm here is to put an end to the social marginalisation caused by the conflict and restore to victims all their rights.

In summary, since the national constitution in the 90s, the social protection system has certain characteristics that remain until now: the health and social security system follow a model of a regulated market. The progress in health coverage has been pushed by civil demands, judicial activism and later through the establishment in law. The health system has structural problems such as the intermediation of *EPS* entities in access to the health services, which increases transactional costs and is profit-driven. In practice, the social protection system can be challenging to navigate and inefficient at complete protection, especially of workers in the informal sector.

Beyond the institutional provision of social protection services, there are few examples of self-organised initiatives for the provision of social protection rights. Nonetheless, in the country exist the "*Juntas de Acción Comunal*" (JAC) - community action boards, which were created in the year 1958 by law. Despite their formal creation, they were widely appropriated, which led to their use for a broader purpose than originally intended (Jaramillo Gomez, 2009). In the beginning, the government attempted to decrease costs of social programs and to prevent violent actions in creating the JAC (Jaramillo Gomez, 2009). But nowadays, these organisations aim to provide the community with more social services and improve their quality, including the right to health.

The boards operate through different committees, varying from one JAC to the other, but it is usual to find committees on infrastructure, health, education and sports. A health committee of a JAC in a rural area will provide resources, for example, to a member who is sick and needs to reach the municipal capital to receive medical treatment. Also, these committees organise different health brigades in the community. According to Jaramillo Gomez (2009), JACs are all around the country, and they are probably one of the most stable and common forms of organisation in the rural areas. Additionally, Romero Leal (2017) states that, due to the process of urbanisation in the country, JACs were also created in cities, especially in their poorest parts. As explained by Molyneux (2008), low-income populations were compelled to rely on a mix of formal and informal social institutions for their security, and both social relations and states are critical to ensuring their well-being.

Analysis of employment-based social protection benefits.

In Colombia, social protection provision is classified in two different schemes, the contributory and the publicly funded. Each of them has different levels of benefits (except the health system), eligibility requirements and funding sources. The contributory regimen brings coverage to people and families who have the economic capacity to contribute to it, generally because the person has formal labour relation. Social contributions come from employers and employees in different proportions. The publicly funded scheme is designed to give social protection to people in poverty or vulnerable conditions, and it is financed through fiscal resources and the Solidarity Fund of the Health and Social Protection Ministry (Gómez García and Builes Velásquez, 2018). Also, it is funded partially by social contributions from the formal sector.

When analysing public policies, benefit levels and social security coverage in the country, we can differentiate between the beneficiaries of the contributory and the publicly funded on one hand, and the marginalised group of people on the other hand. The contributory group includes workers in the formal sector, that is, those with a legal employment relationship. Their remuneration is at least a minimum wage (around US$230 per month in 2020), and they are covered for all risks inherent in the life cycle at the level of national parameters. The group in the publicly-funded scheme includes workers in the informal sector and those who do not contribute to the social protection systems or only to some of them. They are workers with a temporary employment relationship or who are self-employed. Most of them belong to the agriculture, trade or construction sectors (National Development Plan, 2018). If we understand informality as the lack of pension contributions, it affects 63% of Colombia's working population: 64.7% of young workers and 64% of workers between 50 and 59 years of age (National Development Plan, 2018). Informal workers have an average of 7.6 years of education, while formal workers have 12.1 (National Development Plan, 2018). Also, in the publicly-funded scheme are self-employed workers, many of whom are state contractors or gig workers on digital platforms (Tangarife López, 2019). The third population group, which is marginalised from social protection, includes people at the extreme poverty level, whose monthly income is between zero and US$30, corresponding to 7.2% of the Colombian population (DANE, 2019).

Despite the legislation on the topic, the lack of minimum social protection for informal and rural workers is continuously exposed by the Colombian trade union confederations (Orjuela, 2019). The CUT and the Confederación de Trabajadores de Colombia (CTC, Confederation of Workers of Colombia) observe that the national social protection floor is not financially sustainable due to the deficit and mismanagement of funds (ILO CEACR, 2019). The organisations alleged the lack

of protection for informal workers by pension schemes and the General Occupational Risks System. Regarding the health system, the CUT frequently expresses the contradiction between the provision of adequate health service and the profit-making nature of the system. The confederations denounce that health operators prevent the affiliation of discriminated groups through administrative obstacles, and that bureaucratic actions are inefficient and slow to solve the problems, turning the *tutela* action into the norm for protecting health rights (ILO CEACR, 2013). This process is not unrelated to global privatisation trends; as Anner et al. (2019) point out, the growing participation of private operators in the provision of health services has increased the unevenness of social welfare since coverage for the poor is less profitable, and thus secondary. Also, both confederations accuse the government of lack of responsibility towards people with a permanent disabilities, when most of them do not receive the rehabilitation they need, and there is no policy that promotes their employment.

Table 1 and **Table 2** present an overview of the contributory and publicly-funded schemes respectively. The columns describe benefit levels, eligibility requirements and funding sources for each social protection guarantee.

Table 1: *National contributory scheme*

Social protection guarantees	Benefit levels	Eligibility requirements	Funding sources
General Social Security System for Health	* Health services, technologies and medicines included in the National Health Benefits Plan (Resolution 6408 of 2016, 2016). *The Health and Social Protection Ministry decide and revise the plan. *Coverage for economically dependent family members.	* Working as a dependent or independent employee in the formal sector. *Being an affiliate and making integral contributions to the General Social Security System for Health, Pensions and Occupational risks.	* The contribution is 12.5% of the monthly salary, of which 8.5% is paid by the employer and 4% by workers.
General Social Security System for Pensions **It is based on two mutually exclusive schemes: a public and a private one.**	Public pension scheme: *Three types of pensions: old-age, disability and survivors' pensions. * The minimum pension is at least equal to the minimum wage. * In general, pensioners here receive amounts that are higher than their savings could finance in the private scheme. *Family pension: under certain conditions, where couples have reached pension age but do not have enough contributions, it allows them to receive a pension jointly. * Those who have contributed for less than the minimum period are entitled to a refund.	Old-age pension: * Reaching 1300 weeks of contributions. * Reaching the retirement age: 62 for men and 57 for women Disability pension: *Losing 50% or more of working capacity. *Contributing for at least 50 weeks, in the three years before the disability. Survivors' pension: *Being financially dependent on the deceased. * That the deceased was receiving his/her pension or that he/she contributed to the system for at least 50 weeks in the last three years.	* Workers contribute 4% of their wage and employers 12% (self-employed pay 16%). * Public contributions through transfers from the general national budget.

Social protection guarantees	Benefit levels	Eligibility requirements	Funding sources
	Private pension system: *individual savings in a personal account, without subsidies, therefore the amount of the pension may be lower, but never under the minimum wage. *There are old-age, disability and survivors' pensions.	Old-age pension * People can retire as long as their accounts can finance an annuity of at least 110% of the minimum pension. *The pensions' requirements are equal to the public scheme.	*Fully-funded private scheme with contributions of workers and employers in the same percentage as the public scheme.
General Occupational Risks System	* System for the prevention of accidents at work and occupational diseases.	*Mandatory occupational plans at the workplace. *Cash benefits: disability allowance, compensation for permanent partial disability. Also, invalidity and survivors' pension in the event of an accident at work or occupational disease.	*The percentage of contributions is covered by the employer and varies according to the level of risk to which the worker is exposed.
Benefits from the Family Compensation Fund	* Family cash allowance paid per dependent (children and parents). On average, the amount is 4% of the minimum wage. * Support for different programmes (including cash allowances, employment services, housing and services).	* Restricted to formal workers, working at least 96 hours per month and earning less than four minimum wages.	* Employers contribute 4% of their wage bill (*parafiscal*)
Maternity and paternity leave	Maternity leave: * 14 weeks leave around the time of birth or adoption. The amount to be paid must be the same as the salary received before the leave. Paternity leave: * Eight working days leave following the child's birth or adoption.	*Working mothers and fathers in the formal sector.	*The payment is made directly by the employer who can ask for reimbursement from the health insurance company (*EPS*).

Source: author's contribution. Information was taken from OECD (2016) and updated with developments of current legislation.

Table 2: *National publicly-funded scheme*

Social protection	Benefit levels	Eligibility requirements	Funding sources
General Social Security System for Health	* Equal to the ones included in the contributory scheme.	* People in poverty or vulnerability (i.e. without work, work contract, or sufficient income).	* It is financed by several sources including part of the contributions of workers in the formal sector and funds from central and local government.
Periodic Economic Benefits (BEPS)	* Supplements by 20% the pension contributions of those who have not contributed enough to be eligible for a pension.	*Elderly people who reach pension age and have not contributed enough for a pension. * Working-age individuals in informal jobs and earning less than the minimum wage can contribute to the programme during their working life.	* Publicly subsidised.
Programs against poverty and vulnerability	'Colombia Mayor': * It is a means-tested benefit for low-income elderly people (7% to 12% of the minimum wage).	* Not all those potentially eligible are entitled. Access is determined by the budget allocated to the programme.	* Financed by the Pension Solidarity Fund. Resources come from social contributions on wages and pensions and the General National Budget.
	'United Network': *The provision of family and community support through social workers and preferential access to social programmes and public services.	* Families in extreme poverty or who have been displaced	*Public budget: an average expenditure per family of about US$70 per year.
	'Families in Action': * The programme includes two types of cash transfers: a. Per family with children aged under seven years old, subject to children's attendance for health controls. b. Per child aged five to 18 years old, enrolled and regularly attending school.	* Families with children identified as vulnerable.	* An average expenditure of US$310 per family per year.

Social protection	Benefit levels	Eligibility requirements	Funding sources
	'Youth in Action': *Programme promoting enrolment in post-secondary education. Its components are: a. A grant amounting to about 30% of the minimum wage, to support their maintenance expenses. b. Workshops and experimental activities for facilitating their professional integration.	* People 16 to 24 years of age in a situation of poverty or vulnerability, in the transition from secondary education to the labour market.	* An average public expenditure of approximately US$960 per person per year.
The Early Childhood Comprehensive Care Strategy	*The components of care are: a. care and upbringing b. health, diet and nutrition c. early childhood education d. recreation e. civic education. *Early childhood care is provided in three different settings: institutional, family and care.	* Children under six years old. * Prioritised to victims of the armed conflict, children referred by Nutritional Recovery Centres, families from ethnic minorities, disabled children, or children belonging to households in socio-economic vulnerability.	*Financed by the general national budget, and means-tested fees paid by families that use the services.

Source: author's contribution. Information was taken from OECD (2016) and updated with developments of current legislation.

The disadvantageous situation concerning the welfare of women is evident. There is no national progress in designing a new pillar focusing on care. There is no relief for women from carrying out the family obligations that result in their lack of protection in old age (Acosta Navarro, Forero Ramirez and Pardo Pinzón, 2015: 5).

Opportunity for cash transfers and basic income anti-poverty based social protection.

To address the drop in work-related incomes of poor households as a result of the confinement measures to tackle Covid-19, the government launched the solidarity income programme, PIS. This programme started in April and will run until December 2020, and it aims to reach 3 million households by the end of the year. By July, this programme had reached about 2.6 million households (Government of Colombia, 2020). The value of the transfer per household is less than the value of a minimum wage, being around US$41 per month. Considering that the average

household in Colombia is composed of 3.3 people, the programme pretends to cover around ten million people in poverty. For an individual, the allocation is lower than one dollar per day.

According to the information presented by the Colombian Government (2020), the selection of PIS beneficiaries took into account the pre-existing data in the national databases. The households chosen are among those in poverty, which do not receive any other cash transfers from the state. Beneficiaries who already had a bank account were paid into that account. Those who did not have an account in the financial system received messages on their mobile phones to open a digital product with either a private or public bank. It is possible to open the account through a smartphone, filling out a form on an app and uploading a photo of the identity document. Even using a rudimentary mobile phone, it is possible to open the bank account. Opening the account is free and does not require a data plan. If everything goes well, the money will be put into the account within 24 hours and can be withdrawn at the ATMs or branches of the chosen bank. Payments made government-to-person through digitalisation (G2P according to the World Bank, 2020) present some opportunities for social protection but also some risks. Indeed, the application to the PIS was not made through a digital platform, since the state had decided beforehand on the beneficiaries. After some months of payments, G2P is showing a relatively quick response from institutions in providing measures for social protection. However, such payment digitalisation raises questions about ethics in handling the data of the applicants, the transparency in reception by the real beneficiaries and possible hidden profit for the financial system.

At the same time, the public debate in the country became very interested in the need for an emergency basic income. This would mean an unconditional monetary income that would act as anti-poverty-focused social protection. The campaign, called Basic Income Now, aims to provide an effective response to households that, during the weeks of confinement, kept red rags on their windows as a sign of hunger and need for help. Additionally, the National Paro Committee has the right to a basic income as the second point in its list of demands to the government. This committee is the platform that has recently gained probably the most social representation, with the participation of the three Colombian trade union confederations and other organisations. Its political potential has been consolidated since they managed to call for massive mobilisations around the country in November and December 2019 (Pardo, 2019).

Legislative interest has also been stimulated in this area. Since the beginning of the crisis, six legislative projects about granting basic income with different characteristics have been presented. There is, particularly, a legal proposal that gathers a broad consensus among political parties. It aims to convert the PIS into a basic income equal to a minimum wage for a household. The

proposed sources of funding in the mentioned project include public credit and tax reform to tax the wealthy, and to eliminate tax exemptions for companies and multinationals, among other sources. Certainly, the discussions on basic income have opened the debate about crucial public agenda issues, such as tax reform, public debt and vertical expansion of social protection, among others social demands.

Conclusions

In Colombia, digital work via location-based platforms such as Rappi does not lead to social security or attainment of decent work. The asymmetry of power that the shareholders and operators of the platforms enjoy, added to the lack of regulation of digital work in the country, is taken as a race to the bottom for technology enterprises. Empirical studies on the characterisation of this type of work evidence the poor quality of its provision, the absence of minimum social protection and the vulnerability to falling into poverty of the young riders (Jaramillo Jassir, 2020). Decoupling employment and social security contributions has led to increased discrimination against Venezuelan migrant workers, who do not belong to the contributory or publicly-funded system. The workers have organised themselves into a trade union that functions through an app and claims a role in shaping the future of work.

The historical development of social protection in Colombia over the past three decades is related to a political, economic and social context. However, some constants can be observed in social policies and public spending that can be explained according to path dependency tendency. The coverage of health insurance has expanded horizontally significantly, to the extent that the country is approaching affiliation of its entire population. But its privatised nature and the obstacles to access for poor people make it a system with structural tensions, and conflictual. Inequality in the country has remained one of the highest in Latin America, with a Gini coefficient of more than 0.5 in the past 30 years. The regressive effects of public spending which is appropriated by the upper-income quintiles, especially in the pension sector, may partly explain the high inequality. However, the primary cause is the lack of accountability of capital, which enjoys a very uneven playing field for updating the aggressive process of accumulation.

The formal structures of social protection contain governing principles towards universalising social protection in the country. The judicial activism of the constitutional court has played an important role in recognition of these fundamental rights. The peace agreement signed in 2016, despite its slow implementation, brings positive developments in the well-being of the rural population and victims. On the other hand, through the Community Action Boards (JACs),

informal modes of social protection are being implemented, such as community support in healthcare issues.

The contributory and publicly-funded schemes of social protection have substantial differences, both in the sources of their financing and in the levels of benefits. A comparative table clearly illustrates the levels of benefits, eligibility requirements and sources of funding for both schemes. A care work pillar has not been adequately developed in the country, which directly affects women.

The crisis generated by Covid-19 has put greater pressure on the state's response to provide anti-poverty focused social protection. The government has launched the PIS programme of cash-transfers using digital means of payment. The scope of the measure is not comprehensive to all people in need, and it is contested whether the value of the transfer is adequate. There is a high civil and political interest in the implementation of an emergency basic income measure as part of the anti-poverty focused measure of the social protection system. This debate has opened up other concerns related to the extension of the fiscal space for the vertical expansion of social protection.

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SOUTHERN CENTRE FOR INEQUALITY STUDIES | FACULTY OF COMMERCE, LAW AND MANAGEMENT
North Lodge, Wits University Parktown Campus, 2 St David's Place, Johannesburg, 2050
T +27 (0) 11 717 8274, www.wits.ac.za/scis/