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The Regulation of Platform Work and Labour Hire Companies for Migrant Workers in the Gulf Council Cooperation Countries – a New Challenge or an Old Problem?

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The regulation of platform work and labour hire companies for migrant workers in the Gulf Council Cooperation countries – a new challenge or an old problem?

Sophia Kagan and Ryszard Cholewinski

Abstract

Given the debate around the protection of platform workers globally, and combined with the exceptional vulnerability that migrant workers face in the Gulf Cooperation Council (GCC) countries as a result of restrictions to the right to freedom of association and other freedoms, what regulatory model can best ensure flexibility in the labour market and the protection of migrant workers in the GCC?

Based on a comparative legislative analysis, this paper unpacks the rise in platform work and the consequences for migrant workers in the GCC. With reference to international labour standards and global debates on platform work, the authors provide an assessment of the regulatory frameworks and reforms in the region.

The paper shows that, despite the abolition of the 'no objection certificate' in some GCC countries, internal labour market mobility for migrant workers remains hampered across the region, and application of the kafala (sponsorship) system is failing to meet both workers' and employers' interests as well as labour market needs. Platform work among taxi drivers and delivery drivers increasingly appears to result in migrant workers in the region finding themselves in complex subcontracting arrangements and disguised employment. However, it is far from clear that a freelance employment option would offer greater protection for such workers, especially where recruitment or placement agencies play an important role in regulating and setting the conditions of work.

Keywords: digital platforms, gig economy, kafala (sponsorship) system, temporary work agencies, labour hire, migrant workers, Gulf Cooperation Council (GCC)

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* Sophia Kagan is the Principal Policy Adviser on Labour Migration with the New South Wales Anti-Slavery Commissioner (formerly a Chief Technical Adviser with the ILO Regional Office for Arab States). Ryszard Cholewinski is the Senior Migration Specialist with the ILO Regional Office for Arab States. The views expressed in this paper are solely those of the authors and do not in any way represent the views of the ILO, its tripartite constituents nor any other organization. This publication was originally presented in a workshop entitled "Recent Labour and Migration Reforms and Policies in the Gulf: Impact on Economies and Societies", directed by Prof. Nasa M. Shah and Dr. Françoise De Bel-Air of the Gulf Labour Markets, Migration, and Population (GLMM) Programme in the framework of the 13th Gulf Research Meeting (GRM) organized by the Gulf Research Centre Cambridge (GRCC), Cambridge 11-13 July 2023.

1. Introduction

Globally, the growth of digital platforms over the past decades has been exponential. Over US$119 billion has been invested in such platforms, including more than US$62 billion in ride-hailing taxis and US$37 billion in delivery services (ILO, 2021).

Location-based digital platforms, where tasks are performed at a specified physical location by individuals, such as taxi drivers and delivery riders, have become especially prominent in the six countries of the Gulf Cooperation Council (GCC). The annual spending on the transportation digital platform sector was nearly US$3 billion in 2016 (PwC, 2017). According to the Government of Saudi Arabia, in 2018, there were more than 485,000 Saudi drivers providing taxi services through technology platforms in 60 Saudi cities, with annual profits of approximately SAR 2 billion (US$533 million) (Ghawi, 2018). Three years later, Uber reported that it had 530,000 drivers in Saudi Arabia in 2021, as well as 18,000 drivers in the United Arab Emirates (UAE) (Zaywa.com, 2022). Careem (bought by Uber in 2019) also employs thousands of drivers across the region, in addition to more localized companies such as Yango. Usage of transportation platforms is especially high in Saudi Arabia, Qatar and the UAE (PwC, 2017).

Food delivery businesses have also multiplied across the region, especially since the start of the COVID-19 pandemic. Talabat/Delivery Hero (15,000 drivers in the UAE) and Deliveroo are key regional players, although there are also localized providers in individual countries such as Snoonu and Rafeeq in Qatar. Increasingly, companies are branching beyond food delivery to delivery of groceries, pharmaceutical products and flowers (Zawya.com, 2023).

While gender disaggregated data is not available, it is likely that the vast majority of such workers are male, and largely from South Asia and Africa, except in the case of Saudi Arabia where platform taxi drivers must be nationals by law, and Oman, where all drivers "no matter the vehicle" must be Omanis (livemint.com, 2021).

The impact that the growth of the platform economy and platform work has on decent work is a fiercely debated topic globally and within the ILO. While the sector represents an opportunity for job creation and more flexible organization of production processes in the context of globalization, there is an undeniable challenge in terms of fair competition among enterprises and achieving levels of employment protection and social protection for workers which are consistent with decent work and international labour standards

1. The revenue from ride-hailing in the GCC region is projected to reach a market volume of US$3.55 billion in 2023 and is expected to grow to US$3.92 billion by 2027, with an average annual growth of 2.51 per cent, according to Statista Market Forecast (Statista, undated).

2. According to PricewaterhouseCoopers (PwC) (2017), household service platforms are also common in the GCC but employ only professionals with a trade license or other necessary registration. PwC notes that most such platforms in the region focus on laundry services, with additional ones specialized in cleaning, cooking, plumbing and electrical repairs, and include both local platforms (mrUsta in Dubai) as well as international platforms (such as Helpling, headquartered in Berlin) (PwC, 2017:11).

(ILO, 2022). Based on a normative gap analysis, the ILO's Governing Body discussed in March 2023 the option to include platform work on the agenda of the International Labour Conference in 2025 and 2026. There was strong pushback from employer representatives and the decision was ultimately put to a vote (a rare instance, given the emphasis on consensus in the Governing Body), which was ultimately in favour of having a standard-setting discussion on decent work in the platform economy in 2025. However, the objection of the Employers' group, and the heated debate, underscores the contentious nature of developing a standard in this area (ILO, 2023).

Many have highlighted the heightened precarity of migrant workers in non-standard forms of employment, including in the platform economy. In the Gulf States, civil society organizations have raised a number of concerns with respect to the rights of migrant workers generally, as a result of the restrictive sponsorship system. Platform workers in the GCC who are migrants must be employed via a third party agency (temporary work agency), which functions as the employer and sponsor. Temporary work agencies place migrants at the disposal of one or several platform companies. However, many such agencies may be small, operating on low profit margins, have low investment in occupational safety and health, and are liable to go bankrupt in case of cash flow constraints.

The paper thus discusses this relatively unique employment relationship between workers, employers (temporary work agencies), digital platforms and their clients in the GCC, relating the issue to relevant international labour standards.

This paper thus attempts to make a distinctive contribution to research on low-wage migrant workers in the GCC, especially in the context of platform work, in two ways:

- By examining the regulatory context of platform/outsourcing work in the GCC, including in the context of multi-party relationships and non-standard forms of employment;
- By using the framework of international labour standards to assess the degree to which platform/outsourcing work is adequately regulated in the GCC, including through self-sponsorship visas which currently only exist in Bahrain for low-wage migrant workers.

The paper shows that the challenge of ensuring decent work in the platform economy in the GCC is complicated by the intersection with the kafala (sponsorship) system, which adds an additional level

3. No decision has yet been taken on the form of the instrument – whether a Convention, a Recommendation or both – nor its precise scope. Input from ILO's tripartite constituents (governments, employers' and workers' organizations) has been sought in the questionnaire attached to the law and practice report. There were 22 votes in favour of the amendment submitted by the Employers' group, 32 votes in favour of the amendment submitted by the Workers' group and 1 abstention.

4. Transportation platforms in the GCC are regulated differently to food delivery platforms. The former act as aggregators of licensed transportation services – such as limousine companies. In Dubai and Abu Dhabi, the rules are slightly different. In Dubai, only taxis owned by the government-run Roads and Transport Authority (RTA) can be registered with transportation platforms, so rideshare drivers must be employees of the RTA. In Abu Dhabi, both nationals and non-nationals can register as drivers, but migrant workers must be employed by a Trans Abu Dhabi-registered limousine company (Migrant-Rights.Org, 2022).

of precarity to the migrant workforce (ILO, 2017a; Kagan & Cholewinski, 2022). While the debate on platform work in much of the world focuses on whether platform workers are in an employment relationship (as opposed to being self-employed), migrant workers in platform work in the GCC are largely employees of temporary work agencies, thus falling under a different category of non-standard forms of employment, resulting in what is effectively a 'quadrangular' relationship between workers, employers, digital platforms and clients. However, the paper argues that it is far from clear that a freelance employment option for such workers would offer greater protection, especially where recruitment or placement agencies play an important role in regulating and setting the conditions of work.

2. The evolution of regulatory frameworks on temporary employment agencies in the context of international labour standards

The regulation of temporary work agencies remains a complex and fluid topic. Through the adoption by the International Labour Conference of the Private Employment Agencies Convention, 1997 (No. 181), the ILO reversed its traditional opposition to private sector labour intermediaries and recognized the 'constructive' role played by private employment agencies in matching labour supply with demand. However, the sector remains embroiled in regulatory debates around decent work. Strauss and Fudge (2013) note that temporary work represents both extremes of the labour market: the "hypermobility of highly skilled, highly paid professionals and 'knowledge economy' workers"; and low-wage jobs like cleaning, care and construction where labour intermediaries may "exploit the ways in which processes of racialization and construction of new categories of social difference, instigated by immigration regimes, render some workers extremely vulnerable – including to forced and unfree labour" (Strauss and Fudge, 2013: 3).

According to the World Employment Confederation - WEC (formerly the International Confederation of Private Employment Agencies), Convention No. 181 represented a "dramatic U-turn of the [ILO's] position regarding the private employment services industry" (ILO, 2016). Since 1949, the ILO had advocated for the prohibition of for-profit, fee-charging employment agencies (under the ILO Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)), a stance that rendered the placement of workers a "de-facto public service monopoly in ratifying countries" (Peck et al., 2005). Following sustained pressure from business interests during the 1990s, Convention No. 181 explicitly acknowledges the "very different environment in which private employment agencies operate" today, noting their constructive "role … in a well-functioning labour market" (ILO, 1997: 1). The Convention came into effect in 2000 and has received 38 ratifications as of 12 November 2024. However, no GCC country (or indeed country in the Middle East) has ratified Convention No. 181, while in Asia, only Fiji, Japan and Mongolia have ratified it.

According to Peck et al. (2005), Convention No. 181 reflected the "changing economic and regulatory context that had come to prevail in the 1990s," in which some European countries were already beginning to liberalize their temporary labour markets, and the Convention subsequently spurred this trend further to parts of Asia, including Japan.

Employment via temporary work agencies is in effect not unique to the GCC. Considered as the fastest-growing form of non-standard forms of employment in Europe throughout the 1990s (albeit from initially close to zero), temporary agency work accounted for 2 per cent of 'EU-15' employment in 2000, and 1.3 per cent of wage employment in 34 European countries in 2010 (ILO, 2021). Asian countries have also witnessed the growth of various forms of 'dispatched', agency, 'manpower', subcontracted or outsourced work throughout the past decades. In the Republic of Korea, temporary agency and dispatched workers constituted 4.4 per cent of wage employment in 2013. In the Philippines, as much as 61.5 per cent of establishments contracted "agency-hired" workers in 2014. In Indian manufacturing, contract labour reached 34.7 per cent in 2011–12, up from negligible levels in the early 1970s. Indonesia and Viet Nam likewise reported a significant spread of these forms of employment (ILO, 2021). The 2023 WEC Economy report documents 55.4 million placements by temporary work agencies (WEC, 2023).

Thus far, platform companies have not commonly relied on temporary work agencies, except in the GCC, though it is not unique to that region. For example, in China, where there were more than six million platform-mediated food delivery drivers in 2019, the top five market players in the industry changed their recruitment practices to hire full-time workers through temporary employment agencies, instead of directly hiring them through the platform (Sun et al., 2023). Driven by the platform companies' desire to cut labour costs, this form of outsourcing followed an earlier pattern of use of intermediaries in manufacturing and construction in China. Sun et al. (2023) note that the reliance on temporary employment agencies as employers of delivery drivers led to a paradoxical situation wherein there was a rise in relatively stable jobs with fixed hours in the food-delivery service sector, along with the continued casualisation of labour, constituting a form of 'de-flexibilisation' of platform work.

In some countries, legislation specifically mentions the use of intermediaries in platform work. For example, in Malta, regulations cover workers performing tasks through digital platforms via work agencies, which may be allocated to one or multiple platforms. Similarly, in Croatia, the 2022 revision of the Labour Act included subcontractors, called 'aggregators', as employers of platform workers. In Portugal, amendments to the 2023 Labour Law clarified that platform workers could be employed by intermediaries. Additionally, the recently adopted EU Directive on Improving Working Conditions in Platform Work provides that "Member States shall take appropriate measures to ensure that where a digital labour platform makes use of intermediaries, persons performing platform work who have a contractual relationship with

5. However, this data does not cover the GCC or the Middle East more broadly because no country from these (sub)-regions is a WEC member.

an intermediary enjoy the same level of protection pursuant to this Directive as those who have a direct contractual relationship with a digital labour platform."

Convention No. 181 and its accompanying Recommendation (No. 188) covers the topic of temporary work agencies through a definition of 'private employment agency' that includes providing "(b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a 'user enterprise') which assigns their tasks and supervises the execution of these tasks" (Convention No. 181, Article 1). The ILO General Principles and Operational Guidelines for Fair Recruitment, a non-binding policy framework, which draws on Convention No. 181 and other relevant international labour standards, contains a broad definition of 'labour recruiter', which would encompass temporary work agencies: "the term labour recruiter refers to both public employment services and to private employment agencies and all other intermediaries or subagents that offer labour recruitment and placement services".

Employment relationships in this context are usually governed by two types of contracts: an employment contract between the temporary work agency and the worker, and a contract between the temporary work agency and the user enterprise, but there is no contractual relationship between the worker and the user enterprise (ILO, 2010). The ILO makes a distinction between temporary work agencies (where a company supplies workers to a company) and contexts where an enterprise has been contracted to provide services to another enterprise (e.g. cleaning services), where – in case of the latter – there is more likely to be supervision of the worker by the intermediary.

It is important to highlight that Convention No. 181 does not resolve the issue of who is accountable for staff in the employment relationship (whether the temporary work agency or the user enterprise), nor is this covered by any other ILO standard. Instead, Convention No. 181 merely requires in Article 12 that the government, in consultation with social partners, allocate the responsibilities between agencies and user enterprises, especially in the following key areas: collective bargaining; minimum wages; working time and other working conditions; statutory social security benefits; access to training; protection in the field of occupational safety and health; compensation in case of occupational accidents or diseases; compensation in case of insolvency and protection of workers' claims; maternity protection and benefits, and parental protection and benefits. In addition, Article 2(4)(a) of Convention No. 181 provides that governments, having consulted with the relevant social partners, can "prohibit, under specific circumstances, private

6. Portugal, Labour Law of 3 April 2023 (Lei n.º 13/2023). This law provides that: (a) there should be no discrimination between workers directly hired and those hired by an intermediary; and (b) the digital platform and the intermediary operator are jointly liable for the worker's credits arising from the employment contract, or from its breach or termination, as well as for the corresponding social costs and for the payment of the fine (ILO, 2024).

7. Directive of the European Parliament and of the Council on improving working conditions in platform work, Doc. PE-CONS 89/24 (Brussels, 2 October 2024), Article 3. The text of the Directive is available at: https://data.consilium.europa.eu/doc/document/PE-89-2024-INIT/en/pdf.

8. ILO General Principles and Operational Guidelines for Fair Recruitment (2019), Section II, Definitions and terms. Emphasis added.

employment agencies from operating in respect of certain categories of workers or branches of economic activity in the provision of one or more of the services referred to" in the Convention.

In development of activities in relation to enforcement of the law and/or regulations, governments may consider (Hansen, 2006): 1. Administration of the registration procedure and (possible) collection of registration fees; 2. Monitoring of agency activities (desk audit of information provided and/or field audits); 3. Assessment of penalties for non-compliance with laws or regulations; 4. Administration of a complaint procedure for workers; and 5. Information reporting to responsible authorities. One clear obligation on temporary work agencies is that they do not charge any fees or costs to workers (Article 7 of Convention No. 181), which is also a key principle of the ILO General Principles and Operational Guidelines for Fair Recruitment (GP&OG) (principle 7). Moreover, Article 8 of Convention No. 181 gives particular attention to the protection of migrant workers noting that governments must (in consultation with employers' and workers' representatives) and in collaboration with countries of origin, "adopt all necessary and appropriate measures […] to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies", including enforcement of penalties.

The ILO Committee of Experts on the Application of Conventions and Recommendations has also highlighted the need to have a clear legal framework in place to ensure that the responsibilities of the temporary work agency and the user enterprise that assigns and supervises the execution of the work is appropriate and clear. The Committee notes that States need to address these particularities through measures that ensure that in each case effective responsibility is determined, "ensuring that workers have effective recourse for breaches of their rights". (ILO, 2010: 76).

The breadth of regulatory frameworks at a national level is wide. Some countries heavily restrict the activities of private staffing companies, and in some cases, there is even an outright ban on outsourcing (Venezuela and Mexico). In the European Union (EU), Directive 2008/104/EC on temporary agency work is the key supranational mechanism setting out the equal treatment principle in respect of "basic working and employment conditions" (defined in Article 3(1)(f) between temporary agency workers and workers who are directly employed by the user company to which they are assigned (Article 5) (Countouris 2016).

9. Under Article 2(4)(b), governments can also exclude, under specific circumstances, workers in certain branches of economic activity, or parts thereof, from the scope of the Convention or from certain of its provisions, provided that adequate protection is otherwise assured for the workers concerned.

10. The GP&OG also stipulate that governments protect against human rights abuses, including by private employment agencies providing services consisting of employing workers with a view to making them available to a third party (temporary employment agencies), and other contractual arrangements involving multiple parties, including by taking appropriate steps to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication, and exercising and mandating due diligence to ensure that human rights are respected (ILO 2019, guideline 3.1).

11. The Basic Labour Act of the Bolivarian Republic of Venezuela 2013, section 47, provides that: "… outsourcing is understood as the simulation or fraud committed by employers in general, with the purpose of distorting, ignoring or hindering the application of the labour legislation ...".

The recent Directive 2019/1152/EU on transparent and predictable working conditions in the EU (which entered into force in 2022) sets further requirements, providing protection for workers with unpredictable working schedules and on-demand work, as well as effective measures that prevent abuse of zero-hour contract work.

In most instances, States require that temporary work agencies be licensed. In some countries, there are dedicated labour inspectorates to inspect temporary work agencies, particularly in high-risk sectors. For example, the United Kingdom (UK) Gangmasters and Labour Abuse Authority (GLAA), which operates in the agriculture, food and fish processing industries, pressures labour providers to comply with labour laws by threatening to cancel or withhold a license if an investigation shows that a worker's rights have been breached. Similar inspectorates include the Victorian Labour Hire Authority and the Queensland Labour Hire Licensing Compliance Unit, both in Australia.

One of the key challenges is that – because there is no direct contractual link between user enterprise companies and the worker – the worker has no recourse against the user enterprise. However, some countries have allocated liability beyond the temporary work agencies to that user enterprise (which benefits from the labour). For example, the New Zealand Employment Relations (Triangular Employment) Act 2020 allows workers employed by one employer but under the control and direction of another business or organization to have the right to bring certain labour complaints to the latter company. In Argentina and Belgium, the principal contractor must pay the wages of the subcontractors' workers if the latter fails to do so, and in Greece, the client pays the worker's wages if the principal contractor fails to do so. Under Brazilian law, first-tier contractors can be held responsible for subcontractors' noncompliance with labour obligations, and a labour court guideline further extends chain liability to certain project owners in construction projects (Farbenblum and Berg, 2021).

In addition to Convention No. 181, another important labour standard, albeit non-binding, is the Employment Relationship Recommendation, 2006 (No. 198), which, in paragraph 7(a), makes specific reference to migrant workers and notes that in framing national policy, governments "should, after consulting the most representative organizations of employers and workers, consider adopting appropriate measures within [their] jurisdiction […] so as to provide effective protection to and prevent abuses and fraudulent practices of migrant workers in [their] territory who may be affected by uncertainty as to the *existence of an employment relationship"* (emphasis added).

12. Mexico Federal Labor Law (2021). Only specialized services can be subcontracted, as long as the service to be contracted is not part of the corporate purpose of the contracting company and the specialized companies have a duly authorized registration.

13. Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work, OJ 2008, L327/9.

14. Specifically relating to the duration of working time, overtime, breaks, rest periods, night work, holidays and public holidays, as well as pay.

15. Directive 2019/1152/EU of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union, OJ 2019, L186/105.

3. Temporary employment agencies and the GCC

Though many commentators point to the proliferation of labour outsourcing firms in the Gulf, particularly in employing low-wage workers, there has been limited research conducted on the history, prevalence and typology of temporary work agencies (or labour supply companies), which emerged long before the popularity and prevalence of digital platforms. Wells (2018) notes that the proliferation of such companies was driven in the 2000s by the construction industry, as temporary work agencies provided the only mechanism by which construction companies could manage the volatile employment needs on construction projects that began booming in that decade. Research from the Business and Human Rights Resource Centre examining a dozen construction contractors operating in the GCC noted that many large construction firms employed 40-80 per cent of their workers through subcontractors or labour supply companies (Business and Human Rights Resource Centre as quoted in Wells, 2018). Dito (2015: 90) also notes that "the proliferation of labour outsourcing firms in the Gulf […] [is] a major driving force for migrant employment in the GCC". While recruitment agencies in the GCC are heavily regulated (at least on paper) in respect of companies matching domestic workers to households, the sparse regulatory framework on temporary work agencies is in sharp contrast with developments in much of the rest of the world, where more robust legislation is emerging.

Referring to such companies as 'manpower outsourcing agencies', Jureidini (ILO, 2017c) notes that these agencies are common in the construction industry as a source of temporary and short-term labour, but may also involve workers being engaged long term for the same company. He notes that some firms "do not identify themselves as manpower outsourcing agencies, but register as contractors or traders, obtain visas and 'warehouse' the migrant workers in labour camps or other accommodation sites, until jobs can be found". This, he observes, "creates a 'corporate veil' where the contractor does not formally acknowledge outsourced workers at their work sites nor check whether they may be victims of trafficking or other forms of exploitation, or living in substandard conditions" (ILO, 2017c).

Because few such agencies (referred to as 'temporary employment agencies' for the purposes of consistency with ILO terminology) have information in the public domain (websites, data), it is hard to estimate their prevalence, size and type. In a small study in Saudi Arabia, Hammer and Adham (2022) looked at employment relationships in one construction company, noting that a significant percentage of workers were employed via temporary employment agencies. These companies were established through a practice the authors refer to as 'tasattur' or 'commercial concealment', where a Saudi citizen allows a migrant to use his/her licence and commercial registration to set up a business to provide workers to companies as a temporary work agency, but it is the migrant intermediary who recruits and manages other migrant workers, with little involvement of the Saudi sponsor (Hammer and Adham, 2022). Buckley (2012) suggests a similar practice in Dubai, where, in addition to large and regulated temporary employment agencies, there is a plethora of smaller companies, run by Indian nationals from Kerala who are often former migrant workers themselves and have established a niche in the labour market in recruiting and

providing workers to construction companies (Buckley, 2012). Most are small, operating on low profit margins, have low investment in occupational safety and health, and are liable to go bankrupt in case of cash flow constraints sometimes caused by late payment by clients (Wells, 2018).

A review of regulations across the GCC shows that only the UAE, Saudi Arabia and Bahrain have regulations that cover the conduct of temporary work agencies (where workers are employed by the agency but required to work for a user enterprise). In such cases, the agencies (referred to variously as employment agencies, labour supply agencies, or local contracting companies in national legislation) can be distinguished from other types of intermediations, particularly in a context where the agency:

- is the intermediator that connects (migrant) workers with employers but does not employ the workers (regulated by the Labour law as recruitment agencies across the GCC); or
- provides particular 'services' rather than 'labour' (this is referred to as subcontracting and such companies usually require no special licensing at all, though the companies may call themselves 'outsourcing' or 'manpower supply' agencies).

The regulations of UAE, Saudi Arabia and Bahrain are outlined in the Annex. Of these countries, the UAE has the most detailed regulations on employment agencies where the new Labour Law (which came into force in 2022) requires any company that "undertake[s] the activity of employment or mediation to recruit or employ workers" to apply for a license from the Ministry of Human Resources and Emiratisation (Article 6). The conditions of the license are set out in Article 9 of the Implementing Regulations under the Labour Law (Cabinet Resolution 1/2022), which defines temporary employment and outsourcing as "employing the worker with the intention of making him [or her] available to a third party, whereas the worker's relationship becomes a direct one with the agency that outsourced his [or her] services to a third party (the beneficiary)". While the employment agency has primary responsibility for protecting the worker's rights, the user enterprise also has a number of obligations towards the worker, which, according to Ministerial Decree No. 51/2022, include an obligation (in Article 9) to:

1. Ensure all proper occupational safety and health conditions for the worker are met, in line with the nature of the work and job hazards, in accordance with the applicable laws.
2. Desist from requiring the worker to perform any tasks or to provide any services that fall outside the general framework of the work or service agreed upon with the Agency.
3. Desist from requiring the worker to work for more than the hours agreed upon with the Agency, except in accordance with the provisions pertaining to overtime stipulated in the Decree-Law, the Executive Regulations and the relevant Decrees, and only after the approval of the Agency.
4. Provide the worker with a written manual of the duties assigned to him/her within the general work framework as agreed with the Agency.

5. Allow the worker to review the attendance sheet prior to sending it to the Agency and include any reservations the worker may have regarding its content.
6. Notify the Ministry and Agency immediately of any work accidents or injuries the worker sustains.
7. Desist from requiring the worker to work for a third party.

Legislation in Saudi Arabia provides a differentiated structure of regulation, depending on whether the company is providing temporary professional labour services, 'daily labour services' and/or 'local contracting services' (which appears to capture lower-wage workers who are not classed as 'professional' workers).

Additionally, both the UAE and Saudi Arabia have provisions that allow a domestic worker recruitment agency to act as 'the employer', who can make the worker available to one or multiple households. In the UAE, this form of temporary work is regulated under Cabinet Resolution 106/2022, which makes the recruitment office jointly responsible for implementing the law with the respective household(s) (unlike in Saudi Arabia where the relevant legislation does not appear to make reference to employers' obligations).

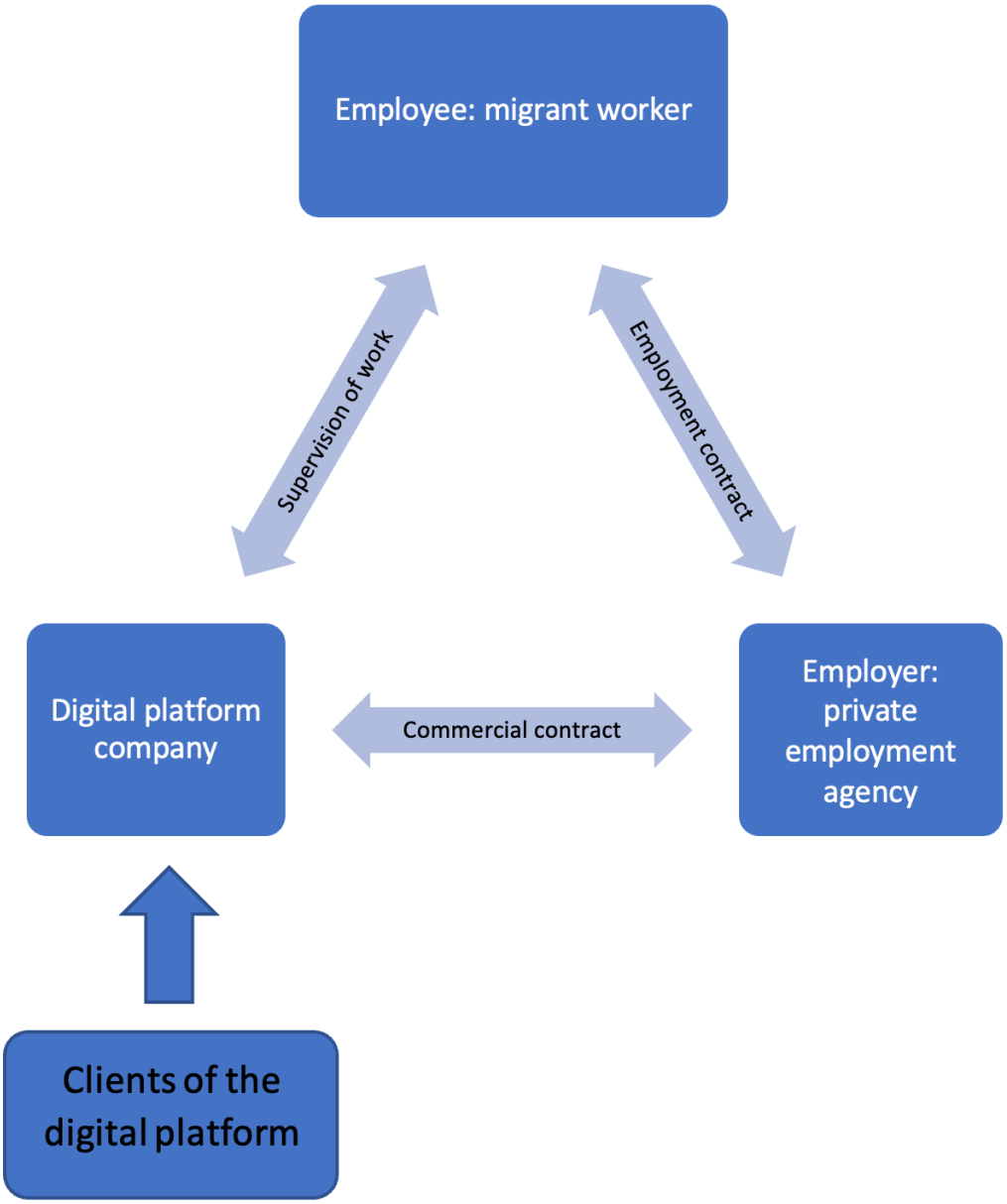
What this means in the context of platform work is that the companies that provide migrant workers' services to digital platforms should, in principle, require a license in the UAE, Bahrain and Saudi Arabia, as they are acting as employers to a worker who provides services to another client. The level of enforcement of the regulations, however, is not possible to assess. Unlike other countries, such as the UK and Australia, which also operate licensing systems for employment agencies in certain sectors and regions, there is no dedicated compliance unit in these GCC countries that monitors licensing of employment agencies. Moreover, because the legislation – except partially in the UAE – does not place any obligations on the user enterprise, it would appear that digital platforms have no legal obligations to the workers.

4, Migrants' rights within the 'quadrangular' relationship between workers, employers, digital platforms and clients

Platform workers in the GCC who are migrants must be employed via a third party agency (temporary work agency) that places them at the disposal of one or several platform companies, which function as the employer and sponsor. However, the kafala (sponsorship) system adds an additional level of precarity to the migrant workforce (ILO, 2017a; Kagan & Cholewinski, 2022). Migrant workers in platform work in the GCC, largely employees of temporary work agencies, thus fall under a different category of non-standard forms of employment, resulting in what is effectively a 'quadrangular' relationship between workers, employers, digital platforms and clients (see Figure 1).

16. In the UAE, however, there is some regulation of these employment relationships, including Ministerial Decree 496 of 2022 with respect to contracting agreements and subcontracting; and Ministerial Decree 565 of 2005 regarding the rights of workers 'rented out' to other companies.

Figure 1: The 'quadrangular' relationship between workers, employers, digital platforms and clients in the GCC



Although the temporary work agencies which function as the employer and sponsor, are required to abide by labour regulations, civil society organizations have recorded systematic non-compliance, including common allegations of contract substitution, non-payment of wages, non-payment of the costs of medical care following workplace accidents (such as road traffic accidents) and a lack of insurance.1 Reports have also suggested that workers who filed complaints with the respective Ministries of Labour,

17. See, for example, FairSquare (2023). In February 2023, Nepal's Department of Foreign Employment, the government agency which oversees the labour migration of Nepali nationals, temporarily halted approval of recruitment of delivery riders and taxi drivers to Qatar and Dubai, citing issues of non-payment of wages, lack of work opportunities, and workers' liability to pay for expensive traffic fines, despite not being informed about the applicable road rules (Pandey, 2023).

or took industrial action, were in some cases deported, although in Dubai, migrant workers working for Deliveroo and Talabat took the rare step to engage in protest after the companies reduced their pay per delivery and were successful in having the platform company retract the decision (Migrant-Rights.Org, 2022). Moreover, although they are employed by an intermediary, migrant workers working for ride-hailing and food delivery companies are subject to the same concerns of algorithmic management that other platform workers are subject to globally, including lack of transparency in pay, questions of fairness of automated decisions such as ratings and deactivation from the platform, and other penalties and surveillance, the challenge of labour inspection in the context of algorithmic management, and the need to prevent algorithms from discriminating against workers (ILO, 2022).

5. 'Flexible' work permits: a solution or a trap?

PwC, in its 2017 report on platform work in the GCC, argued that two sets of labour reforms were needed to address the challenges to participation in the sector (referred to as the 'sharing economy' in the report) (PwC, 2017). To entice more nationals to the sector, labour reforms were needed to introduce a freelance mode of employment. However, specifically in Kuwait, Qatar and the UAE, where migrants outnumbered nationals and the wage gap between them was substantial, reforms were needed to enable more migrant workers to work in the sector (as nationals were very unlikely to). Thus, the report argued, there was a need for more freelance options for migrant workers, which currently do not exist in the GCC2 (except for the minor exceptions discussed below).

However, although the current regulatory model is clearly problematic in ensuring decent work for and adequate protection of platform workers, it is by no means evident whether a flexible model that de-links migrant workers from one employer, and enables a type of self-employment, would be a positive alternative.

Flexible work arrangements are already possible for national workers, some of whom work in the platform economy. As noted earlier, in Saudi Arabia, for example, all drivers with ride-hailing apps must be nationals and work as freelance workers (though it remains unclear whether they are covered by the provisions of the Labour Law: see Alharbi, 2021).3 The UAE's Labour Law also introduced flexible work as a contract modality in 2022. However, whether this will be an option available to migrant workers in practice is yet to be seen. It should be noted, however, that the UAE does allow workers, including migrant workers, to have a second employer (on a part-time basis) if this is permitted by the first employer.

18. See for example Article 39 of Saudi Arabia Ministerial Decision 70273 of 2018: "Except as provided by the specified statutory rules and procedures, an employer may not allow his [her] worker to work for a third party, and the worker may not work for another employer. Moreover, the employer may not employ the worker of another employer."

19. Taxi service providers offering services by means of digital platforms are prohibited from hiring non-Saudi drivers (Section 1 of Article 25 of the Regulation for Taxi, Taxi Broker and Taxi Delivery Apps).

A 'freelance' visa for migrant workers – which provides a form of self-employment for low-wage workers, including – in principle – platform workers, currently exists in only one country in the GCC.4 Since 2017, Bahrain has implemented a system of self-employment available for both high and low-wage workers. Restructured in December 2022, the Labour Registration Program enables eligible migrant workers to work without a sponsor provided that they are registered with an approved 'Labour Registration Centre'.5 Workers can register for the Program if their work permits expired or were cancelled before the decision was implemented (December 2022) and were under the former 'flexi permit' program. Workers must pay a range of fees, including administrative fees, health insurance, residency extension and ticket insurance. The scheme is overseen by the Labour Market Regulatory Authority (LMRA) but administered by the private sector. As of the end of July 2024, this consists of nine companies whose role it is to register workers in the program, verify that the workers hold the required qualifications and notify the government of any violations committed by the workers (but not necessarily violations committed by employers). Work assignments must be digitally lodged through a separate portal where wages and duration of the employment are specified and agreed, although the employer does not have to pay the worker digitally. While not explicitly stated, it appears that workers under the scheme do not benefit from protections under the Labour Law, nor would workers thus be eligible to join trade unions or create their own trade unions (though for other workers, covered by the Labour Law, there is an independent trade union federation in Bahrain). To date, there is no official information available about the operation of the Labour Registration Program.

20. The UAE also has a type of self-sponsorship visa for skilled workers called the Green Visa. Introduced in 2022, and with a duration of five years, it is specifically designed for 'freelancers and/or self-employed people', but only those with a bachelor's degree or a specialised diploma and evidence of annual income from self-employment for the previous two years amounting to not less than AED 360,000 (approximately US$98,000), or proof of financial solvency throughout their stay in the UAE. Other types of 'skilled employees' are also eligible but must hold a minimum of a bachelor's degree or equivalent, and have a salary of not less than AED 15,000 (approximately US$4,084) per month. See Ministry of Human Resources and Emiratisation website: Residence visa for working in the UAE: https://u.ae/en/information-and-services/visa-and-emirates-id/residence-visas/residence-visa-for-working-in-the-uae.

21. See Kingdom of Bahrain Labour Market Regulatory Authority (LMRA) Workers Registration Program: https://www.lmra.gov.bh/en/page/show/424.

6. Conclusion

This paper contributes to the global debate on platform work by introducing a yet under-studied type of multi-party employment relationships in platform work, which is prevalent in the GCC countries. As explained in the paper, the employment model is a type of 'quadrangular' relationship between a worker who is employed by an employment agency (variously referred to as a 'manpower' supply agency, outsourcing agency or employment agency), but who provides labour to the digital platform that commonly determines their pay and working conditions, to provide a service to individual clients who use the platform. In the context of the ILO's Governing Body decision to have a standard-setting discussion on decent work in the platform economy at the International Labour Conference in 2025, examining this quadrangular relationship takes on an important global relevance, in order to ensure that the discussion of platform work also encompasses this complex employment relationship, among others.

The extensive literature on abuses occurring through the application of the kafala system might suggest that enabling a freelance visa for migrant workers to engage in platform work and other types of gig economy activities would be the most conducive option to ensuring improved labour rights' protections. In reality, however, in the absence of workers' collective voice through trade unions and other workers' organizations, which are prohibited or tightly regulated in the GCC, combined with a lack of minimum wages and a range of other protections, freelance migrant workers are likely to encounter a different type of labour exploitation.

Having employment agencies as the employer of digital platform workers may be a more protective form of regulation provided that GCC governments significantly strengthen the regulatory frameworks which require robust and effective licensing regimes, a clamp down on companies that do not apply for licenses, and capacitate and mobilize specialized and trained labour compliance units. Good examples to replicate in this regard would be the UK Gangmasters and Labour Abuse Authority (GLAA), which operates in the agriculture, food and fish processing industries, or dedicated inspectorates in several Australian States (Queensland and Victoria), which focus on compliance of labour hire companies with licensing standards.

However, this would need to be complemented by legislation which eliminates the gap between the wages and working conditions of directly hired and outsourced workers, similar to Directive 2008/104/EC on temporary agency work, which sets out the equal treatment principle in respect of "basic working and employment conditions" between temporary agency workers and workers who are directly employed by the user company to which they are assigned. Other countries are increasingly introducing similar types of legislation, including in Australia where the government is poised to introduce national legislation on 'Same Job, Same Pay' to ensure that labour-hire workers are paid at least the same as directly engaged employees doing the same work, and can have their disputes dealt with quickly, economically and fairly (Australian Department of Employment and Workplace Relations, 2023). This, however, would be less straightforward to implement in the GCC where, because of labour market segmentation, there are often very few nationals working in the same (low-wage) sectors as the many (outsourced) migrant workers, which is why introduction of a fair minimum wage or a 'living wage' needs to be considered.

Finally, there is a need to consider other ways in which workers can be protected. A major challenge for migrant workers, especially those who are employed by temporary work agencies, is that employers may simply ignore workers' demands or disappear or declare insolvency, in the (rare) case of a judicial outcome in the workers' favour (Farbenblum and Berg, 2021). In such cases, making the user enterprise (for example, the digital platform company) jointly liable for ensuring the workers' wages and occupational safety and health can be an important way to ensure workers' access to justice, and a deeper commitment by platform companies to conduct proper due diligence (Wells, 2018).

The intersection of platform work and the kafala system will continue to create precarious work for migrant workers and likely lead to strikes and labour unrest. It is therefore in the best interests of both workers, digital platforms and GCC governments to adopt and effectively implement stronger regulations to ensure decent work and respect for the rule of law.

Annex: Regulations on private employment agencies (which employ migrant workers for the purpose of making them available to other companies)

Key legislation	Definition	Requirements on private recruitment ('manpower') agency and/or beneficiary
UAE		
Article 6 of the Labour Law (2021),[1] and Ministerial Decree No. 51 of 2022	Temporary employment and outsourcing under the Labour Law is defined as "employing the worker with the intention of making him [or her] available to a third party, whereas the worker's relationship becomes a direct one with the agency that outsourced his [or her] services to a third party (the beneficiary)".	The beneficiary company is required to ensure occupational safety and health, desist from requiring the worker to perform any tasks or to provide any services that fall outside the general framework of the work or service agreed upon, provide the worker with a written manual of the duties assigned to him/her within the general work framework as agreed with the Agency, allow the worker to review the attendance sheet prior to sending it to the Agency and include any reservations the worker may have regarding its content.
Federal Law No. 9/2022 on Domestic Workers, Executive Regulations (Cabinet Resolution No. 106 of 2022)[2]	Domestic workers may be employed by the respective recruitment office which legally is their employer, but the domestic worker's obligations remain to the person/family to whom the worker provides the services. Such workers are classed as 'temporary' domestic workers.	Temporary domestic workers shall reside at the work site 'specified by the beneficiary' (to whom he/she provides services) unless otherwise agreed upon between the agency and the beneficiary. The recruitment office shall be jointly responsible for implementing the law with the beneficiary.

22. Full title: Federal-Decree Law No. (33) of 2021 Regarding the Regulation of Employment Relations.
23. Full title: Cabinet Resolution No. 106 f 2022 Pertaining to the Executive Regulations of Federal Decree Law No. 9 of 2022 Concerning Domestic Workers.

Saudi Arabia		
Chapter 2 of the Ministerial Decision 70273 of 2018 and Cabinet Decision 219 of 2007, Article 6	Saudi legislation contains different categories of licenses for companies that employ workers to provide services for other companies. These include a 'Human Resources Company', which can provide both temporary professional labour services and 'daily labour services', as well as an intermediary service for the employment of Saudi nationals. Alternatively, a 'Local Contracting Company' can only provide 'local labour services' (not professional services). There are also multiple categories of domestic worker recruitment agencies which include, for example, the 'domestic worker recruitment company' and the 'domestic workers' small recruitment company', which can both provide temporary Domestic Workers' services but only the former can provide 'daily Domestic Workers' services.'	As part of the licensing procedure, the company must provide a number of documents, including a feasibility study approved by a consultancy bureau, specification of the target market, activities and services offered, and the work model and strategy of the Company and the action plan for five years. This must include 'the Company's plan for the accommodation of workers recruited to provide its labour services'. Bank guarantees differ depending on the type of company and vary from SAR 10 million (US$2.6 million) for a 'Human Resources Company' to SAR 500,000 for 'local contracting companies' (US$133,327). The Licensee shall 'commit to comply with applicable laws, regulations, and instructions, and take all the procedures and controls to avoid any violation thereof', including engaging in any form of human trafficking (Art. 72). However, the legislation does not set out any obligations on the part of the beneficiary of the services (referred to as the 'client').
Bahrain		
Order No. (3) of 2014 With Regard to Regulating Permits for Labour Supply Agencies	The employer who is authorized to supply workers to a third party for a specific period or to fulfil a certain assignment without supervision by the employer (supplier) on the execution of work.	The licensee must (a) specify the professional specialization for which s/he wants to supply workers; (b) present evidences of organizing his/her labour supply agency work, which could be in a form of a plan or a programme supported by samples of documents and contracts that will be used in carrying out his/her activity; (c) pay BD 200 (US$532) for each work permit; and (d) provide accommodation to the agency's workers which must be adequate in terms of number and gender.
Oman		
There are no regulations on outsourcing; however, the Labour Law and Ministerial Decision No 1/2011 (Issuing the Regulations for Recruiting non-Omani Workforce) address the responsibilities of recruitment agencies that provide intermediation (but do not employ workers).		
Qatar		
There are no regulations on outsourcing; however, the Labour Law No. 14 of 2004 and Ministerial Decision No. 8 of 2005 (regarding the conditions and procedures for obtaining a license to recruit foreign workers for others) address the responsibilities of recruitment agencies that provide intermediation (but do not employ workers).		
Kuwait		
There are no regulations on outsourcing.		

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About the author

Ryszard Cholewinski is Senior Migration Specialist in the ILO's Regional Office for Arab States in Beirut. From Sept. 2010 until July 2017, he was based at the Labour Migration Branch in ILO in Geneva. His responsibilities include work on policy, research, training and technical cooperation in the Arab States region, in collaboration with units in ILO Geneva, field offices, and ILO's tripartite constituents, with a view to advancing ILO's fair migration agenda.

Sophia Kagan Sophia Kagan is the Principal Policy Adviser on Labour Migration with the New South Wales Anti-Slavery Commissioner (formerly a Chief Technical Adviser with the ILO Regional Office for Arab States). In addition to a legal career, Sophia has 12 years' experience working on migration. Sophia holds a MSc in International Development Management (LSE), a BA in Law (Hons) and a BA in International Relations (Monash University).

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