

ORIGINAL ARTICLE

Between algorithms and rights: platform work and labor disempowerment in Latin America

Entre algoritmos y derechos: trabajo en plataformas digitales y desprotección laboral en América Latina

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Abstract Platform-based work has transformed traditional forms of employment, generating new challenges for labor law. This study aims to critically analyze the link between the expansion of digitally mediated work through applications and the absence of minimum labor guarantees from a labor law perspective focused on Latin America. A qualitative methodology was employed, utilizing a documentary design and interpretive analysis of normative, doctrinal, and empirical sources, including scientific articles and international reports. The findings revealed that most platform workers are excluded from social security systems and legal protections due to ambiguous contractual classifications that define them as independent contractors, despite presenting clear indicators of subordination, continuity, and dependence. Forms of algorithmic control, lack of collective representation, and regulatory gaps were identified, all of which deepen labor precariousness. The discussion concluded that it is necessary to apply the classical principles of labor law—such as the primacy of reality, non-waivability, and protection—to these new digital forms of employment. Finally, normative guidelines were proposed to guarantee fundamental rights, promote algorithmic transparency, and adapt labor regulation to the transformations of the digital world of work.

Keywords digital labor, platform work, labor law, algorithmic subordination, labor precariousness, legal regulation.

Resumen El trabajo en plataformas digitales ha transformado las formas tradicionales de empleo, generando nuevos desafíos para el derecho del trabajo. El presente estudio tuvo como objetivo analizar críticamente el vínculo entre la expansión del trabajo digital mediado por aplicaciones y la ausencia de garantías laborales mínimas, desde una perspectiva jurídico-laboral centrada en América Latina. Se adoptó una metodología de enfoque cualitativo, con diseño documental y análisis interpretativo de fuentes normativas, doctrinales y empíricas extraídas de artículos científicos e informes internacionales. Los resultados evidenciaron que la mayoría de los trabajadores de plataformas son excluidos de los sistemas de seguridad social y protección legal, debido a una calificación contractual ambigua que los define como independientes, a pesar de que presentan elementos claros de subordinación, continuidad y dependencia. Se identificaron formas de control algorítmico, ausencia de representación colectiva y vacíos regulatorios que profundizan la precariedad laboral. La discusión concluyó que es necesario aplicar los principios clásicos del derecho del trabajo —primacía de la realidad, irrenunciabilidad y protección— a las nuevas formas digitales de empleo. Finalmente, se propusieron lineamientos normativos para garantizar derechos fundamentales, promover transparencia algorítmica y adaptar la regulación laboral a las transformaciones del mundo del trabajo digital.

Palabras clave trabajo digital; plataformas digitales; derecho laboral; subordinación algorítmica; precarización laboral; regulación jurídica.

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Introduction

The accelerated digitalization of economies has given rise to new forms of work organization, with digital platforms standing out prominently. These technologies, characterized by mediating between the supply and demand of services through algorithms and mobile applications, have reconfigured traditional labor relations by introducing new dynamics of hiring, supervision, and remuneration (ILO, 2021a). Platform work has been promoted under the promise of flexibility, autonomy, and rapid access to the labor market, especially for young people, migrants, and unemployed workers. However, behind this apparent freedom lies, in many cases, a profound precariousness of labor and a disconnection from the classical legal framework of labor law (Morales Ramírez, 2025; Maya et al., 2022).

Various studies in Latin America have documented that the vast majority of platform workers do not enjoy fundamental labor rights, such as access to social security, sick leave, maternity benefits, paid vacations, or job stability (Carrillo et al., 2025; ILO, 2022). This situation is further exacerbated by the lack of formal recognition of employment relationships, which allows platforms to evade employer obligations. Instead, they impose working conditions through adhesion contracts that classify workers as independent service providers, thereby concealing employment relationships mediated by technological mechanisms of control, task assignment, and algorithmic evaluation (ILO, 2021b; Berg et al., 2019).

This phenomenon, known as the “uberization of work,” challenges the principle of the primacy of reality enshrined in most labor law systems in Latin America. This principle establishes that, beyond the contractual label or the parties’ will, the practical nature of the relationship between the service provider and the contracting entity must prevail. In this sense, the legal qualification of the employment relationship should consider factors such as economic dependence, lack of ownership over the means of production, continuity of service, and the existence of orders or instructions—even when these originate from an automated system (ILO, 2021c; Morales Ramírez, 2025).

In practice, the intensive use of technologies by platforms has generated new forms of subordination and labor surveillance, in which algorithms replace human supervisors and user ratings can determine access to work and continuity on the platform. This has given rise to what some authors call “algorithmic subordination” (Maya et al., 2022), a concept that enables the updating of classical labor law criteria in light of new non-human yet equally decisive forms of control.

Despite these findings, the legislative response in Latin America has so far been limited, fragmented, and in many cases insufficient. While some initiatives aim to adapt le-

gal frameworks to include platform workers within existing labor legislation explicitly, other proposals—shaped by business interests—insist on maintaining the status of self-employed workers with minimal rights and no effective guarantee of social protection (Carrillo et al., 2025; ILO, 2022). This tension between technological innovation and social justice calls for critical reflection from labor law to ensure the protection of fundamental rights for workers in digital environments.

Within this framework, the present article aims to critically analyze the normative, doctrinal, and empirical dimensions of platform work regulation in Latin America. From a legal and social perspective, it seeks to examine the tensions between the logic of the digital market and the principle of protection of human labor, identifying regulatory gaps, best practices, and normative proposals that contribute to a fairer and more responsive labor regulation adapted to the new realities of work.

Methodology

This research employs a qualitative, legal, and socio-normative approach with a descriptive-analytical and critical scope, focusing on the transformation of human labor within the context of digital platforms in Latin America. It is framed within the interpretive-comprehensive paradigm, as it seeks to understand the meanings, normative implications, and social consequences of platform-based work through the analysis of legal norms, specialized literature, and available empirical evidence.

From a methodological design perspective, a theoretical and documentary research strategy was adopted, with a dogmatic-legal focus, complemented by an indirect empirical component based on secondary data. This choice addresses the need to tackle a complex phenomenon that challenges fundamental categories of labor law—such as subordination, dependence, alienation, and stability—within contexts shaped by digitalization and the data-driven economy (Creswell & Poth, 2018).

The study was structured around three analytical levels:

a) Normative analysis

A systematic examination of formal sources of law was conducted, with a particular focus on international labor standards, specifically the conventions and recommendations of the International Labour Organization (ILO) related to decent work, freedom of association, social protection, and working conditions. comparative Latin American legislation, including proposals, bills, and parliamentary debates related to the recognition of employment relationships in digital work; Moreover, general principles of labor law—such as the pri-

macy of reality, the protective principle, and the inalienable nature of labor rights—are considered essential for evaluating the suitability of new labor forms within existing legal categories.

b) Doctrinal and bibliographic analysis

A critical review of recent academic publications (2021–2025) was conducted, focusing on peer-reviewed scientific journals and reputable publishers. The following criteria were used for source selection:

- Thematic relevance (digital labor, labor law, platforms)
- Methodological rigor (peer-reviewed articles)
- Geographic scope (Latin America)
- Timeliness and accessibility

Eight highly relevant articles were included, published in journals such as *Revista de la Facultad de Derecho de México* and *Reincisol*, as well as documents from organizations like the ILO and the Observatory on Labor and Critical Thought. The sources were classified and analyzed using legal categories such as “autonomy vs. subordination,” “algorithmic control,” “digital informality,” and “universal social protection” (Morales Ramírez, 2025; Carrillo et al., 2025; Maya et al., 2022).

c) Indirect empirical analysis (secondary data)

Statistical studies, surveys, and diagnostics produced by the ILO and research centers were incorporated, focusing on working conditions, income, access to rights, and the perceptions of platform workers in the region. These sources include:

- Technical reports on the situation of delivery workers, drivers, and digital microworkers
- Indicators of informality, legal insecurity, union affiliation, and access to social security (ILO, 2022; Berg et al., 2019)
- Surveys conducted among platform workers in various Latin American countries between 2019 and 2023

Legal and discursive content analysis techniques were employed to organize the information into key thematic categories. The triangulation of doctrinal, normative, and empirical sources enabled the identification of contradictions between existing legislation and labor realities, as well as the development of interpretative criteria aimed at protecting human labor in digital environments.

It should be noted that this research does not include fieldwork or direct interviews; therefore, its validity relies on the methodological soundness of the secondary sources used and the consistency of the legal-doctrinal analysis.

Results and discussion

The analysis of current legal frameworks in Latin America reveals a structural ambiguity regarding the legal status of digital platform workers. In most countries in the region, these workers are classified as independent contractors or even as users of the application, thereby avoiding the application of labor law and its minimum guarantees (Morales Ramírez, 2025; ILO, 2022).

This legal treatment is based on the presumed “autonomy” of the worker, when in fact the relationship between platforms and workers exhibits typical characteristics of an employment relationship, such as continuity of service, regular payment, lack of ownership over the means of production, and a specific form of subordination (algorithmic). As established by the principle of the primacy of reality—enshrined in ILO conventions and numerous national labor law systems—what must prevail is the actual nature of the relationship, not the formal designation of the contract (ILO, 2021b).

Empirical findings indicate that, rather than operating with complete autonomy, platform workers are subject to algorithmic control systems that regulate nearly every aspect of their activity, from task assignment to fare determination and performance evaluation (Maya et al., 2022). These mechanisms replicate the classic functions of the employer but are mediated by opaque and unilateral technologies.

This phenomenon has been conceptualized as “algorithmic subordination,” since workers are subjected to automatic instructions and evaluations that determine their continued access to the platform. As noted by Morales Ramírez (2025) and the ILO (2021), this new form of technological subordination does not exempt employers from their legal responsibilities; on the contrary, it calls for a critical reassessment of the employment relationship in order to avoid the simulation of autonomous work arrangements that conceal absolute dependency.

Legal vulnerability translates into a situation of structural precariousness, where workers lack fundamental rights such as social security, paid leave, job stability, or collective bargaining. Regional reports estimate that more than 70% of platform workers are not affiliated with any social protection system, and that their incomes often fall below the legal minimum wage (ILO, 2022; Berg et al., 2019).

This digital precariousness is further exacerbated by the fact that platforms externalize all risks—accidents, illness, operational costs—to the worker, generating a labor model in which corporate profit grows by transferring responsibilities. As noted in Latin American legal scholarship, this constitutes a new form of legalized informality, cloaked in the discourse of innovation and technology (Carrillo et al., 2025; Aguilera, 2022). Aguilera (2022) warns that this tension reflects a deeper conflict between two legal models: one

centered on the protection of workers' human rights, and another that prioritizes market deregulation under the banner of innovation.

Another key finding is the near-total absence of collective representation mechanisms. The individualistic and fragmented logic of platform-based work—where each worker operates in isolation—prevents the development of collective defense strategies such as unionization, bargaining, or collective legal action (Morales Ramírez, 2025).

This situation violates the fundamental right to freedom of association and collective bargaining, protected by ILO Conventions No. 87 and 98. It creates a structural power imbalance between transnational platforms and dispersed workers, who lack both voice and institutional labor representation. Even in countries where delivery associations or digital cooperatives have been established, their legal recognition remains uncertain or insufficient to generate structural changes in the regulation of digital labor.

Some countries have begun to debate legislative proposals to incorporate platform workers under labor law. These proposals include: the presumption of an employment relationship when specific indicators of dependency are met, mandatory access to social security, requirements for algorithmic transparency, and guarantees for union rights.

However, these initiatives face strong resistance from digital platforms, which lobby to preserve flexible contracting models without employer obligations (Institute for Employment Rights, 2025). This tension reflects a deeper conflict between two legal paradigms: one based on the protection of workers' human rights, and another that prioritizes market deregulation under the guise of innovation.

From a rights-based approach to labor law, empirical and normative evidence demonstrates that platform work does not constitute a *sui generis* category requiring a new legal status. Rather, it can and should be addressed through the classical principles of labor law: protection, non-waivability, the primacy of reality, and continuity (Morales Ramírez,

2025; ILO, 2022).

These principles enable the overcoming of contractual fictions imposed by platforms and the recognition that, when economic and organizational dependence exists, an employment relationship is present—regardless of the technological medium through which labor is performed. In this sense, the solution is not to “create a third status” between employee and self-employed, but to apply labor law using updated criteria that reflect contemporary forms of subordination. Table 1 presents the main critical dimensions of platform work in Latin America.

The comparative table offers a structured visualization of the study's main findings, organized into five critical dimensions that synthesize the core issues surrounding platform-based work in Latin America.

First, a significant regulatory gap is identified, resulting from the lack of legal recognition of the employment relationship. This gap serves as the foundation for the exclusion of fundamental rights and protections.

Second, algorithmic control emerges as a new form of subordination that reproduces, under a technological guise, the employer's organizational and disciplinary power. This digital subordination conceals the conditions of dependency and hinders their recognition under traditional legal frameworks.

The third dimension reveals a structural precariousness, marked by the absence of social and labor protection, low incomes, and exposure to risk without coverage. This is compounded by the near-total absence of collective representation—an element that weakens the possibilities for resistance and negotiation in the face of conditions unilaterally imposed by platforms.

Finally, it is observed that legislative initiatives aimed at addressing these asymmetries face political and economic resistance that hinders their implementation. Taken together, the data in the table support the article's central thesis: platform-based work operates under a logic of delaboralization that must be confronted through the fundamental principles

Table 1. Critical dimensions and structural challenges of platform work in Latin America

Critical dimension	Key findings	Authors / Sources
Legal recognition	Legal ambiguity, denial of employment relationship	Morales Ramírez (2025); ILO (2022)
Digital subordination	Algorithmic control and concealed functional dependency	Maya et al. (2022); Berg et al. (2019)
Exclusion from social protection	No social security, paid leave, or accident coverage	Carrillo et al. (2025); ILO (2021b)
Union organization	Lack of representation and difficulty in collective bargaining	Morales Ramírez (2025); ILO (2021a)
Regulatory reforms	Legislative proposals often face resistance from businesses and institutions.	González G. (2023)

of labor law.

Conclusions

Platform work, far from being marginal, has become a growing labor model operating outside the traditional protections of labor law, relying on algorithmic control, outsourcing of responsibilities, and the transfer of risks to workers, who lack essential rights such as social security or job stability. This situation contradicts fundamental principles and international commitments, reproducing dependency relations under a technological discourse that hinders regulation. Therefore, it is proposed to update legislation to recognize new forms of dependency, guarantee rights regardless of the technological medium, ensure transparency in the use of algorithms, and promote forms of union organization adapted to digital labor.

References

- Aguilera, J. P. (2022). Gobernanza laboral y plataformas digitales: desafíos para los derechos del trabajo. *Derecho y Sociedad*, 15(2), 45–67.
- Berg, J., Furrer, M., Harmon, E., Rani, U., & Silberman, M. S. (2019). *Digital labour platforms and the future of work: Towards decent work in the online world*. International Labour Office. https://www.ilo.org/global/publications/books/WCMS_645337/lang-en/index.htm
- Boccardo, G., Castillo Larraín, A., & Ojeda Pereira, I. (2022). Beyond Algorithmic Control: Ordering and Delivery Platforms Labor Process in the Chilean Retail Production Network. *Journal of Labor and Society*, 25(3), 329–366. <https://doi.org/10.1163/24714607-bja10063>
- Caicedo, C., & Castillo, A. (2024). The gig economy in Chile: Examining labour conditions and regulatory impact. *Journal of Labor Policy*, 13(1), 1–20. <https://www.sciencedirect.com/science/article/pii/S2666378323000156>
- Carrillo, J. E., Cabrera, C. P., Macías, S. M., & Galarza, C. A. (2025). El teletrabajo y la economía de plataformas en Ecuador: Desafíos legales y protección de derechos laborales en un contexto de transformación digital. *Reincisol*, 4(7), 2250–2273. [https://doi.org/10.59282/reincisol.V4\(7\)2250-2273](https://doi.org/10.59282/reincisol.V4(7)2250-2273)
- Cremaschi, A., Lee, D.-J., & Leonelli, M. (2025). *Will AI take my job? Evolving perceptions of automation and labor risk in Latin America* [Preprint]. arXiv. <https://doi.org/10.48550/arXiv.2505.08841>
- Donovan, S. A., & Bradley, D. H. (2021). *What does the gig economy mean for workers?* Congressional Research Service Report R44365. <https://crsreports.congress.gov/product/pdf/R/R44365>
- Institute for Employment Rights. (2025). *Labour rights in the digital economy: A first look at the CBR Platform Work Index*. CBR Platform Work Index Analysis. <https://digit-research.org/insights/labour-rights-in-the-digital-economy/>
- Morales Ramírez, M. A. (2025). Trabajo en plataformas digitales: Su regulación en México. *Revista de la Facultad de Derecho de México*, 75(292), 137–164. <https://doi.org/10.22201/fder.24488933e.2025.292.91771>
- Maya, N., Quevedo, T., Carrión, D., & Sánchez, P. (2022). *Hacia una caracterización de las y los repartidores y de la economía de plataformas en Ecuador*. Observatorio del Trabajo y el Pensamiento Crítico. <https://trabajoypensamientocritico.com/wp-content/uploads/2022/02/caracterizacion-plataformas-ecuador.pdf>
- Organización Internacional del Trabajo (OIT). (2021). *Garantizar el trabajo decente en las plataformas digitales de trabajo*. En *El trabajo en las plataformas digitales de trabajo* (pp. 211–249). Biblioteca Jurídica Virtual UNAM. <https://archivos.juridicas.unam.mx/www/bjv/libros/14/6903/10.pdf>
- Organización Internacional del Trabajo (OIT). (2021). *Las plataformas digitales y la redefinición del trabajo: Oportunidades y retos para los trabajadores*. En *El trabajo en las plataformas digitales de trabajo* (pp. 147–209). Biblioteca Jurídica Virtual UNAM. <https://archivos.juridicas.unam.mx/www/bjv/libros/14/6903/9.pdf>
- Organización Internacional del Trabajo (OIT). (2021). *La proliferación de las plataformas digitales de trabajo en la economía: ¿Cómo y por qué las utilizan las empresas?* En *El trabajo en las plataformas digitales de trabajo* (pp. 115–145). Biblioteca Jurídica Virtual UNAM. <https://archivos.juridicas.unam.mx/www/bjv/libros/14/6903/8.pdf>
- Organización Internacional del Trabajo (OIT). (2022). *El trabajo en las plataformas digitales de reparto y transporte en Ecuador: Diagnóstico y recomendaciones para promover el trabajo decente y la protección social*. Oficina de la OIT para los Países Andinos. https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_864345.pdf
- Posada, J. (2021). The colonality of data work in Latin America. In *Proceedings of the 2021 AAAI/ACM Conference on AI, Ethics, and Society* (pp. 277–278). Association for Computing Machinery. <https://doi.org/10.1145/3461702.3462471>
- Smart, R. (2024). *Digital labour platforms and the crisis of social reproduction in Latin America* (Policy Paper No. 24_Smart_Final_01). Harvard Kennedy School. https://www.hks.harvard.edu/sites/default/files/2024-08/24_Smart_Final_01.pdf

Conflicts of interest

The authors declare that they have no conflicts of interest.

Author contributions

Fatsi S. Cedeño and Darley G. Mero: Conceptualization, data curation, formal analysis, investigation, methodology, supervision, validation, visualization, drafting the original

manuscript and writing, review, and editing.

Data availability statement

The datasets used and/or analyzed during the current study are available from the corresponding author on reasonable request.

Statement on the use of AI

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