



International
Labour
Organization



G20 INDONESIA
2022



Towards more effective labour protection for all workers and increased resilience of the economy

**Paper prepared for the Employment Working Group
under the G20 Indonesian Presidency**

April 2022

ILO-OECD

Executive Summary

Structural changes in the world of work are leading to a greater diversity in working arrangements. Labour protection measures need to be adapted and revised so that employers and workers can benefit from increased flexibility but not at the detriment of workers' working conditions, safety and health, well-being and productivity. Labour protection is about shielding workers from: unduly low or irregular earnings; unpredictable work schedules; very long hours of work; unfair or arbitrary dismissals; and risks of ill health and accidents. Providing adequate labour protection is particularly important in concentrated labour markets where workers have few outside employment options, and employers have power to set wages and working conditions unilaterally.

The COVID-19 pandemic has further highlighted the importance of labour protection, and its inclusivity, to the resilience of workers and their families and business sustainability. Workers with inadequate or no labour protection at all, especially those in informal employment, have fared much worse than workers enjoying better protection at work. To reduce these inequalities across workers and strengthen their resilience in the face of new crises, labour protection needs to be inclusive, adequate and effective. This involves strengthening and extending existing forms of labour protection, while also exploring new forms of protection, and improving their application through more effective compliance strategies. This includes taking a range of actions as follows:

- The adequacy and effectiveness of labour protection requires acting upon its core components, and taking into account coverage, level and compliance.
- Social dialogue, including freedom of association and the effective recognition of the right to collective bargaining, are important when considering reforms to labour protection.
- Strong policy responses, built on social dialogue and collaboration between relevant actors, including public health and occupational safety and health authorities, are not only critical toward the threat of COVID-19 and future waves of infection, but remain important for ensuring resiliency towards future crises, pandemics, emergencies and emerging world-of-work challenges.
- As the crisis recedes, it is essential to transform temporary emergency measures into sustainable mechanisms that will close protection gaps, through longer-term strategies where the extension of social and labour protection is part of broader, integrated strategies to promote the transition from the informal to the formal economy to increase the capacity of informal workers to contribute to and benefit from the recovery.
- It is critical that policies now focus on generating formal employment on a sufficient scale not only to absorb the rebounding labour force but also to fend off any risk of increased informalization.
- Tackling labour market duality between workers on permanent employment contracts and those on temporary contracts is also important through reforms to regulations on hiring and firing that prevent the excessive use of fixed-term contracts.

Background

Changes in the world of work due to the dispersion and fragmentation of production processes, together with digitalization, climate change and demographic shifts, as well as changes in regulation and taxation, are redesigning the landscape of labour markets worldwide. Open-ended, full-time contracts cohabit with temporary employment, on-call work and dependent self-employment and persisting informal work. Each of these work arrangements is associated with different degrees and levels of protection, which contribute to labour protection deficits for swathes of the workforce. While these work arrangements can bring important benefits to employers and workers, the deficits in protection can also be detrimental to workers' working conditions, well-being and productivity and, in some cases, to fair competition in national and international markets. They also add further pressure on already strained social protection systems. COVID-19 has further exposed the risks of inadequate labour protection for workers' safety, health and resilience and for business continuity. In building forward better, it is imperative to enhance the adequacy and effectiveness of labour protection for all workers.

The issue of social protection, including social security, has been covered extensively under previous G20 Presidencies, unlike matters relating to working conditions, or protection at work. Hence the importance of also addressing the latter for a more comprehensive approach towards workers' overall protection. This paper defines what labour protection encompasses; reviews policy measures adopted by G20 member States to mitigate the impacts of the COVID-19 pandemic on the different dimensions of labour protection, including for workers most in need of such protection; zooms in on platform workers; and concludes by putting forward a few suggestions on how to enhance the inclusiveness of labour protection.

Labour protection: what it is and why it is important

Labour protection is about shielding workers from: exploitation; unduly low or irregular earnings; unpredictable work schedules; very long hours of work; unfair or arbitrary dismissals; and risks of ill health and accidents. Labour protection enhances the ability of workers and their families to pursue their material well-being in conditions of freedom, dignity and economic security, and to adapt to changing work and life circumstances. Labour protection measures, such as minimum wages, hiring and firing rules, occupational safety and health regulations (OSH) working-time regulations, including parental leave, and maternity protection may have cost implications for enterprises in the short term. However, in the long term such measures can encourage investments in technological and organizational improvements to offset increased costs, which can, in turn, spur productivity growth. If well-designed and enforced, they can improve the competitiveness and productivity of enterprises, while affording workers a fair share in productivity gains. Access to learning opportunities are also important for effective labour protection, although not covered in the paper.

Providing adequate labour protection is particularly important in concentrated labour markets where workers have few outside employment options, and employers have power to set wages and working conditions unilaterally, leading to inefficiently poor working

conditions. Indeed, new OECD research suggests that labour market concentration is pervasive in OECD countries (OECD 2022, forthcoming).

Labour protection can be regulated through law or through collective bargaining or a combination of both. Its inclusiveness, adequacy and effectiveness depends on the interlinkage of three determinants: the coverage of labour protection measures, or which workers benefit from such protection; the level of protection, or how much labour protection is granted; and the degree of enforcement or whether labour protection measures are respected in practice. In other words, inclusive, adequate and effective labour protection lies in a balancing act that provide protection to workers without unduly burdening enterprises. Enforcement and compliance strategies are integral to labour protection as is the respect and realization of the fundamental principles and rights at work, in particular non-discrimination and equality of treatment and opportunities for all and freedom of association and the effective recognition of the right to collective bargaining.

The current COVID-19 pandemic has further highlighted the importance of labour protection, and its inclusivity, to the resilience of workers and their families and business sustainability. Workers with inadequate or no labour protection at all have fared much worse than workers enjoying better protections at work.

Trends and policy responses concerning labour protection during the pandemic

The impacts of the COVID-19 pandemic have been uneven across workers depending on, among others, their occupation and contractual arrangement, whether they work formally or informally, their level of education and gender (OECD 2021; OECD 2022 forthcoming). This section will review trends and selected policy responses taken by a number of G20 countries with the aim of mitigating the impact of COVID-19 pandemic on various dimensions of labour protection.

Wages

In the first half of 2020, as a result of COVID-10 crisis, a downward pressure on the level of growth rate of average wages was observed in a majority of countries, including Japan, the Republic of Korea and United Kingdom. In other countries, average wages increased largely artificially, as a reflection of the substantial job losses among low-paid workers- a phenomenon known also as “composition effect”, e.g. Brazil, Canada, France, USA. The impacts of the crisis on wages have fallen differently on men and women, the latter being disproportionately affected. However, temporary job retention schemes, in the form of either temporary wage subsidies or short time work schemes, introduced in many G20 countries to safeguard jobs during the crisis have enabled many countries to compensate part of the wage bill that would have been lost and to lessen the effect of the crisis on wage inequalities (OECD 2022, ILO 2020g).

The scale of their use during the COVID-19 crisis has been unprecedented. Job retention schemes (i.e. which compensate workers for temporary reductions in working time) have been implemented under different names, ranging from *Kurzarbeit* (or short time work

allowance) in Germany, to *activité partielle* (partial unemployment) in France, and the so-called *Furloughing* of workers in the U.K. and U.S. Temporary wage subsidy programs have also been implemented in other G20 countries such as Argentina or Brazil, for example (ILO 2020h).

Some countries designed job retention schemes as a lump sum; in numerous other instances job retention schemes covered a percentage of workers' pay, up to a specified ceiling. Where job retention schemes existed, they were used by large numbers of enterprises employing millions of workers. In France, for example, by the beginning of July 2020, more than 1 million establishments had applied to help pay the wages of more than 14 million workers, representing 56 per cent of all employees in the country. In the U.K., the proportion of furloughed workers in businesses that have not permanently stopped trading was estimated at 29.2 per cent in the week ending 28 June 2020. In some countries, the short-time work schemes were extended to include temporary workers such as in Switzerland (Loyens Loeff 2020) or temporary agency workers such as in Germany (IMF 2020).

These job retention schemes have helped to maintain the employment relationship in enterprises and sectors closed through government order or acute sanitary conditions. They were later extended, sometimes under modified conditions, to prevent layoffs during the economic downturn that followed the end of the lockdown. By doing so, job retention schemes not only prevented workers from losing their jobs, they also helped enterprises to recover their productive capacity as rapidly as possible after a crisis. The ILO Global Wage Report estimated that in a selection of ten European countries for which data was available, job retention schemes have compensated about half of the total wage bill loss. The OECD estimates that in the absence of job retention schemes, the decline in the number of employees would have been almost 50% larger than the actual change in employment in 2020, resulting in a decline in employment of more than 6 per cent (OECD 2021). Temporary wage subsidies have also enabled many countries to lessen the effect of the crisis on wage inequality, because the main beneficiaries were those who have been more severely hit by the crisis, namely workers in lower-paying jobs – disproportionately women. Without wage subsidies, the total wage bill loss for women in Europe between first and second quarter of 2020 would have declined by an estimated -8.1 per cent, compared to -5.4 per cent for men. Wage subsidies have helped to mitigate this impact.

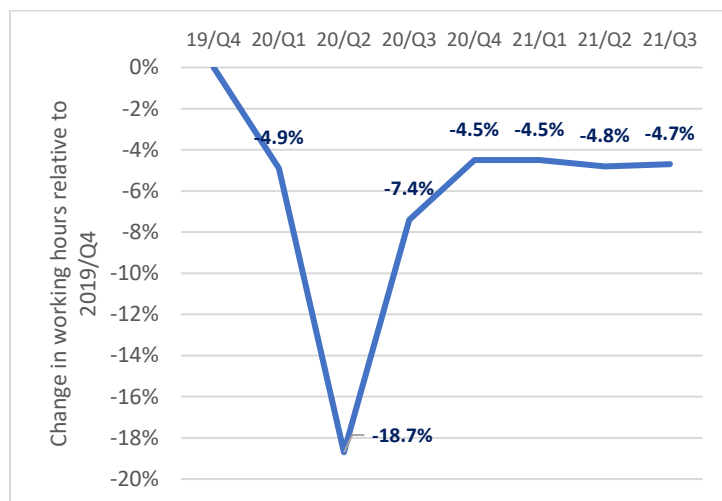
Collective agreements at different levels, depending on national industrial relations systems, have been used to set out tailored solutions able to consider the specific situation of particular sectors or companies. For instance, in April 2020, a collective agreement reached by South Africa's National Textile Bargaining Council was extended by the Minister of Employment and Labour to guarantee six weeks of full pay for 80,000 garment workers (Republic of South Africa 2020).

In addition, with a view to supporting low-paid workers, many countries with regular minimum wage adjustments went ahead with planned increases in the first half of 2020. Sixteen countries of G20 have adjusted their minimum wage on a regular basis since the outbreak of the crisis. In France, the government increased the minimum hourly wage to EUR 10.57 per hour on Jan 2022; In Germany, the federal cabinet approved the increment of hourly minimum wage from 9.5 euros in 2021 to 12 euros in 2022. In China, more than 20 provinces have raised their minimum wage standard since 2021.

Working time, work organization

The recovery in working hours across the world has stalled during 2021, according to the ILO Monitor 8th Edition. Figure 1 below shows that, after a considerable fall when the Covid-19 Pandemic hit the world economy in the second quarter of 2020, there were large recoveries in Q3 and Q4 of that year. Unfortunately, these recoveries did not continue into 2021, and since the first quarter of that year there has been virtually no increase in global working hours.

Figure 1 – Working hours losses relative to Q4/2019

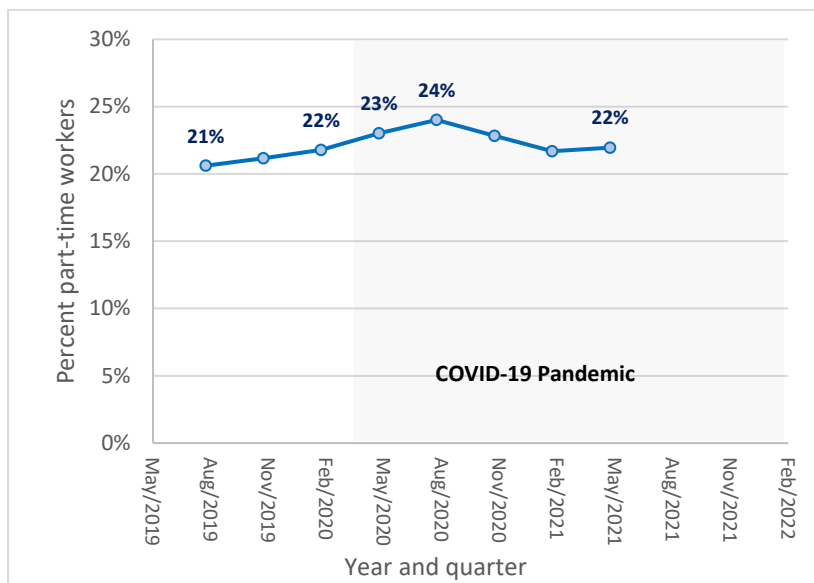


Source: ILO Covid Monitor, 8th Edition

In addition to incomplete, the recovery is unequal. Working hours in upper middle- and high-income countries were close to three percent lower than prior to the pandemic, and lower middle- and low-income countries were closer to six or seven percent beneath 2019 levels.

One driver of low working hours that is back to normal is part-time work. Figure 2 shows that, in those countries for which we have data, part-time work (as defined by short hours less than 35 per week) has largely returned to pre-pandemic levels, after increases in the first two quarters of the pandemic.

Figure 2 – Percentage of workers working less than 35 hours per week



Source: Labour force and other household survey microdata.

This means that the incomplete recovery in working hours is likely to now be driven by lack of employment and no longer short hours.

In 2020, the Covid-19 global pandemic has accelerated the use of teleworking to an unprecedented scale in an attempt to limit the spread of the Covid-19 virus, keep workers employed, and limit the negative economic consequences of the pandemic. The result has been a kind of “natural experiment” with mass teleworking.

However, while the available technology allowed for the widespread use of telework in many countries around the world—including all of the G20 countries, it has highlighted not only the opportunities, but also the challenges in this work organization. Early evidence from the pandemic teleworking experience confirms that the mandatory, full-time nature of pandemic teleworking exacerbates the potential for social isolation and detachment from colleagues and the organization itself, as well as ergonomic issues. Existing gender inequalities and challenges for women also appear to be aggravated by mandatory, full-time teleworking, especially in the context of school and childcare facility closures. The risk that teleworking may amplify existing inequalities along skills and spatial lines, in the absence of adequate policy interventions, has also become more palpable.

The pandemic has exposed the fact that telework was under-developed prior to the pandemic regarding both policy (national and organizational) and regulation, including the need to ensure privacy, data protection, and the ability of teleworkers to disconnect from work during periods reserved for rest and personal life. This, in turn, has triggered a wave of legal and policy reforms, including regarding the "right to disconnect" also in a number of G20 countries.

Negotiated responses to the Covid-19 crisis, including on working time and telework, were also developed through an interaction between sectoral and enterprise-level bargaining. This was the case for example of Germany, where the social partners in Germany’s chemical industry, the IG BCE union and the employer confederation BAVC, concluded a sectoral crisis

agreement promoting working time flexibility instruments and enterprise-level bargaining on telework (Planet Labour 2020), while companies were free to negotiate local agreements on remote working with works councils.

It is plausible to expect that post-pandemic teleworking will involve a hybrid or blended form of teleworking – working part of the time in the office and part of the time remotely. The social partners will have a central role to play in drawing out the lessons learned from the pandemic teleworking experiment and applying them to revise existing laws, regulations, and policies, or develop new ones, that can help make teleworking a “win-win” arrangement benefitting both workers and employers.

Occupational safety and health

As workers continue to die, face devastating injuries and lifelong debilitating illnesses, occupational safety and health remains an area at the top of the agenda for many G20 countries, with the COVID-19 pandemic putting a renewed spotlight on OSH. The COVID-19 pandemic has had, and continues to have, profound impacts on the world of work. The pandemic exposed workers and people in the world of work to the risk of infection with the virus, with some workers being particularly affected due to their profession, such as those in healthcare. Many other workers faced increased risk due to close proximity to one another during work interactions, shared accommodations or transport.

Many G20 countries, including Indonesia, responded to this threat by declaring states of emergency in order to take action against the disease, with others raising their emergency alert levels to the highest levels. According to a survey conducted in 12 countries by the G20 OSH Experts Network, the majority of these governments implemented a range of engineering controls, organizational and administrative measures to combat the virus, such as ventilation, teleworking, physical distancing and ensuring workers took regular breaks with set working hours, to avoid long working hours, among many others.

New measures put in place to slow the spread of the virus often came with new, unknown risks, including, as seen earlier, in the case of teleworking. Psychosocial risks, including mental health impacts, stress and violence and harassment, faced renewed attention, as workers experienced the compounded stress of their jobs with the ongoing pandemic and other related concerns and other workers faced physical violence due to the nature of their jobs. Countries responded with new measures to protect workers from these new psychosocial risks, such as India which introduced a legal ordinance making violence against healthcare and frontline workers an offense punishable by up to seven years’ imprisonment.

The pandemic demonstrated the importance of collaboration in order to combat the crisis and build resilient occupational safety and health systems within G20 countries, with collaboration between public health and occupational safety and health authorities playing a key role and leading to effective measures. Enhanced social dialogue and cooperation at the national level, sectoral level and enterprise level resulted in better tailored solutions at the national and sectoral level, which were appropriate and effective to mitigate new risks that arose in the pandemic. In Australia, for instance, the National COVID-19 Coordination Commission Industrial Relations Working Group brought together a variety of stakeholders to develop guidance for safe workplaces in a range of industries.

During the pandemic, coverage of vulnerable workers, especially those in the informal economy and micro, small and medium-sized enterprises (MSMEs), has remained important for G20 countries. A number of G20 countries have worked to address the unique situations and vulnerabilities of these workers, with tailored guidance and resources.

Informal work

In the early stages of the pandemic, in countries with large informal economies, informal employment did not play its traditional countercyclical role of absorbing displaced workers from the formal economy. In many such countries informal workers were more likely than formal workers to lose their jobs or be forced into inactivity. Several reasons account for this situation: the fact that widespread informality is found in sectors that have been heavily affected by lockdown and containment measures, and where the possibility of telework is limited; the relative ease of terminating informal employment relationships; and the fact that informal workers are often employed in smaller enterprises which have struggled to survive longer periods of inactivity and have had less or no access to support measures, including worker retention schemes (ILO, 2022a, ILO, 2020a).

Considering both G20 countries and other countries, it is estimated that in the initial stages of the pandemic, the number of informal jobs had plunged by 20 per cent,¹ twice the impact registered among workers in formal employment (ILO, forthcoming). The number of informal jobs decreased by 25 per cent or more in 2020 Q2 compared to the same quarter in 2019 in Argentina, Brazil or South Africa. The corresponding decrease in the number of formal jobs was between 5-10 per cent.

Considering both G20 countries and other countries with data available since 2020, it is estimated that in the initial stages of the pandemic, informal employees were three times more likely than formal employees to lose their jobs. In subsequent stages of the pandemic, formal wage workers managed to return back to work, while informal waged employment has remained below its pre-crisis level in a sample of ten middle-income countries. Self-employed in the informal sector, who experienced the largest employment drop in the second quarter of 2020 (2020 Q2), have recovered relatively fast. In Argentina or Mexico, as containment measures have gradually been relaxed, informal employment has had the strongest rebound with informal jobs accounting for over 70 per cent of net job creation since mid-2020 (ILO 2022a, ILO 2022b).

This suggests the combination of three ongoing transitions: the return of many informal workers to their economic activities; new entrants, previously outside the labour force, entering informal employment, often as casual workers, own-account workers or unpaid family workers, to compensate for losses in household income; and the informalization of previously formal jobs. This third trend is still to be confirmed and monitored but seems to already be significant in some sectors such as the construction sector, notably in Argentina and Mexico. This may reduce joblessness but does raise concerns about informalization and the quality of employment creation during the recovery (ILO forthcoming).

¹ Estimates of formal and informal employment relative to the quarter of reference in 2019 have been adjusted for population aged 15-64. The adjustment simply consists in dividing each type of employment by population aged 15-64. For the sake of simplicity, henceforth this adjustment is omitted when describing the findings.

Women working informally have been, and continue to be, disproportionately affected by the crisis for selected G20 countries in terms of job losses. In contrast, in the same period from 2020 to the end of 2021, both men and women in formal employment faced much smaller declines without such gender disparity. This suggests that informality not only made workers more vulnerable to the COVID-19, but it is also the key driver of worsening gender employment gaps. (ILO forthcoming).

The identification and registration of eligible groups to public measures, especially those operating in the informal economy, has been challenging for many countries. An inclusive strategy that targets broad categories of low-income workers, independently of their formality status, can avoid creating incentives for workers to stay or become informal and can provide the basis for facilitating their transition to the formal economy (ILO 2019a). Where possible, the use of existing identification, registration and delivery mechanisms for the rapid roll-out of benefits – such as social security databases, single registries, health cards and municipal tax registers – has facilitated a timely response. Alternative solutions include partnering with associations of informal workers, such as associations of artisans, taxi or rickshaw drivers or street vendors; waste-picker cooperatives; and unions or networks of domestic workers and home-based workers. Adopting an inclusive approach, as a response to the crisis, Argentina has created the Emergency Social Committee, which includes stakeholders from both the formal and informal economy in the governmental COVID-19 response (WIEGO 2020b).

Similar to informal workers, workers with temporary employment contracts were also hit disproportionately harder than those on permanent contracts as the COVID-19 crisis unfurled (OECD, 2021). This reflected not only the tendency of hard-hit sectors to rely heavily on temporary workers, but also the intrinsic instability of these contracts and the ease with which temporary workers can be laid-off with limited cost to the employer. The risk of substantial income loss was also more severe for temporary workers relative to permanent workers because of lower effective eligibility for unemployment benefits.

To extend effective health coverage and ensuring access and financial protection for all, many countries, and notably G20 countries such as China, Japan, the Republic of Korea have channelled additional fiscal resources into their health systems in the form of COVID-19 stimulus packages (ILO 2020a). In China, the prevention, testing and treatment measures, including telemedicine, were integrated within health care benefit packages, which are also available for informal economy workers (ILO 2020b, ILO 2021b). Mexico has also extended health coverage and conducted awareness-raising campaigns in rural areas (WIEGO 2020a). Countries such as the United Kingdom and Ireland have extended sickness benefits to all previously excluded workers, including workers on digital platforms (ILO 2020c).

Regarding new programmes and measures and recognizing the pervasive impact of the socio-economic crisis caused by COVID-19, some G20 countries or territories introduced universal one-off payments to the entire population in order to mitigate the economic shock and stabilize aggregate demand. This has benefited informal economy workers. Such universal one-off cash transfers were disbursed for example in Japan (Japan 2020), the Republic of Korea and a quasi-universal payment in the United States (ILO, 2021b).

Where agri-food value chains have been disrupted, countries such as Indonesia and India have sought to complement income with food support to prevent hunger among those most affected by the crisis (ILO 2020d; WIEGO 2020a).

Finally, some measures aimed at providing support to micro and small enterprises and self-employed workers, including those in the informal economy in the form of grants; subsidized loans; grace periods on outstanding loans or the suspension or reduction of loans, rents or utility bills, as observed in Brazil for instance (WIEGO 2020a, ILO 2020e).

[Zooming in on workers in the platform economy](#)

The COVID-19 pandemic has had a differentiated impact on workers on digital labour platforms depending on the type of platform they worked in. Platform work can be differentiated according to whether the work carried out is delivered online or on location in person. In online platform work, demand for work decreased and shifted towards tasks related predominantly to software development and technology (ILO 2021b), which led to greater global competition among workers for task assignment and put downward pressure on the price of the tasks to be performed (Dube et al. 2020). On-location platform workers were exposed not only to a decline in earnings following the drop in demand, but also to the risk of contracting the virus. Actual impacts varied according to the type of work being carried out (e.g. demand for delivery services through platforms increased while demand for cleaning, babysitting and housesitting decreased), individual characteristics and family circumstances, and measures taken by governments and by platforms, among other factors. The risks posed by the crisis were compounded by the generally lower levels of access among platform workers to unemployment benefits, health insurance and sick leave, compared with individuals in open-ended full-time, dependent employment.

However, during the COVID-19 crisis, and to fill these gaps in protection, several G20 governments took unprecedented steps to protect the self-employed and platform workers, by: providing payments specifically targeted to the self-employed (related to previous earnings or not), and expanding access (in many cases, temporarily) to sickness benefits and special paid care leave, unemployment benefits and short-time work schemes to the self-employed, besides providing cash payments to the entire population.

In addition, some platform companies themselves also took measures to protect the health and the incomes of platform workers using their platforms (OECD, 2020). About 25% of the surveyed platforms reported providing PPE (personal protective equipment) or hygiene products to workers (although some workers were dissatisfied with the quality of items provided). About 23% of platforms reported providing full or partial pay for sick or self-isolating workers, generally up to a maximum period of two weeks.

Given that platform work is likely to continue growing as a share of overall employment, it is important that some of the temporary measures that were taken by governments and platforms during the pandemic are turned into more permanent protections for these workers.

Addressing the employment status of platform workers is essential as it has bearings for whether, and to what extent, these workers will enjoy labour and social protection. For example, platform workers who, based on the reality of their working arrangement, should be labelled as employees, but are misclassified as self-employed, are stripped of the rights and protections they should be entitled to. These include employment protection, minimum wage, occupational safety and health and the right to collective bargaining. In these instances, governments should, among others, tackle false self-employment head-on by strengthening

labour inspectorates, making it easier and cheaper for workers to challenge their employment status and increasing penalties for employers who misclassify workers.

There may be also instances in which some workers may find themselves in a “grey zone” as they may have some characteristics of employees, but also some features of the self-employed. In practice, they may often be classified as self-employed and therefore have none of the protections afforded to employees, even though they share some of the same vulnerabilities. An example is the financially dependent self-employed: their dependence on one client/employer makes them vulnerable to sudden income loss. Countries should think about how to extend rights and protections to these workers. In New York City, for example, a minimum wage for rideshare drivers has recently been introduced.

Finally, some workers may face monopsonistic labour markets with limited alternative employment options, which diminishes their bargaining power. In those cases, countries should address the sources of monopsony power and strengthen the bargaining power of workers. In several countries, collective bargaining rights have been extended to certain groups of self-employed workers (ILO 2021b, ILO and OECD 2021)

Conclusions

The impacts of the COVID-19 pandemic have been uneven across workers depending on, among others, their occupation and contractual arrangement, whether they work formally or informally, their level of education and gender. To reduce these inequalities across workers and strengthen their resilience in the face of new crises, labour protection needs to be inclusive, adequate and effective. This involves strengthening and extending existing forms of labour protection, while also exploring new forms of protection, and improving their application through more effective compliance strategies. This includes taking a range of actions as follows:

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- As the crisis recedes, it is essential to transform temporary emergency measures into sustainable mechanisms that will close protection gaps, through longer-term strategies where the extension of social and labour protection is part of broader, integrated strategies to promote the transition from the informal to the formal economy to increase the capacity of informal workers to contribute to and benefit from the recovery.
- It is critical that policies now focus on generating formal employment on a sufficient scale not only to absorb the rebounding labour force but also to fend off any risk of increased informalization.
- Tackling labour market duality between workers on permanent employment contracts and those on temporary contracts is also important through reforms to regulations on hiring and firing that prevent the excessive use of fixed-term contracts.

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