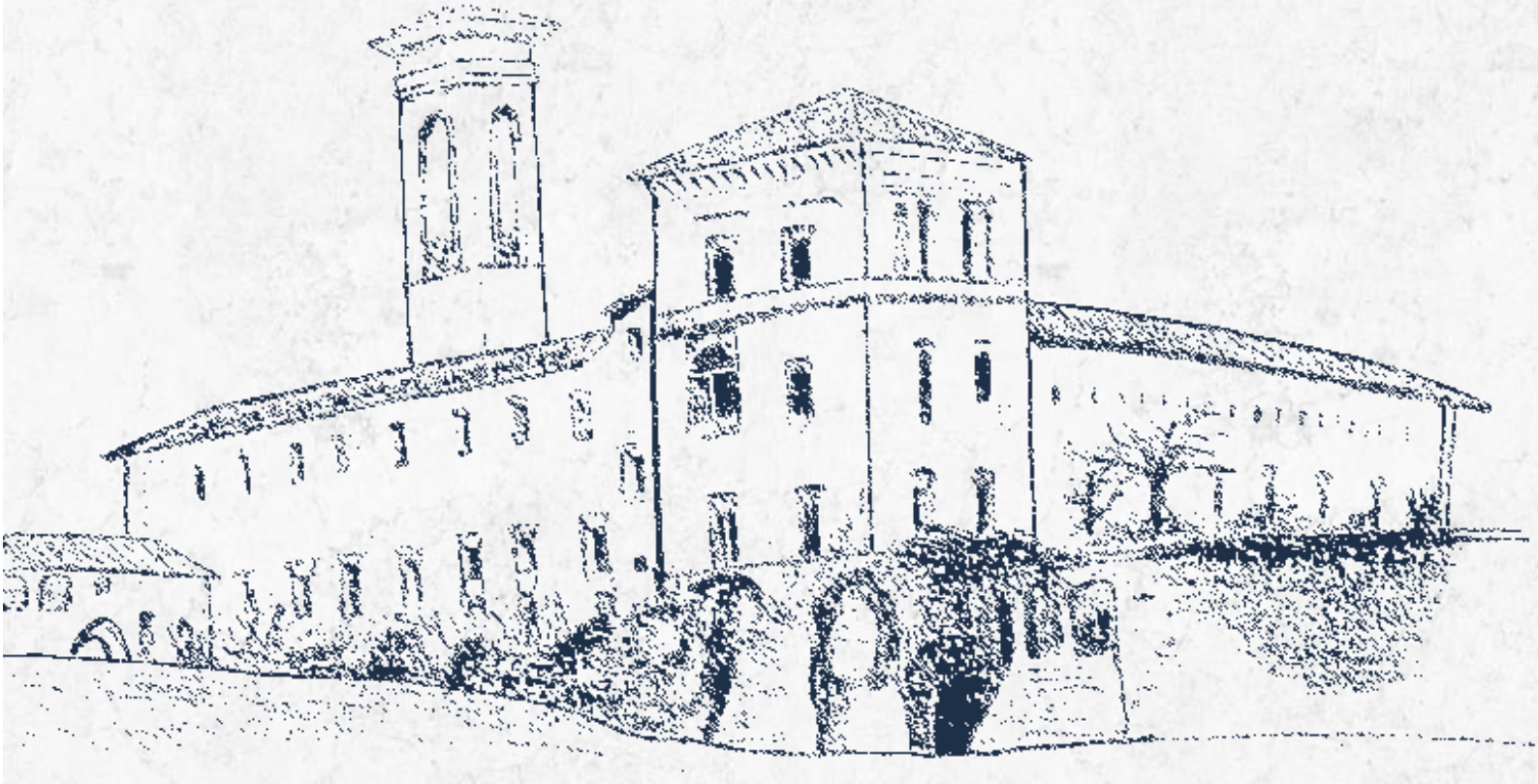
OPEN ACCESS
ISSN 2280-4056

E-Journal of International and Comparative

LABOUR STUDIES

Volume 14 No. 03/2025



ADAPT
www.adapt.it
UNIVERSITY PRESS

E-Journal of International and Comparative **LABOUR STUDIES**

ADAPT *International School of Higher Education in Labour and Industrial Relations*

E-Journal of International and Comparative

LABOUR STUDIES

Volume 14 No. 03/2025

ADAPT www.adapt.it UNIVERSITY PRESS

Online Publication of the ADAPT Series
Registration No. 1609, 11 November 2001, Court of Modena
www.adaptbulletin.eu

Platform Work Regulations in Latin America: The (In)Effectiveness of Chile and Uruguay's Approaches

Federico Rosenbaum Carli *

Abstract. This study examines whether these regulatory and judicial approaches have effectively ensured decent work for platform workers and explores ways to enhance their impact, specifically addressing the following questions: 1. To what extent has Chile's regulation achieved its objectives, and what enforcement challenges have emerged? 2. How has Uruguay's judicial approach shaped labour protections, and what changes does the recent regulatory intervention introduce? 3. What lessons can be drawn from these cases to improve platform work regulation in Latin America and beyond? This study employs a comparative legal analysis of Chile and Uruguay, focusing on their regulatory trajectories and enforcement mechanisms. It examines legislation, judicial rulings, and administrative decisions, alongside reports from labour institutions and policy debates. By comparing a country with a formal regulatory framework to one where protections were primarily shaped by the judiciary, the study assesses the effectiveness of both approaches. It also identifies implementation challenges and broader implications for labour law.

Keywords: *Platform economy; Gig economy; Regulation effectiveness; Latin America; Chile; Uruguay.*

* Associate Professor at Universidad Católica del Uruguay (Uruguay). Email address: federico.rosenbaum@ucu.edu.uy. ORCID iD: https://orcid.org/0000-0003-1152-6561.
A draft of this paper was presented at "9th Regulating for Decent Work Conference", held from July 2 to 4, 2025, at the International Labour Organization (ILO).

1. Introduction

1.1. Background and Context of Platform Work Regulation

Platform work has emerged as a form of employment generation and an attractive alternative for many workers seeking income. Therefore, several positive aspects of work carried out in the platform economy can be highlighted, such as the low barriers to entry for these forms of work (facilitating access for certain groups of people who are usually excluded from the labour market)[1]; a reduction in the costs of the product or service offered[2]; a reduction in transaction costs[3]; the generation of sources of employment for groups that are unemployed or cannot access formal employment (especially young people and migrants); etc.

However, the platform economy (particularly its *offline* or location-based modality) offers various challenges for workers, leading to numerous factual and legal qualification issues.

On one hand, the platform economy has formally expanded the boundaries of self-employment, blurred the time boundaries associated with work, negatively affected workers' health and safety, made collective action more challenging, and resulted in a significant lack of social protection for workers[4]. On the other hand, attention has also been drawn

[1] M. L. Rodríguez Fernández, Anatomía del trabajo en la Platform Economy, AADTSS, 2018, 6, https://www.aadtyss.org.ar/docs/ANATOMIA_DEL_TRABAJO_EN_LA_PLATFORM_ECONOMY_MLRF.pdf (accessed April 23, 2025).

[2] M. L. Rodríguez Fernández, op. cit., 4.

[3] M. Sánchez-Urán Azaña, Economía de plataformas digitales y servicios compuestos. El impacto en el Derecho, en especial, en el Derecho del Trabajo. Estudio a partir de la STJUE de 20 de diciembre de 2017, C-434/15, Asunto Asociación Profesional Élite Taxi y Uber Systems Spain S.L. (1), in La Ley Unión Europea, 57, Wolters Kluwer, Spain, 2018.

[4] A. Aloisi, Commoditized workers: case study research on Labour Law issues arising from a set of 'on-demand/gig economy' platforms, in Comparative Labor Law and Policy Journal, 37 (3), 663, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2637485 (accessed April 23, 2025); C. Degryse, Digitalisation of the economy and its impact on labour markets, European Trade Union Institute, Brussels, 2016, 35, https://www.etui.org/fr/content/download/22130/184851/file/ver+2+web+version+Working+Paper+2016+02-EN+digitalisation.pdf (accessed April 23, 2025); V. De Stefano, The rise of the "just in time workforce": On-demand work, crowdwork and labour protection in the "gig economy", in Inclusive Labour Markets, Labour Relations and Working Conditions Branch, Conditions of Work and Employment Series, 71, International Labour Office, Geneve, 2016, 4-5,

to two major legal qualification issues surrounding these models, such as the definition of the nature of the activity carried out by digital platform companies and the nature of the relationship they establish with workers.
Diverse and even opposing reactions have emerged from these dilemmas that develop on different levels.
Primarily, we can highlight a certain level of discontent among workers regarding the work organization model of the platform economy, which has led to claims at the judicial level to obtain the protections mandated by labour law, seeking to be classified as dependent workers. Secondly, in some countries, control bodies have carried out significant work, generating inspections of digital platform companies, administrative sanctions, and even the promotion of legal proceedings to enforce the inclusion of these workers in social security systems, ensuring that they make the corresponding contributions.
Finally, a regulatory effort has been promoted in various countries, showcasing a commitment to intervene and provide solutions for these types of work, which have often been characterized as precarious employment[5] with a high degree of non-compliance with decent work

https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_443267.pdf (accessed April 23, 2025); ILO, Ensuring decent working time for the future, in Report of the Committee of Experts on the Application of Conventions and Recommendations. Report III. 107th International Labour Conference, International Labour Office, Geneve, 2018, 297, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40relconf/documents/meetingdocument/wcms_618485.pdf (accessed April 23, 2025); ILO, Trabajar para un futuro más prometedor – Comisión Mundial sobre el Futuro del Trabajo, International Labour Office, Geneve, 2019, 7, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---cabinet/documents/publication/wcms_662442.pdf (accessed January 2, 2024); M. L. Rodríguez Fernández, op. cit., 4; F. Rosenbaum Carli, El trabajo mediante plataformas digitales y sus problemas de calificación jurídica, Aranzadi-Thomson Reuters, Spain, 2021, 60-81.

[5] J. Woodcock and M. Graham, The gig economy. A critical introduction, Polity Press, United States of America, 2020; C. Bedoya-Dorado and J. Peláez-León, Los trabajos en la Gig Economy: una mirada desde la precarización laboral, in Lumen Gentium, 5 (1), 2021, https://revistas.unicatolica.edu.co/revista/index.php/LumGent/article/view/306 (accessed April 23, 2025); G. Boza and J. Briones, Precariedad laboral en el trabajo prestado mediante plataformas digitales en el Perú, in Revista Jurídica del Trabajo, 3 (9), 2022, http://www.revistajuridicadeltrabajo.com/index.php/rjt/article/view/147 (accessed April 23, 2025).

parameters[6]. Thus, it is possible to find different regulatory proposals that, in several cases, have been approved at the national and regional levels[7].

1.2. Divergent Approaches in Latin America: Chile and Uruguay

The divergent regulatory paths taken by Chile and Uruguay concerning platform work find a structural explanation in their distinct pre-existing legal frameworks for defining the employment relationship.

Both systems are founded on a rigid dichotomy between dependent and independent work, yet they differ fundamentally in their sources of law and formal structure, which conditioned their subsequent reactions to platform work.

Chile relies on a structured, codified system within its Labour Code. On one hand, article 7 of the Code formally defines the employment contract as one where the worker provides personal services under dependency and subordination. On other hand, article 8 establishes that every provision of services under the preceding terms presumes the existence of an employment contract. This clear, statutory presumption provided a fixed point for the legislator to intervene, resulting in Law 21,431 being primarily a modification designed to address this presumption in the context of digital platforms.

In contrast, Uruguay's labour law framework is characterized by its dispersed nature, as it lacks a systematized Labour Code or a statutory law that formally defines the contract of employment. Consequently, the definition of the employment relationship relies heavily on doctrine, jurisprudence, and international labour standards. In this context, the ILO Employment Relationship Recommendation, 2006 (No. 198) plays a transcendental role, serving as a primary source of criteria for the courts to determine the existence of a relationship based on the facts of work performance, prevailing over contractual formalities. This normative

[6] CEPAL-OIT, Trabajo decente para los trabajadores de plataformas en América Latina, in Coyuntura laboral en América Latina y el Caribe, 24, United Nations, Santiago, 2021, 38, https://repositorio.cepal.org/server/api/core/bitstreams/c11b80df-b41c-41d0-877e-a9021eb71e66/content (accessed May 6, 2025).

[7] Examples of this are the cases of Canada (Ontario: Working for Workers Act - Bill 88), Chile (Law 21.431), Spain (Royal Decree-Law 9/2021), United States of America (California: Assembly Bill No. 5 and Protect App-Based Drivers and Services Act; and Washington: HB 2076), France (Laws Nos. 2016-1088, 2018-771 and 2019-1428), Italy (Legislative Decree No. 81 of June 15, 2015 and Decree-Law No. 101 of September 3, 2019), Mexico (Decree of December 24, 2024), Portugal (Law No. 45/2018), Uruguay (Law 20.396), and the European Union (Directive 2024/2831).

structure meant that the challenge of platform work fell almost entirely upon the judiciary, which was compelled to use the ILO Recommendation 198 criteria to establish that technological control equated to subordination, driving the protection before legislative action. These structural differences are important to understanding why Chile opted for early legislative reform and Uruguay was driven by definitive judicial precedent.

In this context, Chile's and Uruguay's responses to the factual and legal issues of platform work have been varied.

There has been limited jurisprudential development in the Chilean case to clarify the relationship between workers and platforms. However, since 2020, addressing this issue at the legislative level has been prioritized, with the proposal of a bill establishing fundamental guarantees for platform workers. It was finally approved in 2022 by Law 21,431[8]. The Law legitimizes two types of contracts, allowing workers to be classified as employees or independent contractors.

In a different sense, the Uruguayan case has demonstrated very significant judicial activism, which has grown exponentially since the first ruling against Uber in 2019, with a total of 267 labour proceedings initiated against transportation and delivery companies until 2024[9]. However, despite the clear predominance of the judicial route and the overwhelming position adopted by labour courts agreeing that Uber drivers are dependent workers, in February 2025, Uruguay approved Law 20,396[10], which establishes minimum levels of protection for workers who perform tasks through digital platforms.

These two diverse approaches allow us to analyse the effectiveness and challenges of Chilean legislative regulation compared with the Uruguayan jurisprudential response and subsequent regulation. This analysis helps us draw specific lessons for the Latin American context and contribute to the global debate on regulating work through platforms.

[8]Accessible at: https://www.bcn.cl/leychile/navegar?idNorma=1173544.

[9] Observatorio de Relaciones Laborales, Conflictividad Laboral 2024. Informe anual, Universidad Católica del Uruguay, Uruguay, 2025, https://www.ucu.edu.uy/Institucionales/INDICE-DE-CONFLICTIVIDAD-LABORAL-uc1342/5421/Informe-anual-de-Relaciones-Laborales--borrador-elo.pdf (accessed May 15, 2025).

[10]Accessible at: https://www.impo.com.uy/bases/leyes-originales/20396-2025.

1.3. Research Questions

This paper addresses the following research questions: 1) To what extent has Chilean regulation achieved its intended purposes? 2) What impact have judicial rulings and legislation enacted in Uruguay had? 3) What lessons can be drawn from these comparative experiences to improve the regulation of platform work?

2. Literature Review

2.1. Global Perspectives on the Regulation of Platform Work

The phenomenon of digital platforms can be interpreted from different perspectives. First, as a further expression of the trend toward the de-standardization of labour law[11]; second, as a manifestation of a broader trend that has allowed companies to externalize the risks they previously had to assume[12]; and third, as a disruptive change, where technology and capital have stimulated the growth of precarious work for unprotected self-employed workers[13].

Therefore, there is a debate about the importance of acting, such as regulating these phenomena, to prevent precariousness from spreading to the rest of the economy.

Regarding regulatory models for platform work globally, various approaches have different justifications.

A first line of opinion advocates establishing a regulatory definition of the legal relationship between digital platforms and workers, whether as employees or self-employed workers. This approach has not been

---

[11] A. Goldin, Los trabajadores de plataforma y su regulación en la Argentina, in Documentos de Proyectos (LC/TS.2020/44), Comisión Económica para América Latina y el Caribe (CEPAL), Santiago, 2020, 15, https://www.cepal.org/es/publicaciones/45614-trabajadores-plataforma-su-regulacion-la-argentina (accessed June 12, 2020).

[12] S. Vallas and J. Schor, What Do Platforms Do? Understanding the Gig Economy, in Annual Review of Sociology, 46:1, 2020, 8, https://www.annualreviews.org/doi/pdf/10.1146/annurev-soc-121919-054857 (accessed May 2, 2020).

[13] V. Dubal, Winning the Battle, Losing the War?: Assessing the Impact of Misclassification Litigation on Workers in the Gig Economy, in Wisconsin Law Review, 239, 2017, 752, https://repository.uclawsf.edu/faculty_scholarship/1598 (accessed April 23, 2025).

commonly accepted at the comparative level (except for the Mexican case[14]).

A second model of regulatory intervention is based on creating intermediate categories between dependent and independent work. This regulatory approach recognizes two alternatives: on the one hand, the creation of a special status for platform workers, which falls within the scope of labour law protection but exclusively applies to certain specific rights, and on the other, the establishment of a special status for self-employed workers, situated outside the scope of labour law. The main argument put forward by those who support this regulatory model is that platform work does not adequately articulate the characteristic features of dependent work nor the status of the self-employed worker, so specific regulations for this type of employment would be necessary.

Another plausible regulatory alternative would be establishing a presumption of employment for work carried out through digital platforms. This could be achieved by strengthening a general presumption of employment, creating a specific presumption of employment applicable exclusively to these types of work, or establishing a general presumption applicable to all situations involving personal work. In a different vein, proposals have also been made to include a presumption of autonomy concerning the persons who provide the underlying services through digital platforms.

A fourth regulatory model does not attempt to resolve the legal issue of how to qualify the relationship between the parties. Instead, it includes the establishment of minimum rights for all persons who perform their work through digital platforms. The rationale is very pragmatic, as it argues that there is a lack of protection "on both sides of the border", making it irrelevant and meaningless to resolve the legal structure of the relationship between the parties, that is, whether it falls within or outside of labour law[15].

[14]Accessible at: https://www.dof.gob.mx/nota_detalle.php?codigo=5746132&fecha=24/12/2024#gsc.tab=0.

[15] M. L. Rodríguez Fernández, Calificación jurídica de la relación que une a los prestadores de servicios con las plataformas digitales, in M. L. Rodríguez Fernández (Dir.), Plataformas digitales y mercado de trabajo, Ministerio de Trabajo, Migraciones y Seguridad Social, Spain, 2018.

2.2. The ILO's Decent Work Agenda in the Platform Economy

The ILO has a long-standing tradition of addressing two issues underlying the current challenges posed by the platform economy. On one hand, there is the determination of the existence of an employment relationship, expressly addressed by the Employment Relationship Recommendation (No. 198) in 2006. On the other hand, there is the need to extend protection to all workers, regardless of their contractual status, in line with the proposal for a universal employment guarantee put forth by the Global Commission on the Future of Work[16].

Moreover, a third level of interest, which is more specific and concrete, has emerged following the global debate on regulating work in the platform economy at the ILO. This has sparked a dual discussion process aimed at approving standards for decent work in the platform economy.

It is worth recalling that at its 346th Session, the Governing Body decided to include on the agenda of the 113th Session of the International Labour Conference in 2025 an item on decent work in the platform economy and requested the Office to prepare a regulatory gap analysis to serve as a basis for a decision on the nature of the item to be included on the agenda of the Conference in 2025 and, if appropriate, in 2026[17]. This document was finally presented to the Governing Body on February 24, 2023, concluding (in substance) that, on the one hand, there are important international instruments that are applicable to work through digital platforms, and on the other, that there are possible regulatory gaps for this type of work, both because it is outside the scope of application of some standard, as well as because a particular topic has not been addressed by any international standard[18].

This led to the Governing Body finally deciding at its 347th Session to inscribe on the agenda of the 113th Session of the Conference (2025) a

[16] ILO, 2019, op. cit., 40.

[17] ILO, Consejo de Administración. 346ª reunión, Ginebra, octubre-noviembre de 2022. GB.346/INS/PV, International Labour Office, Geneve, 2022, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_863774.pdf#page=27 (accessed January 10, 2024).

[18] ILO, A normative gap analysis on decent work in the platform economy. GB.347/POL/1, International Labour Office, Geneve, 2023, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_869166.pdf (accessed January 10, 2024).

standard-setting item, under the double discussion procedure, on decent work in the platform economy[19].
In this context, the Office prepared a report on national legislation and practice, together with a questionnaire to be completed by member States in consultation with the most representative organizations of employers and workers[20]. Subsequently, the Office prepared a further report based on the governments' responses, outlining the main issues to be considered at the next International Conference, held in June 2025[21].
The Conference has recently examined both reports and decided to include on the agenda of its 114th Session (2026), for a second discussion, an item entitled "Decent work in the platform economy", with a view to the adoption of a Convention supplemented by a Recommendation[22].

2.3. Existing Literature on the Regulation of Platform Work in Chile and Uruguay

In the Chilean case, a vast amount of literature has developed focusing on regulating platform work. In Uruguay, however, this development has been less extensive. Therefore, we will identify what has been researched, the main findings, areas of consensus, and the gaps this research seeks to address.
The enactment of Law 21,431 in Chile has sparked growing interest in analysing its content, scope, and potential impact. The existing literature includes studies that examine in detail the provisions of the Law, as well as the distinction between dependent and independent workers and the

[19] ILO, Consejo de Administración. 347ª reunión, Ginebra, 13-23 de marzo de 2023. GB.347/INS/2/1, 2023, https://www.ilo.org/gb/GBSessions/GB347/ins/WCMS_873030/lang--es/index.htm (accessed January 10, 2024).
[20] ILO, Realizing decent work in the platform economy. ILC.113/Report V(1), International Labour Office, Geneve, 2024, https://www.ilo.org/sites/default/files/2024-07/ILC113-V%281%29-%5BWORKQ-231121-002%5D-Web-EN.pdf (accessed May 10, 2025).
[21] ILO, Realizing decent work in the platform economy. ILC.113/Report V(2), International Labour Office, Geneve, 2025, https://www.ilo.org/sites/default/files/2025-02/ILC113-V%282%29-%5BWORKQ-241129-001%5D-Web-EN.pdf (accessed May 10, 2025).
[22] ILO, Outcome of the Committee on Decent Work in the Platform Economy: Proposed resolution and Conclusions submitted to the Conference for adoption. ILC.113/Record No.6A, International Labour Office, Geneve, 2025, https://www.ilo.org/sites/default/files/2025-06/ILC113-Record-6A-CNP-EN.pdf (accessed June 13, 2025).

rights and obligations established for platforms and workers. These analyses explore the perceived strengths and weaknesses of the Law from a legal and public policy perspective[23].

Preliminary assessments also seek to understand how the Law is being implemented in practice, identifying potential compliance challenges and obstacles to the exercise of rights[24].

Regarding Uruguay, the existing literature analyses labour court rulings that overwhelmingly classified platform workers as dependent workers. These analyses identify the legal criteria used by the jurisprudence, the

[23] F. Ruay, Trabajadores mediante plataformas en Chile. Comentarios a propósito de su regulación legislativa, in *Revista Jurídica del Trabajo*, 3 (7), Equipo editorial RJT, Uruguay, 2022, http://revistajuridicadeltrabajo.com/index.php/rjt/article/view/125 (accessed April 23, 2025); J. Leyton and R. Azócar, Análisis crítico de la regulación del trabajo en plataformas en Chile, introducida al Código del Trabajo por la Ley Nro. 21.431, in *Revista Jurídica del Trabajo*, 3 (7), Equipo editorial RJT, Uruguay, 2022, http://revistajuridicadeltrabajo.com/index.php/rjt/article/view/126 (accessed April 23, 2025); A. Sierra, Sobre la distinción del trabajador de plataformas digitales dependiente y el trabajador de plataformas digitales independiente. Análisis crítico de la Ley N° 21.413, in R. Palomo (Ed.), El trabajo a través de plataformas digitales. Problemas y desafíos en Chile, Tirant Lo Blanch, Valencia, 2022; M. S. Jofré, Seguridad laboral en el trabajo vía plataformas digitales: la nueva regulación legal en Chile y sus desafíos, in R. Palomo (Ed.), op. cit., 2022; P. Contreras, La protección de datos personales de trabajadores de empresas de plataformas digitales de servicios y la regulación de la gestión algorítmica del trabajo bajo la Ley N° 21.431, in R. Palomo (Ed.), op. cit., 2022; R. Palomo and D. Villavicencio, La organización y la negociación colectiva de los t rabajadores vía plataformas digitales en Chile, in R. Palomo (Ed.), op. cit., 2022; Y. Pinto, La Ley N° 21.431 y el reconocimiento de los trabajadores económicamente dependientes en el derecho chileno. Los déficits en su protección, in Revista Chilena de Derecho y Ciencia Política, 16 (1), 2025, https://doi.org/10.7770/rchdcp-v16n1-art422 (accessed May 15, 2025).

[24] Flacso Chile, Estudio de descripción de las condiciones de trabajo y empleo en el trabajo de plataformas digitales, conforme a lo dispuesto por la Ley n°21.431, 2023, https://www.subtrab.gob.cl/wp-content/uploads/2024/05/8-Informe-Final.-Trabajo-en-Plataformas-Digitales-de-Servicios-Ley-21.431.pdf (accessed May 15, 2025); Pontificia Universidad Católica de Chile, Evaluación de implementación y resultados de la Ley N°21.431, de trabajadores de plataformas digitales, en Uber y Uber Eats, 2023, https://politicaspublicas.uc.cl/publicacion/evaluacion-de-implementacion-y-resultados-de-la-ley-n21-431-de-trabajadores-de-plataformas-digitales-en-uber-y-uber-eats/#:~:text=Descargar%20documento,file_download (accessed May 15, 2025); Consejo Superior Laboral, Evaluación implementación de la Ley 21.431, que modifica el Código del Trabajo regulando el contrato de trabajadores de empresas de plataformas digitales de servicios, Ministerio de Trabajo y Previsión Social, Chile, 2024, https://www.mintrab.gob.cl/wp-content/uploads/2024/08/Informe_Implementacion_Ley21.431_CSL2024.pdf (accessed May 15, 2025).

labour protections granted, and the consistency of court rulings. There are also scholarly developments on the adequacy of traditional Uruguayan labour legislation to address the particularities of platform work and the interpretive challenges that arose[25].

After reviewing the existing literature in both countries, a gap was identified that this research seeks to fill. In particular, what is missing is an in-depth analysis of the effectiveness of Chilean regulation in terms of compliance and effective protection of workers' rights, an assessment of the impact of the Uruguayan judicial approach (pre-regulation) on working conditions and legal certainty, direct and systematic comparative analysis of the approaches in Chile and Uruguay, as well as an investigation of the specific challenges of regulatory enforcement that have arisen in both contexts and an exploration of the implications for an international regulatory framework, drawing on the lessons learned from the Chilean and Uruguayan cases.

3. Data and Methods

3.1. Comparative Legal Analysis Framework

This research adopts a comparative analysis methodology to examine the effectiveness of different regulatory approaches to platform work implemented in Chile and Uruguay, focusing specifically on their impact on protecting workers' labour rights. This choice is justified by the contrasting nature of the regulatory responses in both countries within the Latin American context: an early and targeted legislative intervention in Chile and an initial jurisprudential construction in Uruguay, followed by recent legislation, as previously noted.

The specific analytical framework for this comparison will be structured around various dimensions, aiming to assess its effectiveness regarding

[25] F. Rosenbaum Carli, op. cit., 2021; F. Rosenbaum Carli, Match Point: Uruguayan Labor Appeal Court Establishes that Uber Drivers Are Dependent Workers", in International Labor Rights Case Law, 7 (2), Brill, Leiden, 2021, https://doi.org/10.1163/24056901-07020018 (accessed May 14, 2025); L. De León and N. Pizzo, Trabajo a través de plataformas digitales, second edition, FCU, Montevideo, 2022; B. Sande, Plataformas y Relación de Trabajo. Análisis desde la perspectiva del Derecho del Trabajo Uruguayo, in XXX Jornadas Uruguayas de Derecho del Trabajo y de la Seguridad Social, FCU, Montevideo, 2019; G. Gauthier, Plataformas digitales, relaciones laborales y diálogo social, in *El tripartismo, la OIT y Panamá*, Cuadernillo Nº 6, Universidad de Panamá, Panamá, 2024; J. Raso, La contratación atípica del trabajo, third edition, FCU, Montevideo, 2023.

labour rights. First, the regulation's coverage and scope will be examined. Second, the level of labour rights protection will be compared, analysing the substantive rights recognized for platform workers. Finally, emphasis will be placed on the feasibility of implementing and enforcing the regulation.

The effectiveness assessment will focus on determining whether regulatory approaches have led to a tangible improvement in protecting platform workers' labour rights in each country. It will, therefore, consider whether the regulation provides a clear and enforceable framework, whether workers have effective access to the recognized rights, and whether adequate mechanisms exist to ensure platform compliance.

3.2. Data Sources

This research will use different data sources to analyse the Chilean and Uruguayan cases.

On the one hand, Law 21,431 will be examined, constituting Chile's main regulatory instrument governing platform work. The study will also be complemented by a review of legal opinions from the Directorate of Labour related to the interpretive scope of the aforementioned Law and the context of platform work. Finally, various reports and emerging analytical documents on the implementation of the Law, issued by government organizations, academic institutions, and researchers, will be analysed.

Regarding the Uruguayan case, we will first review the main jurisprudence of the Labour Courts of Appeals that addresses the problem of classifying these workers. Second, we will examine Law 20,396, which regulates digital platform work in Uruguay. Finally, we will study the analytical reports describing the context of platform workers' legal claims.

4. Analysis of Legislative and Judicial Approaches

4.1. The Case of Chile: Implementation and Enforcement of Law 21,431

4.1.1. Scope and Key Provisions of the Law

Law 21,431 modifies the Chilean Labour Code and incorporates a new Chapter IX (articles 152 quárter P - 152 quinquies I) to regulate platform work within the category of special contracts. This Law regulates the

relationships between digital platform workers, both dependent and independent, and digital service platform companies operating in Chile.

The parliamentary process began with the presentation of a bill initiated as a motion. The content and text of this motion differed from the final approved Law, although they shared the essence of its objectives. Thus, the motion states that the regulatory purpose is to establish fundamental guarantees for workers, especially regarding their safety and well-being.[26]

It is also worth noting that after the bill was introduced, a technical working group was established in 2020, integrated by representatives from the Executive Branch, the most representative workers' and employers' organizations, academics, representatives of workers and digital platform companies, and the ILO. Within this framework, those participating agreed on the need to regulate platform work, based on extending social security protection to these workers, as well as providing protection for personal data, ensuring rest periods, transparency criteria, and understanding of terms and conditions, the provision of information on remuneration conditions, and protection of fundamental rights. The work of the technical group was crucial in understanding the objectives ultimately set forth by the approved Law since what was agreed upon there became the "backbone" of the regulatory discussion, fully incorporated into the provisions of the Law[27].

The approved Law defines a digital services platform company as an organization that, for a fee, administers or manages a computer or technological system (executable in mobile or fixed applications) that allows digital platform workers to perform services for the users of said system in a specific geographic territory. Examples include services such as collecting, distributing, or delivering goods or merchandise, as well as minor passenger transport. Platforms that are limited to publishing advertisements for the provision of services or the sale or rental of goods are expressly excluded[28] (article 152 quárter Q, a).

The digital platform worker is defined as the person who performs personal services, whether self-employed or dependent, requested by the

[26] Accessible at: https://www.camara.cl/legislacion/ProyectosDeLey/tramitacion.aspx?prmID=14038&prmBOLETIN=13496-13.

[27] F. Arab and M. Frontaura, Descripción y análisis de la Ley 21.431, que regula el contrato de trabajadores de empresas de plataformas digitales de servicios, in Revista de Derecho Aplicado LLM UC, 9, 2022, 5-6, https://doi.org/10.7764/rda.0.9.51169 (accessed May 20, 2025).

[28] F. Ruay, op. cit., 133.

users of the application administered or managed by the digital services platform company. The Law indicates that the status of dependent or independent worker will be determined according to the criteria regulated by the Labour Code when identifying the employment contract (personal service, remuneration, dependency, and subordination)[29] (article 152 quárter Q, b).

For this reason, on the one hand, the platform-dependent worker is identified as the subject who provides services under subordination and dependence on the platform company, governed by the general rules of the Labour Code, provided that they are not contradictory with the specific provisions of Law 21,431. Moreover, on the other hand, the independent digital platform worker provides services without subordination or dependence, where the platform company is limited to coordinating contact between the worker and the users[30].

Regarding the scope of the Law, it establishes that it regulates the relationships between digital platform workers and companies providing services within the national territory (article 152 quárter P). However, it has been raised that the Law raises doubts about its application to activities carried out through platforms intended for entertainment, such as game streaming and *online* entertainment content. Although the standard primarily focuses on passenger or freight transport services, the expression "or others" leaves open the discussion about its possible extension to other types of services provided through digital platforms[31].

Regarding the rights and obligations of the parties, the Law establishes a specific regulatory framework for each type of worker.

On the one hand, in the case of dependent workers, the Law refers to the general rules of the Labour Code, with some special provisions (Paragraph II). In particular, the employment contract must contain, at a minimum, the nature of the services, the terms and conditions of provision, the processing of the worker's data, the method of calculation and form of payment of remuneration, the designation of an official channel for the worker to file objections or complaints, the geographic area where services are provided, and the criteria for contact and coordination between the worker and users. Regarding working hours, the worker's traditional and flexible distribution is permitted, establishing

[29] F. Ruay, op. cit., 133-134; J. Leyton and R. Azócar, op. cit., 177.
[30] F. Ruay, op. cit., 134-140.
[31] F. Ruay, op. cit., 133-135.

rules on connecting and disconnecting from the platform. Remuneration is also regulated, including a minimum amount per hour worked[32].

On the other hand, independent workers are governed by a special statute within the Labour Code (Paragraph III). The Law also regulates specific aspects of the contract, as it must be in writing and contain stipulations similar to those for dependent workers regarding the identification of the parties, payment terms and conditions, coordination criteria with users, geographic area of service provision, personal data protection, maximum connection times, designation of a communication address, complaints channel, and grounds for termination. Likewise, rules are established regarding the payment of fees, social security, the right to disconnection, and contract termination[33].

The novel aspect of the regulation refers to the introduction of standard rules for both types of workers, which include the right to information about the service offered, the protection of personal data, the right of access and portability of data, the prohibition of algorithmic discrimination, training and delivery of personal protection elements, insurance for damage to the worker's property, and collective rights (freedom of association and collective bargaining)[34] (Paragraph IV).

Finally, academia has raised specific critical objections regarding the inclusion of the independent worker in the Labour Code, as it has been considered an anomaly and a contradiction with the traditional logic of this regulatory framework[35]. It is also argued that the distinction between dependent and independent workers conceals an unfounded differentiation and diminished labour protection for independent workers. In this sense, it is argued that the Law creates a third way with attenuated protection, which could make the world of work more precarious[36]. For this reason, some authors criticize the Law's decision to force the "de-laborization" of platform activities by regulating dependent and independent workers similarly[37].

A closely related criticism is that the Law has not considered the inequality of bargaining power between the parties, allowing companies to choose the contractual form (dependent or independent) and opt for the one with

[32] F. Ruay, op. cit., 134-136; J. Leyton and R. Azócar, op. cit., 164-173.
[33] F. Ruay, op. cit., 140-145; J. Leyton and R. Azócar, op. cit., 164-173.
[34] F. Ruay, op. cit., 147-148; J. Leyton and R. Azócar, op. cit., 173.
[35] F. Ruay, op. cit., 141.
[36] J. Leyton and R. Azócar, op. cit., 181.
[37] Y. Pinto, op. cit., 2-9.

the least protection[38]. Considering this aspect, it has been emphasized that in practice, there is a tension between the supposed autonomy of platform workers and the control exercised by companies through algorithms and other mechanisms[39].

4.1.2. Compliance Mechanisms and Challenges Identified

Regarding the control of compliance with regulations and its challenges, some studies have pointed out difficulties in the supervision and application of the Law, as well as problems of access to justice for workers[40].

On the one hand, some authors raise doubts about applying the Labour Directorate's inspection regulations to the contracts of independent workers. This interpretation is reinforced by the lack of specific tools in the regulations for the Labour Directorate to inspect platform work efficiently. Likewise, the absence of an express obligation for independent workers to register and the lack of application of regulatory modernizations to this body exacerbate the inspection challenge for atypical labour relations in the digital sphere[41].

Nevertheless, it should be noted that after the Law came into force, the Labour Directorate issued opinion 1831/39[42], aimed at interpreting various aspects of the regulatory text, serving as a basis for the subsequent inspection action carried out by that body. Specifically, one of the aspects considered in the opinion is related to an updated interpretation of subordination and dependence, addressing traditional indicators and renewing the perspective of the demands posed by these new forms of work[43].

However, this opinion has generated differing viewpoints, particularly questioning the Labour Directorate's authority to rule on various aspects.

---

[38] J. Leyton and R. Azócar, op. cit., 177-180.

[39] Flacso Chile, op. cit., 102-113.

[40] Flacso Chile, op. cit., 110-134; J. Leyton and R. Azócar, op. cit., 180-190.

[41] J. Leyton and R. Azócar, op. cit., 190.

[42] Accessible at: https://www.dt.gob.cl/legislacion/1624/articles-122851_recurso_pdf.pdf.

[43] R. Palomo, Discusión sobre pronunciamiento de la Dirección del Trabajo respecto al sentido y el alcance de la Ley N° 21.431, sobre trabajadores de plataformas digitales. Octubre 2022, in *Cuadernos de Última Jurisprudencia Laboral*, 8, Pontificia Universidad Católica de Chile, Santiago, 2023, 95, https://drive.google.com/file/d/18xUXkG80ZfXriD2IqheuWua8VjZqvOH2/view (accessed May 20, 2025).

Specifically, criticism has been directed at the incorporation of different criteria that could weaken the concepts of subordination and dependence outlined in the Labour Code for classifying a relationship as employment-related[44]. On the other hand, restrictions on independent workers' access to the labour protection procedure due to violation of fundamental rights are highlighted[45].

Towards the end of 2022, the Labour Directorate launched the First National Platform Inspection Program to monitor compliance with occupational health and safety regulations. During this inspection, several instances of non-compliance by the platforms were identified, including inadequate worker training, insufficient information on work risks, and a failure to provide protective equipment, among others[46].

In another vein, it has also been highlighted that the regulation introduces limitations to the collective rights of platform workers, especially the restriction on unregulated collective bargaining, which undermines workers' ability to organize and bargain collectively[47].

Furthermore, problems have been diagnosed regarding working hours, such as long hours, as well as variable remuneration that generates insecurity for workers and poses significant risks to the health and safety of workers[48].

At the same time, some authors have also expressed their critical view regarding the deficiencies of the Law in the protection of independent workers, especially in the area of social security[49].

The workers have also perceived this critical context of significant challenges since they feel that the Law does not protect them adequately and that there is a widespread lack of knowledge about their rights[50].

---

[44] C. L. Parada, Discusión sobre pronunciamiento de la Dirección del Trabajo respecto al sentido y el alcance de la Ley N° 21.431, sobre trabajadores de plataformas digitales. Octubre 2022, in Cuadernos de Última Jurisprudencia Laboral, 8.Pontificia Universidad Católica de Chile, Santiago, 2023, 96, https://drive.google.com/file/d/18xUXkG80ZfXriD2IqheuWua8VjZqvOH2/view (accessed May 20, 2025).

[45] J. Leyton and R. Azócar, op. cit., 190.

[46] Consejo Superior Laboral, op. cit., 38.

[47] J. Leyton and R. Azócar, op. cit., 188.

[48] J. Leyton and R. Azócar, op. cit., 167; Fairwork, Fairwork Chile Ratings 2024: Labour Standards in the Platform Economy, Santiago, Chile, Oxford, United Kingdom, Berlín, Germany, 2024, https://fair.work/en/fw/publications/labour-standards-in-the-platform-economy/ (accessed May 15, 2025); Flacso Chile, op. cit., 114-132.

[49] Y. Pinto, op. cit., 2-16.

[50] Flacso Chile, op. cit., 101-110.

A report from the Consejo Superior Laboral acknowledges the debates and differing opinions regarding the effectiveness of the Law and its impact on labour relations. It notes that the predominant type of contract is independent employment, with a lack of formality that Law 21,431 has yet to address. This factor influences these workers' difficulties in accessing social security and occupational health and safety. At the same time, it highlights the lack of sufficient information to verify compliance with the obligation to pay the minimum wage for these types of workers, as enshrined in the Law. Regarding working hours and schedules, this body also highlights an increase in working hours following the Law's entry into force[51].

4.2. The Case of Uruguay: Judicial Interpretations and the New Regulatory Landscape

4.2.1. Trends in the Judicial Classification of Platform Workers and Analysis of Labour Protections Granted by Courts

In the Uruguayan case, the lack of specific legislative regulation for platform work until February 2025 caused labour justice to assume a significant role in legally defining the relationship between workers and platforms companies. Specifically, legal claims by platform workers have been concentrated in the delivery and passenger transport sectors. Between 2015 and 2024, Uber was the company most frequently sued, with 205 labour claims filed by drivers who considered dependent workers[52].

The unique feature of these labour lawsuits is that, in most cases, they are decided in a second instance before one of the four Labour Courts of Appeals in Uruguay. These courts have upheld a uniform interpretation, classifying Uber drivers as dependent workers and, therefore, subject to labour law protection.[53]

To support this conclusion, the Courts relied on the defining elements of an employment relationship: personal performance of work, remuneration, alienation, and subordination. Additionally, all the Courts cited the ILO Employment Relationship Recommendation, 2006 (No.

[51] Consejo Superior Laboral, op. cit., 16-22.

[52] Observatorio de Relaciones Laborales, op. cit., 15-16.

[53] For example, TAT 1er Turno, Sent. 111/2020, 03.06.2020; TAT 2do Turno, Sent. 151/2022, 17.08.2022; TAT 3er Turno, Sent. 131/2022, 02.06.2022; TAT 4to Turno, Sent. 233/2024, 13.11.2024.

198), as a significant normative source. This standard allows the existence of an employment relationship to be determined primarily by considering the facts of the work performance and remuneration, above and beyond contractual formalities.

Regarding subordination (a central element of the debate in these cases), the Courts emphasized its adjustment to new labour realities. They dismissed the freedom of connection as a determining factor, focusing instead on the control exercised during the execution of the service. It was found that Uber exercises a power of direction and control through the unilateral setting of prices and conditions of service, the management of trips, the user rating system, and the imposition of Community Guidelines with mandatory instructions for action. Uber's power to deactivate or restrict access to the application was equated to a suspension or dismissal, demonstrating a disciplinary power typical of an employer.

Regarding the integration of workers into an external organizational structure, the courts determined that Uber is a transportation company and that the driver is an indispensable link in its production chain. Uber's profits directly depend on providing rides, demonstrating that its activity is not limited to intermediation. The prohibition on establishing contact between the driver and the user outside the application and Uber's exclusive customer base management reinforce the worker's alienation and integration into the platform's organization.

Regarding the issue of non-assumption of risks and benefits, it was established that while drivers provide the vehicle and cover its costs, Uber provides the fundamental tool (the platform and the brand), controls the price of the service, manages requests, and directs charges to users. It was argued that drivers lack entrepreneurial initiative, and their supposed freedom is merely apparent since they yield to algorithmic control.

The consistent classification of employment status by the courts has directly impacted the extension of the protections provided by labour law for these workers. This has allowed them access to a series of benefits and rights previously denied to them under the guise of a civil or commercial relationship. The classification of dependent workers grants drivers the right to receive all salary components inherent to an employment relationship, including annual leave, vacation pay, and Christmas bonuses. The determination that Uber is a transportation company is the element that enables the application of all sectoral labour regulations agreed upon

within the scope of the Wage Councils[54], along with the recognition of other benefits such as attendance and seniority bonuses.

Despite this clear jurisprudential trend, the protection model based on judicial claims presents challenges and difficulties.

The main weakness is the lack of universal protection for all platform workers. Indeed, to obtain the protection guaranteed by labour standards, each worker is forced to initiate an individual judicial claim and subsequently obtain a favourable judgment. This process takes an average of one year, and despite being free of charge, there are associated costs (mainly due to the need to submit the claim in paper format and with a copy for each party involved). At the same time, there is the risk and uncertainty that the worker will be deactivated by the platform after initiating the claim, potentially depriving them of their source of income (which, in some cases, is their only source of income). All of this can be daunting for the worker, creating a barrier to accessing justice for many, especially those in situations of greater economic or migratory vulnerability.

Additionally, potential disparities in protection may occur from one court case to another, as the specifics of the evidence presented in each trial can lead to different conclusions regarding the benefits to which the worker is entitled or the quantification of the amounts. The above, combined with individualized litigation, can generate legal uncertainty for all platform workers[55] since the effectiveness of protection depends mainly on the individual capacity to litigate and the evidence that can be gathered in each judicial process.

4.2.2. Key Features of Recent Regulatory Intervention

In contrast to the predominantly judicial protection model that has characterized platform work until now, Uruguay has taken a step toward regulatory intervention by enacting Law 20,396 in February 2025. This Law aims to create a specific legal framework for platform work and

[54]TAT 1er Turno, Sent. 237/2024, 27.11.2024; TAT 2do Turno, Sent. 151/2022, 17.08.2022; TAT 3er Turno, Sent. 131/2022, 02.06.2022; TAT 4to Turno, Sent. 233/2024, 13.11.2024.

[55] ILO, Decent work in the platform economy. MEDWPE/2022, International Labour Office, Geneve, 2022, 28, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40relconf/documents/meetingdocument/wcms_855048.pdf (accessed May 22, 2025).

establish minimum levels of protection for workers, ensuring fair, decent, and safe working conditions.

It also introduces definitions of what is meant by a digital platform and companies that own digital platforms, referring to computer programs and procedures that connect customers with workers, facilitate goods delivery services or paid urban passenger transportation performed within the national territory, and may participate in setting the price or the methods of performing the service. The scope of the application covers all workers who perform these tasks, regardless of the legal classification of the relationship (employee or independent).

Among the provisions of this new Law, the transparency of algorithms and monitoring systems stands out. Companies must respect the principles of equality and non-discrimination when implementing algorithms. They are also required to inform workers about the existence of automated monitoring systems to control, supervise, or evaluate performance, as well as about the existence of automated decision-making systems that affect their working conditions, including access to assignments, income, health and safety, working hours, promotion, contractual status, and account restriction, suspension, or termination. Furthermore, workers have the right to obtain an explanation from the company regarding any automated decisions that significantly affect them, and companies must provide access to a designated contact person to discuss and clarify these decisions.

The regulation also establishes that the terms and conditions must be transparent, concise, and easily accessible, and the contracting party must be accurately identified with reasonable advance notice of any changes. The Law prohibits unfair terms that unjustifiably exclude the company's liability or prevent remedies and establishes the jurisdiction of Uruguayan courts in international matters when the claimant is an employee domiciled in Uruguay.

Regarding occupational health and safety, the Law requires companies to assess the risks posed by automated systems to worker safety and health, introduce appropriate preventive and protective measures, and prohibit systems that exert undue pressure on workers. Companies must also train workers before starting the employment relationship, including on traffic regulations, personal safety, and health and hygiene for transportation and delivery.

For dependent work, the Law defines working time as the entire time the worker is available from when they log in to the application until they log out, excluding pause mode. A weekly limit of 48 hours is set on a single platform, and remuneration may be based on time or production, with a

value proportional to the national minimum wage for piecework or per hour of work.
For self-employed workers, the Law includes these workers in occupational accident and occupational disease insurance. It also allows self-employed workers to opt for a special tax system, with access to social security benefits. An interesting development is the recognition of the right of self-employed workers to exercise freedom of association and to bargain collectively with the platform company, allowing them to sign agreements more favourable than the Law, applicable to signatories or members of associations.
The Ministry of Labour and Social Security will be responsible for verifying and monitoring compliance with this Law and the related labour and social security regulations, with the authority to conduct inspections and impose sanctions. The law took effect on May 13, 2025, and the executive branch developed it on July 8, 2025.

4.2.3. Potential Impact and Challenges of the New Regulation

The potential impact and effectiveness of the Law will depend on various factors, and its implementation will certainly face several challenges.
Since the Law allows two forms of hiring platform workers (dependent and independent), from a labour protection perspective, the potential it offers for formalizing employment relationships in the sector (in the sense dictated by case law) is relatively minor. This is because, in the absence of any regulatory imposition or criteria to adequately determine the relationship between workers and platforms, it is highly likely that companies will not modify their model and that independent work will continue to prevail in practice. This is one of the drawbacks of regulatory models such as those in Chile and Uruguay, which limit themselves to guaranteeing minimum levels of protection for all workers, regardless of the employment relationship they establish with companies. Therefore, the final determination of the nature of the relationship will continue to be a point of potential conflict.
On the other hand, regulation of algorithmic transparency and monitoring systems could mitigate the opacity that drivers and delivery workers experience daily, where algorithmic manipulation and discrimination are recurring suspicions.
Furthermore, in terms of health and safety at work, mandatory training could clearly improve working conditions and reduce risks in work performance.

On another note, the fact that self-employed workers have the right to exercise freedom of association and collective bargaining is potentially significant, as it could remedy the weakness in terms of collective organization in the sector and the impossibility of collective bargaining in practice.
However, the implementation of Law 20,396 will not be without challenges.
First, as stated, in practice, the self-employment model could prevail, with the risk of progressive de-employment, as observed in other contexts.
Second, a significant challenge will be the effectiveness of regulatory compliance. While the Law grants the General Inspectorate of Labour and Social Security the authority to verify and monitor compliance, the Chilean experience shows that oversight is complex due to the dispersed nature of platform work and the need for oversight tools adapted to digital environments.
Another challenge will be overcoming the barriers to access to justice and the legal uncertainty that characterizes the purely judicial model. While the new Law establishes minimum rights for workers, the lack of universal protection and the need for each worker to file individual claims to assert their full rights will continue to be an obstacle for those with fewer resources or knowledge.
Finally, although the Law prohibits unfair terms and establishes the jurisdiction of Uruguayan courts to resolve disputes between workers and platforms, the practice could generate new forms of circumvention or resistance by platforms.

4.3. Comparative Overview of the Findings

Analysing regulatory and judicial approaches to platform work in Chile and Uruguay reveals a panorama of divergent responses, each with strengths and challenges in protecting labour rights.
Regarding worker classification and the scope of regulation, Chile has introduced a framework that formally distinguishes between dependent and independent platform workers, seeking to regulate both within the Labour Code. However, this duality has generated criticism from academia, which argues that the Law could foster "de-laborization" and precariousness by introducing attenuated protection. In Uruguay, jurisprudence prior to the Law had already established a unanimous tendency to classify Uber drivers as dependent workers, analysing different employment indicators and ILO Recommendation 198. The new Law, while also defining and applying to both types of platform workers

(dependent and self-employed), does not impose clear criteria for qualifying the relationship, which could perpetuate the prevalence of the self-employed model and limit the scope of comprehensive protection for a dependent worker.

Regarding the protection of labour rights, Chile has incorporated specific rights for both types of workers into its Law and common standards on information, data protection, non-algorithmic discrimination, training, and collective rights. However, academia criticizes that, despite these provisions, independent workers lack robust protection in areas such as social security. The Consejo Superior Laboral has reported that one year after Law 21,431 came into force, long working hours, variable remuneration that generates uncertainty and risks to health and safety, and a widespread lack of awareness of workers' rights persist. In Uruguay, court rulings, when declaring labour status, extend to drivers' rights such as annual leave, vacation pay, Christmas bonuses, and attendance and seniority bonuses. The recent Law 20,396 seeks to enshrine minimum rights for all platform workers, including access to social security benefits and explicit recognition of freedom of association and collective bargaining for the self-employed. However, unlike the full protections previously granted by case law when defining labour status, this Law does not completely equate their rights to those of traditional dependent workers. Instead, it does introduce specific new rights for this class of workers that general labour regulations had not provided for, such as algorithmic transparency, the right to an explanation regarding automated decisions, and the jurisdiction of labour courts to resolve disputes between workers and platforms.

Regarding the viability of the application and compliance, both models face challenges. In Chile, oversight by the Labour Directorate is hampered by the lack of specific tools for platform work and the absence of a mandatory registry of contracts for independent contractors. Although an opinion has been issued to interpret the element of subordination and oversight programs implemented that have detected non-compliance, their effectiveness is limited. In Uruguay, while consistent in its interpretation, the judicial model results in a lack of universal coverage of protections since it is obtained on a case-by-case basis after a judicial process that must be initiated individually and can be costly. This creates a barrier to access to justice and can lead to disparities in protection due to the variability of evidence in each case, generating legal uncertainty. The new Law 20,396, by assigning powers to the Ministry of Labour to verify compliance, seeks to centralize and make oversight more systematic. However, the Chilean experience suggests that adapting oversight tools to

the digital environment is key to effective oversight. The Law, by prohibiting unfair terms and guaranteeing the jurisdiction of Uruguayan courts, seeks to improve access to justice. However, the challenge will be to prevent new forms of evasion or resistance by platforms.
In short, while Chile has opted for a legislative framework that defines categories and rights but has faced criticism regarding its implementation and the scope of protection for the self-employed, which may prove insufficient, Uruguay has validated labour rights through the courts, extending full protections on a case-by-case basis. While introducing new specific rights, Uruguay's recent legislative intervention establishes a minimum floor that may be less comprehensive than individual protections obtained through the courts, raising questions about the uniformity and scope of protection in the future.

5. Conclusions

5.1. Summary of Key Findings, Benchmarking, and Lessons for Regulating Platform Work in Latin America

As initially proposed, this study has explored the regulatory and judicial approaches to platform labour in two countries, Chile and Uruguay, revealing a wide range of findings and responses that have implications for the protection of labour rights in the region.
Regarding the extent of Chile's regulatory achievements and the challenges of their implementation, Law 21,431 was a pioneering legislative effort in attempting to formalize platform work and establish a dual framework for dependent and independent workers within the Labour Code. While its initial objectives encompassed formalization, social security, data protection, and fundamental rights, its effectiveness has been compromised by regulatory compliance challenges and persistent criticism. The duality of legal classification, particularly the status of the independent worker, has been pointed out as a potential factor of de-laborization that makes work precarious and fails to address unequal bargaining power. Several studies indicate that, despite the Law, long working hours and variable remuneration persist, generating uncertainty and risks to workers' health and safety. The Labour Directorate has detected non-compliance with training, risk information, and the provision of personal protective equipment, underscoring the difficulties of enforcing the Law in this digital economy sector.
Answering the question about how the Uruguayan judicial approach shaped labour protections and what changes the recent regulatory

intervention introduces, it is concluded that the Uruguayan model, prior to Law 20,396, was characterized by solid and uniform labour jurisprudence. The Labour Courts of Appeal consistently classified Uber drivers as dependent workers, extending them all the labour benefits inherent to a dependent employment relationship. This judicial protection was based on the principle of the primacy of reality and the provisions of ILO Recommendation 198, reinterpreting the indicia of employment (subordination, alienation, personal service, remuneration, and continuity) to adapt them to algorithmic control and integration into the platform's organizational structure. However, the effectiveness of this judicial model has been limited, as it requires each worker to initiate an individual claim, which has generated barriers to access to justice, potential disparities in protection, and legal uncertainty. The recent Law introduces a framework that seeks to establish minimum levels of protection for all platform workers, whether employed or self-employed. While the Law enshrines innovative rights such as algorithmic transparency and the right to an explanation of automated decisions and also recognizes the right to freedom of association and collective bargaining for self-employed workers, it is important to note that, unlike the full protections previously granted by case law, the Law appears to enshrine a minimum level of rights that may be less comprehensive than the rights of an employed worker.

Finally, when considering the lessons learned from these experiences to improve the regulation of platform work in Latin America (and potentially beyond the region), the comparative analysis confirms that the effectiveness of regulation does not reside solely in the enactment of Law but in its ability to adapt to the dynamics of platform work and guarantee effective and widespread labour protection. The Chilean experience demonstrates that a legislated dual model, while proactive, can generate precariousness if it does not mitigate the inequality of power and informality inherent in the sector, resulting in limited protection in practice. The Uruguayan model, meanwhile, through judicial channels, achieved comprehensive protection in litigated cases, but its reliance on individualized judicialization revealed limitations regarding the universality and uniformity of protection. The subsequent Uruguayan Law addresses these shortcomings by introducing specific rights and a minimum protection floor. However, it raises questions about the scope of protection compared to court rulings. These realities suggest that discussions on the regulation of platform work at the regional and global levels must carefully consider the implications of classification models (whether binary or intermediate), the need for robust regulatory

enforcement mechanisms adapted to the digital environment, and the importance of reducing barriers to access to justice for workers. The results from both countries highlight a tension between the need for social protection and the dynamic characteristics of the platform economy, a dilemma present in various jurisdictions worldwide.

5.2. Implications for an International Regulatory Framework and Policy Recommendations

The findings derived from the comparative analysis between Chile and Uruguay offer valuable implications for designing and strengthening an international regulatory framework for platform work, in which the ILO should assume a central role.

National experiences demonstrate that, despite legislative or judicial efforts, challenges persist in fully guaranteeing decent work. The persistence of informality and unequal power, coupled with the transnational nature of platforms, underscores the need for international solutions that establish a minimum protection floor, avoiding a regulatory race to the bottom.

The ILO, which has already initiated a dual discussion on decent work in the platform economy, can and should lead the creation of international standards to guide Member States. A global framework must address not only worker classification but also a minimum safety net of rights and protections for all forms of work, including algorithmic transparency, personal data protection, rights related to working time and rest, remuneration, occupational health and safety, freedom of association, collective bargaining and collective conflicts and their means of prevention and resolution, and mechanisms that ensure the viability of regulatory compliance[56].

In this context, the following policy recommendations emerge aimed at improving the regulation of platform work in Latin America and beyond.

First, strengthening labour authorities' capacity is essential. This involves equipping labour inspectors with tools and resources tailored to the digital nature of platform work, including access to platform data and specialized training. Chile's experience with its inspection program has identified

[56] F. Rosenbaum Carli, El camino hacia la regulación internacional del trabajo mediante plataformas digitales offline: una propuesta normativa, in Labor, 1, Universidade de Santiago de Compostela, Spain, 2024, https://doi.org/10.15304/labor.id9670 (accessed May 26, 2025).

significant non-compliance, suggesting the need for regular monitoring and effective sanctions.
Second, it is recommended to promote the formalization of activities conducted in the digital economy, ensuring universal access to and coverage of social security.
Third, it is crucial to guarantee a minimum safety net of rights and protections for all forms of labour, especially regarding algorithmic transparency. Laws must go beyond mere enunciation, establishing clear and accessible mechanisms for workers to understand how algorithms affect their working conditions (assignment, compensation, evaluation, and sanctions) and for them to challenge unfair automated decisions.
Fourth, freedom of association and the right to collective bargaining must be strengthened for all platform workers, regardless of their formal classification. Regulations must ensure that worker organizations can establish, be recognized, and bargain collectively effectively without restrictions that limit their bargaining power or expose their leaders and supporters to retaliation. This implies the need to recognize union structures adapted to the characteristics of this type of employment and establish collective bargaining frameworks binding on platforms.
Finally, it is recommended that permanent tripartite social dialogue spaces between governments, companies, and worker organizations be institutionalized. These working groups are essential for identifying implementation challenges, adapting regulations to rapid technological developments and new business and work models, and building consensus on balancing sector flexibility, ensuring decent work, and protecting labour rights.

Acknowledgments

This work would not have been possible without the invaluable information and perspectives generously shared by distinguished Chilean professors and researchers. I sincerely thank Francisco Tapia, Rodrigo Palomo, Rodrigo Azócar, and Jorge Leyton, whose expertise and in-depth analysis of labour law and the regulation of platform work in Chile have substantially enriched this research. Also noteworthy is the contribution received in Uruguay, primarily from academics such as Juan Raso Delgue and Jorge Rosenbaum Rimolo. Their willingness to share their knowledge and the rigor of their previous work have been fundamental pillars for the development of this study.

ADAPT International Network

ADAPT is a non-profit organisation founded in 2000 by Prof. Marco Biagi with the aim of promoting studies and research in the field of labour law and industrial relations from an international and comparative perspective. Our purpose is to encourage and implement a new approach to academic research, by establishing ongoing relationships with other universities and advanced studies institutes, and promoting academic and scientific exchange programmes with enterprises, institutions, foundations and associations. In collaboration with the Centre for International and Comparative Studies on Law, Economics, Environment and Work, (DEAL) the Marco Biagi Department of Economics, University of Modena and Reggio Emilia, ADAPT set up the International School of Higher Education in Labour and Industrial Relations, a centre of excellence which is accredited at an international level for research, study and postgraduate programmes in the area of industrial and labour relations. Further information at *www.adapt.it*.

For more information about the E-journal and to submit a paper, please send a mail to *LS@adapt.it*.

DEAL Centre for International and Comparative Studies Law Economics Environment Work
THE MARCO BIAGI DEPARTMENT OF ECONOMICS
UNIVERSITY OF MODENA AND REGGIO EMILIA

ADAPT International.it
Building the Future of Work