



## STRENGTHENING WORKERS VOICES: LEGAL FRAMEWORK FOR ADVANCING RESTORATIVE JUSTICE FOR THE E-HAILING WORKFORCE IN NIGERIA

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This article examines the social and human rights challenges facing e-hailing platform drivers in Nigeria and the innovative legal and contractual framework required to address such challenges. The research seeks to answer a significant question on what should be the goals of a regulatory framework that can provide redress to platform drivers. The author examined the findings from the digital labor worker initiative project in Nigeria which adopted a collaborative and relational framework based upon a restorative approach. The examination was done by reviewing the results from 5 initial deliberative forums which brought together 100 platform drivers each in 5 states, and the findings from 5 restorative circles conducted at the Lagos restorative conference where the national collective agreement was adopted and signed by social actors. Five particular themes emerged from the initial deliberative forums; Compensation, Safety, Accountability, Empowerment, and community. 300 Participants at the Lagos restorative conference including workers and their family members, platforms, regulators formed 5 restorative circles, each circle discussed one underlying theme from the findings of the initial deliberative forum. The responses on the opinions of participants from the restorative circles were collated and embedded into the national collective agreement. The research explored corporate harm through the lens of restorative justice for the victims of corporate violence in digital platform work in Nigeria. It further emphasizes that the prevention of the repeat victimization of platform workers should be a global concern that the adaptation of restorative justice in digital platform work should seek to address. Finally, the research work argues that restorative justice principles and practices can and should be used to facilitate better redress for platform drivers; promote social dialogue and collective bargaining, provide a proper channel of communication to prevent unjust deactivation and dismissal, and especially ensure adequate social protection for drivers and their families regardless of the nature or scope of the employment relationship.

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## 1. INTRODUCTION

Globally, platform drivers are faced with challenges that arise from their misclassification as self-employed workers limiting their access to social protection, collective bargaining, and unjust deactivation and dismissal. Self-employed platform drivers within the sub-Saharan African region are impacted mostly by this global trend due to their misclassification and lack of national legislation in countries to clarify employment relationship enabling platforms to deny their access to certain rights and protections. For example, the repeat victimization of drivers in Nigeria due to the failure of platforms to profile passengers is largely ignored by authorities even when some cases involve involuntary manslaughter, drivers have also been victims of car theft and carjacking crimes. Although, state governments have regulations in place like the Lagos state policy document on guidelines for online hailing business operations of taxi in Lagos state which declares that “platforms are service entities or app developers, and thus not employers but simply intermediaries.”<sup>1</sup> While there are no national laws regulating digital platform work in Nigeria, there have been efforts at the level of the Federal Ministry of Labour to strengthen workers voices through the approval and registration of a trade union that will advocate for workers rights within the sector (the Amalgamated Union of App-based Transporters of Nigeria (AUATON), efforts by the trade union movement led to the adoption of the national collective agreement, the Lagos Declaration on improving the working and living conditions of app-based transport workers was adopted by 13 indigenous platforms (excluding the major market players Uber and Bolt), transport regulators from six states, the Federal Ministry of Labour, and academics, practitioners and the representatives of workers nationwide. The national collective agreement affirmed certain rights and principles based on a restorative approach that aims at governing practices and standards within the e-hailing industry.

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<sup>1</sup> Roland Banya, Kataryzna Cieslik and Olayinka David West, ‘Driving for platforms in Lagos and Abuja/ Can e-hailing platforms create decent jobs’ (Social Sciences Research Programme of Cambridge University 2002) <[geog.cam.ac.uk/files/research/projects/decentwork/publications/drivingforplatforms.pdf](http://geog.cam.ac.uk/files/research/projects/decentwork/publications/drivingforplatforms.pdf)> accessed 29 April 2021.

Due to the reduction of drivers voices by a disguised form of self employment relationship, the implementation of the national collective agreement has been rather difficult for stakeholders to achieve. Platform drivers still continue to lack access to health insurance and collective bargaining, pension, and sectoral opportunities such as car loans or student loans, skills development and training programs, free kits for compressed natural gas conversion, and the persistence of subordination practices at airports nationwide. Against this background, there is therefore an important need to ensure that social protection is extended to platform drivers, and collective bargaining rights and other forms of social dialogue. It is also important that such national regulation clarifies the current disguised self-employment relationship based on international guidance and standards such as the ILO Recommendation 198 on Employment Relationship 2006, the United Nations Guiding Principles of Business and Human Rights, the ILO Declaration on fundamental principles and Rights at work, 1998, and the ILO Centenary Declaration for the future of work adopted in June 2019, for universal access to comprehensive social protection systems that are adequate, sustainable and adapted to the development of the future of work”.<sup>2</sup>

This article examines the social and human rights challenges facing e-hailing platform drivers in Nigeria and the innovative legal and contractual framework required to address such challenges. It situates its analysis within the province of corporate violence; platform harm, behaviour and crime through a review of excerpts extracted from the interviews conducted with victims of involuntary manslaughter both secondary and primary data. The guilt from shame by platforms limited the discussion on the self-employment relationship status of platform drivers at the Lagos restorative conference, but the extensive desk review of the status of employment relationship in platform work globally mitigated the gap within the research.

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<sup>2</sup> International Labour Organization and Organization for Economic Cooperation and Development, ‘Ensuring better social protection for self-employed workers’ (G20 2020) [https://www.ilo.org/wcmsp5/groups/public/--dgreports/---ddg\\_p/documents/publication/wcms\\_742290.pdf](https://www.ilo.org/wcmsp5/groups/public/--dgreports/---ddg_p/documents/publication/wcms_742290.pdf) accessed 29 April 2021.

This article is divided into six sections. After this introduction, section II analyses the linkages between social protection systems and sustainable development. Section III then evaluates the Nigerian digital labour system on the self employment relationship status of platform drivers, the lack of labour regulation and social protection systems for platform drivers in Nigeria. It also examines the findings from the national collective agreement. Section IV explores corporate harm and violence for platform drivers examining Nigeria as a case study, and an excerpt from interviews with secondary victims and the survivors of corporate violence. It then presents lessons that can be learned from the national collective agreement for similar jurisdictions and considers options for future regulation for platform drivers in Nigeria. Section V provides recommendations and lessons for legislators, policymakers, and the judiciary in Nigeria and similar jurisdictions within the sub-Saharan African region and globally on how restorative justice can redefine the objectively ambiguous, disguised by re-shifting the focus from a self-employment relationship status to building and fostering a restorative relationship amongst stakeholders within the app-based transport sector.

## **II. THE NIGERIAN DIGITAL LABOUR SYSTEM AND THE SEARCH FOR SOCIAL PROTECTION SYSTEMS FOR PLATFORM DRIVERS.**

On September 25-27 2015, heads of state of government in New York met at the United Nations Headquarters to adopt 17 sustainable development goals and 169 targets with an action plan for full implementation by 2030.<sup>3</sup> The SDGs are centered around economic, social and environmental dimensions and seek to build on the millennium Development Goals to complete what the MDG's did not achieve.<sup>4</sup> Social protection plays an integral role in the successful achievement of the sustainable development

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<sup>3</sup> United Nations, 'Transforming our world: the 2030 Agenda for Sustainable development' (2015) Department of Economic and Social Affairs Sustainable Development < Transforming our world: the 2030 Agenda for Sustainable Development | Department of Economic and Social Affairs

<sup>4</sup> Ibid. 1 Preamble

goals across the three dimensions. The importance of social protection is highlighted for example in the sustainable development goal 1 to end poverty in all forms with a target to implement national appropriate social protections systems and measures for all, including floors, and by 2030 achieve substantial coverage for the poor and vulnerable.<sup>5</sup> The importance is further highlighted in sustainable development goal 3 to ensure healthy lives and promote well-being for all at all ages with a target to achieve universal health coverage, including financial risk protection, access to quality essential healthcare services, and access to safe , effective, and affordable essential medicines and vaccines for all.<sup>6</sup> Another important element of social protection for sustainable development is highlighted in the SDG number 5 to achieve gender equality and empower all women and girls with a target to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.<sup>7</sup> The element of sustained, inclusive and sustainable economic growth, full productive employment and decent work of the sustainable development goal number 8 in particular should never be underscored. The target is that by 2030 the world should achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities and equal pay for work of equal value, and develop and operationalize a global strategy for youth employment and implement the Global Job Pact of the International Labor Organization.<sup>8</sup>

Lastly, social protection is important for sustainable development in goal number 10 of the sustainable development goals to reduce inequality within and among countries with a target to adopt policies, especially fiscal wage and social protection policies, and progressively achieve greater equality.<sup>9</sup> While social protection remains important to the success of the social economic and environmental prosperity of the world, '55 percent of

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<sup>5</sup> International Labour Organization, 'SDG Note Social Protection' (2017) Social Protection Department International Labour Organization  
< wcms\_561758.pdf

<sup>6</sup> Ibid. 4

<sup>7</sup> Ibid. 5

<sup>8</sup> Ibid. 6

<sup>9</sup> Ibid. 7

the world's population remains completely unprotected, a sizeable portion is partially covered by social protection schemes, and many social protection systems are not yet well equipped to address the challenges associated with automation and digitalization.<sup>10</sup> Efforts have been made to address the issue of social protection at the global level, such efforts include for example the Centenary Declaration for the Future of Work, adopted by governments, employers and workers of the International Labor Organization 187 member States at the International Labor Conference in June 2019 which provides a roadmap for a human-centered approach to the future of work and recognizes the urgent need to enhance social protection systems to ensure adequate, comprehensive and sustainable social protection adapted to the world of work.<sup>11</sup> The human rights council of the United Nations also have endorsed the guiding principles on business and human rights in its resolution 17/4 recognizing the obligations of states to respect, protect and fulfil human rights and fundamental freedoms and the role of business enterprises as specialized organs of society to respect their rights, and the need for rights and obligations to be matched to appropriate and effective remedies when breached.<sup>12</sup>

## **2.2 Digital Labour Platforms: Uber and Bolt in the context of Nigeria**

Several scholars within the literature have described digital labour platforms and their characteristics categorizing the types of work that are applicable to platform work. For example, digital labour platforms has been defined as either web-based platforms or location-based platforms; web-based platforms outsource works through an open call to geographically dispersed workers or service providers, giving tasks either to individuals or to a crowd (such as micro tasking or content-based creative work), location-based platforms allocate work to workers or

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<sup>10</sup> Christiana Behrendt, Quynh Anh Nguyen and Uma Rani, 'Social Protection systems and the future of work: Ensuring social security for digital platform workers' (2019) 72 *International Social Security Review* 3.

<sup>11</sup> *Ibid.* 3

<sup>12</sup> United Nations, 'Guiding Principles on Business and Human Rights Implementing the United Nations, Protect, Respect and Remedy Framework' (2011) United Nations Human Rights Office of the High Commissioner <guidingprinciplesbusinesshr\_en.pdf

service providers in a specific area, with most of the tasks doled out to individuals, such as for transportation, delivery or household services, although some are given to a crowd called local micro-tasking.<sup>13</sup> Similar definitions have regarded digital platform work as geographical tethered or location -based platforms, and crowd work, online or crowd work platforms.<sup>14</sup> The ILO has used the concept of digital labour platforms which include both web-based platforms, where work is outsourced through an open call to a geographically dispersed crowd (Crowd work) and location-based applications (app) which allocate work to individuals in a specific geographical area.<sup>15</sup>

### *A. Uber and Bolt Digital Labour Platforms in Nigeria*

While this research concentrates on the peculiarities of location-based platforms in Nigeria and how their practices impact the living and working conditions of workers, the common challenge has been the self-employment relationship across board which leads to the inability of platform drivers and their representatives to collectively bargain about issues and rights under existing law or regulation. This research contends and advocates that platform multi-national corporations (Uber, Bolt and Indrive) should own up to responsibility for their actions, for their failure to protect the lives and the property of drivers, and their repeated refusal to profile passengers in the context of Nigeria resulting into corporate crime like involuntary manslaughter. Some scholars within the literature have discussed corporate violence as a form of corporate crime and can be situated in a broader conceptual framework of white-collar crime.<sup>16</sup> However, the notion of the victimization of workers or corporate crime within the context of platform work is yet to be explored or discussed. It is highly important to explore the intersection between corporate violence

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<sup>13</sup> Irene Zhou, 'Digital Labour Platforms and Labour Protection in China' (ILO Working Paper II 2020) 7.

<sup>14</sup> Sandra Fredman, Darcy du Toit, Mark Graham, Cherupara Vadakkethil, Gautam Bhatia and Alessio Bertolini, 'International Regulation of Platform Labor' (2020) 1(1) Weizenbaum Journal of the Digital Society.

<sup>15</sup> Valerio De Stefano, Ilda Durri, Charalampos Stylogiannis, Mathias Wouters, Platform work and the employment relationship' (ILO Working Paper 27 2021) 3.

<sup>16</sup> Ivo Aersten, *Restorative Justice for Victims of Corporate Violence: Victims and Corporations Legal and Empirical Findings* (Wolters Kluwer – Cedam 2018).

and digital labour platform, how platforms decisions impact the lives of workers, and how the applicability of restorative justice can promote collaboration amongst stakeholders to provide redress, extend social protection to platform workers and redefine the fault -based self-employment relationship. The redefinition of a fault -based self employment relationship in platform work means there is collective bargaining and social dialogue, freedom of association and the right of workers to join a trade union, health insurance and pension, protection from bodily injury or accidental death, proper dispute resolution mechanism to address some of the problems of the misclassification of drivers. There should be continuous efforts by policymakers and legislators at all levels to ensure that there is equality and justice by extending traditional employment benefits to self- employed platform drivers, especially affording platform drivers equal opportunities that are available to traditional workers. This research paper explores briefly the working and living conditions of platform drivers on Uber and Bolt the two major platforms in Nigeria.

### ***B. Uber in Nigeria***

In 2014, Uber entered Nigeria and launched in Lagos to be the first city in West Africa that the company will begin its operations. The entry of Uber into Nigeria no doubt has relieved the burden of the deficient public transportation system for many Nigerians while at the same time creating tremendous job opportunity for youths and economic growth for the country. Research evidence has shown that Uber contributed 20 million dollars annually in total tourist spending, and each tourist spending a average of \$24 to a country's single economy between 2013 and 2016.<sup>17</sup> Uber currently operates in 12 cities across Nigeria and recently more drivers have moved onto Bolt and Indrive and even other indigenous platforms due to Uber's high commission fees. Uber concentrates on a standardized model that charges commission and refuses drivers to bargain on pricing. It is the same model of algorithmic pricing which stems from a self employment relationship of platform drivers. Uber in Nigeria claims that it compensates its drivers through its Uber Injury protection

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<sup>17</sup> Park SY, J Kim and B Pan, 'The influence of Uber on the tourism industry in sub-Saharan Africa' (2020) 60(7) *Journal of Travel Research* 1598–1611.

from AXA Manxard- the program covers medical expenses, lost earnings, and death or disability available at no cost to drivers. Uber has also noted its provision of safety to drivers in 2019 by introducing an emergency button which in any case of emergency if pushed by the driver partner is sent to the 911 emergency, the company also introduced the dashcam in the Uber driver's app to improve safety conditions. While the profiling of drivers is required at the point of registration through their drivers license and in the case of Lagos State, Uber drivers are required to have a LASDRI card and wear a badge, Uber refuses to profile its passengers through Bank Verification Numbers, National identity Numbers or International Passport numbers leading to the repeat victimization of drivers on the Uber platform. Uber also controls drivers in Nigeria through its algorithmic rating system which leads to deactivation and dismissal of drivers from the Uber app. Further, Uber vehemently does not recognize its driver's association with a trade union even after it was approved and registered under the Federal Ministry of Labour, the company have been known to deactivate drivers that participated in strike or protest denying workers human rights and their freedom of association.

### *C. Bolt in Nigeria*

Bolt an Estonian platform is also a major player within the Nigerian e-hailing market, the company first came into the country in 2016 after Uber established in 2014. The platform charges between 15% to 25% commission fees and operates upon the standard based commission model and algorithmic management to control drivers based on the self employment relationship status. According to Bolt through its website, the platform claims that it has extended safety to drivers through its partnership with Flance health insurance which provides coverage to both riders and drivers on all rides taken on Bolt through my Cover Genius insurance.<sup>18</sup> Also, Bolt has made a statement through its management team to drivers that top performers based on rides finished and ratings would get free health insurance coverage and one dependent (spouse or child) is

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<sup>18</sup> Partners offers | Bolt Nigeria

also covered under the company's health insurance scheme.<sup>19</sup> Evidence according to an interview conducted with 20 drivers driving on Bolt by Rest of the World revealed that "drivers have to work 18 hours a day for several weeks in the hopes of getting health insurance from the Estonian ride-hailing company."<sup>20</sup> The right to health insurance is an incentive on the Bolt platform due to a disguised employment relationship, and while drivers make efforts to meet targets to qualify, they experience stress from overworking and most drivers still lack access to healthcare. This coupled with stress faced by an attempt in meeting targets for weekly remittance on car loans or car hire purchase and other household bills which can have devastating consequences on the health of platform drivers.

It is very important to consider the killings of platform drivers as the failure of platforms to listen to the voices of drivers and their family members over the years about the need to profile passengers. In recent years, there have been reported cases of platform drivers being victims of involuntary manslaughter while working on Bolt platform, although Bolt declared that drivers are entitled to ride insurance for protection from accidental injury or death, evidence has shown that survivors lack adequate social protection and families of victims received inadequate or no compensation for the loss of their loved one. This was confirmed with an online article from Fij.ng that a driver Waziri Tomi reached out to Bolt after surviving a gun shot to the face which blinded him, but Bolt wrote a letter to the driver noting that he did not subscribe to its drivers shield insurance package and would only get 250,000 Naira to treat himself after he had already spent 1.7 million naira<sup>21</sup>

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<sup>19</sup> Jesusegun Alagbe, 'Bolt's drive to win insurance scheme is putting drivers lives at risk' (2024) Rest of World <https://restofworld.org/2024/bolt-nigeria-insurance-scheme-drivers-safety/> accessed 29 April 2021.

<sup>20</sup> Ibid 6

<sup>21</sup> Emmanuel Uti, 'Routes of Horror: Deaths, Disappearances...Travails of Bolt, Uber Drivers on Lagos Roads' (2021) Foundation of Investigative Journalism <https://fij.ng/article/routes-of-horror-deaths-disappearances-travails-of-bolt-uber-drivers-on-lagos-roads/> accessed 29 April 2021.

### **III. AN EXAMINATION OF THE LACK OF LABOUR REGULATION AND SOCIAL PROTECTION SYSTEMS FOR PLATFORM DRIVERS IN NIGERIA.**

There are two things that can properly define the problematic concept of digital labour platforms in Nigeria. The first is the lack of proper regulatory environment for stakeholders, and the second is that lack of labour regulation for platform drivers in Nigeria has reduced workers voices and have abused their rights to freedom of association, or their access to social protection and collective bargaining. While the existing labour regulation practically does not cover platform drivers in Nigeria, platforms have taken advantage of this gap by dwelling solely on contractual agreements based on subordination and control and have continued to subject workers to the law of a different jurisdiction from which the worker is established or works. This has further strengthened the control over platform drivers and have limited their liberty or rights.

The labour legislation in Nigeria provides a general definition of a “worker” providing entitlements to only workers who work under the traditional employment relationship. The lack of labour regulation for platform drivers and other informal workers have exposed them to precarious working and living conditions in Nigeria. The algorithmic functions on platforms for example implement control mechanisms, such as customer reviews and rating score, the direction of the driver to particular locations, and the price calculation limiting the ability of drivers to bargain in some cases for instance the failure of algorithms to include the cost of traveling distance to the location where drivers pick up riders, much of these are precarious conditions workers are faced with, that a labour regulation that ensures and strengthens the rights of drivers to collective bargaining would probably solve.

The major platforms Uber and Bolt in Nigeria arbitrarily deactivates workers due to their participation in strike actions or protests, they fail to have a proper channel of communication with drivers representatives on issues, when deactivations occur as a result of decisions taken by algorithms, workers are subjected to the abuse of their fundamental

human rights in respect of the right and freedom to association, and the right to due process in terms of unjust termination from the platform.

The common challenge in digital labour platform in Nigeria has been the failure of existing labour regulation to extend rights and entitlements to platform drivers due to the contractual agreement that subjects them to a different court of jurisdiction other than the Nigerian court of jurisdiction. The key approach for platforms is to disguise the contractual agreement under contract law to infringe traditional employment benefits such as the rights to social protection, minimum wage, paid sick and maternity leave, and mandatory compensation to drivers when harmed on the job. The labour regulation is therefore flawed in Nigeria due to its inability to protect the fundamental human rights and the civil liberties of informal workers in their workplace. The solution is a national legislation for platform workers, a robust regulatory framework for stakeholders across board, such a legislation must address the safety of drivers, compensation for accidents or injuries in the workplace, health insurance, pension, and empowerment schemes at the sectoral level, unveiling and transforming the subordination practices against platform drivers.

The lack of labour regulation in Nigeria significantly perpetuates the reduction of worker's voices. Platforms disregard for collective voice stems from the nature of the status of the employment relationship of platform drivers, and the fact that the contract is not subject to the law of the Federal republic of Nigeria. This prevents an institutional channel of communication to resolve blocked accounts while it also relinquishes the rights of workers to negotiate on pricing suitable or commensurate to current economic standards. The suffrage of workers under the Uber and Bolt regime has always been a battle for liberty and freedom. The fight for fair representation and hearing, the right of drivers to join trade union, subordination of workers at airports, and discrimination of workers by denying their access to sectoral opportunities. Despite the fact that some countries have started to recognize trade unions representing platform workers, platforms continue to disregard worker's voices. It is important for legislators and policy makers globally to take action in the area of labour regulation that can redefine the scope and the nature of

employment relationship in platform work to strengthen workers representation at the sectoral level.

### **Bolt's Coverage under the Ride-hailing Insurance (Fig 1.1)**

<b>Insured event</b>	<b>Insured Amount</b>
Permanent disability	₦500,000
Temporary disability	₦250,000
Medical expenses (bodily injury)	₦100,000
Loss of personal effects	₦100,000
Death (accidental)	₦500,000
<b>Total Value of Insurance Cover</b>	<b>₦2,150,000</b>

### **Social Protection System for Platform Drivers.**

There is an inadequate social protection system for platform drivers in Nigeria, whether access to health insurance or pension, or protection from accident or injury while harmed on the job. The claims made by platform drivers from discussions at the deliberative forums is that they were not socially protected while working on Bolt, Uber or Indrive. The

testimonies of victim's families extracted from *fij.ng* who were murdered on Uber and Bolt gives a better understanding on the level of inadequacy of the current social protection system on platforms in Nigeria. For example, the Bolt health insurance coverage under Flance Health Insurance is a privilege to drivers that would have to work around 18 hours or more daily.<sup>22</sup> Likewise, the Bolt ride insurance under Cover genius facilitated by AIICO insurance PLC, have failed to provide adequate compensation to the families of platform drivers that died on the job.<sup>23</sup> Similarly, the Uber enterprise claims that drivers are protected across Nigeria against medical treatment costs and lost earning opportunities.<sup>24</sup> The Uber Partner Injury Insurance is expected to provide medical treatment expenses and cost against accidental injury or death of both drivers and riders. There have been victims on Uber like Dr. Steven Morenikeji, an Uber driver who died on an active trip, Uber have failed to provide adequate compensation to his family.

While policymakers and representatives of workers face a huge task ahead in extending social protection to platform drivers through the national collective agreement, immediate steps must begin to explore possible legislative options that will address the needs and concerns of platform drivers. The huge task lies at the desk of lawmakers in their ability to bring platforms to the table to have discussions around reclassifying platform drivers, and ensuring that they are given the same protection as traditional employed workers. Although, a number of countries have taken steps to include self employed workers or at least some categories thereof- under parts of the labour and social security legislation, their social protection coverage still lags behind employees in many countries.<sup>25</sup> Likewise, the social protection floor in Nigeria under the Nigeria Social Insurance Trust Fund has the mandate to extend social protection to the informal sector, to achieve this would require a repeal of the Employee Compensation Act 2010 which faces barriers and limitation to implementation and has not

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<sup>22</sup> Jesusegun Alagbe (n 19).

<sup>23</sup> Emmanuel Uti (n 21).

<sup>24</sup> Uber, 'Partner Injury Protection from AXA Mansard' <https://www.uber.com/en-NG/partner-injury-protection/> accessed 29 April 2021.

<sup>25</sup> International Labour Organization and Organization for Economic Cooperation and Development (n 2).

been able to achieve its mandate of extending social protection to vulnerable workers within the informal sector.

### **Digital Labour Worker Initiative**

The long-term aim of the digital labour worker initiative is to ensure the unionization of platform drivers associations in 20 African countries that are yet to be unionized by forming an African Alliance of Platform Drivers to achieve better working conditions, so that drivers within the African region can support the application of the guidelines and directives of the African union to be enforced by members states. The initiative is based on a restorative framework on who has been hurt and what are their needs, who is responsible for the harm and what are their obligations; how can things be put right? How can we prevent it from happening again?. The initiative seeks to identify and maintain a strong focus on the harms and needs of those that are directly affected by platforms practices and seeks to clarify accountability for repair. The goal of the initiative is to improve and strengthen respect for the social and human rights of platform drivers through regulatory frameworks that will achieve better working conditions of platform drivers in sub-Saharan Africa.

The project began in September 2023 through the administering of a public survey to provide an opportunity for 270 platform drivers to share their experiences about how they have been affected by platforms policies and practices. A deliberative forum in five states was then organized (Fig 1.2) to get the opinions of platform drivers on challenges within the sector. Thereafter, the project initiated consultative meetings where the contents of the draft national collective agreement was developed.

Stakeholders were consulted through series of consultative meetings; the first meeting was through an online webinar with health insurance enterprises and regulators and the federal Airport Authority of Nigeria, the second consultative meeting was an online webinar with platforms excluding Uber on separate occasions, Bolt, Indrive and Rida attended the platform consultative meeting. Thereafter, a physical workshop was organized and brought together platforms, driver's representatives and regulators, the meeting produced the content of the national collective

agreement which was adopted at the Lagos Restorative Conference in May 2024.

<b>Summary of Issues affecting platform drivers:</b>
High Commission fees
Poor riders profiling
Misclassification of Drivers
Lack of rescue of emergency response
Lack of profit on airport trips
Poor policies expose drivers to danger
Unilateral blocking of drivers without fair hearing or appeal
Poor pricing system
Lack of social benefits or relief

**Deliberative forums across states gathered the opinions of platform drivers on the prevalent challenges that they are faced with on the job. fig 1.2**

Summary of Issues affecting platform drivers
Low price for trips
High commission rate
Safety (Passenger profiling)
Deactivation and dismissal
Accessibility to airport
Poor GPS
Undue Process, and no fair trial; the inability of drivers to appeal deactivation and dismissal.

### **Experiences of Drivers in Lagos State**

Long Pick-up without compensation
Non implementation of cancellation fees after arrival
Commission fee reduction
Low fare rate
Rider Profiling
100% cash review on Bolt
Poor dispute resolution
Freedom to reject or accept rides without rate reduction
Unfair rating system
Unjust Deactivation and dismissal
Lack of job safety
Operational cost are being pushed to drivers
Increase in the fare at night trip not implemented
Algorithmic management system

**Experiences of Drivers in the FCT**

High Commission
Airport issues
Passenger profiling
Unlawful blocking
Security/Police Brutality
Pricing review
Poor arbitration
Inaccurate GPS system
Drivers score management
Life insurance & Pension & Health insurance
Double Taxation
Economy option should be taken off
High cost of vehicle maintenance
There seem to be no physical office in the state

### **Experiences of Drivers in Rivers State**

To collect secondary data on the experiences of platform drivers in Nigeria, deliberative forums was organized in Lagos, FCT, Kano, and Rivers states, the forums brought together 100 platform drivers in each of the cities. Platform drivers were divided into 20 in a group to form 5 total groups. Each group leader facilitated discussions around the group on challenges related to the living and working conditions of platform drivers. At the end of the group discussion, group leaders or selected representative of the group gave a presentation on the challenges that platform drivers experience on the job, and a summary of experiences or challenges in each group was collated. The findings from the deliberative forum featured the following major themes; safety, compensation, empowerment, accountability, and community.

**Fig 1.3: The outcome of the consultative stage with platforms, workers representatives, regulators, and academics is depicted as follows:**

SYNDICATE GROUPS	WHAT IS EXISTING	WHAT WE (AUATON) WANT	WHAT PLATFORMS CAN OFFER	POSSIBLE ALTERNATIVES	ACTION TO BE TAKEN BY
<b>FINANCIALS</b>					
Pricing	App companies fix prices without consulting the drivers	To be part of the price fixing mechanism			AUATON & APP companies in the form of a collective Bargaining and a win-win situation that will favour both parties.
Commission	App companies fix prices without consulting the drivers. No benchmark to the commission charged	To be part of the price fixing mechanism  There should be benchmark to all commission charged by App companies.			
Taxation	Tax deducted not remitted in drivers names  No deduction of Union (check off)	Tax deducted should be credited for drivers to be able to obtain their Tax			

	dues from source	Clearance Certificate.  APP companies should deduct check off dues from source and remit to the Union.			
<b>SAFETY AND SECURITY (for Drivers, Passengers and Vehicle)</b>					
Safety	Inactive SOS button	Make the SOS button active and efficient.	RIDA App has it in the pipeline		AUATON, Government, APP companies and Society at large.
	Trip Sharing	Ensure proper passenger profiling			
	Voice Recording available only in some APPs	Voice Recording to be made available in ALL APPs			
	Panic button triggered automatically when a trip starts	Panic button NOT to be triggered automatically			

	None	Dashboard camera OR Rear view mirror camera		Visible Dashboard camera with a backend	
	None	Complete Passenger profiling for all Apps			
	None	Integration of Unique Identification Number (UID)			
Security	Penalty on rejecting/cancelling a trip	Trip options for drivers without threshold or penalty for drivers cancelling trips across all APPs.			
	Offline trip permissible by APP companies	Offline trips to be made impossible by App companies.		Since offline trips are mostly as a result of high prices, all APPs should allow for	

				online price negotiation	
	Restriction or Penalty on calling a passenger	No Restriction or Penalty on calling a passenger			
	Data sharing of trip history restricted (data wiping out)	Data sharing with both the Union and security agency on demand			
<b>WELFARE (HEALTH, INSURANCE, BENEFITS, LOAN/GRANTS &amp; PENSION)</b>					
Health	Lagos State has a health insurance scheme for drivers called LASHMA	Others States needs to adopt a health insurance scheme as practiced in Lagos State in addition to quick intervention and a robust process.	RIDA App has it in the pipeline		
	Conditional Health Insurance scheme by BOLT App	Make health insurance scheme unconditional and			

	No Health Insurance scheme from other App companies	have a fair selection system. A compulsory Health insurance scheme for all drivers			
Loans and Grants	None	Soft loans should be made available by App companies for car maintenance, gadget repairs and purchases.	This may be difficult but not impossible as most drivers multi App and as such not pay up.	Have the Union serve as a guarantor to the loan. UID will also make absconding impossible.	
Benefits	Exists only in some Apps for instance RIDA gives fuel vouchers	Make benefits more robust. An open and transparent reward system for top performing drivers across the country.	RIDA App has this in existence		
Pension	None	A contributory pension system that is mandatory for all	RIDA App has it in the pipeline		

		drivers and deducted from source.			
<b>CONDITIONS OF SERVICE DRIVER STATUS, DISMISSAL, SUSPENSION AND DISPUTE RESOLUTION</b>					
Driver Status	Self employed	App companies should recognise drivers as Employees and be treated as such	Drivers are self employed and employees .		
Suspension	Automated/Algorithm system of suspension without fair hearing	48 hours of fair hearing and investigation. Introduce a human factor.			
Dismissal	Outright dismissal without fair hearing	There should be a room for investigations, trials and establishment of the crime with the room for the Union's input before judgement (dismissal) is passed.	This can be adopted but with a few exceptions in cases of serious security threat like accusations of robbery, sexual harassment and rape.	RIDA ensures to check history before a dismissal. There is no dismissal on first offence	

<p>Dispute Resolution</p>	<p>System of dispute resolution is one sided. Judgement is made in favour of the passenger and APP company.</p>	<p>System of dispute resolution should be holistic and collective. The UNION should be part of it</p>	<p>An implication that the UNION must respond immediately whenever such request is made from them.</p>	<p>The UNION should set up a committee to this regard.</p>	

There were three consultative meetings; the first one was organized between some indigenous health insurance companies through an online webinar and the representatives of platform drivers. The discussion highlighted the issue of safety for platform drivers with regards to health insurance, pension and adequate compensation when harmed on the job. The second consultative meeting was a physical workshop that brought platforms together with driver's representatives, regulators and academics to examine the challenges drivers identified during the deliberative forums. While the workshop provided an opportunity for stakeholders to explore a restorative model for collective bargaining in platform work, platforms were not cooperative enough to achieve a meaningful way forward. It was highly impossible for platforms like Bolt and Indrive to own responsibility during the workshop because of fear of lawsuit and their representatives placed strong emphasis on company policy and the contractual agreement with drivers. This explains Bolt and Uber's refusal to participate at the Lagos Restorative Conference where the national collective agreement was adopted and signed.

### **The National Collective Agreement**

The national collective agreement adopted a restorative approach to bring academics, regulators, platforms and driver's representatives to participate in a truth telling circle. The national collective agreement was adopted at the Lagos restorative conference at Protea Hotel in Lagos State on May 13, 2024. The conference explores how the principles of restorative justice can and should be embedded within a proposed regulatory framework that would provide redress to platform drivers while harmed on the job and prevent their repeat victimization in Nigeria. The objective of the Lagos declaration was to arrive at a restorative outcome with the help of facilitators, adopted and signed by stakeholders as regulation to address social protection, security and the welfare of platform drivers. The conference also aimed at building a relational or restorative communication between platforms and workers.

A restorative justice facilitator gave a lecture of the concept of restorative practices and provided a contextual background of restorative justice and

corporate harm, this was followed by another lecture from a co-facilitator on the indigenous aspects of restorative justice and the concept of “Ubuntu”, “I am because you are”. At the end of the lectures, the facilitators summarized how restorative justice in theory and in practice can be used as an effective tool to support the development of a regulatory framework for the sector, and can also be a model for resolving disputes between workers representatives and platforms, or an alternative model to the traditional collective bargaining in terms of social dialogue.

The Lagos Restorative Conference brought together 300 participants from across the six regions of Nigeria, and 13 indigenous platforms were present including regulators, both local and international scholars. There were also families of drivers present and survivors or victims who experienced harm on the platforms, the participants were divided into 5 circles, each circle was given one underlying theme to discuss from the findings of the initial deliberative forums. Each particular circle discussed one “particular theme” from the following themes; Compensation, Safety, Accountability, Empowerment, and Community.

Important stakeholders including regulators, academics, driver’s and their family members were represented in each circle, facilitators selected a group leader who facilitated questions based on a restorative framework; who has been hurt and what are their needs, who is responsible for the harm and what are their obligations; how can things be put right? How can we prevent it from happening again?

In general, the national collective agreement consists of a preamble and general principles, recognition of rights and entitlements, regulation and compliance, and capacity building. The preamble affirms set principles, standards and guidelines based on a restorative approach for the promotion of the rights of workers within the sector. It also recognizes the fundamental human rights of drivers to collective bargaining, right to dispute deactivation and dismissal, right to information, right to social security, right to safe working conditions, and a right to reparation, remedy and redress when harmed on the job.

The document also consists of a regulation and compliance which affirms the recognition of unique identification numbers for the identification of

workers across the sector for the establishment of a robust regulatory framework that ensures the protection of app-based transporters. Also, platforms that signed and adopted the national collective agreement are expected to make deductions on check dues and welfare working collaboratively with the trade union and regulators, in addition to ensuring collective bargaining on prices and remuneration, especially commission fees at a standard 10 percent.

Finally, the national collective agreement advocates for capacity building and empowerment in terms of skills development, it seeks to also monitor and evaluate performance through the central information management system, and provides opportunity for possible amendment of the document annually within a period of five years.

The digital labour worker initiative has adopted a collaborative and relational framework in the context of Nigeria by adopting a restorative approach to determine what the goals of a legal framework that would provide redress for workers should be, and explore possible options for future legislation in Nigeria and other sub-Saharan jurisdictions.

Based on the findings from the analysis of the national collective agreement, restorative justice principles and practices can and should be used to facilitate better redress for platform drivers; promote social dialogue and collective bargaining, provide a proper mode of communication channel to prevent unjust deactivation and dismissal, and especially ensuring adequate compensation for harm and adequate social protection for drivers and their families regardless of the employment relationship.

#### **IV. STRENGTHENING WORKERS VOICES: CAN A RESTORATIVE APPROACH PROVIDE REDRESS TO WORKERS THAT ARE HARMED IN NIGERIA?**

The digital labour worker initiative explored corporate harm through the lens of restorative justice for the victims of corporate violence in Nigeria. The inadequate social protection and compensation for family members

of victims who lost their lives as a result of platforms failure to profile passengers has been a major concern. This research contends that platforms like uber and bolt should be liable for corporate violence in the context of Nigeria in the course of their legitimate activity by failing to profile passengers resulting into the loss of lives of workers who work on their platforms. Corporate Violence has been defined as taking place when corporations in the course of their legitimate activities commit criminal offences which result in harms to natural persons health, integrity to life.<sup>26</sup> Also, Sutherland has defined the criminological concept of white collar crime that it can be “split up into ‘occupational crime’ on the one hand, and ‘corporate crime’ on the other: while the first one refers to transgressions committed by individuals or small groups in relation with their professional activities, the second deals with corporations (and public and non-profit organisations) or their employees committing offences in line with the objectives of the organisation.”<sup>27</sup> While to an extent there has been an extensive discussion within the literature on corporate violence, the Victims and Corporations project for instance dealt with cases that are mainly concerned with environmental crime, food safety violations and offences in the pharmaceutical industry.<sup>28</sup> However, the intersection between corporate violence and the digital labour platform is yet to be explored. There is a need to explore corporate violence in platform work, especially how the deliberate actions of platforms affect the living and working conditions of platform drivers.

Generally, which groups of harmed persons are recognized as victims and receive victim status depends on social processes of identification and definition, not seldom determined by vested cultural, political or economic interests.<sup>29</sup> This is the case in Nigeria when the families of drivers who died while working on Bolt and Uber did not receive adequate compensation, their need for recognition or clarity was ignored leaving a long -lasting impact on their mental and emotional wellbeing and survival, or the inability to move on from the incident. Lately, legal systems

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<sup>26</sup> Edwin Sutherland, ‘White-Collar Criminality’ (1940) 12(1) American Sociological Review 1.

<sup>27</sup> Ivo Aersten (n 16).

<sup>28</sup> Ibid. 237

<sup>29</sup> Ibid. 237

globally have started to give attention to corporate crime, Aersten describes that awareness of the massive impact of white-collar crime, and of corporate crime in particular, has increased significantly in the USA since the wave of corporate scandals beginning with the Enron case in 2001.<sup>30</sup>

### **Corporate Violence in Digital Platform Work**

Corporate harm or violence in platform work can involve both civil and criminal harm committed by platforms in the course of their legitimate activity. The civil harm is the fault-based current model deriving from the misclassification of drivers that leads to unjust deactivation and dismissal of drivers, or inadequate compensation to those that experience harm on the job, the lack of access to adequate social protection, and the denial of workers rights to freedom of association. It can also involve criminal harm which occur as a result of the failure of platforms to profile passengers resulting into involuntary manslaughter, or other workplace harm that take place in the course of the activity performed on the platform. Both civil and criminal harm can have devastating impact on the lives of victims and corporations and the community as a whole. In civil harm, victims of corporate violence usually are discouraged from filing claims because of the difficulty of identifying the employer, long period of time awaiting trial, high cost of litigation. Likewise, in corporate criminal violence, platforms refuse to own up to responsibility and be liable for causing the demise of drivers driving on their platforms due to their failure to ensure adequate passenger profiling in the context of Nigeria and similar jurisdictions. Also, the fact that recognition is not placed by the public on the victims of corporate violence in platform work perpetuates the repeat victimization of drivers.

### **Victims of Corporate Violence in Nigeria**

Several attempts have been made by the victims of corporate violence in Nigeria to tell their stories through several mediums, one of the most recent is the investigations conducted on *fij.ng* an online investigative journalism platform regarding the deaths and disappearances of Bolt and

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<sup>30</sup> Ibid. 255

Uber drivers in Nigeria. The experiences of platform drivers according to the online news suggest that platform drivers lack access to adequate social protection, and evidence has also shown that the objectively ambiguous self-employed relationship status of platform drivers is intentionally disguised so that platforms will not be liable or responsible for accidents that result into physical, mental or psychological harm.

It is highly important to look more closely at a broader sense of the victimization of platform drivers in Nigeria outside of the corporate crime of involuntary manslaughter committed by platforms. There is a different and general form of victimization of drivers globally that is linked to corporate violence which victims and the society at large remain unaware of, it is the clear issue raised in courtrooms globally, a topic for legislators to ponder, and a fight for liberty and unionization of workers to enjoy certain rights and entitlements under the law. The issue of the misclassification of platform workers should be regarded as a general form of corporate violence that harm workers who are employed under objectively ambiguous, disguised employment relationships. This current status quo is harmful to the general population of platform workers, therefore prevention of the repeat victimization of platform workers should be a global concern that the adaptation of restorative approach in platform work should seek to address.

### **What are Victims Needs and Concerns**

The research has briefly discussed the different experiences of victims of corporate violence in Nigeria in relation to involuntary manslaughter committed by platforms and the general victimization of drivers due to their misclassification as self-employed workers. Their stories reflected the need for platforms to profile passengers adequately and to provide better compensation to the families of victims and survivors that are harmed on the job. While restorative justice approach has been used to address cases of conventional crimes or even corporate violence in various jurisdictions globally, Aersten has claimed in the victims and corporations project that there is a gradual shift and broadening of the scope into the direction of developing restorative justice for different types of crime and in a variety of settings, however, the applicability of restorative justice to issues of financial, economic, fiscal and corporate crime remains largely

understudied in Europe and other regions.<sup>31</sup> Chiste have also argued that corporate crimes specifically—more than white-collar crime in general—are a good fit for restorative justice because the corporation can be clearly identified as the offender.<sup>32</sup> The Victims and Corporations project explored cases related to environmental crime, food safety violations and offenses in the pharmaceutical industry,<sup>33</sup> while the Digital Labour Worker Initiative explored corporate violence against human and labour rights violations in the context of platform work in Nigeria

Clearly, platform drivers are considered the victims of corporate violence in Nigeria, in many cases the family members of the drivers that died in Nigeria on Bolt and Uber are unaware about their victimization. This is peculiar to corporate violence and crimes as noted in the Victims and Corporations Project, that “in cases of corporate crime, there may not always be an identifiable victim or a tangible harm. Corporate crime can be amorphous, and its harm more diffuse and aggregative than in the case of conventional crime; therefore, harm may also be more difficult to measure and in some cases victims are even unaware about their victimization.”<sup>34</sup>

An important challenge is getting platforms to acknowledge responsibility of harm, during the consultative stages of the Digital Labour Initiative project between platforms and workers representatives, Bolt and Uber disengaged further due to conflict of interest and referred to restrictions based on company policy and contractual agreement with partners. Platforms fear eventual lawsuits and would not acknowledge guilt in an open setting with regulators and workers representatives, restorative justice can help to achieve the notion of offender responsibility in corporate harm with regards to the practices of platforms.

The concept of reintegrative shaming can never be overemphasized as a conceptual framework when considering the application of restorative justice in cases of corporate violence or crime within platform work. The notion of the platform as the offender limited the participation of Bolt and

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<sup>31</sup> Ibid. 257

<sup>32</sup> Ibid. 260

<sup>33</sup> Ibid. 257

<sup>34</sup> Ibid. 261

Uber at the Lagos Restorative Justice Conference, especially since it involved public shaming where regulators, drivers and their family members would have the opportunity to confront the platforms representatives. On this note, it is possible that restorative justice faces potential challenges in solving corporate crime.

Platform harm also presents a nature of community when considering the applicability of Restorative justice in corporate violence or crime. Throughout the engagements of the Digital Labour Worker Initiative, the community was represented by Government representatives, family members, media and other tertiary victims that have been affected somehow by the practices of platforms. It was observed at the Lagos restorative conference that the presence of the community can help to achieve responsibility and public apology from platforms. The idea of restorative panels should serve as additional, alternative or a substitute for victims of platform harm when filing for judicial or administrative claims. Victims and their family members, trade unions or the legal representatives of victims can request for a restorative panel as alternative to the traditional court system, and platforms and other stakeholders can voluntarily participate in the process to help victims and their family members achieve apology and closure, reconciliation and restitution.

## V. POLICY RECOMMENDATIONS

This chapter presents some recommendations based on findings from the Digital Labour Worker Initiative which adopted and signed the national collective agreement with the support of 13 indigenous platforms, state regulators from six states across Nigeria and workers representatives and their family members across the country under the umbrella of the trade union AUATON (Amalgamated union of app-based transporters of Nigeria). This research was led by efforts from the leaders of the trade union, the Federal Ministry of Labour and Transportation, and support from academics across the globe to set standards, principles and practices expected to govern operations within the app-based transport sector in Nigeria.

The first part of this section is dedicated to recommendations on redefining the disguised self-employment relationship to building restorative relationships amongst important stakeholders in platform work in Nigeria. The second aspect discuss how restorative practices can be adapted to platform work by legislators and the judiciary, platforms and workers representatives and the community at large.

Based on the analysis in the previous sections of this research paper, the following options are offered for policy consideration.

**A. Redefining disguised self-employment relationship in platform work to building restorative relationships.**

The current realities of the nature of platform work clearly has shown that the work being carried out by workers is disguised under a contractual agreement. In Nigeria and other sub-Saharan African countries, platform drivers are self-employed workers and are subject to the partner agreement which fails to provide social protection coverage, and other entitlements that are applicable to traditional employment relationship.

There has to be a commitment to strengthening workers voices through the application of restorative justice practices and principles in platform work as a form of social dialogue towards the development of a national legislation. In addition, it is important to stress the principle of the primacy of facts, especially how lawmakers and workers representatives can engage platforms through restorative conferences or panels in bringing to light the actual realities of work performed by the worker and their obligations and responsibilities. The disguised and the objectively ambiguous self-employment relationship harm platform drivers because of the lack of social protection and inadequate compensation resulting from corporate violence, and the deliberate attempt to reduce workers voices as shown in the previous section. Overtime, the existing relationship becomes disconnected and broken and will require a restorative intervention to rebuild that relationship. The lessons from the national collective agreement clearly have shown that restorative justice can be adapted as a form of social dialogue in platform work.

There have been several attempts in countries to address the issue of self employment relationship by extending protection to those workers that find themselves rather in a disguised employment relationship and are excluded from protection offered to traditional workers. Such attempts relate to “either clarifying the scope of employment relationship, redefining the scope irrespective of the contract or establishing mechanisms to adjust the scope of law, and delineating the boundaries between dependent and independent work, in addition to the combination of both of these elements or extending protection to equivalent contracts.<sup>35</sup> To tackle disguised self employment relationships in platform work, a restorative justice approach can surely provide a setting for lawmakers, workers representatives and platforms through the help of facilitators in setting certain indicators that would make it easy to determine whether an employment relationship exist, this is very important in providing support towards the formulation of a national legislation in Nigeria which can be adapted to similar jurisdictions

### **B. Prevention of the repeat victimization of workers as a result of the failure of platforms to profile passengers, and ensure protective measures as part of regulatory framework.**

Profiling passengers remains the most urgent concern for platform drivers and their family members due to the fact that they are victims of crimes like murder, car theft or carjacking crimes. To address the complex issue of corporate violence or crime in platform work, there has to be concerted efforts by social actors to ensure that platforms acknowledge responsibility without retribution. At the Lagos declaration where the national collective agreement was adopted, the indigenous platforms who were there present acknowledged responsibility by agreeing to take steps to prevent the repeat victimization of platform drivers. While the major platform competitors within the Nigerian market (Uber and Bolt) refused to participate in the adoption and the signing of the national collective

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<sup>35</sup> International Labour Organization, ‘International Labour Conference 95th Session on the Employment Relationships’ (2006)  
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agreement, the app -based transport sector is faced with two contemporary options: first is the notion of shared responsibility amongst stakeholders and reparation for workers seeking to redefine and clarify the disguised employment relationship status of workers. The second is maintaining a status quo of the current self-employment relationship status of platform drivers and define possible terms for collective bargaining or social dialogue and other social protection benefits that would be provided to platform drivers. At the level of the national collective agreement, the shared responsibility model seems appropriate when considering corporate violence through the lens of restorative justice. The difficulty here lies with the implementation of the national collective agreement relating to platforms refusal to implement and enforce safety mechanisms that will prevent repeat victimization. The national policy for platform work should address the issue of passenger profiling mandating state authorities to supervise and enforce the profiling of every user on platforms with a national identity number, international passport number or other Government issued Identification for verification purpose. It is necessary that in the event of an incident, the rights of victims or their family members should be respected in terms of information and communication about what truly happened. Since unjust deactivation and dismissal and the exclusion from social protection of platform drivers should be regarded as a general form of victimization, a proposed national policy should have in place opportunities for victims to file claims administratively against misclassification. Legislative provisions that set-up restorative panels which would subject the evidence and facts of work being carried out based on certain indicators to determine the status of the employment relationship under question. Restorative panels can also be used to investigate claims that arise as a result of inadequate social protection, families of victims of involuntary manslaughter can seek for compensation, information, closure and apology from platforms. Restorative panels should act as automated responses to cases of involuntary manslaughter, employment misclassification, compensation for accidental injury and harm resulting from the workplace.

### **C. Extending social protection to platform drivers**

One of the most important obligations to consider in the formulation of a national policy for the app-based transport sector is adequate social protection for drivers. The current status of employment relationship promotes the irresponsibility of platforms and their failure to be liable to provide social protection rights to platform drivers under a disguised employment relationship. At the national level, mandatory health insurance has already been embedded within the national collective agreement but its applicability is only limited to the scope of stakeholders that signed and adopted the document. When considering social protection for workers within the app-based transport sector, the law should make health insurance mandatory for drivers, there should be a tax financed social protection scheme that guarantees mandatory health insurance and pension, which also ensures that platforms share information regarding earnings and income with tax authorities and social security in form of health insurance and pension which would then be transferred to the organizations in charge. Active platform drivers that work a certain number of hours a day and picks a certain minimum of trips daily or weekly can be considered for social security contribution through tax deductions and daily or weekly contribution. The current system for provision of health insurance is only available to top drivers on Bolt platform, this should not be so because health insurance for platform drivers is a right and not a privilege. This system has to change so that drivers who turn their apps on and are unable to find jobs due to market competition on supply side and change in market dynamics are able to access health insurance without discrimination.

### **D. Strengthening the financing system of the sector through international commitments and corporate social responsibility to foster improved working and living conditions of platform workers.**

There is a need to reconstruct the car financing system for the app- based transport sector to help platform drivers become owners of vehicles while driving within a short period of time. One of the most difficult challenges of platform drivers according to the lessons from the national collective agreement is the unavailability of car financing schemes to help them become vehicle owners over a period of time. Most platform drivers obtain

vehicles from fleet owners or companies at a weekly remittance rate, while financing institutions and private companies also provide car loans with unbearable interest rates but most platform drivers are generally ineligible due to their credit scores. Although, there have been previous efforts both at the private and public level to address the issue of car financing for platform drivers, current initiatives have not been sustainable and they eventually put more drivers out of job due to failure to meet up with payments. The idea of corporate social responsibility from health insurance partners and platforms which can offer annual rebates to trade unions or workers association for investment into car financing schemes has the potential to transform the industry. Trade unions can partner with car manufacturers and invest in a supply infrastructure to manufacture, produce or distribute environmentally friendly automobiles to help workers own a vehicle within a set period of time. This will surely provide more employment opportunities and improve the Nigerian economy as a whole. Since research is yet to explore how restorative justice is suitable to the context of platform work, it is recommended and emphasized that work in this area can also concentrate on the aspect of a “shared responsibility model” which seeks to help platforms acknowledge responsibility about the facts and the realities of work, make amends to repair relationship with workers and their family members, and work with the community of regulators and lawmakers to accept responsibility by developing outcomes and agreements through restorative justice practices that meets the needs of everyone concerned but most importantly workers.

#### **E. Lessons for legislators and the Judiciary in Nigeria and similar jurisdictions**

An important problem for the development of a national policy is the unawareness of legislators about the challenges regarding platform work. Generally, corporate victimization is ignored by the community, legislators are yet to take action to address corporate victimization in platform work through a legislation. At the level of states, there are transport policies for e-hailing services but their focus is on the generation of revenue, the policy document classifies platforms as a tech company or intermediary and not a transportation company, the policy also excludes

workers from social protection and other employment entitlements. There have been developments of legislation globally in platform work, some form of legislation has classified platform workers as independent contractors, for example the Belgium La Loi relative a la relance Economique at au Renforcement de la cohesion Sociale of 2018 has framed platform work as one of three forms of work of which the generated income is considered auxiliary and is tax exempt such legislation fails to provide platform workers with any social protection.<sup>36</sup> Another legislation for self-employed workers is the French Act No. 2016- 1088 of August 8, 2016 which introduced a protective scheme for those self-employed platform workers even though French Higher Courts have classified some platform workers as employees- the bill mandates platforms to commit to corporate social responsibility.<sup>37</sup> In Columbia, a bill was recently introduced to regulate economically dependent work- the draft law suggests creating an intermediate category for economically dependant platform workers.<sup>38</sup> Further, Italy enacted into law in 2019 a provision to expand employment relationship to all workers providing work organized by another party, including via platform.<sup>39</sup> Nigeria and similar jurisdictions within the sub-Saharan Africa are yet to take steps to enact into law provisions that differentiate between employment and self-employment. Whereas, the national Industrial Court has ruled that platform drivers are independent contractors or self employed, a national policy should consider regulating the sector either by expanding the scope of employment relationship to platform workers or those that are classified under disguised relationships or make provisions for economic dependant platform workers.

In criminal justice proceedings, since there are no laws for the prosecution of corporate manslaughter by negligence in Nigeria, it makes it an urgent need for judicial officers to determine alongside other stakeholders how platform drivers can obtain redress through legislation. The lack of legislation or the dearth of literature within the field of corporate violence

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<sup>36</sup> V De Stefano, I Durri, C Stylogiannis and M Wouters, 'Platform work and the employment relationship' (ILO Working Paper 27 2021).

<sup>37</sup> Ibid. 23

<sup>38</sup> Ibid. 23

<sup>39</sup> Ibid. 23

has worsened its impact on victims, especially in platform work where thousands of victims are susceptible to repeat victimization due to the lack of a regulatory framework. Although corporate manslaughter is understudied in Nigeria, but “there have been some records of incessant plane crashes, collapsed buildings, petroleum oil pipes and gas explosions, sea disasters and breaches of environmental or health and safety laws by corporations.<sup>40</sup> For example, “In England and Wales and Northern Ireland, the new Corporate Homicide Act, 2007 provides that a corporation may be convicted for manslaughter where a gross failure in the way activities was managed or organized results into a person’s death.<sup>41</sup> In Nigeria, the current law for the prosecution of involuntary manslaughter only applies to individuals and not corporations under Sec 315 of the Criminal Code Cap. C38, LFN, 2004 “ which reads that any person legal or human who unlawfully kills another person is guilty of an offence which is called murder or manslaughter, according to the circumstances of the case.<sup>42</sup> One thing must be considered in the formulation of a national policy, which is that corporate crime and violence should be defined under criminal law to provide reparation and redress when workers experience workplace harm. There is also a need to expand the scope of restorative justice services provision to corporate violence as an alternative to the court system under Sec 43 of the Nigerian Correctional Services Act.

## VI. CONCLUSION

This article has explored what the possible goals of a legal framework should be that is expected to provide redress for platform drivers in Nigeria. It was done through an examination of the digital labour worker initiative project which adopted the national collective agreement at the Lagos restorative conference based on a restorative approach that seeks to address corporate violence and crime in platform work. The paper first

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<sup>40</sup> Smaranda Olarinde and Jacob Udosen, ‘Corporate Manslaughter Law in Nigeria: A Comparative Study’ (2020) 11 Beijing Law Review 358–381.

<sup>41</sup> *Ibid.* 2

<sup>42</sup> Criminal Code Act 2004, s 63.

looked at the self employment relationship status of platform drivers and the lack of labour regulation and adequate social protection system for platform drivers in Nigeria while examining findings from the national collective agreement. The paper then explored corporate harm and violence in the context of platform work through an examination of interviews conducted with victims and survivors of corporate crime in Nigeria.

By exploring corporate violence or crime through the lens of restorative justice, this research has contended that platforms should be liable for corporate violence in the course of their legitimate activity by failing to profile passengers resulting into the loss of lives of workers, and also by genuinely misclassifying drivers under a disguised self-employed relationship. It is therefore necessary to prevent the repeat victimization of platform drivers by formulating a national policy to clarify and re-define self employment relationship of platform drivers. Restorative justice can be a useful tool for stakeholders in regulating the sector. It is necessary for workers representatives, platforms, regulators, lawmakers and the judiciary to act urgently and develop a national legislation.