

## Nature and Determinants of Employment among Grab and Uber Drivers in Metro Manila

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### *Abstract*

*Using identified indicators of decent work, the study explores the extent of formality and informality in the work arrangement and conditions of Grab and Uber drivers in Metro Manila. The study's initial assumption was that work conditions of Grab and Uber drivers were characterized by both formality and informality. The study likewise identified the key reasons why people engage in work arrangements in the so-called 'gig economy' which is enabled by digital platforms such as Grab and Uber. In general, majority of the drivers engaged in this activity mainly as a personal choice.*

*Primary data was gathered using two sets of interviews developed and administered by the researcher among three categories of drivers: purely driver, driver and operator and part-time driver/operator. Key informant interviews were also conducted on officials from the Land Transportation Franchising and Regulatory Board (LTFRB), Bureau of Working Conditions (BWC) and Philippine Transport Network Organization (PTNO).*

*The research reveals that while formality and informality intersect in the work arrangements of Grab and Uber drivers, informality dominates the nature of employment and work conditions. The drivers, purportedly classified as 'independent contractors,' are in fact engaged in non-standard precarious employment: they are not covered by social security, they work*

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*beyond normal working hours and they are not assured of a fixed and stable income, among others. Moreover, applying the four-fold test, the study concludes there is an employer-employee relationship between Grab and Uber and the drivers. These findings support the existence of a continuum of formality and informality of employment arrangements and relations even in the 'gig economy'.*

## **Research Problem**

While Grab and Uber were both legalized by the government in 2015 and included in the formal sector, the drivers' working conditions are arguably largely informal in nature. By dissecting the informal dimension of Grab and Uber through the drivers' working conditions, this study sought to answer the following:

1. What is the extent of formality in the employment of Grab and Uber drivers? What are the indicators that characterize formality?
2. What is the extent of informality in the employment of Grab and Uber drivers? What are the indicators that characterize informality?
3. What type of employment dominates their work arrangements: formal or informal? What linkages exist between formality and informality among Grab and Uber drivers?
4. Do the majority of Grab and Uber drivers lack the ability to be formally employed? Or, is their employment a personal preference?
5. What are the considerations that make workers participate in short-term engagements like Grab and Uber?
6. What are the significant factors that cause them to engage in informal employment?
7. What are the consequences of informality in terms of welfare and rights of workers?
8. How do drivers perceive their employment relationship with Grab and Uber?

## **Significance of the Study**

While most studies related to the subject discussed the causes and consequences of the informal economy in a country, these have not

presented the heterogeneity that make it up as far as the nature of the sector and conditions of employment are concerned. In fact, the frequent generalization is that the informal economy only encompasses the informal sector and provides employment that is completely informal in terms of work conditions.

One evidence of informal employment in the formal sector in the Philippines is the success of popular transportation companies Grab and Uber. Despite having been included in the formal sector, most work arrangements in these companies remain informal. To date, there are no studies on the link between formality and informality and the work characteristics of its drivers in these transportation companies.

There is also no attempt to thoroughly examine whether this growing trend is due to the inability of people to join the formal sector, or despite opportunities, is the driver's voluntary choice.

Studies have focused on both the positive and negative effects of the informal economy without looking at the peoples' awareness on its impacts. Generally, workers in the informal sector do not have the health benefits and other compensation formal sector employees are entitled to. However, as previously cited, not all workers in the formal sector receive social security and other employment benefits. This study seeks to address the research gaps by examining the informality of employment and working conditions and analyzing the extent of formality and informality in the work arrangements of Grab and Uber drivers.

Likewise, this study reveals the factors that induced Grab and Uber drivers to engage in informal employment, along with their awareness of the consequences of such activity. Moreover, the study attempts to come up with a framework to better understand the nature of work conditions prevailing in online transportation companies by using decent work indicators.

This study may be helpful in the field of labor policy especially with the recent recommendation of the International Labor Organization (ILO) on transitioning from the informal to the formal economy. While strategies and approaches were identified to ensure the transition's effective implementation, this study hopes to contribute to the fulfilment of decent work for Uber and Grab drivers by analyzing the extent of informality in their nature of employment. This may also be helpful in addressing the issue on whether to classify the drivers as independent contractors or as employees.

By knowing the nature and extent of employment informality in this 'new' category of workers, this study may help the government formulate appropriate policies and programs to address decent work deficits that characterize it.

For Grab and Uber drivers, this study can raise awareness on and provide them with a better understanding of the implications of having engaged in informal employment where working conditions are far from decent, along with the importance of benefits of formal employment.

## **Study framework**

This study utilizes the Segmentation "Exclusion" and Self-Selection "Exit" Theory and the Cost-Benefit Decision Theory.

### **Segmentation "exclusion" and self-selection "exit" theory**

The Exclusion theory suggests that informal employment is an involuntary response to unemployment. This means that people who are excluded from formal jobs turn to the informal sector out of necessity (De Beer et al., 2013).

Workers are excluded from formal employment for the following reasons:

- formal economy has limited capability to absorb surplus labor, especially when coupled with structural changes in a society;
- economic hardship and poverty;
- barriers to entry (e.g., high cost, burdensome regulations) into formal economy are high
- formal institutions fail to provide sufficient education, training and infrastructure;
- globalization is a disadvantage to lower-skilled workers who cannot migrate easily or at all;
- it is difficult for undocumented individuals to formalize their businesses;
- inability to secure formal employment; and
- growth in the number of women who have limited access and rights to control and own property or land entering the labor market outside of agriculture.

Perry (2007) enumerates the exclusion factors that divide formality and informality as: labor market segmentation keeping workers from leaving informal jobs and taking jobs in the formal sector; offering state-mandated benefits; complicated entry regulations prohibiting small firms from transitioning to formality; and, high tax rate and regulatory burdens making large firms remain informal.

On the other hand, De Beer (2013) states that the Exit theory considers informal employment as a worker's voluntary choice. People participate in the informal economy for the following reasons (Becker, 2004):

- demand exists for low-cost goods and services;
- barriers to entry into informal employment are low;
- the desire for undocumented income;
- dissatisfaction with formal employment;
- desire for independence and control;
- competitive advantage as many believe their success depends on being able to price below the formal market;
- first stage in the pursuit of formal business; and,
- desire to strengthen neighborhood social support networks and economic conditions.

## **Cost-benefit decision theory**

From a behavioral point of view, participation by firms, workers and consumers in the formal economy can be seen as a decision driven by an assessment of the relevant benefits and costs, including those related to the probability of incurring sanctions. A number of factors may influence the decision such as: individual and firm characteristics, market structure, social norms, institutional and policy settings, as well as how these factors interact in different circumstances.

In relation to the Exit theory, many workers, firms and families choose their optimal level of engagement with the mandates and institutions of the state depending on their valuation of the net benefits associated with formality and the state's enforcement effort and capability. That is, they make implicit cost-benefit analyses about whether to cross the relevant margin into formality and frequently decide against it (Hirschman, 1970).

The simple framework designed by Andrews (2011) for the informal

economy states that individuals are willing to work in the formal sector when the net benefits of formality exceed or at least are equal to the net benefits of informality. This means that earnings of an individual working in the formal economy and the benefits of being associated with formality such as access to education and health services, coverage of employment and safety regulations, legal protection, job security and social security pension are greater than the tax rate applied on their income and other costs associated with formality such as license requirements and other entry costs.

Andrews (2011) further explains that the same goes with a firm's decision to produce in the formal or informal sector as well. This is driven by same concept, where the revenue of a firm in the formal economy and the benefits associated with formality such as access to credit, legal protection and property rights are greater than the compensation paid to formal workers such as social security contributions and minimum wage requirements, tax rate applied on profits and other costs associated with formality such as regulatory burdens and entry costs.

According to Andrews (2011), once wages and prices are determined, individuals make consumption (and savings) decisions and decide whether or not to consume goods and services provided through the formal or the informal market. The decision to purchase goods and services in the informal market also reflects a cost-benefit decision, taking into account the probability of being detected and fined, tax payments and any benefit that may be forgone by purchasing a good informally (e.g. warranties, quality control etc.). He also points out that governments set policies to address a number of objectives, including those related to the informal sector. With respect to monitoring of the informal sector, governments make a cost-benefit decision as to which workers and firms are worth monitoring, essentially defining the boundaries of the informal sector (e.g. the government creates enforcement thresholds based on firm size, income or sector).

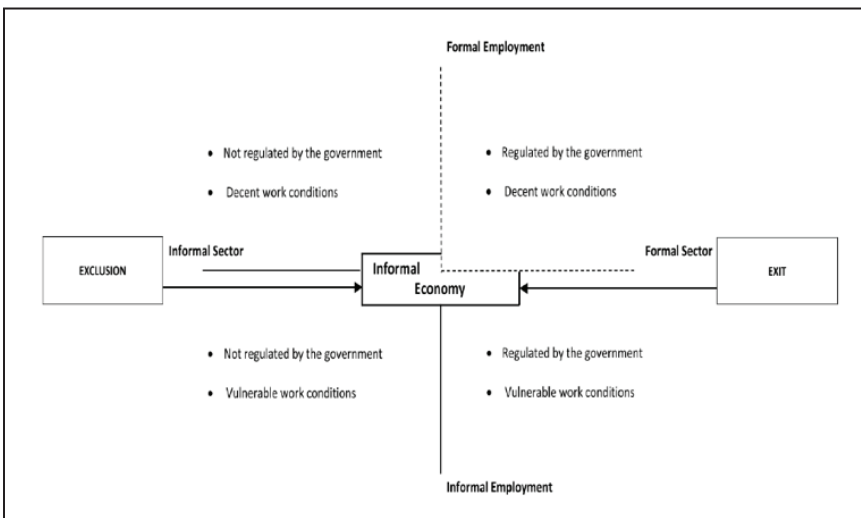
Given government policies, individuals and firms choose to be partially or completely informal by weighing the costs and benefits a legal status entails, explained Andrews (2011), and consider their particular institutional setting, resource constraints and individual characteristics, e.g., risk aversion, education and skill level, production technique, etc. (Perry et al., 2007). In the presence of excessive regulations and costs, low productive individuals or firms may simply be forced to operate in the informal sector (e.g., Loayza, 1996), while others voluntarily choose informality. For example,

a firm with inherently low productivity may have little demand for formal finance and contract enforcement mechanisms and will, thus, place more weight on the costs of formality. By contrast, risk averse individuals may choose to remain in the formal sector even if the costs of remaining therein are high. In some cases, firms may also constrain individual choice by only offering employment on an informal basis.

Firms and individuals will generate differences in their choice of informality for a given policy mix (e.g., benefits, taxes and regulation). Across countries, differences in the level of informality will arise from variations in the extent of heterogeneity as well as cross-country differences in policy mixes. An additional complication is that the overall level of heterogeneity in a country depends in part on policies in place as they shape the behavior of economic agents (Andrews, 2011).

The overall level of informality can generate externalities which can also influence the individual and firms' decisions. For instance, all else being equal, a large overall informal sector implies that a given level of public services requires higher taxes on income and profits of formal firms and workers, reinforcing the relative attractiveness of the informal sector (Enste, 2010) (and reducing the probability of detection by constraining the amount of administrative resources that are put into monitoring and auditing). An increase in tax rates may lead to an increase in the number of workers who are looking to evade taxation, which may be reflected in the share of self-employed. At the same time, this may cause a decline in entrepreneurial activity since higher taxes reduce the net profit of a successful businessman.

### Conceptual Framework



De Beer (2013) clarifies that the nature of firms is not the only consideration in the informal economy; the conditions of the workers also matter. The informal economy is distinguished by the informal sector and informal employment. The informal sector is an enterprise-based concept that is neither taxed nor regulated by the government while informal employment is a broader and job-based concept that is characterized by informality and vulnerability in work arrangements. The latter does not rely on the nature of the enterprise alone and may exist in the formal sector.

The transportation companies Grab and Uber belong to the formal sector as they are being regulated by the government; however the nature of employment of their drivers are characterized by both formality and informality. The framework above shows Grab and Uber can be categorized in the quadrant of the formal sector and formal employment where decent work conditions are greater, or in the quadrant of the formal sector and informal employment where work arrangements are mainly vulnerable.

Moreover, the participation of Grab and Uber drivers in the informal economy will be determined either by the Exclusion or Exit theory. Through this framework, the reason for their engagement in this activity, whether out of necessity or a personal choice, could be better understood.

## **Operational Definition of Terms**

*Work conditions* – nature and characteristics that make up the employment of the workers including work agreement, working time and wages

*Grab and Uber* – transportation network companies (TNC) that uses application-based service in providing safe and convenient rides for passengers in the Philippines

*Grab and Uber drivers* – could be purely drivers, drivers/operators at the same time, and part-time drivers/operators (who are also holding formal jobs at the same time) of these online transportation companies who do not have any other source of income except for the last category mentioned

*Formal employment* – characterized by decent working conditions, such as



presence of formal contract with the employee, assured and decent fixed salary rate, predefined normal hours of work, job security and social security and certain benefits

*Informal employment* – characterized by vulnerability in employment of workers, such as having no formal contract with the employer, no systematic work conditions, no fixed hours of work, low pay rate, not covered by any kind of social security system and precarious work

*Peers* - operators and registered partners of Grab transport network company who own the car being driven by Grab drivers

*Partners* - operators and registered partners of Grab transport network company who own the car being driven by Grab drivers

*Four-fold test* - used in determining the existence of employment relationship based on four elements, namely: selection and engagement, payment of wages, power of dismissal and power to control.

## **Methodology**

The researcher used a case study research design. Both quantitative and qualitative approaches were utilized to study the nature of employment of Grab and Uber drivers and determine whether formality or informality dominated their work conditions. By including both quantitative and qualitative data, a case study helps explain both the nature and occurrence of a matter through observation, interview and analysis (Tellis, 1997). While the quantitative approach presents the number and percentage of response per question and per category of interviewees, the qualitative approach provides in-depth analysis explaining the underlying principles or reasons in such response.

An in-depth interview questionnaire was developed and used on the participants. The questionnaire also sought to capture demographic data on the respondents such as age, gender, civil status, educational attainment and nature of former job. Decent work indicators were included to examine whether formality or informality dominated the working arrangements of

Grab and Uber drivers, along with the factors that made them participate in this kind of activity. In-depth questions were also developed to probe their responses on their working conditions to clarify their views on the current situation.

In addition, interviews with key informants formed part of the research instrument to clarify and give another perspective on the nature and determinants of employment of Grab and Uber drivers.

A combination of snowball and purposive sampling techniques were used in selecting the study participants. The snowball technique is a non-probability kind of sampling which involves primary data sources nominating potential primary data sources to be used in the research. In purposive sampling, decisions concerning the individuals to be included in the sample are made by the researcher based up on a variety of criteria which may include specialist knowledge of the research issue, or capacity and willingness to participate in the research.

The participants of the study were therefore selected through referrals from initial subjects who generated additional subjects who were either purely drivers or drivers/operators or part-time drivers/operators and who had the capacity and willingness to participate in the research.

Twenty respondents comprising 10 Grab and 10 Uber drivers from different categories were chosen. Applying the Exit and Exclusion theory, full-time drivers (both sole drivers and drivers/operators) were covered by the study to objectively determine the factors that made them engage in their current activity.

Part-time drivers/operators were also included to know why, despite holding formal jobs, they still participated in this short-term engagement where their role is that of an independent contractor.

Two sets of interview questions were administered. After the interviews, the researcher grouped and analyzed the data by looking at similarities and explaining the differences.

From these results, key informants such as officials from the Land Transportation Franchising and Regulatory Board (LTFRB), Bureau of Working Conditions (BWC) and Philippine Transportation Network Organization (PTNO) were interviewed to further substantiate the data gathered from the participants by giving another perspective.

## **Research findings**

Majority of the respondents were between 40 to 48 years old and were married with three children on the average. Most were college graduates and formerly held formal employment (except part-time drivers/operators). Among the reasons for leaving their former jobs were: business closure or retrenchment from employment and retirement and voluntary resignation partly to shift to become a transport network vehicle service provider (TNVSP). Their length of service with Grab or Uber ranged from less than a year to more than two years.

### **General reason for participation**

Purely drivers claimed their engagement in a transport network company (TNC) was equally because of necessity and a personal choice. Participants in this category were not college graduates and thus lacked the qualification to get a formal job. In addition, majority were middle aged, making it even harder for them. They viewed their current engagement as the only source of income available. If given the opportunity, they would rather be formally employed.

Those who gave personal choice (50%) as a reason used to hold informal jobs and became a TNSVP because they viewed this job as more dignified than traditional jobs in the informal sector. Their response could be adjudged by their lack of capability to get formal employment. Hence, they were making a choice between informal employment and lesser quality informal employment. In this sense, their reason for participation was not completely a personal choice but could be attributed to the Exclusion theory where according to De Beer (2013), explains that informal employment is a response to involuntary unemployment. People excluded from formal jobs by the lack of qualifications turn to informal work because of necessity.

On the other hand, part-time drivers/operators (100%) strongly affirmed it was their personal choice to become a TNVSP. The majority of drivers/operators (71%) shared the same reason. The demographic profile of the participants under these categories show most have a college degree and are younger compared to sole drivers, giving them the capability to get salaried jobs. But they chose to be part of this engagement because apart from flexibility, which is their main consideration, they see working with

Grab and Uber as a good investment. Their private cars give them income while it can also be used by their families. In addition, the amount they can earn depends upon them, unlike in traditional jobs where income is fixed. In this working arrangement, they can earn more by extending their driving hours. Moreover, they claimed that not much is needed to become TNVSP and they see it as an easy and fast way to earn money since commuters are part of everyday life.

### **Employment relationship**

Overall, majority of the participants (75%) perceive that they do not have an employment relationship with Grab or Uber but only a partnership. While most of the drivers/operators (71%) view the TNC as their employer, all (purely) drivers and part-time drivers/operators claimed otherwise. The former regard their operators as an employer because they owned the cars they drive and they only get the excess of the boundary or half of the earnings they make. In this sense, their operators exercise supervision and control over them. However, the latter completely consider themselves as only a partner of the TNC. Because they also hold full-time jobs, part-time drivers/operators thus consider the company of their regular employment as their employer and not the TNC where their role is just that of an independent contractor.

Applying the four-fold test, there is evidence that to some extent, TNCs and drivers (across all categories) have an employer-employee relationship.

One indication is comparable to the Uber lawsuit in California (Douglas O'Connor et. al. vs. Uber Technologies Inc., 2013) where the complainant claimed that drivers are employees because they have been required to follow uniform procedures and policies regarding their work and their provision of car service to customers is within Uber's usual course of business. Hence, drivers' services are fully integrated into Uber's business, and without the drivers, Uber's business would not exist. In addition, Uber faced another court case in the United Kingdom where two drivers (representing 19 Uber workers) argued that they were employed by the firm and were not working for themselves. According to the drivers, they were under tremendous pressure to work long hours and accept jobs otherwise there would be repercussions from the company. Uber asserted they were

a technology firm and not a transport business and that their drivers were independent self-employed contractors who could choose where and when they would work (Osborne, 2016).

In this landmark employment tribunal ruling, Uber lost its right to classify its drivers as independent contractors and entitled the drivers to workers' rights such as national living wage and paid holidays.

According to the view of Bureau of Working Conditions' Chief Policy and Program Development Division, this is analogous to the jurisprudence on employment of taxi drivers in the country where the boundary system signifies an employer-employee relationship. In the case of Grab and Uber, it is the 20 and 25 percent shares they respectively take from the earnings of their drivers. Under this system, TNCs exercise control and supervision over the drivers. Its code of prohibited activities shows great extent of control where for each violation, applicable incentives could be reduced and accounts could be deactivated. In addition, drivers are engaged to perform activities which are necessary or desirable in the business of the TNC.

The individual elements of the four-fold test show strong evidence that in the country, TNCs and the drivers have an employment relationship in view of the rules and regulations TNCs impose on drivers which are based on the rulings of the LTFRB. In this case, the Board is the governing body that links TNC and TNVS.

#### a. Selection and engagement.

Grab and Uber have requirements for the application and selection of TNVSP operators and drivers. These requirements are pursuant to the provisions of department orders of the LTFRB. Memorandum Circular No. 2015-015 and 017 contain application requirements for accreditation. An interview with Ryan Salvador, Chairman of Public Assistance and Complaint Desk of LTFRB, confirmed that the requirements to become an eligible TNVSP are part of the guidelines of the LTFRB. In fact, there may be additional requirements as long as these are still within LTFRB provisions.

Further, Memorandum Circular No. 2015-016 stipulates that accredited TNCs shall conduct a criminal background check and screen all applicant-drivers before endorsing them to the Board, and that the TNC shall establish a continuing training program for its accredited drivers so that they may have updated and current information on technology application,

safety standards and terms and conditions applicable to them. Grab even launched a free monthly first aid training for drivers which aims to provide both drivers and passengers with a safe commute.

In this regard, the selection and engagement process of TNC drivers is arguably an indicator of employment relationship.

b. Payment of wages.

Riders' incentives and credit card payment are remitted to operators by Grab through G-cash (electronic wallet payment/mobile money) and by Uber through the savings account of drivers or operators (depending on the arrangement) weekly. While this is different from the payroll system of companies, it could still be regarded as an indicator of an employment relationship between a TNC and its drivers.

c. Power of dismissal.

Grab and Uber can ban drivers and drivers/operators from using the mobile application (in facilitating transportation of passengers) in reference to prohibited acts stated in the code of conduct (recently renamed Supplement Terms by Grab). This would eventually be the basis of the LTFRB to revoke the accreditation issued to erring drivers. Among the prohibited activities are: misbehavior, maltreatment of passengers, not following proper booking/cancellation procedures, high cancellations, reckless driving, repeat of minor offenses, theft, fraud, legal offenses, not complying with legal or regulatory requirements and other similar violations (Grab Supplement Terms of Use). This is a strong indicator of an employment relationship. In another view, this is also pursuant to the guidelines released by the Board, requiring TNCs to ensure and assist the LTFRB in monitoring compliance with Terms and Conditions of a Certificate of Public Convenience to Operate a TNVS (Memorandum Circular No. 2015-016).

d. Power to control.

Seventy percent of the participants claim that Grab and Uber have control over their manner of driving. Heng (2016) explains that not every form of control is indicative of an employer-employee relationship. In some

cases, subjecting the service provider to the client's rules, regulations and code of ethics does not make the service provider an employee when the level of control does not dictate the methodology in performing the tasks but is rather only for the achievement of a mutually desired result. In the statement above, the service providers are the drivers while the clients are the technology owner. However, in the case of the TNC and the drivers, there is a clear evidence of control in the methodology. The provisions on bookings and cancellations of drivers, pick-ups and drop-offs of passengers and grades being given to drivers based on passengers' experiences during the ride are some of the strong forms of control.

All elements of the four-fold test signify that an employer-employee relationship exists between the TNCs and the drivers. Moreover, the power to control, which is the most crucial and determinative indicator of the presence or absence of an employment relationship, is existent in supervision being exercised by Grab and Uber over the drivers.

## **Conclusions**

In the beginning, the research assumed that working conditions of Grab and Uber drivers were characterized by both formality and informality. Formal employment is generally attributed to the presence of decent working arrangements. Thus, decent work indicators were considered to be the appropriate and rational gauge to refer to when analyzing which type of employment is prevalent. However, decent work indicators may not be at all times applicable when employment relationship could also be another way in examining the TNVSP's work conditions.

Accordingly, it posited that informality dominates the nature of employment of these drivers. Despite conforming with the requirements to become eligible as a TNVSP, being guided by rules and regulations and being part of an organized group, drivers continue to experience decent work deficits.

Moreover, most Grab and Uber drivers view TNCs only as a partner that provides them the means to facilitate the transport of passengers through a digital technology platform.

1. The work arrangements of Grab and Uber and their respective drivers are characterized by formality. These include the presence of predefined

work arrangements and job responsibilities as embedded in the rules, penalties, due process and an organized group that was founded specifically for TNVSPs for the purpose of social dialogue signifying their legal and social awareness about their rights.

2. Nonetheless, the drivers' employment and working conditions appear to be largely characterized by informality. Using decent work indicators, Apparently, being engaged in this type of work arrangement is a non-standard form of employment characterized by the absence of social security, low-skill job requirement without career plan, and (as claimed by the TNC) self-employment (Serrano, 2014).

While there are predefined work arrangements in the form of rules embedded in Grab's Supplement Terms of Use, still, there is no formal contract that states definite work conditions, remuneration, benefits and inclusive dates. In this regard, duration of work time is not fixed. Drivers had excessive working hours that interfered with the balance between work and personal life. This may be attributed to inadequate hourly pay and in the long term, represents a hazard to their physical and mental capacity to work. Working over time usually goes with inadequate income (ILO Manual, 2013). This also explains why despite earning more than the minimum wage, this does not indicate a decent working condition among the drivers because they are not assured of a fixed salary.

Moreover, while the number of hours beyond the normal working hours in formal employment is paid as overtime rates, these drivers do not receive overtime remuneration rate for excess of eight hours a day.

In addition, Grab and Uber do not make statutory contributions from the earnings of the drivers. For the majority of the drivers who do not directly contribute to SSS, Pag-ibig and Philhealth (either because they have limited earnings or they do not see the necessity of insuring themselves), they are not covered by social security for health, life risk and pension. And all the more, they need to benefit from social security as their work is considered precarious. Drivers are also prone to injury and hazard risks.

3. While informality dominates the employment and working conditions of Grab and Uber drivers, overall there is a formality-informality



continuum in their work arrangements. According to Xhafa (2007, cited in Serrano, 2017), this continuum is comprised of two opposite poles: on one end is complete formality and decent work and the other end is full informality characterized by decent work deficits. This continuum explains overlaps in the work characteristics among drivers. Moreover, the continuum between formal and informal economic relations exists in the category of part-time drivers/operators where while holding formal jobs, they also play the role of an independent contractor with Grab and Uber.

In another perspective, the government can link the formality and informality of work arrangements. In the case of Grab and Uber drivers, the LTFRB is the governing body that relates these two types of employment. To a greater extent, informality makes up the drivers' work conditions. The provisions of LTFRB Memorandum Circular No. 2015 to 18 on rules and regulations on TNCs and TNVSPs make some of the work arrangements appear formal. These include requirements to become eligible TNVSPs, rules embedded in the prohibited activities and penalties pertaining to booking and cancellation, fare payment, passenger experience, safety, security and legal compliance of drivers. While these are characteristics of formality in employment, these are all in accordance with the guidelines of LTFRB, making the TNC liable for failure to exercise.

4. In general, the majority of Grab and Uber drivers engaged in this activity mainly as a personal choice. Having the freedom to decide when to work, having no boss and the low barriers to join this job are the primary factors that enticed them to become drivers. It is notable, however, that necessity is another reason for the participation of half of purely drivers, where retrenchment from employment and insufficient education or lack of qualifications to obtain a formal job are the determinants.

Purely drivers were middle-aged drivers who were laid off their formal jobs and being a Grab or Uber driver was their only source of living. Other purely drivers who chose to participate in this activity were once engaged in informal employment but became TNVSPs because they viewed this job as more dignified than their previous ones.

5. All part-time drivers did independent work by choice rather than out of necessity. The work is generally a short-term engagement by an independent contractor. Part-time drivers/operators, despite holding formal jobs, still participated in this kind of activity because of flexibility. They valued having control over their schedule and exercising independence in one aspect in their work life. The flexibility in this kind of work arrangement is indicative of non-standard work that limits their rights at work (Serrano, 2014). In addition, they took the role of an independent worker mainly to augment the income from their formal job.

According to the study of McKinsey Global Institute (2016), there are four key segments of independent workers, namely: free agents, casual earners, reluctant and financially strapped. Grab and Uber part-time drivers/operators belong to the group of casual earners because they have traditional jobs at the same time, hence, they do it for extra earnings as a matter of preference. But if they had a choice, they still preferred a full-time job. They are different from the group of purely drivers and drivers and operators. The former falls under “reluctant” where this was their primary and only source of income; however, they still preferred a traditional job. The latter are considered “free agents” because they preferred to derive their primary income from being TNVSP.

6. Since Grab and Uber drivers are regarded as independent contractors, their right to organize and bargain collectively is compromised. According to the Labor Code of the Philippines, employees have the right to self-organization and to bargain collectively. However, since this group is not considered as employees but rather as independent contractors, they cannot negotiate with the employer regarding working conditions because there is no employer in the first place. This is because the TNC claims it only has a partnership with its drivers. Therefore, this results in the absence of workplace protections, job security and other workers’ benefits for Grab and Uber drivers.
7. Despite claims of Grab and Uber drivers (across all categories) that TNCs have control on their manner of driving and that they have a written agreement, majority still perceive that they do not have an employment relationship. They considered themselves only as partners

of Grab and Uber, providing passengers with transport services through the TNC's digital platform. However, applying the four-fold test, there are strong indications of an employer-employee relationship between the TNCs and TNVSPs in all of its elements. These are: the presence of particular requirements in selection and recruitment; TNC's payment of wages by crediting the incentives and credit card-based payment to the TNVSPs' account; the TNC's power to permanently deactivate the driver's application and access to operate; and the power to control as there are rules that need to be followed.

Control, which is the most important determinant and indicative of employment relationship, proves that the TNC exercises a great extent of supervision and control over the manner and methods of TNVSP's driving. The Supplement Terms of Use of Grab and E-learning seminar of Uber for its drivers where prohibited acts and the corresponding penalties per occurrence of violation are listed and discussed dictate the methodology in performing the tasks because these are forms of employee discipline.

## **Recommendations**

One of the major findings of this study is that informality dominates the work conditions of Grab and Uber drivers. In addition, while some view themselves only as partners of TNCs, there is an evident employment relationship between the TNC and the drivers/operators. And despite informality in their working arrangements and the view that there is no security in this kind of work, they engage in this activity voluntarily.

In view of the aforementioned research results, the following are hereby recommended:

1. TNCs and TNVSPs should come up with a win-win solution by exploring opportunities to create new marketplaces and tools in view of achieving mutually desired results. For instance, by acknowledging the drivers as employees, the TNC may form more rigid rules and terms governing the drivers that would lead to the betterment of the business in exchange for workers' protection and benefits. In another view, should the drivers remain as independent workers, protection must still be built in.

2. The labor legislation should be reviewed and updated, drawing on relevant and up-to-date employer-employee relationship indicators emanating from new business models and working arrangements in view of the rise of technology, like digital platforms.
3. The government should conduct a comprehensive study to better understand and regulate this modern business model and take the initiative to create labor policies that will build in protections for independent workers and address the gaps in benefits and income security brought by this growing gig economy.
4. Studies on the informal economy should not only focus on economic effects but should also take into account the welfare of workers as far as work conditions and nature of employment is concerned, including workers engaged in the gig economy.
5. Grab and Uber drivers should increase their awareness on the consequences of participating in short-term engagement in terms of job security, health benefits, social security and their basis for planning a stable future. The Department of Labor and Employment as well as trade unions may consider conducting orientations (either online or face-to-face) for workers in the gig economy, including Grab and Uber drivers, of their rights and protections under the law. In particular, trade unions may want to expand their representation base to include Grab and Uber drivers. If organizing these workers into a trade union may pose more difficulties than advantages, the representation structure of a workers' association may be more feasible at this point.

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