



Taken for a Ride – The ethics of Uber

August 2022

Look! The wages you failed to pay the workers who mowed your fields are crying out against you. The cries of the harvesters have reached the ears of the Lord Almighty. James 5:4

"Irini, an international student, worked as a driver for Uber. Irini did not have her own car, so she rented one from a company that had a contract with Uber.

One weekend Irini received a late-night job to pick up a group of male passengers. When Irini arrived, the men were noticeably intoxicated. During the trip, one of the men tried to climb through the car's sunroof, causing significant damage. Irini stopped the vehicle, and all the men got out other than one. The one who stayed sexually harassed Irini.

Irini reported the incident to Uber. They refused to cover the full cost of fixing the car, leaving her with considerable debt to pay. Instead, they offered her a small amount of money on the condition that she would make no further attempts to claim money from them. In addition, Uber refused to take any steps to identify the passengers that damaged the car and sexually harassed her and told her she must obtain that information through the police. The police were unable to locate the men.

Case presented by WEstJustice, South-East Monash Legal Service and JobWatch, 18 February 2022.

As it grew from a scrappy Silicon Valley start-up to a world-conquering multi-billion dollar corporation, Uber promoted itself as a leader of the digital revolution. However, the reality is that Uber was built on unethical foundations. The two main unethical foundations have not changed in the time it has operated. They have been:

- Treating drivers and food delivery riders for its Uber Eats business as independent contractors; and
- A legal structure, based in low-tax countries that facilitate tax dodging, designed to avoid paying income tax on parts of its profits in the places where trips occur or food is delivered.

Uber set itself up illegally in many places and then lobbied to get laws changed to accept its presence. It played groups of workers off against each other, undermining pay and conditions for workers in the taxi industry, replacing them with low-paid workers operating on their platform. Leaked documents, known as the Uber Files, showed that Uber's founder and executives saw physical attacks on Uber drivers by competing taxi drivers who were angry at their loss of income as strategic opportunities to build support for their cause. They took no responsibility for the violence, even though Uber's illegal push into new cities triggered it.

Uber argues that it's not a transportation corporation, but the operator of a digital platform that connects people to drivers, who are themselves operating as independent contractors. The outcome of the assertion that drivers for Uber are independent contractors and not employees are:

- High proportions of workers earn below the minimum legal wages because they are not protected by domestic labour laws regulating employee/employer relationships within the countries that Uber operates;
- Compromising the safety of drivers, delivery riders, and other road users by forcing drivers and riders to work excessive hours and cut corners to try and earn an adequate income. Five Uber Eats riders have been killed in accidents while at work in Australia since 2017, [with three in 2020 alone](#) and one more death in April the same year still being contested by Uber;
- Compromising passenger safety by the inadequate screening of drivers and the failure to require cameras in vehicles;
- Drivers and delivery riders cannot often enforce rights that would be available to employees; and,
- The contracts drivers are required to sign are manifestly unfair. The contracts grant Uber arbitrary powers to unilaterally impose any conditions it chooses on drivers unless prevented by laws or the courts in the countries drivers are located in.

As the Uniting Church and the Synod have committed themselves to uphold human rights, including fundamental worker rights, Uber's model is inconsistent with those standards.

Uber engages more than 60,000 drivers in Australia. Drivers must cover all the expenses related to being an Uber driver. They are required to provide and maintain a late-model vehicle with all relevant



insurance. The contract drivers sign with Uber allows Uber to set the maximum fare. Drivers can negotiate a lower fare with customers. However, they must still pay Uber its 25% commission based on the fare that Uber has set.

Drivers can be blocked from using the Uber app by the corporation at any time, for any reason and without warning. If drivers wish to contest a decision to block them from the app (or dispute any other matter under their contract with Uber), the arbitration clause in the contract requires them to seek arbitration in the Netherlands at their expense. A Canadian court ruled the clause was unconscionable in *Heller v Uber Technologies Inc and Rasier Operations BV (2019)*.

A survey of drivers in Australia published in 2020 found they earned, on average, just over \$12 per hour once costs were included. Some drivers who depend on ride-sharing income feel forced to work long hours across multiple on-demand gig economy operators to make ends meet. Decades of studies have shown that safety is closely linked to pay in road transport businesses. Low pay leads to poor safety conditions for drivers and delivery riders.

Further, a 2018 survey collected 969 reports of harassment and assault against drivers, with 10% of those surveyed reporting physically assault and 6% sexually assault.

The US law firm Slater Slater Schulman LLP in San Francisco filed an action on 13 July 2022 on behalf of around 550 female passengers who allege they were "kidnapped, sexually assaulted, sexually battered, raped, falsely imprisoned, stalked, harassed or otherwise attacked" by drivers working on the Uber platform. The law firm claims that Uber has provided a slow and inadequate response to the issues of sexual assault by drivers.

What You Can Do

Write polite and respectful letters to:

The Hon Tony Burke MP

Minister for Employment and Workplace Relations
PO Box 6022
House of Representatives
Parliament House
Canberra, ACT, 2600

The Hon Anthony Albanese MP

Prime Minister
PO Box 6022
House of Representatives
Parliament House
Canberra, ACT, 2600

Salutation: Dear Minister

Salutation: Dear Prime Minister

Points to make in your letters:

- Express deep concern that ride-share platforms like Uber can exploit the drivers and delivery riders that conduct work for them because of inadequacies in Australian law. Point out that ideally drivers and delivery riders in the on-demand gig economy should have the rights of other employees.
- Ask that they introduce legislation to establish a national industrial commission (or a Fair Work Commission jurisdiction) to regulate all work contracts in the road transport industry regardless of the work status of those workers and regardless of how those workers were engaged. The measure should cover arrangements for the engagement of on-demand gig workers in that industry.
- The tribunal should be empowered to hear and determine complaints concerning the unfair termination of work contracts for all road transport workers, including those working in the gig economy.
- The existing law should be amended to establish collective bargaining rights for all road transport workers, including those in the gig economy.
- Enforcement provisions in the law should ensure that awards and orders of the tribunal should provide supply chain accountability where workers, including on-demand gig workers, are engaged by subcontractors.
- The Commonwealth Government should require all ride-share platform corporations, like Uber, to improve passenger safety by requiring them to:
 - pay for cameras in their driver's vehicles;
 - have robust processes to ensure drivers are suitable and do not have a history that would make them unsuitable; and
 - having warnings built into the app if a driver deviates from a reasonable route to the destination.