The Fissured Workplace in Tech:
How Labor Practices Exacerbate and Reproduce Racial Injustice

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Abstract: Technology platforms may be understood as the symbolic "cotton mill" in today's rapidly growing digital economy. Just as the capital-intensive nature of unregulated factory production amidst the industrial revolution expropriated and exploited human labor, today's platforms—with their venture capital-facilitated business models, monopoly and monopsony-guided ideologies, and resistance to regulation—create and rely upon profoundly immoral economies of work. In this article, I argue that firm fissuring practices across the tech economy have created a two-tier system of workers. This two-tiered system has undermined possibilities of labor intervention in the broader, racialized injustices produced through and with digital capitalism. In the face of this, the most vulnerable, racial minority, and immigrant workers—often relegated to temporary labor or independent contracting—have organized to claim both labor power and to produce friction in the production of racially unjust automation technologies.

Introduction

Vignette 1

Charlotte*[*] was an undergraduate at Stanford University, where she majored in Communications. At the university's spring career fair, she excitedly approached the Google table and spoke to a recruiter. She was thrilled at the idea of working for the world's most important tech company. After a cordial initial conversation, the recruiter called Charlotte to schedule a second in-person interview. Charlotte was told at this interview that Google may be interested in her for a role on their community management team, but that Charlotte should first seek to be hired by a staffing agency. When we spoke in 2019, about four years later, Charlotte told me, "The recruiter saw me as an African American woman and saw me as a contractor. She saw me as someone who would work really hard and be grateful for the crumbs. I told her that I wasn't interested." Charlotte reminded the recruiter that she was a soon-to-be graduate from one of the most elite institutions in the world and asked to be considered as a direct employee. After considerable back and forth, Charlotte was subsequently interviewed for a full-time employee role.

When she began work at Google, one of the first things that Charlotte noticed was "the class system between contractors and employees." In an interview, she told me:

> It seemed like most of the people who worked at Google were TVCs [mostly temporary workers from staffing agencies, workers who labored for vendors (like Bon Appetit)]. And a disproportionate number of those who were paid by staffing agencies or vendors were people of color. But nobody wanted to talk about this. They would talk about diversity issues, but nobody wanted to talk about how it was the TVCs who were people of color [and] who didn't get the same benefits as the rest of us.

After two years of clandestinely discussing these issues with her co-workers around the world— many of whom were temporary workers, vendors, and contractors (TVCs)—Charlotte helped to organize the first ever Global Google Walkout for Real Change in November 2018.

The Google Walkout was mostly treated by the media as a protest of how the company handled sexual harassment allegations made against high profile executives. But Charlotte and other core organizers said they were protesting not just individual acts of discrimination or abuse, but also systemic misogyny and racism. They centered workplace conditions more broadly in their protest.

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* This paper is drawn from my own ethnographic research and interviews conducted with tech workers and rideshare drivers over the last several years. To protect their identities I have not used their real names.

The demands that they drafted and sent to Google's CEO included a company commitment to end pay and opportunity inequity. Specifically, the walkout organizers and the many who participated in the walkout, wanted transparency at all levels of the organization including a breakdown of pay related to gender, race, and ethnicity as it related to both full-time employees and TVCs.

A month later, TVC workers themselves wrote another set of demands to the Google CEO Sundar Pichai. On December 5, 2018, they published the letter on Medium. It started by explaining that Google TVCs had participated in the 20,000 person walk out to protest "discrimination, racism, sexual harassment, and a workplace culture that works for some." The TVCs highlighted the impact of their second-class status within the firm, arguing:

> TVCs are disproportionately people from marginalized groups who are treated as less deserving of compensation, opportunities, workplace protections, and respect. We wear different badges from full-time employees, which reinforces this arbitrary and discriminatory separation. Even when we're doing the same work as full-time employees, these jobs routinely fail to provide living wages and often minimal benefits. This affects not only us, but also our families and communities.

The workers demanded an end to pay and opportunity inequity, and a consistent and transparent process to transfer to full-time employment, as well as the adoption of a single badge color for all workers to end the visual class system. Their demands were met with silence.

Over the next few months, TVCs in the San Francisco Bay Area and New York City secretly organized alongside full-time employees. In these meetings, workers grappled with why they were hired through staffing agencies, their shared experiences of exploitation, and the social justice implications of the two-tiered system of work.

Vignette 2

Esther, a queer African American woman from New York City, moved to Los Angeles when her immigrant mother fell ill. For a full year, Esther stayed with her elder brother and cared for her ailing mother. After her mother's death, Esther was at a loss for what to do next. In New York, she had been a seamstress, but in Los Angeles, she did not know anyone, much less have a network of people who could help her obtain similar work. Esther was reticent to try and break into a new industry because of all the workplace discrimination she had received over the course of her life. "I just couldn't get myself to face all of that [discrimination] all over again. I was too old," she explained to me. One day, in 2015, as she was contemplating what to do next, Esther heard about Uber: "A friend of a friend told me that they were driving for Uber, and I didn't know what to do… They said they made good money driving for Uber. Well, I thought I could get out of the house, get to know CA, and maybe in said time I will know which direction I am going." Esther purchased a car, downloaded the app, and started working.

Within seven months of driving, Esther's wages dropped dramatically, and she started to notice the ways in which her app was controlling her. Esther also wondered about the validity of her status as an independent contractor. One of the techniques that she had adopted to maximize her earnings was to first determine where a passenger was going before accepting a ride. "If you start in a dead zone," she explained to me, you make less money. So, you start in an area that is busy." Because the Uber app didn't tell her where her passengers were traveling, she would call the passenger, and if the passenger was going to an area that was not surging, she would cancel the ride. "As an independent contractor, that is what I would do. I was making my own business decisions." But in September 2015, Uber deactivated her and 1,000 other drivers who were picking and choosing rides to maximize their earnings. Suddenly, her source of income was pulled out from underneath her. Esther had been homeless before, and she was on the brink once again.

Frantic, Esther reached out to other drivers whom she had met while waiting at the LAX airport holding lot. After discovering that many, like her, had just been deactivated, Esther and others put together a small protest at the Uber office in Los Angeles. After the protest, some of the drivers, including Esther, were re-activated. Inspired, these protesters continued organizing and by 2017 developed themselves into a minority union called the Rideshare Drivers United (RDU).

As a worker-led, member-based, minority union and advocacy group, RDU organizers identified one central paradox in all their shared struggles: despite being told they were small businesspeople, the drivers had no power. Specifically, Esther told me,:

> We were all mad because they force us to sign a contract that says we are independent contractors, but we don't have any power. We only decide when we are going to turn on the app and when we turn it off. Then, they are in control. They tell you when you are going to pick up, how you act in your car, how you talk in your car, how you have to be in your car, what people are allowed to do in your car. But they don't pay for your car.

By 2018, RDU had democratically established, through a polling of their membership base, a Drivers' Bill of Rights. A few months later, the California Supreme Court decided *Dynamex v. Superior Court of Los Angeles,* which made it much easier for these drivers to claim employment status. Noticing that all of the "rights" in their list corresponded to employment rights, they shifted their work to focus specifically on attaining employment status for Uber and Lyft drivers in California. To that end, RDU orchestrated a global strike in May 2019. The strike was supported by tech workers who organized the Google Walkout for Change (see image below).

The two vignettes above reveal a relatively recent transformation in how major technology firms structure their workplaces. While not often considered together, the issues faced by Google TVCs and by Uber and Lyft drivers are both rooted in a phenomenon that economist David Weil has called "fissuring the workplace." Until the Google Walkout and the Global Uber Strike, the practice of fissuring was largely unknown to consumers, but they have been known to workers across the technology economy for at least three decades. Microsoft workers who worked at the company

between 1987 and 1990, for example, had sued their employer decades ago, alleging that the technology company misclassified them as freelancers. In fact, the workers successfully argued, they performed many of the same tasks as full-time employees and were highly controlled by the firm. In a 1996 9th circuit decision, *Vizcaino v. Microsoft,* the appellate court found that these workers were entitled to the same retirement benefits as employees. But due to a loophole in the decision, Microsoft, like Google, now employs such workers through staffing agencies.

Why do technology firms "fissure"? And what does this mean, exactly? By avoiding directly hiring the workers who power their companies—either by calling workers "independent contractors" or by hiring workers through staffing agencies—technology firms (as the lead business enterprise) shed risk (including tort-related risk), responsibility, and labor overhead.[2] They also avoid having to report or account for these terminations to the relevant government agencies, enabling extreme hiring and firing flexibility.

This firm flexibility, however, has real life implications for workers, and for racial equality and justice more broadly. Of the 120,000 people who worked at Google around the world in 2018, an estimated 102,000 were temporary workers, vendors, and contractors (TVCs).[3] Workers allege that people of color and other marginalized groups are disproportionately hired as TVCs and not as full-time employees. As referenced above, workers hired through staffing agencies do not have the same benefits—including job security and paid vacation—that workers hired full-time have. They make less money, often endure wage violations, wear different colored badges, and generally are treated as "second class" citizens. Except under a potential theory of joint employer liability, Google is not liable to these workers for any labor violations. These temporary workers face an uphill battle in forming a legally recognized union to represent their interests. Many of these temporary workers come from the communities most impacted by the harmful products produced by Google and other technology firms—including face surveillance and military defense-related products.

Since the inception of companies like Uber and Lyft in California in 2012, large, well-financed labor platform companies in the ride-hail and food delivery sector have taken the position that they are merely mediators, connecting independent businesspeople with consumers. Rather than directly employ workers, they contract with them under the theory that the workers are independent contractors. However, these companies often set the price for the product, algorithmically control the workers, prevent the workers from developing a clientele, and incentivize where and when the workers labor. Across the world, companies like Uber have attempted to legalize their practices through laws that make workers "independent contractors" by statute. In many countries, they have failed.[4] In countries where regulators or courts have forced on-demand labor platform companies to treat their workers as employees, they have gone on to hire workers through staffing

agencies (much like Google and Microsoft have). In progressive states in the US, where they face an uphill battle against the courts and regulators, the major labor platform companies—Uber, Lyft, DoorDash, and Instacart—have created political action committees and attempted to pass "third category" laws. In California, they were successful in doing just that.

In this white paper, I argue that the fissuring practices employed by many technology firms should be understood through the lens of racial subordination. This is both because the practices themselves are historically built on racial inequality and because they reproduce racial injustices in the workforce and in society at large. Indeed, some of the most pressing moral, political, and social issues of our time converge in, and through, these technology firms. The data that the companies harvest, sell, and use to create automation systems determine life chances. They determine how individuals are understood by police and military technologies, how credit scores are determined, how much people pay for goods and services, and whether they have access to affordable health care. Many of these determinations are built through data, and with data systems that use automated processes to unwittingly reproduce—and even exacerbate—existing forms of systemic racism and racial injustice. As a result, not only should these labor practices be understood as forms of racial subordination, but also, workplace organizing against such practices should be supported as a way to intervene in the problems of racial injustice sustained and entrenched through automation technologies.

During my ethnographic research among organizing tech workers, I found that many TVCs understood their labor activism to not just be about achieving racial economic equity, but also about having a say in the products that were produced through their labor. Many, for example, wanted to participate in collective action to protest Google's military defense contracts, but they understood their second-tier status as being an impediment to this organizing. The business management literature overwhelmingly supports this positive connection between workplace diversity and ethics. But the Google worker-organizers took the traditional argument a step further. Meredith Whittaker, one of the Google Walkout organizers who was later fired, argued that if diversity is "stripped of the histories and lived experiences of systemic discrimination," it becomes an "empty signifier."[5] She and others sought to fight bias and inequity both in the workplace and in the technology that the core firm produces. As I describe below, Uber drivers, too, connected the protest of their classification as independent contractors, and the precarious working conditions that they endure, to broader social justice issues around data and automation.

This article, then, is focused not just on how fissuring produces forms of racial subordination in both the workforce and in society at large, but also on the potential, in Karl Polanyi's terms, for double movement—or the dialectical process of change brought on by the masses in response to economic injustices of fissuring and digital marketization.[6] Based on years of ethnographic research with and among Uber drivers and Google workers in the San Francisco Bay Area, I examine the working conditions and collective resistances of those producing data, analyzing it, and building with it. In Part I, I explore what unites these workers across digital industries. What, if anything, do Uber drivers and Google engineers have in common? What structural pathologies and work experiences produced by firms align white-collar engineers with blue-collar service workers? Then, in Part II, I explore the solidarities built by and among these groups of workers, and the potential role of the law in supporting and/or obstructing their visions of change amidst massive technological upheaval.
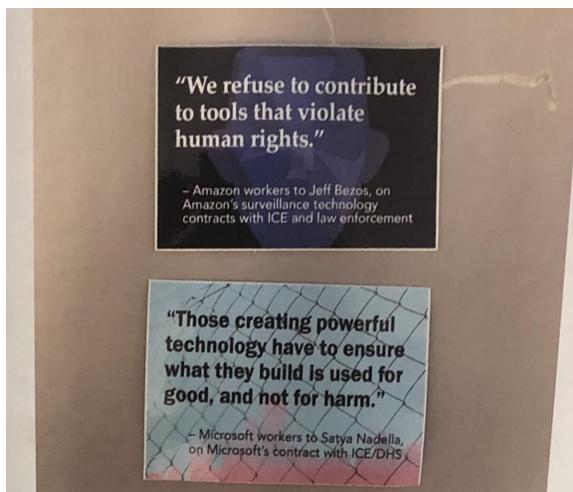
Analysis

At the turn of the 19th century, the cotton mill was symbolically equated with new industrial society. As English historian E.P. Thompson famously noted, the cotton mill, as a novel piece of industrial technology, represented both new forms of production and the social relationships that those new forms of production entailed. Just as observers in the mid-1800s were intrigued by the novelty of the "factory" and the technologies associated with it, policymakers, academics, and journalists in the contemporary moment are consumed by the novelty of the so-called "platform" and the transformation of work that portends to come with it.

The cotton mill, or the "satanic mill" as Karl Polanyi called it, was of course not the driving force behind the "grinding of men into masses" and the enormous political, social, and economic upheavals of the industrial revolution. These transformations were attributable not to the machine itself, but to capital's rapid re-structuring of work around the machine, to the state's non-interventionist response to that re-structuring, and to the collective resistance of the working class amidst public and private re-orderings of work.
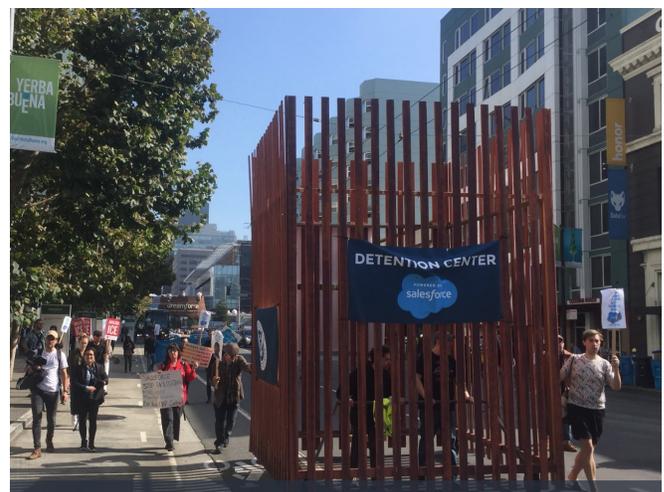
Technology platforms may be seen as the symbolic "cotton mill" in today's rapidly growing digital economy. Just as the capital-intensive nature of unregulated factory production amidst the industrial revolution expropriated and exploited human labor, today's platforms—with their venture capital-facilitated business models, monopoly and monopsony-guided ideologies, and resistance to regulation—create and rely upon profoundly immoral economies of work.

Nevertheless, much of the most interesting and critically important contemporary research that examines platform technologies focuses not on the labor issues, but on the ways in which the secretive surveillance practices that arise from and through information mining represent new moral complexities and potential harms for our collective futures—materially, psychologically, socially, and politically. Shoshanna Zuboff, for example, in her important work defining surveillance capitalism, suggests that digital connection has deviated far from the dream of the pro-social democratization of knowledge and become a means to "others' commercial ends."[7] This unprecedented process, she explains, is far more dangerous than the industrial revolution. Unlike traditional market capitalism, surveillance capitalism abandons "the reciprocities of people with society,"[8] demanding both "unimpeded freedom and total knowledge."[9] In this making, "we" are not only the workers and consumers, but also the sources of raw materials and the puppets in the modern economic, social, and political milieu.

As users of Google, Facebook, and Uber, we unknowingly produce extractive value through our everyday desires and clicks. Yet, in this new world of surveillance capitalism, traditional workers *do* exist. The "puppet masters" can appropriately be disaggregated into engineers, coders, mathematicians, social scientists, communication specialists, data workers, and service workers, among others. Indeed, the concrete practices of surveillance capitalism are not inevitable, but produced through and with "factory men (women, nonbinary, and transgender people)"—teams of professionalized individuals whose everyday labor and expertise become integral to producing these troubling instrumentarian powers.

Image 1: Cards handed out at Tech Worker Protest in August 2018 in San Francisco

Image 2: Tech Worker Protest Against Salesforce's Contract with CBP, August 2018 in San Francisco

I. The Fissured Workplace & Invisible Labor:
Life on the Platform Floor

What, if anything, unifies Uber drivers who are transporting bodies, and engineers who were transcoding life into machine-readable information? As platform companies, I maintain that Google and Uber represent our anxieties about digitalization and the political pathologies and economic inequalities associated with widespread deregulation.

Uber drivers have become symbolic of service workers deployed through labor platforms. They are also among the most marginalized in the US high-tech informal labor economy, working long hours for very little money, while bearing a great deal of capital risk. Google workers, on the other hand, are not always economically marginalized, but they are similarly recipients of—and participants in—neoliberal labor practices driven by tech-utopian convictions. Many workers at Google are temporary, vendor, or contractor workers. They toil as engineers, mathematicians, coders, cafeteria workers, security guards, all without job security, for far less than their employee counterparts, and often under illegal conditions. Indeed, Google uses so much temporary, contract, and vendor labor that the company utilizes a catchy acronym to describe them collectively as TVCs. To be a TVC at Google is to be more than 50% of the company's workforce, and yet to embody a humiliating second-class identity while working alongside FTEs—or full-time employees—who are often doing the same work, but with health insurance.

Both Google TVCs and Uber independent contractors find their roots in a phenomenon that US economist David Weil calls the fissuring of the workplace.[10] In the 1970s, a small number of US firms began deviating from what is known as the dyadic standard employment model. That is, instead of a single employer for whom many different people work, firms created new work models through which they shed themselves of all legal employment responsibilities that were not focused on the businesses' core competencies.

Two different, but similar, triadic work models that emerged during this time relied on the use of independent contractor labor and the use of staffing agencies, both of which took advantage of loopholes in US work law. In these models, the risk and responsibility of business and employment were displaced onto another entity. With the independent contractor model, the risk shifted onto the worker, who bore all the responsibilities traditionally associated with business. And in the staffing agency model, the risk was displaced onto both the staffing agency, who became the employer of the worker, and the worker who, although covered by some labor law protections, served in a temporary capacity at the whim and whimsy of two masters. Again, although they

originated more than four decades ago, both business models have grown dramatically in the tech sector, and they have profoundly shaped the experiences and conditions for workers across the platform economy.

For example, in my research, I found that the precarity of app-deployed ridehail workers is linked directly to their treatment as independent contractors. Uber drivers in the US overwhelmingly complain about the structures that create both an unstable income and unfair deactivation or termination from the platform.

Charles, for example, is a burly former carpenter who had been injured on the job, couldn't find any other work, and has been driving for Uber and Lyft since the Great Recession. Over coffee one morning, he told me that no matter how long or hard he works, earning an income by driving for Uber is unpredictable. Charles came from a union family and used to disparage Walmart workers who labored for the minimum wage. "Why couldn't they just get better jobs?" he asked. After he lost his own job and was permanently injured, he understood. Out of desperation, Charles began driving for Uber and Lyft. He conveyed his despair and how depressingly unstable and volatile his income has become:

> So when they started dropping the prices … I just kept working more and more and more, to where I'm going, I'm working 60, 70 hours a week. You know, over Christmas, I worked, what, 60 hours every week but the last week of December. And by the time all my expenses were done, I had $200 left over. So my family, for Christmas presents, got to go to Star Wars. That's it. No popcorn, you know, because it's $30 to get into the movies.

Charles, like all other Uber drivers, is considered by Uber and Lyft to be an independent contractor, therefore, he does not have access to the minimum wage or overtime protections, nor in the US, can he access any traditional safety net benefits or even the protected right to collectively bargain.

Most Uber drivers, like Charles, surprisingly, do not directly link their work grievances to their independent contractor identity. Instead, they blame the evil culture of the platform. In fact, about 60% of drivers in my research wanted to remain independent contractors not because they imagined themselves to be small businessmen or micro entrepreneurs, but because they believe that as employees, the company would have the power to further exploit them.

For example, Kendrick, an internal migrant from a mining town in Eastern Kentucky, one of the poorest and most underdeveloped parts of the US, had an impressively sophisticated legal understanding of what it meant to be an employee and the protections the identity offered, but he was apprehensive about the idea of Uber being his legal boss. Kendrick had a mental disorder that presented itself sporadically, and traditional full-time employment was not physically available to him. He needed to work when he could, not when he was told to do so. When asked if he wanted to be an employee, Kendrick said:

> No, not me personally ... Uber's a horrible company. If they did have us as employees, they may be a lot more strict, in terms of the customer feedback ... And they would probably try to control what we wear, and when we take breaks, and when we work. I don't want any of that. I need this flexibility. I don't need them breathing down my neck any more than they are. Hell no.

Fascinatingly, another prominent feature of Uber work is its invisibility in at least two important and profound ways, both intrinsically related to the nature of the platform. First, my driver interlocutors often spoke of the invisible affective labor they are forced to perform for their customer riders, whose whimsical or quirky reviews or poor ratings can get them fired. They complained that their efforts are rarely appreciated. As Mahmood told me, "they—the riders—treat you like you don't have a soul. No matter how hard you try to be nice, they think they are better than you. But you have to smile. They will give you a bad score if you don't."

To my surprise, some Uber drivers also complained about a second form of invisible work that they perform. They were troubled by the ways in which their constant surveillance produced data for Uber, and further, how they were not compensated for that work. Several drivers opened my eyes to the degree to which Uber's long-term business model is not driving or driverless cars, but actually the production of behavioral data[11] based on movement, consumption, and desire. Noori, a 61-year-old former taxi driver and organizer, who fled Afghanistan in the 1980s, said in one of our many conversations:

> Oh yeah, Ms. Veena, you don't know? [in response to my surprise]. How do you not know? How do you think they are going to survive? They lose money on each ride. But they sell our data. Where I go, who I pick up, where they go, when they go ... And you know, they are always watching. That is how it feels. You are ... so smart, how did you not know?! And just like that, they make money, and we make nothing. Just like that.

Finally, many of the most prominent ways that Uber drivers experienced their work was not—in Kendrick's terms—with a human boss breathing down their neck, but with an invisible, algorithmic one nudging them or threatening them. Drivers told me of the constant alerts that menacingly discouraged them from rejecting rides, automated text messages alerting them when they were driving too fast, and even pop-up messages pushing them to drive just a little farther and a little longer to reach a milestone.

The working conditions of engineers or coders at Google did not directly mirror the extraordinarily exploitative and difficult work lives of Uber drivers, but the number of similarities in how white-collar platform workers defined their grievances was surprising. Many Google workers in my research—almost all of them people of color—who organized to resist the company's labor and business practices, described the ways in which Google's fissuring model and use of TVCs created an uncomfortable internal caste system. One contractor, a woman of color, told me:

> I didn't push back, I just took the contractor job. I didn't realize it was a caste system. It's humiliating. I hide my [contractor] badge when I walk around the campus. People look at you differently. You see signs like you get $10 if you test an android product, but then there's a sign that says "sorry no TVCs" right below it. The sorry is kind of offensive. 'Sorry' feels like you did it by accident. But it's on purpose. And [as a contractor], you can't access so many things. Not just physical things, but things on the system … and it feels like a constant interview because I want them to hire me as an employee. So, I work over and beyond. I mean, I don't even log my overtime. I am not getting paid for all my work. My supervisor knows it.

Like Uber drivers, the work experiences of Google workers are profoundly shaped by the platform's fissured business practices. In support of a March 2019 strike by Uber and Lyft drivers in Los Angeles who were protesting rate cuts, Google Walkout for Change (a group that emerged from the Tech Workers' Coalition and has many overlapping members) released a statement:

> Here at Google, over half of our coworkers are classified as … TVCs. … Like with rideshare drivers, these classifications permit Google to abdicate its responsibility to the majority of the workforce. Many of our TVC colleagues work without benefits or adequate pay, while a handful of Google executives reap hundreds of millions of dollars of personal wealth. …The problem is easily fixed. … It's time to end the two-tier system that treats some workers as expendable. From rideshare drivers, to cafeteria workers, to the many contractors who build and maintain tech products. We all contribute and we all deserve a share.[12]

Although Google workers, by and large, get paid in ways that don't create precarious economic desperation, they, too, spoke of invisible control exerted by the company. Many of my meetings with these Google workers have taken place in their corporate spaces. The outside of the buildings are invariably drab and lifeless, but the inside is always a wonderland of color and energy and feelings of opportunity. Gorgeous art and modern interior design are complemented by bright, energetic lighting. And free amenities abound. Expensive, fancy coffees are handed to workers, who also get free lunch, free dry-cleaning, free on-site wellness classes, free gym access, free nap pods, so many free things that they never have to leave work. Their lives easily become subsumed by Google. Indeed, one of my interlocutors observed the insidious timings of when meals are served. Dinner is served at 6:30pm, so although most people are inclined to leave at 5:30pm, they know if they stick around just a little bit longer, and work a little bit more, they can get a free meal.

In addition to this invisible structural pressure to work all the time—like Uber drivers—some of the work that Googlers do is invisible, particularly when it relates to controversial projects. Jack Paulson is a highly paid mathematician who very publicly quit his job at Google over an Artificial Intelligence contract that created weapons technology for the US Department of Defense called Project Maven. He recently learned that while Google disbanded his team over their protest, the company did not actually halt the project. Instead, they nefariously outsourced it to Google workers all over the world who labor in a piecemeal assembly line and who didn't know or understand what they were doing. Their work product, Jack said, was invisible to them.
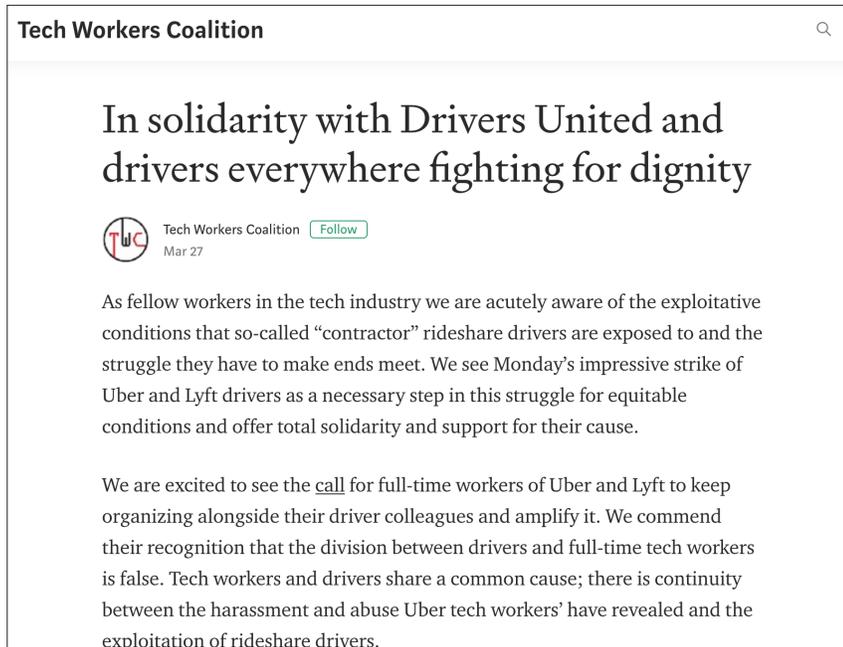
II. Solidarities & Law

Given these working conditions, it is perhaps not surprising that my research documents an upsurge of resistance among both white-collar and blue-collar tech workers from San Francisco to Silicon Valley. What has been surprising is the degree to which the resistance movements they are building intersect and the ways in which they eschew the role of the law in their actions. How do workers understand, resist, and build collectivities (if at all) amidst rapid technological transformation, and what role do they see the law playing in their concerted activities?

I've followed and worked within and among several different groups of Uber drivers and tech workers that have sprung up in the last 3-5 years to challenge the actions of the companies for which they labor. The organizations that have sustained themselves and grown employ *solidarity unionism*. Labor laws make the formation of a traditional union that is recognized by the National Labor Relations Board and the employer very difficult for workers laboring in fissured workplaces. As a result, many workers in these groups see labor law as a hindrance to their vision and believe strongly in forming cross-sector and international worker alliances, both of which are largely impossible under the US labor law regime.

So, how have they, if at all, related to the law? Many organized Uber drivers, rather than embrace the misclassification litigation that challenges their employment status in courts across the US, have begun to avoid the issue in their organizing tactics altogether. While many of their issues could arguably be solved by pushing for reclassification as employees, they work towards building a power base that brings the state in, not to regulate labor, but to regulate the business. They want, and are pushing for—and even achieving—regulations to destabilize Uber's growth and to restrict supply and demand through vehicle cap and fare regulation in a way that can standardize and secure their income without employment status.

Notably, both the New York Taxi Workers Alliance (NYTWA) and the California Rideshare Drivers United groups both identify as worker centers and not unions, so they can engage in secondary boycotts, include undocumented workers among their ranks, and engage in direct actions without a vote—which are illegal or legally risky under US labor law. Some within the US labor movement have encouraged these drivers to learn from the platform companies, to build their base recklessly through technology, but these worker groups, as part of their model, emphasize the importance of one-on-one interactions in building what they call "solidarity consciousness." California Rideshare Drivers United has created an app that facilitates and documents one-on-one interactions as an organizing tool to help engage their base.

Tech Workers Coalition

In solidarity with Drivers United and drivers everywhere fighting for dignity

Tech Workers Coalition [Follow]
Mar 27

As fellow workers in the tech industry we are acutely aware of the exploitative conditions that so-called "contractor" rideshare drivers are exposed to and the struggle they have to make ends meet. We see Monday's impressive strike of Uber and Lyft drivers as a necessary step in this struggle for equitable conditions and offer total solidarity and support for their cause.

We are excited to see the call for full-time workers of Uber and Lyft to keep organizing alongside their driver colleagues and amplify it. We commend their recognition that the division between drivers and full-time tech workers is false. Tech workers and drivers share a common cause; there is continuity between the harassment and abuse Uber tech workers' have revealed and the exploitation of rideshare drivers.

Image: From a Medium Post by the Tech Workers Coalition, posted on March 27, 2019 https://medium.com/tech-workers-coalition/in-solidarity-with-drivers-united-and-drivers-everywhere-fighting-for-dignity-42c0f58b9c35

The Tech Workers Coalition, which has been strategically supporting the Uber groups I have been studying, sees forming class solidarity as intrinsic to curbing the greater societal, social, and political harms posed by platform capitalists. For example, Asher, a 28-year-old Arab American man who works as a coder at Google and has been central to the Tech Worker Coalition organizing, including as one of the central organizers in the global Google Walkout, told me:

> We have to balance the business model and ethics stuff and find a way to connect it to the workplace issues. We want to show how marginalized communities are targeted by predictive policing and shitty jobs. But in the long term, we have to win on the work place conditions stuff. If we can't fight poverty, it won't matter if we can slow down facial recognition technology. We won't be able to win on anything. Because there will always be an underclass no matter what success we have on the other side. If there is still a profit motive, if there are still execs and CEOs, then even if we do win, we will get our wins rolled back. Look at what happened with Project Maven. They disbanded it, and then [secretly] brought it right back.

He and others, like the coalitions of Uber drivers, actively avoid utilizing traditional labor law to address their grievances. In another conversation, Asher emphasized:

> We don't want an equal playing field. We don't want to sit at the bargaining table. We don't care about profit-sharing or having a fair day's pay for a fair day's work. We are responding to human need. We want to defeat management. We want to run the companies. The specter of the law actually prevents solidarity. Like when we were organizing the Google walkout, we were thinking if the Facebook workers walk out too, is that against the law, is that a secondary boycott…in the end we got a legal opinion saying it wasn't, but even that consciousness, worrying about the law, it prevented what we thought we could do.

His friend and fellow tech worker and organizer Paul added:

> The courts and legislature is the ruling class's playing field. Our playing field is the workplace and the streets. The law could never speak to everything that impacts our lives and our sense of justice. It's a dagger, not a sword. There's not going to be a law that says you should make a living wage from one job … We want to be able to do those things—not ask our legislatures to do that. We want to leverage the power that we have.

The specter of the law and the law itself had been a hindrance to forming the kind of global solidarity unionism that all of these groups of platform workers envision. For Uber drivers, their independent contractor status has, for many years, prevented them from forming alliances with traditional unions. At Google, the TVC status of some workers also has fashioned arbitrary divisions between people whose interests and livelihoods are intertwined.

For many very valid reasons, these worker-organizers are skeptical of the role of law in helping them achieve their visions for the future. The normative question is: How, if at all, can labor law support this vision of solidarity unionism? Or will the law, by its very nature, always serve as a status function to maintain power dynamics, as Paul passionately argued?

While I reimagine a new labor law regime for the digital world, Paul, Charles, Kendrick, Asher, Charlotte, Esther, Diana, and hundreds of other workers I have researched and worked alongside, are potentially determining how the future is made through an ethos of mutual aid and near-constant one-on-one solidarity building. They believe that workplace resistance—resistance to the platform floor and its tiered labor practices—is intrinsically necessary to the essential social participation that may undermine— or at least re-write— the moral and ethical rules governing surveillance capitalism. As Paul told me recently:

> You can have power over those things if you are organized. It's a reason for radicals to work in these industries. We can have an impact on what's next. Workplace organizing is the only way to impact the world outside violent insurrection. There's intersectionality between workplace conditions and American imperialism and white supremacy. There's a thread that connects them all.

Conclusion

In 1949, the father of Cybernetics theory wrote a letter to the president of the United Auto Workers. Norbert Wiener wrote from his lab at MIT to Walter Reuther in Detroit, Michigan, informing him that members of industry were asking for his contributions to develop autonomous machinery. In many ways, reading the letter seventy years later reveals the mistakes that organized labor made in the years following the war which contributed to the subsequent rise of precarity and neoliberalism.

Wiener tells Reuther that the technology to create the machinery is easy, but he hoped the union—the workers on the shop floor—would join the movement against autonomous machines because of the larger social harms they may have. Today, in this historic moment of rapid technological upheaval, it may be the intentional intervention of radical, organized worker collectivities that upends the foreordained doom of platform capitalism and that creates and inspires just, equitable, moral, democratic economies of the social.

> South Tamworth, August 13, 1949
>
> Walter Reuther
>
> Union of Automobile Workers
>
> Detroit, Michigan
>
> Dear Mr. Reuther,
>
> First, I should like to explain who I am. I am Professor of Mathematics at the Massachusetts Institute of Technology, and Iam the author of the recently published book, Cybernetics. As you will see, if you know of this book, I have been interested for a long time in the problem of automatic machinery and its social consequences. These consequences seem to me so great that I have made repeated attempts to get in touch with the Labor Union movement, and to try to acquaint them with what may be expected of automatic machinery in the near future. This situation has been brought to a head by the fact that I have been approached recently by one of the leading industrial corporations with the view to advising them as to whether to go into the problem of making servo-mechanisms, that is, artificial control mechanisms, as part of their extended program.

To understand the everyday logics of these platforms and the potentially deleterious worlds they create, we must also understand the traditional and non-traditional labor conditions produced by them—the experiences of the workers on the "shop floor."   But if we are all workers in this brave new world, why bring special light to the immoral economies of work within firms? After all, as scholars have rightfully illuminated, in many ways, the powerful strength of surveillance capitalism has been gathered outside of democracy—especially in the ways that our human experiences and

labors have been secretly expropriated. Should we not, then, use our still-healthy institutions and focus our legislation and jurisprudence on reigning in these oppressive and unjust practices, which impact not just a few, but *all*?

While such external regulatory frameworks are appropriately debated, an unmistakable *friction* in the machine of surveillance capitalism may be slowing the process down from within. Traditional workers within large technology firms have been resisting in traditional ways—through the creation of in-person solidarities and the use of direct actions, including strikes, slow-downs, and protests. These acts of internal firm friction have been largely overlooked by both legal scholars and policy makers probing through antitrust and privacy law frameworks to reign in the power of the platforms in our everyday lives.[13] And yet, as I show here, the potential impact of traditional worker friction goes beyond ameliorating immoral work economies. Perhaps more so than any single individual, government body, or capital investment firm, "shop-floor" workers have the potential to renew the digital economy's roots in the social, find new ways of owning and working, and replenish democracy—for all of us—in the coming decades.

Notes

1 Google Walkout for Real Change. (2018, December 5). "Invisible no longer: Google's shadow workforce speaks up." Medium. Retrieved April 22, 2022, from https://googlewalkout.medium.com/invisible-no-longer-googles-shadow-workforce-speaks-up-9ea04b7bcc41

2 Weil, D. The Fissured Workplace (p. 4). Harvard University Press. Kindle Edition.

3 Wong, J. C. (2018, December 12). "Revealed: Google's 'two-tier' workforce training document." The Guardian. Retrieved April 22, 2022, from https://www.theguardian.com/technology/2018/dec/11/google-tvc-full-time-employees-training-document#:~:text=According%20to%20a%20current%20employee,complicated%20labor%20activism%20at%20Google; West, S.M., Whittaker, M. and Crawford, K. (2019). Discriminating Systems: Gender, Race and Power in AI. AI Now Institute. Retrieved from https://ainowinstitute.org/discriminatingsystems.pdf

4 See e.g., Uber BV v Aslam [2021] UKSC 5 and Uber v. FNV [2021]ECLI:NL:RBAMS:2021:5029, Amsterdam District Court, 8937120 CV EXPL 20-22882.

5 West, S.M., Whittaker, M. and Crawford, K. (2019). Discriminating Systems: Gender, Race and Power in AI. AI Now Institute.

6 Polanyi, K. (2001). The Great Transformation: The Political and Economic Origins of Our Time. New York: Beacon Press, 2nd edition.

7 Zuboff, S. (2019). The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power (p. 9). New York: PublicAffairs.

8 Zuboff, S. (2019). The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power (p. 21).

9 Id.

10 Weil, D. The Fissured Workplace (p. 4). Harvard University Press. Kindle Edition.

11 Recently, Uber drivers in London have sued to get some of this data, utilizing the EU's new GDPR rules in which individuals have the right to personal data held by a company, even if that company is their employer. Taylor, C. (2019, March 22). Uber faces fresh legal challenge over Driver Data. CNBC. Retrieved April 22, 2022, from https://www.cnbc.com/2019/03/22/uber-faces-fresh-legal-challenge-over-driver-data.html

12 Released via Twitter on March 26, 2019.

13 For a good exception, see Sidney Rothstein's article, "Unlikely activists: Building Worker Power Under Liberalization." Socio-economic Review 2018.