

Neoliberal Policies and Rhetoric in the Struggle for Ontario Gig Workers' Rights

by

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Abstract

This thesis explores how neoliberal discourses of the 'gig economy' have shaped the terrain of gig worker organizing in Ontario, by interrogating and contextualizing Uber's efforts to legitimize and further expand its Ontario operations during and after the COVID-19 pandemic. The thesis focuses on the centrality of Uber's appeals to (and reproduction of) what I call workers' "entrepreneurial common sense." Drawing on semi-structured interviews with current and former Uber drivers and delivery workers, the thesis explores the contradictory forms of independence experienced by platform-mediated workers, and reflects on the significance of the perception of gig work as the 'least worst option' within the contemporary labour landscape.

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Chapter 1: Introduction

How have neoliberal discourses of the gig economy shaped the terrain of gig worker organizing in Ontario? This question is inspired by the evolution and expansion of the gig economy over the past decade, from a post-2008 neologism to an increasingly taken-for-granted segment of the labour market since the COVID-19 pandemic. I am interested in the dialectical relationship between discourses of the gig economy and other material barriers to organizing that have developed throughout the neoliberal era and intensified in the twenty-first century. Key dimensions of this increasingly-challenging organizing environment include the neoliberal restructuring of employment policy, the weakening of the labour movement, and the overarching intensification of precarity over the past half century.¹ These developments have occurred through a multifaceted process of restructuring that involved policy changes, technological advancements, and shifting class alliances, amid the production and reproduction of neoliberal common sense.

The rise of platform-mediated gig work, exemplified by the company Uber, is an illustrative example of the contradictory yet overlapping ways that the changing world of work in the twenty-first century is articulated in a manner that builds on, and reproduces, the common sense of the neoliberal project. Indeed, my research question was initially inspired by the manner in which the discourses

¹ Charles Smith, "Class, Power, and Neoliberal Employment Policy in Ontario," in *Divided province: Ontario politics in the age of neoliberalism*, ed. Bryan M. Evans and Gregory Albo (McGill-Queen's University Press, 2018): 296-327; Donald Swartz and Rosemary Warskett, "Canadian Labour and the Crisis of Solidarity," in *Rethinking the Politics of Labour in Canada*, ed. Stephanie Ross and Larry Savage (Fernwood Publishing, 2012): 18-32.

attached to Ontario's attempts to regulate the gig economy; specifically the legal rights of gig workers, were operationalized as part of a concerted effort to uphold the status quo in Ontario during the pandemic.

These contradictory developments inspired the temporal focus of my research: the multifaceted struggles surrounding the creation and passing of the *Digital Platform Workers' Rights Act* (DPWRA) in 2022.² The DPWRA was lauded by Ontario's Progressive Conservatives (PCs) for purportedly making Ontario the first province to guarantee basic rights and protections to "platform workers," including a minimum wage.³ Yet implicit in this "guarantee" is the assumption that platform workers do not already have rights and protections under existing labour laws, like the *Employment Standards Act* (ESA) and the *Occupational Health and Safety Act* (OHSA).⁴ The assumptions embedded in the DPWRA reflect Uber's well-documented influence on the legislation, one critical component of the rhetorical and political struggles alluded to above. As I discuss throughout this project, the classification of gig workers as independent contractors (and specifically not as employees) is central to Uber's business model, as well as the many other digital platforms that offer on-demand services inspired by (and sometimes in competition with) Uber.

² *Digital Platform Workers' Rights Act*, 2022, S.O. 2022, c. 7.

³ Doug Ford [@fordnation], "The Gig Economy Is One of the Fastest Growing Employment Sectors in Ontario. We Will Be the First Province in Canada to Establish a Minimum Wage and Other Important Protections for Workers. Together, We're Building an Economy That Works for Everyone. #WorkingForWorkers," Twitter (now X), March 2, 2022.

⁴ *Employment Standards Act*, 2000, S.O. 2000, c. 41; *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

The implications of the DPWRA reflect an ongoing debate regarding the legal status of gig workers, and whether they should be considered employees rather than independent contractors. This debate broadly revolves around the question of whether Uber's platform-based business model and the technologies involved make the company (and its relationship to its workers) incompatible with existing regulatory categories. These interconnected debates are central to the discourses of the gig economy that I explore throughout this project. The significance of these debates lies not only in their legal and regulatory implications, but also in the ways that they influence workers' understandings of their relationship to Uber, and to other gig workers. As such, these debates and discourses have very real, material stakes, as they interact with workers' understandings of their own rights and positions within the framework of labour law, as well as the broader terrain of class struggle.

I focus on gig workers who drive or deliver for the company Uber, who have been described as “the paragon of the new 'gig economy,' in which work is increasingly precarious, insecure, and yet highly optimized for both firms and end users.”⁵ This thesis interrogates and contextualizes Uber's efforts to legitimize and further expand its operations in Ontario during and after the COVID-19 pandemic, through lobbying policymakers, extensive public relations campaigns, as well as a controversial partnership with the United Food and Commercial Workers (UFCW). Part of this entails a detailed analysis of Uber's platform business model, specifically its technologically-mediated relationship to its workers and the

⁵ K. Sabeel Rahman and Kathleen Thelen, “The Rise of the Platform Business Model and the Transformation of Twenty-First-Century Capitalism,” *Politics & Society* 47, no. 2 (2019): 178.

dynamics of labour exploitation therein. This builds on a range of critical analyses of Uber's model of platform-mediated gig work, as well as my ten semi-structured interviews with current and former Uber drivers and delivery workers.

Theoretical Starting Points

There is no doubt that the world of work—the kinds of work that people engage in, and the ways in which people talk about and make sense of the role of work in our lives—has transformed over the last half century. These changes further extend into the demographics of the working class (including the under and the unemployed), the dynamics of the labour movement (including its perceived decline), and the shifting terrain of employment and labour relations policy. The exponential growth of the digital economy since the 1990s is in many ways intertwined with these widespread changes, which extend beyond workplaces and increasingly into every corner of our lives. Yet technological transformations, which are not only felt in and outside of work but contribute to a blurring of that very distinction, cannot explain the totality of political economic restructuring that has taken place over the same period and in many cases preceded it. It is difficult to imagine how a digital economy or a gig economy could have been possible without the pre-existing neoliberalization of labour markets, economic and employment policies, and common sense.

My focus on gig workers, specifically those whose work is mediated by digital platforms or apps like Uber, is inspired by my interest in neoliberal capitalism as a multifaceted process of political economic restructuring that has become so naturalized and normalized that its basic precepts and assumptions are

taken for granted by all political parties and large swaths of the working class itself. This restructuring has been well-documented by Canadian political economists who broadly describe this process in terms of a multifaceted attack on workers and a weakening of organized labour, engendering a “crisis of solidarity.”⁶ Over decades, this crisis has remolded common sense, shaping and framing the acceptable bounds of policy and discourse into a neoliberal frame.⁷

My interest in common sense builds on Stuart Hall’s theorization (following Gramsci) of the materiality of ideology and discourse, which broadly emphasizes how politically contested frameworks of meaning shape the limits and possibilities of struggles, and are themselves arenas of struggle. Put simply, ideas and language dialectically interact with our material reality; they are shaped by pre-existing material conditions and social relations, while also informing the ways that we engage with and participate in these structures and dynamics. Thus “common sense” broadly describes the ways in which people intuitively make sense of the world through frameworks of meaning that are contradictory, ideological, and enmeshed in structures of domination.⁸ Similarly, ideology, for Hall, refers to “the mental frameworks – the concepts, categories, imagery of thought, and the systems of representation – which different classes and social groups deploy in order to

⁶ Swartz and Warskett, “Canadian Labour and the Crisis of Solidarity,” 18-19.

⁷ Stuart Hall and Alan O’Shea, “Common sense neoliberalism,” *Soundings*, no. 55 (Winter 2013): 8-9.

⁸ Stuart Hall, “Gramsci’s Relevance for the Study of Race and Ethnicity,” *Journal of Communication Inquiry* 10, no. 2 (1986): 20.

make sense of, define, figure out and render intelligible the way society works.”⁹ Ideologies become common sense through discourse, through the discursive process of applying ideologically-informed frameworks of meaning to the material world and the web of relational activity therein.¹⁰ We constantly encounter a variety of perspectives or attempts to make sense of different aspects of the world and everyday life, in media, in conversation with others (whose ideas are also a patchwork of the various discourses they interact with in different ways) which continually shape our worldview, consciously or not. This conceptualization of ideology and discourse emphasizes “the ways in which ideas of different kinds grip the minds of the masses, and thereby become a ‘material force.’”¹¹ Accordingly, the terrain of discourse, or “the battle over common sense” is a fundamental component of the organizing climate that unions and activists continually navigate, and thus understanding it is a strategic imperative.

As Hall reminded us, hegemony is often conflated with “dominant ideology” or “the status quo,” and “hegemonic” is often used to describe something as in line with dominant ideology or working in the interests of the ruling class.¹² However, according to Gramsci’s conceptualization, hegemony is not simply the

⁹ Stuart Hall, “The Problem of Ideology-Marxism without Guarantees,” *Journal of Communication Inquiry* 10, no. 2 (1986): 29.

¹⁰ Stuart Hall, *The Fateful Triangle: Race, Ethnicity, Nation*, ed. Kobena Mercer (Harvard University Press, 2017): 31.

¹¹ Hall, “The Problem of Ideology,” 29.

¹² Hall “Gramsci’s Relevance,” 15; These definitions are not entirely wrong, especially because, as Hall notes, Gramsci did not coin the term hegemony – at the time of his writings he did not necessarily believe he was creating a new concept, but that he was elaborating on Lenin’s theorization.

status quo, but is rather an *expectation* of certain relations and formations that are constantly reproduced on multiple fronts by a coalition of ruling class interests. This conception of hegemony clarifies how power is achieved and sustained, emphasizing its dynamism and socially-negotiated character, instead of reifying existing relations of domination as static and consistent. This is further illustrated in Hall's description of hegemony as a "very particular, historical and temporary 'moment'" that is "actively constructed and positively maintained" by "a constellation of social forces." These moments of hegemony are constituted by the process of a dominant group working to coordinate its interests "with the general interests and the life of the state as a whole," which necessarily takes place in multiple arenas of society.¹³ Gramsci was ultimately interested in how "common sense" could be replaced with "good sense"; if there are areas within common sense where the contradictions are barely obscured and the cruel realities of the world are naturalized, these are the areas we have to target and organize around.¹⁴

By the time the COVID-19 pandemic unfolded in 2020, neoliberal policies and discourses had been reshaping the terrain for more than 40 years. At the same time, the pandemic highlighted contradictions within neoliberal common sense, as well as the consequences of neoliberal policies in many regards. One of the most striking examples of the former is the way in which the early pandemic rhetoric of keeping each other safe (even if you did not personally know anyone who was immunocompromised) by staying home in the interest of an abstract communal

¹³ Hall, "Gramsci's Relevance," 15.

¹⁴ Hall, "The Problem of Ideology," 42; Hall and O'Shea "Common-sense neoliberalism," 10.

wellbeing, was in many ways incompatible with the “active individualism” that is deeply embedded in neoliberal common sense.¹⁵

Neoliberal policies themselves exposed their contradictions; some of the most clear-cut examples were the exacerbation of the crisis due to hospital bed shortages (a consequence of decades of austerity), staffing shortages due to the freezing of Ontario nurses’ wages, and the excess deaths that occurred in privatized long-term care.¹⁶ Although the state paid people to stay home (not particularly neoliberal, on the face of it), that this occurred through emergency relief benefits and tax benefits, and did not include broader structural changes that would benefit all workers in the long-term (like paid sick days or rent freezes), was indicative of the shallowness of neoliberal imagination. The relief payments encouraged individual consumption in the short-term for some workers, while many of the most precarious members of society fell through the cracks.¹⁷ It was in the midst of this multifaceted crisis that Uber and related platforms filled some of the gaps within the Ford government’s austere, public-private pandemic response in a manner that was mutually beneficial for the state and capital.

¹⁵ Jamie Peck and Adam Tickell, “Neoliberalizing Space,” *Antipode* 34, no. 3 (July 2002): 381.

¹⁶ Cass Kislenko, “How Healthcare Privatization In Ontario Made The Pandemic Worse,” *The Maple*, March 15, 2023; Doug Allan, “Ontario Hospital Crisis: No Capacity, No Plan, No End,” *The Bullet*, December 6, 2023.

¹⁷ For further discussion of these tensions and their impact on work and labour, see Stephanie Ross and Larry Savage, “Canadian Labour and COVID-19,” in *Rethinking the Politics of Labour in Canada* (2nd ed. Fernwood, 2021): 17.

Methodology

My recruitment process began in late 2022, and I conducted ten interviews between July and October 2023. I anticipated some challenges in recruitment, though not the full extent of those I ended up facing. Originally, my plan was to interview up to twenty gig workers, for qualitative rather than quantitative analysis, but even recruiting twenty participants proved to be a challenge. I reflect on these challenges and their relationship to the interview process overall in chapter five.

My methodology was inspired primarily by two different approaches to researching gig work and gig workers that I encountered prior to commencing this project. The first is outlined in Alex Rosenblat's *Uberland: how algorithms are rewriting the rules of work*. Rosenblat describes herself as a technology ethnographer; her research methods primarily involved her conducting interviews with drivers while they were on the job, maintaining contact with some over the course of her four-year research period, as well as regularly consuming and interacting with the world of Uber driver media, including blogs, online forums, and other social media platforms.¹⁸ As indicated by its title, *Uberland* highlights the force of technology as a driver of the restructuring represented by the emergence and successes of companies like Uber. Rosenblat does emphasize the political-economic context of the Great Recession as an important factor in understanding the efficacy of Uber's contradictory branding as both a "benevolent job creator" and a "disruptor." Yet her critique of Uber's discursive strategies is tempered by

¹⁸ Alex Rosenblat, *Uberland: How Algorithms are Rewriting the Rules of Work* (University of California Press, 2018): 1-20.

her ambivalence toward the implications of gig work being increasingly normalized.

Rosenblat's emphasis on drivers' experiences and perspectives was an important contribution at the time, particularly in response to Uber's branding that might lead customers to think drivers are better off than they are – especially if you are a city-dweller who cannot afford a car. The relationship between customers and drivers/couriers is particularly contradictory, because even though the customer is most likely also a worker, if we take Uber's description of the platform relationship at face value, then during a given trip or delivery transaction the customer takes on the temporary role of the service purchaser (not quite an employer but effectively a platform-mediated manager).¹⁹ This managerial power is established through the idea that technically it is the customer who is paying the driver or courier, even though Uber sets the price or compensation for all parties involved. The customer's temporary embodiment of the algorithmically-mediated manager is reinforced by the relative importance of customer ratings, and the weight of customer complaints – both spark an algorithmic response that can include automatic suspension or deactivation. However, it is important to reiterate that Uber has control over these automated systems, and thus the customer-as-manager should be understood as another form of offloading responsibility and costs on Uber's part.

This contradictory dynamic between customers and drivers/couriers reveals one of the major shortcomings of Rosenblat's analysis, which relates to some of the

¹⁹ Eric Tucker, "Ambiguities and Absences: Occupational Health and Safety Regulation of Platform-Mediated Work in Ontario, Canada," in *Journal of Work Health and Safety Regulation* 1, no. 1 (2023): 35-36.

ambiguities that seem to emerge from her methodological decision to centre her discussion of the realities of driving for Uber around the perspectives of workers whom she predominantly interviewed on the job. Her conclusions are notably ambiguous as to “whether the new norms Uber ushers in are better or worse for labor and for consumers.”²⁰ In relation to the possibilities for coercion in the customer-driver dynamic, it seems that this ambiguity might have been exacerbated by her taking drivers’ accounts of their earnings and the positive aspects of the job at face value, without reflecting (at least in the book) on the possibility that workers being in “service provider mode” might influence their reflections on their work. “Indeed, [...] what appears as ‘autonomy’ is most often the interiorization of the employers’ needs.”²¹

In contrast to Rosenblat, Katie Wells et al. highlighted a reoccurring finding (that has been noted in other studies on Uber drivers) wherein workers would express awareness of the downsides of the gig, but then describe themselves as the exceptions that proved the rule, as well as other findings Wells et al. discuss in relation to the atomization and lack of solidarity amongst workers.²² After I did my first project on Uber, wherein I analyzed discussion threads on an online forum, the subjective dimensions to the gig worker struggle seemed increasingly important to grapple with. Entrepreneurial subjectivity and jadedness/defeatism both reproduce

²⁰ Rosenblat, *Uberland*, 207.

²¹ Sylvia Federici, “On Affective Labor” in *Cognitive Capitalism, Education, and Digital Labor*, ed. Michael Peters and Ergin Bulut, (Peter Lang, 2011): 70.

²² Katie J Wells, Kafui Attoh, and Declan Cullen, “‘Just-in-Place’ Labor: Driver Organizing in the Uber Workplace,” *Environment and Planning A: Economy and Space* 53, no. 2 (2021): 323-324.

consent in different ways – one is an active form; the other is the product of being convinced there is no better alternative, and neither is mere “illusion.” These subjective considerations are important for any form of organizing on a mass scale – and scale is more important than ever in the face of these massive corporations. Yet the idea that there is no better alternative is powerful, and Uber reproduces this sentiment through the way it positions itself between consumers, workers and neoliberal governments, and with each carveout it achieves – and by extension with each organizing or advocacy effort it actively undermines.

This relates to the second approach to researching gig workers that inspired my methodology, broadly, autonomist Marxism, specifically, the notion of “digital workerism.” Autonomist Marxism encompasses the *operaismo*, or workerist Marxist tradition, as well as the contributions of Marxist Feminists like Sylvia Federici and of the “post-operaismo” like Antonio Negri. Workerism is known for its contributions to class analysis, particularly its emphasis on capitalist development and the use of machinery (technology) in the workplace, as fundamentally antagonistic. More specifically that capitalist restructuring is always entwined with a re-composition of the working class, and that the primary function of technology in the workplace is the “decomposition” of the working class – essentially, the undermining of working-class power.²³

Workerism inverted what was at the time something of a perceived Marxist tendency to emphasize capitalist development as a force of its own, something that

²³ Nick Dyer-Witheford, *Cyber-Proletariat: Global Labour in the Digital Vortex* (Between the Lines/Pluto Press, 2015): 28-31.

workers were solely subjected to, making the question of agency unimportant. Workerism highlights the existence of the working class as fundamental to the capitalist mode of production, thus making the domination of said class the primary function of capitalist restructuring in response to crises. It is a framework that emphasizes struggle as a force of capitalist development rather than seeing it being driven by an abstract notion of profit maximization. Marxist Feminists further elucidated how sites of struggle extend beyond the workplace, by highlighting capital's reliance on women's unpaid domestic labour for the reproduction of its value producers, paid male workers.²⁴

“Digital workerism” is a methodology advanced by Jamie Woodcock, which builds on his earlier research on the gig economy and his editorial work with *Notes from Below*. It builds on the autonomist tradition described above, as well as Nick Dyer-Witheford's development of “post-post-operaismo” to both extend the foundations of workerism into our present context and to “supersede it.”²⁵ Most crucially, aside from emphasizing technology and development as antagonistic and as inseparable from class struggle, is that workers' experiences matter not just to help understand capitalism but in developing a struggle against it.²⁶ Woodcock insists that even more than undermining workers' agency, platforms have created

²⁴ Dyer-Witheford, *Cyber-Proletariat*, 30. For in-depth discussion of these dynamics: Tithi Bhattacharya, “How to Not Skip Class: Social Reproduction of Labor and the Global Working Class,” in *Social Reproduction Theory* (Pluto Press, 2017): 68-93.

²⁵ Jamie Woodcock, *The Fight Against Platform Capitalism*, (University of Westminster Press, 2021), 19.

²⁶ Woodcock, *The Fight Against Platform Capitalism*, 24.

new possibilities for global struggles against capitalism. This thesis aims to explore whether this is true.

I will begin in the next chapter by exploring the historical emergence of gig work through key moments in the neoliberal restructuring of Ontario, their discursive justifications, and how these processes set the stage for Uber's entry into the Canadian market. Chapter Three is then centred around the DPWRA and labour struggles during the pandemic, Uber's lobbying efforts, and the battle over gig worker common sense. In Chapter Four I build on my interview data to expand on workers' experience with Uber's model of platform-mediated gig work, reflect on how these experiences inform a contradictory form of entrepreneurial common sense, and consider the implications of these dynamics on the challenge of organizing gig workers. In chapter five I conclude by reflecting on the broader implications of my analysis for future struggles, and identify future lines of inquiry.

Chapter 2: Gig Work & Platform Capitalism

In the aftermath of the 2008 financial crisis, discourses of the gig economy emerged through various attempts to make sense of how work was changing, for better or for worse. The concept has always been contradictory. On one hand, it depicted a grim reality wherein a growing proportion of workers were forced to piece together a livable income through various part-time, insecure “gigs,” regardless of their education level or degree of “skill.” As journalist Tina Brown wrote in 2009: “To people I know in the bottom income brackets, living paycheck to paycheck, the Gig Economy has been old news for years. What’s new is the way it’s hit the demographic that used to assume that a college degree from an elite school was the passport to job security.”¹ On the other hand, the burgeoning Silicon Valley start-up industry portrayed the future of gig work as progressive and liberating, with technology enabling a transcendence of the rigidity and banality of traditional employment. As Sarah Kessler recalls, based on her experiences as a tech journalist in the 2010s: “We could work for our neighbors, connect with as many projects as we needed to get by, and fit those gigs in between our band rehearsals, gardening, and other passion projects. It would be more than the end of unemployment. It would be the end of drudgery.”²

¹ Tina Brown, “The Gig Economy.” *The Daily Beast*, January 12, 2009.

² Sarah Kessler, *Gigged: The End of the Job and the Future of Work* (St. Martin’s Press, 2018): x.

The more utopian perspective on gig work reflects its discursive overlap with the concept of “the sharing economy,” of which Uber and Airbnb were “the posterchildren” by the mid 2010s.³ Alex Rosenblat describes the sharing economy as “a social technology movement that capitalized on the economic instability of the Great Recession to sell a narrative.”⁴ This narrative was “a haze of converging ideas with popular appeal,” broadly reflecting claims made by platform companies about how digital technologies would enable more efficient resource sharing, make daily life more convenient, and create new economic opportunities for all.⁵ These discourses became foundational to the common sense of the platform economy, as “smart” devices, apps, and on-demand services like Uber were widely embraced by consumers and mainstream media. While the terminology of the sharing economy has somewhat fallen out of fashion, this altruistic branding of platform companies remains central to their strategies for expansion, in which public support is instrumentalized to push for favourable regulation.

Workers in the Gig Economy

The gig economy can, in the broadest sense, be understood as “an economic transformation in which work in many sectors is becoming temporary, unstable and

³ Sheila Block and Trish Hennessey, “Sharing economy or on-demand service economy?” Canadian Centre for Policy Alternatives (April 7, 2017): 5.

⁴ Alex Rosenblat, *Uberland*, 22.

⁵ Rosenblat, 24, 28. It is also worth highlighting her point that sharing economy discourse built on existing ideas about the democratizing, revolutionary potential of the internet that accompanied its commercialization in the 1990s.

patchworked.”⁶ The emergence of digital labour platforms like Uber in the 2010s has been central to the growing body of research on the gig economy, as well as its persistence in political and popular discourse.⁷ However, the term itself does not have a universally accepted definition, for it encompasses a range of overlapping political economic developments that are intertwined with the multifaceted process(es) of neoliberal restructuring that have taken place over the half century. Definitions of the gig economy vary in terms of their emphasis on unstable labour market conditions, or on a narrower segment of on-demand work arrangements that are mediated through and managed by digital platforms. For example, researchers at Statistics Canada employ a broader definition of gig work being “characterized by short-term tasks, projects, or jobs, with no assurance of steady employment,” while recognizing that a large portion of these non-standard jobs involve digital platforms.⁸

My research focuses on a narrower conception of the gig economy that is centred around the role of digital platforms, specifically Uber, in expanding and normalizing task-based, contingent work under the guise of flexibility and self-employment. I emphasize this conceptualization of the gig economy not only as a labour market trend, but also as an example of how the ways that people think about

⁶ Jamie Woodcock and Mark Graham, *The Gig Economy: A Critical Introduction* (Polity Press, 2020): 3.

⁷ Sung-Hee Jeon, Huju Liu, and Yuri Ostrovsky, *Measuring the Gig Economy in Canada Using Administrative Data*, Statistics Canada, December 16, 2019: 10. These first efforts to measure what was then discussed in terms of “the sharing economy” highlight the conflation of customers and workers as “users” in this earlier formation.

⁸ “Labour Force Survey, December 2022,” Statistics Canada, January 6, 2023.

work (including the distinction between work and non-work) has changed and continue to change, and how recent technological developments factor into these changes. Such technological developments have allowed existing precarious jobs to be reorganized and integrated into a platform-management model, extending capacities for outsourcing, contracting, automation and deskilling, as well as new opportunities for value extraction through the expansion of the market into the digital realm. The political economic conditions encompassed by the gig economy thus represent both continuity and change; this tension is reflected in its overlapping yet contradictory connotations in academic and popular discourse.

The contemporary phenomenon of gig work is intertwined with the proliferation of smartphones and digital platforms, but the concept of a “gig” as a one-off or short-term work arrangement is not new. The term itself “refers back to the short-term arrangements typical of a musical event” wherein an artist would be hired to play at a venue for a night or short period of time.⁹ There are many examples of on-demand work arrangements throughout the history of capitalism, including dock workers, taxi drivers, couriers, domestic and day labourers, though these jobs were not all exclusively performed as ad hoc “gigs” or piecework.¹⁰ Indeed, piece-wages were more common than hourly or time-based compensation until the early nineteenth century, as production became increasingly centralized

⁹ Woodcock and Graham, *The Gig Economy*, 3.

¹⁰ Woodcock and Graham 12-19; Rebecca Schein, “From Free Time to Idle Time: Time, Work-Discipline, and the Gig Economy,” in *Research Handbook on Law and Marxism*, ed. Paul O’Connell and Umut Özsu (Edward Elgar Publishing, 2021): 414-415.

through the first Industrial Revolution.¹¹ Marx describes piece-wages as “the most fruitful source of reduction of wages, and of frauds committed by the capitalists.” Even in “the stormy youth of large-scale industry,” piece-wages were used to get around legal limits on the working day, to lower wages by increasing “competition” between differently-compensated workers, and to unilaterally impose standards on workers that had to be met in order to be paid in full.¹²

There are a number of interesting parallels between Marx’s analysis of piece-wages and Uber’s model of gig work, especially his argument that within a “system of piece-wages, it is naturally in the interest of the worker that he should strain his labour-power as intensely as possible; this in turn enables the capitalist to raise the normal degree of intensity more easily.”¹³ For now, I want to highlight how the historical example of piece-wages demonstrates the interconnectedness of technological development, the development of industry, and changes in the organization of work, including the composition of the working class. Technology does not exist in a vacuum nor *sui generis*; it is shaped by (and shapes) capitalist social relations, and is often wielded as a tool of class warfare. From the introduction of steam power, which fueled the first Industrial Revolution, to the explosion of digital networks at the end of the 20th century, “technological change [...] shapes the terrain on which capital and labour battle for control within the

¹¹ Jim Stanford, “The Resurgence of Gig Work: Historical and Theoretical Perspectives,” *The Economic and Labour Relations Review* 28, no. 3 (2017): 385

¹² Karl Marx, *Capital: A Critique of Political Economy*, vol. 1, trans. Ben Fowkes, (Penguin Books in association with New Left Review, 1981): 694-699.

¹³ Marx, *Capital*, 695; this point is particularly relevant to my discussion of gig workers’ strategies for maximizing earnings (and how this benefits Uber) in chapter four.

workplace.”¹⁴ From this perspective, the emergence of gig platforms “appears to signify radical change towards a decentralized but pervasive form of class discipline over workers, and a return to less standardized and more precarious organizational form of work. While sweating work to private or home-based production is not new, task work platforms have been able to institute Taylorist management techniques despite the dislocation of the workplace through the use of GPS, apps, customer ratings and other forms of surveillance.”¹⁵ With the antagonistic dynamics of capitalist technological development in mind, I now turn to a more focused discussion of Uber and the platform model.

Uber and Platform Capitalism

This project proceeds from the perspective that capitalism is comprised of a contradictory web of social relations that shape, and are shaped by, its historical and material conditions. This definition of capitalism reveals its fundamental dynamism; its history is characterized by periodic crises and its reorientation or mutation in response to said crises. This adaptability works to reproduce the necessary conditions for continuous accumulation and expansion, which include the *appearance* of this continuous expansion as natural and inevitable. So as the productive forces and relations of capitalism constantly mutate, so too do the contours of struggle occurring on both sides of the class divide; a struggle to

¹⁴ Matthew Cole, Hugo Radice, and Charles Umney. “The Political Economy of Datafication and Work: A New Digital Taylorism?” *Socialist Register* 57 (2021): 78.

¹⁵ Cole et. al., “The Political Economy of Datafication and Work,” 82.

reproduce the conditions for capital accumulation, and struggles to mitigate the varied but consistently degrading consequences of reproducing said conditions.

The technological innovations of Silicon Valley start-ups that proliferated around the 2010s heralded the era of what Nick Srnicek terms “platform capitalism.” What broadly connected this rapidly expanding start-up industry was the use of platform technologies to capture and mediate all sorts of everyday activities and interactions, including pre-existing non-standard work arrangements, and extract profits from them in new ways.¹⁶ These industrial developments were the backdrop of the sharing economy discourse described above, and the utopian promises of technologically-enabled self-employment and entrepreneurialism entwined in this broader discursive formation reflected the marketing and recruitment strategies of the burgeoning platform economy.

Srnicek’s analysis of platform capitalism emphasizes the centrality of the platform both as a business model and a capitalist technology in facilitating the reorganization of the forces and relations of production in the twenty-first century, the consequences of which continually shape the contours of class struggle in and outside of the workplace. These recent technological developments have been instrumental not only in facilitating new strategies of capitalist expansion and profit maximization, but also in justifying the consequences of these strategies through discourses of technological progress, freedom, and entrepreneurialism (at which Uber notably excels).

¹⁶ Nick Srnicek, *Platform Capitalism* (Polity Press, 2017): 9-11, 27-50; Cole et. al., “Political Economy of Datafication,” 78-84.

While there are many different kinds of platforms, they can be broadly characterized as a type of business model built around the intermediation of social activity between two or more parties, or “users.” Platforms extract profits by monetizing this activity in various ways, all related to their technologically-enabled capacity to collect and process vast pools of user data.¹⁷ By designing the infrastructure to connect different user groups, platforms govern the scope of the interactions they facilitate, regardless of how neutral they may seem. “What makes them capitalist is that these infrastructures are privately owned and operated to extract profits by becoming the ground on which transactions take place.”¹⁸

Because platforms are intermediaries, they are reliant on “network effects,” which essentially means that the more user activity a platform can capture, the more valuable and useful the platform becomes – primarily for its shareholders, but (at least in theory) for users as well. For example, Uber only makes money if people are using its ride-hailing and delivery services, but in order to attract and retain customers, it also needs to amass enough workers who are available to efficiently serve customers.¹⁹ These features engender monopolistic tendencies in the platform model, and the vast spatial and temporal scope of digital technologies further encourage and enable said tendencies, especially when backed by seemingly

¹⁷ Nick Srnicek, *Platform Capitalism*, 28-33.

¹⁸ Eric Tucker, “Uber and the Unmaking and Remaking of Taxi Capitalisms” in *Law and the “Sharing Economy”*: *Regulating Online Market Platforms*, ed. Derek McKee, Finn Makela, and Teresa Scassa (University of Ottawa Press, 2018): 359.

¹⁹ It is worth highlighting the similarities between this model and Marx’s discussion of “a surplus population of workers” being “a condition for the existence of the capitalist mode of production... a disposable industrial reserve army ... always ready for exploitation by capital in the interests of capital’s own changing valorization requirements.” (*Capital* vol. 1, 784).

endless streams of investment capital.²⁰ As Rahman and Thelen observe, “the very idea of the “platform” reflects an aspiration to be the foundational infrastructure of a sector—whether it is Uber’s attempt to dominate transportation services from taxis to shipping or Amazon’s dominance of the online retail market as a whole.”²¹

The Uber Model

Uber (or Uber Technologies Inc.) was founded in 2009 and launched the same year in San Francisco, rapidly expanding worldwide over the next decade.²² The 128 billion-dollar corporation is best known for its transportation and food delivery services, UberX and UberEats, which operate in over 10,000 cities around the globe.²³ Specifically, these services are made available in over 10,000 cities by the millions of gig workers who, through the Uber app, carry out transportation and delivery work on the company’s behalf (and at its behest). Uber has effectively become synonymous with the app-based on-demand service model, its success inspiring an explosion of other commodified on-demand services mediated by digital platforms in recent years.²⁴ While the company has garnered a controversial

²⁰ Srincek, 31-32.

²¹ K. Sabeel Rahman and Kathleen Thelen, “The Rise of the Platform Business Model and the Transformation of Twenty-First-Century Capitalism,” *Politics & Society* 47, no. 2 (2019): 180.

²² “The Impact of Uber in Canada – How Uber Has Transformed the on-Demand Economy,” Public First, 2021.

²³ Market Capitalization (USD) as of December 2024 (peaking at US\$181 billion in October 2024); “Uber Is Now in over 10,000 Cities Globally,” Uber Technologies Inc., February 29, 2020.

²⁴ Rosenblat, *Uberland*, 37; Srincek, *Platform Capitalism*, 27; Mitchell Thompson, “Doug Ford’s Government Met with Lobbyists Pitching ‘Uber’-Style App for Health Care Workers,” Press Progress, January 24, 2023.

reputation for the strategies that have enabled its global expansion, its political economic and socio-cultural influence over the past decade is undeniable.²⁵

The “idea” of UberX, which Uber is probably best known for, is that people who own cars and want to earn money from driving can use the Uber app to connect with people nearby who are looking to pay for a ride. This model was euphemistically called “ride-sharing” in its early days when the company sought to skirt regulations and costs associated with operating a taxi business, but since being regulated as a separate entity, is generally referred to as “ride-hailing.”²⁶ Functionally, UberX is very similar to a taxi service, with the exception that drivers use their personal vehicles, and the entire transaction is mediated through the Uber app – matching drivers to customers using GPS (and other) data on both sides, facilitating electronic payments – including calculation of the customer price and the drivers’ wages. Conversely, while food delivery existed before the platform economy, it has mutated into a more ubiquitous phenomenon through the development of delivery platforms like UberEats, SkipTheDishes, and DoorDash. Delivery platforms facilitate interaction and exchange between three groups of “users;” vendors (restaurants and other retailers), workers, and customers, as opposed to pre-platform delivery that would be generally organized in-house.²⁷

²⁵ Rahman and Thelen, “The Rise of the Platform Business Model and the Transformation of Twenty-First-Century Capitalism,” 178.

²⁶ Allison Jones, “Ontario Approves Coverage for Drivers of Ride-Hailing Services Such as Uber,” *The Globe and Mail*, February 2, 2016.

²⁷ Eric Tucker, “Towards a Political Economy of Platform-mediated Work,” in *Studies in Political Economy* 101, no. 3 (2020): 190-192; Jamie Woodcock, *The Fight Against Platform Capitalism* (University of Westminster Press, 2021): 29-30.

In the 2010s, companies like Uber came to be known as “disruptors,” in reference to the strategy of leveraging new technologies to “reinvent” traditional business practices, thus disrupting existing industries and the “rules” of competition therein.²⁸ More specifically, this “reinvention” appears to be driven by technological innovation, but the technologies involved function more so as an excuse for ignoring existing regulations and labour laws. The capacity to justify or plausibly deny otherwise blatant regulatory disregard is the true substance of technological “disruption.” In Uber’s case, its disruptive innovation broadly revolves around framing the platform as a neutral intermediary, merely an app that efficiently connects drivers looking to work, with passengers willing to pay for a ride. As I discuss below, this argument was used to justify Uber’s early disruption of the taxi industry and is continually present in the company’s ongoing efforts to influence legislation in its favour.

Uber claims that it is not an employer, that it merely provides a platform to connect service providers (drivers and delivery couriers) with customers in exchange for a percentage of the money that moves through the app. Uber claims that its workers are independent contractors because its platform-mediated work arrangement affords drivers and delivery workers a level of independence that distinguishes them from traditional employees. While the debate on gig worker misclassification remains contentious and unresolved, the power imbalances embedded in the Uber platform indicate that its workers are far from self-employed. The algorithmic management tools embedded in Uber’s platform place severe

²⁸ Jonathon Gatehouse, “How Uber Disrupted the Taxi Business,” *Macleans*, December 6, 2014; Michael B. Horn, “Uber, Disruptive Innovation And Regulated Markets,” *Forbes*, June 21, 2016.

limitations on workers' autonomy, through rating systems and opaquely enforced rules that reward certain behaviours and punish others. The details of these dynamics are difficult to grasp in detail due to the proprietary nature of algorithms, and because Uber is constantly updating its app interface, adding and removing features or tweaking pre-existing ones, an ongoing practice that its workers have no power to resist.²⁹ That said, there are certain power imbalances embedded in the relationship between Uber and its workers that overall remain unchanged, all stemming from its ownership of the platform infrastructure. This ownership affords Uber unilateral control over workers' ability to access the platform, the rules of interaction therein, as well as the information displayed to workers before, during and after a work assignment.

Some examples of these power imbalances include drivers' inability to know how much they will be paid for a trip until it is completed,³⁰ and Uber's ability to deactivate (suspend or fire) or otherwise discipline its workers with minimal recourse or explanation.³¹ Perhaps the most significant power imbalance, however, is that Uber unilaterally sets the prices for its services, as well as the fee it deducts from each transaction, and thus directly controls its workers' wages. The compensation structure has changed over time, initially based on a calculation of time and distance, plus a base fare, and minus a percentage-based service fee ("take

²⁹ This ability to constantly experiment with and generally change different features of the platform is tied to the unilateral control that broadly defines platform ownership.

³⁰ As I was completing this project, Uber introduced upfront fares for drivers in Ontario – but the power dynamics remain the same nevertheless, since Uber still controls the rates.

³¹ Alex Rosenblat, *Uberland*, 87, 92, 149-150.

rate”) that Uber deducted for facilitating the exchange on its platform.³² In this earlier period, customers would see a price range that their ride would fall within (i.e. five to seven dollars) before requesting a car, other than in exceptional cases.³³ In more recent years, the method for determining drivers’ pay has become an increasingly opaque algorithmically-administered formula that draws on Uber’s vast pool of user-generated data to get as much out of both customers and workers as possible. Yet it is framed as if users (customers and workers) are engaging directly with the market – as if the prices come out of some objective calculation, rather than a proprietary algorithm that is optimized by Uber to maximize its profits. The fact that Uber controls the pay is mystified by falsely equating that power with worker’s theoretical “freedom” to decline a trip, which mirrors the “double freedom” that Marx identifies as a foundational condition of the working class – a contradiction I revisit in chapter four.³⁴

Uber’s main selling point to customers is the promise of convenience – that one can request a car with a simple tap and have it arrive in minutes, or order from any restaurant or store and have it delivered promptly to their doorstep. This ideal of on-demand service provision can only be achieved if there are workers nearby and ready to work when requested. To succeed on a larger scale requires an even

³² Veena Dubal, “On Algorithmic Wage Discrimination,” *Columbia Law Review* 123, no. 7 (2023): 1948-1950.

³³ For example, if a trip took much longer than predicted, or if the destination or route changed per a customer’s request.

³⁴ Karl Marx, *Capital: A Critique of Political Economy*, vol. 1, trans. Ben Fowkes, (Penguin Books in association with New Left Review, 1981): 874-5. Freedom from the means of production (thus free from any other means of survival) and freedom to enter an employment contract, to sell their labour-power (a legally recognized individual).

larger pool of workers dispersed around the city, idle and ready to work. Workers must be “online” to be offered work assignments, but they are not paid for the time they spend waiting to be presented an offer, and there is no guaranteed amount they will earn, or any guarantee of work at all. Despite this time being unpaid, it is a prerequisite of value for Uber, in the sense that the convenience sold by the platform relies on there being an idle pool of workers, ready to engage at any given time. The more workers there are online, “just-in-place” around the city, the shorter Uber’s wait times are, making its service more attractive to consumers (and vendors in the case of delivery) thus increasing revenue generating opportunities.³⁵ In other words, these workers are compensated in the form of piece-wages, which is euphemistically termed “engaged time” by Uber, as if idling and waiting to accept work is not a form of engagement.

In sum, Uber’s business model rests on the offloading of operating costs on its workers, its unfettered ability to extract increasingly large portions of its workers’ earnings, and its avoidance of paying into things like workers’ compensation, unemployment insurance, “and other benefits for which employers must make contributions.”³⁶ To be sure, Uber has faced considerable resistance to its expansion, including municipal fines, injunctions, investigations, lawsuits, labour board disputes, and worker organizing. Yet Uber has continued to operate and expand, lobbying for new legislation that would clarify the legal ambiguity it

³⁵ Katie J Wells, Kafui Attah, and Declan Cullen, “‘Just-in-Place’ Labor: Driver Organizing in the Uber Workplace,” *Environment and Planning A: Economy and Space* 53, no. 2 (2021): 317-318.

³⁶ Eric Tucker, “Uber and the Unmaking and Remaking of Taxi Capitalisms,” 382.

has hitherto exploited in its favour, officially sanctioning its methods and solidifying its relationship to the neoliberal state.

A Brief History of Uber

In 2022, former Uber lobbyist Mark MacGann leaked over 100,000 internal documents to *the Guardian* that detailed the company's relentless efforts to establish its global dominance during its "disruptor" era. Specifically, the leak included "more than 124,000 emails, texts, memos and PowerPoint slides from 2013 to 2017 detail[ing] the company's behind-the-scenes efforts to barge into cities in defiance of local regulations, stymie government investigations into its operations, and rewrite labour standards."³⁷ An overarching takeaway from the leak was Uber's explicit awareness of its deceptive branding and blatantly illegal expansion tactics; MacGann told reporters that he felt obligated to go public because of his complicity in "a system that sold people a lie." These lies revolved around the Uber's intentional "flouting" of regulations (related to its disruption of the taxi industry), as well as its lobbyists' conscious misleading of "people about the benefits to drivers of the company's gig-economy model."³⁸

Uber came to Canada in 2012 via Toronto, Ontario. The company initially only offered UberBlack, an "on-demand car service" that connected licensed limo

³⁷ Sara Mojtahedzadeh, "The Uber Files: A Kill Switch, Intense Lobbying and Driver Exploitation. Leaked Documents Reveal 'Cutthroat' Tactics That Built Ride-Hailing Empire," *Toronto Star*, July 10, 2022. (The documents were leaked to the Guardian but shared with the International Consortium of Investigative Journalists and subsequently widely reported on with regionally-specific details, as is the case with this Toronto-specific article.)

³⁸ Paul Lewis et al., "The Uber Whistleblower: I'm Exposing a System That Sold People a Lie," *The Guardian*, July 11, 2022, <https://www.theguardian.com/news/2022/jul/11/uber-files-whistleblower-lobbyist-mark-macgann>.

drivers with prospective passengers through an app. At the time, the mere fact that this service was streamlined through an app, with GPS tracking each car, was seen as innovative and exciting.³⁹ Then-CEO Travis Kalanick proclaimed that “we’re everyone’s private driver. And that means taking this stodgy luxury that only the super wealthy had — an actual private driver — and bringing that to the masses”⁴⁰ A few days after being fined for operating a limo service without a license, the company introduced UberTaxi, which enabled customers to hail licensed taxis through the Uber app.⁴¹ By December 2012, Uber faced 25 municipal licensing charges in the city of Toronto alone, all related to its operating an unlicensed taxi and limousine brokerage.⁴² However, most people would not become aware of the company until 2014, when it launched UberX, a budget-friendly option⁴³ that let drivers transport passengers in their personal vehicles. Uber called this service “ridesharing,” milking the “sharing economy” discourse that was prevalent at the time. Like many of the companies associated with the sharing economy, Uber’s so-called ridesharing service was effectively a euphemism for an ultra-lean business

³⁹ Chris Bateman, “What’s the Difference between Hailo and Uber Taxi?,” *BlogTO*, September 29, 2012.

⁴⁰ “Where’s that cab? Uber launches in Toronto with slick cars tracked by GPS,” *CityNews (Toronto)*, March 15, 2012.

⁴¹ Anne Wright-Howard, “Uber Moves,” *NOW Magazine*, November 26, 2014.

⁴² Patty Winsa, “Taxi App Company Uber Charged with Licensing Offences,” *Toronto Star*, December 5, 2012.

⁴³ To be specific, Uber was at least initially budget-friendly, especially compared to taxis, but this was largely due to the company subsidizing fares to attract and retain customers during its early years. See n. 52 below.

model that was driven by profits, and entailed little to no sharing.⁴⁴ The concept of sharing was instrumentalized by companies like Uber to rhetorically distinguish themselves from existing regulated sectors (in Uber’s case the taxi industry, and evade the associated regulations and costs of operating therein).

In its early days, Uber gave taxi and limo drivers smartphones in order to work through the platform and supplement their income, claiming to have eliminated the need for a middleman (i.e. taxi dispatch) and promote “choice and more competition in the market.”⁴⁵ By 2014, after Uber launched UberX, the Toronto city council issued an injunction against the company in part due to pressure from taxi drivers and the taxi industry, attempting to shut down its operations within the city limits. The Toronto Police were also cracking down on Uber by ticketing individual UberX drivers, citing safety concerns due to the lack of training.⁴⁶ The injunction overlapped with the election of a new Toronto Mayor, John Tory, who became a target for Uber’s relentless lobbying efforts.⁴⁷ Before officially taking office, Tory publicly criticized the city council’s injunction against Uber, calling the method of fighting the company through the courts “old fashioned” and stating that Uber was clearly “here to stay.”⁴⁸ After his election

⁴⁴ Srnicek, *Platform Capitalism*, 76.

⁴⁵ Anne Wright-Howard, “Uber Moves,” *NOW Magazine*, November 26, 2014; Jonathon Gatehouse, “How Uber Disrupted the Taxi Business,” *Macleans*, December 6, 2014.

⁴⁶ Wright-Howard, “Uber Moves,” 2014; David Bush, “UberXploited: Behind the Toronto Taxi Wars,” *The Bullet*, December 17, 2015.

⁴⁷ Not only was Tory a lobbying target, his close advisor was also an Uber lobbyist up until he got elected (Sara Mojtehdzadeh, “Uberfiles,” 2022, see note 37 above).

⁴⁸ “Uber is 'here to stay,' Toronto mayor-elect John Tory says,” *CBC News*, November 19, 2014.

Tory, delayed the city council's vote on how Uber would be regulated until the injunction was "resolved."

Once the city lost the injunction, Tory and Uber increasingly steered the conversation towards reforming the Toronto Taxi License system to accommodate ridesharing, actively reinforcing Uber's regulatory distinctiveness from the taxi industry as common sense. Simultaneously, widespread, highly disruptive taxi driver protests against Uber were taking place around the globe in response to the introduction of UberX, with Toronto being no exception.⁴⁹ Uber continued to expand and operate amid this regulatory uncertainty, capitalizing on both positive and negative attention as their customer base grew alongside their controversies. Mainstream media overwhelmingly demonized taxi drivers and policymakers who did not support separate regulation for Uber, calling the former group greedy and delusional, and accusing the latter of blocking "progress."⁵⁰ Uber portrayed itself as the underdog seeking to promote competition in the taxi industry, while also appealing to prospective customers through the rhetoric of the sharing economy. This is exemplified by the company's media statements amid this contentious pre-legalization period: "Taxi companies are pressuring city council to stifle competition and protect their monopoly on Toronto's streets [...] Ride sharing brings costs down for consumers and creates thousands of new jobs for drivers. It

⁴⁹ David Bush, "UberXploited," 2015.

⁵⁰ Bush, "UberXploited," 2015.

expands transportation options for Torontonians and will ultimately lead to fewer cars on our roads.”⁵¹

Uber continually bought public support⁵² by offering significant discounts on their already cheap rides, referral bonuses for both customers and drivers, and other financial incentives for drivers to work more or recruit others onto the platform. The company even organized rallies for customers and workers to demonstrate public support for “common-sense regulations.”⁵³ In retrospect, it is clear that Uber was strategically building and mobilizing this public support to establish its market dominance and achieve the monopolistic control that would make these expensive public relations efforts pay off in the long run.

Uber’s common sense existence and regulatory legitimacy was solidified in 2016, when the Financial Services Commission of Ontario (FSCO) gave approval to insurance companies to offer coverage for drivers who did ride-hailing work in their personal vehicles.⁵⁴ Uber was already facing scrutiny for its labour practices by 2015, specifically for misclassifying its drivers, yet policymakers proceeded to carve out existing regulations, seemingly ignoring the red flags and anyone who

⁵¹ “Uber is 'here to stay,' Toronto mayor-elect John Tory says,” *CBC News*, November 19, 2014.

⁵² Frances McInnis, “Uber’s New Weapon in the Taxi-App Battles: Free Cab Rides,” *Toronto Life*, September 24, 2012; Jonathon Gatehouse, “How Uber Disrupted the Taxi Business,” 2014.

⁵³ Justin Kozuch, “Uber Stages Toronto Rally for ‘Common Sense Regulations’,” *BetaKit*, May 6, 2015.

⁵⁴ Jones, “Ontario Approves Coverage for Drivers of Ride-Hailing Services Such as Uber,” *The Globe and Mail*, February 2, 2016.

raised them.⁵⁵ In the following months, the cities of Toronto and Ottawa updated their private transportation bylaws, allowing Uber to operate legally on different terms than taxi companies, despite ongoing protest from taxi drivers.⁵⁶ The only changes required on Uber's end at the time were raising the base fare for each trip from \$2.50 to \$3.25, at least in Toronto, and the introduction of "Private Transportation Licenses" for ride-hailing drivers. These changes were paired with an overall loosening of training requirements "and the right to mimic the so-called surge pricing used by Uber."⁵⁷ This first round of regulation marks the beginnings of an ongoing trend in the Uber saga: policymakers' acceptance of the Uber model as distinct and new, warranting its own regulation

The Uber Experience

What is the concrete activity that occurs when a worker is driving or delivering for Uber – the subjective experience of working "through" an app? For both drivers and delivery workers who are already registered on the Uber platform,⁵⁸ their work begins with opening the Uber app and going online,

⁵⁵ Richard Reibstein, "Uber Driver Prevails in Independent Contractor Misclassification Administrative Proceeding in California," *Independent Contractor Misclassification & Compliance* (blog), June 18, 2015.

⁵⁶ "It's Official: Uber Licensed, Legal in Ottawa | CBC News," *CBC News*, October 4, 2016.

⁵⁷ Oliver Moore, "UberX Will Be Allowed to Operate Legally in Toronto, City Council Decides," *The Globe and Mail*, May 3, 2016; "Drivers for Private Transportation Companies," City of Toronto, November 20, 2017.

⁵⁸ The details of the registration process are beyond the scope of this discussion, for it has gotten more complex over time as the regulatory framework has developed, but in general, part of the appeal of Uber is still that it is relatively simple to register, albeit only if one meets the designated requirements. For example, see: "Driver Requirements," Uber Canada, accessed December 5, 2024.

indicating that they are available to receive offers for work assignments. Colloquially, these offers are referred to as “pings,” seemingly because of the sound effect that accompanies the in-app notification, which is reminiscent of a video game or slot machine.⁵⁹ The information workers receive about a job offer before accepting it varies based on what Uber service they are providing, broadly, on-demand delivery (UberEats or UberConnect) or transportation (UberX), but is limited in all arrangements.⁶⁰ For delivery work, more information is provided before a trip is accepted, including the estimated payout and time for the delivery to be completed (see fig. 2). For drivers, there is far less information provided prior to accepting a trip; drivers see the passenger’s star rating, the distance between the driver’s location and the pickup point in kilometers/miles, and how long it will take them to reach the pickup point in minutes (see fig. 2). Drivers are also notified if a trip is estimated to be more than an hour long (see fig. 2). For both drivers and delivery workers, each “ping” remains on their screen for less than thirty seconds before it expires and is offered to another worker who is online – either idle or near the end of a trip.⁶¹

⁵⁹ The product of intentional sound design that is designed to illicit specific responses from drivers. See Veena Dubal, “Digital Piecework,” *Dissent Magazine*, 2020.

⁶⁰ Information varies based on the services workers are providing, as well as their geographic location (the region or jurisdiction they are working in), amongst other factors beyond the scope of this discussion. I also did not interview drivers who do the other Uber driving options (i.e. UberSelect, UberBlack) so there may be further variation between those categories as well. These dynamics have also presumably changed since the introduction of up-front fares in Ontario in fall 2024, a development outside of the temporal focus of this research.

⁶¹ “How Long Do Pings Last on Uber and Lyft?,” Uber People (Uber Drivers Forum), September 6, 2019.

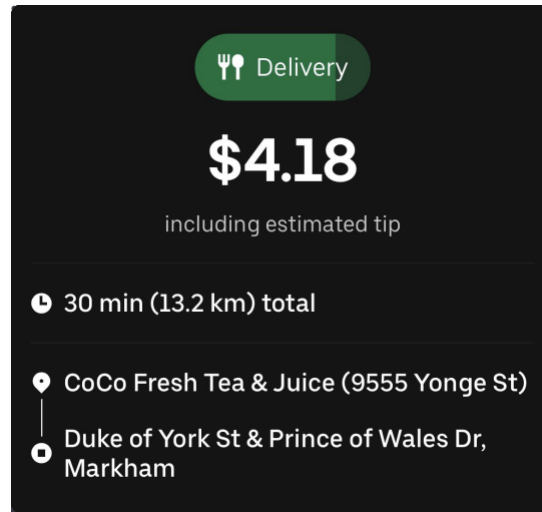


Figure 1: screenshot of UberEats delivery job offer ("ping").

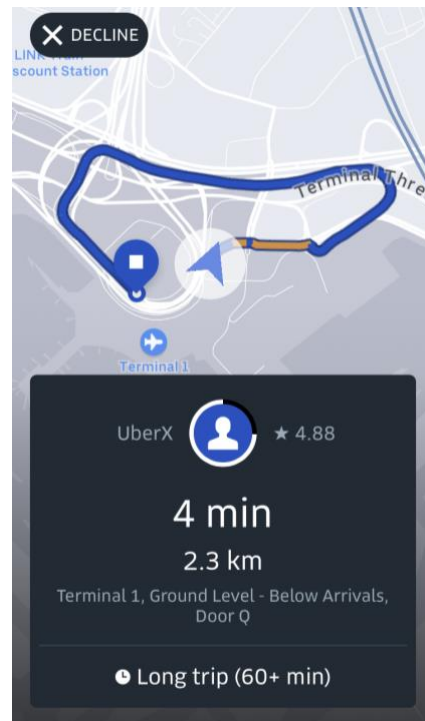


Figure 2: Screenshot of UberX "long trip" offer notification.⁶²

There are a number of caveats to my general description of Uber's models for distributing work assignments outlined above. The combined tip and delivery payment displayed up front makes it impossible for workers to know what they are

⁶² Figures 1 and 2 are screenshots shared with me via email on August 2, 2023, by an anonymous interview participant.

guaranteed to earn from a delivery job. The “estimated tip” included in the upfront fare is based on the tip amount that customers are prompted to select before placing an order – a practice that has become commonplace with online delivery services in general. Customers then have the option to adjust (or remove) the tip amount they selected upfront for a few hours after the delivery is completed. The ability to adjust one’s tip after the fact makes sense if one assumes that tipping is based on the provision of a certain quality of service or customer satisfaction. However, this conceptualization of tipping is complicated by several factors, some pre-existing in the service industry (i.e. servers’ reliance on tips to earn a sufficient income) and some unique to the platform delivery model. Since an in-depth discussion of “tipping culture” in North America is beyond the scope of this paper, my emphasis is on the ways in which Uber’s tipping system for delivery maintains the unpredictability of Uber’s payment model while implicitly shifting the blame on to workers if a tip is reduced after the fact.

While Uber is careful to specify that the upfront fares presented to delivery workers include an *estimated* tip, the amount presented up front is essentially the only information delivery workers have to determine whether or not to accept a given micro-contract or job offer in the allotted timeframe. Moreover, as figure 1 illustrates, payment for deliveries can still be extremely low even with a tip included, and even when workers are expected to travel considerable distances without pay, so one can deduce that the base payment for deliveries is negligible. In fact, one interview participant informed me that the introduction of this up-front fare system for UberEats in Ontario, which occurred in 2022, was accompanied by

a reduction in the base pay.⁶³ It was also around this time that Uber removed what was already a minimal waiting fee if a worker was delayed at a restaurant for more than 15 minutes.⁶⁴

The importance of customer tips in Uber's delivery model can make the relationship between workers and customers somewhat antagonistic, as couriers appear to be the face of the delivery service, despite being a "last mile courier" with basically no control over the process until the packaged order is in their hands.⁶⁵ As such, workers bear the brunt of customers' (dis)satisfaction with the service, from delays caused by Uber's system or the restaurant, missing or incorrect items, or even inflated pricing; these frustrations are commonly expressed through deducting a delivery worker's tip.⁶⁶ Moreover, the estimated time for a delivery order (which is displayed to customers as well as workers) does not account for delays on the restaurant's end; it assumes that the order will be ready just in time for the courier to pick it up upon arrival. This means if there is a delay on the restaurant's end, workers are not compensated for the time they spend waiting for an order, *and* they run the risk of earning less than they agreed to upon accepting the delivery job by losing their tip.⁶⁷

⁶³ Uber Eats Ontario Fare Addendum 2022 (PDF provided anonymously by an interview participant); Interview with Brice Sopher, September 28, 2023.

⁶⁴ Interview with Brian, July 6, 2023.

⁶⁵ Interview with Ryan, July 18, 2023: "even once the courier has the order, they still might be directed to deliver another one first, regardless of who placed their order first." This is another area where Uber's intermediary role is obscured by the platform interface and design; the selective and varied information displayed to end users (workers and customers) makes it difficult to get a full sense of what is really taking place.

⁶⁶ Interview with Kumar (pseudonym), August 31, 2023.

⁶⁷ Kumar, August 31, 2023.

The up-front tipping system for delivery platforms has also created a phenomenon called “tip baiting.” Some customers have learned that selecting a larger tip amount will likely lead to their order being accepted and completed faster, so they purposefully tip higher than they intend to pay, and then reduce or remove it once the order is complete. The mediation of this interaction through the Uber app means that customers can do this without having to come face-to-face with the person delivering their food, and there is no accountability because it is technically still a tip. Not only does this tipping system exacerbate the unpredictability of delivery earnings, it also enables Uber to offload a significant portion of delivery workers’ wages on to individual consumers, or at least deflect responsibility for fluctuating earnings on the basis of customer preferences and worker performance. Like in a restaurant or bar, tipping also serves somewhat of a disciplinary function if it is predicated on customer satisfaction, which is not an objective formula and requires immense affective labour on the part of the service worker, as well as subjective qualities often beyond an individual’s control.

For drivers, the information included in a job offer notification (“ping”) also varies based on the “Uber Pro” rewards program, which “unlocks” certain capabilities and privileges for drivers based on the number of trips they have completed and other metrics that Uber tracks for each driver. Specifically, drivers earn one point for every trip, though there are designated times that vary between cities where Uber offers three points for every trip (or delivery with a car).⁶⁸ They also must maintain a 4.85 out of 5-star rating, an acceptance rate of 85% or higher,

⁶⁸ “Support for Drivers & Deliveries | Uber Help,” Uber, accessed February 7, 2024.

and a cancellation rate of 5% or lower.⁶⁹ If they maintain these metrics and complete a certain number of trips, they have the ability to reach a higher “status” (Gold, Platinum, Diamond) that corresponds with different “rewards,” ranging from discounts on TurboTax or Rogers Wireless, to in-app features that afford slightly more control to drivers who reach the higher tiers of the system.⁷⁰ Some in-app “privileges” include the option to select an area preference (for a two hour window per day), “Priority Support” within the app, and until recently, the ability to see the direction and distance of a given trip before accepting the offer. Understanding the significance of these in-app features being presented as rewards requires a closer examination of some other contradictory features of Uber’s labour platform, but Brian’s reflections on Uber Pro provide an illustrative building block for the next stage of this analysis:

*So, these are the kinds of basic things that you should always be able to see, things that they [Uber] put blocks and gates in front of... **it kinda goes back to how they make you drive more than you would want to drive.** You know, **they lock things behind these features that everybody should basically have, but they force you to maintain certain ratios.** And the thing is, it's not always easy to keep that 85% ratio, because sometimes if there's not a lot of drivers on, you can- let's say I get a trip request that wants to go two hours out of town; I'm going to decline that, because I don't want to drive two hours at a time and then drive two hours back. And then sometimes, you'll instantly get the same request again and again and again. So one day I declined that same request, like five times in a row, and it dropped my ratio down like 5%. So yeah, it can be pretty... I basically had to go offline to stop my ratio from like just sinking because I kept getting the same, you know, bad call over and over again.⁷¹*

⁶⁹ The star rating is based on ratings that passengers are prompted to provide for drivers after a trip is completed. Acceptance rate is the percentage of job offers a worker accepts versus declines, which constantly changes with each “ping.” Cancellation rate is the percentage of trips a driver cancels after accepting the offer.

⁷⁰ “Driver Rewards with Uber Pro,” Uber, accessed February 7, 2024.

⁷¹ Interview with Brian, July 18, 2023.

In a way, Uber’s “repudiation of the employer-employee relationship” through its gig platform model reveals the essential function of the capitalist in a waged labour relationship: developing an ever-expanding set of techniques to squeeze as much out of the workers it exploits as possible.⁷² Arguments that Uber should be regulated in the same way as other “traditional” companies or employers sometimes dismiss the relevance of the technologies involved, because Uber has instrumentalized them in a rather deceptive manner. What makes these debates so contradictory is that Uber’s use of platform technologies to manage its vast and geographically dispersed workforce *is* what makes this model of gig work new, just not in the ways that Uber claims.

As Uber continually expands its pool of users – both customers and workers – the debate regarding the employment status of gig workers has become increasingly widespread, and as contradictory as it is complex. This is in part due to several high-level legal and regulatory battles in multiple jurisdictions, including an ongoing class action lawsuit in Ontario related to the (mis)classification of Uber drivers and delivery workers.⁷³ These legal disputes overlap with prior and ongoing efforts to unionize gig workers, wherein their contested employment status has been one of many complicating factors in the legal certification process. As I discuss in the next chapter, the passing of the DPWRA and announcement of the Uber-UFCW

⁷² Schein, “From free time to idle time,” 406.

⁷³ Laura Fric, Mary Angela Rowe and Lauren Scott. “The Ride Isn’t over: Uber v Heller Certified as a Class Action,” Osler, Hoskin & Harcourt LLP (blog), August 31, 2021; Veena Dubal, “The False Promise of ‘Third-Category’ Worker Laws,” *The Regulatory Review*, April 19, 2022; Rabih Jamil, “Drivers Vs Uber – The Limits of the Judicialization: Critical Review of London’s Employment Tribunal Verdict in the Case of Aaslam Y. & Farrar J. against Uber,” *Interventions Économiques*, no. 58 (May 15, 2017).

deal in 2022 have further contributed to the challenging organizing environment that workers, unions, and labour activists continue to navigate.

Chapter 3: The Changing Terrain of Struggle

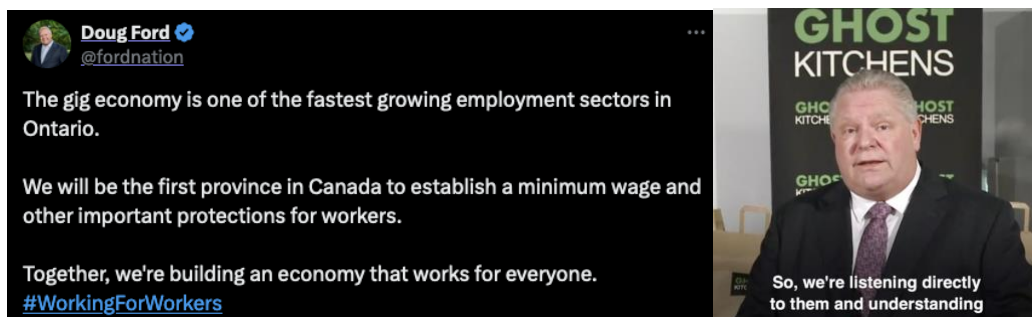


Figure 3: Screenshot of Doug Ford tweet and from the accompanying video linked therein.¹

The 2022 Digital Platform Workers’ Rights Act (DPWRA) technically made Ontario the first province in Canada to guarantee gig workers a minimum wage, specifically those working for companies like Uber. I say “technically” because while the Act does specify that these workers are entitled to the provincial minimum wage, the entitlement is not for all hours worked, but rather “for each work assignment performed by a worker.”² As such, the DPWRA reinforces Uber’s “innovative” distinction between paid “engaged” time and unpaid “idle” time as the standard compensation model for gig workers, guaranteeing them a sub-minimum wage at best. The reality of this legislation thus strays considerably from how it was framed and promoted by premier Doug Ford in 2022, exemplified by his tweet above (see fig. 3). Despite Ford claiming the DPWRA was the product of “listening directly” to gig workers, further investigation since its passage has revealed Uber’s

¹ Doug Ford [@fordnation], March 2, 2022.

² *Digital Platform Workers’ Rights Act*, 2022, S.O. 2022, c. 7, Section 9 (2) s.1 (“Purpose”).

unparalleled influence on its contents.³ Rather than listening “directly” to gig workers, the Ford government listened to Uber lobbyists and executives, who strategically claim they represent the interests of gig workers to advance the company’s policy goals.

As I discuss below, the DPWRA is not the first piece of legislation passed under Ford that aligns with Uber’s business model and policy priorities. Yet what sets the DPWRA apart are the multifaceted struggles that unfolded prior to and after its announcement, and the ways in which these struggles both reflect and have influenced changes in the gig worker organizing terrain. These struggles include Uber’s contradictory pro-worker branding during the pandemic, tied to its efforts to re-write labour laws to resolve the misclassification debate in its favour, and to prevent its workers from unionizing. Another dimension of these struggles was the formation and fragmentation of a coalition within Ontario’s “working-class movement”⁴ that mobilized against Uber’s pandemic lobbying efforts (and the Ford government’s embrace of said efforts) to challenge the common-sense parameters of the debate on gig workers’ rights. Intertwined with these struggles was the Ford government’s contradictory pro-worker posturing in the lead up to the 2022 election, a broader campaign strategy in which the discourse of regulating gig work was co-opted to support Ford’s political rebranding efforts. My intention is not to evaluate the Progressive Conservative party’s pro-worker posturing in terms of its

³ Vanmala Subramaniam, “Union Worked with Uber to Ensure Ontario Government Would Not Classify Gig Workers as Employees, Documents Show,” *The Globe and Mail*, August 26, 2022; “How Uber Got Almost Everything It Wanted in Ontario’s Working for Workers Act,” *The Globe and Mail*, May 24, 2022.

⁴ David Camfield, “Labour’s Response to Crisis and the Future of Working-Class Politics,” in *From Crisis to Austerity*, ed. Tim Fowler, (Red Quill Books, 2013): 197.

influence on Ford's re-election in 2022, but rather to examine what these various forces and dimensions of struggle surrounding the DPWRA, including the legislation itself, reveal about the development of Ontario's gig worker organizing terrain.

Background: Ford and Uber's Labour Problems

The Ford government's political playbook has previously been described as "mixing conservative governance with populist gimmickry," exemplified by "its widely-publicized buck-a-beer campaign" in 2018, which was accompanied by standard conservative (or at this point, neoliberal) declarations about reducing the provincial deficit.⁵ Ford consistently relies on this superficial populism to legitimize his policy priorities, which reveal his role in continuing the decades-long assault on the working class at the core of the neoliberal project. These policy priorities include underfunding public services, and promoting private competition in the province by weakening labour protections and further restricting the pathways to unionization. Even a cursory glance at Ford's political legacy reveals that his priorities are in direct conflict with the interests and general well-being of the working class, which makes his pro-worker campaign rhetoric in 2022 all the more contradictory.

One of Ford's first policy moves as premier was passing the *Making Ontario Open for Business Act* in 2018, which was primarily concerned with amending the *Employment Standards Act* (ESA) and the *Labour Relations Act*

⁵ Joseph Fantauzzi, "Unrelenting Neoliberalism," *The Bullet*, May 6, 2022.

(LRA).⁶ Specifically, the legislation aimed to repeal a number of progressive reforms made to the ESA and LRA under former Liberal premier Kathleen Wynne less than a year prior. These Wynne Liberal reforms were based on policy recommendations outlined in the Changing Workplaces Review (CWR) final report. The CWR was “an independent review that consider[ed] legislative changes to both employment standards and labour relations to address today’s modern workplace.”⁷ The review process involved the commissioning of “numerous expert research reports,” and extensive consultations that spanned across a two-year period, all of which are reflected in the final 419-page report.⁸ In short, the CWR report highlighted numerous areas in which Ontario’s work-related legislation required significant overhaul in order to effectively address the changing world of work. While the Wynne government did not implement all of the CWR’s recommendations, the reforms that did pass under the *Fair Workplaces, Better Jobs Act* were swiftly repealed by Ford less than a year later through his illustratively titled *Making Ontario Open for Business Act*.⁹

Some of the policies that Ford targeted in the name of “Making Ontario Open for Business” included freezing the minimum wage, revoking employees’ entitlement to two paid sick days, and repealing the right to “equal pay for part-

⁶ *Making Ontario Open for Business Act*, 2018, S.O. 2018, c. 14, S. 1-2; *Labour Relations Act*, 1995, S.O. 1995, c. 1, Sched. A.

⁷ C. Michael Mitchell and John C. Murray, “The Changing Workplaces Review: An Agenda for Workplace Rights – Final Report,” May 2017.

⁸ Daniel Sheppard, “Bill 47 - Making Ontario Open for Business or Just Sticking It to Workers?,” Goldblatt Partners LLP, October 24, 2018.

⁹ *Fair Workplaces, Better Jobs Act*, 2017, S.O. 2017, c. 22.

time and casual workers.”¹⁰ The legislation also decreased penalties for both ESA and LRA violations, amongst other amendments that promote competition by widening the power imbalance between workers and their employers.¹¹ Most relevant to my research is Ford’s reversal of the newly amended ESA clause that put the onus on employers to prove that their workers are not employees in the context of misclassification disputes, rather than the reverse (which is the current policy). This amendment was recommended based on mounting evidence suggesting that misclassification was being utilized as a cost-cutting strategy by employers, and that placing the onus on workers to dispute their misclassification was exacerbating this trend. The report also directly cites Uber and other “sharing economy” platforms as further evidence of this trend, “making the issue of who is an employee even more important than previously.”¹²

Pre-Pandemic Gig Worker Organizing

There have been two high-profile gig worker unionization attempts that produced considerably different outcomes in recent years, both based in the Greater Toronto Area (GTA). One specifically involved Uber Black drivers; the other involved Foodora couriers, a food delivery platform that was popular before the expansion of UberEats, but no longer operates in Canada. The Uber Black campaign was

¹⁰ Sara Mojtehdzadeh, “Amid Protests, Tories Pass Bill That Scales Back Workers’ Rights and Freezes Minimum Wage,” *Toronto Star*, November 21, 2018; Ontario Federation of Labour (OFL), “Protection for Every Worker - Establishing the Future of Decent Work in Ontario.” Submission to the Ontario Workforce Recovery Advisory Committee. (July 29, 2021): 13.

¹¹ Sheppard, “Making Ontario Open for Business or Just Sticking It to Workers?,” 2018.

¹² Mitchell and Murray, “The Changing Workplaces Review – Final Report,” 32.

supported by the United Food and Commercial Workers (UFCW), a private sector union with members in both Canada and the US. The Foodora campaign was supported by the Canadian Union of Postal Workers (CUPW), a public sector union representing Canada Post employees that also serves as the bargaining agent for a number of other non-Canada Post unions in the private sector.¹³

The Foodora campaign led to the certification of the first gig worker union in Canada – Foodsters United – setting precedent for future struggles in many ways, despite the fact that Foodora promptly declared bankruptcy and ceased its Canadian operations before a collective agreement was negotiated. However, because a bargaining unit had been certified by the OLRB, CUPW was able to negotiate a settlement on behalf of all Foodora workers after the company left Canada.¹⁴ With the support of CUPW, former Foodsters members established Gig Workers United (GWU), led by gig workers, with the goal of unionizing delivery workers across multiple platforms in the GTA.¹⁵

Conversely, the UFCW campaign ended in early 2022 when the union formed a “partnership” with Uber to provide Canadian drivers with “union representation,” but did not actually unionize any Uber workers or include them in the closed-door deal-making process. As I discuss below, the UFCW deal came as a shock to many in the Ontario labour movement, particularly because the union

¹³ Ryan Lum, and Roland Schmidt, “Report on External Organizing,” Canadian Union of Postal Workers, 2023.

¹⁴ Paul Christopher Gray, “‘The Same Tools Work Everywhere’: Organizing Gig Workers with Foodsters United,” *Labour / Le Travail* 90 (November 25, 2022): 41–84.

¹⁵ Interview with Brice Sopher, September 28, 2023; “About,” Gig Workers United, accessed December 5, 2024.

had been part of a broader coalition that included GWU/CUPW, as well as other community and labour advocacy groups, that were collectively calling for full employee rights for gig workers. Ultimately, both of these case studies involve efforts to legally certify a bargaining unit of gig workers, despite neither of them entirely succeeding in doing so. Yet their impact has been nevertheless significant and instructive for many reasons, a point I revisit in the subsequent chapters. The point of this brief overview is to contextualize how these varied approaches to gig worker organizing evolved in response to the pandemic, to Uber's lobbying efforts, and to Ford's embrace thereof.

Uber's Contradictory Expansion

The ousting of co-founder and former CEO Travis Kalanick in 2017 signified the beginning of a concerted effort to remedy Uber's controversial reputation, in preparation for its initial public offering (IPO). This rebranding was made explicit in 2018, exemplified by a promotional video titled "Moving Forward," in which Uber's new CEO Dara Khosrowshahi emphasizes how the company was "heading in a new direction" under his leadership.¹⁶ Amid these early rebranding efforts, the company was still arguing that its workers were independent contractors, as its lawyers continually appealed and sought to undermine any ruling suggesting otherwise.¹⁷

¹⁶ Quoted from description under: "Moving Forward | Uber," promotional video (now unlisted) posted June 4, 2018, by Uber, YouTube.

¹⁷ Olivia Stefanovich, "Supreme Court Sides with Uber Drivers, Opening Door to \$400M Class-Action Lawsuit," *CBC News*, June 26, 2020.

Uber's business model was becoming increasingly vulnerable to its own contradictions. As the platform expanded and developed, the formula for determining workers' pay became increasingly opaque, while Uber's algorithmic management strategies were increasingly gamified and manipulative. These changes were already undermining Uber's claims about drivers' independence, as their top-down imposition made the inequal relationship between the company and its workers difficult to ignore.¹⁸ Between 2017 and 2020, several high-profile lawsuits and regulatory battles relating to the (mis)classification of gig workers were unfolding around the world, either directly involving Uber, or indirectly (but nonetheless significantly) threatening the company's viability depending on the regulatory outcome.¹⁹ In Ontario, organizing activity was ramping up in the gig economy, and individual employment tribunal rulings were generally undermining Uber's claims about the independence of its workers.²⁰

In the midst of these mounting legal and regulatory challenges, which overlapped with growing dissatisfaction amongst its workers, Uber launched its IPO in May 2019. As a now-publicly traded company, Uber was not only under increased pressure to continually grow and ideally turn a profit, but also to address the multitude of "risks" that it was legally required to disclose to prospective

¹⁸ Gabe Ets-Hokin, "What to Expect with Coming Independent Contractor Legislation," *The Rideshare Guy* (blog), May 26, 2022, <https://therideshareguy.com/pro-act-state-legislation/>.

¹⁹ For example, AB5 in California (the bill that Proposition 22 repealed) was not explicitly targeting gig workers, but Uber and Lyft were arguably its most vocal opponents because of how it would negatively impact both companies' business models. In contrast, the UK Supreme Court ruling that Uber drivers were "quasi-employees" came from a lawsuit against Uber specifically. See: Chelsea Nash, "Uber's Global Fight against Its Workers' Rights," *rabble.ca*, March 17, 2021.

²⁰ Kenneth Wm. Thornicoff, "The Misclassification of Gig Economy Workers – The Case of Ride-Hailing Drivers," *CanLii* (commentaries), November 2022.

investors. Uber had gotten to the position of the IPO by prioritizing growth over (or at the expense of) its workers' labouring conditions, the consequences of which were becoming increasingly apparent. Indeed, the lengthy "Risk Factors" section in Uber's first SEC filing includes negative public opinion, the threat of workers being classified as employees, and the importance of "retaining a critical mass" of workers (and other user groups) amongst a number of other risks to the company's growth prospects.²¹

Since Uber's initial registration with the US Securities and Exchange Commission (SEC), it has explicitly recognized that its "business would be adversely affected if Drivers were classified as employees instead of independent contractors."²² As the struggles against Uber's misclassification and regulatory evasion developed through 2019 and 2020, later SEC filings clarify that "business would be adversely affected if Drivers were classified as employees, workers or quasi-employees."²³ This shift seemingly reflects the UK Supreme Court's ruling that Uber drivers are a sub-category of employee, called "worker," which entitles them to "certain employment benefits, including the National Minimum Wage."²⁴ Uber's SEC filings for the 2020 fiscal year also included an updated and expanded

²¹ Uber Technologies Inc., *Form S-1 Securities Registration Statement*, April 11, 2019.

²² Uber Technologies Inc., *Form S-1*, April 11, 2019, 25-31.

²³ Uber Technologies Inc., *Form 10-K for the fiscal year ended December 31, 2020* (filed January 3, 2021): 13-14

²⁴ Patrick Brione, "Atypical workers in the gig economy," in *Research in brief: Quick reads for the 2024 Parliament*, House of Commons Library, UK Parliament (July 16, 2024): 22. See also: *Uber BV & Ors v Aslam & Ors* [2021] UKSC 5 (UKSC (2021) February 19, 2021).

discussion of the risks associated with workers being classified as any form of employee:

reclassification of Drivers as employees, workers or quasi-employees where those statuses exist, could lead to groups of Drivers becoming represented by labor unions and similar organizations. If a significant number of Drivers were to become unionized and collective bargaining agreement terms were to deviate significantly from our business model, our business, financial condition, operating results and cash flows could be materially adversely affected. In addition, a labor dispute involving Drivers may harm our reputation, disrupt our operations and reduce our net revenues, and the resolution of labor disputes may increase our costs.²⁵

Explicit acknowledgement of the risk posed by “labor unions and similar organizations” both in terms of Uber’s business model and its broader reputation was not mentioned in its 2019 annual report, though its controversial public image and subjection to growing media scrutiny more broadly were cited as risk factors from the outset. The explicit recognition of the threat of unionization in the 2020 annual report suggests that the growth of labour struggles against Uber and similar companies between 2019 and 2021 had put the threat of organizing on its radar. The expansion of labour struggles is inseparable from the growing political emphasis on regulating platform-mediated work and the broader platform economy on an international scale – in part due to political pressure, in part because most of these struggles include a legal component because of the misclassification issue.

With a new level of accountability to investors, the IPO effectively meant that the regulatory uncertainty which had previously worked to Uber’s advantage had now become a threat to its entire operation. The Flexible Work+ proposal can

²⁵ Uber Technologies Inc., *Form 10-K for the fiscal year ended December 31, 2020* (filed January 3, 2021): 14-15.

thus be understood in terms of Uber attempting to cover its bases, getting ahead of the opposing side and initiating the regulatory overhaul instead of having to navigate a major lawsuit or regain regulatory ground that had already been lost.²⁶ Challenges against gig companies were mounting, and Flexible Work+ should be understood as Uber trying to initiate and formalize the discussion of regulating gig work in Canada to shape the outcomes in the company's favour.

With these issues mounting in 2020, as Uber had begun to reduce driver pay and incentives (as well as raising customers prices) in striving for profitability after going public, the pandemic delivered a blow to the company's operational approach, as access to a growing pool of labourers (and consumers) could no longer be taken for granted. Expanding the pool of customers was always the company's priority, a compulsion that is inseparable from the constant need to recruit and expand the pool of labourers that bring Uber's services to life. However, the company's strategies for recruiting and retaining platform-mediated workers had to evolve, as the vulnerability inherent to this work became an increasingly difficult sell during the pandemic. The push for favourable legislation is thus simultaneously a means to get ahead of potential regulatory challenges down the line, and a way for Uber to claim it is taking action and listening to its workers while deflecting responsibility for their discontent on to the government. In this sense, it is also a risk-management strategy of "improving the driver experience" to retain "a critical mass" of workers, without actually changing the dynamics of control or the compensation structure.

²⁶ Which is what happened in California with Proposition 22 – see Veena Dubal, "The False Promise of 'Third-Category' Worker Laws," *The Regulatory Review*, April 19, 2022.

Capitalizing on Crisis: Uber and the Pandemic

In the first year of the pandemic, while restrictions on travel/movement were most severe, Uber seized the opportunity to expand its delivery services as ride-hailing demand plummeted, and the restaurant industry was suffering from restrictions on in-person gathering for non-essential services. These circumstances reinforced Uber's self-proclaimed benevolence in three key areas: creating work at a time of widespread unemployment, enabling local restaurants to stay in business, and facilitating ongoing consumption that fulfilled the first two functions while adhering to government restrictions and "guidelines" on in-person interaction.²⁷

The expansion of Uber Eats in 2020 marks a critical development in the company's relationship to policymakers, to its "users", and in the discourse surrounding Uber and the gig economy. In contrast to its controversial reputation garnered from years of operating illegally and disrupting the taxi industry, which made Uber at least appear to be somewhat antagonistic to the state and established business interests, Uber emerged amid the pandemic as a "lifeline" for the local economy, an "essential service" that filled the gaps between peoples' needs/wants and the contradictory, incomplete response of the neoliberal state.

Ordering takeout or, eventually, groceries on Uber Eats became the virtuous option for those who could afford it (Uber also offered promotions to attract more customers), enabling individuals to do their part in "supporting local businesses"

²⁷ For example, see: Lola Kassim (General Manager, Uber Eats Canada), "Supporting Local Restaurants and Workers with Uber Eats in Canada," Uber Newsroom (Uber Technologies Inc.), April 28, 2020; Tyler Fleming, "Uber Eats, Restaurants Canada Serve up Help for Struggling Restaurants during COVID-19," *CTV News*, February 18, 2021; "Thank You for Not Riding | Uber," posted April 8, 2020, by Uber, YouTube.

while also staying home and “stopping the spread.” Continued access to consumption (for those who could afford it) also became a source of comfort in an otherwise disorienting period of change, which mirrored the other ways platforms became some of the only constants during the initial shock and crisis sparked by the pandemic in 2020.

Drivers and delivery workers were incentivized to register for various reasons; those who previously relied on ride-hailing earnings were encouraged to pivot to delivery, others who had lost work also turned to gig work as a low-barrier means to supplement their income. Uber and other delivery platforms also offered monetary incentives in order to accumulate a sufficient pool of labourers to make their services function smoothly and reliably, like bonuses and earnings guarantees for the first month. Uber spent at least \$250 million on US and Canadian driver recruitment and incentives in 2021.²⁸

In Ontario, the Ford government loosened regulations on the sale of alcohol so it could be purchased and delivered via digital platforms. Uber also waived fees for “independent restaurants” to provide further incentives for restaurants to shift to delivery, including those that may have only offered in-person dining prior to the pandemic. It also introduced “no contact delivery” and encouraged customers to select this option to “help keep [each other] safe.”²⁹ By 2021, Uber’s delivery service had grown beyond its pre-pandemic scale as the lockdowns and restrictions

²⁸ Dennis Cinelli (Vice President, US & Canada Mobility), “Getting Drivers Back on the Road,” Uber Newsroom (Uber Technologies Inc.), April 7, 2021.

²⁹ Public First co., “The Impact of Uber in Canada – How Uber Has Transformed the on-Demand Economy,” 2021.

pushed more consumers to utilize platform-mediated services. Yet the problem of retaining and recruiting workers remained a significant hurdle to achieving profitability.³⁰ While the amount of money circulating through the platform, represented by Uber’s concept of “gross bookings” (total amount of money generated by rides and deliveries), as well as revenue before expenses, was increasing, this was the result of spending more on advertising and worker incentives.³¹ With profits remaining uncertain, Uber was particularly incentivized to demonstrate consistent growth and proactive risk management to secure its market dominance.

Flexible Work+

*COVID-19 has changed the way we all think about work. But more importantly, it has refocused attention on Canada’s outdated labour system in which some workers get benefits and protections while others do not. This is a norm we can no longer accept, and we have a responsibility to help create a better future for app-based work.*³²

In March 2021, Uber launched its lobbying and public relations campaign titled “Flexible Work+: A Modern Plan for App-Based Workers.” Citing a survey of “over 23,000 drivers and delivery people in Canada” in the first year of the pandemic, the company highlighted the importance of flexibility for its workers, while recognizing that “choosing the flexibility and independence they need means

³⁰ Preetika Rana, “Uber Reaches Income Milestone as Rides Recover, Delivery Grows,” *Wall Street Journal*, November 4, 2021.

³¹ “Uber Announces Results for Fourth Quarter and Full Year 2021,” Uber Investor (Uber Technologies Inc.), February 9, 2022.

³² “A Modern Approach to App-Based Work in Canada,” Uber Newsroom (Uber Technologies Inc.), March 10, 2021.

losing the benefits and protection they want.”³³ Uber’s recognition of the unfair trade-off imposed on its workers signifies a key development in the company’s articulation of its relationship to its drivers.

What is particularly revealing about Uber’s recognition of its workers discontent with the benefits versus costs of their misclassification is how it frames the problem, and to whom it attributes the power/ability to change how its workers are treated, or what benefits they can and cannot access. The language of the Flexible Work+ (FW+) campaign implies that Uber has no control over how its workers are classified, when in reality the company was still telling workers they were independent contractors (via the Platform Access Agreement) and instructing them to file their taxes accordingly while this campaign was underway.³⁴ In other words, Uber drivers and couriers are treated as de facto independent contractors by Uber, because existing labour laws enable this cost-cutting practice. The current ESA framework effectively enables employers to deny their workers basic rights and protections by claiming that they are independent contractors, and workers must be able to recognize that they are being misclassified and initiate the complaint process themselves, which takes a significant amount of time and still does not guarantee the issue will be resolved.

One contradictory point about the FW+ quote above is that it is somewhat true that gig workers lack benefits and protections because the “labour system” is

³³ Uber, “A Modern Approach,” 2021; it is worth noting that Uber was criticized for how biased its survey questions were in other jurisdictions, which adds another layer of complexity to the results of these surveys. For example, see: Sarah Butler, “Uber Accused of Using ‘loaded Questions’ in Survey of Drivers,” *The Guardian*, March 1, 2021.

³⁴ This is reflected in Uber’s 2021 Platform Access Agreement for Ontario, which was anonymously provided to me by an interview participant.

“outdated.” It is “outdated” after decades of neoliberal reforms that actively facilitated the consolidation of capitalist class power. Ford’s *Making Ontario Open for Business Act* in 2018 directly rolled back the most recent attempt to mitigate the outdatedness of Ontario’s labour laws, a policy move that Uber has certainly benefitted from since. In acknowledging the consequences of its workers’ lack of basic legal protections, Uber blames “Canada’s outdated labour system” and effectively calls on policymakers to do a better job at regulating the gig economy, as if the ability to implement or influence industry-wide changes is beyond the capabilities of the industry’s leading firm. Uber went from conducting itself above the law as a “disruptor,” to calling for “industry-wide” reforms “to hold these companies accountable.”³⁵

The pandemic had highlighted the downsides of the trade-off between flexibility and protection when Uber drivers were suddenly without work, with no access to EI, or the initial round of CERB, let alone sick leave or any compensation if they fell ill.³⁶ Gig workers were lauded as “essential” with the expansion of Uber’s delivery services, yet were solely responsible for purchasing their own PPE, and maintaining safe practices at work more or less at their personal discretion. While these conditions certainly impacted workers in different ways, some more severely than others, they nonetheless highlighted the degree of risk Uber offloads

³⁵ Uber, “A Modern Approach to App-Based Work,” 2021.

³⁶ Technically, Uber claimed to offer paid sick days for drivers who could upload proof of having to isolate with COVID, but not for the full duration of the pandemic, and it is unclear how many drivers were able to access the payments. For example, see: cepi300, “Collecting 14 day sick leave payment,” posted in r/uberdrivers, Reddit, 2020; Tyler Sonnemaker, “Uber promised coronavirus aid, drivers say the company's not paying up,” *Business Insider*, April 2, 2020.

onto its workers for disproportionately low reward. As such, the Flexible Work+ proposal should be understood as a strategy for going beyond the argument that the trade-off between flexibility and rights is a worthy one, while steering the parameters of this debate in Uber's favour. Through this pivot, Uber acknowledges workers' desire for more security or predictability in certain regards, and claims to offer a fix-all solution that obscures the fact that Uber's own business model is built on the instrumentalization and manipulation of regulatory loopholes in the same system they blame for workers' grievances.

OWRAC and the multifaceted struggle for gig workers' rights

The day after Uber's Flexible Work+ campaign launched, UFCW Canada issued a press release wherein the national president Paul Menima stated, "Uber is really just flexing and dodging the fact that they are the employer, and its workers are employees who are entitled to the full protection and rights under current labour laws, including the right to unionize."³⁷ At this point, UFCW had been fighting Uber at the OLRB after applying to unionize a group of 300 Uber Black drivers operating out of Toronto Pearson Airport in 2019, which Uber was refuting on the basis that the union had not met the threshold to certify a bargaining unit.³⁸ Menima's statement echoed the general consensus of the Ontario labour movement

³⁷ "Uber Flexible Work+ Scheme Nothing but a Cynical Ploy to Ignore Labour Rights," United Food and Commercial Workers Canada, March 11, 2021.

³⁸ "UFCW Files ULP Application at the Labour Board after Latest Uber Move Detours Toronto-Area Union Drive," United Food and Commercial Workers Canada, February 11, 2021.

at the time; that gig workers are misclassified by companies like Uber, and would benefit from recognition as employees and collective representation. Brice Sopher, organizer for and vice-president of GWU, noted that the highly publicized nature of Uber’s Proposition 22 campaign in California meant that more people were aware of Uber’s efforts to secure favourable legislation. As such, GWU and its coalition of labour activists were able to mobilize the Ontario labour movement relatively swiftly in response to the Flexible Work+ campaign, and later, around the OWRAC consultation process.³⁹

In June 2021, the Ontario Workforce Recovery Advisory Committee (OWRAC) was established by Doug Ford and the Minister of Labour Monte McNaughton, tasked with providing “recommendations to shape the future of work in our province.” The committee’s mandate consisted of three pillars, one being “How to ensure Ontario’s technology platform workers benefit from flexibility, control, and security?” which echoed the language in Uber’s Flexible Work+ campaign, indicating the influence of the company’s lobbying efforts prior to the committee’s inception.⁴⁰ The Ontario Federation of Labour (OFL)’s OWRAC submission raised a number of concerns with the closeness of the committee’s announcement and Uber’s public lobbying campaign, the lack of labour or working-class representation on the committee (which was chaired by a venture

³⁹ “Uber Is Lobbying Canadian Provinces to Rewrite Labour Laws and Create a New ‘Underclass of Workers,’” *PressProgress*, March 16, 2021. Subheading reads: “American labour leaders warn Uber is using the same anti-worker strategy in Canada as they recently used in California.”

⁴⁰ David Bush, “Gig Workers Deserve Real Labour Rights, Not Backroom Deals,” *Spring Magazine*, January 28, 2022; “Ontario’s Workforce Recovery Advisory Committee: Leading the future of work in Ontario,” Ministry of Labour, Training, Skills and Development, Government of Ontario, updated March 31, 2022.

capitalist) and the less-than meaningful consultation process, which was “rushed” and vague.⁴¹

In July of 2021, Gig Workers United (GWU) and a coalition of unions and community advocacy groups, including the UFCW/Uber Drivers United (the name for the UFCW organizing drive/campaign at the time) released the Gig Workers’ Bill of Rights (see fig. 4). The Bill of Rights was written in consultation with the workers GWU was reaching through its ongoing organizing efforts, as well as those involved with community organizations like Justice for Workers and the Migrant Workers’ Alliance for Change. The Bill emphasized work-specific issues, like deactivation and payment for time that was not currently counted as “engaged time,” as well as broader calls for full employee rights and status. On one hand, the Bill served as a symbolic document that challenged Uber and the Ford government’s claims about the legislative changes that would benefit gig workers, and by extension, what kinds of policy changes were possible. On the other, the bill served as a concrete alternative to Uber’s Flexible Work+ proposal and later on, the DPWRA. As Sopher explained during his interview, it was crucial that GWU and its diverse coalition stood for something, rather than merely disagreeing with Uber and Doug Ford.⁴² This strategy was especially important because it matched the development of Uber’s strategy for addressing worker grievances, which had evolved from overt dismissal to superficial recognition and calls for remediation.

⁴¹ Ontario Federation of Labour (OFL), “Protection for Every Worker - Establishing the Future of Decent Work in Ontario,” submission to the Ontario Workforce Recovery Advisory Committee (July 29, 2021): 7-9.

⁴² September 28, 2023.

Amongst the Ontario labour coalition involved with, and publicly endorsing the Gig Workers' Bill of Rights was UFCW Canada. Through late 2021, a promising alliance appeared to be growing within the Ontario labour movement, rallying around demands not only for improved working conditions in the gig economy, but also broader legal changes that would mitigate the precarity of app-based workers in other ways (see fig.5). UFCW co-signed the Bill of Rights alongside what appeared to be a promising alliance within the Ontario labour movement calling for not just improved working conditions in the gig economy, but broader legal changes that would mitigate the precarity of app-based workers.

GIG WORKERS' BILL OF RIGHTS

This is a Bill of Rights created by gig workers to outline what minimum rights our governments must guarantee to ensure fairness and non-discriminatory treatment for workers in the gig economy.

- **A worker is a worker:** Full employment rights with no carve-outs from minimum wage, sick leave, vacation pay and other minimum employment standards.
- **Payment for all hours of work:** Paid time from when workers sign in until they sign out of the app with a clear and concise breakdown of how pay is calculated.
- **Compensation for necessary work related expenses** to ensure gig workers' *real* wages are not reduced below the minimum wage
- **Full and equal access to regulated benefits programs** like Employment Insurance (EI), Canada Pension Plan (CPP) and injury compensation (WSIB).
- **Data transparency:** access to all data collected and how the algorithm affects workers, including any forms of discipline.
- **Make all work count:** gig work must count towards Permanent Residency applications.
- **Put onus on employers to prove that workers are not employees,** instead of workers proving that they are not independent contractors. Enshrine the predictable and purposive ABC test for employment status.
- **Recognize gig workers' right to form a union,** with the union they choose, to have a collective voice at work.
- **Workers must have the right to negotiate for livable wages and benefits** with their employer. Real, worker-led sectoral bargaining to enable meaningful collective bargaining to raise industry standards.
- **An end to arbitrary deactivations and fair compensation for glitches:** Just cause protection against deactivation, access to a clear and free process and enforcement mechanisms for minimum standards. Compensation for technical issues on the platform's end.

Sign on to support

TakeAction.ofl.ca/action/gig-workers

GigWorkersUnited.ca

SCAN ME

Logos: Gig Workers United, Justice for Workers, Ontario Federation of Labour, UFCW, CUPW

Figure 4: Gig Workers' Bill of Rights, retrieved from *GigWorkersUnited.ca* in January 2022.

In October 2021, members of GWU and UFCW's Uber Drivers United, alongside other labour activists, held a solidarity demonstration outside of the Ontario Legislature, which included symbolically delivering a large print-out of the Bill of Rights to the policymakers who were debating the employment status of gig workers that day. The demonstration was co-ordinated with a member of provincial

parliament from the NDP, who was proposing the adoption of the “ABC test” for determining gig workers’ employment status, citing the Bill of Rights as evidence of gig workers’ desire for full employee status.⁴³ This proposal came before the OWRAC released its final report and before the DPWRA was announced. The support of individual provincial NDP MPPs reflects how the coalition for gig workers’ rights was growing and diversifying its strategies, in terms of the arenas of society in which various struggles were waged. There were ongoing organizing efforts underway, certification cases being fought at the OLRB, broader community activism and networks being built, and efforts to take charge of the media narrative by GWU, all of which contributed to increased political pressure to address the issue of gig workers’ rights.

Meanwhile, Uber representatives had been in close contact with Ministry of Labour staff since late June; before Uber’s official OWRAC submission on July 28, Uber’s head of public policy sent an email to a Ministry staffer with a memo on the Flexible Work+ proposal “as requested,” indicating that prior communication on the topic had taken place.⁴⁴ By August of 2021, the Bill of Rights campaign

⁴³ “Gig Workers: ‘Gig Work Is Real Work,’” Canadian Union of Postal Workers via Newswire (press release), October 8, 2021; “NDP introduces bill to lift gig and contract workers,” Ontario NDP, October 25, 2021; “The “ABC test” provides that a worker is an employee unless the hiring entity can establish that (A) the worker is free from its control, both factually, and under the terms of the contract for performing the work; (B) the worker performs work outside the usual course of its business; and (C) the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed” (Mandryk et al., “The ABCs of gig work,” May 4, 2021).

⁴⁴ This timeline is based on copies of emails between Jake Brockman (head of public policy for Uber Canada), Walid Abou-Hamde, and Alexandra Rodgers (respectively, the former Director of Stakeholder Relations and Director of Policy for the Ontario Ministry of Labour), between June 28, 2021 and April 8, 2022. These emails were obtained by Vanmala Subramaniam at the Globe and Mail via Freedom of Information (FOI) request, and later shared with me over email in 2022.

continually ramped up its public-facing efforts, including an online petition enabling supporters to sign the Bill, and what Brice Sopher broadly described as GWU taking control over the media narrative, building relationships with journalists to ensure that workers' perspectives were represented in reporting on the gig economy, rather than so-called "experts" with limited concrete understandings of the work and its issues.⁴⁵

Around this time, Uber released a report titled "Platforms Work" which highlighted the purported benefits Uber provided its workers in the first year of the pandemic in multiple countries, including Canada, accompanied by a more detailed "blueprint" for the Flexible Work+ PR campaign, following the finalized OWRAC submission.⁴⁶ An email from Jake Brockman, Uber Canada's head of public policy, sent to the Ministry of Labour on August 30 after the consultation process had supposedly concluded, stated "We've been pleased by the OWRAC consultative process and look forward to working with the Committee moving forward."⁴⁷ These communications from Uber stand in stark contrast with other community stakeholders' experience with the OWRAC consultative process, which was described as rushed, disorganized, and superficial at best.⁴⁸ In addition to the disproportionate representation of business interests within the committee, there

⁴⁵ Interview on September 28, 2023.

⁴⁶ Uber OWRAC submission dated July 28, 2021 (from FOI documents); "Platforms Work," Accenture, 2021.

⁴⁷ Email from Jake Brockman to Alexandra Rodgers, Walid Abou-Hamde and Joshua Workman on August 30, 2021. Cited from FOI documents.

⁴⁸ OFL, "Protection for Every Worker," submission to the Ontario Workforce Recovery Advisory Committee (July 29, 2021): 7-9.

were no public consultations held, and the extent of stakeholders representing workers, research, and other community interests' participation was a single written submission.⁴⁹

The OWRAC's final report, titled "The Future of Work in Ontario," was released in December 2021, barely six months after the committee's inception. The report was immediately met with concern and criticism due to its recommendation that Ontario establish a new legal category for platform workers that is distinct from employees, and to establish an advisory board on introducing portable benefits for gig workers.⁵⁰ Despite the report claiming to be a product of an extensive consultation process, its recommendations for platform workers more or less mirrored Uber's Flexible Work+ proposal, effectively ignoring the in-depth arguments for recognizing the employee status of gig workers articulated by the OFL, GWU, Justice for Workers, and a number of other community and labour organizations.

In relation to my point above about the vast difference between Uber's experience with the OWRAC and that of other unions, community organizations and progressive labour advocates, perhaps the most sinister aspect of the biased consultative process was that it enabled the committee (and by extension, the Ford government) to include a long list of progressive organizations in the final report and claim that they had all been "consulted." This notion of "consultation" provided further legitimacy to the committee's recommendations, as it suggests that the

⁴⁹ OFL, "Protection for Every Worker," 7-9.

⁵⁰ "The Future of Work in Ontario," Ontario Workforce Recovery Advisory Committee, December 9, 2021.

perspectives of those consulted are at least somewhat reflected in the final report, which was ultimately not the case. Those who had raised concerns about the OWRAC process were unfortunately vindicated by the final report and the policy announcements that were to follow, but the struggle pushed onward.

In January 2022, the OFL organized a webinar titled “the Gig Economy is Coming for You.” The online event featured a number of representatives from the broader coalition of unions and community workers’ advocacy groups involved in the Bill of Rights campaign, who sought to rally OFL-affiliated union members and activists against the growing threat of regulatory carve-outs for gig workers and employment standards more broadly. Since the DPWRA had yet to be announced, speakers focused on the hardships faced by gig workers during the pandemic, the optimistic state of the organizing environment at the time, and challenged the assumptions embedded in both Uber’s Flexible Work+ plan and the final OWRAC recommendations. The event concluded with a “phone zap” wherein everyone was invited to call their local MPP and voice their support for recognizing gig workers as employees rather than a new third category.

A representative from UFCW’s Uber campaign was scheduled to speak at the webinar, but was not present that evening, despite UFCW’s logo being included on promotional materials for the event. As an audience member with limited understanding of the internal politics of the Ontario labour movement at the time, I was confused by the absence of UFCW’s speaker, but did not think much of it. The only mention of UFCW that night was when the President of GWU mentioned the Uber Black unionization attempt as one of the major efforts to fight for gig workers’

rights in Ontario, so the consensus appeared to remain unchanged amongst the OFL coalition.⁵¹ The fact that GWU and UDU were both organizing Uber workers did not appear to be a source of conflict at the time, since they were focused on different groups of gig workers, and seemingly shared the common goal of settling the misclassification debate to solidify gig workers' right to unionize and collectively bargain.

I left the webinar feeling optimistic and excited for not only the trajectory of gig worker organizing in the province, but also what seemed to be an indication that more radical, coalition-based organizing tactics were being revived to address the threat of the gig economy's expansion. However, the next day, Uber and UFCW issued a joint press release, announcing they had reached a "landmark agreement" to provide union representation to over 100,000 drivers and delivery workers across the country.⁵² Uber workers learned that the deal had been struck through in-app messaging and emails from Uber, informing workers of the "good news."⁵³

⁵¹ "The Gig Economy is Coming for You," OFL webinar (recording,) January 26, 2022, posted February 8, 2022, YouTube.

⁵² "Uber Canada and UFCW Canada reach historic national agreement to benefit drivers and delivery people," Uber Canada via Newswire, January 27, 2022.

⁵³ Earla Phillips [@earlwithana], "@TheLawofWork @Uber @UFCW They Have Pushed This Info to Drivers via App and Email.... Additionally, UFCW Texted Me so My Contact Info Was given to Them Somehow...." Twitter (now X), January 27, 2022. (Figure 6 is a screenshot from her tweet.)

What today's agreement with UFCW means for you

We wanted to share some good news about what today's Uber Canada-UFCW Canada agreement means for building a better future for drivers and delivery people like you:

- UFCW representation services if you are faced with an account deactivation or other account-related disputes, including at the existing third-party dispute resolution process. These services will be offered for free.
- A stronger voice at the table with UFCW Canada meeting with Uber Canada leadership to discuss health, safety, and other issues every three months.
- Continued freedom to choose if, when, and where you work.
- A joint commitment that UFCW and Uber will press for government reforms to provide you with new benefits—like a minimum earnings standard, a benefits fund, and access to workers' rights—while preserving your flexibility

Figure 6: screenshot posted by @earlawithana on Twitter (now X).

The initial announcement was vague in terms of what both parties had agreed to, but it was immediately evident that UFCW had made a closed-door deal with the employer, which did not actually extend union membership to the workers supposedly now “represented” by this union. The announcement also mentioned that UFCW would support Uber in lobbying for “government reforms to provide drivers and delivery people new benefits and preserve the flexibility of their work.”⁵⁴ It was later revealed that UFCW helped Uber lobby the Ontario government for legislative changes that its president had publicly denounced a year

⁵⁴ “Uber Canada and UFCW Canada reach historic national agreement to benefit drivers and delivery people,” Uber Canada via Newswire, January 27, 2022.

prior, specifically the exclusion of gig workers from the ESA and the *Occupational Health and Safety Act* (OHSA).⁵⁵

The Uber-UFCW agreement was met with considerable criticism by the Canadian labour movement, though there was an effort on CUPW and GWU's part to focus on Uber's missteps rather than attacking UFCW and exacerbating the counter-solidaristic effects of the agreement. In a media release, CUPW's national president expressed shock over the agreement, and restated the union's commitment to fighting for full employment rights for gig workers, avoiding direct discussion of UFCW.⁵⁶ The president of Unifor, another private sector union, published an opinion piece wherein he called the agreement "a depressing answer" to the question of what direction the push to regulate gig work was moving towards. He also revealed that Unifor had also met with Uber at some point in its Flexible Work+ campaign to discuss regulatory priorities and what a gig worker union would entail (he states that gig companies were meeting with many North American unions around this time). "After months of slow-going dialogue, and no concrete proposals, the effort seemed dead. That is why I was intrigued to see the Uber-UFCW deal. Uber went shopping for the lowest-ambition deal, and found it."⁵⁷

The idea that Uber was "shopping around" to find a union willing to work on the company's terms is indicative of Uber's motivations, the need to reinforce

⁵⁵ *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1.

⁵⁶ "CUPW Statement on the Uber and UFCW National Agreement," Canadian Union of Postal Workers, January 28, 2022.

⁵⁷ Jerry Dias, "Jerry Dias: A Moment of Endless Possibilities for Gig Workers," *Toronto Star*, February 2, 2022.

its legitimacy and make its workers feel “heard” at a time of growing labour unrest, and to address the push to regulate platform employment without changing its business model. This last point is particularly important when considering the fact that Uber had yet to generate any operating profit, and the new CEO had been tasked with making the company profitable and increasing its market capitalization after the 2019 IPO. It is also worth noting that Uber had made a similar voluntary agreement in 2019 in New York with “a regional branch of the International Association of Machinists and Aerospace Workers” that established the controversial Independent Drivers’ Guild (IDG). The main reason why the IDG is controversial is that it receives (or has received) funding from Uber to provide support to workers.⁵⁸ This raises the question of whether there was a cost-sharing component to the UFCW deal as well, but at this time it is only possible to speculate. The UFCW deal was not the first agreement that was made amid independent and grassroots, or otherwise more radical, organizing attempts. In addition to the IDG, a similar voluntary agreement was struck in the UK between Uber and GMB, another large union, which also interfered with other grassroots campaigns.⁵⁹ Suffice to say this is a calculated strategy on Uber’s part to manage the aforementioned risk of “labor unions and similar organizations.”

In May 2022, UFCW withdrew its application to certify the group of Uber Black drivers at the OLRB, indicating that the matter had been settled privately. In

⁵⁸ Noam Scheiber, “Uber Has a Union of Sorts, but Faces Doubts on Its Autonomy,” *The New York Times*, May 12, 2017.

⁵⁹ Bryan Menegus, “Uber Recognizes UK Drivers’ Union,” *The Verge*, May 26, 2021; “UPHD responds to reports of Uber recognition agreement with GMB trade union.” United Private Hire Drivers (now-inactive grassroots group in the UK), May 26, 2021.

one article discussing this development, a UFCW representative stated that the uncertainty of the OLRB case was the main motivation to settle with Uber.⁶⁰ UFCW responded to criticism of the deal and the decision to withdraw their OLRB case, stating; “Since January’s announcement, UFCW Canada activists have met directly with and heard from thousands of Uber drivers across Canada looking for help in dealing with health, safety, and deactivation issues. These drivers’ concerns were brought to the table, and UBER management is now obliged to deal with them.”⁶¹ This statement ignores the fact that Uber is not legally obliged to do anything for UFCW or the workers it purportedly “represents”, because they entered into a voluntary agreement rather than negotiating a collective agreement and certifying a bargaining unit. Moreover, the withdrawal of the OLRB application meant that Uber Black drivers, who had been described as union members by UFCW representatives until the Uber deal was announced, were effectively kicked out of the union they were previously encouraged to join.

Thus, UFCW settled privately with Uber and decided its workers were better off with superficial union representation rather than continuing to organize amid the uncertainty of the OLRB’s final ruling. As time has gone on, the extent of UFCW’s “union representation” appears to be additional support for workers who are unfairly deactivated from the Uber platform, but not much else.⁶² The deal also

⁶⁰ Debora DeAngelis, UFCW regional director for Ontario, quoted in Tara Deschamps, “Uber, Union Reach Settlement in Ontario Unionization Case: UFCW Canada,” *Toronto Star*, May 6, 2022.

⁶¹ Bush, “Gig Workers Deserve Real Labour Rights, Not Backroom Deals,” 2022.

⁶² Keerthana Rang, “Uber Canada and UFCW Canada Agreement Reaches One Year Milestone,” Uber Newsroom, January 23, 2023.

meant that UFCW was interfering with GWU's ongoing, more ambitious organizing efforts. Workers who had signed membership cards with GWU were suddenly told by Uber that they were represented by UFCW, causing confusion about the state of the GWU organizing drive amongst its supporters.⁶³ The ongoing tensions between GWU/CUPW and UFCW are one of the counter-solidaristic consequences of the Uber deal, which at the very least is another obstacle for organizers to navigate on this increasingly treacherous organizing terrain.

The still-unresolved misclassification debate has (at least in theory) significant implications for gig workers in terms of their ability to form/join an institutionally recognized union, and in potentially securing basic protections like a minimum hourly wage or limits on working hours. My discussion here of the UFCW deal and the DPWRA has highlighted Uber's incessant efforts in Ontario to ensure that its workers are not classified as employees, and that they do not meaningfully unionize (obtain legally binding union representation through certifying a collective bargaining unit). Examples from other jurisdictions, such as California and New York, demonstrate that even high-level rulings that gig workers are employees have not stopped Uber from attempting to maintain its existing business model in different ways, all at the expense of workers.⁶⁴ The relevance of the ongoing misclassification debate within the broader terrain of gig worker

⁶³ This is demonstrated by CUPW filing an unfair labour practice complaint against Uber about the deal, and UFCW's role in supporting Uber's (hitherto unsuccessful) attempts to dismiss the complaint. The details of the CUPW complaint are beyond the scope of this paper, in part because the case is ongoing at the time of writing. See: *Canadian Union of Postal Workers v Uber Canada Inc.*, 2023 CanLII 98479 (ON LRB).

⁶⁴ Gabe Ets-Hokin, "What to Expect with Coming Independent Contractor Legislation," *The Rideshare Guy*, May 26, 2022.

organizing lies not only in its legal implications, but also in the ways in which Uber and neoliberal policymakers have worked collaboratively to shape the common-sense parameters of said debate in Uber's favour.

Chapter 4: Interviews

Well, as I'm sure you know, the legal definition is that we are self-employed; we're not employees, so we are independent contractors. So, I really don't have any other way to describe myself if that's how the government looks at us, right? [laughing] - Brian, 44¹

The quotation above exemplifies the materiality of the discursive struggle around gig workers' legal status, a struggle in which Uber has achieved moments of success, but that ultimately remains unresolved. By this I mean that the *Digital Platform Workers' Rights Act* (DPWRA) is not yet in effect, and there is no formal recognition of gig workers as independent contractors in Ontario as an official policy regardless of the DPWRA.² Yet Brian's understanding of his legal status as a worker should not be interpreted as him simply taking Uber's claims about their employment relationship (or lack thereof) at face value. In his view, the question of whether he "feels" like an independent contractor is redundant because he has already been subjected to this category through his "Platform Access Agreement" with Uber, which in turn shapes his relationship to the state. Despite the misclassification debate still being "officially" unsettled, Uber's claims are made material through the non-negotiable contract that workers must accept to access the platform, which articulates the relationship between Uber and its workers as an

¹ Interview with Brian, July 18, 2023.

² *Digital Platform Workers' Rights Act*, 2022, S.O. 2022, c. 7. As mentioned in the preceding chapter, there have been Ontario Labour Relations Board rulings that individual gig workers are misclassified by Uber, and there is an ongoing class action related to the misclassification of Uber drivers and delivery workers in the province, but the ESA does not reflect these rulings thus far.

agreement between two enterprises, two service providers.³ Moreover, while the classification of gig workers remains legislatively unresolved, their purported self-employment is reified by the fact that both Uber and the Canada Revenue Agency (CRA) instruct gig workers to file taxes under the category of self-employed.⁴ Thus, Uber’s persistent articulation of its workers’ status as independent contractors represents not merely a set of claims, but a web of material-social relations that are made real through concrete activity and experiences, shaped by discourse, common sense, and the regulatory structures they interact with.

*I do think it's a fair trade off as long as no other further red tape is added. If they regulate it and they say, okay, Ryan's on for ten hours, just pay him 15 bucks an hour and he can go on at any time. And as long as he's on the clock for 12 hours – the app kicks you off after 12 hours driving time – you pay him just at the minimum wage. Right? Uber wants that. I don't want that. **I want to be able to do the rides. I like the piecework. I do not want hourly pay. If I want hourly pay, I'll go get a job.** So I think that the way things are now, it's fine, even with the new safety course for Toronto's drivers. **But any further additions will, I think, only harm the service providers, meaning the drivers, the operators.**⁵*

In chapter three I explored developments in gig economy discourse and the organizing climate during the pandemic, exemplified by Uber’s Flexible Work+ campaign, Ford’s promotion of the DPWRA, GWU’s varied efforts to challenge the Ford-Uber narrative on gig work, as well as the contradictory UFCW deal. These developments can be broadly understood as a collaborative effort between

³ Official title of the contract that Uber workers must “sign” to work on/for/through the platform. Copies of Uber’s various platform access agreements and addendums from 2017-2023 were provided to me by an anonymous interview participant.

⁴ “How to file taxes as an Uber Partner,” PDF by Intuit (TurboTax) in partnership with Uber, accessed July 31, 2023; “Taxes and the platform economy: Gig Economy,” Canada Revenue Agency, last modified October 10, 2023.

⁵ Interview with Ryan, July 18, 2023.

the Ford government and Uber to manufacture consent for, and reproduce the neoliberal status quo, at a time when the consequences of the neoliberal project were increasingly difficult to ignore - in the same way that the downsides to Uber's "flexible" work arrangement were also being emphasized. Consent in this context does not need to take the form of active, enthusiastic support for the status quo, but merely an inability to imagine any viable alternative.⁶ Uber and Ford's complementary emphasis on the importance of regulating gig work, paired with the anti-climactic outcome of the DPWRA, should be understood as a strategy for achieving the latter, "weaker" form of consent that is nevertheless powerful. As I discuss later in this chapter, the compromises represented by the UFCW deal should also be understood in this light, as an implicit reinforcement of the assumption that meaningful change is not possible.

My research suggests that these multifaceted developments in the gig worker organizing terrain, especially their discursive dimensions, have generally increased these workers' awareness of the conflicting perspectives on their legal status, and of how the Uber model could be improved for gig workers. One of the first questions I asked my interviewees was whether they felt like they worked for themselves, if they felt like they worked for Uber, or something in between. Every person I interviewed was at least somewhat aware of these debates, and most had their own understandings of, and opinions on them, informed by their personal experiences with Uber, the varied perspectives they had encountered via social and news media, or in conversation with other gig workers. Workers' various

⁶ Ralph Miliband, "Counter-Hegemonic Struggles," *Socialist Register* 26 (March 18, 1990): 346-347.

reflections on, and positions within the misclassification debate (and related gig economy discourses) suggest that the common sense of gig work, upon which Uber's influence has been unparalleled, may itself be an obstacle to organizing gig workers.

Be Your Own Boss: The Contradictory Appeal of Self-Employment

I will say I choose to- I see it as working for myself in some way. Just that- I just use the Uber as an opportunity to meet different passengers. – Victor, 28⁷

The allure of “on-demand” work, that is, the ability to supplement one’s income as needed, has been, and still, is one of the major selling points touted by Uber and other platform-mediated employers. As a result of this technologically enabled capacity, a defining feature of Uber’s platform model is the simultaneous mediation of a wide range of work arrangements through its smartphone apps, which translate into concrete, differentiated yet interconnected activities performed by a network of geographically dispersed workers. This spatial atomization, sometimes described as lack of a physical workplace, is one of the most immediate barriers to organizing gig workers, for both technical and strategic reasons. However, the atomization of gig workers through Uber’s “on-demand” model is not only spatial, but also temporal and social. Gig workers are not just geographically dispersed; they also work at different times, for different amounts of time, some more frequently than

⁷ Interview with Victor (pseudonym), July 18, 2023.

others, and to an extent, for different reasons.⁸ This spatial and temporal atomization is inseparable from a broader social fragmentation that is reinforced through Uber’s emphasis on workers’ ability to control their schedule and only work as much as they “need,” a core feature of the company’s strategic appeals to entrepreneurial common sense.

Uber’s recruitment and marketing strategies have varied over the years, but one consistent promise the company makes to prospective workers is that with Uber, you can “be your own boss.” Under the “frequently asked questions” section of its driver recruitment webpage, it states: “With Uber, *you can get paid to drive when you want* and manage your own hours. Whether you choose to drive throughout the week or just when you need extra money, *Uber is a great way to be your own boss.*”⁹ This phrasing exemplifies how Uber constructs a vision of self-employment based solely on individual control over one’s work schedule, obscuring its role as “employer qua capitalist,” and by extension, its antagonistic relationship to its workers.¹⁰ The claim that “you can get paid to drive when you want” implies the existence of a steady stream of demand that workers can access at their leisure, obfuscating how Uber controls the distribution of work assignments and the pay that workers receive.

[...] because they're just a company, they're just running the algorithm. They don't care, they're just scraping pennies. It's a penny scraping

⁸ As I discuss below, while the specific reasoning for choosing gig work can vary between workers, these differences are all connected by the underlying need to make money, making these varied motivations somewhat contradictory.

⁹ “Drive with Uber - Be Your Own Boss,” under “Frequently asked questions” - “how often do I have to drive with Uber?” Uber Canada, accessed February 2, 2024. Italics added for emphasis.

¹⁰ Schein, “From free time to idle time,” 409.

*algorithm. You know, the thought of that is-it's honestly staggering because there's millions of rides happening around the world. And it's a very interesting system, very intricate too... Many moving parts...*¹¹

Specifically, this framing mystifies the power imbalances embedded in the platform model; an enclosed, privately owned marketplace wherein the parameters of all activity and interaction are designed and controlled by Uber to serve its goal of profit maximization. As a capitalist enterprise, Uber's pursuit of this goal places its interests in direct antagonism with the workers whose labour makes the on-demand service (and thus the opportunity to extract value from each exchange) possible. Gig workers may own the vehicles they use to carry out driving or delivery work, as well as the smartphones that connect them to the Uber app, but they do not own the means of production, which is the Uber platform itself. Workers' cars, bikes, and smartphones are not necessarily means of capitalist production until they are used to connect to Uber's platform, through which they become instruments of surplus value extraction.¹² The platform turns these consumer products into forces of capitalist production at workers' expense, thus enabling Uber to extract surplus value from the activity it mediates and manages. Even the city-issued licenses for Uber drivers are tied to the company rather than only the worker – meaning these “self-employed” drivers are only permitted to engage in this work if it is mediated through the Uber platform.¹³

[...] in theory it's liberating, but it's actually enslaving because there's less flexibility- like, if I work a normal job and I know I make this much per hour

¹¹ Interview with Ryan, July 18, 2023.

¹² The platform enables the extraction of absolute surplus value because of the semi-automated piecework model it employs, wherein workers are not compensated for all of the time they spend online, but this idle, unpaid time is a prerequisite of value for Uber.

¹³ “Drivers for Private Transportation Companies,” City of Toronto, November 20, 2017.

*and, I know if I work this amount of hours, I'll make this amount of money and I can know how much money I'll have, like with 100% certainty and I can plan my life accordingly. Whereas **with gig work, I never know how much I'm going to make. And so actually, if I don't earn enough, then I have to work more. My life actually becomes consumed by the work rather than being [liberated from it].***

*Like, yeah, **I can technically work whenever I want, but there's no guarantee I'm going to make enough money, you know, and some days I can make a good amount of money. And then other days I can make very little and there's no predictability at all. But my costs remain the same. My rent is the same food, you know, I need to eat food, bills are all the same. But the amount I earn is never the same. So my life actually ends up revolving around work and. And how much I have to do. And I can't start to live until I've done my work, until I've earned enough.***¹⁴

Prior research on the experiences of Uber drivers has highlighted the differences between “types” of Uber drivers or workers, based on their degree of reliance on the platform in relation to the degree to which they benefit from its flexible labour model. For example, Alex Rosenblat outlines three general categories of Uber drivers: hobbyists, part-time, and full-time. She argues that Uber pits the interests of those attempting to make a living from gig work (full-timers) against those who reap the benefits from the on-demand, legally ambiguous model as is (hobbyists and part-timers). Specifically, that the large pool of part-time and casual drivers eliminates any incentive for Uber to compensate its full-time drivers fairly, despite Uber’s reliance on the full-timers who perform the bulk of the work on the platform.¹⁵ It is true that Uber’s business model relies on the workers that Rosenblat characterizes as “full-time,” despite emphasizing the ability to work casually in its recruitment messaging. My contention, however, is that the workers that Rosenblat classifies as “full-time” are more accurately defined by their

¹⁴ Brice Sopher, September 28, 2023.

¹⁵ Rosenblat, *Uberland*, 50-53.

dependence on Uber as a primary income source, rather than by the amount of time they spend on the platform.

Uber's vast reserve army of labour is comprised of workers with varied degrees of dependence on the platform, and in my research, there was some correlation between workers' reliance on their gig work earnings and their satisfaction with the existing Uber model. Yet these varied degrees of dependence did not necessarily correlate with more or less time spent on the platform, but rather with workers' sense of control over, and agency within their day-to-day work. This dependence is further influenced by workers' broader life circumstances, including (but not limited to) their age, their work experience and education, their immigration status, their personal finances and debts, and whether they have dependents. As I discuss below, Uber does not rely only on the "most dedicated" or "full time" drivers, in part because these terms are somewhat subjective, but also because Uber benefits from the appearance of choice and flexibility that these differentiated work arrangements and "types" of gig worker signify. In a contradictory way, those who work "part-time" may actually be more dependent on their earnings, but because of other responsibilities may not have the option to wait for work assignments that they deem are worthwhile.

If I'm in downtown Toronto, I'm skipping 100 rides before I take one. This is my personal method, though, because I know the system's not going to chastise me for it. And also, I'm sitting in Toronto at 4 p.m. in the midst of traffic. I want a ride that's going to take me out of the city so it's worth my while, right? Like I've already waited, now if I take a ride that's \$5 and it's going to take me 25 minutes to move someone two kilometres, that's not profitable. That's a waste of my time. That's not me doing anything for Uber either. There's other drivers who think that's profitable, or they're comfortable doing that. Why? Because they're Uber part time. So this guy wants to work only between 4 to 7 p.m.. He's

going to take any ride he gets. Me, I'm here for 12 to 15 hours online. I can be flexible. This is part of the convenience that Uber offers, right?

I've learned how to understand the algorithm a little bit better. So that's part of my incentive, right? That's why I open myself up to more hours, because I'm hoping I can pull better rides, right, off the information that I do know and see. Whether this is from app side or just an understanding of flows of traffic, like me knowing that there's a concert and when the concert is done at 11:45 that there's no reason for me to not take a trip that doesn't say it's a long trip. Why wouldn't I want to take a rider to Ajax or to Brampton or further? Or do I want to take the customer that going to Yonge and Eglinton willy nilly? No, there's no reason for me to accept the first trip off the jump.¹⁶

Even within my small group of interview participants, there were individuals who exclusively drove passengers, people who did both ride-hailing and delivery work, and people who just did delivery for various reasons.¹⁷ Some of the drivers I spoke to were Uber loyalists, others also drove for Lyft,¹⁸ and some occasionally delivered food or other goods available via the Uber platform. Most of the active drivers I interviewed relied on Uber as a primary income source, yet still had other “side gigs” ongoing that supplemented their income. Conversely, none of the delivery workers I interviewed were actively on platform-mediated gig work as a primary income source. Of course, there are people who exclusively do delivery work and are reliant on the income it generates, but I was not able to recruit any of these workers to interview. Insights from the delivery workers I did

¹⁶ Ryan, July 18, 2023.

¹⁷ While some people exclusively deliver with a car, I use the term “driver” to refer specifically to UberX/ride-hailing drivers, and “delivery worker” or “courier” when referencing those who only do delivery work with or without a car.

¹⁸ Uber’s competitor, Lyft, actually came out with the ridesharing (using a personal vehicle) model before Uber, but its growth has not been as expansive as Uber’s.

interview suggest that because the pay is so low and unpredictable, those who do this work full-time would likely be too busy piecing together an income from multiple apps, and/or working at odd hours, to do much else.¹⁹

As previously mentioned, these varied relationships to the Uber platform are shaped by a multiplicity of factors, and in my observation were distinguished by workers' sense of agency (or lack thereof), specifically in terms of their perceived ability to strategically maximize their earnings. For example, Tom²⁰, who has been driving for 5 years, estimated that he spends 8-9 hours on average per day driving for Uber, and 5-6 additional hours working remotely for a tech company. Tom, who is 33 and married with two children, only does UberX (not delivery work) and clarified that he does not work for 8-9 hours consecutively, but in chunks throughout the day around his other responsibilities. In contrast, Ryan, who is 32 with no dependents, primarily drives for Uber and sometimes Lyft, while also delivering for Uber and all the other major delivery platforms to supplement or maximize his ride-hailing earnings. Ryan talked about adjusting his driving schedule to pursue other interests or "side-hustles," but his approach to gig work involves spending more time logged on to the Uber (and other) apps until he is offered what he considers a worthwhile trip or delivery. Conversely, Tom expressed frustration at the fact that, because of his other responsibilities and financial needs, he was often compelled to accept trips that he anticipated being undercompensated

¹⁹ i.e. Multiple workers told me that the best time to recruit delivery workers would be past midnight on a Sunday; Brice talked about how, especially with a car, delivery workers are effectively working to sustain work (working all day to pay for food and shelter, and the car they use to work).

²⁰ Tom (pseudonym) interview on July 31, 2023.

for, but were better than earning nothing. Their respective experiences and conceptualizations of their work, inseparable from the autonomy they felt it afforded them, correlated with opposing opinions on the misclassification debate and unionization. This raises a point I revisit below, the relationship between life “outside” of work and how workers engage with the Uber platform, which is intertwined with their perceived agency within said dynamic.

Kumar, a 31-year-old public servant in Ottawa, started delivery work in 2019 as an international student, and continues supplement his full-time job with delivery work (UberEats and other platforms) in the evenings and weekends to help pay off his student debt. He noted that his relationship to gig work changed once he started his full-time job; he now feels more in control of his time on the app, specifically his ability to choose the orders that he deems worthwhile. When delivery work was his only income source, he said he felt he was “at the mercy of the app” in terms of having to accept low-paying orders.²¹ James, a 24-year-old who was delivering part-time in Toronto on his moped when we spoke, expressed similar sentiments about/on the experience of navigating the dynamics of platform delivery work, despite describing himself as part of a relatively “privileged” minority of delivery workers.

*I mean, I feel pretty, you know, "liberated" because I'm able to work when I want **and I'm able to use the system to my advantage**. And because I have other income sources and because I live with my parents, right? I mean, there's a-there's a number of privileges that I have that make this job, like, feasible for me. If I did not have these privileges, this job would be fucked, right? **Also, the fact that I'm moving on to much greener pastures in a month and a half makes it a lot easier to cope with. Right. Like, the job***

²¹ Kumar, August 31, 2023

sucks. I mean, you know, riding around in the fucking hot sun, waiting for pings is not necessarily, like, the greatest job in the world, right?

*I mean, it's cool to, like, see the city and ride around and stuff and like, you know, whatever. [...] But yeah, but I mean, just generally speaking, it's like, it's-it's kind of a shitty job. And like, **I feel like my particular circumstances make it bearable and make it tolerable and make it beneficial for me. But I could absolutely see a number of situations that this job would be fucked and exploitative.***²²

James started delivering for UberEats (and other delivery apps) after graduating from university in 2022, as he was in a period of transition between his bachelor's and law school and was not looking for long-term employment. After not being accepted into law school for fall 2022, he started a second venture, an on-demand rental business operated through a platform called Turo, as he happened to own three cars in addition to the moped he had purchased for delivery work earlier that year. This rental business, as well as his broader socio-economic circumstances that he describes above as “various privileges,” enabled him to take a break during the colder months and return to the gig in the summer as he felt was necessary. Since he was not reliant on his income to make ends meet, and only felt responsible for his own self-enrichment at the time, he felt he was able to reap the benefits of the existing gig work model in a manner that outweighed its downsides overall. Based his description of his other platform-mediated entrepreneurial endeavours, as well as the degree of flexibility he claimed to enjoy, I told him that he seemed to be kind of an “ideal” gig worker, part of the demographic one would think Uber attempts to reach with its recruitment messaging. His response was particularly illuminating:

²² James (pseudonym) interview on July 6, 2023.

It's funny, you say that I'm supposed to be the ideal candidate, right? Because I'm supposed to be the ideal candidate, but then when I was making \$15 an hour, I just rage quit and went home. Like, I don't actually know if they want people to do that, because if more people did that, then they'd have to pay their employees more- or their business owners, their independent contractors, whatever you want to call them... They'd have to pay their workers more, right? So, I don't know...

*Just from what I've been seeing, I think a lot of a lot of the people that do UberEats are international students and immigrants from certain parts of the world where they don't make a lot of money at all, and where UberEats may seem more alluring than it really is, and where they may not necessarily know the opportunities that are-the other opportunities that **could** be available to them.*

*They're international students that are a lot more marginalized. I mean they don't necessarily know the opportunities available to them. You know, \$6 an hour is a lot more competitive when you're coming from a country where they pay \$2, right? So, it may seem a lot more alluring, a lot of them are under obligation to send money home to their families. And, you know, **they're the ones that are out at like 2:30 in the morning getting \$4 McDonald's orders. I'm not doing that shit. I mean, those are the people that are doing it, right? I mean, the ones that don't have a choice.***²³

James' reflections on his position as an overall beneficiary of this work arrangement, and his awareness of the imbalanced playing field upon which gig workers operate, elucidates the contradictory common sense of gig work. This common sense is constructed and reproduced through the interplay of the concrete activity performed by gig workers, and Uber's mediation and management of said activities, which further differentiate workers while unifying them in a commensurable pool of labour. One crucial insight to be explored is how the "winners" and the "losers" within this pool of differentiated workers are intertwined

²³ James, July 6, 2023.

not just in terms of all working for the same platforms, but also how the “losers” make the “winners” feel better about their ability to make the arrangement work for them, while the “winners” simultaneously maintain the allure of independence as something that can be achieved through hard work and savviness. Of course, there are major caveats to my use of the term “winners” – as James’ previous quote illustrates, he was far from immune to the hardships endured by more precarious gig workers, he just was less affected by them because the stakes were relatively low if he logged off.

Well, for me, I think I'm actually working for Uber... Because I feel I should be getting more than expected and it makes me feel like I'm actually working for them because they get, you know, part of my own compensation and it's part of what actually makes them a company because they can't be running at loss, that's my own understanding. So I feel [they are] actually running to make a profit. Yeah. So I'm actually working for them

*Yeah. Sometimes, I make less than minimum wage and it's really frustrating, but, you know, it's better than nothing. So, I think that's the worst part of the job....my point is that, you know, sometimes I'm thinking about the distance we tend to cover. You know, sometimes I feel like I do not get- I get less than what I deserve... **for the wage I get, I feel like I'm getting less than expected, but because I needed a job, and I'm getting something from it, I couldn't quit because I do not have a better offer, for now.**²⁴*

Despite claiming otherwise, Uber relies on the workers who do not have the flexibility to not work because of their precarious circumstances and lack of better options. Following James’ line of thinking is interesting/illuminating, though, as he seemingly conceptualizes the “allure” of gig work as a matter of individual choice and savviness, insinuated by the idea that “they don’t necessarily know the

²⁴ Interview with Tom (pseudonym), July 31, 2023.

opportunities available to them,” even for the people who he says do not have a choice. This sentiment is contradictory in terms of where the agency and choice begin, versus the necessity to make ends meet while attending to other responsibilities that are generally inflexible. For example, two interview participants were former international students – Kumar and Roger – who highlighted some of the major reasons why so many choose Uber over other work opportunities. First, Roger explained that international student visas prohibit students from working more than twenty hours per week, but the limit does not apply when engaged in work as an independent contractor. Second, delivery work in particular has relatively low entry barriers; Kumar noted that some platforms only require a G2 driver’s license, and while Uber requires a full G to deliver with a car, there is also the option to deliver on a bike or even by foot.

The relationship between international students and gig work is a subject that warrants a more detailed analysis than my data permits, but the point is that the “allure” of this work is more likely a reflection of the difficulties in finding work, and the imperative to make ends meet, rather than an unawareness of better opportunities. This also aligns with how Brice described the appeal of gig work being “the least worst” option: “there isn't a lot of options and it's either work a shitty job like in fast food where you don't make enough money to pay rent in Toronto, or work a shitty job doing Uber deliveries and you don't make enough money to pay rent in Toronto.”²⁵ From this perspective, it becomes clearer why people are drawn to the independence Uber claims to afford its workers, even if

²⁵ Brice Sopher, September 28, 2023.

they are not able to exercise their agency in practice. Ultimately, Uber is the primary beneficiary of the different ways that this agency is understood and experienced.

Another noteworthy aspect of James' reflections above is how he somewhat distances himself from other, more precarious gig workers, essentially justifying his choice to do delivery work because he is aware of what he is getting into and its limitations, unlike others. He articulates this distancing in a somewhat sympathetic manner, yet saw his motivations and interests as distinct from other, more precarious workers'. Brice's reflections offered some insights into this discursive distancing, as he described how gig work is somewhat stigmatized as a "low job," as something that people resort to when they fall on hard times. This observation contradicts Uber's emphasis on the agency its model affords workers, as well as its broader invocation of entrepreneurial common sense in its branding. Yet the contradictory relationship between the entrepreneurial appeal of gig work and its social stigma as low-paying service work helps explain James' sympathetic distancing from other workers. Ryan expressed a similar sentiment, albeit in different terms, when articulating his understanding of the employment/contractual relationship between platforms like Uber and their workers:

So here's the thing. Most people will tell you they're their own boss, but I know that, you know, the gig work is kind of gig work in name. Like, I still do work for Uber or Lyft, I represent them, right? Like if the service and the business goes to shit in the next year, I'd have to look for a different type of work or gig work, right? So again, the incentive is for me not to, like, bash the name 100%, right? That's what also keeps the drivers, I would say, dishonest because there's a lot of drivers who are very, you know, well, they just go for championing the state or championing the company right away, off the jump, without thinking for themselves. But for me, I-I look at it a little bit differently. But like I said, we are representing Uber and Lyft, they're bringing us customers, like, they are a service provider. And I'm-but I'm also a service provider.

*They're providing me a service by bringing me customers, and I'm providing the service by using my car. Right. The last mile-It's a last mile service. That's what this business is. A Last Mile Courier, basically the last mile transportation. So, yeah.*²⁶

Flexibility or Unpredictability?

[...] you can only really be your own boss in the way Uber, you know, wants you to believe you're being your own boss, if you break the rules.” – James, 24²⁷

The flexibility Uber claims to facilitate for its workers is encapsulated by one of its current slogans; “work when you want, earn what you need,” which emphasizes the ability to control one’s schedule and adapt it to their specific needs or goals.²⁸ Yet this statement is paradoxical in the sense that in order to earn what they need, most workers end up working more than they might want to. Control over one’s schedule is perhaps the most tangible form of flexibility experienced by Uber workers, and was cited as the most appealing part of gig work by the majority of interview participants, albeit for varied reasons. This control is conceptualized by workers as both the *ability to not work* at any given time without penalty, and *always having the option to work more if desired or needed*. However, Uber’s algorithmic management techniques complicate the idea of “wanting to work” by employing strategies of gamification and other manipulation tactics that encourage

²⁶ Ryan, July 18, 2023

²⁷ Interview with James (pseudonym), July 6, 2023.

²⁸ “Earn Money by Driving or Get a Ride Now,” Uber Canada, accessed January 26, 2024.

drivers to work for longer or more frequently.²⁹ Multiple interview participants referred to these manipulation tactics using language such as “brainwashing,” “casino effect,” and a general tendency for gig workers to work for longer than they intended, both on a day-to-day basis and in terms of changing jobs altogether.

One of the first things I asked in my interviews was to describe an average day driving or delivering for Uber, which frequently turned into conversations about the unpredictability of the work, and different strategies for getting the most out of it based on the limited information Uber provides its workers. Those who attempted to describe an average day did so in such abstract terms that it became clear there is no “average day” when driving or delivering for Uber. Unpredictability is a defining feature of Uber’s gig work model and is conceptualized and navigated by workers in different ways. In general, however, most interview participants cited the unpredictability of gig work as one of its major downsides, while simultaneously emphasizing flexibility as its main appeal, another contradiction embedded in the common sense of gig work.

There's a lot of factors that can affect my day. Mainly the day of the week, weather, and whether or not there's a holiday, or if there's an event going on in your city. Let's say, like, if I lived in Toronto and there's, you know, a lot of events going on that weekend, that can definitely affect, you know, your likelihood to get more trips. Where I live [...] it's obviously a lot smaller of a town and a lot less going on. But we do have some events here that can affect, you know, whether or not I'm going to get more trips that day...

So- my typical day, I can tell you, like, let's say right now, typical day in July, where the weather is... right now it's super hot, you're likely to get more trips because of the weather conditions. People don't want to walk

²⁹ For a more in-depth discussion of this gamification, see: Dubal, “Digital Piecework,” *Dissent Magazine*, Fall 2020; Dubal, “On Algorithmic Wage Discrimination,” *Columbia Law Review* 123, no. 7 (2023): 1948-1950.

*in the rain, and they don't want to walk in the 30 plus degree heat. So you tend to get a steady amount of work. Yesterday was pretty steady. And I started at around 11 a.m., which is about average of when I start, and I finished at around 5 p.m.. Normally I can go later, or I can cut it shorter. **Depends on what you have going on in your life or how much you're looking to earn that day.***

So, yeah, a typical day usually starts off fairly slow. You don't always get a trip request right away. And then as you go through the afternoon in the app, you can actually see, they'll [Uber] give you like a graph, and they'll show you what earnings were like on this particular day last week. So they'll say "last week at this time it was this busy" basically. So, you can kind of use that information to kind of, you know, sort of factor in, "hey, is it worth for me driving right now?" But you have to take it with a grain of salt because. There may be different factors today than there were... like, again, the weather, stuff going on, those things may not have been a factor that day last week.³⁰

The quote above is a portion of Brian's lengthy attempt to describe an average day on the Uber platform, which became more of a conversation about how he decides when to work. The fact that he began by describing the various calculations involved in making driving worthwhile is indicative of how drivers are compelled to engage with this work, a compulsion that can be resisted or entertained to different extents. Later on, he clarified that because of various circumstances in his personal life, he tends to work more on his own schedule rather than at the times where he can maximize his earnings.³¹ Nevertheless, Brian's response suggests that the decision to work at any given time may *appear* to be informed by estimations of consumer demand, but are simultaneously underscored by "external" pressures

³⁰ Brian, 44. Interview on July 18, 2023.

³¹ For example, choosing to work during the day rather than at night – he mentioned something about his health influencing his desire for flexibility, but did not elaborate (and I didn't ask him to for privacy reasons).

or subjective constraints/considerations; “what else you have going on in your life, and what you’re looking to earn that day.”

When a worker logs onto the Uber app, they are perpetually weighing the value of their time (in one way or another) and the urgency of non-flexible things like bills, rent, and other scheduled obligations, when deciding whether to accept a trip – and they only have a few seconds to weigh these options and make said decision. While workers are aware that there are many factors that contribute to this unpredictability, it is largely understood as reflecting the natural ebbs and flows of the market, of fluctuations in demand in relation to the supply of drivers or couriers. This individual responsibility to navigate the ebbs and flows of the market, while also balancing one’s financial need with how much time they have to fulfill said needs or wants (in relation to other things they want or need to do with their time) is the essence of the autonomy Uber affords its workers.

This conception of autonomy builds on, and feeds into, key assumptions that are worth closer examination. First, it implies or reinforces the idea that Uber offers unmediated access to the market, that what Uber offers its workers in exchange for a service fee is the efficient matching of supply and demand. This conception of Uber’s role is solidified by the in-app features that are portrayed as tools that help workers plan their schedule around hours of peak demand. By extension, it feeds into the naturalization of the market as a sphere of equal opportunity for self-optimization, a tenet of neoliberal common sense that overlooks subjective differences between individuals that varyingly shape their ability to compete in the so-called free market. As Rebecca Schein argues, “Uber’s

disavowal of the wage relation not only frees the company from the legal and regulatory obligations of employment, but, on a broader scale, also helps to render natural, immutable, and incontestable the de-personified market forces that are in fact a set of historically specific class relations.”³²

*So I still say it's work... definitely, you know, I definitely think it is work. It's just, the biggest takeaway most people will tell you is this flexibility and scheduling, right. Which shows it plays to the, you know, entrepreneurial mindset, hustler kind of 'grindset,' right? Like, someone who will work above and beyond...that's something that they look forward to, I would say. And to find that range they offer, like, look, oh, you can go online, offline any time, right? These are the things that bring in the types of people- which, actually, if anything, they're more dedicated than your contractual workers because they're incentivized, right?*³³

The calculation of how much time one has to spend on the platform versus how much money they want or need to earn by a certain time has a contradictory relationship to one's capacity or commitment to maximizing their earnings. This is largely because there are conflicting perspectives on, and methods for attempting to do so; tools and knowledge from Uber, and strategies that seem to be employed by more experienced drivers and delivery workers who tend to interact in online forums. They are conflicting because the latter set of techniques go against what would seem to be the common-sense approach to engaging with the app, common sense as in the direct and indirect suggestions for best practices established by Uber through the design of the app.³⁴ These include the previously discussed metrics like cancellation and acceptance rate, and by extension the whole Uber Pro system.

³² Schein, “From free time to idle time,” 409.

³³ Ryan, July 18, 2023.

³⁴ Also, through “onboarding” information, or if there is a customer complaint.

Workers like Ryan and his fellow forum users somewhat look down on the drivers who take the app and its guidelines at face value, and engage with the work earnestly.³⁵ Some even blame decreased fare offerings on the “ants,” a pejorative term used in these online spaces to describe drivers who accept any fare they are offered.³⁶ Others do not necessarily blame the “ants” per se, but see it as a fact of life that there will always be a pool of desperate people to accept Uber’s low rates, and thus there is no point in trying to change it. In contrast, the “pickers” like Ryan see themselves as maximizing their earnings by only accepting trips they deem worthwhile – “pickers” refers to the concept of “cherry-picking” which Uber does not explicitly prohibit, but discourages through the acceptance rate metric.³⁷

*[...]it's almost like a drug addiction, you're chasing the dragon of, you know, the "good times." And then there's always that good order that you get out of nowhere, and then you just hope to always get that again... I talked to a guy who was in his car and waiting for orders and he's like, "I'll just wait. I will decline orders for hours and hours and wait just for the ones that are good." But he just spends- he's out there, again, for like 15 hours a day, you know, just waiting for the very few orders that he'll get that are actually worth him taking. And then otherwise, he just sits in his car doing nothing, you know, wasting his time.*³⁸

³⁵ I say “fellow forum users” because I recruited Ryan via the online forum “Uber People,” and he alluded to being fairly active on the forum, even if only as an observer.

³⁶ For example: Suitable-Mind-8559, “The Ants At It Again,” Reddit Post, *R/Uberdrivers*, April 21, 2023.

³⁷ Ryan noted that at the Uber “Greenlight Hub” office, he was told in-person that he isn’t supposed to cherry pick, and Rosenblat reported that a low acceptance rate could get a driver deactivated before, but this seems to have changed as Uber has adjusted to avoid being categorized as an employer, hence the discipline being so indirect. The Uber Pro system described in chapter 1 adds to this indirect discipline as workers must maintain certain metrics to access information and features that give them more control over their work.

³⁸ Brice Sopher, September 28, 2023.

Because workers are not compensated for all time spent on the platform, the idea of maximizing earnings can vary based on whether one considers their idle time to be their own, or Uber's. Ryan's description of his strategy highlights the various calculations he employs for this technique, including spending 12-15 hours logged on each day, and driving more than an hour out of the city for long trips, even though the time he spends returning from these long trips is not paid. Ultimately, Uber benefits from its workers' limited ability to devise their own strategies and approaches to gig work, even if they go against some of the more overtly gamified in-app incentives, as this variation reinforces Uber's claims about workers independence and thus maintains the common-sense appeal of the gig.

Those who are most reliant on their gig work income might want to be more strategic about working at the busiest times, but depending on their broader circumstances, they may be limited in their ability to do so. This is also because, despite Uber claiming to offer its workers tools to plan their schedule for maximum earnings, these tools are incredibly limited in terms of the information they provide, and the actual function they serve. Broadly, to encourage workers to be online when demand is high, which theoretically increases potential earnings, except the worker takes on the risk of there not being as high demand as Uber predicts, while Uber benefits either way. If there is high demand, there is a reserve army of labour that can be mobilized as needed, while Uber is not held accountable if its predictions are wrong.

Implications for Organizing

I am very grateful that I had the opportunity to interview Brice Sopher, vice-president of, and organizer for, Gig Workers United (GWU) during this project.³⁹ His interview ended up being the final one I conducted, and by the time we spoke I was feeling particularly unsure of how I was going to make sense of my findings thus far. Specifically, what to make of the nine other interview participants' perspectives on the misclassification debate, on other gig workers and their common interests (or lack thereof), and on the possibilities for improving the gig work model, including whether they believe changes are possible or worthwhile. As I have explored throughout this chapter, while there was variation within my interview pool in terms of workers' experiences with, and attitudes towards Uber's model of gig work, there was also considerable overlap reflecting a contradictory yet pervasive entrepreneurial common sense amongst the workers I spoke to. One goal of this analysis has been to examine the counter-solidaristic implications of this pervasive common sense, and how Uber's framing of gig work contributes to its reproduction.

Brice has been involved with gig worker organizing efforts since the Foodsters United unionization drive in 2019 – specifically, he was working as a Foodora courier and became an increasingly active participant and organizer as the struggle intensified. After the Foodsters' triumphant win at the OLRB was cut short by Foodora declaring bankruptcy, Brice became part of the renewed, more

³⁹ Technically, he works as an “external organizer” for CUPW, the union that supported the Foodsters United certification and continues to support GWU's organizing efforts.

ambitious Gig Workers United organizing drive that was (re)launched in 2021. For the past few years, Brice has been doing part-time delivery work intertwined with full-time, on-the-ground organizing for CUPW/GWU, engaging with delivery workers across Toronto as part of a broader effort to build “the power to win real and tangible gains for workers.”⁴⁰ Specifically, he explained, their goal “is to certify a union and create a new precedent where gig work is brought under regular employment classification.”⁴¹

Brice identified three major challenges to gig worker organizing that he has encountered firsthand in his work as an organizer for GWU/CUPW. The first revolves around the spatial atomization or lack of distinct workplace that, as previously mentioned, is a core feature of Uber’s gig work model. The second is “the idea that there’s this trade-off between flexibility and security,” which he describes as “a complete fabrication that Uber has manufactured and [constantly] repeats.”⁴² The third is a general distrust of unions, which is tied to a general sense of powerlessness in the political sphere, and a specific understanding of unions as organizations distinct from the workers they represent.

From a technical perspective, the legal process for certifying a union requires the workplace to be clearly defined in terms of the number of employees in a proposed bargaining unit. This requirement is tied to Ontario’s “mandatory vote” certification process, which involves two main stages: signing union cards,

⁴⁰ “About us,” Gig Workers United, 2024.

⁴¹ Interview with Brice Sopher, September 28, 2023.

⁴² Brice Sopher, September 28, 2023.

and an OLRB-facilitated vote by secret ballot. When applying to certify, a union must have at least forty percent of employees in a proposed bargaining unit sign cards, indicating their desire to unionize, before the mandatory vote is initiated. Reaching this threshold can be challenging for many reasons, in general because unions are not able to access the list of employees in a given workplace⁴³ until they submit their application to certify at the OLRB. Once the application has been submitted, employers are required to give the OLRB “a list of the employees who would be in the prospective bargaining unit.”⁴⁴ This list is meant to verify whether the forty percent threshold has been met, which sounds relatively straightforward, but can itself be a major point of contention, especially in the increasingly “fissured” twenty-first century labour landscape.⁴⁵

However, employers “sometimes ‘stack the list’ with names that do not belong, [which] falsely inflates the number of employees and makes it harder for the union to get 40 per cent of their prospective members to sign union cards.” This employer tactic makes it vital for organizers in any workplace to collect their own information on the workers they interact with, so any “names that do not belong” can be identified and challenged at the OLRB.⁴⁶ Yet the particularities of the

⁴³ The prospective bargaining unit is generally understood as a workplace, but may be a group of workers who perform a distinct job in a larger workplace. For example, administrative staff form one bargaining unit at Carleton, while teaching assistants form another, both represented by the same national union (CUPE) but with different collective agreements.

⁴⁴ Gray, “The Same Tools Work Everywhere,” 61.

⁴⁵ Adam D. K. King, “As Union Density Plummets in Canada, New Strategies Are Needed,” *The Maple*, December 9, 2022.

⁴⁶ Gray, 61-63.

platform-mediated gig work model make this particularly challenging. Because platform ownership is inseparable from control over user data, companies like Uber are particularly empowered to utilize these information asymmetries to their advantage when fending off unionization attempts.

For example, in both the UFCW and Foodsters United cases, Uber and Foodora's legal teams argued for a broader definition of who should be an eligible voter based on figures like the number of workers registered on the platform (regardless of how many times they had used the platform, if at all).⁴⁷ A worker who registered and worked once might be counted on these lists, but the spatial and temporal atomization makes it difficult (though not impossible) for organizers to verify the employer-provided list. With UFCW, Uber's lawyers also argued that the geographical scope should extend beyond the Greater Toronto Area, into Ontario towns hours away wherein the company claimed there were hundreds more Uber Black drivers.⁴⁸ CUPW's lawyers, on behalf of the Foodsters, were able to settle on a prospective bargaining unit definition, verify that the forty percent threshold had been met, and continue onwards with the final vote. It appears that the uncertainty surrounding the Uber Black bargaining unit's scope may have contributed to UFCW's decision to settle privately with Uber, as it is unclear whether the vote ever took place.

⁴⁷ Gray, 82-83.

⁴⁸ *United Food and Commercial Workers International Union (UFCW Canada) v Uber Canada Inc.*, 2020 CanLII 54980 (ON LRB); Speaks to how the scale of the platform's operations give them greater power to fend off unionization.

Mandatory vote certification is an example of a neoliberal employment policy that was already recognized as a barrier to unionizing before the rise of gig platforms, and has only become more complicated by the platform model's capacity for centralized yet diffuse control, and vast operational scope.⁴⁹ The difficulties that arise at the labour relations board are also related to strategic challenges that organizers navigate long before the struggle reaches the courts. Since gig workers are, at least in theory, dispersed throughout the city and working at different times, with varying degrees of frequency, organizers are required to utilize creative outreach tactics in order to find, and engage prospective members.⁵⁰ This is exemplified by the “ride-along conversation” strategy that Foodsters United organizers employed with great success during their 2019 unionization efforts. “If a co-worker was rushing to a delivery, organizers would ask to ride beside them to discuss working for Foodora. Car couriers were particularly receptive, because having a passenger during their delivery meant they avoided paying for parking.”⁵¹

As Gray argues:

Gig workers confront major challenges, but if the gig economy features significant historical continuities, so will workplace organizing. [...] **Foodsters United is an important model because gig workers everywhere should be wary of the widespread claims, often promoted by the platform companies themselves, that the gig economy is**

⁴⁹ Charles Smith, “Class, Power, and Neoliberal Employment Policy in Ontario,” in *Divided province: Ontario politics in the age of neoliberalism*, ed. Bryan M. Evans and Gregory Albo (McGill-Queen's University Press, 2018): 292, 298; Stephanie Ross and Larry Savage, “Unions in the Workplace,” in *Building a Better World : An Introduction to the Labour Movement in Canada*, 3rd edition, ed. Errol Black, Stephanie Ross, Jim Silver, and Larry Savage, (Fernwood Publishing, 2015): 73-74.

⁵⁰ I say “in theory” because, as I have demonstrated, this is simultaneously true and not true, as the app incentivizes workers to work at busier times, so there are times and spaces where workers end up congregating to an extent, but not all at once...

⁵¹ Gray, 51.

unprecedented. Gig workers must overcome significant obstacles, but they can draw from traditions of workplace organizing that have been developed and tested by workers over centuries of capitalism.⁵²

The way that Foodora exited speaks to the increased capacity for capital flight that platforms have, a continuation of a tendency that has justified the neoliberalization of employment and labour relations policy, as well as the normalization of concession bargaining and other defensive union tactics since the 1990s, especially in the private sector. The assumption that if regulations or other “restrictions” like a union make it too hard for a company to be profitable, then it will be “forced” to leave that market, justifies the increasingly accommodative policy landscape of the neoliberal era. The Foodsters case also demonstrates the sheer amount of time, energy and dedication required to organize gig workers on a much smaller scale than that which Uber operates on, which raises the question of whether unions are willing or able to support these complex efforts without any guaranteed outcome – in the case of UFCW, the answer was evidently no.

Gray’s analysis of the Foodsters United campaign emphasizes how tried-and-true industrial organizing tactics can be adapted to address the particularities of gig work, despite the ways in which the platform model is “optimized” to deter unionization efforts. It is both inspiring and instructive that the Foodsters not only successfully certified the first gig worker union in Canada, but also did not accept Foodora’s departure as a defeat, instead continuing to organize on a larger scale as GWU. The Foodsters case further underscores how successfully unionizing is still not the last step of the battle, which suggests that unionization in and of itself should

⁵² Gray, 83-84. My emphasis added.

not be the end goal of organizing efforts. Moreover, as Gray notes, “[t]he extent to which these organizing methods can be used across the gig economy remains an open question.”⁵³ On a practical level, it would be more difficult to employ the “ride-along” strategy described above to organize Uber drivers, as their work involves transporting paying customers in a private vehicle. This is not to say that this specific tactic could not be creatively adapted to the working conditions of Uber drivers. Other tactics could also be developed through the active involvement of drivers themselves, who are most equipped to address the specific challenges they face if empowered to do so.

⁵³ Gray, 84.

Chapter 5: An Inconclusive Conclusion

At multiple points throughout my research, I found myself lost in the vast, overlapping debates on the employment status of gig workers, and the broader regulatory implications of Uber as a “technology company.” This was one of the reasons why I chose to conduct interviews; to situate workers’ perspectives on these debates within the broader discursive struggles surrounding efforts to regulate the gig economy and clarify the legal rights of gig workers. My intention has not been to settle these debates, but rather to examine the implications of their development and expansion in recent years on gig workers’ class consciousness. By this I mean, how has Uber’s disproportionate influence on the common-sense parameters of these debates informed gig workers’ conceptions of their individual and collective agency, and the extent to which their interests and struggles align with other gig workers’, as well as the broader working class? What changes to the gig work model do these workers desire, or believe are possible? Do gig workers believe that unionizing would benefit them? To what extent (if any) have their views on unions been influenced by the Uber-UFCW deal? How has the “willing connivance of neoliberal governments”¹ in regulating Uber on its own terms contributed to gig workers’ (in)ability to imagine a viable alternative to the status quo?

Given the broad scope of my research question and general interest in the topic, I wanted the opportunity to speak with Uber drivers and couriers more openly about the range of interconnected topics covered in the preceding chapters,

¹ Ursula Huws, “Reaping the Whirlwind,” in *Socialist Register* 57 (2021): 2.

as they all varyingly highlight different aspects of the organizing environment. I did not want to assume that interviewees were unaware of, say, the DPWRA, or the UFCW deal, or of the broader misclassification debate, but I also did not want to structure the interview around the assumption that workers would have opinions on these contradictory developments, especially to avoid asking leading questions. In this sense, an underlying goal of these interviews was to gauge workers' awareness of these debates and developments in general, as part of gauging their discursive significance or impact.

As previously mentioned, nearly every interviewee was at least somewhat aware of the misclassification debate (the exception being one who had not worked on the Uber platform for over a year). While workers expressed varying degrees of satisfaction with Uber's labour model, and most were somewhat aware of the limits of their autonomy within their work arrangements, they overwhelmingly indicated that they would rather things stay the same than risk losing their "flexibility," or specifically the ability to employ their personal "optimization" strategies.² This highlights the extent to which Uber has worked to establish what Brice described as the ideological "tradeoff between flexibility and security" as common sense. My research suggests that Uber has been at least somewhat successful in this endeavor, not just through its own lobbying and public relations efforts, but in the way its discursive strategies interact with the material conditions of twenty-first century neoliberal capitalism.

² The only exceptions being Tom, as previously mentioned, and of course Brice.

One example of this can be found in the misclassification debate. A contradiction I observed in criticisms of Uber not classifying its workers as employees is the discursive framing of basic employment standards as ‘benefits.’³ Of course, there is substance to these critiques, as gig workers are not guaranteed an hourly minimum wage or other basic protections under the ESA, and their ambiguous legal status has been an additional obstacle to unionizing. At the same time, given the well-documented limitations of the ESA in protecting employees on a day-to-day basis, and the general pervasiveness of precarious work in Ontario’s neoliberal labour market,⁴ I wonder whether framing basic rights as ‘benefits,’ or of employment as ‘security,’ is an effective rhetorical tool. My observation is that Uber does not have to work hard to portray even the limited form of flexibility it affords its workers as appealing. Indeed, I would argue that anyone who has worked a minimum wage service job can understand why many are drawn to the idea that they could opt out of working for any reason, and not face repercussion from a manager, or be expected to find coverage for their shift, even if they have a valid reason to be absent. Similarly, given the prevalence of “involuntary part-time” work in the neoliberal era, it is also understandable that some workers find comfort in having the option to always work more if they want or need to.⁵ Of course, there are numerous caveats to how this flexibility functions

³ For example: “Canada’s Unions Welcome Certification of Uber Class Action,” Canadian Labour Congress, August 12, 2021.

⁴ C. Michael Mitchell and John C. Murray, “The Changing Workplaces Review: An Agenda for Workplace Rights – Final Report,” May 2017, 43.

⁵ This is reflected in the Canadian statistics on gig work, specifically that most gig workers are also engaged in other part-time work: see Ping et al., “Paid Employment, Self-Employment and Gig Work in Administrative and Survey Data,” Statistics Canada, June 6, 2023.

in practice, but there are also significant limitations to the “security” associated with traditional employment or shift work after decades of neoliberal restructuring. The flexibility Uber offers its workers mirrors many aspects of neoliberal common sense, particularly the assumption that individuals are better off being responsible for their own self-enrichment than relying on the government to act in their best interests.

In many ways, the barriers to organizing gig workers are not constructed through the model of platform-mediated gig work itself, but through its interaction with the broader structural constraints and power imbalances within the organizing terrain that have been exacerbated by the neoliberalization of employment and labour relations policy. Workers’ varied ambivalence towards unions and the benefits of increased regulation are not just the result of anti-union discourse and neoliberal ideology; the contradictory sentiments expressed by gig workers about the possibilities and strategies for improving their working conditions also reflect the complex reality of the labour movement in the twenty-first century, and the challenges posed to its revival. The overarching effects of neoliberal restructuring have been an ongoing consolidation of capitalist class power and a multifaceted weakening of working-class power, in part through the obfuscation or dissolution of class as a social and political category. As Nick Dyer-Witford argues, information technology has been a powerful tool in this mystification; “[s]ince the discovery of the microchip, promoters of the information revolution have argued that it dissolves class.” Yet “the denial of class, the insistence that the world be understood only as a set of individual projects, is one of the most powerful and

destructive weapons” in this ongoing, and arguably intensifying war.⁶ This framing elucidates another, less obvious dimension of technology as a tool of class warfare, and of Marx’s observation that “[i]t would be possible to write a whole history of the inventions made since 1830 for the sole purpose of providing capital with weapons against working-class revolt.”⁷ Dyer-Witthford’s emphasis on the denial of class in relation to technology highlights the discursive elements of neoliberalization as class warfare, inseparable from the other areas of restructuring that are perhaps more tangible. Both class and technology appear in very different contexts and forms today than they did in the nineteenth century, and the entrepreneurial common sense that is reproduced through neoliberal discourses of the gig economy is an illustrative example of their interconnected and multifaceted mutations.

While I feel confident in making these general observations about the contradictory function of discourses of the gig economy, specifically Uber’s role in both reproducing and instrumentalizing neoliberal common sense to serve its monopolistic goals, I also want to stress the inconclusiveness of my findings overall. Broadly, this inconclusiveness stems from the qualitative research methods I employed, and the fact that my interview pool consisted of ten participants. More relevant than the size of my interview pool, however, is what I suspect may have been an unintended bias in my interview data, reflecting both a particular “type” of worker who was more responsive to my recruitment method, and the subjective

⁶ Nick Dyer-Witthford, *Cyber-Proletariat* (Pluto press, 2015): 9, 8.

⁷ Karl Marx, *Capital: A Critique of Political Economy*, vol. 1, trans. Ben Fowkes, (Penguin Books in association with New Left Review, 1981): 563.

dynamics between me, as a researcher without firsthand experience doing gig work, and my interviewees, whose perspectives I sought to understand and critically engage with.

I initially planned to recruit workers in a manner that was inspired by Rosenblat's method of conducting interviews as a customer, but that avoided the potential biases of workers being in customer service mode. As such, I printed out recruitment cards with a description of what I hoped to discuss and an email address I had set up specifically for recruitment; the plan was to offer them to Uber drivers and delivery workers I encountered as a customer, so they could decide on their own time whether they wanted to speak with me. This was generally unsuccessful – only one interview participant, Roger, was recruited after I was his passenger, and it was before I had even began passing out recruitment cards. We just happened to have an interesting conversation about Uber's algorithm during the ride, as he had a background in software design, and he organically offered his contact information, which I followed up with after I had officially started recruiting. I gave flyers to colleagues and friends to pass around, but still was not able to recruit in this way, so I turned to the internet, specifically Twitter (now "X"), and Uber-related online forums.⁸ This broadened my scope, for example connecting me to Brian, who specifically wanted to tell me about his anti-climactic experience receiving support from UFCW when he was locked out of his Uber account for weeks due to a technical glitch. However, recruiting online also added an additional layer of anonymity or unfamiliarity to the interview dynamic, especially because I

⁸ Specifically, Uber-related forums on Reddit, and another forum called Uber People.

ended up conducting interviews over the phone (or on Zoom with the camera off, based on workers' preferences) for all except my conversation with Brice.

Thus, the strategy of conducting one-off interviews without building rapport may have contributed to a subconscious urge for workers to rationalize or justify their decision to do gig work, both to me and to themselves. After all, most people are not comfortable being vulnerable with a stranger who they are speaking to for the first time, let alone those with more stereotypically masculine, entrepreneurial sensibilities, to whom the independence afforded by Uber seems to be particularly appealing. Another way to think about this subconscious rationalization is simply that workers in the most precarious situations, who feel the most unhappy about their relationship to Uber, may not have wanted to discuss their dissatisfaction or frustrations at length, which is why they did not follow up with me after accepting a recruitment flyer (or viewing it online). One interaction I had during my recruitment period contributed to my suspicion that this avoidance or discomfort may have been contributing to the unresponsiveness of the workers I met as a customer, or otherwise when they were on the job. After a brief description of my research, I asked my Uber driver if he was interested in taking a flyer, and he declined, essentially saying that he was not interested in going down the rabbit hole of his experiences, and that if he did the interview, he would probably end up quitting Uber the next day.⁹ While I do not think this is the only explanation for why most of my interview participants expressed generally more favourable views

⁹ He was an older man who had lost his job during the pandemic, and he described Uber as a trap, lamenting that “you’re one car repair away from not being able to do it anymore.”

on Uber, it seems fair to assume that it was a factor in my recruitment process, especially if workers feel like there is no alternative to the current status quo.

Overall, after my conscious decision to not conduct interviews as a customer to avoid biases caused by the customer-worker power imbalance, I now am less sure that this was the best way to encourage interviewees' stream-of-consciousness reflections on their contradictory experiences of, and relationships to gig work. At the same time, I do think my method was an effective way to understand how Uber has shaped the common sense of gig work, which was expressed through workers' honest reflections on why they continue to engage in this work despite its shortcomings, as well as their general skepticism towards the argument that they should be classified as employees.

With respect to the broader question of whether platforms are creating opportunities for new, global struggles against capitalism, or the extent to which this is true, I may be even more unsure of the answer to this than I was when I started this thesis. Understanding how, or the extent to which, the platforms that mediate so many aspects of our daily activities should factor into organizing efforts, and broader struggles against capitalism, is an important future line of inquiry. Researchers could focus on the contradictory ways in which online forums can serve as "digital watercoolers"¹⁰ where gig workers share knowledge and reflect on common grievances, which sometimes translates into organic forms of collective organizing or action, but simultaneously seems to reinforce a counter-solidaristic

¹⁰ Woodcock, *The Fight Against Platform Capitalism*, 2.

entrepreneurial common sense amongst more active forum users.¹¹ Meaningfully engaging with these contradictions would require a more focused and extensive analysis of these online forums, perhaps a mix of quantitative and qualitative content analysis paired with interviews with workers recruited from forums, and those recruited more organically “offline.” Overall, however, it is clear that the common sense of gig work, and the harsh realities of twenty-first century capitalist relations that are naturalized through discourses of the gig economy, are a hinderance to gig worker organizing, but not an insurmountable barrier. Rather, the ideological assumption that there is no alternative to the status quo highlights the necessity for organizers and activists to articulate how building a better world is possible, but only through collective struggle.

¹¹ This counter-solidaristic tendency is exemplified by the aforementioned dichotomy between “ants” versus “pickers,” and the way in which some gig workers blame others for accepting low-paying assignments and driving prices down. In a similar vein, I noticed a that some forum users would mock others who posted about efforts to improve the Uber model through collective action. For example, see discussion under: finaldestan1, “Uber Is Lying to You and the World. Here’s How You Can Fight Back.,” posted in R/Uberdrivers, Reddit, February 13, 2024.

Appendix A: List of Interview Participants

Brian, Interview on July 6, 2023.

Brice Sopher, Interview on September 28, 2023.

Franky, Interview on July 17, 2023.

James (pseudonym), Interview on July 6, 2023.

Kumar (pseudonym), Interview on August 31, 2023.

Roger (pseudonym), Interview on August 31, 2023.

Ryan (pseudonym), Interview on July 18, 2023.

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