

FROM PULLMAN TO UBER

TRANSPORTATION RESISTANCE IN THE DIGITAL MILIEU



Francesca Petrucci



About MIC



The Media, Inequality & Change (MIC) Center is a collaboration between the University of Pennsylvania's Annenberg School and Rutgers University's School of Communication and Information. The Center explores the intersections between media, democracy, technology, policy, and social justice. MIC produces engaged research and analysis while collaborating with community leaders to help support activist initiatives and policy interventions. The Center's objective is to develop a local-to-national strategy that focuses on communication issues important to local communities and social movements in the region, while also addressing how these local issues intersect with national and international policy challenges.

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About this Paper

This piece takes a historical view of labor struggles and the law to shed light on the fight of gig workers from Uber to GrubHub today. Through analysis of the Pullman strike and the broader struggle of railway workers in the 19th century, Francesca Petrucci clarifies what is new and old in the contemporary struggle around workers' rights in the platform economy and is part of MIC's series on the future of work.

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Introduction

On May 8th, 2019, Uber drivers led actions in cities from Melbourne to London to Nairobi, just days before the company was set to go public with an initial public offering valued at \$91 billion. While resistance actions varied depending on the city, the litany of driver grievances largely echoed one another regardless of the continent. Drivers struck in protest of recent wage cuts, lack of job security and health-care benefits, and most importantly, Uber's classification of drivers as "independent contractors." Ride-hailing companies such as Uber and Lyft, tote the label "independent" as liberating for those who desire flexible work hours and the ability to decide "whether, when and where to provide services on [their] platform."¹ According to the New York Taxi and Limousine Commission, if Uber recognized its drivers as employees, as opposed to independent contractors, it would be the largest for-profit private employer in the city.² Uber's classification of drivers as independent contractors keeps labor costs low which maximizes corporate profits. While gig work exists in many forms, Uber drivers are part of the on-demand gig-economy whereby drivers receive their work assignment when riders in their geographic area log onto their Uber apps and request a ride. Uber operates a two-sided market where drivers and riders function as consumers. Drivers consume on-demand employment and riders consume the application, which

connects them to nearby "independent contractors." Riders purchase rides and Uber drivers purchase flexible employment via a phone application mediated by Uber.

Uber declares that the on-demand economy is perfect for those who are looking for a part-time gig to earn extra money, echoing the rhetoric of fast-food chains and Microsoft temp-worker business models developed in the 1990s who argued they were not beholden to provide staff with fair wages because they were "temp" workers.³ Similar to fast-food and Silicon Valley workers, many on-demand drivers are full-time employees with some studies suggesting that nearly half of drivers work full-time hours and over half cite Uber as their main source of income.⁴ While some Uber drivers are part-time and earn a primary income from another employer, full-time employees are left without job security, consistent pay, or benefits. Uber is not beholden to minimum-wage laws or required to give overtime pay and other benefits to their freelance workforce. Unlike traditional independent contractors who have the flexibility to set a price for their labor, Uber dictates the wages of their independent workforce just as a full-time employer would. Many drivers work under an algorithm that controls their behavior, sets wages and ultimately extracts valuable data about drivers and riders. Likewise, due to their independent status, Uber drivers are unable to unionize, which would allow workers to air their collective grievances to the corporation.

1 Passy, J. (2019, April 15). Uber doesn't want its drivers to be employees - here's why that matters. Retrieved from <https://www.marketwatch.com/story/uber-doesnt-want-its-drivers-to-be-employees-heres-why-that-matters-2017-11-13>

2 Parrott, J., & Reich, M. (2018, July). An Earnings Standard for New York City's App-based Drivers. Retrieved from <http://www.centernyc.org/an-earnings-standard>

3 Klein, N. (2000). *No logo: taking aim at the brand bullies*. Toronto: A.A. Knopf Canada

4 Waheed, S. et. al. *MORE THAN A GIG: A SURVEY OF RIDE-HAILING DRIVERS IN LOS ANGELES* (2018). UCLA Labor Center. doi:<https://www.labor.ucla.edu/publication/more-than-a-gig/>

The People Lead a Movement Regardless of the Law

Many believe that one of the primary demands of drivers is to be recognized as “employees” by the National Labor Relations Board (NLRB) in order to be granted the right to unionize. However, one week after the May 8th strikes, the NLRB declared that drivers are independent contractors and do not have the right to form unions. While some may consider this a loss for labor, rideshare groups have demonstrated that they do not need to be federally granted the right to organize in order to organize. After the ruling, Lenny Sanchez, co-director of Chicago Rideshare Advocates said, “...unionizing was such a hot topic that created so much division, so we decided to shelve it to help build support...It’s become a dirty word, ‘unions.’” Other rideshare groups such as the Philadelphia Drivers Union, Rideshare Drivers United and Drive United of Washington DC expressed similar sentiments.⁵

Regardless of whether the law grants them the right to do so, organizing among disaggregated worker groups regardless of employment “status” demonstrates among a seemingly disaggregated global labor force: workers are not asking to be *legally* granted the right to organize, but in organizing themselves, workers are establishing this right on their own. This type of organizing has been at the heart of labor movements throughout history. I will focus on two key parallels between the Pullman Strike cases and the Uber strikes: 1) How Sherman Anti-Trust law has sought to protect coordination among corporate entities and 2) how disaggregated workers have organized in response to consolidation of corporate power regardless of legally being allowed to.

5 Iafolla, R. (2019). Uber Drivers Don’t Need NLRB, Ride-Hail Driver Groups Say. Retrieved from <https://news.bloomberglaw.com/daily-labor-report/uber-drivers-dont-need-nlr-ride-hail-driver-groups-say>

History of “Unsanctioned” Union Action: The Pullman Strikes

The latest series of Uber strikes harnessed the power of *new* technologies such as Facebook, Whatsapp and other social platforms to coordinate action among disaggregated “independent contractors,” yet the US has a long history of this type of point-to-point coordination between workers. The 1894 Pullman Strike was a week and a half series of nationwide railroad worker strikes that began on the South-Side of Chicago. The Pullman Company manufactured and operated railway cars, and its founder, George Pullman created the “company town,” a rather dystopian city where workers both lived and worked. The Pullman Company controlled wages, the cost of housing, gas, water, and other goods. The “company town” model bridged working, civic, and social life in an attempt to quell tensions between laborers and their employers, which resulted in various strikes throughout the late 1800s. However, in the late 1890s, wage reductions were followed by increases in water and gas prices, which angered the Pullman citizenry. While

Pullman laborers did not yet belong to a union, in 1893, the American Railway Union (ARU) journeyed to Chicago in a show of solidarity with the workers. After Pullman workers staged a small-scale strike, they appealed to ARU delegates for help in negotiating a contract with their employer, but George Pullman refused arbitration. On June 21, a committee at a Chicago convention called all railroad switchmen across the country to cease movement of rail lines containing Pullman cars. Workers in states across the country ceased work, putting nearly twenty railroads out of service. Similar to the Uber protesters, a large portion of the Pullman protesters were not ARU members, but had experienced the way in which large railroad monopolies led to wage stagnation and poor working conditions.⁶

6 Papke, D. (1999). *The Pullman case : the clash of labor and capital in industrial America*. Lawrence: University Press of Kansas.

Anti-Trust Law’s Double-Standard: Uber & Pullman Strike Court Cases

Since its founding, the Courts have weaponized Anti-Trust Law to protect corporate monopolies and quash labor monopolies. John D. Rockefeller created the Standard Oil Company in 1863, which eventually became America’s very first “trust,” combining affiliate companies involved in various stages of the oil production process into one entity. By 1878, Standard oil controlled approximately 90% of the oil refineries in the United States. American consumers and laborers feared that the growing consolidation of companies dominating the marketplace stymied competition and limited the power of labor unions to organize. The Sherman Anti-Trust Act of 1890 sought to curb corporate monopolies and was born out of an interest to limit corporate consolidation and protect competition. In a 1909 Circuit Court decision against the Standard Oil Company, Judge Sanborn invoked this Act

when he ruled that any contract, merger or trust which stifles “free competition in commerce” is a “restraint of that trade, and it violates this law.” In a concurring opinion, Judge Hook added that any people or “associations of persons” which work to restrict commerce is in violation of the Sherman Act.⁷

After a Ninth Circuit Court reversed the Seattle City Council decision which would allow drivers to decide whether they wanted to unionize, the U.S. Chamber of Commerce representing Uber, Lyft and other for-hire car services, sued to block the decision, claiming it violated

7 Primm, C. (1910). Anti-Trust Law, Labor Unions and the. *The Journal of Political Economy*, 18. Retrieved from <http://search.proquest.com/docview/1290564333/>

anti-trust law.⁸ The defense argued that under anti-trust law, independent contractors are unable to unionize as unionization would stymy competition.

While Pullman strikers continue to be remembered as workers who protested wages and poor working conditions, they were also protesting large concentrated corporate power which led to their exploitation. Pullman workers struck in response to the General Managers Association (GMA), which unified 24 railroad company managers who worked to fix wages and oppose unionization among railroad workers. GMA expressed solidarity with George Pullman, opposed the nationwide strike, and a 1910 law review reveals that the GMA requested a federal court injunction against the strike on the grounds that it violated the Sherman Anti-Trust Act. President Grover Cleveland enforced the injunction and sent troops to the railroads to “protect commerce,” (an embedded phrase within anti-trust law) but their true intention was to break the strike’s momentum. The Court invoked the Sherman Anti-Trust Act throughout the “Pullman Strike Cases” as its justification to prosecute strikers and union leaders. In the prosecution of ARU Leader Eugene Debs and other defendants, the Court ruled that “the members of the American Railway Union and others, who were prevailed upon to co-operate, were engaged in a conspiracy in restraint or hindrance of interstate commerce over the roads entering Chicago...” Because workers were employed by different companies, the court deemed their coordination as a hindrance to “trade” and “commerce” which violated anti-trust law.⁹ Uber employed the same language in the Seattle case when it sought to limit driver unionization.

Uber weaponizes the “independent contractor” label to defend against organized labor efforts to file class-action lawsuits. *O’Connor vs. Uber* is the latest attempt by drivers seeking reclassification as employees as opposed to independent contractors. The Ninth U.S. Circuit Court

of Appeals ruled that workers must arbitrate their claims against the company individually and are unable to pursue class-action lawsuits. The Ninth Circuit’s decision was bolstered by a prior Supreme Court decision ruling, (*Epic Systems Corp v. Lewis*), which held that companies could compel workers to waive their rights to class-action lawsuits and be forced to pursue individual arbitration to settle claims. Forcing drivers to file complaints individually was meant to deter workers from going through the lengthy filing process. But drivers have been far from deterred, “If Uber wants to resolve these disputes on by one, we are ready to do that-one by one,” said Shannon Liss-Riordan, a lawyer representing drivers in the *O’Connor v. Uber* case. The number of Uber drivers who have filed arbitration demands has grown to more than 60,000, with some estimates suggesting that Uber might dole out more than \$600 million in settlements.¹⁰

Since its founding, the Anti-Trust Act has protected the coordination of large corporations and curbed the coordination of small players. The fact that worker coordination was deemed in violation of anti-trust law in the Pullman and Uber cases, but GMA’s coordination among large railroad tycoons to fix wages was *not* deemed *impermissible* under anti-trust law, mirrors how Uber’s corporate monopoly skirts anti-trust legal examination. In a UCLA Law Review, Sanjukta Paul makes a distinction between how anti-trust law has deemed coordination outside of the “firm” or corporation as anti-competitive, but has not punished anti-competitive coordination within the “firm.” Uber’s CEO praises the company’s reliance on the “free market” to set fare prices for riders. However, Uber often neglects to play by its own *laissez faire* handbook. The Section 1 Operative filed in the Seattle case notes that unionization among independent contractors is considered a form of price fixing deemed impermissible by the Chamber of Commerce. However, according to Paul, “Uber unilaterally sets prices for rides

8 Gutman, D. (2018, May 14). Seattle’s Uber unionization law on hold after 9th Circuit rules against city. Retrieved from <https://www.seattletimes.com/seattle-news/transportation/seattles-uber-unionization-law-on-hold-after-9th-circuit-rules-against-city/>

9 McMurry, D. (1953). Labor Policies of the General Managers’ Association of Chicago, 1886-1894. *The Journal of Economic History*, 13(2), 160-178. Retrieved from <http://www.jstor.org/stable/2113436>

10 Stempel, J. (2018, September 25). No class action for unhappy Uber drivers: U.S. appeals court. Retrieved from <https://www.reuters.com/article/us-uber-lawsuits/no-class-action-for-unhappy-uber-drivers-u-s-appeals-court-idUSKCN1M526F>

charged by drivers, the same drivers antitrust supposedly regards as competitors barred from coordination themselves.”¹¹

Uber has largely justified its opposition to driver unionization in the name of preserving “competition.” However, according to a study by Aaron Shapiro, this defense largely ignores Uber’s history of utilizing what management scientists call “control levers” that fix rider fares by nudging drivers to certain locations, artificially creating the “free market.” Uber says that ride prices are determined by the supply and demand dictated by the number of riders to the number of available drivers.¹² However, relying on the *actual* supply and demand ratio

of drivers to riders would never produce the *maximum*-level profit that Uber makes while market-fixing.

Michelle Miller, co-founder of coworker.org, an organization founded to support worker organization efforts, says that the “market” is largely fixed, “What Uber refuses to acknowledge is that the algorithm, built by Uber, is programmed to reward and discourage certain behavior, so in cases of surge pricing whereby driver supply is low and rider demand is high, Uber would say that a high wage should be the pure incentive to nudge drivers to a certain location at a certain time. But what the algorithm is also doing when it surges is flooding the market with drivers, pushing wages back down,” said Miller.¹³ Lack of transparency about where drivers are in relation to one another pits drivers in an artificially-created, blind competition with one another.

11 Singer, H. (2019, May 08). Uber Under The Antitrust Microscope: Is There A ‘Firm Exemption’ To Anti-trust? Retrieved from <https://www.forbes.com/sites/washingtonbytes/2019/02/25/uber-under-the-antitrust-microscope-is-there-a-firm-exemption-to-antitrust/>

12 Shapiro, A. (2019). Publications. Retrieved from https://www.miccenter.org/?page_id=16

13 Miller, M. (May 6, 2019) Personal Interview.

Re-Defining “Competition”: Transportation Industry Organizes Despite the Court

While the court sided with Uber and Pullman in their weaponization of anti-trust law, the rulings were met with paralleled backlash from workers who have chosen to prioritize collectivity over the NLRB’s legalese of “competition” which seeks to pit workers against each other and limit labor organizing. Michelle Miller says “the general popularization of solidarity and worker organizing normalizes behavior away from competition and toward mutual aid.” In 2015, Uber went into full public relations mode after the Seattle City Council unanimously passed a bill that would give Uber drivers the right to form

unions. As part of a larger lobbying campaign to override state transportation regulation laws and preempt cities from crafting their own regulatory rules, Uber launched a series of campaigns to dissuade Seattle Uber drivers from unionizing by threatening that unionization would batter competition and turn drivers into “taxicabs.”^{14,15}

14 Asher-Schapiro, A. (2018, March 26). Trump Administration Fights Effort to Unionize Uber Drivers. Retrieved from <https://theintercept.com/2018/03/26/uber-drivers-union-seattle/>

15 Rosenblat, A. (2018, October 12). When Your Boss Is an Algorithm. Retrieved from <https://www.nytimes.com/2018/10/12/opinion/sunday/uber-driver-life.html>

These campaigns neglect the shared exploitation felt by workers across the point-to-point transportation sector. Several unions representing a variety of point-to-point transportation workers, including taxi and limo drivers, helped organize the Uber strikes and/or expressed solidarity with the movement. While Uber drivers deal with a corporately-controlled algorithm that dictates wages, cab drivers often deal with medallion owners who monopolize licenses, approved by city transportation commission, to own a vehicle for taxi services. A recent New York Times investigation found that this artificially drove up the price of taxi medallions between 2002 to 2014. Predatory lenders reaped the benefits by offering high-interest loans with no down payments which enticed low-income, mostly immigrant drivers, to purchase loans they could never pay back. The medallion owners profited from drivers' debts until the taxi bubble burst and left hundreds of medallion owners bankrupt.¹⁶ Similar to the taxi drivers who began their careers "in the red," when they purchased risky loans, Uber drivers expend their own money on gas, car repairs, and uncompensated driving time when rider destinations are far outside city limits. Uber and Lyft even have their own risky loan option for those who do not own a car but would like to participate in the ride-hailing economy. Uber and Lyft have partnered with various rental car services which rent cars to drivers for a fee which drops to \$0 only after the driver has completed a certain number of rides per week. This system, reminiscent of sharecropper logic, puts drivers in greater debt if they cannot meet the targeted number of rides, as they are left paying close to \$200 per week for their vehicles.¹⁷ In both industries, drivers pay a hefty price for flexible employment that often yields low wages for workers and large dividends for their corporate employers who are not legally beholden to provide "independent contractors" a living wage. Between 2017 and 2018, six professional drivers

committed suicide in New York City, three of whom were taxi drivers who simply could not make ends meet.

Point-to-point workers have developed a sense of class solidarity in an economy which pits them as competitors in a feudal zero-sum game. Taxi drivers were also stripped of their rights to fair wages upon reclassification as independent contractors. Driver unions such as the New York Taxi Workers Alliance (NYTWA), which represents over 21,000 transportation workers, helped organize Uber and Lyft drivers for the May 8th strikes in New York City. In an interview with *DemocracyNow!*, Executive Director of the NYTWA Bhairavi Desai said, "Uber starves the Uber driver so they can starve the taxi driver," citing the initial flock of taxi workers to Uber after Uber promised new-hire bonuses of \$60,000, which 90% of workers never saw. The industry seeks to undercut wages across the point-to-point transportation sector, reaping profits from the "independent contractor" status of the industry's workforce.¹⁸

Similar to the Pullman strikers, gig-workers do not rely on official union representation in order to organize, create demands, and stage actions, which reflects a pre-New Deal era definition of the term "union." Rideshare Drivers United-LA lit the initial spark for the global strike on May 8th, when it organized a protest in March after Uber cut the per-mile rate of LA drivers. According to Dr. Brian Dolber, a labor historian and organizer for the "unsanctioned" Rideshare Drivers United-Los Angeles, labor unions only became federally sanctioned during the 1930s New Deal era when congress passed the National Labor Relations Act requiring businesses to bargain with a union supported by the majority of its employees. While it did not expressly exclude independent contractors, it did not explicitly define "employee." However, proceeding court cases subject to review by the National Labor Relations Board found that independent contractors were not considered employees, and thus not entitled to the same employee protections, hindering independent contractor unions from officially being recognized as unions. Organizing always came before recognition.¹⁹

16 Rosenthal, B. (2019, May 19). 'They Were Conned': How Reckless Loans Devastated a Generation of Taxi Drivers. Retrieved from <https://www.nytimes.com/2019/05/19/nyregion/nyc-taxis-medallions-suicides.html?module=inline>

17 Arata, N. (2017, January 08). 5 ways to get a car you need to drive for Uber or Lyft. Retrieved from <https://www.usatoday.com/story/money/personalfinance/2017/01/08/5-ways-get-car-you-need-drive-uber-lyft/96214312/>

18 Gig Economy Drivers Strike: Uber Has Built Its \$90 Billion Empire on an Anti-Worker Model. (2019). Retrieved from https://www.democracynow.org/2019/5/9/gig_economy_drivers_strike_uber_has

19 Dolber, B. (2019, May 18). Personal interview.

NYTWA Co-Founder Biju Mathews said that bringing the question of whether workers can unionize to court ignores the fundamental right of all workers to organize. You should not need employee classification to earn the right to organize, said Mathews.²⁰ Rather than ask the courts to classify on-demand drivers as employees or to sanction their representation of gig-drivers, the NYTWA got to work organizing their drivers directly and dared Uber to file against them. Uber has never filed an anti-trust lawsuit against the NYTWA. In fact, the opposite. Uber has outfitted itself in union clothes under quasi-unions or “guilds.” In 2018, Uber signed an agreement with the International Machinist Association of Machinists and Aerospace Workers union to create the Independent Drivers Guild, which would afford some basic protections to workers and initiate dialogue between Uber and its drivers, but stops short of full union representation. The guild works with Uber and drivers have questioned its autonomy.²¹

In some cities, drivers have notched serious wins. New York City passed the nation’s first minimum pay rate for drivers who work for ride hailing apps such as Uber and Lyft after the city experienced an explosion in the number of app-based drivers who earn a majority of their income through the app. As is the case in many other cities, on-demand drivers earned the equivalent of poverty

wages: low enough that over 40% of drivers qualified for Medicaid and 18% qualify for food stamps.²²

In a variety of marketing campaigns, Uber says that driver unionization and higher wages would increase rider fares. However, Uber already artificially suppresses driver wages and inflates rider fares.²³ Uber’s recent adoption of “upfront pricing” manipulates navigation data and shows an upfront fare to riders based on a slower and longer route compared to the quicker, cheaper route displayed to the driver. While Uber says that wages are determined by distance and time, it can suppress wages by suppressing the distance and time of the route the driver takes. In the end, riders pay more for the “longer and slower” route, while drivers receive less from what is displayed to them as the “cheaper and faster” route. Artificial price fixing within the corporation is largely unexamined in antitrust cases.

If “free market competition” is central to Uber’s corporate branding, worker coordination strikes at the heart of Uber’s very brand. Both Dolber and Mathews discussed the ways in which drivers have internalized the notion that they should view each other as competitors. The initial meetings among gig drivers were not easy, but once drivers were conversing in a room together, they realized “drivers are drivers are drivers,” said Mathews. The NYTWA brought workers together to create a set of demands, including: a cap on the number of drivers on the streets and a minimum base fare. These demands represent coordinated solutions and defy Uber’s attempts to pit workers in a zero-sum game against each other.

20 Mathews, B. (2019, May 21). Personal Interview.

21 Scheiber, N. (2017, May 12). Uber Has a Union of Sorts, but Faces Doubts on Its Autonomy. Retrieved from <https://www.nytimes.com/2017/05/12/business/economy/uber-drivers-union.html>

22 Campbell, A. F. (2018, December 05). New York City passes nation’s first minimum pay rate for Uber and Lyft drivers. Retrieved from <https://www.vox.com/2018/12/5/18127208/new-york-uber-lyft-minimum-wage>

23 Kravets, D., & Utc. (2017, September 18). Uber: We don’t have to pay drivers based on rider fares. Retrieved from <https://arstechnica.com/tech-policy/2017/09/uber-driver-pay-plan-puts-a-significant-risk-on-ride-hailing-service/>

Uber Strikes within Larger Data Extraction Resistance Movements

While the Uber strikes share similarities with the 1894 Pullman Strikes, Uber workers face a new frontier of exploitation: data extraction. One of the most important findings from Uber's IPO filing is that it does not make its money from the actual service it provides: ride-hailing. In fact, its ride-hailing operation has drowned the company in billions of dollars of debt. Uber's finances tell a similar story to the pre-revenue days of Facebook and Google: a wide network and loads of start-up capital with little profit generated from services. Uber's 2019 IPO filing seduces future investors with its flashy, large stores of data about drivers, riders, and transit infrastructure. This form of data extraction is fertile foundation for a future automated transit infrastructure navigated by driverless cars. However, many experts say a driverless car future is many years away.²⁴ Drivers' responses to the app's nudges to or away from certain locations feed Uber's primary business model, which is based on behavioral data extraction.²⁵ The data is also used to evaluate workers' performance and determine who is "deactivated" from the platform. Online forums such as [Uberpeople.net](#) have emerged as spaces where drivers can consult each other on how to deal with poor ratings, problematic riders, surge pricing, as well as how to coordinate resistance movements. However, it should be noted that these platforms are prime sites for data extraction as they are monitored by Facebook, a company whose profit is generated entirely from data mining. These data are packaged and sold "as a salable commodity and a resource which investors can speculate on."²⁶ Additionally, Uber's surveillance of drivers has led to what labor advocates call the

datafication of employment, whereby worker behavior, such as how drivers respond to certain "control levers," is used in a continuous algorithmic feedback loop used to nudge drivers in certain directions. Not only do workers have zero ownership over their own data, but their data is often harnessed to further extract and provide greater wealth for their employer.

Organizations like [coworker.org](#) believe that greater transparency about how data is extracted and sold is a necessary prerequisite to creating a public policy environment up to the task of regulating the new Wild West of the behavioral data extractive economy. The European Union recently passed the General Data Protection Regulation, a precedent in data public policy that grants citizens greater individual ownership of their data by curbing corporations' ability to simply extract proprietary data.²⁷

While this is an important first step in regulating data ownership and extraction, Miller says it is necessary to:

"first consider how we build policy that addresses data extraction at the outset and the ways in which data becomes of a form of surveillance to control populations. I don't want Uber to have that much power but I also don't want the state to have it either. We have to really determine what we want a data commons to be first. Then we can decide if we even want this kind of extraction technology in our lives, regardless of who profits from it."

Questioning whether corporations have the 'consent' to use or sell personal data is secondary to the primary question of whether data should be the site of profit extraction in the first place. Uber offers a fee for its ride-

24 Galloni, A. (2019, April 09). Uber, ahead of IPO, sees some time before self-driving cars. Retrieved from <https://www.reuters.com/article/us-uber-autonomous-newsmaker/uber-scientist-says-some-time-before-self-driving-cars-dominate-the-road-idUSKCN1RK2J2>

25 Zuboff, S. (2019). *The age of surveillance capitalism : the fight for a human future at the new frontier of power* (First edition.). New York: PublicAffairs.

26 Adler-Bell, S. (2019, June 03). The Datafication of Employment. Retrieved from <https://tcf.org/content/report/datafication-employment-surveillance-capitalism-shaping-workers-futures-without-knowledge/?agreed=1>

27 Cerulus, L. (2018, February 20). The General Data Protection Regulation: What it says, what it means. Retrieved from <https://www.politico.eu/article/ready-or-not-here-comes-the-general-data-protection-regulation/>

hailing service and then extracts data. However, Uber sits on a long continuum of free-of-charge services such as Google and Facebook which provide “free” services in exchange for user data. If data is the upfront price we pay for “free” products, the fine print cost is often our privacy, the bedrock concession in the expansion of the

surveillance state. Uber drivers who are resisting labor oppression and unfair wages have the opportunity to create inroads with organizations fighting against the tech parasites who have built enterprises on data’s most intimate hosts: us.

Pullman to Now: Digital Organizing & Breaking the Rules

The mechanisms of exploitation have changed with the introduction of surveillance capitalism. Lucrative data extraction capabilities combined with poor labor practices and poor pay for workers have enriched large corporations. However, these new mechanisms are simply euphemisms for an old problem dating back to the foundation of antitrust law: Corporate monopolies are often protected at the expense of crippling labor monopolies. However, current worker backlash against large corporate power employs the same tools as the old fight: organize regardless of what the law says.

Breaking the rules has become increasingly more important in a time when the rules continue to side with corporations who seek to capitalize on the disaggregated nature of transportation industries. In the 2019 *SuperShuttle* decision, the NLRB ruled that airport shuttle franchisees were independent contractors, not employees, and therefore barred from unionizing.²⁸ SuperShuttle differs from the Uber and Pullman strikes in that since the SuperShuttle workers’ sole goal was to form an officially sanctioned union that was recognized by their employer. Of course, SuperShuttle dragged out negotiations and imposed stiff policies on workers in order to weaken their support for the union. Members of the Workers’ Rights Board supported their efforts and called for a hearing where workers testified about management raising driver fees, imposing fines and

slashing pay.²⁹ However, the Board only supported the workers’ right to form an officially sanctioned union, so when the unionization efforts failed, the movement largely dissipated into the abyss of the NLRB courts, only to resurface as another win for corporate America and a loss for labor. The 2019 NLRB ruling also broadens the test employers can use to classify workers as independent contractors, creating the conditions under which union-or-nothing organizing efforts are slowed, tangled and crushed from within.

If Uber let the 2015 Seattle decision hinder their organizing, SuperShuttle’s story could very well have been Uber’s story if it wasn’t for workers’ “organize anyway” principle and use of digital technologies. The Uber strikes struck the perfect balance between harnessing new digital tools to organize and capitalizing on the vulnerability of digital platforms as a means of protest. Uber workers have new technologies to unite their global movement. Social media served as a primary tool for rideshare groups to spread information about the strike and convey demands to the Uber corporation. While the May 8th strike revealed the power of digital tools to organize, it also revealed the vulnerability of Uber’s business platform. When workers strike, their data strikes too, which, for a corporation reliant on stores of worker data to attract massive investor capital, could prove disastrous. After all, it only took the push of an off-button to “participate” in

28 Supershuttle Transports Independent Contractor Status into the Spotlight. (2019). Retrieved from https://www.fordharrison.com/supershuttle-transport-independent-contractor-status-into-the-spotlight?utm_source=Mondaq&utm_medium=syndication&utm_campaign=View-O

29 Ong, H. (2014, October 28). SuperShuttle Drivers Fight for Justice and Dignity. Retrieved from <https://www.jwj.org/supershuttle-drivers-fight-for-justice-and-dignity-along-side-the-community>

the strike, suggesting the app provides more “flexibility” for workers who seek to protest rather than create their own schedules.

For those who do not see unionization as the path to change, digital organizing has helped unify people and hone their messages, thus amplifying and empowering the organizing which has taken place since Pullman and beyond. [Cworker.org](https://cworker.org) is at the forefront of digital organizing by enabling bottom-up organizing where workers start campaigns to change their workplaces. Cworker.org was at the forefront of helping organize Uber drivers and other gig-economy workers but it has also served as a home base for a slew of other non-gig economy campaigns including: Publix workers organizing for a more comprehensive family leave policy, Starbucks workers fighting to wear whatever colors they wish, and Papa Gino’s workers demanding severance pay. Just as Pullman workers’ grievances might have seemed local to the South Side of Chicago, the power of connective technology harnesses the global experiences of labor oppression.

Uber is a transportation company as much as it is a tech company. Thus, Uber exists within a vast milieu of digital organizing taking place among workers within large tech companies such as Google and Facebook who have adopted the “independent contractor” model as a means of extracting maximum profits. Google now employs more independent contractors than full-time employees. Over the past year, Google employees have harnessed the power of a vast email system to stage a series of protest in which tens of thousands of Google employees have walked off the job to protest workplace inequities, including gender pay gaps, rampant sexual

harassment, and the company’s abuse of independent contractor status in order to pay workers less and limit employment benefits.³⁰ After much protest from employees and independent contractors, Google has required the company that supplies its labor to meet a series of demands including: a \$15 minimum wage, parental leave and health care.³¹ Even after Google’s lawyers asked the NLRB to overturn the 2014 precedent that enabled employees to use their work emails to organize, the NLRB stated that “Employees’ need to share information and opinions is particularly acute in the context of an initial organizing campaign.”³² Both Google’s independent contractors and Uber’s drivers are excluded from “Employee” status, yet both participated in their respective strikes, demonstrating digital media’s capacity to unite workers, regardless of status, and its potential as a game-changer on a playing field that has tried to prevent worker organizing from the 1894 Pullman Strikes to present day.

30 Tiku, N. (2018, November 03). Google Walkout Is Just the Latest Sign of Tech Worker Unrest. Retrieved from <https://www.wired.com/story/google-walkout-just-latest-sign-tech-worker-unrest/>

31 Tiku, N. (2019, April 03). Google Will Now Require Suppliers to Give Benefits to Workers. Retrieved from <https://www.wired.com/story/google-require-suppliers-give-benefits-workers/>

32 Zuckerman, M., Kahlenberg, R., & Marvit, M. (2016, April 10). Virtual Labor Organizing. Retrieved from <https://tcf.org/content/report/virtual-labor-organizing/>

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