

Platform Capitalism Experimental Laboratories and the Struggles for the Regulation

Ricardo Antunes

Universidade Estadual de Campinas (Unicamp), Brazil

Marco Gonsales

Universidade Estadual de Campinas (Unicamp), Brazil

Murillo van der Laan

Universidade Estadual de Campinas (Unicamp), Brazil

Abstract This article will address the recent configurations of the world of labor in the era of informational financial capitalism. More specifically, it will analyse the emergence of and conflicts surrounding so-called uberized work, outlining the more general determinations that contributed to its emergence, approaching uberization as a laboratory for experimenting with labor and highlighting its similarities with the protoform of capitalism. The article will also present selected statements taken from interviews with delivery riders and drivers, as well as secondary data from important research conducted on the subject. Finally, it will discuss the institutional clashes surrounding the regulation and deregulation of uberization.

Keywords Uberized work. Working class. Platform capitalism. Class struggles. Regulation.

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1 Genesis and Constitution of *Uberized Work*

This article will address the recent configurations of the world of labor in the era of informational financial capitalism. More specifically, it will analyze the emergence of and conflicts surrounding so-called *uberized work*, outlining the more general determinations that contributed to its emergence, approaching *uberization* as a laboratory for experimenting with labor and highlighting its similarities with the protoform of capitalism. The article will also present selected statements taken from interviews with delivery riders and drivers, as well as secondary data from important research conducted on the subject. Finally, it will discuss the institutional clashes surrounding the regulation and deregulation of *uberization*.

The recent changes in capitalism are the result of a broad process of productive restructuring on a global scale that has reshaped and even surpassed the Taylorist and Fordist patterns that dominated the 20th century. They point to a series of trends whose consequences for the world of labor are profound.

A central question can be formulated as follows: why, in the midst of technological-informational-digital progress, has the (apparent) paradox become more pronounced where, on the one hand, we have the expansion of algorithms, artificial intelligence, big data, the Internet of Things, Industry 4.0, 5G and many others, and on the other hand, in a contradictory sense, an increase in the number of workers whose working hours often exceed 10 or more hours a day, 6 or even 7 days a week, with ever shorter breaks and holidays, and ever lower wage levels, further intensifying the process of structural precarization of work, especially in the service sector (Antunes 2018).

Since this is a complex process, its effective understanding takes us back to the early 1970s, when the 'structural crisis of capital' broke out, driving a new cycle of global restructuring across the entire capitalist production system.¹ This transformation was so broad that even China, which had witnessed a radical anti-capitalist social revolution in 1949, began to redesign and develop its production system in a capitalistic way by the end of the 1970s, with the rise of Deng Xiaoping.

The *techno-informational-digital* increase then found fertile ground for its expansion on a global scale, albeit in an uneven and combined form (see Davidson 2020). And, by increasing productivity through information and communication technologies (ICT), in a context of structural crisis, unemployment has increased considerably, through new pockets of surplus labor force that increasingly began to compete

¹ Chesnais 1996; Harvey 1996; Kurz 1992; Mészáros 2002.

for any job, under any conditions, since there is no greater scourge than unemployment for the *class-that-lives-from-labor* (Antunes 2012).

Thus, following the structural crisis, which worsened since 2008/9, the large digital platforms, driven by financial capital, made significant progress in the processes of making labor more *flexible*, which is actually a euphemism used to mask the processes of derogating labor rights, in order to further make the huge contingent of surplus labor force in search of employment even more precarious (Antunes, Gonsales, van der Laan 2024).

It is worth mentioning that this movement, which is particularly intense in the global South, also affects the central capitalist countries, of which the cases of England and the USA are examples. But we know that its intensity is much more pronounced in the peripheries, such as Latin America, Africa and Asia.

In peripheral countries, wage labor has coexisted with intensified forms of precariousness and informality since the foundations of the formation of the proletariat were built on slave labor or servitude, as seen in Latin America. For this reason, in these spaces, there is a *differential rate of exploitation* typical of the South, where the absence of labor legislation, informality and deregulation have since early on constituted poles of attraction for foreign capital, always ready to exploit the surplus labor force.

And it was on this historical-social basis that, given the *new international division of labor* and also the *unequal socio-sexual and racial division of labor*, superexploitation, the intensity of precariousness, informality, were always more the rule than the exception, which ended up constituting a productive space of great interest to global corporations, of which, at the same time, digitalized platforms are the ones that take the most advantage and expand on the periphery of capitalism.

It is for no other reason that the South has been constituting an exceptional *laboratory for experimenting with labor* by corporate capital (Antunes 2020; 2021b), a process that has intensified greatly with the outbreak of the coronavirus pandemic and has also been expanding widely in central capitalist countries, a feature that is accentuated by the presence of immigrant labor (Basso, Perocco 2008; Cant 2021).

This new type of work was announced in the book *The Privilege of Servitude*, as follows:

Thus, driven by this logic that is expanding on a global scale, we are witnessing the expansion of what we can call the *uberisation* of labour, which has become a *leitmotif* in the business world. As online labour has caused the separation between *working* and *non-working* life to collapse, a new type of labour is flourishing that combines the digital world with total subjection to the ideology and pragmatism of corporations. The most serious result of this

process is the advent of a new era of digital slavery, which is combined with the explosive expansion of global intermittent workers. (Antunes 2018, 37)

In this critical context, digital platforms have developed in recent decades. Qualified by the technological-digital increase, they gradually surpassed the large traditional corporations and assumed a prominent role in the capital world. Its progress was the result of a combination of the intensified use of high-tech digital information technology, the intense absorption of surplus labor and the exclusion of labor protection legislation, which were introduced in the significant process of privatization and capitalist transformation that was taking place in the service sector. All of this was driven by neoliberal ideology and pragmatism, whose basic objective is to privatize everything that can generate profit, as we saw happen in a tragic and pioneering way in Chile, during Pinochet's military dictatorship, even before the rise of Margaret Thatcher in England.

The final decisive step, essential to effectively understanding what *uberized work* is, was to create the conditions for labor to be transformed into its opposite: wage-earning would take on the appearance of non-wage-earning. And, by doing so, platform corporations would be able to remain outside of social labor legislation, which gives them a much larger profit margin, not to mention that they are also often exempt from the taxes charged to large traditional corporations.

As some of their founders have acknowledged, large corporate law firms were hired to *teach* how platforms should proceed to circumvent the labor protection regulations in force in their respective countries and thus further erode labor rights.

For this corporate venture to be successful, it was also necessary to further distort the ideology of capital. We all remember that, at the end of the 20th century, the key word was *employability*. It was repeated in every space in the business world. However, as the excesses of capital seem limitless (Linhart 2007), *employability* (used to blame the working class for losing their jobs due to lack of qualifications) was gradually replaced by new lexicons reinterpreted by the corporate ideology, once again adulterating the original etymological meaning of the words (Antunes 2018).

Interpretations of the language were created, such as *collaborators*, *partners* instead of workers, and the *new* corporate lexicon, through its CEOs, never stops repeating the new key words over and over again: we must all be very *resilient*, in order to increase *synergies*. In this new *environment*, the terms work and employment have disappeared; they have been replaced by *entrepreneurs*, a social figure who, by rejecting the despotism present in *old-fashioned* wage labor, now envisions *autonomy* and true *freedom*. Then flourished what was described in the book *Farewell to Work?* as a generation that had to become its

own despot, responsible for the costs of acquiring and managing the instruments of labor, as we will see later (Antunes 2003).

It was in this process, then, that *platform capitalism* and its corollary, *uberized labor*, developed very quickly and intensely, especially in the first two decades of the 21st century. With a large-scale unemployed workforce as their social base, platform companies were able to create a *form of wage employment that was transformed into non-wage employment*. Once again, work, a *life activity*, an expression of a *human-social value* (Marx 2004), was reconfigured as a *non-value*, to intensify and expand *surplus value* (Antunes 2018). Converted into *entrepreneurs*, workers became responsible for cars, motorcycles, bicycles, backpacks, cell phones, etc., to give them an apparent *autonomous* status.

But this autonomy vanishes when the following questions are asked: 1) Who accepts and defines the recruitment process? Who determines the activity, the price and the time necessary to carry out the deliveries or the work required? Who exerts pressure, through the incessant propagation of incentives, aiming at greater engagement and the consequent extension of labor time? Who can summarily block the accounts of entrepreneurs without any explanation from the platforms? As can be seen, the appearance of autonomy is the basic condition for the existence of subordination, wage-earning and exploitation (Filgueiras, Antunes 2020).

This is how a new variant developed within flexible and freeze-dried capitalism (Antunes 2003; 2012; 2021a). In a phase characterized by the structural crisis of capital, by the tendency of the profit rate to fall, by the hegemony of financial capital, and which can also be anchored both in the existence of an unemployed and/or precarious labor power, and in the intense expansion of the machine-informational-digital universe that was taking place.

An increasingly desperate surplus population has therefore provided a considerable supply of workers in low-wage, low-skill work. This group of exploitable workers has intersected with a vast amount of surplus capital set in a low-interest rate world. Tax evasion, high corporate savings, and easy monetary policies have all combined, so that a large amount of capital seeks out returns in various ways. (Srniczek 2016, 46)

And the author added:

It is no surprise, then, that funding for tech start-ups has massively surged since 2010. Set in context, the lean platform economy ultimately appears as an outlet for surplus capital in an era of ultra-low interest rates and dire investment opportunities rather than the vanguard destined to revive capitalism. (Srniczek 2016, 46-7)

Which allows him to conclude that:

Far from being mere owners of information, these companies are becoming owners of the infrastructures of society. Hence the monopolistic tendencies of these platforms must be taken into account in any analysis of their effects on the broader economy. (Srnicek 2016, 47)

It was this new pragmatism of global platform corporations that made it possible to obliterate and even mask the effective condition of subordination and wage-earning, rescuing past forms of labor exploitation. This movement allows us to formulate the thesis that *platform capitalism has something in common with the protoform of capitalism* (Antunes 2020; 2021b). But it was also this movement that created the conditions for the advent and explosion of struggles and revolts of the new service proletariat of the digital age, as we will see below.

2 Precarization, Organization and Struggle

Despite the difficulties in measuring uberized work, it is certain that, since the last decade, its expansion has been exponential in various parts of the world. In Brazil, in 2021, an estimated 2.7 million people worked for platform companies, either as their main or complementary source of income (Garcia 2021). More recently, the Brazilian Institute of Geography and Statistics (IBGE), the country's main public organization providing data and information, conducted its first national survey on uberized work. According to the IBGE, in 2022, Brazil had 1.5 million people working for platform companies as their main source of income. Special mention goes to private passenger transportation services, with 778 thousand drivers, and delivery services, with 589 thousand delivery riders – sectors that were pioneers of the uberization process and the resistance to it.

This dizzying growth is revealed in research that shows both the increase in the number of motorcycle, car, taxi and pickup truck drivers in Brazil, as well as the impact on working conditions in the sector, starting in 2016, a period in which companies such as Uber, Uber Eats, Ifood, Rappi, etc. were consolidated.

The number of motorcycle, car, taxi and pickup truck drivers went from 1.39 million in 2016 to 2.02 million in 2020, an increase of 41.9%. In the case of motorcyclists, the jump was from 522.1 thousand workers in 2016 to 729.7 thousand in 2020, an increase of 39.2% (Manzano, Krein 2020). In the same period, informality among motorcycle drivers jumped from 67% to 71.8% and among car, taxi and pickup truck drivers, it went from 44.7% to 59.5%, while the average informality

of employed people in Brazil, in this same period, remained relatively stable, between 38.7% and 39.9% (Manzano, Krein 2020).

The advance of *uberization* in these sectors also had a negative impact on the remuneration of these workers. The average monthly income of motorcycle drivers in 2012 was R\$ 1,281.00 and, in 2020, it fell to R\$ 1,199.00, a drop of 6.4%. In the case of car, taxi and pickup truck drivers, the average income in 2012 was R\$ 2,128.00 and fell to R\$ 1,954.00 in 2020, a drop of 8.2%. On the other hand, the average income of employed Brazilians increased from R\$ 2,163.00 in 2012 to R\$ 2,323.00 in 2020, a real increase of 7.4% (Manzano, Krein 2020).

Regarding working hours, a survey carried out with uberized drivers in the city of São Paulo in 2018 found that 51% of those interviewed worked 8 hours a day and 26% between 6 and 8 hours, with 54% working 5 to 6 days a week, 19% working every day and 57% saying that platform companies were their only source of income (Moraes, Oliveira, Accorsi 2019).

In the case of delivery riders, according to a national survey conducted in 2020, 60.2% worked more than 8 hours a day, with 15.3% working more than 12 hours a day. Not surprisingly, 36.9% worked 6 days a week, 34% made deliveries every day, and almost a third (30.1%) became delivery riders during the Covid-19 pandemic (UFBA 2020).

The precariousness of the work of drivers and delivery riders following the consolidation of the uberization processes is evident in the workers' statements. The motorcycle courier from Rio de Janeiro, Diego² (2021, July 30, personal interview) exemplifies the reality of what the lives of delivery riders have been like with the arrival of platform companies.

So, companies were outsourced and provided services to large delivery chains, such as Bob's, McDonald's, Girafas, so we had labour rights, we would earn R\$ 4,500 every two weeks. Today, to earn R\$ 4,000, I have to work two shifts, [...] I worked until four in the morning. Why? Because today, we earn just the amount of a tip. You see, yesterday I picked up a delivery in downtown Rio de Janeiro to take to Humaitá, in Lagoa, in the South Zone for R\$ 4.90.

In a similar sense, Nascimento³ (2021), November 14, personal interview), a motorcycle courier for 30 years, in São Paulo, talks about how work was paid before uberization:

² Interview given to researcher Marco Gonsales as part of the research carried out within the scope of the project *Trabalho, Tecnologia e Impactos Sociais: o advento da indústria 4.0.* (Work, Technology and Social Impacts: the advent of industry 4.0.).

³ Interview given to researcher Marco Gonsales as part of the research carried out within the scope of the project *Trabalho, Tecnologia e Impactos Sociais: o advento da indústria 4.0.* (Work, Technology and Social Impacts: the advent of industry 4.0.).

We had a service, and the customer paid well. The minimum fare was R\$ 18.00. Each delivery point was R\$ 9.00. You couldn't get less than R\$ 18.00 for any delivery. You could even pick up a delivery on the other side of the street and earn R\$ 18.00.

The spread and consolidation of uberization certainly did not happen without resistance from workers. In 2014, in California, a state considered the birthplace of so-called big tech, Uber drivers' discontent began to translate into organization, with the founding of the California App-based Drivers Association (CADA), which joined forces with the International Brotherhood of Teamsters, a traditional union in the logistics sector. After a few protests that did not have major repercussions, CADA, together with other associations in the US, organized the category's first major strike, held on October 22, 2014 (Aslam, Woodcock 2020; Burns 2014). This strike movement was also joined by British workers, who created the London Private Hire App Based Drivers Association (LPHADA) and called on drivers in Great Britain to join the strike promoted in the United States (Aslam, Woodcock 2020).

According to Yaseen Aslam, one of the main leaders of the British movement:

By August 2014, Uber started significantly reducing the rates. It was at that point that I started to see the bigger picture. I reached out to drivers in New York and San Francisco on social media. Through our discussions I realised the process in London had already happened to them two years ago. (Aslam, Woodcock 2020, 4)

We first went on strike in October 2014 while we were organised with LPHADA. This was coordinated with drivers in San Francisco, Los Angeles, Chicago, and New York (Leroux 2014) and was the first app-based workers strike. (Aslam, Woodcock 2020, 6)

The process of organizing uberized drivers continued in Great Britain. In 2015, the United Private Hire Drivers (UPHD) was founded, which joined the Independent Workers' Union of Great Britain (IWGB) and organized the first major general strike of the category in the United Kingdom, held in 2018 (Aslam, Woodcock 2020, 6). In 2020, however, the private drivers' section of the IWGB decided to leave the union and form the App Drivers & Couriers Union (ADCU).

In the United States, after the 2014 strike, drivers continued to organize themselves by creating, for example, groups such as Ride-share Drivers United (RDU) in California and the New York Taxi

Workers Alliance.⁴ Together, these and other organizations, both inside and outside the US, organized *the first global strike* against Uber on May 8, 2019 – one day before Uber’s debut on the New York Stock Exchange. The largest demonstrations took place mainly in US and English cities, but there were also important simultaneous actions carried out by workers in Sydney, Melbourne, Brisbane, São Paulo, Montevideo, Santiago, San José, Nairobi, Lagos, etc. (Grevatt 2019).

We attended the event held in São Paulo and spoke with some drivers, who gathered in the city center, specifically in Vale do Anhangabaú. There were about 200 people present who, after some speeches, marched to the headquarters of the São Paulo Stock Exchange and then left in a motorcade to Paulista Avenue, the city’s most important road. The main demands of the drivers from São Paulo were about low wages, long working hours and lack of safety, as one of the interviewees explained:⁵

I actually came because I think my profession is being exploited too much. Because the pay is low, the risk is high and we need to do something about it. The passenger himself says that the fare is too low, and who is the operator trying to please? The passenger and not the driver, because he’s the one who gives the money?

The praxis of organizing the first global strike of uberized drivers led to another significant step in the organization of these workers. In Thame, Oxfordshire, England, between January 29 and 30, 2020, representatives from 27 countries, including Brazil, met and held the first international meeting of the category, which marked the launch of the first international association of the class, the International Alliance of App-Based Transport Workers (IAATW).

Alongside the uberized drivers’ movements, the struggles of delivery riders have also proliferated. According to Vera Trappmann et al. (2020, 4), in the platform delivery sector alone, between January 1, 2017 and May 20, 2020, 527 strikes were identified in 36 countries.

In London, in the second half of 2016, the first major strike in the sector took place in the United Kingdom, lasting 6 days. It was prompted by Deliveroo’s complaint to the UK Border Agency about undocumented migrant workers, as well as the company’s arbitrary changes to the rates paid to workers. The remuneration of £7.00 per hour worked, with an additional £1.00 per delivery and a fuel

⁴ Founded in 1998, the New York Taxi Workers Alliance (NYTWA) is a union with 21,000 members, including taxi drivers and Uber and Lyft drivers.

⁵ Interview given to researcher Marco Gonsales as part of the research carried out within the scope of the project *Trabalho, Tecnologia e Impactos Sociais: o advento da indústria 4.0.* (Work, Technology and Social Impacts: the advent of industry 4.0.).

allowance, was replaced by a rate of £3.75 per delivery, *with no additional payment* (Cant 2021, 109).

The actions of delivery riders were also prominent in Spain. In the country, the first major protests in the sector were held in 2017. The main target, as in the English case, was the company Deliveroo, which had made arbitrary changes to the working conditions of delivery riders: lack of accident insurance, implementation of payment per ride and, most importantly, the blocking of workers' accounts (dismissals). As a result of these protests, Spanish delivery riders founded the Riders x Derechos (RxD) collective in 2017, which has become the main non-union reference in the fight for better working conditions for delivery riders. One of the leaders of the movement, Fernando Garcia Pallas⁶ (2020, 14 June), told us about the creation of RxD:

Riders X Derechos is a group of workers who self-organized because they were laid off. This is curious because RxD is a collective that, right now, is partly made up of former delivery riders, and companies and associations use this to try to discredit them, saying: *these people don't work, these people are no longer delivery riders*. Of course, but they are not delivery riders, they are not workers because you fired them for asking for improvements.

In addition to RxD, the traditional *Unión General de Trabajadores* (UGT) is also active in the Spanish union sphere. Given the precarious conditions of delivery riders, the UGT's strategy for the sector was to make the policy of membership in the Federation more flexible, also developing a platform called *Tu Respuesta Sindical* to seek dialogue with the category (Díez Prat, Ranz Martín 2020).

In Brazil, the movements of uberized delivery riders also gained considerable attention. In 2016, Loggi workers held the first protest in the sector, denouncing the arbitrary and unusual 60% reduction in the payment rates per ride. Since then, several demonstrations have drawn attention to the precarious conditions of uberized delivery work in several Brazilian cities, resulting in the creation of the first associations and collectives in the sector.

With the pandemic, the activity of delivery riders has expanded significantly, gaining greater visibility among the population, to meet the needs resulting from isolation. It was then that large numbers of unemployed people, in a wide range of professions, sought out delivery companies as a means of survival. The first negative results were

⁶ Interview given to researcher Marco Gonsales and Murillo van der Laan as part of the research carried out within the scope of the project *Trabalho, Tecnologia e Impactos Sociais: o advento da indústria 4.0*. (Work, Technology and Social Impacts: the advent of industry 4.0.).

immediate: longer working hours, more intensive work, and lower wages. The enormous surplus of labor force once again worked for capital: the more unemployment, the greater the tendency for existing wages to be reduced. (Santana, Antunes 2021). Loggi quickly stated that it was ready to handle up to three times its average delivery volume, and Colombian Rappi reported a 30% increase in demand for services throughout Latin America (Lara, Braga, Ribeiro 2020).

In this scenario, on July 1, 2020, the *Breque dos Apps* (*#breque-dosapps*) [Apps Break] took place, as the movement called itself. In addition to being the first national strike, it also had a certain international dimension. Delivery riders from Argentina, Mexico, Peru, Ecuador, Guatemala, Costa Rica, and Spain joined the movement and also stopped their motorcycles and bicycles for better working conditions. *SindimotoSP*, a traditional union of *motorcycle couriers* in the city of São Paulo, attended the first Breque dos Apps and tried to take over the movement, but was overruled by the collectives, associations, and leaders.

The main demands were for better working conditions, through an increase in delivery rates and also in the minimum rate per delivery; An end to unjustified account suspensions by platforms; insurance against accidents and theft; remuneration for *uberized workers* who were infected with Covid-19; distribution of PPE, etc. However, it is worth noting that the agendas were differentiated according to the different conceptions present in the various movements and leaders, even though they indicated as central axes the resistance against the intensity of exploitation, practically widespread throughout the category.

The *#brequedosapps* movement had a strong impact on public opinion, consumers, political parties, unions, the legislature, the judiciary, etc., and between 2020 and 2021, 128 bills on the subject of platform work were registered in the Brazilian Federal Chamber (Santana, Antunes 2021; Moda, Gonsales 2021). In 2021, the pressure for better working conditions continued, expanding especially in small and medium-sized cities in the Southeast, Northeast, and North of the country (Gonsales 2021).

In this context, at the end of 2022, a relevant event marked the resistance movement of these workers. With the aim of uniting regional forces in favor of regulating the sector, delivery riders founded a federation of associations and collectives from different Brazilian cities, called the National Alliance of App Delivery riders (ANEA). The surprise was that, like most unions, the Alliance, which mainly has associations, collectives and autonomous leaders, began to defend the rights provided for in Brazilian labor legislation, as long as the possibility of working for more than one platform and the freedom to choose working hours and days were maintained (ANEA, 2023). ANEA even called on the riders to go on a national strike, but

was convinced by the then future federal government that was preparing to take office, to give up the act in exchange for the promise that negotiations around the regulation of the sector would be one of the first and main issues to be discussed by the Ministry of Labor.

It is important to highlight that, although the creation of ANEA represented a significant milestone in the mobilization of delivery riders, there is not, and there still has not been, as in many other countries, a consensus among workers on the most appropriate path to achieving better working conditions. The commitment to fighting for recognition of the employment relationship has gained more ground, but it is still not the majority. Many understand that demands for increases in pay rates and an end to unjustified layoffs are more urgent issues. In the case of drivers, the demands are similar, however, the rejection of the recognition of the employment relationship is greater, just as the fight for more autonomy in the relationship with the platforms finds more resonance.

The need for these workers to organize collectively to demand autonomy, better pay, an end to layoffs or even recognition of the condition of salaried workers reveals that there is no autonomy in uberized work. On the contrary, everything indicates that the algorithmic management has transformed traditionally quiet sectors into fertile grounds for struggle and, in this way, the *new morphology of labor* has also generated a new morphology of social struggles, driven by the new service proletariat, with emphasis on uberized workers (Antunes 2020).

3 Judicial Responses to Struggles Surrounding the Uberization of Labor

The precarization of uberized work and the demonstrations by workers were accompanied by institutional responses and conflicts at an international level. In particular, since 2020, these responses have included decisions by higher courts in several countries on the existence of an employment relationship between workers and companies and, in some cases, legislative proposals have been presented that sought to regulate the activities of uberized drivers and uberized delivery riders.

A decisive chapter in this conflict began in 2018 with the position of the Supreme Court of California (2018) in the case *Dynamex Operations West, inc. v. The Superior Court of Los Angeles County*. Although it did not directly address the activities of platform companies, the court's decision to reject the multi-factorial tests that are commonly used to assess the existence or non-existence of an employment relationship between a worker and a company has had consequences for uberized work in the state. The rejection of multi-factor tests was

based on the court's view that, on the one hand, they did not give the parties sufficient clarity about their own relationship. On the other hand, the Supreme Court ruled that such multi-factor tests served as a way for companies to manipulate the classification of workers in order to evade responsibilities related to wages and hours worked (Supreme Court of California 2018; Gould 2018).

Therefore, in its decision, the court effectively instituted the use of a much simpler and clearer test for verifying the employment relationship: the so-called ABC test. In this test, it is the responsibility of the hiring company to prove that its relationship with the worker is not an employment relationship, based on the demonstration that each of the following points are satisfied: a) the worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact; b) the worker performs work that is outside the usual course of the hiring entity's business; 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 (Supreme Court of California 2018; Fuentes, Smith, Chen 2020).

For platform companies, this decision was full of consequences because if point a) of the ABC test, which deals with the contractor's control over the labor process, is one of the fundamental moments around which legal proceedings drag on in the state and in various parts of the world, point b) basically decided the issue. This is because the activities carried out by the workers of platform companies fall within the same scope as the activities of these companies themselves: the transport of passengers or goods (Supreme Court of California 2018; Fuentes, Smith, Chen 2020).

As we will mention below, the decision of the Supreme Court of California had important consequences in the legislative sphere. Platform companies, however, were successful in delaying the consequences of both the court ruling and the law that followed it.

In Europe, on the other hand, especially since 2020, a series of higher court rulings have imposed setbacks on platforms. According to Hiessl et al. (2024), in the higher courts of the European Union and the United Kingdom up to February 2024, workers were classified as employees of platform companies in 25 cases, as self-employed in 4 cases, as intermediate categories in 3 cases and as employees of subcontractors in a further 3 cases.

In January 2020, the Italian *Corte di Cassazione* (2020) ruled that uberized delivery riders for the company Foodora should be granted the rights under Italian law. The Italian court did not specifically indicate a relationship of subordination or employment between the delivery riders and the company, and did not contest their status as self-employed workers. However, the court relied on a 2015 Italian

law that states that all labor organized heteronomously ('lavoro eterodiretto'), unilaterally by the contracting entity, must be fully protected by labor law. In 2019, this law was amended to explicitly state that it also applied to labor via digital platforms (Aloisi, de Stefano 2020; Hiessl et al. 2024).

In this sense, in order to characterize the heteronomous organization of the work of Foodora's delivery drivers, the *Corte di Cassazione* (2020) pointed out that it was the company that determined that deliveries should be made within 30 minutes; that it was the company that determined a specific location where the delivery drivers' shift should begin and from then on tracked them by GPS; and that it was Foodora that defined the method and obligations for carrying out deliveries.

In Spain, in September 2020, the *Tribunal Supremo* (Supreme Court) (2020) took a position that indicated an employment relationship between a worker and the delivery company Glovo. Based on a detailed analysis of the relationship between the platform and the delivery drivers, the court recognized the subordination/dependency and the so-called *ajenidad* ('alienity') of the risks and benefits of the work performed by a Glovo delivery rider, fundamental aspects for the characterization of the employment relationship under Spanish law.

The *Tribunal Supremo* (2020) pointed out how the workers were under the effective control of the platform, through scoring systems, organization of the distribution of orders, penalties for delivery riders, geolocation controls through the application's GPS system, and by holding the monopoly of information and decisions for managing the business. It also highlighted that all commercial decisions were made by Glovo: it was the company that determined the prices of the services provided, the payment method and the remuneration of the delivery riders, which, moreover, was carried out by Glovo and not directly by the platform's end customers. These customers, on the other hand, were not customers of the delivery riders, but of Glovo itself, according to the court. The characterization made by the *Tribunal Supremo* also highlighted that the essential means of production for the company's delivery service was not the delivery riders' cell phones or motorcycles, but the digital platform itself designed by Glovo and owned by it (Monereo Pérez, Marín Muñoz 2020).

In 2021, the UK Supreme Court (2021) ruled on the existence of an employment relationship between drivers and Uber, rejecting the company's argument that it was merely a technology company responsible for connecting drivers and passengers. However, the UK Supreme Court described the drivers as Uber workers, which in the UK refers to an intermediate category between an employee and an independent contractor who does not enjoy all the employment rights attributed to an employee.

In its ruling, the UK Supreme Court rejected Uber's designation of drivers as independent contractors, indicating five points: 1) that Uber determines the prices of rides; 2) that Uber determines the terms for the performance of the service in contracts; 3) that Uber restricts the ability of drivers to choose rides; 4) that Uber exercises significant control over the performance of the services, including through the company's ranking system; 5) that Uber restricts communication between the passenger and the driver and actively tries to prevent the establishment of a relationship between them that leads to a commercial activity outside the company's control.

In Brazil, the Labor Prosecutor's Office has been active in relation to the working conditions of drivers and delivery riders, with prosecutors defending the existence of an employment relationship between uberized workers and platform companies. The *Tribunal Superior do Trabalho* [Superior Labor Court] (TST), on the other hand, was initially more receptive to the platforms' arguments. However, in the last 5 years there has been a change in position, with more decisions recognizing the employment relationship of workers on private transport or delivery platforms (Lanza, Oliveira, Maior 2024).

For its part, the Supremo Tribunal Federal [Supreme Federal Court] (STF), since 2023, in a monocratic manner, "in the name" of free enterprise and free competition, has overturned the decisions of the TST and the lower courts recognizing the employment relationship of uberized workers. In 2024, the dispute reached the plenary of the Supremo Tribunal Federal for the first time, in response to a request from Uber, which questioned a decision by the TST recognizing the employment relationship between a driver and the company (Gomes, Gomes, Oliveira 2024). After the first session, which defined the general repercussion of the case, the Court will schedule a new date to deliberate definitively on the matter. However, the recent monocratic decisions, by 4 of its ministers, in defense of the companies' arguments, indicate that the Brazilian Court will probably endorse uberized work.

4 Legislative Responses to the Struggles Surrounding the Uberization of Labor

Concurrently with the court decisions, legislative initiatives have sought, with varying degrees of success, to regulate platform companies. The two most emblematic cases, one in which the platforms have so far been victorious and the other in which they have been defeated, occurred, respectively, in California (USA) and Spain.

In the birthplace of the so-called Big Techs, the economic and symbolic weight of California was demonstrated by the size of the resources mobilized by the platforms to overturn the recognition of

the employment relationship that had been consolidating on the basis of the aforementioned 2018 Californian Supreme Court decision, which was codified and extended in the law approved by the Californian Congress, known as Assembly Bill 5 (Supreme Court of California 2018; California Legislature 2019; Fuentes, Smith, Chen 2020).

Throughout 2020, California's ride-hailing and delivery platform companies managed to delay the reclassification of drivers and riders as employees – even in the context of the pandemic and despite pressure from workers, the California Attorney General's Office and the state Superior Court. In addition, they formed a coalition and mobilized more than 200 million dollars to organize a referendum, known as Proposition 22. Through this, they managed to nullify the law that granted employment relationships to uberized drivers and uberized delivery riders, replacing it with a law created by the platforms themselves (Fuentes, Smith, Chen 2020; Whittaker, Dubal 2020; Dubal 2021).

In the case of Spain, recent disputes over the regulation of uberized work have focused mainly on the role of delivery riders.

Following the aforementioned ruling by the Spanish Tribunal Supremo, which indicated the existence of an employment relationship for delivery riders, a social dialogue process was formed at the end of October 2020 to discuss uberized delivery labor, bringing together representatives of employers and workers (UGT 2021). On March 10, 2021, employers and unions reached an agreement on the new law, and on May 11, Royal Decree-Law 9/2021, known as the Ley Riders [Riders Law], was published by the Spanish government. This decree made two amendments to the Spanish Workers' Statute.

The first introduced a new topic in Article 64.4 of the Statute. This article deals with the information rights of workers' representatives, and the new topic included establishes that they "must be informed by the company of the parameters, rules and instructions on which the algorithms or artificial intelligence systems" that govern their labor are based. The second modification introduces a new additional provision in the Workers' Statute, the twenty-third, which states that there is a "presumption of employment relationship within the scope of digital delivery platforms" (Spain 2021).

In Europe, although the plurality of national contexts has made institutional responses more complex, especially among the Member States of the European Union, a decisive movement has taken place in the region, culminating in a milestone in the regulation of platforms. Also important were the last-instance decisions rejecting platforms' classification of their workers as independent contractors in countries such as the Netherlands, Italy, France, Switzerland, Germany and, in Europe but outside the European Union, the United Kingdom.

At the end of 2021, the European Commission, after extensive consultation with trade unions, employers and researchers, presented a

proposal for a Directive with the aim of general regulation of uberized work. After a long and difficult process by the European Parliament and the Council of the European Union, the text was finally approved in March 2024. Mandatory for all 27 Member States, the strongest and most innovative regulation of platform work at the international level establishes, as in Spain, a presumption of employment based on the way in which national legislation assesses the control and direction of the activity carried out by workers.

In addition, it draws up detailed regulations for the algorithmic management of work that not only impose a series of restrictions on the capture of workers' data by platforms, but also gives them and national authorities broad access to information about the monitoring and automated decision-making systems created by companies. All of this is supported by oversight of the systems by workers and public authorities.

Over the next two years, Member States will move on to implementing the Directive, when its real impact will be known. However, the forcefulness of the regulatory processes in the European Union – as well as in California, before the platforms' victory, and in Spain – already sheds light on the serious limitations of the Brazilian courts and legislative initiatives.

In Brazil, in response to the strike movements that erupted in 2019, as mentioned earlier, a large number of bills have proliferated in Congress. Of these, the only one that advanced in parliament was Law 1665/2020, giving rise to Ordinary Law 14297/2022, the first national legislation in favor of Uber workers, which provided for protective measures guaranteed to delivery riders during the public health emergency resulting from COVID-19 (Moda, Gonsales 2021).

In 2023, President Lula's government, fulfilling its campaign promise, definitively entered the debate over the regulation of the work of uberized drivers and delivery riders. The government promoted and mediated a tripartite negotiation, called the Working Group. One year after the beginning of the WG, on March 5, 2024, Complementary Bill 12/2024 was presented to the National Congress, covering only drivers, since the delivery riders, dissatisfied with the results, abandoned the negotiations.

According to the leaders of the delivery riders who participated in the meetings, the negotiations were limited to discussions on the right to social security and the values of the minimum hourly wage, without advancing on important points discussed by the category and presented by ANEA, as mentioned above.

In short, the bill provides for the creation of a new legal entity, the "platform self-employed worker", establishes that platform companies are "app operators", and sets a minimum wage of R\$ 32.10 per hour worked, without paying for the time workers spend waiting between the execution of one order and another. Of this amount, R\$ 8.03

refers to payment for services rendered and R\$ 24.07 as reimbursement of costs, which are adjusted based on an increase in the minimum wage. The Bill also establishes a specific social security system for the sector, to which companies must contribute 20% and workers 7.5% of the value of the hour worked, with a minimum of R\$ 8.03 per hour. It is worth noting that, according to the IBGE, drivers who work for platform companies earned an average hourly income of R\$ 11.80 in 2022, R\$ 3.77 more than the bill establishes as the minimum value for an hour worked, giving companies the opportunity to pass on to workers part of the social security costs they will incur. Evidently, Bill 12/2024 pleased the business sector, but angered both drivers who defend the regulation of the sector and those who advocate for real autonomy in the relationship with the platforms.

Obviously, the bill will be amended as it goes through Congress but given the correlation of forces unfavorable to the working class in Parliament and the internal disagreements within the category itself, the tendency is for its main points to be maintained. Therefore, if approved, the bill will create a new legal entity, a third category of second-class worker, deprived of most labor rights, which could legitimize and promote the uberization of labor, paving the way for “the destruction of labor rights won by the working class as a whole in countless struggles fought since the time of enslavement in Brazil” (Antunes 2024).

5 A Final Note

The long period of consolidation of financial capitalism was marked by successive crises and repeated attacks on the working class in various parts of the world. A movement that, in addition to the intensification of processes of precarious living, working and remuneration conditions, also resulted in an increase in unemployment and underemployment rates in the Global North and South. At the same time, the attack on the entities representing the class and their adaptation to the neoliberal context was followed by a myriad of mystifying discourses about contemporary exploitation driven by capital. In the last decade, these determinations resulted in one of the most elaborate ways of appropriating the labor of a huge contingent of underemployed workers: uberization.

In the new experimental laboratories of capital, large financial resources – which in the structural crisis of capital do not find great opportunities for return – were combined with an impressive global technological infrastructure. The result was the creation of platforms that, through algorithmic management, measure the activities of precarious workers on a daily basis and tacitly modulate them according to the needs of the companies themselves. The platforms evade

the costs of tools and inputs, the training of the workers and, above all, labor rights. While they monitor the activities of their workers in detail and appropriate the data they produce, they also classify them as independent contractors. In this way, the most advanced platform capitalism symptomatically emulates the protoform of capitalism.

Given the pressures of life under the structural crisis of capital, the relatively low barriers to entry into uberized jobs, the temporary subsidies both to workers' wages and to the amounts charged to consumers to attract them to the platforms, as well as the illusory discourses of entrepreneurship, have made uberization 'palatable'.

Of course, as we have seen, this does not mean passivity and immobility on the part of the workers. As we have seen, the uberization of labor has transformed traditionally quiet sectors into fertile ground for struggle, such as passenger transport and goods delivery, which were once sectors mainly occupied by independent contractors and employees of small companies.

Although each place has its own peculiarities, in general the organizations of uberized workers, especially drivers and delivery riders, are characterized by the spontaneity of strikes that break out even before they are organized, by the importance of remote communication between workers, by the ability to carry out international articulations and by the leading role of associations and collectives.

Despite the process of expanding productive capacity, which aimed to lower the value of the workforce, extend and intensify the working day, transfer costs to the working class, and expropriate it of its identity, the spell has turned against the sorcerer, and what we see are new collective subjects moving from a social invisibility to collective, political and class visibility (Santana, Antunes 2021).

These resistances are heard in several countries and are driving growing institutional support, especially in the countries of the Global North, such as the forceful regulatory process in the European Union, as well as in California, before the victory of the platforms, and in Spain, in addition to the last-instance decisions of the European courts in favor of recognizing the employment relationship.

These regulatory processes expose the serious limitations of Brazilian courts, legislative initiatives and the organization of the working class itself in resisting the uberization of work. As in other moments of major productive restructuring, it seems that Brazil will legitimize uberized work, eliminating historically won rights and reducing the value of its labor power, in order to adjust to the new international division of labor and reaffirm its peripheral status.

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