

Magic Wands and Monkeys Brains: Is Labor Ready to Lead Society in the New Struggle Over Data?

Biju Matthew

On June 12th, 2019, Dara Khusroshahi, the CEO of Uber and two of his counterparts from Lyft wrote an Op-Ed in The San Francisco Chronicle in which they argued that Uber, Lyft and other gig companies were being forced to work within an outmoded "century old" labor regime. Apart from the banal fact that current labor law is nowhere near a century old -- maybe it is time to call Khusroshahi's bluff. If we accept Khusroshahi's premise, labor law is outmoded, but not his argument, labor law imposes too many requirements on business, it offers a different question: what additional requirements need to be considered given the fundamental changes that are underway in the production and distribution (the labor process) of service commodities? But, before we engage this question, we need to first take several steps back.

It is no surprise that the employer/employee relationship and worker misclassification remain some of the most important arenas of struggle today. The two categories, employee and employer, emerged through countless struggles over the last two centuries -- struggles around one of the central contradictions of capitalism - the question of appropriation of surplus value. Labor law, at any point in time during these two centuries, can be understood as an approximate and particular manifestation of the temporary resolution of this contradiction based on the relative strengths of the two forces involved -- capital and labor.

I do not intend to elaborate the story of struggle over the last two centuries in this paper. Instead, with singular attention to the contemporary moment, my effort here is to underscore and make visible the need to articulate the two realms identified above -- the theory that seeks to understand how value is appropriated by capital against the ways in which workers and unions struggle through categories such as employee/employer to resolve the contradiction produced by appropriation of surplus in their favor. I undertake this in three parts. First, a very brief intervention into how contemporary capital, technology and labor are structured in this late neoliberal moment. This part is a brief commentary on why we must move away from treating neoliberalism as unchanging and monolithic. Next, I point to the rapidity with which workers in the gig economy, such as uber drivers, are able to point to the precise ways in which capital seeks to appropriate surplus through data. And finally, from such a standpoint I try and theorize some new aspects of the processes unleashed by contemporary capital towards appropriating surplus and how such theory may be of value in order to articulate a contemporary strategy for labor.

Capital, Technology and Labor Over 50 Years of Neoliberalism

The conventional telling of the story over the last fifty years, even from within the labor movement, is that of an unbridled rise in the power of capital, specially finance capital, that has worked systematically to destroy the cornerstones of the Keynesian compact, including the labor-capital compromise that was framed around a logic of joint growth (Harvey, 2005). In this telling of the story of the neoliberal period, labor is largely a victim, as capital enlisted the state to break the back of the labor movement (Reagan's breaking of the Air Traffic Controllers strike and Margaret Thatcher's assault on the Coal Miner's strike are the iconic tales of this narrative). While there is nothing fundamentally incorrect about this rendering of the story it is important to point out that there are many nuances and inconsistencies that we must account for. Such an accounting of the divergences and inconsistencies is necessary as it sets up the frame, at least partially, for thinking about the future. Here I mark three key aspects.

First, Neoliberalism has long ceased to be a monolithic unchanging regime of capital. Over the last half century significant new institutional formations have emerged even within finance capital. If the origins of neoliberalism was a crisis of profitability experienced by capital, then the first two decades of the period saw capital regain much of the ground it had conceded during the period of the Keynesian compact and move into a period of super-profits. Thus by the late 90's / early 2000's a new crisis began to take shape for capital -- unprecedented availability of capital that needed new spaces of investment - in short a crisis of over accumulation. In other words, for much of the last two / three decades what we have is a situation where there is a giant pool of capital sloshing around the globe seeking spaces of investment.

Accordingly, technologically, the opening decade of neoliberalism and the current decade could not be more different. The 1970's had not seen the personal computer. What capital has been able to do with technological mediation to the labor process over the last two decades needs to be independently assessed and understood. In several tracts through the nineties David Harvey outlined the specific mode of a spatio-temporal fix that produced the twin phenomena of globalization and flexible specialization (Harvey, 2001). Harvey's theorization is specific and insightful. However, what should be clear is that beginning in the late 90s early 2000s capital undertook a second spatio-temporal fix. This second spatio-temporal fix was based on further advancements in digital technology that fundamentally reorganized both physical and cognitive space through a dense embedding of networked sensors in physical space and wireless technologies. Together this has meant the potential for further radical transformation of the labor processes.

The unity between the spatio-temporal fix that Harvey identifies, and the one I seek to outline in this paper, lies in the fact that the central mode through which such a reorganization of the labor process is engineered is through the control of data. It is fundamentally the centrality of data that leads other theorists to talk about such concepts as surveillance capitalism (Zuboff, 2019). Surveillance in this case has little to do with the narrow concept of privacy but much more fundamentally to do with control over the labor process. I will return to this theme later in the paper, especially because it should be of no surprise to us that workers - and in this specific case - app based drivers - articulate this tension around the labor process in illuminating terms.

Finally, to focus on the neoliberal period does not mean that our attention must be entirely occupied by shifts in capital and technology. It is critical to understand the shifts in labor as well. While it is true that the labor movement has been in retreat during this period, it is important to note that the same period has seen the rise of a range of militant grassroots movements especially among immigrant, black and women workers. The hegemonic control of business unionism that has at its disposal no analytical frame except narrow pragmatism has essentially meant not only a deep chasm between the traditional older business unionists and new social movement immigrant unions, but under conditions of venture capital's aggressive break all rules approach, has meant the development of the worst forms of business unionism as represented by yellow dog company unions such as IDG in NYC and the efforts of IBT Joint Council and other powerful locals in California. The inability of the labor leadership to resolve this internal division has meant that the militant new unions such as the Taxi Workers Alliance in New York, the IWGB in London, or Ride Share Drivers United in Los Angeles have no choice but to invest resources into their own defense against such business unionism but beyond that it has meant that such unions are unable to put the time and resources required to amplify a new imaginary of the 21st century labor movement.

We will return to these issues of a new hegemony of venture capital, the new arcs in technological development and the inability of labor to dissolve its internal crisis in a later section but as suggested above I now wish to move to documenting in brief some of the ways in which workers - in this case app based drivers - talk about the current experience of work. A new kind of attentiveness to how they talk about themselves and the language that they use is needed.

“We are all just monkeys”

I was with Rahmat Ali on the terrace of a cultural center in Hyderabad, India, poring over some of his OLA statements, screenshots and bills. Two other Uber drivers Vasu Kumar and Mahesh Yadav were also there with their Uber statements and bills. As we went through the details of each transaction it became increasingly frustrating for all of us, in terms of building an understanding as to how UBER and OLA were doing all the calculations, till Rahmat suddenly exploded:

You know it's impossible to understand these accounts because if we look into accounts over just 1 month or 2 months there's nothing common to it. You are a worker, you are driving and you are sitting behind that steering wheel and you are dealing with an app and so everything seems to be constant on a daily basis, but really if you look at these numbers that's not true. Uber or OLA they have a magic wand - their jaadu ki chhadi and everything changes instantaneously. What is happening inside the App is no longer what was happening yesterday. If I did not drive for 5 days at a stretch on the 6th day when I switch my App on what I experience is very different from what I had experienced the previous week when I was driving, or if I have driven 16 hours a day for the last 5 days then when I open up my App on the 6th day what I experience is very different from what I had experienced on the first of those five 16 hour days. So we don't see it, but they are waving this jaadu ki chhadi and everything changes and what is produced is a situation where I don't know what is coming into it.

He looked around and everyone was silent except for the imperceptible nod.

I don't know what is going to happen to me in the next hour, the next day, in the next week, in the next month, in the next 2 months, the next 6 months... It's all unknown whereas to anybody standing outside it looks like the same thing there's a car, there's an app, there's a guy driving in it, somebody presses the button and the guy shows up... so everything looks the same. But that's hardly the case.

I was struck by Rahmat's assertion and the poetry with which he said it - the jaadu ki chhadi pointing to the ephemeral character of his daily work experience. Rahmat still kidding around waving his hand as if it held the magician's wand. Mahesh laughed and switched to Telugu, another local language.

Manam chesedanta bangaram.... Everything we do is gold.... If we run, if we walk, if I take a break, where I take a break, if I cancel a ride, if I don't cancel....

There is nothing fixed about their daily work experience and that lack of fixture is not simply what used to be common in the taxi industry historically. In the taxi industry of the past the uncertainty was that when you drop a passenger off, you don't know who your next passenger is and when you will get one. And neither was determined by the boss. That is not what Rahmat and Mahesh are referring to. What they are talking about is the specific and fundamental way in which literally every ride is tailored and niched either by virtue of who the passenger is or by virtue of who the driver is and their specific history

in terms of their patterns of behavior over the last several months or years. It is even possible to argue that every ride is a new product.

This moment in Hyderabad, brings to mind so many conversations I had with drivers in New York and Los Angeles, in London and across India. Something about Rahmat's magic wand reminds me of a conversation with Luis Reyes, a long time New York city yellow cab driver who switched to Uber in 2017. "I am Uber's river of data" he had once told me when we met accidentally at a street corner in Washington Heights. It also reminds me of a moment in California. I was at an Afghani restaurant drinking sweetened tea with a group of drivers - most of them Afghani but also some Arab drivers and a few Latinx drivers. One of the leaders of that driver group Anwar Noori - an older gentleman with sparkling eyes and a dimpled cheek - leans over across the table and tells me in a tone that would indicate confidentiality: "Biju bhai hum tho bas bandar nai". I look up as to what Noori means when he says that we are all just monkeys and he continues:

We are all those monkeys that exist in a lab. You know monkeys that are being used to test various medicines, you know what they do, right, they inject a medicine or they do something else and then they are watching the monkey's brain. They open up the head and they look at the brain... that's how I feel. I think UBER is always looking at my brain. When I leave the airport and take a passenger to downtown San Francisco, everytime I do that trip I know that I am not, let's say, getting the same fare but that's not the end of it... I know that beyond not getting the same fare that Uber is intensely watching my brain, Uber is looking at my brain when I go at 80 mph, Uber is looking at my brain when I slow down or speed up to switch a lane...

Noori's articulation of who he has become or what he is for Uber is interesting and important because, like Rahmat, he is capturing the relationship between a series of moments and labor process regimes. Through magic wands and monkey brains we are offered a window onto the relationship between the current experience of driving, the past experience, as well as the future of what is to emerge. I have had countless conversations that offer insight, but for now I will just pull out a set of propositions that such stories point to.

Labor Process and Surplus Value in the Gig Economy

What Noori, Mahesh, Luis and Rahmat and countless other drivers do on a daily basis is to find a way, as they drive through different sets of urban roads, to get behind the app in order to understand how their work lives are being designed and redesigned. If the number of stories I have heard is any indication this points to a workforce that is deeply involved in a collective effort to understand the ways in which capital is reorganizing their work lives. These are efforts to understand the labor process and the ways in which capital organizes the labor process so as to facilitate the extraction of surplus value. My first effort therefore will be to use the narratives of the drivers to think through labor process theory. It is not my intention to explore labor process theory in any great detail here. Instead I will only pull out a few key concepts and present a very brief reading of the taxi and the app-based industry.

In the development of capitalism Marx (1990) identifies two "stages" in capital's subsumption of labor in order to extract surplus value - formal and real. In the formal subsumption of labor, capital does not interfere with the actual labor process itself but controls the input and output markets, the credit markets and all of such infrastructures at the very edges of the labor process and thereby extracts absolute surplus value. While Marx presents formal and real subsumption of labor as successive stages, it would not be incorrect to say that formal subsumption continues to exist in some sectors even today. For instance,

small farmers in many parts of the world would still fall within this frame as capital fundamentally operates through the control of input (seeds, pesticides, fertilizers), credit and output markets. In contrast, real subsumption of labor is where capital takes full control of the labor process - organizes and reorganizes every minute aspect of it and enters into a process of extraction of relative surplus value. The iconic image of this of course is the mass production assembly lines. It is important to note that the regime of employee-employer relation as codified in law represents the temporary resolution of the capital/labor contradiction from this period - the resolution that led capital to its crisis of profitability by the 1970's.

Since the 1970s, right from its outset, in the neoliberal period, we began to see several experiments from capital to escape the specifics of the earlier resolution. In the US taxi industry for instance, leasing was first introduced in the late seventies and spread through much of the United States through the 80s. Under leasing a driver paid the boss a fixed lease amount at the top of the shift and worked without any direct control from the boss for his / her entire shift. The boss did not tell the driver where to go to pick up passengers, the boss did not care about how many fares he made in a shift or for that matter whether he drove fast or slow. In every way it resembled formal subsumption and drivers were no longer rated as employees but as independent contractors. The first changes to the story begin to appear in the late 80s with the introduction of the electronic meter. With every new generation of the electronic meter the boss could now have detailed knowledge of the entire shift and was in a position to manipulate the lease based on what was actually happening during a shift. The boss effectively had full knowledge of every single driver in his fleet. So, while the overall structure seemed to remain one of formal subsumption, it is possible to see that elements of real subsumption had begun to appear through the collection of data. I have called this arrangement elsewhere as hybrid subsumption, or nested subsumption (Mathew, 2015). By the mid 90s and early 2000s it was increasingly clear that the data generated by the driver, however insignificant it may seem in comparison to the levels of data collection today, was being used to reorganize the production process, while keeping some of the external appearances of formal subsumption. In the yellow cab industry in New York the electronics within the car was used to disable the meter in the middle of a shift and force the driver to return to the garage or to repossess a car in the middle of the night. Those early days only emerge with clarity when we see the level of data collection and use in app-based services today.

It now becomes clear what Noori, Luis, Rahmat and Mahesh are signaling. If we were to break down the narratives, apart from the deep sense of surveillance and control that drivers experience - the magic wand and the monkey brain are metaphors that run the course between the physical and the cognitive. Here we can return to the concept of the second spatio-temporal fix. This fix, which I argue characterizes the current moment, uses the control of data as a central mode through which to reorganize the labor process. To illustrate I want to mark three clear sets of data that form the nexus of the second spatio-temporal fix:

1. **CURRENT DATA:** This is data about the immediate daily experience. The daily work experience of a driver is produced from within a cage of data the driver is structured into. Apart from the most immediately visible decisions such as where to pick up a passenger, what route to take, what rates apply, there are other decisions that are not so easily visible. These include the allocation of fares, the disciplining of a driver and the targeting of drivers for incentive programs. Building on this, a third set of decisions that also an almost daily logic includes decisions around deactivation of driver permissions and other disciplinary procedures connected to ratings. This data grid seems local - that is most of the above decisions seem to be structured through local data and this data is located entirely within the firm.

2. DATA FOR MEDIUM TERM PRODUCT REORGANIZATION: There is a second data grid that operates locally, regionally and sometimes globally and is connected to product redefinitions or the creation of new products on a medium-term basis. This is data, for instance, that is used to make a decision such as upfront pricing.¹ There is evidence to suggest that some of the initial experiments on Uber's upfront pricing happened in India before being branded in the United States. Similarly, data from the eHail product was Central to the definition of the new Uber Eats product. In other words, data produced (or value created and subsumed) in one labor / production process enters, as if it were capital, in an entirely different production / labor process. The key shift here is to understand data as value / latent capital that can enter any number of product reorganizations or new commodity forms. Thus an infinite cycle of value appropriation that moves spatially and temporally is at play.
3. INTER FIRM DATA : Here we are looking at data collected by a firm such as Uber that may enter any number of Uber subsidiaries or partners. Here driver's data would be used in the Uber autonomous car project or could be used in product design at a auto manufacturers that Uber partners with or for instance, in in road infrastructure development projects or in an auto insurance product. The logic is the same as outlined above - i.e, data as unaccounted value moves across firms being transformed into input-capital in a different firms production process. Thus value / data produced by workers moves simultaneously spatially and temporally across firms and is arguably part of the calculus of surplus appropriation that private equity / venture capital is making.

The first set of data - what I have called current data - is the data that is central to the classical case of real subsumption of labor. The second (medium term) and the third (inter firm) data sets are part of a form of subsumption in which data is itself part of the surplus drawn from labor subsumed in one location. This data (an unaccounted surplus so) is transferred, as if we're capital, to other production processes and it is used in multiple forms many times over. In other words, labor subsumed by capital in the course of one labor process enters many other labor processes in the form of input-capital and it is part of an ever-expanding spiral of surplus value appropriation moving across time and space.. To use language drawn from the world of finance capital, data is a form of labor derivative and has a market of its own and enters as capital into other production processes. It is this use of data, that marks this moment of capital's development and can be signified as a second spatio-temporal fix.

These massive transformations in the labor process return us to Khusroshahi's gauntlet that we are operating under an outdated labor regime. The proposition, from labor's vantage point, should be very obvious by now. The category of employee rights / demands must include an aggressive effort on the question of data. If the traditional category of employee rights includes fair wages and benefits, it must now also seek an ever-expanding compensation for the labor derivative that is the workers' data for every production process it may enter. Contemporary battles against Uberization and yellow dog business

¹ Under upfront pricing what a passenger pays for a ride and what the driver makes for the same ride are completely disconnected. When a passenger books a ride he/she is quoted a fare (say \$12 for a 3 mile / 10 min ride). This quoted fare is ONLY for that ride and is not calculated on the same rate that the driver is being paid at. For the above \$12 ride the driver is, say being paid at 99c/mile and 25c/min with a \$1.50 drop - or a total of \$7. Thus with the passenger paying \$12 and driver making \$7, the effective rate of commission the driver is being charged is 41% as against what is popularly believed that drivers pay a 20% Commission.

unionism such as the one over vehicle caps and minimum pay for App drivers in NYC led by NYTWA or the battle over AB5 in California led by RDU are almost entirely around data category 1 (Current Data). As of now Labor has no clear understanding nor a strategy on how to draw categories 2 and 3 (Medium term and Inter-Firm data) into the ambit of struggle or how to yield leadership to these new unions of our times. Labor must invest resources in building the infrastructure required to make such a demand politically viable rather than at such a crucial moment sell out the working people across the world through the worst forms of business unionism.

What is more, this is the kind of struggle that could rekindle the relationship between the labor movement / working classes and the broader middle class that is approaching the same issue of data from the consumer end. The middle class will remain broadly unable to articulate its demands as consumers because of the lack of any collective consciousness. If labor takes the leadership in the articulation of this struggle, it could at the minimum build a new conversation with the middle class and if all goes well produce the next moment of labor's hegemony over society as a whole. This must not be left to accident. Labor must plan and execute a strategic battle where it takes a new emergent working class struggle over value and use it to transform the current middle class concern over data as "privacy" into a new one of data as "value" and wealth.

Bibliography

Harvey, David. 2001. *Spaces of Capital: Towards a Critical Geography*. New York: Taylor and Francis

Harvey, David. 2005. *A Brief History of Neoliberalism*. Oxford: Oxford University Press.

Marx, Karl. 1990. *Capital Volume 1*. London: Penguin Books

Mathew, Biju. 2015. "The neoliberal firm and nested subsumption: Labour process transformations in the NYC taxi industry", *Urban Studies*, Vol. 52, No. 11, pp. 2051-2071

Zuboff, Shoshana. 2019. *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power*. New York: Public Affairs