GRAY ZONES

Transformations and Reconfigurations of Work and Jobs in the Digital Age

DONNA KESSELMAN
PATRICK CINGOLANI
MAXIME SCHIRRER
(EDITORS)

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To David Bensman (1949–2020)

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Foreword

Ursula Huws

In the tidy world of the statistics that inform public policy, the topic of work sits neatly within binary variables. Is it involved in the production of goods or services? Does it take place in the formal or the informal economy? Does it involve employment or self-employment? Is it permanent or temporary, full-time or part-time? Viewed through a more theoretical lens, the questions are different, though still binary. For Marxists, for example, is any particular form of labor "productive" (producing surplus value for capitalists) or "unproductive" (producing only use values)? Feminists might ask is it paid or unpaid? Coerced or voluntary? Combining the Marxist and feminist approaches, one is led along a different path, a path which, at an abstract level, crosses the boundary between the sphere of work and the sphere of the home and leads us into a broader sphere– that of social reproduction.

This book looks at work differently. Ignoring the clear demarcations in the formally-mapped landscape it shines a spotlight on where the boundaries are unclear—the messy spaces between the paving where colorful, hard-to-identify weeds flourish and distinctions seem to dissolve—the "gray" areas.

Trying to make the lofty idea of the sphere of social reproduction concrete, to enable research, we find ourselves in a space that is more than usually "gray": that of the household. But the more forensically we try to anatomize what work is actually going on in households, the more confusing the picture becomes.

The household is a space where people are both producers and consumers, managing their daily lives in

complex interactions with a cast of internal and external characters including members of the extended family and community, public institutions and the market. It is the space where bodies are fed, maintained, clothed and kept fit for work, where children are raised and readied for school and employment and where the sick, incapable and elderly are cared for. It also requires its own physical and financial maintenance and is the site where legal residence is rooted. Just about any activity carried out in the home carries multiple resonances.

Take preparing a meal, for example. At one extreme we might find it being carried out almost entirely outside the market—using home-grown ingredients, prepared by a family member. Or it might be cooked by someone who is paid to do so: a domestic servant, for example, or a care worker, or a nanny. In other cases, it might be prepared wholly or partially outside the home—by workers in a factory producing ready meals to supply a supermarket, in a "dark kitchen" to be delivered by an online platform, by a catering company that supplies "meals on wheels" to the social care system or even the staff of a food bank. If it is carried out as unpaid work by a household member, that person might experience this as creative self-expression, a labor of love or an unwelcome chore. Tasks shift unstably between those that are paid and those that are not. For example, children's school meals may be provided by parents or by public authorities, depending on accidents of geography, political decisions about spending cuts or a child's dietary requirements.

Similar tales can be told about most other activities that take place in the home, such as cleaning, gardening, social care, sex: sometimes coerced, sometimes voluntarily gifted, sometimes claimed from the state as a right, sometimes purchased in the market. The more closely you examine it, the less gray this zone appears to be. Indeed, it starts to look more like an evanescent rainbow with colors kaleidoscopically swirling between categories. Unproductive labor

morphs into productive labor and back again. Goods replace services, which in turn generate a need for new kinds of goods, which then necessitate more unforeseen services. The provision of state facilities advances and retreats, stretching to the limits people's capacities to substitute for them as they simultaneously face growing pressures to take on paid work. Individuals carries out multiple roles. Paid workers also do unpaid work and may also employ others. Simultaneously, they are consumers, parents, carers and citizens.

New tensions and internalized contradictions may arise as the labor of social reproduction within the home slides unstably between these overlapping categories. Take, for example, the not untypical situation in which a household that relies on work for an online platform for supplementary income also depends on such platforms to provide it with goods and services. As *consumers,* household members may be forced to seek the lowest possible price, checking out global brands and taking advantages of any "special offers" that are available, even while *as workers* they may be aware that platforms' aggressive marketing strategies and offers to lower prices are instrumental in driving down their wages —with paralyzing implications for solidarity.

The arrival of online platforms has given rise to a vicious cycle in which time poverty chases money poverty. As the household needs extra income, its members look for extra work to gain it, either working longer hours in their existing jobs or taking on new kinds of work. This leaves less time for their domestic work. This time squeeze may lead to side effects such as neglect of children, quarrels over money or the division of labor, psychological distress or the risk of relationship breakdown. To address such problems, the household turns to the market. For example, a carer might be hired to look after an elderly relative, a babysitter booked to cover a period when parents are working or a cleaner employed. Such strategies, multiplied across many households, lead to a growth in the online platforms that

offer such services. The expansion of platforms in turn leads to the availability of new work opportunities (low-paid and precarious though these might be by comparison with the household members' previous employment). Familiarity with these platforms, and the ever-growing need to pay for the market services on which the household is becoming increasingly dependent, make platforms a natural source to turn to for further income. So, the wheel comes full circle, ratcheting up both time and money poverty at every turn and, in an economic context of low growth and rising prices and a political context of increasing xenophobia, exacerbating existing social divisions and accelerating at a rate that risks leading to social breakdown. Because platform work is most usually carried out by the financially desperate, those who have the greatest need for these services are also those least able to afford them. The realities of the time crunch came to a head during the 2020–2021 pandemic, when public facilities were closed, leaving many workers obliged to work from home while still having to care for children and other dependents. Since then, it has become increasingly obvious that a full-blown crisis of social reproduction is in progress.

We have arrived at a moment when the relationship between capital and labor is undergoing profound change. A new kind of capitalism is emerging, its birth rendered largely invisible to those whose analytical lenses focus on traditional economic statistics and conceptual approaches. Housework, so long ignored, turns out to sit at the epicenter of this new capitalism, and the household has, unbeknownst to blinkered observers, been the cauldron in which a new kind of capitalist future has been brewing. The sphere of social reproduction turns out to be not just the place where new commodities and new markets are forged, not just the place where surplus value is created, not just the place where workers and their labor power are produced and reproduced, not just the place where the individual encounters the full force of traditional forms of expropriation, but

also a site where entirely new kinds of dispossession are occurring, using new forms of rent—forms of dispossession that national states in their present forms have no powers to control.

The political implications of this are profound. To find ways to address them, it is necessary to understand the "gray zone" not as an anomaly in the field of employment but as the central arena of struggle. The worker, the consumer, the parent, the carer may be *all the same person* and these people's struggles with employers for decent wages and working conditions and their struggles to pay the ever-rising costs of daily subsistence and keep a roof over their heads are part of *the same struggles, with the same capitalists.* A recognition of this reality opens up the possibility for making new connections, identifying new solidarities, imagining new alternatives and forging new forms of action from the bottom up that can achieve new solutions, for ourselves and for the planet.

This book gives us important tools to start this process.

2026

Introduction

Patrick Cingolani and Donna Kesselman

We find ourselves at a turning point, not so much entering a new stage of capitalism as facing the emergence of a *new world* spawned by that capitalism. In discussing the Industrial Revolution, E.P. Thompson often remarked that it did violence to human nature;[1] we are today witnessing an upheaval of the same kind. What Thompson was seeking to capture was the intimate connection between work and life and the interrelated changes in each, and for him, the "violent technological differentiation between work and life" was another aspect of class violence (Thompson 1966, 446). Like the Industrial Revolution, today's digital revolution represents a "total social fact", as Mauss would say, that informs and organizes every sphere of society, yielding a changed world again marked by "the loss of any felt cohesion in the community, save that which the working people, in antagonism to their labour and to their masters, built for themselves" (Thompson 1966, 447).

Initially designating a blurring of the boundary between the formal and the informal in employment, the notion of the "gray zone" can now help us understand the complex and multidimensional effects of the digital revolution. As later developed, it refers to those aspects of work that are no longer defined by shared norms. The absence or breakdown of such norms is common right across a labor market that is seeing work and employment reconfigured worldwide. Unlike the Industrial Revolution, initially confined to Europe and its colonial extensions, the digital revolution is

1 "This violence was done to human nature" (Thompson 1966, 446).

global in its impact. The value of the gray zone approach lies in its ability to capture the changes it brings and the tensions and contradictions they entail. Gray zones are indicators of how well or badly the Fordist regime and its panoply of worker protections are faring amid the upheaval. They reflect, too, the resistance offered to the changes that are sweeping the globe. To track them is to witness how new patterns of work and life emerge, either to become institutionalized or to vanish again, perhaps after hovering uncertainly for some time before doing either. Gray zones offer an opportunity to study these new patterns and their impending eventualities in their global circulation, to compare and contrast between and within national economies.

How Gray Zones Arise

The breakdown of the distinctions represented by the customary binaries—of employment vs. self-employment, subordination vs. autonomy, formal vs. informal, or the precarity of the Global North vs. the informality of the South—has seen the development of countless new gray areas, not only in employment but also in many other work situations. It is, however, these traditional categories that not only still inform institutional and scholarly practice but also underpin the social distribution of wealth in capitalist countries. In particular, the now blurred distinction between the two canonical figures of Fordism—the subordinated employee and the independent contractor (Supiot, 2000)—still serves to regulate access to social protection and to characterize power relations at work. Such blurring has also occurred in the Global South, where the social state emerged only belatedly, bringing with it genuine, though fragile rights. The conflict that pits long-term corporate agendas against the efforts of labor organizations and, sometimes, public authorities, to preserve the legal framework of employment

and the rights associated with it—in other words, the struggle over the legacy of the tripartite social state—is the main source of the gray zone in work and employment. The first part of this book is accordingly entitled "Class Struggle in the Gray Zone: Resistances and Alternatives in the Face of Technological Rupture". This explores how gray areas have emerged in key aspects of standard employment—the basis of trade union work today—so contributing to the growing field of gray zone research (Bellemare et al. 2024; Bureau, Corsani, and Giraud 2024; Carelli, Cingolani, and Kesselman 2022; Bureau et al. 2019; Boulin and Kesselman 2018; Bureau and Dieuaide 2018; Azaïs and Carleial 2017; Siino and Soussi 2017).

Tendencies already under way have been much exacerbated by the advent of digital platforms, disrupting and recasting the mechanisms of subordination, of power at work and the rights and duties that constrained it. One might say: the whole social construction of work. Gray zones are thus also to be found elsewhere than in the attenuation of the standard employment regulated by state institutions characteristic of the Fordist age (Dieuaide, 2024). These other gray zones relate to market transactions, as platforms seek to institute their own norms and with them create new types of workers adapted to their needs. Power relations here are quite different in character from those embodied in the standard employment relationship. In its reflection of dispersed market forces, algorithmic management marks a radical break with the institutional stability of employment (Dieuaide and Azaïs 2020). Platforms' promotion of a new kind of work—digital labor—is reflected in the emergence of the "self-employed entrepreneur" (Casilli 2015). The uberized, self-employed worker is the default inhabitant of the platforms' digital world; their construct, this figure is now embedded across Global North and South alike. The second part of the book is thus entitled "The Digital Gray Zone: Platform Practices, Tactics, Uses and Abuses". It explores how platforms set about imposing

a historically new mode of organization of work, seeking to inaugurate a "platform capitalism" (Srnicek 2016). Platforms' successful efforts to establish themselves as "rule makers" (Azaïs, Dieuaide and Kesselman 2017) testify to the radically political character of platformization, from their interventions in government decision-making to the commodification of ever-wider spheres of life and society and their "colonization" of workers' everyday lives (Cingolani 2021).

Confronted by the mutations and tensions of capitalism and their effects on work, from the neoliberal undoing of standard employment to the technological upheavals of today, digitalization among them, we want to insist on workers' central role in the reconfiguration of work and employment, as themselves actors in the historical process. The third part of the book, entitled "Emergent Figures in the Gray Zone," looks at what we call "agency within domination", at the many ways in which workers deal with the new and worsening imbalance between digital capital and labor. Some have responded to the asymmetry between platforms and users[2] that arises from the digital mediation of relations by devising ways to turn platforms to their own individual or collective advantage. They stand at one end of a spectrum at whose other end stands the self-employed entrepreneur thoroughly uberized in spirit and practice, the space between being populated by a host of figures seeking to regain, outside the relationship of subordination, the advantages won by the workers of the past. We have identified, then, three basic cases:

- those who *invest in* the matching system,[3] engaging with it on its own terms and often finding themselves trapped by it;

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2 When we write "users", we are alluding to the term used by platforms to avoid those, such as "worker", that refer to any form of subordination or employment relationship. However, we also use "uses" or "utilization" for the practices that workers develop through their own agency.

- those who *appropriate* the matching system, using it to their own benefit, in their work or personal lives;
- those who, while engaging with these systems, are opening up and developing spaces of *contestation* and struggle—forming independent workers' associations and contributing in this way to the revitalization of trade unionism, or by setting up their own platforms on a self-managed, co-operative basis.

Gray zones, then, are not merely the result of the breakdown of Fordism or the onslaught of platform capitalism. They are shaped as well by the practices and tactics of the working class, of precarious workers themselves, who seek to turn the tool of the digital to their own advantage. This exercise of agency still has to face formidable challenges in the increasingly acute asymmetries of power that characterize digital capitalism.

1. Class Struggle in the Gray Zone: Resistances and Alternatives in the Face of Technological Rupture

Fordism relied on the welfare state—the embodiment of a certain balance of power between unions, employers, and the state that was its ultimate arbiter—that reached its developed form in the post-war years. The social contract that underlay it, which exchanged subordination against protection, was leveraged by the unions to embed in public regulation the social gains they had won. The "wage-earning society" whose historical emergence in France was described by Castel (2002) was based on the primacy of a standard employment relationship that identified work with a specified workplace and a specified time, and that

[3] A matching system is an algorithmic framework that connects supply and demand, here for work.

entailed a degree of social protection and a certain social status—a world and an identity. However distinct from family life it might be, employment was intimately entangled with it via the public services and the redistribution of wealth that were its institutional counterpart.

The figure of the algorithmically-managed, self-employed entrepreneur has been carefully crafted by the platforms as a means to undercut the (relatively) politically and socially empowered employee. The force of the digital revolution, the driver of accelerating change, is reflected in an extreme asymmetry of tempo: the tripartite institutional framework of unions, employers and state and its legacy of labor law and collective bargaining, for decades the settled institutional background to life, has been plunged into crisis by digitalization in only a few years. Capitalism is taking advantage of this asymmetry to actively intervene in the dynamics of societal transformation, reinforcing its own devastating antagonisms.

The digital age promoted by the platforms would do away with Fordism and its employment-based rights and protections through the "uberization of everything". It holds out the insidiously seductive promise that workers can free themselves of the burdens of subordination and create their own, personal work-life balance. This is an ideal, however, that undermines the basis of their collective struggle as a class. The tentacular, centrifugal forces of platformization erode the standard employment relationship through the creation of what have come to be called gray zones: gray areas where institutional clarity used to be. The first part of the book thus examines this process in detail, considering different elements of the employment relationship in turn: the legal and institutional framework; the relationship of subordination and its judicial determination; the form of remuneration; and the time and place of work.

Gray Zones in the Legal and Institutional Framework of Employment, North and South

Legal scholars in this volume examine the multiple, interconnected aspects of the de-standardization of employment, and how the business model of the digital platforms takes deliberate advantage of defects and lacunae in the regulatory framework. In this respect, the digitalization of work has produced a degree of *institutional instability* in labor markets worldwide. Grounded in empirical analysis of developments in Brazil, where the phenomenon is very marked, this concept developed by legal scholars Sayonara Grillo and José Luiz Soares captures the intersecting effects of two key factors: neoliberal austerity policy on the one hand and the acceleration of legal time on the other. There, neo-liberalism's agenda of "permanent reform", dismantling employment rights and the institutional foundations of labor's collective power, has enmeshed the law in continuous dispute, so undermining the very foundations of legal certainty. This instability is compounded by digital platforms' efforts to elude employment legislation through "new forms of illegality", notably by taking advantage of the "time of non-regulation" that exists between the platforms' introduction of new forms of work and the law's taking cognizance of them, constantly adapting their models, even, to circumvent court decisions. They take advantage, in particular, of the poverty and economic fragility of the Global South to embrace its historically dominant informal sector within the broader dynamic of uberization (see Ludmila Abilio's chapter here). In this suspension of legal norms, work and work relationships again become subject to unmediated private power. In a betrayal of their democratic vocation, public institutions have allowed the naturalization of normative insecurity. Institutional instability thus both reflects and reinforces the gray zone in work and employment.

Has there been a supranational response to the juggernaut of uberization? The European Union's attempt to grant rights to platform workers, through its recent Directive on Improving Working Conditions in Platform Work ([EU] 2024/2831), is itself an instance of the gray zone, says French legal scholar Claire Marzo. In its adoption of the presumption of employment, the EU put itself forward as the guardian of that status and of the rights associated with it. However, rather than imposing clear obligations, as in matters of health and safety or the 40-hour week, it left implementation to Member States and their courts, creating gray areas that allow the presumption to be evaded. The Directive also creates pathbreaking digital rights, yet by according these to persons *per se*, rather than employees or even workers, it raises the prospect of the deinstitutionalization of the social protection of workers by law. What is more, the Directive's gray zones may ultimately result in the increase in the number of workers formally self-employed and without the protections of standard employment that the presumption was intended to counter.

Everywhere, the state plays a critical role in the emergence of gray zones. Any ambivalence on the part of elected representatives or public authorities—whether wavering in the defense of substantive social rights or actively deregulating work—makes them complicit, if not, indeed their "joint creators" (Kesselman 2022; Bisom-Rapp and Coiquaud 2017). The role of the judiciary is crucial (Carelli and Kesselman 2019). In France, wishing to circumvent the classification of rideshare drivers and food delivery workers as employees by that country's highest court, the Cour de Cassation, the Macron government simply ignored it, before leading the effort at EU level to rob the Platform Work Directive's presumption of employment of its force. In Brazil, on the other hand, the Supremo Tribunal Federal has itself played a decisive role in undermining workers' substantive gains through its radical reinterpretations of constitutionally guaranteed rights.

Subordination and Remuneration: Subjectivation in the Gray Zone

But what does the gray zone look like at the meso-social level—that is, when we focus less on legal frameworks or top-down dynamics and more on the institutions that structure social and power relations at work? Two factors stand at the heart of today's transformations of work and are thus central to any discussion of the gray zone: the subordination central to the legal conception of waged employment, and remuneration. Patrick Cingolani and Antonella Corsani explore the hybrid character of subordination and remuneration respectively, showing how employers—and capitalism more broadly—constantly create gray zones around the institutional norms they supposedly adhere to, imposing practices that undermine them.

Hybrid forms have always been features of both subordination and remuneration, as the two authors show in accounts of their historical development. Whether in late-twentieth century Post-Fordism or in the ominous advent of a new digital order, capitalism is adept at conjuring hybrid figures in its quest for an amenable workforce. This is notably the case in matters of remuneration: the impersonal, objectively calculated and bureaucratically administered wage of Fordism, based on hours, skill, and/or grade, is being replaced by individualizing schemes of remuneration based on output and performance. This also modifies the expression of subordination, when the setting of targets leads employees to behave as if they were working for themselves (Supiot). In today's digital economy, even as platforms vehemently deny the existence of any relationship of subordination, insisting that they are only mediating transactions between service-providers and clients, they impose forms of allegiance (sometimes precapitalist in nature, such as through bonuses, indebtedness, or even outright violence, as in China, for instance [Huang, 2024]) or a *de facto* subordination, mediated, for example, by

field managers or "ambassadors" who recruit workers and ensure that tasks are carried out in conformity with platform requirements (Cingolani 2026). Are such hybrid configurations not in fact intrinsic to the platforms' model of the task-based remuneration of supposedly self-employed independent contractors? Is the model itself not oxymoronic? Capitalism endlessly conjures up gray areas, here in the hybridization of work situations. Platforms argue that workers are self-employed, denying subordination while reinventing it in opaque, improvised forms. They even set independent contractors into competition with employed couriers.

Forms of remuneration and forms of subordination alike are "instruments of subjectivation", as Corsani puts it, in that they enter into the constitution of the worker's specific identity as a subject, even their sense of citizenship. In her chapter, Corsani explains how contemporary employee participation and profit-sharing schemes shape an identity that is distinct from that of other wage earners, fostering worker identification with management and with capitalist governance more generally, at the expense of solidarity with fellow employees. This shows clearly how questions of subordination and remuneration shape workers' subjective, affective relationship to their employment and to the wider world. This economic aspect comes to determine rights, behavior and margins of maneuver, and, consequently workers' degree of commitment to the job, the extent to which they may embrace or reject it. Gray zones here are created to attenuate the conflict between capital and labor and to remove the State—"society", even—from the social contract, capitalist relations being blurred by the effects on subjectivity of the multiplication and diversity of hybrid combinations.

The concept of subjectivation—evoking both constitution as a "subject" and the subjection of subordination—is particularly relevant to the analysis of the gray zone. The yoking together of these two elements in new forms

of organization and remuneration of work, promoting the multiplication of identities and the fracturing of commonalities while fostering the illusion of individual agency, is an instrument systematically deployed by capital to erode class solidarity. It creates an ambivalence, a gray zone in workers' consciousness that is to a great degree responsible for the weakening of trade unionism.

Yet this gray zone of subjectivation is also conceived in very different terms by both Corsani and Cingolani. For it cannot all be put down to capitalist machinations: workers' resistance or improvisation in the face of capital's ever-renewed efforts at domination also have their role in undermining canonical institutions. Exit from employment, multiple job-holding, intermittent work, the exploitation of unemployment benefits, all kinds of micro-experiments in life and work intended to make both more livable, are all reactions to capital's overweening power over work and simultaneously consequences and drivers of the gray zone. Worker agency itself proves to be a zone of ambivalence, not only accommodating to subordination but finding expression in innovative collective endeavors, such as platform cooperatives.

Time and Space in the Gray Zone

In her chapter, the geographer Corinne Siino looks at reconfigurations of the time and space of work that are increasingly out of sync with occupational categories, employment statuses and national statistics grounded in the traditional form of the firm with its own workplace and employees. She offers an illuminating overview of time at work: how it has been constructed and deconstructed over history, and how flexibility of time and space in the gray zone is taken advantage of by both employers and workers. Through outsourcing, the work of production is distributed among a multiplicity of locations and regulatory environments, so escaping institutional control (see Bellemare, Briand, and

D'Amours in this volume). Workers, for their part, may optimize work-life balance by doing their work in places not specifically dedicated to work, at home, in co-working spaces, at the seaside or in the country, or even while travelling. Developments in public policy and the growth of telework and the individual life choices it makes possible have all tended to the deinstitutionalization of the place and time of work.

The Gray Zone and Class

The history of trade union struggle is that of workers' continual effort to address the lack of norms constitutive of the "gray zone", and every social advance represents a success in that fight.

In the nineteenth and twentieth centuries, the industrial sector primarily involved the manufacture of consumer goods. This required companies to establish a territorial implantation close to their raw materials and workforce. Social demands and struggles emerged against the background of such localized production, and eventually succeeded, sometimes at the cost of bloodshed, in winning social rights. A prime example might be France's Workers and Farmers Pensions Act of 1910, which created the country's first compulsory pension fund. Although that particular measure was challenged and ultimately repealed, this legislation represents the first step in the development of social law—the law of welfare and social justice—which was followed by a systematic expansion of social protection driven by the State and trade unions. It addressed a legal vacuum, resolving a gray zone, one of the salient normative conflicts of the time.

Demographic trends are a key factor in the emergence of gray zones in work and employment. The demographic revolution of the 20th century, which saw unprecedented growth in the urban population, notably associated with metropolization, led to the creation of a reserve army of

workers willing to sacrifice the social gains of earlier generations in order to obtain employment. Developments in the labor force are thus a key factor in the creation of gray zones: when it grows by several billion over half a century, the formation of a reserve army of labor makes itself felt, especially when there are many candidates vying for a single post. Under these conditions, the less fortunate must find a way to make ends meet and therefore accept jobs less advantageous in terms of pay and social protection. It is in such a context of insecurity that contemporary capitalism has cultivated the idea of self-employment and entrepreneurship, fostering the illusion of escape from these conditions by altering the parameters of employment status and occupational category. Public statistics struggle to capture the phenomenon, as workers may hold one, two, or three jobs simultaneously under different employment statuses. Add to this the uneven global distribution of the labor force, concentrated chiefly in the Global South, the global distribution of the digital reserve army being an emblematic illustration of this.

The rise of the digital platform economy built on the 1960s expansion of the service economy. That had coincided with significant demographic growth: while the world population had reached two billion by the 1930s, it took only another thirty years to hit three billion. Against this demographic backdrop, there occurred significant internal and international migration, compelling States to develop new urban centers or satellite cities to accommodate the populations entering the metropolitan periphery. In the labor market, the expansion of the tertiary sector helped absorb a portion of the incoming agricultural and industrial workforce; new job categories—such as office work and various white collar occupations—emerged to meet the needs of service sector firms. The growing need for a well-educated workforce prompted the creation of numerous new universities. There was still, at that time, a strong connection between capital and territory: firms being strongly

dependent on the resources and markets of their location, employers joined unions and the State in shaping social legislation. This period saw few gray zones in the tertiary sector: with the post-war boom, known as the "Thirty Glorious Years" in France, the demand for labor outstripped supply, unions were powerful and post-war employment law and the structures of company-based collective bargaining were robust. Workers could choose their jobs, opting for employers offering the most favorable working conditions. In those years, unemployment was virtually non-existent: everything had to be rebuilt in Europe, providing the basis for an unprecedented expansion of the US economy at home.

Bolstered by the emergence of the Internet, the worldwide market liberalization of the 1990s initiated the deterritorialization of business, notably through outsourcing to the Global South, a process exacerbated by the shift from traditional to digital services in the 2000s and 2010s. This represented a break with territorially-based development, undermining a system in which corporate funds had been a major source of infrastructure investment and renewal. The global firms of today's digital platform economy are parasitic on such infrastructure, making use of it without contributing to its upkeep even though it forms an integral element of their value chains. How can packages be delivered without roads? How can urban bike lanes be funded without public revenue? How can there be delivery workers without the various literacies imparted by schools?

The global population has continued to expand, rising from 5 billion in 1987 to 6.2 billion in 2000 and is projected to reach 8.3 billion in 2026. It is the generation born between the late 1990s and early 2000s that provides the digital platform economy with its "reserve army" of labor. With the world's urban population passing the symbolic 50-percent mark in 2007, the gray zone in work and employment allows platforms to put these young workers living in dense urban areas into competition with each other. This highlights a key disconnect that no analysis of the gray zone

can ignore: wealth and added-value are generated in urban centers, while the workforce of the digital service economy increasingly resides in the periphery, indeed in areas ever more remote from the location of work, creating problems of work-life balance for populations that have little access to transport, notably in the Global South.

Uberization can be understood as unmediated and immediate subjection to the task. Uberized workers have no "social property" in Castel's sense, owning nothing but their own labor power. Stripped of any temporality of their own—possessed of no seniority, no experience (or recognized qualifications), supposedly afflicted by no physical or mental wear and tear, and having no future in the way of retirement to look forward to—they are reduced to task-executing value-production units. The promotion of unmediated subordination to the market through the commodification of all relations has a political purpose: the eradication of the very basis of workers' emancipation through collective struggle. It clears the way for the platforms, ever insatiable, to impose their own will as "rule-makers"; and also for workers' exercise of agency and ingenuity in response.

2. The Digital Gray Zone: Platform Practices, Tactics, Uses and Abuses

Uber's mythic origin story sees Silicon Valley confront the failings of passenger transport across the globe. Frustrated by the difficulty of hailing a taxi in Paris, seemingly as bad as San Francisco, the company's future CEO launched a service model that supposedly rests on its technological innovation and its efficacy, but is premised in fact on the undermining of public regulation, whether of labor or of urban transport. At the heart of Uber's political and almost messianic crusade is the systematic dismantling of the norms of employment in order to create the uberized, on-demand

driver. And what is more generally at stake is the creation of a world according to Silicon Valley, a society and a way of life informed by the new asymmetries of platform capitalism and its transformation of the labor market.

This deployment of digital technology has led to differences in access to information and in regulatory protection that are fracturing the wage-earning society, generating radical disparities. It has improved the standard of living of the middle and upper classes, whose professional skills are essential to capital, while fostering ever more treacherous combinations of precarity and informality for the workers who provide them with services. The uberized self-employment and the algorithmic management of on-demand labor pioneered with ride-hail drivers and food-delivery couriers has given rise to new, digitally mediated forms domestic work that erode the traditional boundaries between market and home. Micro-tasking handymen, cleaners, gardeners, valets, shoppers, dog walkers represent the "new jobs" of platform capitalism. On-call services proliferate thanks to the algorithm's ability to rapidly match a supply to a demand, so unravelling the fabric of daily life in the city. Its inhabitants are systematically alienated from each other in ever new forms of ad hoc service rendered abstract and remote by the technology and the endless replaceability of a workforce consigned to the delivery of candy bars and bubble tea.

Platforms come to permeate social relationships and interactions. They generate new needs shaped by the individualization and the technologically mediated immediacy that they offer, in the workplace, in the home, in the city. Many of the activities that gave texture to everyday life are consigned to an abstract elsewhere,[4] while those now

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4 On the concept of appropriation and its relationship to space, see Henri Lefebvre (1970, 180). Some authors interpret platforms as firms responding to systemic pressures within capitalism's long-term trajectory, emphasizing continuity rather than rupture.

performing these tasks form an increasingly flexible, mobile, and depersonalized workforce, whose work offers nothing in the way of social connection or meaning. Everything becomes marketable, and the market becomes anonymous, for both buyer and seller. Workers are stripped of their distinct individuality while consumers are reduced to it. The interaction that nourished a sense of the civic has gone, while the time once specifically set aside for self-maintenance and sociability has crumbled under the demand for speed and the pressure for instant availability. The central question is whether platformization marks a historical rupture. We earlier sought to initiate debate on the gray zone as the terrain on which the post-Fordist future was being worked out (Carelli, Cingolani, and Kesselman 2022). Does the uberizing of the economy represent the old capitalism taking on a new guise, the emergence of a "post-welfare state capitalism"? Does it displace the capitalist mode of production, inaugurating a "post-capitalism", a new socio-economic order (Varoufakis 2024)? Or is it in some sense a headlong dash towards the singular world fantasized by the Silicon Valley futurists? The gray zone approach helps grasp the systemic transformations in course and the new identities emerging as a result, so usefully contributing to the discussion.

The Uberized "App-Based Driver Status" in the Gray Zone

The advent of the app-based driver who is neither an employee nor properly an independent contractor, but subordinated to the algorithm, certainly marks a break with the employment paradigm of the welfare state. In their chapter, Rodrigo Carelli and Donna Kesselman analyze the phenomenon in terms of what they call the "Uber app-based driver template". In promoting the Proposition 22 ballot initiative in 2020 and overturning California legislation that classified its drivers as employees, Uber imposed itself as a "quasi-

legislator" (Kesselman 2025). Comparison of developments in the United States, France and Brazil shows the creation and exploitation of gray zones to be the strategic means adopted by platforms to contrive the institutionalization elsewhere of that prototype uberized employment status. This shows to what extent the "disruption" that is consubstantial with uberization (Dubal, Collier, and Carter 2018) is not an end in itself but is intended to lay the groundwork for the sometimes piecemeal introduction of "Uber norms" of both regulation and status, the component elements of Uber's model of the platform worker and stepping stones towards a digital-ecosystem-based regulation. Implemented in ad hoc, government-initiated forms in France and Brazil, sectoral collective bargaining for independent couriers and drivers has become a new Uber norm, introduced to the United States by a Massachusetts ballot initiative in 2024. The chapter highlights the common features in these parallel efforts to institutionalize an uberized employment status and also the resistance that these have met.

Gray zone research helps us go beyond simplistic, binary takes on the relations between Global North and South, as if capitalism had some white, "Western", industrialized and high added-value—in a word, civilized—homeland, surrounded by a benighted rest of the world. Ludmila Abílio addresses uberization as an umbrella concept that gains in power and complexity when deployed at and from the periphery, that is, from the Global South. Her chapter thus seeks to define the main elements of the uberization of work, understood as a new form of organization, management, and control that is not limited to digital platforms and did not begin with them. These are *work on demand,*building on a *long-existing process of the informalization of work*, and what she calls *subordinated self-management* (Abílio 2023). Finally, she draws attention to the lived experiences of workers in the periphery, arguing that these apparently new elements are in fact an updating and further generalisation of features that have long structured peripheral

ways of life: the uberized gray zone of self-management within informality normalizes and institutionalizes "trying to get by" as a way of life (the Brazilian *viração*, the French *débrouillardise*).

The Gray Zone of the Uberized City

Whether intervening in legislative processes or governmental decision-making (Lehdonvirta 2020), or seeking to undermine legal doctrine, the platforms are determined to encroach on every sphere. The unilateral implementation of their all-encompassing blueprint entails a permanent quest to escape the constraints of planning law and digital and other regulation through the exploitation of defect, lacuna or inertia. Platforms act as rootless, extraterritorial entities within the global landscape, their behavior characterized by the deliberate disregard of established norms with a view to their remaking, pseudo–negotiation, or a "contentious compliance" that aims at their final erosion (Valdez 2022). Their power and seeming untouchability rests on technological oligopoly and the vast resources they command, now rivalling states in this respect. Google can command the laying of transatlantic fiber-optic cables to meet the explosion in internet usage or help elements of the state evade democratic control of government surveillance of communications—as seen in the Total Information Awareness program (Zuboff 2019, 163–4). The gray zones promoted by this extraterritoriality have far-reaching effects on cities, among them the externalities of location-based operations in terms of traffic congestion, side-walk obstruction, pollution and general free-riding on urban infrastructure. This is the gray zone of the privatized public domain.

In his chapter, Maxime Schirrer investigates the gray zone of conflicting uses of urban space arising from the implantation of dark kitchens and dark stores in the city. The platform economy is seen here as a disaggregating force, unravelling the commercial and social fabrics that structure

city life. The gray zone approach offers unique insights into the dynamics that arise when the new arrivals cross swords with residents and other established urban interests.

A gray zone in itself in its blurring of boundaries and categorial distinctions, it is digital platforms' voracious use of urban public space that fuels disputes with inhabitants and city authorities, so raising it as a political issue. Dark kitchen and dark store platforms' parasitic use of urban space and the ideological rhetoric they deploy in defending the disruption they represent are designed to free them of the social obligations of the past. In this they conflict with the conceptions of public space of both public authorities and the residents who claim their own "right to the city". This is "a struggle over place", as Michel Lussault would have it (2011), a struggle over the ownership of the city, and it is this Lefebvrian idea of urban democracy (Lefebvre 1968), among others, that underpins Schirrer's analysis here. The gray zone approach enriches the spatial categories deployed by geographers in accounting for the conditions of life and work of both the clients of digital services and the precarious workers who serve them—in one way or another, the entire body politic is concerned.

3. Emergent Figures in the Gray Zone

From the neoliberal unraveling of yesterday's status quo to the digital-technological upheaval of today, workers are themselves centrally involved, as agents of change, in the historical process that sees capitalism transformed and work and employment reconfigured. The notion of agency within domination acknowledges the significance of workers' defiance of digitalization's asymmetries of power. These workers are the "emergent figures" who inhabit the gray zone; they embody the constantly renewed processes of

the reconfiguration of forms of work (see Christian Azaïs's chapter here).

While the all-encompassing process of platformization driven by finance capital has had deleterious effects on established forms of employment, it has at the same time prompted the development of alternative practices by workers. Some groups take advantage of platform work so as to cope with their particular social circumstances. Those who find themselves in almost inescapable poverty, with no hope of social protection or advancement, may well accept the precarious and inferior working conditions; they still gain an income and even limited social recognition. Though they might well serve the platforms as a "reserve army", given endemic unemployment, we still need to account for workers' own relationships to the platforms in sociological terms. One of the most striking examples is that of workers who are victims of discrimination or racialization. They have found in the abstraction and neutrality of the algorithm a means to escape the discrimination associated with lower-caste status in India, the legacy of historical slavery in Latin America, or the post-colonial stigmatization of young people from multi-generational immigrant backgrounds in Europe. Christian Azaïs's chapter explores this phenomenon as instanced by Brazil's *motoboys* (motorcycle couriers). They use platform work so as to be able to organize their working time around their obligations as parents, for instance, while it may also allow them to earn more money than they could in the types of work otherwise open to them, if at the cost of long and exhausting hours. What is more, the demands of the algorithm can be seen less humiliating than subjection to a petty boss, and its evaluations more objective. In Europe, the hard work of some in these groups has paid off, allowing them to move in from the margins, shedding their pariah status through upward economic mobility. Platform work can also prompt the manifestation of workers' collective agency, e.g. in organizing through independent collectives in India and elsewhere in the Global South, as it gives a clear identity to the taskmaster,

otherwise obscured by the multiplicity of intermediaries characteristic of informality (Chintala 2023).

Other groups have managed to carve out a specific niche for themselves working for delivery platforms. They often comprise middle-class youth, such as the cycle-couriers emergent from big-city cycling subcultures, many of them students, who use the platforms to provide them with regular part-time work or an opportunity to gain occasional additional income. They have found ways to make the system work for them, though platforms are undermining their strategies by increasingly tapping into undocumented immigrant populations. Such workers have been capable of organizing in resistance to platform demands, while often keeping their distance from traditional trade unionism. This has notably seen struggles waged against the modification of payment structures, from hourly rates to per-job payment. Over the last decade, food-delivery workers in France, Germany, Italy and the United Kingdom have fought against this return to piecework-style subjugation. More recently in Brazil, movements driven by a similar spirit of activism have secured pay raises and improvements in working conditions and social protection. In 2020—and again in 2025—iFood, Brazil's largest food delivery platform, was compelled to concede some of these demands. In Europe, such actions have helped fuel the rise of alternative organizations running worker-owned platforms (e.g., Coopcycle in France, the Drivers Cooperative in the United States[5]). These new stakeholders are emergent figures in the gray zone, engaged in precarious work that nonetheless serves as a buffer against worse forms of precarity, discrimination and marginality. While the platforms' algorithm-driven dictates and the inherent instability of the workforce do not lend themselves to the establishment of lasting forms of organization, new mentalities have emerged.

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5 The cooperative is owned by the drivers themselves, and takes approximately 15% from each ride for overhead costs, while providing work and benefits to drivers, as opposed to the 25% to 40% ride-hail apps like Uber or Lyft take per ride, while externalizing the costs of benefits to drivers. The Drivers Cooperative is a national coalition expanding from its initial base in New York City.

The ideology of the self-employed entrepreneur can also instill workers with a newfound confidence in their own agency. Many have become "their own boss" by creating cooperatively owned platforms that give them real power over their own work, this adaptation of the digital platform model thus seeing the emergence of a new figure, the "cooperative platform worker".

We have already observed that platformization involves more than just the erosion of employment as a norm. Through digitization, platforms are commodifying ever more activities previously located outside the market. The burgeoning of gig work and of streaming and blogging in expectation of income is reminiscent of the host of trivial, itinerant trades that existed in the nineteenth century. Amid the myriad services on offer are on-demand valet parking anywhere in the metropolitan areas covered, and professional standers-in-line on behalf of those who have better things to do than wait—all working as self-employed. Micro-commodification captures and siphons off energy from an economy that is not merely informal but vernacular—rooted in the local and the communal and based on reciprocity. Platforms extend the scope of commodification and the resulting abstraction of social relations into spaces that had been constituted as inter-personal or informal commons, as exemplified by the fabric of mutual aid sustained by and sustaining of working-class or immigrant communities.[6]

Platform work has been used by some to escape other precarious forms of employment—themselves products of the post-Fordist fragmentation of work—characterized by repetitivity, lack of prospects or any scope for initiative, or conditions sometimes bordering on domestic servitude. Beyond an income, they find in it something to invest

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6 See, for example, the case of reciprocal arrangements involving home construction or communal gardening undertaken by factory workers alongside their regular employment in the 1970s and 1980s, in Weber (1989).

themselves in. Many see in platform work a system that offers a degree of autonomy, if only the ability to choose when and how much they work. Platforms, though, have taken advantage of such aspirations to freedom through flexibility, enhanced by the illusion of easy money, to institute an "economy of unkept promises", in which workers only appear to be in control of their own work and lives. The local, "pocket money" economy of algorithm-mediated gigs or ad hoc transactions is, however, more often than not a trap for those who hope to escape subordination through juggling odd jobs and family life. Still, every day, often for lack of better options, a digital workforce is formed anew. Its members are often young, and/or in a situation of social fragility, and they turn to platform work as a means of getting by, of *débrouillardise* or *viração;* this new figure in quest of a precarious work-life balance is the emblematic inhabitant of the uberized world.

The chapter by Brazilian researchers Isabel Georges and Yumi Garcia dos Santos sheds light on a specific and fundamental aspect of this situation in focusing on women's work—particularly the work of social reproduction that customarily falls to them. Uberization is taking over the activities that sustain human life and turning them into commodities, and by introducing standardization and productivity and profitability targets into the realm of care generally, platforms are extending alienation to the very heart of the making of the human. Georges and Santos explore the ambiguities involved in the commodification of care, only made possible by the non-commercial impulses of the workers involved. The idea of the gray zone allows them to move beyond the traditional analytical dichotomies to understand the ways in which traditional and emergent forms of work and life are intertwined, as revealed by in-depth, comparative analysis of two empirical case studies, on the work of community health workers in Brazil and Filipino care workers in Québec. These show a continuity in the content of women's work, despite the discontinuities

of form brought about by broader labor market changes, including the erosion of standard employment and the rise of the digital economy.

The use workers make of platforms falls into a number of patterns, different ways of combining compliance and resistance. Workers are compliant in accepting neoliberal market mechanisms, driven by the "popular pragmatism" described by Gago (2017), in which the everyday reality of unemployment, short-term jobs and modest incomes prompts them to turn to platforms as a means to getting by. This kind of attitude can foster an inventiveness that may enhance platforms' own potential. For instance, in the case of Vinted—a commission-free platform for the sale of second-hand clothing and accessories—young French micro-entrepreneurs (students or others) put the site to business use by buying items with a view to selling them at a profit. Similarly, ride-hail drivers and delivery workers deceive the algorithm by obscuring their location within the city or, in defiance of the platforms' own rules, using multiple platforms and playing them off against each other. Uses are adversarial when workers have their own ambitions with regard to this new economy, sparking struggles over working conditions and pay. One thus sees the patterns below:

- *Self-investment:* Here, worker agency contributes to the proliferation of the micro-entrepreneur paradigm that devalues employment as an aspiration and whose ambiguities allow the algorithm to encroach on all areas of life. This agency under domination ends up ruthlessly taken advantage of by platforms. It locks individuals into precarity through an "economy of unkept promises" that continuously generates new forms of stigmatization and subjugation.
- *Appropriation*: While collaborating with platforms, agency under domination can also seek to subvert and reinvent them. It creates a gray zone between platforms

and their users—any and all the actors who put them to specific uses—constituted by the disparity between the platform's norms and the way the user actually uses the service. Examples include the ways ride-hail drivers deceive the platforms, or people put a peer-to-peer resale network to commercial use.

- *Contestation*: This is the agency of resistance. While operating within the framework of domination, it imposes negotiation and reconfiguration. The gray zone of struggle is marked by both advances and setbacks. Struggles against platform abuses in sectors such as ride-hailing and food delivery have seen the formation of activist organizations and support groups. More broadly, they have raised worker awareness, sparked new ambitions, and led to the creation of vehicles of collective action such as the Transnational Federation of Couriers. Independent worker associations contribute to the revitalization of the labor movement through the collective organization of independent contractors or by pioneering new forms of collective bargaining. What is more, workers are finding alternative uses for the platform model. Platform cooperatives, for example, combine the digital platform with workers democratic association so as to preserve the historic gains represented by employment. All seek to occupy the gray zone between self-employment and subordination.

Concluding Remarks

We have seen the platform to be a multifaceted, hybrid phenomenon, tentacular in its reach. Platforms are not confined to any specific sector; free of the obligations and constraints of the traditional workplace and employment, the model of digitally mediated self-employment opens up new domains of exchange. Minimal costs of intermediation and

the algorithm's ability to micro-match supply and demand make it possible to operate in low-profit niches. While a company that employed staff to do the work would find organizing a dog-walking service unprofitable, platforms can easily connect self-employed walkers with interested dog owners and take a percentage of the fee. The facility with which this is done both creates work opportunities and opens up to commerce domains of everyday activity hitherto uncommercialized. Commodification has transformed the exchange of favors into a realm of precarity, marginality, under-employment, and insecurity in retirement, as opposed to a sector of the formal economy. This gray zone, in which platformization turns informality or social solidarity into the ultra-precarity of the gig economy is one aspect of how platforms change the place of the market in society, and so change society. Comparable dynamics are operative at all levels of the global economy.

A key theoretical contribution to the understanding of the gray zone, the concept of the "productive configuration" outlined by Quebecois researchers Guy Bellemare, Louise Briand and Martine D'Amours in their chapter traces the shift from production at one identifiable workplace to the product as the final output of a whole network of entities, sometimes globally scattered. Its corollary is "the social labor relation", which sees working conditions as governed not by the single, notional employer but by the interaction of the component parts of the configuration: the relevant concept now not being (legal) subordination to the employer but the de facto control resulting from the coordination of these actors. On-demand work, as opposed to the rigidities of employment, allows them to respond to the fluctuations of market and network, at the same time freeing capital from its earlier obligations. These authors' concept of "diversified regulation" accordingly accounts for the impact on the world of work of rules that have no place in contracts of employment, such as those imposing conditions of government funding on third-sector employers. This suite

of concepts captures how capitalism—through outsourcing and, more recently, digitalization—has dispersed operations and eroded the norms governing work while at the same time maintaining or even reinforcing its control over workers. In such a context, the gray zone approach provides a basis for mapping social systems whose boundaries, actors, relationships, and rules can no longer be defined in formal terms.

What these processes share, both micro-level downsourcing and global out-sourcing, is their intent. To reduce costs by shedding the responsibilities imposed on capital by the employment-centered system for the allocation of rights and the social redistribution of wealth that underpinned the twentieth-century labor market and the social fabric it sustained. To demolish the workplace power on the basis of which the working class could aspire to improve its lot or conceive of its collective emancipation.

The productive configuration is a valuable tool for conceptualizing the "dematerialization" of the firm. It remains, however, fundamentally coupled to an organizational model —even in network form—whose mechanisms of control over labor, as complex as they might be, are still geared to the "rational" production of goods and services by capital. Platforms, on the contrary, host realms that are free of such governance. They operate by exercising control over the transactions of others, profiting from the provision of a service while externalizing the costs and responsibilities normally entailed.

The degree of polarization identified in this volume raises the prospect of social fracture. The highly skilled middle and upper classes surf the tide of financial speculation. While their own work-life balance is at constant risk, it is directly and parasitically reliant on ultra-precarious, task-based workers. While not subject to any formal subordination or hierarchy, the performance of work is stringently monitored by the platforms; they profit not only from the vitality and physical exertions of their workers,

but from their stress and suffering. The platforms' contagious spread stems from their ingenuity in harnessing people's vital energies through neoliberal violence. While digital capital also dominates workers in employment, as in Amazon fulfilment centers, its characteristic form of domination is through self-employment, the means to the hyper-externalization of all operating costs to workers and local authorities.

In its colonization of work and society, even extending to workers' private lives (Cingolani 2021), digital commodification has redrawn the institutional and social landscape for all classes. Modes of consumption that displace existing practices, such as app-based meal delivery, are not restricted to the business and financial centers of the metropolis. Rising unemployment and falling incomes in developing countries have encouraged low-income families to use delivery services rather than eating out, restaurants having become too expensive.

Platformization offers, in a sense, a way out of the State/private-enterprise dichotomy. The prospect is raised by platform capitalism's insidious maneuvers aimed at capitalizing on the failings of the welfare state. Uber's initial agreement with the Bay Area city of Dublin, California, under which the public authorities subsidized individual passenger service for isolated populations or on routes where public provision would be too costly, has been emulated worldwide, in the French cities of Lille and Nice, for example. Low-priced platform intermediation is poised to bypass the public system altogether. One can hardly imagine the states in retreat of today having the means to counter the uberization and massification of passenger transport that has doubtless reached the point of no return in cities of the Global South. Broad layers of the population—women, children and the otherwise vulnerable—have access to taxi service for the first time and find themselves able again to travel the streets of São Paulo and Rio at night. Whether in food delivery or passenger transport, workers are mobilized

to serve other workers too, the class as a whole becoming involved in the platforms' hyper-exploitation of a growing proportion of its members.

There are some exceptions to this seemingly inexorable process, with its potentially harmful consequences for the idea of the state as the embodiment of universal welfare and guardian of the commons. The healthcare sector, and hospitals in particular, are increasingly calling on temporary employment agencies. In France, the idea of connecting healthcare institutions with self-employed medical staff through platforms remains marginal and has yet to gain significant traction. This is largely due to opposition from lawmakers, though such platform-based structures have not been explicitly banned. The uberization of the health sector has gone much further, however, in less highly regulated countries such as Brazil, extending precarity to a highly-skilled sector of the workforce.

The contradictory, conflict-ridden dynamics set in motion by the platforms find expression in gray zones where expectations are constantly under negotiation by stakeholders old and new. There, too, emerge the potential alternatives to platforms' vampirization of the commons monopolized by the state. Worker agency has to be central to any attempt to countering capitalist, consumption-based individualism. The emergent institution of the cooperative platform offers a new mode of relation to the commons via self-managed systems of intermediation linked to local communities. Modest experiments along these lines were seen during the pandemic, when cooperative platforms —France's Coopcycle being one example—operated food deliveries for impoverished and isolated residents in certain neighborhoods. Cooperatives have also devised elaborate, hybrid employment statuses that allow ride-hail drivers to enjoy the social protections afforded by employment rights while preserving flexibility of working hours.

Thus, the power relations between capital and labor, the role of the market in relation to work, family, community

and society as a whole, the role of the State as embodiment of the democratic will are all increasingly clouded, all the more so with the disruptive advent of the digital platforms. This wider social space portrays labor market transformations and reconfigurations in their movement; they are structured and stable, reflected in emergent figures of the worker whose staying power cannot be determined in advance.

The international comparison of gray zones in work and employment reveals the current transformation of work in all its complexity, throwing light on the global circulation of the elements involved in the constantly shifting (re)configurations of work. In bringing out their similarities and differences, it puts national cases into wider perspective and clarifies their shared dynamics. In their chapter here, Olivier Giraud and Frederic Rey consider the value of the concept of the gray zone as a means to escape the constraints of the customary binary and static frames of reference, and reflect on the difficulties and rewards of comparison between systems in the throes of change. It is this marriage of methodological reflection and conceptual innovation that allows the concept of the gray zone to come to full fruition in the constitution of a transdisciplinary object. It enables us, then, to rethink work in a way worthy of its complexity and its multiple entanglements with the rest of life. In setting the phenomena of work in their social, historical and categorial contexts it shows us the plasticity of work under capitalism. This book, then, aims to equip readers and workers with the tools to better understand—and so more effectively struggle in, and against—the gray zone. Its reflections are all, equally, calls to action.

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The Gray Zone in Work and Employment: Theoretical Underpinnings

1

The Analysis of Gray Zones Through Comparison

Reflections and Methodological Proposals

Olivier Giraud [1] and Frédéric Rey[2]

Abstract

This chapter considers the methodological issues raised by the international comparison of gray zones in work and employment. It shows how globalization and decentralization have undermined national structures and so unsettled the customary basic categories of comparison—wage labor, the firm, the State. As the objects of comparison are no longer stable systems but evolve dynamically, it argues for the combination of quantitative and qualitative approaches to capture shifting realities in all their complexity. This approach is illustrated by reference to a study of the health of trade union representatives that shows how activist fatigue

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is one consequence of the institutional changes in course. The chapter concludes with an appeal for the methodological renewal that will enable the mapping of new relationships of power and emergent, hybrid forms of work.

Keywords: International comparison; mixed methods; scales; categories; gray zones.

This chapter offers a methodological reflection on the comparative analysis of gray zones in work and employment, bringing together three lines of thought on comparison and the methodological challenges it presents. Each yields its own insights into the analysis of gray zones. The first begins with a review of the basics of the comparative method—its forms, its rationales, and its principal contributions as a means to discovery—and looks at how, in the light of these, it might be usefully applied to the gray zone in work and employment. The second considers recent changes in scales or levels of regulation and their consequences for comparison. The social sciences of today, industrial relations systems, and the regulation of work and employment more generally all developed and were institutionalized in their own national contexts at more or less the same time, beginning in the last quarter of the nineteenth century. Since the 1980s and '90s, a profound change in the relative significance of the different scales or levels of regulation has put into question not only the methodological foundations of comparison but also the logics governing the regulation of work and employment. This change, then, calls for a reconsideration of the methodology of comparison. The last part of the chapter then looks at the specific problems posed by the gray zone as an object of study, notably its lability and its multiform character, and the methodological responses that have been developed to enable international comparison. The chapter as a whole, then, takes the comparative method, a cornerstone of the scientific approach

in the social sciences, and examines how it can be used to identify, characterize, and analyze the gray zone in labor and employment, given the specific problems posed by this particular object of study.

According to its canonical definitions, comparison involves the identification of similarities and differences between two or more comparable entities—such as social groups, firms, localities, countries, or social dynamics (Haupt and Kocka 2009). This seemingly simple operation also requires the deployment of frames of reference that most often take the form of abstract and contextualized categories. In general, one does not compare two countries such as France and Germany, but rather, for example, their vocational training systems or their systems of industrial relations. There has been much theoretical discussion, notably in sociology and labor economics, regarding the relationship between such systems and the employment levels or the economic competitiveness of the industrial sectors or nations concerned. These abstract categories thus play a fundamental role in comparison, because they allow one to situate the objects of study in relation to specific issues, whether economic, political, social, or scientific.

These categories that serve as the backdrop to any exercise in comparison have thus been fertile in research questions and results. They are nonetheless marked by an ambivalence that stems from the inevitable tension between abstraction and contextuality. For if a category of comparison seeks to embrace a large number of distinct historical realities, as it tends toward the universal it will necessarily, for the very sake of the exercise, increase in abstraction. Yet any gain in abstraction is at the same time a loss of contextuality, and the comparison will have little of significance to say regarding the many concrete instances (Sartori 1991). A category such as "vocational training," for example, refers to such diverse realities within a single national economy—ranging from "on-the-job" apprenticeships to long, formalized, school-based programs leading to certification, as well

as in-house corporate training—that this overly general category has no relation to the specifics. It is, for example, too abstract to be useful in explaining why the degree of protection against the risk of unemployment provided by vocational training should vary by country. Conversely, if a category is too contextualized—tailored to a single case or a small number of cases—it loses its ability to take into account other situations, in different local, national, or otherwise variant contexts. It loses in abstraction what it gains in contextuality. If one were to limit the comparison of historical systems of initial training to the apprenticeship systems developed in Rhenish Europe since the Middle Ages, this would necessarily entail limiting the comparison to a few countries—or run the risk of applying the category to systems that are, in fact, quite foreign to it. This dilemma lies at the heart of the concept of the ladder of abstraction (Sartori 1991, 254), which aims to resolve the contradiction by situating categories of comparison between the tendency to universalization—and thus to generality and abstraction—and the tendency to individuality and contextuality, historical in particular.

The concept of the ladder of abstraction is both spatial and dynamic: it entails reference to both the level of comparison (local, regional, sectoral, etc.) and the dynamics of the categories being compared (circulation, competition, diffusion, resistance, etc.). It thus invites us to ask whether it is legitimate to transpose ideas developed within one historical context into others—and if so, how? What, for example, do wage labor, retirement, strikes, or sick leave mean in countries that have not experienced the long history of the institutionalisation of work, with its labor movement struggles and its construction of systems of social protection (Castel 2003)? Such questions of method are of enormous importance, as work and employment are subject to processes of categorization and classification linked to institutions and organizations, such as those governing industrial relations. On the one hand, categorization assigns places

and roles to workers within the organized, hierarchical systems of the world of work. On the other, the social and political issues of that world are also informed by comparison, which has been increasingly deployed in recent years, whether in political argument or as an instrument in the formation of public policy. Used by governments, organizations, or international institutions, comparison is often intended to justify reforms to national systems of employment, social protection, and industrial relations, making the question of contextuality even more salient.

Comparison as a Method of Acquiring Knowledge

Human societies and social dynamics cannot be subjected to experiment. Comparison is therefore one of the few methods available to the humanities and the social sciences for the explanation of historical phenomena such as unemployment, strikes, or social inequalities, or for understanding how social mechanisms such as the market, solidarity, or political deliberation function.

Although comparison in the social sciences and humanities is empirical in vocation, its capacity for discovery, for yielding new knowledge, is closely tied to theory. The relationships between social phenomena that it reveals contribute directly to theoretical construction. It also allows the testing of theoretical hypotheses, and thus the amendment or even invalidation of established theoretical propositions. Comparison also offers a number of more concrete advantages. It helps combat insularity and self-referentiality (ethnocentrism) by drawing lessons from foreign social or cultural realities or from local experiments that are little known within their own national context or field. The shift in perspective that comparison entails also leads, in turn, as a result of this detour through the examination of exogenous realities, to a richer understanding of one's own social

reality. It should, however, be noted that the comparative perspective in the social sciences has long suffered from a focus on categories and norms developed in European and Western societies. Since the start of the twenty-first century, calls for the "provincialization of Europe" (Chakrabarty 2000) or a "decentering" of the categories of comparison (Giraud and Lallement 2021) have urged a broadening of the methods, reference points and geographical scope of international comparison.

In terms of method, comparison is beset by fundamental oppositions of paradigm, contrasts being commonly drawn between a historical tradition of comparison, on the one hand, and a sociological on the other (Passeron 1991), or between a more Weberian, interpretive, tradition, and another more Durkheimian and explanatory (Leca 1992).

The historical tradition of comparison is more individualizing, more "case-oriented" (Ragin 1987), and therefore more contextualized. It requires in-depth knowledge of the cases studied in order to understand their internal logic, in this according with the approach of interpretive sociology. In the context of such in-depth, qualitative research, comparison can only involve a small number of cases, most often two or three. The decisive contribution of this style of comparison is that it enables a thorough understanding of the social dynamics under analysis through the production of in-depth case studies. There is, for example, a tradition of research comparing labor market regulation in France and Germany, whether in terms of vocational training, industrial relations or employment policy (Maurice, Sellier, and Silvestre 1986; Didry, Wagner, and Zimmermann 1999). These studies have revealed the historical roots of two distinct national configurations, as well as the logics of institutional complementarity at play in both cases—logics that undergird—or once undergirded?—a certain coherence on either side of the Rhine, notably between the educational system, the industrial relations system, and the style of workplace relations.

The historical approach to social explanation—qualitative, in-depth, and case-oriented—stands in contrast to a more sociological and quantitative approach. The latter aims to uncover systematic links between variables, notably in order to derive laws governing social phenomena. This tradition of comparison has correspondingly been called "variable-oriented" (Ragin 1987). It allows for the analysis of relationships between a wide variety of variables—provided they are documented and the data are available—most often with the aid of statistical tools. For example, there is a wealth of literature on the links between unionization rates and unemployment rates, drawing on and analyzing international statistical data—though the results to date have been contradictory and inconsistent. On the other hand, there are studies based on statistical data that not only yield a complex description of a phenomenon but also lead to the development of robust comparative explanations. For example, analysis of the gender pay gap within a single national context can involve the comparison of practice across a wide range of occupations and economic sectors (Dupray and Moullet 2015). And from this one learns that women are disproportionately disadvantaged when in predominantly female occupations or when they start a family earlier.

However, statistical relationships between variables often do not make immediate sense. On the one hand, beyond the raw statistical relationship, particular attention has to be given to distinguishing between correlation and causality and to the identification of any hidden variables, and on the other hand, additional analysis may be necessary. So to understand why women are even more disadvantaged in terms of pay when in predominantly female-dominated occupations requires one to draw on previous studies, or even to undertake qualitative research. Setting aside the opposition, then, a good many comparative studies today combine both quantitative and qualitative methods (Giraud and Maggetti 2015). And finally, we must note that the

interpretations that give meaning to statistical relationships may be influenced by biases specific to the analysts.

Comparative studies of the regulation of the labor market or employment have also made use of models. Informed by the empirical realities found in a number of countries, regions, or industries, and inspired by Weber's concept of the "ideal type," these models represent a stylization of the facts. They often spring from the comparison of contrasting cases and lead to the development of typologies. In the 1990s, for example, Neil Fligstein and Haldor Byrkjeflot (1996) compared national employment regulation regimes using the concept of the employment system, which links the mode of provision of occupational training, a key resource for securing employment, to the relative power of the key actors in employment systems and to ensuing career patterns. While models frequently remain abstract constructs inspired by theoretical analysis, comparison often relies on the kind of "regime" derived from real-world cases. These cases are most often historic configurations of the characteristic variables of the models. It is the coherence of these configurations, as represented in those models, that allows one to speak of systems. In this case, the American researchers identified three employment systems: a vocationalism fostered by industrial trade unions and characterized by vocational training and a career in the occupation; a professionalism promoted by expert groups and their associations, characterized by university education and specialist qualifications followed by a career within the profession; and finally, a managerialism sustained by firms, with firm-specific training provided to an intake without specialist qualifications leading to a career within the firm.

Once the structural variables of the different systems have been identified—such as the relative weight of different types of training within the vocational training of a country or industry—it is possible to use statistical analysis to determine which group different countries fall into—vocationalist, professionalist, or managerialist. Thus,

abstract categories inspired by real-world cases—the notion of professionalism, for example, likely being inspired by Germany, managerialism by France or some other country sharing the same characteristics—can then be operationalized in statistical indicators, enabling new kinds of analysis of quantitative data that will be applied, albeit according to a distinctly different logic, to other empirical cases.

In the varied uses made of categories in the construction of the typologies or "models" so important in the field of work and employment, one again finds the ambivalence already mentioned between abstraction/generality on the one hand, contextuality/individuality on the other. This ambivalence is, of course, crucial when considering levels of comparison and gray zone dynamics. In this regard, one is again struck by proliferation of international comparisons, driven by a growing fascination with statistics and the search for models and best practices to be disseminated. Though statistical sources have never been more abundant, the increasing fragility of the categories and indicators to which the numbers are referred raises questions about the meaning and scope of comparisons, and of institutional comparisons more particularly. With gray zones in mind, then, there are three characteristics of modern comparison that bear thinking about.

On the one hand, there is an ever-increasing production of data, accompanied by corresponding increases in accessibility and in the capacity to process it, and this more especially in the North, which again raises the question of comparability with data sources from other countries. On the other hand, the data is being produced amid growing uncertainty regarding the definitions of the objects, populations, categories, and spaces to which they relate. Finally, the political uses of comparison raise questions: such practices as naming and shaming, benchmarking, and the publication of international rankings (e.g. Shanghai) that pit national systems against one another (e.g., education systems [PISA], welfare systems, etc.).

The Difficulties of Comparison and the Phenomenon of the Gray Zone

The question of levels of comparison has taken on new significance in the contemporary sociopolitical context, notably in the field of work and employment. Sociology, and, following in its wake, the other social sciences, emerged in the late nineteenth century, at a time deeply marked by the phenomenon of the nation. Institutions—government departments, schools and universities, and later, systems of social protection—all modernized in that same context. During this pivotal period, which—depending on the (European) country—might be said to extend from 1870 to the years immediately following the Second World War, national cultures were theorized, national languages were standardized and imposed at the expense of the regional, and public space became national, as did the spaces of the economy and of social regulation. That the emergence of the social sciences coincided with the institutional, sociopolitical, and cultural closure of national spaces was undoubtedly a factor in the rise of methodological nationalism, with the development of national corpuses of analytical and theoretical work within the social sciences, on the one hand, and the naturalization of the nation as a key context for the emergence—and thus the understanding—of social phenomena on the other. For social scientists—for sociologists, political scientists, and economists, at least—to speak of a "society" is to speak of a national society. Émile Durkheim, for example, strongly insisted in *The Rules of Sociological Method* (Durkheim 2013) on international comparison's irreplaceable contribution to sociological analysis.

This naturalization is, however, today being put into question by a number of trends. Firstly, significant decentralization has occurred in the countries of Europe, even in the most centralized, like France and the United Kingdom. Secondly, supranational processes of regional integration—the most significant being European integration under the

aegis of the European Union and its predecessors—have also set limits on the relevance of the national framework. Finally, the process of globalization, a multifaceted development affecting the most diverse power relations in society, likewise puts into question the historic preference for the nation as the key context for the understanding of social interaction. The factors driving globalization are many, but two are undoubtedly worth mentioning. In the first place, the continuing weakening of national power over the regulation of finance and trade and the retreat of national public authority more generally, in a variety of domains, are the direct consequence of the dominance of neoliberal discourse and policies in Western societies since the 1980s. On top of this, the new information and communication technologies have led to a denationalization of cultural space, of the space of political debate, and, to some degree, the space of socialization of social actors. Although social influences and affiliations used to develop within a variety of frames of reference—local, regional, religious, political, or other—these were always linked, in one way or another, to the national context. The wave of globalization and the progress and diffusion of technological advances are contributing to an ever-greater and more rapid opening-up of these frameworks beyond the national sphere. They are helping bring about an acceleration, expansion and multilateralization of the circulation of social and cultural norms unprecedented in scope and scale—among these the regulatory norms in the domain of work and employment. These norms, whose mutation is so closely tied to globalization, will be addressed in the following section.

How, in fact, does the transformation of the national hierarchy that structured the relations between spaces of regulation within a determinate, that is, nation-centered context, and which prevailed throughout much of the twentieth century, affect the regulation of work and employment? And how is this transformation linked to the phenomenon of the gray zone?

First, the dissolution or erosion of earlier hierarchies leads to the autonomization of widely varying spaces of regulation—from the firm to transnational sectoral spaces, for example—and weakens the legitimacy of national regulation. This autonomization of regulatory spaces by sector, issue or object of regulation results almost automatically in a proliferation of standards and benchmarks relating to the regulation of domains of public policy, work and employment foremost amongst these. The rationalization of power relations and regulatory roles that had historically been the strength of the national frame of reference is thus put into question, in these domains too, by the weakening of existing scalar hierarchies.

Secondly, as a direct consequence of the mechanisms described above, the diversification of reference norms, the reduction of the state's capacity to bring order to this diversity and the state's loss of legitimacy in general are leading social actors to break free of former affiliations and to create *ad hoc* normative configurations. Such reconfigurations are especially evident in the very particular context of the labor market, at the intersection of the economic, social, political, and indeed technical spheres. They sometimes lead to new forms of isolation, of withdrawal into oneself and reliance on norms of one's own—most notably in the case of the self-employed—or to the adoption of norms that regulate work in other contexts, which become accepted norms of behavior in certain segments of the labor market. Large companies, for example, draw inspiration from new forms of work organization—with the creation of "labs" and community spaces—that have long existed in alternative, creative, and artistic communities. The acceptance of a certain degree of precarity, notably among younger generations, stems from the adoption of norms previously confined to certain sectors. In this, the discoherence (*décoherence*) that sees categories inherited from a historical context now in flux lose their purchase, and which is one

of the key mechanisms in the emergence gray zones, plays a particularly important role (Bureau and Dieuaide 2018).

These major transformations pose a challenge to comparison at a time when it is becoming simultaneously more necessary (to understand the changes under way), more difficult to perform, and, paradoxically, more frequently invoked if not instrumentalized by political forces. The multiplication and permeability of levels of regulation together with their growing autonomy produce complex interconnections between them, characterized by interdependencies and cross-influences that are becoming increasingly difficult to decipher. Consequently, comparison increasingly represents a methodological challenge, and strategic choices —whether to orient to cases or variables, and whether to adopt an interpretive or explanatory approach—are becoming increasingly critical.

The Circulation of Ideas and Categories

The proliferation of regulatory spaces and levels is both cause and consequence of the wholesale restructuring taking place in many countries. On the one hand, it is the result of actors striving for recognition of the relevance of particular spaces or levels, either at the expense of or in addition to others. A well-documented example is the conflict of legitimacy between company-level and industry-wide negotiations. The proliferation of spaces relevant to any situation thus reflects the growing recognition of new spaces of regulation. On the other hand, this proliferation is a factor in the emergence and perpetuation of gray zones. Finally, and more particularly in the context of work and employment, it again raises the question of the circulation of ideas and categories across different spaces.

The question is not new. The circulation of a category central to the domain of work—such as that of waged

employment—has been a concrete issue for decades. While waged employees are undoubtedly be found in every country in the world today, the ideas of wage and employment can refer to very different realities depending on the socioeconomic context in question. What does employment signify in a society like Brazil's, where the rate of dependent employment barely reached 50% at its peak, but many of the institutions typical of the Global North did emerge, among them a system of social protection almost entirely confined to employees, and a robust system of employment law with labor courts to enforce it? And what does this same category signify in African or Asian countries—India, for example—where rates of dependent employment are even lower, and where none of the ancillary institutions that are integral to employment in Europe have developed? This again raises the question of the "provincializing" of Europe (Chakrabarty 2000) or, at the very least, underlines the need to consider the multiple trajectories of institutionalization of the norms and categories of employment to be compared.

Work on the circulation of categories generally highlights two factors that are valuable in analyzing the emergence of gray zones. Firstly, categories are always appropriated by local actors on the basis of their cultures, their priorities, their ways of understanding, and the resources available to them. Categories are thus not inert elements disseminated by an international agency, a trades union confederation, or the head office of a multinational corporation. Their adaptation is their appropriation. Disseminated by the European Union as part of its European Employment Strategy, the term "activation," for example, has given rise to particularly significant national variations (Betzelt and Bothfeld 2011). Secondly, the circulation and appropriation of categories in the domains we are concerned with here most often involves the addition of a regulatory framework rather than the replacement of one by another. This is an example of the "layering" identified as a mode of institutional change by Kathleen Thelen and Wolfgang Streeck

(2010). These phenomena, then, contribute to the increase in regulatory uncertainty evoked in the earlier discussion of levels of regulation.

Comparing Gray Zone Dynamics?

The fragmentation of spaces and sites of regulation, the weakening of normative hierarchies—as exemplified by the French labor legislation of 2016 and 2017 that saw norm-setting power devolved from legislature to firms—and the diversification of cultures of work are all key drivers in the development of the gray zone in employment. There is today a growing volume of research that compares gray zones across national borders, such as, for example, the comparison of the status of the self-employed in France and in Brazil (Giraud et al. 2014). Extending beyond the comparison of national or sectoral frameworks, the focus of such work is now shifting toward analysis of the mechanisms generating the gray zone in employment. Firstly, the dynamics of these gray zones reflect the emergence or decline of categories and of modes of individual engagement in various types of work. This is particularly true of such emblematic forms as the work of platform workers (Srnicek 2017; Cingolani 2024) or precarious intellectuals (Tasset 2019). Secondly, the sites or entities responsible for norm-institution [*fabriques institutives*] are constituted of dynamic social relationships productively engaging with market logics. Involving innovation in both production and its organisation, they are shaped by institutional constraints and resources (Bureau and Corsani 2019). With this in mind, the comparison of gray zones focuses specifically on changes in the logics of categorization of work and employment. The comparison of gray zones calls for a major mapping exercise, as one finds a multiplicity of dynamics at work: self-identification or self-classification by individuals; the generation of

categories by private-sector infrastructure or tools such as digital platforms; processes of institutionalization driven by the constitution and mobilization of worker collectives—as in producer co-ops, for example; and the reorganization of normative hierarchies on the basis of territorial, sectoral or occupational developments.

Industrial Relations: Emblematic Category of the Gray Zone

At the heart of these dynamics, industrial relations systems have a preeminent place.

The rules governing work and employment are discussed, defined, and updated within these spaces, where the rationalities and interests of state, capital, and labor come together and clash. Industrial relations systems, then, are central to the creation and diffusion of gray zones, and the study of these systems is thus essential to any research on the gray zone—especially any that compares regions, countries, sectors, or firms. In practical terms, this means that the analysis of gray zones has to include detailed examination of the legal and contractual frameworks governing work and employment at various levels of regulation, from the global to the local, as well as study of the actors, cultures, practices and relationships, both formal and informal, involved in them.

In fact, the comparative approach, already demanding when applied in a context stabilized and formalized by institutions, becomes even more so when it has to deal with the complex, shifting and much more opaque dynamics of gray zones. This represents both a challenge and an opportunity. On the one hand, in exacerbating the familiar difficulties of comparison, gray zones invite the renewal, rethinking, and updating of comparative methods. On the other, they present an even greater risk of misapprehen-

sion, misunderstanding or misinterpretation of the realities and categories being compared. Gray zone dynamics thus reinforce the need for comparatists to remain vigilant in the face of the already well-known risks of the exercise, thus compelling them to reconsider basic categories long taken for granted.

The comparison of industrial relations, for example, no longer involves clear-cut, unambiguous categories or well-established systems: it has become the comparison of structures whose components are undergoing radical redefinition, to unpredictable effect. Liberal policies, multiple crises, massive technological advances and cultural shifts are disrupting these systems at every level, even if the impacts vary with the level and the country under study. In industrialized countries in particular, the fundamental categories of comparison provided—for several decades—a solid foundation for the exercise, whether dealing with work or employment, the firm as site of production and decision-making, the relationship of subordination between employee and employer, worker autonomy, hours (of work and non-work), social dialogue, industrial disputes or collective bargaining. This stability was accompanied by the sense of a certain convergence, of the growing similarity of systems that were becoming increasingly interconnected and interdependent. The spread of the employment form from the Global North to many countries in the South was a key factor in this. Since the 1980s, however, industrialized countries have seen a weakening of these postwar categories, under the combined effects of many weighty changes that have had a direct and drastic impact on the actors and institutions involved in regulation. International comparative research has naturally been affected, especially since investigators also have to contend with local and national dynamics affecting their own contexts, making the comparison of gray zones even more challenging. It is no longer a matter of stable systems being compared with one another, or of even evolving systems being compared to

stable systems, but rather of systems all in flux. Research currently aimed at renewing or replacing the categories inherited from the postwar decades—which used to serve as a relatively solid foundation for comparison, being sufficiently shared between contexts—seeks to address the gradual obsolescence of the categories, adapting them to the shifting realities of work and employment (Bureau et al. 2019; D'Amours et al. 2023).

But alongside research on the categories themselves, the comparison of industrial relations systems can draw on several proven strategies. First, there is a more "literary" and qualitative tradition of comparison that uses sociohistorical narrative to capture the complexity of the systems under study while paying particular attention to certain structural aspects of industrial relations. This tradition is an instance of the contextual approach discussed earlier. Studies in this tradition often select a small number of cases—typically a few national systems, industrial or occupational sectors, firms or regions, which they analyze on the basis of a wealth of qualitative data, leading to detailed and dense but stylizing presentations: Richard Hyman's work on the "geometry of trade unionism", for example, which perfectly illustrates this approach. He selects three variables indicative of the self-conception and strategic orientation of trades unions in the various countries studied—Great Britain, Italy, and Germany—variables read off from the priorities set by national trade union organizations, in terms of the improvement of terms and conditions, the promotion of reform, or the prosecution of class struggle, described as orientations to market, state and class, respectively. With these dimensions in mind, Hyman describes the social histories of the three nations and locates their industrial relations systems in terms of the relative importance their trades unions attach to the market, society, and class. Lipset's work on dominant trade union ideologies in eight countries—the United States, the Netherlands, Switzerland, Great Britain, Germany, France, Russia, and

Finland—follows the same socio-historical approach. For him, the study of the historical conditions governing these different peoples' access to political and economic citizenship requires a contextualized and in-depth presentation (Lipset 1983, 1–18). These two examples suggest how we may get to grips, in all its complexity, with the evolution of industrial relations systems caught up in the gray zone dynamic. The goal has to be to examine, for each case and in a comparative manner, the changes in course together with the tensions and uncertainties attending reforms and negotiations, their concrete effects on work situations and forms of employment, as well as the positions of the actors involved. This contextualization is indispensable, since it is the liberal reforms that have proliferated and accelerated in many countries and sectors that have led to the growth of gray zones. For this qualitative style of comparative analysis, quantitative indicators are only one element of the contextualization. Conversely, other studies rely primarily on quantification to document their expansion.

The quantitative approach relies primarily on statistical data. It offers another useful way of comparing industrial relations systems as they relate to the gray zone. Because of their reliance on indicators, studies of this kind are immediately confronted by fundamental questions, such as the relevance of the chosen indicators, the quality of the data collected, and their equivalence with regard to the systems to be compared. As discussed above, these classical problems of statistical comparison become more acute in the context of the gray zone, marked by the lability of the realities being compared. In the 2010s, the European Foundation for the Improvement of Living and Working Conditions (Eurofound) produced two research reports devoted exclusively to such methodological issues (Eurofound 2016, 2017). The Foundation notes that the work that led to the reports was initiated in the early 2000s, on request of the European Commission, and began with the search for key indicators of industrial relations. The reports provide a

detailed account of the difficulties and the methodological issues involved in developing an appropriate comparative framework that would be accepted by the then 28 Member States of the EU. They were countries with different cultures of industrial relations, and while they shared some history, they differed in economic, demographic, and social profile. The quantitative approach thus inescapably requires preliminary work to develop the indicators, so as to ensure the quality of the results. As the Eurofound reports note, this can only be done by also considering, for each indicator, more qualitative elements that shed light on the specific characteristics of the various countries in the sample, so contextualising the data.

Eurofound's reasoning takes the form, one might say, of an inverted pyramid, starting with the most general and on that basis proceeding to the particular: the idea of "industrial relations", the most general, is thus broken down into four "key dimensions", themselves broken down into "subdimensions". Each of those subdimensions is then assigned a battery of numerical "indicators" that will allow comparison. For Eurofound, "industrial relations" has four key dimensions: "industrial democracy", "industrial competetiveness", "social justice" and "job and employment quality". Industrial democracy has four subdimensions: "autonomy", "representation", "participation" and "influence". Each subdimension is then linked to statistical data that can be collected for each of the Eurofound countries. Representation, for example, is measured in terms of four indicators: "trade union density", "employer organisation density", "collective wage agreements" and "collective bargaining coverage". For each indicator, Eurofound identifies existing European databases, among them the European Company Survey, International Labour Organization, and Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts (ICTWSS) databases.

Alongside the substantial effort devoted to the identification of indicators and tools for the measurement of social

realities in flux, some fifteen "quality criteria" were also developed, to ensure the validity of the figures used. Such studies in the tradition of comparative statistics—more abstract than contextualized—equally need to be taken into consideration in discussing the comparison of gray zones, as they directly address the question of the pertinence of the categories of comparison as it relates to the choice of measurement indicators.

Both strategies of comparison, therefore, face a common challenge: that of capturing categories themselves undergoing profound change, whether by documenting them empirically through concrete examples and socio-historical insights, or by measuring them statistically using quantitative indicators. More and more studies are now combining the two approaches to take advantage of the virtues of each. One of these is SyndiCARE, a recent research project looking at the conditions under which union representatives carry out their duties in different countries, and their effects on the health of elected officials and employee representatives—a topic of growing interest to certain funders.

The Health of Employee Representatives: A Case Study

The SyndiCARE project is a response to a deterioriation in the conditions under which union representatives carry out their duties, a deterioration unprecedented in recent history noted by research teams in Belgium, France, Great Britain, and Quebec.[3] This is a development that threatens the institutional foundations of social democracy. After decades of uninterrupted neoliberal reform that has both

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3 The SyndiCARE team consists of Jean Vandewattyne (Belgium), Maëlezig Bigi, Jean-Michel Denis, Frédéric Rey and Gabriel Rosenman (France), Mélanie Dufour-Poirier and Jean-Paul Dautel (Québec), and Cécile Guillaume and Heather Connolly (United Kingdom).

opened up markets and made them more flexible—the labor market among them—trade unions' capacity for collective resistance and advocacy has been severely undermined. Their future is not guaranteed, and a continuing role as key actors in the industrial relations system is now just one possible scenario among others, with some suggesting their possible replacement by alternative organizations, others their relegation to the margins of industrial relations or even their outright disappearance (Visser 2019, 2023). The deterioration in the conditions under which union duties are carried out is now taking its toll on the health of elected officials and employee representatives. This is one of the most tangible symptoms of unions' current fragility and of the weakening of social democracy as it developed in the postwar period. There are therefore numerous links between the SyndiCARE research project, which looked at the health and well-being of union representatives in Quebec, France, and Great Britain—and the study of gray zones. One hypothesis would relate the emergence of psychosocial risks among elected officers and employee representatives to the uninterrupted liberal reforms supported by the new technologies, the continuing expansion of gray zones and the weakening of trade unions.

In France, for example, the Macron government's industrial relations legislation of 2017 has led to a concentration of union responsibilities, with a growing workload falling on the shoulders of fewer activists. The same wave of market-liberal reform also saw the abolition of the *Comités d'Hygiène, de Sécurité et des Conditions de Travail*, the specialist health and safety and working conditions committees that formerly had to exist in every establishment of more than 50 employees, and also of the statutory staff representatives, the shopfloor reps mandatory in every every establishment of 12 or more employees. The disappearance of these longstanding institutions (the statutory staff representatives dating back to 1936, the CHSCT to 1982) has relegated matters of health at work to the bottom of

the list, and cut elected officers off from workplace realities while also depriving union organizations of a shopfloor role that had long served as a starting point for a career as a union activist, providing a grounding in workplace industrial relations (Béroud and Nizzoli 2023; Chabbert et al. 2023). In the United Kingdom, Cécile Guillaume and Heather Connolly remind us that the gradual fall in union density (Johnstone and Dobbins 2021) has been accompanied by unions' growing difficulty in finding members willing to act as workplace representatives (Kirton and Guillaume 2017) and the weakening of the role of workplace health and safety representatives (Moore et al. 2023). In Québec, Mélanie Dufour-Poirier and Jean-Paul Dautel observe that the most recent reform of occupational health and safety legislation in 2021 tended to ignore not only the already well-known and documented shortcomings of the province's system of inspection, but also the obstacles to union participation in joint committees and to the exercise of workers' rights more generally, particularly for non-unionized workers, and more especially for those employed in small workplaces (Baril-Gingras and Cox 2023). In all three regions of study, however, the historic social movements of 2022–23 reinvigorated the activist base; yet these movements either failed to force the government to back down or were followed—in the United Kingdom—by further restrictions on the right to strike, particularly in the railway sector, the last major union stronghold (Connolly 2023). In Québec, the unprecedented wave of mobilization in the education and healthcare sectors in the fall of 2023 helped to legitimize union demands regarding access to and the sustainability of high-quality public services for all. However, these mobilizations also generated expectations later disappointed, leaving many militants with the sense of an opportunity missed, notably with regard to the organisation of work or any more ambitious transformation of society (Lavallée 2024).

To carry out a comparative study of the health of trade union representatives in three countries with growing gray zones, the team chose to combine different levels and methods of research. The institutionalist approach long favored in the study of industrial relations was appropriate to a period of relative stability of systems and categories. With the emergence of the gray zone, it needed to be supplemented, notably by increased attention to the experiences, lived realities, and testimony of the elected representatives concerned, at a more microsocial level. In fact, in France, as in Quebec and the United Kingdom, union representatives are ever more evidently suffering "activist fatigue" (Guillaume and Rey 2023). The collection of first-hand testimony and personal experiences should make it possible to set these actors on the same level in the analysis as the institutions to which they belong. These themselves are by no means inactive, and indeed play a significant role in the phenomenon: in the past, by downplaying or even refusing to recognise the existence of the psychosocial risks faced by trade union representatives; today, by taking these risks more seriously and legitimizing, with varying degrees of success, the expression of concerns about them. The combination of the study of national industrial relations systems, the trades unions operating within them, and, finally, the lived experiences of elected representatives necessitated a fruitful renewal of comparative methodology. The three levels are treated as equivalent in terms of their contribution to the understanding of the phenomenon, so avoiding the risks inherent to comparison in the gray zone.

Conclusion

The growth of the gray zone in work and employment reflects a weakening of categories, regulations, institutions and collective organizations in these fields. It also reflects a

transformation in the ways individuals approach work. The affiliations, identities, and, above all, the power relations that form around work have broken down or are in the course of reconfiguration. The boundaries between subordination and independence, and training and employment, for example, are becoming unclear, and the very terms in which we understand the motivations for work—remuneration, personal motivation, creativity, volunteering, collective action, etc.—are losing their purchase. Comparative analysis is a particularly useful aid to grasping the dynamics at work, especially as they would appear to be playing out simultaneously across the globe. Different institutional, economic, and sociopolitical contexts afford insight into different aspects of the gray zone. We can also learn from different forms or strategies of resistance or resilience in the face of the phenomenon. It is not enough, however, to say that the gray zone takes many forms. It manifests itself at different levels of social life, and accounting for the relations between levels raises important methodological issues for any international, intersectoral or other comparison (Giraud and Lallement 2021), issues particularly salient in the analysis of gray zones.

The methodological challenges presented by the gray zone in work and employment require us to take a broader view of the methods and problems of observation. To understand the categorial frameworks used by employment professionals, for example, or the ways in which individuals describe or categorize their relationship to work or the dynamics of power relations in work and employment, we now often have to go beyond the written sources (regulations, laws, agreements, codes, pay scales etc.). It is today increasingly necessary to conduct in-depth interviews, group interviews, and participant observation, and also to expand the field of observation (notably to non-work life) if we are to understand the mechanisms governing work and employment. In this, the comparative approach certainly

brings out the distinctive features of individual and collective experiences of work.

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Beyond the Gray Zone: The Notion of Diversified Regulation

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Abstract

In this chapter, we put forward the notion of "diversified regulation" to elaborate upon and complete that of the "gray zone". Springing from the idea that states, employers and unions are not the only actors involved in the regulation of work and employment (Bellemare 2000), we propose an analytical framework that not only captures modern regulation but also illuminates emergent mechanisms of regulation and those that are obscured by classical theories of labor relations and positive law. Our analytical framework is based on three key notions: "social labor relation" (D'Amours 2014; D'Amours et al. 2022), "productive configuration" and "control" (Briand 2023b). It also draws on a revision of the concept of actor, a reconceptualization of the nature of rules and a diversification of the scope/objects and levels of regulation. Our analytical framework is illustrated by the study of the conditions of work and

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employment of unionized educational childcare workers in Quebec's *centres de la petite enfance* ("childcare centers"). We conclude this chapter by briefly identifying avenues for research and indicating possibilities for action on the part of governments, unions and social movements.

Keywords: Diversified regulation; work and employment; social actor; social labor relation; productive configuration; control.

Introduction[4]

In this chapter, we put forward the notion of "diversified regulation" to elaborate upon and complete that of the "gray zone". Springing from the idea that states, employers and unions are not the only actors involved in the regulation of work and employment (Bellemare 2000), it draws on the notions of "social labor relation" (D'Amours 2014; D'Amours et al. 2022), of "productive configuration", and of "control" as opposed to subordination (Briand 2023b). Briefly put, we propose a new framework for the analysis of the regulation of work and employment and of the changes it has undergone.

The chapter begins with a summary assessment of the idea of the gray zone. This is followed by a presentation of the concepts that underpin our analytical framework, together with a case study illustrating our approach. In

4 The conceptual proposals and the case presented in this chapter are the work of a group consisting of Martine D'Amours, Louise Briand, Guy Bellemare, Frédéric Hanin and Leticia Pogliaghi. This team developed a research program entitled *Les nouvelles configurations de la relation d'emploi et leurs impacts sur le travail, l'emploi et l'action collective* (Subvention Savoir CRSH, no. 435-2014-1404). The results and conclusions of this program were published as D'Amours et al. (2023).

concluding, we briefly identify avenues for research and indicate possibilities for action on the part of governments, unions and social movements.

The Gray Zone: An Overview

The gray zone approach is a response to the loss of effectiveness of Fordist regulation,[5] and in particular to the fragmentation of the workplace and the proliferation of non-standard employment that this has brought, with all its consequences for conditions of work, employment and life. It thus registers the emergence in the domain of work of a diversity of configurations of power, under which conditions of employment are no longer governed by instituted rules or procedures but negotiated on a local, case-by-case basis by "rule-makers" (Azaïs et al. 2017). Research in this vein consequently seeks to go beyond a legalistic understanding of employment relations with its binary opposition of subordination and independence, employment and self-employment, to take account of "fuzzy practices, neither legal nor illegal but falling under extra-legal conventions or informal agreements" (Azaïs et al. 2017, 437). Work from this perspective has the merit of having highlighted the growing insignificance of the legal boundaries of the firm, identified non-traditional actors in regulation, and documented emerging practices at the boundaries of canonical categories, economic, sociological, legal and national-statistical. Yet while the idea of the gray zone allows us to go beyond the classical framework for thinking employment, it nonetheless appears to us to be incomplete.

Incomplete, on the one hand, because the idea of "fuzzy practices, neither legal nor illegal" offers no new analytical

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5 See Trudel (2013) on the notion of the effectiveness (or efficacy) of law and rules.

tools. Incomplete, too, because the notion of the gray zone, or zones, tells us little about how the rules that traditionally regulated work had their effect, and it also fails to take into account the impact of rules intended to standardize products or services, whose consequences for work and employment are in fact significant. In other words, we suggest that it is not enough to note the loss of effectiveness of Fordist regulation, and that we need to find out what rules do govern work and employment in different circumstances, and to analyze them in terms of their nature, object, and level of operation.

To put it briefly, gray zone theory assumes that regulation has shifted to the local level and researchers have thus focused on the study of local or purely contingent work rules, on arrangements between local actors (Azaïs et al. 2017) and on the state's failure to regulate (Dieuaide 2022). We propose to expand on this basic idea of a shift in the locus of regulation by coupling it with that of diversification. Our notion of diversified regulation is intended to capture the growing multiplicity of rules—public or private, shallow or intensive—that enable and constrain both the provision of work and the production of goods and services, operative at various levels (infranational, national and supranational).

Complementary Concepts for a More Thoroughgoing Analysis of the Gray Zone

We propose an analytical framework that not only captures modern regulation[6] but also illuminates emergent

[6] In short, modernity is characterized by the development of capitalism, industrialism, the growth of administrative power through the control of information and the establishment of forms of organization of human activity in space-time, and the control of the means of violence (Giddens, 1984). Epistemologically speaking, modernity is characterized by the development of positivist and neopositivist conceptions of science that have permeated other dimensions of modernity, such as law.

mechanisms of regulation and those mechanisms hitherto obscured by classical theories of labor relations. In doing this, we first present the reconceptualizations developed by D'Amours et al. (2023) in order to understand the different situations in which workers find themselves in the face of the outsourcing of labor. These reconceptualizations can be understood as shifts of focus: from the firm to the productive configuration; from the employment relation to the social labor relation; from subordination to control; from the uniformity of Fordist regulation to fragmented and diversified regulation. We devote the major part of this chapter to diversified regulation.

The productive configuration

The concept of productive configuration (Briand 2023a) draws on the work of many researchers, among them Grimshaw and Rubery (2005) and Flecker and Meil (2010). Indeed, a number of authors have demonstrated the limitations of taking the firm as legal, bounded entity as the frame of reference for the analysis of conditions of work and employment, given the increasing complexity of the organization of production. However, to our knowledge, none has proposed a concept broad enough to encompass the diversity of forms observed, nor suggested ways of dealing with the methodological challenges presented by the analysis of work and employment in the context of the outsourcing of labor. We believe that the concept of productive configuration overcomes these challenges.

A productive configuration can be understood as a social system in the structurationist sense (Giddens 1984), defined by the rules and resources that both enable and constrain the structuration of integration practices. It is within this system that actors divide among themselves the activities involved in producing a product or service, and coordinate the work involved in production. Thus, the productive configuration represents the extension of the

division of labor beyond the boundaries of the firm—whatever its form or aims—and expresses the possibilities of coordinating labor across the legal boundaries of the firms involved.

Since a productive configuration is an empirical social system, its scope and the identity of its components are variable and *a priori* undefined. To study the productive configuration for a given product or service, we first need to identify the firms present in it, as well as the various groups of actors, including workers, who contribute to production.

Any firm that contributes to the production of a good or service is therefore part of the configuration. A firm's contribution may be direct (giving orders, supplying work, designing and/or manufacturing a component, etc.) or indirect (standardizing the product or service, or standardizing its process, including the work involved). Furthermore, the relationships between firms in the configuration express a variety of relations (domination, subordination, collaboration) that can change over time.[7]

The social labor relation

The social labor relation (SLR) is defined as "the relationship between a given group of workers and the firms or organizations in a position to structure their conditions of employment or work" (D'Amours et al. 2023, 5; see also D'Amours, 2014; D'Amours et al. 2022 and 2023). The SLR can also be defined in terms of its analytical dimensions, which apply to any form of paid work: (1) work organization; (2) workload, schedules, arduousness; (3) compensation; (4)

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7 We suggest that firms that dominate a configuration at any given time may transfer economic and social risk to less powerful entities and their workers. As a result, workers performing similar tasks within the configuration may be offered different conditions of work and employment, depending on their employer's position in the configuration and their own position within their firm (D'Amours et al. 2022).

distribution of economic risk; (5) distribution of social risk. The first two dimensions relate to conditions of work, the three others to conditions of employment.

Since the SLR transcends employment status, the legal character of the contract, and the physical and legal boundaries of the firm, it makes it possible to account for the conditions of work and employment of all possible forms of work (employed/self-employed, formal/informal, direct/intermediated, etc.) through a uniform set of analytical categories (D'Amours 2023, 4). The concept of the SLR has notably made it possible to study changes in the conditions of work and employment of home educational childcare providers (UK: regulated childminders) over a 25-year period, and to show how the work of these originally clearly self-employed and "independent" workers has taken on a hybrid form between employment and self-employment (D'Amours, 2023b).

Control

The shift in the scale of analysis and the adoption of the SLR imply, as a corollary, a passage from the notion of subordination to that of control (Briand, 2023). In the work of Briand (2001; 2004; 2016), control structures human activity while also being structured by it. Control is thus conceived as a social construction that can be defined as a set of integration practices that regulate social activities, human work in this case, in a social system (Briand 2001).

In concrete terms, control refers to any procedure, method, etc., that makes it possible to coordinate the work of actors in a productive configuration. Studying the structuration of a worker's SLR within a productive configuration therefore requires (1) identifying the firms exercising such control and understanding their relationships and the ways in which they influence each other; (2) studying the integration practices that act on a given worker or group of workers, whether salaried or self-employed, informal, etc.;

and (3) identifying and explaining the rules and resources that support those practices. In the illustration presented later in this chapter, we focus our analysis on rules only.

Diversified regulation

Empirically, the positivist[8] understanding of labor law has major weaknesses, among them the failure to assess the *de facto* effectiveness of rules and the limitation of analysis to formal rules (human rights instruments, labor legislation, collective agreements, individual employment contracts, minimum labor standards, etc.). Little consideration is given to unwritten rules,[9] or to those that do not directly concern work (e.g. standards relating to a product or service produced by human labor) which can nonetheless have very significant effects.

> Weaknesses are becoming increasingly evident as a result of their [positivist approaches'] difficulty in recognizing either emerging phenomena (e.g., new actors in industrial relations, new modes of non-state regulation of labor relations, etc.), or long-standing phenomena that they have long neglected, such as gender relations, racialized relations and so on (Forrest 1993; Lee and Tapia 2021). (Bellemare 2023, 214–5).

The concept of diversified regulation aims to overcome these weaknesses. We develop it by (1) revising the notion of actor, (2) reconceptualizing the nature of rules, and (3) multiplying the scope/objects and levels of regulation.

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8 Scholars of labor law generally speak of "positive law".

9 In "studying value chains, Mahy et al. (2019) and MacKenzie and Lucio (2019) have proposed descriptive rather than analytical definitions of the notion of formal and informal rules that are based on a state-centric conception of regulation and tend to downgrade the importance of informal rules." (Bellemare 2023, 217). For these authors, informal rules are local cultural rules or private written rules. Finally, they do not explain, either, how non-compliance with unwritten rules can be sanctioned.

Revising the notion of actor

Whether functionalist or neo-Marxist in inspiration, studies of industrial relations have always postulated the existence of three actors: the state and its specialized labor agencies, workers and their organizations, and employers and their organizations. For Bellemare (2000), this is too limited a conception of the actor.

Drawing on structuration theory (Giddens 1984), Bellemare (2000) proposed the first analytical and operational definition of the actors involved in the regulation of work: an actor is an individual, group or institution that is capable, through its own actions, of directly or indirectly influencing industrial relations processes, including influencing the causal powers deployed by other actors in the industrial relations environment. For example, the government may respond to union pressure by passing anti-strikebreaker legislation. The notion of actor has two dimensions: "an instrumental dimension, which refers to the means by which an actor exerts a certain degree of influence on the system, and an outcome dimension, characterized by the goals and ends being pursued" (Bellemare 2000, 388; see also Legault and Bellemare 2008). Actors are identified by their impact on conditions of work and employment, and on the structuration of the industrial relations in question, the measure of that impact—of its relative importance—being the consequences of their actions at different levels in terms of the dimensions identified in the analytical framework.

Reconceptualizing the nature of rules

Secondly, the notion of diversified regulation involves a reconceptualization of the nature of rules through the adoption of Giddens's (1984) categories. He suggests that there are two types of rules: intensive rules and

shallow rules. Intensive rules are tacit and lightly sanctioned, while shallow rules are discursive and heavily sanctioned. Shallow rules may be state rules or written private rules. They derive from laws, policies, administrative directives, contracts, etc., the violation of which can lead to sanctions (fines under labor law, grievance procedures or disciplinary measures, monetary penalties or termination for breach of contract, etc.).

This reconceptualization is important for the analysis of conditions of work and employment as it allows us to better apprehend the relative effectiveness of the various modalities. For example, Legault and Bellemare (2008) showed how the intensive rule of maintaining "reputation" for software developers led workers to deliberately forgo the parental leave they knew they were entitled to by law.

Broadening the scope of the concept of regulation

Finally, the notion of diversified regulation takes account of a wider range of objects of regulation and of spatial scales (i.e., of levels of operation). Diversified regulation recognizes the multiplication of both the actors and the objects of regulation (labor or employment, products or services) and the diversity of modes of regulation (public/private norms, democratic culture, budgetary rules, etc.). For example, D'Amours et al. (2022) showed how contracts concluded between a food producer and a subcontractor had effects on working hours, procedures to be followed, hygiene standards and so forth, violation of its terms possibly leading to the termination of the contract and consequent job losses. Diversified regulation also allows for multiple, overlapping levels of regulation (supranational, national and infranational rules[10]).

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10 The terms supranational and infranational are intended to avoid the pitfalls of defining the level of analysis *a priori*, or of considering only

An example might be rules of gender and race, which, despite their spatio-temporal expansion, manifest themselves in specific ways in different regions and intersections of regions of regulation (on regions, see Bellemare et al. 2018, 489–90).

In short, the evolution of regulation poses the theoretical necessity of moving from a state-centric conception of the regulation of labor relations to a conception of a diversified regulation of labor (Bellemare 2023, 221). This is why our analytical model takes into account a range of dimensions: the actors; the objects of regulation (work or employment on the one hand, product or service on the other); the nature of the rules (shallow and intensive); and the multiplicity of levels of regulation (Bellemare, 2023).

The Case of Quebec's Childcare Centres: An Illustration of Diversified Regulation

We illustrate the concept of diversified regulation by studying the conditions of work and employment of unionized educational childcare workers in Quebec's *centres de la petite enfance* ("childcare centers" or "CCs").[11] In Quebec, the gradual recognition by the state of what were initially community daycare centers was accompanied by the professionalization of early childhood services, the creation of feminist models of management (Briand et al. 2006; Gravel et al. 2007) and unionization (Bellemare and Briand 2012). Following the adoption of its Family Policy in 1997, the government of Quebec set

political bodies (municipalities, regions, nation-states, international institutions). These bodies may be more or less important, and may not be the only relevant "regions" for analysis.

11 This section is a revised (and translated) version of Bellemare (2023, 246–54).

up a government-supported childcare system essentially based on a network of non-profit organizations. This network of juridically distinct organizations was placed under the supervision of the *Ministère de la Famille* ("the Ministry").

Table 1 summarizes the most notable rules that go to the childcare workers' SLR (concerning quality of service, child development, democratic management, consultation with the Ministry and regional childcare service groups, together with the Educational Childcare Act 2005 and related regulations, Ministry rules governing the expenses that daycare centers may incur and the rates they are entitled to charge, collective agreements, and Ministry rules relating to the classification and remuneration of posts). In line with our framework, the rules are presented according to their nature and objects. Required standards of service and other rules obscured by conventional analysis appear in italics in the table to distinguish them. The table is followed by a brief description of the childcare workers' conditions of work and employment showing the effects of the various rules and their interrelationships.

Table 1 – Diversified regulation: the case of childcare workers in Quebec

Object of regulation	Shallow	Intensive
Product/service	*Educational Childcare Act and related regulations*	*Ministry's on-going consultation with childcare groups* (in decline).
	Budgetary rules	*Democratic child development*
	Collective agreements (work-based group insurance and pension plans), administrative policies, individual employment contracts	*Quality of service*
Work/Employment	Labor law, Charter of Human Rights and Freedoms, Labor Code	*Democratic organizational culture* (though in decline within CCs).
	Collective agreements (work-based group insurance and pension plans), administrative policies, individual employment contracts	*Non-unionized CCs copy most of the employment conditions of unionized CCs*
	Budgetary rules	
	Guide to classification and compensation	

Intensive rules and shallow rules

The intensive rules listed in the table cover all childcare centers, whether unionized or non-unionized. They stem, on the one hand, from the struggle to win government-supported childcare, and on the other, from the collaborative practices of the various stakeholders involved in operationalizing childcare policy during its first decade. The intensive rules of co-management and self-management were, in some cases, enshrined in collective agreements, thus becoming shallow rules. Although the intensive rules of

Ministry-provider consultation and organizational democracy remained in effect throughout the study period (1970–2020), we may note a certain weakening of democratic culture within CCs, and a decline in the degree of Ministry consultation with regional childcare service groups. In both cases, practices that rely more on the shallow rules of collective agreements and CC management policy have tended to become more prevalent, following the introduction, for example, of rules that reinforce the right to manage. The Ministry consults less with the various stakeholders in the sector, and when it does, feels less bound by the discussions held with them, and imposes its will more through the development of shallow rules.

Shallow rules from a public source are chiefly represented by the Educational Childcare Act of 2005, which is operationalized through two main regulations: the "Regulation respecting educational childcare services" and the "Regulation respecting reduced contributions". It is these regulations, together with the Ministry's financial rules and guide to the classification and remuneration of childcare personnel (*Guide concernant la classification et la rémunération du personnel salarié*), that dominate the public regulation of the service. The Educational Childcare Act empowers the Ministry to set the rates that CCs can charge parents. This, combined with the financial rules, means that the Ministry has almost total control over CCs' revenues. The only room for maneuver for CCs is to try to achieve a 100% occupancy rate in order to generate maximum revenue. Finally, Québec's Labour Code applies to unionized CCs. Shallow private rules are represented by collective agreements and personnel policies adopted by CC boards of directors. The private contracts represented by collective agreements are in fact only partially private, since the Ministry's financial rules and its guide to classification and remuneration have a decisive influence on the content of those agreements.

The structuration of educational childcare providers' conditions of work and employment

The intensive rules stemming from the struggles of the entire early childhood care sector to gain recognition for the service and for the value of childcare workers' work have played an important role in structuring the SLR. Interviews with workers, CC directors and union representatives all point to a general recognition of the importance of a holistic and democratic approach to child development that includes teaching children respect for differences and peaceful ways of resolving conflicts. This approach stems from, and also contributes to, the existence of a widely shared organizational democracy. Such features as worker co-management (e.g. in the evaluation of new employees) and self-management (in certain respects) and democratic decision-making structures have been widely taken up in the collective agreements of unionized CCs, but also feature in the practices and in many of the personnel policies of non-unionized CCs. This organizational democracy, however, is tending to weaken in many CCs as a result of pressure from management and boards of directors to extend managerial rights through new, shallow rules (personnel policy, by-laws voted by the board) and a gradual transformation in the profile of CC managers, more and more of whom have studied management at university and so bring a competitive, bureaucratic logic to bear on their work.

The Educational Childcare Act and related regulations enable the Ministry—without its being the legal employer, and despite the fact that each CC is an independent enterprise in law—to determine minimum qualifications for staff and criteria for the recognition of qualifications obtained elsewhere; minimum staff/child and qualified/unqualified staff ratios; working hours and opening hours; the goods and services that subsidized childcare providers must offer in return for the subsidy; also the educational program for pre-school children and what childcare providers must

comply with it in whole or in part; and finally the content of the educational file that must be maintained for each child and who is to be responsible for maintaining it. CCs are subject to inspections by the Ministry to ensure compliance with the educational program, service standards and health and safety requirements.

CCs have to obtain authorization from the Ministry before creating any new job category. Finally, in its guide to classification and compensation, the Ministry specifies the rules for change of category (from unqualified to qualified worker) and for progress along salary scales.

Our description of the case, although brief, shows how the concepts of productive configuration, social labor relation, control and diversified regulation offer a framework for understanding changes in the working and employment conditions of childcare workers. What is notable in the case of Québec is that workers, their union organizations and Quebec-wide associations of childcare centers were initially involved in defining the quality and type of service to be offered, only to increasingly lose this control to the Ministry. Our analysis shows that consideration of the legal relationship between childcare workers and their employers does not capture the complex reality of work and employment, nor the actual regulation that takes place. Shallow rules originating from entities other than the legal employer and the rules of quality of service and organizational democracy represent by far the weightiest component of childcare workers' SLR. The full case study (D'Amours et al., 2023)[12] includes a description of the structuration of labor relations (including dispute resolution and grievance procedures). In view of the space available, we have chosen not to present these elements in this text.

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[12] The complete case study and summaries in English and Spanish can be found on our research group's website (http://www.nouvellesconfigurations.rlt.ulaval.ca/).

Conclusion

To put it briefly, gray zone theory assumes that regulation has shifted to the local level and researchers have thus focused on the study of local or purely contingent work rules, on arrangements between local actors (Azaïs et al. 2017) and on the state's failure to regulate (Dieuaide 2022). We propose to expand on this basic idea of a shift in the level of regulation by coupling it with that of diversification. As a result, we have developed a general framework based on renewed concepts (productive configuration, SLR, control) and an analytical model that includes dimensions ignored by classical theories, namely the objects and nature of rules.

We illustrated this framework with the case of unionized childcare workers in Québec. The same framework has been applied in studies of chicken farming and processing, computer services for business, and ride-hailing services such as Uber. Despite significant differences in the sectors studied, our framework proved robust because it is made up of "sensitizing devices" (as Giddens calls them) that enable the exploration and understanding of complex social systems. We believe that case studies of other sectors will confirm and improve on our proposed framework.

Overall, the framework represents an effort to revise the epistemology of the field of industrial relations studies. Indeed, we believe it is imperative to question the *a priori* assumptions of classical theories (regarding regulatory actors and the legal boundaries of the firm in particular) and to move away from concepts that flow from them (most notably that of the employment relation characterized by legal subordination). In short, we suggest breaking with the formalism of the firm and opening up to the idea of mapping social systems whose boundaries, actors, relationships and rules are not defined *a priori*.

We recognize that our framework presents challenges for legal scholars, lawmakers, trade unions and social

movements. We believe, however, that this is a necessary step towards devising ways of making negotiable and sanctionable rules that transcend the legal boundaries of the firm and narrow definitions of work and employment.

> The legal regulation of conditions of work and employment is becoming less and less efficacious, partly because these protective mechanisms were conceived with reference to paid employment by a single employer. This does not mean that organizational forms derived from outsourcing are exempt from rules, but rather that other types of rules apply, for example, private rules laid down in commercial contracts or government rules concerning the product or service (e.g. budgetary rules in the case of childcare centers or animal welfare rules in the food processing sector). We have argued for the importance of studying the impact, on work and employment, of these intensive and shallow rules, public or private, regulating work or the product or service (D'Amours et al. 2023, 294–5).

Finally, since the concept of diversified regulation strongly emphasizes the existence of rules concerning the product or service (e.g. quality, health, environmental or animal welfare standards, etc.), whose effects on work and employment are substantial and persistent, we suggest that it is urgent to include workers' organizations in the process of drawing up such rules. The creation of Québec's early childhood care network is an example of how service regulations can be co-constructed by the State and representatives of employers and employees. The government can also use public procurement, including rules concerning the working conditions of its suppliers' employees in its calls for tenders. Governments must also strengthen the monitoring of compliance with the regulations governing work and employment, and also the penalties for non-compliance, whether through commercial pressure (with a delinquent firm losing its government contracts), strategic surveillance of at-risk sectors (restaurants, hotels, etc.) or

joint surveillance with union and community organizations. Readers can refer to the conclusion of D'Amours et al. (2023) for other courses of action aimed at restoring power to workers in the new productive configurations resulting from outsourcing.

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Class Struggle in the Gray Zone: Resistances and Alternatives in the Face of Technological Rupture. The Standard Employment Relationship in the Gray Zone

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Institutional Instability as Expression and Reinforcement of the Gray Zone in Employment in Brazil

Sayonara Grillo[1] and José Luiz Soares[2]

Abstract

This article examines the notion of institutional instability, understood as the combined effect of austerity policy and of the rapid pace of regulatory change. Beyond the erosion of rights associated with austerity, institutional instability entails a profound form of normative insecurity that destabilizes legal certainty itself. The concept is developed through an analysis of the "permanent reform" imposed on the Brazilian labor market between 2016 and 2022. The article argues that institutional instability both reflects and reinforces the gray zone in work and employment, as it undermines labor protections, leaves social actors disoriented, and leaves labor relations subject to raw power struggles, thereby rendering the boundaries of wage labor increasingly blurred and flexible.

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Keywords: Gray zone of wage labor in Brazil; institutional instability; labor law reform; permanent reform; austerity policies; acceleration of legal time.

Introduction

The world of work is no longer what it was. Scholars have long pointed to shifts in the dominant model of capitalist accumulation, to the flexibilization of employment relations, the deregulation and erosion of employment rights, the reconfiguration of labor discipline, the decline of workplace democracy, and corporate strategies' increasing reliance on digital technologies. More directly relevant to our discussion here, today's labor markets are significantly more unstable and unpredictable than in the past. Employment relations and the institutions that govern them tend to be more mutable and impermanent, in stark contrast to the stability and clearly defined boundaries that characterized the Fordist-Taylorist age and the heyday of the Welfare State. These developments have posed problems for social-scientific analysis, requiring the adoption of conceptual frameworks more capable of dealing with mutability and diversity: to fully capture the instability and uncertainty that characterize work today, scholars have had to move beyond traditional binary distinctions such as formal vs. informal, secure vs. insecure, socially protected vs. unprotected, rule of law vs. legal vacuum, transparency vs. opacity.

Approaches based on the concept of the gray zone in work and employment reflect such an effort to come to grips with the new situation (Carelli, Cingolani, and Kesselman 2022; Azaïs 2010a, 2010b; Azaïs and Carleial 2007, 2017; Silva et al. 2012). The concept represents an attempt to understand changes in the world of work in terms of the socio-economic dynamics that have disrupted

traditional patterns of employment. Driven by a sustained effort to circumvent the institutional protections afforded by employment (through the reorganization of production, together with regulatory reform and associated changes in the operation of public institutions) and the gradual blurring of the boundary between employment and self-employment—a global trend over the past five decades—these changes have resulted in an increase in the diversity and indeterminacy of work situations and the rise of hybrid forms.[3] Factors contributing to this hybridization include lacunae in employment legislation, legal unclarity, confusion in implementation, and practices in which the law is strategically exploited or circumvented to serve particular interests.

In this situation, the notions of uncertainty, instability, and indeterminacy become central. If one is to understand the world of work in all its contemporary diversity and dynamism, one has to recognize, on the one hand, the historical break represented by the shift from the relative stability of Fordism and the Welfare State to the more fluid and unstable socio-economic dynamics of today, and on the other, the existence of a growing disconnect between categories and practices, as the binary and dualistic categories of the Fordist era increasingly fail to capture the complexities of work. In escaping the constraints of traditional ways of analyzing employment, the concept of the gray zone in labor and employment (hereafter "the gray zone") highlights how binary and dualistic frameworks overlook the existence of a broad continuum of work situations, as diverse as they are mutable, as witnessed by the changing contractual arrangements and modes of remuneration that have emerged over recent decades.

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3 Like the *gray zone in work and employment*, the concept of *hybridization* serves to capture the diverse interactions of labor market and labor law, reflected in the fracturing—and recomposition from varied elements—of employment relationships and forms of labor market participation and organization.

This article develops the idea that institutional instability can be understood as both a manifestation of the gray zone and as a driver in its exacerbation. Originating in earlier studies (Grillo and Soares 2022; Cavallazzi and Silva 2019; Soares 2021), the concept of institutional instability aims to capture the combined effects of two key factors: austerity policy on the one hand, and the acceleration of legal time (Ferreira 2016; Ost 2005) on the other. Grounded in empirical analyses of the Brazilian labor market, the argument we made is that the effects of policy in eroding employment rights came on top of the effects of regulatory reforms introduced at a rapid and unpredictable pace, so leading to regulatory uncertainty. Taken together, austerity policy and the uncertainty attributable to the acceleration of legal time have not only weakened the protections associated with employment but also fostered institutional instability. This instability of institutions[4] has undermined the very notion of legal certainty, making employment relations increasingly often the object of simple power struggles.

Here we will expand upon our initial argument that institutional instability both reflects and reinforces the historical processes giving rise to the gray zone, more particularly those in which the State also has a role. We outline, in fact, how institutional instability reinforces the tendency towards the erosion of employment protections, fostering employment relations that are increasingly unclear and makeshift in character. At the same time, we hope to contribute to the debate on more specific questions, such as:

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4 As Streeck and Thelen (2005) suggest, we view institutions as systems for the normative regulation of actions and social sanctions. In other words, we adopt a more specific definition of institutions, focusing on formalized norms, sanctions, and organizations that govern behavior in modern political economies, while excluding informal mechanisms of social regulation. Institutions shape actions and stabilize collective expectations about how social actors should behave. What defines an institution is the social expectation that individuals will conform to it, regardless of their personal desires.

What practices, experiences and representations contribute to the perpetuation of gray zones? What role does the State play in their creation and persistence? What are the impacts of institutional instability and the existence of gray zones on the different social actors, and what part do those actors play in maintaining, reducing, or amplifying the centrifugal tendencies of employment law? What is the character of their interaction under conditions of institutional instability? To what extent are gray zones arenas of conflict and legal dispute?

The Gray Zone and Institutional Instability

Over the past five decades, the institutions designed to protect employment have been gradually destabilized, resulting in a marked decline in their capacity to regulate the social relations of labor, and, with them, social relations more widely. Employment law has been systematically circumvented, inadequately enforced, or rendered effectively inapplicable. The tension between the corporate endeavor to evade the law and the public regulation of employment has led to reforms of varying degrees of radicalism, shaped by the power dynamics at the time and the extent of political and institutional consensus regarding the need to restructure the regulatory framework.

The gray zone has its origins in these broader transformations. Beyond the erosion of established rights, these changes have rendered the institutions governing employment increasingly unstable. As a result, employment relationships have become more various and more ambiguous, combining elements of formality and informality, protection and precarity, security and insecurity, transparency and opacity. In other words, the gray zone reflects a widespread erosion of the protections associated with employment, the constant reconfiguration of regulation, and the

destabilization of employment institutions[5]—conditions under which employment relations become increasingly diverse, mutable and indeterminate in character.[6]

The emergence of the gray zone can be attributed to a combination of economic and legal-political factors. On the economic front, factors such as the advent of flexible accumulation, technological advance (in the field of ICTs in particular), globalization, and the financialization of the economy have all played an important role. Equally significant, however, have been developments in the legal and political spheres, where State actors have actively contributed to the reshaping and destabilization of employment relations. The ambivalent posture of the public authorities—oscillating between affirmation of their role as the guarantors of employment rights and the promotion of deregulation—has been a decisive factor in both the creation and the persistence of gray zones (Kesselman 2022; Bisom-Rapp and Coiquaud 2017). In a range of different countries, the State—through its executive, legislative and judicial branches—has played a central role in the growth of work situations that deviate from traditional waged employment and in the increase in precarity, whether through the creation of new regulatory frameworks or alterations in the operation

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5 Debate on the gray zone reflects a fundamental divergence in perspectives on the recodification of norms and the destabilization of labor institutions. For scholars such as Patrick Dieuaide, the gray zone signals a germinal rupture in the organization of work, marking a clear departure from the Fordist model and traditional wage employment. Others, such as Rodrigo Carelli, contend that while the concept captures the dynamic and evolving nature of the labor market, it does not necessarily imply a radical break. Instead, they view it as compatible with the continued relevance of employment and wage-based institutions, which still play a central role in regulating and reproducing the economic system (Carelli, Cingolani, and Kesselman 2022).

6 It is important to emphasize that the notion of the gray zone is a conceptual tool that resists univocal interpretation. It is not intended to be confined to a single analytical framework (Carelli, Cingolani, and Kesselman 2022). Rather, scholars who engage with this concept are encouraged to adopt analytical approaches capable of capturing a landscape marked by pluralism—one that cannot be reduced to binary logics and where transformations in work must be understood in all their complexity.

of public institutions. The State fosters the emergence of the gray zone when it promotes a neoliberal conception of free enterprise and economic growth at the cost of weakened employment rights and without providing alternative frameworks of protection. In other words, by withdrawing from its role as the regulator of employment relations, the State becomes jointly responsible for the creation of the gray zone, alongside corporate strategy and the impact of technology on the world of work. In most cases, the weakening of State regulation leaves workers with fewer rights, fewer social protections, and lower incomes.

The erosion of the protections associated with employment, the weakening and destabilization of employment protection institutions and the shift to increasingly mutable employment relations owe much to the influence of powerful lobbies that pressure democratic regimes to prioritize private over public interests, driving a constant unmaking and remaking of legal frameworks. These actors thus decisively reshape legal time (Ost 2005), determining what should be preserved and what should be changed in the regulation of economic activity in general and the regulation of employment in particular.

The reproduction of capital requires a certain degree of predictability and legal certainty but not necessarily stability. In the era of flexible accumulation, in which mutability and diversity have supplanted stability and uniformity, what matters most to capital is the ability to impose its own temporality, such that its own maneuvers dictate, to some extent, the pace and direction of changes in the law. Failing this, capital seeks to circumvent legal constraints in pursuit of its interests.[7] Both scenarios are characterized by deliberate efforts to do away with the fixity of legal norms

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7 In this sense, we can speak of "illegalisms" (Silva et al. 2012; Azaïs 2010b), or more specifically, draw on the concept of "cold flexibilization" (Cardoso 2003), which refers to how business actors in Brazil have pursued the flexibilization of labor relations through the strategic circumvention of labor laws.

and social relations—to dismantle established institutions and so reconfigure the social order as to maximize profit. The aim is not to construct a more stable institutional framework; rather, instability itself appears to be the goal, coupled with the power to continually make and remake the world of work in line with market imperatives.

This dynamic gives rise to what Ost (2005) and Ferreira (2016) call an acceleration of legal time—a form of "temporal pathology" in which legal norms are produced at a pace that is both excessively rapid and unstable. In aligning itself with market imperatives, the law becomes caught in a continual tinkering or worse, a state of constant reform (Grillo and Soares 2022). As Cavallazzi and Silva (2019) have observed in the domains of labor and consumer law, it is as though norms established during the day are dismantled by night, generating a kind of programmed legislative obsolescence.

When legal production accelerates, the institutional world it helps shape becomes correspondingly volatile, inherently unstable. More than a matter of institutional change, the notion of *institutional instability* reflects a deeper erosion of rights, undermined by the normative uncertainty—at both legislative and judicial levels—induced by the rapid and irregular pace of legal change. Social actors are left disoriented, unsure of what norms are in effect, what those norms entail, and how public authorities are expected to act. Ultimately, this tends toward legal vacuum, in which the relationship between capital and labor is reduced to the fiction of free and voluntary exchange, governed solely by the invisible hand. In effect, labor relations risk being reduced to mere expressions of power.

The normative uncertainty that comes with institutional instability represents a distinct form of insecurity in the world of work—one that typically differs from the more familiar insecurities associated with unemployment or precarious employment. It is not just a matter of legal change or the regressive substance of new legislation, but rather

the loss of legal certainty itself: the diminishing ability of employment law to stabilize expectations, regulate behavior, and structure the relations of work. The acceleration of legal time is a central driver of this broader tendency. Institutional instability stems from the rapid succession of changes in legislation or case-law that destabilize established institutional frameworks, producing a landscape in which individuals lose key reference points and face heightened insecurity and social vulnerability. In contrast, the representatives of capital gain significant advantage from this situation. While workers lose the guarantees historically associated with employment together with the institutional reference points that once oriented their actions, and consequently find themselves in a more insecure position, the representatives of capital find that the legal and institutional conditions they consider favorable to the reproduction of business remain firmly in place.

The concept of institutional instability might be said to be a correlate of that of the gray zone, in that both capture the unstable, uncertain, and indeterminate character of institutions and of the practices of social actors in the world of work today. More specifically, institutional instability is driven by interactions between legal change and the labor market that render even more indefinite the fluid and ambiguous boundaries of employment in the gray zone—either by creating uncertainty over what regulations are applicable or by disrupting the established operations of the institutions of employment protection. In these circumstances, government officials, union leaders, and rank-and-file workers in particular may be confused about what the law requires or the functioning of employment protection institutions, about how to use the law to resolve labor disputes, and how to strategically navigate labor relations in light of the prevailing legal framework. By contrast, the representatives of capital—better positioned, strategically, in relation to the processes of legislation and reform—are often better equipped to either use the law to their advantage or

to circumvent it in pursuit of profit. In practice, this asymmetry exacerbates the fragmentation and hybridization of different forms of labor market participation, blurring the boundaries between protected and unprotected situations, security and insecurity, law and legal vacuum.

Permanent Reform and Institutional Instability in the Brazilian Labor Market

The recent history of Brazilian employment law has been characterized by sweeping reforms associated with austerity policy. Regulatory frameworks and social protections established since the early twentieth century have been ever more rapidly dismantled, driven by a hegemonic public discourse that frames employment law and its institutions as impediments to the efficient buying and selling of labor power, constraining business competitiveness in a globalized economy and stifling job creation. Given that "excessive regulation" hinders the proper functioning of the market, a "modernization" of laws and institutions is called for. The discourse often adopts a salvific tone, depicting the State as over-indebted and mired in bureaucratic corruption, a situation for which cuts to public spending and the policy measures associated with them are the only viable political and economic solution.

Between 2016 and 2022, Brazil thus experienced deep cuts in public spending and sweeping employment and social security reforms that rolled back rights, dismantled public welfare, and weakened trade unions (Silva et al. 2018; Krein et al. 2019; Cavallazzi and Silva 2019; Dutra and Matos 2019; Soares 2021). In addition, changes to employment regulations and corresponding institutional arrangements unfolded at a breakneck pace, effectively turning reform into a near-permanent state of affairs.

This state of constant reform was rapidly attained, in two distinct phases. The first began with the impeachment of Dilma Rousseff and Michel Temer's assumption of the presidency (2016–2018). A pivotal moment was the enactment of Constitutional Amendment No. 95/2016, which established a new fiscal regime that capped public spending. This measure represented a significant milestone in the adoption of austerity policy, resulting in the contraction of public services, including a reduction in the capacities of both the employment inspectorate and the judicial system. The reforms enacted by Laws Nos 13.429/2017 and 13.467/2017 dealt significant blows to workers' rights. They also considerably curtailed the powers of the Labor Courts by narrowing the scope for recourse to them and imposing a tighter time-limit on the making of claims, so making workers' access to justice more difficult, and introducing regressive union reforms that accelerated the decline of organized labor. Meanwhile, the pension system underwent a sweeping restructuring, bringing new restrictions on entitlements and benefits.

The second phase of reform took place under the Bolsonaro administration (2019–2022). In 2019 alone, the government enacted a swift and wide-ranging set of measures: a constitutional overhaul of the pension system (Constitutional Amendment No. 103/2019); the dissolution of the Ministry of Labor by (interim) emergency presidential order (Provisional Measure [PM] No. 870); a broad revision of numerous Occupational Health and Safety Regulatory Standards (Normas Regulamentadoras – NRs) initiated by the federal executive; and the enactment of the Declaration of Economic Freedom (Law No. 13.874/2019), a revised version of PM No. 881 of May 1, 2019, introducing new safeguards for the free market. In addition, PM No. 873, in effect from March to June 2019, prohibited the collection of membership fees and other union dues without prior individual authorization, thereby constraining union

activity. PM No. 905, meanwhile, introduced the so-called Green and Yellow Employment Contract, which aimed to reduce hiring costs by lowering employer contributions. Notably, the eventual expiry of PMs 873 and 905 without their conversion into permanent law further contributed to the broader climate of permanent legal and institutional volatility.

This pattern persisted during the Covid-19 pandemic. Confronted by a public health and economic emergency, the government implemented legal and policy changes that scaled back employment protections in order to offer greater legal certainty for businesses in pursuing their accumulation strategies. A wave of emergency measures ensued, characterized by the accelerated issue of provisional measures, laws, decrees, administrative orders, and court judgments. Justified in terms of the need to improvise a response to an urgent and exceptional situation, these measures suspended existing employment legislation, eroded constitutional principles, and curtailed institutional mechanisms of employment protection. A striking example of this dynamic was a series of provisional measures on employment relations issued by the federal presidency. Noteworthy among these were PM No. 927, which limited employment inspections, allowed individual agreements to override both statutory employment protections and collective bargaining agreements, enabled the bringing-forward of vacations and public holidays, and authorized remote work without requiring amendments to employment contracts; PM No. 936 (later converted, with modifications, into Law No. 14,020/2020), which established the Emergency Employment and Income Maintenance Program and allowed the temporary suspension of employment contracts and reductions in working hours and wages; PM No. 945 (converted into Law No. 14,047/2020), which authorized the hiring of employees in place of casual dockworkers at recognized national ports and expanded the list of essential occupations under strike law (Law No. 7,783/1989); PM No.

1,045, which reintroduced a revised version of the Emergency Employment and Income Maintenance Program; PM 1,046, which reinstated several provisions from PM No. 927; PM No. 1,108, which modified regulations regarding remote work and meal voucher benefits under the CLT; and PM No. 1,109, which implemented measures to mitigate the social and economic consequences of officially declared public calamities. In the same vein, the Federal Supreme Court (STF), in its judgements in actions challenging the constitutionality of certain provisions in PM No. 927 (ADIs 6342, 6344, 6346, 6348, 6349, 6352, and 6354) and PM No. 936 (ADI 6363), ultimately upheld the validity of nearly all of them, despite the provisional measures being considered unconstitutional by qualified commentators (ANAMATRA 2020; ANPT 2020; REMIR 2020; Grillo 2020).

The judiciary, in fact, played a decisive role in both waves of constant reform. The Supreme Federal Court (STF) relaxed established case-law and reinterpreted the constitution in ways that led to the erosion of substantive rights, the strengthening of employers' authority, the validation of precarious contractual arrangements, the recognition of the notion of individual autonomy in labor relations, the curtailment of union rights, and expansion of the possibilities for derogation from collective agreements. The combined effect of legislative reforms and developments in case-law has been problematic in two respects: not only were the new norms regressive in their impact but so too was the acceleration of legal time. On the one hand, beyond simply altering legal provisions and shifting the initiative in legal production from the public to the private sphere, these reforms saw systematic and fundamental shifts of legal interpretation by the courts—ultimately undermining core pillars of the rule of law, including the principles of non-retroactivity, constitutional supremacy, and legal certainty. On the other hand, the acceleration of legal production itself, the relentlessness of reform, regardless of its specific content, sees legal certainty transformed into uncertainty of

both law and life (Ferreira 2012, 2016; Ost 2005). For when the tempo of legal change becomes too rapid and unpredictable, law loses its capacity to provide structure and orientation to social life. Since the force of law is gauged by its efficacy and its ability to structure social relations over time, the acceleration of legal time generates, at the very least, uncertainty about what rules are in fact in force. This uncertainty, in turn, leads to confusion, increased vulnerability, and the risk that employment relations are reduced to expressions of raw power.

A concrete case may help clarify this dynamic: during the Covid-19 pandemic, the Brazilian government enacted a series of legal measures to address the effects of the health crisis. In the early days, new employment regulations were issued at an extremely rapid pace.[8] Taken together, these formed a kind of emergency regulatory framework that introduced widespread legal instability into the world of work, in terms of legislation, case-law, and collective bargaining alike. At the same time, the so-called Emergency Employment and Income Maintenance Program[9] was introduced, which allowed companies to suspend employment contracts and implement reductions in working hours and wages for a certain maximum period, either by individual agreement or through collective bargaining. Where wages were reduced or not paid by employers, workers would be entitled to receive a monthly payment from the federal government. However, the hurried implementation of the program, amid a public emergency and without public debate, left many workers confused about what regulations were currently in effect. Many were unsure of their rights and

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8 Between March 22 and April 7, 2020—a span of just 16 days—seven provisional measures with direct implications for Labor Law were issued: PMs 927, 928, 936, 937, 944, 945, and 946. Furthermore, Law No. 13,982 of April 2, 2020, established the Emergency Basic Income program.

9 The Emergency Employment and Income Maintenance Program was established by Provisional Measure 936, later converted into Law No. 14,020/2020.

of how their wages were calculated.[10] Given their disorientation and vulnerability amid the pandemic and the authorization of individual negotiation, the Emergency Program was implemented in the workplace under conditions not far from the exercise of raw power. In many cases, the terms were dictated unilaterally by employers, often to the detriment of workers who frequently lacked a clear understanding of the agreements they were signing. Some employers even subverted legal protections, for instance, by officially reducing working hours and wages paid under the terms of the Emergency Program while forcing employees to work the same hours as before.

This is what we refer to as institutional instability in the world of work. The instability represented by regulatory changes bringing the loss of employment rights (sometimes driven by radical shifts in principles of legal interpretation) has been compounded by the rapidity and unpredictability of change itself. As a result, actors have increasingly lost the sense of certainty and reliability ideally associated with the rule of law, and are faced by a twofold vulnerability, stemming on the one hand from the unreliability of rights, and on the other from the acceleration of legal time. Institutional instability can result in labor disputes and legal conflicts, as it did in the case of the Covid crisis discussed above, but it also affects the operation of the institutions responsible for employment protection, whose actions can be afflicted by confusion and uncertainty. A clear example of this is the operation of the employment inspectorate in Brazil during the Bolsonaro administration (2019–2022).

The employment inspectorate was deeply affected during this period by a series of changes introduced by

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10 Information regarding the uncertainty experienced by workers in the face of regulatory changes brought about by the COVID-19 pandemic—particularly in relation to the implementation of the Emergency Employment and Income Maintenance Program—was confirmed through interviews we conducted remotely with union leaders via Google Meet during the second half of 2021.

the federal government. Firstly, the working routines and working conditions of the inspectors were disrupted by the dissolution of the Ministry of Labor and Social Security on which they depended,[11] which was merged into the Ministry of Finance.[12] Just over two years later, there came another "institutional shift" with the reestablishment of the Ministry of Labor and Social Security.[13] On top of this came multiple revisions of the Regulatory Standards[14]—the legal framework the inspectors are responsible for enforcing—on the grounds that employment legislation needed to be streamlined and modernized. Finally, one should note that several provisional measures issued by the federal government during the pandemic introduced innovations that directly affected employment inspection (notably PMs Nos 905, 927, and 936). These changes forced inspectors to rapidly reframe the conditions under which inspections were to be carried out, on both the introduction and the eventual expiry of the interim decrees.[15] Taken as a whole,

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11 Employment inspectors are public officials tasked with enforcing labor laws and regulations to protect workers (see Law No. 10,593 of December 6, 2002). Their responsibilities cover a wide range of issues, from combating slave labor, child labor, and fraudulent employment practices to overseeing matters related to worker health and safety.

12 See Provisional Measure No. 870 of January 1, 2019, later converted into Law No. 13,844/2019.

13 Pursuant to Law No 14.261/2021.

14 The Regulatory Standards (NRs) are a set of technical guidelines issued by the Ministry of Labor that regulate and provide guidance on mandatory procedures concerning worker health and safety.

15 Among the provisions of the provisional measures that affected the activities of employment inspectors, Article 31 of Provisional Measure No. 927 deserves special mention. It established that, for a period of 180 days, inspections would be limited to advisory actions only, except in the following cases: (i) irregularities related to unregistered employment following a formal complaint; (ii) serious and imminent risk, where the irregularities were directly related to the situation; (iii) fatal workplace accidents; and (iv) work done in conditions analogous to slavery or involving child labor. This provision was challenged in several actions for unconstitutionality (ADIs 6342, 6344, 6346, 6348, 6349, 6352, and 6354) before the Federal Supreme Court (STF). Just over a month after PM 927 was published, the STF ruled to suspend the application of this provision.

this wave of regulatory change generated confusion and uncertainty in the work of the inspectorate.[16] Some of the new regulations made novel demands on inspectors, who were unable to rely on guidance from headquarters or local offices to resolve uncertainties or establish consistent procedures. The rapid pace of regulatory change, coupled with the interim nature of provisional measures, required of them considerable efforts of interpretation and frequent adjustments to practice. This institutional instability made itself felt in the loss of clear points of reference, leading to uncertainty and unclarity in their professional practice.

Digital Work Platforms and the Gray Zone in Employment in Brazil

Uncertainty and indeterminacy of employment status are characteristic of platform-mediated work, even when features of waged employment are present. This includes work with companies that provide ride-hailing services, such as Uber, Cabify, and 99, as well as delivery platforms for goods and food, like UberEats and iFood.

Dieuaide and Azaïs (2021) analyze digital work platforms' role in the creation of gray zones in terms of the private appropriation of the social fabric, the deregulation of work, and competition with public authority. The recourse to social dumping and forum shopping driven by platforms' quest for competitiveness; their refusal to recognize employment and social security rights, a key factor contributing to deinstitutionalization; and their private appropriation of the social wealth represented by public space and infrastructure and the data collected by digital platforms; all these fuel dispute over rules and frameworks of regulation.

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16 The effects on them of regulatory change, administrative reorganization, and disturbance of professional practice were made known to us by employment inspectors interviewed via Google Meet in November 2020.

They conceive of the gray zone as an intermediate space of regulation characterized by atypical forms of regulation that escape the established legal frameworks and by the loss of efficacy of existing norms.

Companies in this sector often employ strategies to evade employment legislation and regulations—what some scholars have described as new forms of illegality (Silva et al. 2012; Azaïs 2010b) or "cold flexibilization" (Cardoso 2003). App-based delivery workers and ride-hail drivers face precarious conditions of life and work, operating without social protections, with working-time and movements controlled by systems of algorithmic management. These conditions illustrate the insecurity inherent to the informality of platform work in Brazil (Fioravanti, Martins, and Rizek 2023) and to uberization more generally (Abílio 2023). This insecurity is exacerbated by the institutional instability that contributes to regulatory disputes, legal conflicts and the erosion of legal certainty.

More than a decade after Uber began operating in Brazil, and despite a high level of litigation over how to classify workers' relationship with the platform, interpretative disputes persist, while the Labor Courts have yet to establish consistent case-law on the matter. Unlike in other countries, where higher courts have recognized a presumption of employment, in Brazil the success of Uber's strategic litigation has led to the creation of a body of case-law that strains to favor corporate interests, undermining both the development of national employment law and the independence of the courts (Iturraspe Oviedo, Cabral Silva, and Santos 2023).

In contrast to the uncertainty surrounding workers' entitlement to the protections of employment and the persistent insecurity of both employment and life that is amplified by the legal anomie, platforms enjoy a legal certainty that allows them to operate freely and without regulation, thanks to key judgments responding to the earliest attempts at the public regulation of ride-hailing services.

The passivity of most Brazilian labor courts in the face of the manipulation of judicial decision-making through jurimetrics (Iturraspe Oviedo, Silva, and Santos 2023) does more than reveal platform companies' success in circumventing the established legal frameworks. It also highlights mechanisms of institutional instability that contribute to the expansion of the gray zone around work for digital platforms that impose a certain subordination on supposedly independent contractors.

On one hand, it shows how the institutional parameters and foundational principles of Brazil's Labor Law once relied upon by judges to distinguish employment relationships have become permeable and hollowed out, creating the legal-institutional conditions that allow platform companies to continue operating without regulation. On the other, it contributes to the erosion of legal certainty among social actors, reinforcing political and union strategies that seek the regulation of platform work outside the traditional framework of represented by employment, in search of some "third way" (Silva 2024; Lourenço Filho and Porto 2024; Magaldi et al. 2024).

To lack of clarity regarding the law, social actors' confusion over what rules are currently in effect and doubts about the government's ability to address precarious work in the digital ecosystem are now added further uncertainties. There is doubt, for instance, about which judicial forum has jurisdiction in disputes between workers and digital platforms. In 2023, a justice of the Supreme Federal Court (STF) sitting alone ruled that such disputes did not fall under the jurisdiction of the Labor Courts. In Complaint 59.795, filed by Cabify in response to a lower court ruling that recognized the existence of an employment relationship between platform and driver, Justice Alexandre de Moraes not only rejected the claim of employment but also transferred the case from the Labor Court to the civil courts that handle private and commercial matters. Added to the existing legal uncertainty, then, there is growing confusion

about what institutional forums are responsible for resolving such disputes, leaving public officials and worker representatives increasingly disoriented.

While not binding precedent, this Supreme Court ruling that the relationship between app-based drivers and platforms was cognate with that between self-employed transport workers and their clients, being a commercial rather than an employment relationship, has significantly influenced public and judicial debates, reinforcing a pro-market regulatory approach precisely when the bench of the Superior Labor Court (Tribunal Superior do Trabalho) was leaning toward requiring companies to recognize these workers as employees. Institutional instability thus entails uncertainty not only about the substance of judicial decisions, but also over jurisdiction and what cases the labor courts can hear.

In 2026, the Supreme Federal Court (Supremo Tribunal Federal) will hear an Extraordinary Appeal (RE 1446336) that addresses the legal classification of the relationship between app-based drivers and the companies that operate the platforms. By recognizing the case as having general importance (as Tema 1291), the Court aims to standardize case-law and establish binding precedent for over 10,000 similar cases currently moving through the system. The tendency of the current court to take more market-liberal approaches suggests that such standardization will only amplify institutional instability, presaging as it does an interpretation of the law that fosters a hybridity of employment status, expanding the gray zone in disavowing existing judgments that equate algorithmic control with direct, personal supervision as a criterion of legal subordination. In doing so, it would ultimately broaden the scope for contractual arrangements resembling bogus self-employment that in this way escape the regulation associated with employment. The public hearing convoked by the judge-rapporteur in the case served as a forum for debate but did not otherwise impinge on the Court's review of the issues pending in the Labor Courts.

The Supreme Federal Court's pro-market decision-making (Grillo et al. 2023) between 2015 and 2025,

permitting the full outsourcing of services, promoted the uberization of work previously done by *motoboys*—the office employees who acted as motorcycle couriers (Abílio 2023). These rulings on outsourcing accelerated the de-institutionalization of traditional employment relationships, fostering social insecurity and paving the way for platformization. At the same time, the legal certainty promised by binding precedents from higher courts has failed to materialize in the face of constant reform and unending legal dispute (Grillo and Carelli 2021). Instead of stabilizing the legal landscape, the Court has become a co-producer of instability in matters of employment and a driver of institutional instability.

The persistence of legal uncertainty and judicial ambiguity over more than a decade has undermined both unions' confidence in employment law and the judiciary's ability to stabilize expectations, behaviors, and employment relationships. Meanwhile, institutional instability—fueled by the erosion of legal certainty, coupled with the failure to establish consistent case-law on whether platform-based drivers and delivery workers qualify as employees—has introduced new dimensions to public, legislative, and governmental debates. The growing number of bills in Congress aimed at regulating app-based drivers (Lourenço Filho and Porto 2024), the lack of consensus within the tripartite workgroup established by the federal government to draft a proposal for regulating platform-based transportation of goods and passengers,[17] and the stalled progress on the supplementary

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17 The workgroup was created by Decree No. 11,513, of May 1, 2023, and included representatives from government, associations representing digital platform companies, and trade unions. For information on Complementary Bill (PLP) 12/2024, which addresses the regulation of work mediated by companies operating app-based private passenger transport services, see https://www.gov.br/trabalho-e-emprego/pt-br/noticias-e-conteudo/2024/Marco/proposta-de-projeto-de-lei-cria-pacote-de-direitos-para-motoristas-de-aplicativos and https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2419243&fichaAmigavel=nao. In December 2025, the Federal Government brought renewed attention to

bill introduced by the Lula administration—which seeks to extend social security and union rights to platform drivers while still classifying them as self-employed—all contribute to the prevailing climate of legal uncertainty and undermine public trust in the ability of state institutions to effectively address these conflicts.

Final Considerations

To sum up: the acceleration of legal time represents a significant challenge in its own right, having tangible impacts on workers, regardless of whether newly emerging regulatory frameworks may be more or less protective than the ones they replace.

Institutional instability exacerbates the gray zone in employment, creating uncertainty and confusion both in the institutions responsible for employment protection—such as the employment inspectorates and the labor courts—and among workers and the organizations that represent them, ultimately amplifying the insecurity and vulnerability of those engaged in platform-mediated labor.

In contexts of institutional instability, interactions between actors are shaped by uncertainty as to the law and the instability of the normative frameworks governing the operation of public institutions, such that workers find themselves engaged in what is more or less a straightforward power struggle, as employers seek to impose their will unilaterally.

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the question of regulation of the working conditions of delivery workers by establishing a Technical Working Group (GTT) for App-Based Delivery Workers, composed of representatives from various ministries and including workers' representatives such as the National Alliance of App-Based Delivery Workers (Anea), the Movement of Workers Without Rights (MTSD), and the Association of App-Based and Independent Motorcycle Couriers of Brazil (AMABR). On this see https://tinyurl.com/2bat53kj.

The State, then, is jointly responsible for the creation of the gray zone, through its production of institutional instability. This instability is fundamentally anti-democratic, not only eroding both the idea and the practice of democracy as a means to social justice, but also allowing the emergence of a sphere of unchecked power relations where the rule of the strongest prevails and democracy is voided of substance and meaning.

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Directive (EU) 2021/762 on Improving Working Conditions in Platform Work

Gray Areas with Regard to Employment Status

Claire Marzo[1]

Abstract

Gray zones appear where standard employment statuses lose their pertinence. For legal scholars, gray zones involve (1) a weakening of the legal frameworks governing work and employment (the contract of employment) which result in a lessening of the efficacy of law; (2) A legal norm in the process of (re)constitution or the workings of a system of hybrid regulation. The chapter looks to see whether these features are to be found in recent developments in European labor law, and in the regulation of platform work more particularly. An analysis of the recent Platform Work Directive in terms of its legal gray areas reveals a weakening of the overall legal framework governing work.

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The first section offers an overall assessment of the Directive and identifies the legal difficulties that may arise in applying it. In this, we follow the account of the gray zone given by Azaïs, Dieuaide, and Kesselman (2017), looking for ambiguities, unclarities and silences in the Directive that may represent legislative defect or even a frank disengagement of the law despite the EU's declared intent. In the second section, we look at the motivations behind the new directive, asking whether it represents the (re)constitution of a legal norm, or simply one more instance of "the working of a system of hybrid regulation informed by the contradictory interests at play in the employment relationship". Put another way, we ask whether the Directive puts into question the very idea of labor law.

Keywords: Digital platforms; platform work, European Union law; French law; digital law.

Introduction[2]

First proposed by French jurist Alain Supiot in a seminal article published in the journal *Droit Social* in 2000, the concept of the *zone grise* was intended to give theoretical expression to an observable blurring of the formerly rigorous distinction between employment and self-employment. For Supiot, the emergence of "autonomy within subordination" in the former and of "allegiance in independence"

2 The legal and sociological analysis informing this chapter draws on the results of a multidisciplinary research project (law, sociology, history) funded by France's Agence Nationale de la Recherche (ANR) as part of its program for early-career researchers. The CEPASSOC project brought together teams from different countries to investigate the social protection accorded to platform workers, more specifically those engaged in platform-mediated domestic work (https://cepassoc.hypotheses.org).

in the latter reflected, on the one hand, the "dilution of the relationship of subordination" that had characterized employment, and, on the other, the intensified control exercised over self-employed contractors by economically powerful corporations. In acknowledging this reality, he said, the concept had "the merit of breaking with black-and-white thinking and so paving the way for labor law of a new kind", whose principles would govern all work relationships, whatever their character (Supiot 2000).

Over the next twenty-five years, two successive multidisciplinary, international research projects[3] set out to further investigate and develop Supiot's idea of the gray zone. Sharing his belief in its analytic power and policy relevance, the researchers sought to avoid the heuristic limitations entailed by any attempt to grasp the realities of work through the traditional, binary, legal distinction between employment and self-employment. This enabled them to explore the disconnect between law and the realities it is supposed to regulate (Bureau and Dieuaide 2018) and to map the interactions between the institutional, political, economic and social actors that are in fact involved in remaking labor regulation in a changing and increasingly digital world.

A sociological account of the blurring of legal distinctions noted by Supiot reveals the processes involved, notably a deinstitutionalization of work relationships reflected in an "increasing fragmentation of practices and representations and the multiplication of observable types [of work relationships], a 'destandardisation' that sees individuals and groups turn to makeshift solutions or conceive of new and often eclectic social arrangements" (Conchon et al. 2011). In other words, gray zones appear where standard employment statuses lose their pertinence, though as the situations

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3 ANR Zogris, 2011–15, and ANR Regreyz, 2021–24, funded by the Agence Nationale de Recherche, France's National Research Agency.

they correspond to are diverse, they do not everywhere arise for the same reason.

Every discipline has its own specific concerns, and for the legal scholar that I am, coming to grips with the gray zone meant turning to this account of the idea by Azaïs, Dieuaide and Kesselman (2017):

> The idea of the gray zone of employment that we propose to discuss is intended to give a better account of actors' ambiguous positions, simultaneously engaged and not engaged in an employment relationship. It has three key aspects:
>
> - It directly relates changes in the employment relationship to the relationships of power, trust or influence between employers and others (government, business, civil society, etc.). Going beyond a narrow, strictly legal and thus binary conception of the position of employer, it allows us to take account of practices of indeterminate status, neither legal nor illegal, that arise from non-legal relationships or informal agreements. It reflects a *retreat or erosion of law*.
> - It expresses the weakening of the legal frameworks for the regulation of labor and the protection of workers whatever their "state of subordination" (Supiot 2000). Workers may be pseudo-employees, pseudo-self-employed, or employed but insecure. It reflects *a fall in the proportion of the working population covered by a contract of employment.*
> - Finally, it suggests that perhaps it is the inadequacies of national labor-market institutions and the lacunae resulting from them that underlie the emergence of what may prove to be a new regime of employment. In other words, the persistence and diversity of gray zones can as well be thought of as *the effect of a legal norm in want of or in the process of (re)constitution,* as of the workings of a system of hybrid regulation informed by the contradictory interests at play in the employment relationship.

While I agree with these authors on the way the interplay of interests they evoke has resulted in newly fluid configurations of power, I wish here to concentrate on the juridical aspects. A specifically legal reading of the above account notes two features of relevance:

1. *A weakening of the legal frameworks governing work and employment, accompanied by a fall in the proportion of the working population covered by a contract of employment,* meaning fewer protections offered to fewer workers and, more generally, a lessening of the efficacy of law.
2. *A legal norm in the process of (re)constitution* or *the workings of a system of hybrid regulation informed by the contradictory interests at play in the employment relationship*? The involvement of new actors such as digital platforms, consumer associations or non-worker cooperatives stands in constant tension with the traditional power relationships reflected in the institutionalized, tripartite relation between government, employers and unions.

The question to be answered here, then, is this: Are these features to be seen in recent developments in European labor law, and in the regulation of platform work more particularly? An analysis of the recent Platform Work Directive in terms of the legal gray areas it generates or allows does indeed reveal a weakening of the overall legal framework governing work.

European law itself is a recent creation. Established in 1957, the European Union and its institutions do not enjoy the same legitimacy as do national institutions, often the result of centuries of negotiation. European labor law gradually emerged in the 1970s with the adoption of directives and regulations by what was then the European Economic Community, with its six Member States—a top-down process initiated and executed at the supranational level, albeit in response to pressure on its institutions from employers'

organisations and/or trade unions. Considerable growth in the number of Member States and the increasing involvement of other actors has since led to a weakening of European social law. Gray areas have always existed, given the very nature of law, which is open to interpretation, but these developments have seen them proliferate. The problems of European labor law, and of the recent Platform Work Directive more specifically, offer very good illustrations of the way the margin of appreciation (the scope for varying interpretation) allowed to Member States generates legal gray areas.

Here, then, we shall apply the notion of the gray zone to the analysis of the Directive on Improving Working Conditions in Platform Work. A directive of the kind had been proposed some three years earlier (COM [2021] 762 final of 9.12.20),[4] and following lengthy consideration and negotiation in Council and Parliament (Battez, Elci, and Toutain 2024), the final version was eventually adopted on 23 October 2024 (Directive EU 2024/2831). The Directive provides for the determination of the employment status of persons engaged to work via digital platforms and establishes new rights, for both employees and self-employed workers, in respect of algorithmic management. It is innovative in its provision for traceability and transparency in the use of algorithms, in the obligation it imposes on platforms to declare work undertaken to the relevant national authorities and otherwise to make essential information available, and also, most notably, in its approach to the employment status of platform workers, where it provides for a presumption of employment. It opens, in fact, an entirely new field of social/digital law.

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4 I take the opportunity here to thank Niklas Selberg and Ann-Christine Hartzen of Lund University, who discussed the proposed text at a CEPAS-SOC webinar on January 27, 2022.

The Directive has, however, resulted in much uncertainty, as it leaves its concrete application for the most part to Member States and their courts. Here, we consider what the future may hold and venture a few predictions. The first section following this introduction offers an overall assessment of the Directive and identifies the legal difficulties that may arise in applying it. In this, we follow the account of the gray zone given by Azaïs, Dieuaide and Kesselman above, looking for ambiguities, unclarities and silences in the Directive that may represent legislative defect or even a frank disengagement of the law despite the EU's declared intent. In the second section, we look at the motivations behind the new directive, seeking to identify elements corresponding to the second of the two key features identified above and asking whether it represents the (re)constitution of a legal norm, or simply one more instance of "the working of a system of hybrid regulation informed by the contradictory interests at play in the employment relationship". Put another way, we ask whether the Directive puts into question the very idea of labor law.

I. The Directive Creates Gray Areas That Represent a Weakening of the Legal Framework

Law always creates gray areas, given the inevitable uncertainties accompanying the application of a norm to concrete situations. The mere fact that a law is new prompts doubts about what it will mean in practice. For legislation cannot help but leave a margin of appreciation to the judge whom Montesquieu called "the mouthpiece of the law". That said, some instances of legislation create more uncertainty than others. Can we identify any specific "legislative failings" (Kesselman 2022) in the Platform Work Directive? The account of the gray zone given above draws our attention to two aspects in particular: (A) the growth of ambiguous

employment corresponding to a reduction in the proportion of the workforce engaged in a standard employment relationship, and (B) the gray zone can be more generally understood, beyond the question of employment status, as representing an erosion of law. Both of these aspects are exemplified in the Directive, as we shall see.

A. Gray areas representing a reduction in the applicability of the contract of employment

If the gray zone is understood in terms of the non-applicability of the contract of employment, it can only signify, legally speaking, an expansion of self-employment. The Directive's introduction of a rebuttable presumption of employment was intended, in principle, to counter this (1), but closer analysis reveals in fact the unexpected possibility of growth in the proportion classified as self-employed (2).

1) A greater role for national courts with the introduction of a rebuttable presumption of employment

The most important feature of the Directive is its introduction of a presumption of employment. The European Commission declared that this was intended to flush out cases of what are sometimes called the "bogus self-employed" or "legally independent but economically dependent workers". Article 4.1 of the first version of the draft Directive, amended before adoption, provided that "The contractual relationship between a digital labour platform that controls . . . the performance of work and a person performing platform work through that platform shall be legally presumed to be an employment".

The draft shows that the Commission had decided to make employment the default. Given the binary distinction that generally prevails among the EU's Member States (only a few, Spain among them, allowing for a third, intermediary status), it wanted as many platform workers as possible to

be classified as employees. They would then benefit, under applicable national law, from more extensive rights than do the self-employed, notably in matters of employment law and social protection (Explanatory Memorandum, s. 6).

The choice of the three options put forward for consideration by the Commission (the presumption of employment, a third status, or the simple reversal of the burden of proof, i.e. shifting it onto the platform in proceedings brought by workers) had, however, ruled out from the start any more stringent provision. For the Commission could have envisaged the imposition of employee status by means of hard law, as exemplified, for instance, by the health and safety directives that impose clear obligations (e.g. the limitation of working time to 40 hours a week by the Working Time Directive (Directive 2003/88/CE). The Commission preferred, however, to leave Member States a greater margin of manoeuvre. The presumption of employment, the most protective of the three options proposed, was supported by the unions (SWD[2021] 143 final) and also by the European Parliament (European Parliament, 2019). The decision in favor of the rebuttable presumption already indicated a preference for a relatively uncoercive instrument that would leave much discretion to judges, states and even platforms, so favoring deinstitutionalization, yet the final version of the Directive adopted in October 2024 would be even less protective in its effects.

2) The possibility of an increase in the proportion of workers classified as self-employed despite the presumption of employment

The Commission provided in the first version of the Directive a list of criteria for assessing a platform's control of the performance of work, and thus the existence of an employment relationship:

> a. effectively determining, or setting upper limits for the level of remuneration;

b. requiring the person performing platform work to respect specific binding rules with regard to appearance, conduct towards the recipient of the service or performance of the work;
c. supervising the performance of work or verifying the quality of the results of the work including by electronic means;
d. effectively restricting the freedom, including through sanctions, to organise one's work, in particular the discretion to choose one's working hours or periods of absence, to accept or to refuse tasks or to use subcontractors or substitutes;
e. effectively restricting the possibility to build a client base or to perform work for any third party.

If two or more of these criteria were met, the platform would be legally presumed to be an employer, and the persons who did work through it would enjoy the employment and social rights attached to employee status. This also reversed the burden of proof.

In the final text, however, these criteria had disappeared, and two new Articles 4 and 5 left it to Member States to give effect to the presumption in practice. It was certainly maintained in principle, Art. 5, s. 1 providing that

> The contractual relationship between a digital labour platform and a person performing platform work through that platform shall be legally presumed to be an employment relationship where facts indicating direction and control, in accordance with national law, collective agreements or practice in force in the Member States and with consideration to the case-law of the Court of Justice, are found.

But it would be left to States and then judges to decide on the indicators of control and direction, the canonical criteria for the existence of an employment relation (Gamet 2021, 2022). Some have taken this as maintaining or even reinforcing the presumption (Marzo 2022), but most have seen in it a dilution of the obligation that could lead to

an increase in the proportion classified as self-employed as it is the State that will decide criteria and conditions and in doing so might make employee status more difficult to attain.

Furthermore, stepping back from close interpretation, we may also see the final version as acknowledging the erosion of law.

B. Gray Areas in the Directive as Acknowledgement of the Weakening of Law

Beyond the ambiguities related to the interpretation of the presumption of employment that now allow States more room to manoeuvre, this once very ambitious legislation can be understood as an acknowledgement of the weakening of the force of European law. Other gray areas attest to this: firstly, the Member State is free to decide how the directive is to be implemented (section B.1 below), and secondly, it is the platform that is made responsible for applying it (B.2). Scholarly interpretations do of course differ: some celebrate the creation of obligations on these actors; for others, these provisions can equally be interpreted as a sign of disengagement on the part of the EU, which avoided making hard law, preferring instead to make recommendations and leave key decisions to other actors.

1) The role of the State in deciding key issues, e.g. the promotion of collective bargaining

We have already seen how national governments were made the chief decision-makers regarding the implementation of the presumption of employment. The same key role for Member States is found again in Article 25 of the Directive, entitled "Promotion of collective bargaining in platform work", which provides that

> Member States shall, without prejudice to the autonomy of the social partners and taking into account the diversity of

> national practices, take adequate measures to promote the role of the social partners and encourage the exercise of the right to collective bargaining in platform work, including measures with regard to the determination of the correct employment status of platform workers and to facilitate the exercise of their rights related to algorithmic management.

This grants an important role to States while not giving workers a hard right to collective bargaining.

It should be noted that France fought in the negotiations to ensure that the presumption of employment and the possibility of the judicial reclassification of status that it entailed should not apply in circumstances where collective agreements were arrived at through employer-union negotiation. The so-called "French derogation" would have exempted that country from the presumption on the basis that it had already set up a public body—the *Autorité des relations sociales des plateformes d'emploi* (ARPE)—to govern industrial relations in platform work, charged with establishing national collective bargaining for the sector under government auspices. An endeavor that for the moment has had little success in winning the confidence of those working through ride-hailing and delivery platforms (Marzo 2024). This invocation of collective bargaining as an excuse to avoid the legislative presumption and the ensuing dilution of the text illustrates how the significant role granted to Member States could undermine the legal force of the Directive.

2) The role of platforms in deciding key issues, e.g. health and safety at work

The second indication of the weakening of law to be found in the draft Directive is the role given to platforms themselves. For example, Recital 23 of the first draft of the Directive encouraged Member States to improve "the working conditions of genuine self-employed persons performing platform work". This was still the case in its penultimate

version, where at the end of Recital 25 platforms were encouraged to themselves take responsibility for the social protection of self-employed workers:

> Where a digital labour platform decides—on a purely voluntary basis or in agreement with the persons concerned—to pay for social protection, accident insurance or other forms of insurance, training measures or similar benefits to self-employed persons working through that platform, those benefits as such should not be regarded as determining elements indicating the existence of an employment relationship.

The Directive as finally adopted states that

> Member States should therefore establish appropriate measures in order to ensure that, under this Directive, persons performing platform work working through intermediaries enjoy the same level of protection as persons performing platform work who have a direct contractual relationship with the digital labour platform. Member States should establish appropriate mechanisms, including, where appropriate, through joint and several liability systems.

This can be understood as encouraging, though not obliging, platforms to protect their self-employed workers, but it also reflects a disengagement on the part of Member States, and even of the EU itself, which abstained from making hard law, preferring rather to enshrine in the Directive the recommendations ultimately orchestrated by the platforms themselves and to leave them free to decide on their implementation. The great leeway here allowed to the platforms accords with a logic of social deregulation (Froissart and Huang 2023). This amounts to legislative defect because, on the one hand, existing employment legislation is inapplicable, and on the other the lack of applicable legislation makes it impossible to apply the law (Dieuaide and Azaïs 2020). The provision represents an erosion of law that recalls the approach of France's *Loi d'orientation des mobilités*

(Loi 2019-1428 of 24 December 2019) and the so-called El Khomri employment legislation of 2016 (Loi 2016-1088 of 8 August 2016; see Daugareilh, Degryse, and Pochet 2019, among others). It reflects, without a doubt, the opposition of Member States, France chief among them, to the Commission's earlier proposal. Here the gray area arises from the ambiguities of a weakened law.

We then face the question of whether we are witnessing a shift in the basis of law, for the existence of legal gray areas can also be understood as the effect of a system in movement. Does the Directive reflect a dynamic of this kind?

II. The Directive as Creating a Gray Area that Reflects a Legal Norm in the Process of (Re)Constitution

As noted earlier, law always creates gray areas, given the inevitable uncertainties regarding the application of norms, but here we need to look at the intentions of the European Commission, explicitly declared or implicit in its actions. Behind its intention to legislate, do we see "the workings of a system of hybrid regulation informed by the contradictory interests at play in the employment relationship", or rather the process of (re)constitution of a legal norm? The Directive in fact represents new law, bearing on a new field, intended to frame and support a changing society. Behind it, one can make out two goals: that the new law should cover persons as such, not just employees, as had formerly been the case (A); and to legislate a multiplicity of specific rights to make up for the absence of any recognized status bringing with it codified rights to protection (B).

A. The Directive is not employment legislation: it does not cover employees alone

The Directive creates a new gray area in covering both employees and the self-employed, so effecting a reconfig-

uration of European social law (1), and also in covering persons who are not necessarily workers at all (2), thereby putting into question the very idea of labor law.

1) Employed and self-employed

Workers are the central concern of the Directive, as is clear from its name, being a directive "on improving working conditions in platform work", but it is difficult to know who exactly these are. The definitions provided in Article 2 indicate the need to distinguish between a "person performing platform work", meaning "an individual performing platform work, irrespective of the nature of the contractual relationship or the designation of that relationship by the parties involved" (Art. 2.1(c)), and a "platform worker", meaning "any person performing platform work who has or is deemed to have an employment contract or an employment relationship as defined by the law, collective agreements or practice in force in the Member States with consideration to the case-law of the Court of Justice" (Art. 2.1(d)). Is it that the latter is an employee under EU law, but the former not necessarily?

The Directive is intended to apply to persons other than employees, and the self-employed are expressly mentioned. Yet it soon becomes clear that the Directive goes even further in concerning itself with all persons.

2) Not employment alone

The draft Directive sought to establish minimal rights "that apply to every person performing platform work in the Union" even if they "do not have an employment contract or employment relationship".[5] This provision is interesting

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5 Art. 1, s. 2 and Art. 10 of the first version of the draft Directive respectively. The text of Art. 10 of the draft does not appear in the final Directive as adopted, but Art. 1 and the concept of rights afforded to all workers whatever their status remains.

because it clearly highlights the difficulty of identifying workers in the digital sphere, a difficulty that means it is easier to create personal rights, even fundamental personal rights, than to provide for workers' rights. It also re-enacts, in so far as they apply to algorithmic management, the already existing protections afforded to natural persons with regard to the processing of personal data (Regulation (EU) 2016/679).

Taken as a whole, there is an attempt here to resolve the legal category of the worker—the subject of labor law—into that of the person. And the workers' rights that are identified recall the rights of the natural person in the General Data Protection Regulation (Regulation (EU) 2016/679), suggesting the emergence of a category of digital fundamental rights. The rights here granted to all join a corpus of so-called digital rights that has gradually expanded over recent years, among which we can identify a number of newly-minted fundamental rights intended to respond to the digitalization of actors' dealings with each other and indeed of society more generally.

These new rights show us the Commission feeling its way forward in the areas concerned. The gray area is in that respect an effect of change, a change in the subject of rights, the worker no longer being protected as worker but as a human being. But if labor law is no longer concerned with the worker, is it still even labor law? Here emerges another gray area, with labor law itself being put into question. And here again, it remains to be seen whether the new mode of protection will prove more effective.

B. A new mode of regulation of work, or an attempt to protect newly unprotected workers?

One gray area, in the sense of uncertainty induced by a major legal upheaval, arises from the endeavor to regulate the digital sphere by law. Here this involves new rights granted to all workers (1). There is uncertainty because

much in this field remains to be decided, and there is a sense that European lawmakers are still finding their feet. A new dynamic is emerging (2), but it remains to be seen whether it will lead to better protection of platform workers.

1) A plethora of digital rights

We shall not deal here with all the rights granted to workers by the Directive, but consider three that already appeared in the first version, the three following being granted to all workers.

Firstly, Article 6 imposed on digital platforms a duty to provide their workers with information about automated monitoring and decision-making systems. One recognizes here the right to information provided by Article 22 of the GDPR, but specified in such a way as to better meet the needs of workers.

Secondly, one finds rules requiring human monitoring of automated systems and human review of significant decisions. Articles 7 and 8 both imposed new obligations on Member States, who were to ensure platforms' compliance. These measures might prove difficult to implement.

Thirdly and lastly, as regards the right to redress, Article 8 provided that "Member States shall ensure that platform workers have the right to obtain an explanation from the digital labour platform for any decision taken or supported by an automated decision-making system that significantly affects the platform worker's working conditions". To this was added provision for "effective and impartial dispute resolution and a right to redress" (Article 13). That right was underpinned by procedural guarantees, among them duties on platforms to provide means for workers to communicate securely with each other and with their representatives (Article 15), and on Member States to ensure disclosure of evidence in proceedings (Article 21) and protection against adverse treatment or consequences (Article 17) or dismissal (Article 18). The supervisory authorities monitoring the

application of the GDPR in any State were made responsible for monitoring the application of the Platform Work Directive itself in matters of data protection. One again recognizes the method introduced by Articles 77 et seq. of the GDPR, which here receive a formulation more explicitly tailored to workers' needs.

These rights were further developed and elaborated upon in the final version of the Directive, but one finds there the same intention to frame and support a new society whose functioning depends on digital systems. And these rights are accorded to all, rather than to employees alone.

Beyond the presumption of employment and the creation of rights against the algorithm, the Directive seeks to (re)configure labor law for platform workers. This is why different provisions of existing employment law are cited in the text and sometimes extended to cover self-employed workers. This being so, it is worth undertaking a detailed reading of the Directive and unravelling its different elements to see how different categories of workers are protected. For instance, the rights to social security will be given to employees only and thus limited to those who have benefited from the application of the presumption.

The Directive's creation of a multiplicity of rights can perhaps be explained by the weakening of the presumption of employment that was to bring to platform workers the protections afforded to employees but in its weakened form does not do so. What we see instead is a gray area of new rights that have yet to be properly defined.

2) Political assessment

Analysis of the Directive has revealed a presumption of employment that is simultaneously put into question and, alongside this, the introduction of algorithmic and other rights. While we see the creation of gray areas in the sense of areas of legal uncertainty, we have also identified a trend toward the rewriting of labor law. We do not know,

however, the direction the law will take, nor whether the adoption of the Directive and its transposition into national legislation will result in better protection for workers.

A number of cases in Member States and elsewhere have shown that the reclassification of employment status can be a thorny issue (see, for example, Dirringer 2021). One thinks of the recent Deliveroo cases in Belgium (Cloot 2021; "Tribunal du travail Bruxelles–Statut des coursiers Deliveroo"; Lievens and Surgeloose 2024), of a number of recent cases elsewhere,[6] or again of the status of "worker" in the United Kingdom, which is not the same as the status of employee.[7]

Taken as a whole, the Directive revises European social law to create a social law for the digital age. This has brought with it a new way of understanding the rights of platform workers. Does this herald a radical transformation in labor law? A look at the history of the construction of the European Union and of social Europe in particular suggests that it may well do. Social Europe grew rapidly in scope from its beginnings in the Treaty of Rome and through the 1970s. Its development then slowed with the integration of the new, East European Member States and the adoption of the intergovernmental (rather than supranational) policy-making exemplified by the Open Method of Coordination. Social Europe is now again being rethought for the modern, digital world. Recent initiatives, sometimes very little

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6 Judgment of the Spanish Supreme Court STS 805/2020 of 25 September 2020 available online (in Spanish) at https://tinyurl.com/p6w3d228. See too Adrián Todolí Signes, "Notes on the Spanish Supreme Court ruling that considers riders to be employees", *Comparative Labor Law and Policy Journal,* 2020, Dispatch No. 30 – Spain. For a comparison of the Spanish judgement against Glovo and the decisions of France's Cour de Cassation, see M.-A. Valéry, "Le chauffeur Uber et le coursier Glovo", *Revue du droit de travail*, 2021, p. 231.

7 It should be noted, of course, that since Brexit the UK no longer falls within the jurisdiction of the European Union. For a discussion of the case, in French, see Marzo (2021), and for an authoritative briefing in English https://commonslibrary.parliament.uk/uber-at-the-supreme-court-who-is-a-worker.

coercive in character, such as the European Pillar of Social Rights Action Plan or the new guidelines on collective bargaining for the self-employed nonetheless evidence a new trend, and the Platform Work Directive accords with this. It is essential to ensure that the new law that is emerging retains the perennial goal of employment law, which is the protection of the worker, and that European labor law, with its concern for workers as a class, is not resolved into a multiplicity of individual rights, however fundamental. It is, as yet, too early to tell whether the Platform Work Directive will indeed bring about an improvement in the conditions of platform workers.

Conclusion

To conclude, this examination of the presumption of employment and of the rights accorded to platform workers under the new Directive shows what the notion of the gray zone can contribute to the analysis of changes in employment standards and other phenomena pertaining to work and employment. Bringing the heuristics and epistemics of gray zone theory to bear on these matters reveals 1) the limits to the applicability of law (for Donna Kesselman, "[the notion of] the gray zone allows the objectivation of the space that lies 'between the law and the realities it is supposed to regulate'") and 2) the need for law's further development. We are witnessing a reconfiguration of work and employment, with the appearance of new stakeholders mobilizing new resources in processes tending to varying degrees of institutionalization. The existence of such processes, however, should not lead to neglect of the role of law as the primary guarantor of rights and the ultimate protection of the worker.

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5

Freeing Work of Domination

The Appropriation of Time and Space in Gray Zones Between Employment and Self-Employment in France

PATRICK CINGOLANI[1]

Abstract

This chapter questions the conventional binary of employment vs. self-employment in exploring the idea of autonomy, the self-government involved in task-oriented as opposed to clock-oriented activity—a distinction important to E. P. Thompson. Though a form of agency under constraint, it is instanced in practices that are not subordinated to the imperatives of capitalist productivity or other heteronomous ends.

Both employment and self-employment have regularly involved practices of autonomy: in the one, in efforts to avoid hierarchical subjection; in the other, in the pursuit of margins of freedom in the labor market, often in order to address concerns about meaning and purpose. The gray zone is not limited to the development of bogus self-employment (Supiot); it also arises from the quest for

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autonomy within the asymmetry of capitalist relations. The aspiration to independence cannot be understood only as acquiescence to neoliberal ideology; it also has to be seen as a quest for autonomy expressed in a variety of practices that aim to circumvent the asymmetry between capital and labor and so make it possible to live work differently.

While the critique of bogus self-employment and the fight for the protections of formal employment are important, so are the many ways in which workers today seek to make work their own. The chapter thus concludes by looking at practices associated with non-subordination (multiactivity, self-organization, cooperatives, etc.). Might a struggle to extend social protection to self-employment (as in French arrangements for intermittent work) and to facilitate the alternation of periods of subordination and independence yet see the development of a labor law not predicated on the subordination of employment?

Keywords: Worker autonomy; self-employment; subordination; A. Supiot; task-orientation; teleworking; E.P. Thompson.

In this chapter, the metaphor of the gray zone is used not so much to capture recent shifts across the world of work as to illuminate the relationship between subordination and independence.[2] The deadlock that follows from treating these as contraries I seek to escape in employing the category of *autonomy* and so moving beyond "the binary logic that defines employment and independence as mutually exclusive" (Corsani 2020). The observed clouding of the

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[2] We deal below with how these two words—subordination and independence—are used here, discussing their meaning in law. "Autonomy", on the other hand, is taken in a broader, more sociological sense than "independence", associated not so much with effective freedom of decision as with the material conditions for effectively avoiding subordination, i.e. the effective *exercise of disciplinary power or control* over an individual or group.

distinction between independence and subordination is not the result of legal developments alone but the outcome of practices, formal or informal, in work and in non-work life. Law is subsequent to the facts, and fact-finding falls within the realm of sociology. Sociological research has long since shown how the use of space brings about appropriation (Lefebvre 1991, 165–68; Lefebvre 2001, 198), and how practices and tactics that reflect workers' autonomy can result in the reappropriation, to a degree, of the time and space of subordination (Certeau 1980). Workers have often found ways of avoiding managerial control and escaping the time constraints of employment by reshaping what Rancière calls the "distribution of the sensible";[3] such stratagems are described in historical work on the nineteenth century (Thompson 1966; Rancière 1981; Gauny and Rancière 1985) and in more recent sociological studies of precarious labor (Cingolani 1986) and of work in the culture industries (Cingolani 2014; McRobbie 2015). As Thompson and Rancière both note, workers' struggles for autonomy and for the emancipation that is its most complete expression reflect a desire for an experience of work freed of domination. To restrict oneself to matters of law alone, however, is to presuppose workers' acceptance of the official rules of a workplace that is intrinsically conflictual and to ignore the existence of practices foreign to the normative framework of employment. Changes have come, too, from movement along lines of flight (Deleuze 2002) and the impact of external factors; the situation we find ourselves in with the climate crisis only highlights the importance of what is happening at the margins of industrial society and its hegemonic model. The recent "Great Resignation" (Klotz 2021; Cohen 2021) in the United States, and the particular mode

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3 By this is meant the framework of rules that governs what can be seen or heard (and what not) and thus what can be said, made or done. On this see the definitions "Distribution of the sensible" and "Police or police order" in Rancière 2004 (pp. 89 and 93 respectively), a useful introduction to that author's work.

of expression it found in France, with young engineering graduates questioning the environmentally destructive activities they had been trained for (Moulier-Boutang 2023), demonstrate the relationship between attitudes to work and wider social phenomena. Alternative forms of life and work that circumvent the constraints of employment are examples of a "deregulation from below" of the norms of work.

In an influential article on labor law in France, the gray zone was described as a space between employment and self-employment (Supiot 2000). While the contract of employment entails subordination, reflecting "the power it confers on one person over another" (Supiot 2007, 110), self-employed workers, in principle, escape this subordination, because they make their own decisions regarding how they work, who they work for, and how much they will charge. The social reality behind the concept of self-employment is however so diverse and has witnessed so many changes, notably with the introduction in France, in 2008, of a new legal framework (*auto-entrepreneuriat*), that the main effect of its growth has been to complicate and obscure the question of power. At the same time, in abandoning discipline for incentives, post-Fordist employment practices have reduced the weight of direct control, leaving more scope for workers' initiative. On the one hand, independence has given way to a subordination that takes various forms as the self-employed find themselves caught up in an asymmetry of power. Such figures as farmers, designers and delivery workers are too weak, as individuals, to resist the pressure of big corporations, given the informational and financial asymmetry between the parties, and their notional independence loses all meaning. On the other, employers now take advantage of subordinated workers' desire for initiative and self-determination, harnessing workers' creative energy to their own ends through new ways of controlling and appropriating labor. More and more employees have to act as if self-employed while trapped into acting to serve the

employers' goals alone through management by objectives. Workers' "freedom" is then reduced to taking responsibility for carrying out a task or completing a mission, however long that may take. Caught within the toils of subordination, any "autonomy" is only apparent. In both employment and self-employment, the forms of autonomy have been undermined by a de facto or de jure asymmetry, leaving only a bogus autonomy. "Being an employee is no longer about giving up a certain amount of one's time and mechanically obeying orders in exchange for remuneration, but about giving 'the best of oneself' in order to maximize income. In other words, behaving as if one were self-employed. So it is that one arrives at the fiction of the employee employed on his own account" (Supiot 2000, 134).

This notion of fiction stands at the heart of Supiot's analysis of the mechanisms leading to changes in work and in the forms taken by subordination over recent decades. Yet is it adequate? While there is indeed legal fiction, notably fictions of self-employment, this cannot to be read as purely and simply a means to exploitation. For what appears as a new form of social relationship also represents a different way of living the sensual, corporeal realities of work, and a psychic escape, however slight, from subordination. This is what is at issue not just in the alternative practices evoked above but in any attempt to elude or to modify the traditional employment relationship. For cycle couriers, platform work represents a chance to escape managerial control and discipline. Echoing other studies conducted in France, Callum Cant (2019, 84), who cannot be said to underplay the power of the platforms, notes that "You get to be outside all day, constantly moving about, and never have a manager calling you in to cover a closing shift on a few hours' notice. There was a sense of autonomy and independence to the job that wasn't entirely illusory." Temporal flexibility is no empty word for ride-hail drivers, however economically dependent they may be. Given the lack of assigned schedules, workers can make themselves

available as they choose, without having to ask management for permission to take breaks for personal or family commitments (Benvegnù and Bernard 2023). Although the situation is changing under the influence of new technologies, the logistics and transport sector has long offered this kind of relative independence to low-skilled workers, for whom self-employment can seem an alternative to employment under working conditions degraded by the demands of capital and completely at the beck and call of managers (Levy 2022). It is true that capital can and does work passenger drivers and delivery drivers to exhaustion, reminiscent in some ways of the old "sweating system". On the streets of Paris, couriers sub-contract their food delivery accounts to migrants: "The exploitation of the labourer by capital is here effected through the exploitation of the labourer by the labourer" (Marx 1991, 695). Many couriers suffer from poor pay, accidents and injuries. But what do the workers themselves think about these varied circumstances and the kinds of independence they offer?

One is often struck by sociologists' failure to acknowledge the many reasons for wanting to elude or escape subordination through self-employment that ultimately have less to do with the fantasy of entrepreneurship of the self or individualist forms of self-valuation and self-promotion than with the desire to explore other ways of relating to oneself, to others and to work. The self-employment in retail or craft associated with certain minorities is not so much concerned with the idea of entrepreneurship as with avoiding the discrimination and stigma associated with factory work, as Madoui (2012) reports of the Algerian immigration in France, and perhaps also avoiding its discipline. We need then to think of self-employment in terms of the autonomy it offers. Both employment and self-employment entail negotiating the asymmetry of contractual relations that subordinate in different ways, in the face of the particular mechanisms of control and subjection from which a

degree of autonomy is to be won. Seen in this way, the gray zone shifts: it is no longer a conceptual gray area between employment and self-employment, as Supiot would have it, but represents the field of tensions around workers' aspiration to autonomy, whatever their employment status.

Here, then, we shall be looking at the question of autonomy in both employment and self-employment, identifying behaviors and practices that have in fact to be understood as critiques of subordination *in actu*. After revisiting the experience of autonomy as presented by E. P. Thompson in some of his most important work (1), we consider the tangled relations between subordination and independence and the diverse combinations in which these have been put to use by employers, as analyzed notably by Supiot (2). Then, returning to my previous work, and drawing on recent research on teleworking,[4] I will try and show how autonomy is an operative concept necessary to any understanding of the contradictions associated with experience of subordination in both employment and self-employment.

A Return to Independence

In his description of the forms of life of seventeenth-century rural weavers in *Time, Work-Discipline and Industrial Capitalism*, E. P. Thompson gives an idea of what non-subordinate work might look like (Thompson 1967). What

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4 The research focuses on teleworking in France, known there as *télétravail*. In the French context, *télétravail* means remote working using ICTs by *employees*, i.e. by subordinate and not independent workers, and this is the sense in which the word "teleworking" will be used here. This research was carried out in collaboration with A. Corsani, D. Farinella and C. Siino. Here, though, I draw on some of our findings from a personal perspective, highlighting the potential for autonomy revealed in teleworking relationships and practices.

was distinctive about this way of living and working was not so much an absence of heteronomy—workers were still subject to laws, to social rules, and to the constraints inherent to climate, seasonality, cultivation and animal husbandry—but rather the way the temporal constraints involved were lived without counting the minutes or hours, without *working by the clock*. Work was characterized by a certain accord of practices with their environments, without the artificializing and expropriative techniques introduced by capitalism. The work of weaving was not tied to fixed hours, nor was it incompatible with also attending to other matters: watching a child at play or in the cradle, chatting with a neighbor while working, taking a break from work to check on an animal, and so on. What is more, in the farming context, should it be necessary to work nights to harvest grain before a storm, should the birth of a lamb present particular problems, should milking be necessary morning and night, these all took their place in "natural" patterns of work whose seemingly fragmented successions of tasks reflected a life of multiple activities. In distinguishing in his discussion between "task-oriented time" and "clock time", Thompson sketches the features of what can only be called an independent worker, not yet subject to the quantification represented by clock time and the rationalization of work and the time of work that come with it. He portrays a familiar intercourse with social and natural environments, while the rationalization of production created, in the industrial towns, a worker torn from every familiar context, a worker interchangeable with every other. Industry is subject to the abstract, objective, countable temporality of the urban environment, in which human beings come to be mere "numbers in a calculation" (Simmel 2021). The regime of wage employment reaps the fruits of a rationalization and a standardization of bodies borrowed from the colonial regime and the exploitation of enslaved populations, torn from their native context and assigned to work stripped of

all everyday meaning[5] (Tsing 2015, 40, quoting Mintz 1985, 47). This is why the "abolition of the wages system" (Marx 1969) was long a dream in Europe, though one that faded with the relative neutralization of its socio-economic violence. The autonomy the artisan or farmer-artisan enjoyed within their distinctive temporalities was admittedly not sheltered from capitalist developments, being subject to the market and the laws of supply and demand. In *The Making of the English Working Class*, Thompson describes the decline and pauperization of the nineteenth-century weavers subject to the competition of manufacturing industry and faced with the enclosure of the commons (Thompson 1966). Factory work and the mechanical loom replaced the weavers' handlooms, leaving them bled dry and demeaned in their dignity as independent workers. Extraordinary reductions in prices and wages and the destruction of customary practices and union protections eventually turned the weavers into "proletarian outworkers," a cheap auxiliary labor force for the factories (Thompson 1966, 271).

Rejecting any notion that workers are automatically united into a single revolutionary mass by the effects of large-scale industry (Marx 1848), I would argue that contemporary labor relations are in fact pervaded by the issue of *individual autonomy*, raising questions about how we think of subordination. The unity of the working class and the motifs of its struggle for liberation are not the effects of any economic determinism but the outcome of political action. What Thompson (1966, 1988) did, precisely, was to show that workers' political activity was the key to class formation. Artisans—self-employed workers—were not a socially or intellectually backward class but, on the contrary, sometimes heroic agents of democratic struggle, champions of equality and of social and political rights in the face of the

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5 Everyday in the sense of Illich's "vernacular", pertaining to "things that are homemade, homespun, home-grown, not destined for the marketplace, but that are for home use only" (Illich 1982, 45).

destructive dynamics of capitalism. Despite the tendency to devalue autonomy as a category complicit with capital, I see it as a crucial, motivating issue for both the employed and the self-employed. My concern here, in fact, is not with the fact of exploitation but the forms of life and of resistance that come with it. These matters are complex, however, for things are not as clear as they were in the past. Not only do independence and subordination wear new faces, but workers' aspiration to independence and creativity has often found self-contradictory expression, being turned against itself by contemporary management techniques.

The Twentieth Century and the Undermining of the Distinction Between Subordination and Independence

In his work on the legal subordination of the worker in France, Supiot (2000; 2015) gives numerous examples of employment arrangements that exploit the ambivalence of worker autonomy to perpetuate subordination or to so qualify a largely fictive independence as to institute precariousness or de facto economic dependence. On the one hand, the requirement for personal engagement in service occupations and the ever-increasing need for employees to take the initiative, to respond to changing circumstances, to innovate or to create, entails arrangements that combine independence with subordination (Supiot 2000). As Supiot explains, it is a matter of returning to workers the autonomy that allows them to deploy their talents, while also safeguarding the essential, that is, the employer's control over the fruits of their work. Employees then find themselves under obligation in terms of result rather than means. As always, it is a question of employers managing the risk inherent in the employment contract, not so much in terms of controlling and standardizing working practices as of controlling

the person so that they "give of their best". On the other hand, different forms of bogus self-employment continue to multiply, spurred to a large extent by the outsourcing of the workforce. Starting in the 1960s, this process for long turned on the introduction of non-standard and temporary employment (Cingolani 2023), but recent years have seen self-employment increasingly exploited to the same end in a number of European countries, digital platforms playing a notably significant role in this. For them, despite multiple indicators of subordination, self-employment seems to have become the default status: delivery drivers, ride-hailing or "ride-sharing" drivers and click workers are registering as self-employed on a massive scale.

The idea that ostensibly lies behind the technology, responsible for the radical misunderstanding of the real character of the relationships involved, is that of *sharing* with its connotations of good will (Sundararajan 2016; Scholz 2016). This notion of giving a hand, of helping each other out, has obscured the reality of rules and controls. The incorporeal, "wireless" character of today's information and communications technologies has likewise fostered the belief that the worker is not bound or subordinated, even as the algorithm and the GPS together constitute a panopticon such as Bentham could never even have imagined (Foucault 1975). It is the pretense of *sharing* that maintains the illusion of independence and the denial of subordination—a denial that generally prevails among consumers/clients and even among the "partners" who do the work or provide the service, whether it is an apartment, a ride, or farm work in exchange for room and board that is in question. All are users of the platform and, as they are doing each other a service, the commercial relationship entailed seems far removed from subordination. That is, to this day, the argument raised by Uber's lawyers in cases about the employment status of their drivers, in response to evidence of the classic indicators of subordination. Uber is not a transport company but a technology company that rents the use of its

software to drivers. "Fundamentally, the commercial relationship between these drivers and transportation providers and Uber is one where they are our customer, where we license to them our software, and we receive a fee for doing that" (Rosenblat 2018).

This kind of reading, which pairs denial of the subordination of the bogus self-employed with the fictional portrayal of the employee as independent, perfectly illustrates the complex and even perverse way in which subordination and independence come to collide, overlap and interpenetrate. The question, though, is what the workers might be getting out of it. Specialists in employment law like Alain Supiot are less concerned with the worker's subjective experience than with the formal, objective character of contractual relations. Yet this leaves something out: what the worker finds, invents, feels or imagines in that social relationship. Analysis of the socio-economic constraints that prompt workers' acceptance of precarious employment (e.g., in platform work), or their willingness to invest themselves in their work, fails to take into account how much workers appreciate autonomy, the satisfactions they find in it. The legal relationship and the indicators of power to control that are at issue in court do not account for the entirety of a lived experience that also includes the effective margin of freedom allowed by the independence accorded. There can be no question of denying the reality of asymmetry and domination, but I want to insist here, nonetheless, on what in the artifice of self-employment itself is the sign of another relation, the trace of a different way of living the relationship to work. To work *as if* free is not simply to be hoodwinked by management; it also reflects a real dissatisfaction with work as traditionally understood and an implicit critique of subordination, as I earlier sought to show in my *Révolution précaire* (Cingolani 2014). Autonomy at work is a way of managing the relationship of subordination by living it differently.

Teleworking and Autonomy

To investigate what might be at issue in this imbrication of subordination and independence, workers' relationship to teleworking seemed to offer a promising terrain. In teleworking, and very notably at the time of what we might call its accidental breakthrough with the Covid pandemic, autonomy is directly tied to employment with no question of the independence canonically associated with self-employment.[6] The arrangements made for working from home, covering a few days a week or even weeks on end, have de facto established a relationship of autonomy within subordination that is both distinctive and complex. Like the other hybrid forms evoked above (independence in subordination in employment, bogus self-employment) teleworking is fraught with ambiguities, but, more importantly, it represents the beginnings of an as yet incomplete historical turn whose outcome will depend on future developments in managerial practice. In fact, there are two main options: either a return to previous forms of organization using company premises, or an amplification of the digital presence in the home and the penetration of control into the domestic sphere. Today, human resources managers and researchers are increasingly talking about a fall in productivity and high costs of coordination, and are suggesting bringing staff back . . . to the office! (*Economist*, July 2023).

In France, teleworking was abruptly introduced in the context of the pandemic. After the first two lockdowns of 2020, however, some managers began to see it as a very promising tool or strategy in its own right, prompting a more systematic approach. Since then, it has become ever

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6 In France, as noted above, *teleworking* is associated with employment, and *travail à distance* (remote work) with self-employment. As we shall see, it is within the relationship of subordination entailed by employment, and to some extent by taking advantage of it in the context of working from home, that these employees win varying kinds and degrees of autonomy.

more prevalent, widespread, indeed, even if mostly restricted to managers and higher occupational categories, while France remains one of the European countries with the lowest numbers of teleworkers, fewer than Germany, Italy, Britain or Spain (Aksoy et al. 2023). Whatever might be its future, it is worth investigating as it presently exists for the important light it sheds on how—in the contingent context of the pandemic—*a practice of independence within subordination* emerged, and what this has meant for employees. While some insist on the damaging effects of remote work on the possibilities for socializing and consequently on the conditions of union mobilization, and distance from company premises does indeed have consequences in terms of social isolation that are often not compensated for by relations with family or neighbors, workers' relatively strong and widespread support for teleworking testifies to the positives they find in it: the possibility of new autonomies within subordination, autonomies reflected in the diversification of work environments and working habits found in practice.

One of the appealing aspects of teleworking is that it allows a certain latitude in the organization of work and introduces new usages of both domestic and working space. It brings about, in different ways in different circumstances, a pluralization of space, and with that a change in the subjective meaning of work thanks to the change of environment. Teleworkers report using a variety of spaces for work: living room, bedroom, kitchen, garden, bar, garage, and attic conversion among others. These arrangements could sometimes be the result of objective constraints: during the pandemic, for example, some people worked in their bedrooms or kitchens because their apartments didn't allow for a dedicated office. They might also have consequences for working conditions: the lack of ergonomically adapted furniture, of an adequately large screen. Yet the fact remains that this diversification of the working environment in many ways reflects a becoming-independent of subordinate work, and

is one aspect of teleworking's appeal. With it come relatively minor changes that nonetheless considerably affect the experience of work. Working in pajamas, surrounding oneself with candles or incense, listening to one's favorite music, hearing the background chatter of the café, inhabiting a familiar space: all these change the character of work as everyday experience. The circumstances associated with work also become different and more various: putting on a washing machine, watching a child, listening out for an elderly mother's movements upstairs, supervising preparations for lunch, taking time out to call a friend, catching up with administrative paperwork, admiring a flower in the garden, etc. The new spatial freedom can even allow for complete changes of scenery, working the last day of the week at one's parents' or at a friend's, for example, or taking one's work to a seaside resort; it can enable further steps to optimize work and leisure time and the time spent in traveling; and it might likewise permit a long hoped-for move out of the city. For the new relationship to possibilities it opens up can nourish the imagination, prompting thoughts of living and working elsewhere, perhaps for a better life in a rural or peri-urban setting, in a different economic context from that of the big city, with lower rents and more space for one's money, a more engaged relationship with the local. One could say that with the introduction of teleworking, subordination finds itself corroded by an autonomy that draws its resources from the familiar and the everyday.

It is by such practices, which offer a distant echo of the mode of life of the farmer artisans of the seventeenth and eighteenth centuries, that we may measure the re-appropriation of work that is occurring. Though still an instance of the "subordinate work" in which employees are accorded no freedom in their execution of the contract (Supiot 2019)—teleworking leads willy-nilly to an appropriation in practice, to the extent allowed, de facto, by the new arrangements. It is as though the introduction of teleworking, repeatedly delayed, since its promotion by French

prime minister Raymond Barre in the 1970s, by the employers who held it in suspicion on account of the opportunities it might offer for abuse, has finally begun to live up to its transgressive potential. For Lefebvre, appropriation is not a relationship of possession but a relationship of use, a way of inhabiting time and space, "the process whereby individuals or groups make something external to them their own" (Lefebvre 2001). Workers have always had a degree of control over their working space and conditions of work, and the social event that was the inception of teleworking with Covid, seized on as an opportunity, has led to a major reconfiguration, bringing about a qualitative leap in affected employees' relationship to autonomy. In doing their work in their own homes, they have made a breach in the fabric of subordination and turned that work, to a degree, to their own ends. Teleworking does away with certain means of coercion and liberates certain possibilities. Alternation between different spheres of life, the possibility of escaping the specter of control—these transform the experience of work, which had before essentially belonged to capital.

The freedom in the use of space sustained by employees' everyday relationship to the home also has effects on time. Lefebvre distinguished, among urban times, between free time, time under compulsion (corresponding to working time), and time under constraint (under which he counts time spent in travel and in dealing with administrative formalities) (Lefebvre 2001). Under teleworking, the employee not only limits travel time but also contrives ways to reduce the time under constraint devoted to domestic chores. This is less a matter of gaining time, in the sense of maximizing time saved, than of freeing up time by moving activities from one temporal register to another. One of our respondents noted, as did others, that teleworking frees up time at the weekend by shifting time under constraint: "Teleworking lets you do your grocery shopping during the day, when there's a lull, or at the end of the morning. You do less shopping at the weekend, you do more shopping during

the working week." Another highlights the greater leeway that teleworking affords for the organization of private life. Others schedule their activities in such a way as to allow them their distinctive temporalities. What previously had to be squeezed into the complexity and simultaneity of hurried multi-activity, such as doing one's shopping on the way back from the office, might now be carried out in its own proper, recreative time. At certain times, work itself in this way takes on a distinctive quality through its relationship to a particular space.

Teleworking at home can offer employees a way of working more intensively, by separating them from colleagues and their unwelcome demands, and might we say from an office atmosphere sometimes ruined by the capitalist organization of work? Employees' real assent to work changes the subjective experience of the constraints of employment, reaffirming their decision-making power, their freedom to determine their rhythm of work. One might, for example, work harder now so as to be able to slack or take time off later in the day or indeed the week. Conversely, the escape that teleworking can offer from the customary prioritization of work over private life, with some arrangements, for example, making it possible to attend a medical appointment without having to seek the employer's permission, frees time from the petty servitudes of the employment routine. This increases the margin of freedom in two ways: by distancing workers from the asymmetrical structure of the managerial order and in instituting an organization of time that draws its legitimacy from the worker him- or herself. Finally, the ability to modify arrangements for work and the quest for ergonomic efficiency in the achievement of a work goal paradoxically represent, in what could be seen as assent to subordination, an affirmation of autonomy. Employees can use time to change spaces (e.g. going to work in the country at the end of the week, taking the train on a Thursday) or use space to change time, given that, as we have seen, the relationship

to space defines distinctive temporalities. Teleworking thus offers a potential for freedom that makes it significantly different from regular work in the office.

Issues of Telework and Issues of Autonomy

Taking its own distinctive path with all its twists and turns, sociology has ended up with its own version of the Marxist commonplace about waged work, endorsing the schematic representation of a capitalism that sets off the process of workers' emancipation through the impact of large-scale industry. "With the development of industry, the proletariat not only increases in number; it becomes concentrated in greater masses, its strength grows, and it feels that strength more" (Marx 2017, 63). The historical canonization of this cliché has almost made us forget the working-class demand for the "abolition of wage-labor." While this might seem outdated as a slogan in a society framed, one might say, upon waged employment, it does bear within it a recognition of capitalism's intrinsic flaw: the dispossession of the individual worker, and of workers as a class, of their relationship to what they do and of control over the conditions in which they do it. It is this that all alternative social forms of work seek to palliate or do away with; it is the lack that gives rise to different kinds of aspiration to autonomy.

Operaismo, as we find it in Bruno Trentin and André Gorz, retained this idea of autonomy of action at work, of the worker's de facto independence within the relationship of subordination. In *La città del lavoro*, Italian trade-union leader Trentin sought to "define a policy of full employment that no longer separates the creation of new job opportunities from improvement in the quality of work, the enhancement of content, the extension of autonomy and participation in decision-making" (Trentin 1997, 110). In a number of his books, André Gorz offers an excoriating critique of

the alienated work of employees, whom he sees as now stripped of power. In the specific context of the 1980s, in *Farewell to the Working Class* he describes work in production or services as "passive", programmed, leaving no room for personal initiative (Gorz 1982, 38). In his subsequent work, it is notably to *activity* that is its own end that he looks for autonomy. Activity stands to work as autonomy stands to subordination, the one in tension with the other. *Multi-activity* becomes a word synonymous with different spheres and moments of autonomy. The polar alternatives are then the integration of multi-activity into work, as one of its forms, or the multiplication of the temporalities and rhythms of life to accord with a new form of autonomy. In other words, the restoration of the power of living activity over the apparatus and social process of production or the ever more complete enslavement of the former to the latter (Gorz 1999, 73). Unlike Trentin, Gorz looks for autonomy outside work and its capitalist organization, in the multiplicity of social deviations from subordination, unstable oases of autonomy, which is why he is the herald of contemporary forms of "alternative work".

Employees' appropriations of teleworking restore, to some degree, this autonomy of action at work, providing better conditions for its realization than are normally afforded by employment's relationship of subordination. But while this autonomy remains marginal, given that the purpose of work is heteronomously prescribed, it also has a wider effect in reconfiguring the sphere of work itself. In this respect, it enables what Jacques Rancière spoke of in discussing the meaning of emancipation: *Not so much choice of purpose as the modification of the very temporality and spatiality of work*. To turn one's time into a different time than the temporality of subordination within the relationship of subordination itself, or, as Rancière put it: "to be able to construct sites where one escapes the law of domination" (Rancière 2017, 50). This question of the appropriation of work, of workers making their own use

of work, shows that struggles over the gray zone cannot limit themselves to a demand for subordination and the guarantees and protections that come with it. The horizon of aspiration and demand in the face of the outsourcing of the workforce—notably through recourse to platform work or self-employment—has been the legal reclassification of the working relationship through the recognition of subordination. Such recognition, however, is insufficient. To confine oneself to this, to insisting on the protections that come with subordination, is to ignore what has historically been at issue in the critique of waged work: liberation. Like temporary work earlier (Cingolani 2023), platforms are put to a variety of uses by workers, uses that seek to loosen the disciplinary constraints of employment and to escape the often noxious social relationships associated with it. Flexible hours and the opportunity they offer to switch between work and creative or recreational activities, and the avoidance of employment, and hence escape from the realities and culture of hierarchy and the emergence of a sensibility distinct from that fostered by the disciplines of the workplace: these all nourish a new sense of freedom. Platforms are not for all that a means to emancipation; I have myself shown the deleterious consequences of the radical fragmentation of labor that they foster—not to speak of their consequences for employment (Cingolani 2021). Yet their effects are not one-dimensionally evil, given the uses to which they can be put and the nature of these uses considered from the worker's point of view. Though a variety of relationships to subordination are emerging within employment, the latter cannot be seen as an emancipation. Employment can be both a basis for emancipation and also quite the opposite, as evidenced in various ways by the professionals who lose freedom and creativity upon their assimilation into employment. Employment then appears as a burden, an imposition that involves, in a variety of milieux, compelled assent to an endlessly proliferating neoliberal bureaucracy. It is precisely the ill-effects of this that have led not only to

the growing number of deserters, to the defections recently in the news (the "Great Resignation"), but also, absent from the hegemonic discourses of the media, the prevalence of career changes and other attempted solutions to the malaise and sense of uselessness that haunt certain professions—a mood exemplified in France by a collective commencement address by the young graduates of the Paris Institute of Technology for Life, Food and Environmental Sciences (AgroParisTech) that urged engineers to avoid toxic jobs.

My research for *Révolutions précaires*—in which I looked at self-employment and at different kinds of autonomous work that escape the dominant temporalities of labor for evidences of an aspiration to emancipation—revealed the same dissatisfaction. Just as in teleworking, the relationship to space was modified sometimes by working from home, sometimes by coworking arrangements adopted to overcome isolation. In abandoning the trappings of employment with its hierarchy and its orders for a companionable, cooperative temporality; in shifting the physical context of activity and so changing its meaning; in adopting a tactical multi-activity that allowed them to fruitfully coordinate their free time and the time spent under constraint or obligation, alternating intermittent spells of work with periods of creativity; in all these, workers were seeking to manage the tension between what they were paid or trained to do and what they truly wanted to do.

Conclusion

Alongside the struggles for employee status and the critique of the bogus self-employment that disguises a relationship of economic dependence, it is also worth attending to the ways that work is appropriated: everyday arrangements that keep aspects of subordination at bay, practices of multi-activity at work and outside it, forms of cooperation free of

the constraints of productivity and performance, or the way that digital tools are diverted to workers' own ends, and so on. There can be no question of denying the gains that employment represents, fruit of a hard-fought argument from subordination, but neither should we deny the significance of the aspiration to autonomy that sometimes leads workers to choose self-employment. At different times and in different places, workers have won back their work, in or against paid employment. Yet policies for self-employment and for workers' reappropriation of work more generally are significantly missing from today's demands and struggles. Any resolution to the problems of the gray zone—this space of uncertainty, of interpenetration or overlap between employment and self-employment that one finds not only in the forms that work is taking but also in workers' tactics and practices of autonomy—will undoubtedly lie in the law's capacity to get to grips with it and come up with legislative solutions. This is, in a sense, what Supiot himself suggested in the early 2000s in formulating two necessary principles: "The first is to no longer conceive of labor law as the law of employment alone but as the law of all forms of work, including self-employment or voluntary work. . . . The second is that the level of workers' protection be based on the actual need" (Supiot and Corsani 2010, 452). There is something of this too in the idea of intermittent employment as a legally recognized status (such as is accorded in France to workers in the performing arts) that allows the combination, through alternation, of subordinate and independent temporalities, the last representing for the worker a time of effective (and remunerated) autonomy (Corsani and Lazzarato 2008; Cingolani 2023). Given the paradigm of the restoration of rights and protections through the reclassification of work contracts—a solution that in principle perpetuates subordination—the status of intermittent worker makes it possible to maintain, under the protective regime of employment, the alternative and creative potential that can find no place in employment proper yet is a

growing presence in a society of multi-activity. Perhaps it will ultimately be something like this that will bring order to the gray zone, the site of a troubling and disruptive social tension.

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6

Remuneration Practices as Technologies of Subject Formation and the Emergence of Gray Zones

Antonella Corsani[1]

Abstract

This chapter contends that the evolution of work remuneration forms—particularly variable pay and profit-sharing—generates "gray zones" that blur the boundary between waged employment and independent work. It illustrates how these remuneration models transfer economic risk from capital to labor, weaken traditional indicators of subordination, and, above all, reshape subjective identities in ways that undermine the capital-labor antagonism and collective resistance. Finally, it spotlights a distinctive cooperative model (the cooperative of activities and employment), which orchestrates a "desertion" from the gray zone and instead fosters a zone of cooperation, mutual protection, and resistance.

Keywords: Work remuneration; Variable pay; Profit-sharing; Gray zones; Economic risk transfer; Subjectivity;

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Capital–labor antagonism; Collective resistance; Cooperatives of activities and employment (CAE)

Words to Describe Pay for Work

In capitalist societies where wage labor dominates labor relations, the concept of pay is often equated with "wages". However, in the Anglo-American context, there are two terms for employee pay: wages and salaries. Wages typically refer to pay by the hour or day, common in temporary or manual jobs. The term derives from the Latin wadium, meaning "pledge" or "surety." It likely passed into Old French as "gage" before evolving into the English "wage." The word "wage" was used as early as the Middle Ages in England to describe compensation for work, often paid daily or weekly. In contrast, "salary" refers to employment where pay is fixed and regularly paid, usually monthly.

The word "salary" originates from the Latin salarium, derived from sal (salt), meaning "salt ration" given to soldiers or magistrates—that is, pay to purchase salt. Though "salary" is an ancient term widely used in the Western world, including Anglo-American and Latin countries, its meaning has shifted over time and place. In medieval Europe, "salary" appeared alongside many other terms referencing pay, but its meaning was vague, and there was no clear distinction between employment terms and pay forms (daily, flat-rate, etc.). Historical research shows that the modern sense of "salary"—regular payment from employer to worker—emerged only by the mid-18th century with the rise of industrial capitalism and labor discipline (Thompson 1967).

The term "salariat"[2] arose even later in the mid-19th century (Beck et al. 2014). At this time, with the factory system's development, large firms, and wage labor, and despite artisans' resistance, "task-oriented" work paid by piece or task gradually shifted to work "measured by the clock." Historian Thompson (Thompson 1967) details workers' opposition to this shift. This resistance stemmed from the fact that piece or task-based pay had granted workers freedoms previously denied by daily pay, bringing them closer to self-employment. Resistance to "clock-measured" work thus reflects a struggle against the loss of autonomy introduced by factory discipline. Wage labor as heteronomous labor firmly took hold within large factories and capitalist firms, where factory walls and organizational boundaries defined the space and time of subordination and enabled worker control (Pillon and Vattin 2007). Marx's unpublished sixth chapter of Capital Volume I analyzes this shift as moving from formal to real subsumption—capital no longer controlling labor externally but exercising direct control—marking the defining moment of capitalism's specific labor form. The modern wage form corresponds to dependent labor pay in this era of real subsumption.

In France, "salaire" long referred only to production workers' pay, with other terms (émoluments, traitements, gages, etc.) describing other socio-professional categories. For example, "appointement" specified white-collar workers' pay. Today, "traitement" is still used for civil servants' pay, roughly equivalent to "civil service salary" in the British system. Since the 1970s, "salaire" has more broadly denoted

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2 'Salariat', as a modern form of labor control refers to the system where workers are employed under salaried contracts with varying degrees of subordination and control by employers. This form combines technical, organizational, and ideological control methods to manage and direct labor, often creating tensions and resistance among workers. It highlights how modern capitalist labor systems maintain control through complex mechanisms beyond mere wage payment, influencing workplace dynamics, job security, and worker autonomy.

pay for all dependent work, although pay-setting differs substantially between civil servants—where individual qualifications guide pay (rank and seniority)—and private sector employees—where position qualifications dominate.

Pay for self-employed workers, which can't be reduced to wages, differs. Self-employed income includes fees, professional income, commissions, or revenue. This difference is not just semantic but relates to the exchanged object. Roman law draws a distinction between locatio operis (contract for a work product) and locatio operarum (contract for labor services). The former is a contract of enterprise, the latter employment. Under locatio operis, exchange is for labor's product, allowing workers autonomy in organizing and delivering their work. Under locatio operarum, the exchanged object is labor performance itself, and autonomy is formally lost with the employment contract and implied subordination.

Employee and Self-Employed

Within employment law, subordination is key to labor relations. In France and many European systems, whether a subordinate relationship exists between worker and employer legally defines the nature of their contract. Subordination, not economic dependence, is the judicial criterion differentiating employment from commercial contracts.

France's 1931 Bardou ruling rejected economic dependence as the criterion, establishing the subordination link as essential to employment contracts. Judges identify subordination by factors such as salary payment, worker integration into employer organization, lack of economic risk borne by worker, employer-determined working hours, and employer ownership of production tools. The concept was clarified legally in the 1990s by the 1996 *Société Générale* ruling, defining subordination as "work performed under the

authority of an employer who can give orders and instructions, monitor their execution, and sanction breaches." This closely parallels the Anglo-American "right to control" test, where employer control signals an employment relationship. The 2000 Labanne ruling extended this, permitting contract reclassification based on worker dependence beyond strict subordination.

The distinction between salaried and self-employed work derives partly from how risks are allocated. Self-employed individuals bear social, professional, and economic risks alone. Salaried workers do not assume business risks and are protected against professional hazards (accidents, illnesses) and social risks (unemployment, retirement). The subordination relationship assigns risks to the employer, who provides protections in exchange for the employee's submission.

Finally, subordination relationship has a dual role: it creates an asymmetrical power relationship between employer and employee and delineates the boundary between salaried and non-salaried work. The salaried worker is subordinate and dependent; the non-salaried worker is independent and unsubordinated. Countries like Canada, Italy, and Spain term the latter "autonomous." This autonomy aligns, rightly or wrongly, with independence. In Anglo-American contexts, "self-employed" best captures this sociological and economic reality.

Though remuneration forms are major criteria distinguishing salaried from self-employed, historically overlapping pay types—like piecework, fixed-price, task- or time-based pay—blurred clear separation. For example, the payment for completed work positioned salaried employment along a continuum with self-employment (Saglio 2003). Since the 1980s, this distinction has become complex again. Dependent work pay structures have moved away from the 1950s–1980s salaried model based on monthly wages tied to contracted time and job classification. Variable and individualized pay components linked to performance

have expanded, blurring the boundaries between dependent and self-employed statuses. In addition, peripheral remuneration methods (profit-sharing, incentives, savings plans) further complicate distinctions between labor income and capital income. Examining these changes in remuneration highlights the complexities of labor's gray zones.

The Gray Zone as Descriptive Sociological Category

The notion of the "gray zone" explores a hypothesis: the loss—or at least significant weakening—of the heuristic power of binary conceptions of labor relations, namely waged employment versus self-employment. Notably, even during the so-called Fordist era of labor relations, hybrid contractual forms such as bargaining, task-based work, and subcontracting persisted in Western societies, providing clear examples of the multiplicity and overlap in employment relationships that a dualistic view—necessarily partial and even biased—cannot fully capture (Ricciardi 2019). It remains undeniable that over the course of the twentieth century, waged employment became the dominant form of labor relations in Western countries, while the number of non-waged workers declined both relatively and absolutely.

The crisis of the Fordist model and wage-earning society (Castel 2002) marked the start of a new phase in labor and employment relations. This crisis manifests in an ever-less distinct boundary between waged and non-waged work, reflecting a major transformation in the firm—understood as both an organization and an institution (Hannoun 2024)—as well as in management culture, ultimately leading to a reconfiguration of power relations in the workplace. More precisely, the weakening of subordination as a relevant criterion for distinguishing waged from non-waged work, combined with the hybridization (Azaïs 2019; Murgia 2025) of waged and non-waged worker figures,

has prompted legal scholars to question the boundaries of employment status.

Should labor law's scope be expanded to include figures with weak or poorly defined subordination ties under waged employment—for instance, through a presumption of salaried status—as has been the case in France since the 1960s for performing artists or as previewed in the 2024 agreement on the European directive project for platform workers? Or should commercial law's perimeter be broadened instead? A different perspective, advanced by Italian jurists since the 1970s, has involved "recognizing the existence of a gray zone between independence and waged employment" (Supiot 2000, 142). Would the solution then be to create a third legal status? The answer is no, given that this involves not a third worker figure but a transformation of labor relations affecting both waged and non-waged work. As legal scholar Alain Supiot emphasized:

> Le travailleur salarié n'est plus nécessairement un simple rouage dépourvu d'initiative dans une organisation fortement hiérarchisée. Et le travailleur indépendant n'est plus nécessairement un entrepreneur libre d'œuvrer comme bon lui semble. Le travail salarié fait place à ce qu'on peut appeler l'autonomie dans la subordination, tandis que réciproquement le travail non salarié s'est ouvert à ce qu'on peut appeler l'allégeance dans l'indépendance.[3] (Supiot 2000, 133).

So, how should we define this "gray zone"? In the field of aeronautics, the expression "gray zone" refers to an area not covered by a radar beam. The gray zone would thus be a blind spot or dead angle that can be generated, in the realm of work, by the "decoherence" (Bureau and Dieuaide 2018)

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3 "The waged worker is no longer necessarily a mere cog without initiative in a highly hierarchical organization. And the self-employed worker is no longer necessarily an entrepreneur free to do as he pleases. Waged work has given way to what we might call autonomy within subordination, while conversely, non-waged work has opened up to what we might call allegiance within independence."

between work institutions and employment practices. It calls for institutional adjustment.

Another perspective is that outlined by geopolitics. Here, the expression "gray zone" takes on the meaning of a "lawless zone," though interpretations differ. The debate among geopoliticians challenges the social sciences of work by raising a major question: are gray zones areas without law, without master or god, or rather zones multiplying with the dematerialization and diffusion of borders within states, lawless zones manufactured by state and supranational institutions? From this perspective, the first figures of gray zones are those of the immigrant worker, the undocumented migrant, the Dubliné (Montel 2021). But then, can the gray zone be considered a novelty in the history of work? The answer is resolutely negative if one considers Yann Moulier Boutang's historicization of bridled wage labor (Moulier-Boutang 1998). The Fordist utopia could only function through the creation of exclusion zones, lawless zones populated notably by women, immigrant workers, and indigenous workers from the colonies. But, one might say, not everything is the same; the difference lies in the fragmentation and dissemination of these gray zones throughout global society. Understood as a lawless zone, the gray zone could then be a sociological category in which to inscribe figures on the margins of wage labor, precarious figures.

Gray Zone: A Concept in Power Theory

Quite far from the meaning given to it by both aeronautics and geopolitics, the expression "gray zone" becomes a true concept with Primo Levi. In his major work—The Drowned and the Saved. Forty Years after Auschwitz—he develops a theory of the unthinkable "banality of evil" that the Nazi concentration camps represented. It is more precisely in

the second chapter of this work that Levi introduces us to the concept of the gray zone in discussing what he calls the hybrid class of prisoner-functionaries, a minority figure in the camps but a majority among survivors. The gray zone is defined as a non-empty space characterized by unclear boundaries; it both divides and unites the two groups of masters and slaves (Levi 2017). In Remnants of Auschwitz, philosopher Giorgio Agamben takes up the gray zone concept, this zone "where the oppressed becomes oppressor and the executioner in turn appears as victim. A gray, incessant alchemy in which good and evil and, along with them, all the metals of traditional ethics reach their point of fusion" (Agamben 2002, 21).

For Primo Levi, as for Giorgio Agamben, it is not a question of moral judgment of these figures who populate the zone that separates and connects victims and executioners, but rather an effort to understand the multiple roots of collaboration. Primo Levi identifies two in particular: the wider the scope of power, the greater the need for auxiliaries; the greater and more unbearable the oppression, the greater the willingness of the oppressed to collaborate (Levi 1989). Thus, we need to understand the very necessity of this figure within the hierarchical structure of an authoritarian system, and at the same time, the techniques that enable the 'manufacturing of the subjectivity' of the prisoner-functionary. The concept of the gray zone is therefore first and foremost a political concept, as historian Anna Bravo points out, while simultaneously denouncing the trivialization of the concept through the widespread use of the expression gray zone (Bravo 2014).

Taking care to avoid the risk of trivialization should not deter us from daring to transpose the concept of the gray zone to contexts beyond those of Nazi concentration camps. Indeed, Primo Levi himself envisaged this possibility and even considered it a necessity. He suggested that if we want to understand the human species or the workings

of a large industrial establishment, we should undertake the analysis of figures in gray zones everywhere (Levi 1989).

If we move from the world of concentration camps to the world of work in a large industrial plant organized according to the methods of the scientific organization of work, the figure of the foreman is certainly the one that conceptually comes closest to that of the prisoner-functionary, the figure of the privileged. The social ascent of the privileged throughout society is a phenomenon that Primo Levi found distressing but, at the same time, inescapable and fatal. This figure is absent, he said, only in utopias. Yet, as Anne Gillet points out, the sociology of work has shown little interest in this figure of the privileged, the foreman (Gillet 2011). However, as historians have taught us, studying the figure of the foreman can be of great heuristic interest in understanding how highly hierarchical and authoritarian forms of work organization function. The foreman, an ambivalent figure (Jarrige and Chalmin 2008) emerging from the rubble of craft workshops and associated with the birth of the Taylorian factory and a reconfiguration of authority (Vandecasteele 1990), embodies the complexity of labor relations and reflects the uncertainties of boundaries between social classes. In this sense, the foreman constitutes a prism through which to closely examine the nature of authority relations in the world of industrial work—relations marked by behaviors of both consent and resistance within a fundamentally asymmetrical subordination framework (Ricciardi 2016). The figure of the foreman, which is disappearing today, introduces us to the problem of the gray zone in labor relations after the crisis of the mass worker (a de-skilled worker subject to the scientific organization of work)[4] and Fordist management.

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4 The term "mass worker" was introduced by Romano Alquati on the basis of workers' surveys carried out in the 1960s at Fiat in Turin and Olivetti in Ivrea. For Italian operaism, it embodied the subject of a powerful new working-class conflictuality.

The original thesis defended here is that the mutation of forms of labor remuneration does not so much respond to an economic necessity, but rather to a political strategy aimed at producing a gray zone, multiplying figures who occupy contradictory positions in class relations (Wright 2019), with the objective of reducing labor/capital conflict. It is therefore not a question of analyzing the remuneration of work in gray zones, but rather of seeing how the mutation of forms of remuneration can engender a gray zone in Levi's sense. To make this point, it is worth recalling, in just a few lines, the political economy of wages or what wages represent in economic and sociological thought. Far from being a strictly economic question of monetary value, the question of wages involves social values, identity, and subjectivity.

The Economic Theory of Labor Compensation

From a political economy perspective, the notion of wages refers generically to the remuneration of labor. Wages are a price. More precisely, for the neoclassical economist, the wage is the price of labor conceived as a factor of production.

According to the marginalist theory of distribution, wages are determined by the productivity of the last unit of labor employed. Marginal productivity also determines the normal price of capital in a situation of free competition and free circulation of production factors. In this theoretical perspective, labor and capital are considered homogeneous from the point of view of their remuneration, since the same criterion determines their respective prices. The distribution of value between wages and profits—between labor and capital—is therefore both fair (because the determination criterion is the same) and efficient: under the assumption of free circulation, the factors of production

(capital and labor) will move to where they are best remunerated, that is, where their productivity is greatest.

Classical political economy and the Marxian critique differ in their theoretical conception of the wage. Marx argued that in a capitalist market economy, wages are the price of a particular commodity, the only one capable of generating surplus (economic) value: labor power. Already among classical economists like David Ricardo, the idea existed that the distribution of value between wages and profits is antagonistic: if profits go up, wages fall. In a similar vein, in his early writings, Marx asserts that wages are determined by workers' struggle against capital.

He introduces a distinction between labor and labor power. Labor is conceived as an activity that, under capitalism, aims at the valorization of capital rather than the satisfaction of needs. Labor power, on the other hand, refers to the subjectivity of the worker and must be understood as the potential for physical and mental engagement in work. Thus, according to Marx, capitalist exchange does not concern the product of labor—as was still the case in the putting-out system and remains so today for some self-employed workers, such as craftsmen—but labor power: a generic capacity for work placed at the disposal of capital for a certain period of time. In other words, in properly capitalist social formations, wages are a function of the length of time labor power is placed at the service of capital, that is, a function of working time. The "time wage" is thus the specific form of remuneration for labor power and the properly capitalist form of labor remuneration.

Still from Marx's perspective, the exchange value of labor power—a commodity like no other—is determined by the labor required for its reproduction, the needs of this reproduction being historically determined. The difference between the use value and exchange value of labor power is the surplus value appropriated by capitalists in the form of profit and/or rent. If capital pushes wages down to subsistence levels, the price of labor power can deviate positively

thanks to union action: wages are a function of the power relationship. This conclusion, in certain respects, inspires the sociological approach to wages.

In particular, the institutionalist approach conceives wages as a reflection of the power relationship. But from a sociological perspective, the wage is not just a question of economic value; it is the expression of confrontation around social values such as justice, equity, and objectivity: the "juste salaire" cannot be calculated; it must be negotiated (Saglio 2012).

Since the 1980s, New Keynesian economics has revisited wage theory by incorporating power relations and conflict to explain why wages often exceed marginal productivity. More interesting still, efficiency wage theory reverses the causal wage-productivity relationship: wages are no longer conceived as a function of productivity, but productivity is theorized as an increasing function of wages. In other words, wages are seen as an incentive: the promise of a higher wage can help retain employees and increase labor productivity.

From the same perspective, the individualization of remuneration on one hand, and forms of remuneration indexed to company results (profit-sharing, incentive schemes, etc.) on the other, can be analyzed as incentive devices that attenuate conflict over the distribution of added value. Changes in wage structures thereby create a "gray zone," in Levi's sense, within salaried work, where employee identity and subjectivity increasingly matter.

The Production of the Gray Zone in Salaried Work

Work-related exchanges involve not only a "market exchange"—money paid for work—but also a "social exchange" (Reynaud 1997). Rules help to share the risks involved in this exchange between the parties (Saglio 2003).

These rules evolve over time and vary by location. Richard Biernacki (1995) identifies two models.

The first is the English textile company model from the 18th and 19th centuries, where pay was based on a share of sales. Here, workers bore the market risk—if sales dropped, wages were cut. The second is the German model, where workers receive wages regardless of sales, so the company assumes economic risk. Each model uniquely links the labor and product markets, creating different ways to share risk. The German model generally became dominant throughout the 20th century in most capitalist wage companies. However, these rules are never fixed; they shift with power dynamics and company policies aimed at motivating and retaining employees while minimizing conflicts.

Individualized pay raises, introduced in the 1970s, aimed to boost employee motivation and performance. Between 1985 and 2005, DARES[5] conducted annual surveys showing a rise and then stabilization of individualized pay raises, with about two-thirds of raises being individual in the mid-2000s. By the early 2020s, DARES data from the ACEMO (Activité et conditions d'emploi de la main-d'œuvre) survey still showed a significant variable portion of labor compensation (around 20%), including bonuses that make up 13%, one-third of which are individual bonuses, now a key part of compensation.

Profit-sharing, introduced in France in 1959 and later institutionalized with employee saving plans in 1967 and mandatory participation in companies over 50 employees by 1990, links worker pay to company results. The idea of profit-based pay goes back to 19th-century debates focusing on aligning worker and capital interests and maximizing output through financial incentives (Leroy-Beaulieu 1870). More recent wage policies echo these goals, aiming to align

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5 Direction de l'animation de la recherche, des études et des statistiques – a department of the French central public administration, part of the Ministry of Labor

interests while making pay more flexible and involving employees in company performance (Floquet et al. 2014).

From 2006 to 2020, the number of employees covered by profit-sharing schemes rose in absolute terms but remained stable relative to the workforce. Average payouts rose to nearly €2,500 but fluctuated with economic cycles, falling during the 2007 financial crisis and the 2020 health crisis[6]. Profit-sharing converts part of workers' pay into capital profits, creating a "gray zone" in labor relations. Workers receive both wages and a share of profits, sometimes wanting lower wages if it increases profits.

The U.S. pioneered broad profit-sharing and employee ownership, with France leading in Europe through institutionalized value-sharing (Batut and Rachiq 2021). Studies show profit-sharing correlates with higher productivity, especially when combined with employee ownership and participation in decisions (Doucouliagos et al. 2020). However, these benefits replace rather than add to wages and can reduce pay during downturns—shifting economic risk from shareholders to workers.

This mix of individualized wages and profit-sharing creates a complex "employee-capitalist" figure (Corsani 2013). Sociological studies reveal employees often identify closely with their companies, acting like owners, controlling colleagues, and overworking (Bernard 2020). As the sociologist Bernard Mottez wrote about the development of performance-based pay in large factories, as a mechanism for reconciling capital and labor, "it is not only because it allows the worker to earn more, but because it makes him share the same values as his employer." (Mottez 1967, 10).

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6 https://dares.travail-emploi.gouv.fr/donnees/participation-interessement-et-epargne-salariale

Various Forms of Remuneration for the Self-Employed

Among non-salaried workers, there exists a heterogeneous multitude of work forms where formal independence most often combines with real heteronomy, despite the absence of a legal employment relationship of subordination. These forms are most often precarious, subject to income discontinuity and unpredictability, and in borderline cases, unpaid. The notion of free work—free not in the sense of freedom but as unpaid—encompasses two very different realities from a subjective viewpoint (Armano and Murgia 2019).

In the first case, working for free stems from logics of giving, reciprocity, and/or social recognition. These are often volunteers, for whom not receiving payment makes the activity irreducible to the concept of work. This may resemble practices of "precarious workers by choice" who circumvent subjugation and exploitation (Cingolani 2014).

In the second case, accepting unpaid work may be a medium- to long-term strategy: working for free today is an investment in reputational capital, with the hope of gaining future professional status and regular pay. This is theorized as "hope labour" (Kuehn and Corrigan 2013) and the "political economy of promise" (Bascetta 2015).

However, there are other forms of free or poorly paid labor specific to platform capitalism, one of whose defining features is the penetration of work into the "intimacy of the subject" (Cingolani 2021, 125), thus extending work's space-time into all aspects of everyday life. The rise of digital platforms has indeed been accompanied by the resurgence of new forms of task-based labor, characterized by degraded working conditions and low, discontinuous, and unpredictable pay.

In most cases, the platform worker cannot be compared either to the figure of the "sublime" or to that of the "proletaroid." In the nineteenth century, the figure of the sublime resolutely opposed wage labor. Armed with his skills, the sublime agreed to work only for short periods,

when he wished, and only for the employer he had chosen (Gazier 2003). The term "proletaroid," first used by Werner Sombart, referred to workers in the lower strata. From a legal and organizational standpoint, the proletaroid, like the sublime, was the "master of his laborious life," not subject to a boss or external commands over his work. This distinguished him from the salaried proletarian. However, like the proletarian, he remained subject to market pressures and was obliged to reproduce his labor power daily as a condition of survival. He was self-employed, but like the wage earner, he lived primarily from his labor. Economically, he received income as a provider of labor. Legally, he represented an ambiguous figure—both proletarian and self-employed (Corsani 2020).

In reality, these new proletaroids—the platform workers—are not truly the masters of their working lives, since they are subject to a time regime dictated by the platform itself. Platforms often offer very low-skilled jobs consisting of simple, repetitive computer tasks, such as transcribing text or verifying product lists, for which they place the entire global population in competition (Lallement 2024). These Human Intelligence Tasks (HITs) must be completed within two hours of assignment, and compensation is extremely low (for example, eight cents to transcribe the text on a crumpled receipt). Consequently, platform workers receive neither stable pay nor social benefits, yet they are supposed to enjoy the autonomy associated with self-employment—namely, the ability to set their own schedules and negotiate their rates.

Beyond platform work, in more traditional sectors, quasi-free labor also persists. For example, in Mexico's consumer services industry, the category of "subordinate workers without pay" (TSSS) reveals a form of remuneration reduced to tips given by customers. These workers —whether salespeople, waiters, or packers—operate under a double subordination: to the employer, who determines their working conditions, and to the customer, who decides

whether the service deserves a tip, given that tipping remains optional. As a result, the TSSS must be particularly attentive in performing tasks and deeply devoted to customer satisfaction, even at the expense of personal dignity (Giglia 2019).

We are, therefore, in a gray zone—in the derivative sense of geopolitics—a "lawless zone" whose institutional, social, and political conditions are always specific to each context.

Compensation Assembled in a Zone of Resistance[7]

In France, there exists a type of enterprise that occupies a space between salaried and self-employed work: the Coopérative d'activités et d'emploi (CAE)[8]. This innovative cooperative model—representing a true institutional innovation—offers a home for project initiators by combining elements of a business incubator with programs designed to help unemployed individuals reintegrate into the workforce. The CAE functions simultaneously as a service provider, incubator, and wage portage company.

Any project owner may request support from a CAE. Once the project becomes viable and generates revenue, the entrepreneur can become a salaried employee of the CAE, assuming the status of entrepreneur-salarié. Later on, they may choose to leave the CAE and continue independently, or they may remain within it and become an 'entrepreneur-salarié-associé' (ESA)[9]. Although each entrepreneur's salary

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7 I'd like to thank Armando Arata, whose insightful critique (Arata 2023) of my 2020 book's discussion on cooperatives of activities and employment in relation to the gray zone, followed by the rich and fruitful discussions I had with him on the gray zone concept, enabled me to grasp that such cooperatives represent a potent form of resistance against power mechanisms designed to establish gray zones.

8 Trans : Business and employment co-operative (BEC).

9 Trans : entrepreneur-employee-partner.

is individualized and based on the revenue they generate—after deducting contributions to the CAE's shared budget and employer social security charges—they enjoy the same social rights as regular employees while maintaining full autonomy over their work.

Since the mid-1990s, when this concept first emerged, CAEs have evolved to pursue multiple objectives. Over time, they have grown increasingly complex, particularly after the creation of Coopaname in the Île-de-France region in 2004—a worker cooperative (SCOP – Société Coopérative Ouvrière de Production) that has experienced remarkable growth. Coopaname had become the largest CAE, with around 450 members. For Coopaname, the CAE's role extends beyond providing security and support to entrepreneurs; it aims to function as a shared enterprise fostering an ecosystem where entrepreneurship is viewed as a collective, community-based endeavor composed of numerous 'entrepreneur-employee-partners'. In this collective model, entrepreneurial functions are pooled, and individual projects are supported in a spirit of solidarity—creating what can be described as an "enterprise of enterprises."

This new cooperative form was officially recognized by the French law of July 31, 2014, on the social and solidarity economy. According to Article 48 of this law, the 'entrepreneur-employee-partner' is considered an employee by assimilation[10].

As entrepreneurs, these unique workers determine prices for their goods or services in relation to market standards and competitors. As employees, they pay themselves a salary based on revenue generated, after subtracting employer contributions and CAE overhead costs (such as payroll management, taxes, and the salaries of the ESA support staff). The ratio of this value to the minimum wage

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10 Article L. 7331-2 of the French Labor Code defines the salaried entrepreneur and sets out the rules for his or her employment contract, which takes a singular form, the Contrat d'Entrepreneur Salarié Associé (Cesa).

allows them to estimate a theoretical volume of working time, though this bears little relation to their actual hours worked. The entrepreneur-employee-partner therefore attempts to account for their real working time and to assign value to it in order to fine-tune their monthly salary.

Since the 2014 law incorporated the CAE and the 'entrepreneur-employee-partner' status into the French Labor Code, any reference to working hours has disappeared. The ESA's gross annual income is managed to balance tax efficiency and social protection considerations. In this structure, the self-employed worker appears absorbed into wage labor as a calculating, maximizing "self-entrepreneurial" individual. The ESA thus embodies one of the most ambiguous figures in today's labor relations: both a product of neoliberal wage-labor ideology and a utopian image of a post-wage society.

Formally, the ESA is a salaried employee, yet in economic, sociological, and political terms, they are neither wholly an employee nor self-employed. The entrepreneur-employee-partner represents a singular form—a refusal of both wage labor and self-employment—a figure of exile for the precarious (Cingolani 1986) and a form of resistance against the mechanisms that create "grey zones." The institutional evolution of CAEs has helped to bridge, however imperfectly, the gap between institutional frameworks and real work practices. By mutualizing resources and creating shared enterprises, CAEs protect their members from falling into the "gray zones" often characterized as lawless spaces. Through cooperation as a political project, ESAs collectively resist the production of fragmented, contradictory subjectivities—the very essence of the "gray zone" in Primo Levi's sense.

Conclusion

This paper argues that modes of remuneration function as powerful mechanisms of subject formation and, as such, can generate "gray zones." Two primary conceptions of gray zones are relevant for analyzing new labor relations: first, as lawless spaces; and second, as areas of incoherence between institutional norms and real-world practices. Following Primo Levi, gray zones can also be understood as spaces where power operates differently—where disciplinary control over work recedes, giving rise to other, subtler forms of domination. Producing gray zones thus means creating conditions in which the traditional conflict between capital and labor weakens because subjectivity itself becomes obscured. The decline of the labor union movement can therefore be read as a consequence of the expansion of gray zones within wage labor.

Resistance, though difficult, remains possible—it manifests through the rejection of both conventional wage labor and self-employment. In France, this form of resistance takes shape through cooperation. Yet cooperation faces contradictions in a world whose dominant epistemology and politics are rooted in individualism and competition—where linking pay to individual performance remains one of neoliberalism's most effective tools.

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7

Time and Place in Gray Zones of Work and Employment

Corinne Siino[1]

Abstract

Under the guise of flexible working or otherwise, we see today an increasing variability of times and places of work, a corollary of the organizational and geographical fragmentation of production consequent upon outsourcing and globalization. At the same time, with the ongoing development of ICTs, the increasingly "teleworkable" and hence individualized character of work activity, activity that is furthermore carried out at places not specifically identified with work, results in the alternation and overlap of times and places of work and of personal life, extending sometimes to their hybridization. The resulting multipurpose character of times and places can in some cases lead to ambiguity, a blurring of the distinctions between work and non-work on the one hand and between different employment statuses on the other. While this may be exploited by employers/clients, it also provides workers with opportunities to reconfigure their patterns of work to suit themselves, laying the basis for a new, more satisfactory relationship to work.

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This chapter first reviews the institutional developments that have led to the deinstitutionalization of the place and time of work. It then draws on research carried out in Toulouse and Marseille to consider workers' expectations of and adaptations to the new styles of working that have emerged. Not all sectors of the workforce are affected in the same way or benefit to the same extent, adding a new dimension to socio-occupational inequality. The presentation hopefully illustrates, in addition, how the notion of the gray zone and the non-institutional approach to the dynamics of work and employment associated with it help grasp these changes in working life.

Keywords: Time and place of work; labor market inequalities; gray zones; individualization of employment status; work-life boundaries.

Introduction

This chapter interprets certain gray zones in work and employment as the consequence of changes in the time and place of work. It will argue that the replacement of the singular workplace by a variety of places of work has led to a blurring of boundaries not only between employment and self-employment but also between work and non-work, as work is no longer easily identifiable by reference to the time spent at a single, distinctive location. The more or less rapid alternation and even overlap of work and life activities at one or more locations not specifically dedicated to work, but nonetheless used for it—be it a hotel in the case of employees traveling for work (Dubois, Ravalet, and Kaufman 2015), or the home in the case of teleworkers or the self-employed—has blurred once clear distinctions between the times and places of work and those of the rest of every-

day life (shopping, socializing, recreation . . .). This more ambiguous character of working time, which can sometimes even accommodate non-work activities, represents a significant change in the conditions under which work is carried out, leading sometimes to the disappearance of what had been typical work situations and the appearance of new ones. This ambiguity is the result of two developments.

Firstly, the mode of reorganization of production that has been called "hyper-industrialization" (Veltz 2017) requires the coordination or synchronization of times of work at every level—from the international to the local for the big corporation, and thence down to employees and self-employed contract workers, with consequences for the pace and pattern of workers' everyday lives. The individualized and variable working times that have become increasingly prevalent reflect the pressures on workers' employers or clients (henceforward employers/clients), constantly concerned to respond as quickly and as sensitively as possible to global market conditions (Veltz 2020). They are also the consequence of the new spatial organization of production that results from the labor involved in a product or service no longer being contained within the formal limits of the firm chiefly responsible but being distributed among a multiplicity of sites and associated working environments that are unknown in advance and may vary over time, giving rise to the "productive configurations" theorized by D'Amours et al. (2023).

The weakening of Fordist regulation in the industrial sector that began with the outsourcing of certain services (cleaning, maintenance, administration) in the 1990s and has since accelerated with the advent of the gig economy (which notably profited, in France, from the introduction in 2009 of a new fiscal and administrative regime for single-person businesses[2]) means that in many industries workers

[2] In France, the number of self-employed has increased steadily: there were 2.5 million in 2022, an increase of 30% as compared to January 2020.

are no longer required to gather together at the employer's premises. The growing use of information and communication technologies (ICTs) for remote working, firstly with e-mail and the internet and later the development of digital platforms (e.g. for secretarial services, home delivery, or even medical services) created the need and/or opportunity to work flexible hours, at home, in the office, or elsewhere. Times of work and non-work alternate more easily and more frequently when workers no longer move to a separate location for work, and, without radical breaks between them, may sometimes even meld into a (hybrid) continuity. Many now habitually work at two or more locations, which may vary with the requirements of the task in hand. Such developments also reflect workers' widely shared desire for more autonomy in the organization of work and a better balance between work, travel-time, leisure-time, and family life.

The argument here is that employment arrangements are becoming increasingly complex, to the point that traditional criteria—working hours, place of work, skill, and mode of remuneration—are no longer effective for the determination of employment status; and that this has resulted in the emergence of a gray zone, an indeterminacy of both time and place of work that in some circumstances allows their reconfiguration by workers to better suit their own needs, laying the basis for a new, more satisfactory relationship to work. In this respect, the gray zone can be seen as a nursery for novel forms of work relations (in terms of types of long-term co-operation or punctual collaboration, or ways of combining employment and self-employment) more or less institutionalized and durable.

To document these transformations, we begin in the first section with a review of the time of work (working time and hours of work, i.e. the amount of time devoted to work, on the one hand, and its temporal distribution on the other) and the many institutional developments that have led to the blurring of distinctions between employment, third-party

employment, and self-employment that has sometimes brought about change or variation in the location of work (Letourneux 2020). The second section explores how some workers' ability to reconfigure the times and hours of work and private life in view of their varying attitudes to travel for and in work changes their relationship to work. We then look at the expectations and impacts associated with these new, fluid and still-developing work situations. Differences in these across sectors and occupational categories introduce new dimensions of socio-occupational inequality not registered by current measures. In conclusion, we sum up the dynamics involved in the generation of gray zones today and reflect on the heuristic value of the concept. Throughout, we rely for evidence on a personal interview survey of Marseille-based staff responsible for promoting the integration into the labor market of disadvantaged groups (carried out as part of the ANR ZOGRIS project)[3] and a series of interviews with Toulouse-based teleworkers working either from home or from other remote locations: interviews with 66 workers carried out before COVID as part of a POPSU study[4] and interviews with 27 carried out after COVID as part of a VILAGIL project.[5] All three surveys focused on the reorganization of the time and place of work accompanying the shift from workplace to home.

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3 ANR ZOGRIS, "L'évolution des normes d'emploi et nouvelles formes d'inégalités : vers une comparaison des zones grises?", 2012–16.

4 Plate-forme d'Observation des Projets et Stratégies Urbaines: POPSU Métropoles Toulouse, "La métropole et les autres", 2018–22.

5 Funded by Toulouse Métropole (the local government of Greater Toulouse) and the Banque des Territoires (PIA4 program) the VILAGIL project conducts research to support the development of an ecosystemic approach to providing the improved mobility required by the economic and demographic growth of the metropolitan area. Under its aegis, we are investigating teleworking over the period 2020–30.

1. Developments and Uncertainties Regarding the Time and Place of Work

1.1. *Understanding and defining working time(s)*

Any attempt to investigate working time—that is, to define the object of investigation and to determine its temporal and spatial contours—has to have regard for the many different forms that work now takes. The legislative frameworks that officially define and regulate work have things to say about time and place, but the term "working time", as used here, simply means the time a person actually spends on an activity in expectation of an income, without regard to employment status or any legal or regulatory definition. Even so, the identification of time spent on work is still subject to uncertainty, given possible doubts regarding the real character or goal of the activity in question.

The use of ICTs in production, information exchange and control—these last conceivably continuous and instantaneous thanks to the development of technology—has not only markedly accelerated the pace of work but also introduced a certain fragmentation, with the possibility of work on the task in hand being interrupted for the sake of another, more urgent (Isaac, Campoy, and Kalika 2007). The proliferation of remote working tools since the 1990s has led to the rise of nomadic workers who prefer to sit alone on trains (Frétigny 2011) or in cafés or other public spaces, rather than go to the office, and of teleworking from home —new styles of work whose emergence has significantly impacted negotiation over the time and place of work. The reconfiguration of the relationship to time within the firm has also led to potential problems for individuals' management of their non-work time. Telework, for example, might be interrupted by an urgent private matter (such as a medical appointment or a family emergency), only to have to be resumed during time dedicated in principle to private life, generating a sense of lack of control over one's own

life (Rosa 2012) that is exacerbated by the impact of ICTs (Cingolani 2021).

The introduction of broadband and WiFi has made it possible for growing numbers of workers in certain categories to work remotely, avoiding travel to the traditional workplace (Moriset 2004, 2011). In January 2021, 27 per cent of employees in France were teleworking, compared to just 4 per cent in 2019, while eight in ten employees wanted to carry on working remotely at least part of the time after the end of the COVID pandemic (DARES 2021). Welcomed for different reasons by both employers and employees, this development calls for a rethinking of the rules for identifying and measuring work. Under the Fordist model, employee remuneration was based on skill, responsibility, and *the time spent engaged in production on company premises*. The multiple uncertainties that arise from the loss of this last criterion offer a first field of investigation: to what extent, if any, may the changing relations between status (employment, third-party employment, self-employment, etc.) and the times and locations of work of different kinds (Letourneux 2020) lead to changes in workers' relationships to work? The emergence within employment of the alternation and overlap of work and non-work in the course of the working day that was once characteristic of self-employment adds to the difficulties of characterizing the work situation the uncertainty of distinguishing work time from non-work time. Though hard to quantify in terms of the number of persons affected, these developments have led in places to a deregulation of work and employment that has had a significant impact on the world of work, though without prompting any organized reaction. Yet, aside from the employment relationship itself, there are still few rules or standards pertaining to the classification of activities as work. This haziness around work itself suggests the utility of an analysis in terms of a gray zone deriving from changes in the time and place of work.

1.2. What is meant by working time?

Working time is defined in the European Community (and also, still, the United Kingdom) as "any period during which the worker is working at the employer's disposal and carrying out his activity or duties in accordance with national laws and/or practice".[6] We see, then, that this very definition of working time excludes the use of paid working hours to attend to personal matters. French national legislation in fact provides for a 35-hour working week but a maximum 10-hour working day, making for the possibility of working days of unequal—that is, varying—length.[7] Internationally, the new millennium has furthermore seen the proliferation of legislative reforms that tend toward the decentralization of regulation,[8] with norms set through company-level bargaining rather than by national law, so tending to align the Global North more closely with the Global South, where working time has been much more rarely subject to legislation. With individual agreements that fix the number of days worked but set no limit on hours worked in the day, and that take little account of the volume of work to be done and the number of people available to do it, working conditions formerly associated only with senior management are increasingly being imposed on those below them. While the French national time-use survey registered a twenty-minute reduction in time worked per day (by employees) between 1999 and 2010 (Martin 2022), many recent studies have highlighted the mutual permeation of times and the temporal overlap of work-related and non-work-related activities, such as working while eating or

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6 Art. 2, s.1, European Working Time Directive (Directive 2003/88/EC, 4 November 2003).

7 The relevant legislation being the so-called Loi Aubry I and Loi Aubry II (Law no. 98-661 of 13 June 1998 and Law 2000-37 of 19 January 2000) and Loi du Travail 2016 (Law no. 2016-1088 of 8 August 2016).

8 Call for papers for "Tant de capital, temps de travail", a colloquium held at the Centre de Sociologie des Organisations in Paris on 14–15 May 2018.

finishing work during "free time" at home. Such developments put into question the utility of measurement of work by the clock. Given all this, flexible working hours are no longer associated only with part-time, half-time, temporary or other atypical forms of employment (Boufartigue 2012) or with the day-to-day variation of starting and finishing times imposed on certain kinds of low-skilled workers. In our surveys, low-skilled women with children to look after preferred to work very early in the morning at cleaning or warehouse jobs and to sometimes supplement this waged employment with other work done at varying times of their own choosing, rather than to do the same job in the evening or at the weekend.

The diversification of working times and hours described here helps explain two tendencies. Firstly, the individualization (that is, differentiation) of working time and remuneration within industries and within occupational groups has made France's national statistical categories and those used by its government employment services less precise in their description of the realities of work and income.[9] As a result, the design of public policy regarding the regulation of employment is becoming less effective (Bisom-Rapp and Coiquaud 2017) and can indeed itself be seen as a factor in the creation of gray zones (Carelli, Cingolani, and Kesselman 2022). Secondly, the growth of remote work allows or requires certain sections of the workforce to work times and hours that vary on a daily or other basis, as may the location of work. The resulting fluidity or malleability of work situation (in terms of employment status, time and location) has consequences for private life, allowing workers (or indeed their employers/clients) to manipulate the time of work and take advantage of the potential temporal overlap of working and private life. This

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9 Those of the Institut National de la Statistique et des Études Économiques (INSEE), known in English as the National Institute for Statistics and Economic Studies.

diversification and indetermination of the time of work has led to the emergence of uncanonical styles of work and life that can only be described as "gray". In fact, the uncertainty of expectations regarding a working time no longer defined by legal regulations leaves room for interpretations that can vary with the person, the moment, and the wider circumstances of work. Furthermore, the recognition of time as working time (or not) of course has an impact on the pay that is the correlate of the work whose limits are no longer definitively fixed.

1.3. The many aspects of the diversification of working time

There is still uniformity of working times and hours in the public sector and in those branches of industry where Fordist production still prevails, e.g. for those on open-ended (permanent) contracts in the agri-foods or automobile industries. But times and hours can be highly variable in certain branches of the service sector and many workers—whether declared or undeclared, notionally employed or self-employed—work hours that bear little relation, in quantity and/or pattern, to the hours for which they are formally paid.

Working time and its remuneration used to serve as the basis for the distinction between self-employment, with its unpredictable hours, and the waged employment characterized by pre-defined hours and rates of pay. Even in standard employment, however, contracts increasingly make no reference to hours worked in their provisions for the determination of remuneration, so blurring that distinction. The loss of the link between time and pay can lead to a certain indeterminacy, fostering the emergence, expansion and complexification of gray zones. This is the case in retail, for example, where hours and times worked are governed by sales targets that workers do not themselves decide. The

same goes for many senior executives in the private sector (engineers, sales managers, etc.) whose pay depends on personal targets set by the company, and this in the context of a competitive intra-company environment, encouraging them to tailor their own working times and hours to the employer's advantage. This also goes for certain public sector managers, whose increasing workloads demand ever more time on the job, time that may or may not be paid for, depending on the department or service in question. The situation is similar in universities, public research establishments and hospitals, where taking on responsibilities as a head of department or project leader in addition to those of one's own job may or may not bring a corresponding increase in remuneration, depending on local practice and the balance of power.

This diversity of work situation and remuneration within socio-occupational categories and sectors of activity indicates how important the question of working time may be in negotiations between workers and employers/clients. Similarly significant is the question of the recognition as working time of time spent, for example, on travel and/or other activities linked to the task in hand, arrangements for which, in fact, vary a great deal. The emergence of a variety of systems for measuring and recording the time devoted to a given activity was one early reflection of the weakening of subordination within employment (Supiot 2000). In addition, working time is now less frequently identified with time spent at a single location, the workplace, as it was in the heyday of Fordism. This "'delocalization' of the labor process" is said to be responsible for "a blurring of the boundaries between work and private life resulting from the fact that work takes place at home (Dumas and Ruiller 2014; Metzger 2009)" (Letourneux 2020). The formerly distinct spaces occupied by the different activities of everyday life are increasingly tending to interweave and sometimes even to fuse. This last we see in the case of influencers who

gain an income from posting content on digital platforms, just as others may engage in on-line selling from home without ever thinking of it as work.

The identification of working time under these conditions depends, on the one hand, on the recognition and remuneration of time spent on certain activities by those on whose behalf they are carried out, and, on the other, on the expectation of remuneration on the part of those engaged in the activity, a subjective factor that comes into play when working time is no longer defined by presence at a designated location. Thus, the general fluidity of status and circumstance associated with a pattern of activity that sees successive spells of work carried out at different locations and in different contexts also sees the proliferation of situations in which, for example, periods of subordinate work alternate with periods of self-directed, independent activity that may or may not be carried out in expectation of an income (Cingolani 2021). Product demonstrators active on social media illustrate the complexification and individualization of the relationship between time, place, and remuneration, offering a first demonstration of the heuristic utility of a notion of "gray zone" in identifying as working time the time spent on an activity in expectation of reward, without regard to institutional definition. Such situations must count as work in the sense of gaining an income despite falling outside the bounds of legal formalization.

2. Working Time: The Emergence of a Gray Zone in Employment Status

2.1. The attenuation of the Fordist norm of work: more than the blurring of the distinction between employment and self-employment

Any comparison between the Fordist period, when working arrangements were stable for most, with the present and

its flexible working times and hours, has to look at differences in the organization of production and their impact on workers' relationships to work. The gradual rapprochement of employment and self-employment that we are witnessing highlights the significance of the distinction not always made between working time in the sense of hours actually worked and the working time formally recognized and remunerated as such.

Until the late 1970s, in the Global North, both large-scale industrial enterprises and public authorities, concerned for the stability or easy replacement of the workforce, sought to facilitate access to employment, in doing so promoting the formation of working-class neighborhoods (Coing 1982). However, the gradual outsourcing of certain industrial tasks under a variety of contractual arrangements and the globalization of the production of goods and services have since made access to stable employment more difficult for some of the workforce of the North. At the same time, the categories of unemployment, employment, and non-participation as defined and deployed by the ILO have come to offer an increasingly inaccurate representation of the labor market. Thus, workers categorized as part-time employees may in fact be working under different employment statuses, both as employees and as self-employed, in order to gain an adequate income, while those categorized as full-time self-employed workers may work under a variety of different statuses in parallel, as temporary workers, self-employed tradesmen or professionals, contractors or undeclared workers. "The new space of self-employment is difficult to quantify for a number of reasons. Firstly, because we know little about the structure of self-employed work. Secondly, because it is a space marked by precarity, where workers occupy unstable and rapidly changing niches . . . the nature of the clients they work for is changing, and sometimes deliberately muddied. . . . Finally, work situations vary a great deal, on the one hand often being characterized by great constraint, as in the case of digital platform

workers, and on the other, offering highly skilled workers an opportunity to gain a supplementary income" (Gros 2019). Underemployment, or the quasi-unemployment described by Bessone, Cabannes, and Marrakchi (2016) as the "halo around unemployment"—unstable statuses, being most often involuntary—represent a constantly shifting gray zone in the labor market (Dubet 2019), characterized by a hybridization or simultaneity of statuses. Indeed, variability of status is sometimes a prerequisite for retaining work or earning sufficient money, and such hybridization may serve to stabilize workers' ability to gain an income.

Project managers working in Marseille to promote the integration into the workforce of low-skilled workers spoke of people employed by businesses or voluntary sector organizations (to provide personal or business services, as maintenance workers or home helps), who would occasionally undertake work on their own account—officially declared or not—within the limits of time, location and expense that they considered acceptable in terms of the additional income it represented. This alternation of journeys and locations is also to be seen among skilled workers who willingly or otherwise regularly combine employment with self-employment, such as secretaries who undertake document capture or other secretarial tasks on a freelance basis, or staff architects who also provide services in their personal capacity. In our investigation of co-working spaces in Toulouse, we found that some of those employed to manage or supervise them also engaged in work on their own account at the same time. Again, employees able to work remotely for their primary employer might also visit co-working spaces, when not working for them, to do freelance work for another firm or even to undertake voluntary work. Other studies have identified a category of economically dependent independent workers (Mondon 2014) who are formally employed for part of their work while carrying out other tasks for the same firm as self-employed.

The existence of these varied combinations of employments, often as means to ensure a sufficient or optimal income, contributes to the difficulty of defining appropriate labor-market categories. The increasingly common phenomenon of multiple jobholding exemplifies both the difficulty of distinguishing between different work activities when these are not associated with distinctive locations, and an emergent, hybrid employment status that might perhaps be called engagement rather than employment. It is these trends in the matter of time, place, and status that make for the complexity of the gray zones in which the time of work is constantly being reshaped. A complexity that leads to the unreliability of statistics that can no longer identify employment status or branch of production on the basis of standard locations and working conditions.

2.2. A gray zone generated by the variability of working times and arrangements

The variability of time and place makes it difficult, then—for researchers, public authorities, and indeed workers themselves—to categorize work situations that deviate from the norm, as when freelancers combine declared and undeclared work, or employees, willingly or unwillingly, work unpaid hours, or work on their own account as well. More generally, the informal individualization and diversification of the times and locations of production changes workers' relationship to work, and also leads to "standard" employment coming to more closely resemble third-party employment or self-employment, all this making work itself more difficult to define and identify than under Fordism.

While the measure of work under the Fordist regulation of production was (continuous) time spent at a (single) location, the deregulation of working times and hours in employment has seen the return of the task as the means of defining and measuring work done. Limits on time and constraints on location tend to vanish, just as continuity

of time and place are irrelevant to the self-employed, given the contractual specification of deadlines rather than of hours to be worked. The resulting ambiguities have necessitated changes in the way work is organized. Individualized management and the frequent alteration of hours worked both contribute to a desynchronization of the workforce as staff negotiate their own working times and locations and even employment status. These new dynamics allow workers and their employers/clients to compromise on or circumvent labor standards, norms of pay and hours, and targets to be met over a period. Such negotiations, often carried out individually, are part of a strategic repositioning of workers and employers/clients regarding the conditions under which—and in consideration of which—work is done. The individualized hours of work characteristic of these arrangements more closely resemble the patterns of work of the self-employed than those of the traditional workforce that gathers daily at the employer's premises. They represent, however, only a very partial slackening of subordination and no more than a minor gain in independence when the contract of employment is modified only so far as to allow for working from home or other forms of telework. So we are not, in fact, witnessing a fusion or conflation of employment and self-employment, or of formal and informal employment, but rather a single overarching shift that encompasses to varying degrees workers of every employment status across numerous occupations, together with the emergence of styles of work that escape all legal categorization.

The notion of the gray zone developed in response to this wide-ranging phenomenon helps account for relationships to work that are sometimes determined not so much by the work itself as by the advantages or disadvantages to the worker of the conditions in which it is carried out. As government employment services (unemployment offices, training organizations, etc.) and the schemes they sponsor

leave users little or no scope to negotiate improved terms, some workers respond to their inadequate incomes by taking on undeclared work in addition to their official work, under whatever status. This shifting through different segments of the labor market and workers' eventual settling in one or more—or in some intermediate space between—represents, in fact, an effort to manage or optimize the times and places of work. The combination of work situations offered by private sector employers or organized and coordinated by government, on the one hand, with those tailored to their own ends by workers makes the determination of an individual's work situation problematic, contributing to changes in public conceptions of work that themselves contribute to the development of gray zones.

3. Are Changes to the Time and Place of Work Leading to Work's Disappearance?

The use of one's skills to do an odd job here and there, against remuneration (though perhaps without any more explicit contract) but outside work and at a location not exclusively dedicated to work, could be said to occupy a middle ground between work and leisure. Workers' own private space and urban public spaces are indeed increasingly serving as locations for white collar remote work (Marzloff 2013). One of our interviewees in Marseille spoke of people who occasionally cooked or did odd repair jobs for people, at home or elsewhere, without this being their occupation, but simply something done in their spare time, remunerated or otherwise. Mostly blue- or white-collar workers or housewives, such people did not wish to become formally self-employed, nor would this be possible, for want of training or qualifications, or because of family circumstances that made it necessary to work only when and where convenient and for people of one's own choice.

In the case of the most highly-skilled workers, Burret (2013) suggests that work arrangements such as those offered by collaborative spaces foster the emergence of initiatives informed by the values of autonomous, non-subordinate work (Lallement 2015), drawing on "motivational energies and subjective capacities and being tailored to subjects' proper times, their individual rhythms and spatio-temporal requirements" (Rosa 2010). The generalization of ICTs and the increasing individualization of both work and life similarly promotes the rapprochement of working life and private life in the case of workers who, thanks to technical skills acquired in their leisure time (crafts, IT) are able to offer paid services—e.g. creating blogs, software training, assistance in dealing with on-line interfaces—to individuals or firms. Growing in volume, these activities taking place at multiple locations not forming part of the traditional framework of production (home, shared workshop, co-working space, fab lab, etc.) represent a gray area in terms of their official status as work. The failure of place as the key to distinguishing between work and non-work activity has been a major factor in the constitution and expansion of the gray zone. This has been reinforced by the growth of teleworking, as the flexibility of time and location it offers has created new opportunities for workers to collaborate with others, on a formal or informal basis, alongside employment or replacing it altogether. The changing or unstable character of these voluntary non-work collaborations, can nonetheless involve the institution of contractual, pecuniary relations. That presents a difficulty for any attempt to clarify, redefine or indeed do away altogether with the concept of work.

Just before Covid struck, certain self-employed workers who made at least some use of co-working spaces in the outskirts of Toulouse were networking with others in similar spaces in other French cities and abroad, to discuss matters of common concern or to find partners to collaborate on informally organized projects. During lockdown,

the existence of these informal collaborations was decisive in the emergence of a digital co-working space, that is, an expanded, virtual space open to users anywhere.[10] The use of this virtual place for remote collaboration led to paid contracts for people who had initially collaborated on a voluntary basis. One result was the recategorization as work of some such collaborations and with that the elaboration of at least temporary frameworks and rules for joint projects. These ad hoc collaborations supported by the use of ICTs thus generated a new institutional framework, a hybrid of cooperative and platform, work for which was defined not just by the production of a product or the provision of a service but also in terms of individual contribution to the common project, while the nature of the location where activity was carried out could also affect its categorization as work or not. A certain "elasticity" of time and place in teleworking introduces the possibility of informal collaborations with others that may call for the institution of contractual, pecuniary relations, one example of the more or less institutionalized and more or less durable changes to work taking place in the gray zone.

This kind of indeterminacy regarding work was typically to be found in the fields of culture, the arts, communications, information technology, and engineering services for business, but it is now spreading to other sectors as well. Furthermore, alongside the simple desire to work away from the office, there is also another phenomenon, known as the Great Resignation or the Big Quit: the partial or total departure from the labor market of those unattracted or disappointed by the promises attached to work. The proliferation of different forms and conditions of work and income-generation is fostered too by a desire for recognition and for

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10 This was initiated by a group of people who decided to make their meetings and topical discussions accessible to users of the same third-party space unable to attend in person, and subsequently to users of other third-party spaces and fab labs in France and abroad who were interested in the same topics and wished to contribute to the discussions.

meaningful work that has driven the emergence of a variety of working patterns more closely adapted to the demands and values of private life, leading sometimes, indeed, to the abandonment of regular, formal work. While this is to be found among all occupational categories, the balance of advantage and disadvantage arising from these forms of "autonomy" remains unclear, particularly for those with fewer skills or qualifications. In this respect, the gray zone can be seen as a nursery for novel forms of work relations (in terms of types of long-term co-operation or punctual collaboration, or ways of combining employment and self-employment) more or less institutionalized and durable.

Consideration of the time and place of work thus yields a picture of the gray zone as fostering relationships to work that valorize autonomy and flexibility of time and location, factors that are now taking their place alongside remuneration as the expected recompense of productive activity.

Conclusion

The reconfiguration of work in accordance with highly individualized and individualistic logics has correspondingly diversified its times and locations. Amplified by certain workers or employers who seek to take advantage of the uncertainty of the boundary between work and non-work, this diversification has made work difficult to identify when no longer temporally and spatially circumscribed, while employment status becomes similarly difficult to pin down. These two factors count for much in the constitution of the gray zone, making work situations more opaque and recalcitrant to institutional classification.

Reflection on the time and place of work suggests that the gray zone corresponds to the situation in which, in the regulatory gap or vacuum created by the dismantling of labor regulation, personal factors are coming to play a

significant role in people's relationship to their de-regulated work. The replacement of formally regulated factors such as status and pay by more personal criteria (e.g., residence, family life, social networks, availability of public transport or access to public or private financial support) leads to unclarity and ambiguity, but can at the same time promote the emergence of novel types of work situation that may become normalized. Individuals' situations exert their own weight in the relationship of forces between workers and their employers/clients, informing negotiation goals that contribute to the formation of gray zones. Flexibility of time and place of work allows employers to optimize their use of the workforce, while enabling workers to minimize, so far as possible, the most negative consequences of the shortage of paid work. Consideration of the issues of time, location and mobility associated with work reveals, as one might expect, that inequalities between the top and bottom of the socio-occupational pyramid have not been reduced by increasing flexibility, which has rather led to a cross-cutting segmentation of categories in terms of individuals' ability to free themselves of the constraints of collectivity (e.g. of family or standard workplace) and so to take advantage of it.

Within each category, and more particularly among very highly or very low-skilled workers, jobs are chosen on the basis of the living conditions that they afford. In these two cases, in which workers are very much in control of their own working conditions, on the one hand, or very little, on the other, the advantage of the gray zone, as concept or tool, is that it enables discussion of the new dynamics regarding the rhythm, duration, territorialization and location of work that are governed by relationships of forces rather than being formally regulated, or emerge in the context of fluid and non-institutionalized arrangements (D'Amours et al. 2023; Cingolani 2014). The accompanying shift of focus from socio-occupational inequality proper to social inequality more generally reveals new kinds of

relationships to work and highlights the unequal importance of work in the stabilization of individuals' social situations. Yet neither government nor unions have undertaken much, if any, cross-cutting analysis of inequalities in the circumstances in which work takes place. Gray zones are thus largely the outcome of conditions of work devised (under constraint) by workers themselves in an effort to counter or to limit as much as possible the destabilization of their social situations in the face of the inadequacies of public policy. But they can also be seen as driving and revealing the margins of capacity generated by the fragmentation and/or reconfiguration of work situations. The heuristic power of the notion of the gray zone lies in what it enables us to see in the transformations of work and employment discussed here.

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The Digital Gray Zone: Platform Practices, Tactics, Uses and Abuses

8

The App-Based Driver Template and the Construction of Gray Zones

France and Brazil Compared Through the Lens of the California's Proposition 22

Rodrigo Carelli[1] and Donna Kesselman[2]

Abstract

This is a comparative study of the role of gray zones in the institutionalization of new norms of work and employment. It looks at the cases of France and Brazil with reference to the Proposition 22 ballot initiative in California, which first introduced a distinctive status for app-based drivers, depriving them of the protections of labor law they would otherwise have been entitled to. We thus use the term "App-Based Driver Template" to designate both a process and

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the objective it is intended to achieve, i.e. the institutionalization of an uberized app-based work status in local passenger transportation markets worldwide. We argue that Proposition 22 was a mechanism to shift the regulation of employment from its traditional (Fordist) institutional context to another context where the radical change sought by Uber and other platforms could be more easily achieved. This, though, was the second step in the process, the first being Uber's launch of operations in defiance of customary norms of regulation with the deliberate intention of doing away with them—this, we argue, was the real disruption. We also use the term "Uber norms" to designate the new norms the platforms sought and seek to impose, in terms of both regulatory process and work status. We show, then, how both France and Brazil have drawn on and adapted the example of California, introducing the same distinctive status through the different modality of ad hoc tripartite concertation between government, platforms and workers. The end point of the process may be reached piecemeal, with different elements of the California model introduced at different stages, while novel adaptations circulate internationally—one being the sectoral bargaining for independent contractors introduced in France and in Brazil. The result in every case is that the regulation of work is shifted out of the traditional regulatory order, in the form it takes in each country, with pay rates, working conditions and social protection left to private sector arrangements and the market forces mediated by the algorithmic ecosystem.

Keywords: Work; employment; gray zone; uberization; app-based drivers; platform work; sectoral bargaining; Proposition 22; Post-Fordism; ARPE; Grupo de Trabalho tripartite.

Introduction[3]

This chapter considers current transformations of the labor market in terms of gray zones in work and employment. More specifically, it undertakes a comparative analysis of how the special status of "app-based driver" is being institutionalized in France and Brazil, both of these cases drawing on the example of California's Proposition 22 in introducing its model in some form. That ballot proposition—which exempted app-based transportation and delivery companies from having to provide employee benefits to most drivers—was shaped and massively funded by the digital platforms under Uber's leadership. It was this formula that the platforms would then seek to introduce elsewhere.

In both France and Brazil, the one a major actor among the nations of the Global North, the other a leading force in the Global South, governments have brought digital platforms and platform workers together to devise new regulatory frameworks for platform work. The bodies established for the purpose were presented as innovative iterations of the established tripartite model, under which government and the two sides of industry jointly negotiate social and economic matters. Comparison of these pioneering institutions and their operation reveals both similarities and differences in the regulation of platform work between the two countries. Common to both, however, is the tendency to shift matters of collective bargaining and social

3 The research reported here was supported by a grant from France's Agence Nationale de la Recherche, for "Grey Zones and Territory: Transformation of Work and the Emerging Figure of Platform Worker. A France-Brazil Comparison" (REGREYZ&CO, AAPG2020), led by Christian Azaïs (LISE-CNRS-CNAM) and Cibele Rizek (Instituto de Arquitetura e Urbanismo/Universidade de São Paulo), and one from the Agence d'Objectifs de l'IRES (Institut de recherches économiques et sociales), for "Ubérisation, espace public et parties prenantes : Vers une nouvelle configuration des relations d'emploi et de travail dans les territoires ?", led by Christian Azaïs (LISE-CNAM/CNRS), Patrick Dieuaide (ICEE-Sorbonne Nouvelle), and Donna Kesselman (IMAGER).

protection away from public institutions in favor of more commercial, market-based arrangements.

Our analysis of these institutions—the Autorité des Relations Sociales des Plateformes d'Emploi (ARPE – Employment Platform Social Relations Authority) in France and the Grupo de Trabalho Tripartite (GTT – Tripartite Working Group) in Brazil—aims to shed light on the role of digital platforms in redefining the institutions that regulate work in the sector. We look at how "uberization", which turns workers into subordinated self-managers, permanently available and mobilizable on demand ("just-in-time"), and stripped of the rights and protections associated with employment (De Stefano 2016; Abílio 2020), has become a global phenomenon. We trace how the model pioneered in California is being reproduced across the United States and the rest of the world, sometimes as a complete package, sometimes element by element. In particular, our research reveals a pattern whereby digital platforms follow Uber in creating gray zones in work and employment as a means to impose this *sui generis* employment status of their own design, sometimes with the willing complicity of governments.

The current efforts of location-based digital platforms to institutionalize this status represent, in our view, a new phase of uberization. Led by Uber, they are seeking to establish themselves as policy makers, fully embracing a role as political actors capable of shaping labor regulation and advancing their own vision of work and society (Azaïs et al. 2017; see, too, the Introduction to this volume). We recognize that, where governments or public opinion offer stronger resistance, platforms may adopt alternative strategies, as illustrated by the cases of Spain and Denmark (Valdez 2026), and even Germany. In some instances, certain platforms have gone so far as to recognize platform workers as employees. This, however, does not invalidate the key point of the present chapter: the existence of a strategic

template that has a political and institutional impact, even if that impact varies with the specific national context.

For us, the process of uberization can be thought of as the deliberate creation and exploitation of gray zones in work and employment to strategic ends. Viewed in this way, "disruption" (Dubal et al. 2018) is not an end in itself but a means to changing the principles that structure the regulation of work. It represents the first stage of a broader effort to institutionalize this new category of worker, tailored to the needs of the digital economy and governed by its own rules. Here we use the term "Uber app-based driver template" to designate the blueprint followed in pursuing this, encompassing both the process and the objective it is intended to achieve. We use "Uber norms" for the new norms the platforms seek to impose, in terms of both regulatory process and employment status. Among them are the constituent elements of the app-based, ride-hail driver model promoted by the platform—elements that can be, as it were, smuggled in separately, and gradually—and intended, precisely, to replace existing, applicable, labor-market norms. These two notions allow us to trace the engineered diffusion of the model of the app-based worker across regulatory institutions and transportation systems worldwide. Although this process and the gray zones it engenders has not advanced as far in France and Brazil as it has in the United States, the concept nonetheless proves valuable in comparing the transformation of the regulation of labor markets in Global North and South (an exercise whose requirements are explored in detail in Giraud and Rey's contribution to this volume).

1. What Do We Mean by Gray Zones?

By gray zones we mean features of work and employment that cannot be grasped through the binary categories that

defined work under Fordism: employed vs. self-employed, formal vs. informal, precarity in the North as against informality in the South … (Bouffartigue and Busso 2009). Abandoning these and looking at how conditions of work and employment are really rather than ideally or theoretically determined, reveals a space of socio-political contestation and makes it possible to map new configurations of work and employment that emerge; these may be institutionalized to widely varying degrees and so may or may not perdure (Kesselman 2024). This chapter, then, takes its place among a whole body of research on such gray zones (Bellemare et al. 2024; Bureau et al. 2024; Bureau et al. 2019; Bureau and Dieuaide 2018; Boulin and Kesselman 2018; Azaïs and Carleial 2017; Siino and Soussi 2017) that we drew on in an earlier study of the platform economy (Carelli, Cingolani, and Kesselman 2022).

The blurring of the binaries that characterized the Fordist Welfare State has seen the emergence of countless gradations of gray area extending between standard employment and its counterpart in self-employment. Yet these binary categories still structure not only popular, institutional and social-scientific understandings of work and employment but also the key mechanisms for the redistribution of wealth in capitalist countries. In particular, the blurring of the (legal) distinction between the canonical figures of the subordinated employee and the self-employed independent contractor has clouded or disrupted the criteria regulating power relations at work and access to social protection. We see this too in the Global South, where the social state emerged belatedly, bringing with it genuine though fragile rights, albeit for only part of the workforce. It did, however, play an important role in the construction of the idea of citizenship upon the restoration of democracy in countries such as Brazil (Carvalho 2021; Comparato 2019).

2. The Creation and Exploitation of Gray Zones as Strategy

It is this conceptual framework that has allowed us to identify a working strategy and an associated set of practices developed by location-based ride-hailing and food delivery platforms, with Uber in California at the forefront. In creating and exploiting gray zones, they aim to normalize their disruptive operational model. When first introduced, as the first step in the process, disruptive practices result in an "institutional instability" that undermines the existing regulatory architecture, an instability that Grillo and Soares explain in their chapter here. Based on empirical studies in Brazil, their concept highlights the combined effects of neoliberal austerity policy and the acceleration of legal production, which lead to legal uncertainty and the consequent erosion of established rights. In California, the introduction of the new urban passenger transportation model would lead to overt political crisis.

The exploitation of this disarray represents the next step in the process of securing institutional change, whose aim is not a change in law or regulation alone. For Dirringer (2021) the regulation of work and the allocation of social rights is governed by a dominant normative framework or order: the socio-political order of public institutions, the socio-occupational order of workplace relations and collective bargaining, or the commercial order of economic rationality, the market, and competition, this last represented here by the platforms. Shaped by the twentieth-century social struggles that laid the foundations of the Welfare State, the non-market orders are now being put into question by the digital platforms, which seek to replace them by one that better serves their interests.

This is the political background against which the instituent phase of the process plays out, a phase characterized by what we describe as regulation in the gray zone of public space (Azaïs et al. 2017). By public space we mean

here the loosely institutionalized space of public debate and contestation, as opposed to the legislative, regulatory, and industrial relations institutions inherited from the past. In California, the gray zone of public space was the 2020 ballot on Proposition 22 promoted by the digital platforms. By removing the question of regulation out of the customary (socio-occupational) institutions of labor relations to a forum they believed would be more advantageous to them, they escaped the power and influence of organized labor.

Here, the notion of the Uber norms allows us to trace the gradual and sometimes piecemeal diffusion of a coherent and identifiable "app-based driver" model across the US states and the rest of the world. Drawing on the typology developed by Christian Azaïs (see his chapter here) and treating the app-based driver as an "emergent figure in the gray zone" allows us to tie this in with drivers' own experiences in local transport markets, and through this, too, map the circulation of the "Uber norms".

The state, acting through the executive or legislative branches, or even the judiciary, may not function as an arbiter or mediator merely; rather, as in the cases studied here, it can act as an active agent in the construction of gray zones (Carelli 2022; Kesselman 2022; Bisom-Rapp and Coiquaud 2017).

We will now look at the Uber template for the institutionalization of app-based driver status in comparative perspective, in terms of institutional instability, the displacement of orders of regulation, and regulation by new stakeholders effected in public space. We will conclude by tracing this process through the progressive introduction of the Uber norms.

3. Institutional Instability in California, France and Brazil

The practice of disruption is essential to uberization. The normalization of disruptive practices through the engendering of institutional instability represents the central dynamic of the first phase of the Uber app-based driver template. This is being implemented in a context where globalization has brought about a decline in the state's capacity to fulfill its historic welfare function (Supiot 2015), the neoliberal state has actively reorganized institutions, law and public policy (Dardot and Laval 2007), and competition has consequently become the guiding principle of social life following the destabilization and dismantling of the previous regulatory framework (Brown 2015). Coined by legal scholars Sayonara Grillo and José Luiz Soares, the concept of *institutional instability* captures one of the ways in which the neoliberal agenda undermines the established framework of labor protection (see their chapter here). Against this backdrop, the erosion of workers' rights takes new forms, as platform companies increasingly rely on novel forms of "illegalism" (Foucault 1975) to circumvent employment legislation.

3.1. From Disruption to Institutional Instability in California and Elsewhere

Uber's app-based ride-hailing model and its political strategy for reshaping the regulatory environment of California's passenger transportation market have since been reproduced, together, in urban centers worldwide. The strategy involves challenging any attempt at regulation by government agencies, notably by appealing court decisions—most particularly those concerning the reclassification of drivers as employees—that would hinder the implementation of its blueprint for disruption. The systematic and strategic nature of this practice was made clear by the French parliamentary

inquiry into Uber's lobbying practices, headed by Danielle Simonnet, which revealed the existence of a manual to that end, for the use of the company's executives. This included guidance on overcoming regulatory obstacles to market entry by obtaining exemptions or reforms; the treatment of fines as costs of expansion; the mobilization of drivers and users to pressure public authorities; the intensive lobbying of political decision-makers; and the strategic exploitation of conflicts with regulators and incumbent industries (Simonnet 2024).

3.2 Uberization and Institutional Instability in France and Brazil

An existing institutional instability in both France and Brazil was particularly conducive to the "uberization" of the institutions of work and employment. French policy since the beginning of the new millennium has been marked by a doctrinaire commitment to the decentralization of industrial relations, prioritizing company-level over sectoral agreements on a growing number of issues (as notably exemplified by the so-called El Khomri employment law of 2016 and the Macron government's industrial relations legislation of 2017). This can go so far as to allow such "lower-level" agreements to derogate from the sectoral agreements—negotiated within tripartite bodies that bring together employers' associations and trade union confederations under government aegis—relating to such issues as minimum wages and conditions, which covered 98% of French employees in 2024.[4] In Brazil, the 2017 labor law reform followed a similar pattern, weakening national regulation by prioritizing contract over law and promoting the expansion of outsourcing, as well as many other legislative

[4] https://dares.travail-emploi.gouv.fr/donnees/les-portraits-statistiques-de-branches-professionnelles

changes intended to weaken labor protections and make it more difficult to access the rights associated with employment (Casagrande and Carelli 2018; Carelli 2019). Legislative reform has been complemented by reinterpretations of established law by the Brazilian Supreme Court that tend to the same effect (Casagrande and Carelli 2025), and the recent period has thus seen an unprecedented loss of workers' rights (Cardoso and Azaïs 2019).

In both France and Brazil, these developments were accompanied by political unrest. In France, the *Loi El Khomri* and the subsequent pension reforms of the Macron government triggered waves of social protest, while in Brazil the 2017 labor law reform was introduced amid an economic and political crisis linked to the impeachment of Dilma Rousseff and the ensuing removal from office of the democratically elected president.

3.2.1. The Key Role of the State in the Construction of the Gray Zones in France and Brazil

The platforms capitalized on the weakening of traditional regulatory institutions to push back boundaries to the point of no return. The advent of Uber strained relations between the executive and judicial branches, and between national and local government in both countries (Carelli and Kesselman 2019). The dynamics, however, have been different in the two cases: in Brazil, the senior judiciary has played a leading role in challenging municipal measures to regulate ride-hailing and platform work generally (Carelli and Seferian 2019), while in France, it is the highest instances of the executive that have undermined the judiciary's efforts to enforce existing regulations.

3.2.2. The French Model of Platform Work

The French model of platform work has been shaped by a government strategy, shared by successive administrations,

of combining the modernization of passenger transportation through Uber-style technological innovation with the creation of jobs, while maintaining the core protections of the French social model. However, the enactment over a decade of three laws on platform work, and two other laws —one on employment, the other on transport—containing measures related to the sector, together with a range of government decrees regarding their implementation, have failed to settle the employment status of platform workers or issues of drivers' conditions and social protection.[5]

3.2.3. The Gray Zone of Platform Social Responsibility in France

The proposal to replace state regulation of employment by a system based on corporate social responsibility provoked extensive resistance. The French constitutional court struck down as unconstitutional the legislative provisions enshrining it.[6] Having declared platforms' responsibility for the treatment of their workers, the legislation provided that they could formally codify in so-called "social charters" the principles by which they chose to operate. These public documents once in place, workers engaged under them would be barred from seeking reclassification as employees, being rather independent contractors whose rights and obligations were there laid down. The court ruled, however, that the existence or not of an employment relation was a matter for the courts, not the legislature. Unions rejected the social charter system, unanimously insisting on public, government-enforced standards applicable to all workers as a safeguard against "social dumping" (CFDT 2019).

The government, however, decided to ignore the judiciary and disregarded an ensuing ruling by the French

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5 Loi Novelli (2009), Loi Thévenoud (2014) and the Loi Grandguillaume (2016) on passenger transport; the Loi El Khomri on employment reform (2016); the Loi d'orientation des mobilités, on passenger transport policy (2019).

6 https://www.conseil-constitutionnel.fr/decision/2019/2019794DC.htm.

supreme court, the Cour de Cassation, that Uber drivers were employees. The Uber judgment of March 4, 2020 declared their supposed independence to be bogus, given that all the criteria for subordination (and hence employment) were present and none of those indicative of independence (and self-employment).[7] Yet the French President, later revealed as having been sympathetic, as a minister, to Uber's attempts to bypass employment law (ICIJ 2023), refused to give effect to the ruling. Uber took advantage of the intervening "time of non-regulation" to adapt its model so as to escape the scope of the judgment, so that five years later the same court could declare that no relation of subordination, and hence no employment relationship, existed. This took place just as the European Union introduced a presumption of employment for platform workers, though the French government and others had eventually managed to muddy the waters, creating yet another gray zone, by ensuring that its implementation was left to Member States (see Claire Marzo's chapter here).

The French case highlights the government's inability—despite its commitment and its willingness to adopt deliberately disruptive courses of action—to establish any kind of social or political consensus around the model of the app-based driver by means of a top-down approach. The resulting gray zone of institutional instability shows how uberization requires the hijacking of the state to Uber's own ends, even to the point of breaking the law, all this with the complicity of government (Simonnet 2024). President Macron himself would not deny this: when challenged on the secret deal he was reported to have made, as finance minister in the Hollande government, to ease Uber's illegal entry into the French market, he said of himself that "I'm extremely proud . . . , it's very difficult to create jobs

7 https://www.legifrance.gouv.fr/juri/id/JURITEXT000042025162

without businesses, without entrepreneurs. I'd do it again tomorrow, and the day after that".[8]

3.2.4. Brazil: The Judiciary vs. Municipal Regulation

The platform economy disrupted the local regulation of transport in Brazil, and put the Supreme Court (Supremo Tribunal Federal, STF) at the heart of a conflict that opposed national norms to the municipal regulations upheld by the lower courts (De Sousa Júnior 2025; Carelli and Seferian 2019). Addressing attempts at regulation by a number of municipalities, the STF declared that that "the prohibition or restriction of app-based driver transport services is unconstitutional, as it violates the principles of free enterprise and free competition" (Freitas 2019). In Brazil, then, it was the judiciary that overturned political regulation as Uber management intervened forcefully in the country's politics.

The way having been cleared by the Supreme Court, national legislation favorable to platforms was introduced, following a direct intervention by Uber's CEO and a petition that mobilized a mass of users in support of the service in what was the company's second-largest global market (Carelli and Seferian 2019). The law largely confined local authorities' powers to taxation, while according operators much freedom in the setting of prices and exempting platforms from many of the requirements imposed on taxi services. As in France, this situation exemplifies the institutional instability described by Grillo and Soares, uberization undermining long-term legal and political certainty and disrupting established frameworks of employment regulation.

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8 *Le Monde,* "Emmanuel Macron réagit aux révélations « Uber Files » : « Je le referais demain et après-demain »", https://tinyurl.com/j3jffp35

Furthermore, in a series of non-binding decisions, the STF has repeatedly overturned Labor Court rulings that recognized the existence of an employment relationship between workers and platforms. As discussed below, the Court is now poised to decide a case that will bind the lower courts, most likely prohibiting judges from determining the existence or not of an employment relationship by applying the reality test. This would effectively result in the regulation of platform work through judicial action rather than legislative intervention.

4. Platform Advantage Secured Through the Displacement of Orders of Regulation

The bypassing of existing legal constraints sets the scene for the next phase of the Uber template: the process of institutional change discussed by Streeck and Thelen (2005) and later revisited by Bureau and Dieuaide (2018). For them, the recognition of gray zones avoids a falsely binary conception of the boundary in analyzing the shift from one institutional regime to another; their focus falls rather on the discoherence (*décohérence*) that sees an increasing disconnect between regulation and its object and between the various spaces of regulation.

Our own deployment of Dirringer's notion of "displacement of orders and spaces of regulation" (2021) in aid of comparative analysis takes this elaboration further. The institutional architecture of the regulation of work and the allocation of social rights under capitalism is determined by the character of the normative order: either a socio-political order embodied in public institutions—as in France and most European countries, or a socio-occupational order rooted in company-level collective bargaining between employers and their (subordinated) employees—as in the United States and Brazil, with, in Brazil's case, certain con-

stitutional guarantees in addition. The foundations of these national welfare states derive from the class struggles of the twentieth century and the particular form of social contract arrived at. The platforms' consistent aim is to undermine these two tripartite regulatory orders and to replace them with a market order that serves them better. This entails the commodification of social protection and a market-driven regulation of work mediated by the algorithm.

5. Regulation in the Gray Zone of Public Space

5.1. Proposition 22: Pioneering Regulation in the Gray Zone

In orchestrating the passage of Proposition 22 in 2020, the major California-based ride-hailing and food delivery platforms—with Lyft, DoorDash, Instacart, and Postmates following Uber's lead and sponsoring the proposition—shifted the locus of the regulation of work in the United States. By moving the issue into the political sphere of the ballot initiative—a legislative proposal to be put to referendum—they bypassed the company-based industrial relations regime associated with the New Deal, in which trade unions wield workplace power to negotiate favorable conditions for their (employee) members. The object of Proposition 22 was declared in its formal description: "Exempts App-Based Transportation and Delivery Companies from Providing Employee Benefits to Certain Drivers . . .". It was specifically contrived to exempt location-based platform workers—ride-hail drivers and food delivery workers—from the provisions of California's Assembly Bill 5 that had come into effect at the beginning of the year, intended to shore up the prevailing regulatory order by classifying those workers as employees. The shift into the political arena put workers and their unions on the defensive. Platforms would henceforward take full advantage of the "direct democracy" of the

ballot initiative (Andrias 2023) to create the gray zone they wished to establish.

This was the ultimate goal of the Uber app-based driver template: the creation of an employment status that undermined the employed/self-employed distinction, creating a status without the advantages of either. In pushing through Proposition 22, Uber effectively acted as a "quasi-legislator" in institutionalizing a tailor-made status for app-based drivers that put them outside the established framework of labor law despite the real subordination found to exist by the courts and recognized by AB 5 (Kesselman 2025). Although pioneered in California, this status subsequently spread across the US and elsewhere, frequently adopted through the standard legislative process—subject here, as often, to significant anti-democratic manipulation. Washington became the first state to enact such a status by statute, while Massachusetts and New York reached compromises incorporating key elements. In each case, Proposition 22 served as the model.

5.2. Regulating in the Gray Zone in France and Brazil

One of the Brazilian government representatives on the *Grupo de Trabalho Tripartite* would write in his report that "This working group represented an initiative unprecedented in this country—and one of the first in the world—to bring representatives of government, workers, and businesses together in a tripartite body in order to regulate the complex issue of digital platform work" (Antunes 2024). It is the exceptional, pioneering character of this initiative and of the comparable initiative in France that makes it worth taking a closer, comparative look at the two experiences. In her analysis of the regulation of health care for platform workers in France, legal scholar Josépha Dirringer (2021) notes that this has been displaced from the socio-political order under which, as employees, workers would be covered by public healthcare provision, to the market-based

order, where, as independent contractors, they would have to rely on private insurance at their own cost. She further notes that this displacement and commodification of social rights is echoed in the establishment of a special forum for the negotiation of platform workers' conditions of work (*dialogue social*)[9], the ARPE.

The purpose-built institutions set up in France and Brazil were to regulate work in place of the established system of collective bargaining. They themselves are loosely regulated, by design, but the terms of their mandate inexorably resulted in the creation of a third type of employment status endowed with fewer rights than the canonical employee.

In France, the then minister of labor, Elisabeth Borne, saw the new institution as a means to secure for platform workers certain social protections normally reserved for employees while maintaining their status as self-employed contractors. In this she aligned herself with the platforms, whose priority is to refuse any recognition of the subordination that would see their workers classed as employees. The constitution and mandate of the ARPE would ultimately further bolster the platforms' power.

On March 4, 2024, at the presidential palace in Brasilia, President Luiz Inácio Lula da Silva introduced Supplementary Bill No. 12/2024 (PLP 12/2024), which addressed "the employment relationship mediated by companies running apps offering private, for-hire passenger transport in four-wheeled motor vehicles". At this high-profile event—attended by members of the government, platform representatives, and union leaders—he emphasized that the bill represented a significant step forward, in "establishing a new form of work". Minister of labor and employment Luiz

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9 In France, the term "social dialogue among social partners" has increasingly replaced "collective bargaining"—a term that remains the standard in Brazil. As Josépha Dirringer notes, this shift in usage reflects the influence of managerial thinking since the early 2000s (Dirringer 2021).

Marinho likewise stressed the significance of the creation of a new "special category" of self-employed workers entitled to certain social rights. In essence, this amounted to a new status that would apply to app-based drivers—and potentially to others beyond that group as well.

6. Institutionalizing the App-Based Driver Model through the Promotion of "Uber Norms"

It is the idea of the Uber norms, explained above, that allows us trace the way in which the app-based driver model is being institutionalized, a process driven by the circulation and adaptation of its constituent elements. Despite those local adaptations, this is tending everywhere to the establishment of an identifiably uberized regulatory order. Here we look at the different elements or norms involved. First is *Uber democracy,* in which deliberation is removed to a space more open to manipulation: in California, from the realm of shop floor industrial relations to a ballot initiative supported by well-funded advertising and campaigning, in France and Brazil to ad hoc tripartite fora. This introduces new actors, *new gray zone stakeholders in regulation*. The object is the institutionalization of the new norms embodied in the figure of the uberized *app-based driver,* the just-in-time worker. Yet in the end, even the supposedly normative working conditions and rates of pay that emerge from manipulated public debate, specially contrived institutions, and lop-sided bargaining, get lost in the *gray zone of implementation,* being in many respects unenforceable by design.

6.1. Uber Democracy as Norm

6.1.1. The US: How to Buy and Bully Your Way to New Labor Legislation

In a unanimous decision, the Supreme Court of California upheld the validity of the Proposition 22 initiative and the new employment status it had introduced for app-based drivers,[10] rejecting the unions' argument that it was unconstitutional. In doing so, it lent a certain de facto legitimacy to the campaign for its adoption. Yet the platforms' notorious disregard for legal and ethical standards (Borkholder et al. 2018) had been even more flagrant in the case of Proposition 22. This first implementation of the Uber template thus undermined not only established labor-market norms but also the democratic process as such.

To secure approval of Proposition 22, the platforms spent more than $200 million on the most expensive ballot initiative in California history. In their extensive media and in-app campaigns, they promoted the image of the flexibly-working and protected independent driver, made misleading claims about drivers' support for the initiative, and portrayed unions as self-interested actors. By inserting political messages directly into their work and consumer apps, they blurred the line between electoral campaigning and platform operation and use; targeted messages warned about potential job losses, notably for racial and ethnic minority drivers. These tactics would later be replicated in other states (Andrias et al. 2023; Felicity 2022).

The strategy proved effective: Proposition 22 was approved by 58.63% of those who voted, creating for the first time a distinctive legal status for app-based drivers. The campaign was so effective that many supporters believed the measure would improve drivers' working conditions,

10 *Castellanos v. State of California*, July 25, 2024, https://tinyurl.com/2r3enr86

despite evidence to the contrary (Mouron 2023; Siddiqui and Tiku 2023).

Democracy Under a Damoclean Sword

Platforms' lobbying for such an app-based driver status in other states was backed by the explicit threat that they would launch a ballot initiative should it fail. The whole Proposition 22 process was thus used as a lever to secure the regulatory changes they sought.

In Washington State, the legislation of a novel status for app-based drivers followed an agreement between Uber and the Drivers Union (Stiffler 2022). Critics accused that association of independent (i.e., formally self-employed) drivers of abandoning its long-standing demand for employee status by accepting the independent contractor classification and compensation based on "engaged time". Their negotiators defended the compromise by emphasizing the unprecedented level of pay and benefits secured and by acknowledging the platforms' threat to pursue a Prop-22-style ballot initiative if negotiations failed (Khurana 2022). A similar dynamic emerged in Massachusetts. A broad coalition of unions and community associations formed around the AFL-CIO—aptly named "Massachusetts Is Not for Sale", in itself a denunciation of the California campaign—successfully blocked a referendum on the issue. Their opponents, the Massachusetts Coalition for Independent Work, another broad coalition, supported by the main platforms —Uber, Lyft, Instacart, and DoorDash—spent vast sums on lobbying and in contributions to election campaigns, mostly directed against recalcitrant Democratic candidates for reelection.[11] A later ballot initiative was withdrawn under a

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[11] "Massachusetts Coalition for Independent Work", https://independentmass.org/mission/; L. Maffei, "Local nonprofits join Uber, Lyft in new coalition for 'app-based workers'", 3 March 2021, *Boston Business Journal*, https://www.bizjournals.com/boston/news/2021/03/03/local-nonprofits-join-uber-lyft-to-launch-coaliti.html.

negotiated agreement with the Massachusetts authorities that established a separate driver status. The state attorney general explicitly welcomed the deal for its avoiding an industry-backed referendum that would have weakened driver protections. She declared that the agreement "puts a stop to the threat of the companies' *attempting to rewrite state employment law via a 2024 ballot initiative*" (italics ours).[12] This observation clearly supports our argument regarding the strategic use of the ballot initiative as an instrument of political leverage in negotiations over regulation.

6.1.2. France and Brazil: Uberized Tripartism as Norm

The departures from standard procedure in the United States were echoed in the setting up of ad hoc sectoral bargaining forums in France and Brazil as a means to side-step the established institutions and procedures for the regulation of labor issues. The promotion of sectoral bargaining for platform workers has accordingly been added to the Uber template. This innovation is singularly disruptive of the established order in its effect, extending, as it does, to independent contractors a practice hitherto confined to the realm of employment. While the process is further advanced in those two countries, the new Uber norm has now been introduced into the United States with Massachusetts' affirmative vote on Ballot Question 3 in 2024 (Kesselman 2025).

The character of this "uberized" form of tripartism would have major repercussions for workers' rights. In the first place, it was explicitly stated, in both France and Brazil, that these special arrangements did not represent an

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12 The settlement also included the state attorney general's abandonment of multi-year litigation against Uber and Lyft that sought the classification of drivers as employees. Office of the Attorney General, "Press Release: A.G. Campbell Reaches Nation-Leading Settlement with Uber and Lyft, Secures Landmark Wages, Benefits and Protections for Drivers", 27 June 2024, https://tinyurl.com/5erx9j6n

extension of collective bargaining as it had been hitherto understood, notably in the role accorded to the state. Traditionally the active arbiter between capital and labor, in these new institutions it would make no proposals of its own, negotiation being left strictly to the two parties. The mandate of the ARPE is simply to "facilitate dialogue between platforms and workers".[13] Since its establishment in 2020, negotiations held under its aegis have led to the signature of three major agreements covering ride-hail drivers.[14] In Brazil, the GTT was mandated to develop proposals for the regulation of services, passenger transport, goods transport, and other activities mediated by digital platforms. It was given 150 days, renewable for a similar period, to formulate draft regulations and submit its recommendations to the federal government.

In both countries there are limits on the subjects to be discussed. In France, the ARPE was notably prohibited from discussing social rights and protections or state regulation in general. In Brazil, the question of employee status and the rights associated with it was formally excluded from the agenda, while the requirement that the GTT should reach its final proposal by consensus effectively imposed limits on what could be discussed. The final outcome of these negotiations under the shadow of the non-negotiable would then be further vitiated by a "gray zone of implementation", as we shall see below.

6.2. Regulation by New Stakeholders in the Gray Zone of Public Space

The non-traditional arena into which the struggle over regulation has now been displaced is an inchoate and very loosely regulated space of public debate in which socio-

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13 https://www.arpe.gouv.fr/

14 A fourth agreement, to reinforce drivers' right to choose which rides to accept, will not be discussed here.

political compromises are arrived at, yielding more or less stable institutional arrangements. Here the customary actors of tripartism find themselves pitted against new participants, less normatively hampered and sometimes having access to great resources. Among them are independent driver collectives, some aligned with trade unions or organized as cooperatives, as well as broader coalitions bringing together local businesses, consumers, community groups, and environmental interests concerned with the externalities generated by platform activities, such as traffic congestion, parking pressures, the occupation of public space by delivery workers, and pollution. Examples are the mutually opposed coalitions in Massachusetts. Lawyers, experts, and advocacy organizations also play an active role in political lobbying and in shaping public debate around the consequences of "uberization," as illustrated by organizations such as the National Employment Law Project (NELP) in the United States or Sharers & Workers in France. At the same time, local and regional public authorities have increasingly asserted themselves in the regulatory vacuum created by the weakening of national-level regulation, underlining the multi-scalar character of these processes of institutional reconfiguration. This proliferation of actors raises a fundamental question: to what extent do these new stakeholders legitimately represent the interests and constituencies they claim to defend?

The question of representation is contentious among U.S. ride-hail drivers. While organizations such as Rideshare Drivers United, the Drivers Union, and the New York Taxi Workers Alliance have aligned themselves with organized labor and campaigns against uberization, the Independent Drivers Guild (IDG), founded with Uber's support and still financed by the company, advocates a model based on negotiated gains within independent contractor status (Scheiber and Isaac 2016). Affiliated with the IAM-AFL-CIO, the IDG's approach is defended as a pragmatic alternative to

litigation seeking employee reclassification, but critics argue that it requires workers to forgo employee status, labor protections, and the right to strike (Scheiber and Isaac 2016; Casagrande and Kesselman 2019; DeManuelle-Hall 2021). More broadly, the controversy reflects an ongoing debate over whether a revitalized labor should seek to strengthen or revise the New Deal industrial relations framework (Andrias et al. 2023; Cohen and Blanc 2023; Dubal 2022).

France and Brazil have seen a similar dynamic, with the emergence of new stakeholders in the platform economy, many of them promoting, in their own institutional contexts, a platform-centric vision of labor regulation and worker representation (Valdez 2022). As with the ballot initiative process in California, the special, anomalous frameworks represented by the ARPE and the GTT have profoundly transformed the socio-political landscape and the balance of social power among actors, notably by creating new channels of participation and legitimacy for platform-aligned representatives.

Numerous independent collectives of ride-hail drivers and delivery workers have however emerged and gradually strengthened their ties with the labor movement. In France, some have joined established unions, such as the Bordeaux Couriers Union (Syndicat des Coursiers à Vélo de la Gironde SCVG) within the CGT and the leading ride-hail union INV (Intersyndicale Nationale VTC) within Force Ouvrière, while prompting major union confederations to open membership to self-employed workers for the first time. In Brazil, the Aliança Nacional dos Entregadores por Aplicativos (ANEA), founded in 2022, has become a prominent actor in regulatory debates concerning platform work, often challenging the positions of long-established representatives of the sector, such as motorcycle courier and delivery workers' unions.

Platform cooperatives have also emerged as alternatives to conventional platforms, either through ethically

oriented delivery services or by combining social protection for drivers with a degree of flexibility comparable to that offered by commercial platforms.

The ARPE has actually tended to undermine its own legitimacy and that of the platform worker organizations represented on it. Its own standing is vitiated by abstention rates approaching 97%, while the representativeness of some participating organizations is contested, some being seen as backed by Uber (Palli 2023; Kesselman 2025). Similarly, in Brazil, the leading union confederations welcomed the establishment of the GTT and endorsed its composition, a position widely interpreted as aligning with the Lula administration's approach to the regulation of platform work (NCST 2024). However, some independent grassroots organizations widely recognized as representative objected to their exclusion from the process. Others, courier representatives notably among them, stormed out of the hearings, when their demand to take engaged time off the agenda was refused (Antunes 2024).

In Brazil, the GTT reached the end of the time allotted to it without producing either a consensus proposal or a final report. Following the platforms' refusal to accept the demands put forward by delivery workers, the government continued negotiations with a select group of ride-hail drivers' representatives and platform companies. This process ultimately resulted in the submission to Congress of a bill limited to the passenger transportation sector. This recognized drivers as self-employed workers while allowing platforms to exercise extensive forms of control and supervision over their work. On the other hand, it did grant them a limited set of rights, including access to the public social security system, a 12-hour limit on daily working time, and recognition of collective bargaining and collective representation. Although promoted by the government as a model of "self-employment with rights," it was ultimately criticized as creating "subordinated workers without rights," since it neither provided meaningful protections

to ensure the effective enjoyment of those rights nor did it allow workers a genuine autonomy (Carelli 2024). The GTT that had been presented as a valuable institutional innovation ended up being denounced as unrepresentative and boycotted by some of its participants, and even then failed to come to a consensus conclusion. The proposals that emerged from the limited negotiations that took place in its wake similarly failed to find support, provoking nationwide mobilizations of ride-hail drivers and being opposed by 95% of respondents to a survey conducted by the Chamber of Deputies (Porto and Araújo 2024).

6.3. The Uberized App-Based Driver Norm: a Figure in the Gray Zone

From the California of Proposition 22 to urban centers the world over, the app-based driver is a precarious, "just-in-time worker" (Abílio 2020), the same features being found in both Global North and South (see Abílio's chapter here). Among them are self-employment rather than employment and the algorithmic management of drivers (marked by the opacity of ride-allocation, customer ratings, etc.). The "hyper-externalization" (Srnicek 2017) of operating costs onto the driver has been recently exacerbated by the introduction of dynamic pricing,[15] and increases in the commission charged to Uber and Lyft drivers, with 45% and sometimes as much as 70% having been documented in the United States and Great Britain, confirmed in France by our own field research (Azaïs et al. 2025; Ocampo 2025; University of Oxford 2025).

Alongside self-employment, i.e. independent contractor status, the other major feature of the app-based driver

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15 Dynamic pricing on Uber—commonly called surge pricing—is a system that automatically raises trip prices when more people want rides than there are drivers available in an area. It uses real-time data to balance supply and demand, encouraging extra drivers to work during busy periods.

model is the calculation of working time based on "engaged time," that is, from the driver's acceptance of a trip to passenger drop-off. This task-based framework is diametrically opposed to the organization and remuneration of working time under the Fordist model with its fixed pay rates and its working hours and work week yielding the hourly wage or monthly salary, together with paid sick leave and paid holidays—a model promoted world-wide by the international labor movement.

While the principle of engaged time has been widely adopted, as evidenced by the cases studied here, it is far from enjoying consensus. We have seen the exceptional measures that platforms had to take to institutionalize the two major features of app-based driver status—self-employment and payment by engaged time—and how far they were willing to go in subverting the democratic process in states such as California, Wisconsin and Massachusetts. In France, most courier organizations initially represented at the ARPE left it in protest, the principle of engaged time being the main grievance. In Brazil, courier organizations withdrew from the GTT over the same issue. The final proposals that emerged from the post-GTT negotiations, covering app-based drivers only, adopted the principle of engaged time, faithfully adhering to the Uber template.

Outcomes have justified those concerns. The adoption of Proposition 22 in California resulted in lower earnings compared to the situation before—earnings notably lower than the minimum wage drivers would have been entitled to as employees, had AB 5 still applied, under which they would have been paid for waiting time (Jacobs et al. 2024).

In France, the two ARPE agreements on remuneration did not improve workers' overall earnings and even saw them fall. The rate was below what drivers had asked for and payment by engaged time had a major impact. An ARPE study concludes that drivers across almost all platforms experienced a decline in hourly earnings between 2021 and 2024, a conclusion that accords with data from

Uber. Both ARPE and Uber attribute this to longer waiting times between trips. These would seem to result from two related developments: an increase in the number of drivers competing in the same market and a significant rise in drivers' rejection of trip offers deemed unprofitable (ARPE 2025; Srnec et al. 2025; Thomas 2024).

6.4. The Gray Zone of Implementing the Uberized Drivers Status

In France, as in California, implementation and enforcement of the agreements associated with the novel statuses is weak, however institutionalized the latter. No public authority is empowered to monitor compliance with them or to enforce their provisions.

According to the watchdog organization CalMatters, four years after California's digital platform companies "wrote their own gig-worker law . . . no one is enforcing it". Without access to their own data, drivers are unable to check the number of hours worked that would qualify them, once certain thresholds were met, for benefits formally provided for by Proposition 22, such as health insurance and workers' compensation, in addition to pay[16] (Sumagaysay 2024). Similarly, in France, while the third ARPE agreement covers account suspensions and avenues for appeal—platforms must inform drivers of the criteria (ratings, cancellations) and the factual basis for the decision, while ensuring data transparency—these provisions remain largely ineffective. Access to data is not guaranteed, and is anyway of little use given the difficulty of processing information from a multitude of individual drivers (Ben Ali 2025)—another instance of the gray zone, in the sense of formal provision that has minimal real purchase. Outcomes under the agreements are difficult to evaluate, due to the lack of data: platforms share

[16] Proposition 22 established both maximum working-times and benefit eligibility thresholds based exclusively on "engaged time.".

only averages, of limited relevance, while trade unions—constrained by the EU's General Data Protection Regulation (GDPR)[17]—can only verify implementation on a case-by-case basis, using data provided by individual workers. The agreements, in fact, simply formalized the arrangements for remuneration already adopted by the platforms (Srnec et al. 2025).

Much as in California, a new type of figure has emerged whose atypical status destabilizes existing regulatory frameworks and institutions. In California, even the benefits promised under Proposition 22 have not been delivered; attempts to file grievances regarding pay fail because no institution has the jurisdiction to handle them, as existing bodies are only empowered to address wage claims against employers or to oversee small business transactions (Sumagaysay 2024). A similar situation prevails in France; labor courts (the *conseils de prud'hommes*) say they lack jurisdiction to reclassify independent contractors as employees, while the employment inspectorate is unable to oversee their working conditions.[18]

The new Uber norm of sectoral bargaining by independent contractors has been particularly productive of gray zones of different kinds. The experiences examined here highlight the limits of institutionalized social dialogue in which precarious and weakly organized independent workers are fictitiously treated as the equals of powerful digital platforms. This inequality has no counterbalance: in both the ARPE and the Brazilian GTT, the state lacks any real power to arbitrate or advance proposals. Moreover, because they fall outside the formal scope of negotiations, the aggressive and sometimes legally questionable strategies employed to influence decision-making, widely

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17 The GDPR is the main European Union regulation that protects personal data and user privacy and gives people control over their information. https://gdpr-info.eu/

18 Interview with labor lawyer Jérôme Giusti, 25 October 2024.

documented in the literature (Ben Ali 2025; Borkholder et al. 2018), have been effectively normalized in France, as in California.

In Brazil, outcomes have been even less favorable. When the proposal that emerged from the post-GTT negotiation was submitted to Congress as a bill, it faced criticism from both those who wanted recognition of employee status and those who sought real worker autonomy. Alternative bills, developed within Parliament and supported by worker organizations, soon displaced the government's proposal. As the legislative process progressed, and the scope of the bills was expanded to include delivery workers, the protections afforded to workers were progressively weakened, compared to the original government bill. At present, the various bills remain stalled, none having secured sufficient political support to advance.

At the same time, a major case remains pending before the Brazil's Supreme Federal Court: Tema 1291, which seeks a definitive resolution of the question of the status of platform work. The final ruling will bind all Brazilian courts and may have a greater impact, in practical terms, than statutory reform. The judgment initially scheduled for June 2026 was postponed until August that year following the ILO's adoption of Convention No. 193, on Decent Work in the Platform Economy.

Although the justice acting as rapporteur in the case, who is also the current chief justice of the STF, has expressed support for extending labor protections to platform workers and convened a public hearing that largely featured evidence favorable to the recognition of employment status, the majority of the court has been consistently inclined to deny employee status to platform workers. As a result, despite the new ILO Convention, the overall outlook remains largely unfavorable to workers seeking recognition as employees.

In Brazil, then, there is, in fact, nothing to implement, in the face of regulatory vacuum and the institutionalization

of gray zones through legislative inaction and Supreme Court decisions.

Closing Considerations

Comparing uberization in France and Brazil through the lens of the Uber app-based driver template and the Uber norms pioneered in California allows us to see the emergence of the new model of the app-based driver as part of a coherent strategy on the platforms' part, and to consider its political implications. The rise of this uberized worker requires a process that operates "outside the norm." The establishment of a new standard employment status—one diametrically opposed, in every respect, to the standard employment characteristic of the Welfare State—has only been made possible by the undermining of political democracy. What we call the Uber app-based driver template and the model of work it seeks to institutionalize through the disruptive deinstitutionalization of the alternatives reflects the neo-libertarian ambition of Silicon Valley: the creation of a labor market, if not an entire world, "according to Uber" (see the Introduction to this volume).

The comparison of gray zones has revealed a distinctive pattern: they are created and exploited in furtherance of this strategy. The Uber model was itself born in a gray zone, when the platform put its drivers into direct competition with taxis while classifying them in the more loosely regulated category of private hire vehicles. It was this founding ambiguity, which also involved the blurring of employment status and even driver identities, that set the whole process of uberization in motion. The deliberate disruption of the existing institutions of labor regulation clears the ground for the creation of new, less norm-bound regulatory institutions operating in an inchoate space of public debate where platforms are better positioned to impose their own

rules. References to the "tripartism" of these new fora are far from innocent: the new order displaces the old, along with the social relations that underpinned it. What we have seen is the imposition of Uber norms across Global North and South. In both France and Brazil, as well as their counterparts among the US states, drivers' pay and benefits have been consistently worse than what they could have expected in traditional waged employment. This is the key feature, indeed, the very rationale, of the app-based driver model promoted by Uber.

Neither the ARPE in France nor the GTT in Brazil succeeded in creating an app-based driver status that met the publicly voiced expectations of the authorities. Both initiatives, in fact, saw the state implement a framework that bypassed the existing institutions and norms of labor-market regulation, foreseeably resulting in lower standards than initially held out. In none of the three national cases looked at here has it been possible to achieve social and political consensus on the introduction of a special status for platform drivers. Legislating the regulation of work in the gray zone of an inchoate and opaque public space cannot achieve consensus regarding the institutions of work and employment; that cannot be the result of a top-down initiative, necessarily resulting from a much longer historical process. In France, the top-down approach ultimately served only to erode hard-won social protections and the institutional compromises embedded in the Welfare State, opening the way for a regulation increasingly shaped by platform interests, or what might be called the "law according to Uber". The same is true in Brazil. A ruling by the Supreme Court is unlikely to enjoy broad legitimacy, especially if it denies labor rights to platform workers. In that case, workers are likely to continue advancing their claims through collective mobilization, including strikes, demonstrations, and other forms of protest, as they have done repeatedly in recent years.

Could this gray zone of non-democratic, non-consensual regulation actually be part of a government policy aimed at clearing the way for uberization? In France, many believe that Emmanuel Macron's policies favoring platform-based models are intended to weaken traditional labor institutions, a view supported by the President's own statements (Palli 2023). In Brazil, platform work is seen as a Trojan horse enabling the Supreme Court to put labor law itself into question, a concern reflected in an open letter signed by academics and researchers across the world (Carelli and Kesselman 2024).[19] At the same time, Uber would seem to be consolidating its ability to undermine labor and democratic norms in the United States.

The comparative analysis of Brazil and France in light of the processes underway in the United States shows analysis in terms of the gray zone to be an essential key to the phenomenon of uberization, both there and across the world.

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9

Uberization: Informalization and the Age of the Just-in-Time Worker

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Abstract

This chapter seeks to identify the key features of the uberization of work, here understood as a new mode of organization, management, and control of work that did not begin with digital platforms and is not limited to them. The author draws on David Harvey's conception of organization through dispersion (1989), which for capital means the centralization of control and the monopolization of whole sectors of activity, and for labor the formation of a vast multitude of workers, living in precarious conditions and subject to new kinds of degradation of work.

Three key elements are identified: work on demand, a long-standing process of the informalization of labor, and what the author calls subordinated self-management (Abílio 2023). Workers become permanently available for work, yet have no guarantees regarding the length of the working day, the value of the working hour, or any of the other conditions that were earlier standardized. At the same time, responsibility for the management of part of the labor

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process is shifted onto workers themselves, though under subordination to changing and indecipherable rules.

For workers, uberization brings informality and unknowability; to the platforms it brings information and knowability. It thus introduces a gray zone that pervades the work relationship as a whole. For capital, it is the datafication of work, the mapping and surveillance of multiple aspects of labor enabling a highly rationalized and efficient management of the workforce (Zuboff 2019). The more informalized and indiscernible the rules of the game become, the more productive and effective the exploitation. In closing, the author looks at the experience of the peripheral workers of the South, and finds that this apparently new phenomenon in fact represents the rationalization and centralization of modes of work long associated with life in the urban periphery.

Keywords: uberization; platform work; informality; periphery; just-in-time worker; gray zone; Global South.

Introduction

In only a few years, the uberization and platformization of labor have given rise to a new field of research across the globe. A salient feature of this field is the involvement of a generation of young researchers deeply committed to understanding and to some degree reshaping their own time, who are bringing great vitality to the task. This book is testimony to the way our shared labors are developing this domain of critical knowledge production. The countries of the Global South, ostensibly peripheral, are playing a pivotal role in this.

Today, the phenomenon of uberization has become a political issue all over the world. It has introduced novel

features into informal work and created entirely new fields of economic activity, and as it continues to expand rapidly across the world it has prompted struggles over its regulation. In the countries of the Global North, it has brought with it a rise in precarity and new modes of exploitation of labor. In the countries of the periphery, it has exacerbated already existing forms of the degradation of work. Essentially, uberization involves the prolongation of working time, the devaluation of labor power, and the transfer of risks and costs onto workers.

Uberization is not easy to define. It has often been treated as synonymous with platformization—a problematic idea, in our view, hindering rather than facilitating an understanding of its chief characteristics. Here, uberization is understood as "a new type of organization, management, and control of labor" (Abílio 2017). It can also be seen as a global tendency permeating the labor market as a whole. It neither begins with digital platforms nor is restricted to them, yet the companies that succeed in establishing new forms of monopoly via platform-based operations are undoubtedly both deepening the process and bringing about its geographical expansion, in operations that are simultaneously centralized and enormously dispersed. Central to uberization are the transformation of workers into on-demand labor power, the informalization of many of the determinants of the labor process, and the transfer of some of the management of work to workers and consumers themselves, albeit in the context of a wider subordination.

The greatest challenge faced by research and debate today is making sense of the interplay between what is changing, what survives, and what is reconfigured under this new form of the management and control of labor. This chapter will argue that uberization can be understood as an effective maneuver by capital that enables it to finally make use of labor power in its pure state, stripped of the protection, the dignity and humanity, won by workers' historical struggles.

The chapter will thus offer an analysis of the main features of uberization in the light of the gray zone approach, demonstrating what the concept of the gray zone can contribute to understanding both the process of uberization itself and the relationship between capital and labor today.

1. The Centralization of Capital and the Rationalized Dispersion of Labor

We can see uberization as the coming together of a number of processes already under way for decades, all tending to the centralization of control of the entire labor process while shedding responsibility for it. The counterpart of this centralization of control is an extreme dispersion of the workforce, the conjunction recalling the organization through dispersion that David Harvey (1989) evokes in his discussion of flexible accumulation—a complex articulation of centralization and dispersion. The centralization here is the expression of monopoly: it has to be borne in mind that platforms are more than just digital infrastructures—they are the operational structures of companies that have monopolized their sectors. This is clearly the case with food delivery, ride-hailing and microtask apps, for example. This monopolization is accompanied by an accelerating transfer of costs and risks to the workers, most of them located in the Global South, together with the intensification of work and the extension of working hours, all imposed by means both brutal and refined.

This element of organization through dispersion first emerged in the 1970s and '80s with the globalization of production chains. Corporations such as Nike and Apple outsourced nearly all their production and distribution while centralizing control over both. They transferred risks and costs, absolving themselves of responsibility for workers' health and safety, shifting the burden and costs of labor

management to networks of subcontractors. This outsourcing of functions involves the integration and expansion of precarity and of shocking conditions of work. Informality, near-slavery, sweatshops and microentrepreneurship are central to these dispersed chains of production. And, finally, as Beverly Silver (2003) has shown us, capital also seeks in this way to avoid engagement with organized labor. In other words, organization through dispersion also involves the very high mobility of capital.

My point, essentially, is that uberization represents a new phase in this process of organization through dispersion, systematizing the central control of hundreds of thousands, even millions, of dispersed workers.

In that sense, uberization did not begin with the sociotechnical innovations known as platforms, nor is it limited to them. An umbrella term, in a sense, it gives expression to a new synthesis of decades of neoliberal policy, financialization, and new arrangements of production operative on a global scale. Of course, platforms do play a catalytic role, especially in their development of the algorithmic management of labor. But the focus falls so much on platforms today because they allow us to grasp and to visualize the essential mechanisms of a dynamic proper to the whole world of work whose national/local expression varies with the specificities of the respective labor markets. To sum up: what we are looking at here is a radical shift in the way that both informal work and formal employment are organized and controlled, ensuring subordination to a center while dispensing with what used to be subordination's corollaries.

2. The Just-in-Time Worker

Central to uberization is the transformation of workers into on-demand labor-power, or, put another way, the use of just-in-time labor (Abílio 2017, 2023; Berg 2016; De

Stefano 2016). Just-in-time workers make themselves available for work but are treated as mere inputs, used only when necessary. Just-in-time labor thus marks a retrogression from the historical gains associated with employment, notably regarding working hours and payment for time spent at the employer's disposal. These workers are no longer guaranteed the means to the daily reproduction of their labor power. Despite being available, they do not know how much they will earn each day. For them, living in a state of permanent insecurity and instability, the workday has to be as long as is necessary to ensure their survival. What we see, then, is a brutal extension of working hours. Our research among the *motoboys*, as motorcycle delivery riders are called in Brazil, revealed that more than 50% of the 200 surveyed worked more than 60 hours a week, while 25% worked more than 80 hours a week (Abílio and Santiago, 2024).

We need to be very clear about the significance of this deliberately engineered expansion of on-demand labor. A major controversy today is whether and how uberization is to be regulated. What is at issue, in fact, in different ways depending on national contexts, is the possibility of unregulated recourse to on-demand labor. Its legalization, then, will serve as the foundation for its extension to other sectors.

The history of the conflict between capital and labor shows that workers' struggles have been consistently aimed at ensuring the recognition of workers' humanity by employers and the state. That is to say that workers are not be treated as mere labor power. For how many hours is it humanly acceptable for someone to expend themselves in work? Hence the legal determination of working hours. What is the daily minimum this person needs to survive as a human being? Thus the determination of the minimum wage. How many days a week can they be obliged to work? How much rest do they need? Thus the legal guarantee of hours of rest, leisure and sleep. What are the minimum conditions of health and safety worthy of a human? Hence

health and safety regulations and the employer's responsibility for the employee's bodily integrity. The answers to these questions are socially and so politically determined, endlessly contested and shaped by the shifting and conflictual power relationship between capital and labor.

When workers are employees, rather than available on demand, they receive a predetermined daily wage. If the pace of production has slowed or if there are unproductive periods of time, the daily wage remains the same. The working day includes a number of non-working breaks. One of the main goals of management is to make the worker as productive as possible during the time officially allotted to work, to make all working time productive. Uberization solves this dilemma, but its solution is not to make all working time productive but to transfer the problem to the worker, *turning non-productive time into unpaid work time.*

We are thus seeing workers' labor power dissociated from their humanity. Companies can finally treat workers as nothing more than a labor force available to be used as required. All paid time is now productive time. What then becomes of workers' humanity? Well, workers become solely responsible for managing their own survival, or, in other words, for their own social reproduction.

3. Processes of Informalization

The informalization of labor involves processes that have been under way for several decades. Informalization is not just the growth of informal employment. To begin with, let us look at the working day of an uberized worker: it is not defined in advance, and all time is potential work time. (When I was doing research in London in 2025, a Brazilian *motoboy* showed me on his app that he earned a thousand pounds a week. He was however working twenty hours a day, seven days a week). And it's not just the working

day. All the fixed, recognizable, agreed-upon and regulated factors governing the labor process have been lost. For the uberized worker, there is no employment contract—just registration and the activation of an account; as there is no hiring, there is no firing, only deactivation. It is unclear to workers why they should have been assigned a job or not, how their pay is calculated, and why it should fluctuate.

As Alex Rosenblat (2018) pointed out, the rules of work are constantly changing: they have no stable or pre-defined form. It is a characteristic of informalization that there are rules in place, but they are indecipherable. They are indecipherable because they are highly flexible, both modulatable and modulated. They can and do change all the time. In other words, there are no limits, no legal constraints, no advance definition of the rules governing work. The rules are changeable, changing so as to reduce labor costs, extend work time, intensify work, and transfer risks and costs to the worker.

Informalization also impacts professional identity, and talk of the "gig economy" only contributes to the loss of recognition that uberization entails. It obscures the fact that the occupations concerned are being degraded and made even more precarious. It obscures the fact that the work is not some side gig, but an activity that consumes the worker's entire life over many years. It obscures the experience, knowledge, skills, and daily strategies that the worker possesses and continues to develop. Like their counterparts elsewhere, the *motoboys* of Brazil are generally professionals with many years of experience who are faced by a daily worsening of their working conditions. We found in our research that a quarter of them had been working as *motoboys* for more than ten years (Abílio and Santiago, 2024), yet they faced the loss of professional recognition. The fact that there is no formal hiring or selection process gives the impression that anyone can become a *motoboy* overnight, which is far from the truth on the streets. Just as it is far from the truth that their work is of a temporary or occasional

character. What is happening, in fact, is that many professionals are seeing their work subjected to a new type of management and their labor to a new mode of exploitation, in this foreshadowing the fate of many others.

4. Informalization Becomes Information

It is important to point out that this loss of stability and definition affects only labor. For capital, the opposite is true, as everything becomes mappable and datafied. This is something Shoshana Zuboff (2019) pointed out in her discussion of surveillance capitalism, explaining how firms rely on new technologies that enable the deep mapping and control of the different elements of the work process, together with many other elements that go to make up our daily lives. For the worker, everything is nebulous. For companies, everything is datafied.

It is a sad thing to witness the worldwide scholarly effort to produce data on the working conditions of platform workers, to contemplate the methodological challenges we face in gaining information on wages, working hours, and the number of workers involved. That is because we are on the side of those who are consigned to nebulosity . . . We have to live with the irony that a few clicks by the companies concerned would save us a lot of work. The data is all there, but not for us.

Algorithmic management fits perfectly into the processes of informalization. Everything is datafied and used to manage the multitude of on-demand workers: lifestyles, daily strategies, the weather, consumer habits and worker behavior patterns are among the endless elements observed and recorded, and the datafication of life becomes a central element in the management of labor.

But again, we must be very careful not to attribute this nebulosity solely to platform-controlled work. In reality,

platforms catalyze and disseminate such developments. But informalization *per se* has been in progress for decades and is a very important feature of the new forms of management and control that began to take clearer shape in the 1980s.

5. Uberization and the Generalization of the Features of Women's Work

The most important features of 'uberization' represent no more than the organized and rationalized extension of those historically associated with women's work. For we can, in fact, identify those features in the vast mass of socially invisible work that long preceded the advent of the digital platforms—something that may help give a broader perspective on current developments. Before I investigated the *motoboys,* my doctoral research between 2007 and 2011 looked at cosmetics resellers working for Natura, a Brazilian company that operates throughout Latin America and beyond. It recently acquired Avon International, giving it a global presence. When I began my research, there were 200,000 women working for Natura alone, and they would be joined each year by another 200,000 (Abílio 2011). Four years later, there were a million of them. Years later, when I saw the *motoboys* being uberized, the more I looked at them, the more I saw the resellers.

The cosmetics resellers are engaged in direct sales, a global phenomenon of gigantic proportions; because it mainly involves women's labor, however, it does not have the political salience of platform work. The global direct sales salesforce today exceeds 160 million people. Cosmetics resellers are not recruited, no more than are platform workers, and like them they enter the workforce just by registering, with no selection process or any occupational requirements. To all appearances, they work when they want, in the way they want. Their work is hardly recognized

as work, being presented as a vehicle for the promotion of personal relationships. In other words, it is work that is not socially recognized as work—something that all women know well, given the invisibility of reproductive work.

Many resellers engage in this activity so as to save money on their own purchases of the same products. That is, they take some of their pay in discount. This recalls something often heard from Uber drivers, which is that they are working in order to pay off the loan on their own car, the tool they must have to work, and that the more they work, the more the car deteriorates. It reminds one, too, of the microworkers who are paid in vouchers and so are obliged to spend their earnings consuming the products of the companies they work for. A real puzzle, this: sometimes it seems as if they are paying to work . . . The boundaries between consumption and work are thus informalized and the distinction between work and consumption becomes blurred. This brings us to the consumer work described by Dujarier (2008) and the "prosumption" of Ritzer and Jungerson (2010), and also to Howe's important account of crowdsourcing (2008). These shed light on a variety of activities that are not treated as work by those who engage in them but in fact supply capital with unpaid labor.

In the face of informalization, cosmetics resellers generally struggle to calculate how much they spend on product, how much goes on their own consumption, and how much they earn from resales. This echoes the continual difficulties we have in working out the real incomes of delivery drivers, Uber drivers and the like. Their work is highly flexible, taking no fixed form. This makes it compatible and miscible with other activities, employment, for example, allowing the reseller to use their workplace and time at work to sell cosmetics as well. It can also overlap with reproductive labor and leisure. In other words, all time becomes potential work time. As in the case of the uberized workers, this lack of a fixed form allows the work to be adapted to various situations. It could be argued that the term "gig" represents

an attempt to name the flexibility that makes it seem as if work is something transient and sporadic, but the opposite is true. The work is not sporadic but continuous; it is just that its highly accommodating character—its vaunted flexibility—allows it to colonize every sphere of life.

At the time of my research, Natura had no stores in Brazil and e-commerce was practically non-existent, all its distribution being by direct sales. On visiting the company's factory, I came to understand how the business worked. Outside, a vast multitude of female workers; inside, a factory that functioned in just-in-time mode. The company held barely any stock, this in fact being dispersed in the drawers of millions of resellers, who had paid for it and then bore the risk of selling or not selling it. The just-in-time production meant that products were manufactured only when resellers placed orders. In my thesis, I argued that informality outside the company became information inside it. The dispersed activity of a million women outside is translated into information inside, guiding production. In the same way, the nebulosity of the multitude of uberized workers is datafied for platforms who make rationalized use of an on-demand labor force.

6. Subordinated Self-Management

Thinking about the cosmetics resellers, I found myself wondering what might be the motivations leading so many women to engage in socially invisible work, work without recognition or occupational identity. Apart from any need for money, there was, of course, the appeal of a certain autonomy. And this brings us to the last key category in the analysis of uberization: subordinated self-management (Abílio, 2023). Uberization represents the synthesis of a number of logics that emerged with Toyotism. It is clear that

Fordist rationality assumed a body under outside control, like poor Charlie Chaplin on the assembly line. Management was understood as external, coercively imposed on the worker.

This type of domination is still omnipresent, but is now entangled with new rationalities and forms of control. These are based on the transfer of part of the work of management to the workers themselves, who exercise a subordinated management, subject to rules and risks that they have no say in at all. Following the pandemic, we have seen the spread of remote work, which instantiates this new mode of control. Rather than an office, a time clock, a physically present manager and the apparatus of control they represent, we see much of the management and its costs passed on to the workers themselves. Now they not only manage their own working time, but also bear a number of costs that are difficult to account for. The home space, its furniture, its utilities and the coffee consumed are now factors of production. With this, the boundaries of working and non-working time are blurred: cooking while holding a meeting; working late at night and at weekends; measuring work by goals achieved rather than by the hours of the clock. We manage ourselves to excellently exploitative effect, extending our working hours, intensifying our own work, and bear its risks and costs.

This brings us to the uberized crowd of subordinated self-managers. No one will tell the *motoboy* when and how long he will have to work each day. Nothing is preestablished: where to work, how, when, for how long. It is up to them to manage themselves under conditions they have no power to negotiate, and in accordance with rules that are neither clear nor explicitly agreed upon.

In a nutshell, what uberization teaches us is that the more the work process is informalized, the more efficient, less costly, and more intense will be the exploitation.

Conclusion: The Gray Zone – The Potentiation of Exploitation by Informalization

Throughout the analysis presented here, I have sought to show how the erosion of stable forms—defined, socially agreed upon and legally regulated—has become a powerful mechanism for intensifying the exploitation of labor. This is a complex matter, and one that looks very different depending on whether it is approached from the periphery or the center.

In the developed countries, the idea of the gray zone reflects some four decades of changes to what Robert Castel (2003) aptly termed the "wage society". In these countries, it is indeed possible to take as one's point of departure a social reality with relatively well-defined characteristics, anchored in the Fordist compromise (Bihr 1995; Aglietta 1979), that is now undergoing profound transformation (Supiot 2024).

In this sense, it is as if we were observing a well-established *bright zone*, consolidated over the course of the twentieth century, whose boundaries and characteristic elements have become blurred and increasingly difficult to pin down analytically. The consequences of this transformation extend far beyond the theoretical challenge it represents; they also present a political challenge, affecting class consciousness and class experience, the forms of collective organization and the political horizons of the working class (Kesselman 2017).

We could then have recourse to concepts forged in the countries of the Global North, such as Brazilianization (Beck 2000) or flexible accumulation (Harvey 1989). Developed decades ago, these concepts already identified processes that have since become more salient and more recognizable, even if they remain difficult to define or delimit precisely. They allude, in fact, to the diffusion of characteristics historically associated with informality—a condition long understood as typical of peripheral countries.

When the notion of the gray zone is deployed at the periphery, however, everything becomes even more complex. Brazil never truly became a wage society: to this day, more than half of economically active Brazilians work in the informal sector. The profound inequalities that marked the country's birth have reproduced themselves over time; they have been updated, have taken on new forms, yet fundamentally remain the same. Most importantly, binary categories such as formal/informal ultimately fail to capture the actual structure of the labor market.

When we look at the occupational trajectories of the peripheral workers of the South, we learn that they navigate, throughout their lives, between formal employment and other work situations: informal employment, self-employment, family businesses, or other. We tend to think, however, of formal and informal work as discrete spheres that together make up the world of work. It is this duality that underpins the concept of the gray zone, that underlies the criterion for identifying such a zone, where the boundaries of spheres that were once clearly delineated have become blurred and permeable. But a closer look at these lives reveals a different reality. I interviewed a motorcycle courier who had combined this with metalworking for the past ten years (Abílio & Santiago, 2024). Another delivery worker had worked as a telecommunications technician and an electrician, and now combined platform delivery work with selling clothes. This is not a new phenomenon. Throughout the twentieth century and into the present day, the workers of the urban peripheries have not had fixed, linear occupational identities; instead, they move across different activities, combining formal and informal employments while also running their own small businesses alongside their other occupations. If they are to make a living, they must engage simultaneously in multiple income-generating activities. They are self-managers in a world where very little is guaranteed. In fact, our statistical instruments are not even capable of categorizing, never mind measuring,

the everyday movement that weaves together workers' lives and the labor market as a whole.

Nevertheless, these difficult-to-define elements are indeed undergoing transformation. I have argued here that one of the defining features of uberization is on-demand work. Yet such work is nothing new for the vast majority of Brazilian workers. Many forms of informal employment, self-employment, and other work-situations have long constituted on-demand work. What we are seeing now, however, is a new kind of rationalization and a new type of centralized control over on-demand labor, whereby a small number of companies are able to subsume and manage enormous crowds of workers while simultaneously controlling and distributing just-in-time work.

In the 2010s, the Brazilian sociologist Cibele Rizek (2012) used the notion of *zones of indeterminacy* in analyzing the transformation of everyday life on the urban peripheries, involving new relationships between housing, work, financialization, and global production chains. These novel configurations entailed the loss of stable forms of work, as had already been noted by another Brazilian sociologist, Francisco de Oliveira (2003). He argued that informalization could not be reduced simply to the expansion of informal employment. Starting from the realities of peripheral workers, he identified, in broad terms, the elements that structure the exploitation of labor and capitalist accumulation today. Analyzing the relationship between financialization, new technology, and emergent forms of the exploitation of labor, Oliveira identified processes that have since become widespread and more readily recognizable in contemporary labor relations. In his aptly titled article "Passagem na Neblina" (Passage Through the Fog, 2001), he noted the blurring of boundaries between consumption and work, working time's colonization of the whole of life, and the transformation of workers into just-in-time workers.

With the notion of the gray zone we revisit this fog, which has proved to be anything but temporary. Perhaps,

rather than thinking in terms of zones, we should instead think of an informalization that now permeates the entire world of work. In other words, even the zones themselves are no longer clearly delimitable. What we are witnessing is an erosion of stable forms that affects the labor process as a whole.

To conclude, uberization shows that this erosion of stable forms is extraordinarily productive. From the standpoint of labor, what we see is that the less stable the rules are, the more opaque they become, the more productive they are for capital. Informalization contributes to the extension of working time and enables forms of labor intensification that are difficult to measure yet highly effective. It also facilitates the transfer of risks and costs onto workers.

However, we mustn't look only at the labor side of the process. It is absolutely essential to recognize that this informalization affects only the workers. The other side of the coin is datafication: the transformation of nearly every aspect of social life into data. For capital, this creates the possibility of managing an enormous range of everyday activities in an extremely controlled and rationalized manner, without even having to define clearly what are the rules of the game.

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10

The Gray Zone as Spatial Object

Maxime Schirrer[1]

Abstract

This chapter explores how geography can contribute to the study of gray zones. Using dark stores as an example, it looks at the spatial aspect of gray zones and shows how they represent a new form of production of space. Given this, it then considers what conception of the urban they embody and what consequences they have for the management of public space.

Keywords: Public space; territory; digital platforms; dark stores; production of space; gray zone.

> [T]he dark side of individualism is a centring on the self, which both flattens and narrows our lives, makes them poorer in meaning, and less concerned with others or society.
>
> Charles Taylor, *The Ethics of Authenticity*, 1991

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This chapter seeks to highlight the spatial aspect of gray zones in work and employment. These have been studied by a number of disciplines since the idea was first put forward by legal theorist Alain Supiot in the early 2000s. Over the last decade, however, they have received most attention in sociology, notably as throwing light on the formation of the working conditions of "the post-Fordist worker" discussed by Donna Kesselman in her entry, under that heading, in a sociological dictionary of the gray zone (2019).

What would it mean, to take a spatial approach to gray zones? Every job has a spatial aspect, in its location, of course, and sometimes by virtue of its nature, as in the case of delivery work. The idea of the gray zone, understood as a space of social deregulation, thus raises distinctive questions about recent changes in the relation between work and space. Firstly, does the gray zone, in fact, find expression in space? Is it a spatial object, as the title of this chapter suggests, and if so, what might that say about how it should be approached, conceptually and methodologically?

After a preliminary consideration of the gray zone as concept, we shall go on to look at its spatial manifestation, notably its impact on the use of space. As it happens, the case of France's dark stores can serve as a good illustration. Dark stores are premises where goods are stocked in order to fulfil local online orders for convenience products, and in its decision of 23 March 2023, the Conseil d'État —France's highest administrative court—determined that such premises fell under the use class of warehouse. Consequently, "as warehouses, they cannot be established in vacant retail premises without permission for change of use. Local authorities may then refuse permission having regard to the local planning rules in force."[2] This decision allowed city authorities to bring proceedings against those

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2 https://journal-du-palais.fr/au-sommaire/entreprises/dark-stores-et-dark-kitchens-la-fin-des-zones-d-ombre.

who had taken advantage of the legal vacuum to establish dark stores in ground-floor premises normally reserved for retail. What might have looked like the resolution of a legal quibble in the reclassification of supposed retail premises as warehouses, led in a few months to their disappearance from France's streets.

Analysis of the experiment is highly instructive. The dark store represented, in fact, a disruptive object that could not be understood in the customary terms, precisely because it existed in an ecosystem of its own making. The analysis of that ecosystem that follows is intended to throw light on the interaction between a model of economic development issuing from the digital platform economy and the public space in which it is deployed. Reliant on a questionable blurring of the definition of retail space, France's dark stores were an attempt to evade planning law. In examining the conflicts and contradictions that this led to, the chapter offers a narrative of sorts, a novel account of the tensions produced by the gray zone's materialization in the urban fabric.

Approaching Gray Zones Through Geographical Concepts

Geography, as a discipline, offers a distinctive understanding of social reality in its analysis of human societies in terms of their spatiality. In other words, geography studies the materiality of social facts in space.

A geographical analysis of the gray zone, then, will examine gray zones in work and employment in relation to social geographical space, asking: What is their effect, if any, on the human interactions occurring in the space concerned? The argument here will focus more specifically on the impact of gray zones on public space, and their effects on private space thus fall outside the scope of discussion.

This is easily understandable: the multitude of bicycle delivery riders to be found in the public realm, waiting to pick up orders or on their way to deliver them, shows that public space represents an integral element of the sector's value chain. In other words, use of the public domain is integral to the economic model, in that it is essential to the economic activity: mobility is integral to the services provided, where it does not represent the most added value in the transaction as a whole. A counter-example might be a fast-food establishment like Pizza Hut, which once used to harbor a fleet of scooters on its own—private—property.

A parallel might be drawn with free-floating mobility: the e-scooters offered for hire by private operators have invaded public space in being made completely self-service; this involves the same free use of the public domain for the purpose of profit-making as does delivery. France brought such services under public control with the Loi d'Orientation des Mobilités of September 2019,[3] which provided the legal framework for the use of *engins de déplacements personnels motorisés* (motorized personal mobility devices) and gave local authorities powers to regulate them (Vidal et al. 2025). We shall have occasion to return to such "privatizations" of public space, another example of the blurring of boundaries characteristic of the gray zone.

Among the abundant scholarly literature on the gray zone (for a conspectus on which, see Kesselman 2016; Bureau et al. 2019; Bellemare et al. 2022), one of the most notable contributions is perhaps Patrick Cingolani's analysis of the digital platform economy in *La colonisation du quotidien*, which sees the digital platforms as the culmination of the marked trend to the out-sourcing of labor observable over the last half-century (Cingolani 2021).

The account given here of the relations between the gray zones of the digital platform economy and public space highlights the material use of the public domain as a

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3 Loi n° 2019-1428 du 24 décembre 2019 d'orientation des mobilités.

key element in the production and value chains of digital platform firms. In this respect, the notion of the gray zone helps us make sense of a new way of organizing society, whose underlying principle—of social deregulation—contributes much to the tensions manifest in urban space. We shall here be looking at urban rather than rural space, as the tensions that appear there seem more representative of the phenomenon: how many bicycle delivery riders, after all, does one see on country lanes? It is indeed not possible to serve rural destinations within the 10-15 minutes delivery time customarily promised. There is thus a very strong link between metropolization, whose essential feature is the concentration of both wealth and population, and the development of the digital platform economy. The quest for centrality is another key factor in the spatial expression of gray zones, driven by concerns for accessibility and consumer catchment area. A question of market, quite simply! No geographical space, no digital economy! Virtual space, defined as the immaterial locus of digital transactions, is no more than a means of intermediating individuals themselves located in physical space. The appropriation of public space by digital platform firms is just one more example, at the spatial level, of the social disaggregation they generate, in addition to that already seen in the realm of relations between individuals. In other words, delivery riders' neglect of social norms governing behavior in public space is an illustration of the new circumstances imposed by the material conditions of work for digital platform firms. Whether taking a route that contravenes the highway code or neglects the provisions of a local transport plan in order to gain time, or the disorderly parking on roadway or sidewalk in front of dark stores, it is easy to understand that these activities, transacted in virtual space, generate new uses of public space that can result in conflict with local residents.

Gray zones, then, call for a multi-disciplinary approach: one can speak of a sociological gray zone, a legal gray

zone, a political gray zone. The gray zone of the sociologists has given us the emergent figures described by such as Christian Azaïs, Donna Kesselman and Patrick Dieuaide, and the *autoentrepreneurs*—the self-employed as "entrepreneurs of the self"—who bring with them major changes in the organization of work, notably in terms of status and flexibility (Carelli et al. 2022). The law of labor and employment, indeed, offers an important window onto the impact of digital platforms, highlighted by recent developments in Europe (in late 2024) regarding the recognition of the rights of Uber drivers and the central importance of the relationship of subordination and the social protections that come with it. The concept of social labor relations proposed by D'Amours et al. (2023) registers the decline of the classical wage relation associated with the Fordist organization of production, which brings with it a new and different relationship to work.

The gray zone of the legal scholars, for its part, highlights the margin of appreciation, the room for maneuver available to the whole legal system, from lawyers to judges, in the interpretation and application of legislation. This is not a legal vacuum in the strict sense, but an area of discretionary power. Historically speaking, the idea of the gray zone emerged and developed against the background of three decades of the judicialization of society. The 1990s saw a new reliance on judicial process to settle disputes in many fields, this in some way replacing the political process in a further intensification of the malaise of modernity discussed by Charles Taylor (1991), who saw individualism overriding a common project of society, the social contract described by Rousseau taking second place to the quest for individual freedom, supposedly more emancipatory. Within such a framework, it is for the judge, rather than the legislator, to settle problems of social relations.

This is why the gray zone is also a matter of politics, as the subject not only of legislation but of the doctrine that informs judicial decision-making, which in France

encompasses not only the principles derived from precedent but the entire corpus of writings, including academic writing, that supports interpretation of the law and to which a judge will turn in coming to a legal characterization of a situation—in the field of employment law, for example. Doctrine reflects the advance of ideas within society as a whole: to assert the existence of "digital subordination" in the context of work is to recognize the issues involved and their impact on the world of work. To ignore it is similarly consequential. Considered in this light, it clearly represents a social issue, and is, as such, subject to political choice.

Within this interdisciplinary entanglement, Henri Lefebvre's idea of the right to the city proves of assistance (Lefebvre, 1968). The manifestation of the gray zone in urban space returns us, in fact, to the conflict over use and control so important to Lefebvre, which proves to be surprisingly relevant to current developments. In terms of his triad of perceived space, conceived space and lived space, the gray zone finds expression in a conflict between the use of space as conceived and as it is perceived by different social groups.

Lefebvre's "triplicity of space" helps account for a number of different kinds of conflict associated with the gray zone. Between the conceived space of national and local planners, the perceived space of residents and the lived space of daily use and enjoyment as shaped in part by digital platforms and/or the delivery workers who serve them, we are faced with an intermingling of uses as contradictory in their material effects (in terms of the occupation of space) as they are opposed as social practices and in their ideological representation.

Mediating between the space of economic activity and the space of domestic life and the living environment more generally, urban space becomes a zone of strategic importance as the locus of last-mile logistics. The "last mile" represents the final link in the chain that sees a good or service delivered to the customer, that is, the last stage of

the product's journey. In the context of the dark stores we are concerned with here, this is evidently the domain of the delivery workers. The idea helps locate them in the chains of value and supply: to speak of the last mile is equally to invoke the first and all the rest. In the conflict of use discussed above, then, it is not the bicycle delivery rider but the whole value chain that local inhabitants are faced with, the rider being no more than its visible manifestation. The degree of conflict varies with the social character of the neighborhood and so the toleration accorded to these newcomers to the street scene, and to what extent their presence is regulated at neighborhood, city or even national level. It can sometimes certainly lead to pressure on elected representatives to introduce new curbs.

The endeavor to appropriate space is precisely what underlies the conflict of use between public authorities, local inhabitants and platform firms, and it is itself a manifestation of the gray zone in its blurring of boundaries, of categorial distinctions. A reminder, here, that the word "zone" primarily denotes geographical space or an area of land distinguished from its surroundings by its character or use.

In a way, the siting of dark stores and of the material activities of digital platforms more generally also poses the question of the Lefebvrian right to the city in its circumvention of the established rules: in the French case under consideration here, those governing the use of ground-floor commercial premises. Today, the living environment becomes, in a way, an issue of the right to the city, just as centrality was in Lefebvre's day, as the presence of dark stores —welcome to some consumers, but unwelcome to other residents—disrupts established patterns of use and enjoyment. The volume of inflows and outflows, with incoming lorries on the one hand and last-mile delivery riders on the other, also raises issues of night-time disturbance: making noise at one or two in the morning in streets where people live (which in France often also means shopping streets

above the ground-floor level) is socially unacceptable and leads to conflict.

The question of the right to the city brings us back to the fragmentation of the industrial city that came with the rise of functionalist urban planning. It was within that context that the notion of the right to the city articulated a number of fundamental issues, among them the need for centrality. Lefebvre's thesis rests on the idea of space as a social product; the space that digital platforms seek to produce is informed by a neoliberal conception of development (non-)planning, one of whose intrinsic features is its challenge to the established social rules regulating the city. This is what is at stake in the material, spatial manifestation of the gray zone. The digital platform economy needs the private space of the firm, but it also needs the use of public infrastructure, meaning that its appropriation of part of the public domain, in the material form of the road or the street, represents an essential link in its value chain. An example will serve to illustrate the issue: a bar or catering establishment that temporarily occupies part of the public domain by setting tables and chairs on the sidewalk has in France to pay a fee to the local authority. But who in our case is to be charged for the temporary occupation of the public domain: the dark store or the delivery rider?

The idea of the right to the city thus promises much, both theoretically and methodologically, in any consideration of the gray zone's manifestations in urban space, and also serves as a conceptual nexus for multidisciplinary reflection.

Turning now to the political, we see that platforms have been proactive in influencing the legislation intended to govern their activities. Revealed by a newspaper investigation, in an article entitled "Uber files" (Leloup 2022), the dealings between Uber and then French minister of the economy Emmanuel Macron in 2013–17 offer a perfect illustration. Lobbyists for the digital platforms became true participants in the formulation of the legislation. This tacit

participation in government has existed since the advent of industrial society, developing with the expansion of law: whenever government has proposed the extension of social protection, or the legal regulation of business more generally, the lobbying of business interests has had a major impact on the legislative outcome.

The advent of an "uberization" that seeks to evade or do away with the legal provisions that secure the social protection of workers represents a new phase in the extension of neoliberalism. More generally, it might be said to challenge the social state and the advances it brought. However, the degree of development of gray zones in any particular country varies with the solidity of the state institutions inherited from a past of social struggle and the strength of resistance offered. In the end, the emergence of the digital platform economy is part of the ongoing story of neoliberalism's attack on the social state, which in the digital domain also draws on an economic libertarianism.

As part of this challenge to the established model of social protection, the platforms are seeking to foster a new collective narrative in proposing, for example, a new "social relation to work", on the basis of their being the representatives of a new world made possible by technical progress. The big question that needs to be addressed, then, is whether the technical advances exploited by digital platforms are in fact likely to bring about the vaunted social progress.

Between the disengagement of government, the collapse of the Fordist model and the novel ambitions of business, a new social relation to work is indeed emerging, raising questions about how exactly the new social model is being set in place. What is the role of the digital platforms in the relationship of forces now emerging? While there is no one answer, it is evidently a question that requires transdisciplinary study, calling on legal, economic, sociological, political and, of course, geographical scholarship.

It is here that the spatial aspect takes on all its importance, for the production of urban space is a matter of

politics above all, as the material expression of collective narrative and ideological choice. The organization of space, and of urban space in particular, is directly impacted by the new narrative promoted by the digital platforms, which are seeking, in the process, to free themselves of the social obligations of the past. The interaction between the mode of organization of work represented by the digital platforms and the novel uses of urban space connected with it is central to their conflicts with residents and public authorities —conflicts that derive, in the end, from a transformation in modes of consumption that brings with it a need for city-center sites. In this respect, dark stores are emblematic of the tensions generated by digital platforms at the heart of the city.

The Dark Stores: A Textbook Example of the Gray Zone?

The dark store sector exemplifies both the rapid growth of the digital platform economy and a materialization of the gray zone in its tendency to disrupt pre-existing regulation. Taking up David Harvey's theorization of social relations in space and the questions regarding the urban it raises, Nicolas Lebrun notes a change in the mode of centrality of retail spaces that reflects an optimization of geographical proximity.

Adopting the conceptual approach developed by David Harvey (1987), "one may see in this a 'liberalization' of retail and commercial planning policy, the spatial aspect of the shift from a standardized to a flexible regime of accumulation that has led to the transformation of the Fordist city. For Harvey, flexibility's impact on the urban is limited to the effects of structural changes in the labor market. But in the matter of retail [*commerce*], flexibility is not at all confined to changes in conditions of employment: the

form and implantation of retail premises has been equally transformed by a flexibility evident as early as the 1970s" (Lebrun, 2023).

Here, the essential thing is the connection between the urban centrality that attracts economic activity—thanks to the consumer density that enables the maximization of profits—and the establishment of rules governing the use of urban space and of the built environment in general and of retail premises in particular, such as, for example, rules of hygiene, but also those governing work. The creation of an uberized workforce impacts conditions of work as well as the use of public space.

When one thinks of the platform economy, it is Uber that comes immediately to mind. Its organizational model has given us the term uberization to join Taylorism and Fordism as forms of the organization of work that reshaped entire societies. All have had their effects on the geographical space within which they were deployed. In October 1913, Ford created a new mode of industrial production with the establishment of an assembly line at his Highpark plant in Detroit. A key factor in the ensuing flourishing of the city, this also marked the advent of a new age in the matter of productivity. This example well illustrates the strong connection between the mode of organization adopted and promoted by business and the life of the city, most notably when geographical space becomes industrial wasteland . . .

The consequences of uberization are many, and are not in the least immaterial: for while the customer places an order on-line, the logistical chain from the ultimate source of supply to the last mile and the final destination is very much material. The new modes of production are reflected in a new form of trade. In the case of the dark stores, one notes how the new mass availability of home delivery has seen the appearance of a new category of bicycle-mounted logistics workers who swarm across the city in quest of pick-ups and final destinations.

In setting the dark stores in the history of the urban, Pascal Madry identifies a number of phases in the growth of modern retail, marked successively by the Industrial Revolution, the opening of the first hypermarkets in the 1960s, and the electronification of retail in the late 1990s (Madry 2016). They are characterized by the progressive separation of the three flows: the flow of information between seller and buyer, first effected by word of mouth; the flow of money when payment is made; and the flow of goods when purchases are handed over. All three are essential to any commercial transaction. The eventual spatial separation of production, storage and sale changed the relationship between shopping and the city on the one hand and between seller and buyer on the other. Their former unity has given way to dematerialized transactions and the spatial dispersion of three now distinct functions (Schirrer et al. 2024).

The way this is exemplified in the abortive development of dark stores in France is instructive in more than one respect. They represented "a model of retail that was already in the throes of change before the Covid crisis . . . quick commerce ran into problems associated with the disorderly character of its implantation in the urban fabric. Investors, in fact, were following a strategy known as 'blitzscaling', engaging in a dash for growth to gain advantage over their competitors. The idea being to get to be the biggest and carry all before you" (Schorung et al. 2022).

This account highlights the very rapid proliferation of the dark stores whose business model relied more on gaining a physical presence in city centers than on short-term financial profitability. It also called for a post-Fordist workforce and equally the destabilization of planning rules to enable the (mis)use of ground-floor retail premises.

The idea of the gray zone is fruitful, here, in drawing attention to two dynamics. The first is economic, involving the implantation of a novel economic activity in the city and its impact on urban space. The second involves the

political response and the reaction of the public authorities to the emergence and growth of an activity undesired and perhaps undesirable. It is here that the idea of the gray zone demonstrates its utility, whether sociological, in fostering such notions as emergent figures or the relation of digital subordination, or geographical, in the blurring of use classes involved in the utilization of ground-floor premises not for traditional retail or commercial uses but for storage —not only contravening the law on change of use but also bringing about a change of use of public space, with the arrival en masse of bicycle delivery riders who park themselves in front of the premises while waiting to pick up a consignment.

Having their entire floor area devoted to storage, dark stores are to be treated as warehouses. Local Development Plans (LDPs) define as shops premises where no more than one third of the total floor area is devoted to storage. In the case of Paris, the LDP bans warehouses in residential areas. Change of use, as here, from shop to warehouse, is only possible through making a declaration under Article R.421-17 of the Planning Code. Dark stores on average stock some 1,500 to 2,000 lines, these being the products in greatest demand, as compared to the 15,000 to 20,000 lines available via car-free pickup from such [supermarkets] as Carrefour. These establishments, located in city centers, do not receive shoppers on their premises, being exclusively devoted to on-line orders via a mobile application. The character of dark stores and their classification as shop or warehouse was the subject of a legal battle much broader in its implications than a simple question of land use. (Schirrer et al, 2024).

Furthermore:

> A breakdown of delivery riders' activity during the 15 minutes laid down by the delivery contract reveals that travel time, paradoxically, represents only 50% of total delivery

time.[4] Delivery riders thus spend half the time allocated to the job waiting in public space, chiefly concentrated around collection points, before then adding to the density of cycle traffic on the public roads and making a multitude of short-term stops near the points of delivery (Schirrer et al, 2024).

Conclusion

Geographical space thus proves to be central to the analysis of uberization as the material ground of the transformations involved. In generating new forms of mobility of both people and goods, these new business sectors impact urban space in many different ways. By way of conclusion, and invitation to further work, one can say that the idea of the gray zone offers insights into a new phase of the relation between capital, labor and geographical space. The development of the digital platforms raises questions not only about workers' rights to social protection but also about urban planning. The Conseil d'État's decision in March 2023[5] to create a new (sub-)category in order to locate the dark store in the framework of planning law demonstrates the difficulty of grasping a phenomenon in the absence of an adequate conceptual framework. It is good to name things, but to categorize them is even better!

Manifestation of a globalization that has manifold local impacts, the world-spanning pure players of the digital call for a regulatory response on the part of the public authorities. A political response is needed and the economic transformation under way will entail adjustments involving every aspect of society. In this, the society-wide

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4 "Rouler vite pour gagner plus… Vrai ou faux ?", a blog by Patrick on the *Devenir coursier vélo* website, July 1, 2016, consulted November 4, 2022. https://www.devenircoursiervelo.com/2016/07/01/rouler-vite-pour-gagner-plus-vrai-ou-faux/

5 See n.2 above.

impacts and implications of digital platform activity raise questions about individualism for consumers and residents, and about the relationship to the collective for society as a whole. The space inhabited by post-Fordist workers is itself a manifestation of the gray zone: from the centrality of these productive activities to their impact on residents' living environment and to the periphery as the home of the post-Fordist workers (Aguiléra et al. 2018).

Geographical space needs to be given a more important place in the analysis of gray zones if one is to grasp the diverse configurations under study not only in terms of labor law but in terms of the spatial categories that help account for the conditions of life of the populations of precarious workers associated with them. This represents a whole new topic for social geography. Furthermore, while dark stores are no longer proliferating in France, thanks to legislation, they are doing very well in many other countries. There is, then, no standard model, and the logic of their geographical implantation varies from one country to another—a situation that suits the digital platforms very well.

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Emergent Figures in the Gray Zone

11

Food-Delivery and Ride-Hail Workers in Brazil

Emergent Figures in the Gray Zone

Christian Azaïs[1]

Abstract

This chapter explores the transformation of work through the lens of "emergent figures"—new categories of workers arising from social and technological change, particularly in the context of location-based digital platforms (e.g., iFood, Uber, UberEats, 99) in Rio de Janeiro, Brazil. These figures challenge traditional binary classifications (e.g., employment/self-employment) and exemplify the "gray zone", a concept highlighting the blurred boundaries, instability, and indeterminacy of contemporary labor relations.

Emergent figures are here classified as *instituent* (gaining institutional recognition, e.g., delivery workers after successful strikes like the *Breque dos Apps* in 2025), *intermediate* (transitional, e.g., cyclists saving for motorcycles), or *declining* (losing status and rights, e.g., former employees

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forced into self-employment). These categories are fluid, reflecting the dynamic nature of labor markets.

The gray zone offers a framework for analyzing work that escapes rigid dualisms (e.g., formal/informal, subordinate/autonomous). It emphasizes institutional instability, *discoherence* (Bureau and Dieuaide, 2018)—the misalignment between norms and practices—and the political dimensions of labor regulation.

Digital location-based platforms exercise insidious control through algorithms, customer ratings, and real-time geolocation, masking subordination as autonomy. Workers, though formally "independent" (e.g., MEIs or franchisees in Brazil), face precarity, long hours, and minimal social protections.

The chapter argues that emergent figures and the gray zone offer a robust framework for understanding today's transformations of work, where flexibility coexists with precarity and institutional innovation outpaces regulatory adaptation. By centering workers' perspectives and the political economy of platforms, this research challenges normative assumptions about employment, advocating for a pluralistic, dynamic analysis of labor in the digital age.

Keywords: Platform work; gray zone; emergent figures; Brazil; iFood; Uber; MEI; franchise models; worker rights.

Introduction

Central to the argument here is the idea of "emergent figures", by which are meant new categories of worker thrown up by processes of social and technological change and in some sense typical of the conjuncture in which they emerge. The idea is thus, in a way, inherent to that of the gray

zone[2] as an aspect of a world of work undergoing repeated drastic transformations. The idea of the gray zone, for its part, takes on its full significance when it is understood to extend beyond the sphere of work and employment in the narrow sense to encompass that world's relationship to the political, in so far as the latter determines the institutional arrangements undergirding the development of "social labor relations" (D'Amours et al. 2022). This chapter takes the case of those who work via location-based digital platforms specializing in food delivery or passenger transport—in Brazil, and more specifically in Rio de Janeiro—to illustrate its broader argument, for it offers important insights into a changing world of work.

Why, though, approach that through the idea of emergent figures? Given the way the Fordist wage relation is being put into question and new forms of the organization of work have made their appearance with the rise of digital platforms, there is a need to develop new categories that go beyond those upon which the sociology of work was founded, notably the three unities, of time, place and action, highlighted by Dubar and Tripier (1998).

The growing irrelevance of binary analytical categories such as the employment/self-employment dyad calls for the development of new conceptual frameworks that can help us actually understand the transformations of work today, all the more when these are the corollary of constantly changing business structures, as is the case with the digital platforms. These last have brought about much-discussed changes in the labor market that require a change in the way we look at things if the emergence of new categories of worker is to be understood. Emergent figures, then, may be classified as instituent, intermediate, or declining,[3] an

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2 "Gray zone" in the singular refers to the concept, the plural "gray zones" to its empirical instances.

3 Grateful thanks go to my friends and colleagues Patrick Cingolani, Donna Kesselman and Maxime Schirrer for having suggested two of these terms

analytic that avoids the binary and accords with the idea of the gray zone, which registers the existence of situations where the dividing lines between categories are blurred on account of changes in normative frameworks as new norms uncertainly come into existence and old ones lose their purchase. As manifestations of current practice—of gray zones in the plural—these figures reflect the inherent dynamics of the labor market.

While the boundaries between these three *types* of figure would have to be fixed in any formal typology—something I do not venture to develop here—figures themselves can of course shift across them, reflecting the fate of emergent occupational categories and the individuals they represent. This may vary both temporally and geographically, with figures becoming firmly institutionalized or eventually disappearing from the labor market.

We first consider the three types of emergent figures in turn, in their relation to the idea of the gray zone. With these considerations in mind, we then go on to look at the relationships to work that digital platforms entail or foster; this in turn requires us to broaden our focus to take in the environment in which the platforms operate, that is, the institutional arrangements they bring about and their relationship to the territory they operate in, more particularly here the location-based platforms. The discussion draws on a series of 43 interviews (Magaldi et al. 2024b) with car, motor-cycle and cycle delivery workers in Rio de Janeiro, supplemented by a few examples from other contexts.

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that help capture the complexity of work and employment situations. I first came up with the three categories of ascendant, intermediate and declining emergent figures (Azaïs 2019a), without really considering the normative implication of these terms. Ascendant or declining in relation to what? To an earlier situation? To the situation of employment?

Emergent Figures and the Gray Zone: A Background Sketch

The emergent figures under consideration here are each associated with situations that workers find themselves in in the labor market. They may be instituent, intermediate or declining, as discussed above.[4] Concretely speaking, instituent emergent figures are associated with the non-linear occupational trajectories of individuals whose means of making a living succeed in winning a recognized place among the ranks of the occupations, validated by such institutions as national statistical authorities, among others.[5] Such institutional consolidation enables them to counter the instability characteristic of the gray zone, and they accordingly seek to ensure the permanence of the gains they have made, either through struggle or through negotiations conducted by trade unions or other professional organizations—with public authorities, or indeed the representatives of competing occupations, something quite common in France with the rivalry between drivers using

4 The use of a term to name a category an individual falls under is doubly delicate. Firstly, of what—of what situation, implicitly regarded as the ideal—is this the expression of? Secondly, it amounts to describing the situation, and in a way to fixing it, while a key characteristic of the emergent figure is its fluidity, the reflection of a process and as such integral to the gray zone. For now, I must admit to not having found a definitive solution. Categories, as Herzog and Zimmermann remind us, "are necessarily endowed with a certain performative power by placing labels on the individuals engaged in these activities and sometimes reinforcing existing social hierarchies and sometimes creating new ones" (Herzog and Zimmermann 2023, 4).

5 Recognition of an occupation or occupational group by a body such as France's INSEE (National Institute of Statistics and Economic Studies) depends on a number of criteria, one of which is how long they have existed. The reason why private-hire drivers are not yet distinguished from taxi-drivers in official statistics is the relatively recent emergence of the category, as yet not stabilized. So it is that INSEE, in its concern to hew as closely as possible to labor-market realities, thought it premature to create a specific category for the occupation.

digital ride-hailing platforms[6] and the taxi drivers who now often also use apps to pick up fares.

On a number of occasions since 2020, the year that saw the first notable mobilization of delivery drivers and *motoboys* (as their motorbike-mounted counterparts are known in Brazil), platform-based delivery workers have stopped work in pursuit of their claims regarding safety, protection in the case of accidents, pay, and recognition by digital platforms.[7] Until the most recent, on 31 March and 1 April 2025,[8] these few large-scale mobilizations had not met with success. Known as the *Breque dos Apps,*[9] this last strike was however victorious, with iFood, Brazil's largest take-away delivery platform finding itself obliged to increase pay and to improve conditions of work and social protection. This in itself was a victory, considering the failure of previous struggles. The gains won by the workers in question were accepted as normative by iFood, which committed itself to respecting them, a form of institutionalization and a recognition of the success of the mobilization.

The second category of emergent figure, the "intermediate", can take a number of forms. It is not *a priori* destined to perdure—such is the case of interns awaiting formal employment, of workers in training or ride-hail drivers between more formal employments, but also that of all professions and occupations whose exercise departs from the Fordist ideal type and are so marked by indeterminacy (Azaïs 2019a). Should the situation of this figure prove long-lived, it will then merge into the category of the declining figure, by virtue of its precarity. Among delivery

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6 Often called "Uber drivers".

7 Recognition not only of work actually done, but also of effort and commitment.

8 https://tinyurl.com/ynwe8rnk, last consulted 22 April 2025.

9 The *Breque dos Apps* movement began in 2020, focussing on safety, fair pay, and questions of recognition: of voice, of the role and its skills, of work actually done, of dedication to the job. See interview (in Portuguese) at https://www.youtube.com/live/YcP77YWtZ8k.

workers and ride-hail drivers, one can place in this category the bicycle delivery workers who plan to hire or purchase a motor-cycle in the hope of having more work and hence more pay. A reverse example might be someone like *moto-boy* Nicolas Souza Santos (who features in the video cited in footnote 7) who after an unsuccessful attempt to become a ride-hail driver had to fall back on the motor-cycle, having been unable to cover the expense of the car. Wider economic developments quite independent of any worker's intention in making such a shift will determine whether they are joining an instituent or a declining category.

Why declining? Because this class of worker is engaged in a struggle to prevent the rights earlier associated with it being eroded or swept away. It is its capacity to recover from such attacks that will determine to what degree security is lost. Into the category of declining figure fall those whose occupations have changed radically or are even in the process of disappearing, bringing with it a loss of status and social benefits. Examples might be secretaries and audio-typists: the former saw the job transformed over a couple of decades (Delahaye and Granier 2011), while the latter, almost all of them women, simply vanished from the world of work, to reappear years later as conference stenographers—a well-regarded and highly paid profession. Other examples might be given, such as the former employees who find their work out-housed and no longer enjoy the protections afforded by employment, either because the business has been franchised out (under legislation to be discussed later) or because they have been required to become formally self-employed. Over-hasty consideration might suggest that, normatively speaking, such workers fall within the category of declining figures. Yet experience shows that what a researcher might take to be a backward step in fact reflects a choice made by the individual, perhaps reluctantly, but one that is nonetheless undeniably a cause of satisfaction. Such was the case, for example of the motor-cycle delivery worker interviewed in Rio who

preferred to be self-employed and to work for several clients as compared to his former situation as an employee when his monthly income was less and he had no control over his hours (Magaldi et al. 2024b), and this despite the loss of the social protections afforded by his former status. It is equally undeniable that the businessman who demands that his former employees became one-person businesses or MEIs (*Micro-Empresário Individual,* meaning individual micro-entrepreneur) also does very well out of the deal, no longer having to pay employer's contributions or accept constraints on his freedom of action or—in the case of ride-hail drivers or bicycle or motor-cycle delivery workers—the prospect of being taken to court for disguised employment and having his "staff" reclassified as employees. This example clearly shows how situations are not fixed, but there is always danger in over-hasty interpretation informed by the *a priori* conviction that standard employment represents the best of all possible worlds, ignoring the opinions of those themselves concerned (Magaldi et al. 2024a). To think of ride-hail drivers or food-delivery workers as victims of their situation is to ignore the realities on the ground.

This rapid overview of the three types of emergent figures makes plain their dynamic character, the fact that they are dependent on processes whose course and final results cannot be predicted in advance, and that they consequently offer a window onto the transformations of work. Furthermore, an approach in these terms invites consideration of individual subjectivities, for the same situation can be experienced as a demotion by one and as a promotion by another. This can be seen among undocumented delivery workers, ex-offenders leaving prison—and the unemployed poor more generally, racialized or not—for whom delivery work represents the only possible access to the labor market and to daily pay.

In so far as a gray-zone approach concerns itself with institutions and individual practices, it avoids the pitfalls of an approach in terms of formal norms. The essential

characteristics of the gray zone are instability, insecurity and indeterminacy (Azaïs 2019b), to which one might add the discoherence [*décohérence*] evoked by Bureau and Dieuaide (2018) (on which, see below), which only amplifies the aleatory effect of the processes at work.

Are these, though, *new* processes? The answer is no. Emergent figures have always existed, throughout history. They are the outcome of tendencies that would eventually result in the institutionalization of practices, or, on the contrary, lead to the gradual disappearance of the figures concerned, or indeed some intermediate situation. They are the fruit of tensions, of frictions between actors within institutions, or the manifestation of forces pressing for the acceptance of the norms and standards that they embody so as to bring about the institutionalization of their practices. Yet such institutionalization is never definitive.

Given this classification of emergent figures, what is their connection with the notion of the gray zone? It is that they express tendencies to evolution, retrogression or stasis that reflect the inherent tensions of the labor market.

It was the legal scholar Alain Supiot (2000) who first evoked, a quarter of a century ago, the existence of a gray zone between employment and self-employment. He was then much exercised by the fact that formal recognition of this intermediate zone as a third realm would require the introduction of appropriate legislation, while this would actually be impossible, because the gray zone was not, in fact, some kind of half-way house between the two established employment statuses: employment and self-employment themselves did not escape it, being also marked by the gray areas, the fuzziness, the uncertainties and the disregard for norms that defined the gray zone itself. Another path was blazed by the Italian researchers and lawmakers who concerned themselves with those they called *parasubordinati* (Accornero 1998) or economically dependent workers (Antonmattei and Sciberras, 2008). The "parasubordinate" worker is the self-employed worker who

is nonetheless economically dependent on one or more clients. Referring to the situation in Italy, Bisignano (2023, 1) writes: "Verging on employment, these work situations raise significant issues for labor-market institutions, in terms of social rights, pay, or the recognition of qualifications. In addition, these issues affect not only the parasubordinate, but also other precarious, marginal groups among the employed (casual or intermittent workers, etc.)." These examples illustrate the blurring of boundaries between protected and unprotected work situations, and the social protection extended to workers in employment stands at the heart of many debates and demands raised by the workers we are concerned with here.

For Supiot (2000), the gray zone was the expression of two phenomena: the emergence of autonomy in subordination in the case of the employee, and of a condition of allegiance in independence in the case of the (self-employed) solo entrepreneur. This opened the way to the recognition of a multitude of overlapping situations. The idea of the gray zone has proved particularly fruitful for the sociology of labor and the study of labor law, as witnessed by a number of recent works (among them Grillo and Soares in their chapter here, Azaïs et al. 2017; Boulin and Kesselman 2018; Bureau et al. 2019, 2024; Bureau and Dieuaide 2018; Carelli et al. 2022; Carleial and Azaïs 2017; Dieuaide 2024a; Kesselman 2022, 2025; Siino and Soussi 2017). One of its advantages is that it highlights the great variety of forms in which labor is set to work in the contemporary world, only too often reduced to such mutually exclusive pairs of categories as employment vs. self-employment, subordination vs. autonomy, formal vs. informal and so on, while reality cannot be reduced to such neat dualisms. Such notions as the blurring (Azaïs 2015), fuzziness or permeability of boundaries are more apt to capture the intrinsic complexities of the world of work and employment. Here I seek to outline the specifics of the gray zone and to demonstrate the utility of the concept in the analysis of relationships of

work and employment, in that it does not leave out of consideration the role of institutions and of the organizations that structure them. While emergent figures are indicators of the fluctuations and tentative reconfigurations characteristic of the world of work today, the question of time remains central to the sociological analysis of work. This is itself nothing new, time being the common denominator of every modern form of the organization of work, whether Taylorism, Fordism or Toyotism. Today, the just-in-time workers of digital delivery platforms see their time monitored, measured and controlled, their pay depending on the time spent in or on their vehicles and the distance covered in effecting deliveries (Abílio 2021). Research on ride-hail drivers and bicycle and motor-cycle delivery riders in Rio de Janeiro offers indications of the way in which the fragmentation of working time typical of platform work is experienced and judged by such workers (Magaldi et al. 2024a). Though it often brings very long working hours, flexibility of working time is seen as positive by many, allowing them to fit work around private life. This observation contributes to a better understanding of the temporal dynamics of work in the platform economy, work in which just-in-time labor is demanded by consumers, restaurants and platforms, in which every operation is timed, and, just as on the assembly-line, the degree of initiative that remains to the worker is absolutely minimal. Furthermore, digital platforms have succeeded in off-loading the problem of down-time—a crucial issue for every form of organization of work—onto their workers.

The Exercise of Control Over App-Based Ride-Hail and Food-Delivery Workers: An Emergent Gray Zone

The geolocalized digital platforms responsible for recent transformations in both work and employment oblige

researchers to reconsider the analytical categories hitherto applied to work and employment. The mobile app workforce, in the form of ride-hail drivers and delivery riders, made its appearance on the urban scene some ten or so years ago. They represented a tendency that has since spread throughout the world, in Brazil with iFood, 99 and Uber, in France with Uber, most importantly, together with Deliveroo and UberEats, to cite only the most notable of the ride-hail and food delivery platforms. In China, there is the Didi Chuxing platform (ordinarily called Didi) which dominates the local market and has a presence in a number of other countries, where it now controls several transport firms. In January 2018, in fact, Didi, already a minority shareholder in 99, is said to have paid 600 million US dollars for the remainder of the stock, in a deal that would have valued the company at more than a billion dollars, and is now engaged in fierce competition with Uber and iFood. These digital platforms have become powerful multinational corporations whose financial structure (Daugareilh 2021; Sauviat 2019) and mode of operation have no precedent in the business world. The best known, Uber most notably among them, took years to become profitable. Money poured in even though investors had no assurance of any return on their investments, for which they had to wait a long time. These new entities, which one might also reasonably describe as emergent, most having existed for only a decade or so, today control hundreds of thousands of workers and are still growing. Traditional couriers, called *office-boys* in Brazil, were employees of the business that provided them with the tools of their trade (bike, motorbike, or even a car) and benefitted from the social protection that came with that status. They could not, however, choose which deliveries to undertake and were subordinated to their employers. Today, they are sole traders (US: sole

proprietors),[10] self-employed, franchisees or MEIs, formally subordinate to no-one. Their dependence is masked. Such transformations of status and work situation are commonplace.

The numerous scholarly studies of the informal sector have already done something to go beyond binary approaches, demonstrating that there is no clear line of separation between the formal workers who enjoy the protections associated with employment, on the one hand, and the informal workers, who do not, on the other. Reality is more complex, and it is not uncommon for overlaps to exist, associated with the dynamics of emergent figures and of the gray zone more generally. One sees this in the case of the ride-hail drivers and delivery riders under consideration here. These are individuals who have chosen this type of occupation, some for lack of any better option, having failed to find employment, or any sufficiently well paid. Many of them declare themselves to be free of hierarchical control, being their own boss at work and able to choose their own hours. They "earn their money", as they say (Bernard 2020; Magaldi 2022), very often at the cost of long and exhausting days of work, but they are glad not to have anyone to shout at them because they arrive late or their work is unsatisfactory. They feel empowered. Yet they are still subject to the ratings awarded by clients and the possibility of account disactivation hangs perpetually over their heads. Their independence, then, is relative, something well understood by the platforms themselves, which take advantage of the existence of the "digital reserve army" in maintaining a certain level of threat that compels drivers and delivery riders to adhere to the standard they must achieve—or believe they must achieve—if they are to continue to receive calls offering work, and, above all, not find themselves blocked on account of a poor client rating impacting their overall score. Three scores are awarded by iFood: 1, 2 and 3. The rider who has a score of 3 is much better off than

10 This is the case under the new strategy embraced by the food-delivery platform iFood.

one who has 1, who gets offered jobs, and more advantageous jobs, much less often. The delivery rider who has reached level 2 will see level 3 as a goal to be attained and consequently seek to meet the platform's demands. Riders' strategy, then, is to avoid getting marked down and to accept every job offered. It is, then, their subjectivity, their very selves, that is engaged, in the same way as by "nudges" (Azaïs et al. 2017).

Self-employment in the sense of working for oneself and not for an employer can take a number of legal forms in Brazil, among them registration as an MEI[11] or franchisee, testimony to the political interest in getting away from the traditional contract of employment represented by the *Consolidação das Leis do Trabalho*[12] (Consolidation of Labor Laws) that has governed employment since 1943. Those two statuses in particular are favored by Brazil's digital platforms, avoiding the possible reclassification as employees of those who work for them. Yet the platforms still exercise an insidious control, inherent in the way that work for them is organized.

MEIs and Franchise Agreements: Legal Forms of Self-Employment

1. Introduced by statute in December 2006 (LC No. 123/2006), the status of *microempreendedor individual* (commonly abbreviated as MEI, and literally translatable as "individual micro-entrepreneur") offers a simplified and low-cost option for the legal registration of those who own and operate their own small businesses: annual turnover

11 https://www.contabilizei.com.br/contabilidade-online/mei/, consulted on 27 August 2024.

12 Governing employer-employee and employer-union relationships since its promulgation by the government of Getúlio Vargas on 1 May 1943, Decree-Law No. 5.452, entitled *Consolidação das Leis do Trabalho* (CLT), is still the main source of labor law in today's Brazil, though under attack from digital platforms and economic liberals, who constantly seek to limit its applicability (Cardoso and Azaïs, 2019).

cannot exceed 81,000 Brazilian reals (around $15,000 in mid-2025). Registration, which is free, brings with it a certificate of legal personality and the ability to issue valid invoices, and also social protection in terms of pension, health insurance and maternity allowance. Today there are some 16 million MEIs active in Brazil.

2. The Franchise Agreement provided for by Law No. 13.966/2019 offers a means of outhousing business functions. What does it involve, legally speaking?

a. Legal and financial independence: franchisees are responsible for their own activity and the stability of their business.

b. The establishment of a framework to be adhered to by the franchisee.

c. Transfer of knowledge and ongoing support by the franchisor and the franchisee's responsibility for the local promotion of the brand in question are both provided for by the agreement. As regards intellectual property, franchisors grant the franchisee the right to use the brand and to access the associated knowledge-base, essential to the success of the model.

d. The agreement must be drawn up in writing and specify in detail the rights and obligations of the two parties. Franchisees are independent agents, responsible for managing and operating their own businesses. They must adhere to franchisors' requirements, as laid down contractually, but retain their legal and financial independence.

The law imposes a duty of transparency in the franchisor/franchisee relationship. This includes the provision of adequate information in advance of the contract and the right to cancel the contract in the case of failure of transparency. The franchise agreement is a formal, bilateral contract of pecuniary interest for continuous performance, entered into autonomously and *intuitu personae*. It draws

> together features from a variety of commercial contracts, among them contracts of purchase and sale, licenses for the exploitation of trade marks or patents and commercial agency agreements.

So it is, then, as Dieuaide put it, that "The prescription of tasks gives way to the prescription of subjectivity through the introduction of a whole raft of arrangements intended to ensure subjective involvement and maximize the engagement of the worker's personality in this relationship of mutual communication" (Dieuaide 2024b, 3).[13] This situation, typical of platform work, relies on the worker's personal engagement; this comes on top of what digital platforms have set in place in terms of the intermediation of work (Abel and Dieuaide 2023; Azaïs et al. 2017), obligatory on the ride-hail drivers and delivery workers who make use of them. It is no longer a matter of "straightforward" subordination (Cingolani 2022) but of control of the worker's own will. This helps muddy the waters, as platforms describe their workers as autonomous, making all decisions for themselves, and workers often see themselves the same way, only adding to the opacity typical of the gray zone. Workers are free to work when they want, and it is they who decide how many hours they will put in, or, more realistically, fix for themselves the amount of money they aim to earn for the day or the week. This is the common habit, whether working as a ride-hail driver, or bicycle or motorcycle delivery rider. So it is they who decide how much they want to earn, setting the target themselves, by the day for the poorest and by the week for the rest. There is no obvious external control and platforms have no role in managing the workforce, an argument made in court against the reclassification of platform workers

[13] An observation made in a short note on the theory of cognitive capitalism (Dieuaide 2024b).

as employees. Brazil's iFood, which started as a takeaway delivery platform before diversifying,[14] has 310,000 bicycle delivery riders on its books, well worthy of description as a "digital reserve army". In the month of March 2025 alone, iFood received 110 million takeaway delivery orders, an increase of 30% over the year before (76 million deliveries), and worked with 350,000 partner establishments (www.institucional.ifood.com.br, consulted on 2 May 2025). Its growth has been relentless. Furthermore, in order to counter the implantation in Brazil of Chinese platform Meituan,[15] a competitor of Uber's on the global market, iFood has recently concluded a partnership agreement with Uber for takeaway delivery. Users of the Uber app will be able to order food to be delivered, while users of the iFood app will be able to have their orders delivered by Uber.[16]

The Relative Autonomy of Ride-Hail Drivers and Delivery Riders

The autonomy of ride-hail drivers and bicycle and motorcycle delivery riders that is boasted of by the platforms amounts to very little in reality. In fact, neither drivers nor

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14 In 2024, iFood ventured into fintech, offering payment and credit services to its partners. As part of its diversification strategy, Prosus, the Dutch technology investment group that controls iFood, acquired Latin American travel agency Despegar, which in turn controls Brazilian online travel agency Decolar.

15 Meituan plans to invest a billion dollars in Brazil over the next five years, setting up a national takeaway delivery service and providing the digital tools to support local users of the app. The exercise is being carried out under the banner of Keeta, Meituan's international brand, already operating in Hong Kong and Saudi Arabia.

16 https://tinyurl.com/yr6arup8, consulted 14 May 2025 ["Uber and iFood conclude a partnership to integrate the ordering of rides and food deliveries in Brazil"]. In English, see https://www.reuters.com/world/china/uber-ifood-announce-strategic-partnership-brazil-2025-05-14

riders set the price of the journey, while the route they take is more or less decided by the algorithm, failure to adhere to its recommendations leading to sanctions by the platform that may go as far as the blocking of the account. What we are talking about is not autonomy, but flexibility. Flexibility in the choice of working hours and days of work, flexibility in the sense of being able to tailor these to the requirements and constraints of family life; these are real possibilities open to platform workers that certainly give them a feeling of control over their daily lives, but in no way a sense of being in business on their own account. The word *empreendedor*, entrepreneur, was never used in the interviews we undertook, no more than the word *empregado* for employee. Interviewees were neither one nor the other, but something in-between, thus finding themselves in the heart of the gray zone. The advent of the digital platforms has changed the meaning of being in business, as well as of work, subordination and control. With the platform capitalism described by Cingolani (2021), the nexus has become more complex. Subordination becomes more diffuse, but control is intensified, by virtue of the algorithm that guides and monitors; drivers' and riders' dependence on scores awarded by customers; geolocalization in real time; and the internalization of this control by the so-called "independent" workers, discussed above as the control of subjectivity. One result of this is that the analytical categories supposed to give an account of the changes have lost their purchase, necessitating a new framework for understanding the labor market.

The relationship between platform and worker cannot be thought of as simply bilateral, for it is but one aspect of the triangular relationship between service provider, customer and platform in which the asymmetry of information works in favor of the platform as opposed to the other two parties (Abel and Dieuaide 2023; Azaïs and Dieuaide 2020; Azaïs et al. 2017). The platform holds information supplied by the other two actors and is unwilling to share

it, even where required by law; the biggest platforms, in fact, wish to "lay down the law", adopting standards that they then seek to impose on the public authorities.[17] It is the platform that holds the power of triangulation, as Abel and Dieuaide put it (2023). It is more than a neutral intermediary between the two others, neither of whom knows anything about the other. The mere fact of the platform's ability to take advantage of driver mobility through surge pricing, indicating that there is a great demand for rides at a certain location and that a higher rate will be payable, says a great deal about who controls the flow of information. It is not unusual, according to a number of drivers, that the incentive has been withdrawn by the time they get there. This, say the most experienced among them, is what differentiates "old-timers" from the "newbies" who do not know the ins-and-out of the business. The former will ignore the incitation, sparing themselves the waste of time and money by remaining where they are and getting allocated a ride or rides that in the end will pay considerably better.

Discoherence: A Theoretical Challenge

The gray zone is where the processes of institutionalization and deinstitutionalization are played out, a theater of what Grillo and Soares aptly dub "institutional instability", which they explain by showing how "the effects of austerity policy in eroding employment rights came on top of the effects of regulatory reforms introduced at a rapid and at the same time irregular pace, leading to regulatory uncertainty" (see Grillo and Soares in this volume). Once the guarantees associated with the contract of employment have been relaxed or eroded, the way is clear for new standards to

[17] This recalls the remark of a European judge, who in the face of Uber's refusal to reveal data on "its" drivers, declared that "against Uber, there's nothing you can do" (oral information given in interview by a lawyer).

become established, often to workers' detriment, leading to increased uncertainty in the case of dispute with an employer. The two key institutions that are the trades unions and the employment courts have seen a number of significant changes over recent years, further accentuated by the labor market reform of 2017. The unions with the end of the compulsory payment of union dues by all employees, such payment now being entirely voluntary, while the employment courts, for their part, are confronted by the tendency to flexibilization promoted by the recent reforms intended to "modernize" work relations. This has led to an increasing individualization of such relations.

The institutions traditionally responsible for defending workers thus find themselves in difficulties, where they do not face explicit challenge, and the changes evoked above have tended to the augmentation of gray zones and an increase in discoherence. They thus present a theoretical challenge, in that the consequent institutional instability requires researchers to rethink their categories. What questions, in fact, arise? And is legislation an appropriate response? It would seem no, or not entirely, for the assimilation of the new can pose problems for state organs, whose temporalities are not those of social groups. Furthermore, they must have available the intellectual tools to take on board the new and to develop an appropriate norm, while the parties involved must desire it.

Seeking to go beyond the concept of the wage relation inherited from French regulation theory, D'Amours and Pogliaghi (2023) elaborated on the concept of "social labor relations" taken from the regulationist economists Lacroix and Mollard (1995), which proves more fruitful than the other in that it asks what parties are actually involved in matters of work and employment, without limiting itself to employer and employee alone, or only to the legal framework. In fact, as D'Amours and Pogliaghi remind us (2023, 116), "the form of the employment contract tells us nothing about social relations, being no more than a legal

codification that presents the image that societies adopt of what these relations ought to be (Supiot 1996, 666)". The legal categorization is not enough by itself "to identify the parties to the employment relationship and the social relations of power and dependence that tie them together" (D'Amours and Pogliaghi 2023, 117).

Bureau and Dieuaide (2018) use the term *décohérence* [rendered here as discoherence], to designate the disintegration—the loss of coherence—of certain institutions or norms that are no longer adequate to reality. The discoherence of employment standards reflects both the proliferation of zones of lawlessness and actors' strategies to circumvent or altogether evade existing legislation. It involves, they say, a double movement: loss of coherence by reason of the proliferation of standards, and the mismatch between categories and practice that leads to the systematic failure of regulation. The notion highlights the unstable, indeterminate and uncertain character of institutions but also the practices of actors. Instability of institutions on account of the overlapping of regional, national and international norms, and also the dynamic character of relations between the actors involved in regulation. According to these two authors, these things lead to demands for new rights and attempts to develop new forms of regulation. What will become of these is uncertain. The uncertainty extends to employment relations, today becoming an almost definitive feature. For this, gray zone theory offers an appropriate analytical framework, as Bureau and Dieuaide (2018, 263) remind us, as they seek to "emphasize the usefulness of the notion of gray zones in understanding the singularity and diversity of the dynamics currently transforming employment norms". The gray zone proves to be a tool for grasping changes in the employment relationship, itself now marked by discoherence.

This last is not the same as incoherence, glossed by French lexicographers as "absence of consistency, logic or rationale" manifesting as "disconnectedness, contradiction,

disorder of thought" and "defect of reasoning, lack of coordination between thought and expression or act".[18] Discoherence highlights phenomena that seem to "go without saying" but which do not, or have ceased to, correspond with reality. The field of occupational, employment and work relations is particularly rich in illustrations of such developments.

Methodological Implications

All this raises a number of methodological issues. If the notion of emergent figure is to be of any heuristic value, taken in its three aspects of "instituent", "intermediate" and "declining", there arises the question of thresholds: at what point does one say that a figure falls under one of these descriptions? Context alone is not sufficient. The plasticity of the three terms is integral to the understanding of the gray zone that they offer. "The notion of discoherence reflects a dual trend: the loss of coherence through the proliferation of standards and the misalignment between categories and practices, leading to a systematic, repeated and lasting failure of regulation", say Bureau and Dieuaide (2018, 263). This is an especially valuable notion, adequate to the shifting contexts in which individuals find an occupation and a place in the labor market when not entering an employment relationship. It is more specifically the case for platform workers—self-employed workers, and emergent figures in chronological terms, most having made their appearance on the labor market only very recently, most notably the bicycle delivery riders.

Identifying the presence of emergent figures is only a first step towards understanding what they might represent for labor markets. Their existence once noted, what can

[18] https://www.cnrtl.fr/definition/incohérence, consulted on 5 August 2024.

one say of their role and in what way are they premonitory signs of developments that might in time become well-established? Mere description is not enough. The methodological challenge lies in the fact that emergent categories of worker are mobile, in that instituent today could well be intermediate tomorrow and declining thereafter. One might be clinging to a status that is in the process of breaking down, while another might be embarking on a process of institutionalization, winning a place among the recognized occupations or occupational groups. At which point it becomes more difficult to dislodge, as various institutions, actors and stakeholders will have contributed to its consolidation. That is when territory and public space come into play, especially when it is a matter of geo-localized platforms. Figures so instituted may be followed by other figures that did not exist yesterday and whose fate is not sealed in advance, given that they have just made their appearance and that they may indeed be on the way to institutionalization. Similarly, an emergent figure that enjoyed a certain prestige on its first appearance—I'm thinking here of bicycle delivery riders, of the cycle couriers of yesteryear, and the associated ethos of athleticism, masculinity, environmentalism and so on—can lose its aura with time and fall into the category of declining figures, in their case on account of the decline in pay, indeed, but also a tarnishing of the image, for the rider population has changed, in both France and in Brazil. In France, they are undocumented young migrants, often subject to inhumane and degrading conditions; in Brazil, the youth of the poor suburbs who have no access to more rewarding work. Relying on numbers and reluctant to have riders or drivers use only one app, which might be interpreted by judges as evidencing disguised employment, platforms make no effort to acquire a loyal cadre of workers and are happy for those who work for them to work for other platforms as well. The usual understanding, and the position of the platforms too, is that work as a delivery rider or ride-hail driver is merely

a source of supplementary income. However, both the statistical data and field surveys in such countries as Brazil show exactly the opposite. While it may indeed be a source of supplementary income for some, given the number of hours actually worked it is generally not possible for riders or drivers to combine this work with another occupation (Magaldi 2024b).

There is a key idea that helps us move on from a mere phenomenology of the emergent figure to endow it with more theoretical substance. Defined as the nexus of relations between workers and those entities liable to influence—that is, to control to some extent—their conditions of work and employment, the concept of "social labor relations" can be applied to the study of employment relations of any type and equally to the analysis of every kind of paid work—employment or self-employment, formal or informal—without remaining trapped by predefined categories imposed on processes from outside (D'Amours et al. 2022, 6).

Though presented and indeed self-presenting as "independent", "autonomous", as "sole trader" or, more rarely, as self-employed (*employeur de soi-même*) when working for a digital platform, workers are in fact subject to insidious forms of control that claim to have nothing to do with the old subordination, a chiefly disciplinary, hierarchical form of direct control. This masking of subordination allows digital platforms to oppose any demand for reclassification. They, then, will talk about satisfying workers' desire for independence, of giving them a chance of earning a living, even if only a very frugal one despite the long hours worked, or of topping up an income earned elsewhere, while both platform and worker deny the existence of an employment relationship. In this fashion, workers gain access to work without gaining the benefits of an employment relationship: a wage in consideration of subordination, a status, and with it employment rights and social protection (Bentein and Guerrero, 2008).

Consequently, "the replacement of the idea of the wage relation with that of social labor relations has as its corollary a shift from the idea of subordination to that of control, which allows recognition of the fact that workers are not under the control of their employers only" (D'Amours, Briand et al. 2023, 297). This idea of control makes possible a more adequate analysis of relations of work and employment as it recognizes the multiple sources of the power that was previously attributed to the employer alone. Once there is no official employer, it is workers' consent to the terms offered by the platforms that comes into play, engaging their subjectivity. They must deal alone with the difficulties they face, being unable to hold anyone else responsible. In accordance with the functional logic of the platforms, which do not employ the workers they control, there is very often no-one against whom to have recourse when they suffer loss or damage.

Digital Platforms as Promoters of Institutional Innovation

In their efforts to take advantage of legislation, or circumvent it, or even to become rule-makers themselves, digital platforms have acted as institutional innovators. Since the 1990s and the implementation of neoliberal policies in Brazil, both social actors and the state have promoted models of independent work, culminating in the labor market reform of 2017 (Cardoso and Azaïs 2019). In December 2024, for example, the Brazilian Supreme Court ratified the constitutionality of contracts of intermittent employment, officially permitted under the CLT since the 2017 reform. This Brazilian version of the zero-hours contract, as Forte describes it (2024), was introduced as a means of making work more flexible through the legalization of employment practices that were previously illegal. Such measures allow

digital platforms to circumvent hitherto existing legislation while reinforcing the idea that employment contracts should be concluded on the basis of individual consent alone.

With the rise of the platforms, we are seeing a shift in the way that the relationship to work and the institutional treatment of workers on the labor market are conceived. In insisting on the fact that workers are free to choose their working hours and that platforms therefore exercise no direct control over their workers, it is in fact the latter's subjectivity that is being engaged. In this, the distinctions between autonomy and dependence or between autonomy and subordination are blurred and platforms can consequently not be accused of unlawful employment practices because no contract of employment has been concluded. Thus freed of any responsibilities toward the workers who have chosen to work for them, they institute more insidious forms of control (Abílio 2021). Yet one cannot ignore the opinions of the many platform workers, be they ride-hail drivers or bicycle or motorcycle delivery riders, who declare themselves satisfied with their conditions of work because they are not dependent on some boss. Furthermore, for the least skilled among them, these occupations allow them earn better pay than if they were working for an employer (Magaldi et al. 2024a).

To the outsourcing to logistics operators—companies specialized in logistics management—of certain aspects of the management of the labor-force, such as the logging of working hours, payment for journeys, the planning of itineraries and other functions, such as practiced by the iFood platform, have now been added two new models of work organization, the franchise and mini-franchise, to be discussed below. Before that, however, it is necessary to say a few words about the two categories of workers who make use of the iFood platform. On the one hand, logistics operators manage delivery riders from a *pouso*—a gathering place in the city where they wait for a job, the location changing with demand, forcing riders to be flexible in this

respect. Subjected to certain rules, they must reserve on the platform the time slots they want to work, and they are penalized if they are then unavailable. Delivery drivers registered with a logistics operator will move round the city to make deliveries within reasonable distances (given the steep slopes of the São Paulo metropolitan area). For 7 per cent commission, they can receive their pay on a daily basis, important for those on a very tight budget. On the other hand, the *nuvens* (literally "clouds") who serve as an adjustment variable, as it were, that the platform mobilizes when required, are freer to move around than riders registered with a logistics operator. They are paid on Wednesday and will not be paid before then.

In 2022, iFood established EntreGô,[19] a business whose stated objective is to "improve logistics management and standardize best practices with LOs, with a view to increasing the efficiency and scalability potential of these companies".[20] These last operate under franchise agreements, which helps the platform to definitively absolve itself of any responsibility for worker protection, moving yet further away from the model of subordination provided for by the CLT.

Furthermore, while the three categories of emergent figures cover a wide range of situations, from their institutionalization to an uncertain future or more or less imminent disappearance, none of this says anything about the quality of the jobs associated with them.

Conclusion

The decision to organize the argument around emergent figures rests on two grounds. As "figures", they are reflections

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19 The name EntreGô is a pun on the 3rd person singular of the past tense of the verb *entregar*, to deliver, hence "[he/she/it] has delivered".

20 Institucional.ifood.com.br, 16 November 2023, consulted on 18 May 2025.

of a process, while "emergent" denotes their novelty, yet a novelty that has no fixity. In this, emergent figures in their diversity offer keys to the understanding of what gray zones are, the second main concern of this article. Like them, they are dynamic and mobile, never given once and for all. They are of interest in offering an understanding of developments and retrogressions in the world of work. The idea of gray zones makes it possible to move beyond the normative framework of Fordist waged employment. Representing only a tiny span of time in the history of work, this took surest root in the countries of the Global North, and while the promise of the extension of wage-earning society to the people of the South has been evoked in a number of countries it has failed to come to pass in many. The notion of the emergent figure is, however, no panacea, for it can become difficult, at times, in certain contexts, to determine what is instituent, intermediate or declining. To what concrete features should the descriptors be tied? Each has to be defined by reference to a certain stability, an ideal type that often has little direct connection to reality, for situations are neither stable nor definitive. A shift from one to another is not easy to spot, a fact itself unproblematic and consonant with the insight they offer into the gray zone and the blurring of boundaries between different situations in both work and employment.

The idea of the gray zone helps objectivate the processes at work, and with that, the transformations of work, transformations themselves instanced by the emergent figures that embody the dynamics at play, giving substance to the gray zone. The two processes are closely linked. Recent research on these occupations in Rio de Janeiro has shown that their situations were not, in fact, as precarious as all that, that in terms of income they were better off than informal workers, even if indeed worse off than the employed workers who worked fewer hours than they. While employees cannot increase their incomes, fixed by contract, these others can do so by increasing the number

of hours a day they work, though often at the cost of their health. Yet their view of their own condition is less negative than many studies have suggested. They declare themselves to be "autonomous", "free", "in control of their schedules", though few would consider themselves to be "entrepreneurs of themselves", as Foucault (2004) put it. To speak of alienation here is no more than a value judgment. To stay as close as possible to what individuals themselves say about how they see things, as taught by the sociology of labor, and setting aside any ideological *a priori*, is essential to understanding the development of the social relations of work. This is made possible by the emergent-figures approach proposed here, which avoids all linearity of analysis and takes account of "asymmetries" (Cingolani 2021), both means of escaping the binary.

Interest in the work of occupations—ride-hail drivers and bicycle and motorcycle delivery riders—who do not have a standard employment relationship but work through digital platforms is becoming common today, reflecting labor-market tendencies throughout the world. These are not free of tensions, revealing the plasticity of work situations and actors' varying views with regard to control and the autonomy they enjoy at work. A shift in focus, away from prevailing categories, proves indispensable.

One characteristic of digital platforms is the very great rapidity with which they evolve and grow. It did not, for example, take more than five years for Brazilian takeaway delivery platform iFood to establish a quasi-monopoly over the sector. In this sense, digital platforms too are emergent figures on the entrepreneurial landscape, constructed by buying the start-ups that actually encountered and resolved the teething problems, enabling the leading examples to become multinational undertakings.

The question of time is central also to the management of these enterprises, as reflected in the jet-ski metaphor deployed by one of the directors of the platform: rather than launching a liner and finding out only afterwards

whether the operation was a success, which all takes a long time, the firm prefers to launch a jet-ski, and if the trial is unpersuasive, to pull out straight away, saving both time and money. In this way, rather than sub-contract the day-to-day management of deliveries, the firm, famous for its flexibility, decided to franchise this operational aspect to legally independent businesses.[21]

In addition, taking proper account of the lived experience and explicit declarations of actors, who can also be thought of as emergent figures, helps avoid any tendency to introduce ideology into the argument, contrary to all the heuristic requirements of sociological research.

Furthermore, while underlining the limits of a legal approach, the triple characterization of emergent figures presented here invites attention to the relationship with the political. This opens the way to a more comprehensive and wide-ranging analysis that can allow for the idea of discoherence, that is, of ruptures in the meshing together of practices. The institutionalization of a practice is not automatic, being dependent on the political—on account of the tensions associated with it—for its acceptance as a norm by stakeholders, that is, the institutions and actors of different kinds involved to varying degrees in the construction of

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21 EntreGô "is a business specializing in speedy and efficient delivery services. Speed is central to the EntreGô service. … Integrity is another essential aspect of the business, which operates in a number of states, offering its clients reliable, optimal delivery solutions". https://entregador.ifood.com.br/noticias/conheca-a-entrego-nova-solucao-para-gestao-logistica-de-pedidos/, consulted on 2 May 2025. According to a prosecutor at the Brazilian labor ministry, "iFood's decision to enter into franchise agreements through EntreGô is clearly intended to avoid subsidiary liability for breach of employment rights as, in principle, the relationship between franchisor and franchisee does not give rise to subsidiary liability". https://economia.uol.com.br/colunas/carlos-juliano-barros/2025/04/29/ifood-cria-franquia-de-entrega-isenta-de-responsabilidade-trabalhista.htm?cmpid=copiaecola. To be eligible to join the micro-franchise network turnover must not exceed 360,000 Brazilian reals (around $63,000 as at October 2025) per annum: https://blog-parceiros.ifood.com.br/microfranquia, consulted 3 May 2025.

regulatory frameworks and so in the regulation of work and employment.

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12

The Commodification of Women's Everyday Activities

A New Phenomenon of the Platform Economy?

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Abstract

Contemporary work situations are becoming increasingly informal, a shift often associated with the so-called "platformization" of the global economy. These massive changes in the world of work, which have contributed to unprecedented inequality, have attracted scholarly interest (Abílio, Amorim, and Grohmann 2021). Such informality, however, has been characteristic of the everyday experience of women —most notably poor and racialized women and those in the Global South—throughout the development of modern capitalism. Now, with precarity becoming more general, also affecting men who once held stable wage-earning jobs, new analytical tools have emerged in the Global North itself, among them the concept of the "gray zone" (Dieuaide

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and Azaïs 2020). To what extent can this help us in the South understand the old and new forms of life and work whose coexistence has been entirely taken for granted here, and their current transformations?

Taking up the gray zone approach, this chapter breaks with long-accepted dichotomies, tracing the historic and contemporary entanglements between their supposed poles. After a historical account of women's work, an in-depth analysis of two representative empirical cases—those of community health workers in Brazil and Filipino care workers in Canada—highlights how the possibility of its commodification arises from ambiguities common to both. The idea of ambiguity that is central to the gray zone approach allows us to trace continuities in the historical dynamics of women's work on a global scale, brought into sharper focus in case studies of women from the Global South.

Keywords: Commodification; gray zones; informal work; platform economy; women's work.

Introduction

Latin American social science has long recognized that much work falls on the blurry boundary between formal and informal, legal and illegal, public and private (Telles and Hirata 2007; Cabanes et al. 2011; Abílio 2014; Georges and Santos 2016, to cite only a few Brazilian studies). Brazilian sociology, in particular, faces a labor market in which the rate of formalization is not only low, standing at only 57.7 per cent in 2023, but also uneven (IPEA 2023). While the rate among economically active workers with a higher education was 74 per cent in that year, it was no more than

36 per cent for those who had not completed elementary education (IPEA 2023).

Brazil is a country of the Global South where the wage-earning society that emerged on the basis of Fordism and state social protection in the Global North never fully established itself.[3] Consequently, the neoliberal transformations analyzed by Castel (2003), Sennett (1998), and Dardot and Laval (2016) did not have the same significance in this region of the world. Indeed, the first period of Lulist government (2003–2016)[4] saw the introduction of social-protection, poverty-reduction and minimum-wage policies unprecedented in the history of the country, whatever might have been their shortcomings (Singer 2009), in this running counter to the dismantling of social welfare in the Global North. We thus have, in Brazil, a structural situation very remote from the classical template or "structural rule" of the West (Oliveira 2003 [1972], 61), where concerns have been raised about the radical transformations of work brought about there by the adoption of digital technologies (Carelli, Cingolani, and Kesselman 2022).

In Brazil, in fact, digital platforms would seem to function less as the precipitant of a new kind of work than as yet another tool facilitating the extension of the Toyotist, just-in-time model of work to the precarious workers of the urban periphery (Abílio et al. 2021). It would therefore be more accurate to describe this as an "Uberization" of work, characterized by a shift away from the regulation of employment through collective bargaining, for example.

The growth and spread of informality in the North has led to a reassessment of this well-established category that

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3 We here employ the terms Global South and Global North for analytical convenience while adopting an approach that problematizes the binary distinction.

4 "Lulism" being the political and social agenda associated with the presidencies of Luiz Inácio Lula da Silva (2003–2010 and 2023–present) and Dilma Rousseff (2011–2016).

has its origins in the South, and to the proposal of new categories. The erosion of collective labor rights, supplanted by an ethos of "entrepreneurship of the self" (Silva 2002), has seen the labor markets of North and South become increasingly similar. It has also led to the emergence of new markets and new forms of hierarchy, which take specific forms in the South (Georges 2024). In the North, in response to this, the late 1990s saw the emergence of new analytical categories, leading to the development of concepts such as that of the "gray zone," a term first used by Italian scholars of employment law (Supiot 2000).

Yet even as the platform economy has come to play an increasingly central role in shaping labor relations and their social effects, impacting precarious workers in South and North alike, this does not, by itself, explain how the negotiation of the conditions of work and employment of certain categories of workers has become ever more opaque and individualized, nor how the rendering indefinite and invisible of the power relations involved has become a strategic mechanism of governance across both regions (Minassian 2011). We believe that the notion of the "gray zone" can contribute to a better understanding of the object of our own research—women's work—as it captures the processes involved in the current transformations of work in general. This chapter, then, examines the continuities and discontinuities in the work of women of the Global South in order to reveal the impact that they may have had on it.

Efforts to identify the characteristics of women's work —of care work more particularly—in both North and South, have revealed a number of features it has in common with the "new", uberized forms of work, sharing in the ambiguities—the gray zones—associated with them. Such zones, in fact, are associated with many factors, gender, class, race and sometimes nationality among them (Kergoat 2010). By "women's work" is meant women's everyday activities in the reproductive sphere, including housekeeping, childcare, elder care, and care for the sick, the tasks that have been

taken to be natural to women, as if their supposed "feminine qualities" made them intrinsically suited to them (Kergoat 1989). Notably, in the Americas, such activities were historically performed by enslaved women, today replaced by "racialized" workers and/or internal migrants from poorer regions (as in Brazil and other Latin American countries) or by migrant workers from the Global South (as in the United States and Canada).

Women's unpaid activities within their families and communities have now given rise to occupations in the fields of health care and social services, such as the community health workers of Brazil and grocery delivery workers in the United States, only two examples of the professionalization of everyday activities traditionally carried out by women. Such activities constitute what might be called the "female sphere," which stands on a continuum between paid and unpaid, formal and informal, and public and private work. To what extent has the transformation of the classical labor market, now expanded, deregulated, platformized and monetized, impacted these longstanding forms of women's work, more especially in the Global South?

Our goal here is to shed light on the commodification of women's everyday activities in the context of contemporary social transformations, both local and global, and to explore the meanings that women workers attach to these activities amid limited alternatives and avenues to empowerment. In doing so, we aim to move beyond the dichotomies discussed above, seeking to understand how traditional and emergent forms of work and life evolve in mutual entanglement. Our analytical framework thus seeks to clarify what has changed and what has not in the way that women's work is valorized,[5] with particular attention to the types of women's work typically found in the Global South.

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5 We understand the multiple forms of recognition—not only monetary, but moral, identity-based or political, in addition—as forms of the valorization women's work.

The discussion, then, will fall into four parts, beginning with a historical overview of women's work in its broader context (1), followed by a presentation of the different forms of women's work and their respective ambiguities—their gray areas, or gray zones, as we have come to call them in this context (2). We then present a more detailed analysis of two empirical case studies, of the work of community health workers in Brazil and of Filipino care workers in Québec. We then conclude by examining how the potential for the commodification of women's work arises from three types of ambiguity seen in both cases, and showing how the essential content of women's work remains unchanged. At the same time, it is reshaped by changes in the labor market more generally, among them the fall in traditional employment and the rise of the digital economy.

1. Women's Work in Historical and Global Perspective

With the Industrial Revolution, a separation was established between the productive and non-productive spheres, the first characterized by wage labor, the second by unpaid labor in the home, so dividing work from non-work and producing the classic social and sexual division of labor (Romero 1994) essential to the expansion of capitalism (Mies 1986). This spatial and social differentiation gave rise to the dichotomy between the private and public spheres leading to the emergence of two different realms of activity, one in which the work done was formally recognized as such, and another in which it was not. In today's world, where the boundaries between private and public spheres are becoming increasingly blurred, what are the implications of this for how women's labor is recognized? In other words, how it is acknowledged, in terms of the kind and quantum of value ascribed to it.

In the private sphere, most domestic tasks are assigned to women, whether paid or unpaid. Accordingly, all kinds of "women's knowledge" are attributed to them on the basis of their traditional role in the home and treated as "natural" (Kergoat 1989). Anthropological analysis of women's tasks further reveals the existence of a set of heterogeneous or mixed activities dealing with the relations between private and public spheres.[6]

In the South, the precarity and informality characteristic of women's work, typically accompanied by the juggling of multiple social roles, recognized or not, was not entirely confined to poor women but was equally the lot of certain men, such as street vendors, for example (Rangel 2019; Araújo Filho 2021). And in Brazil, and more particularly in the big cities, the exploitation of male workers—notably through low wages, even in the relatively rare cases of formal employment—has been closely tied to the provision of unpaid labor by women. In other words, the historic phase of industrialization, of the "Brazilian miracle" and the subsequent modernization, relied on women's unpaid (re)productive labor, both within the home and beyond.

Women's presence at the sites of the (re)production of life has led to the variety of different tasks they performed there being treated as indissociable, in the sense of the "bundle of tasks" described by Hughes (1951)—a pattern particularly visible in the work of female domestic servants and nannies. In a very similar way, women in Brazil came to have a "bundled" social role, playing a leading part in the collective construction of housing in peripheral neighborhoods, in organizing local networks to manage care responsibilities, and in mobilizing community efforts to

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6 It is often the woman, for example, who deals with household debts, relations with banks or other service providers, tax declarations and so forth. They also deal with their children's schools, and are responsible for maintaining relations within and outside the family.

secure access to education, healthcare, and transport (Sader 1988).

The exploitation of this role through the use of poor women's labor in Brazil's public sector has been one aspect of the functionalization of poverty (Oliveira 1972), "capitalism Brazilian-style" being reliant on a highly distinctive form of the social and sexual division of labor (Saffiotti 1969; Gonzalez 1982; Souza-Lobo 1991; Georges 2017). Associated with this has been a naturalized conflation of forms of life and forms of work, notably in the case of women.

During the first period of Lulist government (2003–2016), and under progressive Latin American governments more generally, a range of different policies were adopted that ran counter to the trend to increased precarity seen in the Global North. Among them were attempts to formalize informal work by the grant of basic social rights, as exemplified by the individual microentrepreneur legislation of 2008 and the statutory integration of domestic workers into the formal workforce in 2013.

More recently, informal work situations have become increasingly widespread, globally, a trend intensified in Brazil by the sweeping employment law reforms of 2017. Some of these were related to the so-called platformization of the global economy (Abílio, Amorim, and Grohmann 2021). These profound changes in the world of work have since fueled unprecedented increases in social inequality (Abílio, Amorim, and Grohmann 2021), attracting the attention of scholars in both South and North.

We are now entering a new stage in the "uberization" of work, one marked by a pervasive blurring of the boundaries between public and private spheres, notably as expressed in time and space, that is affecting men and women alike, both North and South. Historically, the distinction between these spheres rested on yet another dichotomy: the different ways in which the work of men and women was recognized and accorded value, manifest in the longstanding, systematic

undervaluation of women's work and of activities associated with the domestic sphere. In today's context, characterized by a systematic blurring of boundaries—between the public and private spheres, between forms of work and life (in terms of ways of living, forms of access to housing or land, skills, education, family structure, etc.). —what has changed in the ways in which women's work is recognized and valued? And to what extent can analytical tools like the notion of the gray zone help us understand shifts in the relationship between the public and private spheres from a gender point of view?

To address these questions, we propose a typology of the diverse range of activities, most traditionally undertaken by women, that are characterized by the overlap of life and work, highlighting their intrinsic ambiguity and liminality, before going on to look at how the nature, conditions, and valorization of this work have changed (or not).

2. Women's Work: Variety, Ambiguity and Resistance to Male Participation

In Brazil, as in the Global South more generally, the diversity of daily activities undertaken by members of the popular classes, some possibly formal, so many not, has seen the naturalization of a certain entanglement of work and life. Its effects on men and women are different, notably with respect to their relationships to productive and reproductive labor. Unlike wage labor, unwaged activities have neither a standardized value nor any predefined system for their recognition. In the case of women, there is a range of more or less "traditional" activities all characterized by a certain ambiguity that together make up a gray zone within which women operate. Below, we give some typical examples of women's work, notably characterized by their reliance on knowledges rooted in the private sphere and

the ways in which spheres either merge into each other ambiguously or remain mutually impermeable.

1. **Women in family farming:** This is the classic example of how the congruence of unit of production and unit of reproduction in the family has persisted worldwide, rendering women's agricultural labor invisible. In Brazil, ongoing changes in the rural world, and notably the emergence of needs for new skills since the 1990s, have raised questions about the distribution of tasks and knowledge within the family unit, in family farming in particular. A rural retirement scheme has provided pensions to this group since the 1970s.
2. **Domestic and home-care workers:** This is a paradigmatic example of women's work, where women's labor —the effort they expend on care and household tasks— and the associated knowledge gained in the domestic context, are paradoxically recognized when deployed in waged work. While this type of work is not confined to the Global South, it takes on particular characteristics in that context, where inequalities of gender, class, and race, among others, are more pronounced. At the same time, the variety of forms it takes there is particularly wide, ranging from mutual aid within communities to paid domestic work in private households (Georges 2008; 2011)—forms that vary widely, too, in the degree to which that work is recognized. In Brazil, domestic work was among the sectors that benefited from the promotion of formalization during the Lulist period (2003–2016), which saw the passage in 2013 of a bill amending the Constitution to categorize paid domestic work as employment and such entitled to the benefits and protections afforded by Brazil's codified employment legislation (the CLT).[7] There is also care for children, the elderly, and people with disabilities, a

[7] CLT-*Código da Legislação Trabalhista*.

growing sector in the Global North where the work is mainly done by women from the Global South. Most are employed in the private sector, though where public or quasi-public provision exists, the work is typically performed by immigrant, poor, and racialized women (Glenn 2009; Parreñas 2001, 2015).

3. **Social and community work:** Like voluntary community service in combining work and the exercise of civic responsibility, this is generally done in the service of the state, which makes use of women's (socially ascribed) propensity for care to implement social policy. A paradigmatic example is that of Brazil's community health workers, whose role emerged from a variety of mutual-aid initiatives in the more disadvantaged regions of the country, such as the Northeast. It is ambiguous in standing half-way, as it were, between formal employment and community service, at the intersection of the public and private spheres, with work being done on behalf of the state yet on an often precarious basis (Georges and Santos 2016).
4. **Au pair work:** This activity occupies a liminal space between travel and cultural exchange on the one hand and childcare and/or other care work on the other, more cheaply paid for being aimed at young women, with the whole justified by the supposed existence of a family-like relationship (Redondo 2018; Oliveira 2023). In the post-COVID period and with growing platformization, the facilitation of contact between prospective au pairs and host families has paradoxically intensified competition among candidates and increased the difficulty of matching candidates to families' requirements. One of the fundamental ambiguities here lies in the overlap of the spaces of life, work and leisure. Alongside the ambiguity of the young woman's status, the collapsing of distinctions of space and time creates a setting conducive to an imbalance of power.

5. **Cosmetics resellers**: Another type of work involving community and social proximity is that of the cosmetic resellers. Here, the sale of cosmetics to friends and neighbors, in their homes, sees a blurring of the distinctions between work and socializing, on the one hand, and shopping and socializing on the other (Abílio 2014). It is interesting that this again is an activity that is found in different social milieux and which sustains forms of female sociability, a serious obstacle to men's entering this market. It may provide an income to unemployed women who can take advantage of their everyday neighborhood networks of sociability, or indeed supplement other earnings. It is, then, another way of turning women's social relations into commercial relations; it can also entail the contracting of debt and the financialization of social relationships.

From among these female occupations, in which the boundaries between private and public spheres are blurred and which are largely impermeable to male participation, we have chosen two classic cases for a closer look, drawing on our empirical research to consider both the content of the work and the conditions under which it is carried out, and the ways it is valorized in the context of recent transformations of work.

3. Two Types of Women's Work: Community Health Workers in Brazil and Filipino Care Workers in Montreal

The first category of workers from the Global South whose everyday activities at household or community level have been professionalized—turned into paid occupations—in support of productive labor, in this case by helping meet families' essential needs, are the community health workers

who implement the Family Health Strategy of Brazil's Ministry of Health.[8] The second are the women who migrated to Canada from the Philippines to provide domestic support or care for children or the elderly under that country's caregiver immigration programs. Both represent state-sponsored occupations mainly reliant on women to do care work, as a social investment in the next generation (Jenson 2011) and as a response to what has been described as a shortage or crisis of care (Jenson 2000; Fraser 2016).

3.1. Community Health Workers (Brazil)

There is a wide range of activities carried out by women in the peripheries of Brazilian cities, in the context of social services and other programs that have emerged out of long-standing grassroots mobilizations to demand and secure the public services that their communities lacked. As well as the community health workers, there are the social workers of São Paulo's *Serviço de Assistência Social à Família e Proteção Social Básica no Domicílio* (SASF); the *promotoras legais populares*,[9] a non-state network of community legal educators originating in the feminist movement; and the workers of the housing co-ops that emerged from the urban popular movements and were later formalized as a requirement for their participation in the *Minha Casa, Minha Vida* program, a federal housing initiative launched during the first Lulist period to provide affordable housing to low-income families.

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8 Although not intended as an exclusively female occupation, this is overwhelmingly staffed by women.

9 A program created in 1993 by the NGO Themis, based in Porto Alegre, to expand access to justice for women facing violations of their rights, notably domestic violence and the denial of sexual and reproductive rights. (See THEMIS, http://themis.org.br/fazemos/promotoras-legais-populares/).

The work of the *agentes comunitárias de saúde* or community health workers under the Family Health Strategy[10] exemplifies the professionalization of activities traditionally undertaken by the women of Brazil's working-class communities by their formalization during the 1990s. The Family Health Strategy's predecessor, the Community Health Worker Program launched in 1991, mainly recruited women who already held leadership roles within their communities by virtue of the kinds of community engagement described earlier (Georges and Santos 2016). Through these women, who had an intimate knowledge of local issues, the state gained insight into the living conditions of the population of Brazil's urban peripheries. In 1994, the Ministry of Health launched the Family Health Program, staffed by medical teams ideally consisting of a physician, a nurse, a nursing assistant, and five community health workers (Georges and Santos 2016). Recognition of the role as an occupation followed in 2002.[11] Today, Brazil has approximately 265,000 community health workers (Brazil, Ministry of Health 2023), the vast majority being women. In 2011, with the Ministry of Health's adoption of the National Primary Care Policy (Portaria [regulatory order] No. 2.488, October 21, 2011), the program was renamed the Family Health Strategy (Brazil, Ministry of Health 2012) and made into a government service. Community health workers, however, are not civil servants; they are hired on fixed-term contracts, either directly or indirectly, by municipalities, which determine their terms of employment. Residence in a specific micro-area is a requirement, as community health workers are expected to possess strong local social capital

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10 The subject of field research conducted by the authors in peripheral neighborhoods of the municipality of São Paulo between 2008 and 2012, using biographical interviews and participant observation with health and social assistance professionals and service users. This resulted in the book *As novas políticas sociais brasileiras na saúde e na assistência: Produção local do serviço e relações de gênero* (Georges and Santos 2016).

11 Federal Law No. 10,507, of July 10, 2002.

(Lima and Cockell 2008) and to serve as intermediaries between the residents and the medical team.

Community health workers visit households in their assigned micro-areas on a daily basis, gathering information from the responsible person (usually women, the mothers) about the health of family members and also about housing conditions. They note needs for medical care and also any spontaneous requests, communicate upcoming appointments, and provide details of health campaigns in which family members are expected to participate. These and other activities are carried out in coordination with the medical team (Georges and Santos 2016), but such visits are understood as an extension of activities traditionally engaged in by women as members of the same community, sharing family roles, religious affiliation, and lived experiences (Santos and Rosas 2014). Community health workers often play an important role in simply listening to (and sometimes advising) the women responsible for their families' care. As a result, their interactions with service-users often extend beyond health-related matters to encompass broader dimensions of well-being, such as marital, family and neighborhood issues, and also mental health concerns.

> So, one thing I really appreciate about this job is that I feel useful. When I visit a family and see they've achieved what they wanted, that they've got better, that they've got things under control, it's really rewarding. I can see that what I'm doing is getting results. (Telma, 43, Brown, married, mother of 5, 2011)

Their work can also help them break free of the sense of oppression they felt when their lives were still confined to domestic duties:

> Looking back, I think this job pretty much saved me from falling into depression. With my husband being responsible for everything, I was getting depressed without even realizing it. Because everything was him, he was the one who handled

> everything, he decided everything. And once I started working… it's like you wake up to life, you know? Like, I'm alive, I need to do something. I feel like myself; I'm someone, I work, I'm a citizen. For me, it was the best thing that could've happened. (Telma, 2011)

On the one hand, the health workers express genuine satisfaction with the important role they play for those who rely on them for medical care and a listening ear. On the other, they feel pressured by the demands of their work, even on their days off, if they are to maintain good relations with neighbors and ensure that their work goes smoothly.

> Life as a community health worker isn't easy, especially when it comes to neighbors. (…) They don't separate Noemi the person from Noemi the health worker. That's something all of us complain about. You have to be available all the time: Saturdays, Sundays, holidays, always ready to help them out. (Noemi, CHA, 36, Black, married, mother of three, 2011)

> I haven't had a breakdown yet, I don't even know how. You know when you just feel like throwing everything up in the air and walking away? And when you spot one of your clients on the street and you want to avoid them because you *know* they're going to ask you something work-related on your weekend? (Fernanda, CHA, 34, Brown, single mother of three, 2011)

Some demands cannot be met by the service due to structural limitations. Among these are inadequate infrastructure, a shortage of physicians and other healthcare professionals, and the unavailability of medication.

> Here's the thing: I end up having to justify everything. Why does it take so long to schedule an appointment? Because the system is slow. I spell it all out clearly: the system is slow; it's not the girls on the front desk. It's the city's system, it's slow, even turning a page takes forever, anything that depends on the computer is slow. And why does it take so long to see

> a doctor? I tell them, 'People, you live in the biggest public housing project in Latin America!' (Noemi, 2011)

One of the key responsibilities of the role, then, is managing people's demands, demands that can never be fully met. This brings to mind Francisco de Oliveira's notion of "policies that functionalize poverty" (2003), in which poor women like the community health workers are compelled to act as agents of "social pacification," mediating between a dissatisfied population and the state. The community health worker's work therefore includes calming and de-escalating users' frustrations, a task from which higher-ranking members of the medical team seek to shield themselves. At the same time, they enjoy a legitimacy that allows them to exercise authority over users, an authority sometimes reinforced by their belonging to the community yet simultaneously undermined for the very same reason, leading them, for example, to "avoid" users on their days off.

The (few) men who have worked as community health workers in the past typically remained in the position only briefly, and were generally more successful than their female counterparts in moving on to better-paying jobs. More broadly, men's work as street-level social or community workers (as per Lipsky 1980) affords opportunities for integration into the labor market to residents of the urban peripheries, Black men and gay men. For Black men living in the periphery, such work also provides a degree of protection, reducing the likelihood of their being drawn into illegal activities such as drug trafficking, and/or being targets of police violence (Santos and Georges 2021).

3.2. Filipino Care Workers in Montréal

The work of Filipino care workers in Canada illustrates the commodification not only of women's activities but also of their affects, a phenomenon observable across the world and notably in North America (Parreñas 2001, 2015;

Mozère 2004; Hochschild 2012). Research in the province of Québec in 2022 (Santos 2023) found foreign[12] or immigrant[13] care workers originating from the Philippines, Haiti, French-speaking Africa, and Latin America. Faced with demographic change and also shifts in the gendered division of labor (Hirata and Kergoat 2007), Canada, like many countries in the Global North, found itself short of caregivers and recruited women from abroad to fill the gap (Jenson 2000; Parreñas, 2001; Abu-Laban et al. 2023). To meet demand from private households, the Canadian federal government has, since 1981, maintained special immigration programs for domestic and care workers. The *Live-in Caregiving Program/Programme d'aide aux familles* was introduced in 1992 and under its current (2014) version applicants can obtain a two-year work visa without the earlier requirement that they reside in the employer's home (Canada 2021; Abu-Laban et al. 2023). It is within this specific niche that Filipino women in Québec are concentrated, as the linguistic requirements of the francophone province significantly narrow their opportunities across the care sector more generally.

Working in Canada, as well as other countries of the Global North, has been an appealing option for Filipino women since the 1960s and '70s, when many migrated as nurses. The Philippines were then under the dictatorship of Ferdinand Marcos (1964–1986), following earlier periods of Spanish, U.S., and Japanese rule. Successive political and economic crises and the need to repay foreign debt have led, since the 1980s, to the impoverishment of the middle class (Parreñas 2001, 2015; Mozère 2004). Because of the great responsibility for their families' well-being

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12 Those who enter the country with a temporary work visa (Canada 2023). According to Abu-Laban et al. (2023), women comprise approximately 95 percent of this workforce.

13 Under Canadian law, immigrants are defined as individuals who hold permanent resident status or who have become naturalized Canadian citizens (Canada 2023).

traditionally assigned to them, and because many could rely on their parents to care for their children, Filipino women (many mothers among them) looked for work in the rapidly expanding global care market, as nurses or nursing assistants, and more especially as nannies (Parreñas 2001, 2015; Mozère 2004; Galerand et al. 2023). These women are celebrated by the Philippine government as "heroines of modernity", a narrative that reinforces the continuation of such migration for work, generation after generation (Boti and Smith 1997; Santos 2023).

Common destinations are Singapore, Hong Kong, Japan, Saudi Arabia, Israel, Western and Northern Europe, the United States, and Canada, making this outward migration both geographically extensive and at the same time heterogeneous, variously shaped by local demand (Parreñas 2001, 2015; Mozère 2004). The Philippines' colonial history under Spain and the United States has given these Filipino emigrants a certain distinctiveness, in cultural terms, combining proficiency in English with Catholic upbringing and "Latina" affective expression, a distinctiveness further accentuated by the fact that they are graduates from middle-class backgrounds (Mozère 2004; Santos 2023).

What makes Canada particularly appealing compared with most other countries of the Global North is that foreign care workers can become eligible for permanent residence on completion of their employment under the caregiver program. And once they obtain permanent residence, they may apply for Canadian citizenship (Abu-Laban et al. 2023). This permits long-term migration planning, including family, especially the children, allowing care workers to envision a complete "migration career" (Santos 2023). This, however, imposes a heavy emotional toll, calling for extended separation from family, years away from their children's daily lives, as well as the burden of lengthy and costly bureaucratic procedures before permanent residence is granted and family reunification becomes possible. Magnolia's experience encapsulates these emotional and

logistical challenges: she migrated on a caregiver visa, leaving her one-year-old daughter and husband in Manila, and was only able to bring her daughter to Canada when the child was five. She recalled, "Yeah, it was . . . it's very, very hard . . . because I always think of her while I'm taking care of children like her. . . . So I'm, I'm so torn in between, you know every time I give them a bath or I feed them or, like, playing with them."

Their accounts show how the work of these caregivers, who are subject to Canadian immigration law, falls into a gray area in terms of Fordist labor rights, with a lack of separation between work-time and non-work time, a lack of health and workplace-accident insurance, of protection against unfair dismissal, of unemployment or welfare benefits, and little scope for negotiation with employers. Amarylis, 39, who had previously worked in Hong Kong, had expected that in Canada the specified working hours and locations would be respected. They were not. She explained, "I'm working eight hours, eleven to fourteen hours in a day, and I'm only paid eight hours," referring to her work as a nanny while separated from her sixteen-year-old son in the Philippines. Intrusions into her privacy by the children she cares for are also part of daily life: "In the basement where I belong, where I stayed, I don't have my proper bathroom. The kids come in and out of my bathroom while I do shower."

Caregivers were also expected to perform their duties in accordance with the religious rules of the employing family, a requirement that in certain cases could quickly become onerous given the constant rhythm of religious festivals and rituals, the demands of large households, and conflicts related to dietary and cleaning habits. All the Filipina caregivers interviewed were Catholic, except for one who belonged to an evangelical church. More than half had worked for affluent Jewish families—a circumstance favored by their shared use of English—and had experienced tensions related to

customs and values rooted in religion and class. Two had worked for families of Italian origin, and while a shared Catholic background provided some common ground, they still encountered hierarchies of class, race, nationality, and indeed language, in francophone Québec.

Mothers have to lose out on the full experience of motherhood and family life, relying instead on social media to maintain contact with children and relatives. These realities are not unknown to them when they decide to work in Canada; rather, they are understood as choices within the very limited set of possibilities available to them as educated, middle-class women in their home country. Working abroad is itself a marker of status and can also serve as a path to possible emancipation from the life they led in the Philippines, something particularly evident among single women. In addition, there is the promise of an income that would enable them to support or even completely sustain their family back home, and the longer-term prospect of family migration.

However, gaining citizenship is by no means a guarantee of economic or social security. Only three of the fourteen interviewees owned their own homes, and most of those who have lived in Canada for more than fifteen years express disappointment at not having achieved their goals. Many also feel insecure when they think about old age, a concern that has become increasingly pressing among long-term immigrants (Santos 2023).

The two cases presented here reveal social interactions heavily reliant on affect and emotion, elements inseparable from the reproduction of life. The returns are modest: limited financial autonomy and a comparative emancipation (whether from spouse or from home country), and expressions of gratitude or affection from some clients or service users. The often-touted "freedom" associated with platform work is not necessarily materialized in the work of the women of the Global South examined here. Once again, the

primary beneficiaries of the precarious labor of poor and racialized women are the state and the private actors who profit from their great dedication to work and family.

4. Between Public and Private: The Commodification of Structural Ambiguities

On the basis of the empirical studies presented above, we will now consider how the forms of exchange associated with women's activities exceed the customary bounds of political economy, both in their diversity and in their naturalization in terms of the taken-for-granted social and sexual division of labor. In other words, the low pecuniary value of most work associated with the sphere of reproduction is supplemented by a value that is not expressed in monetary reward or social rights, but manifests itself instead in other forms of recognition, including the gratitude of users, friendships, relationships of trust or even dependence (even when this sometimes has negative repercussions), as seen in the experiences of the community health workers of Brazil and the immigrant caregivers in Canada.

Milkman et al. (2021) identify new trends in the commodification of women's everyday activities, such as grocery shopping via digital platforms, already observable before the COVID-19 pandemic but intensified by it. Beyond the transposition of a growing range of activities from the private sphere into the marketplace—including dating (Miskolci 2021) and the planning and realization of weddings, previously social and family activities belonging to the private sphere (Hochschild 2012)—the platformization of the economy has also allowed new categories of workers, men and students among them, to engage in this kind of work, while at the same time fostering the commodification of women's everyday activities. We would say, however, that this shift owes less to any change in the characteristics

of the workers than to the tendentially hegemonic generalization of a particular way of valorizing work. That is, what has changed, essentially, is the way in which work is accorded value, as it comes to be understood exclusively in terms of market exchange, and so in terms of money.

Contrasting sharply with the changes now observed in the Global North, the experience of women workers from the Global South puts into question both the supposed novelty of ambiguity in work and the supposed hegemony of market-based forms of valorization, as shown by the cases of both Brazil's community health workers and of the Filipina home caregivers in Montréal, engaged in activities that historically belonged in the private sphere. As noted above, the limited development of formal work across much of the southern hemisphere has long been associated with the existence of a wide array of alternative forms of work and income generation (Abreu 1986; Telles and Hirata 2007; Georges 2011; Abílio 2014), including by way of international migration (Debert 2012; Parreñas 2015; Hirata 2022).

Returning to the distinction we started with between public and private—which stems from the dichotomous separation between productive and non-productive spheres—this dualistic vision likewise presupposes an overly schematic view of how work in each sphere is rewarded: paid work (waged employment) versus "work done with love" (Hirata and Le Doaré 1998), a distinction that grounds the unequal recognition granted to the respective types of work.

And, returning to the idea of the distinctive perspective of the Global South, we again observe the inseparability of way of living and way of working. As we have seen in the various kinds of women's work, characterized by a certain liminality, this inseparability of work and life has many consequences, particularly with regard to women's work and its connection, in one way or another, with the domestic sphere. In Brazil, as in much of the Global South, the way in which the world of (industrial) work has been impacted

by the reorganization of production since the 1990s has left the kind of work traditionally reserved to men so insecure and precarious that reproductive labor—or "care work" in the wider sense—has become vital to the population's survival (Cabanes and Georges 2014; Destremau and Georges 2017). It has also tightened the connection between work and life for the population as a whole, across social classes, and for both men and women (Georges and Araújo Filho 2024). It has, too, affected the overall relationships between generations and between genders, etc., especially among working-class and low-income groups, and opened up the possibility of different forms of engagement with work.

For women, their position at the interface between public and private spheres also affects the ways in which their work is valued or devalued—quite aside from the question of wages—giving rise to various kinds of ambiguity: ambiguity of spaces and times, of the content of work, of the origin (in the domestic sphere) of the skills and knowledges involved, of the shifting boundary between work and citizenship, of the boundaries between rights, mutual aid, and forms of solidarity.

In the cases of Brazil's community health workers and of the migrant care workers who leave the South for the North, the ambiguity of the relationship between work and citizenship is evident, while it is clear that the appeal of citizenship serves capital as a loophole, prompting workers to accept conditions of work that are far from favorable. At the same time, they appropriate these activities, making them their own and seeing in them certain relative advantages. In the face of a scarcity of jobs, the "range of possibilities" inevitably expands.

In general, however, we are witnessing the diffusion of the idea that all activities must entail some sort of quid pro quo, a necessary exchange that, in turn, calls for standardization. Every kind of activity becomes, potentially, work, that is, the source of some kind of income or benefit in

exchange. We want to ask: what are the implications of this for the various tasks historically performed by women, whether in the domestic sphere or out of it, and often enough, indeed, at the boundary?

What is more, public care policies, which themselves instrumentalize women's care work even as they valorize it (Georges and Santos 2016), have become essential to the reproduction of the population (Destremau and Georges 2017), representing in many ways the paradoxical obverse of the commodification, the uberization and so the platformization of labor. Here in the South, then, far from the social context of Europe's postwar *trente glorieuses*, not only did social protection fail to establish itself as a mechanism for mediating workers' dependence on the owners of capital, but social policy, in its design and implementation, became a means to the functionalization of women's unpaid labor at the interface of private and public, shaping the very organization of social work itself (Georges and Santos 2016).

Brazil's community health workers emerged from women's own grassroots efforts to address such problems as the malnutrition and infant mortality associated with drought and poverty in Brazil's Northeast. These initiatives were later formalized as public assistance programs, ultimately leading to the creation of a new occupational category at national level, albeit under precarious working conditions (Georges 2011; Santos and Georges 2021). In the case of Filipino caregivers in Canada, the activities they had long performed within their own families became paid work exchanged for the prospect of a migration pathway. In both cases, what is seen is a commodification of the functions of social protection earlier ensured at grassroots level, outside the market, driven on the one hand by the population's growing dependence on work and on the other by the increasingly precarious conditions under which that work is done.

5. Concluding Remarks

In the context of today's capitalism, characterized by an unprecedented rise in inequality and the globalization of informality, it is undeniable that the platformization and uberization of the economy are affecting all workers, women and men alike. This reflects a rise in unqualified dependence on work itself, a driver of its growing commodification. At the same time, they pave the way for a normative valorization of activities that strips them of any meaning beyond their monetary value. In doing so, it sets the stage for the emergence of a hegemonic commodification, with the ever more widespread diffusion of the idea that any aspect of life can be converted into a marketable product (Airbnb, Uber, and so on).

What is relatively new here is the expansion of informality in the Global North, with men both North and South—including middle-class men—experiencing situations analogous to those long faced by women, expanding the sector of the labor market earlier thought of as reserved to women and generalizing the ambiguities typical of it—ambiguities that serve as a gateway for a commodification of everyday activities and tasks that redraws the spatial and temporal boundaries between public and private.

The various means of social reproduction that sustain human life, alongside the means of production, have become products themselves. With this, humans find themselves alienated not only from the means of production but also from their means of social reproduction. That is, there is the widespread adoption of the mindset of the "entrepreneurial self," which sees nearly any activity as something that must yield a return, and which now permeates virtually every domain of human life, from transport and housing to food, cleaning, care, and culture.

Taken together, then, these changes in work are responsible for certain global trends, among them (1) the

expansion of the domain of the market, as any human activity acquires use value and becomes potentially marketable, whether or not mediated by digital platforms; and (2) the emerging hegemony of a mode of valorizing of human activity in cash terms, in other words, the monetarization of the recognition of work's value. The consolidation of this private global market marks a departure from the decommodification of social protection conceptualized by Esping-Andersen (2008). It responds both to the need represented by the crisis of care (Jenson 2011; Fraser 2016) and to the shrinkage of the state in the North, and its limitations in the South, relying on the labor of poor women, whether nationals or immigrants.

Nonetheless, it is important to recognize that, in spite of everything, and despite objective forms of domination, women's choice to embrace values such as love—for work or for others—and the religious meanings attached to it, can also represent an alternative to capitalism and to its corollary, the elevation of money and material wealth as the sole measure of value.

Ultimately, this analysis in terms of gray zones has revealed, on the one hand, a historical continuity in the character of women's work, globally speaking, as notably illustrated by the experience of the women of the Global South, and on the other, a discontinuity, represented by the extension of its characteristic features to every sphere of social production and reproduction.

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Afterword: Gray Zones—What Next?

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The writing of an afterword to a volume devoted to gray zones might seem a paradoxical endeavour. An afterword comes after the fact: it brings the book to a conclusion, summarizing its main themes and sometimes seeking to impose some settled meaning on what has just been read. Yet gray zones seem to resist precisely that act of closure. They designate changing situations, uncertain boundaries, norms in the process of disintegration or reconfiguration, and power relations whose outcome is never entirely predetermined. Coming to a conclusion here, then, cannot mean completely dispelling doubt, restoring clear-cut oppositions, or definitively defining the concept itself. The task for us, rather is to look back at the successive shifts of meaning the book documents, the social mechanisms it makes visible, and the questions it necessarily leaves open.

1. A Space of Reconfiguration of Power

The idea of the gray zone is today used to designate a wide variety of situations, threatening sometimes to become a general term applied to anything that appears unstable,

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ambiguous, or insufficiently institutionalized. Yet its value would seem to lie less in its ability to act as a catch-all label for every kind of uncertainty than in its capacity to bring to light the processes by which categories become blurred, responsibilities are shifted, and power relationships are reconfigured. In this regard, the first conclusion one can draw from the book, no doubt, is that the gray zone cannot and should not be reduced to a mere intermediate space between waged employment and self-employment. This earliest meaning remains essential. The weakening of the relationship of subordination, the rise of the bogus self-employed and the instability of legal classifications do, together, represent one of the starting points of the discussion. But the contributions gathered here are all invitations to broaden our perspective. The gray of ambiguity also haunts modes of remuneration, the distribution of risks, the time and place of work, methods of control, spaces of regulation, the conditions of collective representation, and the categories by which workers define themselves. In other words, it isn't only employment status that is becoming uncertain: the very bases upon which work can be classified, evaluated, remunerated, and socially protected are undergoing transformation.

The book thus shows us that the gray zone is not just the gray area between two pre-established and determinate employment statuses. It appears, and intensifies, when the legal boundaries of the firm no longer coincide with the actual spaces of the exercise of economic power; when the legally designated employer is no longer the sole actor in a position to determine the organization of work; when rules governing a product, a service, an algorithm, or a territory determine the conditions of work to a greater extent than do the standards specifically applicable to employment. The gray zone is not necessarily, then, a space without rules. On the contrary, it may be the result of normative saturation: public and private rules—written and unwritten, local, national, and supranational—can all overlap without their

purposes, scopes of application, and resulting responsibilities being perfectly aligned. This fact obliges us to change the question. It is no longer enough to ask whether a worker is an employee or self-employed. We also have to look at who or what in fact determines the organization of their work, defines its categories, allocates risks, determines how and how much they will be paid, who determines their access to the market, controls their work schedules, can sanction their conduct. These various functions may be distributed among several actors: the legal employer, the platform, the client, the government, local authorities, customers, evaluation mechanisms, or the bodies that define product and service standards.

The gray zone thus requires us to move beyond mere formal classifications and instead trace the chains of power that go to the shaping of the real conditions of work. In this regard, the shift from subordination to control, from the firm to the productive configuration, and from the employment relationship to the social labor relation is one of the volume's major theoretical contributions. That shift does not imply that legal subordination has lost all relevance. Rather, it allows us to understand how it becomes irrelevant when power is distributed among multiple organizations, is embodied in commercial contracts or embedded in digital infrastructures, and operates at different levels. Broadly speaking, we may say that the contributions gathered together here reveal a transformation in the means of domination. That domination does not vanish with the fading of the traditional figure of the boss or with the apparent relaxation of work discipline, but rather changes form in finding other avenues. It can be exercised through variable remuneration, the algorithmic organization of tasks, control over information, the legal classification of work, or the appropriation of public space as an element of the value chain. The gray zone thus emerges as a space in which power becomes more difficult to locate even as its effects on working conditions remain tangible.

2. A Space of Initiative Pervaded by Tensions

But the gray zone does not merely designate a new topography of domination. Several chapters show that it can also host practices of appropriation, aspirations to autonomy, attempts to do things differently. While self-employment may mask profound economic dependence, employment, for its part, can provide indispensable protections while maintaining forms of subordination that limit initiative and the ability to determine the meaning and organization of one's work. These two observations do not cancel each other out; they must be considered together. Between employment and self-employment one thus finds such practices as multiple jobholding, collaborations of various kinds, different forms of intermittent work and reconfigurations of the time and place of work, by which workers seek to regain control. This recovery of control does not mean that they can shape their conditions of work as they wish. It may apply only to certain aspects of their work, while key dimensions of its valorization, such as the level of remuneration, remain beyond their control. Autonomy is thus constructed within a space already organized by others, in accordance with rules that individuals can sometimes adapt but are not necessarily able to redefine.

This tension between autonomy and constraint lies at the heart of the book. The innovations or improvisations it tells of, then, should be neither idealized as emancipatory without qualification nor dismissed out of hand for not meeting the standards of employment. They very much have to be understood in relation to the material conditions, the asymmetrical relationships they respond to, and the way in which those involved describe them themselves. This shift in perspective is essential: it prevents the analytical framework from supplanting workers' own experience, without, however, treating their perceptions as independent of the systems and conventions that organize their work.

This focus on experience is all the more important given that the book refuses to consider the changes in course only from the point of view of the Global North. Comparison between France, Canada, the United States, and Brazil shows that what is described as a new phenomenon in societies where employment has long been the dominant form of social integration may elsewhere be part of a long history of informality, of the entanglement of work and life, and of the weak institutionalization of employment. This shift in perspective also invites us to question the categories through which this "novelty" is articulated. Women's work, characteristically situated at the interface of public and private spheres, reminds us that the ambiguities now associated with platforms have long shaped work that is largely invisible, poorly paid, and lacking in social protection. The boundaries between productive and reproductive labor, between affective engagement and commercial service, and between work, solidarity and citizenship, have always been more porous than the categories elaborated on the basis of male industrial employment would suggest. In other words, gray zones have their own histories, but in the context of the platformization of entire sectors of the economy they take on a new and distinctive aspect with system-wide effects and implications.

3. Toward a Formalization of Informality?

Now part of everyday language, the term "uberization" is an apt portmanteau term for a set of practices intended to circumvent the established regulation of the labor market and the rules governing competition, taxation, and social life more generally. As a provider of precarious, low-wage jobs, often criticized for its enabling undeclared work, the platform economy smacks strongly of the informal. In this respect, the rise of the platforms has contributed to the

spread of forms of work once considered marginal that are now becoming commonplace as ways of organising production. Their proliferation extends, reconfigures, and sometimes makes more visible power relations that predate them. It is also contributing to the marked generalization of means to the individualization of conditions and remuneration, transfer of risk and the management of worker availability that had already characterized certain kinds of work outside the bounds of formal employment.

But the usefulness of this notion of the gray zone is not limited to the identification of novel work situations. It also serves to reveal a broader transformation of the operational frameworks of capitalist market economies. Whether we're talking about work platforms, social networks, marketplaces, or corporate platforms, to name only a few examples, the application of digital technology to mediation is revolutionizing, in more ways than one, the way in which economic and social relations are produced, organized, and managed.

On the one hand, Uber, Deliveroo, Airbnb and the like are more than the creatures of opportunistic boards of directors abusing the exorbitant power granted them by digital technologies. These platforms are also the technological building blocks of a worldwide network infrastructure, integral to local and national life, whose adoption and use by workers and consumers pose a critical threat to established structures of production and commerce. As digital intermediaries, the platforms are pervasive. Using the proven techniques that underpin the attention economy, they impose a distinctive form of control on human subjectivity and cognitive capacities by targeting and formalizing a specific mode of engagement based on users' sociability (i.e., their ability to connect). In other words, platforms make use, most often for commercial purposes, of people's qualities, experiences, and shared resources, the things that form the basis of community life, exploiting them to generate relationships and to promote transactions.

Given this, the gray zone extends to the inescapable aspect of their operation that is the cognitive and semantic gap between virtual space—with its digitized practices and representations—and the real, material conditions of their realisation in lived space (public, private, social, domestic, familial, etc.). This gap is the product of a data economy and an algorithmic governance that tend to produce and reproduce social norms (tastes, behaviors, values, etc.) on the basis of information collected by the system—norms that are immanent to it, being generated through feedback loops. In other words, user choices and behaviors are suggested (or remote-controlled) via "profiles", notifications, and/or recommendations based on statistical (probabilistic) models and correlation matrices. In this "computation society," in which digital labor plays a central role, gray areas are ever-present yet latent. They are individually and collectively embodied in and sustained by the multiple effects of polarization and socio-spatial fragmentation induced by this distinctive form of social (re)mediation. Like informal relations, they can serve as a safety valve to mitigate or protect oneself against the many negative externalities generated by this dynamic. But they can also, once a certain threshold of tolerance is crossed, degenerate into open conflict or even undergo bifurcation, triggering compromise and regulation.

On the other hand, gray zones have become key sites for today's reshaping of the norms of work. It is within them that relations between autonomy and domination, protection and responsibility, work and employment status, private and public, and economic innovation and political regulation, are redefined. In that respect, they are both a symptom of deinstitutionalization and proving ground for institutions still taking shape. This dual characterization must be respected in its tension. Deinstitutionalization doesn't necessarily mean the disappearance of all institutions: it can designate the growing disconnect between established frameworks and the practices they are supposed

to regulate. Similarly, the instituent processes that emerge in such spaces do not necessarily lead to better social protection. They may lead to new rights, but they may also entrench categories less protective or distribute responsibilities in such a way that no single actor can be clearly held accountable for conditions of work.

To conclude: the central question running through the book is not, perhaps, how gray zones are to be eliminated. Such an ambition would assume that it is always possible, and desirable, to return to perfectly stable boundaries. Rather, the question is to determine which forms of "grayness" must be fought against—because, in formalizing the informal, the gray zones of the digital age promote the invisibility of work, the transfer of risk, and lack of platform accountability—and those which, on the contrary, may foster processes of empowerment, cooperation, and the creation of new rights. The distinction, however, cannot be drawn in the abstract. It requires identifying, in each specific context, the resources available to the actors, the rules they can negotiate, the risks they bear, and the real possibilities they have to transform their conditions of work. Only then will the gray zone cease to be a category denoting mere indeterminacy to become an instrument of critique: not just a way of noting that boundaries are becoming blurred, but a way of analyzing how they have changed, changed by whom, for whose benefit, and with what consequences for work, employment, and workers' capacity to act.

The digital revolution is remaking the world, giving capitalism the chance to reorder it and exacerbate its inequalities. Rules and norms are recast, laws flouted, social gains of the past reversed, as work is reshaped and, with it, its meanings. The concept of *the gray zone of work and employment* aims to capture this process which we must understand if we are to fight back. It highlights changes in work and its rights, the firm and its responsibilities, how dominant classes profit from expanding self-employment. It also reveals forms of resistance and of collective creativity. Based on research in developed and developing countries (Brazil, China, the United States, Europe), this book brings together specialists in labor issues and platformization. Drawing on various theoretical and methodological perspectives, it forges the gray zone as a transdisciplinary object and concept, allowing us to rethink the world of work through its complexity and multifactorial realities.

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