The Gig Is Up: Analyzing the Disjunction of Gig Economy Labor in the American Welfare State

Nicholas Christopher Work

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Besnik Pula
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Nicholas Goedert

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ABSTRACT (Academic)

This thesis explores the present state of labor in the gig economy by situating it within the context of multiple literatures and academic fields, including microeconomic theory on the gig economy itself, welfare state scholarship, and American labor law. Using the works of Arun Sundararajan and Jeremias Prassl, I first examine how the inner mechanics of the gig economy actually operate. Next, I use the works of Gøsta Esping-Andersen, Katherine Stone, Patrick Emmenegger, and other scholars to examine the structures of the American welfare state that create this dualist divide between contractors and employees. Additionally I use economic data gathered by James Parrott and Michael Reich to demonstrate the precarious state of gig labor today in the present, dualist structure of the American welfare state. Using a dialogue between Walter Korpi and Peter Swenson, I argue that present welfare state scholarship demonstrates a path by which gig laborers and gig firms can form cross class alliances that can help develop new welfare state policies to improve gig worker conditions and be supported by gig firms themselves. Lastly, I challenge the conclusion of Jeremias Prassl that the best solution to these labor problems is transitioning gig laborers to full employment and demonstrate the numerous challenges facing such a proposal through various rulings in federal courts. I conclude by articulating my proposed policy changes for improving the status of gig laborers, leaning on proposals from various state and municipal legislatures as well as policy papers form Alan Krueger and Seth Harris.

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ABSTRACT (General Audience)

The gig economy has rapidly become something of a phenomenon in the digital economy today. New firms are quickly being added to this digital market ecosphere and the business model has garnered the attention of the business and investor communities as a new organizational alternative to standard hierarchies. However this new business model also poses substantial problems for its workers, who as independent contractors are not afforded the benefits or rights of the welfare state that are granted to employees. As the gig economy continues to achieve financial success and holds a more prominent place in our labor force, the precarious state of gig labor is becoming an increasingly political problem. This thesis explores the present state of labor in the gig economy by situating it within the context of welfare state scholarship. I examine how the inner mechanics of the gig economy operate, as well as examine the structures of the American welfare state that create this dualist divide between contractors and employees. I argue that welfare state scholarship demonstrates a path by which gig laborers and gig firms can form cross class alliances that can help develop new welfare state policies to improve gig worker conditions and be supported by gig firms themselves.

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First, I am tremendously grateful for the guidance and direction of my committee members, who each made indispensible contributions in shaping how I articulated my thoughts into this thesis. I first began writing on the gig economy and its political implications during my junior year of undergrad in Michael Moehler's Advanced Topics in Philosophy, Politics, and Economics course. The PPE minor and Dr. Moehler's classes were some of the most stimulating and joyful academic experiences I had in my time at Virginia Tech. The PPE program provided me with an avenue to bridge my scholarship between business and political science in a way that I could not have achieved otherwise and endowed me with an interdisciplinary background that was instrumental for the subject matter of this thesis.

Upon beginning the master's program, I was fortunate to be able to expand further upon my previous research in Besnik Pula's Industrial Democracies course, which first elucidated for me that the gig economy was not merely a problem of business regulation, but of larger institutional factors such as welfare state structures and labor law. Dr. Pula's course introduced me to the writings of Polanyi, Esping-Andersen, Korpi, Swenson, and other scholars who came to make up much of the theoretical backing for my research. Dr. Pula consistently introduced me to additional relevant literatures and offered exceptional feedback that would be of great utility as I ultimately expanded upon what began as my final paper for his course into what became this master's thesis.

While I did not take one of Nicholas Goedert's courses, I did have the pleasure of being his teaching assistant, and found his erudition in such a variety of topics, especially in law and institutions, to be of tremendous value in helping me to clarify crucial concepts for this thesis. Dr. Goedert's questions and contributions in my proposal defense went a great length toward strengthening the quality of my argument, particularly in clarifying how I framed the typologies I created within the gig economy, as well as emphasizing distinctions between gig labor and traditional independent contracting. Each of my committee members showed great enthusiasm and interest in my work throughout this past year and I truly could not have completed this endeavor without them.

In addition to the contributions of my committee members, I want to specifically thank Scott Nelson and Edward Weisband for their unwavering support and mentorship during my five years in Blacksburg. As an eager young freshman, I took Dr. Nelson's Global Economics course as an elective simply because I had enjoyed AP economics and AP government in high school. His course completely expanded my horizons of what it was I wanted to study and reshaped the trajectory of my collegiate experience. Midway through that semester I added political science initially as a second major and ultimately as a second degree. I'd often visit Dr. Nelson's office hours to ask questions about the course matter and he'd frequently give me advice on what subsequent courses to take, including Dr. Weisband's seminar in Global Political Economy.

I went on to take two classes with each professor and have the tremendous joy of working as a teaching assistant for both. Dr. Nelson and Dr. Weisband were undoubtedly two of the most challenging professors I ever had, but in the best and most productive sense. They each pushed me to become a vastly better writer and their courses helped foster my interests in political economy and support my research. Most of all, Dr. Nelson and Dr. Weisband went out of their way to take profound investment in supporting my personal and professional development during my time learning and working with them. Both recruited me heavily to consider applying for the accelerated master's program, something that I was initially hesitant to do but ultimately became one of the most rewarding and enriching experiences in my entire life. They have left an indelible impact on me and I could not imagine my time at Virginia Tech without their contributions and for that I cannot express my gratitude fully enough.

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and providing the greatest bedrock of support I could ever dream for. Dad, I will never forget having a conversation with you in our basement during winter break 2017, and debating whether or not it was worth it for me to pursue a master's degree. Despite of my initial apprehension, you conveyed to me you felt it was an opportunity I simply could not pass up and I should have no qualms about alternative pressures or directions and simply follow what my heart desired. This thesis is the culmination of the two of the greatest years of my life and the best decision I've ever made, one that would not be possible without your guidance and love. Absolutely nothing I have done in the past five years at Virginia Tech would have been possible without you three and I can never adequately repay or thank you for all that you done for me. I love you guys with all my heart.

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INTRODUCTION

THE GIG TRANSFORMATION

In his 1944 treatise, *The Great Transformation*, Karl Polanyi asserted that the origins of the market economy could be found embedded within the social fabric and institutions of the state, melded together as one cohesive, "market society."[1] Polanyi argued this historical development was brought about by the spread of a laissez faire ideology which reshaped factors of production that had previously only been seen as tools for enabling market exchanges into market goods themselves, what he called, "the fictitious commodities of labor, land, and money."[2] On the commodification of labor specifically, Polanyi wrote, "To separate labor from other activities and subject it to the laws of the market was to annihilate all organic forms of existence and to replace them by a different type of organization, an atomistic and individualist one."[3]

Three quarters of a century after its original publication, Polanyi's thesis has become a prophetic distillation of the modern economy. In the 20th century, governments sought to offset the externalities of market society through the adoption of Keynesian macroeconomic polices to support full employment and the establishment of comprehensive social welfare states that decommoditized essential goods of social citizenship.[4] But after decades of a Western consensus advancing neoliberal economic policies, the historically unrivaled integration of global markets, and the advent of digital technology, human labor has been almost inextricably commoditized in the 21st century economy.

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1. Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*, 2nd ed. Beacon Paperback (Boston, MA: Beacon Press, 2001).
2. Polanyi, 71
3. Polanyi, 171
4. Gøsta Esping-Andersen, *The Three Worlds of Welfare Capitalism* (Princeton, N.J: Princeton University Press, 1990). 2-3

The conditions of this transformed economic order have given rise to a new industry, the aptly named gig economy, which not only reorients the way we conceive of traditional business hierarchies and of labor in relation to employment, but stands to further exacerbate the commodification of labor in ways previously unseen. The gig economy's surging expansion has transformed firms such as Uber, Airbnb, and TaskRabbit from Silicon Valley garage startups to multi-billion dollar global enterprises with tens of millions of users in less than a decade. This meteoric ascension has become something of a fascination among highbrow observers in the business community, with headlines gracing periodicals such as the Harvard Business Review pondering, "Will the Gig Economy Make Offices Obsolete?" and "Why I Tell My MBA Students to Stop Looking For a Job and Join The Gig Economy."[5]

While the mass proliferation of the gig economy has become a common topic of discussion in technology and investment circles, it has only recently begun to be framed as an explicitly political issue. The gig economy's cost effective business model operates by developing an elaborate network of service providers who are independent contractors rather than full employees. This distinction has helped fuel the gig economy's titanic growth but it also has dramatic implications for gig laborers, as employees are afforded a litany of rights and protections that independent contractors do not have access to. More importantly, the structures of the American social welfare state were conspicuously designed to deliver social benefits such as health insurance and retirement planning to legal employees through private employers, precluding access from laborers in alternative work arrangements such as independent contractors. This designation has created strife among gig laborers seeking to remedy their

5. Diane Mulcahy, "Will the Gig Economy Make the Office Obsolete?," *Harvard Business Review*, March 17, 2017, https://hbr.org/2017/03/will-the-gig-economy-make-the-office-obsolete. ; Diane Mulcahy, "Why I Tell My MBA Students to Stop Looking for a Job and Join the Gig Economy," *Harvard Business Review*, October 20, 2016, https://hbr.org/2016/10/why-i-tell-my-mba-students-to-stop-looking-for-a-job-and-join-the-gig-economy

current condition yet thus far, comprehensive solutions to their precarious state have remained elusive. As the gig economy's business model continues to expand, the state of gig labor poses serious questions about the future of work and how to build political structures for labor in the 21st century as governments did for labor in the pervious century, questions that have yet to garner concrete answers.

In this thesis, I argue that the problems facing labor in the gig economy can best be understood by situating them within the literature of political economy and the welfare state. A wide body of texts emphasizes the essential role labor market dynamics and the relationship between laborers and firms have in constructing welfare state policies. I assert that through an historical analysis of the labor conditions that precipitated the creation of these welfare state structures, we can find remarkably similar conditions to those that exist in the gig economy today. Using these examples as a blueprint, I believe the scholarship presents a viable path by which gig laborers and firms can collaboratively support the creation of an architecture of policies to address the concerns of laborers without dismantling the existing infrastructure of the gig economy, allowing it to continue to grow and prosper while providing a mutual benefit to both parties.

Methodology, Scope, and Purpose

This thesis presents an extensive and normative literature review, in which I attempt to synthesize several bodies of scholarship on the gig economy and on the modern welfare state. In doing so, I construct a plausibility probe, a qualitative case study method that, "allows the researcher to sharpen a hypothesis or theory, to refine the operationalization or measurement of key variables, or to explore the suitability of a particular case as a vehicle for testing a theory."[6]

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[6] Jack S. Levy, "Case Studies: Types, Designs, and Logics of Inference," *Conflict Management and Peace Science* 25, no. 1 (February 2008): 8, https://doi.org/10.1080/07388940701860318.

In this manner, a plausibility probe serves as a nomothetic tool for establishing regularities and norms within an illustrative case example that can then be applied to a test subject. In this thesis, I am utilizing the frameworks, arguments, and lessons derived from welfare state scholarship as a heuristic for better understanding the present state of labor in the gig economy and leveraging these to craft political solutions to reform the adverse conditions plaguing gig laborers. Additionally, I am making implicit comparisons between the American welfare state regime and other comparable countries and welfare state structures to demonstrate why the contracted status of gig laborers is especially pernicious and consequential in the U.S. compared to other countries.

The rise of the gig economy has prompted a diverse set of social science research on the business model and its consequences. Extensive writing has been done in various journals exploring the dynamics of race and gender within the gig economy as well as proper policy for regulation of the gig economy business model.[7] While the second half of this thesis focuses on policy proposals for the gig economy, it is not concerned with day-to-day business regulations, but with specific proposals granting gig laborers access to the rights and benefits of the American welfare state. In that vein, this thesis is not simply an argument for America to transition to a Scandinavian style social democratic welfare state either. While this may be a noble political project and a worthy scholarly endeavor, it is an argument that has substantial philosophical and moral considerations that exist both far outside of and antecedent to the gig economy.

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7. Examples include but are by no means limited to: Jason McCloskey, "Discriminatorybnb: A Discussion of Airbnb's Race Problem, Its New Antidiscrimination Policies, and the Need for External Regulation," *Washington University Journal of Law & Policy*, no. 57 (2018): 203. ; Abbey Stemler, "The Myth of the Sharing Economy and Its Implications for Regulating Innovation," *Emory Law Journal* 67, no. 2 (2017): 197. ; Stephen R. Miller, "First Principles for Regulating the Sharing Economy," *Harvard Journal on Legislation* 53 (2016): 147 ; Arriane Renan Barzilay and Anat Ben-David, "Platform Inequity: Gender in the Gig-Economy," *Seton Hall Law Review* 47 (2017 2016): 393–431.

I have chosen to focus narrowly on the gig economy because I believe it represents the first instantiation of a broader evolution of labor. As many of the authors I cite in this thesis reference, the future of work remains uncertain amidst automation, globalization, artificial intelligence, and the changing relationship of laborers to firms. To borrow from Polanyi, the changing landscape of labor may well be the Second Great Transformation of our time. Designing a politics that can adapt to and respond to such transformations represents one of the major social, economic, and political projects of this century. Identifying and framing the growth of the gig economy as a fundamentally political issue, as this thesis attempts to do, is a crucial first step in addressing such concerns.

The remainder of this thesis is organized as follows. Chapter One begins by drawing on business and economic scholarship to explain the gig economy, how it operates distinct from other forms of business hierarchies, how it has grown so quickly, and its broader implications. Additionally, I develop a model clarifying the unique contours and subcategories within this growing industry. Chapter Two examines structures of the modern welfare state, including various welfare regime types across countries, the formation of American style employer-centric welfare capitalism, and the problem of dualist outcomes within welfare state structures. I conclude this chapter with a profile of gig laborers that demonstrates how the present, employee based construction of these welfare state structures is exacerbating harm on gig laborers.

In Chapter Three, I examine a specific discourse between two prominent welfare state scholars, Peter Swenson and Walter Korpi, who articulate an employer-centric model for understanding how and under what conditions alliances between laborers and capital interests can form and what types of welfare state policy structures these alliances can create. At the conclusion of this chapter I demonstrate the growing potential for similar cross-class alliances to form in the gig economy. Finally, in Chapter Four, I apply the framework outlined in Chapter Three to the gig economy. I catalogue the principles of policy design that have already been articulated by cross-class interests in the gig economy and evaluate the merits of various proposed policies and legal reforms for gig laborers against these principles and the framework created by Swenson and Korpi. I conclude this thesis by offering my own prescription of what I believe to be the set of policies that would be both most effective in remedying precarious state of labor in the gig economy and most in line with the model established by previous welfare state scholarship.

CHAPTER ONE

UNDERSTANDING THE GIG ECONOMY

The gig economy has become as regular feature of my day-to-day life as my iPhone and the Internet. After a night spent out with friends, I will order a Lyft to make sure we all get home safely. When I am working on an assignment and do not have time to cook or go to a restaurant, I will have dinner delivered to me on Grubhub. Before I move out of my apartment in July, I plan on ordering a house cleaning service through Handy. When planning a vacation, I will look at hotel rates only after having searched the area for an Airbnb. Yet for as ubiquitous as these gig economy platforms have become, the underlying mechanics of how the gig economy functions remain rather opaque, even to some of its most frequent users. In this chapter, I shed light on what the gig economy actually is, how it works, and why it matters. First, I define how the gig economy operates in microeconomic and business organizational terms. Second, I examine what is perhaps its single most defining feature, the utilization of independently contracted laborers as opposed to fulltime employees, and why it is crucially necessary to the gig business model. Finally, I construct a model of the gig economy, as it exists today, assessing the difficulty in determining its current boundaries and size, as well as developing a typology to differentiate between the nuances of distinct types of platforms within the gig economy.

Defining the Gig Economy

One of the great challenges of building broader collective understanding of the gig economy has simply been creating a uniform definition for the insurgent business model. Tech enthusiasts and journalists have at various times favored using a variety of terms interchangeably to describe the loose collection of firms now dominating the digital marketplace, including ‘the gig economy,' 'the sharing economy,' or 'the on-demand economy.'[8] Alex Stephany, founder and CEO of several early gig platforms in the UK, offers one definition, "the sharing economy is the value in taking underutilized assets and making them accessible online to a community, leading to a reduced need for ownership of those assets."[9] Oxford law professor Jeremias Prassl described the gig economy as, "an ever-growing number of startups [that] are setting up online platforms and mobile apps to connect consumers, businesses, and workers – often for jobs lasting no more than a few minutes."[10] Technologist Rachel Botsman has termed this broader phenomenon, "collaborative consumption," which she defined as, "an economic model based on sharing, swapping, trading, or renting products and services, enabling access over ownership."[11] New York University business professor Arun Sundararajan has developed more academic minded term for the gig economy of his own, "crowd-based capitalism."[12]

Sundararajan outlines five characteristics of crowd-based capitalism that serve as a clarifying theoretical framework of the inner mechanics of the gig economy. First, crowd-based capitalism exists fundamentally as a marketplace. Or rather, it exists as broad collection of marketplaces, self-contained within the confines of each gig firm's digital app. These marketplaces act just as traditional markets do, facilitating economic activity and providing mechanisms for the exchange of goods and services between users.[13] Gig marketplaces are populated by two types of users, purchasers, who are consuming the service being offered on the platform, and providers, laborers who are offering their time and energy to provide the service

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8. Rachel Botsman, "The Sharing Economy Lacks A Shared Definition," Fast Company, November 21, 2013, https://www.fastcompany.com/3022028/the-sharing-economy-lacks-a-shared-definition
9. Alex Stephany, *The Business of Sharing* (London: Palgrave Macmillan UK, 2015), 9
10. Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy*, First edition (Oxford, United Kingdom ; New York, NY: Oxford University Press, 2018). 2
11. Botsman, "The Sharing Economy Lacks A Shared Definition."
12. Arun Sundararajan, *The Sharing Economy: The End of Employment and the Rise of Crowd-based Capitalism* (Cambridge MA: MIT Press, 2017), 28
13. Sundararajan, *The Sharing Economy*, 27

for compensation. This dynamic can easily be seen in a transaction such as ridesharing, where the purchaser is the passenger and the provider is the driver. In this way, gig platforms act both as product markets for gig service purchasers and as labor markets for gig service providers. These marketplaces also serve as labor markets for the gig platforms themselves, as providers are delivering their product to customers just as employees of regular firms. The digital interface of a gig platforms houses nearly every component of a traditional brick and mortar marketplace, including the solicitation of products from providers, the ability for purchasers to search for or be matched with these vendors, and an internal mechanism for paying for the transaction, all bound by a single mobile app.

Second, crowd-based capitalism leverages excess capacity, allowing the assets and services exchanged in these marketplaces to be used at closer to their full value, reducing consumer costs and producing efficiencies.[14] Capacity in this instance refers to the maximal utility that can be obtained from some product or service. Often times, we fail to exhaustively utilize the full capacity of the goods and assets we own. While your home or apartment is made up of several rooms, you are only physically capable of being in any one of these at a time. You may have a spare room for when relatives or friends visit, yet most of the year it lies dormant. On the short-term rental platform Airbnb, individuals are able to solicit any free space in their dwelling, from spare couch, to a spare bedroom, to an entire home, to be temporarily rented by users for vacation or work trips. In doing so, they are able to rent this space to another user and be paid for doing so, maximizing the utility of their asset and earning income off of their excess space. Likewise, rideshare drivers use their own vehicles to pick up and transport passengers, maximizing the utility of their car and capitalizing off its excess capacity for income.

14. Sundararajan, 27

Third, crowd-based capitalism operates in networks where, “the supply of capital and labor comes from decentralized crowds of individuals rather than corporate or state actors.”[15] Most firms are organized in tightly bound hierarchies, made up of employees who are responsible for various firm activities and coordinate with other units of the firm, overseen by managers at the top of the hierarchy. These hierarchies are structured to act collectively as one entity with customers and suppliers in markets.[16] Rather than being built on these hard relations and a defined corporate structure, firms in the gig economy are organized in loose networks made of porous and free floating assemblies of market participants looking for opportunities for exchange in crowd-based marketplaces. The number of entrants into these markets is not tightly regulated by some central hierarchical authority, nor is there substantial barriers to entry short of a smart phone and access to whatever asset or service you are sharing. In this way, gig platforms more resemble markets than traditional corporations.[17]

The Essential Role of Independently Contracted Labor

In my view, Sundararajan’s fourth and fifth characteristics are collectively the most important in explaining the dramatic rise of the gig economy and what makes it most distinct from other businesses. He asserts that crowd-based capitalism blurs the lines between market actors and market customers and that it is able to do so because crowd-based capitalism also blurs the line between fully employed and casual labor.[18] In most gig economy platforms, laborers are not classified as formal employees of the platforms they use, but rather are typically designated as independent contractors.[19] This independent contractor status is essential to the viability of the gig economy, as it allows gig platforms to grow their networks of service

15. Sundararajan, 28
16. Sundararajan, 70
17. Sundararajan, 29
18. Sundararajan, 28
19. Sundararajan, 160

providers organically at a rapid and tremendous scale. Gig platforms are very much subjected to the same networking effects of other digital services, where each additional user provides increased benefit to all existing users of a given platform. In order to effectively compete with non-networked businesses using a hierarchy of employees, gig platforms require a certain critical mass of regular service providers to satisfy the market demand, adopting a strategy that economists Hal Varian and Carl Shapiro call, "Demand-Side Economies of Scale."[20] Ridesharing would not be a viable alternative to traditional taxicab services if platforms only offered a limited number of drivers available at any given time in any location, unable to satisfy the demand of individuals looking for transportation.

But traditional employment imposes significant restrictions on both the employers and the employees. Employers are afforded a vast scope of control over their labor force, setting their employees required working hours, wages, responsibilities, and can even contractually prevent certain behaviors or actions by their employees while at work.[21] Meanwhile, extensive labor regulations prevent employers from exercising certain especially exploitative practices on their workers and establish a minimum threshold of rights for employees.[22] As Jeremias Prassl says, employment is built on, "a crucial tradeoff, workers have to follow their employers' orders, and enjoy a basic level of stability and economic security in return."[23] Independent contractor status, however, offers a work arrangement with substantially less restrictions on both parties compared to standardized employment. The contracting entity does not have the same authoritative scope of control over independent contractors, nor are contractors afforded the extensive rights of traditional employees.

20. Sundararajan, 118
21. Sundararajan, 181
22. Prassl, *Humans as a Service.* 5.
23. Prassl, 6

Without these strict controls from an employer, independent contractors are allowed the flexibility to work as often or as little as they like, whenever is convenient for them. Signing up to work in a gig economy platform is often as simple as downloading an app and entering some personal information.[24] This flexibility as opposed to standard employment is something gig platforms have explicitly promoted to attract new users. Uber entices potential drivers with emancipatory messaging such as the opportunity to, "Drive when you want," and, "Earn what you need," with the opportunity to increase their personal returns, as "the more you drive, the more you'll make," and best of all, "There's no office and no boss. That means you'll always start and stop on your time—because with Uber, you're in charge."[25]

This arrangement is not just to the benefit of gig workers, but also to the necessity of the gig platforms themselves. As Prassl asserts, "The gig economy platforms' business model is universally based on near-instant recourse to a large pool of on-demand workers."[26] Designing these platform based networks with formalized employees and the constraints accompanied that labor relationship would likely prove to be cost prohibitive for gig platforms attempting to grow large enough to reach cost efficiencies and meet their market's demand.[27] Yet by utilizing contactors, and by explicitly marketing to potential platform providers the allure of a more flexible means of work and income, gig platforms have been able to achieve growth at an absolutely explosive scale. In 2017 alone, just the company's eighth year of operation, Uber completed over four billion rides worldwide, nearly fifteen million a day across seventy-eight countries. The firm now boasts over seventy-five million monthly riders and three million active

24. Prassl, 14
25. "Driver Sign Up Form - Sign Up to Drive with Uber Here," Uber, 2018, https://www.uber.com/a/us/?var=org2&exp=70622_t2.
26. Prassl, *Humans as a Service*, 13
27. Prassl, 14

monthly drivers.[28] In its eleventh year of operation, Airbnb now has over six million listings globally in 81,000 cities, and estimates over 2 million people say in an Airbnb rental nightly.[29] The home cleaning platform Handy has grown to $1 million worth of bookings per week just two years after its launch.[30] It is difficult to envision gig platforms being able to have achieved the scale of growth they have with formal employment as opposed to independent contracting, certainly not in the span of a single decade or less. The growth of the gig economy is not just coming from the expansion of existing platforms either. Such immediate success has spawned the rise of new gig firms entering the marketplace at a breathtaking pace. A 2016 JP Morgan Chase study on the growth of the gig economy identified 42 distinct gig economy platforms, by 2018 that number had grown to 128.[31] Rachel Botsman has coined this phenomenon, "the Uberfication of everything."[32]

Venture capitalists who see the gig economy as an investment opportunity have helped drive this aggressive growth. In 2010, just $57 million was invested in gig startups, by 2014 that figure had surpassed $4 billion. In 2017 alone, Uber raised over $12 Billion.[33] The ridesharing giant launched an initial public earlier this year that Morgan Stanley and Goldman Sachs initially valued at an astounding $120 Billion, more than the total market valuations of Ford Motor Co., General Motors, and Fiat Chrysler Automotive combined.[34] Airbnb is also looking to launch an

28. Johana Bhuiyan, "Uber Powered Four Billion Rides in 2017. It Wants to Do More — and Cheaper — in 2018.," Recode, January 5, 2018, https://www.recode.net/2018/1/5/16854714/uber-four-billion-rides-coo-barney-harford-2018-cut-costs-customer-service.
29. "Airbnb Fast Facts," *Airbnb Press Room* (blog), October 24, 2016, https://press.airbnb.com/fast-facts/
30. Prassl, *Humans as a Service,* 18
31. Diana Farrell, Fiona Greig, and Amar Hamoundi, "The Online Platform Economy in 2018: Drivers, Workers, Sellers, and Lessors" (JP Morgan Chase and Co Institute), accessed March 30, 2019, https://www.jpmorganchase.com/corporate/news/pr/institute-2018-online-platform-economy-report-findings.htm. 9
32. Rachel Botsman, "The Sharing Economy Lacks A Shared Definition," Fast Company, November 21, 2013, https://www.fastcompany.com/3022028/the-sharing-economy-lacks-a-shared-definition
33. Prassl, *Humans as a Service,* 18
34. Liz Hoffman, Greg Bensinger, and Maureen Farrell, "Uber Proposals Value Company at $120 Billion in a Possible IPO," *Wall Street Journal*, October 16, 2018, sec. Markets, https://www.wsj.com/articles/uber-proposals-value-company-at-120-billion-in-a-possible-ipo-1539690343

IPO later this year and has been valued at over $30 billion after earning over a billion of revenue in a single quarter last year.[35]

The gig economy model has proven to be so lucrative that well-established companies have begun incorporating it into their businesses. Amazon recently launched a service called Amazon Flex, an in-house gig-based delivery service where drivers can pick up Amazon packages from a fulfillment center and drop them off at the customer's home using their own vehicles on their own schedule. The service is now available in over 50 American cities.[36] Perhaps most indicative of this process of "Uberfication", Amazon flex has been marketed with almost identical language to that of Uber, offering prospective workers the ability to, "Be your own boss, set your own schedule and have more time to pursue your goals and dreams."[37] It is worth noting that independent contracting, self-employment, and other forms of freelance labor can be found outside of the gig economy. Recent data on independent work from labor economists Lawrence Katz and Alan Krueger suggest that as much as 15% of the American labor force works in these so-called "alternative work arrangements," outside of traditional employment.[38] Nonetheless, there are specific differences of independent contracting within a gig platform that distinguish it from other freelance work arrangements.

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35. Deirdre Bosa and Sara Salinas, "Airbnb Sustains Profit as It Heads toward IPO," News, CNBC, January 15, 2019, https://www.cnbc.com/2019/01/15/airbnb-sustains-profit-as-it-heads-toward-ipo.html
36. Gaby Del Valle, "Amazon Is Cutting Costs with Its Own Delivery Service — but Its Drivers Don't Receive Benefits," Vox, December 26, 2018, https://www.vox.com/the-goods/2018/12/26/18156857/amazon-flex-workers-prime-delivery-christmas-shopping
37. "Amazon Flex: Be Your Own Boss. Great Earnings. Flexible Hours." Amazon Flex, 2018, https://flex.amazon.com/.
38. Lawrence Katz and Alan Krueger, "The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015" (Cambridge, MA: National Bureau of Economic Research, September 2016), https://doi.org/10.3386/w22667, 2. ; I want to make a special acknowledgment of the contributions of Alan Krueger's research to this field and to this thesis especially. Krueger was truly one of the giants of modern labor economics, helping to lead the so called "Credibility Revolution" in economics and transforming the role of instrumental variables and quantitative design methodologies, challenging long held convictions regarding minimum wages and job loss, and coining the idea of "The Gatsby Curve" addressing the relationship between income inequality to economic opportunity within a country. Krueger was one of the foremost economists researching the gig economy and his work is cited over a dozen times throughout this thesis, and is referenced in nearly as many

One of the most important distinctions is that unlike other forms of independent labor, gig platforms have greatly expedited the consumer's search process of looking for service providers. Some platforms such as Lyft or Grubhub instantly match customers with service providers, eliminating the wasted "search friction" found in traditional marketplaces.[39] Other gig platforms such as Airbnb where consumers are able to personally select their service provider utilize an extensive array of algorithms to present customers with a list of providers based on location and demand, as well as to curate and track user feedback of the quality of services provided. While other freelance workers such as a private piano tutor may have to market her services and reviews online through a variety of third party sources that a customer would then have to access and review before engaging their services, "Gig-economy operators provide information about how reliable a worker is, take care of invoicing and payments, and provide a (digital) infrastructure within which the entire exchange can take place."[40] This means gig contractors have a far greater array of resources provided to them within the platform to enable the solicitation of their services than traditional independently contracted laborers would have.

While these infrastructural features may be advantageous for workers, in practice they also allow gig platforms to exercise a far greater degree of control over their laborers than other contracting parties have over independent contractors. User quality ratings allow platforms to elevate the salience of highly rated service providers and reduce the connections with poorer rated ones, helping to achieve a reasonable standard of quality for their service across thousands,

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other works that are also cited within. Krueger served as an economic adviser for two presidents and was the 27th Chairman of the Council of Economic Advisers under President Barack Obama. Alan Krueger committed suicide on March 16th, 2019. Reflecting on his life's work, President Obama said, "Alan was someone who was deeper than numbers on a screen and charts on a page. He saw economic policy not as a matter of abstract theories, but as a way to make people's lives better." Alan Krueger was 58 years old. Ben Casselman and Jim Tankersley, "Alan B. Krueger, Economic Aide to Clinton and Obama, Is Dead at 58," *The New York Times*, March 19, 2019, sec. Obituaries, https://www.nytimes.com/2019/03/18/obituaries/alan-krueger-dead.html.

39. Prassl, *Humans as a Service,* 19

40. Prassl, 19, hyphen and parenthetical are included in original quote

if not millions, of service providers.[41] This algorithmically optimized regularity helps to fully commoditize services in the gig economy. Through these data algorithms, platforms have effectively been able to turn the "product" of the gig economy into what Prassl refers to as "Digital Work Intermediation".[42] Gig customers are purchasing the consistency and ease of acquiring a service that the platform provides, not the skills of any one individual service provider themselves. Whereas the freelance piano instructor from the previous example may market her own skillsets or experience that are uniquely attractive to a customer, there is effectively no discernable difference from one Lyft driver or worker on TaskRabbit to the next. This is a meaningful departure in the scope of control of traditional freelance workers; it enables gig platforms to operate an expansive labor force of contracted workers with a standard of control approaching that of fully legal employees, all without the costs and regulatory constraints imposed by the more formalized employer-employee relationship.

Building a Model of the Gig Economy

One of the greatest challenges for policy makers and scholars studying the gig economy has been deciphering its true size. The freelance nature of gig work means that traditional methods of aggregating employment are not always sufficient, often the best estimates come from numbers put out by individual platforms themselves but these fail to exhaustively account for all gig labor across platforms. Furthermore, because of the lack of concrete definitions of what does and does not count as being a part of the gig economy, estimates of its scale can vary substantially. Katz and Krueger estimated that gig labor accounted for only 0.5% of the total US labor force in 2015, but a different survey done that same year by the McKinsey Global Institute

41. Prassl, 14
42. Prassl, 17

placed the figure as high as 4%.[43] Likewise, a study conducted by JP Morgan Chase and Co. Institute found that 4.5% of survey respondents had participated in what they deemed to be the "online platform economy" in the past year, yet even these estimates may not be large enough.[44] A Pew Research Center survey from 2016 found that 8% of Americans reported earning money from an online digital work or task platform in the last year, and among 18-29 year olds that figure doubled to 16%.[45]

One of the reasons for such variation in measuring the gig economy's size can be attributed to how employment is quantified by the federal government. Every month, the Bureau of Labor Statistics conducts the Current Population Survey (CPS) to determine the federal unemployment rate and the number of new jobs created or lost, as well as categorizing those jobs by industry. However, because these surveys rely on self-reporting, their findings depend on how the individual survey respondents think of their work in the gig economy, either as a primary means of income and employment or as a side venture.[46] This can lead to some wonky statistical results; someone who has been laid off by from their job and decides to work in a gig platform and reports this new income in a survey would continue to be counted as employed, even if an employed job was lost. Additionally, people who are steadily employed but work in a gig platform on the side may not report this work at all, leading to an undercounting of the total gig workforce.[47]

In a subsequent paper, Katz and Krueger demonstrate this phenomenon empirically, utilizing Mechanical Turk, a gig platform in its own right, to design a survey to attempt to

43. Katz and Krueger, "The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015,"16 ; James Manyika et al., "Independent Work: Choice, Necessity, and the Gig Economy" (McKinsey Global Institute, October 2016), 12
44. Farrell, Greig, and Hamoundi, "The Online Platform Economy in 2018: Drivers, Workers, Sellers, and Lessors."
45. Aaron Smith, "The Gig Economy: Work, Online Selling and Home Sharing" (Pew Research Center, November 17, 2016), https://www.pewinternet.org/2016/11/17/gig-work-online-selling-and-home-sharing/.
46. Prassl, *Humans as a Service*, 17
47. Sundararajan, *The Sharing Economy,* 175

capture this reporting discrepancy of workers not listing secondary work arrangements as a job on the CPS.[48] When asked, "Last week did you have more than one job or business, including part time, evening or weekend work?" 39% of respondents stated they held multiple job, however when asked more specifically, "Did you work on any gigs, HITs [Human Intelligence Tasks] or other small paid jobs last week that you did not include in your response to the previous question?" the number of respondents agreeing rose to 61%, indicating the potential for massive reporting discrepancies on BLS surveys.[49] These unaccounted for jobs undoubtedly include a host of work engagements outside of the gig economy as well, however the broader reporting issues in surveys used to track employment statistics help to further the dynamics of what Sundararajan calls "invisible work" in the gig economy.[50]

Likewise, it has also been difficult for researchers and social scientists to differentiate between distinct cohorts within the gig economy. Although the microeconomic theory underpinning the gig economy is relatively consistent from one platform to the next, in practice, gig platforms are quite diverse. Treating the gig economy as a monolith can hide important nuances between various platforms and gig sectors. Perhaps, as Larry Lessig suggests, we should not to be talking about one collective gig economy, but rather the numerous unique gig economies.[51] Delineating the distinctions within and between various gig economies is an important task, as the social, political, and economic challenges facing one gig platform are not necessarily the same as those facing another. Yet like so many definitions in the still nascent gig economy, a uniform demarcation of the distinctions between gig platforms has yet to be adopted.

48. Lawrence Katz and Alan Krueger, "Understanding Trends in Alternative Work Arrangements in the United States" (Cambridge, MA: National Bureau of Economic Research, January 2019), https://doi.org/10.3386/w25425, 15
49. Katz and Krueger, "Understanding Trends in Alternative Work Arrangements in the United States."17
50. Sundararajan, *The Sharing Economy,* 175
51. Sundararajan, 34 quoting from Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy* (New York: Penguin Books, 2009)

It seems the only consensus regarding the boundaries of the gig economy is ambiguity itself. As Prassl puts it, "Platform work blurs the traditional lines of business organization, whereby consumers buy goods and services from companies competing in the market, who in turn employ workers to manufacture or produce what is desired."[52] Sundararajan adopts a similar framing, arguing that it is beneficial to think of gig platforms, "as a hybrid between a pure market and a hierarchy."[53] From this, he develops a typology that places gig firms on a continuum based on if they operate in structures that are more akin to pure markets or formalized organizations.[54] Through this framing, it is clear that there are some commonalities among nearly all gig platforms. Throughout the gig economy, the provider offers services using their own personal assets and or labor, and the platform makes it easy for providers to enter and exit as they please. The platforms also all offer payment processing systems and the digital infrastructure supporting the platforms users and providers are operating on.[55] Moving beyond this basic skeleton of the gig economy however, there are some key distinctions between firms. While platforms such as Handy allow providers to set their own prices, ridesharing platforms provide passengers drivers with a fare rate based on an algorithm. Ridesharing is also unique in that platforms internally match customers to providers automatically, as opposed to a service like TaskRabbit, which offers consumers with a choice of provider.[56] Sundararajan concludes that while some platforms like Airbnb are more explicitly market like, service-based platforms such as Postmates are more akin to formalized hierarchies.[57]

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52. Prassl, *Humans as a Service,* 51
53. Sundararajan, *The Sharing Economy,* 77
54. Sundararajan, 78
55. Sundararajan, 79
56. Sundararajan, 78
57. Sundararajan, 77

While the market vs. hierarchy continuum is useful, this specific framing places the focal point of emphasis on distinguishing how transactions within these various platforms are organized. But this can bury a substantial amount of nuance between platforms, even ones that are otherwise organized similarly. For instance, both Airbnb and the cleaning services platform, Handy, are organized more like markets than strict hierarchies. However, viewed from the perspective of the service providers themselves, it feels wholly disingenuous to treat the labor of someone cleaning a stranger's home for an algorithmically determined wage and someone soliciting their beachfront vacation house to be rented by tourists for supplemental income as being one in the same. A market vs. hierarchy framing ignores serious issues regarding the agency of providers within the platform and socioeconomic considerations that should be addressed.

Thus, rather than typifying gig platforms based on how much they do or do not resemble markets, I want to categorize then based on dimensions that emphasize the distinctions between service providers across platforms. More specifically, I think this can best be achieved by classifying platforms based on whether or not they are primarily leveraging the usage of the provider's capital or the provider's labor. Further, specifically within the context of labor, it is useful to examine how fully commoditized and employee-like a given service is. On a platform like Mechanical Turk, the digital labor conducted is fairly divorced from a personal service provided to the purchaser, it can be done at one's relative leisure and is conducted solely thru digital interface without personal interaction between the two parties. Conversely in a service such as Grubhub, the scope of labor is more akin to the services of an employed worker in a non-gig platform, featuring a time sensitive deliverance of a product or service and features an actual interaction between the purchaser and provider.

Clarifying these nuances allows us to build a typology of the numerous gig economies that exist. In Figure 1-1, I classify several prominent gig platforms based on this capital vs. labor axiom into three distinct categories, which I refer to as Asset Rental Platforms, Freelance Labor Platforms, and Employee-Substitute Labor Platforms. Where applicable these gig platforms are further organized by the relevant categories or sectors they fall under, such as ridesharing.

Figure 1-1: Typology of Gig Economy Platforms

Capital	Labor	
Asset Rental Platforms	**Freelance Labor Platforms**	**Employee-Substitute Labor Platforms**
Short-Term Lodging • Airbnb • HomeAway • HouseTrip Peer-to-Peer Car Sharing • Turo • Getaround Electronic Rentals • Rentah Peer-to-Peer Clothing Rentals • Closet Collective • Tulerie	Crowd Sourced Digital Labor • Amazon Mechanical Turk • Spare5 • Fiverr Personal Entrepreneurship/ Handmade Goods • Etsy • Pinterest Digital Content Creators • YouTube • Instagram	Ridesharing • Uber • Lyft • Juno Household Services • Handy • TaskRabbit Restaurant / Grocery Delivery • Instacart • Grubhub • DoorDash Package Delivery • Postmates • Amazon Flex

58. Typology of Gig Economy Platforms Created by Nicholas Work, March 23, 2019

Asset Rental Platforms are perhaps the easiest platforms of the gig economy to conceptually explain and identify. These are platforms where the primary “good” being rented on the platform is an asset itself, and the role of the service provider in conducting actual labor is more or less limited to just facilitating the transaction in communication with the end purchaser. The assets being rented are typically of a fairly large monetary value such as a home or car,

58 Nicholas Work, Typology of Gig Economy Platforms, March 23, 2019

though the model has expanded outward into other areas such as clothing rentals. These platforms all are definitively a part of the broader gig economy, but providers are not necessarily conducting ‘work’ in the way we traditionally conceive of it.

In Freelance Labor Platforms, the provider is discernably conducting a labor-based service or producing a product of their own to sell as opposed to leveraging their own capital for public consumption. However, the work provided is often limited primarily to either impersonal tasks or facilitating communication with the end consumer. These gigs also do not have an easily identifiable competitor providing similar services in a formally employed business model, such as completing a digital task on Spare5. Often these tasks are viewed primarily as just that, a supplemental and transactional task, rather than a full time job or occupation of its own.

Additionally, in this category I have also included other digital platforms that are not always conceived of as being a part of the gig economy, but still can operate under many of the same principles of gig economics. I included these platforms because I think they adequately demonstrate the vague nature of the true boundaries of the gig economy, as well as the growing ubiquity of its economic model in the broader digital ecosphere. Two prominent example of this are craft item e-commerce websites Etsy and Pinterest. Both serve as a digital intermediary between product creators and purchasers that facilitates peer-to-peer transactions for their unique goods. Another example of gig-like freelance labor platforms can be seen in digital content creators on social media, especially on monetized platforms such as YouTube and Instagram. Though certainly not true of all YouTube creators and Instagram users, many creators are able to accumulate a large enough following that they are able to monetize their content by allowing sponsor advertisements to precede their videos and or be in their pictures.

These platforms also all similarly benefit from the demand side economies of scale and networking effects of other gig platforms and can be utilized to whatever the desirable degree of the provider is. If an individual wanted to sell their products in small batches or simply make YouTube videos as a hobby they are fully able to do so. But the economics of the platforms also allow avenues for some savvy providers to generate their entire income from these platforms. Just like the other platforms in this freelance category, the actual labor needed to create the products sold on this platform is largely supportive of part time independent entrepreneurship or hobby, and is not cleanly replicated by a similar service organized around formalized employment. Yet they are quite clearly not offering the rental of specific capital-intensive assets, thus, it feels most appropriately that all these platforms are placed in this middle category.

Finally, Employee-Substitute Labor Platforms represent the most employee-like and labor-intensive varieties of platforms in the gig economy. In many ways, these platforms represent the most paradigmatic instantiations of the gig economy, as this category includes the gig economy's largest and most valuable individual firm, Uber, and one of its most prominent sectors, ridesharing. But beyond mere popularity, what is most distinctive about this classification is that the actual labor performed by providers is explicitly the most resembling work conducted by regular employees. Labor in these platforms often features in person interactions between the purchaser and the provider and the service offered is often replicated elsewhere in the economy by traditional firms that utilize fulltime employees. Furthermore, these platforms often attempt to impose strict rating systems and quality controls to standardize their service providers in manners mirroring those implemented by formalized employers. Often these algorithmic controls are sold as maximizing platform efficiency, however in the case of ridesharing, they can also including mechanisms designed to prevent drivers from gaming the system to only take longer, higher paying trips over shorter ones.[59]

For these reasons, these platforms are all grouped into this final category, in which the scope of gig labor most resembles that of traditional employment. Additionally, these platforms would also largely be found closer to the hierarchy end of Sundararajan's matrix than on the markets side. Interestingly however, Sundararajan classified ridesharing firms as being a middle ground between markets and hierarchies.[60] While there is some intrinsic market based mechanisms governing ridesharing and all gig platforms, my assessment is that there is a more compelling case to be made that rideshare drivers especially are more employee-like than the impersonal nature of freelance labor platforms.

Taxonomic models such as Sundararajan's and mine are useful to the extent that they sort entities in to relevant and meaningfully distinguished categories that elucidate information about the nuances of a group as a whole. In creating a model of my own, I am not rejecting out of hand the usefulness of a hierarchy vs. markets framing for the gig economy. However, given the great disparities that can arise in the scope of labor between platforms that are otherwise deemed similar in Sundararajan's framework, sorting platforms based on an axiom of labor vs. capital can be more informative than the market-hierarchy model alone.

The meteoric rise of the gig economy forces us to reevaluate the way we think about the nature of work. With the advent of digital technology, gig platforms have been able to develop enormous networks connecting users and service providers with greater efficiency and scale than ever possible before, and have done so by radically reorienting the relationship between firms and their laborers. This new business organizational model presents both immense opportunity

59. Prassl, *Humans as a Service*, 54
60. Sundararajan, *The Sharing Economy,* 77

and immense challenges for workers, researchers, and society at large. Individuals are now enticed to be able to capitalize on their labor at their own schedule and convince, either as a supplemental venture or a full time stream of income. However, they do so in a way that is fundamentally distinct from previous freelance work engagements. This unique arrangement has made the full scope of the gig economy difficult to measure, both in quantitatively in terms of its absolute size and qualitatively in terms of the nuances within. But as I demonstrate in the following chapter, the greatest challenge for the gig economy comes not from any ambiguity or uncertainty on the part of observers or researchers. It can be found concretely in the absence of a litany of legal rights, benefits, and social protections in the American welfare state that have been conspicuously afforded to formal employees. Rights that, as independent contractors, gig laborers are prevented from having access to.

CHAPTER TWO

SITUATING THE GIG ECONOMY IN THE WELFARE STATE

The previous chapter explained the integral role independently contracted labor plays in the mechanics of the gig economy. But while this innovation has helped drive the immense success and growth of the gig economy, it is also the cause of one of its greatest long-term instabilities. By being designated as independent contractors, gig laborers are divorced from the basic rights and protections of social citizenship that we have granted to full employees. In this chapter, I situate gig economy labor within a body of literature on welfare state structures to help demonstrate why we ought to be thinking about gig labor as an innately political problem. First, I outline the distinctions between various different models of the welfare states and how they allocate and distribute social benefits. Second, I examine the unique arrangement of the employer-centric model found in the American welfare state and how it exacerbates a divide between insiders and outsiders at a far greater rate than the welfare regimes of other countries. Third, I utilize extensive profiles of gig laborers to examine the precarious state of labor in the face of immense economic hardship and without access to the support structures of the welfare state. Finally, I consider the future trajectory of the gig economy and articulate the necessity for crafting political solutions to redress the issues discussed in this chapter.

Typologies of Welfare States

The welfare state is generally understood as an orchestrated array of government policies and institutions designed to allocate and provide for the basic needs of its citizens beyond what markets provide alone. Yet Danish scholar Gøsta Esping-Anderson argues that this definition alone is too broad for useful analysis, as welfare regimes vary greatly across countries and it does not address meaningful questions such as, “whether social policies are emancipatory or not?" and, "whether they contradict or aid the market processes?"[61] Further, Esping-Andersen asserts that welfare states are often wrongly measured primarily on numeric metrics that fail to demonstrate the whole story. Gross expenditures alone cannot measure the efficacy of a policy or welfare regime, and say nothing about a policy's comprehensive nature or exogenous economic factors. These problems, coupled with the wide variety in welfare state policies across countries, force us to conceptualize the welfare state not by any precise metric alone but by how they are structured and what it is they are designed to achieve.[62] Esping-Andersen postulates that the basic goal of a welfare state system is to enable social citizenship, which can be achieved through the "de-commoditization" of basic necessities as rights provided outside of the market, and by compressing a country's social stratification through the reallocation of these necessities and resources.[63] Despite this common objective, different welfare states utilize numerous mechanisms to achieve such aims, and produce a variety of different results. Esping-Anderson theorizes three distinct clusters of welfare states regimes, each leading to different degrees of de-commoditization and social stratification.

The first regime type is liberal welfare states, such as those found in the United States, The United Kingdom and Canada. Liberal welfare states offer primarily means-tested assistance for the most needy in society and offer minimal universal transfers and social insurance for all citizens. In a liberal regime, government assistance or benefits are typically viewed as a means of last resort, reserved for the poor or unemployed and the rules enforcing benefit eligibility are often tightly regulated.[64] In lieu of more comprehensive social benefits, liberal welfare states often turn to the market to be able to fill in the gaps of social programs, either through statutory

61. Esping-Andersen, *The Three Worlds of Welfare Capitalism*, 19
62. Esping-Andersen, 19
63. Esping-Andersen, 22
64. Esping-Andersen, 26

minimum requirements that employers must provide or through subsidized private insurance programs that can be purchased.[65] Because of this more reserved allocation of social benefits, Esping-Andersen argues that liberal welfare regimes only minimally curtail commoditization, limit the spread of social rights, and "erects an order of stratification that is a blend of relative equity of poverty among state welfare recipients, market differentiated welfare among the majorities, and a class-political dualism between the two."[66]

The second regime type is corporatist arrangements like those seen in Germany, France, Italy, and other areas of Continental Europe. This welfare model does not embody the "liberal obsession" of service commodification and preserving market purity, allowing states to offer a wider array of public benefits and social rights than Liberal welfare states, with only minimal presence of market-based private substitutes.[67] However, corporatist welfare states largely preserve the existing social stratification of the state and minimizing its redistributive role. Esping-Andersen notes that social institutions like the church played a large role in shaping policies to maintain the traditional family structure, such as benefits for families to encourage childrearing.[68]

The third welfare states regime is the social democratic model found in Scandinavia. These welfare states are deliberately universalistic in their scope and provide the most expansive de-commodification of social needs. Unlike the dualist outcomes of liberal welfare states that specifically target aid to the socioeconomically disadvantaged, in social democratic welfare states "all strata are incorporated under one universal insurance system, yet benefits are

65. Esping-Andersen, 27
66. Esping-Andersen, 27
67. Esping-Andersen, 27
68. Esping-Andersen, 27

graduated according to accustomed earnings."[69] The universal nature of benefits prevents any necessity for private market based substitutes of social rights, and the program is broadly popular across classes. Social democratic welfare states also require a commitment to a Keynesian macroeconomic policy of achieving full employment, as, "the enormous costs of maintaining a solidaristic, universalistic, and de-commodifying [sic] welfare state means that it must minimize social problems and maximize revenue income."[70]

Esping-Andersen is careful to note that while these distinct regimes serve as a useful heuristic, there is a degree of overlap between each system, citing America's universal and compulsory Social Security program as an example of such blending between regimes.[71] Most importantly, he argues that these classifications are not designed to deem one regime type innately superior to one another, but rather to demarcate their distinct goals and the outcomes they help to produce.

The American Plan and the Burden of Dualism

The scope of benefits and compression of social stratification offered by a country's welfare state can contribute a great deal to shaping the overall social and economic mobility of its citizen's lives. But in the context of analyzing the precarious position of gig laborers, these specificities of welfare state structures matter even more so. As Katherine Stone articulates, America is especially unique in that not only is it a liberal welfare state with modest and largely commoditized benefits, but, "In the United States health insurance, old age assistance, disability

69. Esping-Andersen, 28
70. Esping-Andersen, 28
71. Esping-Andersen, 29

insurance, and long-term care are not financed by the state—rather, they are designed by and offered at the discretion of private firms."[72]

This "employer-centric" benefits model developed in the early 20th century during the spread of early business management theories such as Fredrick Taylor's scientific management revolution, which sought to increase worker performance by standardizing labor and making work impersonal and free of distractions. [73] An alternative theory, personnel management, accounted for the, "human factor," of employees, creating workplace practices that connected employees to their work and developed loyalty and commitment that they felt would increase productivity.[74] Establishing various employee benefits and insurance programs quickly became one tact businesses used to help foster this employee loyalty and increase productivity. By the early 1910's, large companies like US Steel, Westinghouse, and General Electric had established comprehensive employee welfare plans offering stock, pensions, and other forms of social insurance.[75]

Around the same time, dozens of US states leads by Progressive movement politicians were implementing policies creating mandatory workers' injury compensation. This was largely viewed in the business community as an incursion of big government regulations, and many firms sought to develop their own private insurance alternatives, which were soon adopted by General Electric, Kodak, and other large corporations.[76] Stone points out that in the early 20th century, the labor movement in America also had a staunch anti-government position, believing they could better cater for the economic needs of workers than the state.[77] Furthermore, while the

72. Katherine V W Stone, "A Fatal Mismatch: Employer-Centric Benefits In A Boundary-less World," *Lewis & Clark Law Review* 11 (Summer 2007): 452
73. Stone, 454
74. Stone, 454
75. Stone, 456
76. Stone, 457
77. Stone, 458

social insurance offerings did not completely absolve the regular antagonism between the interests of management and unions, it went a long way in curbing the most disruptive labor disputes and strikes.[78]

Thus, along with satisfying their employees and increasing productivity, these offerings to employees were a strategic ploy of enlightened self-interest on the part of business executives, as these employee benefit packages heeded off both unwanted government intervention and disruptive union practices. This early alternative to the more universal benefits of corporatist and social democratic European welfare states came to be known as “the American Plan.”[79] The system itself largely achieved its aims of retaining employees and continued to expand throughout the rest of the century, particularly in employee pension benefits, by the 1970’s, half of the American labor force was covered by employment based pension plans.[80] The American Plan worked because it was conspicuously designed for the labor dynamics of the workforce of this era. Large firms desired to retain their own employees for a sustained period of time, providing relative job security and benefit incentives to keep employees from leaving. These firms also had a propensity to promote successful employees to higher jobs within their own firms in, “internal labor markets,” rather then procure outside talent.[81]

But the labor market of the 21st century looks radically different than that of the industrial age. The expectation that employees will remain at a single firm for the course of their careers has long since diminished, with workers frequently switching companies, often multiple times during the course of their working life or switching careers all together. Firms themselves have begun expecting higher rates of employee turnover and have begun hiring from outside of their

78. Stone, 458
79. Stone, 459
80. Stone, 459
81. Stone, 460

own employees.[82] This higher rate of job transfer and lack of employment security has contributed to a greater retrenchment of the employer-centric welfare state, as companies are less inclined to offer comprehensive benefits to employees who are less likely to stay with the firm and employers risk losing what coverage they do have by switching jobs.[83]

These changes in job norms have exposed a critical fault in the American welfare state regime under in the employer-centric model; it cannot be broadly sustained amidst the radical transformation the underlying labor force it was conspicuously designed to provide benefits to. Not only have social benefits remained largely commoditized in our liberal welfare regime, under the American plan, they were almost entirely delegated not to markets, but to private firms to administer directly to their employees.[84] Yet, the digital age has enabled, "an explosion in the use of atypical workers such as temporary workers, on-call workers, leased workers, and independent contractors."[85] Today, an expanding body of American laborers find themselves on the outside of the system once designed to protect their interests, unable to access the, "crucial tradeoff," of a, "basic level of stability and economic security," employers offered their employers in exchange for their work.[86]

The retraction of the social welfare state is by no means a phenomenon isolated to just the United States. Scholars postulated a host of reasons for this general decline of the welfare state in the developed world since the end of the last century, including the rise of neoliberalism, austerity, and globalization, and regression of labor-based politics.[87] But even amidst this global reduction in the redistributive might of the Keynesian welfare state, not all welfare state regimes

82. Stone, 461
83. Stone, 463
84. Stone, 452
85. Stone, 461
86. Prassl, *Humans as a Service,* 6
87. Walter Korpi and Joakim Palme, "New Politics and Class Politics in the Context of Austerity and Globalization: Welfare State Regress in 18 Countries, 1975–95," *American Political Science Review* 97, no. 03 (August 2003): 429, https://doi.org/10.1017/S0003055403000789.

are equal in the degree to which, "policies increasingly differentiate rights, entitlements, and services provided to different categories of recipients."[88] Emmenegger et al., assert that this process of "dualization" has lead to the creation of a dichotomy between insiders and outsiders, those with access to this regime of social benefits and those left beyond its reach.[89]

Moreover, this binary split of insiders and outsiders more or less overlaps with the conditions of dual labor market theory, which asserts that work in the economy is split between, "the primary labor market, characterized by good working conditions, high wages, secure jobs, and promotion prospects, while jobs in the secondary labor market are poorly paid, unstable and characterized by bad working conditions."[90] The origins of these insider-outsider and primary-secondary divides emanate from many forces of political economy. Similar to Stone, Emmenegger et al. argue that this "dualization" of access social rights can be traced to ongoing changes in employer-employee relationships in recent decades, particularly the, "deregulation and flexibilization [sic] of employment contracts."[91] They also propose that it could arise from the expansion of post secondary higher education, women entering the labor force en masse, or the post-industrial transition into the "tertiary" service based economy, where jobs further bifurcate between extraordinarily high and low skill requirements.[92] Emmenegger et al. note that the existence of primary and secondary labor markets alone is not enough to measure the true impacts of a dualist welfare state structure, the key is how the policies orient themselves toward these disparities within a state's labor market, indeed, "welfare states may compensate for labor

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88. Patrick Emmenegger et al., eds., *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), https://doi.org/10.1093/acprof:oso/9780199797899.001.0001., 11
89. Emmenegger et al., 12
90. Emmenegger et al., 12
91. Emmenegger et al., 6
92. Emmenegger et al., 29

market segmentation, but—conversely—they may also perpetuate inequalities or even reinforce occupational divides."[93]

Emmenegger et al. devise a method to measure the extent to which insider-outsider divides are perpetrated and exacerbated by dualist welfare state structures across countries. First, they attempt to identify precisely who in the labor market is considered an insider and who is an outsider. They articulate five distinct job classes; Capital Accumulators, who are, "consistently the most privileged members of the work force," and includes professionals such as lawyers, engineers, and financial executives.[94] "Sociocultural professionals [SCP] refer to high skilled professionals in interpersonal professions," such as teachers and health professionals most of them in the public and private sector.[95] The researchers then divide lower skill workers into three subsets. "Blue-collar [BC] workers are unskilled and skilled workers mostly in industry," such as factory laborers.[96] Low Service Functionaries [LSF] work in interpersonal service sectors such as waitresses and sales people, and finally Mixed Service Functionaries, [MSF] "denote a residual class of routine and skilled workers," like office secretaries.[97] While Capital Accumulators are always classified as being labor market insiders, the remaining four categories can be classified as either insiders or outsiders depending on a number of specific factors. Emmenegger et al, further break down these four categories based on two sub-classifications, workers younger than and older than 40, and male vs. female workers, creating 16 total subgroups, four per job class, excluding capital accumulators.[98]

93. Emmenegger et al., 28
94. Emmenegger et al., 32
95. Emmenegger et al., 32
96. Emmenegger et al., 32
97. Emmenegger et al., 32
98. Emmenegger et al., 33

Using survey response data, Emmenegger et al. then classify these sixteen subcategories across four different welfare state regimes; liberal regimes, (the United States and the United Kingdom), Nordic/social democratic regimes, (Finland, Denmark, and Sweden), Continental/corporatist regimes, (France, Netherlands, and Germany), and one Southern European regime, (Spain).[99] The results are shown in Figure 2-1 below.

Figure 2-1: Insiders and Outsiders in the Four Welfare Regimes

	Liberal regimes	Nordic regimes	Continental regimes	Southern regimes
Outsiders	Young female LSF	Young female LSF	Young female LSF	Young female LSF
Insiders	Young male LSF	Young male LSF	Young male LSF	Young male LSF
	Older female LSF	Older female LSF	Older female LSF	Older female LSF
	Older male LSF	Older male LSF	Older male LSF	Older male LSF
	Young female SCP	Young female SCP	Young female SCP	Young female SCP
	Young male SCP	Young male SCP	Young male SCP	Young male SCP
	Older female SCP	Older female SCP	Older female SCP	Older female SCP
	Older male SCP	Older male SCP	Older male SCP	Older male SCP
	Young female BC	Young female BC	Young female BC	Young female BC
	Young male BC	Young male BC	Young male BC	Young male BC
	Older female BC	Older female BC	Older female BC	Older female BC
	Older male BC	Older male BC	Older male BC	Older male BC
	Young female MSF	Young female MSF	Young female MSF	Young female MSF
	Young male MSF	Young male MSF	Young male MSF	Young male MSF
	Older female MSF	Older female MSF	Older female MSF	Older female MSF
	Older male MSF	Older male MSF	Older male MSF	Older male MSF
	CA	CA	CA	CA
% outsiders	52.7%	40.2%	43.0%	40.1%
% female outsiders	69.7%	96.2%	100%	77.2%
% young outsiders	31.0%	21.8%	33.8%	59.7%
% low-skilled outsiders	65.7%	47.5%	46.6%	45.0%
% immigrant outsiders (1st and 2nd gen.)	14.0%	9.7%	18.4%	11.2%
N	7334	4491	5319	3522

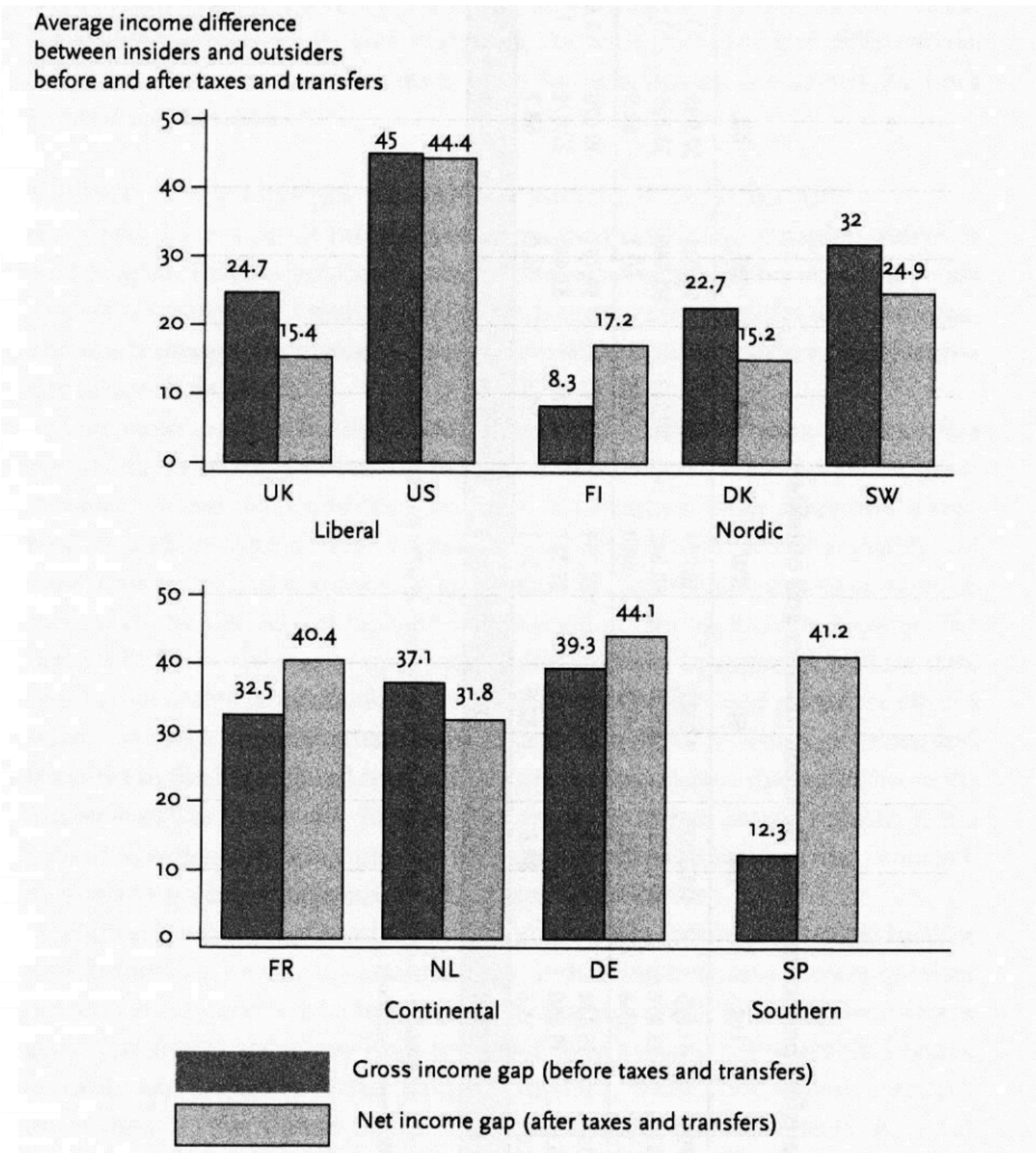
100. Table Created by Emmenegger et al., in *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), p. 35

With these groups of workers classified, the researchers were able to measure how different welfare state systems either ameliorate or entrench existing insider-outsider divides. The researchers analyzed labor market divides, "the distribution of economic advantages between insiders and outsiders," by measuring the percent difference in annual gross income pre-

99. Emmenegger et al., 36
100. Patrick Emmenegger et al., eds., *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), https://doi.org/10.1093/acprof:oso/9780199797899.001.0001., 35

taxes.[101] Next, they measured welfare state divides, "disparities in the distribution of social rights between insiders and outsiders," by measuring percent difference after taxes and transfers.[102]

Figure 2-2: Income Gaps Between Insiders and Outsiders Before and After Taxes and Transfers



103. Chart Created by Emmenegger et al., in *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), p.40

101. Emmenegger et al., 36
102. Emmenegger et al., 38

These results are not entirely surprising in so far as they largely mirror the characteristics articulated by Esping-Andersen's typology; liberal welfare states do very little to actually compress social stratification with minimal social benefits, continental states provide universal benefits but largely maintain or extend social stratification while Nordic states aggressively redress social inequities. However, Emmenegger et al. demonstrate quite clearly that while welfare state dualism can found in almost every developed country, these distinctions are drastically greater in the United States, even compared to other liberal welfare states. The meager and largely commoditized social rights of the liberal welfare state regime allow for only modest opportunities to condense these insider-outsider divides, yet even within liberal regimes, other countries far surpass the United States in their ability to mend these divides.[104]

In Britain, social transfers reduced income disparity between insiders and outsiders by nearly 40%, in the United States, they reduced disparity by a mere 1.3%. Moreover, the American plan has perpetuated the commoditization of certain social benefits that have been almost fully de-commoditized and universally administered even in other liberal welfare states. The United Kingdom, Canada, and Australia, all provide a variant of a publically provisioned health care service as a universal basic social right to their citizens, whereas in the United States, a full two-thirds of workers get health care through an employee-sponsored insurance plan, further extending the costs of being an outsider.[105]

While the researchers offer a variety of explanations, the inability of the American Plan to keep pace with, "the deregulation and flexibilization [sic] of employment," strikes me as the

103. Patrick Emmenegger et al., eds., *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), https://doi.org/10.1093/acprof:oso/9780199797899.001.0001., 40
104. Emmenegger et al., 40
105. William Carroll and G. Edward Miller, "STATISTICAL BRIEF #511: Differences in Health Insurance Coverage between Part-Time and Full-Time Private-Sector Workers, 2005 and 2015," Medical Expenditure Panel Survey, Agency for Healthcare Research and Quality, accessed March 29, 2019, https://meps.ahrq.gov/data_files/publications/st511/stat511.shtml.

most compelling explanation for this exacerbated dualization in the United States, particularly given that under Emmenegger et al.'s classification, outsiders are largely made up of low skilled service workers, including part time labor, independently contracted labor, and other atypical arrangements without the employment stability of insiders.[106] As mentioned previously, atypical work exists outside of the context of the gig economy, at around 15% of the total labor force.[107] That being said, this broader economic trend of a move away from industrial era employment norms is not entirely disconnected from the gig economy either. The costs of formalized employment, coupled with the advent of digital platforms to facilitate networked labor, has fostered the growth of an entire industry that blurs the lines of employment and casual labor to circumvent these costs, including the provision of employer-centric benefits.[108]

Furthermore, as Prassl elaborated, the frame of control that gig platforms are able to exercise over their contractors through algorithms and quality assessments often mirrors that of full time employees.[109] These controls mean that many gig laborers, particularly those working in what I designated in in Chapter One as Employee-Substitute Labor Platforms, find themselves even further disenfranchised from the social citizenship Esping-Andersen described, as they are being asked to uphold their end of the "crucial tradeoff" of employment for almost nothing in return, further pushed to the margins of society as outsiders despite their contributions as pseudo-employees.

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106. Patrick Emmenegger et al., eds., *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), https://doi.org/10.1093/acprof:oso/9780199797899.001.0001., 32
107. Katz and Krueger, "The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015." 2
108. Sundararajan, *The Sharing Economy,* 28
109. Prassl, *Humans as a Service,* 14

Profiling laborers in the Gig Economy

With an understanding of the contours and specificities of various welfare state regimes in mind, we can now more fully examinee the context of what labor in the gig economy actually looks like in practice, including answering relevant questions for policymakers such as, who it is that participates in gig labor and what is the typical scope of their labor in terms of hours and earnings relative to non-gig workers? Unfortunately, for as important as these questions are, the general haziness of employment data on the gig economy has made obtaining accurate and exhaustive data on gig laborers quite difficult. Nonetheless, a few keen studies on ridesharing specifically have been able to highlight details of specific gig industries can be used as a general heuristic for gig labor. One comes from James Parrot of The New School's Center for New York City Affairs and Michael Reich of the Center on Wage and Employment Dynamics at the University of California, Berkeley, who jointly conducted a comprehensive and ambitious profile of rideshare drivers in New York City.[110] An additional insightful study comes Alan Krueger, who was commissioned by Uber to conduct an analysis of the labor dynamics of their platform's drivers in several major American cities with the firm's own chief economist, Jonathan Hall.[111]

It is important to note that while both these studies are not necessarily representative of the entirety of the gig economy, their extensive profiles of gig laborers are of great utility in demonstrating what the reality of gig work looks like, particularly in Employee-Substitute Labor Platforms and in saturated gig markets like New York City and other major cities where the

110. James Parrott and Michael Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment," Report for the New York City Taxi and Limousine Commission (The New School Center For New York City Affairs and the Center on Wage and Employment Dynamics at the University of California, Berkley, July 2018), http://irle.berkeley.edu/files/2018/06/An-Earnings-Standard-for-New-York-Citys-App-based-Drivers.pdf.
111. Jonathan V. Hall and Alan B. Krueger, "An Analysis of the Labor Market for Uber's Driver-Partners in the United States," *ILR Review* 71, no. 3 (May 2018): 705–32, https://doi.org/10.1177/0019793917717222.

demand for gig labor is quite mature and has been developed over several years. Nonetheless, the data these two studies uncover are damning.

The rideshare industry in New York City has grown to titanic prominence in matter of just a few years. Parrot and Reich found that there are over 80,000 rideshare drivers in New York, nearly six times larger than the number of taxis in the city.[112] App based drivers complete over 600,000 rides daily using the four largest ridesharing platforms, Uber, Lyft, Via, and Juno, though most are concentrated on just one platform, Uber, which would be the single largest private employer in New York if all their drivers were designated as fulltime employees.[113] The researchers also discovered that almost 97% of rideshare drivers were male, overwhelmingly of immigrant background and half were younger than 44.[114] 56% had a high school degree or less of formal education, and only 17% had a bachelor's degree compared to 50% of the New York labor force as a whole.[115] These findings largely corroborate those of Hall and Krueger, who similarly found Uber drivers nationwide to be predominantly younger, less educated males, often of minority or immigrant backgrounds.[116] All of these traits are indicative of outsider status in the classifications Emmenegger et al. established.[117] They also stand in stark contrast to the socioeconomic standing of typical rideshare customers, who overwhelmingly tend to be young professionals, college graduates and high earners.[118]

112. Parrott and Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment." 6
113. Parrott and Reich, 4
114. Parrott and Reich, 15
115. Parrott and Reich, 16
116. Hall and Krueger, "An Analysis of the Labor Market for Uber's Driver-Partners in the United States." 710
117. See Table 2-1, Patrick Emmenegger et al., eds., *The Age of Dualization: The Changing Face of Inequality in Deindustrializing Societies* (Oxford University Press, 2012), https://doi.org/10.1093/acprof:oso/9780199797899.001.0001., 35
118. Aaron Smith, "The New Digital Economy: Shared, Collaborative and On Demand" (Pew Research Center, May 19, 2016), https://www.pewinternet.org/2016/05/19/the-new-digital-economy/. 19

Along with demographic characteristics, the researchers also were able to categorize drivers based on economic traits of their work. Parrott and Reich found that 60% of drivers worked more than 30 hours a week, which the researchers deemed to be full time labor, 25% were considered to be part time workers who worked less than 20 hours a week, and another 25% were intermediate workers who logged between 20-30 hours weekly.[119] They also found that very few drivers were treating ridesharing as a side gig and were far more likely to treat it as full time labor; 67% of drivers listed ridesharing as their only means of income, 54% were the primary earner for their families, and 26% were the sole income earners for their families, 50% of which had at least one child.[120] Despite of this full time work, 40% qualified for Medicaid and 18% qualified for Supplemental Nutrition Assistance Programs, compared to 10% of New Yorkers as a whole.[121]

Further, these studies demonstrate that as the rideshare market has expanded, being able to make a stable living off ridesharing has also become increasingly difficult. The number of rideshare drivers in New York has expanded rapidly in recent years, growing by an average of 13,000 drivers per year from 2012-2017.[122] The study attributes much of this growth in ridesharing to a relative lack of job opportunities other sectors in the city catering to working class, low skilled, or immigrant workers.[123] But the promise of ridesharing as a means of opportunity for these workers has begun to diminish considerably. As the supply of rideshare drivers increased to meet rising demand and the number of hours that drivers reported working increased, while their hourly wages have begun to decrease.[124]

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119. Parrott and Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment." 21
120. Parrott and Reich, 17
121. Parrott and Reich, 17
122. Parrott and Reich, 18
123. Parrott and Reich, 18
124. Parrott and Reich, 19

An October 2014 survey, only 16% of drivers reported working between 35-49 hours a week, a year later, that figure had nearly doubled to 27%. Yet median hourly earnings among this same group had fallen from $30.64 in 2014 to just $25.31 in 2015.[125] In fact, this trend held across all segments of drivers regardless of the number of hours worked. In 2014, 42% of drivers drove only a supplemental amount of hours, 1-15 per week, but this percentage dropped to 24% a year later, and was accompanied by a wage decline of hourly wage from $26.90 to $23.90. The share of drivers working over 50 hours a week more than doubled from 7% to 17% yet their hourly wages still saw a 20% decline from $30.60 an hour to $24.55.[126] Parrott and Reich's driver survey from 2017 continued to show the same trend, drivers working over 50 hours a week saw their wages continue to fall, this time down to $21.30, a loss of nearly 30% in just three years.[127]

Additionally, these hourly wage figures only represent gross earnings before expenses, not accounting for the extensive costs of owning or leasing a car, paying for gas, auto insurance, and other operating costs that get pushed on to the service provider in the gig model. The classical model of the gig economy postulates that providers will be able to earn additional income by leveraging assets they already own, increasing their utility beyond something they were already paying to utilize. But especially in a city with ample public transportation such as New York, owning a personal car is not a necessity nor as commonplace as it is in other localities. Yet the allure of ridesharing as a means of stable income for workers has pushed many to purchase a personal vehicle anyways, in fact, Parrott and Reich find that 80% of drivers

125. Parrott and Reich, 20. Citing data of just Uber drivers in New York City from an earlier, working paper version of the Hall and Krueger study with 2014 data and 2015 data from its final copy, which is cited in note 32.
126. Parrott and Reich, 20
127. Parrott and Reich, 20

surveyed stated that they purchased or lease a vehicle specifically for the purposes of utilizing it for ridesharing.[128]

Many rideshare companies now even offer their own car leasing services to drivers, offering weekly and monthly payment options and more flexibility regarding applicant's credit scores, though often at higher prices than dealership leases.[129] Using median costs estimates for monthly vehicle leasing of a Toyota Camry, the most common car model used for ride sharing in the city, median auto insurance payments, and the cost of gas, the researchers calculated that operating expenses for rideshare drivers average out to be $20,294 a year.[130] When accounting for these expenses across drive time and wages, the real median hourly wages of drivers fell even further to $14.25, below New York City's statutory minimum wage for employed workers of $15.00.[131]

These findings are obviously concerning for the financial stability of gig workers. While it is true that these figures represent a decline in median hourly wage and not their aggregate wages, which would vary from driver to driver based on hours logged, these figures suggest that even part-time rideshare drivers are now forced to work longer hours than previously necessary to accrue the same earnings. Crucially, it shows a definitive trend that as the number of rideshare drivers continues to grow and as drivers on aggregate increase the number of hours they drive, their median hourly earnings decline. Many drivers are now trapped in an endless cycle of having to work at or beyond full time hours while fronting their own operating expenses and still

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128. Parrott and Reich, 25
129. Nicole Arata, "5 Ways to Get a Car You Need to Drive for Uber or Lyft," News, USA TODAY, January 8, 2017, https://www.usatoday.com/story/money/personalfinance/2017/01/08/5-ways-get-car-you-need-drive-uber-lyft/96214312/
130. Parrott and Reich, "An Analysis of the Labor Market for Uber's Driver-Partners in the United States." 28
131. Parrott and Reich, 29

seeing their real wages decline, and of course, doing so without access to the social benefits and rights vested in formalized employment.

Perhaps most concerning of all is that these researcher's findings are strikingly counterintuitive to what is to be expected by the logic of gig economics and what is often presented by these platforms themselves. One would think that as the networking effects of the platform mature and more users are available, the ability for drivers to maximize their earnings in a set period would increase. Sundararajan takes this line of thinking one step further, expressing confidence that the growth of users and providers in the platform structure ought to help eliminate any wasteful lag times that existed from the time when passengers order and to when they start their ride, increasing the number of rides a driver could accomplish in an hour and thereby increasing their earning potential.[132]

But the data borne out in these studies shows that precisely the opposite is occurring, and none of the researchers are able to provide a firm explanation for why wages are declining. Hall and Krueger suggested that perhaps this discrepancy was merely statistical noise, citing that drivers often will accumulate their hours through many short periods of activity and inactivity rather than finite and contiguous segments of hours long driving.[133] Perhaps this on-again-off-again work style interrupted clear data. Or perhaps drivers were transitioning to using other rideshare platforms such as Lyft as well as Uber, but since their study was specifically accounting for data from Uber drivers, it outside the scope of Hall and Krueger's research.[134] Parrott and Reich propose that perhaps the wage decreases could be related incremental adjustments made to Uber's fare pricing, particularly price changes made in 2014, yet this would

132. Sundararajan, *The Sharing Economy,* 120
133. Hall and Krueger, "An Analysis of the Labor Market for Uber's Driver-Partners in the United States." 721
134. Hall and Krueger, 722

not explain the subsequent continuation of the downward trend they identified from 2015 through 2017.[135]

In 2014, then-CEO Travis Kalanick told the New York Times that fare reductions were only a temporary measure,

> The reason is because we want to be sure the drivers are still able to get the kind of income that they can get — the same or better income. So when the price cut happens we're basically making a bet that the number of trips per hour will increase enough that the drivers make the same amount per hundred hours they're on the road. So the price cut is temporary until we see the kind of elasticity, the demand elasticity and overall liquidity that will push trips per hour up. When the trips per hour number goes above what the price cut was, then the drivers are making more income, and the price cut can then become permanent.[136]

These comments suggest that, at least publically, even Uber's leadership believed in the theory espoused by Sundararajan and others regarding demand side economies of scale in the gig economy, and the potential for workers to benefit from the network effects of the platform's growth. Relevant research has now largely disproven this assumption, as well as completely falsifying Uber's enticing recruiting pitch to drivers that, "the more you drive, the more you'll make."[137]

The Future of the Gig Economy

The contributions of Parrott and Reich and of Krueger and Hall all help to fully elucidate the precarious nature of labor in the gig economy. In platforms where the scope of work is largely congruent to that of standardized employees, service providers are resigned to committing fulltime working hours while simultaneously being ostracized from accessing the employee-centric benefit structure of the American welfare state, further entrenching their

135. Parrott and Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment."19
136. Neil Irwin, "Uber's Travis Kalanick Explains His Pricing Experiment," *The New York Times*, December 20, 2017, sec. The Upshot, https://www.nytimes.com/2014/07/12/upshot/ubers-travis-kalanick-explains-his-pricing-experiment.html.
137. "Driver Sign Up Form - Sign Up to Drive with Uber Here," Uber, 2018, https://www.uber.com/a/us/?var=org2&exp=70622_t2.

outsider status in a dualist system. Their research also exposes a great fallacy in the logic of gig economics that has permeated throughout the industry: that the expansion of platforms serves to the benefit of workers and their earning potentials. Contrary to this, the researchers have demonstrated that the monetary conditions for gig laborers are actually worsening as these platforms grow.

Nonetheless, the lucrative financial prospects of the gig labor model for businesses have enabled it to expand precipitously in spite of the hardship it imposes on workers, including into being adopted by major corporations with vast numbers of traditional employees such as Amazon.[138] What is to prevent the inertia of the gig revolution from continuing to expand into other sectors of the low skill service economy? If Amazon's Flex platform proves to be an operationally and financially viable delivery system for the firm, what's to prevent other logistics firms like UPS from transitioning their currently employed drivers to a gig based model?

Food delivery platforms like Grubhub have landed extensive corporate partnerships with large restaurant chains. KFC and Taco Bell now offer delivery nationwide thanks to a partnership between the platform and the restaurants' parent company, Yum! Brands, the world's largest fast food conglomerate with over 45,000 locations globally.[139] Yum! Brands is also the parent company of Pizza Hut, whose business model is largely dependent on food delivery. With this partnership already in place, is it really all that difficult to imagine Pizza Hut and its rival pizza firms like Dominos or Papa John's outsourcing their deliveries to a platform like Grubhub, or even developing an in house gig platform of their own as Amazon did? The possibilities for gig labor potentially replacing employed staff are not limited to transportation-based services

138. Del Valle, "Amazon Is Cutting Costs with Its Own Delivery Service — but Its Drivers Don't Receive Benefits."
139. Nathan Bromey, "KFC, Taco Bell to Expand Delivery, Online Ordering with Grubhub," News, USAToday.com, February 8, 2018, https://www.usatoday.com/story/money/2018/02/08/kfc-taco-bell-delivery-online-ordering-grubhub/318689002/.

either. Even Mixed Service Functionaries in Emmenegger et al.'s labor classification could potentially be at risk. Currently employed home service technicians such as installation and maintenance workers at major retailers such as Best Buy or Lowe's could be replaced using contractors from TaskRabbit.

This sort of hypothesizing of a full transition away from standardized employment toward gig ventures may sound both far-fetched and dystopian but it is a concern that occupies much of the discourse on the gig economy today. Prassl argues that the gig economy is utilizing a language laden with "doublespeak," emphasizing a purportedly emancipatory and liberating work environment to help shape the public narrative and ward off accountability or oversight, when in reality these platforms are often constraining workers' choices and livelihoods.[140] Others have offered similar dual-pronged assessments of the gig economy's future. The title of Sundararajan's book is, "*The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism.*" Chris Martin ponders if the gig economy represents, "A Pathway to Sustainability or a Nightmarish Form of Neoliberal Capitalism?"[141]

As with many such proclamations, these may be hyperbolic, yet they still reflect a shred of truth; for all the promise and opportunity of the gig economy as proclaimed by platforms themselves, situating the present state of the gig labor in welfare state literature only further illuminates the depth of the problems facing gig workers. While the gig economy currently occupies a relatively small share of the broader labor force, its rapid growth and sizeable financial backing in spite of these hardships show that the gig economy is not merely a short-term phenomenon. Indeed, the future reality of the gig economy might be far closer to Sundararajan's proclamation of "the end of employment" than dissolving into insignificance.

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140. Prassl, *Humans as a Service,* 32-34
141. Chris J. Martin, "The Sharing Economy: A Pathway to Sustainability or a Nightmarish Form of Neoliberal Capitalism?," *Ecological Economics* 121 (January 2016): 149–59, https://doi.org/10.1016/j.ecolecon.2015.11.027.

In many respects, the precarious and financially instable state of labor in the gig economy is a uniquely American problem. The adverse consequences of a transition away from employment toward gig-based labor could be greatly reduced if not outright eliminated in a country with a welfare state regime where social rights were fully universalized based on citizenship and not vested in the status of full time traditional employment. Yet as Stone and Emmenegger articulated, the dualist structure of the American plan helps perpetuate these insider-outsider divides, and the ostracized exclusion of laborers will only worsen as a larger share of the labor forces works outside of the antiquated restraints of formalized employment. This is a fundamentally political problem. The policies and institutions that the United States built in order to alleviate the hardships faced by workers in a previous era have not been able to adequately keep pace with the changing nature of work in the 21st century. Nonetheless, I argue this reality is not yet cause for abject pessimism or fatalism over the future of work. Just as welfare state scholarship is instrumental in framing the challenges facing contracted laborers in the gig economy, it may provide an avenue of recourse for their plight as well.

CHAPTER THREE

BUILDING CROSS-CLASS ALLIANCES

This chapter highlights an additional section of welfare state literature to demonstrate a model by which meaningful welfare state policy reform can arise by leveraging overlaps between the interests of laborers and those of firms themselves. I open with a detailed summary of the discourse between two scholars, Walter Korpi and Peter Swenson, and their contesting explanations for the origins of the welfare state. Different than the welfare state scholarship highlighted in the previous chapter, the connections of this literature back to the gig economy may not seem as immediately apparent as discussions regarding benefits vested to employees and non-employees in various welfare state regimes. However, I believe this dialogue establishes critical faculties that are necessary for fully situating the gig economy in the context of welfare state literature. First, it highlights the possibility for compromise between competing class actors when welfare state policy serves to both parties' interests. Secondly, it demonstrates the pivotal role of labor relations between workers and the managerial class have had in shaping the creation of comprehensive welfare state policies. I argue that through an analysis of this literature, we can find a meaningful paradigm of how cross-class alliances in the gig economy can be formed and facilitate the creation of policies that can be mutually beneficial to gig laborers and gig platforms.

The Power Resources Approach and Swenson's Contingency Premise

Within welfare state scholarship, several different theories and frameworks have been proposed to help explain how welfare state structures come into existence. Throughout much of the discipline's history, the focus of scholars has been centered on the antagonisms of social classes and partisan interests.[142] But in the industrial era, the salience of class-based politics had in some ways been diminished and evolved as scholars came to view the welfare state not as a response to the struggles of classes, but as part of, "the 'embourgeoisement' of the working class, and the logic of industrialism saw welfare states as functional necessities of industrial societies."[143] In light of this, Korpi articulates a more nuanced clarification of the previous class centric position called the Power Resources Approach (PRA), which argues that the catalyst of welfare state development is not class based or partisan fights alone, but the distributive impacts class has over the, "types of power resources controlled by citizens as well as to patterns of life-course risks among individuals differently positioned within socioeconomic structures," and how parties and class groups organize around these groups on their behalf.[144]

Researchers do not ubiquitously hold this view however. Swenson argues that the PRA framework overlooks the role that employers play in facilitating the growth of the welfare state through the development of cross-class alliances of the capitalists and laborers.[145] Through an analysis of the origins American and Swedish welfare regimes, Swenson isolates what he believes to be a critical gap in PRA theory, embodied with in what he calls the "equivalency premise."[146] Swenson asserts that on two crucial axioms of the PRA theory of welfare state development, America and Sweden can be deemed to be relatively equivalent. The first is the consistency of relevant political institutions; over the period of their welfare state development, neither state experienced a dramatic upheaval in their political institutions or system of

142. Walter Korpi, "Power Resources and Employer-Centered Approaches in Explanations of Welfare States and Varieties of Capitalism: Protagonists, Consenters, and Antagonists," *World Politics* 58, no. 02 (January 2006): 167, https://doi.org/10.1353/wp.2006.0026.
143. Korpi and Palme, "New Politics and Class Politics in the Context of Austerity and Globalization." 425
144. Korpi, "Power Resources and Employer-Centered Approaches in Explanations of Welfare States and Varieties of Capitalism." 168
145. Peter Swenson, *Capitalists against Markets: The Making of Labor Markets and Welfare States in the United States and Sweden* (Oxford ; New York: Oxford University Press, 2002).
146. Swenson, 7

government. The second axiom holds that the general interests of labor and capital relative to welfare policies and de-commodification remained constant and oppositional in both countries.[147]

In spite of these relative equivalences, the American New Deal style welfare state was developed decades before the Swedish welfare state and outperformed it in its de-commodification of social necessitates until at least the mid 1980's.[148] But as Emmenegger et al. showed, today Sweden is the paradigm of Nordic social democratic regime while the United States is conservative in the scope of its de-commoditizing of social rights even for other liberal welfare states.[149] This is a phenomenon that Swenson says the PRA fails to adequately explain. If both states remained relatively similar on dimensions of class interests and political structure, how does a framework centered on the interests of class and politics explain how the two countries constructed social welfare states decades apart, and why Sweden, today the hallmark example of a universalist social welfare state, initially lag behind the American one? [150]

To fill in the gaps of the equivalency premise, Swenson develops what he deems the "contingency premise," asserting that the historical discrepancy can be explained by variations in each state's collective bargaining structure. He asserts that unique collective bargaining incentives created instances where social welfare programs would stabilize labor markets, facilitating opportunities for cross-class alliances where the interests of capitalists in maintaining their enterprises and consistent employment overlapped with the benefits labor movements sought to implement.[151] Within this contingency framework, Swenson explains that specific differences in the existing labor-capital dynamics of each state faced exogenous pressures from

147. Swenson, 8
148. Swenson, 8
149. Emmenegger et al., *The Age of Dualization*, 40
150. Swenson, *Capitalists Against Markets*, 8
151. Swenson, 12

opposite macroeconomic phenomena, and did so at different historical times. The policy remedies for these economic pressures sought by a cross-class alliances facilitated the development of distinct welfare state models in each country, thus explaining both how America and Sweden ended up with liberal and socially democratic welfare structures respectively, and why Sweden's welfare state developed long after the implementation of the New Deal.[152]

The underlying tenet of this contingency premise from the point of view of capitalists is quite clear, all businesses simultaneously compete in two separate markets, the product market of whatever good or service they are producing, but most importantly, the labor market. Swenson asserts that while the desires of laborers and capitalists often rest in opposition in regards to how they view the role of government, "capitalists often like government regulation when they see a net benefit and little risk."[153] While businesses may be naturally averse to intervention in the product market, there are instances where employers can be predisposed to favor government intervention in the labor market, so long as it provides stability that enables them to continue their product market pursuits, creating a potential for cross-class alliances to form.[154]

What these alliances like in practice, and the subsequent welfare state policies they create depend in large part on the form of collective bargaining in place in each country. Swenson outlines three distinct labor bargaining systems. The first, cartelism, is common in perfectly competitive and rivalry intensive commodity based industries. In order to avoid ruinous price wars and prevent from the high threat of new entrants, unions and capital across firms agree to impose mandatory minimums on wages and benefits. Establishing minimum standards deters any

152. Swenson, 14
153. Swenson, 12
154. Swenson, 21

one firm in the industry from cheating and provides labor stability for all the other firms in that space.[155]

The second bargaining structure, segmentalism occurs in less rivalry intensive and more specialized industries, where unions and capital leaders were able to agree to set benefits within each firm rather than across firms. The American Plan of employer-centric benefits that took shape in the early industrial era as outlined by Katherine Stone is an example of this segmentalist bargaining structure.[156] Just as Stone illustrates, Swenson argues that the "welfare capitalism" of segmentalist bargaining helped develop "dual and internal" labor markets within sectors and firms.[157] In order to retain employees, firms embody the welfare capitalist model with benefits tied to tenure in order to retain workers over time even when other firms may offer higher benefits. Because of firms' willingness to offer above market benefits, voluntary unemployment remains at equilibrium and labor surplus is possible in segmentalism. Both cartelism and segmentalism have served as traditional bargaining frameworks in the United States.[158]

Conversely, solidarism was the primary bargaining framework in Sweden. Solidarism is a collectivist strategy that imposed ceilings on wages and benefits within and across firms rather than minimums as cartelism and segmentalism do. In doing so, solidarism reduces the highest wage rates from their natural marketplace levels, but provided greater wage equity and substantially higher employment rate, creating a scarcity of labor.[159] This bargaining structure largely served the needs of both labor and capital; unions were satisfied with higher levels of

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155. Swenson, 24
156. Stone, "A Fatal Mismatch: Employer-Centric Benefits In A Boundary-less World."
157. Swenson, *Capitalists Against Markets,* 27
158. Swenson, *28*
159. Swenson, 29

total employment while businesses where happy to pay lower total wages, even if it meant that some of the benefits of productivity from job competition would be lost.[160]

The Contingency Premise Applied to America and Sweden

After outlining the nuances of these three bargaining frameworks, Swenson next analyzes how the structuring of each framework exacerbated problems for firms in their labor markets as economic conditions changed, and helped provide opportunities for building cross-class alliances in support of changes in welfare state policy to remedy these labor shocks. During sound economic times, segmentalists in the United States were able to reap the benefits of productivity from their workers who they enticed to stay within the firm with generous benefit programs. As the Great Depression worsened however, segmentalist firms faced immense cost pressures, "their competitors could hire and fire workers and raise and lower wages more freely, but the segmentalists were tied up in more long-term trust transactions with their workers."[161] Cartelist employers were also especially impacted by price deflation in Great Depression, as, "like segmentalists, they too had set wages above market clearing levels, leaving their businesses vulnerable to low wage, low price completion."[162]

Labor market shocks, exacerbated by the collective bargaining framework in place, provided a unique opportunity for President Roosevelt and New Deal Democrats to consolidate support for welfare state programs from both business interests and labor. Social security insurance would provide a means of de-commodification of benefits from market forces alone, and would universalize their provision rather than relegating employee pensions to being offered by firms as a means of retaining employees, reducing strain on employers and providing tangible

160. Swenson, 29
161. Swenson, 195
162. Swenson, 196

benefit for workers.[163] Other New Deal polices such as minimum wage legislation were met with a similar support that transcended class, as they alleviated pressures on businesses from firms undercutting them on wages while meeting an objective of labor interests. Through the implementations of these minimum standards and de-coupling of benefits from employer-centric provision, the New Dealers sowed the seeds of a cross-class alliance of support including from key companies and industries, and many of the firms who were eager to work with and support the Roosevelt Administration on policy were also early adopters of the American Plan model highlighted by Stone. The heads of Chrysler Motors, US Steel, and Sears all supported the National Recovery Administration's minimum wage codes.[164] Top executives of Goodyear Tires, General Electric, and International Harvester all came to support the provision of unemployment insurance, as these firm's respective industries were all highly tied to commodity prices and thus greatly exposed to price rivalry and sensitive to competitors' price cuts.[165]

These cross-class alliances were slow forming and often required the outspoken voices progressive business leaders to rally additional capitalist support.[166] Furthermore, not all policies were met with such favor; there was staunch business opposition to the National Labor Relations Act from segmentalists fearing union interference with management decisions.[167] Nonetheless, their strategy of building a cross-class alliance was largely successful. As Swenson says, "the New Dealers in this regard were neither revolutionary nor delusionary. They were simply pragmatic reformers solicitous of employer interests and intelligently optimistic in anticipating their support."[168] The success of several New Deal policies proved a path existed for

163. Swenson, 196
164. Swenson, 200
165. Swenson, 205
166. Swenson, 210
167. Swenson, 196
168. Swenson, 197

simultaneously satisficing the competing business and labor interests and forming a liberal welfare state infrastructure in the US that had political longevity, an outcome born of cross-class alliances forged by a common interest in resolving the economic faults of their bargaining framework.

In Sweden, a similar phenomenon occurred just shortly the adoption of the New Deal. In the midst of Europe's recovery after World War II, Sweden faced an incredible economic rebound and saw a demand boom that strained the solidaristic bargaining system in an opposite manner to the stresses segmentalists and cartelists faced in America during the Depression. Solidarism's practice of capping wages below market clearing levels, "created strong incentives to economize on the currently employed labor when demand picked up."[169] Embedded solidaristic labor scarcity combined with Sweden's irregularly low birthrate and high emigration to the US created an especially tight labor marker, Sweden reported a unemployment rate among union members of just 2% in 1946 and nearly 5% of workers changed jobs monthly.[170] Faced with nearly insatiable demand, unreliable labor markets, and elevating labor costs, Social Democrats in Sweden realized the state needed to implement a universalist welfare policy that divorced social benefits from employment to curtail immense competition in the labor market among firms.

Just as with the New Deal, such a system was not immediately met with approval across class lines. Particularly, rural industries such as lumber and mining were fearful that government insurance would mitigate the welfare capitalism model they devised to incentivize employment in less desirable industries.[171] The Social Democrat's adoption of a subsidized private union insurance program, the Ghent System, allowed for the cross-class acceptance of a broader

169. Swenson, 249
170. Swenson, 251
171. Swenson, 252

welfare infrastructure, setting the stage for the most ambitious effort, The People's Pension Reform. After initial implementation of modest means based graduated reforms, the capitalists in Sweden ultimately came to embrace universalist reforms, which retained incentives for older citizenry to remain in the labor force that means-tested reforms that might have mitigated.[172] Ultimately the adoption of these universal reforms thanks to the formation of cross-class alliances allowed Social Democrats in Sweden to develop the country's comprehensive and almost fully de-commoditizing social welfare state regime it still has today.

From his case study of welfare state development in both America and Sweden, Swenson argues that while the PRA model adopted by many scholars builds on traditional Marxist class struggle narratives, it fails to account for the critical role that employers play in facilitating the welfare state through cross-class alliances with labor where their interests overlap, particularly in response to exogenous problems impacting the stability of the labor market. Swenson offers a compelling theory of how these cross-class coalitional politics come into existence. Interestingly enough, the firms most willing to support New Deal policies were largely doing so as a result of the economic limits of policies they implemented under the American Plan highlighted as by Katherine Stone, yet the motivations for firms to eventually support New Deal policies as replacements for their own employer centric model remained constant throughout, they were doing so out of an enlightened self interest that served the needs of these firm's labor market interests at the time, while still providing benefits to workers all the same.

172. Swenson, 264

Employer-Centric Approach in the Gig Economy

The argument Swenson presents is not without merit; Korpi acknowledges that, "the employer-centered critique is correct that the PRA approach has paid little attention to factors accounting for variation among employers in their responses to social policies." [173] However, in his response to Swenson, Korpi correctly identifies several flaws in his argument's reasoning, namely that Swenson critically misinterprets the role of class conflict in the PRA framework, and thus conflates business leaders concession for welfare policies for outright support.[174]

Swenson interprets conflict in the PRA as being inherently zero-sum propositions between employers and employees in spite of the fact that, as Korpi points out, many of the compromises businesses make within the power resources framework have explicit mutual benefit. Further, Swenson is wrong to assume that the interests of classes as a whole across industries are subordinate to the interests of labor and capital within an industry.[175] Korpi states that, "both employers and employees are internally heterogeneous categories. The question here is therefore not whether they are monolithic actors; clearly organizations of employees as well as of employers must be seen as coalitions including partly differing interests."[176] The fact that specific alliances in the US or Sweden were able to cater to manufacturer and worker interests in narrow historical instances for the stabilization of labor markets does not mitigate the broader dynamic of labor and capital interests often being at odds with one another, and overvalues "the importance of intersectional conflicts," within industries, "relative to the class-related," conflicts that exist across industries.[177]

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173. Korpi, "Power Resources and Employer-Centered Approaches in Explanations of Welfare States and Varieties of Capitalism." 177
174. Korpi, 177
175. Korpi, 177
176. Korpi, 178
177. Korpi, 178

Secondly, by conflating these two distinct conflicts, Swenson portrays the capitalists' support for certain welfare state polices as first-order preference for the infrastructure of the welfare state as a whole.[178] This is not merely a pedantic critique from Korpi, conflating the two could be potentially misleading as to what forces help to bring about these alliances in the first place. Instead, Korpi asserts that there are three separate categories of actors relative to welfare state development, protagonists, who are those, "initiating policies extending social citizenship rights and becoming agenda setters in welfare state expansion," consenters, who are "involved in the subsequent stages of policy making", and antagonists, who "persist in opposition to expansion" of the welfare state.[179] As Swenson's case study demonstrates, many capitalists did not seek to expand the welfare state out of a desire for the further extension of social citizenship, but out of an enlightened self-interest in the hopes of stabilizing labor markets to perpetuate their business enterprises. Thus, these businesses can more appropriately be deemed as consenters rather than outright protagonists.

I agree with Korpi's assessment on both fronts, his concession that Swenson highlights meaningful opportunities for employers to facilitate the formation of cross-class alliances that are not addressed by the traditional Power Resources Approach, and that these alliances are not emanating from a first-order desire of businesses for the expansion of social citizenship but for the stabilization of labor markets in support of their own business pursuits. Although Swenson centers much of his historical analysis on the development of cross-class alliances around particular organizations of collective bargaining structures, the implications of his assessment extend far beyond the scope labor union politics alone.

178. Korpi, 181
179. Korpi, 182

As illustrated by the title of his book, Swenson's argument demonstrates that businesses' concern for maintaining stability in their labor supply was so paramount that it created situations that pitted *Capitalists Against Markets,* and was enough to invite government policy and regulation to curb labor market volatility, particularly in avoiding exogenous stresses on labor supply.[180] This theme is highlighted not just by Swenson's case study of welfare state development in America and Sweden, but also is evident in Katherine Stone's articulation of the motivation's businesses had for establishing employer-centric benefits under the American Plan, seeking to retain steady control over their labor supply by offering generous benefits packages.[181]

This is a keen observation for analyzing labor dynamics in any industry, but in the context of the gig economy, it is an invaluable framework for creating policy. As outlined by Sundararajan, gig platforms exist as marketplaces, and from the perspective of both service providers as well as the gig platforms themselves, they exist as expansive and semi-porous labor markets.[182] Gig platforms grow as a consequence of networking effects, to achieve success and continued growth, they needs to have a sufficient number of service providers using the platform to meet the demand of the platform's customers.

The previous chapter demonstrated that labor in the gig economy, particularly in Employee-Substitute Labor Platforms, is often marred by hardship and financial insecurity. As independent contractors in a welfare regime conspicuously designed to provide benefits to full employees, gig laborers are trapped as perpetual outsiders, the victims of immense dualization, far greater than that witnessed in other welfare states. In spite of these immense challenges facing gig laborers, the financial incentives of the gig business model have allowed it to experience a meteoric rise throughout the broader economy in the past decade, strengthening and

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180. Swenson, *Capitalists Against Markets,* 21
181. Stone, "A Fatal Mismatch: Employer-Centric Benefits In A Boundary-less World.", 460
182. Sundararajan, *The Sharing Economy*, 27

consolidating the power of several of these gig startups, and even being utilized by firms with traditionally employed labor forces.

But a rising social consciousness of financial hardship within the gig economy presents a serious threat to the continuation of the gig business model. As awareness of the intense financial costs and difficulties of labor in the gig economy have permeated throughout broader society, the allure of gig platforms from the perspective of laborers has been greatly diminished. On March 25th, 2019, rideshare drivers in Los Angeles organized a daylong strike across the city protesting adverse working conditions and a targeted fare adjustment in the city from Uber. Echoing Travis Kalanick's previous statement on rate changes, Uber officials told NBC News, "These changes will make rates comparable to where they were in September, while giving drivers more control over how they earn by allowing them to build a model that fits their schedule best."[183]

The story from the drivers themselves is not nearly as benevolent. One driver quoted in the story said that they are currently homeless, and frequently works 14-hour days, seven days a week while sleeping in the car they rent through Lyft's car lease program.[184] Building off the publicity of the Los Angeles strike, on May 9th, 2019, thousands rideshare drivers went on strike in dozens of cities nationwide, protesting the launch of Uber's IPO the following day and demanding basic labor rights from the platform.[185] Impromptu labor strikes effecting driver supply obviously are a concern for gig platforms, but this aura of uncertainty could impact platforms in other ways too.

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183. Ben Kesslen and Ted Chen, "Uber and Lyft Drivers in Los Angeles Strike over Pay, Working Conditions," News, NBC News, March 25, 2019, https://www.nbcnews.com/news/us-news/uber-lyft-drivers-los-angeles-strike-over-pay-working-conditions-n987276
184. Kesslen and Chen, "Uber and Lyft Drivers in Los Angeles Strike over Pay, Working Conditions."
185. Bryce Covert, "Uber and Lyft Drivers Went on Strike. They Say It's Just the Beginning.," Vox, May 9, 2019, https://www.vox.com/the-goods/2019/5/9/18538206/uber-lyft-strike-demands-ipo.

As both Lyft and Uber went public this year at multi-billion dollar valuations, some hedge fund managers expressed doubts over the long-term viability of the business model, as keeping costs low could come tension with political and regulatory concerns regarding laborer's livelihoods.[186] In the first few days of trading, both firms saw great volatility and opened well below their initially speculated valuations. As of May 17th 2019, Uber was trading 7% below their opening price and Lyft was trading a full 25% lower than their IPO price.[187]

Yet the long-term concerns for the gig economy are far deeper than just the bad public relations of a strike or a potentially lower market capitalization than investors expected. A study by Stanford University researchers compiling data from nearly two million Uber drivers found that 68.1% of drivers quit using the service within just 6 months.[188] While it remains unclear what percent of attrition would be unsustainably high for Uber or any other gig platform's growth, the freelance nature of the independent contracting relationship between platforms and laborers means there is almost nothing preventing service providers from walking away from gig labor all together. Without the binding controls of employment to regulate the number of service providers, the needs of the gig economy to maintain a stable, and operable labor supply are greater than perhaps in any other industry. High attrition rates and nonexistent exit barriers make growing these networks of service providers to a large enough requisite scale to see consistent financial returns an immense challenge.

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186. Rani Molla, "Even Hedge Funds Investing in Lyft Don't Believe in Its Long-Term Prospects," Recode, March 28, 2019, https://www.recode.net/2019/3/28/18285344/lyft-hedge-funds-ipo-investors.
187. Andrew Bary, "Uber and Lyft Might Never Be Profitable. Investors Are Waking Up to That.," Barron's, May 17, 2019, https://www.barrons.com/articles/uber-and-lyft-might-never-be-profitable-investors-are-waking-up-to-that-51558137452.
188. Cody Cook et al., "The Gender Earnings Gap in the Gig Economy: Evidence from over a Million Rideshare Drivers" (Cambridge, MA: National Bureau of Economic Research, March 2019), https://doi.org/10.3386/w24732.
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Despite their multibillion-dollar valuation and tens of millions of users around the world, Uber still has yet to achieve profitability.[189] In their IPO filing, Uber reported a profit of $998 million in 2018, however this is mostly attributed to a one-time sale of the firm's businesses in Russia and Southeastern Asia. Excluding the capital gains from this transaction, Uber totaled losses amassing $1.8 Billion last year, which is actually a substantial improvement from the $4 billion they lost in 2017.[190] But the struggle to achieve profitability is not Uber's problem alone, ridesharing rival Lyft has yet to make it in the black either.[191] Nor has grocery delivery service, Instacart.[192] If these platforms truly require a critical mass of network providers to achieve consistent profitability, the promulgating narrative of the hardship of gig labor providers would surely serve as a detriment to reaching that requisite scale. Meanwhile as these Employee-Substitute Labor Platforms struggle to grow to a profitable capacity, Airbnb, an Asset Rental Platform, has returned steady profits for two years in a row.[193] But the scope of labor required and the returns gained for service providers in a primarily capital based platform like Airbnb are vastly different than the grueling toil articulated by Krueger and Hall and Parrot and Reich faced by employee-substitute gig laborers.

Perhaps then the problem is not that the entirety of the gig economy is broken or that its microeconomic logic is false. Perhaps the problem is simply that, in our heavily employer-centric liberal welfare state regime, life as independently contracted labor in an Employee-Substitute Labor Platform without the benefits of social citizenship is financially unsustainable

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189. Eric Newcomer, "Uber Revenue Growth Slows, Losses Persist as 2019 IPO Draws Near," News, Bloomberg, February 15, 2019, https://www.bloomberg.com/news/articles/2019-02-15/uber-results-show-revenue-growth-slows-amid-persistent-losses
190. Mike Isaac and Kate Conger, "Uber, Losing $1.8 Billion a Year, Reveals I.P.O. Filing," *The New York Times*, April 12, 2019, sec. Technology, https://www.nytimes.com/2019/04/11/technology/uber-ipo-filing.html
191. Molla, "Even Hedge Funds Investing in Lyft Don't Believe in Its Long-Term Prospects."
192. Jason Del Rey, "Instacart's New $7 Billion Valuation Is a Bet on the Future of Grocery Delivery — Not a Wager against Amazon," Recode, October 16, 2018, https://www.recode.net/2018/10/16/17981074/instacart-600-million-funding-7-billion-d1-capital-partners.
193. Bosa and Salinas, "Airbnb Sustains Profit as It Heads toward IPO."

and undesirable in its current state. While this present reality poses a challenge for the continued growth of these platforms, the literature of Stone, Swenson, and Korpi all illustrate that it can also present enormous opportunity. The need to eliminate the labor volatility in gig platforms coincides with the desires of gig workers for greater benefits to ameliorate their standing as outsiders in a dualist structure. Just as firms of a previous era conceded to implementing welfare policy reforms to support the future of their businesses while still providing benefit to their laborers, I argue the same set of circumstances for welfare policy creation exist today in the gig economy.

Furthering the point, it seems that at least some prominent leaders in the gig economy have come to this realization as well. In 2018, Uber CEO Dara Khosrowshai coauthored a letter with David Rolf, president of a Seattle based chapter of the SEIU, affirming their shared commitment to creating what they call a “portable benefits” structure for Uber drivers. The letter states in part that,

> The American social safety system, which was designed in the 20th century for a very different economy, has not kept pace with today’s workforce. At a basic level, everyone should have the ability to protect themselves and their loved ones when they’re injured at work, get sick, or when it’s time to retire. Leaders across business, labor, and government have publicly recognized the need for action, but a myriad of legal, policy, and political hurdles have – to date – prevented meaningful progress toward a new portable benefits system. These hurdles will only be overcome when parties are willing to sit down, put aside historical differences, and work together to develop a solution.[194]

If nothing else, this letter provides a promising start to the conversation that has been missing and is so desperately needed regarding the need to address the ills of work in the gig economy, particularly in the most labor-intensive platforms. While it remains to be seen what a comprehensive policy agenda for the gig economy actually will actually look like in practice,

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194. Dara Khosrowshahi, David Rolf, and Nick Hanauer, “Building a Portable Benefits System for Today’s World | Uber Newsroom US,” Uber Newsroom, January 23, 2018, https://www.uber.com/newsroom/building-portable-benefits-system-todays-world/.

numerous states and localities have begun developing innovative reforms that seek to address the issues mentioned here, which will be examined at length in the following chapter. But most importantly, this letter provides proper framing for what the literature I have examined argues is the root of the problem, the inability of the American welfare state to keep pace with the changing nature of work, as well as what the literature says is the most opportune path to creating viable and long term policy solutions, the formation cross-class alliances between laborers and employers that serve to foster mutually beneficial outcomes.

CHAPTER FOUR

Policy Solutions For Gig Laborers

The previous chapter articulated a framework by which laborers and capital were able to leverage their overlapping needs to create mutually beneficial changes to welfare state policy structures. In this final chapter, I examine various proposals and methods that have been put forth of how to apply this axiom to the gig economy. First, I assess what the goals of a policy framework for the gig economy should be, drawing off the lessons of the literature reviewed thus far. Second, I address one of the more commonly suggested remedies put forward, that labor in the gig economy should simply be transitioned to full employment as opposed to independent contracting. I contest the points of this argument as made by Jeremias Prassl, as well as look at several federal court rulings that have been adjudicated on the question of employment classification in the gig economy and the legal difficulties they pose for this suggested remedy. I conclude this chapter by examining several pieces of legislation that have been implemented or proposed at the federal, state, and local level to address the concerns of gig laborers and begin to create a structure of portable benefits policy that can further the cross-class needs of gig laborers and gig platforms.

The Principles of Gig Legislation:

While the literature examined in this thesis outlines the conditions in which cross-class aligned policy can arise, actually making good policy can be quite challenging. As with many disruptive technologies, there is often a significant lag between the rise of a problematic phenomena and an adequate response from regulators and legislators, as has largely been the case in the gig economy. That said, legislators also need to be mindful of the pitfalls of legislative overcorrect. In 2016, the Austin City Council passed extensive regulations on ridesharing firms, requiring more comprehensive background checks on drivers and limits on where drivers could be picked up and dropped off. After spending over $9 million in lobbying efforts to persuade the city council to amend the bill and for citizens to vote for a referendum allowing the platforms to self regulate, both Uber and Lyft decided to cancel their services in the nation's 11th largest city rather than acquiesce to these new regulations.[195] Although both firms eventually restored their service in the Texas capital, this regulatory fight highlights the perils of well intended but poorly designed gig policy, as overnight 10,000 gig workers in the city abruptly lost their jobs.[196]

In order to craft cogent policy in a realm as complex and nuanced as the gig economy, legislators must offer a clear articulation of what their policy's intended goals are and offer consideration of its potential unintended consequences. In their joint letter, Khosrowshahi and Rolf outline five core principles that they believe gig economy policy ought to adhere too and offer an insightful framework of considerations that any piece of gig legislation should be mindful of. These five principles are

> *Flexibility* – continuing to deliver reliable economic opportunities that are available for people when they want it and leaving them in control through establishing a system of individual accounts that follow workers and enable them to readily change the nature, structure and intensity of their work while continuing to have access to social benefits or protections
>
> *Proportionality* – ensuring that any new system accounts for differentiated and diverse connections to work through proportional contributions to be developed and determined through an ongoing independent, expert-driven process that recognizes the need to promote a rising standard of living as well as healthy, profitable businesses

195. Alex Hern, "Uber and Lyft Pull out of Austin after Locals Vote against Self-Regulation," *The Guardian*, May 9, 2016, sec. Technology, https://www.theguardian.com/technology/2016/may/09/uber-lyft-austin-vote-against-self-regulation.
196. Sam Levin, "'There Is Life after Uber': What Happens When Cities Ban the Service?," *The Guardian*, September 23, 2017, sec. Technology, https://www.theguardian.com/technology/2017/sep/23/uber-london-ban-austin.

> *Universality* – build more resilience in our communities by ensuring that any new scheme is universal in its application and supports the movement, growth and development of people across businesses, industries, sectors and life stages regardless of how they get work while providing businesses with legal certainty over their work arrangements
>
> *Innovation* – promote the development of innovative products and systems that respond to and enhance independent work, establish open platforms to enable all organizations to compete for contributions and create arrangements for social investments from private and public sources
>
> *Independence* – ensure that independence and choice are paramount in the development of any scheme and that organizations act in the best interests of individual members[197]

Khosrowshahi's letter is not the first instance of these principles being voiced by leaders in the gig economy either. In 2015 industry policy leaders, professionals, and academics including Sundararajan as well as the CEOs of several gig platforms issued a letter calling for a policy solution that was, "independent, portable, universal, and supportive of innovation."[198] Notably, these principles seek to preserve much of the central architecture of the gig economy while still finding ways to provide for the needs of workers, serving both the interests of laborers and the platforms themselves and helping to further cross-class interests.

An additional set of principles of gig policy come from Prassl, who much like Khosrowshahi, asserts that any piece of gig legislation, "need[s] to maintain flexibility in the labour market— whilst tackling the insecurity to which it can give rise." [199] Prassl also recommends that, "Any proposed solution must be sensitive to the heterogeneity of on-demand work."[200]As addressed in Chapter I, the scope of labor varies substantially across different platforms and cohorts within the gig economy. Some platforms hardly require work from service providers at all while others emulate full time employment. With specific regard to the state of

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197. Khosrowshahi, Rolf, and Hanauer, "Building a Portable Benefits System for Today's World | Uber Newsroom US."
198. Sundararajan, *The Sharing Economy,* 188
199. Prassl, *Humans as a Service*, 93
200. Prassl, 93

dualist labor in the gig economy and developing welfare state style benefit programs for gig workers, the proximate concern is addressing the precarious state of laborers in Employee-Substitute Labor Platforms, not Asset Rental platforms or Free Lance Platforms where the scope of labor is quite relaxed. Thus, Prassl also focuses his attention on crafting policy for the most labor-intensive gig platforms, however, fully addressing what it means to regulate these platforms brings up several contentions, particularly under the current landscape of American employment law.

The Case and Cases Against Gig Employment

For many observers, the policy answer to resolving the insecurity of gig laborers is rather simple; "The key is recognizing that on-demand gigs, tasks, rides, and 'Human Intelligence Tasks' (HITs) are work—and should be regulated as such."[201] Prassl argues that gig workers are presently trapped because, "on-demand platforms try to have the best of both worlds, combining the full control and financial rewards enjoyed by employers with the lack of responsibility inherent in contracting with independent service providers."[202] He states that the primary cause of harm done by gig platforms is that they have deliberately misclassified their laborers as independent contractors rather than fulltime employees.

Gig platforms have attempted to fight back charges of deliberate misclassification with carefully worded user agreement statements that explicitly state that workers will be contractors and not employees. But Prassl asserts that proper application of employment law ought to consider the actual lived experiences of laborers in these platforms, not merely the "sham self-employment' stemming from what the firm's corporate lawyers write in a user agreement, a finding that has been backed in Prassl's home country by the Supreme Court of The United

201. Prassl, 93
202. Prassl, 95

Kingdom and by statements from the International Labour Organization.[203] Given the extensive control many gig platforms have over service providers through rating systems, quality controls and matching algorithms, Prassl concludes that not only are gig workers quite obviously employees even if platforms try to assert otherwise, but that, "Courts should be happy to ignore any 'sham' contract terms asserting entrepreneurship and pin responsibility for everything, from minimum wages and expenses to health insurance on the platforms instead."[204]

In the United States however, lawmakers and courts have generally taken a far more conservative approach to regulating gig work and the question of employment classification. There are several explanations for this, the first being that, "the distinction of 'employee' versus 'independent contractor' is not strictly algorithmic."[205] Furthermore, there is not even a universal consensus on what the basic definition of employment is within our own government. Krueger and Harris show that the Fair Labor Standards Act, the Internal Revenue Code, The Supreme Court through *Nationwide Mutual Ins. Co. v. Darden,* and US common law each articulate four slightly different definitions of employment with different considerations used in their assessments.[206] While a variety of factors such as behavioral control, financial obligations, and legal relations may all be considered to make a determination of employment status, there is not an absolute and or universal mechanism for determining what constitutes employment vs. contractor status, and the decision is often left up to courts to adjudicate on a case-by-case basis.

In 2013, a group of Uber drivers in California brought a federal class action suit, *O'Connor v. Uber Technologies Inc.* against the firm in the US District Court for the Northern

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203. Prassl, 97
204. Prassl, 102
205. Sundararajan, *The Sharing Economy,* 179
206. Seth D Harris and Alan B Krueger, "A Proposal for Modernizing Labor Laws for Twenty-First-Century Work: The 'Independent Worker'" (The Hamilton Project-Brookings Institute, December 2015), http://www.hamiltonproject.org/assets/files/modernizing_labor_laws_for_twenty_first_century_work_krueger_harris.pdf. 8

District of California. The plaintiffs argued that, "Uber exercises considerable control and supervision over both the methods and means of its drivers' provision of transportation services, and that under the applicable legal standard they are employees."[207] Uber's attorneys defended their contractor status and the gig business model, arguing that they do not employ drivers because they are not a transportation firm, but rather are a technology company and described, "the software it provides as a 'lead generation platform' that can be used to connect 'businesses that provide transportation' with passengers who desire rides."[208] The court's response proved to be far less straightforward than Prassl would have imagined. Rather than pinning responsibility on Uber and recognizing its contract agreement as a sham, Judge Edward Chen took a far more deliberative approach, particularly concerning how to properly apply the *Borello* test, a California common law metric to decipher between employees and independent contractors, to gig workers. In response to a request by Uber's attorneys for a summary judgment, Judge Chen wrote

> The application of the traditional test of employment – a test which evolved under an economic model very different from the new "sharing economy" – to Uber's business model creates significant challenges. Arguably, many of the factors in that test appear outmoded in this context. Other factors, which might arguably be reflective of the current economic realities (such as the proportion of revenues generated and shared by the respective parties, their relative bargaining power, and the range of alternatives available to each), are not expressly encompassed by the *Borello* test. It may be that the legislature or appellate courts may eventually refine or revise that test in the context of the new economy. It is conceivable that the legislature would enact rules particular to the new so-called "sharing economy." Until then, this Court is tasked with applying the traditional multifactor test of *Borello* and its progeny to the facts at hand. For the reasons stated above, apart from the preliminary finding that Uber drivers are presumptive employees, the *Borello* test does not yield an unambiguous result. The matter cannot on this record be decided as a matter of law.[209]

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207. *O'Connor et al., v. Uber Technologies, Inc.,* at p5 ¶2, 211, C-13-3826 (N.D. CAL. 2015)
208. *O'Connor et al., v. Uber Technologies, Inc.,* at p4 ¶2, 211, C-13-3826 (N.D. CAL. 2015)
209. *O'Connor et al., v. Uber Technologies, Inc.,* at p27 ¶1, 211, C-13-3826 (N.D. CAL. 2015)

Judge Chen ultimately denied Uber's request for a summary judgment. As the case dragged on, Uber had initially agreed to a settlement offer, agreeing to pay up to $100 Million in total to the almost 400,000 plaintiffs while maintaining drivers' contractor status, but Judge Chen blocked the settlement, stating that the amount was, "not fair, adequate, and reasonable."[210] After the settlement was denied and the case was appealed, The United States Court Of Appeals For The Ninth Circuit subsequently revoked the District Court's class certification for the plaintiffs in the *O'Connor* case, arguing that Uber's arbitration agreement was enforceable under new precedent set by the Supreme Court in *Epic Systems Corp. v. Lewis*.[211]

In early 2018, a subsequent ruling in different federal suit also filed in the US District Court for the Northern District of California, *Lawson v. Grubhub, Inc.,* demonstrated an additional hurdle facing gig workers trying to remedy their classification through the courts. Much like the *O'Connor* case, Raef Lawson, a driver for Grubhub, sued the firm on the grounds that he too was incorrectly designated as an independent contractor. Specifically, the plaintiff argued that by misclassifying him, Grubhub had violated California's minimum wage, overtime, and employee expense reimbursement laws.[212] Much like the defense offered by Uber's attorneys, Grubhub argued that they do not have sufficient control over their contractors for them to be classified as full employees, allowing deliverers to set their own schedule of "delivery blocks" or time slots of availability with no minimum requirement and are even able to subcontract out their availability to other drivers.[213]

But most interestingly, this case opened up an additional nuance of gig labor compared employment that was not examined by the *O'Connor* case. Grubhub's attorneys presented

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210. *O'Connor et al., v. Uber Technologies, Inc.,* at p2 ¶1, 518, C-13-3826 (N.D. CAL. 2016)
211. *O'Connor et al., v. Uber Technologies, Inc.,* No. 14-16078 (9th Cir. 2018)
Citing *Epic Systems Corp. v. Lewis,* 138 S. Ct. 1612 (2018).
212. *Lawson v. Grubhub, Inc.,* at p2 ¶1, 221, No. 3:15-cv-05128 (N.D. CAL. 2018)
213. *Lawson v. Grubhub, Inc.,* at p5 ¶1, 221, No. 3:15-cv-05128 (N.D. CAL. 2018)

evidence demonstrating that during 17 of the 87 delivery blocks Lawson completed, he simultaneously performed deliveries for Caviar and Postmates, two direct competitors of Grubhub who also offer food delivery through a gig economy platform.[214] This action by Lawson was perfectly permissible for him to do under Grubhub's "Delivery Service Provider Agreement," and this sort of double dipping across similar platforms is quite common among workers in the gig economy. But while Grubhub did not prohibit Lawson from simultaneously utilizing other platforms, it provides a strong case that the scope of control Grubhub exercises over their contractors is substantially different than that of employers over their employees. The Court ultimately sided with Grubhub and held that Lawson had been properly classified as an independent contractor.[215] The *Lawson v. Grubhub, Inc.,* case was later cited as precedent in a subsequent federal case, *Razak v. Uber Technologies, Inc.,* filed in the US District Court for the Eastern District of Pennsylvania, in which the judge ruled by summary judgment, once again, that the plaintiffs were properly classified as independent contractors as opposed to employees.[216] The *Razak* case is of note because it was the first time the independent contractor classification was upheld under federal employment laws and the Fair Labor Standards Act, not just an individual state's employment laws alone.

After numerous federal court cases on the question, on April 29th 2019, the Department of Labor issued an advisory opinion for a gig company seeking a judgment on whether or not laborers of what the government deemed "Virtual Marketplace Companies" are independent contactors or employees. In the first such ruling to come directly from the Department of Labor, the government concluded not covered by the protections of the Fair Labor Standards Act, citing the laborers' economic independence, lack of control over providers, and that the platform's

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214. *Lawson v. Grubhub, Inc.,* at p12 ¶3, 221, No. 3:15-cv-05128 (N.D. CAL. 2018)
215. *Lawson v. Grubhub, Inc.,* at p1 ¶1, 221, No. 3:15-cv-05128 (N.D. CAL. 2018)
216. *Razak v Uber Technologies, Inc.,* at p21, ¶3, 16-573, 2:16-cv-00573 (E.D. PA. 2018)

primary purpose was a referral between customers and providers rather than end market provision itself.[217]

While Prassl may have hoped that the courts would adjudicate questions of employment-contractor classification based on the lived experiences of laborers, in the United States, Courts have been far less conciliatory to this view and have been quite hesitant to simply apply existing standards of employment law to the specific nuances of the gig economy. As a matter of case law, I think this action by the courts has been ultimately correct, the structure of labor in the gig economy, even in Employee-Substitute platforms such as Uber and Grubhub, is nonetheless meaningfully distinct from our current legal definitions of employment. The area where this is the most unambiguous is in the full scope of control an employer has over a legal employee compared of the detached arrangement of labor in the gig economy. The *Lawson* case especially elucidates this, in almost no other circumstance could an employee perform work for a direct competitor of their employer while simultaneously being on the clock for their primary employer, yet this is extremely common among gig laborers.

But while the structural challenges of achieving reclassification through the courts may be frustrating to the plaintiffs and to Prassl, there is ample reason to believe that a mass transition of gig laborers to full legal employment might not be the most ideal method for remedying the precarious state of labor in the gig economy. For starters, it's not clear that employment is the desired outcome of most gig economy laborers. A Pew Research Center study on the growth of the gig economy found that 58% of rideshare users agree with the line of argument presented by Uber in the *O'Connor* case that rideshare platforms are primarily software technology firms as opposed to transportation firms, and 66% of rideshare users agreed that drivers ought to be

217. U.S. Department of Labor, "FLSA Opinion" (U.S. Department of Labor Wage and Hour Division, April 29, 2019), https://www.dol.gov/whd/opinion/FLSA/2019/2019_04_29_06_FLSA.pdf.

considered contractors as opposed to employees.[218] This sentiment is not just held by gig customers either, Sundararajan references a different survey that found that two-thirds of rideshare drivers viewed themselves as independent contractors as opposed to full employees.[219]

This is not to say gig workers prefer the status quo and do not face real problems; this thesis has extensively outlined the economic insecurity gig workers face. But as Sundararajan notes, "the underlying issue isn't really about a desire among workers for full-time employment, but rather about a desire to obtain the benefits currently and exclusively associated with that status."[220] Gig labor engagements have almost no exit barriers, if gig workers so desired they could leave the gig economy for other formally employed engagements at any time. But many independent contractors genuinely favor the flexibility their work engagement provides over the control of formal employment.[221] This flexibility allows gig laborers to work on their own schedules and work as much or as little as they want to, whether they use the platform for their full time income or just supplemental labor.

Moreover, a transition to a fully employed model would increase the marginal cost of each provider so much that firms would impose much stricter controls in their own "crucial tradeoff" to recoup full benefits, likely eliminating the flexible nature of gig laborer's scheduling. Furthermore, part time laborers might either be eliminated from the platforms labor forces or would still work without the full benefits of employment. These costs and cuts to labor supply as well as the loss of worker flexibility ultimately would serve to harm both the platforms themselves and their workers, working directly against the optimistic vision of a cross-class alliance that is already beginning to take shape in the gig economy.

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218. Smith, "The New Digital Economy." 8
219. Sundararajan, *The Sharing Economy,* 159
220. Sundararajan, 179
221. Sundararajan, 182

But I believe the most concerning outcome of a transition to employment does not come from the loss of worker flexibility. I think there could be severe unintended consequences of a full-scale transition of gig laborers to employment that Prassl and other advocates fail to fully consider. As outlined in Chapter One, much of the reason the gig economy operates under the usage independent contractors is simply cost driven; formal employment is both expensive and restrictive and in the flexible and freelance design of the gig economy, those costs would impede the ability of platforms to grow their network of providers to a requisite operating scale. This is not merely a problem because it would impose immense costs on platforms or could potentially raise prices for consumers; it could lead to the monopolistic consolidation of the gig economy in the hands of just a few cash flush firms.

While Uber has sizeable market share in the ridesharing industry, there are other platform options for consumers to choose such as Lyft or Juno. This sort of dynamic of a front runner with other viable options is quite common in the gig economy, yes there is Grubhub but there are also Cavier, Postmates, and Door Dash. You could use Airbnb but you can also rent a room on HomeAway. This sort of competition and open space for innovation has allowed the gig economy to continue to grow and develop to better serve consumers, and allowed more gig platforms to be created and enter the marketplace each year.[222] But if gig firms are forced to directly employ their providers however, there might only be a select few number of already well established and matured platforms that have raised enough capital to be able to support such a transition, most notably Uber, Airbnb, and Amazon. This sort of consolidation could lead the gig economy into even more complex litigation over anti-trust matters and would almost certainly

222. Farrell, Greig, and Hamoundi, "The Online Platform Economy in 2018: Drivers, Workers, Sellers, and Lessors." 9

stifle competition and platform innovation, another central tenet of reforms called for by industry leaders and activists.

The proposed transition of gig laborers to full employment has proven to be legally difficult based on present interpretations form the courts, unpopular among many gig workers themselves, threatens to greatly stifle the innovation and competition within the gig economy and quite brazenly violates the set of principles outlined by policy leaders and advocates in the gig economy. Thus, I strongly contend that a widespread transition to of gig laborers to formalized employment is not the optimal method for absolving the difficulties laborers face. Rather, gig platforms and policy makers should work together to establish a system of so-called “portable benefits.”

The system of portable benefits that Khosrowshahi and others have called for would create a new set of welfare legislation that would distribute social benefits to gig laborers outside of the current employer-centric model. This would allow workers to receive social citizenship without making them full employees or compromising the flexible nature of their contractor status. The portable benefits model would also preserve the broader infrastructure of the gig economy, allowing for the efficiency of gig economics to continue to take root and platforms to continue to grow while specifically targeting the precarious nature of independent contracted labor and lack of access to social benefits. Most of all, this model would provide a mutual benefit to both gig workers and platforms in the way Swenson’s cross-class alliance theory prescribes; inviting new workers into the gig economy and reducing the number of existing workers from leaving by incentive of providing social citizenship benefits to gig laborers, ultimately stabilizing the gig economy’s current labor market volatility.

Existing Portable Benefits Policies

Although the policy conversation around portable benefits is still very much just in its infancy, there have been a number of interesting proposals and pieces of legislation introduced at the federal, state, and local level. Many of these policies emulate the tactics utilized by the American Plan as well as New Deal programs outlined by Stone and Swenson, seeking to implement basic minimum standards and a so called "floor of rights" that will be applicable to all gig workers.[223] Other policy proposals offer creative means of accruing public and private funding for establishing social benefits for independent workers. These early policy initiatives can serve as a valuable template and foundation for building a more comprehensive national structure of portable benefits in the years to come.

One of the foremost leaders of the portable benefits cause in Washington D.C. has been Senator Mark Warner (D-VA). A former technology entrepreneur and investor himself, in 2017, Sen. Warner introduced the "Portable Benefits for Independent Workers Pilot Program Act", which would establish a grant program of $20 million within the Department of Labor to allocate funding to local and state governments as well as nonprofit agencies for, "the evaluation, or improvement to the design or implementation, of existing models or approaches for providing portable benefits;" and, "the design, implementation, and evaluation of new models or approaches for providing such benefits."[224]

While Sen. Warner's bill has yet to receive a floor vote, it has already drawn a wide array of support and is cosponsored by two Democrats, three Republicans and one Independent. Further, these cosponsors are not just moderates in coastal states with a high number of gig laborers, they include several staunch conservatives from predominantly rural states who might

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223. Prassl, *Humans as a Service,* 105
224. Mark Warner, "Portable Benefits for Independent Workers Pilot Program Act," Pub. L. No. S.1251 (2017), https://www.congress.gov/bill/115th-congress/senate-bill/1251

not seem like the most likely politicians to support expanding social welfare programs. One cosponsor, Sen. Ben Sasse (R-NE), has frequently driven for Uber in his home state as a way to connect with his constituents during Senate recesses.[225] Perhaps one factor helping to assemble this diverse and somewhat surprising coalition of support could be a genuine bipartisan sentiment from their voters. Even in one of the most polarized eras in our country's history, a 2016 survey by Pew Research found that Republican and Democratic voters have nearly identical views regarding gig economy policy and gig labor regulations.[226]

While Sen. Warner's bill remains one of the only pieces of federal policy introduced on the gig economy, outside of the Beltway, several states and localities have assumed the mantle of being laboratories of democracy and have implemented their own innovative reforms and policies for achieving a portable benefits model. State and local policy experimentation is crucial to the development of a future national portable benefits structure; as Khosrowshahi and Rolf wrote in their joint letter, "The pursuit of local solutions will expedite the move from the theoretical into the practical, unraveling the thorny issues and beginning to show how a portable benefits system can empower workers and enable technology to meet the growing demand for more flexible, independent forms of work."[227]

Several of the biggest local innovations in gig benefits policy have come out of New York City through labor organizing. Founded in 2016, the Independent Drivers Guild (IDG) is a labor organization that represents over 65,000 rideshare drivers in the city.[228] The IDG has been instrumental in helping achieve some of the biggest changes in ridesharing policy seen thus far, in 2017 they sufficiently lobbied Uber to implement a tip feature for their drivers, a reform that

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225. Ben Sasse, Twitter Post, 7:40 AM - 13 Nov 2016, https://twitter.com/BenSasse/status/797826400447299584
226. Smith, "The New Digital Economy." 23
227. Khosrowshahi, Rolf, and Hanauer, "Building a Portable Benefits System for Today's World | Uber Newsroom US."
228. "About the IDG," Independent Drivers Guild, accessed April 9, 2019, https://drivingguild.org/about/.

has since been adopted across the platform nationwide.[229] In December of 2018, after extensive campaigning from the IDG, the New York City Council passed the nation's first minimum wage for rideshare drivers, setting a statutory rate of $17.22 per hour after expenses or $26.51 per hour in gross earnings, which the New York Taxi and Limousine Commission (TLC) determined to be equivalent to the City's statutory $15.00 minimum wage for employed workers when accounting for driver expenses.[230] Based off the extensive data they compiled for the TLC, Parrott and Reich determined that 85% of rideshare drivers in New York would see a raise in their median hourly wage after expenses, earning an average increase in net pay of 22.5% or $6,345 a year.[231] The implementation of the minimum wage standard is a historic success for the IDG and could potentially lead to nationwide adoption just as happened with their tipping feature.

One of the most meaningful achievements of New York's minimum wage law is that it was the result of an immense organizing campaign by gig workers themselves. The IDG says that this statue is the result of a two year long effort, including a petition to the city council signed by over 16,000 rideshare drivers, thousands of phone calls and organized rallies and lobbying of New York officials.[232] This is an important step forward because far too often, policy makers have looked to the guidance of policy experts and academics over the input of the people most directly impacted by a piece of legislation. Had the TLC listened to experts over gig workers in this case, it is not clear that minimum wage legislation would have passed. Harris and Krueger warned that it would be difficult to decipher what specific actions in the gig economy

229. Natalie Forester, "How the Independent Drivers Guild Is Helping Drivers in New York," The Aspen Institute, November 10, 2017, https://www.aspeninstitute.org/blog-posts/independent-drivers-guild-helping-drivers-in-new-york/.
230. "Uber and Lyft Drivers Guild Wins Historic Pay Rules," Independent Drivers Guild, December 4, 2018, https://drivingguild.org/2018/12/04/uber-and-lyft-drivers-guild-wins-historic-pay-rules/
231. Parrott and Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment." 13
232. "Uber and Lyft Drivers Guild Wins Historic Pay Rules."

actually constitute *work* and therefore what actions should be compensated. A gig laborer could have multiple platforms open at once or be between gigs waiting for their next job.[233] They argued, "if work hours cannot be apportioned and measured for the purposes of assigning benefits or assessing hourly earnings, we think it makes little sense to require intermediaries to provide hours-based benefits, such as overtime and the minimum wage."[234]

However New York's policy specifically addresses some of the concerns posed by Harris and Krueger, as the minimum wage formula proposed by the TLC accounts for driver expenses and driver work time and vehicle occupancy. The adopted formula is composed of three separate parts. The first is the vehicle expense factor of $0.580 per mile, which was determined by dividing the median annual vehicular operating expenses of $20,294 divided by the median number of miles driven a year by the city's rideshare drivers, 35,000.[235] The second is the driver time factor of $0.287 per minute, which was determined by dividing $17.22 by 60 minutes. The final factor is the utilization rate, which refers to the percent of time in a given hour a drivers' car is occupied by a passenger.[236] In the complete minimum wage formula, the vehicle expense factor is multiplied by trip mileage and the driver time factor is multiplied by the trip duration are both divided by the average utilization rate of the ridesharing platform being used and added together.[237] Parrott and Reich demonstrate what this formula would look like in a typical trip in Figure 4-1.

233. Harris and Krueger, "A Proposal for Modernizing Labor Laws for Twenty-First-Century Work: The 'Independent Worker.'"13
234. Harris and Krueger, 13
235. Parrott and Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment." 36
236. Parrott and Reich, 36
237. Parrott and Reich, 37

Figure 4-1: The Proposed Driver Pay Standard Applied To A Typical Trip

A typical FHV trip might be 7.5 miles in distance and 30 minutes in time.

Here is how the driver minimum pay standard (not the passenger fare) would be calculated under the proposal pay standard (assuming an industry-wide average utilization of 58%):

$$\frac{(.580 \;*\; 7.5 \text{ miles})}{.58 \text{ utilization}} + \frac{(\$0.287 \;*\; 30 \text{ minutes})}{.58 \text{ utilization}} = \$22.34$$

238. Formula demonstrated by James Parrott and Michael Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment," P. 38

The work of the IDG to get both the minimum wage standard and driver tip feature implemented has helped to demonstrate how labor organizing can be an effective tool for achieving new benefits policies in the gig economy. But the circumstances that lead to the creation of the IDG are rather unique; the guild is technically not a labor union, as the National Labor Relations Act only allows for collective bargaining by full time employees, not independent contractors.[239] The IDG was created through an agreement struck with Uber to specifically serve the platform's drivers in New York City as an outgrowth of the as an affiliate of the International Association of Machinists & Aerospace Workers (IAMWA) which had previously represented many for hire drivers in the city who left black car services for ridesharing as the gig economy took off in the early 2010's.[240]

Yet for all the success of the IDG in New York, labor organizing has proven difficult in other localities. In 2015, the Seattle City Council passed a law allowing rideshare drivers to

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238. James Parrott and Michael Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment," Report for the New York City Taxi and Limousine Commission (The New School Center For New York City Affairs and the Center on Wage and Employment Dynamics at the University of California, Berkley, July 2018), http://irle.berkeley.edu/files/2018/06/An-Earnings-Standard-for-New-York-Citys-App-based-Drivers.pdf. 38
239. Sundararajan, *The Sharing Economy,* 183
240. Noam Scheiber, "Uber Has a Union of Sorts, but Faces Doubts on Its Autonomy - The New York Times," News, The New York Times, May 12, 2017, https://www.nytimes.com/2017/05/12/business/economy/uber-drivers-union.html.

unionize despite their independent contractor status.[241] The U.S. Chamber of Commerce sued the city, claiming that the new law violated the NLRA and the Sherman Antitrust Act. The U.S. District Court for the Western District of Washington initially dismissed the case, arguing that Chamber lacked proper standing to sue as federal antitrust law allows localities to grant organizing rights to contractors if they choose and the matter was not yet prudentially ripe.[242] The Chamber appealed the Ninth Circuit Court, who subsequently ruled that the Chamber did have proper standing, which ordered a stay on the Seattle ordinance and sent the case back to the Western District where it remains in litigation as of the writing of this thesis.[243]

Although unionization efforts may be temporarily stalled in Seattle, the State of Washington is currently pursuing other means of improving the state of gig labor through their State Legislature. In 2018, State Representatives introduced legislation that requires in state businesses utilizing independently contracted workers to make a contribution of up to 15% per transaction cost toward the provision of worker benefits through a nonprofit organization, including health insurance, paid time off, and retirement benefits.[244] This bill would thus retain gig worker's independent contractor status while allowing a mechanism for them to receive many of the benefits of employment. These contributions are allocated on per transaction basis, allowing all gig workers receive benefits proportional to the amount of time they work on a given platform, enabling full time workers to continue their work securely while relatively infrequent or supplemental gig laborers can still receive benefits, preserving the flexibility of gig workers to determine their own working hours as so many gig workers value.

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241. Licata O'Brien, "An Ordinance Relating to Taxicab, Transportation Network Company, and for-Hire Drivers Authorizing the Election of Driver Representatives," Pub. L. No. 118499 (2015), http://clerk.seattle.gov/~legislativeItems/Ordinances/Ord_124968.pdf
242. *U.S. Chamber of Commerce v. City of Seattle, et al.,* C16-0322RSL, (W.D. WA 2016)
243. *U.S. Chamber of Commerce v. City of Seattle, et al.,* 17-35640, (9th Cir. 2018)
244. Monica Jurado Stonier, "House Bill 2812 Concerning Determinations of Worker Benefits and Employer Obligations Based on a Worker's Status.," Pub. L. No. H.B. 2812 (2018) http://lawfilesext.leg.wa.gov/biennium/2017-18/Pdf/Bills/House%20Bills/2812.pdf.

Furthermore, utilizing transaction-based payment requirements circumvents the question of how to allocate benefits for workers using multiple gig platforms, a worker using a single platform and a worker splitting between two competing platforms who accrue the same total cost amount of transactions will each receive the same total compensation for benefits. In 2019, the bill was reintroduced as part of proposed Universal Worker Protection Act, which in addition to the proposed portable benefits structure would clarify the state's statutory definitions of employees and independent contractors, as well as set further guidelines for how to address questions of misclassification and the penalties for deliberate misclassification.[245] The Washington bill has become a model for how to achieve a portable benefits structure while maintaining independent contractor status, as similarly structured bill was introduced in the California General Assembly shortly thereafter and a new non-profit initiative was adopted in San Francisco to provide public resources to gig workers in the city.[246]

These pieces of legislation reflect what Sundararajan sees a broader trend in the gig policy conversation of the need to provide gig workers with benefits, but also enfranchising independent contractors with the full legal rights and protections afforded to employees. [247] Harris and Krueger have suggested this could be achieved by creating a tertiary category of laborers existing between employees and contractors, what they refer to as "Independent Workers."[248] They suggest that this transformation would require several substantial legal reforms, including allowing independent workers the right to collectively bargain either through amending federal antitrust law, the National Labor Relations Act, or both; expanding the

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245. Monica Jurado Stonier, "Universal Worker Protection Act," Pub. L. No. House Bill 1601 (2019), http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Bills/House%20Bills/1601.pdf
246. Alastair Fitzpayne and Hilary Greenberg, "Portable Benefits Legislation Reintroduced in Washington State: Uber and SEIU Commit to Work Together," The Aspen Institute, February 23, 2018, https://www.aspeninstitute.org/blog-posts/wa-portable-benefits-bill-letter-2018/.
247. Sundararajan, *The Sharing Economy,* 184
248. Harris and Krueger, "A Proposal for Modernizing Labor Laws for Twenty-First-Century Work: The 'Independent Worker.'" 2

coverage of workplace antidiscrimination law to cover independent workers; and allowing gig platforms to withhold independent workers' tax liability under the Federal Insurance Contribution Act.[249] Each of these reforms would help align the independent worker class with many of the legal rights and abilities granted to full employees that are currently precluded to independent contractors.

Although the political project of addressing the instability and insecurity of gig labor remains very much in its infancy, the pieces of a comprehensive architecture of legislation on the gig economy are beginning to take shape. Forward thinking cities and states such as New York and Washington, have begun to introduce and implement numerous innovative plans to establish a structure of social support for gig workers while retaining the infrastructure of the gig economy. By preserving the flexible and independent nature of gig labor and stabilizing gig labor markets while providing a means of social citizenship to address the insecurity felt by gig workers, these policies stand to serve a mutual beneficial to both laborers and capital in the mold of Swenson's cross-class alliances.

249. Harris and Krueger, 15-18

CONCLUSION

CRAFTING A POLITICS FOR 21ST CENTURY WORK

The explosive rise of the gig economy represents just one instance of a broad and continuous transformation of work. Yet unlike many hypotheses of some reasonably distant future in which human labor has been fully replaced by automation or artificial intelligence, the gig revolution has already arrived. With tens of millions of users and tens of billions of dollars in financial backing, the gig economy not only has staying power, it is poised to continue to expand into new sectors and could legitimately replace a significant share of jobs currently organized in formal employment.

But as this thesis has demonstrated, the totalizing commodification of labor that is at the core of the gig business model has hardly been benevolent toward gig laborers. Situating the dynamics of gig labor within the framework of welfare state capitalism only further clarifies the grave conditions gig labors face. Enticed by emancipatory promises from gig firms of being able to control their work in a flexible arrangement, many gig laborers now find themselves working effectively as contractors in name only; forced to uphold their end of the "crucial tradeoff" for gig platforms as pseudo-employees while being barred from having access to their share of the benefits and protections of social citizenship that were constructed in a previous generation to accompany fulltime labor.

As the realities of the hardship of gig labor begin to become more known by the public at large, the severity of the problems faced by gig laborers have quickly become a problem for gig platforms themselves. High worker attrition rates, growing labor strife, constant negative PR, and increasing operational costs have all lead to the growing volatility of gig labor markets, the most elemental ingredient in the formula of the gig business model. This destabilization poses a substantial risk to the long-term sustainability of gig platforms and a hindrance on their ability to turn a profit. While this creates an immense obstacle for the future of the gig economy, welfare state literature also outlines how these exact conditions can serve as a platform for substantial change.

As Swenson's case study articulates, the threat of labor market volatility and the need to create viable working conditions transcend the traditional class antagonisms between labor and capital. This overlapping interest has historically led to the formation of cross-class alliances that invite political change, particularly in advancing the construction of welfare state institutions which both, established sorely needed protections for workers and provided stability to labor markets for firms. Today, we are beginning to see the first steps toward the formation of a similar alliance in the gig economy. Outspoken leaders in the labor community as well as executives of gig platforms have already voiced the necessity of creating a new political infrastructure, modeled off the existing institutions of the welfare state, to address the concerns of this new dimension of work outside of formal employment, and providing mutual benefit to both gig laborers and gig capital.

This thesis has argued that the most opportune means of constructing policy for gig laborers will be found by meeting these cross-class needs. Having analyzed numerous proposals and political efforts designed to address conditions of labor in the gig economy, including those that I believe would be would not fit this archetype or ultimately would work against the interests of gig laborers, I believe implementing the following reforms would establish the most efficacious body of policy to address these concerns.

First, Congress should take heed to Krueger and Harris' advice and amend relevant tax and employment laws to establish a tertiary legal category of laborers outside of employment and contractors, "Independent Workers." These new laborers would have the ability for their contracting entities to withhold income taxes, have the statutory protections of worker's compensation, anti-discrimination provisions, limited legal liability, and other federal provisions currently reserved for employees without establishing an employee-employer relationship.[250] This reform would allow workers in the most labor-intensive areas of the gig economy, as well as a large portion of the labor force currently independently contracted in 'employee-like' ventures outside of the gig economy, to be granted additional provisions and protections without compromising the flexible nature of their alternative work arrangements. This change would also eliminate much of the legal ambiguity surrounding questions of proper employee classification such as those expressed in the opinion for *O'Connor v. Uber Technologies, Inc*.[251]

Likewise, Congress should amend the National Labor Relations Act and any relevant federal antitrust laws to allow this new class of independent workers the right to unionize and collectively bargain. The work of the Independent Drivers Guild has demonstrated the enormous impact of labor organizing in pressuring gig platforms to create meaningful policy changes. In an industry where the primary 'product' is commoditized labor itself, the ability of gig workers to hold their platforms accountable and responsive is paramount. This reform would eliminate the hurdles facing gig workers in Seattle and elsewhere in their attempts to unionize and would enable what has proven to be one of the most effective means of achieving policy changes, both in the gig economy and historically.

Third, much like the proposed bill in the Washington State Legislature, firms utilizing the labor of the newly created independent worker classification should be legally required to provide financing to workers for the provision of social benefits. This financing will be allocated

250. Harris and Krueger, 17-19
251. *O'Connor et al., v. Uber Technologies, Inc.,* 211, C-13-3826 (N.D. CAL. 2015) See note 201

to laborers on a per transaction basis, distributing funding for benefits such as paid time off, health insurance, and retirement financing to gig laborers according to how often they work on these platforms. In doing so, such a requirement will help to establish a comprehensive system of portable benefits that are proportionally financed to gig laborers without reclassifying workers as employees or radically transforming the freelance nature of the gig business model. Further, the adoption of such a benefits program would greatly reduce the outsider status of gig labor in a dualist state, remedying the insecurity felt by gig workers and helping to reduce the rate of attrition in platform labor markets.

Finally, state and local governments should work to establish dynamic and transaction based minimum wage standards for independent workers. Unlike the first two recommendations, this proposal runs counter to the advice of Krueger and Harris, however the work of the IDG and the TLC to establish a minimum wage for rideshare drivers in New York City demonstrates that it is possible to craft a minimum wage formula that accounts for the fluctuating and discontinuous nature of gig labor. By setting a minimum hourly standard but allocating pay on a per transaction basis while accounting for operating expenses paid for by independent workers, the New York formula exemplifies how to establish minimum wage policy that is in line with the goals of statuary minimum wages for traditional employees while accommodating for the unique contours of gig labor.

These independent worker minimum wages can vary across jurisdictions according to local cost of living or other relevant needs so long as the wage is in concert with that jurisdiction's statuary minimum wage for employees, just as the TLC determined New York's $17.22 ridesharing wage was calculated to match its $15.00 wage for regular employees after accounting for worker expenses.[252] It is worth noting that formula in New York's law was specifically designed for ridesharing, accounting for drive time and passenger utilization rate in a manner that would not be directly applicable to other gig services such as food delivery or in-home labor services. Therefore, states and municipalities should still follow the transaction-based pricing model but work to either establish similarly specific wage calculations for various sectors of independent work or build a formula that uniformly covers all independent work.

While each of these policy proposals are conspicuously designed to address the needs of independent workers, there are other policy initiatives currently being proposed that are not specifically tied the gig economy but nonetheless would take dramatic steps toward reducing the insecurity of independent workers. As healthcare has quickly become one of the marquee issues of the 2020 presidential campaign, Senator Bernie Sanders' (I-VT) bill establishing a single payer, "Medicare for All" health insurance program is now cosponsored by four other Senators who have also declared they are running for president and some variant of universal healthcare has been supported by nearly every single declared candidate.[253] In February, Rep. John Larson (D-CT) introduced the Social Security 2100 Act, providing for the expansion of Social Security benefits and establishing a more substantial stream of retirement income outside of traditional employer 401K plans.[254] Democratic presidential candidate Andrew Yang is centering his campaign on a policy of establishing a universal basic income that would pay $1,000 monthly to

252. Parrott and Reich, "An Earnings Standard for New York City's App-Based Drivers: Economic Analysis and Policy Assessment." 36.
253. Bernard Sanders, "Cosponsors - S.1804 - 115th Congress (2017-2018): Medicare for All Act of 2017," webpage, September 13, 2017, https://www.congress.gov/bill/115th-congress/senate-bill/1804/cosponsors. ; Kevin Uhrmacher et al., "Where 2020 Democrats Stand on Medicare-for-All and Other Health-Care Issues," News, Washington Post, April 9, 2019, https://www.washingtonpost.com/graphics/politics/policy-2020/medicare-for-all/.
254. Robert Pear, "Democrats Push Plan to Increase Social Security Benefits and Solvency," *The New York Times*, February 4, 2019, sec. U.S., https://www.nytimes.com/2019/02/03/us/politics/social-security-2100-act.html

every American between the ages of 18 and 64.[255] Implementing any one of these proposed plans, as well as the four policies I have advocated for, would be an enormous step toward eliminating the dualist nature of the American welfare state and further the decoupling of social benefits from their antiquated employer-centric state.

Just as the social welfare state of the 20th century developed from meeting the mutual needs of an alliance of labor and capital, I believe a coherent and comprehensive political architecture for a social welfare state of the 21st century that is equipped to adapt to the transforming landscape of labor will ultimately be formed out of similar conditions. By establishing policies that meet the needs of the budding cross-class alliance of gig laborers and gig capital, we can implement a structure of portable benefits to gig laborers while preserving the underlying structure of the gig economy and bringing stability to gig labor markets. Whether or not our political institutions and our body politic is equipped to meet the challenges of this second great transformation remains to be seen. My hope is that by grounding this problem in political science literature this thesis and similar scholarship can serve a starting place to meet these challenges, and begin the process of building a more equitable, just, and ultimately sustainable future of work.

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