

New Configurations of Work Relations and Their Impacts on Work, Employment, and Collective Action

The activity of individual passenger transport
in Mexico City (taxi and Uber)

Summary

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Overview of the project and our research strategy

It is increasingly noticeable that contemporary work is no longer taking part inside the traditional employment relationship between an employer and employees, but within new organizational configurations like subcontracting, interim appointments (obtained through an employment agency) and self-employment. These organizational configurations place workers (employees or self-employed) in contact with various entities that influence their working and employment conditions without necessarily endorsing the legal status of an employer, and effectively upsets the employment relationship by making it more complex to control workers.

To understand contemporary work and employment relations, it seems necessary to shift the analysis from the firm level to that of the value chain, conceived as a “social system”, in order to take into account the nature of relationships between firms, and also between the firms and the different types of workforce they put into contact. The general objective of this research project is to understand, from a historical and comparative perspective, how these new configurations operate, and their impacts on work, employment and the capacity of the various actors to take collective action.

The research strategy that was chosen is that of the multiple-case study (Yin, 1989; Eisenhardt, 1989). Four sectors distinguished by the nature and strategy of the pivot firm and by the degree of qualification of the workers concerned, are targeted for analysis, namely: ICT business services, childcare services, transportation and food processing.

For each of these sectors, a synchronic (current configurations) and diachronic (their development over the last ten years) case study of a pivotal company, its subcontractors, agency workers and independent workers was carried out. Due to the current context of globalization, subcontracting chains are spreading to multiple countries; the case studies on transportation equipment and food processing will thus focus on a multinational firm simultaneously present in Canada, France and Mexico (comparative case-study on these 3 countries).

The information presented in this monograph comes from primary and secondary sources that were analyzed as part of the research project as well as from a previous study conducted by the author for her PhD dissertation (Pogliaghi, 2012). Here are the sources of information: a literature review of studies on the taxi industry and on transport via technological applications; a documentary analysis of contracts and legislation; following and analyzing press material; observations on workplaces and collective actions; interviews with drivers, car dealers/partners who do not drive the vehicle, union leaders, officials, and passengers; the distribution of a questionnaire; following and analyzing comments on Facebook and Whatsapp groups.

Introduction: the individual passenger transportation activity in Mexico

Individual passenger transportation services consist in moving one or several passengers using either a car or a van. These services are offered to the public for a fare, i.e. the amount of money that users pay for transportation services.

Individual passenger transportation operates under two conditions: the first, via a public service concession, namely a taxi; the second, through private enterprises that provide the service, either themselves or through technological applications (like Uber, Cabify or Didi). For this monograph, we are interested in social working and employment relationships, both in the traditional taxi industry and in passenger transportation services provided through Uber – which is the main provider of private individual passenger transportation services via platforms.

In Mexico, taxi services are considered to be public transportation services. As a result, the State is responsible for their delivery, and offers a licence to physical persons who actually provide the service. A legal obstacle prevents enterprises from providing taxi services; indeed, only physical persons, who cannot hold more than five licences each, may provide taxi services. This legal framework thus encourages self-employed workers to provide taxi services, or car dealers – through a commercial arrangement – to rent a vehicle or licence to drivers who will then provide the service. Consequently, the structure of the taxi activity limits opportunities to develop salaried working relations.

As for Uber, the company considers that it is not providing individual passenger transportation services, but that its services:

“constitute a technology platform that enables users of Uber’s mobile applications or websites provided as part of the Services (each, an “Application”) to arrange and schedule transportation and/or logistics services with independent third party providers of such services, including independent third party transportation providers and independent third party logistics providers under agreement with Uber or certain of Uber’s affiliates (“Third Party Providers”).” (Uber B.V., 2018).

Uber’s general terms and conditions are indeed clear with regard to the type of services the company provides:

“YOU ACKNOWLEDGE THAT UBER DOES NOT PROVIDE TRANSPORTATION OR LOGISTICS SERVICES OR FUNCTION AS A TRANSPORTATION CARRIER AND THAT ALL SUCH TRANSPORTATION OR LOGISTICS SERVICES ARE PROVIDED BY INDEPENDENT THIRD PARTY CONTRACTORS WHO ARE NOT EMPLOYED BY UBER OR ANY OF ITS AFFILIATES.” [in capital letters as per the original text] (Uber B.V., 2018).

This means that self-employed workers provide the services, while the company handles the management of the mobile application and network, connecting drivers with passengers.

It is relatively easy to gain access to the individual passenger transportation activity and one does not need to make a significant investment in order to do so. People who wish to become drivers only need to contact the owner of a vehicle registered with a

taxi dealership or registered with Uber, get their license, rent the car and start taxiing. If you have access to a vehicle that meets all the above requirements, you may register with Uber as a partner. For traditional taxis, you simply need to obtain a Type B license, paint your car the same colours as a taxi, and buy (even though this is illegal) or rent a licence.

According to the Secretariat of Mobility, there were in Mexico City, in 2015, 125,300 authorized taxis that could provide taxi services and 282,202 licensed drivers. Taxi services can be provided in different ways (roaming freely, from a stand or a site, and touristic).

Uber B.V. is a limited liability company established in the Netherlands, with a head office in Amsterdam. It is registered with Amsterdam's Chamber of Commerce under the following number: 56317441 (Uber B.V., 2018). Uber began operating in Mexico in August 2013 and, by 2018, it was available in 29 Mexican cities. Uber presents itself as a company that aims to help the dynamics of urban mobility by reducing automobile traffic and, thus, environmental pollution; to save mobility time; to make journeys safe, reliable and affordable; and to reduce transportation fares. Uber's Mexican headquarters – comprised of corporate offices and six service centres for partners and/or drivers – are based in various Mexico City neighbourhoods; there are also two additional centres in the peripheral zone of the capital.

Uber reserves the right to define the kind of services provided. In 2018, in Mexico City, Uber provided the following services: Uber X, Uber Pool, Uber XL, Uber Black, and Uber SUV. Also in 2018, about 55,000 vehicles associated to Uber were operating in Mexico City.

2. Social working relations

Work division and coordination

One single individual can provide all the services related to taxi activity, but they must still collaborate with other drivers, auditors, valets, or with those who operate the “algorithms.” It is often argued that training and qualification requirements are minimal, if not nonexistent. While it is true that to be a taxi driver, one merely needs to know how to drive – a skill acknowledged by a license – further knowledge is still necessary. For instance, one might need to know the city, the best route, or even how to perform car repairs.

The main means of production is the vehicle, which is essential to taxi activity. It may or may not belong to the driver. Some drivers use a borrowed automobile, especially when more than one family member works with the same vehicle.

When a self-employed driver owns the vehicle licensed to them, they determine work organization, and their income depends on both the number of journeys and personal effort put into developing the activity. Their autonomy and independence, however, are not unlimited. Even if the driver can determine the length of their workday, when they work, the area where they pick up passengers, the service terms and how they will provide services, the State actor controls their work with regulations and through officials. The flat fare thus limits the total income that can be earned. The city’s dynamics – e.g. in terms of traffic and mobility – and the passenger’s involvement – i.e. when they indicate destinations, define journeys, and their particular forms of interaction with the driver – also limit the taxi driver’s autonomy in terms of work organization.

If the driver owns a vehicle, but is not licensed to provide taxi services, they may rent a vehicle to a license holder who is not using their own.

But if the driver owns neither a vehicle nor a licence, they may only rent them. Usually, if the taxi driver does not own a car, they do not own a licence either. In all of those cases, in addition to all the limitations mentioned, there will likely be further limitations based on the driver’s subordination and subjugation to the owner of the means of production. For instance, with regard to work organization, the owner might interfere with vehicle maintenance. As for income, it is dependent upon it is dependent upon payment of a daily or monthly fee. Consequently, there is subordination and subjugation because the worker does not own the means of production; we can thus say that this form of work resembles, to some extent, to an employment relationship, even though neither the people involved nor the authorities consider it a working relation. Rather, they see it as a business relationship.

Drivers may work either independently or within an organization authorized by the Secretariat of Mobility to operate in the designated areas of the city’s streets – called stands and sites – for passenger pick up.

Drivers who work “independently” also choose where they drive in the city, their work schedule, and the way they work; therefore, their work organization is not subordinate to a third party. However, drivers who rent a vehicle see their decision-making ability reduced by the owner.

If the driver works at a stand, a site or with a radio taxi, the organization's administration or management interferes with the driver's work, because that organization defines the terms and schedule of the service provision. However, despite these factors, the taxi driver always controls how they accomplish their job and how they use the vehicle.

Uber and its partners establish a business relationship via a contract between the company and the partner. In some cases, the partner is the one driving the vehicle, but in other cases, they rent it to a third party, who acts as driver. In that case, the driver must register – as a driver – with the company, but as is the case with Uber partners, no employment relationship is established.

The relationship between the partner who does not provide any taxi services and the driver who does is often similar to the relationship that unites the taxi dealer with the taxi driver who pays to rent the vehicle. The commission creates another link: Uber deposits the money to the partner on a weekly basis, and the partner, in turn, pays a percentage of the fares to the driver. Those commissions fluctuate between 20 and 33% for the driver, and depend also on the factors mentioned above.

Uber requires various types of vehicles depending on the service provided; for UberX, whose service is comparable to a taxi, the company requires a four-door sedan with a trunk and air conditioning, charges a minimum amount that dates back to 2007 or later, and specifically excludes the Nissan Tsuru, the most frequently used car for taxi service provision.

The driver can pick their workdays, the start and end times of their shifts, as well as their breaks. However, decisions are determined by desired or possible income; they must often work between ten and twelve hours per day, six days per week.

Uber proposes journey orders to drivers according to their geographical location. Owing to the application's geolocation, the driver, when connected, is located by Uber and can accept or refuse a proposed journey. Multiple refusals may lead to sanctions, especially with UberPool services.

As with any technology, Uber's platform and application are not neutral. Rather, Uber's control mechanisms, necessary both to provide taxi services and to condition drivers' work process, were included in the application's development and management; the application was thus designed to offer control.

The passenger assesses the driver's work. After each journey or when they next open the application, the passenger must rate their driver on a scale of 1 to 5 stars. If the driver's average is low, Uber will suspend or permanently deactivate them. Every week, drivers receive their weekly average rating by email. If their overall score average is inferior to the established average, Uber provides "some advice on how to improve", but it has nothing to do with the comments received; the advice rather consists of general principles predetermined by Uber and concerning, for instance, professionalism and knowledge of the city.

On the other hand, Uber periodically offers incentives to drivers, so that those who undertake the most journeys are rewarded for their efforts. These rewards do not take into account the driver's rating; even a driver with an average rating of 5 will not get

them, because they depend on the volume of taxi services provided. Rating is thus only important when it comes to sanctions, not rewards.

Remuneration and working conditions

The taxi driver's income depends on the fare set by the government, on the number of working hours and journeys undertaken, on the location of the stand or site, and on whether or not they own the vehicle.

In general, taxi workdays are long, between ten and twelve hours per day and six days per week, but drivers can decide whether they wish to prolong their workday. Drivers can also interrupt their workday or "skip time" by doing other leisure or family activities.

Drivers and vehicle owners have different incomes, because they have to cover different costs. Drivers must pay daily for the use of the vehicle, which usually represents one third, and sometimes a bit more, of their total income. Owners do not have to pay those fees, but they have other expenses, like replacement parts and, in particular, car depreciation, insurance, and taxes.

Revenues also vary because site taxis charge higher fares than independent or base taxis.

At Uber, setting fares and percentages of invoiced commissions is the company's prerogative; there is no opportunity for partners to negotiate or contribute to the decision-making process. Moreover, "dynamic pricing" increases when demand is high. Although upon ordering, the passenger can see the fare, fares may be adjusted depending on the time required to reach the destination (due to heavy traffic), intermediate stops, or if the passenger determines the journey. Currently, Uber retains – as a commission – between 20 and 25% of the fare billed for each journey. Partners' income depends on the number of journeys undertaken, and on time and distance of each journey, after deduction of the commission. As for non-partner drivers, their income further depends on the agreement with the partner-owner of the vehicle. Income may be increased if passengers tip the driver; tipping is done via the application.

In the end, the drivers' net income varies according to fares and commissions, vehicle ownership, work areas, schedule and time of the month, but especially according to the number of working hours.

Economic risk distribution

Given that these workers are self-employed, taxi drivers, drivers or "partners" are responsible for operating costs and, consequently, economic risks. Fees are high in comparison with income, but if they were actually paid, earnings would be almost inexistent. However, this is not the case: thanks to a strategy that drivers employ to minimize costs, each day they have remaining money. This is significant, because taxi work is generally considered as quite profitable, and it is more so owing to strategies developed by drivers to minimize costs or circumvent fees, such as buying used or apocryphal inputs, perform vehicle repairs and wash on their own, etc.

Social risk distribution

When workers need to generate revenue, they are often faced with at-risk situations that they can neither prevent nor avoid. With regard to taxi drivers, we should not overlook the fact that remaining seated in a car for long hours is linked to important health problems, especially in the back and legs. In Mexico City in particular, the situation can be even more serious, for drivers are continuously exposed to environmental pollution and fumes from vehicles on the road. Another common situation among drivers is the stress related to the number of working hours, violence, insecurity, or the abuse they have to endure at work. If stress is intense, continuous or repeated, it can lead to physical or psychological illnesses. The number of working hours only generates fatigue and exhaustion, which raises the risk of road accidents. Given the number of daily offenses, drivers often see their job as dangerous. Every day, the media broadcast reports of physical aggression, attacks, and even deaths of taxi drivers at work. Insecurity is what makes taxi drivers feel that their job is dangerous. They do not see their job as dangerous because of environmental issues, exposure to pollution, or because they drive and can have an accident; they see it as such because they are faced with continuous insecurity.

Apart from a few isolated cases, drivers do not have social security at work, because they are self-employed. They and their family have access to Seguro Popular (public health insurance system), a health protection program for low-income people who are not covered by the welfare system. The nature of this service is different from the Seguro Social (social insurance). The former is universal and only citizens can benefit from it, while the latter is linked with work (in a dependent relationship). In any case, the Seguro Popular can be considered a form of acknowledgment, by the State, that a large part of the population lacks health protection. As for non-members of the Seguro Social, they will no longer benefit from pension or retirement in future.

3. Service and work regulation institutions

Given the public nature of taxis, the local State is responsible for exercising control over the industry: it issues licenses, establishes the obligations and rights of dealers, traffic areas and forms of traffic, sanctions, types, colours and age of vehicles, and the terms whereby the service operates. The Secretariat of Mobility (SEMOVI), through its Executive Management of Public Individual Passenger Transportation, is the agency responsible for regulating, directing and maintaining daily taxi service operations.

Since 15 July 2015, the services offered by Uber and similar companies have been regulated. This regulation followed the demands and mobilizations of regular taxi drivers, who denounced the unfair competition introduced by Uber, which was operating illegally. Since then, Uber has been in a position to operate legally, not as a taxi company, but as a private passenger transportation company. The regulation standardizes the payment of taxes, as well as record keeping, but fare setting is left to each company's discretion. The same applies to establishing the commissions charged to partners. Furthermore, the regulation does not mention the type of contractual relation that should be established between companies and drivers.

In their contract's "Terms and Conditions," Uber unilaterally established the conditions under which the service should be provided and, consequently, work conditions. The requirements for becoming an Uber driver are minimal and inferior to those for becoming a taxi driver; the cost is also lower.

Work and employment relations, both within the traditional taxi industry and at Uber, are excluded from work regulations (federal Labour Law); therefore, the various aspects of the work are indirectly regulated by the service regulation mentioned earlier.

4. Collective action

Mexico City taxi driver organizations are comprised of both formal and informal groups, which bring together either drivers or dealers who provide public individual passenger transportation services. These groups represent their members' common professional interests and, overall, they act as mediators between public authorities and taxi drivers. All of them have one thing in common; they bring together and represent drivers or dealers as self-employed workers, who do their job autonomously, and who thus develop ties with the organization. These organizations, therefore, differ from typical unions that represent employees.

It is important to note that most taxi drivers – about 70% – do not belong to any professional organization. However, the interests of taxi drivers are conveyed by different means thanks to organizations, and this is where collective action emerges. In this sense, organizations are a fundamental part of the development of collective action.

A special feature of taxi drivers' collective action, in their usual form of protest, is that it plays out in the public sphere; therefore, this type of protest leads to conflicts with other external topics that are not directly involved in the conflict that motivated the action. Taxi drivers' collective action thus has an impact on the city's public life.

In general, organizations prefer dialogue, direct negotiations between leaders and an official, or a request that follows administrative guidelines, to taking more radical action. However, this type of measure does not guarantee a favorable resolution of the workers' requests. Apparently, taxi drivers only resort to collective action in cases of extreme necessity or to get the minimum conditions that enable them to work, for example to obtain concessions, preserve their place of work (to guarantee that the stand or site is not occupied by another organization), or when their income, a fundamental condition of their work, is most affected.

In the case of Uber, the organization and mobilization of drivers are defined by the fact that drivers are considered as self-employed workers, both in legal and service provision terms. In 2019, however, workers from platform companies, one of them being supported by the Confederación Revolucionaria de Obreros y Campesinos (CROC) (Revolutionary Confederation of Workers and Peasants), have launched two initiatives to form a union. Their objective was to unionize not only Uber workers, but also – and in particular – deliverers from Rappi, Ubereats and other similar companies. At the time of writing this text, they were not accredited and were in the process of unionizing.

Despite the lack of formal collective organization, Uber drivers, in their daily search for solutions to their precarious working conditions, have been developing a series of individual and collective resistance means. Moreover, more or less organized forms of collective action have developed since Uber modified the terms of its operating services, significantly affecting drivers. These actions have been implemented by organizations, which group drivers together to represent their interests. Drivers demanded an increase in fares or a reduction in commissions, as well as the suppression of the UberPool service (because it involves a decline in earnings). They also demanded that the number of vehicles authorized to operate be restricted, because supply was so great that drivers were getting fewer journey opportunities and,

consequently, less income. In support of their demands, drivers carried out protests, erected roadblocks and organized public demonstrations. Their campaign included presenting a petition, and broadcasting demands and actions on the Internet through social media. These actions were fruitless, for fares were not modified and no other measure was adopted to improve the drivers' income. In fact, their organization was never formalized and in practice, it died.

5. Final thoughts

According to the analysis that we presented, we can argue that the service offered by Uber in Mexico is not a new phenomenon; rather, it replaces the traditional taxi activity, especially taxis that used to be ordered by phone, namely radio taxis. The new elements that have been introduced into the taxi industry are the ability to order a vehicle through other mobile applications, from a stand or a site, or by flagging them down on the street); the possibility of paying by credit card, though it is also possible to pay cash (taxis may only be paid in cash, except for a few organizations or taxi drivers who are in the process of integrating card readers – debit or credit); fares that are calculated according to distance travelled and journey duration plus the initial price (taxis: distance and time, plus initial price); and flat rates for both day and night (taxis: fares increased by 20%).

Given the control mechanisms that Uber put in place to oversee the work of its drivers, we argue that this company does not merely offer a connecting platform between supply and demand; it also provides a service. Actually, Uber does not do so itself, but through its “partners.” Uber’s social working conditions are practically the same as those that used to exist, and still do exist, in the traditional taxi industry.

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