How Technology Changes the Balance of Power in the Labor Market

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AUTHOR BIOGRAPHY

Joelle Gamble is a senior manager with the Reimagining Capitalism team at Omidyar Network, where she focuses on topics related to new economic paradigms, policy-focused campaigns, and worker power.

Prior to joining Omidyar Network, Joelle worked on international economic priorities at the US Department of the Treasury and assisted Princeton faculty with labor economics research while pursuing her graduate degree. Previously, she served as the national director of the Roosevelt Institute’s network for emerging leaders in public policy, advancing bottom-up advocacy campaigns related to economic justice and human rights in the United States. Joelle has also been an organizer for economic opportunity and higher education access in the state of California, running campaigns related to tax reform and the California Dream Act.

In addition, Joelle writes on topics of race, labor, and technology, and her work has been featured in the Nation, FoxBusiness, NBC, and Fusion. In 2017, she received the Open Door Award from the Frances Perkins Center for her commitment to worker justice.

Joelle graduated Phi Beta Kappa from UCLA with a B.A. in international development studies, and she holds a master’s degree in economics and public policy from Princeton University. Joelle sits on the board of directors of the Roosevelt Institute.
HOW TECHNOLOGY CHANGES THE BALANCE OF POWER IN THE LABOR MARKET

The promise of new technology is often sold as an upside for everyone: more products, faster service, greater access to education and quality healthcare, and an overall higher standard of living. But the reality is that technological advances have primarily been used to increase power at the top in our economy. Wage growth has slowed.¹ Corporate profits have risen meteorically.² Many Americans face worse economic and health outcomes than their parents’ generation. No smartphone app or digital network alone can ensure a higher quality of life. Without public action, the promise of technology for everyday Americans will not come to pass.

Few places clarify the distortionary impact of technology better than the labor market. A great deal of time and public debate has been devoted to the role of task automation and the availability of jobs for workers at different skill levels. Yet, technology’s impact on workers is woven more deeply into how labor markets function. For example, workplace fissuring, coupled with the development of digital networks, allows firms to compensate workers with wages and benefits that are below the value they bring to the company.

Technologies reflect the balance of power in the economy. Progressives, therefore, have a responsibility to use the levers of government to return accountability and equity to the world of work. This brief reviews some of the ways technology tips the balance of power in the labor market in favor of corporations and away from workers. It concludes with a short framework for progressive advocacy.

TECH & CORPORATE POWER

Technology has boosted work arrangements that give more power to large employers. Redefining workers as contractors when they should be employees, reduces companies’ legal obligation to provide sufficient wages and quality conditions. Digital networks allow workers to work from anywhere but make it increasingly difficult for workers to organize and check corporate power.

Workplace fissuring— the process of firms shifting work from their own employees to subcontractors

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who then hire workers— helps increase corporate power. For example, many large hotel chains do not hire service staff like housekeeping and front desk workers. Rather, they enter contracts with smaller firms who, in turn, manage the staff. These subcontracted workers are not classified as employees of the larger firm under the National Labor Relations Act and are, therefore, not provided the same protections and benefits as other employees. Technology makes the fissuring process easier, as companies can use digital networks to manage these constellations of subcontracted workers, even if they do not work in the same physical location as the company’s management. The ride-hailing services Uber and Lyft are the most widespread example of this practice. Drivers are not considered employees of the company, despite “working for Lyft.”

Marshall Steinbaum (2019) and Sanjukta Paul (2016) argue that this reclassification not only skirts labor law but increases market power. The subcontractor relationship exploits a gap between labor law and antitrust law by allowing companies to fix wages without being subjected to antitrust regulation. Without reclassification or collective bargaining rights for contract workers, powerful companies can continue to exploit workplace fissuring to redistribute profits upward.

Companies can also use new technologies to redistribute risks within a firm downward. Low wage workers, such as food service, domestic and hotel housekeeping workers, are increasingly managed through software. Algorithmic management makes on-demand scheduling easier and more abrupt. Companies can use real-time data to decide when to schedule workers to maximize profits and minimize costs. This technology allows companies to keep workers on-call without pay. When business activity is low, managers cut back on hours for workers. While traditional employment arrangements also led to workers suffering from reduced schedules and layoffs, the algorithmically managed workplace can adjust immediately. There are almost no frictions and firms do not have to officially lay off workers or be transparent about work schedules in advance. The result of this precarious environment is that workers never know their schedules and cannot, therefore, find additional employment. This decreases their wages and their bargaining power. When employees are classified as contractors, the harms from this practice are magnified.

TECH & WORKER POWER

On May 14, 2019, the National Labor Relations Board’s general counsel decided that workers for companies like Uber are excluded from federal protections for worker organizing activities.8 This comes on top of the Trump Department of Labor’s decision that independent contractors are not entitled to overtime pay or subject to minimum wage laws. The National Labor Relations Board (NLRB) decision is a blow to workers in the fissured workplace because the structure of business models, like Uber’s model, inherently lessen the ability of workers to organize.9 Distributed digital networks, like those used by platform companies, make it harder for workers to communicate with one another about pay and working conditions, or even identify each other to begin with. However, solutions exist. First, technology can help facilitate worker organizing. Platforms like Coworker.org help workers in distributed industries organize. Second, federal rules can change. The NLRB under the Obama administration ruled that workers for Postmates, whose model is similar to Uber, are employees and have federal protections.10

Beyond the legal definitions applied to workers, technology has created imbalances in information that reduce worker power. Workplace surveillance technology has developed to the degree that managers can electronically monitor workers and track productivity down to the keystroke.11 This puts enormous time pressure on workers and limits their ability to exercise discretion in the workplace. For example, Amazon delivery drivers, who are contractors, have reported feeling pressured by the company-provided navigation software and delivery routes. The pressure to finish work on time has led to drivers speeding and urinating in bottles rather than stopping for restroom breaks.12 The ways in which surveillance is used today doesn’t lead to perfect information for both employer and employee. It creates a new inequality in which unequal access to worker data can make it hard for workers to compete or bargain for higher wages.

TECH & WORKERS OF COLOR

The above developments have a disproportionate impact on women and workers of color. Many of

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the industries in which technological change is changing the quality of working conditions and the ability of workers to bargain are low wage industries such as food service, retail and care work. The majority of African-American and Latino workers in the United States work in jobs that pay less than $15 an hour. African American and Latino workers make up more than half of non-managerial home care workers. Women are 91 percent of this group. The numbers are similar for the hotel industry, in which many of these workers are contractors: Seventy-four percent of non-managerial hotel and motel workers are women, 18 percent are African-American and 36 percent are Latino.¹³

Gender segregation within the platform economy produces greater challenges for women, particularly women of color. Ride-hailing platforms are male dominated while care services, like Handy.com, are dominated by women. Ticona, Mateescu and Rosenblat (2018)¹⁴ document lower job quality in platforms that provide care services. Unlike ride-hailing platforms, care platforms do not mediate the entire transaction, from customer-worker matches to disputes. Instead, care workers market themselves. This increases the probability of online harassment and discrimination. Finally, gaps in digital literacy for low income women and immigrants, who make up a larger percent of care workers, creates barriers for accessing job opportunities through platforms and risks pushing these marginalized workers out of the market.

A PATH FORWARD FOR PROGRESSIVES

Moving forward, progressives can bring equity and justice back to labor markets by prioritizing three factors: inclusion, accountability and direct worker power.

• **Inclusion:** Technological change risks furthering the marginalization of low-wage workers, who are predominantly women and people of color. Advocating for the reclassification of specific types of contract workers, such as hotel housekeepers, as employees entitled to federal protections is possible to do at the state level even though federal changes are limited under the current administration.

• **Accountability:** Corporate power must be reined in by public accountability. Antitrust regulation should be updated to reflect the growing power of firms in the labor market. Competition regulators should prevent the kinds of wage-fixing arrangements from which fissured workplaces profit. And, the Federal Trade Commission should add a labor market analysis to its merger review guidelines. In the absence of


reclassification, some types of contract workers should also be allowed to collectively bargain, under the statutory labor exemption.\textsuperscript{15}

- \textbf{Worker Power:} Progressives should ensure that all workers have the economic security and legal rights needed to assert their power in the workplace. An economic floor for workers gives them alternatives to their current employer, increasing their bargaining power. Portable benefits for contingent workers and strong public options can help secure this floor.\textsuperscript{16} Advocates can consider redistributing the gains of tech-driven profits to help finance such endeavors. In addition, reasserting the right to collective bargaining over wages and work conditions is mandatory for ensuring that worker power is a check on corporate power. Extending National Labor Relations Act protections to more types of workers and restoring the right to unionize in states that have rolled back protections are ways to achieve this. But, other arrangements are worth considering. For example, using wage boards or sectoral bargaining as a way to set standards in distributed industries like fast food service could be a faster way to increase worker power than organizing workers company by company.\textsuperscript{17}

\textsuperscript{15} Steinbaum (2019).