Asymmetric "partners": work and health of app drivers in Rio de Janeiro, Brazil

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Abstract This paper is the product of an ongoing research's preliminary results with app drivers and aims to discuss how the game of forces has occurred in the relationships established between companies, workers, regulatory bodies, and society. This exploratory qualitative study employed document analysis, a questionnaire, and semi-structured interviews with drivers linked to associations in Rio de Janeiro (RJ), Brazil. The analysis was conducted from a tripolar perspective based on the theoretical-methodological framework of Ergology and social life's micro and macroscopic spaces, encompassing the poles referring to human activity, the market, and politics. The results show a background of norms built on this work about the relationship with companies, passengers, and the drivers themselves, besides issues raised from the COVID-19 pandemic. We can conclude that it is necessary not to counteract technological evolution to achieve workers' rights and health. We should recall that no action aimed at ensuring the reconciliation of health, work, and rights will advance without relying on a fruitful and balanced trend between the three poles mentioned.

Key words App drivers, Occupational Health, Uberization, Ergology

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Introduction

In recent years, microelectronics technologies have extended their capacity to use and manage data to connect consumers and service providers at increasingly lower costs, surpassing, in some cases, the performance of large established conglomerates1. With no significant material assets, platform companies such as Uber and Airbnb have become dizzyingly valuable corporate giants. Practices that corroborate and expand alarming processes of precarious work and deterioration of labor rights are evidenced^{1,2} from arguments based on a supposed sharing economy. Supported by algorithmic coordination mechanisms, companies propose to synchronize the interests of different groups (consumers, producers, and providers), which they consider independent³.

Abílio⁴ argues that uberization would be a new form of control, management, and organization of work, operated in disguise based on algorithmic management, and would be characterized by four central elements: 1. the conception of the *just-in-time* worker, without legal and contractual guarantees; 2. the emergence of companies as mediators and not as contractors; 3. the shift from a predefined set of workers to the figure of a multitude of available workers; and 4. the shift from the work's professional identity to that of amateur work.

This new configuration of work organization and management has significant consequences, both on the elements that define a relationship of legal subordination of employment and the process of appropriating human energy and the costs it entails for people. It also calls for important questions about the work-health relationship, in which the role of app drivers is highlighted, with impacts also on issues of urban mobility globally³.

In Brazil, this activity is growing exponentially. Uber is the largest company in this segment. It has three million drivers, six hundred thousand of which in Brazil in the last six years⁵. At a time of intense economic and political crisis, with high unemployment and informal employment rates, the arrival and dizzying expansion of these platform companies found fertile ground in the country, a setting deteriorated by the COVID-19 pandemic. Let us see how Uber⁶ defines itself on its website:

a technology company that creates opportunity by setting the world in motion. We face the most complex challenges to help our partners and users get around using an integrated mobility platform in more than 10,000 cities worldwide.

The use of the term *partner* in its self-description has a purpose: to cover up a working relationship. This name composes the construction of a narrative of supposed autonomy and flexibility used by the company for the non-recognition of this relationship, thus seeking to exempt itself from the responsibility of fulfilling its labor duties, based on the idea of a horizontality between the driver and the company. Its type of action combines a discourse of freedom with a high level of control over workers' behavior, carried out by programming⁷. Despite the promise made to workers about being free to define when, where, and how to work, adherence to this logic has represented an absolute subordination of workers to managerial rules and commands, which Supiot⁸ describes as programmed freedom or subordinated autonomy. Unlike the Taylorist system, since it is facilitated by algorithmic monitoring, command, and control of work, this management is carried out without the need for direct order.

We asked ourselves about this setting and its relationship with occupational health from the micro and macroscopic spaces of social life, which interpenetrate each other in a tripolar perspective⁹. Schwartz⁹ identifies three poles in democratic societies and governed by the framework of Law: the *management* (or ergological) *pole* and the debate on norms, referring to human activity; the *mercantile pole*, where the quantitative and dimensioned values of the market operate; and the *political pole*, or that of citizenship, referring to the values of living in common. This ergological perspective¹⁰ identifies in the work activity an endless debate of norms between background norms and re-standardizations.

The work activity is indifferent to the prominent owner, who distances himself from the reality experienced by workers, ignoring their living conditions, ensuring an almost zero cost for machinery, the raw material (fuels, repairs, and fleet renewal), and the workforce itself¹¹. It is essential to point out that both the platform-company (commercial pole) and the government (political pole) often ignore or disregard the ergological dimension in the driver's activity (management pole)⁹.

In this sense, we present some guiding questions: what inflections and power plays are found in this setting given the *tripolar space* presented by Schwartz⁹? How are workers' activities organized and what are the background norms found there? How is the collective dimension of this

work being shaped and which relatively pertinent collective entities⁹ are outlined there? What are the prospects for building alternative reserves¹²?

It is believed that such questions contribute to debate the work relationship and organization adopted by platform companies in the agency of the work of app drivers and its relationship with the health of these workers. Health, in turn, is understood as the ability to recreate norms in the face of the environment in which one lives and works¹³. Thus, this text discusses how forces have played out in the relationships established between companies, workers, regulatory bodies, and society.

Theoretical-methodological approach

From the ergological perspective¹⁰, the activity represents a dynamic of potential contradictions. It is a place for debates between background norms and tendencies towards re-standardization, which is due to the variability and events of the human physical and social environment, which Canguilhem calls infidelities of the environment, and the uniqueness of people and situations. These infidelities are permanently managed considering the previous norms and their re-standardization possibilities. Such re-standardizations stem from micro-choices during work activity and can even produce new techniques and knowledge that, perhaps, will be incorporated/patrimonialized to the previous norms¹⁰. Thus, debates on norms, immersed in a world in which different values circulate, can lead to constructing alternative reserves¹² by establishing other ways of living together to ensure collective good living. Health is built from this perspective, insofar as it means the ability to change the environment in which one lives and works by establishing new norms¹³.

This dynamic of permanent reconstruction of what happens in the activity and our law-governed societies will be guided by the attempt to balance the three poles evoked by Schwartz⁹. There will be a permanent attempt to manage debates and requests about the activity at the management pole, with their doubts, impasses, and evocation of different values. In the commercial pole, volatility and pressures governed by the quantitative financial interests of the market impose their rationality. Here, the game of interests of companies and economic groups is permanently pressing for results. Furthermore, finally, at the political or citizenship pole, the values of the common good are evoked with their different

visions of what this could mean. It is necessary to scale resources and consider rights, responding to the permanent pressure from the other poles.

We attempted to understand the studied reality in this theoretical scenario, which evokes tensions and the need for negotiations at different levels. This qualitative and participatory research has been performing:

- Bibliographic and documental survey, to monitor the production of literature on the subject, journalistic articles, company terms of use and what has been done in the legislative sphere, and discussions of groups of workers on social networks (YouTube, Instagram, and Facebook).
- Conversations with crucial interlocutors (presidents of two associations of drivers in the state of Rio de Janeiro) about the work, the operation and composition of the associations, and the demands of these workers; and
- Application of a questionnaire that aimed to raise initial questions about the drivers to be further debated in discussion groups at a later stage of the research, besides inviting them to this stage. The online questionnaire contained 26 questions that aimed to collect the sociodemographic characteristics of workers, some general aspects of their work, and their relationship with health, besides their satisfaction with the activity and working conditions. Although its application was not restricted to a specific group of drivers, most of the 29 respondents were drivers linked to the associations mentioned above.
- Participation in a meeting organized by associations of drivers for applications in Rio de Janeiro in November 2019. The event aimed to socialize these workers and strengthen the category. On that occasion, we presented the project, talked to several drivers, and made computers available to complete the questionnaire.

The project was approved by the Research Ethics Committee of ENSP/Fiocruz, and all statements mentioned here were presented without identifying the participants.

Results and discussion

Work regulation

The changes arising from the platform companies for the relationships between worker and company generate demands for governments, whether in the regulation of economic and urban policy or actions to protect workers or questioning, via Labor Justice, regarding the recognition of a bond and other rights arising from it. In this context, an intense debate has occurred between the three poles enunciated by Schwartz⁹: the ergological pole puts pressure on the political pole, which, in turn, is pressured by the commercial pole. This dynamic works in all directions from the poles, with different and asymmetric weights.

The so-called background norms12 express ideals, rules, objectives, models stemming from bodies outside the individual and are, therefore, heterodetermined. When working, we use manuals and technical notes, management rules, instructions, procedures, and legal regulations, which, at the same time, constrain us and allow us to develop a unique and re-standardized activity. In Brazil, platform companies successfully resist market regulation, normative instruments of public policies, and labor legislation so that the norms created by the companies tend to prevail, as they are not regulated by legislation. Thus, the political scaling in favor of the activity pole is weakened. The movement of creation and discussion of such norms has been in effect in recent years, as can be seen in Chart 1.

The legal debate in the country (political pole) has been instead directed to urban mobility issues than to the relationship/exploitation of work within the labor law. The work of app drivers has been regulated within the framework of the urban mobility policy (Law 12.587/2012) and regulated nationally through Federal Law 13.640/2018. Federal regulation organizes the offer of the individual remunerated private passenger transport service and delegates to municipalities the power to regulate and supervise it. It establishes that only the driver who is an individual contributor to the National Social Security Institute (INSS) carrying out an urban economic activity, whether for profit or not, will be authorized to carry out such service¹⁴.

The rules prohibit exclusivity for the use of the platform, which allows drivers to act simultaneously on several platforms. According to Frazão¹⁵, federal legislation does not explore the "material characteristics of the 'partnership' nor what would distinguish it, from a factual point of view, from the subordinate labor relationship" (p. 321).

In the Brazilian labor law sphere, the debate revolves around the relationship between drivers and application companies. Thus, there is still no consolidated jurisprudence on the matter but divergent legal positions. Some decisions in favor of understanding the existence of an employment relationship were issued in the country¹⁵.

However, they have been reformed in the second decisional level, after appeals filed by application companies, showing the great challenge for recognizing the labor law for this category. It is important to emphasize that such decisions deny recognition of the bond and do not offer alternative protection to workers, who remain marginalized from their labor rights.

Relationships with companies

A total of 44.8% of respondents to the questionnaire affirmed that the main reason for working as an app driver is that this activity is an alternative to unemployment. Such a number may reveal that this is their main job after they found themselves unemployed, not a "gig" or income supplement, as the platform companies' advertising would have us believe. Furthermore, 48.3% of the respondents claim they recognize themselves as entrepreneurs. This data also draws attention to the driver's self-representation, which may, somehow, cover up the subordination relationships to which they are submitted, which is reinforced, for example, by the dubious contract of the leading sector company claiming that there is a direct contractual relationship, but that it is neither of control nor of management. In its General Terms and Conditions for Technology Services, Uber states:

By agreeing to these Terms, 'you create a direct contractual relationship with us. However, we do not control or manage you or the services you provide to Users', nor do we have the right to do so, generally or during Trips. These Terms govern only the use of our Driver Application (p. 3, our emphasis).

Faced with this attempt to remove the employment relationship, with Abílio¹⁶ we understand that the supposed entrepreneurship would be characterized by a subordinate self-management of these workers. The complex logic of the algorithms – for example, in the allocation of rides, in the compilation of routes, and the payment structure – and the lack of transparency in the capture and use of data produced by workers and consumers are structural elements for the platform companies control system. Not being clear about the rules that govern work, how they work, and what they are based on is an asymmetry of power and information¹⁷ between companies and workers.

An essential aspect of this asymmetry is the unilateral control of information on the demand and supply of workers, enabling companies to

Chart 1. Legislation on individual private transport in Brazil and Rio de Janeiro. 2018- August 202							
Year	Sphere	Document	Summary	Situation			

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Year	Sphere	Document	Summary	Situation
2018	Federal	Law nº 13.640/18 (Uber Law)	Changes the Urban Mobility Law 12587/12 and determines that the Municipalities and the Federal District are exclusively responsible	In force
			for regulating and supervising the individual remunerated private passenger transport service	
2018	Municipal	Decree 44399/18	Regulates the Individual Private Remunerated Passenger Application Transport service in Rio de Janeiro and determines rules for circulating in the city	In force
2019	Federal	Decree 9792/19	Regulates the requirement to register individual remunerated transport drivers for passengers in the INSS	In force
2019	Municipal	Decree 46417/19	Provides for other rules for the work of drivers and companies in the municipality. One of these rules establishes that the driver is prohibited from providing information about the ride's destination before boarding the passenger	In force
2019	State	Law n° 8552/2019	Determines which Transportation Applications will have to provide SAC (Customer Service) 24 hours a day and extends the free travel cancellation time	In force
2020	Federal	Amendment n° 5, 1066/2020	Provides emergency assistance for three months for inactive formal workers (intermittent contract) and informal workers, in the amount of R\$600 (six hundred reais) due to the public health emergency of international importance resulting from COVID-19	It was transformed into a legal norm with a partial veto. Such veto invalidates the inclusion of app drivers as beneficiaries of the emergency aid

Source: Created by the authors from legislative documents.

encourage the participation of those they consider "most productive" and punish those who do not fit their economic interests, keeping them permanently insecure⁷. An example of this stimulus to insecurity is the length of the working day, which is hardly predictable, as it depends on the amount you can make in a day. In the questionnaire applied, 48.3% of respondents affirm that the working day is determined by fulfilling a value target defined by the very driver. The value of the rides and the percentage retained by the companies, in turn, undergo variations that are unilaterally established by them, often leading to exhaustive working days.

Another example is the autocratic shutdowns of application drivers. According to a critical interlocutor interviewed (21/10/2020), they tend to be more common among older drivers, as they have already developed strategies to avoid strenuous journeys and still have a satisfactory aver-

age gain. When asked how he imagines an ideal working relationship, he replies that it would be a relationship of choices. The driver can choose, for example, the services that will make up the calculation of his fare and payment methods, because at the moment, according to the respondent, "they say that you can choose, but if a driver starts canceling cash payment rides, he is probably going to be punished or even banned for it". He concludes by saying that a good relationship would be a relationship with less interference from applications and more transparency. Another pillar of autonomy in subordination8 is the lack of responses when drivers feel the need for support:

Lots of demands and no feedback. This support doesn't help you at all. The answers are always the same, regardless of the subject. You comment on a problem, and they send you any ready-made answer. It seems that it [the person who answers] is

a machine. (Driver's comment on the page of the Association of Autonomous Private Drivers – AMPA-RJ – on Facebook, May 2020)

These reports show that no support is given by the prescriptions that can sustain the infidelities during the activity despite the set of rules imposed by the company. Thus, when looking for organizational support that helps them solve problems, drivers face a lack of norms¹⁰, leading to a permanent feeling of insecurity. Regarding possible reserves of alternatives in the relationship with companies, an example that shows a certain pressure of the activity pole on the commercial pole in the almost absence of intervention by the political pole is the driver associations elaborating a project to support the dialogue with these companies concerning fare, security, and respect for the driver¹⁸.

Relationship with passengers

The evaluation and management based on performance indicators from a metric of quantified objectives and priorities in the results have become the main form of control and power in the world of work. One of the differentials for Uber to secure a broad clientele was the low price and the promise of quality service, supported by an evaluation system based on algorithmic management. This system is asymmetric and a reason for dissatisfaction among drivers, as can be seen from the following report:

The lack of respect for "partners", as they are the ones who pay for the car, fuel, maintenance and are also forced to tolerate the lack of education of passengers and their low ratings, without the right to defense. The company only listens to passengers, and any lie invented is accepted. We don't have the right to defense, much less the contestation that could save us from lowering our rating. It's even revolting (driver's comment in a post on the AM-PA-RJ Facebook page, May 2020).

Uber's rating is done twice at the end of each ride: by the passenger who evaluates the driver based on the trip's experience and by the driver who rates the user, both on a scale from one to five stars. Depending on the score achieved, the evaluation system allows (or not) the driver access to Uber's special categories and benefits. Negative customer ratings can lead to punishment and even driver shutdown in the app.

For the platform, user evaluation will be a source of data on the quality of the service provided. Thus, in uberization, the multitude of consumers generates information for controlling

and assessing the multitude of workers¹⁶. Moreover, following the characteristic of crowds, the ratings are anonymous: neither passengers nor drivers see the scores they give to a specific trip or person, which causes discontent among drivers, who feel that customers do not recognize their efforts:

Two things: Passengers don't know the actual star values, and many give a 3 or 4, thinking they're giving a good rating, and it's not (from 4 down, all are exponentially negative). The only positive note is the five stars. Moreover, every dissatisfied passenger, at least, constantly evaluates and evaluates poorly, but not all who leave satisfied do. I always disagreed with this model due to the lack of information (driver's report on YouTube video)¹⁹.

Drivers do not have access to the rules on how demands are distributed or how their assessments are averaged. The result varies from suspension to a shutdown. The notice of possible sanctions arrives via message without the right to defense. Furthermore, denying the trip can also lead to punishment (temporary blocking). The sanctions are already high for losing a single star:

What kills here is having to make 10 to 13 5-star trips to climb a minor point. Then, you get a poor-spirited who gives you four stars, and your grade drops. I think Uber needs to make passengers aware of the evaluation (report driver video on YouTube)¹⁹.

Drivers are controlled by users even before starting the ride by identifying their geolocation. A permanent surveillance system that feeds back on the actions of workers and customers⁴ is created, which is a tension experienced by drivers who are constantly subjected to the fear of being poorly evaluated.

With this customer evaluation system, the company establishes control and management of the work process, using the results of the evaluations to classify workers, thus creating a ranking among them, configuring, as Abílio⁹ would put it, "an element that will be used as an automated criterion in the distribution of work and in determining remuneration" (p. 43). Thus, this system structures the company-driver relationship, establishing a quality standard that the worker must follow "based on informally defined rules" (p. 43).

Relationships between drivers

Workers end up creating ways to resist attempts by companies and consumers to control the development of their activity, recognizing that there are contradictions between the principles spread by uberization and the effective performance of their work²⁰. Relatively relevant collective entities seem to emerge¹⁰ among such attempts, with more fluid forms of synergy among workers, which would outline a non-linear resistance, often still aligned with entrepreneurship discourse.

The establishment of driver associations and the intense communication on social networks would be signs of constructing collective strategies to pressure the redefinition of company standards. The questionnaire shows this construction: 93% of respondents are in WhatsApp groups, 41.4% on Facebook, 44.8% on YouTube channels, and 69% are affiliated with associations. In this case, the high percentage can be explained because the instrument was applied in a commemorative meeting of driver associations. In such spaces, drivers share tips on getting a better income, safety, news about the legislation, or even publishing memes and making complaints. Here, we can see the expression of sociability networks21 built by workers, which act as powerful means of disseminating information, enabling mutual support and learning in non-regulated, informal work performance.

Another dimension of these collective traits is the associations of drivers. According to critical interlocutors, Rio de Janeiro has four of these: two in the capital, one in Niterói, and one in Cabo Frio, while others are in formation. The first emerged between 2015 and 2016 during an adverse reaction to Uber drivers and a powerful taxi driver strike in Rio, followed by the launch of injunctions and municipal legalization in Rio de Janeiro. Since then, they have sought to recognize the profession, guide and facilitate the safety of drivers and customers, and to some acted as a "benefits club".

There are signs of the still fragile emergence of a professional category or traces of a relatively relevant collective entity¹⁰ in the relationship between drivers. Dialoguing with Abílio^{4,9}, we see that collectivization strategies, based on the formation and recognition of a professional category (with the "Uber law"), can develop an unsuspected professionality amidst "amateur work": the driver's (even independent from the use of applications).

It could be said then that the idea of isolated work, which is carried out "alone", and the competitiveness encouraged by the application companies, by reducing the value of rides with the (unlimited) entry of new drivers, is coun-

terposed, even if for now still shily, by these collective designs. As a result, these indications of professionalism and heritage of these workers' experiences can be observed in some statements: "this ends up being a profession, not a 'side job', or even, "everyone in our category comes from another category and brings added knowledge" (Live on Facebook, 17/04/2020).

The tension between the ergological, commercial, and political poles is enormous and can be exemplified by the difficulty of collectively mobilizing drivers to manifest themselves, as they often argue that they will no longer have guaranteed their day's performance. Another tension between the poles is manifested in the distrust that many of them have regarding politics or social rights, which would contribute, for example, so that they give up their labor rights while complaining about their working conditions, which is what Grohmann²² points out as pre-figurative struggles. In other words, they bring elements from the bottom up, although they are not free from contradictions and complexities, very much related to the Brazilian reality, where some of the characteristics of the so-called gig-economy are not new.

Work during the pandemic

If the working conditions of this category have been frayed since the beginning of its operations, in the context of a pandemic, the aggravating factors of its vulnerability are the lower demand for the service and the risk of infection and lethality. In this context, transport workers, such as app drivers, among others that are substantially informal and unprotected, are currently essential service providers for the functioning of society^{23,24}. If, on the one hand, the situation is dramatic, it has paradoxically contributed to the issue of health at work (and of rights and working conditions), gaining visibility and attention from society and workers themselves²⁵.

In March 2021, in Brazil, Uber initiated a policy of financial assistance for up to 14 days to drivers and delivery partners diagnosed with COVID-19 or isolated with suspicion. The following month, the qualification criteria were expanded to include partner drivers and deliverymen with pre-existing health problems⁶. However, despite the proposed loss-sharing guaranteed by the company until June 8, 2020, the calculation of financial assistance is based on the driver's weekly average earnings in the last three months, from the date of the request for the

assistance. The worker is at a clear disadvantage if we consider that the economic consequences of the pandemic have been worsening since March.

CONAFRET/MPT Technical Note 01/2020 presented recommendations to contain the spread of the new coronavirus aimed at digital platform-based transport companies26. The note recommended that workers be assured information and guidance regarding control measures, health, protective, social, and labor conditions to reduce as much as possible the risk of contamination during the exercise of their professional activities. Here, non-compliance with the recommendation is observed due to the absence of protective conditions in the vehicles, besides the lack of social and labor protection. Finally, it is imperative to highlight what is provided for in item N° 8:

ENSURE that, in the event of an official determination, by the competent public bodies to restrict the public movement of people, which affect the professional activities performed in the transport of passengers and goods by digital platforms, the provision of services will be suspended²⁷.

Social distancing resulted in a restricted public movement of people, and the service continued to be offered without paid work stoppage being offered to the category, which directly affected their professional activities and means of survival. Given the insufficient public policies or support from companies, we observed that drivers articulated in social networks to create and share health protection and financial survival strategies faced a declining ride demand.

Final considerations

The analyses brought here were built from an exercise inspired by the ergological tripolar space. They make up a kind of kaleidoscope of impressions, reflections, and affections that we encounter when approaching us with a research perspective into such a burning reality for those who live in urban centers today. The materialization of the historical – particularly in Brazil – precariousness and transformation of work in the consolidation of a just-in-time worker4 is revealed.

Reading Supiot8, Carelli7, and Abílio9 highlights the ambiguity in the seductive idea of being your boss and the impossible emancipation in practice, revealing an autonomy immediately denied by the duty of alliance and not a true partnership - an asymmetric partnership. If, as Linhart²⁷ points out, what is desirable at work is not subordination but real autonomy, seeking to achieve it becomes a real burden. This achievement involves debating at the political pole about the power asymmetry in which work processes operated by these platform companies have occurred. Behind the supposed and exalted objectivity and neutrality, the opacity in which the underlying decision-making mechanisms are established is highlighted³.

In this sense, we understand the struggle for health as a path that allows the creation of living and working spaces, with the construction of the common as a challenge and support for freedom and emancipation. In short, the idea would be not to oppose technological evolution to the evolution of our sense of humanity and collectivity, selecting, for example, co-determined work, in which workers would be involved from the moment of programming the platform until its use^{28,29}. We should remember that no action aimed at recreating our world and guaranteeing the balance between health, work, and rights will succeed if we do not have a fruitful and balanced dynamic between the three poles mentioned. Thus, for the activity pole to have the visibility and emergence that it should, the political pole, the politea, must act as a protector against the impositions of the commercial pole.

Collaborations

All authors have actively participated in the project, either as professional researchers or undergraduate and graduate students in training. All contributed significantly and consistently to the paper's formulation in defining its scope, organizing and discussing the results, and reviewing and approving its final version.

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