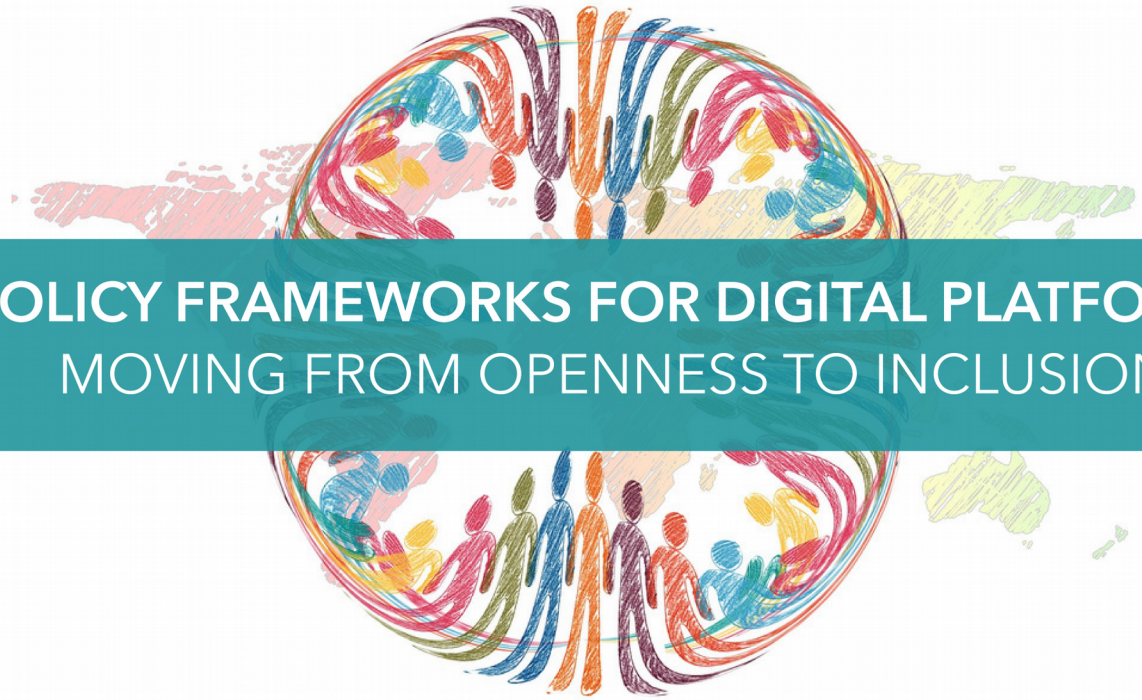

POLICY FRAMEWORKS FOR DIGITAL PLATFORMS
MOVING FROM OPENNESS TO INCLUSION

Background Paper

IT for Change

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Understanding platformization

Platformization is a key facet of the global economy today. Platforms, as understood through informational capitalism, are not just online market places – they are market makers. As "a set of digital frameworks for social and marketplace interactions" (Kenny & Zysman, 2016), platforms replace and rematerialize markets, restructuring both economic exchange and patterns of information flow (Cohen, 2017).

Platforms are to the network age what the factory was to the industrial revolution – the principal site of economic activity around which everything else is organized. The platform economy represents the organizational structures of informational capitalism, recursively shaping society and social institutions. It consists of a distinctly new set of economic relations that depend on the Internet, computation, data and artificial intelligence. Its logic is driven by Big Data and the algorithmic models that rely on the data.

From popular imagination to research activity, there is a palpable sense of a new turn in economic reorganization, impacting productivity, growth, jobs and skills in the future economy. The dominant mood is about innovation and opportunity. However, there is a need at this moment to pause and ask if this overarching sentiment is justified. A more critical examination is needed to comprehend what the emerging platform economy means for our future societies and economies.

As with all times of paradigmatic change, institutions are falling behind in their attempts to understand and measure up to what in effect constitutes the social project of public policy making in relation to the platform economy. This research project seeks to explore and articulate the institutional-legal arrangements that are adequate to a future economy that best serves the ideas of development justice; where considerations about economic and distributive justice are primary. It will examine the social-relational aspects of the platform ecosystem, looking at how specific discourses, norms and rules around rights and obligations are emerging in the platform economy, and how interests are ordered, and power is structured among actors.

Scoping the platform economy – a development perspective

The idea of justice has been central to structural critiques and progressive articulations of development (Sen & Grown, 1987)[1]. The long road to development justice has been linked to systemic crises and the need to seek a transformative framework to reduce inequalities of wealth, power, and resources between countries and different social groups. Central to such a vision of development justice is social and gender justice, democratic governance, the rule of law and the place of the ecological, in a globalizing world (AP-RCEM, 2014)[2].

Market capture

The platform economy poses key challenges to development justice. It is marked by a monopolistic control of few big players who take over all activity across entire sectors. Alibaba, which has a burgeoning cloud business that competes directly with Amazon, plans to use its trove of consumer data to provide a suite of connected services back to brands whose goods they sell. Services will include inventory management, smart manufacturing and logistics, aiming to slash waste and margins across the entire supply chain, all part

1 For instance, see the path breaking work of Sen, G. & Grown, C. (1987) Development, Crises and Alternative Visions – Third World Women's Perspectives. New York: Monthly Review Press

2 Development justice, as envisioned by global justice movements, Advancing a Peoples' Agenda for Development Justice, See: http://www.asiapacificrcem.org/wp-content/uploads/2015/02/FSD_Outcome_CivSociety.pdf

of the company's so-called 'New Retail' strategy (Reuters, 2017). The imminent acquisition by Bayer of Monsanto is inspired by the value proposition of the platform economy; more than a quarter of the combined world market for seeds and pesticides in the fast-consolidating farm supplies industry will likely be captured. Intelligence on soil and cropping that Monsanto holds can productively combine with the pharmaceutical knowledge that Bayer controls. Google's ownership over vast amounts of user data has catapulted the company into leadership positions in emerging fields like Artificial Intelligence (Wired, 2017). In platformization, we see the building blocks of a new model of value creation and capture, one that usurps control of social and market ecosystems.

Disciplining through access-for-data regime

The Hobson's choice evidenced in the access-in-exchange-for-data regime of platforms is a form of governmentality (Cova *et al*, 2011). Platform companies not only exploit user labor, but strive to maintain control over production and consumption, as well as producers and consumers. While constructing users as ostensibly free subjects of capitalism, platforms discipline them (Fuchs, 2008). As "intellectual property entrepreneurs" working to refine and propagate appropriation strategies that serve their economic interests (Cohen, 2017) platforms use techniques of surveillance and legal definitions of private property to quell and foreclose any consumer behavior potentially unconducive to capitalist appropriation (Cova *et al*, 2017). Although the potential of a networked, empowered and autonomous consumer-user is ever-present in the platformized ecosystem, it is unlikely that a 'multitude' (Hardt & Negri, 2000) that can challenge the excesses of capitalism will rise under the current regime.

Discursive influence

While regulation and judicial intervention in the EU and some other countries is gearing up to tackle the monetization and proprietization of user data by platform companies, in most parts of the developing world, there is often insufficient recognition of how platforms monetize, and claim property rights over, the data of users[3]. Scholars like Gillespie (2010) show how platform companies command huge discursive power, deploying rhetoric effectively to influence legal and judicial discourse. Google has funded research papers that often blur the line between academic research and paid advocacy. For instance, it has been noted that Google-funded studies spiked during periods when its business model was under threat from regulators and when opportunities arose to push for new regulations on its competitors[4]. Nearly a decade ago, Monsanto employed social media as an integral element in its attempts to influence broader debates around industrial agriculture and biotechnology (Peekhaus, 2010).

Enclosure of the informational commons, neoliberalisation of society

Ownership over data and digital intelligence bestows upon neoliberal capitalism an unprecedented ability to rentier. Platformization is the most powerful lever of financialization. By enclosing the informational commons, platforms offer post-market capitalism an exceptional organizational scaffold for extensive planetary control (Rigi, 2014).

3 In a recent judgment of the Supreme Court in India, judges opined that users can scarcely demand free speech rights in a "free" service that they do not pay for. See Why the Supreme Court shouldn't allow WhatsApp to share data with Facebook, https://thewire.in/120714/chief-justice-khehar-shouldnt-allow-whatsapp-share-indian-user-data-facebook/

4 See Google Academics Inc, http://googletransparencyproject.org/articles/google-academics-inc

Uber is owned by a small tightly held firm funded by venture capitalists, whose value will eventually be capitalized by sale of a controlling interest through either acquisition or a stock offering (Kenny & Zysman, 2016). Uber's drivers are individual contractors towards whom Uber has no responsibility (Wall Street Journal, 2015)[5]. Its model is predicated upon non-transparent, data-based market interventions that squeeze both customers and drivers. The *raison d'être* of the business is to create value for share holders.

The conversion of human relationships and creativity into calculated exchanges between antagonistic and alienated individuals and measuring the value of these exchanges according to their ability to further capital accumulation characterizes contemporary capitalism (Kapur, 2016). Impatient capital, in its desire for rapid returns on investment, is ruthless not only in suffocating the expansion of the commons of information. Its very logic is based on the rapacious exploitation of nature.

As global society becomes increasingly interconnected and dependent upon material and energy resources, its communication channels are promoting a social paradigm where individuals are increasingly disconnected and self-referential (Rigi, 2014). This is in contrast to the notion of society based on inter-subjectivity – the idea of individual as relational, not an enclosed entity independent of others, but an 'ensemble of social relations' (Marx, 1845 as cited in Engels, 1979).

Exploitative structures of future economy and society

The compelling label of 'sharing economy', used widely to describe the platform ecosystem, reflects exploitative 19th century economic practices of 'putting out'[6]. In utopic conceptions of the platform thesis it is often argued that value can be unlocked in underused goods or that apartment rooms or cars can become investment goods in commercial markets. But in practice, the community in the sharing economy is squeezed by the platform owner. Platform businesses that match workers and tasks may make labor markets more efficient, but at the same time they generate fragmented work schedules and uncertain job tenures (Kenny & Zysman, 2016). As jobs have become increasingly temporary and adhoc in the midst of declining social support for health, education, housing, etc., workers face an intensely competitive environment in which obsolescence and deskilling are everyday realities.

Platform owners and privileged information workers overwhelmingly work and reside in advanced capitalist countries and are predominantly male by gender. Low-end information workers on the other hand overwhelmingly work and reside in the Third World (Guardian, 2013). The platform economy is a global edifice built on gender, racial and imperial faultlines that are obscured (Caffentzis, 2013; Rigi, 2015). Platformization renders workers in service sectors (overwhelmingly women), and manufacturing and agricultural workers peripheral to its all-engulfing logic, losing sight of hierarchies in the international division of labor and the way capitalism has used the wage to mobilize women's work in the reproduction of the labor force (Federici, 2006).

Policy and legal challenges

The above critique of the platform economy needs juxtaposing with the policy context of the platform economy.

5 Uber is the most valuable tech company backed by private equity and venture capital at about a 50 billion valuation. MacMillan and Demos, Uber values at more than $50 billion, See https://www.wsj.com/articles/uber-valued-at-more-than-50-billion-1438367457

6 Contracting by a central agent to subcontractors who complete the work in off-site facilities, either in their own homes or in workshops with multiple craftsmen.

Political economy of policy and democratic deficit in global norms - Corporations in the platform ecosystem – including data brokers and digital analytics firms – exploit loopholes in legal systems that are not quite aligned for a data driven economy. For example, privacy statutes may be sector-specific or broad, presumptive consent may be adequate for proprietization of data (Cohen, 2017), and anonymized data sold to third parties may get re-identified despite laws that prohibit transfer of personally identifiable data. In the globalized context of networked infrastructures and digital paraphernalia, the lack of data protection frameworks in developing countries undermines individual rights and economic justice. Countries that are still struggling with digitalization and datafication are also those whose legal frameworks are weakest. As the world economy goes digital, technological progress has been noted as having an even greater impact on inequality than globalization (Papageorgiou *et al*,2008).

Given that most platform companies are US corporations, cross-border flows of data have become non-negotiable for US economic interests. Also, as the digital economy permeates and reconstitutes all sectors – from banking and commerce to trade and governance – data becomes a hugely contentious issue in international political economy. The interests of powerful countries like the G20 hinge on control over data. The stakes involved are evidently very high, with cross border data flows generating approximately $2.8 trillion of global gross domestic product each year (Mckinsey, 2016) that accrues mainly to the global North. Meanwhile, in countries of the global South like India, growth in IT and jobs is plateauing (Economic Times 2017; Huffington Post, 2017) while in others like South Africa, privatization and corporatization of essential services has raised concerns around quality, access and accountability[7]. Trade deficit is rising to alarming proportions in most developing countries[8].

While legal-institutional frameworks in developing countries remain anachronistic, civil society in the global North have been able to bring attention to human rights considerations, prompting action around corporate data practices (the Privacy Shield agreement between the European Union and the US being a case in point). Comparative advantage in the future economy is heavily predicated on data sovereignty in times of the borderless Internet, but the absence of national data policies upholding economic and social justice, rule of law and human rights in developing countries leaves enormous power in the hands of rich countries and their monopoly platforms. There also exist no international binding principles on data ownership in general, and corporate data practices in particular.

Increasing significance of global trade rules - As platforms become the new organizing architectures of agriculture, industry and services, global negotiations in trade witness new, non-traditional agenda. The Trans-Pacific Partnership Agreement (TPP), for example, is the first such agreement that has introduced new digital issues – cross-border data flows, online privacy, network neutrality, cyber security, regulation of spam, and safe harbor protection for internet intermediaries. Not only are future negotiations on trade bound to look at the TPP as a benchmark, but also, technology policy, including Internet and data policies, will increasingly see trade agreements playing an influencing role (Mishra, 2016).

Social movements have articulated concerns about the opaque negotiations surrounding the Regional Comprehensive Economic Partnership (RCEP) between 16 countries in the Asia Pacific region, and the potentially adverse policy and livelihoods impacts of 'WTO-plus' issues, including binding rules in the new arena of the internet economy and e-commerce. The RCEP's impact on critical sectors of the economy are

7 In 2017, South Africa's welfare system was severely compromised due to the poor contracting between the South Africa Social Security Agency (SASSA) and Cash Paymaster Services (CPS). Leveraging accountability loopholes, the contractor, who was entrusted with administering welfare entitlements was able to exploit the database of beneficiaries to make unauthorised debit deductions and engage in predatory financial services. For more, see: http://www.blacksash.org.za/index.php/hands-off-our-grants-background-and-timeline

8 In 2016, it was more than $ 84 billion just with RCEP countries, See: Call for Solidarity and Participation! People's Summit against FTAs and RCEP, https://focusweb.org/content/call-solidarity-and-participation-people-s-summit-against-ftas-and-rcep

also seen to undermine social, economic and environmental justice for countries of the global South, with far reaching impacts on national sovereignty, community autonomy and individual rights.[9]

Platform owners and elites have begun to wield considerable influence in the policy discourse of the platform economy, framing the terms of the debate. Jack Ma of Alibaba for example, has consistently advocated for a new policy formulation process that gives a formal place to corporations in the development of international rules on e-commerce, asserting that it will birth a re-imagined retail industry driven by the integration of online, offline, logistics and data across a single value chain (Perez, 2016).

Policy research agenda and approach

Policies and law for the platform economy are already being written, not through deliberate social choices, but by the big players of the digital economy. This facet of global society in current times is suggestive of the place that platforms occupy in informational capitalism, which makes them "sites of extraordinary manipulability, creating new risks to the human project of democratic, inclusive, sustainable coexistence" (Cohen, 2017).

The relational, distributive and ecological foundations of the platform economy need to be interrogated for their social, economic and political consequences. Datafication of economic and social processes provides the opportunity to recreate societal frameworks, but that would require appropriate policy choices about the technological and economic paradigms for a new society.

Under the circumstances, from a development justice standpoint, two mutually reinforcing tasks emerge for policy research.

1. Clarifying the conceptual frameworks at the intersection of digital, economic and social policies, for greater distributive, economic, social and environmental justice. Concepts in circulation and their currency in actual legal-institutional processes (eg. data flows, intermediary liability, consent, worker rights, right to privacy, corporate accountability etc.) need to be unpacked and critiqued. Techno-determinism (and fundamentalism) evidenced in new age prescriptions for development needs to be deconstructed. For example, openness is often regarded as a desirable virtue of the platform ecosystem; but this may be untrue in certain contexts. As has been observed in many quarters, Artificial Intelligence can become ungovernable and this may not change simply by making it 'open' (Medium, 2016). The response to digital intelligence may need techno-social, and not purely technological, frameworks. Alternative conceptual framings will also be necessary for new techno-institutional model building. For instance, exploring the idea of designating a certain data pool as a public utility can reshape economics and politics in dramatically different ways.

The second task for policy research is empirical. It consists in mapping the operations of the platform economy, the information infrastructures of the platform ecosystem, its datafied layers, technical protocols etc. to understand how they impact distributive, economic, social and environmental justice. Such a study would require drawing up a relational big picture of the platform ecosystem – its norms, rules, relationships and practices, with its constituent actors, and policies, including economic, social and technological, in particular contexts.

9 Ibid

Proposed research program

Objective

With support from International Development Research Council (IDRC), IT for Change is embarking on a project titled 'Policy frameworks for digital platforms - Moving from openness to inclusion'. **The study seeks to build a strong empirical base of the state of play of the platform economy in the global South and analyze the institutional-legal context in this regard, to recommend policy frameworks that tackle inequality, promote inclusion and advance development justice.**

Country contexts from different regions will be included in order to compare differences in the legal and policy environment. To inform the analysis with deeper insight, two developed countries will also be selected.

Key questions

1. What are the social-relational architectures of the platform economy? Specifically,
    1.a. What are the discourses, norms and rules defining rights and obligations of actors in the platform ecosystem?
    1.b. How is power structured among actors in the platform ecosystem? What do empirical explorations of the platform ecosystem tell us about social, economic and gender justice?

2. What legal-institutional approaches can be used to future proof the platform economy from inequality, injustice and exclusion? Specifically,
    2.a. What alternative conceptions of platformization are necessary to promote social, economic and gender justice in future economy and society?
    2.b. What synergies are necessary across technology, economic, and social policies to build a platform governance framework that promotes equality and inclusion?

Themes

The study will include a broad range of themes and topics including, but not limited to:

- What is happening to work (formalization/informalization, supply chain reconfiguration, skills and capabilities, human labor versus algorithms, alienation of labor, collective organizing of individuals, status of small players, digital work and unequal geographies of labor).

- How economic opportunity, barriers to participation in the economy, gains and losses are perceived by actors in the platform ecosystem (workers, producers, consumers, intermediaries, regulatory authorities, judiciary, start-up entrepreneurs in developing country contexts).

- How social norms are reproduced/recast. What new narratives on gender, class, age, location and other socio-cultural markers are emerging, and whether and how they challenge/reinforce old norms and/or create new ones.

- How the platform economy transforms narratives of care work.

- How platform governance (industry standards and regulatory mechanisms) corresponds to the discourse and practice of rights (workers/producers, consumers, users).
- How policies and laws can maximize platform opportunity for local economic autonomy.
- What specific domains of law implicate the platform economy and what new legal frameworks may be needed
- Platform co-operativism (co-operativist service models, platforms supported by local government/ public finance)
- How data regimes are organized by the platform ecosystem (data management, data ownership, identity authentication systems, material infrastructure, including, servers, data security, data analytics, data monetization); implications of platform data regimes for individual and group privacy.
- Digital infrastructure of the platform economy – standards and public goods (Identity authentication, secure payment solutions, cloud and infrastructural data systems)
- Alternative network ownership models and economic and socio-political implications for platform ecosystems.

References

Arthur, C. (2013). How low-paid workers at 'click farms' create appearance of online popularity, *Guardian* https://www.theguardian.com/technology/2013/aug/02/click-farms-appearance-online-popularity

Asia Pacific Regional CSO Engagement Mechanism. (2015). Advancing a peoples' agenda for development justice. http://www.asiapacificrcem.org/wpcontent/uploads/2015/02/FSD_Outcome_CivSociety.pdf

Bughin, J. (2016). Business brief: The ascendancy of digital trade: A new world order? *Organisation for Economic Co-operation and Development (OECD)* www.oecd.org/forum/oecdyearbook/ascendancy-digital-trade-new-world-order.htm

Cadell, C. (2017) Amazon's grocery push playing catch up with Chinese e-commerce giants. Reuters http://www.reuters.com/article/us-whole-foods-m-a-amazon-china-idUSKBN19C32V

Caffentzis,G. (2013). *In the Letters of Blood and Fire: Work, Machine and the Crisis of Capitalism*. Oakland: PM Press; Brooklyn: Common Notions

Cohen, J. (in press). Law for the platform economy. UC Davis Law Review. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2991261

Cova, C., Dalli, D., Zwick, D. (2011). Critical perspectives on consumers' role as producers': Broadening the debate on value co-creation in marketing processes. *Marketing Theory*, 11(3) http://journals.sagepub.com/doi/abs/10.1177/1470593111408171

Dutt, R. (2017). Indian IT Workers brace for bloodbath as industry veers towards jobless growth. Huffington Post http://tinyurl.com/y7ze6cbr

Engels, F. (1979). *Karl Marx's Thesis on Feuerbach*. Peking: Foreign Language Press

Federci, S. (2006) Lecture on Precarious Labor: A Feminist Viewpoint. This is Forever: From Inquiry to Refusal Discussion Series,Bluestockings Book Store, New York https://inthemiddleofthewhirlwind.wordpress.com/precarious-labor-a-feminist-viewpoint/

Fuchs, C. (2008) *Internet and Society: Social Theory in the Information Age*. New York: Routledge

Gillespie, T. ((2010). The politics of platforms. *New Media & Society,* 12 (3) http://journals.sagepub.com/doi/pdf/10.1177/1461444809342738

Hardt, M & Negri, A. (2000). *Empire*. Cambridge: Harvard United Press

Kapur, J. (2016). Why the neoliberal U is making us stupid. *Democratic Communique*, 27 (1), http://journals.fcla.edu/demcom/article/view/88319

Kenny, M. & Zysman, J. (2016). Rise of the platform economy, *Issues in Science and Technology*, 32(3) http://issues.org/32-3/the-rise-of-the-platform-economy/

MacMillan, D. & Demos, T. (2015). Uber values at more than $50 billion, *Wall Street Journal* https://www.wsj.com/articles/uber-valued-at-more-than-50-billion-1438367457

McConaghy, T. (2016). The AI existential threat: reflections of a recovering bio-narcissist. *Medium* https://medium.com/@trentmc0/the-ai-existential-threat-and-the-bandwidth-scenario-4573c1cb085f

Mishra, N. (2017). The role of the Trans-Pacific Partnership Agreement in the Internet ecosystem: Uneasy liaison or synergistic alliance? *Journal of International Economic Law,* 20(1)

Papageorgiou, C., Lall, S., Jaumotte, F. (2008). Rising income inequality: technology or trade in financial globalisation? (International Monetary Fund – No.08/185). International Monetary Fund: Washington D.C. https://www.imf.org/external/pubs/ft/wp/2008/wp08185.pdf

Phadnis, S. (2017). IT sector growth to fall to 5.3 per cent in 2017: Research. Economic Times http://economictimes.indiatimes.com/tech/it-sector-growth-to-fall-to-5-3-per-cent-in-2017-research/articleshow/57509140.cms

Peekhaus, W. (2010). Monsanto discovers new social media. *International Journal of Communication,* 4

Perez, B. (2016) E-commerce will become traditional business says Alibaba's Jack M. *South China Morning Post* http://www.scmp.com/tech/china-tech/article/2027744/e-commerce-will-become-traditional-business-says-alibabas-jack-ma

Rigi, J. (2014). Foundations of a marxist theory of the political economy of information: Trade secrets and intellectual property, and the production of relative surplus value and the extraction of rent-tribute. *triple C: Communication, Capitalism & Critique. Open Access Journal for a Global Sustainable Information Society*, 12(2) http://www.triple-c.at/index.php/tripleC/article/viewFile/487/666

Rigi, J. (2015) The demise of the marxian law of value? A critique of Michael Hardt and Antonio Negri. In: E, Fisher. & C, Fuchs. (Eds.), Reconsidering value and labour in the digital Age: Dynamics of virtual work (pp. 188-204). London: Palgrave Series Macmillan

Sen, G & Grown, C. (1987) *Development, Crises and Alternative Visions- Third World Women's Perspectives.* New York: Monthly Review Press

Simonite, T. (2017). AI and 'enormous data; could make tech giants harder to topple. *Wired* https://www.wired.com/story/ai-and-enormous-data-could-make-tech-giants-harder-to-topple/