

**Keynote speech for the thematic panel organised by the ILO on  
Technological Pathways for Decent Work  
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**Ensuring decent work in the digital age:  
A sharing and distributed economy with a shared and distributed ownership**

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I thank the ILO, and you all, for inviting me to speak here.

Having been asked to speak on 'Ensuring decent work in the digital age', I sub-title my speech as 'A sharing and distributed economy with a shared and distributed ownership'.

As a digital society and economy takes over, two themes get most discussed regarding its impact on workers. These are automation that is destroying jobs, and the ever greater informalisation of workforce through what has been called as Uberisation of the economy.

These very important themes are expected to get much air time here, and I would therefore not discuss them. But even more importantly, I would like to go beyond them because these themes largely address *post facto* impacts of the digital economy, and not its basic structural nature.

My main submission here is that if we are to really protect and promote workers rights, we need to go to the heart of what a digital economy is, and the role of capital and workers in it.

Lets take Uber's example. The deteriorating incomes and work conditions of Uber drivers are sought to be addressed by declaring them as drivers and not independent contractors, as done by courts in some countries. I understand the reasoning, and even more the moral concern, behind it, and have great sympathy for it. But really, are Uber drivers, owning their own capital goods, workers? If so, soon small manufacturers will also be like workers, as e-commerce companies thoroughly and minutely dictate what they produce, how and when, almost entirely supplanting the manufacturer's own agency. This is already happening.

New platform companies, based on continuously collected granular data, develop such end- to-end digital intelligence about every aspect of any sector's economic activity, that they virtually become the 'brain' of that sector. And everything else – activities and actors, are then like the physical body, which completely gets controlled by the 'brain'.

If this looks very scary, it indeed is. So, lets try to find an escape from it.

Staying with the Uber example, lets provisionally accept Uber drivers as independent contractors. They get into a contract with Uber that provides them commuters, and for this service charges about one fourth of the fare. Well, fair enough! But Uber's real asset is not connection forming, and the brokerage from it. It is the detailed intelligence that it builds about a town, its drivers and people, which is systematically and continually accumulated. Much of it is collected through the drivers and their cars. One might ask; who legitimately owns the cumulative economic value of such data, and the digital intelligence that it provides? Contributing to this main, and ever growing, 'intelligence asset' of Uber was never a part of the deal between Uber and the drivers.

Some EU policy documents have raised questions about who should own IoT data, whether the application provider or the owner of point(s) of generation of such data? Data coming from cabs is not much different. A case can be made out that cab drivers – as the main data contributors – have a

stake in the key asset of Uber, its data and the intelligence derived from it. This could justify cab drivers co-owning the Uber platform – the extent and means of which would need to be determined and defined, and by that right they should be able to participate in its management. Drivers might much prefer this route to rightful inclusion in the digital economy rather than just being declared as workers of Uber.

If industrial revolution was about mass production, digital revolution is about intelligent production. It is marked by intelligent work processes, and intelligence products and services. A book delivered to your house, at just the most convenient time, is as much a service as a product, and embedded in it is considerable data based intelligence. This is what situates this activity in the digital economy. So is an Uber ride an intelligent service; it is cheaper, in many ways more convenient, because of considerable data based intelligence embedded in it. Ownership of such sectoral intelligence – which can be described as digital capital -- increasingly occupies the top of value chains in every area. We may, again, ask; do platform companies really and fully own all such digital intelligence, which the capital market values at trillions of dollars? Or, do the ‘points’ and actors that contribute the all important data behind such intelligence have an ownership stake in it? That, to me, is the central political economy question of the emerging digital economy.

Coming to workers proper, say in a factory, it may be claimed that since the employer owns the workplace (unlike with Uber), all the data coming from the workplace is legitimately its. There are many problems with this argument. Is data contribution a part of the work contract, or just the physical and/or intellectual labour? Even if it is, how is it remunerated? Data’s contribution to digital intelligence is quite unlike that of physical labour to physical production. The marginal value of contributed data, which could normally be a basis of remuneration, is relatively quite low. However, data’s cumulative value is very high. Neither can the worker appropriately price her data contribution, as she does not feel the immediate cost. This fact is well known in privacy debates. The only way to price and remunerate data contribution therefore is through collective ownership over the cumulative value of data and digital intelligence – making co-decisions about it, and benefiting proportionately from profits made from it.

Even more importantly, data contributed by workers gets used to build the automation that replaces them. And it is used to develop the digital intelligence to closely control and manage those who survive automation, even as they might be more distributed and informalised then ever. Data contributing workers therefore have a right to know how such data, and the digital intelligence arising from it, are employed. And they should be able to – at least partly – own and control such uses.

But can workers be either simply provided one time remuneration or even otherwise just made to sign away rights to data generated by them as a part of the work contract? The EU investigation related to sellers’ data with Amazon pertains to possible use of such data in a manner that could be harmful to the sellers, like Amazon developing competing products. In such a case of possible harmful consequence, and where there is too great an asymmetry in terms of power between the two parties, a private contract may not hold valid. This is akin to employment contracts, where potential employees cannot be made to sign away what may be considered as their rights under public law. It is this that makes them ‘rights’ rather than ordinary subjects of a mutual private contract. Similarly as with sellers on Amazon platforms, the data contributed by Uber drivers can, and will, be used both to (1) control and manage them, often to their disadvantage, and (2) in time, replace them, as Uber masters a network of driver-less cars which is certainly its ultimate aim. Even if made a requirement under their contract, should sellers and drivers be contributing – and fully alienating – such data to respective platforms that, *inter alia*, is almost certainly going to be used to their disadvantage? Should they not have economic rights to their data, which cannot be taken away by private contract? As discussed, the same argument can be extended to the situation of workers with

respect to workplace data, whereby a case is made out for their unalienable economic rights over their data, or ownership of their data.

If this sounds complex, remember that political economy around the assets of land, industrial capital and intellectual property, when they respectively came to be at the centre of production, was not simple either. Whether, and when, we begin to develop legal frameworks around data, and do the required value accounting, considerably depends on who benefits the most from such an exercise.

India has come up with a draft policy that declares collective ownership over data by a community that contributes it. Data's collective ownership is also inherent in many policy frameworks that propose or suggest requiring some kind of data sharing across the economy and society for everyone's benefit. One of these is the 'Data for all' initiative of the Social Democratic Party of Germany.

Platforms are where a sector's data is mined, and converted into digital intelligence, which is then employed to orchestrate all activities and actors in any sector. It has been argued that platforms should be public utilities, in order to actively protect the considerable public interest inherent in their working. Similarly, but separately, a stake of the workers, and other distributed data contributing actors -- like cab drivers, small traders and SMEs -- can be built into how a platform is run and managed, and how its efficiency gains are distributed.

As workers get digitally separated from each other and simultaneously closely controlled -- more than a foreman could ever on the factory floor, the push-back has to be through data collectivisation, with a view to take back at least a part of the digital control. Workers need to collectivise their data to break their digital chains! This will require appropriate legal forms of collective ownership of data, that is key to intelligent production.

Workers' economic rights over data produced by them, and thus their stake in the ensuing digital intelligence that drives the digital economy, can be reconciled with profit oriented entrepreneurship and progressive capitalism. Data collectors too will have appropriate rights over data's value, as would data contributors. Such rights could be differentiated as per the kind of data, different uses of the same data, time limited exclusive rights versus sharing obligations, co-decision making, and so on.

But, today, it is undeniable that the pendulum has swung too far in favour of owners of digital capital. It requires to be pulled back towards the rights of workers, and other marginalised actors of a digital economy.

To end: Appropriately understanding the economic relationships around data, and digital intelligence, is necessary for shaping a new social contract, that many have called for in a digital society. It can provide workers their due share of the digital economy pie.

Thank you.