Hierarchies without firms?
Vertical disintegration, personal outsourcing and the nature of the platform

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Is the existing concept of hierarchy appropriate to face transformational new realities enabled by tech?

Does the recent phenomenon of platformization redefine the theory of firm/market/networks?
Today’s agenda

1. Behind the scenes of digital transformation
   - A summary of the implications of digital transformation and its impact on labour regulation: the “platformization” of work and its consequences

2. A new approach to orthodox taxonomies
   - Tracing the socio-economic foundations and organizational justifications of labour institutions: the development of the vertically integrated firm

3. Theorizing the platform business model
   - New tech infrastructure lower transaction costs and reduce frictions, making it more easy and convenient for firms to externalise
Labour law as an analytical tool

- deindustrialisation + tertiarisation of the economy
- demographic dynamics + environmental/health issues
- globalisation + digitalisation
- user-friendly & ubiquitous devices + porous workplaces
- shifts in lifestyle and customer preferences

- Labour law as the “frontier area” in which transformational new realities have revealed their impact
- New forms of work / new forms of firms call into question the suitability and effectiveness of current legislation
- Digital transformation is adding new impetus to the discussion on “what firms are and what they do”, thus questioning the basic “make-or-buy” divide
1. Behind the scenes of digital transformation
Platform work, at the tap of an app

- Online labour platforms use technology to connect “providers” with “clients” for one-off tasks (jobs completed either virtually or in person by an on-demand workforce)

  - ICT applications minimize the transaction costs associated with contracting out jobs (obtaining information, setting a price, negotiating and enforcing a contract) and thus make the intermediation of work more rapid and convenient

  - These formats blatantly exclude workers from the labour protections and social security benefits granted to employees and from fundamental rights at work, such as freedom of association, collective bargaining or protection against discrimination
Main (legal) features of platform work:
- paid work organised through online platforms
- three parties: online platform, client, worker
- form of “on-demand” outsourcing
- “jobs” broken down into “tasks”

Two principal models:
- Crowdwork & Work on demand via platform

Dimensions shared with non-standard forms of employment:
- temporary and casual work
- marginal part-time work
- temporary agency work & arrangements involving multiple parties
- disguised employment & dependent self-employment
A double-edged sword

👍 opportunities

- Efficient matching of supply and demand (thanks to tech)
- Reduced transactions costs and market frictions
- Increased flexibility (a trope)
- Access to new pools of ideas
- Customer-oriented
- New job opportunities
- Topping-up income, "pay-as-you-go" workforce

👎 risks

- Casualisation and de-standardisation
- Global competition
- Risk of precariousness, discontinuity of careers
- Fissuring of the workplace
- Dispersing data, know-how
- Legal uncertainties in relationship
- Poor pay levels, no training
A distorted picture of flexible innovation

- Difficulty in dealing with a segmented workforce that lacks commitment, in supervising isolated workers outside the firm and in meeting the needs of customers.
- Strong managerial prerogative and diluted responsibilities.
- “Asset light” firms.
- Win-win: firms control resources without owning them.

C434/15 Uber Spain
2. A new approach to orthodox taxonomies
The motivation of the research

- **Dissolution** of the firm and **disorganization** of labour law
  - Explaining why firms could still derive full benefit from **vertical integration** in the “second machine age”

- Uber, Deliveroo or AMT depicted as **unprecedented** organisations situated between hierarchies and markets or, even better, transcending these two orthodox options

- These **blurred** confines are often used to **avoid the obligations and costs associated with employment status**
  - “Disruptive” companies act as “middlemen” by **lowering information asymmetries and agents’ opportunism** and engaging a pool of self-employed workers through commercial transactions with an authoritative attitude
Coase and effects (back to basics)

- Transaction costs are **minimised within the firm thanks to bureaucratic power** replacing time-consuming negotiation and price-mechanisms governance in the market
  - obtaining reliable information (**resourcing**),
  - bargaining terms and conditions (**transacting**),
  - monitoring and enforcing the agreement (**contracting**).

- Businesses grow by **bringing transactions and activities within the firm** (focus on the efficient boundaries)
  - If transaction costs are prohibitive, firms decide to **internalise production**, bypassing the markets thanks to an integrational logic → internal and functional flexibility are potent vehicles for **integration and success**
Orthodox taxonomies and labour law

- Explaining how activities are completed:
  1. **internally** (thanks to authority)
  2. **market transactions**
  3. **hybrid models** (networks)

- Coase (1937) highlighted a correlation between the notion of the firm (a “command hierarchy”) and the employment relationship, on the one hand, and the notion of market and self-employment, on the other.

- The contract of employment normally gives the **employer** the right to control and direct an agent’s performance, in exchange for a promise of continuity and job security.
  - An employee “agree[s] to accede to the authority” of the employer without **resistance/consent**
Networks and other modes of governance

- Unorthodox responses to the binary divide between “make” and “buy”: networks are peculiar forms of coordinating economic activities in a very elastic way
  - According to Powell (1990), “the familiar market-hierarchy continuum does not do justice to the notion of network forms of organization”
    - inter-dependency in co-evolving ecosystems
  - Holmström and Roberts (1998) noted that many firms decide in favour of cooperation, rather than integration
    - These relationships “imitate” the organization of the centralised firm, or at least some of its defining characteristics, thus achieving the objective of building a hierarchy based on external resources rather than on internal ones
Socio-economic foundations of labour law

- The vertically integrated firm recurred instrumentally to contracts of employment rather than to contracts of service
  - The increase in organizational costs associated with employment is compensated by the possibility of exercising fully-fledged managerial authority and command-and-control
    - An organization based on multiple hierarchical relationships makes labour resources a “quasi-fixed cost in production”
  - What makes the employment relationship unique is its essential flexibility, enjoyed by the parties and associated with the intrinsic nature of “contractual incompleteness”, aimed at achieving cooperation through gradual adjustments
    - Relational contracts
Employment vs self-employment

Hierarchy / firm

- employer
- employee(s)

Market

- client
- self-employed worker
- client
A unitary tool for complex flexibility

- Labour regulation is much more than workers’ protection
  - The employment relationship grants management essential organizational and coordination prerogatives:
    - The power to assign tasks and give unilateral orders and instructions to workers (employees);
    - The power to monitor both the execution of such tasks and compliance with orders;
    - The power to discipline disloyal or recalcitrant workers (and other restructuring prerogatives)
  - The additional aim of rationalizing managerial powers
3. Theorizing the platform business model
**Transaction costs in the digital age**

- Technology can **decrease the unit costs of coordination**, by extending technical control and making it more **penetrating**.

- **Transaction costs** can be reduced to zero by using tech tools in sophisticated way
  
  a. information can be obtained through **people analytics** and thanks to the **reviews** defining the provider’s reputation
  
  b. fares and terms & conditions are stipulated “**algorithmically**” on a **case-by-case basis** by apps taking into account all factors
  
  c. the failure to observe guidelines, recommendations and instructions may constitute an **automatic breach of the participation agreement**, leading to expulsion (or simply log-out)
Platforms as hybrid aggregations of plural entities with complementary interests, resulting in a situation of “organized irresponsibility”

An unusual combination of different models

1. Firms (make) - command & control, authority mechanism via relational contracts
2. Markets (buy) - independent providers (commercial contracts) & asset-light companies
3. Networks - “mere intermediaries” allocating services in a multi-sided market
Non-standard forms of firms

1. Like firms, platforms rely on labour to extract value and exercise their control power;

2. Like markets, they dispatch and connect several nominally independent providers;

3. Like networks, they match demand and supply, by facilitating interdependence and creating value.

- As a result, flexibility and outsourcing, which are antithetical, can be reconciled in terms of hierarchical market relationships or vertical contractual integration thanks to this “hybrid”

- Strong authority mechanisms and liquid responsibilities can go hand in hand in this new combination
  - “Control is radically distributed, while power remains centralized” (Kornberger et al., 2017)
the rise of the Cerberus firm
<table>
<thead>
<tr>
<th>Key features</th>
<th>Market</th>
<th>Hierarchy</th>
<th>Network</th>
<th><strong>Cerberus firm</strong></th>
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</thead>
<tbody>
<tr>
<td>– means of communication</td>
<td>Prices</td>
<td>Routines</td>
<td>Relational</td>
<td>Relational</td>
</tr>
<tr>
<td>– methods of conflict resolution</td>
<td>Haggling – resort to courts for enforcement</td>
<td>Administrative fiat - supervision</td>
<td>Norm of reciprocity – reputational concerns</td>
<td>Supervision, norm of reciprocity – reputational tie</td>
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<tr>
<td>– degree of flexibility</td>
<td>High</td>
<td>Low</td>
<td>Medium</td>
<td>Nominally high</td>
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<tr>
<td>– amount of commitment among the parties</td>
<td>Low</td>
<td>Medium to high</td>
<td>Medium to high</td>
<td>Medium to low</td>
</tr>
<tr>
<td>– tone or climate</td>
<td>Precision and/or suspicion</td>
<td>Formal, bureaucratic</td>
<td>Open-ended, mutual benefits</td>
<td>Open-ended, Command-and-control and bureaucratic</td>
</tr>
<tr>
<td>– actor preferences or choices</td>
<td>Independent</td>
<td>Dependent</td>
<td>Interdependent</td>
<td>Interdependent</td>
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What do platforms do?

- “Uberisation” does not redefine the notion of the firm
- On the contrary, the trend hides the shift from a bureaucratic control to a technocratic and invasive one
  - The result is astonishing, as this organizational arrangement decouples managerial power from protective obligations

Massive use of tech, in order to facilitate transactions and keep the distribution lean;

Blatant denial of the existence of an employment relationship (source of competitive edge);

A promising example of a multi-sided market where participants are rapidly connected
Final remarks

- There is no significant difference between the nature of the firm and the nature of the platform, at least from an organizational and legal viewpoint.
  - Instead of advocating a selective or partial enforcement of labour law, it is important to understand the broader picture where “innovative firms” are situated.

- Platforms do not disrupt the demarcation between alternative models, they reinforce the theory proposing definitional hybrids which are not a true reflection of reality.
  - Despite the linguistic “sophistry”, controversial results in terms of balancing between the powers exercised and the responsibilities shouldered.
Thank you!

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