

Sustaining Experimental Policy through Research Coalition Building: Where Public Interest Advocates Can Matter Most

Lindsey Schwartz (lsschwartz@uw.edu)

Nic Weber (nmweber@uw.edu)

University of Washington, Information School

Puget Sound Public Interest Technology Clinic

Motivation

Justice Brandeis famously wrote in *New State Ice Co. v. Liebmann*, "It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country" (*New State Ice Co. v. Liebmann*, 1932). The idea that state and local governments can act as a laboratory to incubate new policy has been, since the early 20th century, a hallmark description of the federal system of governance in the USA. Local governments, through the concept of "home rule", have perhaps the greatest latitude in this "laboratory" model to create policy experiments aimed at responsibly regulating new technologies in the public sphere. For example, municipal governments throughout the USA were the legislative bodies capable of drafting and rapidly passing legislation to protect "essential workers" during Covid-19. These policy experiments have bubbled up to the state and federal level, where legislatures have considered revising crisis response frameworks to ensure that vulnerable frontline workers can be fairly compensated and protected if and when future public health outbreaks occur (Dickerson, 2022).

Public interest advocates can play an increasingly important role in shaping successful policy experiments aimed at technology regulation. In the following paper, we describe ongoing research at the Puget Sound Public Interest Technology Clinic evaluating the effects of progressive experimental policies in platform-based gig work. In particular, we have been collecting data through participatory research with independent contractors that have worked on gig-based platforms over the last three years in Seattle, WA. Our work has focused on understanding how experimental policy in this jurisdiction has impacted material outcomes for laborers. In the following paper, we highlight how positive outcomes from these policies have begun to influence state and national labor policies, and propose a need for advocates to unite coalitions of public interest technologists to sustain this momentum.

Background

Over the last decade, scholars and journalists reporting on the emerging app-based 'gig economy' have shown that experiences of financial and emotional precarity are shared among its workforce, indicating a critical gap in formal labor protections (de Stefano, 2016). While platform providers such as Doordash, Uber, and Lyft offer their customers fast access to delivery and transportation services, this convenience often comes at the expense of exploitative labor models (van Doorn, 2017). Delivery and ridehail workers perform tasks for sub-minimum wages, often risking their physical safety, as independent contractors that have fewer formal workplace

rights than traditional employees (Reyes & Laughlin, 2018; Scheiber, 2017; Toh & Simet, 2020). Because these jobs fall outside the purview of federal regulations for wages, health-care benefits, and workplace safety, these precarious working conditions can and do persist at scale, with little legal oversight.

In the context of platform labor, addressing this gap presents a challenge, because policy targets (workers) are illegible to policymakers as a collective subset of the workforce. The rapid emergence of platform-based gig work produced a novel category of contingent worker that has yet to be consistently represented in official employment statistics (Abraham et al., 2018). This gap in formal, collective legibility has enabled platform companies to perpetuate exploitative working conditions outside the purview of federal oversight. It also presents a challenge for policymakers aiming to establish labor protections for app-based independent contractors. Without a standard or straightforward measure of the target population or access to historical data, policymakers are less able to track the scale of harms and assess the impact of interventions.

Recent attempts by state agencies to establish labor protections for app-based workers have focused reclassification, and escalated to high-profile policy clashes as platform companies introduce their own legislation in response. As a result, research and public attention have predominantly focused on policy implementation at the state level. But there is increasing momentum and potential at the municipal level for advancing regulations in platform labor arrangements. Alongside wholesale reclassification efforts in California, New York, and Massachusetts (DeManuelle-Hall, 2021; Kerr, 2021), we have seen an increasing number of regulations implemented in Seattle (Beekman, 2021; Vozzo, 2020), New York City (Mays, 2021), and Chicago (Yin, 2022) to establish wage standards, reliable bathroom access, and compensation for work-related expenses. Municipal governments are uniquely positioned to develop experimental policies due to their localized geographic scope, which improves policymakers' ability to evaluate and improve upon experimental regulations. At the local level, app-based workers, who are otherwise excluded from collective bargaining opportunities as independent contractors, are more able to directly advocate for their interests to public agencies, particularly in the form of worker-led coalitions. This participatory model of policy design, where worker-led coalitions collaborate with municipal policy makers, has helped establish groundbreaking protections for app-based ridehail and delivery workers in New York City (Los Deliveristas Unidos, n.d.) and Seattle (Adlin, 2022).

The strengths of municipal-level policy development motivate our ongoing research. Our projects focus on the evaluation of emergency protections passed by Seattle City Council at the onset of the Covid-19 pandemic, and a mixed-methods assessment of a dispute resolution center for app-based ridehail drivers. The latter is conducted in partnership with the Drivers Union, the local advocacy group in charge of its operations and the largest organization of app-based drivers in Washington state. Our approach sheds light on two under-researched aspects of platform labor policy- alternatives to reclassification and the relationship between municipal governments and worker collectives- and our attention to these areas helps to ensure that the progress and shortcomings discovered at the municipal level carry upwards to

state-level policies as our collaborators continue to work alongside local and state policymakers. The recent implementation of HB 2076 by Washington State House of Representatives represents the extension of two ordinances implemented by the City of Seattle a year earlier- a minimum wage standard and dispute resolution center for app-based drivers- both of which were groundbreaking in the national policy landscape (Beekman, 2021; Eidelson, 2022; Felon, 2022). As new legislation is refined and implemented at the state level, the protections afforded to workers by municipal level policies continue to inform even broader coalitions of advocates seeking to make change at the federal level. For example, the president of the Drivers Union (the advocacy organization who directly influenced the development of HB 2076) testified to federal policymakers in a field hearing on innovative labor policies conducted in August of 2022 (*Field Hearing in Seattle, Washington*, 2022). These small, but significant, impacts of municipal policy development and implementation are exactly what Brandeis had imagined in the laboratory model of federal policymaking - where the interests of those typically excluded from protections might gain a foothold, demonstrating how and where workplace protections can level an otherwise uneven playing field between gig workers and technology companies.

While municipal policymakers are uniquely positioned to advance novel protections for workers this policy innovation can also be turned back in the federal model of governance. Again, for example we can look to HB 2076 where aspects of the workplace protections for Seattle-based gig workers will be overridden by the state legislature. The potential for local policies to be superseded by state or federal policy provides a clear path for lobbying efforts of platform companies, leading them to strategically invest in targeted campaigns for state legislation when seeking to have their interests protected by law, as the policy clashes in California, New York City, and Massachusetts have shown (DeManuelle-Hall, 2021; Kerr, 2021).

While we continue to support localized, community-informed policy development as researchers and practitioners, it is critical to give equal attention to the building of coalitions across municipalities and the advocacy efforts reaching the state level. Public interest advocates play a vital role in holding policymakers in state legislatures accountable when experimental policies at the local level prove effective, as well as when conflicts of interest gain traction. We have come to understand through our own work that policy wins are hard fought and difficult at any level of government, and the major challenge we foresee in sustaining policy work in public interest advocacy is negotiating conflicting sentiment among worker-led coalitions within and across municipalities. But- because legislation operates on an extended timeline, the empirical assessments we conduct are needed to support and evaluate the ongoing development and experimentation of protections as precarity persists. Rather than step in to judge outright whether or not workers should be classified as employees, we aim for our work - and likewise that of our colleagues in the emerging field of public interest technology - to amplify the experiences of policy targets and ensure accountability in the policy process.

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