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The New Temporary Labor: Regulating the Gig Economy in Austin, Chicago and New York

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LOYOLA UNIVERSITY CHICAGO

THE NEW TEMPORARY LABOR:
REGULATING THE GIG ECONOMY IN AUSTIN, CHICAGO AND NEW YORK

A DISSERTATION SUBMITTED TO
THE FACULTY OF THE GRADUATE SCHOOL
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

PROGRAM IN SOCIOLOGY

BY
ASHLEY BABER
CHICAGO, IL
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For Sean Noonan, my teacher, mentor, friend and comrade

PREFACE

“Uber is, it's a verb. It's like everywhere now. You know, it's just like...Like, that's just where they are. That's their reflection of their branding and their market share is that they are now a verb, and they are now part of everyday culture and that's why they're the one that gets the most attention. And it's also because they have the most clout. They have thrown the most money at you know lobbying...all these politicians and everything to have things go their way. And it's easy for the smaller companies to just follow and copy whatever Uber is doing.”

The first interview I conducted was with Lenny Sanchez from *Gig Workers Matter*, a small but motivated collective of gig workers organizing around labor issues. I learned about *Gig Workers Matter* from one of my first trips into the field in 2019. On a chilly day in May, one day prior to the initial public offering (IPO) of Uber, organizers staged a protest in front of Chicago's city hall. The protest was comprised of labor advocates, researchers such as myself, supporters of gig workers, a few reporters, and rideshare workers demanding the city respond to their interests in regulating companies such as Uber and Lyft. I would later meet Lenny at a *Chicago Jobs with Justice* meeting in December of 2019 where a panel of folks involved in advocating for gig workers and fair regulations discussed the path forward for better and fairer working conditions. I could not have asked for a better respondent for my first interview.

Lenny is personable, engaging, and ready to divulge all of the information and critiques he has about the gig economy. Our interview, which was scheduled to last for about an hour, went on for almost three. As I asked Lenny about the history of *Gig Workers Matter*, what their

main organizing strategies and issues were and how they were coming to terms with what was then the midst of the Covid-19 pandemic, the scope and scale of my project set in. There are so many different arms to the gig economy. Beyond worker misclassification, bait and switch style recruitment and wage theft, rideshare companies in particular were venturing into predatory lending through both credit cards and vehicle leasing, all while the food delivery sector was ramping up and proving to provide as low or lower wages compared to rideshare (McGeehan 2021). I was trying to stop my mind from racing through all of the various aspects which the gig economy seeks to dominate and then Lenny said something which made me take pause and refocus our conversation. He exclaimed “Uber is a verb!” Interestingly, this would be a phrase I would hear repeated (more or less in the same way) throughout my research.

Uber had become a household name like Bandaid or Kleenex and referred to the way in which you plan to travel. For example, “I’ll Uber to the restaurant.” While I write my dissertation in a global pandemic, the future of Uber and other rideshare companies are uncertain. The pandemic has taken an incredible toll on much of the service industry and Uber and Lyft are not immune to these shocks, nor the virus that has killed hundreds of thousands of people in the United States alone. Yet the phrase “Uber is a verb” has stuck with me. This phrase signifies various aspects of the rapid and aggressive spread that ultimately made regulation a significantly more difficult process for local officials. The phrase pinpoints the purposeful strategy that company representatives openly discussed in conversations with me and were revealed through my archival research. Their strategy was to spread like wildfire, uncontrollable, strategically gaining popularity at such a rate that they became a household name making it nearly impossible to regulate across decentralized governing bodies all while luring vulnerable

workers into flexible and precarious labor arrangements.

Uber *is* a verb. And while the future of the gig economy has always been a bit uncertain and even more so now as the pandemic continues to curb social life, the precedent and model of forcing rule changes, or what Pollman and Barry (2018) refer to as ‘regulatory entrepreneurship’ employed by the billion dollar companies has long term repercussion for regulatory bodies and subsequently labor markets. Equally as concerning is the ability of these firms to manipulate and use the uneven structure of state power to their advantage undermining democratic processes. This dissertation provides some insights into disrupting their oft used strategies.

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LIST OF ABBREVIATIONS

BACP	Business Affairs and Consumer Protection
CM	Council Member
IDG	Independent Drivers Guild
LMI	Labor Market Intermediary
NYTWA	New York Taxi Workers Alliance
TDAA	Taxi Drivers Association of Austin
TLC	Taxi and Limousine Commission
TNC	Transportation Network Company

CHAPTER ONE

INTRODUCTION

Uber and Lyft became popular ride-hailing services with remarkable speed. Just over a decade after their emergence in 2009, both companies were valued in the billions and became publically traded. Uber has since expanded their services beyond ride-hailing into food delivery and freight sectors and experimented with autonomous vehicles, boats and other novel forms of travel (Isaac 2019). Uber and Lyft are part of the gig economy, a term developed as a result of the work indicative of the platforms. ‘Gig’ work, which is derived from short-term arrangements typical of the music industry (a guitar player performing a ‘gig’), now signifies the short-term, temporary and on-demand nature of gaining work via an app such as Uber, Lyft, TaskRabbit or many of the other numerous platforms (Woodcock and Graham 2020). Early users and workers of the platforms heralded the services for their convenience, ease of use and technological innovation (Rosenblat 2018). Their meteoric rise was incredible, drawing mixed interpretations of what this meant for the future of work and the economy (Crouch 2019; Schor 2020; Woodcock and Graham 2020).

Initial allure with the gig economy faded almost as quickly as it appeared. Scholars began grappling with the complexities of the platform based work highlighting its precarious nature (Barratt, Goods and Veen 2020; Crouch 2019; van Doorn 2017). Uber and Lyft are firms of on-demand labor where workers are classified as independent contractors leaving insecurity around

pay, hours and stability (Crouch 2019). Relatedly, as Uber and Lyft entered the market, they used a decentralized strategy often operating illegally so as to avoid municipal and state regulations. This quickly drew the ire of the taxi industry as they have historically been heavily regulated in regards to price setting, permits or medallions, and licensing (Bagchi 2018). Uber and Lyft proved to be quite adept at skirting regulations through a variety of strategies and tools enabling them to undercut the taxi industry and propel their model of on-demand and precarious labor under the guise of flexibility and independent entrepreneurship.

The story of how Uber and Lyft came to dominate the app based ride-hail market has since been documented by scholars across disciplines such as political science, legal studies and sociology describing the quick capture of markets across the United States (Collier, Dubal and Carter 2018; Crouch 2019; Pollman and Barry 2017; Rosenblat 2018; Schor 2020; Woodcock and Graham 2020). The strategy, spearheaded by Uber, was premised on the idea of rapid decentralized expansion across local markets, establishing market dominance and consumer bases before regulators could catch up. By the time regulators became privy to the new ‘disruptive’ industry, the access to and loyalty of customers would be so vast that it would be nearly impossible to impose restrictions on operations (Collier, Dubal and Carter 2018). Not only did Uber and Lyft exploit ‘legal grey areas’ within cities across the U.S., they function as ‘regulatory entrepreneurs’ which rely on violating and subsequently changing the law as a key component of their business model (Pollman and Barry 2017; Thelen 2018). This strategy of forcing regulatory change as a mechanism to dominate markets can be observed in most places where Uber and Lyft operate. Yet, despite competing interests at the city level and varying approaches to regulation, Uber and Lyft have been able to effectively exploit the tiered nature of

state relations (Brenner 2004; Schragger 2016) gaining favorable statewide legislation in some cases.

While research has shown the strategies used by Uber and Lyft to avoid or change regulations, studies demonstrating *why* these were effective have been slower to develop. Relatedly, focus has been overwhelmingly situated on one scale of decision-making (either city or state), missing how these firms navigate between and across scales of governance. This study contributes important insights into the various pathways taken by firms to shape regulations. Given that Uber and Lyft are firms of on-demand labor, their effective regulatory manipulation shapes labor markets impacting workers. Understanding the features internal and external to the governance process that make regulatory manipulation easier or harder is important for workers in and beyond the gig economy.

A key piece to shaping regulations for Uber and Lyft was done by jockeying between state and local governments. To better understand how firms navigate the multi-scalar terrain of regulatory bodies I compare the regulatory process of Uber and Lyft in Austin, Chicago and New York. By comparing these three cities, which have different regulatory outcomes, I demonstrate that Uber and Lyft were positioned to seize upon institutional arrangements which are organized in the benefit of elite capital power. Importantly, the cross-city comparison lends itself to a deep analysis about the set of features that create the conditions for clear or disrupted pathways for firm influence over rulemaking. My project is guided by four interconnected questions: 1) What is the relationship between gig companies and cities? 2) How do citizens and gig worker groups impact this relationship? 3) How does the governance process enable or constrain regulatory decisions? 4) How does the organization of state spaces impact Uber and Lyft's regulatory

strategies? To answer these questions, I combine comparative-historical methods with in-depth interviews, analyzing the relationships among governing bodies, civil society organizations, business interests and firm behavior.

By comparing the regulation of Uber and Lyft across cities, this project advances our understanding of the variegated pathways for firm and state intervention in local markets. The variation in regulatory outcomes can be explained by mitigating factors resulting from the timing of market entrance, worker organizing, the organization of the local government, democratic features in the regulatory process and relations between city and state. While, the regulatory process unfolds in different ways across all three cities, Uber and Lyft adapt regulatory manipulative and interventionist strategies used by previous procurers of flexible labor such as the temporary help industry. Likewise, with each local expansion they develop an arsenal of strategies that they deploy when useful. As multi-billion dollar firms of on-demand and flexible labor, Uber and Lyft are squarely positioned to navigate the decentralized state spatial restructuring under neoliberalism (Brenner 2004). These insights while demonstrating the power of firms over local regulators also show the conditions necessary for local governments and workers to stand in their way.

The following section will detail the rise of casualized labor in the United States from the temporary help industry through the emergence of gig work. This section helps to historically situate the growth of on-demand labor and highlight how firms like Uber and Lyft adapt strategies used by earlier corporate actors. A crucial piece of conceptualizing the rise of on-demand labor is understanding the role of labor market intermediaries. Therefore, I then briefly explain how firms like Uber and Lyft function as labor market intermediaries which positions

them to both control workers and markets. Last, since Uber and Lyft targeted city and state regulators, I draw together insights on the neoliberal city and the nature of state spaces which forms the theoretical basis for this project

Casualized Labor from the Temporary to Gig Industry

On-demand (non-agricultural) temporary work (hereafter temp work) has been a part of the U.S. labor market since at least WWII (Hatton 2011; Hyman 2018). Elmer Winter co-founded Manpower, now one of the leading temporary help firms, in 1948. Followed by Kelly Girl (later changed to Kelly Services) and numerous other agencies, the temp industry quickly grew (Hyman 2018). Their rapid expansion was propelled in the 1970's, 1990's and again in the 2000's coinciding with changes in production and macro-economic fluctuations (Kalleberg 2000; Peck and Theodore 2007). Importantly, temp workers presented a cost saving opportunity for firms, avoiding expenses associated with traditional employees such as social provisions or worker's compensation in the case of injury (Peck and Theodore 2007).

The temp industry in the United States has since become a well-studied example of casualized labor arrangements (Gonos 1997; Gottfried 1992; Hatton 2011; Houseman 2001; Kalleberg 2000; Peck 1996; Peck and Theodore 1998, 2001, 2002, 2007; Purser 2012). This form of non-standard work ranges from manual labor to office work and can be facilitated through a brick and mortar hiring hall or an international organization such as Manpower or Adecco (Peck and Theodore 2007). Rather than a standard employee-employer arrangement, temp work is mediated by a temp agency that connects the worker to the client firm. Marketed as a beneficial employment relationship, temp firms sold the idea of flexibility to both the client seeking workers and the employee seeking work. Workers could pick up jobs as needed and

conversely, firms could adjust their employee base as fluctuating production needs dictated (Hatton 2011). This triangular employment relationship enables value to be captured by both the company seeking temporary labor and the temporary help firm (Gonos 1997; Gottfried 1992). As noted by numerous scholars, this form of labor mediation increases precarity and exploitation for workers through various mechanisms of control, hidden costs, pay and hour uncertainty among other issues (Freeman and Gonos 2009; Gottfried 1992; Hatton 2011; Purser 2012).

When the gig economy first emerged in the United States in the 2000's, scholars quickly began to consider the size, relevance, employment relations and overall impact on the labor market (De Stefano 2016; Fleming, Rhodes and Yu 2019; Rosenblat 2018; Vallas and Schor 2020; Veen et al. 2019; Woodcock and Graham 2020; Zwick 2018). Generally understood, the gig economy includes any work arrangement facilitated by an on-line platform (either a mobile application or website) that is done on an on-demand basis with differences noted between "work on-demand" via apps and "crowdwork" (De Stefano 2016; Stewart and Stanford 2017). "Crowdwork" involves work that is completed and delivered via websites with minimal intermediation from the platform, such as Amazon Mechanical Turk, where tasks are paid by piece rate (De Stefano 2016; Scholz 2017; Stewart and Stanford 2017). "Work on-demand" is mediated by a platform, such as Uber or TaskRabbit, and typically performed in-person (De Stefano 2016).

Gig work has become understood as an outcome of the platform economy, coinciding with the Great Recession, pointing to the relevance and importance of the labor arrangement (Srnicsek 2016; Vallas and Schor 2020). This framing has led scholars to focus on the role of technological advancements, new mechanisms of worker control, and broader evidence of a new

economy (Rosenblat 2018; Veen et al. 2019; Zwick 2018). For example, Vallas and Schor (2020) argue that platforms ‘govern economic transactions’ demonstrating a new type of mediation facilitated by technology whereby mechanisms of control are relinquished to provider and end-user once service matching takes place. Yet, the role of gig firms goes beyond the simple mediation of the end-user and service provider. For example, gig firms have been shown to administer algorithmic control over service providers by using app functions to shift the geographic locations of workers, undermining worker autonomy (Barratt et al. 2020). Therefore, the overemphasis on digital mediation or platform functionality consequently veils the root nature of gig work as an extension of casualized and on-demand labor (De Stefano 2016; Stewart and Stanford 2017).

While the app-based acquisition of work is certainly a new phenomenon ushered in by advances in technology, the mediation of work by a third party has long been a part of the labor market. The basic function of in-person on-demand gig work (accessing job opportunities through an app) mirrors work acquisition found within the temp industry. In both industries, workers seek short-term and on-demand work in a market where clients and end users seek on-demand services. As such, scholars of on-demand labor have begun to show gig work in terms of casualized labor relations. Notably, De Stefano (2016) explains that gig work can be viewed in this way due to the informal employee/employment relationship and the “demutualization of risk” where companies shift risks onto workers. Additionally, Stewart and Stanford (2017) note that gig and temp work in Australia share similar features such as irregular schedules, piece work compensation, and worker provided capital such as equipment.

Furthermore, the mediation of employment by a third party, whether digital or analogue (app-based or temporary agency based), is indicative of casualized labor relations more broadly (Crouch 2019; Stewart and Stanford 2017). Yet, the bulk of scholarship on the gig economy still posits the work as a separate or new form of labor arrangement (Rosenblatt 2018; Schor 2020; Woodcock and Graham 2020). Throughout this dissertation, I assume the former framing of gig work as a recent iteration in a long history of casualized labor with the intent to draw attention back to the growth of on-demand and precarious labor arrangements mediated by firms. In doing so, I highlight how Uber and Lyft are not unique cases, but rather examples of adapted firm behaviors.

Like temporary work, gig work is positioned within a triangular relationship between the gig company and end-user. This aspect of gig work, enables work acquisition, value extraction, and social control through the app based platform (Barratt et al. 2020; Stewart and Stanford 2017). Unlike the labor arrangements observed in the temp industry, some studies have noted that gig workers report relative satisfaction with their on-demand employment (Schor 2020; Woodcock and Graham 2020). Yet, the contentment with this work is often associated with the relative autonomy and schedule flexibility that the platform presents workers (Katz and Krueger 2015; Rosenblat 2018; Schor 2020). For example, Wood et al. (2019) points out that algorithms offer flexibility and autonomy for workers in regards to their schedule but also new forms of social control and isolation for workers as an algorithm functions as their “boss” and contact with their “co-workers” is rarely facilitated. Evidenced by the triangular employment relationship, the classification of the gig workforce, and the offloading of risk onto employees,

gig work does indeed seem to be another iteration of non-standard labor that platform firms mediate.

Labor Market Intermediation

Given the triangulation of gig work, gig firms can be conceptualized as labor market intermediaries. Generally considered, labor market intermediaries (LMIs) are any third-party institution which mediates the relationship between employee and employer (Benner 2002; Benner et al. 2007; Taras 2002). Common examples include temporary help agencies, day labor organizations and unions (Benner et al. 2007; Freeman and Gonos 2009). LMIs, particularly those operating for-profit such as temp agencies, have been a focus for scholars studying non-standard labor arrangements. As Freeman and Gonos (2009) note, for-profit LMIs act as the ‘employer of record’ within the triangular employment relationship. Firms contact the LMI in search of short term workers sending out one of the many workers waiting for job placement on a daily basis (Enright 2013; Gonos 1997, Peck and Theodore 2002). Particular focus has been paid to how labor market intermediaries interact with employees (Wial 1991), their role in gathering and distributing workers (Peck and Theodore 1998; Purser 2012) and as creating and implementing institutional employment policies and practices (Taras 2002), often noting the underlying issues of these highly exploitative arrangements. For example, Purser (2012) explains that LMIs subjugate labor in part by cultivating temp labor dependency and normalizing degraded labor conditions for low-wage workers in the United States.

Despite much attention to the roles, outcomes and the impact of LMIs, broad definitions conceal their active intervention in markets within the literature (with a few exceptions, see Freeman and Gonos 2009 and Peck and Theodore 2002). As such, Theodore and Peck (2002)

note that LMIs have a macro impact on the labor market working purposively to manipulate regulations and manufacture necessity while controlling and exploiting workers. For example, temp industry firms such as Manpower, used the U.S. legal system in the 1990's to become the 'employer of record' for workers absolving client firms of costs associated with permanent employment (Gonos 1997). Relatedly, Hatton (2011) demonstrates how temporary help leaders such as Manpower sold the idea of on-demand labor to both the firm and the worker by marketing the 'flexible' nature of the labor arrangements using advertisements targeting 'housewives' in the 1970's. These insights from studies on labor market intermediation emphasize key characteristics of firms of on-demand labor that often go unspecified throughout the literature. The importance of explicating these features for a clear sociological conception of the function of firms of casualized labor increases as on-demand labor appears in new forms such as gig work.

As briefly noted earlier, a few scholars have begun to consider the intermediary role that gig companies play in the employment relationship (Barratt et al. 2020; De Stefano 2016; van Doorn 2017; Woodcock and Graham 2020). Positioning on-demand firms as platform intermediaries, van Doorn (2017:904) explains how immunity, control and superfluity/fungibility 'turn labor into a captive revenue stream that secures shareholder value while rendering workers largely invisible to customers, to each other, and even to themselves.' Similarly pointing to the role of the gig firm in the labor relationship, Barratt et al. (2020) employ a qualitative study of restaurant delivery workers in Australia which demonstrates how platforms actively intermediate through a quadrangular relationship between worker, end-user, the restaurant, and the firm. In doing so, they exhibit how firms make dual markets by drawing delivery drivers into particular

geographies and through offering delivery services. Referring to platforms as ‘digital intermediaries,’ Stewart and Stanford (2017) point towards a triangulation of gig work which mirrors the temp industry focusing on the lobbying efforts of companies such as Uber to gain favorable regulations around local operations.

Given that gig work represents an extension of casualized labor which is facilitated through an intermediation process that has been modified from relationships observed in the temporary help industry, it is important to identify how contemporary firms seize on state arrangements reforming local labor markets. Doing so both identifies features left under examined from the temporary help industry and shows new aspects for scholars of casualized labor to explore. Furthermore, by detecting these institutional arrangements across industries, casualized labor is brought back to the forefront after being somewhat dormant in the literature since before the 2008 global recession.

Regulatory manipulation

Gig firms shape regulations through lobbying, building political alliances and drumming up public support through marketing campaigns. For example, as New York worked to implement baseline wages for drivers, in app advertisements targeted users of the platform to call their representatives and voice their concerns over the regulation of services. Dudley et al. (2017) explains that Uber expanded into urban areas marketing themselves as the ‘disruptive innovator’ that brought with them ‘friendly’ technology to build alliances with public officials. Other scholars have noted that Uber and Lyft interfere with policy making by lobbying regulators, and threatening to abandon markets when regulations are unfavorable (Borkholder et al. 2018).

Historically, the temp industry has incited legal battles to protect their economic interests, retain a lack of state intervention and limit employer-provided social provisions (Gonos 1997). Likewise, gig firms have employed strategies targeting amenable levels of governance to maintain a lack of regulation on their daily operations and overall business model including avoiding vehicle caps and fighting for favorable employee categorization as independent contractors (Collier et al. 2018; Dubal 2017; McCormick 2016; Pollman and Barry 2017). For example, in a comparison of Uber in the United States, Germany and Sweden, Thelen (2019) highlights how Uber mobilized interest groups, politicians and particular policy approaches to shift points of contestation and ultimately regulations. Enabled by large pots of venture capital, gig companies target decision makers across scales of government (Hanks 2017; Johnston 2016; McCormick 2016) pointing to the political influence that these firms can have over markets. Acting as ‘regulatory entrepreneurs’ firms of on-demand labor move into local markets with the intent of creating new rules for operation (Pollman and Barry 2017).

For both gig and temp firms, employee misclassification has been a key regulatory issue. The temp industry pushed to classify workers as employees of the temporary help agency rather than the location where their work was conducted, absolving clients of paying employee related costs (Peck and Theodore 2007). As the gig economy emerged in the 2010s, worker classification quickly became a key issue as well. Companies that use gig workers contend that they are technology companies which enable independent contractors and simply connect people together for services. Independent contractor status is often used to transfer risk and costs on to service providers (Esbenshade, Shifrin and Rider 2019). This means that gig companies have no legal requirement to pay employee related protections or provisions such as minimum wage,

workers compensation or any other employee benefits. Gig companies extract value in part by avoiding costs related with traditional employment.

Firm's strategies to shape or avoid regulations have been documented across industries in the United States including the food and alcohol industry (Miller and Harkins 2010), the cellular phone industry (Duso 2005) and the healthcare industry (Quadagno 2004), just to name a few. These strategies often involve lobbying, forming networks with elites, coalition building and marketing (Anastasiadis 2014; Duso, 2005; Lamberg, Skippari, Eloranta and Makinen 2004; Lord 2000; Miller and Harkins 2010; Quadagno 2004; Reese and Rosenfeld 2002; Walker and Rea 2014; Walker 2009). While some studies show limits to the effectiveness of firm strategies (Einstein and Kogan 2016; Lord 2000), the majority of studies document the success of corporate political activity (see Walker and Rea 2014). Although there has been a long focus in both political and urban sociology on the impacts of firms and businesses on decision making, the literature overwhelming isolates a particular scale of governance focusing on either the federal, state or municipal level. Uber and Lyft as examples, show that firms of on-demand labor shape regulations by building political alliances, disrupting existing markets and shifting the terms over which regulations are formed across scales of decision making (Berg and Johnston 2019; Gonos 1997; Peck and Theodore 2001; Zwick 2018). This study seeks to explain how this multi-scalar process happens.

City and State: Multi-scalar Pathways

Urban sociologists often draw on theories of growth strategies, urban regime or neoliberalization to understand the development and industrial restructuring within cities. Logan and Molotch (1997) explain that cities develop in response to a need for a growing tax base.

Groups of elites, business leaders and city officials, make specific decisions in the interests of increasing the overall exchange value and subsequently extracting as much tax revenue from the city as possible. Therefore, cities have a vested interest in gaining more population and attracting new industries. For Logan and Molotch (1997), mutual benefit among the elite, business interests and city level government shape local policies and strategies. Conversely, urban regime theory demonstrates that the relationship between politics and markets is dictated primarily by business interests. Local business communities are thought to be able to circumvent traditional political structures and act instrumentally and directly to influence public-policy and therefore impact the development of markets within cities (Mossberger and Stoker 2001; Stone 1989). Local governments then bow to the power of business interests and often act as arbiter only when absolutely necessary. Rather than a political consensus within cities, urban regime theory demonstrates how local economic and social relationships shape competing civic and political relationships (Stone 2004). For example, in his examination of social movements of affluent homeowners in Los Angeles, Purcell (1997) found that along with business and government interests, home owner organizations impacted the spatial reconfiguration of the city over a 20-year period. Rather than an alliance between elites, business leaders and the government, Purcell identified that competing agendas from various factions largely shaped the outcome of the San Fernando Valley (Purcell 1997). Yet, an often over looked assumption undergirding both regime and growth machine framing is the assumption that the city is a fixed container of social relations. What is missed then is the adaptation and restructuring of the local state in relation to changes in production processes (Brenner 2004; Brenner 2019; Hankins 2015). While nuance among competing city level interests and subsequent decisions have been shown to exist, when

economically and socially powerful firms leverage their political influence, the local state becomes subjected to the consequences of the hierarchical organization of state power (Peterson 1981; Schragger 2016).

Brenner (2004) explains that cities are not fixed containers of social relations but rather one scale in a multitude of scales at which social life happens and institutional arrangements are shaped. Global, nation state, state, region, city and so on are scales where economic, social and political arrangements are made and remade. Given the alignment of class and state interests (Jessop 2016; Wright 1978), the nature of state spaces is reconstituted along with restructuring in capitalist production. Moreover, the hierarchical nature of statehood in the United States privileges elite and capital interests as they are connected to or are part of the networks of decision makers across scales. As such, the organization of statehood privileges those who can navigate the terrain of state power. As Brenner (2004), Jessop (2016) and Massey (1984) have noted, with each reformation of capitalist production, the resulting unevenness of development can be seen across these scales. With each shift in production there is a necessary shift in institutional arrangements in the service of capital. As political power devolves across lower scales, local spaces are pitted in competition with one another for industry development. Although often overlooked in the urban sociology literature, local labor markets develop unevenly as well (Massey 1984).

Of course, this is not a unitary process whereby all scales of government nor all capitalist firms participate like marionette dolls. Rather, as production forces begin to shift, state restructuring becomes necessary to facilitate the process. As a result, there is often a disconnect throughout this reformation. As Brenner (2019: 177-178) explains:

On the one hand, the coercive forces of intercapitalist competition pressure individual firms to replicate one another's profit-making strategies in dispersed geographical locations, and thus to promote a spatial equalization of the conditions for accumulation. On the other hand, the forces of intercapitalist competition engender an equally powerful process of geographical differentiation in which individual firms continually seek out place-specific locational assets that may enable them to protect, maintain, or enhance their competitive advantages.

In the United States, these variegated landscapes of capital accumulation then are dictated by these competitive pressures of firms forcing intercity and interstate competition. Importantly, this is not necessarily realized in immediate or easy to navigate pathways. However, the pathways are most easily navigated by firms with the networks and institutional knowledge for political maneuvering. Shifts in accumulation regimes and the associated rescaling of statehood then benefit firms and localities that have the ability to navigate the uneven terrain of political power.

As this study will show, the decentralized expansion of Uber and Lyft across urban areas articulates this logic. While it may seem that Uber and Lyft would be better served to approach the regulatory body that is more likely to align politically with their market capture logic, they instead chose to target urban spaces (Collier et al. 2018; Dudley et al. 2017). This can be explained in a few ways. First, as a result of state restructuring under neoliberalism, cities have diminished power (Brenner and Theodore 2002; Peck and Tickell 2002). While power is devolved, because it is devolved across so many spaces and in the interest of accumulation regimes, there is actually less space for cities to maneuver politically and therefore less autonomous power. For example, when Uber and Lyft reach an impasse with a single city it does not cripple their entire firm operations. However, if they reach an impasse with a state or perhaps many states it could. Second, intercity competition and local contextual factors twists the regulatory arms of the local state (Fortner 2016; Hackworth 2007). As cities across the United

States compete for industries that will bring in residents, tourists and business travelers, they are forced to mimic what competing urban areas have implemented. Therefore, the strategy of Uber and Lyft to align in their urban expansion, required that they capture but a few major cities for users to become accustomed to the service and therefore expect these accommodations. Last, starting at the lowest scale of decision making leaves room for political jockeying. As such, if the city refuses to bend to the will of the firm, those with economic and political capital can pull the levers of the next scale of state power to their advantage. This plays out across all three cases in this study to varying degrees.

As cities became spaces of neoliberalization, the multi-scalar nature of statehood works to benefit elite capital interests. As Brenner and Theodore (2002) explain, actually existing neoliberalism places cities in the center of remaking the political economy of space. While macro political and economic forces such as globalization impact the restructuring of markets, the process is multi-scalar. They explain “...we emphasize the contextual *embeddedness* of neoliberal restructuring projects insofar as they have been produced within national, regional, and local contexts defined by the legacies of inherited institutional frameworks, policy regimes, regulatory practices, and political struggles” (Brenner and Theodore 2002:4). Therefore, cities become important sites of ‘actually existing neoliberalism.’ Processes of globalization, uneven development, regulatory pressures, and institutional mediation shape the context from which cities respond and reproduce neoliberal spaces (Hackworth 2007; Brenner and Theodore 2002). Cities are forced to compete with one another via regulatory frameworks in response to large scale restructuring.

Even as regulations come from above, the interaction with other local forces shape labor market outcomes. Neoliberalization is imposed on cities and subsequently reproduced in uneven ways depending on local and regional factors (Peck and Tickell 2002). As city governance strategies shift in a post-Fordist economy (Harvey 1989; Peck 1996) and local and extra local production needs shape the development of casualized labor markets (Peck 1996), comparing the actions and responses across cities becomes increasingly crucial. While much of the literature on neoliberal cities emphasizes the role of governance and civic responses to the impacts of neoliberalizing spaces in terms of regulatory frameworks and institutional pressures, the focus is overwhelmingly on broader forces of development (Brenner and Theodore 2002; Hackworth 2007; 2002; Peck and Tickell 2002; Smith 2002). The impacts, development and manipulation of local labor markets become obscured in this process. Arguably, how the scalar nature of statehood is reshaped and reproduced by macro-level restructuring of capitalist production needs to be a centralized aspect of the literature on city governance. Bringing together these insights from political sociology and critical urban theory, this research seeks to fill this gap by interrogating the political maneuvering and labor market engineering of Uber and Lyft. Importantly, Uber and Lyft are but examples of how firms intertwine with the state. As venture capital backed firms of on-demand labor, they learn lessons and adapt strategies from each local battle making them better prepared as they emerge into new markets and create new products or services. I will now turn to an overview of Uber and Lyft as companies and the regulatory agenda they espouse. Next I will detail my data, methods and analytic strategy followed by a brief outline of my findings.

Uber and Lyft (Transportation Network Companies)

Uber and Lyft are known as Transportation Network Companies (TNCs) in most cities where they operate.¹ TNCs are sometimes called ride-sharing, ride-hailing, or e-hails by city officials, users and service providers. The different names for these firms is in part a reflection of the uncertainty around the services when they emerged in cities in the early 2010's. There are and have been other companies that use the same model for ride acquisition such as SideCar, Get ride, Juno, Via, however, many could not last given the size of Uber and Lyft's market share. Uber and Lyft connect service providers (drivers) and customers (people seeking a ride) together through an application (app) on their cellular phone. A customer opens the Uber or Lyft app, requests a ride, the application pings a driver nearby, the driver then accepts the ride, picking up the passenger and dropping them off at their destination. Drivers are paid by ride through the app and make additional money through tips that customers can leave (this feature was added after the initial rollout of the services). TNCs now use a "peer to peer" model where drivers use their own personal vehicle to provide rides to customers. In some urban areas when TNCs began operation they functioned as black car services (traditional livery) and partnered with taxis (UberTaxi). These models were abandoned in most places with the exception of New York, where Uber only operates in the capacity of a black car service, the details of this are discussed in Chapter 4.

Both Uber and Lyft are dominant forces in the tech industry. They are sometimes referred to as "unicorns" because of their meteoric rise from small startup to publically traded company

¹ Chicago refers to Uber and Lyft as Transportation Network Providers (TNPs). This is noted in Chapter 3 which covers the Chicago case but has been substituted with the more common TNC (transportation network company) for consistency and clarity.

(Isaac 2019). Uber Technologies, Inc. became a publically traded company in 2019. Their valuation at that time of public offering was \$82.4 billion.² While the company is mostly known for their ride-hailing services, they also offer delivery and freight services using a similar app based model. Lyft became a publically traded company in 2019³ as well, with a valuation of \$24 billion.⁴ Unlike Uber, Lyft solely offers services in the ride-hailing industry in terms of app-based employment. Further details about the gig firms will be described throughout the chapters with a section dedicated in chapter 5 to a timeline of events relating to their shift in public image.

Desired Regulations

Both Uber and Lyft contend that they are technology companies. This narrative is used to put their business model in distinction from taxis to avoid the heavy regulations often associated with the taxi industry and to justify their use of independent contractor status for drivers. Their business model is premised on near instant service. A user opens the app, requests a ride and within minutes a driver in their personal vehicle is there to take them from point A to point B. In order to facilitate this quick provision of rides, Uber and Lyft rely on an overabundance of service providers signed up on their application and roaming the streets waiting for rides. As a result of this model, regulations that presented an impediment for quick and easy sign up were protested. Likewise, Uber and Lyft, while functioning essentially the same as taxis just with an

² de la Merced, Michael J. and Kate Conger. May 9th, 2019. "Uber I.P.O. values ride-hailing giant at \$82.4 billion." (<https://www.nytimes.com/2019/05/09/technology/uber-ipo-stock-price.html>).

³ Lyft News. March 28, 2019. (<https://investor.lyft.com/news-and-events/news/news-details/2019/Lyft-Announces-Pricing-of-Initial-Public-Offering/default.aspx>).

⁴ de la Merced, Michael J. and Kate Conger. March 28th, 2019. "Lyft prices I.P.O. at \$72 a share." *The New York Times* (<https://www.nytimes.com/2019/03/28/technology/lyft-ipo.html>).

app instead of a base, dispatch or street-hails, rely on looser regulation to cut operating costs and undercut the taxi industry, driving out their competition (Bagchi 2018). Uber and Lyft desired regulations that mirrored their already imbedded provisions which included: internal background checks on drivers, company conducted safety inspections and personal insurance coverage up to a particular amount which varied by state and locality. Regulations that went beyond these measures such as commercial insurance, state run or fingerprint background checks and vehicle caps were opposed in most cities where they began operation. While more comparison and detail between the regulations of Uber and Lyft and the taxi industry in each case will be provided throughout the dissertation, the taxi industry is significantly more regulated. For example, in all three cases their background check processes were stricter and chauffer licensing and caps on the number of vehicles constrained the available workforce.

Data, Methods and Cases

Research on urban politics is often done using a case study approach (Dahl 1961; Marwell 2007; Stone 1989; Swanstrom 1985) because of the in-depth and rich description such a methodology provides. Yet a single case study necessarily limits the researcher from making claims about broader applicability or generalizability (Ragin and Amoroso 2011). The strength of a comparative case study stems in part from the researcher's ability to delve deeply into many of the overlapping and related processes to compile a holistic and in-depth picture of particular phenomenon (Feagin, Orum and Sjoberg 1991; Ragin and Amoroso 2011; Yin 2018). Since I was most interested in revealing the pathways that Uber and Lyft use to meet their regulatory goals, comparing across cases was the appropriate methodology to investigate my research questions. Through a comparative case study, scope conditions for a particular phenomenon can

be found while also describing a set of conditions revealed across cases (Demetriou 2012).

Likewise, since this study spans across levels of analysis, a comparative design was necessitated to reveal the features internal to the process (Denters and Mossberger 2006).

Using a mix of archival methods and in-depth interviews, this study compares the regulatory process and outcomes of transportation network companies in Austin, Chicago and New York with a particular focus on Uber and Lyft. This research explores a variety of data in order to paint a robust picture of *how* and *why* regulatory decisions get made. While I was limited to the data available in each case because of how and what records cities hold (more on this in appendix A), I draw on similar data sources and methods within each case. In each case I gathered census data, reviewed council and committee meeting transcripts, draft and final ordinances, newspaper archives and conducted interviews with key stakeholders. In total, I conducted 19 in-depth interviews (see appendix A for script) with city staff and decision-makers, gig industry representatives, taxi industry representatives and gig worker organizers. Data was gathered for the time period around which the regulations of TNCs took place and therefore varies by city, but fell within the 2011 to 2018 time period. This section will first provide a brief justification for my case selection, after which I will provide a description of the data and methods used in each case.

A Note on Case Selection

Austin, Chicago and New York were selected as comparative cases in part because of their differing regulatory outcomes. Sampling on the dependent variable is often a strategy used in comparative cases such as this (Denters and Mossberger 2006). There are several independent variables within each case that serve as baseline for a rich comparison. For example, all three

cities have progressive political histories, prioritize tech centered development and have implemented smart city initiatives. Likewise, they have regulated taxi industries that were undercut but the emergence of Uber and Lyft. Last, Uber and Lyft deployed the same strategies for reaching their desired regulations in each case. For example, they moved between the state and city level of decision making, used direct marketing and built relationships with elites.

Austin Data and Methods

Data collection in Austin began with archival methods. Using Austin's public record access system,⁵ I collected and reviewed city council meeting transcripts, draft and final ordinances, staff reports, citizen communications and other associated documents from 2012 through 2017. After pinpointing relevant council and committee meetings, I reviewed audio and video recordings from the same time period. To fill in gaps left from the publically available data, I collected newspaper archives relating to the regulation of TNCs from the two primary newspapers in Austin, the *Austin American Statesman* and the *Austin Examiner* from 2012 – 2017. I also reviewed video recordings of the state legislative hearings and sessions on the preemption bill (HB100).⁶ I conducted a total of six in-depth interviews specific to the Austin case with two city council members, two city staff members, one taxi industry representative, and one gig industry representative. Likewise, I conducted two interviews, one with a gig industry representative and one taxi industry representative, that had knowledge of all three cases.

Chicago Data and Methods

⁵ Austin Office of the City Clerk data access: (<https://www.austintexas.gov/edims/search.cfm>).

⁶ Written transcripts were not available. (<https://house.texas.gov/video-audio/committee-broadcasts/85/>).

Data collection in Chicago also began with a review of city council meetings around the time period of regulation in 2014. Chicago had very little available in terms of public records for council meetings on the regulation of Uber and Lyft. Committee meetings where the majority of the public conversation on ordinances are held were not recorded or transcribed which I learned through a Freedom of Information Act request I filed after failing to recover transcripts or records from the license and consumer protection committee meetings. I reviewed all documents associated with the ride-hail ordinance available through the city clerk's website⁷ including ordinance drafts, revisions and final ordinances as well as decisions on each step in the process. I collected and reviewed newspaper archives related to the regulation of Uber and Lyft from 2011 through 2018 from the primary newspaper in Chicago, the *Chicago Tribune* and used *Crain's Chicago Business* as a supplemental source. Likewise, I reviewed the documents associated with state level legislation on transportation network companies. I conducted seven in-depth interviews with one taxi industry representative, three gig worker organizers, one former commissioner and one deputy commissioner of the Business Affairs and Consumer Protection department.⁸ Additionally, I conducted two interviews with gig worker organizers that have knowledge of the New York and Chicago case and one taxi industry representative with knowledge of all three cases (mentioned above). Lobbying activities were reviewed for Uber, Lyft and the taxi industry. Given the lack of committee transcripts available, I also attended one

⁷ Chicago City Clerk's public record access: (<https://chicago.legistar.com/>).

⁸ The Business Affairs and Consumer Protection department is in charge of regulating transportation network companies and taxis in Chicago.

demonstration and four events (two in person and three virtual) organized by different groups doing work around gig worker issues to get a sense of city/organizer relations.

New York City Data and Methods

Data collection in New York City began with a review of Taxi and Limousine Commission (TLC) meetings⁹ from 2011 through 2018. While most of the regulation of taxis and TNCs happens via the TLC, some issues such as vehicle caps and medallions are regulated through the city council or the state. In applicable instances, I reviewed city council transcripts (meetings in 2015 and 2018). I reviewed all associated documents with transportation network company draft and final regulations. I collected and reviewed newspaper archives from the primary newspaper in New York, *The New York Times* from 2011 through 2018. I conducted six in-depth interviews with one former deputy commissioner of the TLC and former policy developer for Uber, one former commissioner of the TLC, two gig worker organizers, one taxi organizer and one city staff member. Lobbying activities were reviewed for Uber, Lyft and the New York Taxi Worker's Alliance at both the local¹⁰ and state level.¹¹

Data Collection Process in All Cases and Supplements

Archival data collected in all three cases were searched via key word to determine their relevancy. Given the thousands of pages of documents in the Austin and New York cases, this was the most effective way to identify the transcripts or documents where the regulatory process

⁹ The Taxi and Limousine Commission is in charge of regulation transportation network companies and taxis in New York City.

¹⁰ Office of the City Clerk, New York City. (<https://lobbyistsearch.nyc.gov/>).

¹¹ New York State Joint Commission on Public Ethics. (<https://jcope.ny.gov/lobby-data-demand>).

of Uber and Lyft took place. I used the same strategy to identify relevant newspaper articles during the 2011 to 2018 period. The primary key words searched were: Uber; Lyf; Transportation network company; Transportation network provider; ride-share; ride-hail and e-hail (where applicable). While I began the data collection with city council and committee transcripts, I would use newspaper archives to help corroborate or fill in any gaps from the committee or council transcripts. Newspaper archives, meeting transcripts and the events attended were all used to help identify key stakeholders for interviews (see appendix A for recruitment strategy and interview script). Census data was gathered on each city to help contextualize the case.

Analytic Strategy

The analysis for this project followed an iterative process. While data collection happened somewhat simultaneously for all three cases, Austin was used as a baseline where central themes were established which then provided insights into the processes that may be shaping the other cases. Likewise, I began with transcripts from the respective regulatory body in each case but would often return and re-analyze the regulatory processes given insights learned from newspaper archives or supplemental city documents. A list of key stakeholders was made throughout the research process which included, city staff, regulators, TNC representatives, Taxi representatives, interest groups, and gig organizers. Interviews were conducted via zoom once a firm understanding of the case was established from the archival data. Using a truth table, I noted the presence or absence of a variety of features in each case (Ragin and Amoroso 2011). However, I found that given the way in which TNC firms maneuver across scales of decision

making, understanding various features of the regulatory process on a sliding scale as a more effective strategy. The resulting model is presented in chapter 5.

Findings

Chapter 2, Austin: A Blueberry in Tomato Soup

In chapter 2, I study the case of Austin, Texas. Uber and Lyft entered Austin in 2013 and began operating through a pilot program with basic regulations in place for TNCs. These basic regulations included; driver insurance requirements, vehicle and background checks conducted by the TNCs, and markers on the car signifying the company, all of which fell within what Uber and Lyft found to be agreeable and favorable regulations. In 2015, the city council reviewed pilot program rules and moved forward with the recommendation to implement fingerprint background checks which were opposed by Uber and Lyft. After much debate within city council, Uber and Lyft petitioned for the issue to be taken to a ballot measure vote and decided by the public. The vote taken in May of 2016 favored fingerprint background checks and Uber and Lyft exited the Austin market in the days following. In 2017, Uber and Lyft successfully lobbied the state of Texas for preemptive legislation and returned to the Austin market.

I find that TNCs, in the case of Austin, learn their specific context in order to leverage vulnerabilities and build networks with elite decision makers and key stakeholders. Using insights learned from the local context, TNC firms tap into political divisions between city and state in order to gain preemption. While preemption is a standard strategy used by firms (Kim, Aldag and Warner 2021), I show the scope conditions for why preemption was successful. This finding contributes to the literature on preemption and firm/state relations showing that Uber and

Lyft are not just regulatory ‘disruptors’ (Dudley et al. 2017) but keen players that learn the pathways and how to maneuver across them for favorable regulations.

Chapter 3, Chicago: Where Uber is a Verb

Chapter three investigates the case of Chicago. Uber and Lyft began operating in Chicago in 2011 and gained legal operation in 2014 through a city level ordinance. The “TNP Ordinance” requires that drivers carry insurance, undergo a vehicle and background check conducted by the respective company, feature trade dress on their cars among other minor rules, all of which Uber and Lyft found to be acceptable. Like the case of Austin, there was legislation introduced and even passed at the state level, however the rules that were to be implemented did not fall within the bounds of what Uber and Lyft considered favorable. Then Governor Quinn vetoed the state level legislation leaving for a patchwork of regulations across Illinois.

I find that Uber and Lyft strategically use an opaque regulatory process and gubernatorial election cycle in order to advance their interests in the case of Chicago. Much of the regulatory development of businesses happens behind closed doors which enabled Uber and Lyft to build connections with the mayor’s office and department of Business Affairs and Consumer Protection (BACP) outside of public view. Additionally, using connections built and vulnerabilities at the state level, Uber effectively avoided regulations they deemed prohibitive. This chapter contributes to the literature on urban politics demonstrating how firm’s political strategies can be multi-scalar (MacLeod 2011) leaving workers, worker groups and competing interests out of the decision-making process.

Chapter 4, New York City: An Exception to the Rule (Making Strategies)

In chapter four I cover the case of New York where in 2018, the Taxi and Limousine Commission implemented baseline wages for TNC drivers, the first of its kind in the United States. When Uber and Lyft emerged in New York, they did not have the liberty of operating outside of regulations as the TLC treated them as a black car service. This early rule enforcement enabled the city of New York to retain control over the dynamics between taxis and black cars (also called for-hires). Additionally, the TLC provided a forum for taxi drivers, TNC drivers and other interests across the livery industry to voice their concerns particularly over declining wages and medallion values.

I found that strong worker organizing by the New York Taxi Workers Alliance, the conditions across the livery industry, and the structure and authority of the TLC hindered a variety of pathways for Uber, and by extension Lyft, to shape regulations. Although Uber and Lyft lobbied, used in-app marketing and appealed to the state, they were unable to avoid vehicle caps and baseline wages in 2018. This chapter demonstrates that institutional arrangements can impact the regulatory process and outcomes. Likewise, this chapter contributes to literature on the vitality of non-traditional forms of worker organizing (Fine 2011; Milkman 2013).

Chapter 5, Disrupting the Disruptors: Regulatory Processes Compared

In chapter 5, I compare the regulatory process across Austin, Chicago and New York. Grappling with the explanatory factors for the different regulatory outcomes across cases, I develop a model that shows a set of features that, depending on their positions, could lead to clear or disrupted pathways for firms to shape regulations. The model contains five mutually reinforcing features that are positioned on a sliding scale (clear path on the left, disrupted path on the right). Two of the features exist external to the city level decision-making process: timing

and worker organizing. The remaining three are internal: government structure, democratic nature of the regulatory process and state/city relations. This chapter provides a conceptual model for explaining how and why firms are able to shape regulations across scales of decision making.

Chapter 6, Conclusion

In the final chapter, I reflect on what the findings of this study tell us about the behavior of Uber and Lyft as labor market intermediaries seeking to shape markets. I attend to questions about the impact on the taxi-industry and the subsequent *de-facto* regulation of the livery industry. I then discuss the potentiality and possibilities for workers and worker groups to navigate similar pathways as firms for labor protections. I conclude with possible future directions for scholars on urban governance, labor markets and organizing a non-traditional workforce.

CHAPTER TWO

AUSTIN: A BLUEBERRY IN TOMATO SOUP

Austin, Texas, according to one of my respondents, is known as a “blueberry in tomato soup.” This nauseating analogy refers to the city’s progressive history and reputation of being a democratic and forward thinking city in an otherwise republican and conservative state (Orum 1992). The political division between the city of Austin and the state of Texas reveals to be a key mechanism through which Uber and Lyft shaped regulations on their operations. The case of Austin provides a puzzling process of nearly four years of regulatory development for TNCs.

Uber and Lyft entered the market operating illegally in early 2013 and gained legal operation through a pilot program in 2014. The city council developed permanent regulations for TNCs in 2015 and decided to include fingerprinting as part of the background check process. Uber and Lyft were opposed to fingerprint background checks because they would be required to use a third party to facilitate the checks. A large component of TNC’s business model was providing quick provision of services to customers which required vast numbers of service providers. Uber and Lyft viewed fingerprinting as an obstacle to signing up new drivers, therefore hindering their quick service provision. Uber and Lyft remained firm on their resistance to fingerprint background checks, petitioning for the issue to be decided by voters. In 2016, Uber and Lyft were still expanding their market share and negotiating regulations with cities across the

U.S. and were concerned that fingerprints in Austin would set a precedent that other cities would follow. In May of 2016, the public voted in favor of fingerprinting TNC drivers. Uber and Lyft promptly exited the market and lobbied the state legislature for preemption which they won the following year. The case of Austin demonstrates how firms navigate the structure of state institutions for favorable regulations by tapping into context specific vulnerabilities, building networks with decision makers and leveraging political divisions between city and state.

Studies on the regulation of Uber and Lyft have noted that the companies enter markets with the intent to be disruptive and even change existing regulatory frameworks (Dudley et al. 2018; Pollman and Barry 2017; Thelen 2018; Tzur 2017). Dudley et al. (2017) explains that Uber expanded into urban areas marketing themselves as the “disruptive innovator” that brought with them “friendly” technology to build alliances with public officials. Other scholars have also noted that Uber and Lyft interfere with policy making by lobbying regulators, aggressive marketing to customers and threatening to abandon markets when regulations are unfavorable (Borkholder et al. 2018).

In the case of Austin, Uber and Lyft certainly employed the strategies noted in the literature on the regulation of gig companies. However, the Austin case is more complex than a linear narrative of market entrance, dominance and capital strong holding. Austin city council spent a considerable amount of time, effort, and resources to put together regulations that would work for their particular urban context. These efforts were then used against them when Uber and Lyft moved to the Texas legislature and gained preemptive legislation. Using insights from critical urban theory on the multi-scalar state, I explain how Uber and Lyft navigate the terrain of state spaces, pulling levers to meet their regulatory ends (Brenner 2004; Brenner 2019; Jessop

2016). This finding extends insights presented in the literature on gig economy regulation by showing how Uber and Lyft not only disrupt and change regulations, but that they shape them as well. The research questions guiding the Austin case are as follows: *Given that Uber and Lyft use near identical strategies to penetrate local markets across the United States, what explains the drawn out and contentious process of regulating Uber and Lyft in Austin? What role did the taxi industry play in the regulatory process of TNCs? How and why was the state level preemption successful?*

This chapter describes the process of regulating Uber and Lyft in Austin, Texas. While favorable regulations for TNCs were achieved at the state level, Uber and Lyft operated in Austin for nearly 4 years prior to leaving after a failed ballot measure campaign. At the local level, Uber and Lyft used problems such as urban sprawl mixed with poor public transit options and access, drunk driving, population swells as a result of UT Austin and yearly special events, and divisions within the taxi industry to pressure regulators to reshape their rules. They built relationships with key stakeholders and decision makers across Austin in an effort to shape regulations. When regulations shifted away from their interests, Uber and Lyft weaponized their app based technology against decision makers. Taking the key lessons learned from their tenure in Austin, Uber and Lyft appealed to the state legislature's interest in local interventions. In doing so, local labor markets across Texas were impacted, and the reach of state authority was extended through the regulation of ground transportation across cities.

This chapter first details the regulation of Uber and Lyft in Austin from their entrance through state preemption. I then explain the first finding whereby Uber and Lyft attempt to use context specific vulnerabilities to push forward favorable operations. Related to this strategy, I

explain how divisions within the taxi industry both enabled and constrained Uber and Lyft's local operation. From there, I explain how Uber and Lyft built relationships with key stakeholders and decision makers across Austin and weaponized their technology against those who remained adversarial. The chapter concludes with a discussion of the state preemption process demonstrating how the scalar nature of regulation cements political power of elite decision makers, privileges capital accumulation and results in the rearrangement of local labor markets. Given the long and dynamic story of the Austin case, I have included a timeline of important events from 2013-2017 (table 1).

Table 1. Austin Timeline

Date	Event
February 2013 (Approximately)	Transportation network companies arrive in Austin.
March 2013 (Approximately)	Uber and Lyft enter Austin market
May 2013	City council orders study of ridesharing in peer cities
August 2013	City charter is adapted to include definitions of rideshare and e-hailing enabling for temporary regulation.
September 2013	Issue of regulating TNCs is referred to Urban Transportation Commission to come up with recommendations over a six-month period
May 2014	Stakeholder group of TNC drivers, UT Austin Students, taxi franchise representatives, TNC representatives, taxi drivers, ATX safer streets and concerned citizens (approximately 30 people) established to come up with regulation recommendations
October 2014	Temporary operating agreement for TNCs passes. Scheduled to be up for review after six months.
November 2014	Elections for restructuring of city council from at-large to district based, moving from a seven to eleven member council. Original sponsors behind TNCs lose their seats. New incoming Mayor, Steve Adler
January 2015	New city council takes office with the formation of the mobility committee chaired by Ann Kitchen
March 2015	HB 2440 and SB 1555 introduced for statewide legislation on TNCs (both bills never go to vote)
April 2015	Mobility committee meets to consider increasing taxi permits and renewing franchise contracts

April 2015	Taxi Drivers Association of Austin puts pressure on council to allow a fourth franchise as a driver owned co-op. They solicit the help of Biju Mathew from the New York Taxi Worker's Alliance to testify. Council directs city staff to research the option of developing a co-op.
April 2015	Taxi drivers demonstrate in front of city hall demanding a co-op formation and opposing increases in permits for existing franchises
May 2015	Formation of the Co-op begins
June 2015	Taxi franchise renewal passes with each franchise to get an additional 50 permits
September 2015	Issue of permanent TNC regulation begins. Rumors arise that CM Kitchen is trying to regulate Uber and Lyft out of Austin with fingerprint background requirements
October 2015	Petition to recall CM Kitchen for leading the charge on regulation Uber and Lyft begins circulating
October 2015	Uber threatens to leave Austin if they are regulated more than the pilot program
November 2015	Uber installs a Kitchen feature on their app where you can request a horse and buggy
December 2015	Mayor Adler attempts a compromise solution to background checks referred to as the Thumbs Up Initiative whereby drivers can voluntarily get background checks and the app will indicate which ones have it
January 2016	Rideshare Works For Austin (lobbyist group funded by Uber and Lyft) petition for issue of background checks to go to a ballot vote
February 2016	Mayor Adler attempts to enter into a memorandum of understanding with TNCs to avoid a public vote
February 2016	Ballot initiative and language passes for vote in May
May 2016	City of Austin votes to require fingerprint background checks. Uber and Lyft pull out in the days following certification
February 2017	HB 100 to preempt city level regulation of TNCs is introduced in the Texas house of representatives
May 2017	State wide legislation on TNCs passes and Uber and Lyft return to Austin market

From Arrival to Exit

As with other cities, pinpointing the exact moment that TNCs arrive is difficult since companies such as Uber and Lyft, purposefully obfuscated government officials so as to avoid citations for illegal operation. In 2011, while not yet operating in the Austin market as a TNC, Uber had participated in the South by Southwest (SXSW) festival delivering barbeque to attendees (Kessler 2018). Despite participating in the internationally renowned festival, Uber was not the first TNC company to operate in Austin. HeyRide, which would later be bought out by SideCar¹, was the first TNC company in the city, but were squeezed out by Uber and Lyft later on. By March of 2013, Uber entered the Austin market and had already become a well backed venture with reports of a \$200 million investment from Google (Kessler 2018). The city council was then grappling with the “new” forms of transit as dissent from the taxi industry brewed. The rapid and disruptive approach from Uber as they entered the market took regulators by surprise and was poorly understood, hampering their ability to effectively regulate.

As an indicator of the uncertainty of what to make of the “new” services, council members instructed the city manager to conduct a study on “ride-sharing” regulations in peer cities. Uber and Lyft had been operating illegally at events in Austin, such as the South by Southwest festival. This illegal operation has been noted as a primary strategy for quick market expansion by platform companies as rapid changes in technology often catch local governments off guard (Borkholder et al 2018; Dudley et al 2017; Pollman and Barry 2017). For example,

¹ Barton, Ryland. February 14, 2013. “Heyride Bout Out by San Francisco Rival.” Kut 90.5 (<https://www.kut.org/business/2013-02-14/heyride-bought-out-by-san-francisco-rival>).

Borkholder et al. (2018) explain that Uber and Lyft in particular, “buy, bully and bamboozle” their way into markets with disruption as a key tactic. Yet, as the Austin case demonstrates, rapid expansion was not the only way these firms forced favorable regulations. They also used weaknesses in the specific local context as a pathway to persuade decision makers.

Once Uber and Lyft were recognized as a transportation service in the Austin market, city council developed key stakeholder groups, conducted studies and heard testimony from interested parties to help with their regulatory development. As council formed a temporary operating agreement for TNCs there were a few sticking points over accessibility, data reporting and insurance regulations. A pilot program enabling Uber and Lyft to operate with minimal regulations² passed in October of 2014 with the agreement that council would develop permanent regulations after a six-month period. City wide elections followed the passage of the pilot program in November. City council restructured from at-large representation to district based and grew from 7 to 11 members. As a result, several council members lost their seats and the mayoral leadership changed. Additionally, city council developed committees to deal with dedicated issues, such as the mobility committee which took up the regulation of the taxi and TNC industries.

While Uber and Lyft were not the first to arrive in Austin, they were the companies that most quickly captured the majority of the market share and negotiated with city officials over the operation of app-based ride hailing. Like many cities, Austin passed a temporary ordinance

² Regulations include insurance requirements, background checks (non-fingerprint to be conducted by the company), vehicle inspections and trade dress. These regulations are typical for cities in the US and the preferred rules by TNCs.

allowing the operation of Uber in 2014 while they grappled with what TNCs actually were and how to permanently regulate them. The first attempts to study and develop ride share regulations were made in May of 2013, yet the final passage of a permanent ordinance did not come until February of 2016. The permanent ordinance, which included the hotly contested issue of fingerprint background checks, prompted a ballot measure for the May 2016 election after Uber and Lyft successfully petitioned for the issue to be decided by popular vote. Amidst political maneuvering on the part of TNCs and allied interests, a potential recall vote of a council member, expensive campaigning ensued around proposition 1 (fingerprint background check ballot measure).³ When the ballot campaign results favored fingerprint background checks, the companies abruptly halted service in the few days following the vote⁴. Meanwhile, Uber and Lyft had been making moves at the state level, tapping into the state of Texas' eagerness to preempt local law. Within a year of their exodus, Uber and Lyft returned to Austin, operating under a scaled back version of the local ordinance, one which included independent contractor status of TNC drivers as part of the statewide legislation.

Overview of Austin

Austin is a growing sunbelt city known for being “weird.” The population of the city in 2020 was 961,855, having grown by about 170,000 people (20%) over the previous ten years.⁵

³ Wear, Ben and Nolan Hicks. April 30th, 2016. “Uber, Lyft spending now at \$8.1 Million.” *Austin American Statesman*.

⁴ Hicks, Nolan and Katie Urbaszewski. May 9th, 2016. “Uber joins Lyft in Suspending Austin service.” *Austin American Statesman*.

⁵ United States Census Data. (<https://www.census.gov/quickfacts/fact/table/austincitytexas/LND110210>).

According to 2020 census data, Austin was the fourth fastest growing city in the United States.⁶ The slogan “Keep Austin Weird,” is used to indicate the quirkiness of the local culture in terms of art, music and progressive political culture situated in a very conservative state.⁷ The city is known for hosting a variety of festivals focused around music, film and technological innovation such as South by Southwest and Austin City Limits. Recently, Austin has become nicknamed “silicon hills” for its considerable boom in the tech industry. Google, Facebook, Oracle and others all have offices in Austin with plans to expand the tech workforce by up to 15,000 additional jobs.⁸ Rapidly growing and transforming into a tech hub, the city is an attractive location for tourists, business travelers and new residents as an affordable and progressive city in the south.

Austin City Council

In 2013 when Uber and Lyft emerged, the city council of Austin was made up of seven members. Five at-large council members, a mayor pro-tem and the mayor. Just following the passage of the TNC pilot program, the council grew to 11 members and shifted to a district based system. Austin operates using a council-manager system, where a manager is appointed by the council to manage day-to-day administrative operations (DeSantis and Renner 2002). When the council restructured they also developed committees that would discuss ordinances and make

⁶ City of Austin Press Release. August, 13th 2021. (<https://www.austintexas.gov/news/austins-population-continues-another-decade-growth-according-us-census-bureau-0>).

⁷ Johnston, Zach. February 16, 2017. “How keeping Austin weird turned into a widespread phenomenon.” *Uproxx*. (<https://uproxx.com/life/keep-austin-weird-history-portland/>).

⁸ Canales, Katie. January 23rd, 2021. “Austin has attracted the likes of Oracle, Palantir, and SpaceX among others. Here’s what it’s like inside Texas’s growing tech hub.” *Business Insider* (<https://www.businessinsider.com/austin-texas-silicon-hills-tech-capital-city-photos-2019-2>).

recommendations that the full city council would then vote on. The mobility committee, in particular, was tasked with proposing regulations for TNCs and working on taxi franchise renewal agreements. The growth of the city council is reflective of the growing population and subsequent influx of new issues associated with changes in the local economy. Austin has a transparent rule-making process where all council and committee meetings are recorded and transcribed. Meetings are held with the intent to encourage public participation often shifting agenda items of interest to the public into the evening hours. Changes to proposed ordinances are debated among council in the meetings and testimony from participants is often what impacts new wording. In order for an ordinance to pass in city council it has to go through three rounds of successful majority votes.

City Level Factors

Special interest groups often intervene in local regulatory processes including fiscal matters (Fuchs 1992), development (Peterson 1981) and pro-growth initiatives (Mollenkopf 1994). Yet the tiered structure of decision making authority in the United States enables states to dilute city power (Schragger 2016). This ultimately paves the way for business interests to have control over city level regulations within market friendly states often in the interest of capitalist production (Brenner 2004; Macleod and Goodwin 1999). If the city of Austin refuses to implement agreeable operating rules, Uber and Lyft can make another attempt by appealing to the Texas State legislature. However, the case of Austin highlights how a certain set of conditions are necessary in order for this particular pathway to be successful. Local officials were eager to settle the regulation under their own authority working with TNCs for years negotiating a “workable” regulatory framework. While networks with elites and key stakeholders

across Austin were used to shape regulations (the subject of a later section), city level factors were used to encourage quick and burden free regulations by TNC companies. In particular, the mutually reinforcing problems of poor public transit reach, population swells due to special events, UT Austin and drunk driving were used by TNCs to place pressure on decision makers for favorable rules.

Austin is a sprawling city with a total area of 312.7 square miles or about 3,040 people per square mile (United States Census 2020). The city is car centric with approximately 3% of residents reporting that they take public transit to work (United States Census 2020). In part this is due to the perception that the Austin ground transportation is quite poor. Poor public transit options were a clear concern with residents evidenced through their testimony in council meetings and reflected in interviews with city council and staff. In addition to the everyday issues with public and ground transportation, each year the city hosts several events that bring an additional 1 million people to the city; South by Southwest, Austin City Limits and Formula One Racing. This influx of visitors pushes the ground transportation to its limits every year. Another layer testing the bounds of transit is the added student body population during the academic year from the University of Texas Austin which is located in the central business district. Further complicating transportation is Austin's long struggle with drunk driving. In particular, right before Uber and Lyft emerged in the city, there was a major car accident following the South by Southwest festival where several people died in a drunk driving crash.⁹

⁹ O'Rourke, Ciara. May 5th, 2014. "Ride options sought for drinkers-downtown transit program, bolster taxi service among ideas." *Austin American Statesman*.

Sprawling geography mixed with booming tourism and a vibrant college campus created a need for expanded transit. City officials were eager for transit solutions, and TNCs appeared to present an answer. Uber and Lyft were able to exploit this infrastructural weakness within Austin. As scholars of city growth have explained, the resurgence of residents, tourists, and business travelers to urban areas has prompted city officials to mimic global city building strategies, including boosting amenities and transportation options (Demissie 2006). Cities which prioritize technological solutions to urban problems have been key targets within the platform economy (Brail 2021). Consistent with this finding, Austin has implemented technology focused development into their overall growth initiatives including attracting innovative startup companies, hosting tech festivals, and expanding their downtown convention center. All of these initiatives presented added problems to an already tested transportation ecosystem. These factors were used strategically by Uber and Lyft to manipulate the city council into an operating agreement. At the same time, city council members were eager to solve urban transportation issues while remaining an autonomous governing body. Therefore, rather than running to the state for solutions, Austin city officials were hopeful to solve issues within their own city boundaries.

Poor public transit

Capital metro is Austin's multimodal ground transportation system which includes bus and train services (Walsh 2017). Most of the buses stop service at midnight and the red line train only services the downtown area running north. While the transit service is relatively affordable, at \$1.25 a bus ride and \$3.25 a train ride, the ridership is low in part because the city has long struggled with reaching across the sprawling landscape and navigating a complex highway

system. The monthly total ridership has hovered between 2.5 million and just under 3 million rides per month from 2016 to just before the Covid-19 pandemic in the beginning of 2020 (Austin CapMetro 2020). The need for supplemental transportation options was prevalent throughout city council meetings and my conversations with key stakeholders from Austin. When the question of TNCs came up, the issue of public transit would often be cited as one of the main reasons why people supported Uber and Lyft initially. Although, the support of Uber and Lyft would fade as they used their economic power to bully the city into a costly ballot campaign, improvements to public transit were far from the reason. In fact, it was not until 2020 that the city of Austin successfully voted to expand their rail transportation (Jankowski 2020).

Uber and Lyft have branded themselves as an extension of public transit.¹⁰ Rather than functioning as a siphon away from public services, the companies contend that they present solutions to service gaps. This framing was reflected throughout the Austin case. As one respondent who formerly worked for the city noted, TNCs became a compliment to the public transit system:

I use public transportation and I use it as much as possible and rely on it and am able to rely on it because I live central and I work downtown... When TNCs came on the scene, it became a safety net that we had just not had before and it was like incredible and I felt like it was a really important transportation option for Austin with the transit that we had and where it was. I know in some places there were worries that the TNCs were going to take shares away from public transit and I'm sure that happened in some places. But that did not as a user, that did not feel like Austin at all. In fact, it felt like freedom to take transit, knowing if it was late or whatever or you missed the last bus or whatever, you had an option... There's like major parts of the city where the transit is (missing) or even if it exists, it's like on a 30 minute frequency or something. And if it's late at night, you're not going to stand out there, you know for 30 minutes. Yeah, so it just felt like a really important kind of compliment here.

¹⁰ Uber Website. February 9th, 2022. (<https://www.uber.com/us/en/transit/>).

Those from city government that were in support of TNCs did not view Uber and Lyft as a threat to their ground transportation system. Instead, they recognized the need for more transit options, particularly for areas of the city that were underserved and for the late-night hours that commanded rides. While others in city government may not have been as quick to push TNC legislation through, the recognition of the problems across the public transit system were consistent throughout council. While the monthly ridership of Austinites on cap metro stayed consistent around the time of Uber and Lyft's exodus and following their return, studies throughout cities across the United States indicate that TNCs offer both a compliment and competition to public transportation (Hall, Palsson and Price 2018; Jin, Kong, and Sui 2019). Yet the consensus on the ground in Austin demonstrated that the gaps in public transit, in terms of spatial and temporal constraints, shaped the urgency placed on getting Uber and Lyft 'operating legally.' As council member (CM) Riley explained to me, his effort to introduce an emergency temporary ordinance in 2014 was in part due to the upcoming South by Southwest festival which brings a considerable uptick in the tourist population each year.

Events

Another key factor that twisted Austin's regulatory arm were the events hosted by the city which cause extreme pressure for the above described limited public transit. Austin City Limits, a festival held in Zilker Park, attracts 75,000 attendees over six days each year (Austin Parks Foundation Report 2016). South by Southwest, held each March, spans over the course of 10 days and includes, music, film and other arts related programming and gathers just under 250,000 attendees each year. This significant boost in population several times a year presents real transportation challenges to Austin. Within the supplemental ground transportation options,

the city uses a cab permit system with 756 permits issued around the time of Uber and Lyft's arrival in early 2013. During extreme population peaks, such as the music festivals or Formula One Racing, taxis can hardly keep up with demand. While the city had toyed with issuing temporary taxi permits for festivals, franchise owners were hesitant and the drivers resistant over fears that this would limit the income possibility for already cash strapped drivers. Keenly aware of the city's struggles, some of the earliest sightings of TNCs came from these events. As city council meeting transcripts and newspaper archives revealed, TNC companies were patrolling the South by Southwest festival in early 2013 looking for stranded festival goers in search of ride options.¹¹ These events were a central concern for the city as they brought considerable revenue streams into the area. For example, an economic impact report issued in 2016 explained that Austin City Limits generated an economic output of just under \$280 million (Austin Parks Foundation Report 2016).

Drunk driving

Contributing to the regulatory urgency of TNCs were the high rates of drunk driving arrests and car related incidents across the city. In early 2014 as the city council was in the process of regulating TNCs there was a drunk driving accident where several pedestrians were killed. In order to regulate TNCs in Austin, city council had to first adapt the city charter to include definitions of "rideshare" and "e-hailing." This process alone took several months. City council moved at a snail's pace, creating key stakeholder groups with interested parties from UT Austin, representatives from Uber and Lyft, and drivers and representatives from the taxi industry. While Uber and Lyft budged their way into urban markets quickly working to shape

¹¹ Gallaga, Omar. March 18th, 2013. "SXSW's big tent of tech fills up." *Austin American Statesman*.

regulations, policy makers were arguing about the definition of different forms of transportation, creating stakeholder groups and reaching out to peer cities. This process inhibited the city's ability to regulate expeditiously. The speed at which regulatory decisions are made matters since the primary market capture strategy for Uber and Lyft was built on the assumption of slow moving local governments while they rallied a dedicated customer base (Tzur 2017).

As a result of a drunk driving incident in 2014, CM Riley urged the rest of city council to begin a pilot program, allowing for the immediate operation of Uber and Lyft to attend to times of peak demand that taxi companies seemed unable to meet. CM Riley was quoted in the *Austin American Statesman* stating "Many residents have recently expressed concerns about transit options, largely because of problems with drunken driving." CM Riley explained to reporters and later to me, that taxi options drop during the peak hours of 10pm and 2am which impacted the number of drunk drivers on the road.¹² While this claim was unable to be substantiated, drunk driving was certainly an issue. In 2014, the Texas Department of Transportation reported 18 fatalities and over 1,200 crashes as a result of drunk driving.

ATX safer streets, a group of "concerned citizens," organized around issues of transportation, quickly formed a coalition with Uber and Lyft as they arrived in the city. As their testimony demonstrates, they viewed TNCs as an opportunity to solve the issue of drunk driving. In 2014, Sarah Levine from ATX safer streets testified in front of city council in support of Uber and Lyft. She began by showing an image of busy 6th street on a Saturday night mentioning

¹² O'Rourke, Ciara. May 11th, 2014. "Ride options sought for drinkers – downtown transit program, bolstered taxi service among ideas." *Austin American Statesman*.

drunk driving and transit problems for night life goers. In support of Uber and Lyft she explained:

We believe there is no one company or type of transportation that can fill our need for safe, reliable, convenient and readily accessible way to get home at night. To that end, we ask the council to vote yes on item 77 (in favor of Uber and Lyft) and all future votes for increasing taxi permits, eliminating the current taxi permit formula, increasing cap metro budgeting and any other items which will continue to turn Austin into the world class city and nightlife we all want it to be. We are all watching. You saw the crowd we had out there tonight. The people of Austin want this. And they want better options and they want to be able to go out safely at night and know they and their loved ones are going to get home safe. So, please, let's make transportation easier in Austin for everyone.

Levine's testimony demonstrates, that the desire for more transit options was consistent across the city. City officials, citizen groups and residents alike were desperate for expanded transit options, particularly during peak tourism and the academic school year. Uber and Lyft noted this weakness in the Austin context and made connections across groups working around drunk driving concerns.

Tapping into vulnerabilities, the issue of drunk driving continued to come up in city council meetings when debating the components for the TNC pilot program. Lyft representative, April Mims, strategically leveraged this ongoing safety issue during a council meeting in an effort to defend their dynamic pricing model and prevent regulations that would place a cap on 'surge pricing' during periods of peak demand.¹³ April stated:

So, dynamic pricing is used on our platform to make sure supply meets demand. We understand in Austin, there is a huge problem with people drunk driving, that there is a huge nightlife industry and we heard from our partners at ATX Streets and other groups we work with is that supply is not meeting demand. That you have long periods of time where youth have been drinking and are not able to receive rides home.

¹³ Surge pricing is price inflation imposed on service requests during periods of high demand. Certain areas will reflect a higher than normal price if there is increased demand for rides in a particular area at a particular time.

She continued to argue that without surge pricing, drivers would not have the incentive to be on the road awaiting trips. Given the discontent within the taxi industry, which will be described below, this argument around safety and supply and demand is used politically to skirt regulations which would cap the amount TNCs could charge for rides. The broader issue of safety and drunk driving continued to be a political point throughout the regulatory process in Austin and when the fight went on to the state level with representatives from Mothers Against Drunk Driving testifying in the interest of Uber and Lyft.

University of Texas Austin

The University of Texas, Austin is a leading research institution located in the downtown area that accommodates approximately 51,000 students¹⁴. Throughout the regulation debate, students attended council meetings and spoke to reporters and city staff about their support for Uber and Lyft. Some students testified that Uber and Lyft provided a source of income as they navigated their studies. Others complained that public transit was not a real option after a night out on 6th street and often had terrible luck hailing a cab. Instead, they wanted, and at times demanded, that the council move forward in support of Uber and Lyft. As one city staff member noted to me, the UT Austin constituency was in immense support of Uber and Lyft, explaining that they were young and more in tune with the technology that enabled the quick acquisition of rides. Furthermore, the staff member claimed that the elimination of those services would cut off supplemental income opportunities for students trying to make extra cash after class.

¹⁴ University of Texas, Austin Website. (<https://www.utexas.edu/>).

These various city level factors around transportation enabled Uber and Lyft to leverage their service as crucial to the infrastructure of the city. Representatives from both companies strategically used vulnerabilities such as drunk driving and poor public transportation to convince council members to quickly push forward an operating agreement. They built coalitions with ATX safer streets, UT Austin students, and later Mothers Against Drunk Driving to put pressure on city council for the purpose of favorable rule making. These strategies enabled the input of business interests to seem representative of populations across Austin and therefore reflecting the views of the populous while ultimately working in the favor of TNC companies. Furthermore, TNCs as firms were deeply aware of the tiered structure of decision making and political power across regulatory bodies. They leveraged the local context of Austin as situated within a state that has historically undermined their legislative authority against city officials in the hopes of avoiding regulations and crafting their own terms for operation.

Division Between Taxi Drivers and Franchise Owners

In order to understand the division between taxi drivers and franchise owners, a brief description of how the taxi industry operates in Austin is necessary. Unlike the other cities in this study, Austin uses a permit and franchise system to regulate taxis, which is only slightly different from a medallion system. When Uber and Lyft arrived in the city there were three franchises in operation and 756 permits spread across each company. In order to own and operate a franchise, you must have a franchise agreement passed by city council. The number of taxi permits that each franchise receives is part of the franchise agreement and is fixed. Council has to approve the issuance of additional permits. In order to drive a taxi in Austin, drivers pay rent to the franchise in order to use one of the permits issued by the city. The fees that franchises charge is

not regulated by the city. Drivers have to undergo fingerprint background checks and pay a licensing fee to the city in order to rent a permit from a franchise. Unlike a medallion system, individual drivers are not able to be “owners.”¹⁵

When Uber and Lyft arrived in Austin, they clearly filled a real need for expanded transportation. Yet, taxi companies were incapable of expanding as they were bound by the permits and franchise limits put in place by city council. There had been an ongoing battle to increase the number of taxi permits, however city council and franchise operators had reached an impasse. Franchise owners wanted an increase in permits because it would mean more revenue as there would be more drivers renting vehicles. Conversely, drivers were opposed to more permits for a few reasons including concerns over falling wages and high fees from franchise owners. Council was split on these issues. The timing of the franchise renewal process on the heels of the TNC pilot program forced council to reflect on the fairness of their regulations.

Ultimately, this process laid the ground work for the fingerprint background check requirement included in TNC permanent regulations. Likewise, taxi drivers used the opportunity to make their case for a driver owned and operated franchise which they successfully won. As such, the renegotiation of franchise agreements both enabled and constrained the regulation of Uber and Lyft. While council was distracted with taxi industry issues, Uber and Lyft gained market share. However, because of the testimony provided during the franchise contract renewal process, stricter regulations were proposed for TNC permanent operating rules.

Tensions between franchise owners and drivers were present throughout the regulatory process of TNCs. As city council began the regulatory process, calls to “level the playing field”

¹⁵ The medallion system will be briefly described in chapters 3 and 4.

with TNCs came from taxi drivers and the owners of taxi franchises alike. Yet the tensions within the taxi industry were quite palpable throughout the process and drew attention away from the encroachment of TNCs. Drivers were increasingly frustrated with the rents they paid to franchise owners and falling ridership as a result of new app based competition. Conversely, some franchise owners wanted permit expansions in order to increase the number of taxis on the road. At the same time, some of the drivers used this opportunity to call on city council to approve a fourth franchise which would be driver owned and operated. The city was forced to consider taxi franchise renewals and expansion of a driver co-op over the backdrop of regulating Uber and Lyft and the restructuring of city council from at-large representation to district based. The changing institutional arrangements and tensions within the taxi industry in some ways deflected attention from the rapidly growing regulatory disruptors.

Discussions about adding additional permits were ongoing in Austin. In part, due to the gaps in ground transportation described above. Yet, cab drivers were opposed to the increase in permits. As one Taxi driver noted in a city council meeting early in 2012:

We need to make more money, not less. It is not fair to the citizens and visitors of Austin to be serviced by overworked, sleep deprived, mad at the world because they can't pay their rent, cab drivers. This situation exists now and adding more cabs will only make it worse.

This taxi driver echoed the testimony of many others pointing out the problem that adding more cabs to the road at any given time reduced the take home pay for everyone. Yet for franchise owners, adding more permits increased the amount of rent they were able to collect on a weekly basis. While there was some debate on what the formula for adding more permits during peak hours would look like to equitably spread out the business across the franchises, all three franchises were in support of more cabs on the road.

As taxi franchise owners and drivers continued to complain about the illegal operation of SideCar into 2013, city council postponed their decision on ridesharing until later in May of that year due to a research report that was in process. At that point, Uber and Lyft had been operating in Austin, illegally. As a precursor for the almost two-year long battle that would ensue, opponents of Uber and Lyft from the taxi industry attended meetings adorning shirts which read “Licensed, Insured, Legal.” While there was agreement among franchise owners and drivers that Uber and Lyft should be regulated to ‘level the playing field’ the tensions between drivers and franchise owners was unmistakable. As the year 2014 slogged on and the city council went back and forth on definitions of TNCs, key stakeholder groups and questions about insurance and background check requirements, taxi driver’s wages were falling setting the scene for the fourth franchise co-op push.

In April 2015, the mobility committee considered how to move forward with regulations on the taxi industry in light of requests for more permits as a result of competition with TNCs. Ed Kargbo, the president of Yellow Cab, addressed the committee on behalf of all three franchises. He warned the council against the desire to deregulate the industry and instead encouraged them to create fair rules. He expressed that franchises were up against an unregulated entity which had the result of less cabs on the road, and because of the lack of regulations, less safety for consumers. Conversely, Dave Passmore, the president of the Taxi Driver’s Association of Austin (TDAA) approached the issue of taxi regulation from a different angle laying out the primary concerns of drivers and the view that city council made decisions unilaterally in favor of the franchise owners. Shortly after the April meeting, Dave Passmore on behalf of the TDAA, petitioned to develop a co-op as the fourth franchise in Austin. While franchise owners were in

support of more permits, they were in opposition to another franchise. The further fracturing of the alliance between drivers and franchise owners against TNCs proved to distract from the impending threat to both; Uber and Lyft. The exchanges with council and the president of Yellow Cab compared to the president of TDAA highlight two competing views on the major issues within the taxi industry. Franchises were most interested in standard regulations across ground transportation, whereas drivers were interested in taking control over their own labor through the development of a co-op.

The debate around franchise renewals and a driver led co-op heated up throughout the month of April. On Wednesday April 22nd, taxi drivers demonstrated in front of city hall expressing their demand for co-op approval.¹⁶ CM Tovo established her support for the drivers and was quoted in the *Austin Monitor* stating:

I think they've raised a very good idea. We've had a long discussion in this community about ways to make it possible for drivers to get a permit directly from the city so that they have the flexibility of being able to go among the companies... We've got a transportation system that's really undergoing tremendous changes with the introduction of transportation network companies to Austin.¹⁷

Not long after, the full city council took up the issue of expanding and renewing permits for taxi franchises. As part of the public comment, drivers were once again in attendance to express their discontent with falling wages and increased rents for permits.¹⁸

As taxi franchise contract renewals and permit increases neared a final vote, the mobility committee continued to hear testimony from franchise owners and drivers detailing the tensions

¹⁶ Whitson, Tyler. April 22nd, 2015. "Taxicab drivers rally for worker owned co-op." *Austin Monitor*.

¹⁷ Ibid.

¹⁸ Wear, Ben. April 24th, 2015. "Taxi deals expiring during transition – City grapples with franchise options as ride services compete." *Austin American Statesman*.

between the two parties. The crowd in attendance was quite vocal, often booing in opposition to particular claims or cheering and clapping as a demonstration of support. The TDAA solicited the help of Dr. Biju Mathew from the New York Taxi Workers Alliance (more on this in chapter 5) to speak on behalf of the struggles of drivers. While speakers were only allotted three minutes to give their testimony, many folks who signed up yielded their time to let Dr. Mathew speak on their behalf. His testimony spanned for more than 20 minutes. Summarizing the drivers concern, he explained:

Put 150 more permits at those exorbitant \$300, \$400, \$500 lease rates and you force driver incomes to collapse absolutely down through the floor. We have offered you a solution, and the solution is a cooperative... That is how you make a viable taxi industry under conditions of Uber. By reducing the cost to the drivers so dramatically that the drivers have a chance at survival.

Drivers also spoke for themselves to articulate their concern over poverty wages as this snippet from a driver's testimony exemplified:

And we're paying between \$400 to \$600 a week. \$450 to \$600 a week. Just multiply. Logic. Just Logic. Consider this. And put the maintenance and everything that you put into place. How are you going to survive? That's why we cannot sit with our kids at home. We have to be on the street.

Conversely, testimony from franchise owners were in support of the expansion of permits for the existing franchises, noting the pressures to compete with Uber and Lyft on the road. While public comment was often available in the full council meetings, the dedicated focus of the mobility committee enabled council to develop a deeper understanding of the context and likely impact of their regulatory decisions.

The push for the co-op, more permits and growing discontent between owners and workers resulted in a fractured attempt by taxi franchises and cab drivers to resist Uber and Lyft. Additionally, the division within the taxi industry resulted in a delay of developing permanent

regulations for TNCs. As explained above, the temporary operating agreement was set to be renegotiated within six months of its passage but was put on hold as a result of the taxi franchise permit issue and co-op formation. The temporary ordinance should have been up for review in April of 2015 but was set aside until August to contend with the taxi industry giving Uber and Lyft an extra four months to establish both a plan for regulatory negotiation and to develop widespread public support. By the end of 2015 after a successful vote to expand permits for the franchises, many taxi cab drivers had gone on to drive for Uber and Lyft, and city council began to respond more favorably to the interests of TNCs in the same way they favored franchise owners. However, in an interesting turn of events, the city council, as recommended by the mobility committee, voted to allow for the development of a fourth driver owned franchise in 2016.

The tumultuous relationship between taxi drivers and franchise owners existed prior to Uber and Lyft. As TNC companies barreled into the city, the tension grew. Attention from drivers, while initially on the threat of TNCs shifted to their control and exploitation by the franchise owners. They seized on the opportunity to create a driver owned and operated franchise. While, their timing was less than ideal, they did successfully pressure the mobility committee and subsequently city council to attend to their interests. Even though Uber and Lyft had garnered some support from city council, had gained popularity from residents and tourists and had begun to siphon drivers away from the rent seeking franchise owners, city council would insist that fingerprint background checks, as required for taxis, should be required for TNCs as well.

The divisions within the taxi industry both enabled and constrained the reach of Uber and Lyft. Locally, the political power of the taxi franchises shaped the council's approach to permanent regulation of Uber and Lyft. Despite the claims that TNCs were not the same as taxis, officials agreed that the playing field should indeed be level, meaning Uber and Lyft drivers would have to undergo fingerprint background checks and have basic insurance requirements. However, the divisions between cab drivers and taxi franchise owners shaped this approach as well. The reformulation of council created an opportunity for drivers to share the exploitative conditions of permit rental resulting in approval of the fourth franchise, an effort understood as creating fairer market conditions across the board. Unfortunately, this dynamic enabled Uber and Lyft to divide and conquer the taxi industry by diminishing the power of each group while strengthening their own.

Crafting Relationships and Regulations

Although the 2000's brought on the era of the "smart city," "innovative city," and "the sharing city," city officials themselves have not necessarily understood the technological forces behind these developments. Instead, they understand that urban areas have to be competitive in the United States and that technology has become a central driving force in terms of job creation and attracting residents, business travelers and tourists (Zukin 2020). Therefore, it is not imperative that they understand the technology that is changing urban landscapes, but rather only need to understand that it has become necessary for competitive change.

As TNCs broke into the Austin market they tactically built relationships with city officials and other key stakeholders. These relationships enabled closed door meetings and the privileging of their input in council sessions to hammer out workable regulations for the

companies. City officials who did not align with TNC interests had the app-based technology used against them either in dialog or through direct actions as was the case with a “horse and buggy” feature created by Uber against CM Kitchen. Tensions increased as the council redistricted in 2015 and Uber and Lyft lost their main supporters on the council. As relationships soured, TNCs resorted to aggressive marketing tactics and lobbying their consumer bases, enabled through their apps hoping to gain regulations on their terms. This section first describes the friendly relationships built across the city of Austin in order to serve political ends. After which, I describe the weaponization of technology against those who refrained from forming an alliance with the disruptive companies.

Building Alliances, Making Friends and Learning Lessons

The city council in Austin legislates in seemingly transparent ways. All city council meetings are recorded, transcribed and posted on the city’s website for ease of viewing by the public. Council meetings are often held during afternoon hours and particular agenda items that are of major concern to the public are moved after normal business hours to allow for the most public commentary and involvement possible. Yet, closed door meetings and relationship building between interested parties and decision makers still took place and impacted the direction of public discussions held in meetings as well as regulatory outcomes. Several officials from the city of Austin expressed to me a friendly relationships with TNC representatives and meetings outside of public view. While political alliances are common place in government, there are serious consequences to this practice that reverberate through and restructure local institutional arrangements (Hankins 2015; Marwell, Baldassarri and Marantz 2020; Stone 1989).

In Austin, city council often relied on city staff from a variety of departments such as legal, accounting, transportation and so on, to weigh in on ordinance proposals and changes. Aware of the key role staff played in decision making, early market entrants such as SideCar and other TNCs built friendly relationships with city officials through private meetings. For example, Carlton Thomas from the transportation department recalled that he was scheduled to have a meeting with Josh Hooks from SideCar the day following the 2012 presidential election. After missing the meeting, Josh candidly explained to Carlton that he had partied too hard in celebration of Obama winning a second term and overslept missing the meeting. This striking admittance in a professional setting suggests more than a straight forward attempt to implement practical solutions through open dialog. Providing more evidence, Carlton explained that there was a mutual respect between city staff and business interests:

We understand that you have a bottom line. It's a little different than my bottom line, your bottom line, you know, is factored into dollars my bottom line is factoring into safety. And so sometimes, some of the things that I recommend is going to probably cost you more money to implement and so you know there'll be standoffs, but we, we would meet with the TNC, we would meet with the taxi Association, we will meet with the limousine Association and so we always involve them in discussion.

As this snippet highlights, city staff worked with invested parties to create regulations built around both interests. As scholars of neoliberal city building have noted, this is a key way through which interventions in markets are made to change institutional arrangements that enable capital accumulation (Brenner and Theodore 2002; Peck and Tickell 2002).

Interestingly, TNC companies did not only target city decision makers. They formed coalitions with citizen groups such as ATX Safer Streets and built relationships with competing industry representatives. As one representative of the taxi industry explained to me this was a key part of local policy making.

They're new to town, right. And so from a policy perspective, they're going to hire people who do policy work in Austin. I felt ingrained in that community. I knew a lot of people in Austin. So, I knew those policymakers. And so, I have relationships with those people also. And then subsequently as they send in their national policy people like they're smart people. They're nice people. I like people. So, I got to know those folks also... Adam Goldberg was somebody that represented them locally at one of the firms that they hired locally, like I knew those people... So, we all knew each other, it was still a small town or it still is a small city, in my opinion, like it's not New York. So, we all knew each other. But then, yeah. Subsequently, as the folks who represented Uber or from Lyft came in, April Mims is a name that jumps to mind. Like I got to meet April like she's a wonderful person. She's brilliant like she's the type of woman I would hope my daughter's grow up to be. So, I got to know them personally. And so, like as we work through the policy issues like work is work. But at the end of the day, like we're all still people. It was fascinating to get to know the people and build those relationships, too. So yeah, I did get to know folks that represented the other side.

Building connections across industries and within city government is done politically to create clear pathways for operation and subsequent profits. Uber and Lyft created what Marwell et al. (2020) term *patronage* and *partnership* dynamics across the city where they had both long-term relations with city officials (throughout the regulatory process) but also short term connections to groups that had differing interests.

As Uber and Lyft entered urban markets, they were still building capital and their strategy was set on conquering the local scale of the city. From 2011 to 2013 the valuation of the company went from about 60 million to 3.76 billion (Kessler 2018). Their national strategy was set on the municipal level but was adjusted based on the particular context and reception of their services. Starting at the bottom of a tall ladder allows for more political jockeying. Networks with local elites in city government and competing industries were used politically to diminish resistance, a strategy often used by businesses particularly over land use issues (Reese and Rosenfeld 2002). With each local “win” on the part of Uber and Lyft their market dominance and subsequent valuation grew.

Beyond networking with stakeholders in local areas which paved the way for backdoor dealings and subdued resistance, building friendly relationships with council helped shape public discussions and regulations in real time. Here, CM Riley described his comradery with Lyft representative, April Mims, which then led to live editing of a proposed ordinance on insurance requirements.

There was a very nice woman who was here in town (I suggested the name April Mims, representative of Lyft)... Yes! Yes!.. she was great...we were in touch with them. I mean we were trying, it's one of those sensitive issues. We were trying to figure out what would work and so it was helpful to be talking to them, just to let us know if something would or would not work. I remember insurance being a particular issue...and so I remember talking to them, we wanted to have a regulatory framework that would work. And if the companies tell me no, that won't work, well that's not something I would want to hear. And, of course, then, that did get us any into criticism because the criticism was that we were letting them write the regulations.

Council members who were friendly with TNC reps would often call on them to testify or explain a particular issue that was undergoing debate. Taken with the above transcript from CM Riley, the following exchange between him and Curtis Scott (Uber representative) articulates how this favoring directly shaped changes to proposed rules. When offering an amendment to the temporary operating ordinance around insurance requirements, CM Riley, who had sponsored the ordinance, asked Curtis Scott if the language change that was proposed was “workable.” Curtis Scott explained that it would not be workable. CM Riley then asked “so this language would be problematic?” Curtis Scott responded directly, stating “It would be problematic.” CM Riley then asked, “So have we seen any particular best practices emerge in other cities that have addressed this? What typically is required?” Curtis Scott explained what was done in some other cities. CM Riley then read the on the fly revised amendment to Curtis Scott asking “Would that be consistent with the practices that you're referring to that we've seen working in other cities?”

This process then assisted TNC companies in curving the discussion or changing regulatory language in ways that better represented their interests. Despite years of directing the city manager to conduct studies and develop key stakeholder groups, TNCs had been networking with council members and city staff to craft operating agreements. According to one of my respondents from city staff, Austin had been determined as a key market because of their growing population and technology centric economy. Therefore, these networks between TNCs and elite decision makers were crucial for the Austin market but to also serve as a model for engineering regulations across the United States.

Another example of this manipulation of friendly relationships came from deliberations over the temporary operating agreement in October of 2014. While public comment had been closed for the remainder of the deliberation process, council could still call on audience members from interested parties in the October meeting. April Mims (Lyft representative) was called on to explain various measures that attempt to amend the operating ordinance, including questions regarding Lyft's service in underserved communities. At one point April Mims took it upon herself to approach the podium to provide input as two council members debated. As CM Riley tried to make a case for the language used in his ordinance, he stated "I see miss Mims approaching" and proceeded to let her speak on the issue. As the debate continued over what the plan would be going forward to service underserved communities, CM Riley again tried to make his case as Chris Johnson from Uber made himself visible in the audience. As a result, CM Riley interjected "I see one of our partners, one of the TNC service providers here, so I would invite you to add anything." Chris Johnson from Uber proceeded to fill in the gaps left by April Mims' explanation. This audacious input from industry representatives demonstrates that although this

process was transparent, the democratic nature of decision making was undermined by the alliances that had been built between business interests and council.

As described above, friendly relationships with policy makers and well connected industry representatives served TNC's political purposes in debates about regulation on the Dias. City council members would often turn to company representatives asking about the feasibility of regulatory aspects such as data reporting, insurance policies and various add on options within the app. Eventually on a first name basis with company representatives, they were often taken at their word when they were told something was or was not within the limits of their app. Importantly, this leveraging of relationships was facilitated through an aligned front by both Uber and Lyft representatives. When the representative from Lyft could not answer particular questions from council, one of the Uber representatives would step in. This was partially out of necessity as the regulations would apply to both companies but had the latent impact of further validating their claims.

Weaponizing Technology Against Enemies

As part of the regulatory stratagem in Austin, Uber and Lyft weaponized their technology against those who supported certain rule requirements. This was done by using their app-based technology as a tool against city council through direct action against CM Kitchen and a broader reliance on a lack of technological understanding by council. Facilitated by their app based technologies, TNCs were able to directly communicate political messages to customers. Uber and Lyft used their position as a 'technology company' to legitimize their claims on what the limits of app technology were, therefore avoiding regulation such as data reporting or ADA accessibility requirements. This was in part bolstered by the relationships that had been built

between representatives from Uber and Lyft, city council members and taxi franchise owners. When relations soured, the direct messaging worked to garner public support for the ballot measure campaign against fingerprint background checks.

By August 2015, TNC regulations were back on the table after having been set aside to contend with the taxi franchise and co-op debate described above. The mobility committee, chaired by Ann Kitchen had begun to review the outstanding issues from the pilot program which mostly related to background checks and fees paid to the city. Rumors quickly developed that the mobility committee was attempting to get rid of Uber in Austin. In the September 2nd meeting, attendees wearing shirts which read “Keep Austin Uber,” a play on the city slogan “Keep Austin Weird,” were strategically located throughout the audience as a representative from Uber presented to council arguing against new regulations (figure 1). Rumors escalated quickly as the mobility committee worked their way through the various city staff recommendations for a permanent operating agreement. At the October mobility committee meeting, CM Kitchen was compelled to address rumors that she was trying to get rid of Uber in Austin. As the discussion began, Kitchen explained:

There’s been a lot of information in the press and some information that’s been sent out by TNCs that I want to correct the misinformation that’s been sent out. First off, you know, we do recognize and appreciate and really value what TNCs offer to our community, so our discussion today is not about getting rid of TNCs, it was never that and that’s not what we’re talking about today. So, I want to correct – I think it’s important that we correct that misinformation that may have been sent out to some of you.

Kitchen was referring to the rumors that she was leading the charge to regulate TNCs to the extent that they would be forced to leave the city of Austin. As reported in the *Austin Monitor*, a petition had been circulated around the city which suggested that Kitchen, specifically, was

trying to push TNCs out of Austin and that a recall effort should be implemented.¹⁹ Similar to the initial illegal operation in cities, bullying regulators by threatening to leave the market has been a typical strategy employed by Uber and Lyft (Borkholder et al. 2018). However, the stakes increased in Austin as the attempts to recall CM Kitchen indicate. Whether the recall effort was backed by Uber or Lyft is unclear. Regardless, the petition to unseat a council member was the result of the conflict between TNC companies and decision makers over permanent regulations.

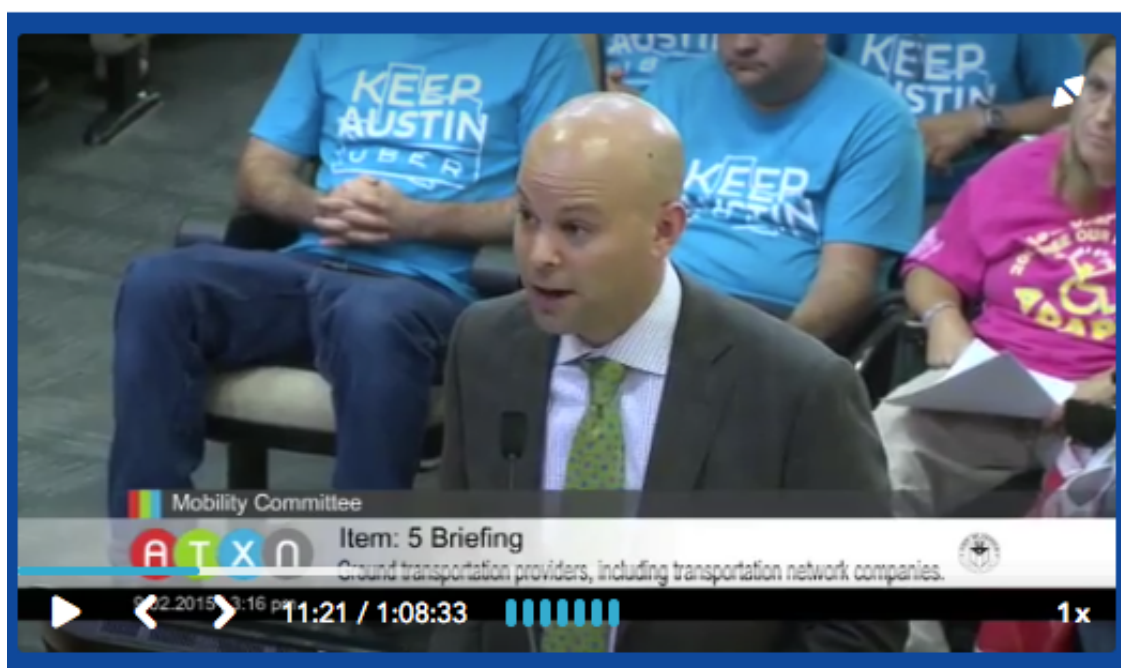


Figure 1. “Keep Austin Uber” Screen-cap from September 2nd, 2015 Mobility Committee Meeting²⁰

Uber and Lyft were opposed to new regulations because they viewed these rules as an impediment to attracting new service providers. Fingerprint background checks, in particular, would have required that drivers go through an additional step that was not currently a part of

¹⁹ Pagano, Elizabeth. October 7th 2015. “Mobility Committee, meet Uber Petition.” *Austin Monitor*.

²⁰ City of Austin Video Records. September 2nd, 2015 (<https://austintx.new.swagit.com/videos/09022015-680>).

their onboarding process. Uber and Lyft argued that this would discourage folks from signing up and that their current background checks were just as thorough. As a result, they framed the new rules as hostile to TNC providers in the interest of the taxi industry. Uber and Lyft continued to promote the narrative that any further regulation of TNCs would force them to stop service in Austin. In an effort to drum up public support, Uber created a “Kitchen” feature on their app which showed a horse and buggy instead of a car suggesting, sarcastically, that if regulation passed, Uber users would be relegated to archaic forms of transportation.²¹ Likewise, the Uber app had a button for users to select which generated an email of support to be sent to their local representatives (figure 2).

By December, the issue of background checks had become the central issue of debate between Uber, Lyft and city council. The city council, with a few opposing council members, intended to implement fingerprint background checks, the same form which were used for taxi drivers and other businesses, such as realtors, across the city. TNC representatives claimed that their internal background checks ran by the companies were more thorough compared to the fingerprint system the city used. The true answer seemed to be a bit unclear, as experts were brought in supporting both sides claiming that each check was a more accurate depiction of a persons’ criminal history in different ways. What was clear, however, was that the push for background checks followed the months long debate over creating an evenly regulated ground transportation market across taxis and TNCs. As regulations no longer favored the model preferred by TNCs, fighting over seemingly minor issues increased. The relationships that were

²¹ Wear, Ben. November 8th 2015. “Uber puts heat on Kitchen with Horse-and-Buggy.” *Austin American Statesman*.

built across policy makers and industry representatives were no longer politically advantageous and therefore were left behind as new political strategies were adopted.

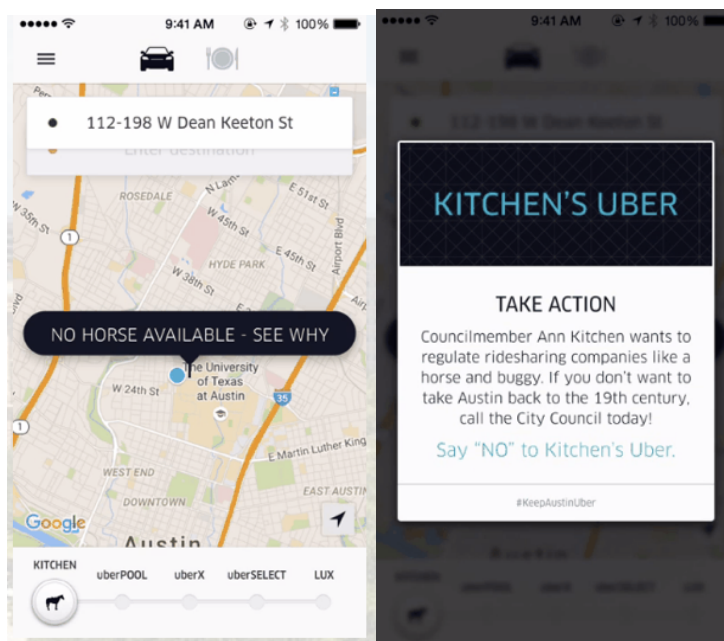


Figure 2. Screen cap of Uber’s “Kitchen” Feature.

Another example of the weaponization of technology emerged from the debate over TNC companies implementing ADA accommodations in their apps. Uber and Lyft pushed back over requests for their app to accommodate folks in need of wheelchair accessibility. The following exchange articulates how the companies used their technology to avoid adhering to particular requirements. Lyft representative April Mims had explained that they needed a three-month grace period to implement a feature which would enable the app to allow customers to select a wheelchair accessible vehicle. When questioned by CM Martinez why there needed to be a three-month waiting period for Lyft to implement ADA requirements, Mims explained that changes would need to be made in the app and the engineers needed time to make those updates. When pushed on the subject by CM Tovo who summarized, “so it is less about the technology

and more about figuring out what to do.” Mims quickly interrupted and claimed, “No, it’s definitely the technology.” Pushed again by CM Tovo who asked if there were any markets where those requirements were currently implemented, Mims reported “I have to check. I believe right now in California, they are working on that. I am not sure where it is in the process because it is not my region but perhaps Uber could provide more information about that.” CM Martinez joined the conversation, stating: “I can’t help but note the irony of technology being the impediment providing access to service when that’s exactly what we are talking about is innovation and technology as it relates to Uber and Lyft.” The exchange went on:

CM Martinez: When someone signs up for an app, which I don't have, so I don't know the answer to this, does that customer provide that cell phone number or that device's number? To Uber or Lyft?

April Mims: So, they sign up through their smart phone, so anyone who wants to use, for example, a Lyft application, they will go to the app store and they will download the Lyft app and then they will fill out the credit card information and the other information. They will accept our terms of use and then at that point, as a passenger, you will have access to the platform.

CM Martinez: The reason I am asking the question, because if it's going to take some time- if you are saying you can get there. It will just take some time for technology to get it figured out. Why wouldn't you just simply have someone at your company access that person via a direct phone call? If they are using their device, you know they are holding it. Why not call back and ensure the services they are requesting and then provide that service as necessary?

April Mims: Well, that's not, I mean, that's not something we have done so far. I think the goal is that because we are an app-based company and all of our communications happen through the app that we would have an app based solution to that. I know the California PEC, part of their requirements are very similar to what the requirements are in this proposed ordinance in terms of making sure there is a feature on the app where someone can indicate whether they have accessibility concerns, they have a wheelchair accessible vehicle and we will help direct them to that appropriate transportation. So, we are a connector, a convener, and that's what our service does and we want to provide a way for our app to do that.

CM Martinez: I understand that. We are trying to provide a policy based solution, not an app based solution and I don't see how we can't figure out an interim fix while you are working on your technological issues that you have with your app.

This exchange highlights the undergirding assumption that technology and policy are at odds.

The TNC representatives used their technology as a political tool to demonstrate why regulations were not necessary, the correct solution, or not possible. Yet, as CM Martinez pointed out this was an ironic position in that the companies were maintaining their technology was limiting their ability to use technologically driven solutions. The TNC reps purposefully used a lack of understanding of the technology to avoid rules that would require them to update their apps or mode of operation.

Technology was weaponized to skirt regulations and to garner public support. As the battle over regulations waged throughout 2015, Uber and Lyft weaponized their direct access to both drivers and customers. Uber implemented a horse and buggy feature named the “Kitchen” option suggesting that TNCs would not be available if further regulations were implemented. Similarly, both Uber and Lyft sent messages to their users through their apps regarding the ballot measure with language that suggested the city was responsible if TNCs left the Austin market. This tactic has since been adopted and used in other regulatory battles such as the recent proposition 22 fight in California over driver’s employment status (Hussain, Bhuiyan and Menezes 2020). With each iteration of regulatory disruption at the city level, TNCs learn lessons adapting and adopting successful political strategies to take to the next scale of governance.

Squashing the Blueberry

State preemption is a mechanism used by firms to create favorable regulations. For example, ALEC – the American Legislative Exchange Council - made up of state legislators and

corporate lobbyists, have been behind numerous state level preemptions geared toward undermining labor rights such as minimum wage, employee leave policies and rights to unionize (Levinson, Hare and Fiechter 2017). Much of the literature on state preemption documents the outcomes of this legislative strategy attending to factors external to the preemption process for explanations (Kim, Aldag and Warner 2021; Swanson and Barrilleaux 2020). For example, Kim Aldag and Warner (2021) find that states with low minimum wages and weak labor protections are more likely to preempt local labor laws. Likewise, another thread of the preemption literature focuses on the centralization of power and authority through this legislative mechanism (Bowman 2017; Bowman and Kearney 2012; Richardson 2011). The case of Austin, however, demonstrates the scope conditions for why and how preemption is successful by examining features internal to the preemption process. TNCs strategically tap into the political divisions between the State of Texas, a republican strong hold and democratic cities like Austin as they appeal to state legislatures. Uber and Lyft learned the specific political dynamics between the two scales of governance through their strategies at the city level, and leveraged these political conflicts to gain preemptive legislation. This section first describes the context of state preemption followed by the finding on the process of harvesting political divisions.

State Preemption Context

The debate between TNCs and the Austin city council went on for about four years. After a failure to realize their regulatory goals by tapping into context specific vulnerabilities, building networks with key stakeholder and decision makers, weaponizing their technology and spending 8 million dollars on a ballot campaign, Uber and Lyft left the Austin market. In 2017, legislation at the state level was passed to usurp local regulations across Texas. The 2017 preemption bill

was not the first attempt to gain statewide rules. In March of 2015, prior to the renegotiation of the temporary operating agreement for TNCs into a permanent regulation, State Representative Chris Paddie introduced HB 2440, which was an attempt at state level legislation.²² The *Austin American Statesman* reported that Uber had hired 25 lobbyists with costs coming in between \$310,000 and \$730,000. Lyft was also reported to have hired lobbyists with expenses between \$160,000 and \$260,000. Comparatively, Yellow Cab had just four lobbyists spending approximately \$40,000 in opposition to the language in the statewide bill.²³ The bill was held up in the house over the same issues from the Austin debate: background checks and insurance requirements. Lawmakers explained to TNC representatives that they were skeptical about the non-fingerprint background checks conducted by the companies. In an interesting exchange reported by the *Austin American Statesman*, Sally Kay, a spokesperson for Uber claimed that they were considering pulling out of the Kansas market because of their state level fingerprinting background requirements. Texas State representative Joe Pickett was quoted in response to Uber stating: “Ahhh, I don’t know, you might want Texas,” indicating that the market was too big for Uber to lose.²⁴ Despite a favorable report submitted by the transportation committee in May of 2015, HB2440 did not move forward to a vote.

As the year 2015 came to a close and the new year began, the threats by Uber and Lyft to leave Austin were strengthened by the petition to recall CM Kitchen because of her regulatory

²² Wear, Ben. March 10th, 2015. “Lawmaker’s bill could take fight for ride-hailing service statewide.” *Austin American Statesman*.

²³ Ibid.

²⁴ Wear, Ben. April 9th, 2015. “Lawmakers give Uber reps a grilling over statewide ride-hailing bill.” *Austin American Statesman*.

stance²⁵ and a separate petition calling for a ballot measure on the background check issue.²⁶

Ultimately, the push to recall CM Kitchen failed as the petitions did not meet the minimum required signatures.²⁷ Uber and Lyft moved forward with a ballot campaign, creating a lobbyist group named “Rideshare Works for Austin” after they were unable to convince the Austin council to drop fingerprint background checks from the ordinance. “Rideshare Works for Austin” circulated a petition, collecting over 65,000 signatures in support of putting fingerprint background checks up for a public vote on the May 2016 election ballot. In a last-ditch effort to avoid what would be a costly ballot measure, Mayor Steve Adler attempted to craft a memorandum of understanding with the representatives from the TNCs to make fingerprinting optional. This 11th hour effort, ultimately failed as a desperate attempt to maintain local authority and “Keep Austin Uber.”²⁸

With just a few months before the vote, Uber and Lyft pumped millions of dollars into advertising against fingerprint background checks with the messaging that city officials were attempting to push Uber and Lyft out of Austin. They consistently framed the narrative threatening that if the ballot measure failed (meaning fingerprinting would be required), then Uber and Lyft would have no choice but to leave the Austin market. Uber and Lyft collectively spent over 8 million dollars campaigning and marketing for the ballot measure.²⁹ This multi-

²⁵ Wear, Ben. January 25th, 2016. “Recall effort a matter of opinion.” *Austin American Statesman*.

²⁶ Wear, Ben. January 20th, 2016. “Petition likely to force election on ride-hailing.” *Austin American Statesman*.

²⁷ Wear, Ben. March 4th, 2016. “Austin clerk rejects petition to recall council member Ann Kitchen.” *Austin American Statesman*.

²⁸ Wear, Ben. February 12th, 2016. “Austin to vote on ride-hailing law May 7.” *Austin American Statesman*.

²⁹ Ibid.

million-dollar push would be the first of many across the country attempting to bully cities into bending to the power of capital (Borkholder et al. 2018).

CM Tovo described to me that those in favor of stricter rules felt like they were in an impossible battle, pointing out that Uber and Lyft had direct access to drivers and customers. Not only was their messaging everywhere standard advertising takes place, they also had access to their phones providing them more control over the narrative. Meanwhile, the city and those in opposition to Uber and Lyft had very limited resources. CM Tovo explained in contrast to Uber and Lyft's mass marketing, she used her daughter's karaoke machine on the front steps of city hall to discuss the nuance of the ballot measure to would be voters. Ultimately, the ballot measure failed which meant that Uber and Lyft drivers would be required to be fingerprinted in order to drive within the city limits. A mere few days later, Uber and Lyft left the Austin market.³⁰

The fight to change the regulatory landscape to one which enabled the most value extraction was not over. Uber and Lyft were back at the state legislature testifying in favor of HB100 (the newest iteration of Representative Chris Paddie's state wide approval of TNC operations). The same stakeholders from the city battle took their fight to the state house just down the road. Using the issue of drunk driving and touting a free market logic, Uber and Lyft successfully lobbied for state wide legislation, despite protests from the cities of Austin, Houston, Dallas and San Antonio. In 2017, Uber and Lyft returned to the Austin market sans

³⁰ Hicks, Nolan and Ben Wear. May 10th, 2016. "The apps go dark as Uber and Lyft leave – Ride-hailing firms depart city, but rivals rush into the gap." *Austin American Statesman*.

fingerprint background checks, with minimized insurance requirements, and a specific provision that categorized ride-hail drivers as independent contractors.

Harvesting Divisions Between City and State

After Uber and Lyft collaboratively pulled out of the Austin market, state level legislation was reintroduced by State Representative Chris Paddie on February 6th, 2017. It would take just under four months for this sweeping legislation to be passed and implemented on May 29th, 2017. This then enabled Uber and Lyft to resume service anywhere within the state of Texas under the new guidelines. Testimony against the bill came from a variety of stakeholders including Mayor Adler from Austin, representatives from cities across Texas, and groups such as the Texas municipal league. Opponents to preemption testified about the importance of city level control over transportation. Testimony in support of preemption included state legislatures, city officials, groups such as Mothers Against Drunk Driving, and folks from Uber and Lyft. Interestingly, CM Troxclair from Austin also testified in support of the bill, bucking the city level aligned front. Despite much of the same debate around background checks, insurance requirements and safety, the state legislature passed the bill with strong support.

Importantly, the statewide bill included language that classified drivers as independent contractors, heading off any future debate over the worker classification of TNC drivers. This particular aspect seemed to go unchallenged through the public hearings at least. The employment status of gig workers like Uber and Lyft has surfaced as an issue in many states with Uber and Lyft spending over \$200 million to maintain the independent contractor status

designation in 2020.³¹ In the few hearings that were held on the preemption bill in Texas, representatives from five of the six most populous cities testified in opposition to the bill as did the Texas municipal league on the basis that cities should retain control over ground transportation within their limits. As the testimony was given, efforts by the state legislature to demonstrate their power and differences in political approaches by touting *laissez-faire* principles became clear. Representative Paddie even reprimanded several people in opposition to HB100 including the Mayor of Austin for not meeting with him privately about the bill prior to testifying.

The power struggle between city and state was evident throughout the hearing on HB100. As testimony was given in opposition to preemption, committee members would respond paternalistically or in condescension to pleas for autonomy over regulations. The hearing transpired more as an act of political theater than an opportunity to consider opposing viewpoints. For example, Heather Lockart from the Texas municipal league testified voicing concern over preemption across cities in Texas. Representative Paddie began his interaction with her by scolding her for not meeting with him privately about the bill. After her testimony, he asked for proof that cities have regulatory authority over TNCs as this exchange demonstrates:

Rep. Paddie: So, it's a preemption concern on your part. Can you tell me where in the Texas local government code I can find where cities are given the authority to regulate TNCs?

Heather Lockart: They're not given specific authority to regulate TNCs. I don't think that term is in any of the codes. In the local government code you'll find authority for cities to regulate and protect the health, safety, and welfare of their residents and certainly we've talked about public safety today. I think that would fall under that.

³¹ Rapier, Graham. October 30th, 2020. "Uber, Lyft and Door Dash have now spent more than \$200 Million on Prop. 22 – but there's still no guarantee it'll pass." *Business Insider* (<https://www.businessinsider.com/uber-door-dash-lyft-prop-22-spending-200-million-close-polling-2020-10>).

Rep. Paddie: I hear what you're saying about preemption but I don't really view it that way because in my mind you were never given that authority to start with and for me this is more of an assertion of what is already the state's right to regulate this industry.

Heather Lockart: I would argue if it's not in the code currently, especially with home rule cities, anything that is not legislated by the state, cities retain that authority through their home rule status.

Heather Lockart testified to retain control over TNCs on behalf of cities in Texas. Meanwhile, Representative Paddie used this opportunity to demonstrate the authority of the state of Texas through patronizing questions and the technicality that TNCs were not specified in the local government code, despite that term not existing when the code was developed. Representative Paddie used this as a chance to shift power away from cities. Similar lines of questioning continued with others that testified in opposition to preemption as representatives across the committee, with few exceptions, used this hearing as an opportunity to demonstrate their power over municipalities rather than weighing the testimony of interested parties to inform their vote. This finding is further supported by the very different direction and tone of questioning and testimony from TNC representatives and others in favor of preemption.

Compared to the testimony given by those opposed to the bill, State representatives had many more questions for those in favor of preemption such as Trevor Tehnison, a representative from Uber. However, the questions asked were overwhelmingly friendly in nature. For example, Representative Pickett (a committee member) had a friendly conversation with Trevor about how TNCs should be minimally regulated and the rest should be left up to the free market. He even joked with Tehnison about the issue of fingerprinting. Exchanges between representatives often articulated a respect and admiration for Uber and their overall business model. This particular exchange articulates this finding:

Rep. Paddie: I want to touch on one thing that hasn't been discussed today. We talked about city perspective, company perspective, fingerprinting and all this stuff. I want to talk about the drivers and the economic opportunity that is being presented....Can you speak to this revolutionary thing where folks are saying I'm gonna go drive for 10 hours a week...

Trevor Tehnison: Absolutely, the majority of our drivers drive for less than 10 hours a week. That is kind of our desire in the statewide bill that it allows people all over the state to earn extra money. You just need access to a car and pass our rigorous background check process and go through all the steps and then you can make money... for us what we've seen in Houston is that if you add all these burdensome requirements you're just basically creating a taxi industry again...

Rep. Paddie: If we have a statewide legislation – my nephew is a junior at Texas A & M right now. Do you operate there? If he decided that he wanted to come stay with his favorite uncle for a week or two or spend spring break with me and he's an Uber driver - he can turn on his app and make a little extra money?

Trevor Tehnison: That's exactly right...

The overall exchange is much different than the paternalism exhibited in the exchanges with those who opposed preemption. Representative Paddie was friendly with Tehnison and used the hearing as an opportunity to praise Uber's model of enabling people to make extra money. Of course, numerous studies have documented that folks who drive for Uber often drive many more than 10 hours on average and some make less than minimum wage (Rosenblatt 2018; Schor 2020). Additionally, the softball question that Paddie lobbed at Trevor Tehnison gave him the opportunity to once again reiterate that too many regulations were burdensome and that Uber promotes choice and opportunity – of course, these are all key phrases which signify the tenants of *laissez-faire* capitalism. Representative Paddie used this exchange with Trevor Tehnison to highlight the political ideology that undergirds the state of Texas' legislative agenda. Trevor Tehnison seized this opportunity by doubling down on the idea of burdensome requirements inhibiting their operations.

The long and arduous process of regulating Uber and Lyft in Austin resulted in the privileging of capital interests because of the TNC's ability to leverage their economic and political power across scales of governance. In Austin, it seems that attempts to balance the input of key stakeholders were made in earnest throughout the process. However, several city level factors including stretched public infrastructure, taxi industry tensions, and the structure of the local government bogged the regulatory process down. While consensus and good regulations may have been the intent, creating the regulations piecemeal and over several years enabled capital to control the narrative and grab power. While the political culture of Austin stepped in to head off capital interests and claim their own control over local decisions, the state usurped in the interest of Uber and Lyft. TNC's harvested the city/state struggle for power and authority leveraging political divisions of the democratic city in a red state to push forward their legislative agenda. In doing so, TNCs were able to avoid city level fees, fingerprint background checks, vehicle caps as well as any other limitations cities might have on TNC operation. They were also effectively able to slide in worker classification language into the bill avoiding future conflicts over drivers as independent contractors – which has been the subject of recent legislative battles in California and elsewhere. Playing into *laissez-faire* principles, which is the basis for the political approach of the state legislature, specific language was used to tap into pressure points around freedom of choice and burdensome regulations.

Scholars studying preemption in the United States note that this power is used strategically when relating to specific policy arenas or ideological disagreements (Kim et al. 2021; Swanson and Barrilleaux 2020), in this particular case, a blue city in a red state. In Texas, state preemption is done for political purposes to maintain and extend state power. This move

works to capitulate the conservative narrative that liberal cities are not actually democratic forces but instead hamper your freedoms. Therefore, power should remain centralized at the state level. Yet behind the scenes, this political jockeying enabled capital to maneuver strategically to the decision-making authority when their regulatory goals were missed at the local level. As such, the interests were not just that of that state but also that of capital. In a win for both Texas and TNCs, Uber and Lyft realized their regulatory goals by learning lessons at the local level and leveraging a political divide and the state of Texas used the interests of TNCs to gain political power over local municipalities.

Conclusion

Uber and Lyft barge into markets as regulatory entrepreneurs, knowing they need to change regulations (Pollman and Barry 2017). Hopeful for easy regulation, TNC representatives built relationships with city officials and competing industries within Austin. Leveraging city specific vulnerabilities, TNCs tapped into the problems with a public transportation system that was unable to meet the demands of population swells, a major university, and drunk driving issues. Seizing upon tensions within the taxi industry they effectively divided and conquered the local ground transportation market. This context made regulators more amenable to what appeared to be an easy solution to a complex problem. The friendly nature between regulators and TNC representatives was used strategically by Uber and Lyft to avoid what they deemed “unworkable” rules. While the governance process in Austin appeared transparent, council still heavily relied on business interests to inform their policy decisions, often turning directly to TNC representatives for input on ordinance language adjustments. Furthermore, TNCs weaponized their technology against CM Kitchen, chair of the mobility committee, to

delegitimize the council's efforts to regulate. They similarly used their apps in attempts to convince local residents to vote in favor of the ballot measure against fingerprint background checks. Tapping into their economic capital they lobbied and heavily marketed their narrative for the ballot campaign measure. When results did not pan out in favor of Uber and Lyft, they again took their political and economic power to the State of Texas. Tapping into political division between the cities and the state, TNC representatives touted a *laissez-faire* narrative convincing the legislature to move forward with preemption.

Uber and Lyft combined spent over \$8 million on the ballot campaign in Austin to fight the issue of background checks.³² At the time, that seemed like an incredible amount of money to spend on a ballot campaign issue about background check processes. Comparatively, it seems that amount of money was just a drop in the bucket for Uber and Lyft as they would spend over \$200 million in the California ballot campaign fighting employment status for drivers a few years later in 2020 (Paul 2020). Yet, the money spent in Austin does suggest evidence of importance of the Austin market. As CM Riley and Carlton Thomas expressed to me, in early conversations with TNC representatives they were told that Austin was a strategic target because the companies thought if they could operate legally there then they could use the model legislation elsewhere.

The importance of capturing particular local markets is consistent with the overall strategy by Uber and Lyft to rapidly expand across urban areas in order to scale the company up quicker than regulatory processes could handle (Barns 2021). However, these battles were

³² Wear, Ben and Nolan Hicks. April 30th, 2016. "Uber, Lyft Spending now at \$8.1 Million." *Austin American Statesman*.

strategically urban ones, in part because local governments can be more easily swayed by technological improvements as cities are often forced to compete with other cities for residents, tourists and business travelers (Abu-Lughod 1999; Sassen 2001). Furthermore, starting local, enabled these companies to run to the state legislature when regulations did not go their way as a result of the scalar nature of regulation in the United States (Brenner 2019; Schragger 2016). This is precisely what happened in the Austin case. While the city was spending months on end, debating, researching and dedicating city resources to determine the best way to properly regulate TNCs, the companies were making their attempts at sweeping legislation at the state level. Importantly, this circumvention or preemption of local authority is more than just billion dollar companies fighting to get their way. This method highlights how preemption processes cement elite political power within the state from both internal and external sources. Moreover, by jockeying between local and state level regulators, worker organizing and dissent from counter interests becomes much more challenging.

The case of Austin highlights how firms leverage their political and economic capital to shape regulations. Importantly, Uber and Lyft were enabled by the historical and context specific ways that capitalist restructuring has shaped urban spaces. The hierarchical nature of state power devolved across scales creates differentiated pathways for capital accumulation and regulatory manipulation. Uber and Lyft used Austin as a test case which was intended to become a model for regulation practices more broadly. The lessons learned from their network building with elite decision makers and context specific vulnerabilities in the city made them better prepared for future regulatory battles. Regardless of the outcome in Austin, Uber and Lyft were equipped with an army of lobbyists and a more powerful regulatory body to do their bidding. In the process,

they decimated the taxi industry and secured independent contractor status for drivers as part of legislation, ultimately reshaping local labor markets across urban areas in Texas.

Nestled inside the story of capital power and state governing authority is a tale of resistance. The consistent pressure placed on council by the taxi industry interests, even when not aligned, successfully pushed regulators to demand consistent background checks across transportation industries and the development of a driver owned co-op. While Mayor Adler did attempt to undermine these requirements, Uber and Lyft were forced to take their case to a popular vote. Unfortunately, because of the structure of state power, worker resistance was limited to the local scale. Uber and Lyft were instead able to navigate the uneven terrain, emerging the victors, now with more power over labor.

CHAPTER THREE

CHICAGO: WHERE UBER IS A VERB

The phrase “Uber is a verb,” as noted in the preface, came from my interview with Lenny Sanchez of *Gig Workers Matter*. Lenny used this phrase to indicate to me that Uber had become a household name that people use to describe their method of transportation. This is certainly the case. The conversion of the noun into a verb even appears in popular culture with hip-hop artist MadeinTYO’s 2016 song “Uber Everywhere.” I am personally guilty of using Uber as verb even when my method of transport is a Lyft or a taxi. Yet the case of Chicago demonstrates that Uber is a verb in a dual sense. The first being the above described usage. The second being the active political manipulation used by the firm to avoid what they deem as prohibitive regulations in Chicago and the state of Illinois. Exploiting Chicago and Illinois political dynamics, aligning with well-connected political elites and navigating Chicago’s opaque regulatory process, Uber effectively shut down attempts to regulate ride-sharing in ways that would place their operations in line with the taxi industry. Lyft was also involved in the process, however, Uber led the charge. Uber’s actions in Chicago articulate labor market engineering by highlighting the strategic navigation of regulatory scales and manipulation of cultural perceptions of the service.

Uber first arrived in the Chicago market in 2011 operating in collaboration with the taxi industry. From their app, you could hail a taxi-cab or a black car. It was not until Lyft emerged

in Chicago that Uber began using what is now the primary component of their services, UberX.¹ Travis Kalanick (former CEO of Uber) was quoted from 2013 in the *Chicago Tribune* stating that Uber initially shied away from the peer to peer model as “apps were taking extreme regulatory risk in rolling out.” Given the non-enforcement policy observed in other cities, Kalanick said “we will actively look to roll out ride-sharing services.”² Despite federal lawsuits filed by taxi companies against the city of Chicago, protests by taxi drivers, state level legislation to regulate ridesharing across Illinois, and later organizing by gig workers, transportation network companies (TNCs)³ were able to effectively convince the mayor’s office and by extension the department of Business Affairs and Consumer Protection (BACP) that their operations were outside the bounds of current regulations for livery services, requiring new rules. Similarly, these firms used their political knowhow and position as a technology company, leveraging jobs to convince then-Governor Pat Quinn to veto statewide regulations.

The findings of the Chicago case articulate how an opaque governing process enables elite political power, undermining democratic processes. Furthermore, this chapter contributes evidence to the effective ways that firms navigate the scales of regulatory authority tapping into connections with political elites in order to shape regulations. Scholars of urban politics have long debated what shapes decisions at the city level (Dahl 1961; Logan and Molotch 1987; Peterson 1981; Stone 1989; Stone and Sanders 1987). Growth machine explanations point out

¹ Black cars in Chicago are a livery service that has to be prearranged by phone or on-line reservation and require a minimum waiting period. They are not allowed to accept street hails marking them as distinct from taxi-cabs.

² Wailin, Wong. April 13th, 2013. “Uber plans ride-sharing rollout.” *Chicago Tribune*.

³ Chicago refers to rideshare services such as Uber and Lyft as “Transportation Network Providers.” They are synonymous with the term Transportation Network Companies or TNCs as used in the Austin and New York case. For the sake of clarity, I use TNC in place of TNC throughout the dissertation.

that policymakers make decisions based around land uses that will extract the most exchange value for the city (Logan and Molotch 1987). Conversely, regime theory argues that business interests become enmeshed with public interests resulting in the production of spaces that benefit actors within a given regime (Stone 1989; Stone and Sanders 1987). Building from these insights, Purcell (2005) and Brenner (2019) argue that the city should be understood as one geographic scale in a multitude of scales where social relations are produced. In other words, global, national, regional and local are relational spaces of social life, most often hierarchically dictated. This conception pushes back on assumptions embedded into regime and growth theories of the city as a fixed container from which particular arrangements emerge. As such, “the ‘localness’ of growth politics in US cities and elsewhere, is not a pre-given or endogenous empirical attribute of the coalitions in question but is a mediated result of institutional structures, regulatory rule regimes, and political geographies that, quite literally, create a space in which urban growth machines may be established” (Brenner 2019: 240-241). As a result of the structure of decision making authority, city level policies are ‘mediated’ by the state or nation-state context.

Drawing on these insights from urban critical theory, the case of Chicago provides empirical evidence to how firms jockey between scales of power to meet their interests. Rather than a regime or collaboration with policymakers, firms maneuver across and through scales of decision makers to shape regulatory outcomes. City, region, state, nation-state are all points on uneven terrain which are organized strategically to enable political brokering among elites. The research questions guiding this chapter are as follows: *Despite opposition from the taxi industry, what explains the pathway to favorable rideshare regulation in Chicago? How was state level*

regulation avoided? How does the organization of the regulatory process in Chicago enable firm interests while constraining the interests for local organizing groups?

In the case of Chicago, Uber and Lyft used the political power and authority of the mayor's office and the BACP to push forward their regulatory agenda. To stop state level legislation, they leveraged their political connections to Mayor Rahm Emanuel and fostered new relations by soliciting other well connected lobbyists to convince Governor Quinn to veto a state level bill at the strategic moment of an election cycle. The taxi industry attempted to use similar strategies at the state level, but were unsuccessful in their efforts to force state legislation. Despite connections with city council and state legislatures, the taxi industry did not have a direct line nor favor with the very powerful mayor. Similarly, the opaque nature of regulatory formation left local organizing by gig workers searching for ways to communicate their concerns to decision makers.

This chapter details the regulation of Uber and Lyft in Chicago. The chapter begins with a brief overview of the timeline of events in Chicago. After which I describe how both the concealed regulatory process and the connection between decision makers and firms enabled closed door meetings and quick operations for the TNC companies. From there I describe the contrasting experiences of the taxi industry and gig worker organizing groups. Last, I describe how the statewide bill for rideshare regulations was vetoed by Governor Quinn as result of Uber's strategic efforts. The case of Chicago highlights how non-prioritized interests are shut out of the local regulatory process in the interest of particular firms. This case also highlights how TNCs strategically navigate the specific context in cities based on the structure of their

government, in this case a rubberstamped mayor seems to be the spring board for business centered policy making.

The Arrival

Uber, Lyft, Hailo and SideCar all arrived in Chicago while Rahm Emanuel was mayor in 2011. Uber first arrived operating only in the capacity of black car services.⁴ Their transition over to the peer to peer model followed the emergence of SideCar and Lyft in the city's market.⁵ Chicago was just the fourth market for Uber, preceded by San Francisco, New York and Seattle. Shortly after Uber arrived in 2011, they began operating as a dispatch service for taxi-cabs. Taxi and livery companies were quick to file lawsuits against their operations citing false price advertising among other violations.⁶ In Chicago, the Business Affairs and Consumer Protection (BACP) department oversees the operation of all business matters in the city, including taxis and livery services. The department is responsible for rule development and enforcement. In 2012, the commissioner of the BACP, Rosemary Kimbrel, was the first to cite Uber for violating city rules. Quoted in the *Chicago Tribune* she explained "They are a bit of a problem because they are having a hard time fitting into the structures cities have."⁷ Uber was quick to hire help from well-connected Chicago political players such as lobbyists connected with the Emanuel administration and staff connected to the Governor's office.⁸ The relationship between Uber and

⁴ Anonymous Author. 2011. "A new way to dial up a ride." *Chicago Tribune*.

⁵ Wong, Wailin. April 13th 2013. "Uber plans rid-sharing rollout." *Chicago Tribune*.

⁶ Hilkevitch, Jon. October 29th, 2012. "New taxi app isn't heavenly just yet." *Chicago Tribune*.

⁷ Dizikes, Cynthia and Hal Dardick. October 26th, 2012. "City slaps taxi dispatch firm." *Chicago Tribune*.

⁸ Harris, Melissa. December 9th, 2012. "Uber app puts cab firms on the defensive." *Chicago Tribune*.

Emanuel was also linked through the mayor's brother, Ari Emanuel. Ari Emanuel was reported to have made a "minimal investment" in Uber in December of 2011, just three months after Uber began operating in the Chicago market.⁹ Likewise, tensions and political maneuvering across the transportation industry arose as taxi companies solicited the help of Norma Reyes, the former commissioner of the BACP.¹⁰

By October of 2012, a class action lawsuit representing interests from the taxi industry was filed with the Circuit Court of Cook County claiming that Uber used false advertising and deceptive wording to make a profit.¹¹ Despite outstanding legal proceedings, Uber announced their plan to rollout their peer to peer product, UberX, in Chicago in April of 2013.¹² The first draft ordinance for regulating ridesharing in Chicago was introduced in early 2014. This ordinance came on directive from the mayor's office and looked to regulate around background checks, vehicle inspections, insurance provisions, licensing fees and ground transportation taxes.¹³ Although there were proposed regulations for Uber and Lyft, they fell within what the companies deemed workable – background checks and vehicle inspections could be conducted internal to the firms, insurance requirements were the responsibility of the individual drivers, licensing fees were a small yearly fee paid by the companies to the city and taxes could be transposed onto customers via the fare paid for each ride. Within a few days of the introduction

⁹ Mihalopoulos, Dan. April 23rd, 2014. "Rahm's brother's stake in ride-share firm raises Uber questions." *Chicago Sun Times*.

¹⁰ Ibid.

¹¹ Chicago business journal. October 2nd, 2012. Chicago Attorney files lawsuit against Uber.

¹² Ibid.

¹³ Hilkevitch, Jon. February 3rd, 2014. "City to end ride-share's easy street." *Chicago Tribune*.

of the ordinance to city council, taxi companies filed a lawsuit against the city of Chicago claiming that the city had created a two-tiered system for ground transportation.¹⁴ Taxis had comparatively much stricter regulations – they use a medallion system (which fixes the number of vehicles on the road), have commercial insurance requirements, fares set by the city, street grid exams to gain licensing among other rules. Meanwhile, the Illinois State legislature was in the process of passing statewide regulations on ridesharing supported by the taxi industry through the Illinois Transportation Trade Association.¹⁵ These rules mirrored many of the regulations for taxi cabs including commercial insurance, chauffeur licensing, and rules limiting time spent on the road.¹⁶ Uber and Lyft were in opposition to these rules as they would add operating costs and create barriers for new service providers which would limit their ability to undercut traditional taxi cabs. Despite passing with overwhelming support through both the house and senate, Governor Quinn vetoed the bill in August of 2014 in the midst of an election cycle.¹⁷ Just prior to the veto, Chicago passed the TNC ordinance on June 2nd, 2014 enabling the legal operations of ridesharing within the city limits with rules favorable to TNC firms.¹⁸ Since the passage of the TNC ordinance in 2014, Chicago has updated operating rules a few times, including: approving the operations of rideshare companies at the airports, McCormick place and

¹⁴ Geiger, Kim. February 10th, 2014. “Cab firms sue over ride-sharing.” *Chicago Tribune*.

¹⁵ Author Unknown. May 16th, 2014. “Uber blasts latest round of rules in Springfield.” *Crain’s Chicago Business*.

¹⁶ Yousef, Odette. May 16th, 2014. “Illinois Senate passes ride sharing rules.” *WBEZ Chicago* (<https://www.wbez.org/stories/illinois-senate-passes-ride-sharing-rules/3792c944-fb01-4ab6-aae0-3d27a356891b>).

¹⁷ Byrne, John. August 26th, 2014. “Quinn vetoes statewide rules for ride-sharing.” *Chicago Tribune*.

¹⁸ Byrne, John. November 19th, 2014. “City officially licenses ride share firms.” *Chicago Tribune*.

Navy Pier (two major event sites in the city) in 2017¹⁹ and implemented a downtown zone tax on rides in and out of the central business district in 2020. Outside of those minor amendments, the rules for TNC operations in Chicago remain as they were established in 2014.

Overview of Chicago

Chicago has a population of just over 2.7 million people across 227.3 square miles, making the density approximately 12,000 people per square mile – or about 4 times as dense as Austin. Chicago is approximately 33% White, 29% Latinx, and 29% Black in population. The public transit in Chicago is used more frequently compared to Austin with the 2019 American Community 5-year survey estimating that 28% of workers take public transportation to get to work (Census.gov). Unlike Austin, Chicago formerly had a robust taxi cab industry with 6,999 medallions eligible at any given time. The sheer size of the Chicago market, in terms of population, makes the city a logical early expansion site for TNCs. The city level factors of Chicago do not offer much in the way of an explanation for the success of TNC's preferred regulations. Instead, the political context, dynamics and structure of the economically powerful city reveal to be the tool used by TNCs to shape regulations.

Chicago is the economic backbone of the state of Illinois. In 2020, the Chicago area economy accounted for 75.4% of the gross state product of Illinois (US Conference of Mayors Report 2020). The importance of the Chicago economy impacts the relationship between the Governor of Illinois and the mayor of Chicago. As a home-rule city, Chicago is given the ability

¹⁹ In cities where Uber and Lyft were early entrants such as Chicago, they were not allowed to operate at airports and convention centers. This initial limitation on TNC firms was in the interest of “fairness” with the taxi industry to allow them a dedicated customer base. This initial restriction was removed in most places in the mid 2010's. However, there had long been reports of Uber and Lyft illegally operating at airports and other restricted sites prior to the rule changes.

to make policy decisions somewhat autonomously. Illinois has a particularly small record of preempting decisions made within the city of Chicago. Despite the relative autonomy over city matters such as fiscal decisions and service provisions, Chicago has periodically encountered issues with the state legislature (Swanson and Barrilleaux 2020). Scholars studying preemption focus overwhelmingly on preemption outcomes resulting in a narrative of city versus state authority (Bowman 2017; Bowman and Kearney 2012; Kim, Alday and Warner 2021; Richardson 2011; Swanson and Barrilleaux 2020). The Chicago case of TNC regulations highlights how external factors such as firms can play a critical role in shaping the outcomes of these political struggles. While the state of Illinois does not often preempt Chicago, the legislature did move to pass TNC regulations in 2014 which would have superseded the city's ordinance. After particular moves by TNC firms including lobbying, building political connections, and narrative framing of then Governor Quinn as anti-Uber, Quinn vetoed the bill deferring regulation to the city of Chicago.

The political dynamics within Chicago also helped to pave the way for preferred regulations for TNCs. Chicago has been historically characterized in part by 'machine politics,' whereby power is centralized in the hands of particular leaders that make the city 'work' in return for voter support (Sites 2012; Spinney 2000). This form of politics in Chicago has come to be associated with political corruption with alders as recently as 2022 charged with racketeering, bribery and extortion.²⁰ Increasingly, scholars of Chicago politics have turned away from a focus on corruption and instead towards neoliberal city building in "the city that works" (Sites 2012).

²⁰ Woelfel, Mariah. February 8th, 2022. "Ald, Ed Burke's attorneys argue against admission of recorded conversations ahead of delayed federal corruption trial." *WBEZ Chicago* (<https://www.wbez.org/stories/ald-ed-burke-fights-wiretap-conversations-in-federal-case/c4dca9d3-91da-4aab-b78d-aebb3d3f6246>).

The political power held by the mayor's office, has however remained a consistent focus for scholars of urban politics (Bennett 2010; Fuchs 1992; Sites 2012; Simpson and Kelly 2008). While the machine interests have shifted from local to neo-corporatist as a result of neoliberalization, politics in Chicago are often at the behest of the mayor's will. Although not technically a "strong mayor" system, as Chicago has the second largest city council in the country with alders representing 50 wards (Krebs and Pelissero 2003), in practice, the mayor's agenda has historically been "rubberstamped" (Sites 2012) or pushed forward with minimal opposition. While not unitary, this was true of Rahm Emanuel's agenda when Uber and Lyft emerged. One report from 2014 showed that during Emanuel's first three and a half years, alders supported the mayor on divided roll call votes 90% of the time on average (Buyuker, Mouritsen and Simpson 2014). To vote against the mayor could be political suicide for an alder or detrimental to their ward in terms of resource distribution (funding, building permits, licensing etc.).

When TNCs first began operating in Chicago, they did so under legal framework that already existed for black cars and taxis and actually functioned as a dispatch service for taxi-cabs shortly after their launch. The divergence came after the apps became more popular and available in more cities across the country. Once TNCs expanded into the peer to peer model, tensions between the taxi industry and ride-hail companies grew and pressure was placed on city decision makers and regulators to make rule changes or punish the companies for violating the rules. While the city council is tasked with voting on ordinances, rules are often crafted in other arenas such as the mayor's office. Furthermore, enforcement of business regulations comes from the Business Affairs and Consumer Protection (BACP) department.

Business Affairs and Consumer Protection

The department of Business Affairs and Consumer Protection is in charge of all aspects related to Chicago businesses. According to the city website, “BACP licenses, educates, regulates and empowers Chicago businesses to grow and succeed as well as, receives and processes consumer complaints” (Business Affairs and Consumer Protection Website). BACP also investigates business compliance and regulates public chauffeurs, public passenger vehicles such as taxis, and now transportation network companies. According to public records, the department has approximately 170 employees in charge of the above described duties. The commissioner is appointed by the mayor and is tasked with overseeing the department. BACP plays an integral role in regulatory design, management and enforcement of the taxi and TNC industry. However, as explained to me by former commissioner Rosemary Kimbrel and deputy commissioner Rupal Bapat, BACP falls under control of the mayor’s office rather than acting as an autonomous department. The TNC ordinance introduced by the mayor’s office was developed with input from the BACP. This collaboration seemed to be standard practice for ordinances that relate to businesses, particularly if the type of business was considered “new.”

City Council

Chicago is divided into 50 wards with one alder representing each ward in city council. Each ward has a population of approximately 55,000 people. Council members serve on a variety of committees that decide various aspects of city matters such as housing, transportation, and license and consumer protections. Ordinances, once introduced, get assigned to committees by the mayor. Committees debate changes to ordinances and once in agreement, will make their recommendations to the full city council for a vote. Upon reintroduction to the full city council,

the mayor will ask if alders would like to comment prior to a vote, an action that seems akin to political theater. While ordinances can be tabled or reassigned back to committee, changes to the ordinance language do not occur in the full city council meetings, unlike the case of Austin. The subcommittee on license and consumer protection was assigned by Mayor Rahm Emanuel to take up the ridesharing ordinance in February of 2014. The committee met once on the matter of the rideshare ordinance in April of 2014 resulting in changes that were then passed moving the ordinance to full city council for a vote. There is no record of the license and consumer protection meeting from April 24th, 2014, other than the ordinance decision. However, city council transcripts indicate that there were three public hearings on the issue, also of which there are no records. The ordinance that was introduced and the substitute ordinance that went to council were nearly identical with minor exceptions such as a per driver fee of \$25 which was eliminated in the substitute ordinance. Likely, the per driver fee was opposed by TNC firms because of both the cost and lag in driver sign ups that would be caused if each driver was forced to pay a fee in order to sign up. Similar to the opposition to fingerprint background check processes in Austin, Uber and Lyft wanted to ensure there were no barriers to market saturation.

Regulatory Process and Elite Network Building

The favorable regulatory outcome for TNC companies in Chicago is in part the result of two mutually reinforcing features of local governance: opaque decision making and alliances among elite tech firm interests and politicians. While the regulatory process in Chicago has long been opaque, this aspect of governing enabled TNC companies to make connections with decision makers outside of democratic proceedings. Closed door meetings facilitated back channels for TNC input as the ordinance was crafted. Debates among council members over

ordinance changes, full voting records and public commentary on the issue are only known to those who attended the sole committee meeting where ordinance revisions were made as a result of the lack of record keeping. Both elite networks and regulatory opacity function to undermine the democratic process of local decision making (Blomgren and Bingham 2006; Gerometta, Haussermann, and Longo 2005; Silver, Scott and Kazepov 2010). Furthermore, back channels around TNC regulations were reserved for TNC companies. Gig organizers and folks from the taxi industry were excluded from this pathway to provide regulatory input.

Opaque Regulatory Process

Each step in the regulatory development process in Chicago is in some way clouded. Decisions about the introduction of ordinances, the circumstances dictating committee assignments and how ordinance changes get made are vague. As a result, those outside of the process and without the institutional knowledge of the inner workings of Chicago's government and politics are often left out of important city level decisions. Likewise, opportunities for the public to provide input on ordinances are held during standard business hours with committee meetings often overlapping, likely limiting the participation of the public.

Ordinances can be introduced from a variety of places but often come directly from the mayor's office. Former commissioner Rosemary Kimbrel explained that ordinances can come from the mayor's office either directly or indirectly, meaning the mayor may be behind a particular rule or another source such as an alder, department, or outside group may have the mayor introduce an ordinance on their behalf. Ordinances can also be introduced directly by alders. The public is given the opportunity to provide commentary on ordinances once they have been officially introduced and assigned by attending committee or council meetings.

Commentary provided in committee meetings may inform changes and result in a substitute ordinance whereas commentary in the full city council meeting may inform how alders vote on the item. Regardless, the timing and manner of giving such input is indicative of the opaque regulatory process. Committee meetings are held during the daytime hours on weekdays and often overlap with one another, meaning residents may have to choose between issues. Similarly, full city council meetings are held on Wednesday mornings. By holding public hearings during standard business hours, a large portion of city residents are excluded from regular democratic participation. Of course, residents can provide commentary through other channels such as petitions or emails, however, the impact of this input is indeterminate.

Similar to the inconvenient timing of council meetings in limiting citizen participation in decision making are the way public records on city council duties are kept. Full city council meetings are open to the public, are transcribed, and archived for public record. These records can be accessed through the city of Chicago's clerk's office website. Committee meetings, however, until the Covid-19 pandemic, were not recorded nor were the conversations held within them transcribed. This means up until 2020, discussions over changes to ordinances were reserved for those in attendance. Only the vote on ordinances that pass through committee were documented and votes were recorded *viva voce*, meaning only orally. As a result, there is no record of which alder voted yay or nay on a particular ordinance prior to the substitute ordinance (ordinances that pass committee and go back to council). Only the action on the ordinance is documented such as passed, tabled or deferred. This method of record keeping insulates alders from public pushback on regulatory decisions. Additionally, ordinance debate, changes, and other committee records are not available through city records. For example, I filed a freedom of

information act request for the voting record on the 2014 TNC ordinance. The office of the city clerk responded to my request for audio, video or written documentation of the license and consumer protection committee meetings from February 2014 through May of 2014 with the following note: “The Office of the City Clerk neither possesses nor maintains records containing meeting transcripts, audio or video files and therefore has no documents responsive to that portion of your request.”

Civic participation in politics is a well-studied topic that often focuses on whose interests are prioritized in decision making (Dahl 1967; Logan and Molotch 1987; Oliver 2000; Rondinella, Segre and Zola 2015; Stone and Sanders 1987; Tarrow 1998; Tilly 2006). At the local level, Oliver (2000) explains that civic involvement is related to the size of the city and the demographic makeup of the area, noting that very small and very large cities have lower civic participation. Yet, urban politics is more dynamic than descriptive aspects of the population. As Silver, Scott and Kazepov (2010) show, participation can be dynamic whereby bottom-up involvement may complement top-down decision making. However, this framing of civic participation misses that the very structure of the regulatory process may be a foregrounding feature which limits civic involvement. The case of Chicago demonstrates that the opaque regulatory process hides from public view decisions that may be otherwise contested. The time, record holding and access to decision makers is guarded in ways that enable elites and more powerful interests to nose their way into the process. As Gerometta, Haussermann and Longo, (2005) argue, there are particular contexts that are more favorable than others where civil society can impede the full realization of neoliberal regimes. Chicago is not that context.

Building Elite Networks

Closed-door meetings seemed to be a regular occurrence in the rideshare regulation process. Those I talked with from the BACP shared with me that representatives from both Uber and Lyft reached out to them as they began their operation. Before Uber and Lyft began operating, Hailo, a UK based rideshare company, was operating within the bounds of the current legal framework for ground transportation at the time. When Uber and Lyft entered the market, Rosemary Kimbrel recounted that Travis Kalanick (Uber's former CEO) had contacted her. During their meeting, Uber's operation in Chicago was discussed. Uber initially operated as a black car service and therefore fell within existing regulations for livery transportation. Former BACP commissioner Kimbrel explained:

And when they came in they only did black cars. Well black cars are not taxis. Black cars were limousines in Chicago's lingo so every jurisdiction as you probably learned by now has different lingo, different legislation and different needs. You know, different types of laws. So, when Uber came in and we became aware of them, I remember Travis (Travis Kalanick) coming to my office and explaining to me what they did. And he showed me, you know the app and it was for calling liveries, or he called them black cars.

Not long after Uber's launch as a livery service, an Uber-taxi option was added to their app. This allowed customers to 'hail' a Chicago taxi through the Uber app functioning as a dispatch service. Shortly following this period of partnering with taxis, UberX was launched in 2013 which is the version of the app that most people are familiar with today (sometimes referred to as the peer to peer model). This product was rolled out even though Uber knew they were operating outside of existing regulations, an action consistent with their business model as 'regulatory disruptors' (Pollman and Barry 2017).

Once the BACP was alerted that UberX was operating illegally, they issued four tickets to Uber, amounting in approximately \$400, noting that they were in violation of consumer protections, such as false advertising. To avoid getting stuck within regulatory negotiations, Uber

sent out notifications to the users of their app alerting them to contact their alders to oppose the shutting down of Uber and Lyft, a tactic used widely across cities in the United States

(Borkholder et al. 2018). Kimbrel explained to me:

So, in the end of, boy I think it was in late 2012, I'm pretty sure, we wrote tickets, the department of consumer protection, wrote consumer protection tickets to Uber. We wrote four of them and those were administrative violations and they're heard before our department in Chicago of administrative hearings. And if I remember one was misleading advertising, which is a pretty standard consumer thing from their website and their app, overcharging or you know, and that was their surge pricing, which they had because people would think they were paying one thing and get charged something else, and there were four tickets. Well, Uber went ballistic. Oh my god they got really upset when we wrote these tickets. I'm like they're tickets guys. Come on in, sit down, we will work this out, and I will show you, by the way, how you can fit into this structure we have and be perfectly legal. That wasn't the route they chose. Instead they did this marketing campaign...

Uber then created a change.org petition which they blasted to their Chicago app based users claiming that the BACP was trying to shut down Uber.²¹ According to Kimbrel, this petition resulted in thousands of emails sent directly to alders across Chicago. The use of the change.org petition in response to a few tickets highlights how TNCs leverage their technological reach against politicians and city officials who create even the slightest barrier to operations. Kimbrel explained that as a result of the tickets, there was pressure put on her from the Mayor's office to pull the tickets from administrative hearing. She explained that she refused to do this because of the federal lawsuit that Yellow Taxi had filed against Uber which noted that these four tickets had been issued to Uber by the city. Kimbrel explained:

²¹ Ha, Anthony. November 6th, 2012. "Uber collects online signatures to battle regulatory shutdown in Chicago." *TechCrunch*. (https://techcrunch.com/2012/11/06/uber-petition-chicago/?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLmNvbS8&guce_referrer_sig=AQAAAIkx1x7ZdRUvcIqeCe_h_J9vGtChN1fJ3WHGgabUfTX11iXI_KIvMuW8CopyzewiNBmFVwXwNJ-chRwg5BbiAPm39PpxUWP2usOd7JAVNvg6o3GJkxYVopAtLaI_ZfOAt7mF8NXrxl-6Xg0O86UySAXfFiLuoNwDtokcZy3ub38).

And so my position was, you know what the city of Chicago's got to stay out of a federal lawsuit because Yellow (Taxi) and Uber have a federal lawsuit in Federal Court. And we can't get involved. So, I put the tickets on hold and I just had them roll over every month. I said we're not going to prosecute and move forward but we're not going to withdraw them either. Because if we withdrew them Uber would say you see the city loves us, and if we prosecute them, Yellow (Taxi) would say, you see the city hates them. So, these tickets became a bone of contention. So, I just kept rolling them over because I didn't want the city of Chicago to get sucked into a federal lawsuit.

Rather than pursue the tickets, BACP opted to toe the line between the taxi-industry and Uber, avoiding a clash with the mayor. The department had issued tickets for violations resulting in political pressure by Uber facilitated through their app based marketing strategy and change.org petition. Kimbrel was then pressured by city politicians to pull the tickets, and in an effort to avoid further complications with the taxi industry she opted to roll the tickets over, meaning they were still technically issued but were not being actively pursued.

As development of the operating procedures for TNCs continued, connections built between Uber and the Mayor's office became clear. There were initial questions about Mayor Rahm Emanuel's personal interest as his brother Ari Emanuel was an early investor in Uber in 2011. It is not clear if the connection to Ari Emanuel impacted the regulatory negotiations in any way. However, what is clear is that Uber was in direct communication helping to develop a workable framework for TNCs in Chicago. As noted above, Kimbrel was trying to get Uber representatives into her office. Likewise, deputy commissioner Rupal Bapat explained that they held many meetings with the TNCs to develop new workable rules. As will be described in a subsequent section, an entirely new type of business permit was developed from the regulatory process with Uber and Lyft called the "emerging business permit."

After Uber hired several politically well-connected people to manage both the legal end and the public relations side of their rollout, the mayor's office sent orders down to the BACP on

what needed to be in the regulations and what would work for Uber. Indicating the back and forth between the BACP and the mayor's office Kimbrel explained to me:

The mayor's office would call me and say, you know Rosemary, you got to change this, this and this, and I said well no that's not right, because it doesn't go that way...and eventually what ended up happening is they said, okay, we cannot stop Uber, we're going to have to come up with some way to regulate them...

Amidst the development of the TNC ordinance in 2013, commissioner Kimbrel left the BACP to return to the law department. Similar closed door negotiations continued under the new leadership of Maria Guerra. Rupal Bapat, who was deputy commissioner under both Kimbrel and Guerra, explained to me, "In my department we had a lot meetings with the company and the companies are saying we are not a traditional livery, we don't fit into that market." The BACP and the mayor's office agreed with the argument put forth by the TNCs. In particular, Uber authored a white paper citing Chicago as a case study where they detailed a variety of ways they complement public transit and traditional taxi services, providing a safe and affordable transportation service to people of all backgrounds while making an underlying argument for their services as distinct and different from traditional taxis (Uber White Paper 2015).

From the launch of TNCs into the peer to peer model (UberX) in the Chicago market, officials treated Uber and Lyft as a form of ground transportation different enough from taxis that they would have to develop a new regulatory framework. This approach was shaped by the relationship TNCs, in particular Uber, had with regulators. Rupal Bapat explained to me how her department and the mayor's office viewed the emerging industry:

They published a white paper around then 2012- 13 saying basically they are going to, introduce the Uber X concept. Okay, so Uber said, you know, we're going to do what Lyft is doing.... And then, you know, our mayor at the time is Rahm Emanuel... They were already, you know just popularity was increasing... But we had, like our mayor's office, we had a lot of meetings with the company and the companies are saying we are

not a traditional livery, we don't fit in that bucket. You know, we have vehicles that are not going to have like an Illinois livery license, you need to have one on every license plate from the Secretary of State, and they're like, our vehicles are not going to have those license plates and our drivers are not full time commercial drivers. They're not like a delivery driver or chauffeur driver that this is their fulltime job... Maybe, you know moms that drop off their kids at school when they have downtime and want to do some trips or people that have day jobs and then they're trying to make extra money and that's what they were marketing themselves as nationally...

As Bapat explains, Uber emerged claiming that they were a new type of transportation service that was provided by mostly part-time drivers. As a result, their operations could not fit in with existing regulations. This narrative mirrors the claim that both Uber and Lyft have long made that their drivers are primarily part-time marking them distinct from professional taxi-drivers. Bapat recounts this view as a result of these private meetings with the companies. Bapat described the resulting negotiations as a successful consensus between BACP and the TNCs. “I think they were happy that we recognized them as a new business model, and that we were like basically creating a new license to fit their model instead of forcing them to change their model to fit our laws.” The direct connections with the mayor’s office and private conversations with BACP officials seemed to facilitated the terms of operation that were agreeable to the TNC firms. While there is not definitive evidence that this was in fact the case, as with the direct changes made to regulations in Austin, it is clear that BACP at least agreed that Uber and Lyft presented a new business model. This argument by TNC firms helped them avoid regulations that would hinder their competitive advantage over the taxi industry.

Chicago created an entirely new set of rules for TNC services. Informed by the regulatory process with TNCs, BACP developed a new form of business permit. When Uber launched their UberX service, this pilot permit did not exist but there is some evidence to suggest that the process of regulating Uber informed the creation. Even though Uber knew they were operating

outside of regulations they launched the UberX portion of their services in 2013.²² While regulations were reportedly in the works, the mayor's office stated that regulations were not expected until the beginning of 2014. Bapat explained that the developments with Uber and Lyft led to the new permit called the "emerging business permit."

So, we decided that was the path to take and there was no emerging business permit at the time. And I think this is one of the reasons why that developed under Mayor Rahm Emanuel's administration, because they saw that there's gonna be a lot of new businesses coming up, new technologies, and it's really, things are ramping up and things don't fit in traditional (buckets)... You know, Airbnb was starting to get popular and that's not a hotel. Like, that's not a traditional hotel and there are all these new things that are happening. They don't fit in. So, there was no emerging business permit at the time (when TNCs rolled out). That concept was not in the city ordinance, it didn't exist at the time. That came after. I think this is one of the reasons, because this is not a taxi. This is not a livery, it's not... So, the decision was made. Let's understand this industry. Do fact finding. Find out how they operate. Look at what other cities and jurisdictions are doing...look at what our current licensing structures are and take their business model and look at what taxis are and can some of that translate and that developed into a new ordinance... It's the transportation network provider ordinance.

Not only did the BACP agree with TNC companies that entirely new regulations were necessary for ride-hailing, a new type of business permit was established as a result. The emerging business permit functions as a sort of pilot program for new businesses where operations do not translate to existing frameworks. These permits are issued for two year periods. Privileging the account of tech industry firms, Chicago created pathways for new businesses despite push back from the nearly parallel existing industries. The narrative of TNCs was accepted by the BACP enabling the avoidance of regulations that taxis were subjected to such as driver exams, stricter background checks, fare setting and vehicle caps.

²²Wong, Wailin. April 13th, 2013. "Uber plans ride-sharing rollout." *Chicago Tribune*.

Examples of closed door dealings between firm representatives and the mayor's office were evident from the introduction of the TNC ordinance to city council. Regulation of TNCs was formally introduced by the BACP and the Mayor's office on February 5th, 2014. During the council session, the ordinance was referred to the committee on license and consumer protection. At the same time, Yellow Cab filed a federal lawsuit against the city of Chicago citing unfair competitive practices by Uber.²³ This was the second legal attempt by the Taxi industry to pressure the city to regulate the new service in line with existing rules for taxis. In response to the lawsuit, Uber Chicago's general manager, Andrew Macdonald, was quoted by the *Chicago Tribune* stating "While (taxi companies) spend time in court, we'll be working with the Mayor (Emanuel)." According to my conversation with Rosemary Kimbrel and Rupal Bapat, Uber had already been in talks with both BACP and Mayor Emanuel.

Private negotiations were reserved for those who were well politically connected. Organizers and folks from the taxi industry had a much harder time gaining the ear of city officials. While BACP does have a hotline where taxi drivers can call in with complaints or issues, this avenue has been primarily reserved for consumer affairs or problems with other city offices such as contesting a ticket from the police department. Although gig driver organizing lagged behind regulation efforts in Chicago, issues of getting the attention of officials had been an ongoing battle. Even the "well-connected" taxi industry struggled to influence regulations (more on this point in the final section). While the taxi industry had a few alders on their side, the regulations passed with relative ease through council, beginning in February 2014 and signed into law by June 2014.

²³ Geiger, Kim. February 7th, 2014. "Cab firms sue over ride-sharing." *Chicago Tribune*.

The Taxi Industry

When Uber and Lyft depart from working with the taxi industry in Chicago and launch their peer to peer service, opposition from the taxi industry developed. Soliciting the help of the former commissioner of the BACP, Norma Reyes, and other politically connected groups, Yellow Taxi filed a lawsuit against Uber. Despite the lawsuit, the mayor's office contended that Uber Black was operating within the bounds of current regulations. Rahm Emanuel's policy chief, David Spielfogel, was quoted in the *Chicago Tribune* stating:

We did point out a few things they (Uber) had to change, but we haven't found any significant regulatory issues on the taxi side of the service...(and that city officials are trying to) find a way to preserve the innovative nature of Uber which makes it much easier to get around the city, while also respecting federal and local laws.

Although Yellow Taxi and other taxi industry folks had tapped into their politically connected networks, they were unable to sway the city of Chicago to move forward with enforcement or regulations quickly or hinder the operation of Uber. Yellow Taxi and other affiliates such as medallion owners filed a federal lawsuit against Uber in late 2012 which was then held up in the court until the summer of 2014. Meanwhile, a *Chicago Tribune* article reported that the mayor's office was working on a middle ground for Uber's operations during the first quarter of 2013.²⁴ The more time TNCs were allowed to operate outside of regulations, the more support they were able to drum up from end-users, service providers and the politically connected. For example, Uber and Lyft used their apps numerous times throughout their launch period in Chicago urging customers and providing links to call or email their local representatives as a show of support for the service. A tactic that they have all but perfected at the time of this writing.

²⁴ Harris, Melissa. December 9th 2012. "Uber app puts cab firms on the defensive." *Chicago Tribune*.

Yellow Taxi attempted again to put pressure on the city, this time filing a federal lawsuit against the city of Chicago on February 7th, 2014.²⁵ Recall that Uber representative Andrew McDonald responded to this filing by stating “while (taxi companies) spend time in court, we’ll be working with the mayor (Emanuel).” This second lawsuit reflects that the Taxi industry pursued the legal route to provoke a response from city regulators after failing to block Uber’s operation with the first litigation process. Just a few days prior to filing the federal lawsuit against Chicago, the first version of the TNC ordinance was introduced to council with support from the mayor’s office.

The ordinance on ridesharing passed through committee and to the mayor to be signed within four months. According to Rosemary Kimbrel and Rupal Bapat, the ordinance was introduced to their department by the mayor’s office. There was a back and forth between the BACP and the mayor’s office over workable regulations prior to being assigned to the committee on license and consumer protection. As Rosemary expressed to me, ordinances that come on directive of the mayor’s office typically move through city council quickly. There was some opposition to the ordinance documented in the full city council meetings. Alderman Beale and Alderman Moreno at different points moved to postpone the deciding vote. In particular, during the May 28th, 2014 council meeting, Alderman Beale brought up concerns explaining:

...this ordinance will hurt the hard-working men and women that are driving cabs every single day... They’re the most regulated industry in the city but yet we allow a company to come in that has the technical savviness to create an app that we don’t have to do things that they do. Just fire up this app and circumvent what regulations and they’re not paying the money for a medallion. Medallions will be useless if this ordinance passes. The majority of people driving cars everyday are struggling to make ends meet...

²⁵ Geiger, Kim. February 7th 2014. “Cab firms sue over ride-sharing.” *Chicago Tribune*.

The above statement was some of the only recorded and transcribed opposition to the rideshare ordinance among city council. Alderman Moreno explained that the substitute ordinance they were about to vote on was contested with the committee having held three separate multi-hour hearings on the issue and that neither side was “particularly happy” with the solution but that he believed they had taken “the right road.” The timing of the ordinance passage seems politically motivated as Alderman Beale noted in the council meeting:

There is an ordinance in Springfield that passed the house and Senate and that the taxicab industry is in agreement with. All we’re asking is to hold off for a few months so we can mimic what they did in Springfield. So, I ask for a roll call vote to refer back to committee with date certain.

Alderman Beale’s request was denied and the ordinance passed on a vote of 34 to 10. While it was unclear what the sticking points of the ordinance were, few alders seemed to oppose the regulation passed down from the mayor’s office. In a city with a rubberstamped mayor like Chicago, one or two alders have little political power to sway outcomes. The legislation at the state level was vetoed by Governor Quinn shortly after the Chicago ordinance passed. This interesting political turn will be taken up in a subsequent section.

Direct communication with rule makers was not experienced in the same way by those who lacked the networks with the mayor’s office. Although the taxi industry had enlisted the help of Norma Reyes, and other city connected lobbyists such as Mara Georges who represented the Illinois Transportation Trade Association, they were still unable to move or even delay the ordinance. Furthermore, even those in government who expressed concern over the ramifications of the TNC regulations for the taxi industry were pushed aside. The direct access to the mayor’s office that TNCS had, the mayor’s control over BACP, and insular nature of committee meetings undermines democratic decision making at the local level.

Gig Workers

Gig organizers in Chicago expressed frustration over working with alders, the mayor's office and the BACP. Almost exasperated with the entire system, each gig organizer I spoke with explained there was essentially no pathway to impact regulations. City council members that align with their interests were few and far between. As a result, strategies by gig organizers focused on the state level which has seen little movement in recent years. These experiences by local organizing or opposing groups highlights how firms with the right connections have the ability to navigate the varying spaces of decision making in the Chicago context. Meanwhile, workers and advocates for the taxi industry were left searching for any way into the insulated system.

Organizing in Chicago around the issue of gig workers did not happen initially. As is well documented, the early experiences of Uber and Lyft drivers were "good" compared to their experiences today. Drivers refer to this as the 'honeymoon' period of ride-share (Rosenblat 2018; Schor 2020). As Uber and Lyft launched, the rates of rides were higher for individual drivers, drivers received a greater percentage of the fare and were often offered bonuses for driving during certain times, servicing surcharge areas or for recruiting drivers to sign up for the app. As Uber and Lyft increased their market share across the world these benefits and higher wages began to decline. With each update to the terms of agreements and increase in service providers, there was a change in how drivers were paid. Given the higher earnings during the first few years of rollout, organizing from workers stalled.

Gig workers have even less influence on decision makers in Chicago compared to the taxi industry. Their organizing developed slowly as workers were initially happy with the money and

flexibility that Uber and Lyft offered at their launch. When their wages quickly fell and their hours increased out of the need to make up for a decline in pay, organizing began. Groups such as *Gig Workers Matter* and *Rideshare Advocates* began organizing during late 2018. *Gig Workers Matter* began as part of *Rideshare Advocates* but split into their own group after differences in the vision for the future of the group. *Gig Workers Matter* is now part of the *Independent Driver's Guild* (IDG), a group originally funded by Uber. The issue of IDG will be taken up in the New York chapter. Regardless, both groups expressed frustration with the regulatory process in the city of Chicago. The people I spoke with explained that they would get meetings with decision makers but that promises made or changes to rules were never realized. Organizers were often left searching for different avenues which would get them in touch with decision makers.

During the 2019 mayoral race in Chicago, *Chicago Rideshare Advocates* along with other supporters held a demonstration in front of city hall the day prior to the initial public offering (IPO) of Uber. This demonstration was one of many across the country (Marshall 2019) signaling growing discontent and opposition to the conditions of the gig economy. *Chicago Rideshare Advocates* was looking for support from mayoral candidates on issues including vehicle caps, commission caps, city oversight and misleading advertising from Uber and Lyft. Lori Simmons, who now works for *The People's Lobby* as a paid gig worker organizer explained to me that during the campaign, Mayor Lori Lightfoot met with the group and agreed that regulations on Uber and Lyft were necessary to protect the well-being of drivers. Several years into her reign, those regulations have not come to fruition, which did not seem to surprise Lori Simmons. She explained:

I mean we started right out just trying to go for the Mayor's Office, this was right during, there was an election happening, so basically they were trying to decide who was going to be the next Mayor. We went to all these election meetings to meet with the candidates and blah blah blah and Lori Lightfoot was really the only person to talk to us and really seem to take us seriously, so we endorsed her. Our group (*Rideshare Advocates*) at the time wasn't super big. I'm sure we didn't have that much to do with her getting elected... Yeah we definitely went straight for the Mayor's office. You know we did speak to her in person at one point at the end of 2019 and we also spoke a lot to her staff. And a lot of things were said, basically they were like we're going to do this survey, because in every city where they regulated, Seattle, New York, they do a preliminary driver survey to sort of gauge so they can have something to point to when they're making the legislation, which is fine. But yeah then it took a whole year to implement that and it was already too late, before it even started... You know, we also talked to the Alderman and I've been having a lot of meetings with Alderman now and back then we also were trying to have meetings with Alderman to find out from City Council like what is the best process. Like who do we need to push on to make this happen and that's sort of still an ongoing investigation, sort of research.

As Lori's account of the interactions with elected officials reflects, local organizers did not have a direct line to the mayor where they could easily push policy recommendations forward.

Instead, they had to navigate meeting with the Mayor as a candidate, then again as Mayor, and with her staff. Only to be told that they needed to wait until studies were conducted and more data was analyzed for regulations to be made. Furthermore, Lori points out the cryptic nature of the entire regulatory process by noting that they spoke with alderman to figure out the best way to go about giving input and that it was akin to an "ongoing investigation, sort of research."

Lenny Sanchez, who at the time of our interview was a founding member of *Gig Workers Matter*, noted similar struggles conversing with city level elected officials. "So, there was an effort between several groups to get signatures to Lori Lightfoot and our agenda in front of her. And it worked, but absolutely nothing has come of it." As we talked, he noted how well connected and powerful groups such as the National Restaurant Association were able to get regulations implemented quite easily, whereas his group had multiple meetings with a lack of

action. He explained that during the COVID-19 pandemic, the delivery sector of the gig industry skyrocketed as people were staying in and ordering food from their local restaurants (Chiappetta 2020). As restaurants continued to use platforms such as Uber Eats, Grubhub and Deliveroo, they became quickly frustrated by the percentage of sales that these apps claimed. The Illinois Restaurant Association was able to leverage their power as a lobbyist organization to cap the commission rate on food delivery orders through apps,²⁶ at least temporarily.²⁷ Reflecting how well connected firms have more influence over regulations Lenny explained:

The difference is that there's the National Restaurant Association, which is a very powerful group that's been around for a long time, and they're organized and they showed up to City Hall like, you know, if you don't do something about this then we're going to flip out or whatever. They use their clout. And Lori Lightfoot quickly addresses that, as did some smaller suburbs... Every single request that restaurant gets now they know exactly what they're going to keep from what they charge and what the company charged. So why can't they do the same thing for us drivers as well... We're just the ones providing the service just like the restaurant is providing the service. So that's something that we saw. And it was a bit disheartening, but at the same time encouraging because it's like maybe when we have a second round of conversation with Lightfoot, that's something I'm definitely gonna bring up and we're hoping to have that here soon.

The challenge for local organizers is that they do not have the political connections, nor the economic capital behind their demands compared to firms like Uber and Lyft. The initial regulations were bare bones and prioritized the interests of gig companies. As a result, even if the political will were there for decision makers to push forward the legislative agenda of gig workers, regulating retroactively is an uphill battle particularly when the company has direct access to every single user and service provider through their cellular phones. Furthermore, just

²⁶ Pletz, John. April 14th, 2020. "Restaurant Association asks for delivery fee cap." *Crain's Chicago Business*.

²⁷ Quig, A.D. August 27th, 2021. "Chicago sues Grubhub, DoorDash." *Crain's Chicago Business*.

as the taxi industry struggled with moving the Emanuel administration towards fairer regulations, gig workers struggled to move Mayor Lightfoot.

The regulatory process in the city of Chicago is allusive. Archival data and conversations with taxi industry folks and gig worker organizers reveal that the pathway to provide input is unclear and a process that needs to be “researched.” Lenny Sanchez spoke to me about attempting to get in touch with the Transportation Committee of city council, yet the License and Consumer Protection Committee was tasked with making changes to the ordinance handed down from the Mayor’s office. Organizers met with the mayor, staff members and alders and were given the run around in terms of what needed to happen in order for their concerns to be dealt with. The taxi industry attempted to use some of the same tactics as their more economically powerful gig firm counterparts by hiring the former commissioner of the BACP and a host of lobbyists. They even filed a federal lawsuit against the city of Chicago to curtail the elite power brokering. Each of these efforts were no match for firms that could shut down passed state legislation and directly meet with Mayor Emanuel who drafted ideal regulations for TNC firms. Although additional regulations have been implemented over the tenure of Uber and Lyft, they have been related to taxes which then get transposed onto the customer base and provide very little hindrance to operations.

TNC representatives benefited from the opaque regulatory process which enabled them to broker deals in closed door meetings with the Mayor’s office. As Rosemary Kimbrel and Rupal Bapat noted, the mayor’s office was meeting with folks from ride-hail companies going through the proposed ordinance to figure out what would work for their business model. This approach to regulation is both exclusionary and prefatory and has the impact of obscuring the process of

regulation which results in less opportunity for public engagement. In the case of Chicago there were only two alders on record who were vocally opposed to the ordinance to regulate ride-hailing on the grounds that it created a two-tiered and unfavorable framework for the taxi industry to work against. Machine politics in Chicago is built around corporate interests shored up by the elite connections among the mayor's office and firms such as Uber and Lyft.

Battle at the State Level

A key component of the Chicago case involved the state of Illinois legislature and Governor Quinn. As Chicago was developing the TNC ordinance in February 2014, the state of Illinois was working on statewide rules for ride-hailing operations. As Uber and Lyft were operating in the Chicago market and awaiting regulatory approval from the city, state level legislation was simultaneously making its way through the chambers of the state house. In March of 2014, a bill was introduced to the house of representatives in Illinois to regulate ridesharing which included rules that would require drivers for ride-hailing companies to carry commercial insurance, have chauffeur licenses, drive a vehicle not older than four years and drive no longer than ten hours a day. These rules were supported by the taxi industry and opposed by Uber and Lyft. Uber backed the Chicago bill introduced to city council just one month earlier that required liability insurance and internal background checks.²⁸ The house bill passed in April with overwhelming support (80 yeas and 26 nays) then moved through the senate with similar speed and enthusiasm, passing on May 15th, 2014 with 46 yeas, 8 nays and 2 abstentions. Aware of the TNC ordinance which passed through council in Chicago in June 2014, then Governor Quinn

²⁸ Hinz, Greg. March 25th, 2014. "Cab companies take on Uber and other upstarts in political brawl." *Crain's Chicago Business* (<https://www.chicagobusiness.com/article/20140325/BLOGS02/140329864/cab-companies-take-on-uber-and-other-upstarts-in-political-brawl>).

vetoed the bill on August 25th, 2014. The Illinois bill was reported to be some of the strictest statewide regulations in the country at the time.²⁹ Both the taxi industry and ridesharing firms armed themselves with the politically well-connected in a race to win regulations and while the taxi industry outspent Uber and Lyft, rideshare firms avoided unwanted statewide rules. Uber in particular used additional tactics including direct marketing to customers and leveraging a close gubernatorial election cycle to secure their victory. Relatedly, when it seemed as though Governor Quinn may not veto the bill, Uber held a jobs promise hostage, claiming they were uncertain if they could go forward with office expansions in Chicago if Illinois passed statewide rules.³⁰ This section covers how political connections, an election cycle, and jobs were weaponized in order to avoid unfavorable state level legislation. The irony of pushing for a patchwork of rules (the opposite effort made by Uber and Lyft in Austin) in the Chicago case will be taken up in greater detail in chapters 5 and 6.

As has been noted throughout the research on Uber and Lyft, their primary strategy for operation in urban markets was to break into the market with the intention to change regulations (Pollio 2019; Pollman and Barry 2017; Borkholder et al. 2018). This was done overwhelmingly at the city level. However, as the case of Austin demonstrated, the one-size fits all approach was used when cities were resistant to the rule requests by the popular firms. In Chicago, firms opted for a “patchwork” of regulations given that the city was more amenable to the companies’ demands. Given their direct communications with the mayor’s office and BACP, Uber and Lyft

²⁹ Yousef, Odette. May 16th, 2014. “Illinois Senate passes ride sharing rules.” *WBEZ Chicago* (<https://www.wbez.org/stories/illinois-senate-passes-ride-sharing-rules/3792c944-fb01-4ab6-aae0-3d27a356891b>).

³⁰ Hinz, Greg. November 18, 2014. “Uber has an edge as Springfield nears a decision in war with taxis.” *Crain’s Chicago Business*.

had little struggle pushing their agenda through city hall. While opposition from taxi companies and medallion owners took a legal route, lobbying and political route, their lawsuits, financial backing and connections proved to be insufficient shields to tech firm power. While the taxi industry did flex their muscle with the state of Illinois legislature to pass regulations on Uber and Lyft that would “level the playing field,” they came up short handed. This process was not technically preemption as seen in Austin since the two bills developed simultaneously. Uber and Lyft ultimately won the battle through both political connections and weaponizing their technology by rallying up supporters to put pressure on politicians and tapping into the vulnerabilities of the Governor during a close election.

Political Moves

As both the statewide bill and Chicago ordinance on ride-hailing developed, the taxi industry and ride-hail firms worked to connect themselves to politically powerful people in Illinois. The taxi industry solicited the services of Roosevelt Group (lobbyist firm) which had connections with former Chicago lobbyists including Victor Reyes and Mike Noonan who ran Lisa Madigan’s successful campaign for Illinois attorney general. Lisa Madigan is also the daughter of the former speaker of the Illinois House of Representatives, Michael Madigan who was very politically powerful in Illinois holding his title of speaker for almost 25 years. They also secured the legal services of Daley & Georges, the name Daley belonging to the brother of former mayor Richard M. Daley and Georges being Mara Georges, who served as legal counsel for the city of Chicago.³¹ In opposition, Uber hired on Jack Levin, Governor Quinn’s former

³¹ Hinz, Greg. September 3rd, 2014. “Price tag for clout in Uber-taxi war: \$1 million and counting.” *Crain’s Chicago Business* (https://www.chicagobusiness.com/article/20140903/BLOGS02/140909950/uber-taxi-war-runs-up-big-tab-to-buy-political-influence?adobe_mc=MCMID%3D63197706807484380624279776391198195587%7CMCORGID%3D138FFF25)

Chief of Staff as well as other influential lobbyists including Fletcher, O'Brien, Kasper & Nottage which includes Michael Kapser who worked as a lawyer on Rahm Emanuel's campaign. Both sides were well connected and total spending was reported to be upwards of \$1 million.³² Much of Illinois lobbying happens in the shadows as a result of weak financial disclosure laws so exact numbers can be difficult to ascertain. However, the taxi industry appeared to have more economic muscle behind them in Springfield. The Illinois Transportation Trade Association (ITTA) was reported to have raised \$565,000 on behalf of cab companies' interests.³³ According to the Illinois Campaign for Political Reform, ITTA PAC and other lobbying groups had contributed just over \$117,000 from May through August of 2014 to political campaigns and candidates. Conversely, Uber and Lyft had contributed just over \$60,000 with the majority of contributions from Uber. Although both sides were politically well connected, Uber and Lyft had ties with both Governor Quinn's office and Mayor Rahm Emmanuel through former campaign staff, advisors and lobbyists. While perhaps not sufficient evidence to claim that Uber and Lyft's connections to the Mayor and Governor directly influenced the veto decision, Quinn's electorally vulnerable position seemed to tip his decision towards favoring Chicago's regulatory decision.

Governor Quinn's veto on rideshare regulations happened as the November 2014 gubernatorial elections approached. Governor Quinn, the Democratic incumbent, was in a close race with Bruce Rauner, a GOP candidate. Chicago had just passed their first regulations on ride-hailing while the statewide bill awaited the Governor's signature. While pinpointing the

54E6E7220A4C98C6%2540AdobeOrg%7CTS%3D1635290752&CSAuthResp=1%3A%3A1125223%3A359%3A24%3Asuccess%3A77AF9C9211990346DD707E449671FA70).

³² Ibid.

³³ Ibid.

definitive underlying motivations for Governor Quinn's veto is nearly impossible, he did release a statement justifying his veto decision. Most notably, Governor Quinn explained that maintaining home rule was a key aspect of balancing power toward the local government and that to implement the rules as presented would undermine the recently passed city level ordinance on ridesharing. This passage highlights the influence Chicago's ordinance and technological innovation had on Governor Quinn's decision:

Given how new the technology is and that the City of Chicago's new ordinance has not yet even taken effect, it would be premature – and perhaps counterproductive – to enact a rigid statewide regulatory model at this time. It would be more prudent to carefully monitor the City of Chicago's experience and the success and challenges it faces in enforcing its new ordinance. Similarly, lawmakers and the general public will also benefit from observing the experiences of other units of government that adopt their own innovative approaches to regulating mobile device-enabling ridesharing.

The Governor leveraged home rule noting that a decision to sign the bill would instead be “counterproductive” and “stifle innovation.” Additionally, the veto avoided political complications with the mayor of Chicago, as passing the bill would have required the BACP to make changes to their regulatory approach, including hiring additional personnel to service the influx of chauffeur licensing requests,³⁴ a task that Rupal Bapat explained the BACP was unprepared to accommodate.

On top of the political concerns with Chicago, Governor Quinn was in an extremely close race with Bruce Rauner who wound up winning the election by less than 150,000 votes.³⁵ Just prior to Governor Quinn's decision to veto the bill, then candidate Bruce Rauner used Uber as a campaign talking point. Promoting a pro-business agenda and referencing the state-wide

³⁴ Ehlen, Sarah. October 2nd, 2015. “Uber-Cabbie battlefield moves to City Hall.” *Crain's Chicago Business*.

³⁵ Ballotpedia. ([https://ballotpedia.org/Pat_Quinn_\(Former_governor_of_Illinois\)](https://ballotpedia.org/Pat_Quinn_(Former_governor_of_Illinois))).

legislation, he told the *Chicago Tribune* that “we need less business regulation in Illinois, not more.”³⁶ Rauner also participated in a media stunt where he took an Uber ride for himself singing the company’s praises. According to *Crain’s Chicago Business*, upon completing his ride, Rauner said “I love Uber...And we need a state that supports job creation – not runs it off. Tweet Pat Quinn - tell him to veto the anti-Uber bill.”³⁷ While there were talks of a plan to overturn the Governor’s veto by the original sponsor of the bill, Representative Michael Zalewski, this fizzled after Bruce Rauner became Governor elect. Instead, Illinois passed statewide rules that aligned with the city of Chicago’s ordinance.³⁸ Political connections for Uber with the Governor’s office, the city of Chicago and support from the opposing candidate seemed to inform Governor Quinn’s veto decision. Yet, the marketization enabled by Uber and their technological reach provides another interesting piece to the regulatory subterfuge puzzle.

Weaponizing Technology

The political moves made by Uber and Lyft alone do not fully explain how they were able to usurp statewide rules. Importantly, the taxi industry was also well connected and had much longer standing relationships with officials compared to Uber and Lyft. Yet, as has been shown throughout regulatory battles in the United States, direct access to supporters through their app played a supporting role to the political jockeying around regulations (Borkholder et al. 2018; Pollio 2017). This direct communication with both end-users and service providers

³⁶ Yerak, Becky. July 22nd, 2014. “Rauner speaks out against limits on ride-sharing industry.” *Chicago Tribune*.

³⁷ Hinz, Greg. July 22nd, 2014. “Rauner hails Uber as taxi war spreads to governor’s race.” *Crain’s Chicago Business*.

³⁸ Hinz, Greg. December 3rd, 2014. “New bill to regulate Uber, Lyft surfaces in Springfield.” *Crain’s Chicago Business*.

enabled easy petition circulation and narrative control around governmental influence and innovation. Relatedly, Uber committed to bring 425 jobs to Chicago in the high-skill tech industry by expanding their headquarters to the West Loop neighborhood.³⁹ When there was a risk of state level legislation, there were threats to pull those jobs off of the table.

Marketization through the Uber app has been a crucial tool used throughout political battles with legislatures (Pollio 2017). As Uber got word of less than ideal operating rules they would use a variety of avenues to push their agenda encouraging supporters to contact their local or state representatives. While it may be assumed that these tactics indicate support for the company models, political agenda, or product, the messaging often bordered on false information. Given the aggressive nature of the messages, this approach seems more in line with market making behavior reminiscent of the temporary help industry (Hatton 2011). App users were told their services were going to be eliminated and workers were told their jobs were going to disappear if they did not contact their legislatures immediately. A particularly pertinent example of this preceded the state passage of legislation. On April 10th, 2014, the day of the house vote, Uber issued a press release which was distributed through their app with the headline “Save UberX in Illinois.” The press release pointed blame at the taxi industry claiming they attempted to use well connected lobbyist to “bend the will” of city officials, seemingly ignoring their own connections to decision makers. The release included a link to contact the Governor. This campaign yielded 90,000 calls and emails, according to *Crain’s Chicago Business*.⁴⁰ Uber had used the same tactics against the city of Chicago in 2012 when BACP issued tickets for

³⁹ Hinz, Greg. August 25th, 2014. “What’s behind Quinn’s decision to side with Uber?” *Crain’s Chicago Business*.

⁴⁰ Ibid.

violating waiting times for livery vehicles when they were operating in the capacity of a black car service. This headline read “Proposed Chicago Regulations to Shut Down Uber Black – we need your help!” Of course, tickets do not necessarily equate a shutdown, yet Uber opted for the most extreme reading of being cited for minor violations. The direct access to customers enabled Uber and Lyft to shape the narrative around who was pulling the political levers. In order to capture those who had not yet used the service, they invested in radio spots that claimed Governor Quinn might “take away your Uber.”⁴¹

Prior to TNCs entering the Chicago market, the city had begun to prioritize tech centered development. Chicago invested in and proposed several “smart city” initiatives. In 2013, under Rahm Emanuel, the city issued “the City of Chicago Technology Plan” which included broad goals to build public-private partnerships, encourage technological innovation and “guide technology-based investments for entrepreneurs and businesses” among other things. A specific initiative was to create more technology centered jobs. A strategy often used by capital is the allure of bringing new jobs into a particular area. Under neoliberal city building this has been focused around finance, insurance and real-estate industries throughout the 1990’s (Abu-Loguhd, 1999; Sassen 1991) and more recently around tech or startup focused employment (Zukin 2020). Another long-used strategy of firms is the threat of capital flight (Hackworth 2007). This is often used as a bargaining chip for firms to get their way in terms of subsidies or in the case of Uber, regulations. When it seemed as though the Governor might not veto the bill, Uber threatened not to create 425 jobs through their West Loop expansion. The Midwest general manager of Uber

⁴¹ Ibid.

was quoted saying “We’d still add jobs... but to what extent, we don’t know.”⁴² Leveraging jobs for favorable legislation and targeted marketing has since become a standard in Uber’s efforts to control regulations.

Political maneuvering and weaponizing technology proved to be forceful enough to convince Governor Quinn to veto the state legislation. Chicago had passed the TNC ordinance just two months earlier allowing for minimally regulated operations. Had Governor Quinn opted not to veto the bill, TNC drivers would have needed commercial insurance, chauffeur licenses among other rules, all of which would put TNC regulations much closer to the rules of the taxi industry. The pending election, political pressures and leveraging technology by TNC companies revealed to have a greater effect in Springfield compared to the lobbying and connections of the taxi industry. By the time Bruce Rauner won the 2014 election, the effort to overturn the veto was abandoned.

Conclusion

The Chicago case demonstrates several key aspects of how TNC firms navigate the multi-scalar nature of state decision making to shape favorable outcomes. At the city level, TNCs used their political connections and an opaque regulatory process to push forward their agenda to a city that was eager to implement business friendly and tech centered policies that would generate tax revenue. Despite legal opposition from the taxi industry, TNCs effectively pushed their regulatory agenda through city council in just a few months’ time. The taxi industry, attempted to navigate around the city by tapping into their political connections at the state level soliciting the help of well-connected Illinois lobbyists backed by large pots of money. Yet this

⁴² Hinz, Greg. July 8th, 2014. “Uber Dangles 425 Jobs for Chicago – but there’s a catch.” *Crain’s Chicago Business*.

strategy in the middle of an election proved to be a poor match for the political and technologic influence of Uber and Lyft.

As Brenner (2019) explains, municipalities are “preprogrammed” to support growth machine strategies in order to secure the funds necessary to run the city. As a result of neoliberalization, cities are made to compete with one another in ways that attract capital (Brenner and Theodore 2002; Hackworth 2007; Sassen 1991). This proves to be particularly useful for ‘regulatory entrepreneurs’ whose focus on being a ‘disruptive innovator’ navigates the context specificities of urban spaces (Collier et al. 2018; Pollman and Barry 2017). In a city like Chicago where connections to the mayor were easily fostered through investors, lobbyists and back door dealings over the backdrop of city level initiatives focused on innovation and tech job creation, Uber, in particular was able to push their regulatory agenda. While the BACP was tasked with rule creation and enforcement, their subordinate position relative to the mayor gave little control to outsiders over the outcome of the ordinance. The obscured regulatory process enables policy making in the shadows. Meetings held during daytime hours, voting by voice recording and insular public offices, by design, limit the interests that can participate in ordinance development.

Similar strategies were wielded at the state level, yet unlike the Austin case, Uber lobbied *for* a patchwork of regulations due to the terms of state legislation which would make TNCs more like their taxi counterparts. Exploiting a close gubernatorial election cycle, holding jobs hostage and using their access to customers and service providers helped the firms shut down state legislation. Importantly, across both the city level and the state, Uber led the charge. In doing so, other TNC companies benefited from their alpha political maneuvering creating a

space where TNC operations could flourish unencumbered by rules they deemed onerous to operations. Once their dominance in the market was established and working conditions became undesirable for Uber and Lyft drivers, workers were met with unwilling decision makers. The cryptic nature of policy making in Chicago severs pathways for citizen participation, and subsequently gig worker organizing.

CHAPTER FOUR

NEW YORK CITY: AN EXCEPTION TO THE RULE (MAKING STRATEGIES)

The case of New York City (hereafter New York) demonstrates how pressure from workers coupled with particular governmental structures and processes prevented firms of on-demand labor from dictating the regulatory outcome for ride-hailing apps. Transportation network companies (TNCs) arrived in New York in 2011, the earliest out of any of the three cases in this study. As a result of prevailing regulatory frameworks on for-hire vehicles these companies began operating within existing rules. Later, in 2015 through 2018, as TNCs saturated the market placing various pressure points on the well-established and organized taxi industry, the regulatory body for ground transportation services, the Taxi and Limousine Commission (TLC), and city council moved to regulate wages and new driver sign ups through app based providers.

Even though New York regulated TNCs within existing frameworks from their rollout and experimented with a pilot program for UberT (Uber taxi), TNCs gained considerable market share of the for-hire vehicle industry resulting in a decline in standard street-hails meaning less rides via traditional taxis. To attend to this market saturation and its resulting consequences, the

New York Taxi Worker's Alliance (NYTWA) organized calling for a cap on for-hire vehicles in 2015 but were unable to reach their goals. Uber pulled from their repertoire of strategies and climbed the scales of state power tapping into political division between the state of New York and New York City. Likewise, they moved forward with a media blitz to quickly shut down the prospective caps on for-hire vehicles.¹

While Uber and Lyft successfully avoided unwanted regulations in 2015 using their standard strategies, including targeted marketing attacks and network building, these same efforts failed several years later. In 2017, the TLC held a hearing where drivers and organizers provided testimony speaking to incredibly low wages, predatory practices and overall driver discontent across the taxi and for-hire industry. The TLC moved forward with a plan for a baseline wage formula on for-hire vehicle rides and a cap on the number of TNC vehicles allowed on the road. Baseline wages were implemented in 2018, guaranteeing that TNC drivers would earn a minimum of \$17.22 an hour (after expenses) and TNC vehicles were temporarily capped at 80,000. While the case of New York and these regulatory outcomes do not represent a radical win for workers by any stretch of the imagination, they do demonstrate the conditions that may enable increased political participation and subsequent success by workers and worker groups. The various layers to the New York case unfold to reveal a story of resistance that provides insight into the possibilities of mitigating the power of firms such as Uber and Lyft. The research questions guiding this chapter are: *What led to the early regulation of TNC companies? What explains the regulation around wages and vehicle caps? Why were the political*

¹ For-hire vehicles in NYC are distinct from street hail taxis and are defined by the pre-arrangement of rides either by an app, phone or internet reservation. For-hires include black cars, limos and transportation network companies.

connections and marketing strategies employed by TNCs less successful at preventing undesirable regulations?

This chapter demonstrates how institutional arrangements can impact regulatory process and outcomes. Public participation in municipal decision making is often a function of institutional arrangements. These arrangements may enable or constrain citizen or interest group input depending on their accessibility and configuration (Baldwin 2019). Citizens may be excluded from participation through difficult to navigate and highly bureaucratized methods of input or by the design of the public comment process (Fung 2006) as the Chicago case demonstrated. Conversely, industries which have institutional knowledge of navigating decision making spaces have been shown to have decidedly more direct pathways for regulatory influence (Crow, Albright and Koebele 2017). The strategies of Uber, and often by extension Lyft, to disrupt regulations have been described at length throughout this dissertation. These same processes of technological weaponization, regulatory entrepreneurship and disruption (Dudley et al 2017; Pollman and Barry 2017) were deployed in the case of New York. Yet the outcome of regulations leaned in the favor of TNC drivers and the taxi industry. This is not to say that drivers across groups were completely satisfied with the outcome nor that problems in the taxi industry such as medallion debt and declining street hails were solved as a result of baseline wages and vehicle caps in 2018. To the contrary, many problems still remain an issue in the New York context. However, the structure and authority of the Taxi and Limousine Commission is one piece that contributed to the regulatory outcome which impeded the efforts of TNC firms.

The other pieces of the comparatively more prohibitive and worker focused regulations were individual driver testimony as well as organized resistance on the part of two key groups:

The New York Taxi Workers Alliance (NYTWA) and the Independent Driver's Guild (IDG). Their role in the regulatory process and outcome was facilitated by the preexisting structure and authority of the TLC. The NYTWA and IDG are worker groups known as 'worker centers' (Fine, Grabelsky and Narro 2008). As independent contractors, neither of these groups hold the legal right to unionize yet often function in ways akin to traditional unions. In fact, both the NYTWA and IDG are affiliated with unions (AFL-CIO and the Machinists Union, respectively), however, they do not have legal protections through the National Labor Relations Board nor do their "employers" have the legal obligation to bargain with the groups.

Under the National Labor Relations Act (NLRA) of 1935, private-sector employees at a fixed site of employment gained the right to organize a union. Once unionized, union members have collective bargaining rights and legal protections through the National Labor Relations Board (NLRB) (Yates 2009). However, the NLRA contains many barriers to unionization for non-traditional employees. For example, independent contractors like taxi and TNC drivers are not legally recognized as employees which bars them from federally protected rights to organize and collectively bargain. Organizing of course, still transpires. Worker centers are explained by Janice Fine (2011:46) to be "community based organizations that engage in a combination of service, advocacy, and organizing to provide support to low-wage workers." This model of organizing has developed in response to a growth in precarious labor arrangements (Milkman 2013). Non-standard or precarious labor arrangements such as independent contractors have been reported to have grown nearly 50% between 2005 and 2015, accounting for 15.8% of workers (Katz and Krueger 2016). Most worker centers differ from traditional unions on several fronts, including the size of their membership base, formal structures and regular collection of dues

(Fine 2011). Although these workers are legally prohibited from contract union representation, the worker center model has been recognized as a legitimate organized effort often partnering with sanctioned unions such as the AFL-CIO and SEIU. This partnering enables shared resources and alliances but does not provide any legal protections for the non-contract union affiliates. For example, the National Day Laborer Organizing Network formed alliances with the Laborers' Union LIUNA (Fine 2011) and worked to defend the rights of their largely immigrant worker base around education, housing, health care and immigration reform (Fine et al. 2008). However, those who employ members from the National Day Laborer Organizing Network are not compelled to negotiate with organizations and workers have no NLRB protected legal recourse.

Despite the challenges worker centers like the NYTWA and IDG experience, their participation in rulemaking was salient in the New York case. These groups employed many of the strategies available to worker organizations, gaining the ear of decision makers in the city. The TLC and NYTWA has had a long history with many regulatory actions resulting in favorable outcomes for taxi drivers such as economic justice initiatives, creating a driver's bill of rights and a benefit fund (Johnston 2018). Contributing to the literature on 'worker-center' organizing, this chapter demonstrates avenues for worker influence outside of traditional unions (Fine 2006; Fine et al. 2008; Johnston 2018; Milkman 2013). While the NYTWA and IDG have a variety of differences – and were often at odds throughout the rule making process- their influence on the regulatory outcomes in New York was evident.

In the sections that follow, I provide an overview of New York and the key groups involved throughout the regulatory process including the Taxi and Limousine Commission, the NYTWA and the IDG. From there I describe the political strategies deployed by TNCs,

primarily Uber, including their relationship building efforts, lobbying and marketing. The sections that follow cover the two key regulatory issues for the New York case: vehicle caps and baseline wages. As the New York story unfolds, the prospects of worker power and city level authority peak through the sludge of capital's influence.

Overview of New York

New York City has a population of 8,804,190 people and a total area of 301.4 square miles, making the population density 27,934 people per square mile.² As is well known, New York is dense. To put this density into perspective, despite being the same square mileage as Austin, New York is over ten times denser. Compared to Chicago, New York is about 70 square miles larger but three times denser. Transportation in New York is largely facilitated through public means as approximately 56% of New York residents use public transportation to get to work. However, the Metropolitan Transit Authority has long been in desperate need of repair with issues ranging from aging rails and train cars to extreme flooding problems during heaving rain fall in subway stations leading to extreme disruption to public transportation service provision.³ Despite these issues, prior to the pandemic, ridership remained fairly consistent throughout the 2010's.⁴ Another key way that New Yorkers travel around the city is via taxis and black cars and more recently TNCs.

² Based on 2019 ACS 5 Year estimates (<https://data.census.gov/cedsci/profile?g=1600000US3651000>).

³ Meyer, David. December 2, 2021. "MTA 'needs to reassess' after falling behind on vital infrastructure: comptroller." *The New York Post* (<https://nypost.com/2021/12/02/mta-needs-to-reassess-after-falling-behind-on-infrastructure/>).

⁴ Metropolitan Transit Authority yearly ridership data. (<http://web.mta.info/nyct/facts/ridership/>).

There are several types of ground transportation in New York all of which is regulated through the Taxi and Limousine Commission (described in the next section). There are traditional taxi cabs (yellow cabs), green taxis and for-hire vehicles (TNCs fall under for-hires). In 2018, the TLC added the category of “high volume for-hires” which included app-based ride services like Uber and Lyft. Traditional taxi cabs require a physical medallion affixed to the hood of the car and the number of medallions can only be increased by city council or the state of New York (which happens very rarely). Yellow cabs are only allowed to accept street hails, meaning no prearranged rides, but can pick up and drop off customers anywhere in New York. Green taxis (also known as Boro taxis) were introduced in 2013 and operate under a permit system, rather than a medallion system with 3,579 operating in 2018 out of a possible 18,000.⁵ Green taxis were introduced to contend with the problem of inadequate service in the outer boroughs and congestion in Manhattan. Green taxis are only allowed to pick up street hails outside of Manhattan – they may drop passengers off in Manhattan but are prevented from picking up new customers. For-hires, and now high volume for-hires, operate out of “bases” or “garages” and service rides arranged by phone, the internet or an app. Until 2018, these vehicles were not capped or limited in any way.

The fixed number of medallions has historically functioned to maintain their value. Until the advent of app based rides, taxis were not really in direct competition with the for-hire industry. They essentially served two different markets – those who needed rides with the wave of their hand, and those who were willing to wait and pay a premium for the black car service. App-based rides facilitated by Uber and Lyft changed this dynamic. The medallion system is

⁵ TLC Factbook 2018

much too complex to be fully described here. However, a few points of clarification are necessary. First, Medallions can only be purchased via city auction (which is very rare) or when a medallion owner puts their medallion up for sale. Given the fixed number of medallions in the city, they had generally been understood as a stable asset. In the early 2000's, the lending practices around medallions changed. Wall street's involvement in the medallion market led to predatory practices which artificially inflated the value of medallions. The largely immigrant driver base was essentially duped into bad loans, including interest only loans and those with extremely high interest rates.⁶ This resulted in many folks taking on more debt than they could feasibly pay back at the same moment that Uber and Lyft were driving down the amount of standard street hails. Second, the number of medallions can only be changed by city council or the state of New York. Likewise, a rule such as a cap on the amount of new for-hires has to go through either city council or the state legislature. Last, you do not have to be the owner of the medallion to drive a yellow taxi cab. In fact, many drivers lease a yellow cab from a corporate medallion owner (Bagchi 2018). In 2013, there were 13,437 medallions but over 52,000 taxi drivers. Lease rates and fares are set by the taxi and limousine commission. For-hires, until 2018, were not bound by similar rules.

In 2014, the city had 13,437 medallions (traditional yellow taxis) and 35,000 for hire vehicles (black cars, limos and TNCs). By 2018 there were 13,587 medallions and 107,435 for-hire vehicles. Since the emergence of Uber and Lyft in the city, average daily taxi trips have dropped from 485,000 in 2014 to just under 300,000 in 2018. Conversely, for-hire trips increased

⁶ Rosenthal, Brian M. May 19th 2019. "They were conned: How reckless loans devastated a generation of taxi drivers." *The New York Times*.

to just over 600,00 average daily trips by 2018.⁷ By 2019, for-hire daily average trips eclipsed 700,000 and accounted for 69% of the ground transit market.⁸ This drastic increase in for-hire daily trips is directly the result of the unconstrained growth of TNCs. For example, between 2016 and 2018, app based for-hires, such as Uber and Lyft, increased their daily average trips by over 137%. TNCs were able to continuously add new vehicles to the road, however, the taxi industry vehicle count was bound by the medallion system. The tensions caused by this lopsided regulation will be discussed in subsequent sections.

New York City Taxi and Limousine Commission (TLC)

The Taxi and Limousine Commission in New York was formed in 1971 and is a charter-mandated agency which regulates the taxi and for-hire industry in the city (Occhiuto 2015). The TLC has a board of nine commissioners with all but five appointed by the mayor⁹ and the chair being the only salaried position. Given the mayoral appointment of the chair and some deputy commissioners, the positions can run along political lines and often change when a new mayor is elected. This was the case when Uber and Lyft emerged in the New York market as Mayor Bloomberg left office in 2014. Bloomberg was replaced by the first democratic mayor since David Dinkins in 1989, Bill de Blasio, who was the mayor of New York until the end of 2021. The TLC is responsible for licensing, setting rules for drivers, including fare hikes and pay

⁷ TLC Taxi Fact Book 2014 and 2018.

⁸ TLC Fact Book 2019.

⁹ Five members of the commission may come on recommendation from the mayor but have to be voted in by the majority of city council; appointed and confirmed members serve varying term lengths.

floors, regulating the number of for-hire vehicles,¹⁰ among other issues related to taxi and for-hire transportation.

The TLC as an agency is quite large, with approximately 600 employees which is headed by the chair of the TLC. Throughout the bulk of the regulatory process discussed in this chapter the chair position was held by Meera Joshi, preceded by David Yassky who was in charge as Uber and Lyft first emerged in 2011 until the 2014 change in mayoral leadership. The TLC regulates over 200,000 drivers which drive one of the 13,587 yellow taxis, 78,620 app based for-hires (such as Uber and Lyft), 23,043 traditional for-hire vehicles (black cars) among a few other categories, as of 2020. By far, app based for-hire vehicles make up the majority of daily trips at about 69% in 2019 compared to just 23% by traditional taxis.¹¹ Across the industry, drivers are almost exclusively foreign born as approximately 90% of taxi drivers are immigrants to the United States post 1990 (Mathew 2015), and only 4% reportedly born in the United States as of 2019. Likewise, 9% of app based for-hire drivers are reportedly born in the United States.¹²

The TLC holds monthly commission meetings to attend to rule changes and regulatory issues and holds a hearing for drivers every two years to assess fares and leasing fees. While these meetings are open to the public and industry participants, they are held during standard business hours on a week day. The meetings are transcribed and recorded and often have a variety of translators available to assist with the many native languages spoken by public participants. However, the timing of these meetings likely prohibits regular participation by

¹⁰ Regulating the number of for-hires became a recent responsibility of the TLC in 2018. The TLC does not have authority over the number of medallions issued.

¹¹ TLC 2020 Factbook (<https://www1.nyc.gov/assets/tlc/downloads/pdf/2020-tlc-factbook.pdf>).

¹² NYC 2020 Factbook.

interested parties, similar to Chicago. For a taxi or for-hire driver to attend one of these meetings it would mean they had to take time off from driving and risk losing fares to voice their support or opposition to a particular issue. A pivotal meeting held on April 6th, 2017 demonstrated that issues of great importance will draw commentators despite the loss in wages for the day. Unlike the Chicago case, the TLC had phone numbers and email addresses for taxi and for-hire drivers. This data requirement of Uber and Lyft enabled the TLC to directly contact all livery service providers in New York about the hearings. This practice was not observed in the other cases, nor was driver data available to city officials. The meeting on April 6th, 2017, in particular, played an important role in the establishment of the pay floor for drivers and vehicle caps which will be described in greater detail in subsequent sections.

New York Taxi Workers Alliance

The New York Taxi Workers Alliance (NYTWA) began in 1998. Bhairavi Desai and Biju Mathew were the founding members. Desai is currently the executive director of the group. Biju Mathew is a Marxist scholar with a dual appointment at Rider University in American Studies and Information Systems, and is still active with the NYTWA at the time of this writing. The NYTWA organizes taxi drivers and for-hires in New York presenting an aligned front to both city council and the TLC. According to Biju Mathew, the group now has 26,000 members representing yellow cabs, green taxis, black cars and app-dispatched drivers with over 70% of their organizational budget funded voluntarily by members.¹³ The NYTWA is supported by the AFL-CIO, becoming the 57th group chartered in 2011. They have been behind many initiatives to

¹³ Since the NYTWA is not a legally recognized union, dues cannot be required by the organization.

better the working conditions of drivers in New York and other cities across the country including Austin and Chicago. In New York, the group was behind regulations to cap for-hire vehicles, baseline wages, unemployment insurance for app based drivers (pre-pandemic), and in 2021, a medallion debt relief program. As explained above, given the limits of US labor laws, The NYTWA functions using a worker center model. However, they still practically function as a union, holding meetings to hear member's concerns, meeting with city officials, attending hearings about their industry and staging strikes to disrupt the standard operation of business in order to reach their demands. The group rallied in 2015 in opposition to Uber's unchecked growth,¹⁴ protested against Uber after President Trump placed a ban on travel from Muslim-majority countries as Uber CEO Travis Kalanick served on his business advisory board,¹⁵ and staged a hunger strike for medallion debt relief among many other actions over the recent years. Their representation of taxi and app based drivers, testimony at TLC meetings, legal proceedings and actions to gain the attention of city officials played a pivotal role in heading off the political and economic power of app based firms.

Independent Driver's Guild

The Independent Driver's Guild (IDG) was founded by James Conigliano Jr., and is represented by the International Association of Machinists¹⁶ who had a history of working with

¹⁴ Flegenheimer, Matt. July 21st, 2015. "City hall, in a counterattack, casts ride-hailing, service as corporate behemoth." *The New York Times*.

¹⁵ Bhuiyan, Johana. February 3rd, 2017. "A New York taxi union is riding the #deleteuber wave to fight for better wages." *Vox* (<https://www.vox.com/2017/2/3/14497564/delete-uber-protest-taxi-workers-alliance-travis-kalanick-trump>).

¹⁶ Scheiber, Noam and Mike Isaac. May 11th, 2016. "A guild short of a union, for New York Uber drivers." *The New York Times*.

the black car industry in New York.¹⁷ At the time of formation, IDG was reported to represent 35,000 drivers in NYC.¹⁸ By May of 2017, their representation had increased to 50,000¹⁹ and at the time of this writing is reported to be 80,000 in New York. These numbers reflect the aggregate number of for-hire drivers rather than active or dues paying members. When IDG first formed, they quickly received negative responses from the NYTWA and other for-hire drivers as they were funded by Uber. The arrangement was based on a deal formed between the International Association of Machinists and Aero Space Workers and Uber on the condition that drivers would not resort to work stoppages in order to have demands met.²⁰ The group was behind some initial successes such as encouraging the TLC to institute a tipping requirement for app-based services as well as support for the baseline wage rule in 2018. Since formation in 2016, IDG's contract with Uber has expired, and is now funded through member dues. The increase in representation is reflective of the growing number of drivers that are signed up to use the app as well as the recent shift to represent drivers across platforms rather than just those working on Uber since their contract with the company has expired.

The group has expanded their representation to Illinois, Connecticut and New Jersey. Their goals remain focused on maintaining due process for drivers, independent contractor status for workers and establishing some form of portable benefits system. IDG has claimed numerous victories in New York such as the implementation of in-app tipping, the wage floor legislation

¹⁷ Independent Driver's Guild Website. (<https://driversguild.org/about-us/>).

¹⁸ Ibid.

¹⁹ Scheiber, Noam. May 14th, 2017. "Uber has a union. Sort of." *The New York Times*.

²⁰ Scheiber, Noam. May 12th, 2017. "Uber has a union of sorts, but faces doubts on its autonomy." *The New York Times*.

and de-activation appeals. Though IDG claims several regulatory wins, there were still tensions as they emerged in the New York market. Likewise, given the worker center model, and pseudo company union strategy (funded by Uber and touting their worker classification interests), IDG as a group highlights a changing landscape of worker organizing in the United States.

Political Strategies

As with the other cities in my study, Uber and Lyft used their political connections in an effort to shape regulations. Curiously, however, their strategies of undermining regulatory efforts through lobbying, leveraging elite networks, poaching TLC employees and quietly funding the TNC driver group, IDG, were unable to stave off both baseline wages and vehicle caps in 2018. Similarly, Uber's attempts to create a group framed as a union to appease workers backfired as these drivers used the platform to demand increases and transparency in driver pay. This failure to usurp regulations can be explained by the particular context of New York having the governance structure firmly situated to attend to the interests of drivers (the TLC) coupled with the organizing power of the NYTWA. New York's regulations did not happen overnight and Uber was moderately successful in the early stages of operation in the city's ground transportation market. Ultimately, the NYTWA continued to organize around driver issues, even partnering with Uber and Lyft drivers. Likewise, pressures from the driver base mounted over a slew of driver suicides amid rising medallion debt and decreasing fares. These particular factors were effective because of the mechanisms in place for political participation in New York. While the case of New York is not necessarily translatable to other cities across the United States, it does highlight the effectiveness of worker organizing and importance of regulatory processes that make space for meaningful political participation.

Consistent with Uber's overarching strategy for regulatory manipulation, they worked to build early alliances with decision makers at the state and local levels. Meera Joshi, the chair of the TLC, and Ashwini Chhabra, former deputy commissioner, both recalled to me that there were several early and continued meetings with representatives from Uber and Lyft. When Uber and Lyft arrived in 2011, the position of the TLC was that TNCs function as for-hire vehicles and therefore fell within already existing rules for operation. TNCs got off to a rocky start in the fall of 2012 around rules against prearranged rides and payment processing, but the e-hail pilot passed in December 2012, effective in February 2013.²¹ The passage of the e-hail pilot program quickly riled up the black car and broader livery industry as taxi-cabs had previously been prohibited from tapping into the prearranged ride market.²² TNCs were now complicating the long established division of market share where taxis serviced street hails and black cars and limos serviced ride requests via phone or on-line reservations. Regardless, this early requirement of aligning with existing rules rendered the affable relationships observed in other cases not nearly as successful to gain unimpeded operation. The regulations on for-hire vehicles were lax in comparison to taxis (as described above) and while some aspects presented minor obstacles for TNCs few pieces of the initial regulations prompted resistance beyond testimony within commission meetings voicing opposition. TNCs were required to operate as "bases," could only accept pre-arranged rides, and had to offer cash-less payment. The fares were set by the base (rather than the TLC as is the case for taxis), bases and drivers had to hold insurance and the

²¹ Flegenheimer, Matt and Brian X. Chen. September 5th, 2012. "As a Taxi-hailing app comes to New York, Its Legality is Questions." *The New York Times*.

²² Flegenheimer, Matt. March 8th, 2013. "Judge Temporarily Blocks Cab-Hailing by Smartphones." *The New York Times*.

bases had to report data to the TLC on trips and drivers on a monthly basis. While this may seem like a lot of rules for the companies to follow, they pale in comparison to the much more regulated taxis which were not able to set their own fares, were limited to street hails along with a fixed number of medallions in operation.²³

Relationships between the TLC and TNC representatives were observed to be somewhat tense in the TLC meetings. TNCs often advocated for looser restrictions, or presented opposition to proposed rules. However, their participation in meetings was not premised on prefatory relations built with the TLC. Instead, like many of the interest groups testifying before the commission, their input was considered as one among a variety of different perspectives. At various points throughout their years of operation, TLC members would demonstrate their authority by pushing back against claims of anti-innovation, or burdensome requirements made by the companies. For example, there were several data points that TNCs were required to submit to the TLC as part of their operating agreement. Josh Mohrer, a representative from Uber testified in a 2014 commission meeting that the data requested was privileged company information and therefore could not be submitted to the TLC. At one point Josh Mohrer made the claim that the commission wanted “data for data’s sake.” Several of the commissioners pushed back on this claim with Commissioner Carone stating “I think your characterization of data for data’s sake is really a gross mischaracterization of why we at the TLC commission want the data... There’s been intangibles that we really just can’t quantify here but has been critical to us analyzing the data.” Many of the exchanges between commissioners and TNC representatives reflected similar discourse. Uber representatives would attempt to talk their way around a

²³ TLC Taxicab Fact Book. 2014.

regulation by using aspects of their technology or company model to convince regulators that proposed rules would hinder their operation. This pattern was also observed in Austin whereby Uber and Lyft would use the limits of their technology to avoid a particular requirement. In New York, the TLC would often remind TNC representatives that current rules are what was required if they wanted to continue operation in the city. Throughout the seven-year period observed in this case study, neither prefatory nor affable relationships were observed in the commission meetings. This is not to say that Uber and Lyft representatives did not attempt to build friendly relationships with commissioners. To the contrary, as will be explained shortly, both Uber and Lyft successfully recruited former commissioners to lobby on their behalf.

Some of the standard strategies used in other cases were, however, successful outside of the TLC. At the state level, Uber seemed to have won the favor of then-Governor Andrew Cuomo through their network building strategy but also as a result of the political tumult between the Governor and Mayor de Blasio. In 2015 in particular, de Blasio and the city council moved to cap the amount of rideshare vehicles on the road following growing concerns over congestion and pollution. After a dispute with Governor Cuomo and a marketing campaign by Uber, Mayor de Blasio quickly backed away from the issue, marking a temporary win for TNCs. Uber spent millions in opposition to the cap (more on this below) and cozied up to Governor Cuomo. In a series of uncovered email exchanges between Cuomo and Uber lobbyists, it was revealed that Uber was working with Cuomo to develop an executive order that would usurp any vehicle cap that was passed at the city level.²⁴ As explained by former deputy commissioner for

²⁴ Ibid.

the TLC turned global policy advisor for Uber, Ashwini Chhabra, shifting approaches to the more amenable regulatory body is smart business.

Some of it was kind of forum shopping. Listen, if we can get favorable regs at the state level then we kind of do an end run around the cities. And so that's also part of the calculus. Do we want to engage in a city level conversation where we might get non favorable regulations or can we advocate at the state level and we get something that's more conducive to our business.

Chhabra also explained to me that an awareness of where competing lobbyists groups had built political power was crucial to navigating state spaces. Concurrent with the state level network building, Uber released a series of advertisements over the summer of 2015 criticizing the mayor on his proposal coupled with a marketing campaign.

Not only did Uber and Lyft attempt to build the usual connections with decision makers at the local and state levels including ties to Governor Andrew Cuomo,²⁵ they poached two taxi and limousine commissioners. David Yassky who served as a city council member from 2002 to 2009, the commissioner of the TLC from 2010 to 2013, and who now works as the director of state policy for the State of New York, did consulting work for Lyft just after leaving the TLC in 2014.²⁶ Likewise, Ashwini Chhabra from the above quote, worked as deputy commissioner for the TLC from 2010-2014 and went on to work as Uber's director of policy development.

Chhabra was listed in 2017 as a lobbyist for Uber looking to influence the TLC on issues relating to for-hire vehicle policy including data collection, driver hours, tipping policies, airport usage

²⁵ Rubinstein, Dana. November 11th, 2015. "While battling de Blasio, Uber cultivated Cuomo." *Politico* (<https://www.politico.com/states/new-york/city-hall/story/2015/11/while-battling-de-blasio-uber-cultivated-cuomo-000000>).

²⁶ Rubinstein, Dana. September 16th, 2014. "Former taxi commissioner now advising Lyft." *Politico* (<https://www.politico.com/states/new-york/city-hall/story/2014/09/former-taxi-commissioner-now-advising-lyft-015827>).

and many others. These direct connections enabled insider knowledge on how best to navigate the regulatory terrain of a particular context, in this case New York City. Although Uber and Lyft did not have friends within the TLC as they did in Austin and Chicago, they were still able to facilitate connections to people with considerable knowledge and power over city level decisions. To the casual observer, it may seem as though Uber and Lyft had enough weapons in their arsenal to shape regulations. As this story unfolds, this was only partly the case.

As they did in other cities across the United States, both Uber and Lyft spent money on lobbying at the local and state levels, with Uber significantly outspending their counterpart, Lyft. According to reports from the New York State Commission on Public Integrity, from 2015 through 2018 over 14 million dollars were spent on advertising and advocacy in opposition to or support of particular regulations. In 2015, over 6 million was spent on advertising mostly against proposed TNC vehicle caps, including phone calls, mailers and digital ad campaigns. Likewise, in 2018, Uber spent just over 5 million dollars on advertising against vehicle caps.²⁷ While the New York Taxi Workers Alliance and other groups representing the interests of medallion owners and taxi drivers were registered as lobbyists, reports indicate comparatively minimal spending during the same time period of less than \$750,000 in total.²⁸ While spending millions on advertising and lobbying has become a standard for firms looking to sway regulations in one direction or another (Bernhagen and Brauning 2005), it is important to note that while the first push against vehicle caps was successful in 2015, their 2018 spending failed to guarantee Uber

²⁷ New York State Commission on Public Ethics (<https://jcope.ny.gov/public-data>).

²⁸ New York City Office of City Clerk Lobbyist Records. (<https://bmp.nyc.gov/elobbyist/search>).

the same outcome. Lobbying represents just one strategy in a repertoire used by firms to influence decision making.

The formation of the Independent Driver's guild (IDG) in 2016 further complicated the politics of ride-hailing regulations. Contributing to tensions across the industry was that the group's inception was born out of an agreement by Uber to fund the guild. The amount of funding IDG received was never disclosed but it was explained that it came under the agreement that drivers would not resort to work stoppages in an effort to gain concessions from the company.²⁹ Instead, monthly meetings, arbitration processes and other lines of communication between the company and drivers were established to deal with work condition grievances. The formation of IDG quickly drew criticism as they only represented Uber drivers, were funded in part by the company and reportedly engaged in pointed attacks at their leading competitor, Lyft. IDG presents real questions about what the future of what organizing looks like in an economy dominated by independent contractors. Recently there has been renewed attention to sectoral bargaining, or the representation by one group across an industry. For example, a sectoral union could be formed in the restaurant industry which could represent all restaurant workers regardless of their employer. This is in contrast to traditional unions which are employer specific. Yet, labor scholars such as Veena Dubal (2022) have noted, that this resurgence in sectoral bargaining is an effort to limit worker rights and democratic participation by maintaining independent contractor status and turning collective bargaining "into an instrument of management control." As IDG emerged in New York and elsewhere and have now diverged from Uber, the group's participation in the baseline wage battles demonstrates the power of

²⁹ Ibid.

aligned and organized interests to place pressure on decision makers, regardless of their company connections, but also presents curious directions for the future of organizing.

Regulatory Battles: Vehicle Caps and Baseline Wages

There were two main issues over which the city of New York and TNC companies battled. The first issue was caps on the number of ride-hailing vehicles on the road. This issue presented itself first in 2015 and again in 2018. The leadership of the TLC and the city were the same in both instances. Likewise, interested parties across the transportation industry lobbied the TLC around the issue. In 2015, just before it seemed as though de Blasio and city council were going to move forward with caps, de Blasio backed down from the proposal. Governor Cuomo was apparently prepared to pass an executive order against the caps if city council had approved the rule. In 2018, after testimony from drivers, data on traffic congestion and the saturation of the livery market, a cap on vehicles was passed through council. Following a driver hearing on April 6th, 2017, organizing by IDG and the NYTWA, the TLC commissioned data reports and proposals configuring a baseline wage for drivers that would attend to the economic issues drivers were experiencing. Baseline wages passed in 2018. Although Uber and Lyft had lobbied state and local officials, leveraged direct marketing through their app, and even formed IDG to control drivers, the TLC and the city of New York went forward with regulations.

Vehicle Caps 2015

A proposal to cap for-hire vehicles was first introduced in 2015 as a temporary measure pending the results of a study on traffic and congestion in New York. The study was proposed as a freeze on new licenses until an assessment of the impacts of the rapid increase in for-hire vehicles could be made. The proposal quickly died in city hall as political tensions between the

State of New York and New York City arose. The battle over vehicle caps reveals political disputes between Albany and New York City, which Uber used to their advantage. Moreover, the 2015 push by Uber to avoid vehicle caps was supported by a marketing campaign, including a “de Blasio” feature in their app. This feature preceded the “Kitchen” feature used in Austin indicating that the company held a variety of strategies in their arsenal learned from other contexts.

As noted earlier, only the city council or the State of New York has the ability to limit the number of for-hire vehicles on the road at a given time. The Taxi and Limousine Commission can support, study or make recommendations on the issue but cannot institute the rule. During June of 2015, vehicle caps were proposed due the rapid increase in for-hire vehicles. The city, with the support of the TLC wanted to study the impact of the then 10,000 new for-hire vehicles on the street.³⁰ Unsurprisingly, there was opposition by TNC firms almost immediately. City council held a public hearing in late June where key stakeholders could share their support or opposition. Michael Allegretti, a public policy advisor for Uber leveraged the theme of anti-innovation and competition to sway decision makers away from capping vehicles. Allegretti was quoted in *The New York Times* stating “The vehicle limits that accompany this study have nothing to do with the congestion and air quality but everything to do with limiting the competition.”³¹ Pointing the finger at the taxi industry as the motivation behind the caps, Uber attempted to tap into political frustration over a domineering taxi lobby. Uber, however, would

³⁰ Fitzsimmons, Emma G. June 24th, 2015. “City seeks to limit new for-hire cars amid traffic study.” *The New York Times*.

³¹ Wright, Colleen. July 1st, 2015. “Uber says proposed freeze on licenses would limit competition.” *The New York Times*.

dwarf the money spent lobbying over vehicle caps in 2015 by over 5 million dollars. Uber was opposed to caps on vehicles as market saturation is a key strategy that TNCs use to ensure quick service provision to customer and coverage over geographic areas. However, the overabundance of vehicles on the road leads to traffic issues and decreased rides for individual drivers.

The first push to cap for-hires in NYC failed. The NYTWA had attempted to organize around the issue of vehicle caps in 2015 but was unsuccessful in their efforts. Biju Mathew of the NYTWA explained to me that the failure of the 2015 battle made them better prepared to take on the issue of baseline wages and vehicle caps that would come later. The city council of New York backed down from the attempted limits on for-hires after Uber used their aggressive marketing tactics to suggest that capping Uber would result in long wait times, including an in-app feature known as the “de Blasio view” (figure 3).³²

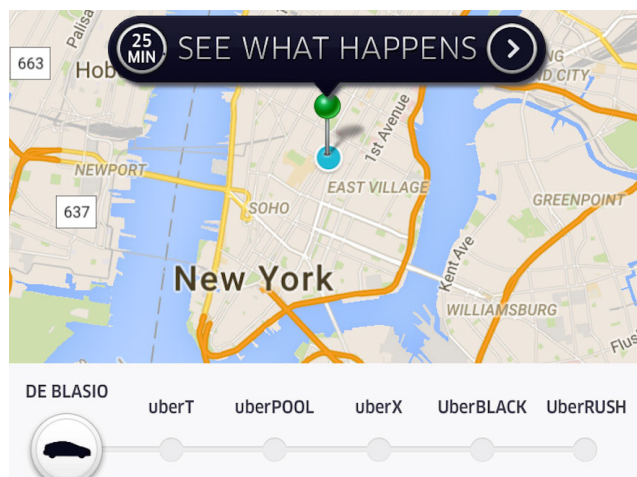


Figure 3. de Blasio view in Uber app³³

³² Flegenheimer, Matt. July 23rd, 2015. “Ending fight, for now, city hall drops plan for Uber cap.” *The New York Times*.

³³ Tepper, Fitz. July 16th, 2015. “Uber launches “de Blasio’s Uber” feature in NYC with 25-minute wait times.” *Techcrunch* (<https://techcrunch.com/2015/07/16/uber-launches-de-blasios-uber-feature-in-nyc-with-25-minute-wait-times/>).

As with other cities, Uber used their economic capital and marketing strategies to drum up support and bully officials into dropping their regulatory attempts (Borkholder et al. 2018). In New York they used mailers, celebrity promotions, the weight of the governor and other political figures, and in-app features to encourage people to voice their opposition to the vehicle cap and put political pressure on Mayor de Blasio. For example, well known celebrities Ashton Kutcher (an early investor in Uber)³⁴ and Kate Upton tweeted in support of Uber.³⁵ Kutcher's Tweet read "Vote to keep #Uber moving in New York,"³⁶ suggesting opposition to the vehicle caps.

Conversely, the New York Taxi Worker's alliance, members of the TLC and city council voiced support for the cap given that the for-hire industry had ballooned by 60 percent over three years to more than 63,000 vehicles. Twenty-thousand of the new vehicles on the road were Uber and Lyft. The Mayor's office took the route of developing an agreement with Uber as opposed to implementing restrictions. The agreement stated that they would study the impact of for-hire vehicles on New York traffic before moving forward with a vote on capping cars.³⁷ Given that there was no cap in place for new for-hire vehicles, people could continue to sign up through the app to drive as a black car via Uber or Lyft in New York. Conversely, the medallion market was fixed, meaning no new taxi cabs could be added on the road. This resulted in a saturation of the

³⁴ O'Malley Greenburg, Zack. March 23rd, 2016. "How Ashton Kutcher and Guy Oseary Built a \$250 million portfolio with startups like Uber and Airbnb." *Forbes* (<https://www.forbes.com/sites/zackomalleygreenburg/2016/03/23/how-ashton-kutcher-and-guy-oseary-built-a-250-million-portfolio-with-startups-like-uber-and-airbnb/?sh=360ed8eb1175>).

³⁵ Fitzsimmons, Emma G. and William Neuman. July 28th, 2018. "This time it's Uber's turn to wage an uphill battle." *The New York Times*.

³⁶ Kutcher, Ashton. July 22nd, 2015. Twitter. (<https://twitter.com/aplusk/status/623733388025856001>).

³⁷ Ibid.

transportation industry, which ultimately drove down wages and the value of medallions and created extreme congestion in Manhattan.

Baseline Wages 2018

In August of 2018, resulting from several confounding factors, Mayor de Blasio and city council, on recommendation of the TLC, passed rules requiring the largest for-hire vehicle companies to pay drivers a baseline wage of \$27.86 per hour (which comes to \$17.22 after accounting for estimated expenses). The largest for-hire vehicle companies include Uber, Lyft, Gett/Juno and Via, all of which are app-based ride-hailing services. The baseline wages were set so as to offset the cost assumed by the driver and compensate drivers for downtime periods where they do not actively have passengers in their vehicles. After accounting for costs, the expected hourly rate of drivers would be an estimated \$17.22. These calculations came from a report authored by economists James A. Parrott and Michael Reich, commissioned by the TLC.³⁸ The regulatory outcome of baseline wages was the result of four interlocking factors: 1. Organized pressure from impacted groups including the NYTWA, IDG, and medallion owners. 2. Declining medallion values. 3. Low wages of drivers and 4. Driver suicides. These four factors were laid bare in a TLC meeting in April of 2017 and the months following prompted the TLC to commission the report and take action. While the TLC did have the authority to adjust fares on for-hire vehicles, they worked with the Mayor and city council to pass this legislative agenda.

Testimony from a scheduled April 6th, 2017 TLC hearing which addressed taxi fares, medallion and taxi vehicle lease caps revealed the extreme financial circumstances that drivers

³⁸ Parrot, James A. and Michael Reich. July 2018. "An Earnings Standard for New York City's App-based Drivers: Economic Analysis and Policy Assessment." *Center on Wage and Employment Dynamics*.

across ground transportation industries in New York were facing. The meeting spanned over 6 hours with testimony given by the Independent Driver's Guild, The New York Taxi Workers Alliance, interests representing medallion owners and other key stakeholders in the city. The TLC historically only held these hearings every two years and included only taxi drivers. This meeting would mark the first time in the history of the taxi and limousine commission that the testimony of for-hires (including black cars, TNCs and lux limos) would be heard in addition to taxi drivers. Given the historic rise in licensing with the addition of more than 35,000 vehicles since 2014, the competitive pricing driving down baseline fares and the estimated billions of dollars invested in the ground transport industry, the TLC opened the hearing to individual driver concerns. The decision for baseline wages would come about a year later after the TLC had commissioned economist James A. Parrot (who testified at the April 6th hearing) and Michael Reich to study the economic circumstances of drivers. Further encouraging the TLC to take action on rapidly falling wages was a bout of suicides by taxi and black car drivers citing growing economic hardship.

TLC Driver Hearing on April 6th, 2017. The April 6th, 2017 meeting was very well attended. Unlike other cities across the United States, the TLC had contact information for all of the taxi and for-hire drivers, including Uber and Lyft. This enabled them to notify drivers directly that the hearing was taking place. The meeting was so full that the TLC was forced to open several overflow rooms to accommodate the amount of people in attendance to testify. As drivers representing themselves testified about issues including falling pay, medallion values, harassment by the NYPD among other issues, there would often be applause, cheers or chatter coming from the audience. The commissioner on several occasions was forced to ask folks in the

audience to be quiet, end their testimony for going over time, or exit the room so that others could participate in the process. When groups such as the IDG or NYTWA provided testimony, the speaker was often accompanied by several members of their group. The testimony was lively, angry, confused, heated and at times heartbreaking as an almost exclusively immigrant group shared their experiences participating in the mirage of the American Dream.

The taxi and limousine commission listened to the testimony given, seemingly overwhelmed by the outpouring of stories each of which related to the central theme of a saturated market that drove down wages creating economic hardship, rapidly dropping medallion values and impossibly congested streets. As each driver or group shared their story they were encouraged to submit their written comments along with any other data or evidence regarding their situation. Drivers who had issues with tickets or violations that prohibited them from working were instructed to meet with staff members that were posted up in the back of the meeting room. There were translators on staff to assist in interpretation for the many different languages drivers spoke. While it did seem that the concerns were taken seriously, the TLC cut each presenter off at the 3-minute mark in order to move the meeting forward and give everyone the opportunity to participate. Regardless of these guidelines to proceedings, the TLC still seemed unprepared to deal with the sheer amount of traumatic and frustrated driver base in the city of New York.

Declining wages. Drivers from both the for-hire and taxi industry spoke about falling wages. Drivers often noted that falling wages meant they had to spend more time on the road and away from their families. They noted extreme drops in percentage of take home pay and the resulting hardship this placed on making ends meet in an unaffordable city like New York. From

testimony about the inability to pay for things like their child's college to essentials like their own healthcare, drivers were acutely aware that falling wages came as a consequence of market saturation by TNCs. For example, one driver noted:

There is not going to be money to be made to even pay our bills. Why? Because it's saturated. This is the only industry that I see that, as it was told before by one of our fellow drivers, that it's going to be probably in the future is going to be more drivers than consumers. And what's going to happen? None of us is going to be able to make money.

Similarly, through the hours of well prepared, researched and painfully honest testimony, drivers understood the importance of sharing their economic hardship in order to place pressure on officials to make changes that would impact their financial circumstances. As one driver shared, the for-hire industry had previously been viewed as the pathway to economic stability but had since been disrupted by TNC companies:

The for-hire vehicle industry has been a source of opportunity for many new immigrants who call New York City home. Over the past several years the for-hire vehicle industry has seen an explosive growth in the number of drivers with the entry of the e-hail or app-based service providers. The promise of good pay and flexibility has attracted many. Unfortunately, the fierce competition for market share between the app-based service providers has turned into a rapid race to the bottom. The industry has quickly become oversaturated. The steady decline of fares year after year is putting many families in serious economic jeopardy.

Calling on the TLC to make much needed changes, the above driver pleaded for the well-being of themselves as well as the industry. In the early years of Uber and Lyft, drivers were excited to earn money on the platform and enjoyed the flexibility the apps provided workers. As time went on, however, drivers reported decreased take home pay and increased frustration with the platforms.

Gig workers across the gig economy report experiencing a "honeymoon phase," whereby they begin working on a particular platform and yield high pay and flexible working

arrangements. Juliet Schor (2020) notes that as number of drivers on the platform increased, driver wages fell from about \$1,469 a month in 2014 to \$783 a month in 2018. The testimony from drivers in the April meeting reflected this decline. This honeymoon phase was also a distinctive moment in the rise of the gig economy, specifically in the early 2010's. As Uber and Lyft first rolled out their services they often provided sign on bonuses, higher commission percentages and other incentives. Over the years, Uber and Lyft updated their terms of agreement for service providers, many times decreasing commissions without driver's being aware of what their take home pay was going to be or how it was calculated (Wells et. al 2018). Because of the promise of high earnings experienced in the early days of driving for Uber and Lyft, some drivers even took on debt in order to participate. As pay rates became reconfigured, drivers found themselves experiencing increased financial burden (Farell et al. 2018; Schor 2020; Wells et al. 2018).

The report commissioned by the TLC from the Center on Wage and Employment Dynamics investigated these shifts in the driver based gig economy following the April 2017 meeting. Parrot and Reich (2018) studied the current state of driver pay, the effects on the non-app for hire vehicle services and developed the pay standard calculation which amounts to the baseline wage of \$27.86. This report was remarkable for several reasons. First, city level data concerning the drivers on variables such as demographics, average hours on the road, trips per hour and pay are not available to all cities across the U.S. as this often has to be a component of regulations. Second, the report drew attention to the impact of market saturation on driver pay providing support for the issue of vehicle caps. Last, the report showed contradictory evidence to the claims that Uber and Lyft make about having a driver base comprised primarily of part-time

workers and satisfied drivers looking to make a little extra cash. Instead the report showed that 85% of for-hire drivers net below \$17.22 an hour which after expenses drops them well below the minimum wage, and that the majority of drivers worked fulltime and undertook risky investments in order to participate in service provision (Parrot and Reich 2018).

Of course, it was not only TNC drivers that experienced a decline in their pay. Taxi drivers saw the amount of street hails decline and as a result, their pay. These drivers also testified at the April 6th hearing, explaining the impact of TNCs on their wages. One taxi driver noted:

My income also dropped about 30 percent. That's why eventually I had to go bankrupt on the medallion. And it's -- the industry is basically in a spiral. We all try to prop ourselves up, that there's not a problem, everything is fine. It's not. Unfortunately, there's a very big problem right now.

The saturation of the market by TNCs drive down wages for drivers across the industry. While taxi drivers have long been in precarious work arrangements as independent contractors, driving a taxi in New York had been a somewhat stable way to make a middle class living. One driver explained how the economic decline reverberated throughout his family:

Our dreams of retirement have been shattered. And not only we are suffering as the drivers, the pain and anxiety now is in our families. I mean, working now longer hours and still don't make ends meet. Our hails getting poorer. So how much longer are we going to take? Your actions for the good, for the well-being of the industry, is very important.

This driver's testimony depicts the crushing reality of driving a taxi in an industry where some participants can offer lower fares and discounts to riders, while other participants are bound by standardization as a result of strict regulations.

Declining medallion values. Related to the issue of declining wages was the drop in the value of the medallion. The complexities of the medallion issue in New York are too vast to

describe in full detail here. Instead, I will briefly summarize the medallion issue that loomed over the April 6th, 2017 meeting, many of which were in the make prior to the emergence of Uber and Lyft, but were accelerated by their market entrance. As noted earlier, all yellow taxi cabs in New York have a physical medallion affixed to their hood. Between 2002 and 2014 the value of medallions rose from \$200,000 to just over \$1 million. During the same time period, about 4,000 drivers bought medallions through private sales or city auction. Following the 2008 financial crisis, Wall Street became more involved in the taxi industry lending high risk loans to prospective medallion owners.³⁹ Then Uber and Lyft emerged in the city in 2011 flooding the streets with upwards of 60,000 vehicles. The value of medallions rapidly crashed. While the medallion value crisis was already in the works, the emergence of ride-hailing apps accelerated the crisis. The hearing that was held two years prior in 2015 included testimony from the New York Taxi Workers Alliance on the medallion issue. However, it was not until the April 2017 meeting that large numbers of taxi and livery stakeholders showed up to testify on the fare, medallion, and leasing issues.

This issues of the rapidly declining medallion values and predatory lending system were forced into focus at the April 6th hearing. Drivers noted their financial hardship, but also highlighted how their dream of a stable and middle class lifestyle was stolen from them as financialization strategies overtook the market. The pressure of falling wages was certainly an issue which contributed to the decline of medallions that had rising costs, but these issues existed external to wages. As one driver expressed what used be a ticket to a middle-class life, had now

³⁹ Rosenthal, Brian M. May 19th, 2019. "They were conned": How reckless loans devastated a generation of taxi drivers." *The New York Times*.

been taken away from them. Many connected the issue directly to the emergence of Uber and Lyft. The following testimony from a medallion owner expressed this understanding:

Let me say that there's no longer a value in the medallion system because the city gives the right of (inaudible) for free to the app-based companies, thus reducing the value of the medallion system. And because of this, the banks refuse to accept loans, as it no longer see that value...full time drivers losing their jobs, retirement and their kids' future. Could you please help them in any manner – or could you please take the medallions back with half the loans?

The pressure from medallion owners and organized groups pleaded with the TLC to consider, not only the issue of falling wages, but the impact of TNCs on the taxi industry.

Drastically falling medallion values placed many owners in a position where they were upside down on their loans. The city of New York made hundreds of millions of dollars from the sale of medallions under the Bloomberg and de Blasio administration while the market soared as they tax the sale of each medallion.⁴⁰ The inflation of medallions caused by the financialization of the industry was beneficial for both the sellers of medallions and the city of New York.

Bagchi (2018) documents that the medallion market dropped by 50% in the few years following the emergence of Uber and Lyft. This left medallion owners with immense amounts of debt. One medallion owner expressed this collapse in the April 6th meeting:

Our industry is collapsing in front of us. We are just hearing stories about some medallion sale for \$240,000, which it's just beside me how this commission, how the city of New York, how the governor, killed this golden goose.

The collapse of the medallions coupled with the drastic decline in street hails and subsequently fares left drivers in impossible scenarios. They had exorbitant payments on their medallions but

⁴⁰ Rosenthal, Brian M. May 19th, 2019. "As thousands of taxi drivers were trapped in loans, top officials counted the money." *The New York Times* (<https://www.nytimes.com/2019/05/19/nyregion/taxi-medallions.html>).

declining wages. They were unable to sell their medallions to recoup their investment or even eliminate their high monthly payments. Likewise, many expressed that they were unable to yield enough from street hails to pay their monthly medallion loans. Medallion owners were holding the TLC accountable for their role as enabling TNCs by allowing boundless expansion and turning a blind eye to the consequences of medallion inflation while they collected taxes.

Testimony from the NYTWA echoed the same themes expressed by drivers and demanded that the TLC take action. Director, Bhairavi Desai, used her time to appeal that the TLC do something about the growing financial issues.

Gosh. I got to tell you it's like half my heart is just crushed and the other half is just on fire, and I imagine most people in this room feel this way. I mean, you've heard me testify for almost 21 years, and all – we're an organization of 19,000 drivers. And all we have ever done is represent drivers' interests. And in my 21 years of organizing this industry, I have never seen people in such crisis. You know, just hearing – I mean, bankruptcies, the foreclosures, eviction notices, having to answer – I now go with, you know, phone calls about homeless services, to people wanting to know about suicide prevention hotlines... So it's a vicious race to the bottom. To starve the taxi drivers, Uber starves the Uber drivers. That's the heart of it. They drop the fares, which leaves drivers in crushing poverty, and they do that so they can poach the fares of the other sectors. No driver wins in this race to the bottom.

As Desai articulated, this “race to the bottom” was a scenario where all drivers lose and the companies win. Individual medallion owners, taxi drivers, and TNC drivers lose when regulation is deployed in these uneven ways. The NYTWA had been organizing around the issue of medallion debt and values for years. They were a constant presence at meetings. They often held protests around the issues which the TLC were slow to act upon. Because of the structure of the city government, regulations could only come from the TLC on these issues. Pointing to this problem, Desai concluded her testimony stating:

There is power that you do have as regulators, and I hope the number one thing you do is take the tapes of the testimonies of the drivers, deliver them straight into the hands of the mayor and ask him to up and fight this fight. It's far from over.

Imposing the importance of regulatory change on the TLC, Desai reminded members of their crucial role in the economic health of the taxi industry in New York. In a sort of foreshadowing of the pending battle over a medallion debt relief program which would come in 2021, on behalf of New York Taxi drivers, Desai noted that the fight is far from over.⁴¹

Driver Suicides. Tragically, the last factor that prompted the action by the TLC was a bout of taxi and for-hire driver suicides. Over the course of several months, eight drivers committed suicide, with many families noting driver's economic circumstances as the hinge point for their drastic decision. While an action such as suicide can be the result of many factors, the loss of life through this purposeful action was used by groups such as the NYTWA to demand action. The response to some of the early suicides by mayor de Blasio was to claim that the driver must have had an underlying mental health issue.⁴² By the eighth suicide, Meera Joshi was reported to have characterized the deaths as an epidemic.⁴³ As suicides continued and groups like the NYTWA alliance rallied around the issue, the demand for action on the part of officials grew. Importantly, these suicides began following the April 6th, 2017 meeting, increasing the urgency for regulatory response.

⁴¹ Rosenthal, Brian M. November 3rd, 2021. "N.Y.C. Cabbies win millions more in aid after hunger strike." *The New York Times*. (<https://www.nytimes.com/2021/11/03/nyregion/nyc-taxi-drivers-hunger-strike.html>).

⁴² Bellafante, Gina. February 11th, 2018. "Despair grows for taxi drivers." *The New York Times*.

⁴³ Fitzsimmons, Emma G. December 3rd, 2018. "Helping struggling taxi drivers before a crisis's casualty count climbs." *The New York Times*.

The first suicide that really drew attention to the incident as directly related to the economic conditions of drivers was Doug Schifter. In February of 2018, he took his own life in front of city hall by shotgun. Just hours prior to the event, he authored a Facebook post “laying out the structural cruelties that had left him in such dire circumstances.”⁴⁴ The post indicated that he often worked more than 100 hours a week, was burdened with fees and fines from the TLC, had lost his health insurance and had growing credit card debt. Bhairavi Desai explained to reporters that her role as director of NYTWA had transformed into something akin to a social worker where she often had to deal with tearful drivers in need of resources such housing. By the fifth suicide, the NYTWA was still pushing for a cap on TNCs to be implemented as the medallion system was rendered useless if TNCs could have endless expansion.⁴⁵

By the eighth suicide, baseline wages had already passed through city council. Meera Joshi explained to me that the suicides had really grabbed the attention of the TLC contributing to the baseline wage action. While baseline wages lifted the pay of TNC drivers and limited the ability of the firms like Uber and Lyft to undercut the taxi industry prices, there was still the issue of market saturation. While the TLC did place a cap on new TNC operators in the market, the streets were already flooded with 80,000 app based drivers and only 13,587 taxis. By 2018, customers had seemingly come to prefer the acquisition of rides through apps to standing outside on the street waving their hands. Beyond these two intertwined issues was the crushing

⁴⁴ Ibid.

⁴⁵ Stewart, Nikita and Luis Ferre-Sadurni. May 28th, 2018. “Another taxi driver in apparent suicide over medallion debt, the fifth in 5 months.” *The New York Times*.

medallion debt. The NYTWA began demanding in 2018 that the city “work with banks and philanthropic groups to write off 20 percent of taxi owners’ outstanding debt.”⁴⁶

Vehicle Caps 2018

By 2018, the growth of the for-hire industry was astronomical (figure 4). This unchecked growth resulted in numerous issues. Of top concern for the NYTWA was the impact this overload of vehicles had on the market for taxis. Relatedly, growing concerns about the ability to move across the city in a reasonable amount of time were apparent across interested parties. Congestion had become a major issue in Manhattan.

⁴⁶ Fitzsimmons, Emma G. December 3rd, 2018. Helping struggling taxi drivers before a crisis’s casualty climbs. *The New York Times*.

Yellow = Yellow Taxis; Green = Green Taxis; Black = For-hires (black cars)

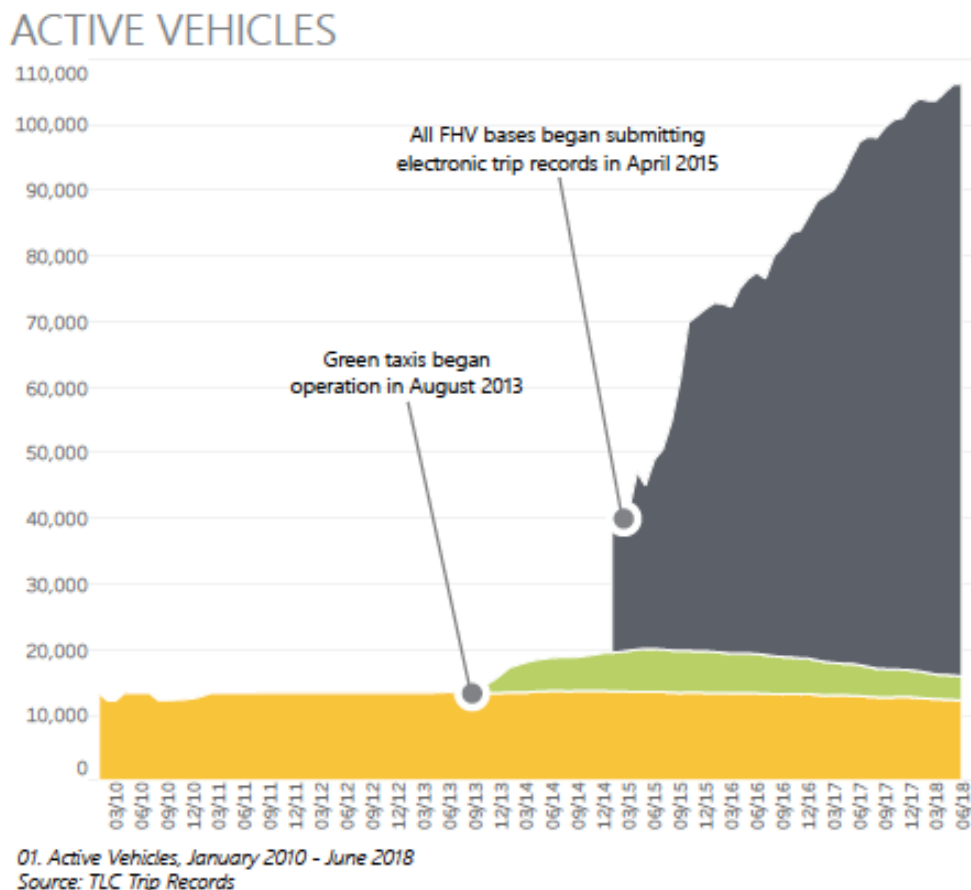


Figure 4. Active vehicles under the purview of the TLC 2016-2018⁴⁷

The saturation of labor markets with workers facilitated an increasingly competitive environment. This strategy also ensured that wages stayed low, particularly within an already tight labor market. In New York, taxi drivers and for-hires were forced to learn hidden rules or try to game the system to guarantee wages for the day. This practice is consistent across cities that have saturated TNC markets. For example, in a study of app based workers in Australia, Veen et al., (2019) show that Deliverooⁱⁱⁱ drivers were encouraged to go into different areas of

⁴⁷ Screen cap from TLC Factbook 2018.

their cities by color coded indicators on the map portion of their app with different colors relating to varying levels of service requests. They found that some workers tried to anticipate where the higher request areas would be based on previous experience. Other workers explained that they would try to hack the systems coding to capitalize on surcharges in high demand areas. Ultimately then, workers who learned how the system operated were able to stabilize their earnings to some degree, often at the expense of other service providers. By design, drivers were pitted against one another through the saturation of the market which created the illusion of surplus to customers but demand for drivers. In this sense, drivers were made to compete with one another for scarce rides and little pay.

The above described saturation is what Beharavi Desai, director of the NYTWA, called a “race to the bottom” where “Uber starves the Uber drivers to starve the taxi drivers.” Although their efforts to organize around vehicle caps in 2015 was unsuccessful, they continued with strategies to place pressure on decision makers to improve the conditions for all drivers. In particular, the growing number of taxi driver suicides had created urgency in the NYTWA’s movement. In March of 2018, the NYTWA demonstrated in front of city hall laying out four caskets to represent taxi drivers who had taken their lives.⁴⁸ The NYTWA continued organizing and demonstrating on the issue of vehicle caps as suicides continued to rise (figure 5). According to an interview with *Jacobin Magazine*, from November of 2017 to August of 2018, the NYTWA held over twenty actions.

⁴⁸ Furfaro, Danielle and Max Jaeger. March 28, 2018. “Cabbies lay down caskets in protest of city’s taxi rules.” *The New York Post*. (<https://nypost.com/2018/03/28/cabbies-lay-down-caskets-in-protest-of-citys-taxi-rules/>).

New York was the first city in the United States to issue a cap on for-hire vehicle licenses.⁴⁹ In 2015, Uber used their political capital, public support and city-state divisions to stave off caps. Although the NYTWA organized around the issue in 2015, they were unsuccessful. By 2018, the NYTWA included app-based drivers and had just contributed to the baseline wage win for app drivers. Likewise, the increasing number of suicides created a pressure point which drivers used to display the urgency of the issue to city officials. Unsurprisingly, IDG stood opposed to vehicle caps since their issues were often at the behest of Uber. While they supported the baseline wages, they argued that “a cap on vehicles would make vehicle operating costs more expensive.”⁵⁰ The justification for why this would be the case was unclear.



Figure 5. Taxi driver Saibou Sidibe holds up a protest sign outside of New York City Hall on June 19, 2018.⁵¹

⁴⁹ Mays, Jeffery C. August 9th, 2018. “3 years ago, Uber beat back a cap on vehicles. What’s Changed? A lot.” *The New York Times*.

⁵⁰ Independent Driver’s Guild Blog. 2018. “Cap for-hire drivers: The labor-friendly alternative to a vehicle cap.” (<https://driversguild.org/license-limit/>).

⁵¹ Brooks, Chris. August 19th, 2018. “How to Beat Uber.” *Jacobin* (<https://jacobinmag.com/2018/08/new-york-taxis-app-cap-uber-lyft>).

Vehicle caps and baseline wages demonstrate the dwindling support for the big two TNC companies in New York, Uber and Lyft, and can be explained in part by the crushing economic circumstances drivers were experiencing. From the launch of ride-hailing in New York to the establishment of the pay floor in 2018, drivers had been subjected to numerous predatory marketing schemes by both companies, but particularly Uber. Uber, among other strategies to generate additional income, had dabbled in vehicle leasing and direct debit cards⁵² on top of the consistent rate of pay changes reported widely throughout the first several years of their tenure in US markets. The vehicle leasing, in particular, trapped drivers into agreements with subprime lenders charging upwards of 20% interest rates for cars.⁵³ Drivers in New York reported to TLC officials that they worked full time each week simply to pay for their vehicle lease taking home little else in pay. As a result of economic losses of over 3 billion in 2016, Uber abandoned the program by 2017 given its unprofitability.⁵⁴ The timing of the program abandonment aligns roughly with when Travis Kalanick stepped down as CEO amid a variety of public relations and financial issues. Dara Khosrowshahi took over in 2017 and was cutting costs across the board due to the upcoming initial public offering, likely pointing to the reason why the company would ditch a product which should theoretically yield a high rate of return. As Meera Joshi recalled to

⁵² Uber Debit Card Terms and Conditions (<https://www.uber.com/us/en/u/uberdebit-gobank/>).

⁵³ DeAmicis, Carmel. July 29th, 2015. "Uber starts directly leasing cars in program that could appeal to short term drivers." *Recode*. (<https://www.vox.com/2015/7/29/11615208/uber-offers-revised-car-leasing-program-that-could-be-more-appealing>).

⁵⁴ Bensinger, Greg. August 8th, 2017. "Uber plans to wind down U.S. car-leasing business." *The Wall Street Journal*. (<https://www.wsj.com/articles/uber-plans-to-wind-down-u-s-car-leasing-business-1502200046>).

me, drivers were quickly disenchanted by the tactics used by TNC companies. She noted that in 2015 driver support for these companies was visible to the TLC but by 2017 that was “completely gone.” Beyond the lack of transparency around rates of pay, tipping and costs to lease vehicles, drivers were frustrated that there were minimal pathways to contact Uber if there were issues experienced on the road. For example, drivers would report being locked out of the app for complaints made by passengers that they were not able to dispute. All of these frustrations culminated in demands for some sort of representation or consistent communication with company officials. As noted above, the Independent Driver’s Guild was formed in 2016 and reflected this desire. IDG played a controversial role in the case of New York, standing in support of baseline wages, but in opposition to vehicle caps. The NYTWA on the other hand, led the charge on both vehicle caps and base line wage protections for drivers and has continued to claim several wins, including medallion debt relief.

Conclusion

Uber and Lyft have been repeatedly shown to “win” in battles over regulation (Spicer et al. 2019). Most often their actions fall under *intentional* interferences into markets and regulatory frameworks (Bernhagen and Brauning 2005). As a result of the lopsided nature of interest group input, businesses often quickly gain the upper hand against worker or citizen groups (Crow, Albright and Koebele 2017). In the case of Uber and Lyft which operate in an effort to change regulations, their *intentional* interferences and disruptive nature have proven successful in most cities where they operate (Bernhagen and Brauning 2005; Pollman and Barry 2017; Spicer et al. 2019). Yet, upon close examination of the New York case, the variegated pathways for regulatory interference were disrupted by worker group influence facilitated by the

institutional arrangements of administrative rule-making. The authority and processes used by the Taxi and Limousine Commission to make regulatory decisions created the space for public commentary on the conditions created by the influx of TNC vehicles on the road. Relatedly, their immediate regulations of TNC companies left less space for political jockeying and rule negotiation. Likewise, the relentless organizing efforts on the part of the NYTWA members around economic issues facing drivers and the tragic number of suicides forced the TLC to act on these important issues. The NYTWA was able to effectively convince the TLC that their lack of regulation on Uber and Lyft caused these issues. Since TNCs were allowed unfettered growth, medallion values were plummeting and wages were driven down for both taxi drivers and for-hires. By raising the baseline pay for app-based drivers and capping the number of vehicles on the road, drivers across the industry could stabilize their earnings.

Although Uber drew from their repertoire of rule breaking and shaping strategies, they were unsuccessful. While it is true that Uber and Lyft are still in full operation in New York, and their market share is dominant in that space (Spicer et al. 2019), their multi-million dollar campaigns against vehicle caps and baseline wages did not yield a full stop to rule implementation. Instead baseline wages and vehicle caps remain at the time of this writing. Uber was successful in 2015, leveraging their political connections in Albany, lobbying efforts and marketing stunts, to avoid vehicle caps. This was and remains such an important issue to TNCs as their business model is fundamentally premised on oversupply. Yet as time went on, Uber and Lyft drivers became increasingly disillusioned with the empty promises of decent wages made by the companies. Despite attempting to co-opt worker organizing and curve demands from

drivers by developing the Independent Driver's Guild, the realities of the crushing economic circumstances of drivers could not be hidden.

Throughout the tenure of TNCs in New York, the NYTWA was organizing around the problem of market saturation, including declining wages, falling medallion values and increased congestion. The Taxi and Limousine Commission held a pivotal meeting on April 6th, 2017, opening the floor to those in the taxi and for-hire industry to speak on their economic and working conditions. The devastating testimony about the severe economic decline of the industry forced the TLC to commission a study and create a proposal for solutions to this damage. In the year following the hearing, eight drivers committed suicide, one which took place outside of city hall and directly connected his actions to the economic hardship created by the taxi market failures. Over the same time period, the NYTWA held numerous demonstrations demanding something be done. In August of 2018, baseline wages for app-based drivers and vehicle caps were implemented.

The institutional design of administrative rule making enabled the TLC to hold firm on the initial regulation for TNCs. Rather than funneling regulatory decisions through city council, the TLC operates as an autonomous regulatory agency for ground transportation on most issues. As scholars of institutional design and political participation have noted, the arrangements of decision making processes impact political participation (Baldwin 2019; Fung 2006; Skelcher and Torfing 2010). In particular, when there are opportunities for public participation, such as the April 6th hearing on driver conditions, democratic governance can be enhanced (Skelcher and Torfing 2010). Seizing opportunities for participation created by the design of the TLC, the NYTWA and IDG organized their bases through worker-centered strategies around economic

justice to participate in the rule-making process (Johnston 2018). Although some scholars have noted that since TNCs remain operating in New York, the case articulates the power of firms like Uber (Spicer, Eidelman and Zwick 2019), I find that upon in depth analysis, the New York case reveals possibilities for challenges to regulatory engineering.

There are still many problems across the taxi and for-hire industry in New York, including medallion debt, congestion and market saturation. However, without the regulations implemented by the TLC, the taxi industry would likely be near eliminated, medallion owners would be left with astronomical debt and app-based drivers would be driving for less than minimum wage. This is not to say that the regulations in New York are perfect, or even that regulations are the answer to the crisis caused by oversupply and worker misclassification. Instead, the New York case demonstrates the scope conditions for hampering the power of firm influence over governmental regulations. Organizing is a crucial piece of this process. Likewise, institutional arrangements have to provide meaningful avenues for public participation and commentary. The fight for app-based workers is far from over as firms like Uber and Lyft will continue to adapt their strategies. The case of New York shows that organizers and institutions can do the same.

CHAPTER FIVE

DISRUPTING THE DISRUPTORS: REGULATORY PROCESSES COMPARED

Austin, Chicago and New York have varying regulatory outcomes for Uber and Lyft. Attending to a central question of this study – what explains the differences in regulatory outcomes - this chapter compares the governance process in each case to reveal how features or aspects related to the decision-making process shape regulatory outcomes. Some of these features are external and some are imbedded within the governance process. This comparison demonstrates how firms such as Uber and Lyft use particular aspects of local governments to dictate their desired regulatory outcomes. In Austin and Chicago, Uber and Lyft were effective in learning the context including specific vulnerabilities and resulting pathways which would provide the best route for regulatory manipulation. Although Uber and Lyft drew from their repertoire of institutional knowledge and tactics in the New York case, they were unable to realize their regulatory goals in the long term. Revealed through this comparative study, New York's government structure, decision making process, and presence of organizing explain why. This finding provides important insights into how city level governments and worker groups can impede the ability of firms to navigate the uneven terrain of state level decision making.

Austin, Chicago and New York as cases each reveal the scope conditions for the various outcomes of regulatory manipulation by Uber and Lyft. Yet in comparison, they highlight a set

of external and internal aspects of the governance process that enable or constrain these attempts. There are two external factors, timing and worker organizing, and three internal factors, government structure, decision making process, and relations between city and state, that impacted the pathways Uber and Lyft had available to navigate. Importantly, these factors should be understood as mutually reinforcing and on a sliding scale. In other words, rather than comparing cases in a binary way, explaining outcomes by the presence or absence of a feature as is often done (Ragin and Amoroso 2011), I show how a particular combination of levels of each feature resulted in an outcome that was more or less favorable to the firms (see figures 6, 7 & 8 for the Austin, Chicago and New York cases, respectively). The timing slider is organized by date. The furthest left position represents the emergence of Uber and Lyft in U.S. markets (2011), the furthest right represents the moment of growing discontent with the gig economy in 2018. The worker organizing slider is denoted with left representing no worker organizing and the right representing high levels of organizing observed. Governance structure is marked by institutional design features. The left side of the slider represents basic or bare bones institutional structure, such as only city council as the forum through which decisions are made. The slider moves to the right in cases where institutional arrangements were more bureaucratized and specified. Democratic decision making processes align on the left side of the slider when there were low levels of democratic features observed in the case, such as limited avenues for public participation (i.e., meetings held during daytime hours). The slider moves right as higher levels were observed (i.e., meetings held during afternoon and evening hours). Finally, the state/city politics conveyed on a sliding scale would be left justified if there were high levels of division such as state preemption and move to the right if there were low levels of division. A few

important notes on this model: First, the model is used to articulate the conditions under which firms are able to effectively navigate around and through state institutions. Likewise, the model articulates the conditions for impeding the navigation and manipulation of firms. Second, this model was developed based on the particular cases in this study in comparison and therefore may not be transferable to other cities. For sake of clarity, the sliders can be either left justified, centered or right justified. This is a conceptual model and should be used as a guide rather than rigid boundaries for presence or absence.

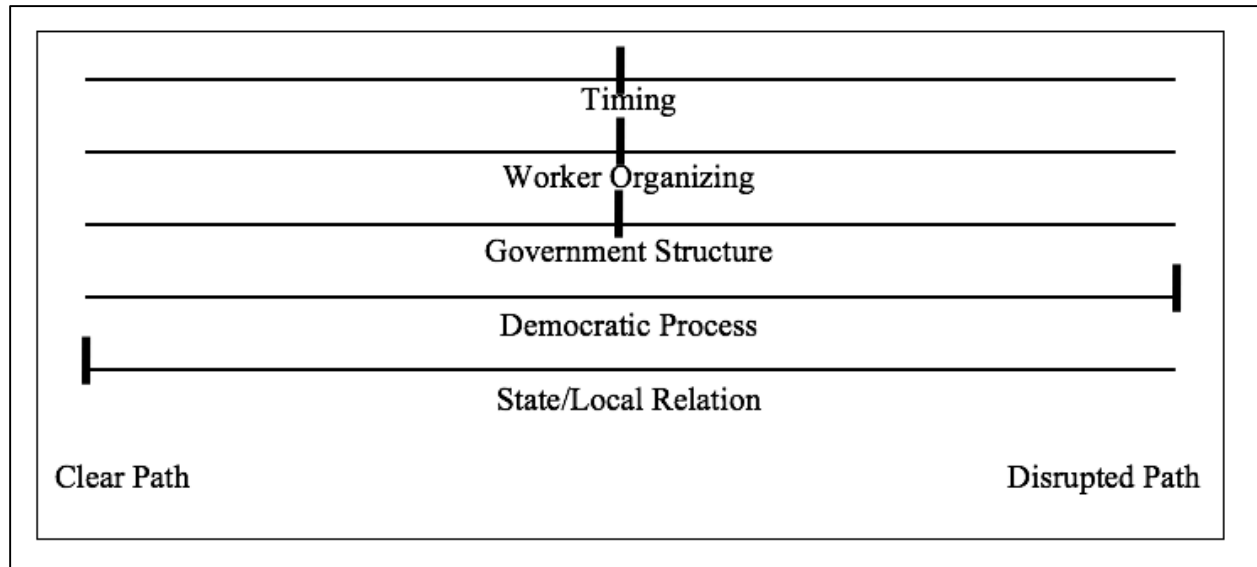


Figure 6. Austin Model

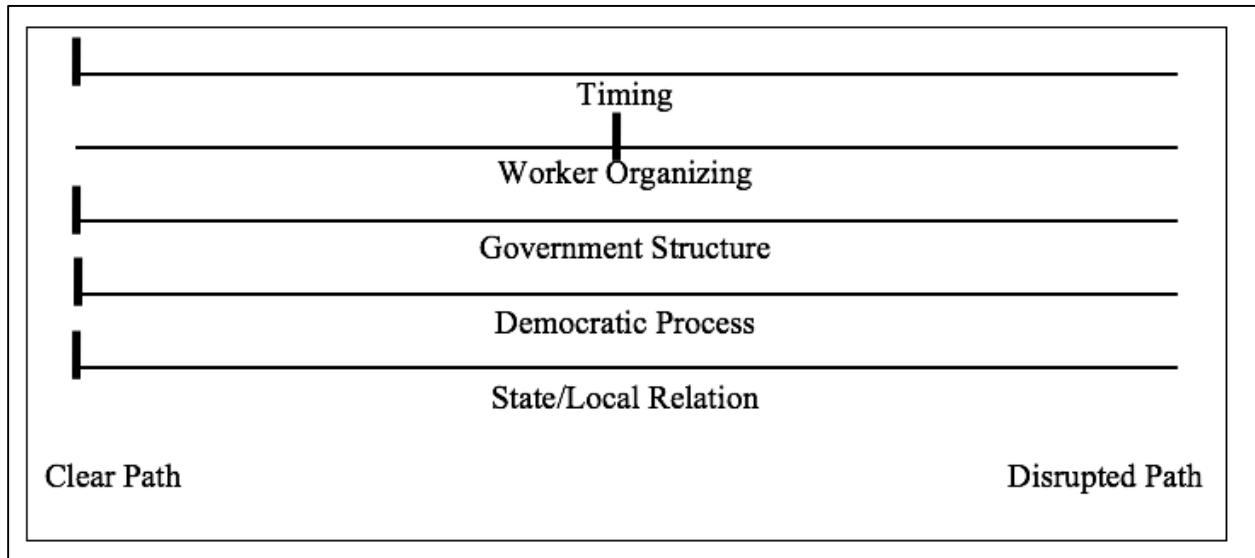


Figure 7. Chicago Model

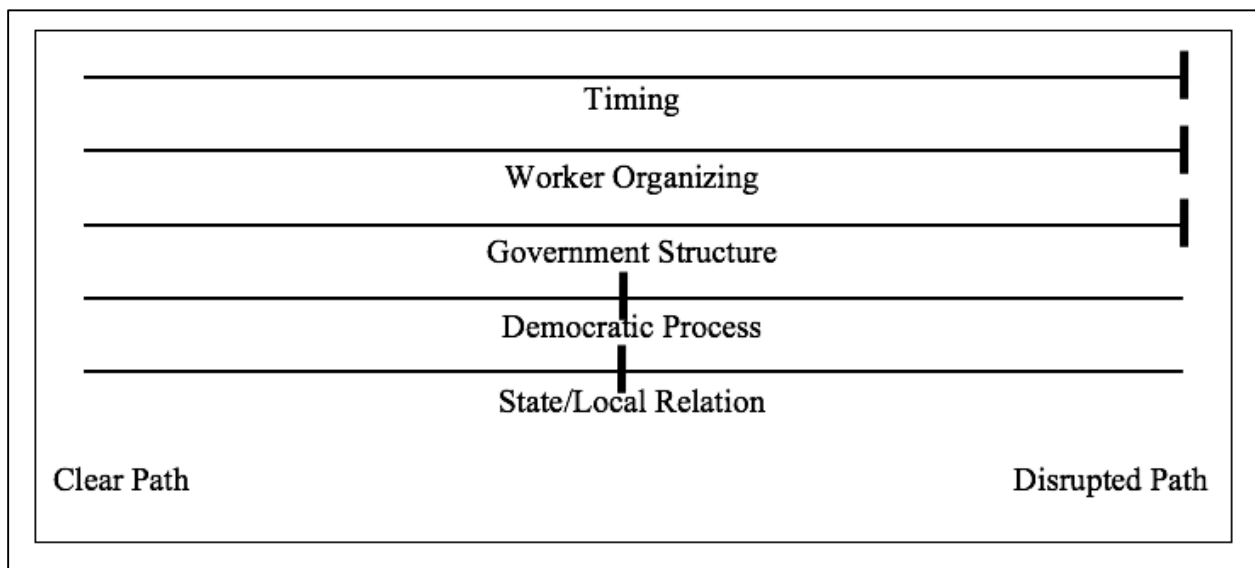


Figure 8. New York Model

Business Interests and Varying Levels of the State

Interrogation of the relationship between the state and capital is rooted in the foundations of sociological thought (Marx 1978 [1932]; Weber 1948). Theories of the state throughout

political sociology work to parse apart political power in relation to capitalism (Block 1977; Clemens 1997; Jessop 2016; Skocpol 1979; Wright 1978). Historically, debates about the influence of elite power (Mills 1956; Domhoff 1967) contrast pluralist explanations suggesting a greater dispersion of influence across interest groups in political decisions (Dahl 1961; Truman 1951). However, contemporary studies on business interests overwhelmingly demonstrate the lopsided nature of government decision making in favor of the firm (Anastasiadis 2014; Lamberg et al 2004; Lord 2000; Walker and Rea 2014; Walker 2009). This research has focused on corporate lobbying (Anastasiadis 2014; Walker 2009) changes in political strategies (Lord 2000) and influence over political outcomes (Judd and Simpson 2003). Much of this literature focuses on the relationship between corporate interests and the federal government leaving questions about the relationship between firms and subnational states.

Urban scholars studying the neoliberal city mark a shift in this broader nation-state focus. As state power devolved to the local and cities became sites of “actually existing neoliberalism” where the city became the locale for policy, product and accumulation experiments (Brenner and Theodore 2002), the relationship between businesses and the local state became a renewed concern for urban scholars. Studies on the neoliberal city centralize the role of corporate interests in development processes and fiscal measures (Hackworth 2007; Judd and Simpson 2003; Reese and Rosenfeld 2002; Swyngedouw, Moulaert and Rodriguez 2003). For example, in his book *The Neoliberal City*, Jason Hackworth (2007) describes how uneven development is accelerated by the turn from American cities to the real estate industry as a way to improve local economies. Likewise, Weber (2002) argues that the flip side of development is the *creative destruction* associated with the spatialized capital accumulation processes embedded within urban

redevelopment. She argues that local states play a growing role in the devaluation of properties across cities in order to facilitate increased value extraction (Weber 2002).

Cities have increasingly taken on the burden of regulation as power has been devolved to the local. Local governments, pitted in competition with one another for industries, have been shown to make policies that favor the development interests of firms. Whether it is investing in the redevelopment of the urban core (Hackworth 2007), attracting global industries (Sassen 2001) or tourism (Judd and Simpson 2003), cities have been shown to make decisions that benefit businesses. Business leaders have been shown to opportunity hoard (Tilly 1999) and obligation hoard, where business actors take on social responsibilities (Clemens 2010). Yet, how this process is facilitated or what features of the regulatory process enables business actors is missing from this analysis. Drawing attention to exclusionary decision making processes, Eve Ewing (2018) shows how decisions on school closures in Chicago were made behind closed doors. While there were public forums, the process for community involvement was limited and controlled by government officials, shutting down community testimony at the behest of decision makers (Ewing 2018). These insights point to something within the decision-making process itself as limiting citizen input. Research on the design of rule-making institutions shows how particular configurations can enhance civic participation (Fung 2006; Skelcher and Torfing 2010).

Yet, throughout both political and urban sociology, the literature on the relationship between firms and the state leaves several important areas underdeveloped. First, are questions about how firms move across levels of the state to advance their interests. As Swyngedouw (2011:3) has argued, urban governance in the 21st century shifted from localized regimes to

“operating through a range of geographic scales, and mobilizing a wide assortment of social actors.” In other words, urban politics extends beyond the site of the city to include extra-local actors, institutions, and social relationships (Macleod 2011). Similarly, Brenner (2019:235) explains, local contexts represent “nationalized interscalar constructs rather than internally generated products of place-based mobilizations, coalitions, or alliances.” Therefore, the role and configuration of differing scales of state power shape that of the city. Investigating how firms maneuver between, across and through to advance their interests is crucial for understanding state-firm relations. Second, are questions about the various mechanisms firms use to advance their interests. While research points out the impact of lobbying and political action, the institutional configurations of the state have been less investigated. This chapter demonstrates how a combination of a particular set of features related to the decision-making process show the conditions for enabling or constraining the pathways available for firms to shape regulations across and within state spaces.

Externalities

Two primary factors external to the regulatory process impacted the regulatory pathways available for Uber and Lyft to navigate: Timing and worker organizing. Timing was crucial to the regulatory process for several reasons including the amount of support Uber and Lyft were able to garner from both drivers and the public. As their support dwindled, so did their ability to shape regulations. The timing is not only about how early regulations were put in place but interacts with the other factors described throughout this chapter. Temporality is the backdrop over which regulatory decisions get made and in part shape the regulatory imaginations of decision makers. The other factor external to the regulatory process that impacted the regulatory

outcome for Uber and Lyft was worker organizing. In New York where there were many direct actions and strong worker organizations, decision makers felt pressure to respond to their interests. Comparatively, in Austin and Chicago where worker organizing was still observed but was fractured and did not align with key timing, regulators were hesitant to buck the popularity of Uber and Lyft in favor of workers.

Timing

Uber and Lyft entered the markets in Chicago and New York about two years prior to entering Austin. In the early days of the gig economy, the novelty of requesting services through an app on your phone was quickly considered by scholars, journalists, users and service providers alike. Some lauded the service describing the revolutionary characteristics of the “sharing economy” (McLaren and Agyeman 2015), others discounted the idea of gig work as a permanent feature of the labor market (Fleming, Rhodes and Yu 2019), and yet others highlighted gaps between worker and user support with growing critiques of the platform (Crouch 2019; Rosenblat 2018). Since the rollout of Uber and Lyft there have been several consumer movements calling for users to delete their apps.¹ Likewise, as TNC companies have reduced the take home pay and bonus structures from the early days of service provision, drivers have become increasingly frustrated with their labor arrangements (Veen et al. 2019). While there is not exactly a rise and fall of TNCs, there is a growing discontent that has prompted increased organizing around gig worker rights in recent years (Woodside, Vinodaraï and Moos 2021). While these organizing efforts reveal to be fractured hampering their effectiveness, the

¹ Isaac, Mike. January 31st, 2017. “What you need to know about #deleteuber.” *The New York Times* (<https://www.nytimes.com/2017/01/31/business/delete-uber.html>).

timing of regulatory formation at the local level mattered in developing regulator's approaches over what rules to implement.

The national image of Uber and Lyft as genius tech unicorns began to shift around the 2016 presidential elections (Isaac 2019). As with regulatory manipulations, Uber led the charge of shifting the image of TNC companies from lauded to reviled. TNC companies like Uber and Lyft had become very popular very fast and as a result garnered interest from politicians as political talking points. Recall that Uber was used during the gubernatorial election in Illinois by candidate Bruce Rauner to suggest that his incumbent democratic opponent was anti-innovation. In 2016, republican presidential candidates used Uber as evidence of the success of *laissez-faire* principles.² Marco Rubio, then a republican candidate for the presidential primaries, had recently published a book with a chapter titled *Making America Safe for Uber* heralding similar sentiments (Rubio 2015). Conversely, Hillary Clinton, then democratic primary candidate for president, warned of the consequences to the growth of on-demand labor such as the gig-economy at various points throughout her campaign.³

The first consumer movement to stop using the Uber app, or #deleteuber as the movement became known, left consumers questioning the gig economy. The campaign came in response to Uber's increased fare charges after the New York Taxi Workers Alliance called on taxi drivers to stop service at airports in early 2017 as a result of an executive order passed by then President Trump. One of President Trump's first actions in office was to sign an executive order banning immigrants and refugees from certain countries from entering the U.S. The

² Mascaro, Lisa. July 23rd, 2015. "For 2015 race, a lot rides on 'gig' economy." *The Chicago Tribune*.

³ Ibid.

NYTWA organized the work stoppage to New York airports causing extreme travel disruptions in protest of the executive order. At the same time, Uber triggered their “surge pricing” feature, which charged an inflated rate for rides during periods of increased demand, and continued servicing the airport. Customers became furious, seeing this action as both Uber’s indictment of Trump and main motive of profit.⁴ Moreover, Travis Kalanick, then CEO of Uber held a position on an advisory council for President Trump which also angered the user base.⁵ Shortly after the #deleteuber campaign, Susan Fowler, an Uber software engineer at the time, released a blogpost exposing an array of sexual harassment and “bro” culture within Uber (Isaac 2019). Amid other issues including backlash over targeted marketing attacking politicians, accusations of stealing software, operation “greyball” which was a program used to allude regulators, CEO Travis Kalanick resigned in the summer of 2017⁶ (Isaac 2019).

Following consumer frustrations with Uber, articles began circulating concerning the working conditions and pay of drivers across gig platforms. *The Guardian* reported on the various “gamification” strategies that gig apps used to lure drivers onto the road, giving them points (rather than pay bonuses) if they reached particular milestones as if they were in a video game (Mason 2018). Likewise, *The Guardian* published another exposé of an Uber and Lyft driver who made \$3.75 an hour as both companies prepared for their initial public offerings (IPO) in 2019 (Sainato 2019). An Op-ed was published in *The New York Times* likening the “side hustle” narrative sold by Uber and Lyft to a con (Quart 2019) as well as numerous other

⁴ Isaac, Mike. January 21st, 2017. “What you need to know about #deleteuber.” *The New York Times*.

⁵ Issac, Mike. February 2nd, 2017. “Uber CEO to leave Trump advisory council after criticism.” *The New York Times*. (<https://www.nytimes.com/2017/02/02/technology/uber-ceo-travis-kalanick-trump-advisory-council.html>).

⁶ Isaac, Mike. June 21st, 2017. “Uber Founder Travis Kalanick Resigns as C.E.O.” *The New York Times*.

pieces across media outlets as varied as *Salon*, *City Lab*, *Vice News*, *Vox*, *Jacobin Magazine* and *Eater* drawing attention to the plight of gig workers.

A common theme derived from my conversations with gig worker organizers was the “honeymoon phase” of driving for Uber or Lyft. This was explained as the period where drivers become enamored with the possibility of money that could be made working on the platforms. Yet, after just a short period and a few calculations including vehicle maintenance, taxes and other employment related costs, drivers realized that wages were much lower than initially perceived. Not only was there a honeymoon period for individual drivers as they learned the ropes of driving for Uber or Lyft, but in the early days of ride hailing, drivers did actually make more money. Throughout 2014 and 2015, Uber and Lyft began slashing their fares in a competitive fight to gain more service providers and riders.⁷ *Forbes* reported that this price reduction resulted in a cut from 20% to 5% commission for drivers. The argument from Uber and Lyft was that lower fares for customers meant more trips for service providers and therefore more money. Likewise, bonuses were offered on a temporary basis to lure drivers from Lyft over to Uber and vice versa.⁸ When the bonuses ended and the commission rate cut set in, tumult within and across ride-hail platforms arose.

On top of issues related to gig work, customers had begun to experience a variety of safety issues which contributed to the disenchantment of both Uber and Lyft. In particular, there

⁷ Whitney, Lance. January 9th 2015. “Uber trims prices in 48 cities to drum up more rides.” *Cnet.com* (<https://www.cnet.com/tech/mobile/uber-trims-prices-in-48-cities-to-drum-up-more-rides/>).

⁸ Huet, Ellen. January 9th, 2015. “Uber’s Clever, Hidden move: How its latest fare cuts can actually lock in its drivers.” (<https://www.forbes.com/sites/ellenhuet/2015/01/09/ubers-clever-hidden-move-how-fare-cuts-actually-lock-in-its-drivers/?sh=1594b9244f1a>).

were many vehicle accidents, sexual assaults, and even murders that took place while Uber or Lyft service was in process. During the time period of 2017 to 2019, a safety report on Lyft indicated that there were 10 fatal assaults and over 4,000 total assaults that took place when using the platform services.⁹ In 2018, Uber reported that there were 3,045 sexual assaults which occurred during US rides.¹⁰ Likewise, one study from the *Chicago Booth School of Business* showed that the arrival of ride-hail was associated with a 3% increase in traffic fatalities.¹¹ Many of the previously mentioned examples were publicized nationally, particularly in response to Uber's marketing that they were a safer alternative to taxis. From 2017 to 2019, the framing of Uber and Lyft as ideal tech startups for users and providers alike quickly shifted. This shift was reflected in the support for these companies throughout the regulatory process in Austin, Chicago and New York. For the sake of clarity, I will explain each in turn with a concluding paragraph pointing out the key comparisons.

New York

Uber and Lyft appeared first in New York out of all three cases in 2011. As explained in chapter 4, the preexisting framework for black car operations were immediately applied to TNCs leaving fewer opportunities for Uber and Lyft to shape regulations, comparatively. In 2015 when

⁹ Hawkins, Andrew. October 22nd, 2021. "Lyft's first-ever safety report reveals over 4,000 assaults between 2017-2019." *The Verge* (<https://www.theverge.com/2021/10/22/22740609/lyft-safety-report-2017-2019-physical-sexual-assault-death>).

¹⁰ Conger, Kate. December 5th, 2019. "Uber says 3,045 sexual assaults were reported in U.S. rides last year." *The New York Times* (<https://www.nytimes.com/2019/12/05/technology/uber-sexual-assaults-murders-deaths-safety.html>).

¹¹ Frellick, Marcia. July 9th, 2019. "App-based services associated with 3 percent increase in fatalities, Booth study finds." *University of Chicago News*. (<https://news.uchicago.edu/story/ride-hailing-services-may-be-driving-traffic-deaths>).

Mayor de Blasio moved forward with proposals to cap the number of vehicles on the road, strong support for Uber and Lyft could be observed in TLC meetings. Meera Joshi, the former commissioner of the TLC explained in our interview that this shifting support of TNCs took place from 2015 to 2018. “In 2015 they were supportive, by 2016 you couldn’t find that same support anymore and by 2017/2018 support was completely gone.” This dwindling of support by service providers and end users followed a several year period of bad publicity and declining fares. Uber and Lyft had a lot of public backing in the early years likely making media stunts such as the “de Blasio feature” in their app more effective. As customers watched the political battle between Albany and New York unfold, the narrative claiming the Mayor was attempting to get rid of Uber was easily sold to customers who could quickly click the in-app features to contact their local representatives to voice their opposition. Yet the more Uber used this feature and the more bad publicity the company received the less effective the advertisements appeared to become in the New York case, especially as they were coupled with growing driver discontent. It is important to note that these direct marketing strategies are certainly still deployed in campaigns to avoid particular regulations as was the case in the recent ballot campaign measure in California over gig worker classification.¹²

Relatedly, as a result of the successful campaign on Uber and Lyft’s behalf to avoid vehicle caps in 2015, wages were falling for all livery industry drivers across New York. When Uber and Lyft first emerged on the market their fleet numbers were low and while taxi drivers did complain about a slight decline in street hails, the full weight of their organized opposition

¹² Hawkins, Andrew. November 4th, 2020. “Uber and Lyft had an edge in the prop 22 fight: Their apps.” *The Verge* (<https://www.theverge.com/2020/11/4/21549760/uber-lyft-prop-22-win-vote-app-message-notifications>).

did not come until 2017. As Uber and Lyft continued to expand the number of vehicles on the road, flooding the market, pay for TNC drivers declined. Ironically, Uber and Lyft's push to capture market share through saturation drove down individual wages which resulted in organized calls for baseline wages across the taxi and TNC industry. The demand for baseline wages and the second attempt for vehicle caps emerged at the same time as a frustrated populous over the behavior of Uber, in particular. Likewise, worker organizing demanded that the wage raise and vehicle caps could not wait any longer. Although Uber and Lyft had regulations from the beginning of operation in New York, their preexisting framework and the authority and practice of the TLC to review and revise operating rules enabled changes to be made. For these reasons, the slider on the timing scale is fixed in the right justified position. The temporal condition in the New York case set a primed backdrop for disrupting firm influence. This was not the case in Chicago and Austin.

Chicago

Uber and Lyft arrived in Chicago in 2011, shortly after their emergence in the New York market. Yet unlike New York, Uber and Lyft were not permanently regulated within preexisting frameworks. Instead, they temporarily functioned under black car regulations before convincing regulators of their "unique" mode of operation that necessitated new rules. This persuasion aligned with the rollout of the peer to peer model (or UberX) of ride hailing in 2013. As Uber and Lyft maneuvered around legal cases filed by the taxi industry, political campaigns and opaque regulatory processes, they successfully secured permanent regulations by the city of Chicago in 2014. At this time, drivers and customers were still in high support of the companies

and the scandals that would later scar Uber had not yet surfaced. For example, in app blasts to fill out change.org petitions against regulations yielded 90,000 emails to regulators.

Importantly, Uber strategically used the 2014 gubernatorial election to avoid statewide rules they deemed prohibitory. Spokespeople for Uber consistently used the *laissez-faire* narrative that if Governor Quinn did not veto the statewide bill then he was creating an anti-innovation state. The opposing GOP candidate used the opportunity to laud the services of Uber, even publicizing one of his rides to garner support of users of the then incredibly popular platform. Likewise, the city level ordinance moved through city council swiftly, passing just after the state level legislation. This impeccable timing allowed Governor Quinn to point to the unnecessary nature of statewide rules since Chicago had just created their own operating ordinance for transportation network companies.

Given the swift approval of TNC rules in Chicago which Uber and Lyft deemed favorable, the negative view of the platforms had not developed outside of the taxi industry. Since 2018, numerous gig worker organizing groups have formed lobbying for increased protections, open lines of communications between companies and drivers, and benefits associated with traditional employment. The four-year gap between the development of these groups and permanent regulations made retroactive rule making a challenge, particularly situated within the structure and process of Chicago government. Gig organizers have reported many challenges in convincing decision makers to change the rules for Uber and Lyft. This is not to say that changes to the TNC ordinance in favor of workers is impossible. In fact, there was a wage ordinance introduced to city council in the summer of 2021. While the ordinance is currently stalled in council, this is the first time the conditions of drivers have been a central

focus of TNC rules, marking a win for gig worker organizers. However, changes to the ordinance that work to support drivers in the TNC *and* taxi industry are likely too late as the taxi industry has drastically shrunk. When TNCs entered the market in 2014, there were 6,999 medallions. In 2018, it was reported that nearly half of those medallions were either in foreclosure or sitting idle.¹³ The timing in the Chicago case is left justified on the model, meaning the temporal conditions for tampering the regulatory manipulations of firms was not met. Instead, the timing enabled firm interests.

Austin

Although Uber was featured at the 2011 South by Southwest festival in Austin, their operation in that market did not come until 2013. Throughout the several year process of developing regulations there was considerable support from the public and Uber drivers. Opposition to Uber and Lyft stemmed primarily from the taxi industry. Early on, supporters could be easily spotted in the audience of council meetings wearing shirts adorned with Uber or Lyft logos. Testimony that favored TNC operation came from more varied interests compared to those in opposition. However, as time went on and the negotiations over permanent operations continued to be a central focus of council's attention, full support of Uber and Lyft seemed to dwindle. Just preceding the ballot initiative, Uber launched the "kitchen feature" in their app and a recall petition with unknown origins was circulating the city. While the national points of contention with Uber had not yet been revealed, Austinites seemed fed up with the bullying tactics used by Uber and Lyft as they voted in favor of fingerprint background checks, knowing

¹³ Channick, Robert. September 4th, 2018. "With nearly half of Chicago cabs in foreclosure or idled, cabbies' hopes riding on New York-style ride-share limits." *The Chicago Tribune*.

it was likely the firms would leave the market. While it is impossible to say whether or not a ballot measure against fingerprinting would have been successful a year or two earlier, it does seem that Uber and Lyft pulled one too many tricks out of their hats. I asked CM Tovo why she thought the ballot measure results disfavored Uber and Lyft and she explained that the local political culture in Austin is one of sovereignty. Her sense was that locals became disenchanted with the attempts of tech firms to dictate the terms of operation in their city.

Interestingly, the election year in the Austin case worked against the interests of Uber and Lyft. When Uber and Lyft entered the Austin market they had won the favor of several council members through elite networks. However, when the council restructured at the beginning of 2015, the connections Uber and Lyft had made were replaced by new representatives. Additionally, as part of the restructuring, Austin council developed special committees to provide more dedicated attention to particular issues. It was through the mobility committee that the Taxi Drivers Association of Austin was able to highlight the declining wages of taxi drivers and push for a fourth franchise as a co-op, the first of its kind in the city. This brought questions about fairness in regulations to the forefront of the mobility committee's agenda as they moved to develop permanent regulations for Uber and Lyft. In the case of Austin, timing is marked in the middle of the model. While the complete favor of Uber and Lyft had not been lost by the nationwide customer and service provider discontent, the regulations did come long enough after the initial allure of the apps faded.

The timing of regulations on Uber and Lyft is just one condition in a multitude of conditions which impede or enable the power of firms. In the case of Chicago, Uber and Lyft won their preferred regulations before the reputation of gig firms shifted from brilliant Silicon

Valley startups to problematic platform behemoths. The timing of the gubernatorial election in Illinois also gave Uber a unique pathway to tout their *laissez-faire* and anti-innovation narrative, shutting down statewide legislation. Comparatively, while Uber and Lyft emerged in Austin prior to sullied platform images, the time they spent working to shape regulations revealed their underlying nature as corporate agitators. Their pathway was in part disrupted by the drawn-out timeline of regulation. In New York, Uber and Lyft emerged early but began operating under existing regulations, an exception to other cities nationwide. The early entrant timing mattered less in this case because of the initial approach by regulators. Timing becomes key, however, for when organizers make and win the push for improving the conditions for drivers across the ground transportation industry. Therefore, it is comparatively revealed that timing is essential for worker's and to curbe the power of firms. While retroactive regulations are often difficult to pursue and implement, these routes are not impossible as New York demonstrates. Chicago has the opportunity to do something similar with the recently introduced pay floor ordinance. Austin has a much more difficult challenge ahead, given the statewide ruling of independent contractor status of ridee-hail drivers.

Worker Organizing

Worker organizing appeared in all three cases. In fact, the NYTWA was present across Austin, New York and Chicago, although only operates in the capacity of a worker center in New York. IDG was in New York and has recently expanded in Chicago. Likewise, in Austin, the Taxi Driver's Association of Austin, pushed for and won the development of a worker owned co-op as the fourth taxi franchise. Yet worker organizing was effective in obstructing the pathway of firms in only two of the three cases and their success was varied. Revealed through

comparative analysis, the effectiveness of worker organizing may be contingent on timing and degrees of features internal to the regulatory process.

Worker organizing was no doubt the most effective in the New York case. The New York Taxi Workers Alliance had been a well-established presence within the rule making process since 1998 and led the charge pushing for vehicle caps and baseline wages. While the political leadership of New York and the TLC changed various times over the years, the NYTWA remained under the consistent direction of Bhairavi Desai. Their impact on both baseline wages and vehicle caps was due to their large membership base, and long history and knowledge of drumming up support over particular issues through testimony and direct actions such as protests. As Uber and Lyft presented threats to the taxi industry in cities across the United States, the NYTWA deployed representatives on their behalf. In Chicago, the NYTWA was in the process of organizing taxi drivers with the United Taxidivers Community Council (UTCC), a grassroots group in Chicago focused on injustices experienced by taxi drivers. Attempts to collaborate ultimately fell apart as the American Federation of State, County and Municipal Employees (AFSCME) came in during the same time to organize taxi drivers, ultimately fracturing organizing and forcing the NYTWA to leave Chicago. AFSCME, a much more politically and economically powerful union, formed the group Cab Drivers United in Chicago.¹⁴ Although there were reports that Cab Drivers United, with the backing of AFSCME, was working at the state level on ride-share legislation, neither their influence or presence was observed in this study.

¹⁴ Lutfallah, George. June 14th, 2014. "Cab Drivers United has serious backing." *The Chicago Dispatcher*. (<https://chicagodispatcher.com/cab-drivers-united-has-serious-backing/>).

The NYTWA also had presence in the Austin case where Biju Mathew testified on behalf of the Taxi Driver's Association of Austin which was behind the co-op formation. The NYTWA was not there to organize around Uber and Lyft regulations, but instead went to share the success of the NYTWA as evidence in favor of the taxi co-op. The TDAA put pressure on rule makers through testimony, direct actions and used the key timing of Uber and Lyft regulatory development and expiring franchise agreements to win franchise status. The case for fairer distribution of profits was clear in part because it could be juxtaposed to the increasing leases from taxi franchise owners and the decrease in street hails after the emergence of Uber and Lyft, all of which resulted in declining wages for drivers.

The impact of IDG is a bit more complex as their development in 2016 in association with Uber complicated their role in the regulatory process. IDG has since expanded to Chicago and other cities divorced from gig firm rule but still promoting the same narratives derived from their formation under Uber. As described in earlier chapters, IDG functions under a worker center model, organizing, providing services, and resources to drivers. They continue to promote the position to remain independent contractors rather than employees which works in the benefit of TNC firms. Yet even under the watch and funding of Uber in New York, IDG supported baseline wages bringing dozens of people to testify and even more to stand in support of the issue during commission hearings. While IDG in New York did not support vehicle caps (an issue Uber was most opposed to), their testimony on declining wages, driver deactivations and overall exploitations from TNC companies supported the position taken by the NYTWA.

In Chicago, IDG emerged well after the TNC ordinance was implemented. Much like other gig worker organizing in Chicago, their formation trailed the several years of turmoil

experienced by gig companies. After 2017, many more gig worker groups began to sprout up across the country. In Chicago gig worker organizing has been decidedly fractured with tensions between taxi drivers and gig workers which is unlike New York where the NYTWA organized taxi and TNC drivers together. Likewise, there has been fracturing across gig worker organizing groups particularly around the issue of worker classification. For example, the People's Lobby has been working on initiatives for employment status for gig workers. Comparatively, IDG continues to organize for what has become known as independent contractor status plus. This designation would keep TNC drivers as independent contractors but provide them with some of the benefits associated with traditional employment. Gig companies have been in support of this designation and against employment classification evidenced in the recent California case, proposition 22.¹⁵ Beyond the fractured organized efforts by gig workers in Chicago, the movements lagged behind regulations. Therefore, getting decision makers to change rules through difficult to access processes presented real challenges. Both folks from IDG and the People's Lobby discussed with me that a lot of "research" needs to be done to even figure out the proper channels to get in touch with the right decision makers. Additionally, when meetings are held they often lead nowhere. While these groups continue to put pressure on local leaders, the various narratives make ordinance proposal and passage difficult.

On the scale of worker organizing, New York would be right justified due to their high impact on regulatory outcomes which favored workers and disrupted firm interests. Austin

¹⁵ Hussain, Suhauna, Johana Bhuiyan and Ryan Menezes. November 13th, 2020. "How Uber and Lyft persuaded California to vote their way." *The Los Angeles Times*. (<https://www.latimes.com/business/technology/story/2020-11-13/how-uber-lyft-doordash-won-proposition-22?fbclid=IwAR3tFqZikWXxhcJf3z55SzBhy7oCagPJCGpZdYqAcxFGMIV8fXUqUYaZTDc>).

would be centered since they did have tangentially related worker organizing from the TDAA. The TDAA push for franchise recognition drew attention to the lopsided nature of rules for Uber and Lyft compared to the taxi industry. This led council to move forward with fingerprint background check rules. Since these efforts were not directly focused on improving worker pay or conditions I locate worker organizing in the center for the Austin case. Last, due to the highly-fractured nature of gig and taxi driver organizing, their placement on the model is left justified in the Chicago case. While it appears that the level and impact of worker organizing is shifting in Chicago, throughout this study their presence was not an impediment to Uber and Lyft.

Internal Factors

Within the governance process there reveals to be three features when at high levels and combined with the external features can impede regulatory manipulation by firms. Of course, this then means when low levels across the model are present, this set of features creates clearer routes for firm maneuvering. Government structure, democratic process and state/city relations are the determinant features internal to decision making. Here I am considering the levels based on the presence or absence on a sliding scale. For government structure to fade towards the right, there needs to be dedicated departments, rules, rule makers, and legitimated authority. Democratic process is based on the potentiality for citizens and citizen groups to participate in rulemaking in meaningful ways including the frequency of meetings or hearings, how information is conveyed to the public, how records are held and the impact of participation. Cases with greater levels for potential political participation and more transparent rule making processes are right justified and those with less are left justified. Finally, state/city political relations move toward the right when the political ideology and actions of the state and city

align. Conversely, the fader moves left when conflictual relations result in clear pathways for firms, such as preemption. The following sections describe these features comparatively in each case.

Government Structure

Each of the three cases in this study have a different government structure which impacted rule making. Likewise, each city has a different manner of regulating livery vehicles. Austin began regulating through the full city council but developed advisory committees as a result of government restructuring in 2015 which took over the bulk of ordinance development and citizen and interest group testimony. Chicago has a variety of departments from which ordinances on transportation may originate, however, ordinances themselves are amended and conferred by committees and then voted into law by the full city council. The Business Affairs and Consumer Protection department then enforces those rules. New York's Taxi and Limousine Commission is in charge of rulemaking and enforcement for all ground transportation with the exception of medallion expansion and vehicle caps. These three differing configurations enabled or constrained pathways for firm maneuvering in each case. Likewise, the legitimated authority of these different structures impacted early entrant behavior by TNC firms.

When TNCs entered Austin in 2013, the city council had seven members and all ordinance development was facilitated by the full council. TNCs built relationships early on with city staff and council members. In doing so, as regulations were debated during council meetings, TNC representatives were relied upon heavily to inform amendments on the Dias. Once city council restructured and ordinance development became the responsibility of newly formed committees, the relationships built with city council members were no longer a primary

pathway for regulatory manipulation. Although there were still council members who favored TNCs, the committee development created a more specified forum for ordinance development which enabled more democratic participation (more on this in the next section). The expanded structure increased the capacity of officials which to some extent hindered the efforts of TNCs at the local level. Likewise, Austin has public ballot measures as a feature of rulemaking. With enough petition signatures, an ordinance can be placed on the ballot and become law through a majority ballot measure vote. This, of course, was the case with fingerprint background checks. This feature does not exist as part of either New York nor Chicago's rulemaking. Compared to New York, Austin's committee structure was still lacking in authority and power as many of the aspects of governance were still debated in the full council sessions sometimes undoing the work of the committees. Compared to Chicago, however, the structure created more opportunities for citizen participation. Therefore, the Austin case would be marked in the center on the scale of government structure. While initially the local state institutional organization favored TNCs as they dominated one of the only forums for ordinance debate, restructuring in 2015 shifted their narrative control off course. The development of the mobility committee provided the dedicated space to hear from transportation industry interests which shed light on many unfair aspects of the TNC temporary operating agreement. This uneven regulation when noted in full council meetings by taxi industry interests prior to the development of committees was easily detracted and disoriented by competing interests. While this process still occurred to some degree after committee development, the dedicated forum hindered this disruptive tactic by firms.

Chicago's government structure enabled firm interests by the highly insular bureaucratization of rulemaking. The city council is tasked with voting on and changing

ordinances. However, ordinances can be introduced by a variety of different departments and are often introduced by the Mayor's office. Ordinances that have the support of the mayor are in some ways expected to be voted on favorably by alders. This changes, to some degree, given the mayoral leadership. When the TNC ordinance was in process, Rahm Emanuel was mayor and was known to command a rubberstamped council (Sites 2012; Felsenthal 2014). Likewise, departments that also enforce the rules can introduce ordinances. In terms of TNCs in Chicago, the Business Affairs and Consumer Protection department handle their operations. They also handle rule enforcement for all of the businesses in the city of Chicago. There is no dedicated transportation arm of the local government. While there is a transportation committee as part of city council, they did not handle taxi nor TNC regulations. BACP is a centralized department under direct report to the mayor's office with the heads of the department appointed by the mayor. The general public has little interaction with the BACP. Moreover, taxi drivers and TNC drivers are relegated to a hotline number when they encounter problems. Well connected firms, however often had a direct line of communication with the mayor or folks at BACP. Recall that during one of the early battles between the taxi industry and TNCs, a representative from Uber said that while the taxi industry was in court, they would be meeting with the mayor. Similarly, former commissioner Rosemary Kimbrel explained to me that she was told by the mayor's office what regulations were going to be introduced. The structure of government in Chicago would be marked as left justified on this scale, given that rules are developed in the shadows and firms have more in routes to shape ordinances.

Comparatively, New York has the most favorable structure for drivers out of all three cases. The Taxi and Limousine Commission makes and enforces rules for the livery industry in

New York. Commissioners are appointed by the mayor, however, there are several deputy positions which are voted on by city council. The TLC has a focused and dedicated responsibility to craft ordinances related to the livery industry. The TLC's authority has long been established in the city of New York given their formation in 1971 (Bagchi 2018). When TNCs entered the market in 2011, they were immediately treated as a black car base – meaning they had to fall under the existing rules for black cars (for-hires). While TNC companies attempted to build relationships as a mechanism to alter rules, established laws prevented that strategy from undermining existing frameworks. Likewise, the structure inherently lent itself to more democratic rulemaking. As part of the institutional design, every two years, hearings are held to assess fares and conditions of the livery industry. The hearing on April 6th, 2017 in particular highlighted the extreme precarity of drivers as a result of unfettered growth by TNCs. While there were certainly other ways for the interests of TNC and taxi drivers to be known by local governing officials such as protests, contacting your representatives or putting together petitions, the dedicated forums as part of the structure created an easy pathway for citizen communication. In the model, New York receives a right justified position for government structure because of the aforementioned reasons.

Democratic Process

Long debated in the literature on urban politics is the impact of interest groups in local decision making process (Dahl 1961; Logan and Molotch 1987; Stone 1989). Less debated, is the democratic nature of the process itself which may enable or constrain participation and citizen input. *How* rulemaking happens and its relative democratic proceeding is revealed to be a key factor in the regulation of firms. New York which has features of rulemaking processes that

create more opportunities for participation saw less narrative control by TNCs. Likewise, Austin, which arguably, had the most democratic rulemaking process out of all three cases, had the public vote Uber and Lyft out of the city. Conversely, Chicago had very few features of the rulemaking process that encouraged or facilitated public participation. Of crucial importance in determining how democratic the regulatory process was, are the timing of public meetings, how records were maintained, and the process of providing commentary on proposed rules.

Chicago holds their city council meetings on Wednesday mornings at 10:00am. Committee meetings where ordinance amendments take place are held on weekdays during standard business hours. If you are a concerned citizen or interested party of a particular ordinance and work a standard 9-5 job, you would have to take time off of work in order to provide testimony. There are of course other ways to get the attention of alders, including emailing or circulating petitions, but the effectiveness and reach of these sorts of communications are indiscernible. TLC meetings in New York, like Chicago, are held during the day and present some of the same issues that Chicago experiences. The timing of these meetings then were prohibitive and exclusionary, privileging interests that had relationships built with representatives or departments and those who were able to show up to the daytime meetings to voice their input. Austin, on the other hand, begins their council meetings in the afternoon and will often move agenda items that are of particular public interest until the end of the meeting in order to accommodate the most amount of public participation.

The way records of public meetings are held is indicative of the democratic nature of decision making in each case. In Chicago, until the Covid-19 pandemic, only full city council sessions were recorded and transcribed. Voting on ordinance changes in committee meetings was

done *viva voce* – meaning by voice where only the final vote count was reported. Therefore, council members who argue against or for particular amendments are insulated from backlash from the non-attending public. Comparatively, Austin records and transcribes each piece of the rulemaking process. Every meeting transcription, every vote, every amendment (even the failed ones) and supplemental information submitted by citizens and interest groups considered in meetings are held on record and accessible through the city’s website. An overwhelming amount of information is available through easy to access means for the general public. In New York, the TLC’s records are similarly recorded, transcribed and available for access via the TLC’s website. While they do not share the same supplemental materials with the public as Austin does, their record holding is quite transparent. Transparency reveals to be a crucial feature in democratic decision making as ordinance and rule development behind closed doors tended to favor TNCs throughout this study. While closed door meetings did occur in all three cases, in Austin and New York where testimony and voting happened in clearer view, questions about inequality and the unevenness of rules drew more attention and action. In Chicago, where the regulatory process was obscured, TNCs effectively pushed their agenda forward.

The process of providing commentary and the way in which that commentary is received by decision makers is also a marker of the democratic process. While it is impossible to say to what extent the testimony of certain people or groups impacted the outcome of regulations, the way in which testimonials were handled in the meetings could be taken as indicative of the weight or value they provided in terms of shaping decision maker’s perspectives. While a direct comparison across cases was not possible because of differences in government structure, testimony from the public was observed in each city. I found that Austin, while askew in favor of

TNC interests at the beginning of the process, became more democratic after city council restructured. Prior to the development of committees and the expansion of council, TNC representatives were called on more frequently to weigh in on rulemaking and had their input directly shape amendments made in real time. This practice was not observed for other groups such as the taxi industry. Once restructuring took place, committee meetings enabled more input from the public and seemingly more evenness in the consideration of testimony. In Chicago, on the issue of TNC regulations there were no records of testimony from the public. However, interview data on the governance process as well as review of some recent available committee meetings revealed that testimony from the public was used to either demonstrate support or dissent for a particular ordinance. Questions were rarely asked and changes in real-time rarely made. In the case of New York, changes in real time were not observed either. However, as stakeholders provided testimony, many of the commissioners asked follow up questions that reflected a genuine attempt to understand the perspective of the person testifying. Likewise, commissioners often asked for supporting evidence such as receipts or proof of a violation to be submitted to help inform their vote. Questions were also asked of TNC representatives to clarify their position. Similarly, when TNC representatives would make a claim of anti-innovation or the unnecessary nature of a particular aspect of regulation, TLC commissioners would push back against the representatives.

Therefore, Austin and New York arguably had more democratic processes for public and stakeholder input compared to Chicago. While certainly not a perfect process, the features of meeting times, record keeping and testimony reveal to be the most favorable in Austin after restructuring, followed by New York. Chicago on the other hand, had an arguably undemocratic

process where the public and some stakeholders were informally discouraged from participation. Therefore, Austin would be right justified, New York in the middle and Chicago to the left on the democratic process sliding scale. When these features coalesce into a system where well-connected groups who know the institutional rules and can navigate around the formal ways for providing input to decision makers, democratic processes were undermined.

State/City Politics

Cities in the United States are not given legislative authority through the constitution which results in a variety of issues including power struggles between city and state (Schragger 2016). For firms, this can be used to their advantage when cities present barriers for their local operations (see Kim et al. 2021). As such, the relationship between city and state is a key factor in the set of conditions that enable or constrain firms. As with the other features, this relationship is not merely dichotomous, as observed or not observed. Instead, differing configurations can lead to an alternative set of outcomes. In Austin, the state of Texas was at odds with the city level decision of how best to regulate Uber and Lyft, arguing for less regulations. In Chicago, the state legislature proposed and even passed stricter regulations than introduced by the city but the Governor, responding to election cycle pressures, vetoed the bill. In New York, the state was prepared to undermine city level rules on vehicle caps in 2015, but was never forced to act as de Blasio backed down from the proposal. The states' opposition to New York policies on base line wages and vehicle caps in 2018 was not observed.

In 2016 when Uber and Lyft exited the Austin market, they already had support with the state legislature. Representative Chris Paddie was prepared to reintroduce a bill on statewide rules for TNCs. At the same time, Uber and Lyft had trouble with other cities across Texas and

were eager for a statewide solution. Likewise, Uber and Lyft used the political division of Austin as a democratic city and Texas as a republican state to push forward their agenda. In particular, they drew on the rhetoric and tenants of *laissez-faire* capitalism to make their case and demonstrate allegiance to Texas' broader political agenda making the case that a patchwork of regulations was antithetical to innovation. Conversely, in Chicago, after statewide rules were passed and reported to be some of the strictest in the nation, Uber and Lyft argued that a patchwork of rules was absolutely necessary given the different city environments across the state of Illinois. Of course, the real reason behind this argument was that Chicago proposed more favorable rules compared to the state law. Using an election cycle and political connections, Governor Quinn was convinced to veto the bill on the grounds that Chicago is a home-rule city and state rules on TNCs would disrupt that relationship.

In the case of Austin, Uber and Lyft used preemption and political divisions to their favor. In the case of Chicago, Uber and Lyft used political alignment to their favor to avoid preemption. Comparatively, New York resulted in a brief standoff between city and state, but Uber and Lyft had moved through the proper channels to secure a favorable outcome regardless of how the city voted on lease caps in 2015. de Blasio ultimately backed down. In 2018, this pathway was not available. This is not to suggest that New York and New York State were aligned, but rather tapping in to the city/state relations was not a pathway available to Uber and Lyft for regulatory maneuvering. Austin and Chicago, although different in their city/state relationship would both be left justified given Uber and Lyft's ability to use the nature of the relationship to their benefit. New York would be centrally affixed since the city state relations were used but were later rendered ineffective for their interests.

Conclusion

The sliding scale for disrupting the regulatory disruptors reveals a set of features that create the conditions for a clear or disrupted path for firm manipulation. While comparing across cases on a sliding scale is conceptually messy, this model provides a bit of clarity for the necessary arrangement of features for a particular condition to be met. While no case revealed all right or all left justified positions, the Chicago and New York cases show paths that were the clearest and most disruptive, respectively. Chicago imposed lax regulations on TNCs and this favoring of app administered transportation adversely impacted the taxi industry. Conversely, New York implemented baseline wage protections and vehicle caps which in some ways prevented a complete collapse of the taxi industry. Austin, after battling with both TNC firms and the state of Texas, lost their sovereignty over ground transportation.

Cities are scales at which social, political, and economic arrangements are made and remade (Brenner 2019). While it would seem that firms would simply approach the regulatory scale that is most likely to align with their interests politically, often skipping over the city, in this case, Uber and Lyft used a decentralized approach expanding at the city level. This chapter reveals empirical evidence to Brenner's (2019) theoretical claims that firms maneuver around and through various pathways to achieve their goals. Firms influence policy, development, and regulatory decisions for a variety of reasons and in different ways (Jenkins, Leicht and Wendt 2006; Judd and Simpson 2003; Quadagno 2005; Reese and Rosenfeld 2002; Walker and Rea 2014). For example, Quadagno (2005) argued that well-connected stakeholders such as the American Medical Association, insurance companies and employer groups are the reason why the United States does not have national health insurance. Another example is the American

Legislative Exchange Council which has successfully lobbied on numerous issues related to labor rights, including unionization and minimum wage laws at state levels (Kim et al. 2021). In local decision making when business interests are prioritized, it is in part because the bulk of input on regulations come from the entity or entities that are being regulated (Crow et al. 2017). Insights that Uber and Lyft shaped regulations are not novel nor surprising. Yet, *how* Uber and Lyft navigated the different contexts, learning the specificities, leveraging particular narratives, exploiting structural and processual democratic vulnerabilities is novel. Their function as regulatory disruptors, works to upend existing rules and undermine industry competition. The model developed in this chapter shows a set of features that create the conditions for either enabling or constraining the pathways for this regulatory disruption which privileges the interests of firms.

CHAPTER SIX

CONCLUSION

This dissertation asks questions about the relationship between firms of on-demand labor and varying scales of the state. These questions developed out of increasing concerns over growing economic inequality and the degradation of work. The gig economy emerged following the 2008 global recession and hit its stride as unionization rates were some of the lowest in the history of the United States (Milkman 2013). Workers have become more vulnerable. Full-time traditional jobs make up a declining percentage of work in the U.S. Increasingly, people have to patch together multiple jobs to make ends meet. In this study, I show that firms like Uber and Lyft engineer regulations in order to grow precarious labor arrangements from which they extract profit. Using strategies adapted from the temporary help industry, they identify clear routes for regulatory disruption. Uber and Lyft built relationships with local elites and decision makers to navigate around democratic processes for interest group input. They lobbied, used direct marketing and cried anti-innovation to twist the arms of regulators. Uber and Lyft learned the specific municipal and state contexts in order to leverage vulnerabilities and they tapped into political divisions when advantageous to their regulatory goals.

My findings contribute important insights on the relationship between firms and the state. Importantly, they show that firms do not just target the most amenable regulatory body, but

instead jockey between state and city leveraging their context specific knowledge and strategies. Relatedly, this study contributes to the literature on urban governance, highlighting how features internal to the decision-making process such as institutional design and government structure can enable or prevent firm influence over regulations. Last, this study demonstrates given a particular set of conditions, worker groups have the ability to temper firm power. In the next section I address the relationship between regulation and firms of on-demand labor. From there I return to questions of political participation and institutional design followed by a discussion of worker center organizing. I conclude with some questions and directions for future research.

Firms of On-demand Labor and Regulation (Theory)

In the introduction, I explained that Uber and Lyft are firms of on-demand labor. Although they claim to be simply technology companies that enable entrepreneurs, they are another iteration of non-standard, precarious flexible labor. This type of labor arrangement grew out of the post-Fordist accumulation regime as a way for firms to shirk employment responsibilities and costs (Harvey 1989; Vidal 2013). The temporary help industry acted as labor market intermediaries that extracted value from the placement of short-term workers (Gonos 2001; Hatton, 2011; Peck and Theodore 2002). Uber and Lyft carried on this tradition, replacing the agency with an app (Stewart and Stanford 2017; Veen et al. 2019). Similarly, they modeled the behaviors of temp firms by deploying a variety of strategies to lobby for or change particular regulations (Gonos 1997).

In chapters 2 and 3, I show how Uber and Lyft achieved regulatory engineering in part by successfully steering between city and state levels of decision making. In chapter 4, I highlight how while moderately successful at the state level, the structure of city government and power of

worker organizing in the New York case largely blocked this route for Uber. Yet, New York does not represent a radical disruption to the accumulation strategies of firms. In fact, Uber was more opposed to vehicle caps than they were to baseline wages. This presents questions about the vitality of business regulations in a neoliberal economy. What would have been the outcome in Austin and Chicago if Uber and Lyft had not successfully shaped regulations to their favor? Whose interests are served by regulating ride-hailing the same as the taxi-industry? I would like to briefly address each of these questions.

The questions about the outcomes and interests served by regulation point to the nature of regulations themselves. Uber and Lyft were, for the most part, able to avoid regulations on several of their most important sticking points including third-party background checks and permit or medallions that would limit the number of vehicles. Avoiding these regulations enabled them to undercut the taxi industry on price but also saturate the market to drive out competition. With no limits to the number of Ubers and Lyfts on the road, each driver makes less money. As Bhairavi Desai testified, Uber starves the Uber driver to starve the taxi driver. Therefore, as Uber and Lyft emerged in urban markets across the United States and cities did not regulate them in line with taxis, they essentially doomed the taxi industry as shown in chapters 2 and 3. The taxi-industry cried out against the lopsided market conditions that regulators created. Meanwhile, Uber and Lyft claimed that the taxi industry was a monopoly looking to shut down competition. Yet, the taxi-industry in all three cases pushed decision makers to regulate Uber and Lyft in the same ways they were regulated. They did not ask for harsher restrictions, just a “level playing field.” It would seem that it was Uber and Lyft that were afraid of what a taxi industry model of regulation would do to their ability to compete.

Importantly, the regulations on the taxi industry do not represent a radical rearrangement of accumulation regimes either. In fact, taxi-drivers are also independent contractors who are subjected to some of the same aspects of precarity observed in the on-demand labor market. For example, in Austin, taxi-drivers rent permits from one of three franchise owners with lease rates that are not regulated by the city. In New York, while drivers *can* be medallion owners, essentially small business owners, many rent the medallion from an owner or a garage (a group that owns many medallions). While the lease rates in New York are regulated by the city, drivers are left renting in order to make wages. Similarly, while cities set the fares for the taxi industry, drivers are unable to make increases even if they own the medallions or franchises. Therefore, while regulating Uber and Lyft the same as the taxi-industry would have helped to stabilize the broader livery industry, those that own (franchise and medallion owners) benefit over individual drivers.

The paradox presented above conjures questions about what can be done to protect workers in the ground transportation industry from precarious employment arrangements and their consequences? Given that ground transportation like taxis and TNCs clearly fill gaps in public transit as evidenced in chapter 2, cities could make taxis part of the public transit infrastructure. This could have multiple benefits including democratizing public transit by providing access to areas of cities that are typically underserved. This could also help to attend to the problem that some cities encounter where TNCs siphon riders away from public transit, taking their dollars with them. Last, this could provide thousands of ‘good’ stable jobs for city residents. Of course, the likelihood of neoliberal cities turning the taxi industry into a public asset and prohibiting competition seems about as likely as Michael Jordan returning to the NBA for another farewell season.

(Un) Democratic Decision Making: Design?

Studying the regulatory process across Austin, Chicago and New York revealed glaring issues in our democratic institutions. Chapter 3 showed how opaque decision-making processes, limited record keeping, and insulated bureaucratic offices enabled networks of elites and decision makers while preventing worker groups from advancing their interests. Chapter 2 showed that even when decision making happens in plain sight and records are meticulously held, firms are still able to advance their interests, even changing regulations in real time. Conversely, chapter 4 offered some insights into the possibilities of facilitating a more democratic process of decision making by having proper dedicated offices, staffing, procedures and rules in place to protect and prioritize citizen input. However, as I argued in chapter 5, the multi-scalar nature of the state is situated to leave open pathways for capital. Are our institutional processes for participation in decision making purposefully un-democratic? What or who are our state institutions structured for?

Studies on the design of democratic institutions highlight that particular configurations can enhance democratic governance by opening new opportunities for citizen participation in public policy (Baldwin 2019; Fung 2006; Skelcher and Torfing 2010). Chapter 5 discusses how the varying institutional organizations in Austin, Chicago and New York impacted the pathways and influence firms had in public settings. Yet, despite transparent and accessible forums for public participation in Austin, firms found alternative pathways to undermine opposing interests. However, the case of New York demonstrated that the institutionalized forum for driver participation led to action on behalf of the TLC. In thinking about the questions posed above regarding the design of state institutions, the evidence presented in chapters 2 and 4 suggests that

given the function of the neoliberal state, perhaps more democratic designs are not enough to increase democratic decision making as some have suggested (Baldwin 2019). These chapters indicate that pressure needs to come from outside of state institutions in order for meaningful changes to be made.

So, whose interests are currently served by the configuration of decision making institutions and process? Swyngedouw (2018) has argued that democracy has been “fine-tuned” to naturalize market-based configurations and that our governance arrangements reflect and maintain this order. As state institutions rearrange in response to changes in production, a mutual benefit is produced whereby states advance their own interests while protecting capital accumulation processes (Brenner 2019). In the obligatory why Marx was right section of this dissertation, I point readers to his note about the role of the state. Marx (1978 [1932]:187) explains that “the state has become a separate entity, beside and outside civil society; but it is nothing more than the form of organization which the bourgeois necessarily adopt both for internal and external purposes, for the mutual guarantee of their property and interests.” As Marx early observed, the state functions to support and facilitate the primary interests of firms, capital accumulation, while expanding their own power.

Worker Center Organizing

As noted throughout this study, gig worker organizing lagged behind the development of regulations in many cities. The early regulatory battles for TNCs were over issues such as chauffer licensing and background checks. The business model of TNCs was dependent on undercutting the taxi industry. Had they been regulated the same way as taxis they would not have been able to compete. However, cities created a parallel deregulated taxi industry via Uber

and Lyft. TNCs now command the majority of the market share and are close to having a monopoly on ground transportation in many cities. This shift has given Uber and Lyft tremendous power as cities rely on livery services to supplement or take the place of public transit infrastructure. Regulations on the operation of Uber and Lyft are firmly in place in most cities. While the question of vehicle caps has come up in a few instances, cities often opt for congestion taxes which can be transposed onto customers instead. This was recently done in Chicago.

Gig worker organizing has drawn attention to the working conditions and employment status of drivers by local and state officials. Uber and Lyft have used their repertoire of strategies and tried and true routes for regulatory manipulation to advance their interests to avoid making drivers employees. Given the hollowing out of the National Labor Relations Act and worker protections, private sector workers have turned to alternative forms of organizing (Sachs 2011). Worker center organizing has become the supplement for those outside of federally backed union protections (Fine 2011; Milkman 2013). Both the NYTWA and IDG use this model to advance their interests. The development and now expansion of IDG marks a curious direction for organizing independent contractors. While IDG backed baseline wages in New York, they have resisted efforts elsewhere to obtain employee status. One of the tenants of their organization is to maintain their autonomy and schedule flexibility which they see as antithetical to employment status. Importantly, baseline wages in New York did nothing to challenging the employment status of drivers. While immediate changes to working conditions could be won through this compromise, scholars have argued that this push to retain independent contractor status has long

term repercussions for the labor movement and worker protections (Andrias, Firestone and Sachs 2021).

Directions for Future Research

This project provides insights into the relationship between the state and firms of on-demand labor. As I have argued, state power is organized to the benefit of firms. While not uniform, firms have a variety of pathways through which they can navigate to achieve their goals. The terrain of decision making is purposefully uneven, opening routes to those with elite connections and economic capital to slither their way up, around and through. Meanwhile, workers and worker groups are met with difficult to navigate institutions, often trapped at a particular scale. Yet, it is not impossible for worker groups to ‘win’ as evidenced by the New York Taxi Workers Alliance.

Many questions arise from the findings throughout this project relating to urban governance, multi-scalar state power and the future of organizing. As firms such as Uber and Lyft continue their attempts to degrade labor arrangements, future research should explore how cities and states respond to employee misclassification efforts. Recent and ongoing battles in California and now Washington, could be good comparative cases for further understanding firm strategies and behaviors across scales of decision making. It seems that cities and states are the new battle ground for labor laws. Future research could ask why this is the case and what can be done? How can cities defend labor when constrained by states? What sets of conditions are necessary? Last, as non-standard labor relations become more standard, what does the future of organizing and the labor movement look like in the United States? Gig workers have been clear. They need health insurance, pay protections and unemployment protections now. How can

unions meet these interests while still protecting labor relations in the long term? As gig work and other on-demand, temporary and precarious working arrangements rise, asking and answering some of these questions will be crucial for both understanding and attending to growing economic inequality.

APPENDIX A
INTERVIEW GUIDE

General questions for city officials in Chicago, New York and Austin

[Insert introduction, confidentiality agreement, and other IRB sanctioned information]

1. Tell me about how you came to work for (fill in city)?
 - a. How long have you worked there?
 - b. Tell me a little about your role.
2. Tell me about when gig work such as Uber and Lyft was first brought to your attention.
3. Tell me about the progression of gig work overtime.
 - a. How has it changed?
 - b. Are there more or less companies?
 - c. How have they been involved in the city?
 - d. Tell me about the gig work that operates in (fill in city)?
4. Tell me about the initial interactions the city had with gig companies?
 - a. Can you give me some examples?
 - b. Are there specific instances that stand out?
 - c. Are there specific companies that interacted more or less?
5. Tell me about the relationships between (fill in city) and gig companies?
 - a. Has there always been agreement between officials and the companies?
 - b. Has there been consensus or conflict?
 - c. Can you give me some examples?
6. Tell me about a time a citizen brought an issue relating to gig companies to your attention?
 - a. Is this typical of citizen responses to gig companies in general?
7. Tell me in general how citizens responded to gig companies.
8. Tell me in general how other industries responded to gig companies.
 - a. Can you give me an example?
 - b. Was there a sense of conflict or consensus among other industries?
 - c. Can you give me an example?
9. Tell me how (fill in city) regulates gig companies.
10. Describe how those regulatory decisions were made?
 - a. What influenced those decisions?
 - b. What role did gig companies play?
 - c. What role did gig workers play?
 - d. What role did organizers/organizations play?

- e. What role did other cities play?
11. In what ways was the state of (insert state) involved in those regulatory decisions?
 - a. Does the state override the TLC in any way?
 - b. How does state level legislation impact TLC decisions?
 12. How would you describe the overall process of regulating gig work?
 - a. How does it compare to other similar industries?
 - b. Can you give me an example?
 13. What would you say the impact of gig work on (fill in city)?
 - a. City as whole – including citizens, experience, economy
 14. Tell me about the relationship between gig work, the city’s regulation and the local labor market.
 15. Are there other key stakeholders you suggest that may be interested in telling their story or sharing their experiences? Perhaps former colleagues or organizers in NYC

General questions for representatives in Chicago, New York and Austin

[Insert introduction, confidentiality agreement, and other IRB sanctioned information]

1. Tell me the story of how you started working at/for __(gig company)___?
 - a. How long have you been involved with __(gig company)___?
 - b. Where were you in your career when you began your work?
 - c. What attracted you to this industry and position?
 - d. How has your role changed?
2. Tell me about the operation of (gig company)___ in __(city)___?
 - a. How has this changed overtime?
 - b. What prompted those changes?
 - c. How has the organization or operation of the city government impacted the operation of (gig company)?
3. (Gig company)_ has had a lot of interaction with local governments. Tell me about _(gig company’s) relationship with __(city)___?
 - a. What was the initial response when __(gig company)___ began service?
 - b. How has this relationship changed overtime?
 - c. City officials, city council, committees
 - d. Residents
 - e. Tell me about areas of consensus/disagreement and compromise and how these came about.
 - f. Who or what impact that?

4. What were some of the key issues taken up in __ (city) __?
 - a. What was the main focus for regulation?
 - b. Background checks? Safety inspections? Regulatory body? Airport access?
 - c. Why have these been the key issues?
 - d. How have these issues changed over time?
 - e. What prompted these changes?
5. Some reps tell me that gaining public support first is a good way to then deal with local government – is this something you have done? Can you give me an example? What have the strategies of _ (gig company) __ been in terms of regulation?
 - a. Tell me about a typical interaction with local governments
 - b. Why do you think governmental regulations have been a barrier for gig companies?
 - c. Was there consensus/conflict among the officials you worked with in (city)?
6. What types of responses was _ (gig company) __ looking/hoping for?
7. Tell me about the relationship between _ (gig workers) __ and _ (gig company) in __ (city) _?
 - a. Was there consensus among workers? Who did they stand with?
 - b. Was there conflict?
8. Tell me about the relationship between _ (gig company) __ and the local taxi industry?
9. Tell me about the relationship between _ (gig company) __ and (gig worker orgs)?
10. Is there anything else that you would like to add or would like me to know?
11. Are there other key stakeholders you suggest that may be interested in telling their story or sharing their experiences?

General questions for organizers in Chicago, New York and Austin

[Insert introduction, confidentiality agreement, and other IRB sanctioned information]

1. (If gig worker) Tell me about your relationship to gig work and the gig economy?
 - a. How did you get started?
 - b. How long have you done gig work?
 - c. What forms/platforms?
 - d. How did you first hear about (gig company/gig work)?
 - e. What was your initial reaction?
 - f. How did your opinion change overtime?
 - g. What led to this change?

- (If non gig worker) Tell me about your relationship to the gig economy?
- a. How has the gig economy impacted your work or industry?
 - b. Can you give me an example?
 - c. How did you first hear about (gig company/gig work)?
 - d. What was your initial reaction?
 - e. How did your opinion change overtime?
 - f. What led to this change?
2. Tell me about your relationship to _(fill in org)___?
 - a. How long have you been involved with _(fill in org)___?
 - b. In what ways are you or were you engaged with _(fill in org)___?
 - a. Organizer?
 - b. Member?
 - c. Supporter?
 3. Tell me about how you began your involvement with _(fill in org)___ and what prompted it?
 4. When _(fill in org)___ began, what were some of the key issues taken up?
 - a. Why have these been the key issues?
 - b. How have these issues changed over time?
 - c. What prompted these changes?
 5. How long has _(fill in org)___ been organizing around these issues?
 6. Describe the strategies of _(fill in org)___ in terms of gaining attention?
 - a. Media, civil society, city government, gig companies and other gig workers
 7. Describe the strategies of _(fill in org)___ in terms of regulation?
 - a. What types of regulation are is _(fill in org)___ asking for?
 - b. At the city level?
 - c. At the state level?
 8. What types of responses is _(fill in org)___ looking/hoping for?
 - a. What is your position?
 - b. How does your position align with others in your org?
 9. Tell me about the relationship between _(fill in org)___ and ___(fill in the city)?
 - a. City officials, city council, committees
 10. Tell me about the relationship between _(fill in org)___ and ___(fill in the gig company)?
 - a. Can you give me an example?

11. Tell me about the relationship between _(fill in org)___ and the local taxi industry?
 - a. Can you give me an example?
12. Much of the focus seems to be on Uber and Lyft are there other gig workers involved, and if so what have their key issues been?
 - a. What types of responses have they received?
13. Is there anything else that you would like to add or would like me to know?
14. Are there other key stakeholders you suggest that may be interested in telling their story or sharing their experiences?

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