




## ORIGINAL ARTICLE OPEN ACCESS

# Serf-ing the Net: Contrasting Uber Workers in the United Kingdom With Uber Neo-Villeins in Ontario

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## ABSTRACT

We illustrate the exploitation in the relationship between Uber and its drivers by aligning their work with the characteristics of neo-villeiny. Two different legal developments in response to ireregulation (or the lack of effective regulation) in similar institutional contexts emerge. While Uber drivers in the United Kingdom now have worker status, dysregulation (by which we mean regulation that exacerbates the problem it seeks to resolve) in Ontario has established neo-villeiny in law.

## 1 | Introduction

Due to the idiosyncratic and precarious nature of their work that has persisted in most institutional contexts, Uber drivers, alongside other platform workers, have been referred to as ‘instaserfs’ (see Kuhn and Maleki 2017; Callaway 2016; Walker 2015). While the term instaserf effectively conveys an image of exploitative work that recalls the indentured labour akin to that of the medieval serf, this contemporary idea of ‘insta-serfdom’ has not been adequately considered in academic literature. This article aims to contribute to the understanding of this phenomena, by drawing on the concept of ‘neo-villeiny’ (Harvey et al. 2017). First, it charts the ways in which the work of Uber drivers fall within the confines of insta-serfdom by mapping their work onto the core characteristics of ‘neo-villeiny’. The term neo-villeiny describes a relationship between an organisation and an individual within contemporary capitalism that echoes the relationship between the medieval serf (or villein) and the Lord of the land under European feudalism. It is marked by four characteristics: rent (a fee paid by the worker to the organisation to have access to potential clients and so to generate an income), bondage (the perceived need to remain with an organisation, without which

the worker would be less able to generate an income, resulting in what has more recently been referred to as ‘sticky labour’, see Sun et al. 2023), the absence of a guaranteed income, and ‘work-for-labour’ (or labour that is unremunerated but which is necessary to complete the work for which one is paid, see Standing 2009, 2011, 2014). This last characteristic is an important feature of platform work as noted recently by Pulignano et al. (2024). The work-for-labour of the Uber driver is delineated in the form of ‘deadheading’ (that includes waiting for fares and travelling between fares) and is required to fulfil the work, but for which drivers in contexts other than the UK are not paid. As such, this paper fully elaborates the insta-serfdom of Uber drivers by mapping it onto the characteristics of neo-villeiny.

A second contribution of this paper is its examination of the implications of the legal challenges brought by Uber drivers in two similar liberal market contexts of the UK, wherein the neo-villeiny of Uber drivers has been successfully challenged, and Ontario, Canada, where neo-villeiny has been established in law. The role of institutions and the law in consolidating employment relations models is well established (see, for example, Nolan 2012; Williams and Geppert 2006; Blyton and

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Turnbull 2004; Gennard et al. 1989) and has been explained in terms of the fit between the organisation and its environmental context, such as the legal context of the organisation (Suddaby et al. 2017). The impact of the law on the operating model of Uber has been discussed in the specific case of Uber in Quebec (Coiquaud and Morissette 2022). In terms of legal status, Uber drivers in the United Kingdom have been successful in securing the status of ‘worker’ (see Employment Rights Act 1996, s.230 [3]; Adams and Deakin 2014; Pedersini 2002), meaning they are entitled to minimum wage, holiday pay and access to pension contributions. Crucially, the UK Supreme Court ruling of 2021 states that Uber drivers are entitled to pay not only for the time when they are transporting passengers but also for periods when they are travelling to or waiting for the next fare. In stark contrast, Uber drivers in Ontario not only remain independent contractors, but recent legislation ensures that drivers only receive payment for ‘active hours’ or time when they are transporting passengers and for the time after accepting a fare and travelling to collect a fare. Consequently, a large portion of the driver’s work-for-labour is not paid and so neo-villeiny is established in law.

The paper considers the aforementioned issues in more detail, starting with a definition of the concept of digital platform work and relating it to Uber. It then maps the four characteristics of neo-villeiny onto the work of Uber drivers, as a systematic way of understanding their work as a domain of ‘insta-serfdom’. Finally, this paper explores the very different recent legal rulings affecting Uber drivers in the United Kingdom and Ontario, Canada, which illustrate the difficulty of defining the legal status of Uber drivers, but more importantly, show how neo-villeiny appears to have been established in Canadian law.

## 2 | Digital Platform Work

Platform work—work that is, mediated by digital tools and the Internet (Goods et al. 2024; Mendonça et al. 2023; Duggan et al. 2020; Maffie 2020; Harris 2017)—is now an established source of income for many people in a wide array of work sectors globally, such as transportation and ride-hailing, food and product delivery, crowdsourcing and talent and recruitment services (WEC 2022; Kässi et al. 2021). Platform work is predicated upon utilising digital tools and the Internet to organise work and labour to fit the needs and demands of organisations and its customers (Duggan et al. 2020; Harris 2017).

At a rudimentary level, digital platform work represents a social good as it offers ready access to an income for many marginalised people who might otherwise be excluded from a particular national labour market, such as individuals with caring responsibilities, people with disabilities and migrant workers who appear to form a considerable proportion of platform work globally (Van Doorn et al. 2023; Gulesserian 2022; Harpur and Blanck 2020; Woskow 2014). However, despite its benefits, platform work is not without its challenges. For instance, access to such work is often determined by technological know-how and so the digital divide and digital discrimination persist (Deng et al. 2016). There are also issues of transparency linked to algorithmic management of work (Wood et al. 2019;

McGaughey 2018) and worker surveillance, leading to questions of equity and ethics (Kaine and Josserand 2019). Moreover, the quality of work available through platforms presents a serious concern for legislators in terms of regulation of such labour. Considering a recent estimate that suggests that 163 million workers globally source their income through online labour platforms (Kässi et al. 2021), the significance of this mode of work is apparent.

## 3 | Uber and the Platform

Digital platform work encompasses the work of Uber drivers who number in millions globally in 2024/. While, estimation is difficult because of the fluidity and impermanence of the workforce, Uber calculates its drivers and couriers workforce at 6.8 million in more than 70 countries (Uber 2024a). In its strictest sense, digital platform work connects workers (in this case, drivers) with local customers who pay for the services. Uber has promoted a positive narrative of the opportunities it provides for the most disadvantaged workers. During a campaign for reclassification of the employment status of drivers in New York, for example, organisational representatives portrayed Uber as ‘a boon to minorities that were traditionally discriminated against by taxi firms as well as for people living in the outer boroughs that were traditionally ignored by them ... [and] also argued that it provided much needed jobs to minority’ workers (Seidl 2022, 363). There have indeed been reports of benefits of the present Uber model to some drivers (see Norlander et al. 2021; Chen et al. 2019) for whom such work appears to be important economically and socially (Lam and Triandafyllidou 2021). Thus, it has been argued by those who subscribe to this perspective that any change in status of drivers and the introduction of formal employment relationships would complicate access to work thereby excluding large proportions of individuals, such as migrant workers (James Holtum et al. 2022; Ro 2022).

Despite these positive claims, the disadvantages of the digital platform work offered by Uber are encapsulated by the neologism of ‘Uberization’ (Fleming et al. 2019) or the ‘conversion of regular work into contingent, itinerant and insecure “gigs” mediated by digital algorithms and controlled by large corporations’ (p. 489). The impact of this change has not only been felt by those undertaking the work (as discussed in the next section) but those in proximal organisations within the same industry. For instance, Uber has been associated with a decline in the wages of taxi drivers in the United States, where data indicates a 10% decrease in wages because of Uber’s entry into the market (Berger et al. 2018).

Autonomy and worker flexibility have long been reified as fundamental aspects of digital platform work (Pulignano et al. 2024), with Uber emerging at the forefront of such seemingly liberated areas of work. According to Uber, autonomy forms a backbone of their economic model, whereby ‘partner-drivers’ are envisaged as entrepreneurs ‘who do not work for Uber, but rather with Uber’ and who retain ‘complete control over their business’ (Kuhn and Maleki 2017, 185). The micro-entrepreneur argument (Kuhn and Maleki 2017; Uber 2016) in favour of Uber drivers remaining independent

contractors who exploit the platform to their benefit (as opposed to being exploited by the platform) is based on the alleged benefits afforded to drivers in terms of flexibility and opportunity. Organisational representatives have argued that Uber drivers are able to choose when, where and how often they work—something they claim that is not available under the ‘traditional employment’ model (Khosrowshahi 2021).

Uber workers are referred to by the organisation as ‘partner-drivers’, ‘earners’ and ‘independent providers’ (Uber 2025b; Reuters 2022; McCulloch 2021; SBS News 2021) asserting drivers to be micro-entrepreneurs with control over ‘their’ ride share business. This assertion does not stand to scrutiny on consideration of driver experiences that reveal the extent to which Uber appears to be in control of drivers’ working conditions (Peticca-Harris et al. 2020; Slee 2017; Kuhn and Maleki 2017). In reality, the Uber app is used in ways that circumscribe the driver’s choice, thereby limiting their flexibility and workplace autonomy (Kuhn and Maleki 2017). Control is at the heart of Uber’s labour model (Norlander et al. 2021; Wu et al. 2019) and while the work does not involve the traditional managerial oversight of standard working relationships, Uber constrains worker choice through penalties, such as the exclusion of drivers from the app if their choice is consistently contrary to Uber objectives, whilst capitalising on the language of freedom and flexibility to attract and retain these workers (Dean 1999; Miller and Rose 1990; Foucault 1982).

Moreover, the digital platform work of Uber appears to make space for increased dependence of disadvantaged groups of people on the platform, furthering socioeconomic discrepancies and increasing the potential for economic exploitation (Altenried 2021; Veen et al. 2020). This point is particularly germane to categories of people who may be experiencing the precarity of work more keenly, such as migrants. For instance, a study by James Holtum et al. (2022) in Queensland Australia finds key differences between migrant and nonmigrant Uber drivers on their motivation to become ‘partner-drivers’, their dependency on the platform, and their sense of autonomy and agency. Unlike their counterparts, migrant workers have been shown to experience higher levels of job insecurity in their work due to systemic conditions, resulting in their increased economic dependency on digital platform work. Nonmigrant drivers, on the other hand, appear to have more discretion over their work schedules, such as an ability to utilise flexible driving hours with more ease. There is also some evidence of ‘account renting’, a practice where by access to digital platform work is subcontracted by legal owners of platform work accounts. Such practice further exacerbates the dynamics of social inequalities, adding to the ‘over-exploitation’ of (often undocumented) migrant workers in the developed economies of Europe (Altenried 2021).

#### 4 | Neo-Villeiny of Uber Drivers

Despite the journalistic attempt to draw attention to the precarious working conditions of Uber drivers by labelling them as ‘instaserfs’ (Walker 2015), the concept of neo-villeiny, and its four core characteristics, as delineated by Harvey et al. (2017),

provides a more systematic theoretical framework that can be employed in understanding the work of Uber drivers.

First, the income of the neo-villein is guaranteed only in so far as it reflects the fares carried. In most national contexts (with the UK becoming a recent notable exception as discussed later), the Uber driver is paid according to activity undertaken, that is, the number of rides they provide to customers. Of course, no guarantee of income is a fundamental component of self-employment. Neo-villeiny is distinctive because of the way in which this characteristic interacts with the others that delineate this novel form of work.

The second characteristic of neo-villeiny is that the worker is bonded to an organisation and the resources it makes available to the worker, making any opportunity to work outside it problematic. Workplace bondage is a key feature for Uber drivers who access clients through a digital platform they have no control over and without which the process of sourcing clients becomes extremely difficult or even impossible (Edwards and Hodder 2022; cf. Maffie 2023). The dependence of Uber drivers on the platform is enhanced as drivers often partially own the means of production—that is their own Uber vehicle. In fact, some drivers take a lease of or rent their car, which is also a service that has recently become available through Uber itself (Uber 2025a), thus strengthening bondage. As Kuhn and Maleki (2017) point out, ‘a driver who has taken out a loan to purchase a luxury car to meet a platform’s requirements may feel unable to quit’ (p. 191), going yet further to indenture the driver by offering ‘a service that connects drivers with poor credit to subprime lenders, and although the firm does not set the terms of the loan, it deducts payments directly from drivers’ earnings’ (p. 192). Ultimately this means that the driver who has incurred significant debt to be able to work is left with little choice but to do all they can to remain active on the platform: this is what Maffie (2023) has labeled as a ‘lock-in’.

Bondage to the platform may also have implications for workplace autonomy. Freedom and flexibility—portrayed as fundamental to the work of Uber drivers who ostensibly can flexibly shape their work (Uber 2025b)—may nevertheless be illusory. Uber drivers are generally unable to set or negotiate their ride prices for services they provide to clients. It is Uber and not the driver that generally sets and amends the fares passengers pay through surge fares and other forms of ‘dynamic pricing’, which are established algorithmically (Phillips 2019). Previously, it was possible for the driver to offer the passenger a lower fare, but the driver usually cannot increase the fare. Should the driver reduce the fare, then any reduction can be taken from their income for the ride because the driver has no way of changing the fare within the Uber driver app (Rosenblat 2016). Yet, in recent years, Uber has experimented with providing more autonomy to their drivers in an attempt to highlight that their drivers were in fact independent contractors, rather than workers/employees. However, in California, where Uber launched their pricing experiment, Uber drivers remain considerably limited in the extent they can control or set the ride fares (Gartenberg 2020). The new pricing approach eventually failed as Uber claimed that allowing drivers to flexibly set their own fare multipliers resulted in a significant number of riders (or customers) declining proposed fares (Uber 2021).

Furthermore, as the Uber driver consents to organisational authority despite being considered a self-employed contractor, they enter an asymmetrical relationship that significantly favours the organisation. Uber determines the standards for vehicles in terms of cleanliness and safety and imposes background checks for its drivers (Zwick 2018). The driver must own a vehicle deemed satisfactory by the organisation (Walker 2015) and cover the costs associated with their work, such as maintenance and service, insurance, depreciation, as well as fuel costs (see Raghunandan 2023; Sainato 2023; Hall and Krueger 2018).

The work of Uber drivers is also subject to extensive surveillance, as studies have shown that Uber drivers are closely scrutinised by the platform's algorithms, which record and monitor their speed, location and ride acceptance, whilst also instructing them which customers to pick up and what routes to take (Möhlmann and Henfridsson 2019). Any variation from the algorithmic suggestions may lead to penalties, such as temporary suspensions or a complete ban from accessing the app. Uber imposes a large degree of control over working times by 'nudging' 'offline drivers to work at certain times or in certain locations through various incentives and messaging' (Rosenblat 2016, para. 19). Furthermore, Uber is purported to use 'algorithmic rating' (Kellogg et al. 2020, 378) to govern worker behaviour by setting out performance targets that include customer evaluations, ride acceptance rates and number of cancellations. Although it is claimed by the organisation that Uber drivers have freedom in choosing ride requests, their acceptance and cancellation rate, as well as passenger feedback scores, are continuously tracked and assessed (Kuhn and Maleki 2017; Slee 2017). Falling below the not-so-transparent targets may lead to temporary app lockouts, or even deactivations for Uber drivers (Sainato 2023; Russon 2020; BBC News 2015), making the already precarious employment even more insecure. It is through these subtle, pseudo-coercive, and often less obvious practices of control that Uber is able to impose discipline on its drivers while concurrently using the promising language of autonomy and flexibility to attract and retain them. It is the reliance on, or bondage to, Uber that ensures driver compliance, as to be excluded from the digital platform could be financially ruinous.

A third characteristic of neo-villeiny in the shape of payment of 'rents' to the organisation to retain an opportunity of work and generating income, is also evident in the case of Uber drivers. Rent for the Uber driver takes the form of a commission from the ride fare, also known as the 'Uber fee' (Angrist et al. 2021). Uber charges a 25% fee on all fares to cover the costs associated with technology and the development of app features, marketing and the processing of driver payments (Uber 2024b). However, this fee has changed over the last few years, based upon various issues, such as state regulation of commissions (Njanja 2023; Peticca-Harris et al. 2020). A commission-based approach is not unique within the ride-hailing industry as it enables drivers to gain access to a wider customer base, be more autonomous in their work compared to full-time employment, and avoid medallion lease procedures (Angrist et al. 2021). However, this fixed cost further adds to the already precarious situation of Uber drivers who have to already bear other costs related with their work.

Finally, the fourth characteristic of neo-villeiny is the necessity to perform unremunerated activities described elsewhere as 'work-for-labour' (Standing 2009, 2011, 2014). This is 'unremunerated but exploited activity on or off workplace' (Standing 2014, 964) that is essential in order to complete tasks that are remunerated (Standing 2009). These activities can be clearly delineated from labour for which a worker derives a direct income. The work-for-labour of the Uber driver includes costs associated with owning and maintaining a vehicle (as discussed earlier). Work-for-labour also includes the provision of perks, such as phone chargers or bottled water, for example, or by 'Go[ing] above and beyond to make the experience special, such as opening doors for riders when possible' and 'Ask [ing] if the rider has a preferred route' (Rosenblat 2016, para. 13). High calibre customer service *may* result in (but does not guarantee) benefits to the driver through a positive customer review and/or a tip. However, the provision of efficient and excellent service is invariably beneficial to Uber as an organisation as it increases the likelihood of repeat business. It is unsurprising then that Uber has been encouraging drivers to do such unremunerated work-for-labour, routinely messaging drivers with 'tips on how to improve their passenger ratings and their earnings' (Kuhn and Maleki 2017, 188). While this is framed as advice rather than a requirement, the asymmetry of power between the two parties places responsibility on Uber drivers to take up such practices or risk losing out.

However, it is deadheading—the term used to describe the time spent waiting for a fare or travelling to collect a passenger—that fundamentally symbolises the work-for-labour of Uber drivers as neo-villeins. Estimates in the United States have it that around 40% of the miles driven by Uber drivers and an additional 30%–35% in costs are due to deadheading (Bensinger 2021). Moreover, it is in the interests of the platform to ensure that drivers are always available and active at peak periods when demand is highest. What is especially germane to the discussion here is that Uber benefits from the work-for-labour of the driver as this is at the heart of its service offering. As Seidl (2022) explains it, 'Uber accepts high idle times for drivers because it improves the quality of its service (as there are more drivers available at any given moment). But Uber can only do so because it does not bear the costs in the form of ... low hourly wages' (p. 367, see also Clark et al. 2022). To be clear, it is in the interests of Uber to have a surfeit of drivers who will be inactive as a consequence, so that drivers are always available to collect fares. Aside from the UK, driver inactivity is unpaid.

## 5 | Similar Markets, Contrasting Outcomes: Legal Contestations of Worker Status in United Kingdom and Ontario

Uber drivers across the globe have contested their status as independent contractors (see Reuters 2022; McCulloch 2021; SBS News 2021; The Supreme Court 2021a), calling for better and more appropriate employment rights and improved working conditions. A summary of recent cases provides an illustration of these contestations (see Table 1). For example, the status of Uber drivers has been contested with the Australian government considering changes to legislation that would



**TABLE 1** | Legal rulings on employment conditions of uber drivers.

Date	Country	Ruling
13/03/2023	USA	California appeals court ruled that gig economy platforms like Uber and Lyft can continue treating their workers as independent contractors. This overturns a decision made in 2021 by Alameda county court.
20/08/2021	USA	Alameda county court ruled that proposition 22 was unconstitutional. According to proposition 22, an app-based driver is an independent contractor.
25/10/2022	New Zealand	A group of New Zealand Uber drivers won a landmark case against Uber, forcing Uber to treat them as employees as opposed to independent contractors. The employment court does not have jurisdiction to declare broad changes to employment status of all Uber drivers, but this landmark case will have wider implications.
19/02/2021	UK	UK Supreme Court handed down a landmark judgement that Uber drivers are workers and not independent contractors.
03/06/2022	Switzerland	The Swiss Federal Supreme Court upheld a ruling that classifies Uber drivers as employees and should be given all the rights and benefits as employees.
December, 2022	Belgium	A Belgian court sided with Uber and against an Uber driver who was seeking employee status.
18/01/2023	France	Uber reaches a landmark agreement on minimum wage in France. All ride-sharing platforms have signed an agreement on minimum income per ride.

Source: Liang (2023); The Local France (2023); McClure (2022); Ferguson (2021); Roosevelt and Hussain (2021).

classify Uber drivers as employees, while similar changes have been considered in different states of the US (Scheiber 2022; Malos et al. 2018). The work on the EU's platform directive is underway by EU lawmakers, which aims to establish criteria that would determine whether a platform can be deemed as an employer and therefore could potentially reclassify up to 4.1 million of those people engaged within the platform-based work as 'workers' (European Labour Authority 2022). In the United States, a California judge ruled that Uber drivers were employees, however, Proposition 22 (otherwise known as the 'App-Based Drivers as Contractors and Labor Policies Initiative') that legally defined delivery drivers as independent contractors was passed in the state later that year (Conger 2020). These examples highlight the enduring complexity of the relationship between drivers and Uber across national boundaries and contexts.

The absence of effective regulation (i.e., non-*liquet* or a lacuna within the legal sphere) might be referred to as a state of *irregulation*—is something that can be observed particularly in relation to the domain of platform work and as regards genuine self-employment, false self-employment (and dependent work) and neo-villeiny. The nature of platform work will differ according to institutional context (see, for example, Funke and Picot 2021; see also Williams and Horodnic 2018, on disparities in dependent self-employment in the EU). In response to status contestation at Uber, there have been two notable developments in the similar neoliberal institutional contexts of the UK and the province of Ontario, Canada, which provide notable examples of irregulation of platform work.

## 5.1 | Uber 'Workers' in the United Kingdom

The UK provides an interesting example of attempts to regulate Uber workers' legal status, as Uber drivers successfully litigated

the organisation to achieve the status of 'worker'. According to The Supreme Court (2021a) judgement, digital platform work performed by Uber drivers is under close scrutiny and control of Uber, whereby drivers 'are in a position of subordination and dependency' (para. 11). These individuals lack the autonomy to foster better economic conditions for themselves 'through professional and entrepreneurial skill' unless they worked longer hours under tight performance management of the organisation. It is because of this lack of autonomy that the judgement of The Supreme Court 'rightly found [Uber drivers] to be "workers"'—a landmark reshaping of the labour terrain of digital platform work in the United Kingdom. As such, Uber drivers are now entitled to a minimum wage, holiday pay and access to pension contributions by the organisation.

A key corollary of The Supreme Court's (2021b) judgement is in diminishing the degree and range of Uber drivers' work-for-labour, thus guaranteeing them a minimum wage for their time (and for deadheading in particular). The argument against the reconstitution of Uber driver as 'workers' was based on the assumption that these individuals could find work with other platforms at the time when they are not carrying passengers (Browne 2021; Satariano 2021) and therefore they should not be remunerated for this 'free' time. However, The Supreme Court (2021b) was unconvinced by this argument, stating that 'a driver was 'working' under such a contract during any period when he [sic] (a) had the Uber app switched on, (b) was within the territory in which he was authorised to use the app and (c) was ready and willing to accept trips' (pp. 37–38). While Uber drivers can refuse trips, they nonetheless have an 'irreducible minimum of obligation' (p. 38), meaning that these workers have a certain 'obligation to do some amount of work'. The Supreme Court further reasoned that each driver was obligated to 'maintain a prescribed rate of acceptances' (p. 39) or else risk 'exclusion from access to the app' (p. 40)—a process designed explicitly for the purposes of coercion and as a 'penalty for

failing to comply with an obligation to accept a minimum amount of work'. The judgement of The Supreme Court referenced Uber's guidelines for new drivers that stipulated that accessing the app was 'going on duty', whereby being 'on duty' 'is an indication that you are available to take trips, in accordance with your Services Agreement' (p. 39). Fundamentally, then, the UK Supreme Court ruling recognises deadheading as a type of work that must be remunerated. As such, this ruling eliminates two crucial characteristics of neo-villeiny of Uber drivers in the United Kingdom as they are now guaranteed a certain level of income if they are available to work and are to be paid for a significant portion of their work-for-labour.

## 5.2 | Uber Neo-Villeins in Ontario

The contrast between the legal rulings affecting Uber in the United Kingdom and Ontario is particularly germane to the question of irregularity, as it highlights the varied and contingent nature of legislative attempts at regulating platform work. It is worth reflecting on the measures of the status of a worker in Canada and how these apply to work at Uber. Within the Canadian context, the government has proposed a legal schema of 'tests' for determination of workers as either 'employees' or 'independent contractors' when investigating matters of employment relationship and the application of specific protections under the Canada Labour Code (Government of Canada 2024). These tests can also be applied to Uber drivers. For example, the 'control' test determines the work of the Uber driver as constrained by organisational mandates such as the condition (e.g., cleanliness) and safety of the vehicle. There is also the looming threat that should drivers continually reject fares, then they could face exclusion from the platform and the potential to earn an income. The 'ownership of tools' test looks at the driver as the legal owner of the vehicle they use to transport customers. However, the Uber driver has no ownership of the platform that provides them with customers. While Maffie (2023) reveals efforts by ride-hail drivers to lessen their dependence on the platform, the majority of Uber drivers are bonded to the platform, as without it access to clients and the potential to generate an income would otherwise be far more difficult. In terms of the 'chance of profit and risk of loss' test, Uber drivers do not profit directly from organisational success, neither do they risk significant financial losses as do owners of any other businesses. That said, all drivers would face financial losses, at least temporarily, if the platform went down or collapsed. Finally, the 'integration' test is a measure of the degree to which the work undertaken by the worker is either 'core or central' to the business (as one might expect of an employee or as is the case for Uber drivers) or ancillary to the purpose of the business (as in the case of work undertaken by an independent contractor). On each of these measures the Uber driver is more closely aligned with being an employee rather than an independent contractor, which has a direct impact on the legal protections such work affords under the Canada Labour Code. Nonetheless, Uber drivers remain independent contractors in the eyes of the law in Ontario.

The introduction of the Ontario Government (2024) as part of the Ontario Government (2022) (i.e., Bill 88) in Ontario has been celebrated as a 'historic' step towards improving the

working conditions of those in the gig economy (including that of Uber drivers). Its advocates have claimed that a \$15 per hour minimum wage is paid for work (CBC News 2022). The Ontario Minister for Labour, Monte McNaughton declared that:

*Our government is getting it done for workers with the passage of our Ontario Government 2022 ... our historic legislation will be a significant win for all workers. It is another step forward in our fight to rebalance the scales, put more workers in the driver's seat of their careers, and help all families earn bigger paycheques as we build back a stronger province that works for everyone. These bold steps also mean Ontario is now the first province in Canada to pass foundational rights and protections for hardworking people who provide ride-share, delivery, or courier services through digital platforms.*

Ontario Government 2022

As an attempt to legislate platform work and improve the conditions of its workers, the Ontario Government (2024) has met with strong criticism from campaigners and legal commentators. The Act has been branded as a political stunt and as 'the thin edge of a wedge that could lower minimum pay standards for more and more workers' (GWU 2022, para. 5), encouraging other employers to move to the gig work model that permits payment that is lower than provincial minimum wage standards. More specifically, under this new law, Uber drivers (and other platform workers) are entitled to receive minimum wage for their active hours, which means that Uber drivers only get paid when involved in the process of transporting passengers. In other words, much of the time a driver spends deadheading is unpaid (Bensinger 2021). A recent amendment to the Digital Platform Workers' Rights Act (that will come into force in July 2025) improves the situation of Uber drivers to some degree but establishes in law the potential for digital platforms to harness unpaid labour. The amendments ensure that drivers are paid for some but by no means all, of the time that they are not carrying a fare. The amendment states that the assignment (and the period for which the worker is paid) begins when 'a worker accepts the work assignment through a digital platform' unless the worker accepts multiple assignments in which case the second assignment begins after the first one ends (Ontario Government 2024, 2). However, work-for-labour is not eliminated because 'the period of a work assignment includes any time a worker spends travelling after the work assignment starts and before the work assignment ends but does not include time spent travelling before the work assignment starts or after the work assignment ends' (Ontario Government 2024, 2). The period during which the worker spends travelling before the work assignment starts or after the work assignment ends is a significant component of deadheading and remains income neutral and costly to the worker (e.g., the cost of fuel).

The legal maxim that has existed for more than 200 years runs that 'hard cases, make bad law' (see Shahshahani 2025). While this maxim was intended to describe the way in which laws that arise from extreme cases might be applied unduly in other situations, this expression pithily summarises the way in which amendment to labour law in Ontario designed to regulate

platform is in fact dysfunctional. Regulating platform work is a challenging process from the legal perspective as noted in the Supreme Court of Canada ruling in *Ontario Ltd. v Sagaz Industries Canada Inc.* (2001, as cited by Government of Canada 2024).

The above attempt at regulating platform work in Canada draws attention to what can be referred to as *dysregulation*, exacerbating, rather than alleviating, some of the deleterious aspects of neo-villeiny. The UK Supreme Court ruling on Uber drivers as workers eliminated two core characteristics of neo-villeiny for drivers based there, i.e., the absence of a guaranteed income and a large part of the work-for-labour associated with the work. In stark contrast, the Ontario Government (2024) in Ontario establishes in law the absence of guaranteed income and the right of an organisation to expect work-for-labour, and consequently neo-villeiny.

## 6 | Discussion and Conclusion

Previous efforts at conceptualising the work of Uber drivers have been understood through the popularised notion of ‘instaserfs’ (Kuhn and Maleki 2017; Callaway 2016; Walker 2015), that draws attention to the contingent, insecure and precarious nature of platform work. As has been highlighted in this article, it is possible to extend the analytical reach of this idea by applying the characteristics of neo-villeiny (Harvey et al. 2017) to Uber drivers. The analysis of Uber model of work suggests that the four characteristics of neo-villeiny—that is, the absence of a guaranteed income, bondage to an organisation, payment of ‘rents’ for the opportunity to generate an income, and unpaid, but nonetheless required work-for-labour—characterise the work of Uber drivers in many national contexts. In many institutional contexts, Uber drivers are only paid for their active hours (i.e., for carrying passengers) without any guaranteed income. These individuals tend to be bonded to the Uber app in order to access the customer base, but drivers might also be bonded by loans used to purchase the standard of vehicle required by Uber from subprime lenders organised through Uber, without which any work through the platform would be impossible. Moreover, Uber drivers are expected to pay rent to Uber in the form of a fee on all fares and engage in considerable work-for-labour that ranges from customer service activities to deadheading (e.g., waiting for a fare and travelling between fares). As such, the neo-villeiny of Uber drivers extends the idea of ‘instaserfdom’, but also importantly echoes and augments a growing body of existing academic research that highlights the wider aspects of the precarious nature of work at Uber (Polkowska 2021; Peticca-Harris et al. 2020; Berger et al. 2019; Malin and Chandler 2017).

In response to a state of irregularity of platform work, two very different forms of legislation have been introduced in the United Kingdom and Ontario that affect the work of Uber drivers, albeit under the common thrust towards improving gig economy working conditions. The 2021 UK Supreme Court judgement that reconceptualised Uber drivers as ‘workers’ appears to be a welcome step towards the improvement of working conditions. The judgement eliminates aspects of the neo-villeiny of UK Uber drivers (i.e., by guaranteeing an income and reducing

work-for-labour, most notably deadheading). However, such uptake of labour protections is far from uniform across the globe. In contrast to the situation in the United Kingdom, dysregulation in Ontario means that Uber drivers are not guaranteed an income, while legally mandated payment only for active hours means that they are also required to undertake work-for-labour. This ruling establishes neo-villeiny in law and opens opportunities for the expansion of neo-villeiny in Ontario.

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