

A Two-tier Social Contract Informed by the Capability Approach as the Framework of an Extended and Alternative Model of Corporate Governance for the Digital Economy

During the last decade, one main technological transformation has impacted how jobs and industries are organised in modern societies, i.e., the adoption of digital platforms, such as Uber, Deliveroo or Amazon Mechanical Turk, to distribute work, match demand and supply, and facilitate the commodification and exchange of goods and services. Originally, this business model was called the 'sharing economy' (Schor & Cansoy, 2019), referring to utopian ideals of economic democratisation and collaborative Internet management (Benkler, 2006). However, soon, these ideals were betrayed and substituted by a new institutional system founded on the private enclosure of the Net and the creation of big monopolistic players (Marciano et al., 2020; Muldoon, 2022). Such an institutional system was dubbed 'platform capitalism' (Srnicsek, 2017) and accused of determining precarious working conditions (De Stefano, 2016), misclassification (Ravenelle, 2017) and algorithmic surveillance (Zuboff, 2019). Through the lenses of the modern theory of the firm, it can be said that hierarchies were thus reintroduced (Hart, 1995) in platforms and with them unaccountable behaviours (Anderson, 2017) and abuses of authority (Sacconi, 1999).

To face this situation, several alternative organisational models have been considered. Probably, the most successful one is the so-called "platform cooperativism" (Scholz & Schneider, 2016). More specifically, platforms such as The Drivers Cooperative, Coop Cycle or Resonate are trying to adapt to the digital economy the traditional cooperative principles of democratic governance and collective ownership to counterattack platform capitalism (Nicoli & Paltrinieri, 2019). Again, the modern theory of the firm would say that they are willing to consider as a single team of owners/producers (Blair & Stout, 1999) all the broader sense stakeholders (Sacconi, 2006) who are impacted by the extractive operations of traditional commercial platforms (Mezzadra & Neilson, 2019) and involve them directly in their governance, consistently with the idea that these platforms are in the end organisations that manage a shared infrastructure (Frischmann, 2012): the Internet.

The contribution that this paper wants to offer is to provide a solid theoretical underpinning to justify, both normatively and positively, this extended and alternative governance model for the digital economy. To achieve this goal, it will be proposed to frame it through the lenses of a multi-stakeholder social contract informed by the capability approach (Fia & Sacconi, 2019), in direct opposition to earlier application in the field of business ethics of constitutional contractarianism to the sharing economy (Hielscher et al., 2021). This is possible thanks to the Janus-faced character of the notion of capabilities, which can be intended both as fundamental entitlements (Nussbaum, 2003) and individual skills for translating these entitlements into valuable functionings (Sen, 1985).

Normatively speaking, the proposal is to apply the categories of constitutional and post-constitutional contracts (Buchanan, 1975) to the so-called Integrative Social Contracts Theory (Donaldson & Dunfee, 1995). Therefore, at a higher constitutional level, the social contract is modelled as an impartial bargaining game where the stakeholders agree on a bundle (Schlager & Ostrom, 1992) of macro constitutional entitlements over the shared infrastructure. Subsequently, these rights are translated into post-constitutional entitlements when, at the micro level, the same stakeholders chose their preferred organisational form to substantiate them, e.g., platform cooperatives. Finally, in their day-by-day operations, platforms should act as external conversion factors enabling these stakeholders to exercise their entitlements and achieve those functionings they have reason to value.

Positively speaking, recent developments in the literature (Grimalda & Sacconi, 2005), already proved in the laboratory (Sacconi & Faillo, 2010), show how a social contract modelled in this way should also be capable of generating conformity preferences and enlarging the contractors' utility functions, thus explaining endogenously stakeholders' norm compliance. Furthermore, economic models have been proposed for analysing the conditions of the viability of platform cooperatives (Belloc, 2019), in line with the traditional literature that compares the competitive advantages and disadvantages of cooperatives and capitalistic firms (Hansmann, 1996) in terms of transaction costs (Pagano & Vatiery, 2015; Williamson, 1986). The results show how, in equilibrium, platform cooperatives may prove greater efficiency, related to lower average costs, and higher productivity, due to improved peer-monitoring efforts of workers and stronger incentives to introduce

quality improvements. On the other hand, there is also the possibility that platform cooperatives are directly procured by municipalities for the provision of public-utility services, being themselves organisations that manage a shared infrastructure, which is structurally a means open for many ends that stakeholders can pursue and so offer other competitive advantages if managed cooperatively (Sacconi, 2015).

I leave for the future the effort of offering a concrete description of the content of the proposed social contract and identifying the actual capabilities that are objects of such contract.

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