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Corporatised enforcement: Challenges of regulating AirBnB and other platform economies

Platforms such as AirBnB, Uber, Taskrabbit etc are proliferating across the globe. Their success and popularity has been based on positioning themselves as companies that offer flexibility to freelance workers and asset owners and enable them to make ‘a bit of money on the side’. For their consumers, it is about enhanced and authentic customer experience of ‘sharing’, at a lower cost. While this rhetoric of ‘sharing’ is, at first glance, flexible, inclusive and empowering, on closer examination it presents myriad contradictions and controversies as soon as the platforms begin interacting with existing practices and governance infrastructures. As Tom Slee (2016) amongst others have pointed out, digital platform companies such as AirBnB and Uber openly disrupt and often disregard local laws governing labor, housing, health, safety, accessibility and so forth in order to safeguard their for-profit operations. A key manifestation of this is their reluctance to share data on their platform-mediated economic activities and cooperate with local authorities who need it in order to enforce local laws and policies, citing confidentiality and privacy amongst other reasons. In our study of short-term letting in London, for instance, we noted that local authorities struggled to gain access to corporate data to assess the extent of the phenomenon, the percentage of entire homes, as well as the overall length, which was necessary to enforce the 90-day limit on short term lets (Ferrerri and Sanyal, 2018; Holman et al., 2018). In addition, platforms have also been slow to respond to criticisms around discrimination (Edelman, Luca & Svirsky, 2017), sexual assault¹ and other preventable issues. In other words, they have for a long time reaped the benefits of connecting people to goods and services whilst absolving themselves of responsibility to manage problems when they arise, and preventing access to legislators.

One could argue that part of what drives the success of platform economies is their arrival in a time of austerity and economic recession in many parts of the world. In many countries in Europe, such as the United Kingdom, Greece and Spain, public spending has been slashed in the wake of economic crises and local governments struggle to provide public services to their citizens. This includes access to affordable housing, affordable public transportation and other public services. The empowering rhetoric of platform economies of ‘sharing’ and earning ‘a bit of money on the side’ hides a more insidious practice of undermining labor protection including minimum wage, pensions, leave and so forth by recasting workers as independent contractors². With AirBnB, the problems are manifold. In addition to violating local laws that disallow or limit short term lets (Ferreri and Sanyal, 2018; Holman et al., 2018), hosts on AirBnB have been converting properties into short lets, putting pressure on already limited housing supply and increasing rental values. Whilst the platform claims that owners are ‘sharing’ their homes with guests, in reality, it has been shown that a considerable number of ‘hosts’ are letting out entire homes and even buying additional properties to put on AirBnB, and are thus not earning extra cash on the side, but rather, finding a convenient way to circumvent local regulations and costs around hotels and hospitality. This is because property owners and agencies have discovered that they can generate greater revenue by putting their properties on short term letting than by long term leases. As a result, in many cases, such as in London (and Barcelona), local authorities have found that at the neighbourhood level these platforms are directly linked to a diminishing supply of affordable housing for poorer families. Many of these issues have led to increasing gentrification in many cities such as Barcelona, and growing disenchantment and protests by local residents.

For planners, digital platforms offer a number of different challenges- from affecting the provision of public goods, to creating enforcement challenges for local authorities at a time when budgets are being slashed, to attempting to rewrite local regulations. How can local governments maintain planning powers over the provision of long-term adequate affordable housing with shrinking financial means, and shrinking availability of units as well? How can they meet their statutory obligations in the face of opposition, often from national governments who undermine their efforts in an attempt to woo these platforms (Ferreri and Sanyal, 2018; Holman et al., 2018)? Perhaps an exploration of the politics of platform economies would expose rifts between different scales of governance and the rights and obligations embedded within them? There is also the question of enforcing local regulations: city governments are at the mercy of corporations to release their data and on devising creative ways to enforce regulations despite shrinking budgets. In London for example, local governments have to rely on complaints by local residents and triangulate these with Google earth images and information from the AirBnB website itself in order to track down particular properties to fine them. This is not feasible for local governments with limited finances and staff. And while some governments may embrace platform economies as a convenient and cutting-edge and a sign of a techno-utopian future, to what extent are these platforms and their emancipatory rhetoric serving as a smokescreen to enable the state to withdraw further?

As digitally-mediated economies are on the rise in cities across the globe, the situation has enabled the growing influence of digital platform companies on practices of urban regulation design and enforcement. New forms of “hybrid or cooperative regulation whereby government and online firms negotiate around rules and their implementation” (Gurran 2018, p.301) are being proposed as a solution, introducing a significant shift for planning practice. While

proposals for hybridity, cooperation and negotiation are appealing, there remain unanswered questions about the power relations at play and the implications for city governments that may not have the resources or political clout to respond to a corporation, feeding into unprecedented dependency on IT firms for dealing with urban issues (Kitchin, 2014). As planners, we have to ask more difficult political questions about the technological, corporatized turn in planning that is being brought on by platform economies. The de-politicisation of digital platforms and their implication for urban planning and policy has been going hand in hand with declining public budgets. In this context, dependency on corporate digital providers for solutions is often driven by a “desire to make do with the meagre amount of resources available to most cities today” (Morozov & Bria, 2018, p.19). How could planners work towards a more inclusive model that includes those that are not benefitting from or are adversely affected by the sharing economy? Rather than retreating into technophobia, calls have been made for asserting ‘technological sovereignty’, which has been defined as “citizens’ capacity to have a say and participate in how the technological infrastructure around them operates and what ends it serves” (Morozov & Bria, 2018, p.22). Working towards technological sovereignty at the urban scale, for instance, would involve municipal governments demanding different ownership regimes of data generated by digital platforms, which would help in assessing the extent of platform-mediated uses and designing enforcement without the need for buying such data from corporate partners. The possibility for non-extractive uses of digital platform technologies (see also Gurrán, 2018) is not, however, just a matter of regaining sovereignty over data. ‘Data extractivism’ relies on the corporatisation of a wider digital infrastructure, including knowledge and know-how, which city governments are unlikely to have or to be able to build on their own. Even if cities were capable to obtain the data collected by for profit digital platforms, they may find themselves “unable to

act upon the data without advanced computing infrastructure or access to the original algorithms” (Morozov and Bria, 2018, p.23). Planning policy tackling the multiple issues raised by digital platform economies thus requires a much more holistic approach to rethinking and reclaiming the wider urban digital infrastructure. From some of the cities most affected by the rise of digital-mediated short term letting, such as Barcelona, calls have been made to think about a ‘right to the digital city’ as a fundamental component of a wider ‘right to the city’ for the 21st Century. Appeals to citizens, however, have already been rapidly incorporated in the marketing strategy of platform companies such as Airbnb, whose website ‘airnbcitizen’ collects news items on positive community impact and public policy collaborations tailored to cities in 26 countries around the globe (see <https://www.airnbcitizen.com/>). More work remains to be done to both decouple citizens from consumers, and city planning from corporate solutions – if we are to extricate urban policies from the demand of for-profit platform economy giants.

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² See, for example, the ongoing legal dispute between the company Deliveroo and its workers.