

# Collective bargaining on digital platforms and data stewardship

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# Foreword

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The pandemic is shaping lives across Asia and it will change the social and economic conditions for the coming decade. Analysing the social, economic, political, geostrategic, cultural and societal implications of this unprecedented crisis and developing visions for the time after COVID-19, we invited scholars and practitioners to work on a paper series to envision aspects of a future of work in Asia that benefits workers.

In this series of papers, we will explore subjects to support workers, trade unions and policy practitioners to formulate a just and inclusive vision for Asia's future. The rebuilding of supply chains, digitalization across countries, the future of trade unions and workers as well as the implications of an incessantly proceeding automation will shape the future of the continent. Long-term and systematic analysis of visions for the future of work and the economy of tomorrow are the overall goal of this paper series.

The future of the digital economy and its workers play a tremendous role in the development of the countries in Asia. With Asia at the forefront of digital transformation, we still have much to understand when it comes to the implications of digitalized economies. How is digitalization transforming companies and value chains? Who creates, generates, captures, controls and uses data? What is relevant workers' data and how does it impact the future of work? How can workers and trade unions regain control over their data and use it effectively?

This paper by Astha Kapoor on collective bargaining on digital platforms and data stewardship is a valuable contribution to the debate on workers' rights on their data. We wholeheartedly thank her for this excellent study and the Aapti team – especially the Aapti Institute's Data Deliberations team – as well as Christina Colclough for their valuable support. With a spot-on description of the problems workers in the digital economy face today it develops models that allow workers to develop structures to increase digital self-determination and support bargaining in a data-driven economy.

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# Introduction

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As India began to open up from one of the world's strictest COVID-19 lockdowns, Swiggy, a major food-ordering and delivery platform, announced pay cuts in August for its personnel in four cities. The pay cuts came even as news of business recovery was trickling in and as overall sales began to bounce back to 60–65 per cent of the pre-COVID levels (Srivastava, 2020). To protest, the workers called a strike. Among their demands was a call for a fairer appraisal system. "Don't judge our incentives based on silly ratings," they argued (Srivastava, 2020).

Mistrust of how ratings are given and how they are linked to incentives has long been a major issue for workers. In response to the strike, Swiggy suspended the account of any worker who did not complete a shift in a stipulated time period (Kuntia, 2020), which was the digital equivalent of firing someone. This was not the first time Swiggy had deactivated the accounts of striking workers. In Kerala in 2019, the platform withheld payments to workers who had participated in a strike, which forced them to resign (Joseph, 2019).

These incidents reveal several major concerns about how work is structured on digital platforms<sup>1</sup> (De Stefano and Aloisi, 2018). The first, and more widely discussed, is that digital platforms actively seek to bust unions or any kind of worker organization activity. They do this through overt mechanisms, such as deactivation, and also through more insidious methods, such as heat map tracking to identify and track stores at risk of unionization (Peters, 2020).

Second, the role of algorithmic management, or data-driven decision-making for workforce management is increasingly problematic. This is the "data collection and surveillance of workers to enable automated or semi-

automated decisions" (Mateescu and Nguyen, 2020). As the Swiggy example highlights, consumer-sourced rating systems are assessed by algorithms and used as the basis for recruiting, firing and incentivizing workers. This implies new challenges, such as the surveillance and control of workers. The lack of transparency and information asymmetry between workers and platforms makes it harder for workers to assess and negotiate decisions. The potential for bias and discrimination increases due to unreliable inputs, such as customer-sourced ratings. And the dehumanizing of the worker–employer relationships leads to a lack of accountability (Gupta and Natarajan, 2020; Mateescu and Nguyen, 2020; Mohlmann and Henfridsson, 2019; Sherman, Carbery and McDonnell, 2019). Algorithmic decision-making robs workers of agency and deprives them of dignity and control. And machine-led supervisory takes away the mechanisms of information exchange and negotiation possible with in-person management.

Third, as a result of the reliance on decisions made by algorithms, workers are bound in data-extractive relationships with platform companies and are thus forced to part with personal information in exchange for opportunities to work.

Finally, workers are unable to negotiate their data rights with platforms and are thus forced to exist in unequal relationships in which technology companies exert power through data.

Therefore, there is a need to think of exploitation on platforms not only through the lens of labour rights but also that of data rights. In the current context, it is impossible to imagine well-being without more agency on the way data are collected, stored and used. It is

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<sup>1</sup> "'Platform' or 'gig' work is usually understood to include chiefly two forms of work: 'crowd work' and 'work on-demand' via apps. Crowd work is work that is executed through online platforms that put in contact an indefinite number of organisations, businesses and individuals through the Internet, potentially allowing connecting clients and workers on a global basis. The nature of the tasks performed on crowd work platforms may vary considerably. In 'work on-demand via apps', working activities such as transport, cleaning and running errands, but also forms of clerical work, are offered and assigned through IT platforms or apps like Uber, Deliveroo or TaskRabbit. The businesses running these apps typically intervene in setting minimum quality standards of service and in the selection and management of the workforce" (De Stefano and Aloisi, 2018).

imperative to envision structures through which worker communities and representatives can be more involved in determining their own data lives on platforms. There is a need to organize and mobilize workers on data rights.

One of the ways in which this can be done is through a mechanism of community data stewards who represent the needs and interests of workers to their platforms, thus negotiating and navigating the data-based decisions.

This paper examines the need for data rights as a critical requirement for worker well-being in the platform economy and the ways in which it can be actualized. It argues, given that workers on platforms produce data through collective labour on and off the platform, that worker data are a community resource and should be governed by representatives of workers who can negotiate with platforms on the use of that data for workers and for the public interest. The paper analyses the opportunity for a community data steward mechanism

that represents workers' interests and intermediates on data issues, such as transparency and accountability, with offline support systems. And is also a voice to online action to address some of the injustices of the data economy. Thus, a data steward is a tool through which workers better control their data—consent, privacy and rights—better and organize online. Essentially, it is a way forward for workers to mobilize collective bargaining on data rights.

The paper covers the impact of the COVID-19 pandemic on workers' rights and well-being. It explores the idea of community data rights on the platform economy and why collective bargaining on data is imperative for any kind of meaningful negotiation with technology companies. The role of a community data steward in reclaiming workers' power in the platform economy is explained, concluding with policy recommendations for a community data steward structure in the Indian context.

# Algorithmic management of workers

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The lives of workers engaged through platforms is governed and dictated increasingly through algorithmic management—a set of tools, techniques and decisions that use data to oversee and manage workers (Mateescu and Nguyen, 2020). This type of distant, machine-led management is a departure from traditional human supervision and increases the gap between workers and their supervisors. Although algorithmic management is efficient for the platforms, it relies on significant data extraction and surveillance of workers and then uses this information to make automated decisions. It also relies on opaque customer feedback through ratings and uses nudges and penalties, such as earning goals or targets, that pop up for drivers when they want to log off (Schieber, 2017).

Algorithmic management lacks transparency, and workers do not know how their data are collected and used. For instance, in ride-hailing and delivery apps, workers are unable to see how their pay is calculated or how tasks are assigned. They must rely on informal systems of comparison to benchmark their performance (Mateescu and Nguyen, 2020). The logic of how ratings are is not given and how they impact remuneration is also not made clear to drivers, causing them anxiety and forcing decisions such as charging customers for shorter rides than actually taken to lower the fare for customers in the hope of better ratings (Rosenblat and Stark, 2017). Algorithmic management systems lack accountability of

traditional systems owing to the lack of transparency and the absence of a human face to the problem.

As a result of these systems and manipulations, workers suffer: They work longer hours than permitted by law in search of tasks that will allow them to meet their target; they are constantly surveilled; and they are unable to negotiate meaningfully. The worker experience on platforms is framed as entrepreneurial and designed for freedom and flexibility, but in reality, workers do not have the space to manoeuvre and are exploited by platforms seeking profits.

Drivers are beginning to understand the value of their data and the ways in which platforms use it for their own benefit. In the Netherlands, drivers on a ride-hailing platform are asking for their data to be exported to their union's "data trust" to facilitate more effective collective bargaining (Lomas, 2020). In the United Kingdom, drivers are asking platforms for greater transparency on how their algorithms work in terms of hiring and firing workers (Ongweso Jr, 2020).

As the power of data to manipulate and exploit workers on platforms becomes clearer, the mobilization towards greater control over data generated through the labour of workers also becomes stronger.

## Workers' rights and COVID-19

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The COVID-19 pandemic has been marked by a “technology theatre” (McDonald, 2020), or the deployment of technological interventions that give a false sense of problems being solved, without actually doing so. Contact-tracing apps are at the centre of this theatre, and the bodies of platform workers are the site of the drama. Through the pandemic, platform workers in delivery, taxi drivers and warehouse workers have been essential to making sure that people can stay indoors and safe. Many companies have celebrated their personnel for their contribution in the crisis (Swiggy, 2020). Given the centrality of app-based workers in this time, researchers have suggested considering them as “public infrastructure” (Surie, 2020) and not just the sole propriety of profit-making private companies.

That said, much has been written by the condition of platform workers who have been on the front line of the pandemic but unable to protect themselves, physically or financially (Koreck, 2020). Workers are at great risk of exposure to the coronavirus and are likely to suppress symptoms and unlikely to seek medical help in the absence of health insurance and with loss of wages if they take sick leave. This is compounded by the precarity of their status as contractors and not employees and thus without benefits on task-based work.

Simultaneously, these workers have been subjected to new technologies—apps and wearables—that compromise their right to privacy. In the Indian context, Aarogya Setu, the country's contact-tracing system is mandatory for delivery personnel (Deshmane, 2020). Yet, it is a violation of their privacy and autonomy. In India, the benefits of contact tracing through apps in curtailing the spread of the coronavirus is still unclear. Cybersecurity experts assess Aarogya Setu as a potential surveillance hazard that compromises the privacy of those who use the app (Vaidyanathan, 2020). Experts' assessments suggest that the app could leak patient location and compromise the security of patients. As a result, workers are not just vulnerable to the technology companies but also to the State.

Even without contact tracing, establishments are enforcing mandatory temperature checks on their personnel, then

revealing this sensitive personal information to customers to reassure them of their safety standards. Workers' bodies are thus subjected to constant surveillance, but they cannot resist the oppressive requirements due to the risk of losing their job. This imposition focuses on the comfort of customers and not the workers, who are already tracked by the apps that mediate their tasks.

Globally, workers on app-based platforms have been taking to the streets in protest to register their dissatisfaction with how platform companies have treated them during the pandemic. In Brazil, delivery personnel protested against the exploitive conditions of more work and less pay and algorithm-based decision-making (Reuters, 2020). In the United States, Amazon and Instacart workers demanded better pay and protection (Selyukh and Bond, 2020). In India, drivers on the ride-hailing platforms of Uber and Ola threatened to strike to demand a fare hike and a moratorium on the repayment of loans (PTI, 2020).

At the heart of all these protests are the data and the manner in which they are collected, collated and used. Platforms exercise power and control over workers, moulding behaviours through electronic surveillance and consumer ratings (Rosenblat and Stark, 2017). These mechanisms of control have been heightened by the pandemic, with surveillance no longer considered problematic. Encroachments on the body of the workers have been made by platforms and by the government, which has failed to protect the rights of its people. As the technology theatre plays out as a tragedy, it is critical for workers to organize and discover possibilities for negotiating and bargaining so that in future emergencies they are not victimized in this manner.



# Collectivizing data rights

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The limitations of platform work are increasingly clear, but the mechanisms for resisting and reforming it need to be developed. In this context, the first task is to reconsider our perspective on how data are generated, controlled and valued, which will further define how we can bargain for better rights.

In the era of big data, the value of collective, large data sets outweighs that of individual data points. Data produced through platforms, through wearable technologies and Internet-of-things devices, are aggregated and analysed into business intelligence that is then commodified. The data are stripped of any identifiers and, in some cases, can be considered “non-personal”, but they still belong to the group of people who provided them. In the same vein, it is argued that privacy is a public good, while individual vulnerability is heightened because of group actions and therefore protection requires coordination (Singh, 2020). The Non-Personal Data Committee<sup>2</sup> that the Indian government established acknowledges this by pointing out that “anonymised personal data and non-personal data about inanimate and animate things or phenomena—whether natural, social or artefactual, whose source or subject pertains to a community of natural persons”—will be defined as community non-personal data. This indicates that communities will have economic and decision-making rights on such data (Agrawal, 2020).

In the context of tech-mediated work on platforms, workers generate data through the use of an app, which in turn creates value for the platform. However, compensation is only given for completed tasks and not for the data generated on the platform, even when tasks are not in progress. This “community data” belongs to the workers, in part. Therefore, workers must be able to derive some value from the data and decide on its use. Even while the idea of community data rights takes shape, the efforts of platform companies to atomize experiences and to individualize journeys leaves workers

unorganized and disempowered (Chen and Wang, 2020). Without shared spaces, the community of workers is only imagined digitally. Thus, platform companies find it easier to enforce exploitive mechanisms. Individuals have no visibility on how their data are being used to make decisions, and platform companies rely on these asymmetries of information to manage workers. Current data protection frameworks perpetuate the idea of individual data rights, and tools for notice and consent assume that people understand and process all information to make informed choices. In most instances, individuals are unable to comprehend complex terms and conditions and agree to default settings to access what the platform is offering. This veneer of consent absolves platforms from responsibility to safeguard the interests of users (Tufekci, 2018). Making decisions on the collection, use and access of data is time-consuming and burdensome, and expecting people to spend time managing their data is unfair. Further, data value chains are complex, and individualized consent and protection do not take into account systemic flaws with the data economy (Tennison, 2020). Finally, breaches and security lapses like what Uber experienced in 2017 (Norton Lifelock, 2017) impact thousands of users, compromising their privacy and collectivizing the harm that they suffer due to the breach.

The isolation of the data economy is worse for workers who are unable to contract out of precarious conditions on platforms, whose efforts to collectively bargain are actively quashed and who have no choice but to accept unfair conditions in order to survive. However, as Shoshana Zuboff (2018) pointed out, “Surveillance capitalism depends on the social, and it is only in and through collective social action that the larger promise of an information capitalism aligned with a flourishing third modernity can be reclaimed.” It is clear that the only feasible and effective way to reclaim power in the data economy is through a reimagination of community and collective action.

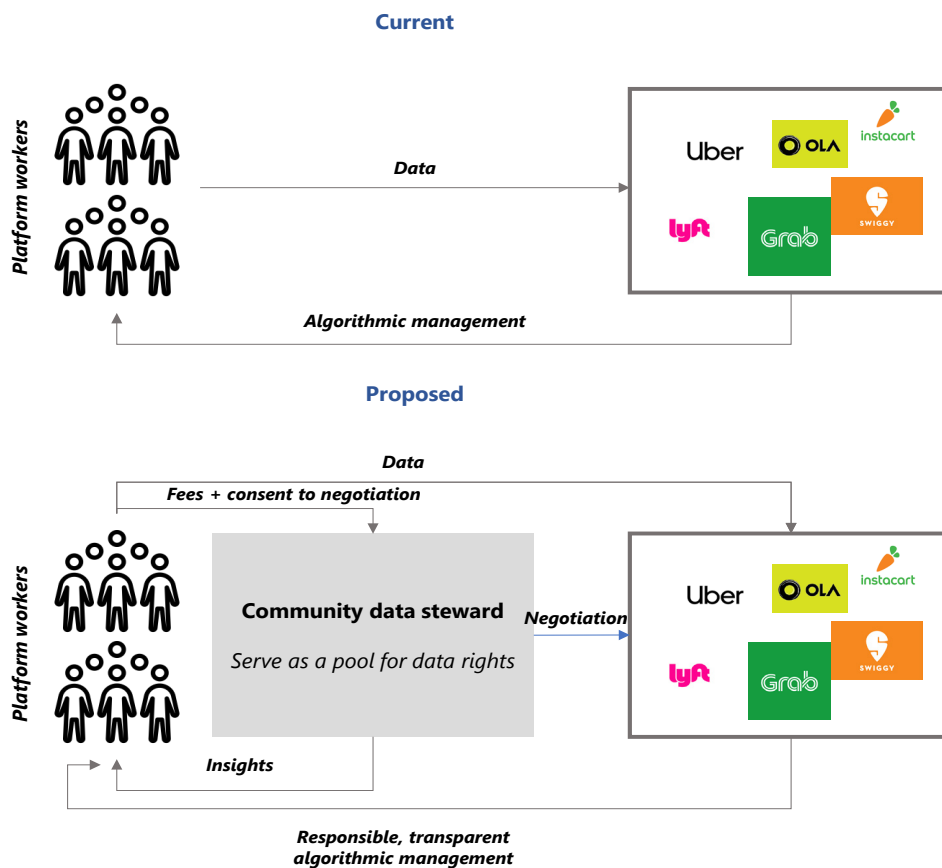
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<sup>2</sup> The Non-Personal Data Committee was set up by the government in 2019 to explore ways in which data that are not personally identifiable can generate greater societal value. In 2020, the Committee issued a working paper highlighting the need for community rights over data and proposing data trusts as a solution.

# Community data stewards

The demand for more access and control of data by workers is not new. Writing in 1950, Herbert Sherman discussed the employer obligation to produce data for collective bargaining. He talked of the demand for “look at the books” as critical for unions to demand reforms for wages and of the types of data that unions might need to represent workers more effectively. He also argued that the sharing of data with unions would foster trust and confidence in management. In increasingly datafied systems, it is clear that better conditions for workers will be impossible without workers’ access and control of the data that are produced by them and about them on platforms. To actualize this access and control, specific-purpose intermediaries, or community data stewards,<sup>3</sup>

can negotiate on behalf of workers on questions of data rights with platforms. Community data stewardship allows for data to be unlocked and value to be distributed among stakeholders while safeguarding the rights of those involved (Manohar, Kapoor and Ramesh, 2019). Beyond representing workers’ interests, community data stewards can be advisers on data matters, for example, on what data should and should not be shared and audits of technology companies using worker data. There are multiple models of varying control and safety. In the context of platform workers, a community data steward mechanism is recommended because it allows for participatory governance and decision-making on data decisions through an intermediary.



<sup>3</sup> It is important to call out the diversity in vocabulary—models are called unions, trusts, collaboratives, marketplaces, etc. This language is delinked from the core proposition of the intermediary: to give people more control over data-related decisions. There is divergence on how this control is actualized. For the purpose of this paper, we use community data stewards to encompass participatory decision-making on data.

The intricacies of a community data steward mechanism can be arrived at through mutual agreement and deliberation by workers. Fundamentally, it should aim to distribute the value of worker data in a more equitable fashion. It also should aim to give workers more say in how their data are used. The stewards will have a duty of care and loyalty towards the workers they represent, and this duty can be actualized through multiple legal instruments, such as a trust law. The stewards can draw from the idea of bottom-up data trusts (Delacroix and Lawrence, 2019), which are bound by fiduciary obligation to exercise data rights on behalf of those it represents. A multitude of data trusts are imagined to offer choice and flexibility to people to choose intermediaries who most reflect their needs. There are several other suggestions for how these intermediaries can be structured, such as digital trust mediaries that provide “advanced digital service to their clients while voluntarily operating under heightened fiduciary duties of loyalty, care and confidentiality” (Whitt, 2020).

For example, a community data steward on a ride-hailing app will be empowered to represent the collective will of the drivers (Singh, 2020). The steward will aggregate concerns and consent to facilitate decision-making on behalf of the drivers. This process would reveal demand for taxis in a more transparent manner, without drawing insights from worker behaviour and ratings. It could also ensure the ways in which data are collected from worker smartphones in “idle” time, when drivers are on breaks. These specific asks made by the data stewards would be arrived at through discussions with the platforms. This process can bring about transparency on how their pay is calculated and how tasks are assigned. To do this effectively, the data stewards must have a duty of care towards the workers they represent. The data stewards can help rebalance power in the favour of workers and give them greater control of their data decisions.

Community data stewards are beginning to pop up in various forms. On platforms, workers are increasingly understanding that better access to data could mean empowerment and agency in ways that have not been possible so far. In the United Kingdom, a group of four Uber drivers sued the company for not sharing data on time spent on the platform. The drivers believe, and correctly so, that this data would enable them to

calculate hourly wages and use it to make a case for better payment (Responsible Data, n.d.). The data would also give greater transparency on how algorithmic decisions are made based on performance, ratings and the structuring of incentives or penalties. These individual attempts to negotiate with platforms are time-consuming and expensive and therefore need a more concentrated, collective approach.

Efforts such as the Worker Info Exchange, which is based in the United Kingdom, help workers across platforms “access and gain insight from data collected from them at work usually by smartphones” (Worker Info Exchange, n.d.). The Exchange aims to pool data for workers to demand better deals at work. More recently, international trade unions have started recognizing the need for more control over data decisions pertaining to workers. They are demanding workers’ access to data about them, influence over how the data are used, safeguards for data processing, adherence to principles of data minimization, transparency in processing, exemption of biometric information and the establishment of data governance institutions to oversee implementation of these practices (UNI Global Union, n.d.). Other endeavours, such as the Prospect trade union’s Lighthouse tool, helps organizations, particularly unions, become better stewards of data (Prospect Union, Digital Public, n.d.). Elsewhere, WeClock (n.d.), an app built for workers’ collectives to quantify their workday, collect insights for advocacy purposes.

Other methods, such as workers’ cooperatives, are also taking shape. They are based on the cooperative banking institutions that are structured to represent members’ interests. Credit unions (Pentland and others, 2019), which have a fiduciary responsibility towards their members and already hold member data, inform members how data are used and alert them of the possibility of surveillance and of audit companies using their data. Platform cooperatives are also coming up as an alternative to platform capitalism and are based on democratic ownership and governance (Platform Cooperatism Consortium, n.d.) by giving workers a say in how work is organized and how labour is commodified on a platform.

The cooperative structure is increasingly being used for data management. MiData, a health data cooperative in Switzerland, allows its members to give data for medical research. All decisions on what data will be shared, whom with and for what purpose are made collectively by the members. MiData is a non-profit organization and does not commodify member data but instead aims to use data to input into critical medical research. For platform workers, the Driver's Seat cooperative commodifies mobility data for city agencies to help them make better planning decisions. The organization is structured as a cooperative and shares the dividends with its participants.

Some entities that call themselves “data unions”, like Streamr, offer people the opportunity to “crowdsell”. Streamr is based on the same logic—data are not an individual resource, individual data are not valuable and therefore individual rights are complex to safeguard. Streamr aggregates data and allows people to draw value from it. This commodification of community data is not ideal<sup>4</sup> but does demonstrate the manner in which data and the rights around them are pooled. A data union

in the Netherlands aims to pool data to counterweight against Big Tech and exert pressure for better laws, transparency and protection. In the context of activism, movements such as Data4BlackLives are trying to organize and control data better to empower Black communities and explore more inclusive data governance.

Through these examples, it is clear that community data stewards can be set up for different purposes: to empower communities, commodify and redistribute the value of data or to unlock data to generate data for public value. They can also be structured to have different levels of involvement by the community, different governance and accountability structures (Sundarajan, 2020) and different revenue models (Ramesh and Kapoor, 2020). Irrespective of the design choices that the data stewards make, they are united in one aspect—they aim to harness the strength of collectives to negotiate better data rights. In the context of platform workers, such stewards are a necessity that can help rebalance power and restore agency to workers.

## Conclusion

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Community data stewards are a new idea, especially because every steward will make a different set of choices based on the purpose they are assigned. Pilot projects and consequent evaluations will help understand the possibilities and limitations of various designs and identify models that work best for platform workers. The priority to build a more just and equitable data economy is imminent, and the community data stewards can have a significant role in achieving this goal.

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<sup>4</sup> Beyond the scope of discussion.

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**Astha Kapoor** is the co-founder of the Aapti Institute, a Bangalore-based tech and society research firm.

In her recent work on data stewardship, Astha explores how data can be unlocked to generate societal value while safeguarding the rights of people. She also works on the future of workers especially on new systems of negotiation between workers on platforms, and the evolving relationships between the state and citizens.

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