Conflict and Shifting Boundaries in the Gig Economy
THE CHANGING CONTEXT OF MANAGING PEOPLE

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The past two decades have represented a time of unprecedented social, technological and economic change that has required a transformation in human resource management (HRM). Shifts in demographics, continued increases of women in the workforce and greater mobility across national borders have led to higher diversity in the workplace. Advances in technology, including social media, have enabled new ways of doing business through faster communications and vast amounts of data made available to all. Mobile technology with its ubiquitous connectivity has led to renewed concerns over work–life balance and extreme jobs. These and many other changes have seen evolving attitudes towards work and careers, leading to different expectations of the workplace and mean that existing ways of managing people may no longer be effective. This series examines in depth the changing context to identify its impact on the HRM and the workforce.

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Foreword

In recent years, we have seen increased attention in the “gig” economy – broadly, the trend towards using freelance contractors on a short-term basis to undertake specific pieces of work or “gigs”. The use of such contractors in itself is nothing new; however, interest in its use has increased due to the development of mobile platforms that connect contractors with possible clients and their dominance in areas such as takeaway delivery (e.g. Just Eat and Deliveroo) and taxi transportation (e.g. Uber and Lyft). The growth of the gig economy has led to questions in relation to the impact of this trend on workers and on people management. In particular, a debate has arisen about the tension between the freedom that gig works allows workers (and of course employers) and the precariousness and uncertainty that they experience. Despite the important implications of the gig economy, we have so far lacked a detailed academic analysis of its impacts at different levels and discussion of how this increasing trend could be managed by organisations. In my opinion, there is a general lack of understanding about the gig economy and its implications; therefore, research and analysis in this area is much needed.

I was therefore delighted to include this text *Conflict and Shifting Boundaries in the Gig Economy: An Interdisciplinary Analysis* in my book series about the *The Changing Context of Managing People*. Rebecca Page-Tickell and Elaine Yerby have provided a fascinating interdisciplinary analysis of the influence of the gig economy through the perspective of conflict and boundaries and have examined implications of this trend at the macro, meso and micro level. I am convinced that this book will be invaluable to both academic researchers and practitioners who are responsible for managing people on gig contracts. I would also like to see this as a call to other researchers to help to develop the evidence base in this increasingly important area.

Emma Parry
Series Editor

*The Changing Context of Managing People*
Chapter 1

Understanding Conflict and Shifting Boundaries in the Gig Economy Through the Dynamic Structural Model

Rebecca Page-Tickell and Elaine Yerby

Introduction

The growth of the gig economy is evident across the globe and is often presented in the media, as a simple phenomenon characterised by conflict due to the upheaval of well-worn organisational structures and employee relations. This interdisciplinary and multilevel text seeks to expose the multifaceted nature of the gig economy and the granularity of experiences of key stakeholders operating within it. Conflicts as well as shifting boundaries are addressed to demonstrate the variety of forms the gig economy can take and how it creates tension and enhanced precariousness within existing global legal, economic and organisational structures and frameworks. Core to this analysis is an appreciation for what the gig economy actually is, as there is no singularly agreed definition. The gig economy has been defined in encompassing terms as ‘a work context comprised primarily of short-term independent freelance workers who contract with organisations or sell directly to the market’ (Ashford, Caza, and Reid, 2018, p. 2) and people having non-permanent fixed hours of work and doing individual, separately paid pieces of work (CIPD, 2017, p. 4). Others have sought to focus more exclusively on the technological features of gig work and management by algorithm, as the defining characteristics of the gig economy (see Duggan, Sherman, Carbery, & McDonnell, 2019). In this chapter we will explore the benefits and inherent diversity in each approach and provide a working definition and also Dynamic Structural Model through which to study the various elements of this contested domain. Policy recommendations for the gig economy are not straightforward given its heterogeneous nature, spatial dimensions and how new forms of work impact individuals differently dependent on the skill set required (Johnes, 2019). This book seeks to contribute to policy debates on the future of work that recognise this complexity through applying an interdisciplinary and multilevel analysis to the gig economy.

Our premise in the book is that the range of platforms and types of ‘gigs’ available in modern labour markets are disrupting established borders of worker and employee status, organisations, professions and labour markets, and have created...
conditions for conflict and shifting boundaries in both negative and positive ways. These conditions are created by the new global professional and working landscapes, which poses questions around the power balance between client, platform and worker, and if there can be trust and fairness when work is in a constant state of flux and the nature of work is always insecure (Graham, Hjorth, & Lehdonvirta, 2017). This book is written concurrently with the development of the gig economy itself and wider economic conditions, which make it difficult to see the outcomes of existing and future relations within the gig economy. For example, evidence is mounting that the current use of platform-based technology allows a concentration of wealth into fewer hands (Dachs, 2018). This may propel a response at governmental level, to enable a longer-term more stable and equitable economy. As explored in the book the pace of governmental response to the gig economy has varied across legislative regimes, types of economy and social welfare agendas (Johnston & Land-Kazkluskas, 2019). Arguably in the UK the preoccupation and dominance of Brexit in the political and economic psyche has meant legislative attention to the gig economy has been left wanting (Bell & Clarke, 2017). Economic uncertainty and slow growth since the EU referendum result has meant a continued reliance on the flexibility afforded by the gig economy and conditions of precarity to be tolerated (Sisson, 2016). Whereas in the United States the first legislative protection for gig ‘workers’ will come into force in January 2020, in part due to the strength of the economy and growth of job opportunities in the traditional labour market (Irwin, 2019).

The apparent lack of appetite for legislative change in the UK was evident in the findings and response to the government-commissioned independent review of modern employment and working practices. Good Work: The Taylor Review of Modern Working Practices (Taylor, Marsh, & Broadbent, 2017) came out against a wholesale shakeup in the law and extending protection to a wider range of workers. These findings and the main recommendations of the review for more responsible corporate governance, good management and employee relations within organisations were endorsed by the Conservative government of the time. It also addresses the macro perspective of the neoliberal context within which this ‘modern’ form of work takes place. The change in focus from labour to work is seen as part of the neo-liberal discourse (Wright, Wailes, Bamber and Landsbury, 2017). This book provides an analysis of the realities associated with platform companies and organisations engaged in gig-based work to voluntarily reform in these areas and the risks associated with the UK lagging behind legislative change, to both productivity and good work outcomes, for individuals and organisations.

Exploring different governmental responses raises important questions concerning the lifecycle of the gig economy as a permanent phenomenon. There are already claims of the gig economy contracting to just a niche arrangement for particular industries and those looking to ‘side hustle’ (Irwin, 2019). Healy, Nicholson, and Pekarek (2017) describe the gig economy as ephemeral and reports that in 2016 less than 1% of Australian adults were doing regular platform work. And in the UK the CIPD (2017) highlights:

The gig economy has not, as yet, fundamentally changed the nature of work in the UK. Over the past 20 years the share of
people in permanent employee jobs has remained high by international standards and has not greatly changed.

This picture needs to be understood against the backdrop of the significant problem of measurement in the gig economy. It is particularly difficult to identify the number of people engaged in the gig economy, due to the hidden, precarious and short-lived nature of the work. Governmental surveys of labour and employment where designed for a world of work based on traditional employment practices and are only now catching up with the fast pace and trans-global nature of the gig economy (Abraham, Haltiwanger, Sandusky, & Spletzer, 2017). As the number of dedicated large-scale surveys of the gig economy has started to grow an alternative picture to decline emerges. McKinsey & Co. (2016) published, what was at the time, one of the first global and large-scale surveys exploring the backgrounds and motivations of people working in the gig economy. Independent Work: Choice, Necessity and the Gig Economy revealed a burgeoning gig economy. The category of independent workers were not solely represented by those on low-incomes, doing one off jobs out of necessity. The survey revealed that whilst, approximately 45% of low-income households engaged in gig work, this made up less than 25% of all independent earners in all countries surveyed, with the exception of Spain. This survey and subsequent studies in the United Kingdom and the United States also revealed the high number of people engaged in gig work to top up salaries gained in traditional labour markets (see Broughton et al., 2018; CIPD, 2017; The Edison Report, 2018). The McKinsey Report (2016) described conditions whereby ‘casual earners’ supplement their income through choice, compared to the ‘financially strapped’ that do this through necessity. Demonstrating the uneven distribution of the benefits and costs associated with enhanced digitalisation and changed labour markets due to the skill-based nature of technological and role reforms (Dachs, 2018).

Hence, the aim of this book is not to provide definitive answers on its lifecycle trajectory but rather to explore the new interfaces taking place between traditional work and the gig economy and localities of enhanced precariousness versus flexibility and lifestyle freedoms. In doing so we also contribute to debates, as to whether the gig economy is a substantive change of kind from previous forms of non-standard working, or whether there is a change of degree engendered by the involvement of platforms. Facey and Eakin (2010) suggest that the main difference in the pattern of what they refer to as contingent work is its expansion into occupational categories which had previously longer-term working patterns. To ascertain the impact of these changes and boundary spanning issues in organisational and professional domains, a range of questions are posed and addressed in the book including: if more legal changes will be forthcoming to protect individuals against the precarious nature of the gig economy? Can trade unions have a valid and valuable role in this economy and has organisational and individual decision-making in relation to the management of people and careers fundamentally changed, as a consequence of the growth of the gig economy?

In addressing these questions macro economic experiences and sources of conflict are examined, as well as meso organisational responses and solutions and micro level issues and disagreements between gig workers, employees and managers that
Occur from the blurring of role boundaries and how benefits are divided in the gig economy. In this respect, the book seeks to keep a balance between overly positivistic and negative accounts, of both the organisational and gig worker perspectives, on the realities of modern working practices. Including an analysis of a range of stakeholder perspectives and experiences from industry and organisational settings in the exploration of case law and empirical research supports this ambition. The emphasis lies in the nature of trust and fairness and the extent to which there are opportunities or growing hidden problems, and if existing mechanisms for conflict resolution are still viable in the gig economy. In doing so, visibility of the gig economy and its accessibility for trade unions and human resource management (HRM) are also considered.

Thus, throughout the book connectivity is made to the ongoing people management challenge of the possibility of effective engagement and involvement of those working in the gig economy. The spatial dimension of the gig economy and the different skills sets, talents and motivations that are required in relation to different forms of gig work are examined in this context. In this respect conflict and blurred boundaries between gig workers, employees and the wider goals of the organisation and, in particular, strategic HRM become evident. As such the book considers the practitioner perspective and makes recommendations for managing organisational level conflict that is created by the gig economy.

In sum, the different chapters of the book each undertake a review of current literature, case law and empirical research on sources of economic, legal, institutional and organisational and individual level conflict and shifting boundaries in the gig economy and provide provocations, insights for future research and policy recommendations. The conclusion provides a synthesis of these emerging trends and issues but there is no false integration to provide a seemingly clear conclusion, simply because at this stage of its development the gig economy remains too amorphous and rapidly changing for definitive conclusions or judgements to be made.

Defining the Gig Economy

A key challenge associated with producing an interdisciplinary text on the gig economy is the application of one singly agreed definition that can account for the divergent author perspectives and subject specialism. As explored above analysing and measuring the gig economy is problematic due to its amorphous nature and the lack of precise classification of gig work (Duggan et al., 2019). These debates are tied into the number of terms that are used to refer to the gig economy and have contributed to some of the confusion around the boundaries of this type of work. References to the ‘on-demand’ economy focus attention on the temporary and unpredictable nature of the gigs. Stewart and Stanford (2017) make the point that the terms used are chosen to communicate something of the desirability of this form of commerce. Commentators can create a positivity around the various terms for the gig economy ‘using rose-coloured euphemisms to make the phenomenon sound exciting and positive’ (p. 421). Facey and Eakin (2010) comment ‘it is framed negatively when discussed in relation to workers and
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positively when viewed in relation to the economy’ (p. 372). This section outlines our perspective on a range of definitional debates and issues that impact the way in which the gig economy is understood and examined and provides context to the working definition applied in the book.

Definitional issues within the gig economy are inherently complicated by the existence of non-standard and informal workplaces for a very long time. The gig economy may be understood, as a new development in employment or a circular development, in which the opportunities for work have returned to a previous era of low pay, protection and tenure as the employment market becomes fractured in a reinformalisation (Juravich, 2018). Precarity is synonymous with the term ‘gig economy’ as it came into common usage around the height of the financial crisis and unemployment levels in early 2009. Yet, Gleason (2006, p. 1) notes discussions of an increasing prevalence of non-standard employment practices during the 1970s in the private sector in the United States and contextualises this as part of a broader shift in the economy following World War II. Non-standard and temporary work was discussed as early as the 1980s under the term of contingent work by Audrey Freedman. A rapid increase in the incidence of the emergent gig economy has since been identified at various points across the globe as well as diverse occupations and professions where it had previously not been prevalent (Facey and Eakin, 2010, de Ruyter, 2004).

A point of departure between previous cycles of non-standard work and the gig economy which we see today are the way in which advances in technology, automation and digitalisation have created task parcelling. Task parcelling involves the breaking down of work activities into micro tasks (Berg & de Stefano, 2018). This has the potential to break down boundaries between roles in organisations and whilst each individual task is completed to the lowest cost, the role as an entity may no longer exist (Healy et al., 2017). The global and economic development potential is evident as jobs, or part of jobs can be taken to geographically dispersed areas where work is needed (Graham et al., 2017). New technologies make it more feasible to organise work, as a series of tasks or on a project-specific basis, engaging a global cast of people with a mix of skills for each task or project (Sisson, 2016). Whist this can create important tangible benefits for a wider range of workers, there are also risks and costs for all stakeholders engaged in this type of work organisation (Graham et al., 2017). Enhanced digitalisation through the creation of time space distanciation creates the denudation of interpersonal and social elements of the workplace. The lack of collectivity can be experienced as an isolating effect that heightens the impact of the precarious work and access to protection (Johnston & Land-Kazkluskas, 2019). It also can be seen to have a limiting effect on the entrepreneurial and innovative behaviours of firms and freelancers, as the latter may have difficulty in contextualising their opportunities due to the lack of information provided through the platform and agencies (Barlage, Born, & Witteloostuijn, 2019).

The boundaries between role, level and even function are also challenged by this new way of organising work. As the boundary between standard and non-standard work is eroded through an ongoing increase in flexible and contingent working patterns this has the potential to impact whole families of roles and
even professions. Healy et al. (2017) go on to reference The Economist (2015, p. 63) in describing the gig economy as a form of ‘digital Taylorism’ with the implications of control and measurement in the search for efficiency and reduced costs. At organisational level, this impacts the local competitive field and has seen examples such as Uber and Deliveroo perceive themselves as disruptors of inefficient economies inducing conflict and change amongst local competitive the infrastructures. Prassl (2018) suggests this is ‘platform paradox’ as whilst large organisations present themselves as a marketplace, the control they take over workers through algorithm is comparable with direct employment.

Taken together these debates reveal how the gig economy can be understood as qualitatively different from that of previous precarious employment markets. Duggan et al. (2019) advocate definitions of the gig economy, whereby the presence of an intermediary digital platform distinguishes gig work as a unique unit of classification and analysis. In identifying three types of platform work (demonstrating complexity even in bounded definitions), as capital platform work, crowdwork and app work the algorithmic management of those engaged in this type of work becomes the key research focus and differentiator from previous forms of contingent work. The primary perspective in this book is that of employee relations. Therefore we are excluding the study of platforms that enable the sharing of resources such as AirBNB. Whilst we recognise the importance of platform-based work and control, the working definition in the book applies a broader lens to reflect the diversity of experiences in contingent work. We define the gig economy as being constructed of short term, task focused exchange of labour for money, frequently but not necessarily involving the engagement of mediating online marketplaces enabling a geographical asynchronous separation of provider and purchaser. Thus, our definition builds on an understanding of the importance of technology and platforms without allowing them to define the totality of the gig experience and so exclude different and newer forms of technology and working that operate outside the marketplace construct. Together, these changes mean that the gig economy we see today can be considered at least as a step change from previous iterations of contingent and non-standard work by the space-time distanciation that enables the denudation of mutuality in the contractual relationship. By adopting this more encompassing definition each chapter can contribute to key debates relating to the extent to which conflict and boundaries between existing structures are now changed, or if this is the continuation of the range of structures and conflicts within the economy on which new technology has shone a light and made visible.

An established boundary in the book is that our definition does not incorporate the sales of goods such as on e-bay or on the sharing economy. Martin, Upham, and Klapper (2017, p. 3) discuss the ‘sharing economy’ as one iteration of the gig economy. This is commerce, mediated by online platforms which ‘enable citizens to share, lend, gift, sell and rent resources’. Defined as forms of exchange facilitated through online platforms, encompassing a diversity of for-profit and non-profit activities that all broadly aim to open access to under-utilised resources through what is termed ‘sharing’. (Richardson, 2015)
Instead we focus on the sale of labour in both a fixed term as well as a per hour agreement. An individual may offer a specific piece of work, for example, the platform People per Hour advertises the management of five social media posts for $25 (People Per Hour, 2019). Alternatively, individuals may offer their time and skill, for example, on Amazon Turk, individuals can be paid per task for ‘human annotated data to train new systems and measure our progress’ (Amazon Turk, 2019). Thus, we have limited our discussion in relation to the ‘sharing economy’ within this book to those who have contracted at least genuine piece work with an identifiable income and self-determination. However, within the complexities of the modern global gig economy, this is not a given. Plant (2015, p. 155) notes the importance and complexity of this:

[…] the subject is beset by grey and contentious areas, such as the high charges that migrant workers often pay to recruitment agencies, the unexplained deductions from wages that migrants have to put up with, the long hours of work, and the insalubrious living and working conditions. This is often presented as a chain of deception involving subtle forms of coercion that can drive migrants and other vulnerable workers into situations of extreme degradation, arguably amounting to debt bondage.

Certainly, the gig economy has been demonstrated to reinforce and perhaps even exacerbate already existing inequalities (COVE Report, 2018) this demonstrates the value of a penetrating and explicatory scholarship of the gig economy that reveals its complexities and allows for clarity of regulation. We test this position through the relational analysis at the macro, meso and micro levels and how key stakeholder behaviours at each level impacts each other and our understanding of ‘good’ and ‘bad’ gig work and the blurring of boundaries between them.

Dynamic Structural Model of the Gig Economy

The gig economy is defined in this book in what could be considered a broad sense to encompass the full diversity of both positive and negative experiences characterising ‘new’ ways of working. The definition recognises the significance of app- or platform-based work and accompanying algorithmic management and also extends to include contingent work that is not necessarily mediated through a platform. We have constructed a model based on the key structural elements of the gig economy, which offers an integrated way for analysing the diverse experiences associated with different types of gig-based work. This descriptive and explanatory model focuses on the primary structures of the gig economy and presents the key drivers that can mediate experiences of precarity. Precarity is inherent in the gig economy and is experienced by all those working in gig work. Thus, central to the model is peak precarity and on the outer edges the concepts of flexibility and lifestyle freedom. Centre of the diagram represents those giggers with least trust, lowest pay, shortest gigs and greatest isolation both in terms of social and geographical isolation and as a result tend to experience peak precarity. The model reflects how working in the gig economy can be enhanced and damaged
through high or low recompense accrued from the different structural elements of the model. The key drivers of agency, identity and voice act as mediators to move up and down and between the structural elements and can ameliorate how precarity at one end of the spectrum is experienced and flexibility and lifestyle freedoms at the other end. The various chapters in this volume will explore how these mediators impact the capacity of parties operating in the gig economy to manage their path through the gig economy and how individuals can be privileged and simultaneously disadvantaged from working in the gig economy (Fig. 1.1).

We contend that the model can act as a useful intervention tool for key stakeholders seeking to enhance experiences and outcomes of gig work. All gig work involves trade-offs connected to issues of income security, potential access to training and development and broader employment protections (McKinsey & Co., 2016). The model in depicting and seeking to understand the conditions that create precarity and flexibility allows for recommendations and solutions that recognise this diversity and can improve working conditions for those engaged in the heterogenous gig economy. Solutions and recommendations become possible at and between the macro, meso and micro levels, as consideration of the presence of the key structural elements of the gig economy and the drivers of agency, voice and identity are possible in relational terms. Each of the structural elements are outlined below and will be developed further throughout the book,

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Fig. 1.1. The Dynamic Structural Model of the Gig Economy. (Page-Tickell and Yerby, 2020)
in conjunction with how they relate to each other and the impact of the key drivers, as part of this interdisciplinary analysis of the gig economy.

**Peak Precarity**

The central part of the model is identified as peak precarity. This is the impact of low levels of each of the structural elements. It refers to precarity at all levels of the economy – micro, meso and macro. At a micro level individuals engaged within the gig economy are most subject to precarity owing to poor and unreliable rates of remuneration, lack of certainty or timescales of work, as well as a reduced capacity to contextualise their options which precludes efficient choices. At a meso level this precarity is expressed in the lack of mutuality between worker and organisation which may have a stunting impact on the competitiveness of the organisation, as it fails to effectively engage what has been described as its greatest asset; its people. This develops further at a macro level to potentially build an economy denuded of key skills in its workforce, as well as lacking remittances for social welfare and other mechanisms of state. This somewhat extreme description is through the lens of an economy dominated by gigs, but does highlight the link between the gig economy and precarity at all levels. The counter argument remains that the gig economy allows flexibility and responsiveness, which is depicted at the edge of the model and is also something that is inherent in discourses and positivistic imaging of the gig economy.

**Trust**

Trust is a core element of all worker–manager relationships and in the gig economy the need for trust can be seen to be increased due to the lack of mutuality inherent in the relationship. Trust is conceived as a scale from high trust to low trust. High trust is characterised by freedom of choice for the gigger over how to approach tasks and is characteristic of high value technical and professional gigs such as freelance lawyers or project managers. Conflict and reduced trust can also occur in high value gig work between the gigger and permanent employees through disparities in remuneration, knowledge sharing and development opportunities. These issues occur and are explored through the relational analysis in the book. Issues of low trust are also evident in the continuous measurement (monitoring), typically in the form of algorithmic oversight and decision-making as observed in Amazon Turk, Uber, etc and is a theme running through the analysis of the chapters.

**Pay**

Pay is identified as the remuneration offered to giggers including financial remuneration. This has two elements, the amount and reliability of remuneration. The amount is at face a simple mathematical consideration but in the case of limb (b)

*Although the issue of reduced tax contributions to mechanisms of state was one of the factors in the UK government to conduct a broad reaching review of ‘new working practices’ in 2017.*
workers (dependent contractors), as well as higher status freelancers may also include benefits such as paid holiday or perks. Reliability of pay speaks to the frequency of pay as well as the expectation that pay will be on time, correct and the appropriate tax deductions will be made. This underlying focus is a significant source of conflict. In addition, the issue of fake reward has emerged with evidence of Uber offering ‘sweetners’ to keep drivers on board (see https://www.uber.com/gb/en/drive/rewards/). The implication of this is that organisations seek to retain giggers through offering para benefits that mimic those of employees and provide a degree of attractiveness for giggers who are otherwise denuded of all benefits except pay. This element also incorporates the value of pay. For example, an amount of remuneration may have a different meaning in different economies. Giggers working on identical tasks may be located in economies where the value of the remuneration is widely different. Therefore, the analysis of this segment needs to incorporate the perspective of both payer and receiver of goods. At a meso level, this also suggests organisational strategies which access low cost but high quality task completion through the gig economy. This may undermine low cost strategies that organisations have frequently adopted through offshoring.

**Collective**

This element builds on giggers experiences to share their experiences with other giggers in similar positions and so start to work as a collective. This may be in terms of sharing information about, for example, rates of pay and the type of work available on different platforms. The scale is conceived as from a solitary, individual approach to gigging with no collaborative relationships, through to mutually supportive organised collective relationships which allow gamifying in the gigs to exploit each opportunity to the maximum advantage for each individual. This collective at its strongest challenges boundaries with existing organisations, such as trade unions, and could in some circumstances provide a replacement for them.

**Place**

The element of place refers to where and when the work for the gig is carried out. The two elements of where and when interact. The time may be synchronous or asynchronous and it could be a combination of these, so that a scale of entirely asynchronous through to entirely synchronous is envisaged. In addition, place includes the physical space that giggers use when they are working; whether that is at one end of the continuum a seat whilst they hold a mobile phone to work on, through to a car or finally a lecture theatre or shared office. The scale for place represents working in a self-provided space alone, through to a shared space with other workers. Some gigging roles are geographically independent, for example, a copy writer could be located anywhere across the globe. By contrast, an Uber driver or food delivery courier must be located by customers, and their geographical location is closely tracked by customers, intermediaries, such as restaurants and also the gigging organisation itself.
Tenure

The tenure refers to the length of each gig contract or contact. The scale is conceived as one-hour single individual gigs through to gigs of up to one year, possibly recurring. Tenure interacts with trust particularly. The length of the gig is closely related to the sense of people as tools or assets to fulfil consumer requirements versus more complex sources of innovation and expertise who can help to develop the organisation as a whole. This is a source of conflict within the gigger–organisation relationship. Whilst this mirrors the conflict inherent in employee–employer relationships, within gigging relationships it may be exacerbated by the lack of mutuality leading to the giggers being seen as an easily disposable asset.

Coverage and Structure of the Book

The heterogenous and complex nature of the gig economy as explored above lends itself to interdisciplinary and relational analysis. The main reason why researchers engage in interdisciplinary research is the inherent complexity of the phenomenon being studied (Michael, 2018). From an interdisciplinary perspective the difficulty of defining the gig economy suggests boundary complications. For an economics perspective it is legitimate to include the sharing economy within a broader gig definition as the assets of a house, tool or time are in many ways equivalent to financial assets or human assets. However, from an HRM perspective the human assets are unique and an entirely different category of value. The lens through which the economy is seen sheds light on boundary issues such as these as well as on the source of conflicts. Approaching people as if they were another economic resource to be utilised when required, on a just-in-time basis is deceptive, as people may not be controlled in that manner over the longer term. In applying an interdisciplinary lens we do not diminish the importance of each individual discipline but focus on sharing the topics and methods to create a new unified understanding.

To work in an interdisciplinary way within and between the chapters the principles of bricolage were used. Bricolage seeks to apply multimethodological and multitheoretical forms of inquiry into complex political, social and cultural domains. Indeed, bricolage approaches are most effective when the object of study is identified as inherently complex (Kincheloe, 2001), as we see in the gig economy. Attempts to understand the gig economy from a unilateral perspective would impede the complexity of relational factors shaping the nature and experiences of gig work. The multimethodological and multitheoretical emphasis in this collection is for discipline experts to clarify their position on the complex web of reality in the gig economy and in the process of wider analysis, to pull together and reflect on the social locations of other researchers and the ways they shape the production and interpretation of knowledge of the gig economy. This approach cements the object of study in a more complex frame that seeks to recognise the interconnections between phenomena and structures shaping the nature of reality. In adopting this approach, research methods
are actively constructed as driven by the complexity in the research domain (Kincheloe, 2005). Thus, we see in this volume a range of methodological approaches including case study analysis, vignettes, text analysis and semi-structured interviewing.

Relational Analysis

Conflict and shifting boundaries in the gig economy will be addressed through the macro, meso and micro levels of analysis. We advocate the need for such multilevel theorisation by describing the multilevel nature of gig economy. This allows an in-depth analysis of each of these levels and the interconnectivity between them. Theories at multiple levels may be combined to provide increased theoretical richness and understandings of applied issues (Carter, Meschnig, & Kaufmann, 2015). To illustrate, the micro level theory of social identity is applied to the macro issue of trade union representation in the gig economy. In this sense, there are relational and interdisciplinary discussions at each level but also within in the chapters. This highlights another advantage of relational and interdisciplinary research, which is to expand the use of current theories and identify alternative theoretical lens for real world problems. The discussions in the chapters highlight how the topics explored at each level do not exist within a vacuum at the single level. For example, to what extent has the emergence of the gig worker impacted the flow of resources, information and power between these levels? Our approach in this book has been to use bricolage as a way of combining the disciplinary approaches, as well as identifying the integrative themes that run through the relational levels of the book. This approach supports the analysis of an applied and multidisciplinary problem (Doz, 2011), such as the gig economy. The next sections outline our understanding and contribution of the analyses that take place at each relational level.

Macro analysis of the Gig Economy

This macro level of analysis considers the debates conducted at societal levels through the change in working patterns facilitated by new technology and digitalisation in particular. The oligopolistic nature of the supranational organisations such as Alphabet may be considered to challenge nation state integrity (Hameiri & Jones, 2016). For example, the issue of regulation of gig workers, particularly those in lower skilled roles is a key issue within which multiple complex regulatory regimes may lead to arbitrage and deficit, in particular on the part of giggers to whom much of the risk is devolved. This section also addresses the ongoing development of the gig economy and its potential presence as a permanent feature or part of an ongoing development. The impact of the gig economy on the wider development of society is considered from multiple perspectives to address the benevolence of platform owners.

Meso analysis of the Gig Economy

The meso level of analysis focusses on organisational impacts of the gig economy in terms of a critical perspective around organisational purpose and functioning to
identify the range of boundary issues, as well as conflicts engendered by the emergence of the gig economy. The emphasis is then on dis-evolution of strategic HRM in the gig economy from talent management to supply chain management. The risks associated with adopting an increased reliance on non-employees means a reduction in the accumulation of firm-specific human capital (Sisson, 2016). This over reliance on non-permanent employees is also explored in the context of professional implications. In addition, the impact of globalisation is again felt in the precarious gig economy due to lengthening supply chain. This raises the spectre of the point at which precarious work morphs into modern slavery. Organisations would be well advised to ensure that they conduct sufficient due diligence in their supply chains to ensure that workers at the beginning of the supply chain are not subjected to modern slavery. The United Nations quotes the Baltimore Anti-Slavery Society in its working definition of modern slavery as ‘identified by an element of ownership or control over another’s life, coercion and the restriction of movement and by the fact that someone is not free to leave or change an employer’. In this section of the book issues of human rights and voice are explored through further legislative protection that can be afforded at the meso level, including Whistleblowing.

Micro analysis of the Gig Economy

The micro level of analysis focusses more specifically on individual actors within the gig economy and identifies the individual level conflicts emerging from this way of working. At the individual level, the impact of the gig economy can be highly variable. Barriers to entry are much lower, as is evidenced by the globalised nature of engagement in this type of work. The positive discourses associated with gig working as advocated by proclamations such as the Association of MBAs on the 13 February 2019 advising holders of MBAs to actively seek out a career as a gigger because:

[…] when your income is decided by a single employer, they essentially control your time, your working hours, your income levels, and even your retirement years. The gig economy puts every aspect of your life back into your own hands. You gain time by eliminating a commute, get to step away from office politics and become your own boss. With that complete control comes freedom – and also the need for critical thinking, forecasting, and long-range planning. (Association of MBAs, 2019)

This discourse and the impact of misbelief and heuristics on the engagement of giggers is explored at the micro level to examine realities of ‘new freedoms’ in the gig economy versus greater control by the algorithm and a loss of opportunity and control over one’s time.

The following section provides an overview of each of the chapters contained within the specific disciplinary domains of law, economics, HRM and business psychology but spanning multimethodological and multitheoretical perspectives to provide a connectivity within and between the chapters to the issues of conflict and shifting boundaries in the gig economy.
Macro Level Analysis

Chapter 2 – Defining the Employee in the Gig Economy: Untangling the Web of Contract. This chapter is a felicitous investigation into the potential redefinition of the common law doctrine that has defined employment status in the UK for many decades. This chapter outlines the issues facing courts and legislators currently presiding over a legal framework that, so far, has struggled to adapt to a rapidly growing populace of giggers who sit uncomfortably outside definitive legal classification. In examining how the law has, thus far, dealt with publicly prominent cases, such as Uber v. Aslam, this chapter considers the onward implications for the common law definition of employment, based historically on measurements of mutual obligations; the definition of which, it could be argued, is fundamentally transformed by the social and psychological contract offered in the gig economy. The resultant question regarding the viability of a conceptual uncoupling of statutory employment protection from contractual doctrine is therefore addressed in conclusion.

Chapter 3 – The Shifting Boundaries of Capitalism and the Conflict of Surplus Value Appropriation Within the Gig Economy. This chapter has twin themes and explores the economic theoretical foundations of the gig economy, specifically the shifting boundaries of modern-day capitalism and the place of the gig economy within it. Firstly, this chapter contests that a triangular business model connecting the (intermediary) digital platform, with the producer/worker and end consumer, represents the economic foundation of the platform-based gig economy. Facilitated within a structural shift away from ‘productive’ to ‘financialised’ short-term profit generation, gig economy platforms reflect the cost and price cutting trends of recent years and are often championed by proponents of neoliberalism. In the second theme of the chapter, it is contended, however, that within this triangular business model, a power dominance of the platform within the economic ecosystem comes to the fore. Whereby, in contrast to neoliberalist analysis, the Marxist concept of surplus value creation could be used to explain that an exploitation of the worker is undertaken through the bearing of costs (from the price and cost reductions) and a failure to receive a fair proportion of surplus value generated.

Chapter 4 – Presence and Pretence: Trade Unions and the Gig Economy. This chapter examines the issues pertaining to employee voice (or lack thereof) and the power imbalance, created by an apparent loss of mutuality in employment relations within the gig economy. This chapter incorporates social movement theory, social network theory and social identity theory to consider relationships between gigger and organisation from macro, meso and micro perspectives, respectively. A series of candid interviews with trade unionists on the front line of gig worker organising are woven into a narrative that examines real life scenarios facing those workers nearest the core of ‘peak precarity’, as identified in the Dynamic Structural Model of the Gig Economy (Page-Tickell and Yerby, 2020) book. Questions regarding barriers currently facing trade unions seeking to establish a vital presence, amidst a rapidly changing landscape, are addressed by the interviewees. This chapter provides an illuminating insight into both problems and potential for trade unions operating in the gig economy.
Meso Level Analysis

Chapter 5 – The Dis-evolution of Strategic HRM in the Gig Economy from Talent Management to Supply Chain Manager. The profound and potentially reductionist implications for the central HRM practice of talent management provide the focus for this provocative study. Using a critical HRM lens the chapter challenges the political dominance of human capital theory (a prominent variant of neoliberalism) and issues a stark warning to the HR profession of the dangers inherent within the shifting focus from ‘person’ to ‘task’, embedded within existing gig economy practices. Whilst some of the chapters in this edited collection quite pertinently focus specifically on digital platforms, here the authors underline the importance of recognising that a much broader encroachment of gig work is taking place. The featured case study that concludes the chapter, focussing on gig work in the higher education sector/university lecturing, elucidates the ripples and ramifications created by gig economy practices, which appear to be interlocked with an increasingly ingrained dominance of neoliberalist thought in management practice in the sector.

Chapter 6 – Worker and Organisational Protection: The Future of Whistleblowing in the Gig Economy. This chapter again reinforces the centrality of the internationally variant and unresolved question of legal status. This is reflected in the considerable importance, with regard to accessing a myriad of legal rights, associated with the statutory definition of ‘worker’. In the UK, the Public Interest Disclosure Act 1998 protects a ‘worker’ against dismissal and victimisation in the situation whereby they become a whistleblower. Such legislation essentially extends human rights protection and positively contributes to the safeguarding of public interest. However, in the context of blurred boundaries, as encapsulated by gig worker/freelancer/self-employment status ambiguity (and reflected in the inconsistency of recent judicial interpretation), this chapter recommends legislative reform to provide much needed protection for gig workers. This argument is further advanced by examining how the new EU Whistleblowing Directive, in protecting ‘work-related activity’, provides better protection for all whistleblowers.

Chapter 7 – Gig Economy and the Transformation of Professional Boundaries in Healthcare. This chapter broadens our insight into the multifaceted nature of the gig economy and extends, again, the interdisciplinary scope of this edited collection. In terms framed by the Dynamic Structural Model of the Gig Economy (Page-Tickell & Yerby, 2020) this study of the medical profession provides a juxtaposition of gig workers positioned in the outer rim in the (high) ‘trust’ and ‘pay’ segments of the illustrative polygon, but being drawn inward towards ‘Peak Precarity’ in the ‘Collective’ and ‘Tenure’ dimensions of the model. This is reflected in the chapter through examination of the potential for social isolation incurred through digital working and the reduction of numerous multidimensional medical professional roles to micro tasks. This is a thoughtful and sobering analysis of gig economy disruption in the medical profession that predicts the potential for gig platforms to fundamentally alter the nature of the doctor–patient relationship and challenges the existing interprofessional
boundaries in healthcare. This chapter reflects on the considerable tension between the individual-level and short-term benefits of gig working versus the long-term collective-level implications for the power and status of the medical profession.

**Micro Level Analysis**

*Chapter 8 – Evolutionary Mismatch and Misbelief Impact on Participants in the Gig Economy.* This chapter identifies the impact of misbelief and mismatch in heuristics on the engagement of giggers and customers with gigging organisations. This is of value due to the plethora of gigging opportunities and our lack of knowledge about how and why people choose to take up these opportunities. In addition, the gigs may frequently go unrecorded with payments made through systems such as PayPal which can allow international payments to be made without remittances. This chapter utilises the concept of mismatch and evolutionary theories to explore the efficacy and conflict in communications between gigging organisations and their customers and providers (giggers). Those selected are: misbelief in the conscious mind; and heuristics, such as the availability and confirmatory heuristics in the unconscious mind. Misbelief is addressed as a spandrel and heuristics are discussed through the lens of fast and frugal approaches. Through a text analysis of 77 international gigging organisations the messages conveyed are assessed against both evolutionary theory and prior research into the gig economy. The findings are that evolutionary psychology provides a useful framework for analysing these messages, the location and cause of conflict. HRM practitioners could make use of this form of analysis to support their design of interactions with giggers to ensure clarity on both sides.

*Chapter 9 – Frayed Careers in the Gig Economy: Rhythms of Career Privilege and Disadvantage.* The technological, societal and economic conditions that have been driven the growth in the casualisation of the labour market and the gig economy are also argued to have contributed to the decline in the traditional career and the growth of boundaryless and protean careers (Arthur & Rousseau, 1996). Whilst the decline in the traditional career may have been overstated the growth of the gig economy poses particular questions for career management and, in particular, who gets to choose new boundaryless career paths in the gig economy? Based on empirical evidence from careers in the HR profession, this chapter examines through a poststructural feminist and intersectional lens the complex discursive practices shaping decisions to gig amongst female HR middle managers. This chapter contributes to debates regarding choice and necessity in the gig economy and how these decisions and behaviours are shaped by existing structural inequalities and patriarchal structures.

*Chapter 10 – Conflict and Shifting Boundaries in the Gig Economy: Status Quo, Renewal or Decline?*. The final chapter of the book brings together the main findings of the chapters in an integrated manner. The individual contributions of subject specialisms are recognised but, importantly, the interdisciplinary findings, which shed new insights on the complex web-like relationship in the gig economy are explored. The role of The Dynamic Structural Model of the Gig Economy in
this analysis and in future research is explored in addition to the range of further research questions raised from the discussions and analysis in the book. Reflections on the benefits and challenges of conducting interdisciplinary research and the bricolage methods are also examined to contribute to methodological and pedagogical discussions relating to examining the gig economy.

**Summary of Chapter**

This chapter has outlined our position on some the key debates relating to the gig economy and how they will be explored in the subsequent interdisciplinary chapters in the book. This includes addressing definitional debates, which relate to a lack of shared understanding about what actually constitutes the gig economy and gig work, as well as whether this ‘new’ economy provides a break with previous forms of engaging workers or is a continuation of already established patterns of work. We adopt a broad definition of the gig economy to facilitate an interdisciplinary and relational analysis of conflict and shifting boundaries in the gig economy. The Dynamic Structural Model of the Gig Economy (Page-Tickell and Yerby, 2020) is proffered as an analytical and interventional tool to explore the way in which precarity and flexibility is mediated and can be experienced simultaneously in modern working practices. This analysis is conducted at multiple levels – micro, meso and macro – to interrogate all loci of the gig economy and to assess the disruption and upheaval caused to existing legal, economic and organisational structures. The overarching aim is to promote and enable an interdisciplinary understanding of the gig economy, to support the development of appropriate responses, interventions and policy making at the governmental, organisational and individual level.

**References**


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Section I

Macro Analysis
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Chapter 2

Defining the Employee in the Gig Economy: Untangling the Web of Contract

Barry Collins

Introduction

The rise of the gig economy seems rapid and unstoppable. In recent years, new technologies to enable work on demand, short-term contracts and casual labour have mushroomed and spread into existing fields of employment with dramatic effect. Their growth and scope have been evidenced by the range of essays in this collection. However, as other chapters explore, the benefits of flexible working have been tarred by claims of exploitative practices, low pay and heavy-handed responses to unionisation. High-profile disputes involving gig economy workers and zero-hour workers have broken out around the globe as symptoms of the insecurity and poor labour conditions that characterise gig employment. A rash of similar disputes has also erupted in the United Kingdom, with workers taking on large firms such as Uber, Deliveroo and Addison Lee in efforts to secure both individual and collective employment rights.

One of the most common triggers for these disputes has been the practice by employers of reformulating contractual arrangements in such a way as to deny their workers even the most basic of employment rights. In the United Kingdom, many gig economy employers have been accused of drafting contractual agreements that falsely categorise their workers as self-employed in order to thereby exclude them from the substantial statutory protections available to employees. Some gig economy employers, including large multinational companies, have re-formulated their contractual relationships with their staff in highly complex and contrived ways to avoid the additional costs of statutory employment protection. Statutory employment protections, described by Wedderburn (1971) as the ‘floor of rights’ (p. 33), constitute the minimum standards of employment protection for all employees. They include, for example, such fundamental rights as the right to unfair dismissal, the right to redundancy, rights to statutory maternity and paternity pay, minimum notice periods in dismissal, the right to equal pay and the right to request flexible working. The key to accessing these protections is the contract of employment, which gig economy workers often struggle to establish in law.
We should note at the beginning that the casualisation of labour itself is hardly a new phenomenon. ‘Casual’ or ‘atypical’ workers have formed an important part of the British economy for a very long time and their struggles for employment rights prefigure the current wave of claims from on-demand workers. The legal issues that arise in categorising gig economy labour are the same as for other casual workers, workers on zero-hour contracts and other types of low-paid, flexible employment. However, as this chapter will examine, the growth of the sector and the advent of technological systems that enable on-demand labour have involved new forms of contractual arrangement. These have thrown up important new questions for both courts and legislators about the correct scope of employment protection in such a rapidly changing working environment.

It seems anomalous that the main gateway to claiming statutory employment rights in the United Kingdom continues to be based on common law concepts of employment status. It means that existing common law tests must be satisfied in order to access statutory rights. However, many of these tests have their origins in models of work that now seem considerably out of date. Additionally, these common law tests create particular difficulties for workers who are contracted on a casual basis. Many statutory employment rights are conditional on the existence of a contract of employment as determined by common law principles. This means that the capacity of gig economy workers to access statutory rights depends on the capacity of the courts to adapt the common law concept of the contract of employment to the new social and economic realities present in the gig economy. This chapter will argue that reliance on such case-law is a fragile basis for securing the rights of an increasingly important sector of the working population. To paraphrase jurist Karl Llewellyn (1931), this is an example of society in flux, and in flux typically faster than law, so that the probability is always given that any portion of law needs re-examination to see how far it fits the society it purports to serve. (Llewellyn, 1931, p. 1236)

Case-law dealing with the contract of employment has produced two particularly influential common law doctrines that cause particular problems for casual or gig economy workers. These are the requirement to show mutuality of obligation and the requirement to provide personal service. Both of these have been used by courts as means of distinguishing the contract of employment from other types of contract. This chapter will chart the development of these two contractual doctrines and also examine recent cases which have scrutinised the use of contrived contractual documents by gig economy employers. These cases will show the willingness of courts to set aside the wording of contracts which are contrived to avoid statutory obligations and to take into account issues of the inequality of bargaining power. One way in which the courts have sought to mediate these issues is by making use of a third intermediate category in the Employment Rights Act (1996); that of the ‘worker’. This chapter will also examine whether this development is an effective response to the problem of securing
adequate employment rights for gig economy workers. Finally, the chapter will examine some of the current proposals for legislation in this field in the light of the case-law in the area.

The underpinning conceptual framework of British employment law remains the contract of employment. It serves as the means of access to most statutory employment rights and it structures the terms and conditions of employment of a large proportion of the working population. In addition to the statutory rights already mentioned, the contract of employment also entitles employees to other rights derived from common law, such as the right to claim wrongful dismissal and the right to be treated in a manner consistent with trust and confidence. The definition of the contract of employment is therefore a fundamentally important one; it is the corner-stone upon which employment protection rests.

The key question for the courts in determining the existence of a contract of employment is whether work has been performed by an employee operating under a contract of service or by an independent contractor operating under a contract for services. It should be noted at the outset that there is no comprehensive definition of either a contract of service or a contract for services in United Kingdom legislation. Consequently, the meaning of both ‘employee’ and ‘independent contractor’ inevitably require some interpretation. Section 230(1) of the Employment Rights Act (1996) provides that an ‘employee’ means ‘an individual who has entered into or works under (or, where the employment has ceased, worked under) a contract of employment’ and section 230(2) merely provides that ‘contract of employment’ means a ‘contract of service or apprenticeship’. No further definition is given in the Act of the meaning of a contract of employment, a contract of service or indeed of self-employment. However, the Act also provides for a third category: that of ‘worker’. This includes a person who has entered into a:

contract whether express or implied ... whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual. (Employment Rights Act, 1996 s. 230(3)(b))

This third category is just as poorly defined as the other two, but until recent case-law, it avoided significant judicial scrutiny. In a number of high-profile cases, such as Pimlico Plumbers Ltd and another v. Smith (2018) and Uber BV v. Aslam (2018), the concept of ‘worker’ has been used as a something akin to a judicial catch-all to mitigate the lack of statutory protection for those who work on atypical contracts performing services in a personal capacity but do not satisfy the tests necessary to be considered as employees. There are, in addition, some important statutory employment rights that pertain to this category of ‘worker’. These rights are by extension also available to employees but not to independent contractors. They include a right to be paid the national minimum wage, protection against unlawful deductions from wages, paid holidays, a right to statutory rest breaks, protection under working time legislation, the right not to suffer unlawful
discrimination under the *Equality Act* (2010), rights to statutory sick pay, statutory maternity and statutory paternity pay and protection for whistleblowing.

**From Mutual Obligations to Sham Contracts**

In order to clearly distinguish between contracts of service and contracts for services, courts have over the past 140 years developed a range of common law tests for determining employment status. Early cases focussed on the degree of personal control exercised by the employer, not just over the nature of the work performed, but also over the manner in which the work was performed (*Yewens v. Noakes*, 1881). This ‘control test’ that focussed on the personal subordination of the employee to the employer was a judicial tool suited to the work environment of the late nineteenth and early twentieth centuries, in which much industrial work was repetitive and often not highly specialised.

While control continued to remain part of determining employment status (see *Johnson Underwood Ltd v. Montgomery*, 2001), the test in *Yewens v. Noakes* was superseded in the twentieth century by subsequent judicial tests that were more appropriate to an increasingly specialised work environment. Later tests tended to examine the economic relationship or the ‘business reality’ that existed between the employer and employee. The best known of these tests examined the extent to which the supposed employee was ‘integrated’ into the employer’s organisation. This involved looking at economic factors of the relationship, such as

> [...] whether the man performing the services provides his own equipment, whether he hires his own helpers, what degree of financial risk he takes, what degree of responsibility for investment and management he has. (*Market Investigations v. Minister of Social Security*, 1969, p. 185).

The effect of widening the scope of the tests had the effect of recognising that employees could perform their employment tasks with relative autonomy without compromising their employment status. However, as Hepple has pointed out, such efforts by judges to insist on a clear dividing line between employees and independent contractors often led to inconsistent decisions and descended into a ‘maze of casuistry’ (Hepple, 1986, p. 72). In the important case of *Ready Mixed Concrete (South East) Ltd v. Minister of Pensions and National Insurance* (1968), McKenna J provided an important analysis of the various tests for determining employment status and recommends that the court should adopt a mixed approach, taking into account both economic and personal factors:

> A contract of service exists if these three conditions are fulfilled. (i) The servant agrees that, in consideration of a wage or other remuneration, he will provide his own work and skill in the performance of some service for his master. (ii) He agrees, expressly or impliedly, that in the performance of that service he will be subject to the other’s control in a sufficient degree to make that
other master. (iii) The other provisions of the contract are consistent with its being a contract of service. *(Ready Mixed Concrete v. Minister of Pensions, 1968, p. 440).*

McKenna’s approach, which balances the employer’s control over the employee with other factors inconsistent with a contract of service, established an influential test combining personal criteria (such as the requirement to perform personal service and the degree of control exercised by the employer) with economic criteria (such as the ownership of assets, the chance of profit and the risk of loss).

The question of how to use such principles to determine the employment status of casual workers is not a new phenomenon. In the well-known case of *O’Kelly v. Trusthouse Forte plc (1983)*, the question arose about the employment status of long serving casual waiters. The claimants were called upon for dinner functions when needed by the Grosvenor House Hotel and were known as ‘regular casuals’ because they could be relied on to be called when needed. In exchange for their regular service, they were more likely to be given preference for future work. The waiters had been dismissed for attempting to organise a trade union, but could only claim unfair dismissal if they were classified as employees. The Court of Appeal noted that the waiters’ contracts expressly stated that they had no obligation to accept work when called upon and that the employer accordingly had no obligation to offer them work. The court found that the contract lacked the ‘mutuality’ of obligation necessary for it to be a contract of employment and the waiters could therefore not be considered to be employees. However, according to this logic, an employer could potentially avoid many of the obligations of statutory employment protection by simply inserting a clause into the contract stating that s/he had no obligation to provide work and that there was no obligation on the person providing the services to perform work. The Court of Appeal, by applying such a strictly contractual test of employment status, here effectively negated the practical economic and psychological considerations that come into play in the situation of casual workers when deciding whether or not to accept work. By insisting that the claimants were self-employed, and in the same category as a person in business on their own account, the court ignored the economic and social reality of the employment relationship in favour of a doctrinal reading of contract law. The decision pointedly ignores the inequality of bargaining power between the parties in this case. As Leighton observes, ‘Mr O’Kelly was not held to be an employee but could he, in truth, be seen as an entrepreneur?’ *(Leighton, 2011, p. 18).*

The finding of a requirement of mutual obligation in *O’Kelly v. Trusthouse Forte (1983)*, which seems unduly restrictive for casual workers, needs to be read in conjunction with a subsequent Court of Appeal decision of *Nethermere (St Neots) Ltd v. Gardiner and Another (1984)*. This case, heard less than a year after *O’Kelly*, took a very different approach to the question of mutual obligation. In the Nethermere case, a group of workers who worked from home sewing trouser flaps, tried to make a claim of unfair dismissal. For this they naturally needed to establish that they were working under contracts of service. Again, the key question was whether the employer had an obligation to provide work and whether the claimants had an
Barry Collins

obligation to accept work when it was offered. The court took the approach that the issue of employment status was primarily a question of fact rather than of law. Consequently, the court eschewed a strict doctrinal approach and was willing to look at the actual relationship between the parties over the time that the services were provided. The court rejected the O’Kelly view that each piece of work done by the claimants should be treated as constituting a separate contract. Instead, the court said that an ‘umbrella’ contract of service had been created by the consistent performance of work over a substantial period of time, notwithstanding gaps in between the performance of the work. The court said that such a contract could arise ‘by regular giving and taking of work over periods of a year or more’ (Nethermere (St Neots) Ltd v. Gardiner, 1984, p. 628). The significance of this decision for casual workers, ‘on-demand’ staff and workers on zero-hour contracts is that these do not necessarily lose their employment status as a result of breaks in between periods of work. Such a practical approach did much to neutralise the risk that the concept of mutuality of obligation would substantially remove from casual workers the statutory protections available to employees.

As to the more general meaning of mutual obligation in employment contracts, Stephenson LJ in the Nethermere case quoted with approval the judgement of MacKenna J in the Ready Mixed Concrete case:

> There must be a wage or other remuneration. Otherwise there will be no consideration, and without consideration no contract of any kind. The servant must be obliged to provide his own work and skill. (Ready Mixed Concrete (South East) Ltd v. Minister of Pensions, 1968, p. 515)

Stephenson here reframes the concept of mutual obligations relied upon in O’Kelly as a question of consideration. That is to say that the employee exchanges the obligation to provide work for the employer’s obligation to make payment, rather than for the employer’s obligation to provide work in the first place (see further McGaughey, 2019). Stephenson’s treatment of mutual obligation will, as we will see, become crucial a quarter of a century later in the Supreme Court analysis of mutual obligations in Autoclenz v. Belcher (2011).

Notwithstanding the widespread scholarly and judicial criticism of the concept of mutual obligation (see e.g. Fredman, 1997; Hepple, 1986; McGaughey, 2019), the O’Kelly judgement did establish a legacy of cases that insisted on mutuality of obligations as a pre-condition for the existence of a contract of service. In James v. Greenwich LBC (2008), for example, the Court of Appeal considered a claim by an agency worker who was trying to make an unfair dismissal claim against Greenwich Council. In order to make the claim, she had to establish that she was an employee of the council. She had worked at the council over a three-year period, having successive contracts with two separate employment agencies. These described her as a ‘Temporary Worker’ and stated that she was not an employee of either the Council or the employment agency. The court rejected her claim, upholding the decision of the Employment Tribunal, which had ruled that the agency arrangements lacked the mutuality of obligations

However, there is a counter-strand of cases that has taken a much more critical approach to the issue of mutual obligation. Indeed, there has been a significant retreat from the rigid application of mutuality of obligation seen in the *O’Kelly* case, with courts preferring to examine the ‘real’ relationship between the parties and to take account of inequalities of bargaining power. This can be seen in *McMeechan v. Secretary of State for Employment* (1996), which involved an agency worker claiming that he had an employment contract for the purposes of claiming unpaid wages on his employer’s insolvency. The Court of Appeal found that Mr McMeechan was an employee, with Waite LJ quoting with approval the following statement:

> [...] the better view is not whether the casual worker is obliged to turn up for, or do, the work but rather if he turns up for, and does the work, whether he does so under a contract of service or for services. (*McMeechan v. Secretary of State for Employment*, 1996, p. 563)

This is also reflected at a European level, as the Court of Justice of the European Communities (CJEU), in a case concerning the status of workers claiming equal pay, has rejected the idea that mutuality of obligations should be a pre-condition of a contract of employment. The CJEU has stated that ‘the fact that no obligation is imposed on [the claimants] to accept an assignment is of no consequence in that context...’ (*Allonby v. Accrington and Rossendale College*, 2005, p. 290). *De Stefano* (2016) further points out the anomaly of the common law position, observing that other EU jurisdictions do not require mutuality of obligations as a pre-requisite for employment status.

The retreat from the doctrine of mutuality of obligations coincided with a more flexible approach to the various categories of contract outlined under the *Employment Rights Act* (1996). In particular, the intermediate concept of ‘worker’ in 230(3) (b) (also sometimes described as a ‘limb (b) worker’) started to be seen by courts as a way of addressing the obvious unfairness of a blanket denial of statutory rights to those who could not show that they worked under a contract of service. This development is exemplified by the influential Employment Appeals Tribunal case of *Byrne v. Baird* (2002). The case involved claimants who had signed contracts describing them as building subcontractors. They subsequently tried to assert their rights to holiday pay under the *Working Time Regulations* (1998). The tribunal found that, although there was no contract of service here, they could be categorised as ‘workers’ under section 230(3)(b). This flexible approach to the definition of
‘worker’ indicated that the tribunal accepted the need to distinguish the significant differences between the different kinds of contractors who provide services while falling short of being employees. The tribunal observed that drawing a distinction between ‘workers’ and independent contractors involves:

the same considerations as arise in drawing the distinction between a contract of service and a contract for services, but with the boundary pushed further in the putative worker’s favour. It may be relevant, for example, to assess the degree of control exercised by the putative employer, the exclusivity of the engagement and its typical duration, the method of payment, what equipment the putative worker supplies, the level of risk undertaken etc. The basic effect of limb (b) is to lower the pass-mark, so that cases which failed to reach the mark necessary to qualify for protection as employees might do so as workers. (Byrne v. Baird, 2002, para. 17).

One implication of this decision was to point towards the increasingly important role that the concept of ‘worker’ was about play in cases involving employment status. However, this new flexibility in relation to the category of ‘worker’ did not mean that the doctrine of mutual obligation had simply disappeared. Indeed, the tribunal indicated that the principle of mutual obligation might still plays an important role in distinguishing between employees and growing intermediate category of ‘worker’.

All of this was transformed, however, by the ‘purposive’ approach to the interpretation of the employment contract subsequently taken in Autoclenz v. Belcher (2011). This important case can be seen as the nail in the coffin of the doctrine of mutual obligation. This case involved some twenty claimants, who were contracted to provide valeting services. They signed contracts which described them as self-employed. They were subsequently invited to sign new contracts, supposedly to clarify their status. The new contracts required them to provide their own cleaning materials and contained a term stating that they could provide a suitably qualified substitute. The contracts also stated that Autoclenz had no obligation to provide the claimants with work, nor did the claimants have any obligation to provide work to Autoclenz. They attempted to claim rights to holiday pay and to minimum wage. Autoclenz argued that the claimants were independent contractors and not employees or workers under the Employment Rights Act (1996, s. 230).

In Autoclenz v. Belcher (2011), Clarke SCJ, who gave the judgement of the court, drew upon the decision of the Employment Appeals Tribunal in Consistent Group Ltd v. Kalwak (2007), which found that where the genuineness of a written term in a contract is disputed, the court should seek to discover the actual legal obligations between the parties. As Elias J stated in that case, courts must be aware of the risk

that armies of lawyers will simply place substitution clauses, or clauses denying any obligation to accept or provide work in
employment contracts, as a matter of form, even where such terms do not begin to reflect the real relationship. (*Consistent Group v. Kalwak*, 2007, p. 57)

This would require an examination of all of the relevant evidence, including the express terms of the contract, the expectations the parties had of one another and evidence of how they behaved in practice (see also *Firthglow Ltd (Protecta-coat) v. Szilagyi*, 2009). He went on to agree with the statement of Sedley LJ in the Court of Appeal that

The conclusion that Autoclenz’s valeters were employees in all but name was a perfectly tenable one on the evidence which the judge had before him. The elaborate protestations in the contractual documents that the men were self-employed were odd in themselves and, when examined, bore no practical relation to the reality of the relationship. (*Autoclenz v. Belcher*, 2011, p. 757)

The Supreme Court unanimously held that the claimants were employees. This status was not affected by the contractual clauses describing them as self-employed and which said that they had no obligation to perform, or be provided with, work. The Supreme Court would look beyond the written terms of the contract where these do not accurately reflect the real relationship between the parties. Clarke SCJ sought to distinguish employment contracts from commercial contracts because of the potential inequality of bargaining power at play in the employment realm. In determining whether the written terms of an employment contract represent what was agreed between the parties, the court said that the relative bargaining power of the parties must be taken into account. Notably, the court did not rely on the category of ‘worker’ in this case to categorise the status of the claimants, but insisted that the contracts in question were in fact contracts of service.

Interestingly, as *McGaughey (2019)* points out, the court in *Autoclenz v. Belcher (2011)* did not refer at all to *O’Kelly*, but instead quoted approvingly the interpretation of mutual obligation provided by Stephenson J in *Nethermere v. Gardiner* (1984). The doctrinal interpretation of mutual obligation in *O’Kelly* can now be regarded as over-ruled by the Supreme Court in the *Autoclenz* case. It has been replaced with a conception of mutual obligation as consideration and with an important focus on the relative bargaining power of the parties. The value of this more nuanced view is that it allows courts to distinguish between different kinds of casual workers. There are important and obvious differences, for example, between the bargaining power of a highly specialised consultant or tradesperson and that of a low-paid casual waiter or delivery driver, and it is important that these should be reflected in the determination of employment status. *Autoclenz v. Belcher (2011)* marked a definitive rejection of the rigid application of the doctrine of mutual obligation to confound statutory employment protection and it enables courts to make a proper separation of issues of statutory entitlement from contractual principles. The case also set down an important marker
that employment contracts should be treated differently to commercial contracts because of the differences of bargaining power that may operate within them.

However, McClelland (2012) observes that the scope of *Autoclenz v. Belcher (2011)* was to merely extend the range of facts to be considered when determining the existence of a contract of employment to include the inequality of bargaining power. The court’s ‘purposive’ approach to the contract of employment maintained an underlying objective of discovering the ‘true’ relationship of both parties, meaning that sham clauses, whose purpose is to avoid statutory obligations, can be overlooked. However, she argues that by insisting on the ‘true’ relationship between the parties the court missed an opportunity to provide clearer guidance as to what might constitute substantive unfairness in employment contracts. Despite this criticism, the reasoning in the *Autoclenz* case does mean that courts will look at inequality of bargaining power to decide whether contractual terms are real or not. This, as we will see, has come to have significance for flexible workers and for workers who work on-demand or on zero-hour contracts, particularly where they have little bargaining power to determine their contractual terms and conditions.

**From Personal Service to Pimlico**

Apart from the requirement to show mutual obligations, the other factor that has caused particular difficulty for casual workers attempting to claim statutory rights is the requirement that they must, under their contract, provide personal service. This was, of course, the first of McKenna’s criteria for identifying the existence of a contract of service in *Ready Mixed Concrete Ltd v. Minister of Pensions* (1968) and it embodies the idea that the employment contract involves an obligation, in exchange for payment, to personally perform the work contracted, rather than obtaining another person to carry it out.

An illustration of the importance of the personal service requirement was given in *Express and Echo Publications Ltd v. Tanton* (1999). In that case, the claimant was a driver whose contract provided that if he was unable or unwilling to perform the services personally, he could arrange for a substitute to perform them. The Court of Appeal found that the inclusion of this substitution clause in the contract was sufficient to render the entire agreement a contract for services rather than a contract of service. This approach to personal service focusses on the express terms of the contract, paying little attention to the factual relationship between the parties, or indeed to broader issues of inequality of bargaining power. A similar approach can also be seen in cases such as *Hawkins v. Darken (Sawbridgeworth Motorcycles)* (2004) and *Dragonfly Consultancy Ltd v. Revenue and Customs Commissioners* (2008).

However, a different (and more practical) line of case-law on personal service has also developed: one that looks in more detail at the factual relationship between the parties and at the actual practice of the personal service clause. This is illustrated, for example, in the case of *MacFarlane and another v. Glasgow City Council* (2000), in which a group of gymnastic instructors attempted to prove that they were employees despite the fact that their contracts made
provision for them to arrange for substitute to appear on their behalf. The Employment Appeals Tribunal in this case found that there was no common practice of arranging for substitution and that, despite the express term of the contract, an informal arrangement for providing cover in cases of sickness would not invalidate the obligation to provide personal services. In *Parkes v. Yorkshire Window Co Ltd* (2010), a salesman who was making a claim as a ‘worker’ under the *Working Time Regulations (1998)* had to overcome the obstacle that his contract allowed him to hire a substitute when he was unable to provide the services himself. The Employment Appeals Tribunal here noted that a limited or occasional power to delegate would not necessarily be inconsistent with a contract to provide personal services. The tribunal also noted that the status of ‘worker’ was an intermediate one between an employee and a person who carries on his/her own business undertaking. In this case, the claimant was found to fall into this intermediate category.

In the important case of *Pimlico Plumbers Ltd and another v. Smith* (2018), the Supreme Court gave an important ruling on personal service that has important implications for the casual and gig economy workers. The case concerned a plumber who was categorised as self-employed by Pimlico Plumbers, a large company providing domestic maintenance on demand (as it happens, Pimlico Plumbers is sometimes described as the Uber of the plumbing business). In the contract, a significant degree of personal control was exercised by Pimlico Plumbers over the claimant, and, although the contract specified that there was no mutuality of obligation, the claimant had to notify the company in good time of days when they would be unavailable for work. The original contract did not expressly mention a right to substitute, but the claimant did have a right to turn down work if Pimlico Plumbers could offer a more lucrative alternative. However, during the proceedings, a second contract was produced by Pimlico Plumbers which did allow for substitution, but only if the substitute was another Pimlico operative. The Employment Appeal Tribunal judgement had noted that the various contractual documents had been ‘a carefully choreographed set of procedures and contractual documents designed to negate the appearance given to the public at large and its customers and to present its operatives as self employed in business on their own account.’ (*Pimlico Plumbers Ltd and another v. Smith*, 2014, para. 43). The court found that the right to substitute in this case was so limited that it could not be used to negate the role of personal service in the contract.

The Supreme Court unanimously found that although the claimant did not operate under a contract of service, he did fall under the category of ‘worker’ under Section 230(3)(b) of the *Employment Rights Act (1996)*. This section provides that the status of worker cannot be ‘by virtue of the contract that of a client or customer’. While the contract contained no requirement on the parties to offer or accept work, the company’s strict control over marketing, pricing, the use of a branded van and the wearing of a uniform, along with various restrictive covenants to be imposed if Mr Smith stopped providing services to Pimlico Plumbers, meant that Pimlico Plumbers was clearly not his client or customer. Lord Wilson, who gave the judgement for the court, noted that such an intermediate category as
‘worker’ had been used historically to describe people who fall between those who work under a contract of service and those who work under contract for services. He noted that this category originated with the term of ‘workman’ in the Employers and Workmen Act (1875) and had subsequently evolved in the Industrial Relations Act (1971) into the term ‘worker’, a category, which, while falling short of a contract of service, still attracted some statutory protection, notably in anti-discrimination law. (The claimant was also entitled to claim employment equality rights under Section 83(2) of the Equality Act, 2010.) Lord Wilson’s judgement in the Pimlico Plumbers case does not, however, mean that the issue of establishing personal service has now been definitively clarified for gig economy workers. While the judgement takes an important stand (as does Autoclenz v. Belcher, 2011) on the insertion of sham clauses into contracts by gig economy employers to avoid statutory obligations, it provides little additional guidance on the definition of the ‘worker’ category, nor does it have much to say about the issue of the inequality of bargaining power. Instead, it seems that the category of worker is used here as a default category to deal with claimants who for reasons of policy cannot be categorised properly either as employees or independent contractors.

A Way Out of the Contractual Maze?

The lack of clear criteria for identifying personal service is particularly significant in relation to workers for who work on demand through phone apps. Employees who work on demand typically have difficulty showing mutual obligation and a requirement to provide personal service. In a very short period of time, a number of app-based platforms have grown into global organisations with a business model that presupposes that those who work for them do so as independent contractors. These organisations have shown themselves adept at drafting contracts for their workers that circumvent the tests for employment status in British law. This is typically done by combining high degrees of personal control over the service provider with express disavowals of both mutual obligation and personal service. Unionisation and collective bargaining are usually discouraged and resisted, often with considerable effort, and workers are encouraged to see themselves as self-employed rather than as employees.

Many of these issues were dramatically illustrated in the case of R (on the application of the Independent Workers Union of Great Britain) v. Central Arbitration Committee and Roofoods Ltd (t/a Deliveroo) (2018) (also known as the Deliveroo case). In this case, a trade union sought recognition for collective bargaining purposes with respect to a group of delivery riders who worked via the Deliveroo phone app. The riders were classified as self-employed and therefore had no access to minimum wage or rights to holiday pay. The difficulty for the claimants was that the union had to establish that the riders were either employees or workers with an obligation to perform services personally for the purposes of the Trade Union and Labour Relations (Consolidation) Act (1992, s. 296.1). The insurmountable difficulty for the union in this case was that the riders’ contracts allowed them to obtain a substitute both before and after they had accepted a particular job. Deliveroo was also able to show examples where the contractual
right to substitute had been exercised (thus overcoming the objection made in MacFarlane v. Glasgow City Council, 2000). The degree of control exercised over riders was also minimal, with riders needing to accept only one delivery every three months to remain on the app. The Central Arbitration Committee (CAC) found the riders to be self-employed. The big difference between these facts and those of the Pimlico Plumbers and Uber cases was that the contractual right to substitution real and regularly exercised. The High Court found that it was unable to interfere with the finding of the CAC that the riders were self-employed. There was also an interesting human rights dimension to this case. The claimants argued that the definition of worker in this case should be read in the light of Article 11 of the European Convention on Human Rights (1950) which guarantees the right to form and join a trade union and as applied in the case of Demir v. Turkey (2009). The High Court rejected this argument on several grounds, one of which was that Article 11 was not engaged in the absence of an employment relationship. (For a good discussion of the Article 11 issues in the Deliveroo case, see Atkinson & Dhorajiwala, 2019.) What we see in this case is that the lack of a more comprehensive and inclusive basis for employment protection has consequences that go well beyond the remit of statutory individual employment law. In this case, the principle of personal service has limited the access of gig economy workers both to the collective right to trade union recognition available to other workers and to the human rights remedies underpinning that collective right.

While the Deliveroo judgement is a good illustration of the continuing difficulties facing gig economy workers in claiming both individual and collective employment rights, the general tendency of case-law in this field has been in the other direction. In the face of legislative inaction and continued complaints about the exploitative practices of many gig economy employers, courts have tended to follow the lead of Autoclenz v. Belcher (2011) in looking beyond contractual documentation contrived to avoid statutory obligations and to taking account of the real relationship between the parties, including disparities of bargaining power. In relation to claimants who work on demand via online platforms, there have been some important developments in which courts have used the ‘worker’ category in the Employment Rights Act (1996, section 230(3)(b)). In recent years, courts and tribunals applied this category in flexible ways to accommodate the practices of online on-demand work and to respond to attempts by employers to use contractual loopholes to circumvent legislation.

In the case of Addison Lee v. Lange and Others (2019), private hire drivers had contracts that went to considerable lengths to make clear that they were self-employed and not employees. They could choose when to work, but most drivers showed a high degree of activity. The firm provided them with a computer by which their assignments were arranged. Once logged on, they had to have a good reason for not accepting an assignment. If they did not do so, they would face sanctions from the company. This factor was instrumental in leading the Employment Appeal Tribunal to look beyond the express wording of the contract (as in Autoclenz v. Belcher, 2011) and to try to assess the real relationship between the parties. The tribunal held that every time the computer was switched on, the claimants were within ‘worker’ status. Furthermore, the Tribunal found an
overarching ‘umbrella’ contract between the drivers and the company (as in *Netherermere (St Neots) v. Gardiner, 1984*) that was sufficient to crystallise the various instances in which they performed assignments into a single contractual relationship. This case, which extends the category of worker in the *Employment Rights Act (1996)*, expanded the previous Employment Appeals Tribunal judgement against the same company in *Addison Lee Ltd v. Gascoigne (2018)*, a separate case concerning cycle couriers. It also follows the momentum of a growing number of Employment Tribunal rulings against gig economy employers, such as *Leyland v. Hermes Parcelnet Ltd (2018)*, *Dewhurst v. CitySprint UK Ltd (2016)* and *Boxer v. Excel Group Services (2017)*. In all of these cases, Employment Tribunals took a similar approach, setting aside express contractual statements describing the claimants as self-employed and categorising them instead as workers.

The landmark case in this field, however, has been *Uber BV v. Aslam (2018)*. In this high-profile case, a group of Uber drivers (supported by the GMB union) have tried to claim entitlement to be paid the national minimum wage and to claim paid leave under the *Working Time Regulations (1998)*. Uber has argued vociferously that it is not a transport provider, but merely a technology company. They say that Uber drivers do not work for the company but are self-employed. Uber’s claim is that it acts only as a booking platform for drivers, providing them with booking and payment services. The drivers, according to Uber, then enter into contracts (as independent contractors) with passengers, with Uber acting simply as an intermediary between them. The Court of Appeal held by a 2:1 majority that the contractual arrangements described by Uber do not reflect the reality of the relationship and that the drivers should be considered as ‘workers’ for the purposes of the legislation. As in other cases involving ‘on-demand’ workers, the court applied *Autoclenz v. Belcher (2011)* and looked beyond the express terms of the contract to examine the reality of the relationship, taking into account the inequality of bargaining power of the parties.

Uber went to considerable lengths in their agreements with drivers to maintain the appearance that drivers were not directly providing a service to Uber, but were contracting independently with passengers. The documentation (described as a Driver Memorandum) described the drivers as ‘partners’, who had sole responsibility for the provision of driving services. The driving services, according to the contracts, could then theoretically be delivered by a third party, who could be an employee or business partner of the original driver. In the vast majority of cases, these complex arrangements were entirely fictional, as the service was typically provided by the drivers themselves. The court, however, dismissed Uber’s account of the contractual arrangements, observing that:

*Autoclenz* holds that the Court can disregard the terms of any contract created by the employer in so far as it seeks to characterize the relationship between the employer and the individuals who provide it with services (whether employees or workers) in a particularly artificial way. Otherwise employers would simply be able to evade the consequences of *Autoclenz* by the creation of more elaborate contrivances involving third parties (*Uber BV v. Aslam*, 2018, para. 54).
The court went on to describe these arrangements as convoluted, complex and artificial contractual arrangements, no doubt formulated by a battery of lawyers, unilaterally drawn up and dictated by Uber to tens of thousands of drivers and passengers, not one of whom is in a position to correct or otherwise resist the contractual language. \((\text{Uber BV v. Aslam, 2018, para. 105})\) The court concluded that the true contractual arrangement was not as Uber described, but was in fact a straightforward contractual relationship between the firm and the drivers (see further Fredman & Du Toit, 2019). This finding echoes a 2018 finding of the CJEU concerning that the operation of Uber in Spain, which rejected the claim that Uber was simply operating as an intermediary between passengers and drivers. The CJEU ruled that the Uber platform in Spain should be classed as a transport service and by extension that Spain could regulate the conditions for providing that service \((\text{Asociación Profesional Elite Taxi v. Uber Systems Spain SL, 2017})\).

An interesting issue in the \(\text{Uber BV v. Aslam (2018)}\) concerns how the working time of drivers was to be determined for the purpose of the \(\text{Working Time Regulations (1998)}\). Uber argued that the working time lasted from when the driver picked up a passenger and ended when the trip was completed. This would not account for the time spent by drivers who, having switched on the app, have to wait for assignments to become available. The Uber platform relies on a surplus of drivers being usually available, so inevitably this means that drivers spend quite a lot of their time waiting for assignments. Uber’s argument was that this arrangement was premised on the idea that drivers were free to work for competing services using other apps if they wished to do so during this time. Again, the court looked beyond the documentation and examined the relationship as it operated in practice. It was found that drivers faced a penalty if they rejected three consecutive requests from passengers on the Uber app, so it could not be said that they were really free to work for competitors during the waiting period. Consequently, the court upheld the finding of the Employment Tribunal that the working time includes the time that drivers are waiting for assignments.

The key to unlocking the contractual maze created by the Uber in this case is of course the principle in \(\text{Autoclenz v. Belcher (2011)}\) of examining the reality of the relationship beyond the express wording of the contract. However, it is worth noting the one dissenting judgement in the case; that of Underhill LJ. He considered that the \(\text{Autoclenz} case did not justify rewriting contracts due to the inequality of bargaining power between the parties just because they are disadvantageous; this is the role of parliament but not that of the courts. The \(\text{Autoclenz} principle would be engaged only if the employer’s characterisation of the relationship were unreasonable or false. He took the view that ‘the relationship argued for by Uber is neither unrealistic nor artificial. On the contrary, it is in accordance with a well-recognised model for relationships in the private hire car business’ \((\text{Uber BV v. Aslam, 2018, para. 146})\). This dissenting judgement, from a former president of the Employment Appeals Tribunal, underscores the fragility of the legal protections
available to those who work in the gig economy. In the absence of more substantial legislative protection, the only way to secure statutory employment rights is to rely on the flexibility of the courts in their interpretation of contractual doctrine and on their willingness to take account of inequality of bargaining power as a factor in setting aside the express wording of contracts. These cases dramatically illustrate the fragility of such reliance.

The Taylor Report Meets the Common Law

The Court of Appeal decision in Uber BV v. Aslam (2018) may be a welcome intervention in attempts to secure employment rights for gig economy workers. The decision shows a willingness to apply the Autoclenz principle to the complex contractual arrangements deployed by app-based employment platforms. The case also continues the flexible and expansive approach taken by courts to the definition of worker in their interpretation of Section 230(3)(b) of the Employment Rights Act (1996). However, the Court of Appeal decision in Uber BV v. Aslam (2018) is now the subject of an appeal to the Supreme Court and it cannot be described as a settled area of law. It is clear that there is little consensus among judges about how and when to intervene in employment status cases, and the multiplicity of complex legal norms involved hardly clarifies the situation for low-paid workers who are already in a vulnerable position. Additionally, judicial intervention tends to be based on what Leighton describes as a ‘freedom of contract model’. That is to say that courts will generally ‘accept documentary evidence at face value and only intervene through “necessity” or where the documents are considered a “sham”, neither of these notions being especially well defined’ (Leighton, 2011, p. 11). Notwithstanding the Uber and Autoclenz decisions, the common law commitment to the principle of freedom of contract continues to underpin judicial interpretations of the contract of employment. This inevitably limits its capacity to deal with situations where economically weaker parties enter into agreements in which they have little power to negotiate terms and conditions.

Additionally, Freedland injects a note of caution into the optimism that has followed the Uber decision. He reminds us that the overall scope of the rights attached to the status of ‘worker’ under the Employment Rights Act (1996) remains very limited. While worker status does guarantee a national minimum wage and the coverage of the working time regulations, which were the basis of the drivers’ claim in the Uber case, on-demand workers still have to deal with the many problems that already face workers on zero-hour contracts ‘from low income to struggling with unpredictable shifts due to a lack of guaranteed work’ (Freedland & Prassl, 2017, p. 12).

In response to the political and economic pressures created for both business and workers by the growth of the gig economy, the Conservative government commissioned an Independent Review of Employment Practices in the Modern Economy (2016, the Taylor Review). The Review described its ‘overriding ambition’ that all ‘work in the UK economy should be fair and decent’ (Taylor, 2017, p. 6). Among the themes considered by the report were: security, pay and rights; progression and training; the balance of rights and responsibilities; representation; opportunities for under-represented groups; and new business models
Defining the Employee in the Gig Economy (Taylor, 2017). One of the most important themes considered by the Taylor Review was issue of gig economy workers’ access to statutory employment rights. This chapter has detailed the way in which access to statutory employment rights has been premised on legislative categories that are poorly defined and common law doctrines that are inconsistent, unfair and inappropriate to the current labour market. The Taylor Review offered government an opportunity to address some of these issues, proposed legislation that would resolve some of the uncertainty in this area, and defined employment status in a more inclusive way. Recognising the injustice and opaqueness of the current situation, the Review states:

The key employment protections which are available to ‘workers’ are there to support anyone who is not genuinely self-employed and it should not be that easy for employers to avoid any responsibilities in this way.

There are some aspects of the Taylor Review that have are promising. For example, the positive presumption of worker status (Taylor, 2017, p. 61) is potentially very beneficial. Additionally, the recommendation that greater use should be made of secondary legislation to clarify the main categories of contract seems like a sensible suggestion (Taylor, 2017, p. 34). Otherwise, however, the outcome of the review is somewhat underwhelming. The Taylor Review is notable for its lack of engagement either with issues of collective bargaining or with human rights. This is an extraordinary lacuna in a Review of this nature, given the centrality of collective bargaining to the British tradition of industrial relations and the significance of human rights standards in almost every element of workplace regulation. However, neither the European Convention on Human Rights (1950) nor the Human Rights Act (1988), which together constitute the framework of human rights norms in the United Kingdom are even mentioned in the Review. As far as the status of workers goes, the Taylor Review rejects any proposal for a two-tier system of ‘employed’ and ‘self-employed’ and proposes keeping the current three-tier system of categorising contracts. However, the Review proposes changing the category of ‘Worker’ under s. 230(3)(b) of the Employment Act (1996) to that of ‘Dependent Contractor’. This change would involve re-defining worker status through legislation while removing the requirement of personal service and placing more emphasis on control. The removal of the personal service requirement is certainly a welcome proposal, as it might prevent employers from using fake substitution clauses to categorise workers as independent contractors. Nonetheless, the Taylor Review’s greater emphasis on control causes some concern. As Bales points out,

Control is already considered as part of the worker test (in deciding whether the individual works for a client or customer), yet while subordination to the employers’ control is an evidential aid to distinguishing between workers and independent contractors, it is not a necessary element. (Bales, 2018, p. 61)
She points to cases such as *Bates van Winkelhof v. Clyde & Co.* (2014, para. 39), which make it clear that subordination is not the ‘mystery ingredient’ that unlocks the definition of worker status. Indeed, a renewed emphasis on control would seem to add an additional hurdle for workers to overcome in order to claim the intermediate status in Section 230(3)(b), that is currently being interpreted by the courts in a relatively flexible manner (as evidenced in the *Uber* case). Bales argues that placing greater emphasis on control to establish ‘dependent worker’ status may also have another effect on how employment is categorised. In particular, the criterion of control is likely to lead courts to require that claimants establish that they are in a subordinate position in order to fall into the category. She draws on cases such as *Windle v. Secretary of State for Justice*, in which the Court of Appeal found that a zero-hour provision (allowing the employee to accept or reject work if they wished to do so) was relevant to determining whether the claimant was in a subordinate position. She observes that this would create greater levels of uncertainty by destabilising the boundary between ‘employee’ and ‘worker’. This could in fact lead to a contraction in the scope of the ‘employee’ concept, with deregulatory effects. (Bales, 2018, p. 62)

The obvious fear is that the creation of dependent worker status will not only create uncertainty, but it may also herald the return of a doctrine akin to mutual obligation through the back door.

The Taylor Review has no shortage of statements of good intention and criticisms of the ambiguity and lack of clarity in the current law (Taylor, 2017, ch. 5). However, it is surprisingly short on detailed analysis of the current law. There is no detailed account of the role of the common law in defining the current tests for employment status or indeed of how courts might be likely to interpret the new contractual categories that are proposed. Furthermore, as McGaughey (2019, p.183) notes, the Review’s interpretation of the *Uber* case (this being the only case discussed in the Review) demonstrates a fundamental misunderstanding about how the common law works, saying that the Tribunal judgement ‘only applies to the two drivers who brought the case’ (Taylor, 2017, p. 63). The doctrine of precedent in common law, as all first year law students learn, means that the effect of a judgement is not limited to those directly involved, but also guides judges in subsequent cases as to the interpretation of the law. McGaughey (2019) makes other questionable observations about the current state of the law (again, without any analysis of case-law). One is that the Taylor Review presupposes that those who work in the gig economy are not already employees under the existing tests. It states that one of the reasons for this is because the current tests include ‘whether there are ongoing contractual obligations to provide and perform work (sometimes known as mutuality of obligation)’. As this chapter has already discussed, the potential of mutuality of obligation to play a role in determining employment status has been considerably diminished by the ruling in *Autoclenz v. Belcher* (2011). The point here is not to simply make an academic point of showing the lack of legal rigour in the Taylor
Report, but to suggest such the Review’s proposals must be read in the light of the Review’s substantially erroneous understanding of the current legal situation.

The Taylor Review was a missed opportunity to re-formulate the tests for employment status in a more just and inclusive way to take account of the changes to the labour market brought about by the gig economy. The scandalous exclusion of a significant part of the working population from comprehensive employment protection requires a more imaginative, thorough and generous response from government. The TUC, in its response to the Taylor Review, has called for ‘All workers including agency workers, zero-hour contract workers and casual workers to be entitled to the same floor of rights currently enjoyed by employees (TUC, 2018, p. 1)’. It also declares:

a new single and broad ‘worker’ definition should be adopted in UK employment law. The new worker test should determine access to all statutory rights. The government should establish a commission, comprised of representatives of the social partners and employment lawyers, to advise on and devise the new ‘worker’ definition. (TUC, 2018, p. 2)

The simplicity of this proposal has much to recommend it, although of course it still lacks anything like a detailed re-definition of the category of ‘worker’. This chapter has described how common law interpretations of the contract of employment have impeded the access of workers to statutory rights in ways that often seem arbitrary, unfair and remote from the objectives of legislation. The advent of the gig economy has only exacerbated the disjunction between the objectives of statutory protection and common law conceptions of contract, despite the efforts of judges to mitigate the worst effects of the latter. The attraction of the TUC proposal is that it envisages the uncoupling of access to statutory rights from the web of contractual doctrine. This could only be a welcome development for the most vulnerable workers in society, for whom low pay is often compounded by their exclusion from adequate statutory protection.

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Chapter 3

The Shifting Boundaries of Capitalism and the Conflict of Surplus Value Appropriation within the Gig Economy

Shampa Roy-Mukherjee and Michael Harrison

Introduction

We are in the midst of a seismic reorganisation of the global economy, characterised by the emergence of a ‘digital platform economy’ which has consequently changed the way we work, socialise and create value in the economy. This digitally based new economic system that operates through a myriad of platform-based markets and complex ecosystems, has radically transformed the way economic agents interact with one another. Digital platform-based businesses were created as a strategic response to intense price competition and have completely changed the way we consume goods and services. The platforms allow the realisation of commercial value from under-utilised assets and enables entrepreneurs to work on flexible schedules thus attracting users and generating (rental) value from the emerging ecosystem. Much of the discussion and debate around the gig economy focusses on its prolific growth and dominance and the dramatic consequences it has created for society, markets, businesses, consumers and workers.

The aim of this chapter is to examine the economic theoretical foundations of the gig economy, specifically exploring the shifting boundaries of modern-day capitalism and the place of the gig economy within it. Another key aim is also to explore the way different forms of value are created and appropriated within the gig economy, and to analyse the rising conflict associated with the distribution of value and the notion of exploitation. To do this we start by defining the characteristics of the gig economy and go on to discuss controversies surrounding the gig economy and the rising conflict with the private capitalism and market structures. These issues then considered within the scope and scale of the gig economy both globally and within the UK. The theoretical foundations of the gig economy illustrating historical concepts of capitalism and outlining the progression to modern structures of neo-liberal and cooperative capitalism which
operate as rules-based systems are then considered in the context of the rise of gig economy. In concluding these debates we explore whether the Marxist definition of surplus value creation is applicable to the gig economy and consider whether its distribution is equitable. The concept of value proposition and the scope for exploitation to take place with respect to the appropriation of value created is then explored. From here we draw conclusions and policy recommendations for fairer distribution of value in the gig economy.

**Definition and Controversies**

The emergence of digital platforms has caused a major disruption to existing market structures and organisations within them by resetting and transforming the way value is created and captured, playing regulatory arbitrage, repackaging work and repositioning power in the economic system (Kenny and Zysman, 2016). Value is created by the digital ecosystem and the platforms set the terms by which consumers and producers can participate. All digital platforms act as mediators or intermediaries connecting participants who then engage in some form of market exchange of goods and services (in cases they can add value too). The advances in technology of networking have enabled these platforms to develop far-reaching marketplaces and thereby attain leading positions in their respective markets by achieving strong economies of scale and scope. There are two broad types of digital platforms – asset-based or capital-based platforms and on-demand labour-based ones (Farrell & Greig, 2016). It is not the case that all gig economy work takes place with a platform structure. A great deal of the present literature focusses upon the platform economy as we will in this chapter as well. In platform structures the case for exploitation and shifting boundaries is most apparent. Furthermore, a lot of research has focussed upon Uber, which is a platform-based company, due to the availability of data released by Uber which has allowed an understanding of the micro-level aspect of a platform case (Hall & Krueger, 2018).

There are several key features that characterise a gig economy (Stewart & Stanford, 2017), namely, work is performed on an on-demand basis and jobs are compensated on a task-by-task basis; the gig worker provides some or all of the capital equipment required for the job; jobs are organised around some form of digital mediation; and finally, that there is triangular relationship between the producer, final consumer and the intermediary (platform owner). In addition to these core characteristics (Bajwa, Knorr, Di Ruggiero, Gastaldo, & Zendel, 2018) suggest additional features that are based on workers’ experience in the gig economy, these include the blurring of the boundaries between personal and professional time including full time and casual work; the short-term relationship between the workers and clients; the classification of workers as independent contractors; the difference in skill levels employed in the gig economy; the ‘non-employer’ firm status of businesses operating in this system; and finally the fact that the platform businesses are the main beneficiaries of the gig economy. These characteristics are consistent with the Dynamic Structural Model outlined in the Chapter 1 of this volume.

Some of these core characteristics of the gig economy are by no means new phenomena or specific to this ‘digital platform economy’. The casualisation of
work and income have existed historically in many occupations within the capitalist system dating back to the practices of the European mercantilists (Finkin, 2016; Stewart & Stanford, 2017; Valenduc & Vendramin, 2016). Apart from the rapid growth and integration of technological innovation the business model used in the gig economy is very similar to existing and historical economic systems and hence the organisation of gig work and the associated regulatory challenges are by no means novel, however it presents distinct challenges.

In more recent years many scholars (Bonici, 2016; van Doorn, 2017) attribute the resurgence of the gig business model as an aftermath of the 2008 financial crisis. The consequent global recession and austerity measures forced many of the recently laid-off, unemployed and underemployed people to look for new employment opportunities either on a project by project basis or by mobilising under-utilised resources and assets owned as an alternative source of income. These labour and capital platforms have led to the digitisation of trust and the emergence of a decentralised peer-to-peer network (Sundararajan, 2016). The main difference between gig business model and similar historical models lies in the technological innovations and positive re-branding of ‘gig work’ within the neoliberal framework. Historically capitalism has moved through phases of formal collectivisation in market structure and organisation of labour, such as the end of the putting out system under which workers produced goods for an employer whilst in their own home. This was succeeded by collectivisation in factories as technology developed to mechanise production in many industries following the first industrial revolution. Adverse economic conditions in the 1930s caused some deformalisation to occur as an effort to minimise labour costs (usually in the form of shorter hours employment), although at the turn of the twentieth century piece-work was becoming less common in some professions. As technology develops it is reasonable to assume working practices will adapt.

Throughout history, working practices have evolved and in some respects the new triangular structure is a return to the ‘putting out’ system where work was subcontracted and completed either in their own homes or in workshops with multiple craftsmen. This system is often considered as a form of Proto-Industrialisation in which certain industries such as cotton spinning and clock making were collectivised in new factories due to the advances of the industrial revolutions. With the advent of Taylorist working practices focusing on economic efficiency along with Fordism which oversaw the mechanisation, mass production, mass consumption and the introduction of a ‘living wage’ (Gullickson, 1983) there were major disruptions to the traditional working practices. Increasing market pressure has eroded the Fordist wage and globalisation has collectivised physical industry further and since 1945 driven an increasingly consumer society.

Complication arises in the platform structure from the triangular relationship between the intermediary, the producer/worker and the end user. The triangular relationship as discussed by Stewart and Stanford (2017), is the interaction between the producer/worker and the end consumer enabling them to exchange goods and services through a process that is facilitated by a third party who is the digital intermediary. The contractual arrangement between the intermediary and the worker allows the worker to use the platform to reach the end customer.
and the intermediary firm the right set the rules of worker participation including terminating their use of platform. Interestingly, the burden of risk falls on the worker who bears the brunt of the precarious nature of work, occupational vulnerabilities and platform-based vulnerabilities. Some platforms retain control of working volume and working conditions. In addition, these companies simultaneously distance themselves from responsibilities with respect to employees rights and accountability for the services provided by their ‘sellers’ (Healy, Nicholson, & Pekarek, 2017).

The contract between the intermediary and the customer is also skewed and limits the obligations and responsibilities of the intermediary. In this triangulate structure the firm (platform) ceases to be responsible for all aspects of the customer experience and this is captured in the labour–power provided by the worker who in some platform structures are performance managed (e.g. Uber Ratings) and in cases the restrictions in worker activity are extreme as shown by Wilson (2018). The platform businesses have the advantage of differentiated information sets between each of the three parties and can proactively set the terms for the end users and producers to interact. As a result the relationship between the gig worker and the end user is more unclear and depends to some extent on the rules set by the intermediary. This also means that in most cases there is no binding contract between the producer and the end consumer as it is mostly dictated by the intermediary.

The ‘Gig Economy’ has proven to be a source of controversy in context to its relationship with the traditional ‘9 to 5’ economy which exists alongside it. Here the triangular relationship within the gig structure and the unequal application of regulation has created asymmetries in pay and remuneration. Although the triangular relationship also has historical precedence it is the main source of controversy in the current context. This structure allows the platform owner to distance itself from the worker making the relationship between the two unclear. This muddies the traditional employer–employee relationship by allowing the platform owners to classify workers as independent contractors or self-employed whilst subjecting them to ambiguous rules and criteria for success. So far platforms have been able to do so by disaggregating jobs into micro-tasks which are completed on an ‘on-demand’ basis and by paying workers on a task-by-task basis. This enables the platforms to distance themselves from the workers and to disaggregate the workforce (Healy et al., 2017). The platform economy is different from other forms of contract work as it is online and crosses international borders. Thus, the platform businesses are able to absolve themselves from any of the responsibilities they have towards the work force they use. They do not provide any benefits to their workers including pensions, health insurance, sick pay severance, etc. They are not accountable for their workers’ protection in terms of minimum wage, work-place safety or antidiscrimination laws. The burden of risk is heavily placed on the worker and therefore they become more vulnerable to capital losses. The disaggregation of jobs implies that the workers have no access to career development skills training which have an overall negative impact of the workforce. Under UK law gig workers can be classified as self-employed, a limb worker (a dependent contractor), an agency worker or an employee (Balaram, Warden, & Wallace-Stephens, 2017). The misclassification of gig workers
as independent workers makes it impossible for governments, unions and policy makers to regulate the gig economy. Platform workers are the most interesting case as their employment status is often seen as the most unclear of all workers in the gig economy, however this is part of a growing trend in which working practices have become more flexible (Wilson, 2018), with the aim of reducing labour costs for the employer and providing a greater value proposition to the consumer.

Under the concept of rules-based capitalism it is important that regulation applies equally to all participants in a market, this allows regulators to create safeguards (for instance safety standards) but also encourage competition which is one of the core elements of an efficient market. In the gig economy however similar regulations may not apply, some new market entrants have been able to classify their platforms as data companies despite their client value proposition being in a different sector, thereby bypassing regulations. The most notable example here is platforms such as Uber and Lyft. These platforms initially paid little regard to safety as they had exogenised this responsibility onto individual providers (Bond, 2018). As brand image, which concerns the platform, is affected by issues relating to safety, much more effort has been made to exert control on providers to internalise the issue. For instance, Uber is now designing safety features into its application and is enforcing background checks upon drivers (Uber, 2019); issues have occurred in cases however; one case of note was the discovery of an accused Somali war criminal driving for both Uber and Lyft in the United States for 18 months having passed all background checks (Bronstein, Devine, & Griffin, 2019).

Conflict of motives arises when we consider the reasons why people work within the gig economy. If efforts were made to ensure that employee status was applied and full workers’ rights were provided this can reduce flexibility within the employment. Although this would benefit the 30% of workers who are necessitated to work in non-conventional employment within the gig it would be to the detriment of the 70% who choose the flexibility of this employment when considering to work in the gig economy (Manyika et al., 2016). If regulations were put in place to ensure a minimum wage is provided this may subsequently lead to less choice in terms of working hours and the frequency of work. Sherk (2016) explains that this would hinder the ability of platform firms to serve those who are not served well by conventional firms. The example is Uber’s ability to better serve New York suburbs compared to Medallion taxis who face a greater incentive to make many short trips per hour in downtown New York (this logic can apply to many cases). As a result the policy implications are unclear as flexibility is traded off against workers’ rights, which once again elucidates the inability of current employment laws to classify platform workers and meet the needs of those who value flexible employment and those who ought to be reviving employee protection from exploitation.

The City of New York has afforded minimum wage coverage to platform-based cab drivers on platforms such as Uber and Lyft. This has created an elevation in prices (borne by the consumer) which could curtail some demand but also instigate additional control from the platform. Such controls may include changes to the remuneration structure as bonus payments become unavailable (to the detriment of some casual drivers) as well as the migration of some drivers
with lower ratings to inferior sub-platforms (Eidelson, 2019). This has been very much a local imposition as by contrast the Fair Work Ombudsman in Australia has rules that Uber drivers do not have employee status and are not eligible for minimum wage protection (Smyth, 2019).

Sherk (2016) argues that the gross salary for gig workers should reflect their entitlement to benefits such as pension schemes and health insurance as they are not afforded these rights by their employers. However, it is likely the case that this theory does not hold true and the conditions of a platform worker are not similar to those of a truly self-employed person. Furthermore, there is often little scope for promotion or advancement from basic pay, even if offered at a living wage (Taylor, Marsh, Nicol, & Broadbent, 2017, p. 110). Evidence gathered by Taylor (2017) suggests that temporary workers who are part of the gig labour force can be subject to ‘in-work poverty’ and extreme uncertainty surrounding flexible contracts such as zero-hour contracts.

**Scope of the Gig Economy**

Measuring the size of the workforce in the gig economy is challenging. As much of the work done in the gig economy is invisible and as many gig workers do not report their work it is hard to find accurate records. Most empirical work in this area has been carried out using survey data and organisations that have attempted to measure the size of the gig economy have looked at various secondary sources such as platform usage, income tax records, etc. However, the main obstacle seems to be stemming from the definitional issues around the gig sector. Existing academic and grey literature around the gig economy all seem to use their own nuanced characteristics when defining the gig economy. There is a lack of standardisation in measuring the size of gig sector as a result of lack of accurate information due to nature of gig work, which is often unregulated, unprotected and under-reported.

In spite of these challenges, some recent attempts have begun to demonstrate the extent of the digital labour force participation on the global arena. The report by McKinsey Global Institute, October 2016, suggests that 20–30% of the US and EU15 working age population can be classified as independent workers that is around 162 million people. However, the definition used by McKinsey & Co. Report is broader than what we use for this particular chapter. Their definition includes three characteristics, namely, that work is a short-term duration, workers are paid by task and that workers have a high degree of control and autonomy, it does not specify the use of a digital platform. McKinsey & Co. report suggests that of this total nearly 44% of these independent workers depend on gig work as their primary source of income and the remaining treat it as supplemental income. However, it is quite interesting to see that only 30% of the independent workers are forced to work in the gig economy out of necessity rather than out of choice. Another interesting finding of the report is that those who do independent work by choice report greater satisfaction with their work lives than those who do it out of necessity, and this holds across countries, age groups, income and education. The McKinsey & Co. Report elucidates that of the total number of independent workers
only 15% use digital platforms. Thus, for the purposes of this article, which includes digital platforms as a defining feature of gig work an estimated 25 million people in the US and EU15 work in the gig economy, taking into account the total figure from the McKinsey & Co. report. Looking exclusively at online outsourcing, the World Bank finds that in 2013 there were 48 million registered workers in this area. Huws, Spencer, and Joyce (2016) find that 11% of surveyed adults in the UK earned money through the gig economy. A comprehensive study carried out by the RSA (Royal Society for the encouragement of Arts, Manufacturing and Commerce) in conjunction with MANGOPAY (online payment technology firm) published in April 2017, provides a snapshot of the scale and impact of the gig economy in the UK. According to the RSA report an estimated 1.1 million people in Britain work in the gig economy of which 27% are based in London. The definition of gig work that the RSA uses is in line with the characteristics featured in this article. The report finds that 59% of all gig work are in professional, creative of administrative services, 33% in skilled manual or personal services and the remaining 16% is made up of driving and delivery services. In terms of age and gender profile of workers in the gig economy 61% are male and 52% of all gig workers fall in the age bracket between 31 and 54. It is interesting to see that 44% of gig workers have graduate level degrees. Data gathered on the frequency of gig work shows that 50% of gig workers work less than monthly and 80% work less than 16 hours per week. The general trends in the gig economy and the increase in the size and scope of self-employed workers in the UK since 2008 demonstrate that ‘freedom’ and ‘flexibility’ of work seem to be the main driving force behind these shifting trends. However, it cannot be overlooked that the job losses and lack of opportunities in the traditional employment sector that were a result of the 2008 global financial crisis and the austerity policies in the UK have forced many to seek employment in the gig economy. The rise in employment in the UK has mainly been in the self-employment sector, which has seen a 44% rise since 2008. This trend is mirrored in the gig economy.

Economic Theoretical Underpinning of the Gig Economy

There are several neo-liberal arguments supporting the business model of the shared economy and the benefits that it brings to society in general. The benefits of the gig economy are based on the foundations of neo-liberal competitive market efficiency. On the demand side, the gig economy provides goods and services at a lower price than those provided in traditional markets. Consumers are generally motivated to use these platform-based companies because of price savings. Another reason for the success sharing economy is greater product and service variety. The large number of sellers within the market offers a variety of products and services to meet the diverse needs of the customers. Finally, the success of the gig economy can be attributed to the speed with which it can provide its goods and services and the level of customisation of products and services as compared to their counterparts in the traditional economy. On the supply-side, the sharing of resources and key business functions via the platform enables individual providers to lower their transaction costs. Without the sharing of these resources,
information and customers many start-ups would not be viable and would fold-up. Another benefit of the gig sector is the potential for achieving democratic participation and redistribution. This is achieved by bringing in providers that otherwise would be marginalised by traditional market systems.

The article by Bonciu et al. (2016) presents an analytical approach to the fundamental premise of the sharing economy arguing the positive impact it has on the economy, society and environment. They argue that sustainable growth can be better achieved through sharing assets rather than through ownership. Mainstream neo-liberal literature on sustainable growth refers to the efficient and cleaner ways of using resources through technological innovation to deal with the challenges of population growth, demographic changes, climate change and ever-dwindling resources. The use of digital platforms caters to this message as an economic activity. The emergence of the platform economy has occurred due to the major geopolitical shifts that the international arena has gone through since the end of the Second World War (Bonciu et al., 2016). The end of the Second World War gave rise to a bipolar economic system dominated by the two main superpowers, the United States and the Soviet Union. With the fall of the Soviet Union in the late 1980s the United States became the single ‘unipolar’ superpower. This unipolar economic structure was soon changed with the advent of China, India, Brazil and the Russian Federation on to the global economic and political arena giving rise to a multipolar world economic system (O’Sullivan et al., 2015). This multipolar system was characterised by the interaction of the United States (leading power) with other regional powers such as China, European Union, Russian Federation, etc. Alongside the rise of the multipolar economic system, fuelled by the success and widespread adoption of globalisation and financialisation, the international arena also witnessed the rise of goliath multinational corporations that consequently became an integral part of the multipolar system. Within this framework as a result of the huge advances in information and communications technology, ‘the individual’ subsequently became the most elementary actor in the new world economy. In this system individuals can conduct economic activities at a local and global scale via digital platforms. This is usually done through a process in which production is divided into multiple projects or tasks that are performed by a multitude of individuals interconnected by digital platforms and wider network and ecosystems. The modern-day gig economy is a manifestation of the individual scale multipolar system and neo-liberal supporters of this system would argue that it provides the most flexible and scalable form of economic activity and it also has the potential to become a significant contributor to sustainable growth and development.

The gig economy in some ways is also the product of corporate financialisation. Post-Second World War capitalism has witnessed an era in which although a large chunk profits generated by big companies went to their top CEOs, a considerable amount of profits was also re-invested back into the company in the workforce, R&D and also in better prices for consumers. However, over the last few decades there has been a growing trend for non-financial organisations and public corporations to increase their profits through financial activity in the capital markets and then send these gains back to the shareholders rather than re-investing in
the firm or its workers. This shift has been so dramatic that the ratio of financial profits out of overall corporate profits has increased significantly in US corporations (Lazonick, 2017). As a consequence of this firms have stopped investing in a stable and productive workforce, leading to a decline in productivity, wage stagnation and job losses. This structural shift away from ‘productive’ to ‘financialised’ short-term profit generation has led to cost cutting practices, the burden of which is mainly borne by the employees. In the gig economy this manifests itself in the predominance of ‘on-demand’ independent workers who do not have rights to any workers’ benefits or legal rights. One can thus generally conclude that financialisation strengthened by regulatory and legislative changes have had a negative impact on wages and jobs driving many traditional employees into independent contractor roles under precarious working conditions.

Shifting Boundaries of Capitalism

Although the gig economy has become a powerful force of market participation it is fundamentally different to the orthodox model of capitalism. From a political economy perspective, it may be interesting to adopt the ‘varieties of capitalism’ approach to understand the institutional framework that underlies the gig economy. The great body of work done in the area of ‘varieties of capitalism’ explores the institutional variations in the comparative capitalism models based on the response to the economic problem of that particular period of time. The ‘modernisation’ perspective that emerges in the post-war decades focussed on the challenge of industries that were still using pre-war methods of production (Shonfield, 1965). The advocates of this approach focussed on the institutional structures that gave the leverage over the private sector, such as the planning systems, and public influence over the flow of funds in the financial system (Cohen, 1977; Cox, 1986; Estrin & Holmes, 1983). During the 1970s the main issue that plagued the developed economies was inflation and the new approach of comparative capitalism that was then adopted was coined ‘neo-corporatism’ (Alvarez, Garrett, & Lange, 1991; Goldthorpe, 1984; Schmitter & Lehmbruch, 1979). This approach broadly focusses on the capacity of the state to negotiate with employers and trade unions on issues regarding wages, working conditions and social and economic policy. An alternate approach to neo-corporatism puts less emphasis on trade union movement and more on the organisation of business (Katzenstein, 1985; Offe, 1981) The 1980s and 1990s highlighted a new approach of comparative capitalism termed ‘social systems of production’. This approach looks at how at firm behaviour in response to technological change. The importance of sectoral governance, national innovation systems and flexible production regimes all affect the reorganisation of production in response to technological change. This approach highlights the influence of a wider range of institutions and a more sociological view of business operations.

Hall and Soskice (2001) introduces the concept of ‘strategic interactions’ central to the behaviour of economic agents. Their approach to comparative capitalism is based on a game theoretical framework within which businesses interact with different institutions in the face of technological innovation and increased
global competition. In order to generate maximum profits firms need to be able to exploit their core competencies and dynamic capabilities by interacting and establishing strategic relationships both internally and with external stakeholders. Coase’s theorem highlights the impact of non-zero transaction costs implying that institutional arrangements and relationships are never perfect. Add to this the problem of asymmetric information giving rise to moral hazard, adverse selection and shirking the coordination of these strategic relationships is a vital component of the firm’s success. Hall and Soskice identify five spheres of strategic relationships, namely – industrial relations, vocational training and education, corporate governance, interfirm relations and employees. Based on fundamental premise of strategic relationships they identify two forms of capitalism – the Liberal Market Economy practiced mainly by the US, UK, Australia and New Zealand; and the Coordinated Market Economy (i.e. rather more Ordo-Liberal in nature) is more common in Germany, Japan, Belgium and the Netherlands. Only very stringent neo-liberal and mercantilist thinkers argue against regulation in markets. The firms within a liberal market economy are characterised by arms’ length exchange of goods and services in a competitive market structure and formal contracting. In this form of neo-liberal capitalism information is privately acquired by businesses, only a subset of which is publicly accessible. Market institutions provide highly effective means of coordinating and regulating the actions of the economic participants. The firms within a coordinated market structure depend heavily on the non-market relationships to coordinate their endeavours. These non-market modes of coordination generally demonstrate a more extensive relationship or incomplete contracting, network monitoring based on exchange of private information inside networks and more reliance and collaboration.

Some may argue (Dayal-Chand, 2015) that the gig economy has qualitatively more in common with the coordinated market economy then the liberal market economy. To generalise, the critical difference between the two is the collective behaviour of businesses in achieving success. This collaborative and collective form of capitalism, according to some, has the potential to produce tremendous success and wealth if the market participants have the right legal and institutional infrastructure to support and regulate them. One of the overarching features of the gig economy that is common with the coordinated market economy is the interaction of businesses with each other. Rather than competing against one another for resources such as employees, market information, product development and marketing and finance, these resources are mostly shared by businesses. This is achieved through the digital or technological platform which allows them to share a common source of customers efficiently and cheaply. The contractual arrangements between the economic agents involved are not as formal as in the liberal market economy and are more akin to ‘contracts of adhesion’. Another significant feature of the gig economy as a coordinated market economy is the importance of institutional intermediaries that accomplish coordination amongst individual businesses. In the gig economy these intermediaries are typically the providers of the technological platforms. These platforms perform three functions: the sharing of critical business resources; the monitoring of network participants; and the sanctioning of participants. Institutions within the coordinated market economy have
accomplished collaborations in the sphere of labour relations, vocational training, corporate governance, interfirm relations and employee relations. In the gig economy businesses share access to technology to find clients/end users and also to establish ongoing supply of products and services, highlighting the extraordinary level to which sharing permeates interfirm relations. The stability of demand and supply is maintained for the entire network through the technological platform. Corporate governance within the gig economy may be defined as set of relations that support firms to access financing. The technological platforms are able to resource finance for businesses from both traditional investors and through crowd funding routes.

The conceptual failure of policy makers to understand the gig economy as different form of capitalism that does not neatly fit into the liberal market economy structure as it has been historically defined is the primary cause of regulatory failure in the gig economy. Policy makers who are used to neo-liberal competitive market structures and formal contracts thus find it difficult to decide whether a company like Uber should be classified as an employer of hundreds of drivers or a software developer who enters into formal licensing arrangement with a large number of independent businesses.

In this cooperative Germanic/Austrian structure of capitalism which is intertwined with Ordo-Liberal ideology the state plays the part of a regulator who can improve market outcomes however it is careful to preserve the competitive structure which is the most efficient determinate of supply and demand. This is exemplified by the thoughts of economists such as F. A. Hayek. A Keynesian extension would further link macroeconomic factors, principally price levels (Keynes, 2015), to the determination of supply and demand which introduces a temporal element in which previous supply becomes a determinant of future demand.

The concept of market structure is much more overt in the philosophy of Hayek, by examining Hayek's thoughts on recession and the organic nature of an economy it is possible to understand how the current gig economy has been a product of the capitalist system. The organic nature of the economy is best interpreted as 'being subject to Darwinian forces' in which firms respond to recession and only those capable of innovating (including reducing costs) survive into the next growth period. Where a firm reduces costs and is able to reduce the market price it should emerge into the following growth period.

This explains the rise of the gig economy as a means of reducing transaction costs, reducing labour costs and to a degree serving as a vector for outsourcing. Collectivisation of work replaced the putting-out system as economies of scale developed and mechanisation changed the market structure towards a formal and rigid structure with clear boundaries between capitalists and workers which is written by Karl Marx when he illustrates class conflict. The current structure is less class based and likely much more flexible than put-out work however this flexibility and the unclear relationships combines with unequal regulatory treatment have created scope for conflict as the boundaries of working structurers have shifted into uncharted waters.

Ultimately we can conclude that the gig economy is the result of the following factors that, historically, acted, unintentionally, in coordination with the (a) the
collapse of Keynesianism and Fordism; (b) the collapse of the Bretton Woods system; (c) the rise of neo-ordo economics as a viable alternative; (d) perpetual technological innovation and advancements; and (e) the end of collective bargaining and the fragmentation of the labour force.

### Analysis of Surplus Value in the Gig Economy

Marx is strict in his definitions of value, this stems from the concept of money being a means of purchasing as a measure of capital, Marx takes this from Ricardo who attributes no profit to capital in the form of money (Marx, Fowkes, & Fernbach, 1990, chapter 6). Increases in value are therefore occurs between the circulation of capital and the transformative processes that increases the use-value. In the process of human transformation during circulation we observe the creation and capture of surplus value.

According to Marx, under the capitalist mode of production the value of a commodity is derived from the socially necessary labour–time required to produce it (Capital Volume 1). In this production process, labour–power, which is dissociated from the objects and means of production, is purchased by the owner of the means of production, the capitalist, in an open market in exchange of a contract defining the terms and conditions of employment. The value of this specific commodity, of the labour–power, is measured by the ‘new value added’ by the expenditure of labour to the existing value of capital (machinery, infrastructure, etc.) used in the process of production. ‘Socially necessary’ labour refers to a given state of society where labour skills, labour intensity and conditions of production are averaged out. Socially necessary labour–time takes a money form by establishing a universal equivalent or benchmark, which Marx terms as money-commodity. Therefore, the value of any commodity can be expressed in money-value form by expressing it in terms of the universal equivalent. Following this line of enquiry Marx subsequently argues that ‘price is the labour objectified in a commodity’ (Capital Volume 1) and establishes that the price of a commodity may not always be equal its exact value but more likely to be proportional to its value.

In Marx’s view labour–power is also a commodity whose value can be similarly defined as that of any other commodity, that is, the socially necessary labour–time expended in it. Given that labour–power exists within workers, its production requires the worker to be able to subsist. According to Marx, means of subsistence should not only cover things that enable a worker to maintain his social reproduction, such as food, clothing, housing, etc., but also costs incurred for acquiring new skills and training. Given that labour–power is a commodity that can be sold in the market for its exchange value, which in turn is spent on means of subsistence, it can be inferred that the value of labour–power tends to equal to value of the subsistence commodity bundle, although wages under certain regimes of industrial relations in the twentieth century offered subsistence not just for the worker but also for his family (the Fordist wage), this was introduced along with Taylorist working practices that exploited labour–power.

More generally the value or price of labour–power can be classified as the wage rate. Following on from the concept of labour–time, surplus value is the new
value that is created by workers in excess of their own labour–cost (wage) which is appropriated by the capitalist as profit when the commodity is sold. In the capitalist mode of production workers produce value unequal to their wages because it incorporates surplus value (captured by the capitalist). Marx argues that it is worker’s labour–power or his capacity to work that is the source of surplus value. A worker who is sufficiently productive can produce an output of much greater value than it costs to hire him; in other words, the wage that the worker receives does not reflect the full value of what the worker produces. It is the capitalist that obtains the surplus value in the form of profit and the worker cannot capture this benefit as he/she has no legal claim to the means of production and has limited bargaining power over wages they can demand.

Surplus value averages out as average rate of profit for an enterprise and together with other forms of capital sources capital accumulation in a capitalist society. This is the main driving force of capitalism. According to Marx the capitalist can extract more surplus value by increasing the length of the working day or week (absolute surplus value) or by reducing wages, reducing the cost of subsistence commodity bundle or by increasing the productivity and intensity of labour through mechanisation (technological innovation). Marx highlights that the core conflict between the social classes is the constant quest to maximise the appropriation of surplus value versus the constant resistance to exploitation (workers vs. capitalists).

Another important point that Marx highlights that no net additions to value can be created through acts of exchange, as value is created from labour–power in the material process of real commodity production. Linking concepts of surplus value creation and appropriation to the gig economy: the discussion below is premised on the fact the surplus value is extracted only in material production or provision of a service, which is then used as collateral by the service sector to build on platforms and structures of exchange for the benefit of the owners of those platforms. Surplus value is equal to the surplus value captured divided by initial capital stock (s/C), it is the capitalist’s role to maximise surplus value capture, relying upon the fetish of law if necessary. Given the boundaries of working relationships as set out above it is possible to examine concept of value and surplus value through a critical analysis of shifting boundaries that characterise gig work. This is an issue of pay and remuneration which contributes to the precariousness of gig work as exemplified by the Dynamic Structural Model of the gig economy outlined in Chapter 1; furthermore, this is an elucidation of how exploitation takes place in this structure. We now outline how the Marxist analysis is applicable to the case of the Platform Economy.

A capitalist by virtue appropriates surplus value produced by workers. Normally a gig worker is paid per task and not ‘by the hour’ this leaves room for the platform to extract absolute surplus value. The amount of time it takes for a gig worker to complete a task depends on their productive capacity. The higher productive capacity the greater the surplus value generated and appropriated by the platform. The gig worker does not benefit from this and has very little bargaining power distribution of surplus value, especially since supply-side economic policy minimised the redistributive mechanisms of the welfare state.

The gig economy, based on the notion of flexible working hours, has allowed for the blurring of the concept of a ‘traditional working day’ creating an environment
for a 24-hour working culture. This is another example of how surplus value is extracted by platforms by extending the working hours with little or no resistance form the gig workers.

Platforms maximise surplus value appropriation through relative surplus value extraction. In most cases, gig workers are not paid the minimum wage, nor do they receive any pension or benefits related to their work, sick leave, etc. This is another form of surplus value appropriation by the platform owner as they have able to suppress wages and other forms of employment benefits.

Platform owners are able to extract and appropriate surplus value although gig worker bears the burden of risk. Under a capitalist mode of production, the entrepreneur was rewarded for bearing the risk of starting a business venture. However, in a gig economy although the burden of risk is placed on the shoulders of the gig worker/producer it is the platform owner who reaps the benefit of extracting profits. In this case, by providing the market for transaction and other businesses services that otherwise may not be available to the gig worker. It is therefore only fair that the platform owner gets a share of the profit. The case for exploitation is made in the light that the worker who holds some properties of a capitalist should capture a portion of the surplus value, this may or may not be the case and without microeconomic data this is a theoretical possibility for exploitation to take place as risk is exogenised by the platform.

Here the gig worker provides part or all of the capital required to complete a task and therefore should receive a proportion of the profits/surplus value created. In conventional Marxist analysis an individual is either a capitalist (the employer) or a worker (who sells his labour–power to a capitalist). This long-established convention does not hold under the triangular relationships of the platform economy. Here the worker/provider has characteristics of an employee but also of a capitalist as they bear entrepreneurial risk by providing their own capital and bearing responsibility for their own degree of Human Capital (Theory of Human Capital). As the role of the capitalist is not held by a single person it is necessary to consider that surplus value is not appropriated by a single person. In this case the motive of the platform to exploit the worker remains clear as the platform will capture some (although possibly not all) of the surplus value accruing from transformative activity, this is exemplified in some of the Taylorist and micro-managing practices which are seen within the platform economy in addition to the usual division of labour outlined by Adam Smith in the eighteenth century.

For example, Uber drivers (workers) are a source of labour, they provide some of the capital of the business (they own/lease the cars) and provide labour; however, Uber too provides the platform for matching cars and passengers, this is a form of ‘cognitive rent’ (Fisher, 2015). As the driver is partly a capitalist and partly a worker the question reduces to how much of the surplus value is each party entitled to.

It is true that Marx argues no net additions to value can be created through acts of exchange, economic value being an attribute of labour–products (previous or newly created) only. Nevertheless, trading activity outside the sphere of production can obviously also yields a surplus value which represents a transfer of value from one person, country or institution to another. This is what happens
in the gig economy. A very simple example would be if somebody sold a second-hand asset at a profit. This transaction is not recorded in gross product measures (after all, it isn’t new production), nevertheless a surplus value is obtained from it. Marx occasionally refers to this kind of profit as *profit upon alienation*.

Here it is possible to introduce the concept of domination in relationships between capitalists and workers. These relationships are characterised by forms of dominance, the strictly dominating relationship that exists between capitalists and their workers is the crux of the critical view and is set out in the Marxist analysis of the origin and destination of the surplus value of production. The more curious relationship is that of the ‘dominated dominator’ whereby societal convention forces the capitalists to adhere to the profit maximising structure, simply for the fact that all others in the market are doing so (Ypi, 2018). This reflects the competitive or monopolistically competitive market structure in which defection from profit maximisation causes a business to cease to be viable (as capitalists struggle to compete against each other). In this sense no particular capitalist is more immoral than another; however, no capitalist is singly able to defect away from profit maximising as they are bound into the structure of capitalism.

Consider as an example in the UK market Deliveroo competes with Just Eat and Uber Eats in the platform-based food delivery market. These firms serve as an intermediary between restaurants and customers by providing their own drivers. In February 2019 Uber Eats reduced its fee from a maximum of 35% to a maximum of 30% of the meal value whilst also allowing restaurants to use the platform whilst providing their own delivery service (Ram & Bond, 2019).

This has allowed restaurants to reduce the commission paid via two routes and clearly depicts that a commission is charged to reflect the value added by the existence of the platform which markets restaurants and provides a mechanism for payment. With the presence of falling costs to the restaurants these firms may prove a viable way to outsource the delivery aspect of their business however said platforms add value in their own right and it is interesting that Uber is now promoting itself as an intermediary platform only to outsource the need for a restaurant to maintain an individual online presence. Here, we see the existence of a dominated dominator (Ypi, 2018) as the growth of online consumption and web-based platforms necessitates take-away restaurants to adopt a platform (or multiple platforms) to innovate to the market standard. Simultaneously the platforms must compete for custom and offer low value capture as they are beholden to the right of the restaurant to choose a provider. Of course, the platforms may still exert dominance and apply elements of control hence the platforms in the competitive case are dominated dominators; exactly like any conventional firm in a freely competitive market.

**Conclusion**

The Taylor Review of Modern Working Practices (2017) commissioned by the UK government looks at the fluidity of business models that necessitate the changes in employment practices. Subsequent grey literature published by the Work and Pensions and Business, Energy and Industrial Strategy Committees and other government departments have called for increased clarity on the employment
status within the constantly shifting boundaries of different neo-liberal business models. The policy papers recognise that it is difficult for the average worker, with little or no knowledge of employment regulations, to understand what category status they fall into and the rights and benefits they are entitled to. Although the expansion of self-employed and business models built around flexible work on digital platforms promise positive opportunities for entrepreneurs, workers and consumers alike they could lead to potential exploitation due to the confusion around rights and entitlements of workers. There is evidence highlighted in various legal cases and grey literature that acknowledges that exploitation is already occurring and therefore there is an urgent and overwhelming case for reform and legislation reflecting the case law. We have explored in this chapter that the exploitation within the gig economy not only takes the form of lost rights and entitlements but also arises from the appropriation and distribution of surplus value within the system. There are no clear boundaries in this business model about how much surplus value generated by the economic actions of each agent within this ecosystem and even less clarity on how it should be distributed and a fair and non-exploitative way. The complex nature of the gig ecosystem and the symbiotic relationship between each of the economic agents within make it virtually impossible to differentiate the contributions to surplus value made at each stage of the production process. However, what is currently evidently clear is that the digital platform provider is the dominant force in this ecosystem and that they have significant power over the other key players (worker and end user). It is true that the platform, as the intermediary brings the different market forces into play, but it is also true that without the input from other economic agents the platform would be meaningless. In this context, reform and clarity are essential to avoid exploitation within the system but we have also discussed in the chapter that regulation has a direct impact on flexibility and control within this business model. It is true that a flexible work force can provide benefits to workers consumers and platforms but that does not necessarily mean that the worker should bear all the risks of this flexibility. Policy recommendations therefore must reflect on the issues discussed in this chapter to provide a more robust foundation to the gig business model.

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Chapter 4

Presence and Pretence: Trade Unions and the Gig Economy

Rebecca Page-Tickell and Jude Ritchie

Introduction

Unison, a trade union whose website claims 1.3 million members and 1,000 branches in the UK, defines a trade union as ‘groups of employees who join together to maintain and improve their conditions of employment’. This begs the underlying question that this chapter seeks to address – within the gig economy – do trade unions have the right and requirement to represent contingent and precarious workers who do not hold the legal status of employees? Secondly, the chapter will also explore the blurring relationship between new social movements emerging in the gig economy and the traditional trade unions seeking to establish a presence in the gig economy.

In addressing these issues, this chapter aims to identify the drivers and barriers to trade union engagement with the gig economy. This includes exploring how trade unions are adapting their strategies to overcome barriers, how they are contending with new social movements in the gig economy, and the challenge to trade unions in terms of the extent to which this undermines their claim to provide a space for collective representation for those in the most precarious roles. It will address some of the issues that emerge from the boundary of employee/worker/self-employed status (and self-perception), as well as addressing the conflict that emerges from the precarious and frequently disruptive nature of the work offered by the gig economy. The gig economy strips back the relationship between service provider and platform so that the specific nature of the relationship and status of the gigger/service provider becomes contested. The contentious nature of the relationship in law masks the bare denuded relationship which on the face of it loses many of the elements of engagement, culture and psychological contract to focus purely on the task-reward deal, in its purest form. This drives a focus on power and power imbalance, as there are few if any moderating effects to mediate (Fudge, 2018). For example, research into the benefits that people garner from work frequently discusses belonging, social relationships, stability and security (Raphael, 2006). To a significant extent these are missing from gig relationships. This is an area of particular interest for the trade
unions. Vandaele (2018) describes this as moving from a logic of membership to a logic of influence. As the following analysis reveals the misclassification of employees as workers was a dominant theme in many of our interviews. Classification issues were explored in detail in Chapter 2 of this volume. Here, its impact relates to both the rights of individual and collective workers, as well as the authority of trade unions to represent them and to facilitate collective voice (Doucouliagos et al. 2018).

It is interesting to consider the extent to which this is a return to the historical background from which the trade unions originally emerged and this identity provides part of the motivation that compels them to address specific and collective cases of injustice, as well as the legislative instruments which structure rights. These issues are considered in this chapter within the overall context of declining trade union membership and debates in relation to trade union and labour movement renewal.

The frame of reference of this chapter is the broadly defined gig economy, consisting of digital platforms as well as sharing platforms, and the full range of gigs; from a few minutes engaging on an Amazon Turk micro-task through to a high trust short-term contract, for example, with solicitors. These gigs are highly diverse and the balance of power between service deliverer and client is not always predictable. This heterogeneity as well as the hidden nature of many of the gigs can lead the observer to question the legitimacy of trade unions to advise or represent service deliverers. Many gig economy participants may perceive themselves as entrepreneurs or independent service providers (Ahsan, 2018), so themselves may not seek trade union support (Bajwa, 2018). This conflict between precarity and flexibility is at the heart of our analysis of the gig economy (De Stefano, 2016). It has explanatory power for both why trade unions have, in some cases, been hesitant to engage with the gig economy and also suggests reasons for the hesitancy of giggers to seek or engage with opportunities for collective voice.

This chapter adopts an interdisciplinary theoretical lens to demonstrate that trade unions are a social movement and make use of social networks to promote their advocacy and support of workers. We contend that despite a heritage and social identity of justice, they have been somewhat cautious about their engagement with the gig economy, but are now seeking to engage with the gig economy in multiple ways. Questions around the presence of trade unions and their role in the gig economy are addressed through a series of interviews with trade unionists and a community activist. These seek to understand the perspective of trade unionists on the gig economy, its salience and any action that may be considered important by trade unions.

**Interdisciplinary Theoretical Lens**

The theoretical underpinning for the analysis presented in this chapter has a focus on relational and identity drivers. The theories used are social identity theory, social network theory and social movement theory. This allows an analysis at micro-, meso- and macro-levels, which affords a more contextual and rich understanding of the responses of trade unions to the phenomenon of the so-called gig economy. It also enables an interdisciplinary analysis using a sociological perspective to analyse social movement and social networks, complementing this
with a psychological perspective through social identity theory. This enables a holistic analysis which addresses the emergence of conflict in the identity and pursuant action of trade unions and trade unionists in the gig economy.

Social identity theory is a theory which allows analysis of some of the drivers of engagement in collective action by individuals (Wright et al., 2017). This is an aspect of trade unions activity in the gig economy which is somewhat under-researched. As early as the 1990s, research had started into the individual differences that may lead individuals to engage in collective action. Kelly and Kelly (1994) assessed a number of individual characteristics of members of trade unions and their conclusions identifies ‘easy’ and ‘difficult’ collective action, where ‘easy’ is more anonymous and practically easier and ‘difficult’ relates to more public and longer-term action, such as holding office. Interestingly, these both occur within the confines of an already established union organisation which, in contrast to the gig economy, provides a predictable structured environment characterised by clear precedent and rules of engagement. Within this scenario they found key characteristics of someone who is willing to take part in collective action to be

- firmly committed to a ‘them and us’ representation of intergroup relations having a strong sense of identification with the ingroup and a clear perception of difference between ingroup and outgroup members, grounded in a general collectivist orientation. (p. 78)

This is in stark contrast to the ‘we’ that gig organisations present to giggers where they tend to promote the benefits of a shared and collaborative workplace. This narrative of collective within the organisation could be viewed as a tactic to reduce the potential for disobedience or collective action generating outside the organisational structures. Certainly, social identity theory suggests an ‘us and them’ narrative which has the effect of challenging rather than enhancing the public perceptions of the founders of gig companies as ‘ordinary Joe’s’.

Theory of social networks has been selected as a lens due to its focus on the factors that enable and challenge collective action among groups (Marin & Wellman, 2014). Marwell, Oliver, and Prahl (1988) were among the first to apply this lens to collective action, proposing three specific features of interest: density of social ties; centralisation to consider the extent to which these social ties have a unitary or multiple foci; and finally, the costs incorporated in communicating. This final feature is of particular interest given the apparent reduction in the costs of communication using social media, but the increased risk of those communications being permanent and revisited in future situations which cannot be predicted and therefore with unknown outcomes. An interesting point of analysis for this research question is the extent to which the various trade unions have complementary purposes or indeed are heterogenous in their aims (Marwell et al., 1988). Social movement theory builds on this analysis as it examines the initiation and development of social movements such as the wider response to the gig economy (Diani et al, 2014). This lens enables a more sociological perspective to address the frames, context and development of the new collective response to the gig economy.
Through the application of these three separate theories as the following analysis will reveal, we contest that trade unions in the context of gigs are an example of a social movement. This conflicts with much theorising in which trade unions are seen as a separate classification. However, within the complex and conflict-ridden world of the gig economy, trade unions have not always had a reliable or instrumental presence and new forms of organising have emerged as a result. It also indicates how the boundaries between traditional manufacturing focussed trade unions and the new social movements are breaking down and becoming blurred. This allows a comparison of sociological and social psychological methods which supports the overarching macro-perspective while also interrogating the more local individual interactions, identities and competing motivations of the various actors. This supports an interdisciplinary approach which runs as a thread throughout the book. Social movement theory takes a strongly macro-perspective while social network theory operates at more of a meso-level to identify the impact of networks on the development of movements. Social identity theory is used here to investigate the impact of identity on the choices that trade unionists make in engaging with the gig economy as individuals. Their underlying assumptions are more convergent than may be expected, (Diani, 1992). Chioni and Tomasello (2013) interviewing in the next section of this chapter, the emergence of trade unions is explored to focus on the identity of trade unionists and to question their presence within the gig economy, particularly where their history has been focussing on their in-group of paying members, sometimes to the detriment of those outside that group. To what extent does this focus shape their choices? Are they then advocating for the most precarious in our current socio-economic context?

**The Emergence of Trade Unions and Self-identity Formation**

The self-identity of trade unions can be addressed through an analysis of their emergence at specific points in history. Certainly, the International Trade Union Confederation (ITUC) represents trade unions in almost every country, divided into four regional groupings (ITUC, 2012) indicating the endemic nature of trade unions globally. Trade unions have a very long history as collectives within specific trades. The medieval guilds may be recognised as prototypical trade unions. Epstein (1998) suggests that in this early incarnation their primary function was skills training through apprenticeships, as well as innovation and the protection of that innovation to ensure the standing and productivity of the guild.

The birth of trade unions is embedded within a disruption of stable economies to ensure that the providers of labour receive a fair and predictable outcome of their labour. This has framed the discussion around labour relations and during the industrial revolution came to focus on the ‘labour problem’ (Linehan, 2018). This development has happened in various locations globally at different rates and with specific features related to the local profile of industry, culture and legislative regime. For example, in Australia a major stepping stone in the development of trade unions was the 1890s maritime strikes (Kirby, 2014).
The challenges presented by the gig economy are faced by all trade unions, regardless of location and history. These challenges may vary less than the history and purpose of the trade unions, which suggests that there could be a commonality of approaches taken by the trade unions and points towards the potential for further co-operation among trade unions.

One of the classic areas of trade union activity has been the control of amount and type of work undertaken. A type of monitoring that purports to prevent employees from being taken advantage of, for example, ensuring that job evaluation schemes are adhered to and employees aren’t required to undertake work outside the strict boundaries of the job description. This has frequently had the impact of reinforcing bureaucratic organisational structures and providing a clear stable structure with predictable processes and outcomes. This enhances organisational justice and leads to higher trust-based relationships. In terms of productivity there is a multiplicity of evidence indicating that engaged employees are more productive. The role of trade unions in this context can therefore be suggested as leading towards productivity. This is removed within the gig economy where workers may be working on multiple platforms and are free to take the work that they want to. The constraints provided by trade unions are removed and workers are at liberty to make their own choices from the options available to them. Sarina and Riley (2018) and Bobo, (2011) note that the structure of modern economies does not really provide an adequate framework to support those participating in the ‘sharing’ economy. They suggest the development of co-operatives to remedy the imbalance of power in the relationships.

Another traditional union activity is the organisation of collective action to highlight or combat worker grievances. Although quite limited in scope (covering just one UK union in the public sector) an interesting empirical study of the impact of collective action, particularly industrial action in the form of one day strikes, found that undertaking such action significantly contributed to the increased union membership (Hodder, Williams, Kelly, & McCarthy, 2017). Herein, however, the extent of the challenge facing trade unions is exposed; to what extent are the barriers blocking effective collective union action infrangible? Over and above the lack of personal contact (potentially a considerable disadvantage in fostering a sense of collective solidarity), should a gigger withdraw their labour, they can be replaced, perhaps almost instantly, when another gigger from potentially any distant country, logs on and accepts the job offered (Graham, Hjorth, & Lehdonvirta, 2017). It may be that a distinction should be made between gig work that can be done from home (remotely) and is genuinely international, and gig work where there is a distinct physical area of operation. Hypothetically, a union led campaign of action among app-based food delivery couriers in say, Manchester, could have both an online and a physical presence; whereas a collective physical action is harder to envision among an internationally dispersed group of say, IT software engineers, working primarily from home. With regard to the former example, where a physical presence can be established, an established UK union, GMB, has had some success championing the rights of Hermes delivery drivers in the UK, and has negotiated a minimum wage and holiday pay agreement with the company (Butler, 2019). It should be noted, however, that drivers have
to individually opt-in to the agreement and that the GMB strategy to date has been to make legal challenges regarding employment status, rather than through overt collective action or strikes. In terms of more disparate workers, Graham et al. (2017), raise the prospect of ‘a full and targeted attempt at digital disruption’ (p. 156) and ‘google-bombing’ (internet search engine manipulation) (p. 156) as examples of tech-age industrial/collective action; but they also acknowledge that, as yet, attempts to organise collectively and empower groups of workers transnationally, have been largely unsuccessful. The challenges in organising a cohesive union presence are considerable in both cases, but they might also be quite distinct and require different strategic approaches or different types of unions altogether (Siegel, 2009 & 2011). Another issue is whether unions can evolve existing organising and recruitment strategies or whether a radically different approach is needed.

**Methodology**

The analysis of the response of the trade union movement to the new forms of non-standard work, so-called gigging has focused on a series of semi-structured interviews with eight trade union representatives. These representatives covered small innovative trade unions responding actively to the gig economy, traditional large trade unions and one trade union working at an international level to build links across the globe to support giggers. Given the discrete research population and the limited number of unions set up or designed for the gig economy a purposive sample was applied (Bryman & Bell, 2015). A snowball sample was then used when leads emerged in the interviews of trade union officials doing work in this area. The interviews were carried out on trade union premises face-to-face or over the phone and lasted between approximately one hour. The interview followed topic guide but were conducted in a flexible manner to allow the interviews to develop and flow in accordance with the direction of interviewees. All the interviews were transcribed by hand shortly after the interviews and were thematically analysed using Braun and Clarke (2006) approach, which allowed a flexibility to respond to and synthesise the interview data. Thematic analysis was selected as a qualitative analytical tool as the interviews were conducted at organisational level; focussing on the structural role and purpose of the trade unions, rather than at a more intimate, individual level of reflection and questioning. Thematic analysis is also a tool used by both sociological and psychological approaches and so matches the three theoretical lenses that have been adopted for this research.

**Findings**

The themes identified have been chosen as discrete and salient for interviewees. They are also discussed in the light of the analysis of social movement theory, social network theory and social identity theory. These theories have been applied as appropriate to provide some explanatory power for the choices made by trade unions in deciding whether to engage with the gig economy.
Relevance and Permanence

The primary theme identified from the analysis of the text of the interviewees was a debate around whether the gig economy is sufficiently large and permanent to require trade unions to become involved in it. As a self-selected group the majority of interviewees was actively engaged with the gig economy and identified it as a serious concern with which trade unions should be fully involved. However, they recognised that this was not necessarily the belief of all their colleagues within their trade union and also that where colleagues were persuaded to engage with giggers that it may have taken some time for them to be persuaded of the necessity of this approach. This was typified by comments such as ‘just another of same old story from deregulation and privatisation’ and ‘debate over the size of the gig economy has been over egged’. This was particularly impacted by the debate around whether the gig economy is a difference in degree for previous examples of spot work or a difference in kind

I don’t think there’s anywhere we can point to and can say you know a platform, an application like an uber type labour organisation tool has really transformed the way labour functions in an already organised sector.

This discussion was impacted by the sense of the correct arena for trade unions and whether they should be dabbling in the gig economy. This is typified by comments such as ‘Union’s don’t tend to be in the informal sector’ and further ‘it’s kind of a tool of the informal sector and that has implications for the way unions see it’. Further comments by organisers and officers who are actively engaging with the gig economy included ‘Trade union penetration, including X, is abysmal’ commenting on their own and a partner trade union.

When interrogating this a little further, interviewees tended to be positive about the importance of engaging in the gig economy noting that trade unions can adapt to change (the) … offering to working people remains consistent. You know working people in the gig economy just because they happen to be working through a new a new app it doesn’t really make any difference.

There is also some recognition of the need for trade unions to use tactics that reflect new realities presented; ‘as most of the workers speak Spanish they should probably have a Spanish speaker doing the organising and they refuse to see the value behind that statement, so it’s like refusal to adapt to changing workplaces’, said one interviewee in relation to supporting specific teams of giggers in a large institution.

Gigs have a long history as vulnerable, inconsistent work. Healy, Nicholson, and Pekarek (2017) contend that they are simply modern digitised versions of spot work. This has been endemic in many industries relying on manual labour, for example, agriculture and factories. One such example is dock workers in the UK, who at numerous points throughout the last couple of hundred years, would
be required to queue up for work in the morning and the first remainder had no opportunity to earn. Their only recourse was to return the next day, perhaps a little earlier. One trade unionist commented:

[…] and I certainly saw the labour problems in the east end of London with the white working classes fighting for employment, especially dock workers at the time, against the backdrop of line up in the morning and like a beast of burden you were chosen – following some bribe, or if a supervisor was your mate or family or you were lucky. If no job, then no money.

A clear focus in the interviews was the understanding that gig work is not only tied to platforms but also part of a wider atomisation of the workforce. This was also indicated as part of the essential identity of a trade unionist, with frequent use of personal pronouns suggesting a collective identity. One interviewee commented ‘(the) Gig economy is the worst expression of precarity’. Another noted,

when within the trade union movement, we are discussing the gig economy and potential solutions to the issues within the gig economy, we are not just thinking about resolving the undoubted problems that are involved with individuals working for platform companies you know, we’re looking at the issues of exploitation and insecure employment as a whole.

De Haan (2017) contends that this development of the gig economy is a normal part of a cyclical economy. He indicates that a key difference with the gig economy today is that the gigs can provide a long-term option to traditional nine to five work and that, in fact, they indicate the emergence of a new economic reality, at least in the developed world. A primary question to be addressed here is the extent to which the reduction in the quantity of ‘normal’ working patterns of employment, with the associated safety net of social security (such as contractual sick pay, annual leave entitlement and retirement funding) has significant implications at a macro-economic level and may mark a step change in our economic patterns. This change in the status quo suggests that understanding the role of trade unions within the gig economy is of value, as the gigs may not be a side order, but the main dish in our emerging economy.

A comment made by a trade unionist indicates the importance of social identity,

this is an old form of work that was defeated by trade unionism. So trade unions will have to put their weight onto government to bring about appropriate legislation, so that this particular form of casualization is recognised.

This comment highlights the distinctiveness of the unions providing a unique service which is again being called upon by a wider society, when perhaps society is not yet really aware of it. This was expanded upon in another interview
they have the government’s ear a lot more easily than people like us do – comparing the ease with which private companies working with giggers can lobby for changes to legislation that benefit them at the expense, sometimes, of giggers.

The use of the third person *They* allows the construction of an out-group for comparison with the in-group so further comments include ‘With no hint of irony they … even though they essentially admitted less than a year before that they had been breaking employment laws for the last 20 years’. Here, the out-group could be inferred to be devious, untruthful and not of good intent. Another comment within the theme of misclassification, in response to a discussion around the additional rewards, with respect to some development opportunities that have been offered to both Uber and Deliveroo giggers; ‘[They] have given a couple of goodies to workers’. Goodies are construed as unimportant but attractive diversions. This heightens the sense of lack of trust in the out-group.

This chapter is informed by and placed in the context of a significant weakening of overall union strength in the period following the Thatcher (UK) and Reagan (US) elections of 1979/80, to the present day. It seems apparent that a quite fundamental change in worker/employer relations has since occurred. Figures relating to trade union decline are even more pronounced in the US, but reflect a very similar pattern to that experienced by unions in the UK. All union membership in the United States decreased from approximately 20.1% in 1983 to 10.7% in 2017 and from 16.8% to 6.5%, over the same timeframe, among private sector employees (Bureau of Labor Statistics, 2018). Alongside other factors (a demographic change or de-homogenising of US workforce composition, globalisation of products and labour, and technological change) the decline of unions is seen as a significant contributor to a ‘breakdown’ in the type of social contract (and psychological contracts), governing industrial relations throughout much of the post-World War II period (Kochan, Riordan, Kowalski, Khan, and Yang, 2019). In a multitude of industries trade unions were long established as an automatic part of the social contract equation, across many western industrialised countries. Could it now be the case, given that trade union participation may not be a psychological expectation, especially in new industrial formats like gig work, that unions must re-earn and possibly re-define their role in employment relationship? (Juravich, 2018) A recent study in the UK, although just a snapshot image, gives an insight into the task faced by unions in extending their influence among worker/service providers in the gig economy. In the study 417 gig economy workers were surveyed as to where they would seek advice ‘if they wanted to complain or seek compensation about their experience of working in the gig economy?’ Trade unions were selected by just 10%, with Citizens Advice Bureau (25%), A professional body (14%), Solicitor/Lawyer (11%) and Local MP (11%) all appearing to be more prominent in the thoughts of participants (Chartered Institute of Personnel and Development (CIPD), 2017). Furthermore, in a slightly larger survey of gig workers/service providers in Africa and Asia, 22% supported organising a labour union or workers’ association, but 44% opposed the notion, with the rest of respondents non-committal (Wood, Lehdonvirta, & Graham, 2018).
While it has been noted that unions often play a progressive role in reducing wage inequality (Western & Rosenfeld, 2011), strengthening voice and economic empowerment for women internationally (United Nations Economic and Social Council, 2016) or increasing worker commitment and loyalty (Kochan et al., 2019), there are many challenges facing unions, if they are to gain more than a mere foothold in emerging, technology-driven labour markets.

**Misclassification**

The second theme in terms of both amount of time discussing this topic in interviews as well as salience is the issue of misclassification. This is primarily the misclassification of workers as non-employees or self-employed entrepreneurs. This has been the main content basis on which trade unions have become involved in the gig economy and indeed the basis on which they have achieved successes so far. While this relates to the next theme, justice and fair dealing, it is sufficiently sizeable to be separate. It also includes a misclassification of the sector into which gig organisations place themselves.

> these workers are not a new category. They are not like workers of some new particularly new thing, they are apps, essentially all organised labour of informal workers … they hide the employment relationship but there is an employment relationship there.

However, self-employed people were also seen as a relevant group to support, particularly where they were offering services to large organisations to the extent that they could be defined as limb (b) workers or dependent contractors: ‘there’s a really significant problem with bogus self-employment in this country’. Another trade unionist commented

> Obviously, there is a group of people who are really genuinely self-employed and what we would say in relation to that group is that we would hope for them to have enhanced rights in any event separately … parental rights … maternity and paternity leave and pay.

Recently practitioners and academics have focussed globally on types of status of employee or worker with some form of tenure and predictable future outcomes such as wage, benefits, etc. However, as Sarina and Riley (2018) note that the gig worker is defined by being ‘engaged to complete a particular task (the gig) within a defined time with no expectation of future work’ (p. 28), that is, there is no real suggestion of an ongoing relationship with the mutual obligations that implies. The ‘workers’ are free to ply their trade wherever they wish, and the intermediary is free to engage other people. The implications of this are primarily that there is a loss of mutuality and intention to maintain working relations between the producer, purchaser and intermediary. Certainly, the impact of the misclassification as perceived by the trade unions has been to challenge this denudation of the working relationship.
The second form of misclassification is a misclassification of gigging companies themselves. There was a sense of these organisations tricking people; for example, for Uber portraying themselves as a technology company, whereas they are in fact a taxi firm and one which lacks even basic assets such as cars: ‘our trade unions did see a threat from Uber in this specific case because they were classifying themselves as a tech company although they were providing taxi services’. This example was identified across unions although giggers of all sorts and not simply drivers were included in the client groups. One interviewee comments on a case where the trade union had been successful:

[In] Denmark, where our trade unions did see a threat from Uber … because they were classifying themselves as a tech company, although they were providing taxi services, and they set up a campaign and were very effectively forcing the then government to recategorize Uber.

Social movement theory analysis proved useful here as it demonstrated the ways in which trade unions have developed as a social movement around the justice element of misclassification. Trade unions have historically represented low paid and precarious workers, in an attempt to provide redress of the imbalance of power that may be found in the employment relationship through collective action. Certainly, this was raised in interviews a number of times:

trade unions are seeking to represent all workers, including workers in the gig economy … in terms of collective action and collective voice and redressing power imbalance, that is all the more important where you have workers who are particularly vulnerable.

This has incorporated engagement at a national and regional level with political bodies to engender change through broader social movements and changes of legislative regimes (Upchurch, Mathers, & Taylor, 2018). This is complicated when unions engage with the gig economy as the legislative instruments are undermined by the novel and heterogeneous structures of this sector of the workplace. The fundamental nature of the worker/provider of service and the organisation/market place/provider of opportunity relationship is contested. The nature of this new relationship is unclear, variable and challenged through neo-liberal discourse as well as legal proceedings in many locations across the world. This is therefore a good point at which to consider the onward impact of this shifting ‘employment – type’ relationship as it impacts trade unions as well as their role in providing a collective space and associated education and support for these workers.

As previously outlined, in the recent past and up to the present day, trade unions have been experiencing a decline in numbers. Within Western Europe the retrenchment has led to focus on the public sector and significantly lower levels of membership among younger generations. Upchurch et al. (2018) have defined a crisis of social democratic trade unions, which they consider to have emerged
as a result of them co-operating with the neo-liberal hegemony, as resulting in blunting their hunger for justice and hence their effectiveness.

**Standard Bearers of Justice and Fairness for Giggers**

Whereas the previous theme concerned one of the key topics that trade unionists are fighting for, this third theme that emerged was highly salient to identity for trade unionists. The analysis of the interviews using social identity theory found multiple examples of schemas around struggle, fight and first person engagement for the good of others

> a lot of nasty hateful people out there – I go after them – I have a very simple rule, I don’t have to go to dinner with them, know them on a personal basis with them so I don’t give a damn.

This provocative quote was part of the description of a situation in which an organiser was supporting a gigger with terminal illness to gain some element of sick pay, hence the strength of feeling.

> just speaking to an Uber driver and saying; look, let’s just sit down and let just work out, when you factor in how long you’ve been sat in this car park or in this industrial estate waiting for a job, how many hours’ work you’ve actually gotten, how much you’ve earned at the end of the day. You’re not earning anywhere near national minimum wage and that comes as a big surprise to a lot of people.

The tools available to trade unions to ensure that they can manage the power imbalance for giggers are less effective than those for employees. A strong focus on recognition has often not been as effective when working with international and atomised workforces and therefore new and innovative approaches are required.

One of the key areas in which trade unions can engage is in supporting the development of quality work. Quality of work is a key determinant of a plethora of positive characteristics for workers, including reducing stress and enhancing overall wellbeing. This is a challenge within the gig economy where often work is divided into very small tasks and paid on the basis of those tasks. The payment for piecework has the impact of altering the balance of power so that the worker has no real capacity to negotiate the pay, nor the content of work and nor the timescales. The worker may then experience lack of justice in procedure, as well as distribution of work. These are elements that are requirements for employees, and trade unions therefore have the capacity to build an argument to support those workers. However, where gig workers lack the legislative framework on which to rely, trade unions do not appear to, yet, have established a meaningful presence.

Wood et al. (2018), in their study of sub-Saharan and south-east Asian workers, identified that the quality of the platform is a necessary precursor to the
opportunity for quality jobs for gig workers. The determinants of quality are subjective and indeed they note that while some workers are required to undertake significant amounts of unpaid work to gain paid labour, alternatively, workers may tacitly choose lower quality work through moderating their efforts to find work. The inference is that workers passively or with apparent lack of intent, limit their options through disengaging with the platform for short periods. This is an interesting process which could be seen as pacing, protecting for wellbeing or even demonstrative of altruistic behaviour, in allowing others to ‘bag a gig’. This interesting behaviour is worthy of further research. It is interesting that pacing and work life balance/wellbeing protection are typically the provenance of trade unions, yet among this population in sub-Saharan Africa, there is no mention of trade unions intervention.

Wood et al. (2018) also identify the importance of the power balance in access to gigs and the quality of gigs between workers. Equity is managed through algorithm rather than through line management responsibility as would be expected in a typical face-to-face organisation. The potential for conflict here is enormous, particularly as the platform has no interest in building long-term relationships, but simply the efficacy of a one-off gig. Ensuring that access to gigs is fair and equitable is an arena in which unions could develop a convincing narrative and is in-keeping with their historical experience.

This theme, of fairness and justice, is central in terms of identity for trade unionists and much of the language identified referred to struggle and battle. This ties in with the social movement perspective where the need to frame the problem to engage with those outside the trade union movement was expressed.

there are certain universities and they’ve got twitter feeds and …. Blogs; so X’s got an anti-casualisation campaign, as has Y and Z, I think B has. And they all sort of try to get together and sort of campaign for better conditions.

This allows the development of a social movement through engagement with social media and more formalised press.

**Liaising and Engaging**

This theme operates on two levels. The first is that the traditional trade unions have generally been quite slow to interact with the gig economy and alternative forms of organising have emerged to fill the gap. The unions, who have access to far more resources are now seeking ways to liaise with these organisations. This also incorporates the processes of working across union boundaries. One of the consistent findings of this research has been that the sectoral boundaries across which unions work are drifting so that there are some points at which giggers may be advocated for by multiple unions. For example, one interviewer commented ‘we need a new approach from sectoral boundaries, digital technology is blurring these’.
The second element of this theme is around liaising with other national and supranational organisations to impact the gig economy at a global level. The geographical variation is a particularly interesting issue as many platforms are multinational organisations and there is therefore a mismatch in terms of with local trade unions. Specific gigging industries do have a broader representation. Certainly, it is likely that the historical role and impact of unions in specific geographical areas and industries will combine with the local employment regulatory environment and economic development profile to have an impact on how effectively trade unions intervene in different parts of the gig economy. Global membership of organising bodies, such as ITF, OECD and ITUC, is a key tool in the endeavour to represent gig workers, as it enables a degree of matching with the global gigging organisations that engage these workers.

This theme has been supported particularly by analysis of social networks. Each interviewer represented a different network, often interacting at specific points, but separate, nonetheless. Therefore, evidence of network activity was analysed rather than specific networks themselves. For example, there is evidence of using centralisation as a tool to attract individuals and small groups to the trade union ‘A lot of the time they come to us, word gets around, they come to us’. There were also examples of centrality needing to be fought for ‘I was elected in 2017, October 2017 to be anti-casualisation rep which brings with it 1 day per week paid at (organisation) that has never been paid’ centralisation is a key focus for the trade unionists as it enables influencing of potential members

what (trade union) can do is connecting these people with these initiatives and sometimes they are not in our organisation but my personal view is that we have to work with them.

Transitivity is also found in the extent to which there is mutual respect within the trade union network

Sometimes you don’t need to reinvent the wheel when someone has already done it – [I] asked X union if I might lift their text and use it for a particular situation – [In return we] gave a nod to X union in the documentation … if someone has a good idea, spread it out.

In particular, new gig economy focussed trade unionists gave examples of a number of peripheral individuals which matched its reputation as a union, which is willing to undertake a range of types of activity to achieve its goals.

I’m meeting next week with cycling instructors so people who go to schools and teach kids to cycle coz yeah they think they are under the same they’ve got the same problems of being misclassified and they think the union could help them as well.
Network nodes were identified through an example of one trade union financing another to represent a specific community of giggers. This was complemented by examples of bridging

if we can connect the colleagues in New York and London who may both have access to the data that they can use to regulate this industry a little more than they are right now in London.

There are a number of alternative forms of organising that have emerged in response to the gap left by the trade unions. Many of these show the potential for giggers to set up and manage co-operative gigging organisations (Healy et al., 2017). Certainly, this is the intention of one community activist interviewed, who uses democratic social media platforms to provide a shared space for communication that is envisaged to develop into a broader community platform. This is focussed on building a local community network through the use of a democratic platform, in which a genuine exchange of labour for reward is conducted. In the early stages, this focusses entirely on work to support local charities. The platform owners see themselves primarily as community activists who are engaging with the local gig economy to retain flows of value and disrupt the neo-liberal hegemony. This has the potential to provide both the efficiency and flexibility of gigs but with a central plank of ethical and fair opportunities for giggers. The process of developing the social network is an example of transitivity and reciprocity where decisions are proposed and made through a simple voting mechanism, which all platform members are encouraged to engage with. This creates the centralisation that enables the movement to gain some momentum, particularly in these early stages.

Healy et al. (2017) quote ride sharing apps which have been created by taxi drivers in the US as a disruptor to Uber and Lyft. In these cases, the revenue is ploughed back into giggers interests through healthcare, pensions, etc., which enhances transitivity and enables it to be a hook on which to engage a wider social network. They go on to note the potential advantages in longevity of these forms of co-operative organisation given the ongoing changes around regulation for giggers in terms of their status as well as their flexibility to come and go as they please.

An in-house alternative offered by Uber is its own internal engagement processes for drivers. The CIPD highlight this in their six case studies of how organisations manage what they refer to as atypical working. This is focussed on the UK only and provides an intra-organisational mechanism to support voice. Fascinatingly, the CIPD identifies the purpose of this as: ‘to provide voice and representation for individuals working on its platform’ (CIPD, 2019, p. 10). This is also part of an internal organisational series of processes for onboarding new drivers and engaging voice through internal feedback mechanisms. While it allows anonymity, it appears to be less focussed on developing collectivity among drivers. It is interesting to see how internal organisational processes to develop a social network among employees are being identified as a mechanism for engaging voice. It would also be pertinent to consider the extent to which this is a response to union effectiveness in engaging drivers and subverting the presence of unions.
Access to Giggers

This was a key theme for trade unions as they are unable to provide advocacy if they cannot access giggers. Access is particularly complex due to issues such as micro-working and geography-free working. Comments included:

Unions [are] struggling with how to access workers. Those who are more successful take a less structured approach to organising, flexibility on membership rates and [are] willing to fight before talking.

This supported analysis around social movement theory and providing nodes of a network to engage workers:

Unions need to have a more co-operative approach to support the informal workers and formalise their relationship with a digital employer, then can become part of a more formalised – cross sectoral approach.

The shifting of boundaries between unions was particularly evident in their struggle to access giggers. This has involved sharing innovative ways of organising:

you would be able to find organisers who are who are organising in new and different ways using new forms of technologies … X has developed a piece of software which members can use that helps them to work out whether or not they are actually receiving national minimum wage.

In addition, complications were identified around who to communicate with in the organisations themselves. As international companies, there was often no local individual with whom to communicate. One interviewee noted that the ‘difficulty with the gig companies is that there are so few people – who can you dialogue with; [you] can’t dialogue with an algorithm’.

The essence of the challenge for trade unions is in their access to workers within the gig economy. The French trade unions adopted a solidarity approach to leverage the power of numbers during the nuit debout in France, 2016. Béroud (2018) notes that the popular ‘uprising’ was driven by groups outside traditional trade unions, such as students and school pupils. The trade union response was conflicted due to both welcoming and supporting the movement, while simultaneously striving to represent members’ perspectives. This highlights some of the challenges that trade unions face in engaging with the gig economy, as Béroud (2018) comments:

it was less about rejecting trade unions than pointing out their weaknesses in relation to the difficulties they have in reaching a whole section of the workforce, including precarious workers, and offering them an adapted framework of representation. (pp. 180–181)
An analysis using social network theory identifies that the structure of the trade union movement itself is a specific and restraining point that concerns the identity of the trade union, its relationship to other trade unions and also its purpose. This may be constrained by historical agreements, which have not always developed to match the current neo-liberal economic challenges. The conflicts faced in this situation by unions are complex requiring co-ordination across previously clear sectorial boundaries to access and support gig workers.

Freeman and Medoff (1984), in their classic book *What do Unions do?*, identified the role of trade unions from an economic perspective. They developed the concept of exit versus voice, that is, those involved in a market, whether workers, managers, owners or consumers have two choices to express their displeasure, either to exit or to speak up and use voice. Given the atomisation of the workforce throughout the gig economy this is likely to have become a more significant issue in relation to the gig economy than it was in 1984. This has been exacerbated by the union’s focus on the short-term needs of their members which has tended to preclude a broader strategic perspective to address the changing needs of the economy as a whole (Upchurch et al., 2018). It highlights the need for further research into why people leave the gig economy or change companies within the gig economy. It is likely that lack of voice remains a cause of movement within the gig economy. This could be ameliorated by the presence of Trade unions as their primary purpose is to provide a means by which workers can express voice instead of enduring sub-standard working conditions or, where possible, exiting that specific workplace.

The work of the trade unions has the potential over time to provide an impact of professionalising management and leading to better outcomes for both organisations and workers. One of the mechanisms through which this happens is the increasing use of mechanicalisation to enhance productivity and ‘escape’ the union. This was found during the 1980s to lead to enhanced levels of profit while the engagement of the union similarly led to higher wages for workers.

As previously inferred, in a typical employment situation, a trade union would firstly seek recognition from the employer. This recognition is the precursor of allowing time to operate as a union, as well as involvement in terms and conditions and pay through collective bargaining. These elements are predicated on the employment relationship, that is, there is a mutuality recognised between employer and employee. Within the gig economy, where workers are not recognised as employees (either by the employer or in terms of self-identification), this mutuality is absent or at least reduced. The question of recognition has a significant impact on the presence of the trade union to support its members simply through access to both the members but also the site of the conflict, for example, the line manager. This is exacerbated within the platform organisations by the presence of playbooks, which remove discretion form line managers and are set in specific legislative regimes that do not allow for a response to local scenarios or nuances of situation. Thus, one trade unionist described a situation in which a hearing and speech impaired worker was taken into a disciplinary with no signer and so was unable to respond to allegations. This specific trade union has provided a full-time case worker to support giggers and so was able to respond
and facilitate a fair solution for this individual. This simple example is one of a plethora of situations in which a lack of engagement with trade unions combined with a constraining of local management capability and freedom to act, lead to unjust actions within gig organisations.

Digital Colonisation

There were consistent but subtle comments around the need for caution about the impact of the gig economy, particularly around digital colonisation. One interviewee discussed the importance of the aforementioned playbooks, for managers. These provide detailed activity plans for line managers against criteria set in a particular geography, and then communicated wholesale through managers to giggers; ‘a lot of the decisions are being done in an entirely different place in the world, based on a flow diagram basis’. Discussing a meeting with an operational manager an interviewee who works closely with giggers commented:

I said look you have a playbook and he looked at me, almost horrified that I know they have a playbook – [they] don’t like to go off script. Algorithmic control affects managers.

These comments are also made in the context of algorithms and playbook being uncompromising and rigid, not allowing for any individual differences, such as disability among giggers.

The development of trade unions across industries and nations has varied by individual factors including geography and the prevailing economic conditions. While the gig economy is highly heterogenous, it has some organisations, such as Uber, that operate in a number of countries. It is interesting to consider the success of trade unions to support workers within these international organisations. Union density within the gig economy is particularly complex. A measure of the proportion of workers who have joined a union, it is particularly impacted by the definitional challenges around identifying the numbers and location of gig workers, as well as the number of gigs that they are undertaking on average (Crouch, 2017, Kocer, 2018). This leads to risks around inaccuracies in estimating the numbers of gig workers due to a lack of clarity about the average number of gigs that each is engaging with.

One tool that is being promoted to combat digital colonisation by one of the international unions is that of digital sovereignty. Digital colonisation includes culturally appropriate ways of working and management processes, the distribution of good work and also ensuring that value flows both to the individual gigger and also the nation state in which they reside. An international trade union is seeking to lobby for new laws around digital sovereignty. This would prevent ‘Social security payments going the other way’ that is remittances going out to other nations rather than those where the giggers live, so that under this proposed ruling an interviewee suggested that countries could ‘apply specific/set level of pay and if they [gig companies] refuse to pay the rates, then you block them from your country’. This is a shared proposal by a number of trade union bodies which is a
social movement enabling access to decision-making authorities through sharing representation power globally. This allows the framing of a message around societal development and the importance of fair pay to the community as a whole.

As one interviewee at a national level body put it

the trade union movement has been in existence for a long time and has adapted to many different changes in the world of society and the world of work, and the thread that runs through it, from the beginning to now, is the concept of collective action.

Discussion

The primary findings of this research, in terms of the priorities for the interviewees involved in gig economy trade unions, have included a strong focus on justice and support for those in precarious situations. The themes are discussed to salience and integrated with the theoretical lenses and literature. This has allowed a clarity which indicates that the trade unions have indeed tended to resist engaging fully with the gig economy and perhaps even made a pretence of engaging until recently.

The drivers for engaging with the gig economy have emerged from the identity of trade unions as standard bearers for those in precarious work. This was demonstrated by linking the new forms of gig economy to spot work, for example, in the docks and indeed a comment that the unions had driven this type of work out and now needed to repeat the exercise and drive out the equivalent of spot work in the gig economy. Social identity theory was particularly rich, with multiple examples of out-group and in-group perceptions observed. Combined with the identity of standard bearers, this drives the desire to support and help giggers out of their precarious situations.

The primary barriers to engaging with the gig economy were a perception that this economy is merely a temporary continuation of forms of flexible working. While acknowledging the many similarities with other earlier forms of precarious work (that may well be germane in this context), a realisation that the gig economy is not a temporary phenomenon nor an identikit replication of other work forms, will better inform future trade union strategies. In addition, there was a sense that while those trade unionists interviewed recognised the importance of the gig economy and its impact on workers, their colleagues were not always so easily persuaded. They therefore need to persuade on multiple fronts: with giggers, to educate and explain that their offering is valuable; with employers and the state to advocate for the giggers; and with colleagues to persuade them of the value and appropriateness of engaging with the gig economy. Certainly, trade unions have more recently been producing reports, particularly, at the international level form the ILO and ETUI to highlight the plight of giggers. While trade unionists recognised the argument that gigs allow for flexibility, they often viewed this as an example of giggers being tricked by the organisation; a point in case being the example of Uber drivers not appreciating that their actual earnings were low when waiting time was taken into account.
One area of interest that has crossed a number of themes is the extent to which trade unions need to adapt their self-concept to engage with the gig economy, where workers are not able to make the minimum threshold of being employees. A strong focus on recognition and immediate issues of justice at a micro-level appear to have precluded some trade unions from considering the importance of the gig economy. Recognition is particularly problematic in circumstances where a gigging organisation may have a particularly small footprint organisationally combined with atomisation of the workforce, creating a need for new innovative ways of accessing giggers. These were discussed through the lens of social network theory. This is particularly relevant for the trade unions. As an international body they are clearly mobilising as a social movement, however, in advocating for and educating local giggers, the development of stronger networks is an important prerequisite to the deepening of the union presence within the gig economy.

**Conclusion**

This chapter has focussed on addressing the underlying question of whether the trade union movement has, until recently, neglected to engage with the issues that these workers are facing and so has denied its own roots. It has been found that, in their own perception, trade unionists would agree with this contention and that they are now becoming more intentional in their engagement with the gig economy. There are specific unions which focus entirely on the gig economy and these have often started as new movements or breakaway trade unions which needed the freedom to respond in innovative ways to the gig economy.

This chapter has contended that trade unions should have a presence within the gig economy and that platforms are frequently parasitic on both individuals and society. The role of trade unions is therefore to balance the power gap and prevent the denudation of skills and finance. This is redolent of the original situations of power imbalance and lack of justice in which trade unions originated. Today, this situation is exacerbated by the complexity of global organisations, atomisation of the workforce and the hidden and heterogeneous nature of much of the gig economy. The previous chapter highlighted the potential lack of flow of value through the economy, either down to individuals or up to the nation state. Trade unions could adopt a broader role in society as a whole, to challenge the equity of these flows of value and seek redress to retain the value closer to the source of origin in the future.

Trade unions and the paraorganisations, such as community action, fight for $15 movement in the US, etc., have all arisen as social movements. This was not always recognisable in the interviews undertaken due to the small size of the sample, as well as some hesitation within trade unionists about the extent to which the gig economy is a valid arena for trade unions to engage. This has led to the danger that they are underestimated as social movements due to the perceptions of individuals. Further interviews and a survey of the total population could help overcome some of the sample issues to shed further light on this.
This chapter has also considered the role of trade unions in providing collective representation and so at a structural level facilitating a pathway for the management of conflict. The societal implications for a gig economy in which the conflict deriving from a balance of power that is not redressed at any level (Bobo, 2011) are also considered. Certainly, the experience of working within the gig economy may have a significant impact on the daily lives for workers, as well as their opportunities to develop skills, gain qualifications and so build careers. There is some evidence that those working within the gig economy experience lower levels of wellbeing, higher levels of stress and can also become trapped in poorer paying gigs as a result. When viewed at a broader level, this can be seen to contribute to national skills gaps and the structure of the economy across national boundaries. The role of the trade unions in supporting the collective of gig workers across national boundaries, through collaboration between union organisations is also analysed within this chapter.

The analysis of the trade union interviews demonstrates the utility of social movement, social network and social identity theories in understanding trade union behaviours in the gig economy. This challenges the underlying assumptions and purpose of each of the theories, in part due to the scope of each theory. However, it delivered a richness of analysis combining the levels in one piece of analysis, which provided an integrated picture of trade union intentionality, action and embeddedness in this complex context of gigs. This was impacted by the range of unions involved and, in the future, it would be of value to conduct a similar analysis with a focus on one sector or perhaps one union. This analysis identified a series of themes which underpin trade union engagement with the gig economy. Each of these themes presents the opportunity for further research to identify ways in which trade unions can further their positive impact on giggers.

The chapter has identified the impact of heterogeneity of aims and purpose on the response of the trade unions to the gig economy. The focus has been at a macro-level on the broader trade union movement and its response, through the collection of data from a range of unions. However, the micro-perspective of the motivations for collective action among gig workers themselves has not been addressed. This would be a useful area of research and would support the trade unions in developing a more dynamic response to the challenges and inequality facing giggers in an apparently rapidly growing precarious work context. A second focus of future research is the identification of different forms of power and the extent to which they support or detract from the case that trade unions are making, as well as their practical involvement with and advocacy of individual and small groups of giggers. Finally, the longer term impact of the precarity of gigging on the health and longevity of participants in the gig economy should be investigated with the support of trade unions who are likely to play a key role in this area.

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References


Section II

Meso Analysis
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Chapter 5

The Dis-evolution of Strategic HRM in the Gig Economy from Talent Management to Supply Chain Manager

Andrew Boocock, Rebecca Page-Tickell and Elaine Yerby

Introduction

I’m the anti-casualisation officer – we’ve got HR for casualisation.
(Trade Union Branch Officer Higher Education)

Gig workers do not hold permanent employment contracts, with a single organisation, and are instead engaged on short-term contracts, frequently with multiple organisations (Ainsworth, 2017). Engagement with gig workers requires a different interaction from the typical talent management experience promulgated by the Chartered Institute of Personnel and Development (CIPD) and other human resource (HR) professional bodies. This typical experience is often understood as a resource-based view in which human resource management (HRM) seeks to build an engaged workforce through talent management activities to derive the benefits of loyalty and discretionary effort (Guest, 2017). This chapter proposes that the disruptive tendencies of the gig economy have extended to impact HRM and specifically the domain of talent management. The gig economy creates problems for espoused values of dominant approaches to talent management due to a loss of mutuality and hyperindividualism (Dundon & Rafferty, 2018). As this chapter will explore any analysis of talent management is problematic due to definitional inconsistency and divergent organisational practice in this area (Lewis & Heckman, 2006), however it is contended that the hyperindividualism and loss of mutuality in the gig economy have exuberated a focus on exclusive talent management at the expense of inclusive talent management approaches. The atomisation of work through task parcelling creates the conditions in which at both high and low skilled parts of the gig economy, giggers are defined in supply management terms.
Using a critical HRM lens the consequences and impact of this on wider organisational stakeholders is considered in the context of espoused talent strategies. In examining the gig economy from a critical HRM (CHRM) perspective the key concern is one of examining HRM, and the gig economy, within the current socioeconomic context of capitalism and market individualism. CHRM seeks to challenge orthodox HRM research and practice and its normalised managerialist view of practice. In particular it attempts to denaturalise the taken-for-granted acceptance of neoliberalism and human capital theory within the mainstream analysis of the gig economy, and to shift focus from a privileging of managerial concerns to a more significant regard for the voices and issues excluded within mainstream analyses such as employees, minority groups and the environment (Delbridge & Keenoy, 2010). Importantly, the construction of gig workers as freelance workers by intermediary platforms, to be managed through algorithms, also limits a regard for important employment concerns relating to employee stress and well-being, and employee voice and participation (Aloisi, 2016; Dundon & Rafferty, 2018; MacDonald & Giazitzoglou, 2019). In other words, the acceptance of the gig economy may be seen as one part of changes within contemporary talent management embedded within a marketised discourse which links human capital with strategic HRM (Dundon & Rafferty, 2018), rather than a concern for people through the employee champion role. This has the effect of shifting (or reducing) the boundaries of HRM/talent management and creating a conflict of values for HR practitioners. Within this context the role of HR in the talent management of giggers, rather than one of employee champion is more about increasing shareholder value through a focus on reducing labour costs to improve efficiency. The use of ‘self-employed’ giggers further challenges current HRM orthodoxy, through a new priority to match the supply of giggers to meet demand, which reduces talent management to a quantitative planning function, and away from the traditional role of investing in human capital at the organisational level (Thompson, 2011).

Using the UK higher education sector as a case study, the ‘gigification’ or encroachment of precarious working practices into the academic environment and the impact on wider stakeholders is explored. In the process there is an opportunity to explore the wider role of ideology in shaping the nature of the gig economy, as examined in the context of human capital theory. These discussions consider how the gig economy currently appears to be developing along a certain trajectory; but to what extent is the trajectory fixed by the existence of a dominant ideology, and what ethical questions does this raise? From the initial work of Guest (2011) describing giggers as ‘free workers’ to more recent developing concerns around precarity and atomisation, new ethical and social justice concerns are being raised beyond the neoliberal agenda. In concluding, the chapter responds to questions this raises about the future development of talent management practices and associated behaviours and practices within the HR profession and the gig economy specifically.
Defining Talent Management, New Boundaries and Conflict in the Gig Economy?

Talent management has proved to be a tricky concept to define within HRM research. The disproportionate ratio of practitioner publications to peer reviewed articles on the topic highlights the issue that research on talent management does not reflect practitioner interest (Capelli & Keller, 2014). In fact, different organisation’s define talent and implement talent management in their own ways (Galagan, 2008) and there is no one consensus on its definition (Thunnissen, 2016). Definitions of talent and its management are ideally accessible by both practitioners and researchers. They are frequently specific to organisations or sectors and can also vary within organisations, depending on the level and field (Gallardo-Gallardo, Dries, & González-Cruz, 2013). Lewis and Heckman (2006) grouped the definitions of talent management gathered from a literature review into three basic groups: as a new way to describe already prevalent HR practices, as a means of progression selection; and lastly, simply as managing and developing employees who are talented. All of these groups however have limitations, including the lack of empirical evidence (Lewis & Heckman, 2006; Thunnissen, 2016).

However, there is less known about the range of specific practices in talent management, how it is understood as well as how it is practiced both within and across organisations. This is particularly true across different types of organisation. Thunissen et al (2013) note that the dominant talent management model is that based on large USA corporations. However, it is questionable whether this model fits a broad range of organisations, in particular for our purposes, those that are engaging gig workers rather than employees.

Notwithstanding the limitations and divergence of opinions, a commonly accepted definition of a talented individual is someone with ‘potential to reach high levels of achievement’ (Tansley, 2011). Therefore, from the perspective of an organisation, talent management involves ‘the systematic attraction, identification, development, engagement/retention and deployment of talents’ (Thunnissen, 2016). Further simplified talent management is just ‘anticipating need for human capital and setting a plan to meet it’ (Cappelli, 2008). But in reality, to get the most benefit out of talent management practices, more research is required to narrow down the definition of both talent and talent management (Al Ariss, Cascio, & Paauwe, 2014; Cappelli & Tavis, 2018; Gallardo-Gallardo et al., 2013; Lewis & Heckman, 2006; Tansley, 2011). The definition of talent is not unitary and is likely to vary across location, industry and time. Therefore, talent can mean quite different things at different points. Indeed, intra-organisational definitions of talent may vary indicating that it is not necessarily a stable construct even within single organisations. This demonstrates the size of the challenge facing HRM practitioners who need to define, source and nurture talent so that it is available as and when needed, add in the complicating factor of a contingent workforce that does not recognise the identity of employee nor share the bonds of mutuality may create a particularly significant challenge.
One thing both organisations and researchers do seem to agree is the purpose of talent management, namely to get the most reward for least effort out of ‘talented’ employees, whatever that may mean to them (Lewis & Heckman, 2006). This creates conflict in the boundaries of what we see as talent management and the activities that are licit, particularly in consideration of varying forms and levels of gig workers.

The rise of the gig economy is part of theory and practice in HRM, in which a market ontology, steeped in neoliberalism, has encouraged a hyperindividualism in the way employees experience employment (Dundon & Rafferty, 2018; Fleming, 2017). Neoliberalism as a political philosophy is perceived as endemic but definitions vary by location. It “involves a belief or philosophy that free market outcomes are superior to those achieved through government intervention” (Bray and Underhill, 2009) with implications for the gig economy that it will be allowed to develop without hindrance. The impacts of this at meso level, within industry and organisation are significant for HRM practitioners. We contend that their role as people champions becomes denuded to managers of the people supply chain in an economy in which the responsibility for development of skills falls to the individual rather than the organisation. This is particularly relevant as neoliberalism has differential industry impact (Bray and Underhill, 2009), for example in the suppression of social worker professional development in Washington State (La Rose, 2016). Talent management may therefore vary by industry as well as by organisation and provide a useful lens through which to view appropriate activities for talent management. In particular, the gig economy, as part of a wider neoliberal agenda of redefining employees as atomised freelance workers, fundamentally changes the nature of employment; making it discontinuous rather than continuous in nature (Stanford, 2017). Individualism and the erosion of the collective have been embedded in HRM since its incarnation in the late 1980s. The current era of hyperindividualism supported by enhanced digitisation and automation and casualised labour markets have particular implications for talent management within organisations. In this environment and an organisational world that focuses on how much benefit it can get from its employees it is important to consider the ethical perspective in order to build sustainable success for all actors within the organisation as well as the organisation itself. If a definition of talent management supposes that talent enhances the prospects of success, then a secondary related question is what organisations mean by success. Certainly Simon et al. (2011) define success through finance as well as dominant market position, although they do also refer to the importance of the balanced scorecard as an ‘agreed’ measure of organisational success, in 2011, with sage warnings of the importance of survival as a measure of success. In a neoliberal world success may be identified as enhanced profits. However, from the perspective of all stakeholders, increased profits may be as much a disbenefit as a benefit. For example, many gig companies have been identified as successful, including the much-adulated unicorns, although they rarely make a profit. Their success is construed instead in terms of disruption of a previously stable market allowing further new entrants. In addition, it could be argued that, in terms of satisfying the ideology behind human capital theory, the need for short-term profit is subjugated by the opportunity to utilise the gig economy to introduce a long-term change in the nature of the worker/organisation
power relations. This would in turn, have ramifications for HRM practice, including talent management, that go beyond the gig economy itself.

Another question is how do talent management practices affect the wider society? Companies are focusing on what they can gain from employee when they apply talent management but many would argue that they have a social responsibility to encourage growth in all employees, even those which will leave and go elsewhere all in the name of bettering society. This issue is especially prevalent in the new gig economy, where individuals are tied to companies only for each specific task so what responsibility does a company have to encourage their talent. If talent management is about getting the most reward for the least effort, then from the organisations point of view applying talent management to gig workers seems baseless. However, from a social responsibility point of view, these workers also deserve to be developed, both for their own good and the good of society. Green et al. (2018) analyse the success of upwork from the perspective of the giggers and note that it is not always positive in terms of their professional development. For example, Upwork has an exclusionary clause which prevents giggers form contacting previous clients for a number of months and that the increase in the market of potential workers through this global platform can cause the prices for specific tasks to drop significantly.

The development of all parties is predicated on the assumption of an enduring relationship between employer and employee which generates mutuality and a common understanding with regard to build value for both employer and employee (Inconetti, Pilati, & Peluso, 2011). However, this concept of enduring mutuality in work relationships, as the normative form, is certainly questioned by the growth of the gig economy. (Rubery, Keizer, & Grimshaw, 2016). We are not arguing that this form of employment is becoming or will necessarily become obsolete; but rather that the current gig economy model currently tends towards a two-tier definition, separating those directly employed by the core organisation, for whom the ‘carefully constructed’ benefits package is often available, from those temporarily engaged on a ‘gig’, for whom it is not. One view is, that alongside the growth of this latter group, a societal process of ‘radical responsibilization’ is taking place; whereby the cost of and responsibility for talent development (amongst other traditional aspects of employment and skills development) is being transferred from organisation to individual gigger (Fleming, 2017). Such developments, observes Fleming, are entwined with ideological encroachment of human capital theory, whereby, employees become external agents rather than internal employees, worthy of talent development. Thus, the risk for enaging in the enterprise moves from the organisation itself to giggers who bear the costs as individuals, including the cost of development.

In this sense gig workers are a modern, streamlined embodiment of the human capital theory view of workers as competitive individualists, responsible for investing in their own economic value (Fleming, 2017). More specifically, a key argument in human capital theory is that human beings are a marketable asset (Schultz, 1961), with such human beings responsible for investing in their future financial (pecuniary) and non-financial returns (Becker, 1962). A second key argument is that general human capital (i.e. transferable) abilities should not be developed by employers as such employees can leave, taking such investment to competitors in the marketplace.
The construction of human capital as freely transferable implies fungibility of both talent and people as if it were a free-flowing stream that can be diverted to a specific individual at will. This conception may be adhered to HRM practitioners who operate within a human capital model exacerbated by a machine metaphor for giggers as ‘widgets’ within the factory of the organisation, indeed, dormant labour, also known as rest, is being monetized by the gig economy. Loebel (2017) derives value from all aspects of a workers life, boundaries which in an employment relationships would be less likely to be encroached upon.

Giggers being constructed as competitive individualists, challenges the nature of talent management in that individualism does not tally with organisations nurturing talent or supporting collaborative human capital (Dundon & Rafferty, 2018). Importantly, the gig economy is part of wider flexibility and individualisation in the market, which moves HR from a focus on culture (or soft HRM or human relations) (which succeeded Taylorism in the 1980s) to that of human capital theory (Fleming, 2017). This puts into question the continuance of talent management strategies relating to corporate culture, total reward, employee commitment, engagement and diversity management, all of which require workers to be culturally embedded rather than atomised. Indeed, as a result, within intermediary platforms, talent management for lower skill gig workers is severely limited, as employees are expected (in line with human capital theory) to take responsibility for investing in their own human capital (Meijerink & Keegan, 2019; Wood et al., 2019). This exacerbates differences in resources to procure development, creating a more stark demarcation between the talented and talentless. As giggers have less visibility of opportunities, then this may create a trap in which giggers are consigned to specific low paying tasks and do not have the capacity to develop into more rewarding tasks.

### Inclusive and Exclusive Talent – The Rise of Hyperindividualism

Exclusive talent management is a branch of talent management in which resources are focussed on a specific group of ‘talented’ employees (Crowley-henry & Crowley-henry, 2019). Capelli and Keller (2014) define inclusive approaches as ensuring that talent management applies to all employees ‘All employees of an organisation are seen as possessing strengths that can potentially create added value for the organisation’ (p. 307). A considerable amount of both academic and practitioner discussion on talent management has focussed on the comparative merits of inclusive and exclusive forms (Dries, 2013) although it appears that exclusive talent management has been the more widely practiced and recognised approach (Swailes, Downs, & Orr, 2014). This poses seemingly blatant ethical issues (Kramar & Syed, 2012). Firstly, what happens to those workers who are not included in the group of talented individuals? Secondly, how do you determine who is and is not deserving of the resources, especially as there is no clear, universal definition of what talent is? It is also especially important to consider how practices such as this can affect employee engagement. Does the increased engagement of ‘talented’ employees make up for the disengagement of ‘non-talented’ employees? This leads to another important ethical issue in that disengagement of workers by exclusive
Talent management practices can lead to a general disinterest in corporate social responsibility policies, especially considering these employees are often the ones carrying out such policies (Hejjas, Miller, & Scarles, 2019). These are all questions that existed prior to and aside from the growth of the gig economy. This issue varies by industry. Identity as a gigger is linked with both precarity and freedom of choice and it may be that with the advent of more easily accessible learning through MOOCs (massive open online courses) etc. that giggers may prefer independence and freedom to choice to an avuncular form of development as reward. In some fast moving industries giggers may be in a more powerful position and at something of an advantage in relation to employees where they are perceived as talent (Crittenden, 2018). The power balance that is usually recognised between organisation and employee in which the organisation has the whip hand. However, talented giggers may hold more power, particularly where they build a community online to compare the relative value of different opportunities. This is particularly relevant to fast moving high tech organisations where talent is perceived as crucial for enabling an organisation to engage effectively with emerging technology. This places HRM in a somewhat central place as managers of the supply of talent. The lack of mutuality is of clear relevance here as a lack of ‘loyalty’ may hinder HRM in ensuring a consistent supply of talent.

Talent debates in the gig economy are complex – strategies vary around recruiting giggers on demand for lower level tasks engaging and retaining valuable giggers through a carefully constructed offering which addresses their specific requirements; including compelling experiences of work and specific targeted rewards. It involves talent acquisition and developing an organisational architecture by integrating effectively culture, technology and the physical environment (Claus, 2019). The question arises as to how organisations can win the war for scarce talent (high-skill giggers) whilst such giggers are autonomous, not embedded in corporate culture, and free to take their talent to competitor organisations.

**Strategic Workforce Planning and Talent Management as Supply Chain Manager**

Arguably, the biggest issue that companies looking to employ talent management face in light of the gig economy is loss of control. By making workers more precarious, companies lose control of them and this could see a shift in talent management approaches from nurturing talent to simply optimising talent that is already evident (Coné, 2018). The paradox is that immediate control is enhanced through tasks. However, the giggers are free to leave at will and so the typical control mechanisms of engagement and identity with the organisation are redundant. Accordingly, worker perceptions shift such that individuals will control their own meaning and practice of talent management to a much more customisable individualistic basis. This could lead to a shift in focus from an individual to global availability as talent can come from anywhere in the world. Whilst Multinational enterprises (MNEs) are currently considered to have the upper hand in reaching employees across borders, increases in technological advances and the boom of the gig economy may make this a more general phenomenon (Al Ariss et al., 2014;
Collings & Isichei, 2018). When this happens, who will be responsible for managing the talent in workers in the gig economy? A nuanced approach to talent management involves a more holistic approach in which the whole individual is engaged, that is, the talent is conceived as residing in the whole person and they and their broader development become the concern of the organisation over the longer term (Rubery, Keizer, & Grimshaw, 2016). However, where talent is conceived of as a capacity that specific individuals contain, then that element can be metaphorically removed and developed in isolation. This serves gigging organisations well as any specific needs that giggers have can be topped up through in-house provision.

Whilst the extent and penetration of the gig economy is a point of debate the impact of the gig economy on HRM as a whole is unevenly distributed. However, the onward impacts of a more transactional approach on the wider employee community should not be discounted. In particular, there is a shifting of boundaries on the role of HRM for gig workers who are high in skill and low in supply. The supply of these workers is frequently essential to the main business of an organisation and so the role of HRM focusses on maintaining that supply. This may be through the development of learning and development opportunities as well as a focus on enhancing employer brand. Talent management with high-skill giggers is predicated on the individualism of neoliberalism and human capital theory (Fleming, 2017). Rather than an emphasis on employee relations and cooperative relationships, the new focus is on agility in managing a talent catalogue of contingent workers which can be accessed at will for a specific time and cost. This enables an explicit focus on the requirement to meet the wider neoliberal (and human capital theory) agenda of increasing profits for the needs of shareholders (Bashford, 2016; Horney, 2016). HRM adapts a mindset of recruiting an employee to complete a task through a range of potential engagement types including outsourcing and temporary contracts to complete a task (Thomas, 2018).

An example of this could be argued to be the flexible talent network was launched by PwC and allows workers to list both skills and availability allowing organisations to find the most skilled worker for a task whilst also giving individuals flexibility. Deloitte also has a similar network, as does the Washington Post and other big organisations (Faragher, 2018). Networks like this are leading to an increase in contingent workers and further integration of external and internal workers within an organisation (King & Ockels, 2016). They aim to close gaps in the skills of a workforce by easily identifying and hiring external workers with those skills. It shifts the focus of talent management from training to acquisition (Mulcahy, 2018). This approach is massively beneficial to the gig economy and organisations and it could be argued that it encourages the development of skills by creating a pathway for them to be shared. However, it also removes the need for training of these skills within an organisation. If it is quicker and easier to bring someone on a temporary basis, why train your current employees in the skill you require? This highlights the ethical issue of responsibility to both employees and society. And if organisations are no longer training their employees in these skills, then employees themselves become responsible for developing these skills to be hired. This also poses an issue to HRM professional and they must now consider where and how people are developing skills, not just what those skills are (Coné, 2018).
More broadly the HR function involves managing three key players: gig workers who supply labour, requesters who demand labour and intermediary platform firms who match supply of labour with demand. HRM is about control and coordination of the actors through workforce planning to avoid disequilibrium in the market in terms of insufficient supply or demand of gig workers, and to ensure multilateral value is generated for the three actors involved (Meijerink & Keegan, 2019). A risk to the long-term future of HRM in an organisation is allowing gig agencies to encroach on the talent space and so denude the opportunities for HRM to contribute to the wider organisational strategy. The danger inherent in this is demoting HRM to a process-driven housekeeping function which prioritises workforce planning in a similar manner to supply chain managers.

Just as PwC, The Washington Post and Deloitte have responded with the development of talent networks, there are third-party agencies offering services to assist companies with the holistic integration of talent management practices for internal and external workers in, as suggested in one particular company website, ‘a unified approach that spans all talent segments’ (https://www.accenture.com/gb-en/insight-outlook-managing-the-extended-workforce-talent).

One issue, however, for the broader populace of HR practitioners is whether this approach, appearing to be inclusive on one level, remains the preserve of the consultant feeding, wealth creation companies, who is temporary external talent, operate at the high trust, high demand and low availability end of the gig employment spectrum. As we travel down the gig economy spiral, the risk is that the value of integrated and equitable talent management for external gig workers is not recognised by organisations or is not a function that is actually delivers. Indeed, the absence of traditional organisational level talent management, particularly training and development, was significant in the research as some giggers, who lacked bargaining power in the market vis-à-vis other gig workers and employers, were unable to develop the necessary skills to improve their reputation, earnings and security in the market (Wood et al., 2019).

The short-term contractual nature of the gig economy, and resultant hard calculative HRM focussed on reconciling the supply and demand for labour, takes us further away from a critical turn. HR practice within the gig economy is seemingly incompatible with a non-exclusive focus on performance (Spicer et al., 2009) to achieve more balance between profit and the wellbeing of employees (critical performativity). Indeed, the construct of success can be applied here to the giggers individually in supporting them to manage the flexibility of the gigs so that there is a reduction in family work conflict (Lapierre & Allen 2012). A culture of performativity in HRM encouraged within the gig economy will instead likely frustrate the critical HRM goal of de-normalising oppressive organisational behaviours (denaturalisation), limit a CHRD capacity to uncover exploitative ideologies and imagine alternative possibilities (reflexivity). It would also seem likely to further limit workplace democracy in which social justice and equity may flourish and particularly, given the individualised nature of the gig economy, limit with regard to ensuring barriers to emancipation are removed (Ramdhony & Francis, 2015).
The Gig Economy and Interorganisational Competition for Giggers

The economy acts as a marketplace on a number of levels. Within the three primary groups of actors, organisation, gigger and customer, the focus is most often on customers and indeed the design of platforms and other processes has focussed on its attractiveness and usability for customers. However, the gig economy is a rapidly growing market in which issues around supply and demand for giggers may emerge. Workers may be engaging with multiple organisations (De Stefano, 2015) and also may engage in skills arbitrage to select the most attractive gigs (Graham, Hjort, & Lehdonvirta, 2017) As a result the availability of giggers may not be guaranteed to specific organisations who will then need to take steps to engage with and attract giggers. In this situation, HRM may be called up to manage the supply of giggers in much the same way as a supply chain manager. This may vary with the nature of the gig involved. De Stefano (2015) notes that gigs may vary from microtasks to ‘bigger and more meaningful pieces of work’ (p. 474). They may also extend through to professional services in which the quality and experience of the gigger could be a rare and desirable commodity.

Such integrated human capital management systems for managing high-skill giggers are premised on an individualistic view of such workers (in line with human capital theory) and are used as a means of reducing the costs of labour. In the US context examples include Cisco’s Talent Cloud and Analytics, which uses employee skills data, predictive analytics and job market data to determine future skills gaps in particular job functions and locations, with this used to forward plan agile teams so that the skills needed are provided at the right time and place. Another is PwC’s Talent Exchange which enables PwC to find, assess and recruit gig workers for particular projects, and to build long-term relationships with gig workers rather than short-term transactional ones. The Washington Post have also developed a Talent Network platform to manage external talent, allowing inward bound pitches of journalism as well as gigster journalists to respond to available freelance work. The idea behind the platform is to improve the effectiveness of securing freelance talent and to source a wider range of national and international stories (Mulcahy, 2016, 2018).

The approaches to supply chain management will vary according to the type of gig involved. A process-based approach is particularly important as a key characteristic of the gig economy is to provide people ‘on demand’, as People per hour state in their website ‘curating freelancers’. Therefore, HRM need design and manage processes for keeping giggers warm and engaged even when they are not required. Graham et al. (2017) note that value capture is an imperative for giggers who are therefore likely to select the gig that offer the best revenue. It may be possible for HRM to influence this selection through offerings such as training in specific packages, tied to golden handcuffs of size and type relevant to the giggers. There may also be other desirable elements around working in a team, etc. This would be a useful arena to explore to appreciate the range of rewards that may be valuable to specific types of giggers with rare skills. A specific risk that Graham et al. (2017) raise is that the source of labour is not necessarily transparent and so the conditions and experiences of global giggers are a concern for
gigging organisations. Within the UK these organisations are liable for assuring that modern slavery has had no part in their supply chain. In the absence of good, the organisation will need to find ways of assuring this for themselves.

Another risks for organisations in this supply chain approach is as the discourse of an automated individual permeates to the gig worker that start to see themselves merely as in a marketplace in which they are not responsible for the goods or services that they provide (Healey et al., 2017). Certainly, as early as 2008, Capelli noted that a move form entirely internally focused development as part of a career for life through to ad hoc, often externally driven development opportunities. The current highly atomised just-in-time state may be seen as an extension of this development. In order for an organisation to then respond effectively within this environment agile talent processes will be required (Horney, 2016). The integration of giggers and employees working together on complex projects is likely to require innovative approaches from HRM to enable smooth working relationships in a context where half of the workers lack mutuality. Indeed, this may come to be the exception, as platforms in particular put in place mechanisms to increase dependence and militate against the freedom that appears to inspire many giggers (Kuhn & Maleki, 2017). Portfolio agility and change-readiness will necessitate crucial planning decisions to be taken: planning relating to how (complex) work is to be undertaken (increasingly through multidisciplinary teams), planning where the work will be done (flexible, virtual and/or global), planning which staff will be responsible (internal or external talent and what level of experience), planning what/who will do the work (whether human talent or IT) and how the talent will be managed (increasingly through talent platforms, big data and business analytics) (Hornet et al., 2018). Integrated human capital management systems for talent management may also be developed as a means of making more efficient recruitment, talent acquisition, (digital) performance feedback, worker innovation and overall worker productivity (McKinsey & Co., 2015).

### Talent Management within Higher Education

The talent management strategies discussed in this chapter within the gig economy emphasise the rational in meeting short-term objectives. In particular, they are in line with neoliberalism and human capital theory in resolving the disconnect between workers and work, in uncovering unrealised economic and individual potential, in more effectively utilising human capital and improving labour market fluidity, with the goal one of increasing profit and dividends for shareholders but also improved productivity and the GDP of the UK (McKinsey & Co., 2015). A key limitation of talent management within the gig economy relates to its embedding within a neoliberal marketised context which normalises a focus on profit, and the needs of shareholders, at the expense of espoused wider HR objectives and other stakeholders.

Higher education is an example of the impact of neoliberal policies being imposed on a specific system. It is a useful example of the impact of the gig economy within a sector as it is both primarily public sector and therefore engaged with open reporting and also relatively homogenous across institutions. Whilst institutions vary in size, focus, location and wealth, they all engage students on
roughly equivalent programmes at set levels. The more recent austerity has led the sector as a whole to focus on the cost which has become a driver for change. The trade union representing higher education is the UCU. Their report (2018) ‘precarious education: how much university teaching is being delivered by hourly paid academics?’ identified that an average of 27% of undergraduate teaching is delivered by hourly paid lecturers and in Post-92 universities this rises to 50%. These include PhD students, those lecturing as a side gig in their profession and those who are solely employed as hourly paid lecturers. Two interviews were carried out with union officials engaged with this arena.

The CIPD (2019) in their publication, “A typical Working: how six very different organisations manage atypical working” addresses the cases of the Universities of Glasgow and De Montford. The HR director of Glasgow University had been called before the Scottish Parliament to discuss their use of hourly paid and atypical academic staff. In 2018, the university employed 8,000 regular employees and 3,500 casual workers (2019, p. 12). The case study indicates the zero hours were discontinued in 2014 and hourly paid academic staff were found to cause management difficulties in the areas of governance, control of hours worked and sometimes visa issues. From the perspective of the individual academic, the implications of this are that their own development both in terms of teaching/demonstrating but also their subject expertise must be developed by themselves using their own resources. In 2014 Hannah Roberson of SOAS was quoted by Fazackerley (2014) in The Guardian as saying

I get paid for the teaching time and some extra time on top – but the extras aren’t enough to cover all the time I spend reading, preparing, attending lectures, replying to students’ emails, marking essays and so on … We want to teach and we want to teach well, and we want to be fairly compensated for it.

From a talent management perspective SOAS managers were quoted by Fazackerley (2014) as suggesting that fractional contracts allow flexibility for staff. This is framed as a retention policy which enables a work life balance and is successful for a number of staff. It is also framed as a period of ‘learning their trade’. However, our contention is that the choice to engage gigging academics is a direct result of neoliberal policies embedded within academia. The pressure to generate income as well as a constructive, successful research environment has arguably led to an oversupply of PhDs. This provides a strong supply of early career researchers eager to develop their academic career even with poor conditions, which are presented as a barrier to entry. This is exacerbated by a target-driven culture in which measurement drives activity with a focus on the short term. The long-term development of academic staff becomes a lower priority at institutional level. The long-term implications of this as the world of higher education continues to globalise may be the cost of long-term competitiveness for those institutions who do not engage with talent management for academic giggers.

There is a clear conflict between institutions seeking efficiency and value for money and academics requiring space and time to develop their expertise and professional
capability. This could be construed as a conflict between the implications of a neo-liberal hegemony and a values focus on quality. Wright (2019) questions the way in which the gig economy is constructed as a positive labour market development for workers whilst current HR practice exploits gig workers to increase profits through the reduction of employment rights for those constructed as a non-employees and the offshoring of workers to further reduce costs. The construction of the gig economy is further criticised, in line with the critique of human capital theory in terms of the individualising ideology underlying HR and talent management, which puts success down to the individual rather than wider cultural influences.

Conclusion

This chapter discusses the impact of the gig economy on HRM within a neoliberal economic context, shifting the boundaries of the HR profession from a strategic HRM perspective to a stripped role as supply chain managers focussed on labour supply. The focus on labour and task at the expense of person engenders a transactional focus on cost and value which leads to an atomisation of the workforce who are engaged only and purely for the task in hand. Such an individualistic approach has deepened the conflict within HR practice, which has always existed, between the role of HR as employee champion and the strategic role of HRM. The gig economy exacerbates this conflict. The lack of mutuality between worker and organisation has a key negative effect in terms of the missed opportunity for social learning which has productive value in organisations through the generation of social capital. The evidence suggests that many gig workers experience gig work in isolation rather than through collective relationships.

This chapter has discussed the impacts of the liberal agenda on the day-to-day functioning of HRM. This chapter contests that this emerges as a direct impact of the neoliberal hegemony and in many ways is a logical extension of that economy. This leads HRM to undertake a pretence of engaging with giggers through processes, such as feedback, which appear to have the generation of mutuality as a focus. This could be construed as HRM seeking to both have its cake and eat it – engage with giggers to capture their discretionary behaviours whilst simultaneously maintaining the minimal commitment inherent in gigging opportunities. The impact of this on the debate around status and claims for employment status is of particular interest for the gig economy.

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Chapter 6

Worker and Organisational Protection: The Future of Whistleblowing in the Gig Economy

Catherine Hobby

Introduction

Employment law has struggled to keep pace with the gig economy due to its diverse working practices and patterns (Langstaff, 2016) and displacement of the traditional employment contract (Walton, 2016). A key way in which employment law has struggled to evolve is in the legal definition of ‘worker’ which has received particular attention in gig work. This chapter will explore the statutory definition of ‘worker’ with regard to the protection offered to whistleblowers by the Public Interest Disclosure Act 1998 and the difficulties it presents to those working within the gig economy. This is important as gig workers may be of particular organisational value in detecting wrongdoing, due to their outsider status and from working in more than one context. Whistleblowing is defined as the deliberate non-obligatory disclosure of public interest information by a worker, whether internally or externally, by voicing concerns or making an allegation of serious malpractice or wrongdoing (Hobby, 2010). In voluntarily reporting workers regard themselves as acting in the public interest, but often suffer retaliation such as loss of tenure, pay and trust. As indicated by the Dynamic Structural Model of the gig economy (Page-Tickell & Yerby, 2020), those in the gig economy are particularly vulnerable due to a lack of mutuality between the individual and an organisation. As found by a joint report of Public Concern at Work (now Protect) and the University of Greenwich (2013), voicing concerns can destroy any level of trust leading to termination of service. It can also impact on pay levels. Whistleblowers in all forms of gig work occupy the same precarious position with regard to blowing the whistle and may also be excluded from making a claim because of their status. The number of individuals in this situation will only increase with the growth of the gig economy and labour market changes, observed by Leighton and Wynn (2011, p. 21) to involve the ‘the increasing importance of freelance work/self employment, agency work, umbrella companies and related developments’.
The statutory definition of ‘worker’ has generated considerable case law in determining the boundaries of the definition for the purposes of whistleblowing. This chapter will examine the impact of shifting boundaries in the courts’ interpretation of the statutory term ‘worker’ for whistleblowers through an analysis of recent case law. In restricting protection to those defined as ‘worker,’ current provisions exclude whistleblowers who do not work within the statutory definition and highlight the limits of labour protection that do not reflect all current methods of working. In all task-related positions, a worker can come to possess valuable information relating to illegality or wrongdoing on the part of an organisation, but the inherent conflict in the working relationship at the meso-level may result in organisations rejecting the voicing of worker concerns, and therefore, workers need to be protected against victimisation or dismissal. The extended definition of a ‘worker’ enacted by the Public Interest Disclosure Act 1998 is therefore important, as the Act extends protection against victimisation beyond the traditional employment contract to workers but not all work-related activity. Changes in the nature of work and the development of the gig economy can risk whistleblowers being denied the protection of the 1998 Act and demonstrate how the implications of the developing gig economy are ‘deep and wide-ranging’ which may create opportunities, but also ‘erode labour protections’ (Kassi & Lehdonvitra, 2018, p. 241) and create ‘serious problems’ (Prassl, 2019, p. 30). The recent whistleblowing cases challenging the definition of a ‘worker’ demonstrate a diversity of working arrangements requiring the protection of employment law that are not limited to platforms. The cases have involved those working in professional partnerships, independent contractors and an agency nurse.

This chapter will also consider a new EU Whistleblowing Directive to protect whistleblowers and encourage them to report public interest concerns that offers protection to a wide range of individuals undertaking ‘work-related activity’. Even if the United Kingdom exits the European Union before the deadline for its implementation, it is argued that the Directive provides a welcome alternative to the current narrow domestic statutory definition of ‘worker’ in the whistleblowing provisions of the United Kingdom. As the following analysis of recent case law in the United Kingdom reveals, the Directive’s definition of work-related activity better reflects the shift in the boundaries of work within the gig economy. This position is further justified in the context of the often precarious nature of gig economy work. The role of human rights law in giving a greater voice to all those working in the gig economy is also explored as another legal response to addressing this insecure status. This chapter will close by providing recommendations for key stakeholders in the gig economy, which seek to enhance organisational responses and procedures to allow the disclosure of wrongdoing and malpractice.

Public Interest Disclosure Act 1998

As noted by the Nolan Committee (1996), ‘all organisations’ face the risk of things going wrong or unknowingly harbouring malpractice’. Whistleblowers are therefore a vital resource for organisations (Liu, Liao, & Wei, 2015) and can provide ‘an effective tool in the fight against fraud, corruption and malpractice’ by
raising concerns about wrongdoing with those who can address the issue (Department for Business, Innovation & Skills, 2014, p. 8). The value of whistleblowing was acknowledged in the enactment of the Public Interest Disclosure Act 1998, which came into force on 2 July 1999 and sets out a ‘managed process’ (Ashton, 2015a, p. 29) for workers who seek to raise concerns. The enactment of the Public Interest Disclosure Act 1998 recognised an increased awareness that there was a value to whistleblowing and the concerns raised by workers, who were often the first to identify malpractice and wrongdoing within an organisation. On its passage through Parliament it was emphasised that it was not merely an ‘employee rights bill, but a public interest measure’ (Bowers, Fodder, Lewis, & Mitchell, 2007, p. 19). The Preamble to the Act states the aim of the provisions is to: ‘protect individuals who make certain disclosures of information in the public interest; to allow individuals to bring such actions in respect of victimisation; and for connected purposes’.

Ashton (2015b, p. 450) notes public interest was ‘at the heart of the socio-political impetus’ of the 1998 Act. This continuing public interest in protecting workers who report concerns was demonstrated in a number of inquiries in sectors such as the NHS (Francis, 2013, 2015) and the financial services (Parliamentary Commission on Banking Standards, 2013). The reports highlight the value of workplace knowledge and recognise the need to protect those workers who seek to raise concerns about illegality or wrongdoing. Each inquiry found workers either raised concerns and were ignored or remained silent through fear. Research indicates that the two reasons for failure to report are the fear of no action being taken or retaliation for raising concerns (Lewis, 2018). The visibility of whistleblowing has been heightened in recent years by a number of revelations and leaks, including Edward Snowden in 2014 who disclosed documents acquired while working as a contractor for the National Security Agency (Heumann, Friedes, Redlawsk, Cassak, & Kesari, 2015). The public interest value of worker knowledge is also shown by the recent allegations of whistleblowers regarding the manipulation of data to influence voting in the 2016 EU Referendum and the role of Cambridge Analytica in this, as considered by the House of Commons Digital, Culture, Media & Sports Committee Report (2018).

The Public Interest Disclosure Act 1998 amended the Employment Rights Act 1996 by inserting a Part IVA. The relevant provisions provide statutory protection to certain whistleblowers against dismissal and victimisation, if they disclose information regarding specified protected disclosures within the Employment Rights Act 1996 and also fall within the statutory definition of a ‘worker’.

In examining the extent to which such individuals are protected in respect of their whistleblowing, it should be acknowledged that the 1998 Act does not protect whistleblowers by preventing retaliation for making a public interest disclosure as such, but simply allows them to make a claim to an employment tribunal if they suffer detriment, provided they are regarded as a ‘worker’. This is particularly significant for gig workers who may fall outside the statutory definition and be left vulnerable. The complexity of cases often requires an individual to be legally represented, but there is no legal aid funding for employment tribunals, and gig workers are less likely to be able to fund legal representation, even if there
is no longer a fee for making a claim following the Supreme Court decision in *UNISON v. Lord Chancellor* (2017).

**Employment Rights Act 1996**

The whistleblowing provisions do not use the term whistleblowing, but rely on the term ‘disclosure’. Under section 43B of the *Employment Rights Act 1996* a disclosure is protected if it falls within the definition of a ‘qualifying disclosure’. The legislation is complex and provides considerable difficulties for a worker raising concerns. In the United Kingdom, a worker has to show that they have a ‘reasonable belief’ that the disclosure of information ‘was made in the public interest’ and it falls into one of the six protected categories of information: (a) criminal offence; (b) failure to comply with a legal obligation; (c) a miscarriage of justice; (d) health or safety; (e) environment; or (f) the deliberate concealment of any matter falling within any one of the preceding categories of information. The categories of protected information are limited, and the restrictive public interest duty added by the *Enterprise and Regulatory Reform Act 2013* presents a further barrier to workers who suffer victimisation or are dismissed for raising concerns at work. If the information falls within section 43B, the disclosure is protected provided a worker discloses the information pursuant to the detailed provisions in sections 43C to 43H. An analysis of the substantial hurdles these sections place before a worker seeking to disclosure information is not the focus of this chapter, but they contribute to the precarity of a whistleblowers’ working relationship. Section 103A of the *Employment Rights Act 1996* makes it automatically unfair for an employee to be dismissed for making a protected disclosure. Protection is extended to ‘workers’ in section 47B of the Act which provides that they should not be subjected to ‘any detriment’ by their employer on the ground that they made a protected disclosure. The *Employment Rights Act 1996* does not define detriment but it ‘merely means putting at a disadvantage’ (*Bowers et al.,* 2007, p. 147). This is a wide interpretation that can include all manner of detrimental treatment, including dismissal and action short of dismissal such as failure to promote, financial disadvantage including relating to pay, denial of benefits and bullying or harassment. It is not necessary for the worker to show that they have actually suffered economic or physical damage. The test is whether it was reasonable for the worker to take the view that the treatment accorded to them, had in all the circumstances, been to their detriment (*Shamoon v. Chief Constable of the Royal Ulster Constabulary*, 2003). This is important as whistleblowing is high risk (*Dussuyer, Armstrong & Smith, 2015*) and can often result in the whistleblower losing their job and economic security, as well as impacting on their physical health and mental well-being (*Park & Lewis, 2018*).

The current provisions provided by the *Employment Rights Act 1996* both restrict the information protected and the range of individuals covered. There is a widespread concern that the whistleblowing legislation is failing workers who blow the whistle on malpractice (*Ashton, 2015a; Hobby, 2010; Lewis, 2017*), and this has particular relevance for those in the gig economy as gig work presents...
serious problems for employment law (Prassl, 2019). As acknowledged by Arden L.J in Sharpe v. The Bishop of Worcester (2015), there is a potential danger of fragmentation with employer adopting ‘complex legal and organisational structures’ to defeat genuine claims (Davies, 2015, p. 560).

Definition of Worker

In seeking to extend protection to whistleblowers, the Employment Rights Act 1996 provides two statutory definitions of the term ‘worker’ in sections 230 and 43K and these are terms the courts have struggled to interpret. A ‘worker’ is defined, and not limited to employees, under section 230 of the Employment Rights Act 1996 which applies to a number of employment rights. Section 230(3)(a) provides that a ‘worker’ is an individual who works under a contract of employment and in section 230(3)(b) includes within the definition an individual who works under:

any other contract … whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual.

The definition in section 230(3)(b) has been the subject of much legal argument as to the boundaries in defining a contract that will meet the required criteria. As established by the Supreme Court in Clyde & Co LLP v. Bates van Winkelhof (2014), this provision seeks to distinguish the self-employed carrying on a profession or business undertaking on their own account, who are not workers, from those who are self-employed, but provide their services as part of a profession or business undertaking carried on by someone else within the definition of worker in section 230(3)(b).

As expressly provided by the provisions introduced by the Public Interest Disclosure Act 1998, if an individual is not a worker within section 230 then they can argue that they fall within the extended definition of worker in section 43K of the Employment Rights Act 1996. This extension of worker protection in the area of whistleblower rights is therefore important. The provisions in section 43K are complex, but under section 43K(1)(a) includes within the definition of a worker an individual who works or worked for a person in circumstances in which:

(i) they were or are introduced or supplied to do that work by a third person; and
(ii) the terms on which they are or were engaged to do the work are or were in practice substantially determined not by them but by the person for whom he works or worked, by the third person or by both of them.

This provision allows a whistleblowing claim to be brought by a worker not only against an employer, but also against an end user, if the contractual terms are substantially determined by the end user, or both the end user and the employer.
In *McTigue v. University Hospital Bristol* (2016), the Employment Appeals Tribunal found that a nurse supplied by an agency was a worker within section 43K(1)(a).

Section 43K is detailed and was amended in 2013 by the *Enterprise and Regulatory Reform Act 2013* to include certain NHS contractual arrangements, as well as to allow the Secretary of State to amend this section to further extend protection to other individuals who may be regarded as workers. For example, an amendment was made in 2015 to include student nurses and midwives. This is one of the few Government reforms to worker status following its consultation on whistleblowing by the *Department of Business, Innovation & Skills* (2013).

The clear intention of the provisions was to provide an extended definition of ‘worker’ to protect a wide range of whistleblowers, but a ‘substantial number of individuals’ are still without protection (Ashton, 2015a, p. 37). There is a collection of individuals, including shareholders, the self-employed, volunteers, unpaid trainees, contractors, subcontractors and suppliers, who are excluded from protection of the whistleblowing provisions in both sections 230 and 43K of the *Employment Rights Act 1996* as they are not regarded as a worker. It is argued that this is problematic as those performing such certain ‘work-related activities’ may become aware of wrongdoing or malpractice on the part of an organisation, but will have no claim if they are victimised for raising their concerns. The category of ‘workers’ in the provisions is wide, but ‘not all-embracing’ (Bowers et al., 2007, p. 133). Therefore, those in the gig economy with a lack of tenure or status may be particularly reluctant to express concerns or share knowledge of wrongdoing. It is also possible an organisation may consider itself free to ignore any concerns even if voiced as such individuals have no remedy.

As noted by Mummery L.J. in *ALM Medical Services v. Bladon* (2002), the whistleblowing provisions strike an intricate balance in exposing misconduct and malpractice and in protecting the respective interests of workers and employees. Whistleblowing cases highlight the potential internal conflict that can occur within a workplace with regard to the raising of such concerns and the difficulty in maintaining this balance. Recent case law considered below also demonstrates both the complexity of the legislation and conflicting judicial approaches to the provisions. Although the *Employment Rights Act 1996* provides protection to a ‘worker’, rather than an employee, the intricate statutory definitions have caused the courts difficulties in interpreting the boundaries of the provisions. Each case is decided on its facts and for 20 years following the enactment of the *Public Interest Disclosure Act 1998*, judges have struggled with the interpretation of the statutory definitions. There is therefore no definitive answer to the question who is a protected worker for the purposes of whistleblowing. This is a question to be decided by the highest courts of the Court of Appeal and Supreme Court, and as yet is undecided. Definitions are therefore fluid resulting in conflicting approaches and decisions being taken by the courts as shown below. This leaves workers and organisations unable to form clear conclusions as the level of protection afforded to gig work. Despite this, there has been a shift in the interpretation of the boundaries towards a wider definition of ‘worker’. Although much of the material on gig work has thus far focussed on temporary and unsecure employment, the recent whistleblowing cases on the status of a ‘worker’ relate...
to professionals within the medical and legal sectors as well as clergymen and engineers.

**Case Law: When Is a Worker not a Worker?**

As considered above, to make a whistleblowing claim an applicant has to fall within the statutory definition of worker and the other party to the action must be their employer. The cases considered below concern the complex technical issue of whether an individual is within a statutory definition of a ‘worker’ for the purposes of bringing a whistleblowing claim. The decisions in the main involve judgments of the Employment Appeal Tribunal and the Court of Appeal. To date, there has only been one judgment of the Supreme Court, *Clyde & Co LLP v. Bates van Winkelhof* (2014), regarding the worker defining provisions of the *Employment Rights Act 1996*. Although the appeal in the case of *Gilham v. Ministry of Justice* (2017) was heard by the Supreme Court in June 2019, the judgment was not available at the time of writing. The significant number of whistleblowing cases decided by the higher courts on issues relating to the worker status of whistleblowers highlight the difficulties in this area. The narrow legal status presents problems for workers who have suffered a detriment for raising public interest concerns. In some cases, such as *Clyde & Co LLP v. Bates van Winkelhof* (2014), the courts have been creative and sought to enhance the protection offered by the *Employment Rights Act 1996* to give effect to the purpose of the legislation. In other cases, courts have adopted a literal judicial interpretation of the provisions, as pursued in *Gilham v. Ministry of Defence* (2017). The cases demonstrate a conflict between courts and within courts as to the statutory definition of ‘worker’. The result is a persistent uncertainty and a blurred boundary of the statutory definition that does not assist gig workers. As argued by Vaughan (2012, p. 189), the performance of the courts ‘does much to determine the successes and failures of whistleblowing laws’. Flexibility does not promote coherence (Berry, 2017, p. 343) and this creates considerable uncertainty for a gig worker in the establishment of their rights. There can also be an issue in establishing who is the employer if the work undertaken is determined by more than one party, or the worker is supplied to an end user. Such methods of working can be common to the gig economy. Affording protection to ‘the widest range of people is desirable as a matter of principle’ (Lewis (2017, p. 1229). As more individuals are recognised as falling within the definition, then the opportunity for making a whistleblowing claim expands (Leiper, 2018).

Early decisions on the meaning of the definition of a ‘worker’ acknowledged the flexibility of employment and recognised that term should be widely construed, not only to protect agency workers, but also to protect consultants even if the individual was supplying services to an employment agency through their own company (*Croke v. Hydro Aluminium Worcester Ltd*, 2007). This inclusion of consultants within the definition of a worker was confirmed in *Keppel Seghers UK Ltd v. Hinds* (2014). Keppel provided his services as a Health and Safety Adviser through a company he established of which he was the sole shareholder, director and employee. There was no contractual relationship to satisfy the requirement of
section 230 of the Employment Rights Act 1996, but the Employment Appeal Tribunal found Keppel was a worker within section 43K of the Act, even though he provided his services through a series of contractual arrangements. Judge Eady expressed the view that it was ‘common ground’ that section 43K was explicitly introduced to provide protection to those making protected disclosures and so it ‘was appropriate to adopt a purposive construction, to provide protection rather than deny it’. The judge further observed that the provision was clearly intended to extend protection to a ‘wider range of relationships’ than other employment law definitions. He considered this took employment lawyers ‘outside the comfort zone of the contractual relationship normally required in determining employment status’.

This early constructive approach in finding 43K of the Employment Rights Act 1996 covered an individual introduced or supplied by an agency, even where that person is operating through their own service company, was not followed by all judges. This is highlighted in a case testing the employment status of the clergy. In Sharpe v. The Bishop of Worcester (2015), the issue was whether a Church of England rector was a worker for the purposes of a whistleblowing claim. In her lead judgment, Arden L.J. acknowledged that it was important to look at substance rather than form in deciding worker status, but concluded that the substance of the relationship was not contractual. Therefore, the rector was not a worker for the purposes of whistleblowing legislation and unable to proceed with a claim. The Court of Appeal stated the case was only concerned with whether Reverent Sharpe meet the threshold test of the statutory definition of worker. In finding that the appeal was not concerned with the substance of his claims and focussing on worker status, the Court of Appeal failed to recognise that religious leaders may come into the possession of important public interest information relating to wrongdoing or even criminal acts. Denying they are workers results in a lack of protection, which may make such individuals reluctant to raise concerns. It also highlights a wider debate as to whether pursuing a vocation is work. As noted by Davies (2015), the spiritual purpose of the functions of a minister of religion was significant for the court in Sharpe v. The Bishop of Worcester (2015).

Whilst a case involving a Church of England rector may appear to be of limited relevance to the gig economy, the judgment is instructive as to how the courts are dealing with individuals who fall outside the traditional employment contract. The case of Sharpe v. The Bishop of Worcester (2015) is one of a number of cases that although, not directly relevant to the gig economy, provides important guidance as to the judicial understanding of work in other contexts and so affects gig work more widely. The finding of the Court of Appeal in Sharpe v. The Bishop of Worcester (2015) that there was no contract between rector and Bishop, was also relied on by the same court in Gilham v. Ministry of Justice (2017), considered below, to apply an equally restrictive test of worker status. Therefore, a case involving work in the spiritual context demonstrates a willingness of the courts to restrict the legal recognition of work impacting on the gig economy. Davis (2015, p. 562) argues that Sharpe v. The Bishop of Worcester (2015) highlights:
the important – though by no means new – point that (despite efforts by Parliament to broaden the scope of protection) the courts are unshakeable in their view that the contract marks the outer boundary of permissible employment claims.

The Supreme Court decision in *Clyde & Co LLP v. Bates van Winkelhof (2014)* was a significant judgment that had implications for a number of professions, including solicitors and accountants. In 2014, the Supreme Court held a solicitor, Bates van Winkelhof, who was a fixed-share equity partner of Clyde & Co, a Limited Liability Partnership (LLP), was a ‘worker’ within the meaning of section 230(3)(b) of the *Employment Rights Act 1996*. Bates van Winkelhof raised concerns regarding bribery and corruption by a partner in an associate firm. In its judgment, the Supreme Court took a purposive approach to the worker definition in section 230, reflecting the intention of the enactment of the whistleblowing provisions. In her lead judgment, Lady Hale stated that:

> That conclusion is to my mind entirely consistent with the underlying policy of those provisions, which some might think is particularly applicable to businesses and professions operating within the tightly regulated fields of financial and legal services.

This decision was welcome and has implications for other professionals who work within LLPs. As recognised by Bates (cited by *Hall, 2014*), the inclusion of lawyers, hedge fund managers and other professionals within the definition has ‘wider ramifications for the public at large’. However, the development in *Clyde & Co LLP v. Bates van Winkelhof (2014)* still excludes those who are truly self-employed. The denial of protection to the self-employed and others, including volunteers, contractors or trainees, who can come into possession of public interest information is a matter of concern (*Hobby, 2013a, 2013b*). The Whistleblowing Commission recommended the expansion of protection in its Final Report (2013). Further submissions calling for a significant extension to the term worker for whistleblowing purposes were also rejected by the Government in 2014 (*Department for Business, Innovation & Skills, 2014*). The need for reform of the statutory definition is again demonstrated by the restrictive approach in the Court of Appeal judgment in *Gilham v. Ministry of Justice (2017)*, which did not adopt the purposive approach to work within the legal profession in *Clyde & Co LLP v. Bates van Winkelhof (2014)*. In a narrow and technical judgment, the Court of Appeal in *Gilham v. Ministry of Justice (2017)* decided that a district judge who made disclosures about poor, unsafe working conditions and the excessive workloads of judges, was outside the requirements for legislative protection as she was an office-holder and not a worker. In its detailed judgment, the Court of Appeal, examined relevant case law and relied on cases involving the employment status of the clergy to find that Gilham was not a ‘worker’. The clergy cases, including the case of *Sharpe v. The Bishop of Worcester (2015)* considered above, were relied upon to support the view of the Court of Appeal that as an office-holder Gilham was not in a contractual relationship with the Lord Chancellor.
It found the core rights and obligations of judicial office-holders arose from the office, or derived from statute, rather than from contract.

As with the clergy case of *Sharpe v. The Bishop of Worcester* (2015), the case of *Gilham v. Ministry of Justice* (2017) appears to be of little relevance to work in the gig economy, but it demonstrates a restrive approach to the nature of work which is detrimental to gig workers that is in sharp contrast to that of the Supreme Court in *Clyde & Co LLP v. Bates van Winkelhof* (2014). In the Court of Appeal judgment of *Gilham v. Ministry of Justice* (2017), the court made no mention of the intention behind the enactment of provisions, but instead concluded that Parliament made a public policy choice in giving protection to a ‘category of persons which has the effect of excluding office-holders and, in particular, judges’. This is interesting, for as stated above, the appeal in *Gilham v. Ministry of Justice* was heard by the Supreme Court in June 2019, and the five justices hearing the case included Lady Hale, who provided the lead judgment in *Clyde & Co LLP v. Bates van Winkelhof* (2014). In its analysis of the clergy cases, the Court of Appeal in *Gilham v. Ministry of Justice* (2017) noted the dissenting judgment of Lady Hale in *Preston v. President of the Methodist Conference* (2013) and her view of a Methodist Minister’s employment that ‘everything about this arrangement looks contractual’. The court also noted the Supreme Court decision in *O’Brien v. Ministry of Justice* (2013) that a recorder was a worker for the purposes of a discrimination case. It remains to be seen whether Lady Hale, as President of the Supreme Court, will lead a finding beneficial to those presently excluded from protection in *Gilham v. Ministry of Justice* (2019).

Judicial inconsistency is also found in the medical sector with conflicting approaches being taken by the Employment Appeal Tribunal in two cases in 2016 that both involved work in the NHS. The case of *Day v. Lewisham and Greenwich NHS Trust and Health Education England* (2016) was brought by a junior doctor, and in *McTigue v. University Hospital Bristol Foundation Trust* (2016), the claim was that of a nurse. Both cases concerned the extended definition of ‘worker’ provided by section 43K of the *Employment Rights Act 1996*. Day was a junior doctor employed at Lewisham and Greenwich NHS Trust, but his training placement was arranged by Health Education England, which also paid part of his salary. He raised concerns with both the Trust and Health Education England about patient safety compromised by serious understaffing. Although Day claimed to have been subjected to a detriment by Health Education England, his claim against the Health Education England was struck out by an employment tribunal, which decided that Health Education England was neither Day’s employer under section 230, nor did the relationship fall within section 43K of the *Employment Rights Act 1996*. In *Day v. Lewisham and Greenwich NHS Trust and Health Education England* (2016), although the Court of Appeal later found he was a worker on appeal, the Employment Appeal Tribunal took a restrictive approach in finding Day was not a worker of Health Education England. Langstaff J. stated in his judgment with regard to the protection under section 43K that: ‘this is not a case of a gap within the boundaries of protection, but a case in which the relationship falls well outside those boundaries’.
Langstaff J. accepted that a purposive approach should be taken to interpreting the public interest disclosure provisions, but stated that the purpose of section 43K ‘is to extend the meaning of worker to a limited category of other relationships’. This interpretation was adopted even though Counsel for Day argued that such construction would create ‘a lacuna in the protection which the statute was intended to provide’.

In contrast a few months later in the case of *McTigue v. University Hospital Bristol Foundation Trust (2016)*, a different approach was taken to the coverage of section 43K of the *Employment Rights Act 1996*. The President of the Employment Appeal Tribunal, Simler J. found the claimant nurse, employed by an agency and supplied to work as a Forensic Nurse examiner for an end user, a medical centre operated by the University Hospital Bristol Foundation Trust, was an employee of the agency under section 230 of the *Employment Rights Act 1996*, but not precluded from relying on section 43K in respect of the actions of the medical centre. The President rejected the finding of the employment tribunal that a purposive approach to section 43K was unnecessary, as McTigue could bring a claim against the agency who employed her. Simler J. noted that in the circumstances of this case her claim was against the NHS Trust in respect of acts or omissions of an employee of the NHS Trust and not the agency. The Employment Appeal Tribunal held that McTigue could bring a claim both against her employer and the end user, the NHS Trust. In doing so, the argument of the Trust was rejected that the decision in *Day v. Lewisham and Greenwich NHS Trust and Health Education England (2016)* was a ‘knockout blow’ for this case. Simler J. found that the case was distinguishable and not to be followed. In seeking to distinguish the Employment Appeal Tribunal decision in the *Day v. Lewisham and Greenwich NHS Trust and Health Education England (2016)*, the judge noted that section 43K ‘was enacted primarily’ to protect agency workers provided to an end user, in circumstances where they could not meet the stricter requirements of section 230 as a result of an insufficient contractual relationship with the end user. Its introduction was therefore ‘specifically designed to secure whistleblowing protection for workers in health services’ where the NHS had contractual arrangements which meant the workers would otherwise fall outside the section 230 definition of a worker. Simler J. was clear that an agency worker could complain to both an end user and an agency about matters of concern, as McTigue did, as both were potential employers for protected disclosure purposes. The judge regarded such a construction of section 43K as giving effect to Parliament’s intentions ‘as evidenced by the language of provision having regard to the statutory and social context’.

The decision in *McTigue v. University Hospital Bristol Foundation Trust (2016)* is significant for an individual who is confused as to their employment status or who to make a protected disclosure to. In deciding that an individual who is a section 230 worker in relation to one person is not prevented from relying on section 43K of the *Employment Rights Act 1996* in relation to another person for whom the individual works, this judgment benefits individuals working within a gig economy who wish to raise issues of concern in respect of their work. This position was strengthened by the decision of the Court of Appeal in *Day v.*
Health Education England in 2017. The court found that the junior doctor was within the extended definition of worker within section 43K of the Employment Rights Act 1996 in respect of Health Education England although he had already been found to be a worker as employed by the NHS Trust and section 43K(1)(a) expressly states it applied when an individual is not a worker as defined by section 230. The Court of Appeal were unanimous in the view that a purposive construction should be applied to section 43K and even found that the words ‘as against a given Respondent’ needed to be read into the provision to resolve the issue. Elias L.J. was of the view that the court should read in such words as to ‘maximise the protection whilst remaining true to the language of the statute’. Such an interpretation allows an individual to be a worker in relation to another employer, introducer or end user for the purposes of making a whistleblowing claim. Section 43K of the Employment Rights Act 1996 can therefore operate against one party even if there was a section 230 relationship with another party. This allows a worker to bring a claim against more than one party which is important in gig work. Elias L.J. further concluded that in deciding who substantially determined the terms of engagement for the purposes of section 43K, there should not be a sole focus on the contractual terms, but an assessment should be undertaken on ‘a relatively broad brush basis’ with regard to all the factors relating to terms on which the worker was engaged to work. This approach, including the reading in of words into a statute is at odds with the refusal of the same court in Gilham v. Ministry of Justice (2017) to construe the definition of a worker to extend an employment relationship to include an office-holder.

In her judgment in Clyde & Co LLP v. Bates van Winkelhof (2014), Lady Hale stated that ‘there is no magic test other than the words of the statute themselves’ which should be applied to the facts of individual cases. She also recognised that the issue is not solved by ‘adding some mystery ingredient of “subordination” to the concept of employer and worker’. Lady Hale considered subordination could be an aid to distinguishing workers from those who were self-employed, but that it was not a ‘freestanding and universal characteristic of being a worker’. It was acknowledged that in professional occupations control might also be limited or ‘residual’ in nature (Davies, 2015, p. 560) and this has particular relevance for gig work. As noted by Judge Eady in Keppel Seghers UK Ltd v. Hinds (2014), this area goes beyond the boundaries of ‘traditional tests of employment or worker-status’, so control is not determinative and regard should instead be to ‘the totality of the contractual provisions and all the circumstances of the relationship’. In Clyde & Co LLP v. Bates van Winkelhof (2014), Lady Hale provided the example of a controlling shareholder in a company who is also employed as a chief executive, which shows ‘one can effectively be one’s own boss and still be a “worker”’. As shown above, this broad approach is not undertaken in all cases, resulting in an inconsistency that can provide a lack of certainty for potential whistleblowers. Furthermore, in both role of shareholder and executive worker, an individual can become aware of public interest information that should be highlighted and for which protection should be provided. The narrow statutory definition of a ‘worker’ reflects a limited understanding of worker status which has implications for the developing gig economy, as certain methods of working can mean an individual
is denied protection for blowing the whistle. The provisions of the Employment Rights Act 1996 need to adapt to better reflect the changing work patterns of the gig economy and there are ‘compelling policy reasons’ to extend worker status (Berry, 2017, p. 217) to a notion of a worker that is ‘genuinely protective and autonomous’ (Kountouris, 2018, p. 225). The new EU Whistleblowing Directive in seeking to protect individuals who raise concerns in a ‘work-related context’ may address some of the difficulties.

**Whistleblowing Directive**

The exclusion of a wide range of individuals including shareholders, the self-employed, volunteers, unpaid trainees, contractors, subcontractors and suppliers from the statutory definitions provided by section 230 and section 43K of the Employment Rights Act 1996 is problematic, as those performing such certain ‘work-related activities’ will have no claim if they suffer a detriment for reporting concerns. In its Explanatory Memorandum to a draft Directive on the protection of persons reporting on breaches of Union law (2018) (Whistleblowing Directive), the European Commission (2018) notes that unlawful activity or abuse of law may occur in any organisation ‘whether public or private, big or small’, and take a number of forms, including corruption or fraud, malpractice or negligence. People who work for an organisation, or those who come into contact with it in work-related activities, can be the first to be aware of wrongdoing, but are often inhibited from reporting concerns for the fear of retaliation. In proposing a Whistleblowing Directive to protect whistleblowers, the European Commission (2018) recognises such individuals are in a ‘privileged position’ to report and that the failure to report concerns can result in ‘serious harm to the public interest’.

The Whistleblowing Directive passed its final stage with the European Parliament voting on the text in April 2019. The Whistleblowing Directive provides a wider definition of work and aims to protect whistleblowers who in the context of their ‘work-related activities’ become aware of ‘threats or harm to the public interest’. In its proposal for a Directive, the European Commission (2018) was clear that protection should be given to the ‘broadest possible range of categories of persons’ who have access to information by virtue of ‘work-related activities’ it would be in the public interest to report. The Commission further declared that Member States should ensure that protection:

> is determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship, so as to cover the whole range of persons connected in a broad sense to the organisation.

Such an approach focuses on the context in which the information was acquired and the public interest of the information, rather than legal status of the worker. As noted by the European Council (2014), it is the ‘de facto working relationship of the whistleblower’, rather than their specific legal status that provides an individual with ‘privileged access’ to public interest information.
Article 2(1) of the Whistleblowing Directive states that it shall apply to reporting persons in the private or public sector who acquire information on breaches in a ‘work-related context’ including at least the following: workers, the self-employed, shareholders, volunteers, unpaid trainees and persons working under supervision of contractors, subcontractors and suppliers. Thus, the Directive seeks to extend protection beyond ‘workers’ to a range of working relationships. Article 3 defines ‘work-related context’ as current or past work activities in the public or private sector through which, irrespective of their nature, persons may acquire information on breaches, and within which persons may suffer retaliation if they report them. The focus is on the public interest in the information, rather than the nature of legal relationship. Article 2(2) also applies protection to the recruitment process and other pre-contractual negotiation, to prevent the ‘blacklisting’ of whistleblowers who often find that blowing the whistle is akin to professional suicide.

In its focus on the effective disclosure of public interest concerns, Article 4 of the Whistleblowing Directive requires all organisations with more than 50 employees to establish internal channels for the reporting of concerns. Detailed requirements are set out in Article 5, and include procedures to allow the follow-up of reports within three months. The channels and procedures allow for reporting by employees, but also the reporting by other persons who are in contact with the entity in context of their work-related activities. Employers need to consider how to meet the obligations of the Whistleblowing Directive as Article 17 provides that there should be ‘effective, proportionate and dissuasive penalties’ applied to those who hinder, or attempt to hinder reporting or take retaliatory measures against reporting persons. Article 20 sets the date of compliance with the Directive as 15th May 2021. The United Kingdom has yet to settle the issue of its relationship with the European Union. It remains to be seen whether the United Kingdom will be a Member State in 2021 and so be required to implement the Directive. It would be unfortunate if a cessation of membership means whistleblowers in the United Kingdom are denied the benefits of the extended coverage and protection offered by the Whistleblowing Directive. Even if the United Kingdom fails to enact legislation to comply with the Directive best practice demands organisations, particularly if operating in the European Union, consider how to implement reporting channels if these are absent, or ensure existing procedures meet the criteria of the Directive.

Much research uses the definition of Near & Miceli (1985, p. 4) that whistleblowing is: ‘disclosure by organisational members (former or current) of illegal, immoral or illegitimate practices under the control of their employers, to persons or organisations that may be able to effect action’. Whistleblowing can therefore be seen as an important organisational control mechanism (Liu, Liao, & Wei, 2015; Zhang, Liao, & Yuan, 2016). Encouraging whistleblowers to raise concerns first internally through an established procedure is beneficial in limiting publicity and damage to reputation from disclosure (Employment Law Bulletin, 2016). In detecting workplace deviance (Liu et al., 2015), whistleblowing can limit the possible negative consequences (Nayir, Rehg, & Asa, 2018), as well as reduce company loses from poor business relationships and disrupted work routines (Zhang, Chiu, & Wei, 2009). A 2017 study commissioned by the EU Commission estimated the losses to the EU resulting from a lack
of whistleblower protection to be in the range of €5.8 to €9.6 billion in public procurement alone (cited by the European Council, 2019). Whistleblowers are a valuable resource for an organisation and can be instrumental in detecting and preventing wrongdoing. The implementation of effective processes requires ethical leadership (Wen & Chen, 2016; Zhang et al., 2016). Authentic leaders are important (Liu et al., 2015) in securing effective processes by promoting trust and confidence in the processes (Lewis, 2011) and ‘truly listening’ to workers (Nayir & Herzig, 2012, p. 210). It is also necessary that they appreciate the autonomy of the individual and the human right to impart public interest information.

**Conflicting Human Rights**

If the United Kingdom fails to implement legislative reform to give effect to the Whistleblowing Directive, then human rights may provide a means to extend the status of work covered by whistleblowing provisions. Argument based on human rights was advanced in the cases of Clyde & Co LLP v. Bates van Winkelhof (2014) and Gilham v. Ministry of Justice (2017) although the courts took conflicting approaches to the value of human rights argument.

The Human Rights Act 1998 incorporates the right to freedom of expression (Article 10 of the European Convention on Human Rights) into domestic law and so individuals can argue this right in the courts and employment tribunals. The right to freedom of expression includes the right to both receive and impart information and so has important implications for workers who wish to raise public interest concerns (Hobby, 2014) and for the public interest in the disclosure of such concerns. The right to freedom of expression is not absolute, but any interference must be justified by an employer. It should also be noted that the right to freedom of expression may need to be balanced against the conflicting right of an employer to respect for a private life and neither has precedence as established in cases such as Campbell v. MGN (2004) in developing the misuse of private information tort (Savage, 2016, p. 262).

The Human Rights Act 1998 imposes on courts and tribunals an interpretative duty to make all legislation, including employment legislation such as the Employment Rights Act 1996, compatible with human rights where possible under section 3 of the 1998 Act. The House of Lords has held this obligation allows judges to ‘read in’ words which change the meaning of legislative provisions to ensure that it is compliant with the human right in question (Ghaidan v. Godin-Mendoza, 2004; UKHL 30, 2004). If the legislation cannot be made compatible then a declaration of incompatibility may be given by the higher courts of the High Court, Court of Appeal and Supreme Court, but not an employment tribunal.

Despite the potential of human rights argument to advance a purposive interpretation of employment legislation, there has been limited consideration of the right to freedom of expression in whistleblowing cases. Courts and tribunals have failed to embrace their powers in this area. In 2014, Prassl (2014, p. 504) suggested Clyde & Co LLP v. Bates van Winkelhof (2014) might ‘herald a turning tide’ with Lady Hale in her judgment, expressing a readiness to engage with human rights. Although Lady Hale adopted a purposive interpretation of the term ‘worker’
without resorting to the right to freedom of expression, she was clear in her judgment that her conclusions were entirely ‘consistent’ with human rights. Lady Hale confirmed that it is the duty of courts under section 3 of the Human Rights Act 1998 to interpret the Employment Rights Act 1996 ‘to give protection’ for a salaried partner and article 10 ‘operates as protection for whistleblowers who act responsibly’. Any turning tide has yet to arrive with tribunals and courts reluctant to follow the lead of Lady Hale and consider the compliance of the whistleblowing provisions with human rights. In Day v. Lewisham and Greenwich NHS Trust and Health Education England (2016), it was argued that a purposive interpretation of section 43K of the Employment Rights Act 1996 was required by the right to freedom of expression, but this was rejected by the Employment Appeal Tribunal, which stated the human right ‘does not assist’. No human rights argument appears to have been advanced in the McTigue v. University Hospital Bristol Foundation Trust (2016). In Gilham v. Ministry of Defence 2017, the Court of Appeal rejected the human rights arguments of Gilham, if acknowledging that ‘the right established by article 10 comprises a right in certain circumstances for a worker to make a whistleblowing complaint’. Gilham advanced the argument that she had a ‘concomitant right to an effective remedy’ for breach of a right to disclose and it would be a breach of that right if she was not entitled to pursue a claim under Part IV of the Employment Rights Act 1996. She claimed the court should use its interpretative powers under section 3 of the Human Rights Act 1998 to construe section 230 of the 1996 Act to include a judicial office-holder. Alternatively, she sought a declaration of incompatibility under section 4 of the Human Rights Act 1998. The Court of Appeal rejected all her contentions that the sections be so construed to protect her right to freedom of expression.

The question whether the domestic statutory definition of ‘worker’ must be interpreted purposively in order to give effect to the right to freedom of expression is one of the issues forming the appeal to the Supreme Court in Gilham v. Ministry of Justice, and so will be decided in the judgment delivered by the court. As stated above, Lady Hale was one of five justices hearing the appeal in the Supreme Court. As the President of the Supreme Court, Lady Hale is an advocate of human rights (Hale, 2013, 2018, 2019) who is confident in using her judicial powers under the Human Rights Act 1998 to read words into legislation to make it compatible with human rights (Ghaidan v. Godin-Mendoza, 2004) or declare it to be incompatible if she cannot do so (R (on the application of Nicklinson) v. Ministry of Justice, (2014). It remains to be seen whether the Supreme Court in Gilham v. Ministry of Justice adopts Lady Hale’s approach in Clyde & Co LLP v. Bates van Winkelhof (2014) to provide a consistent and unconflicted compliance with human rights, which recognises the human right to voice concerns that facilitates reporting rather than stifling it.

Conclusion

Public interest concerns can arise in many aspects of a working relationship and are not limited to a narrow definition of work. At present, the statutory definitions of ‘worker’ provided by the Employment Rights Act 1996 fail to protect
all whistleblowers. There has been some purposive judicial interpretation of the definitions, but the approach of the courts has been inconsistent, resulting in a blurring of the boundaries of these legal terms rather than a fundamental shift. Judicial interpretations can reflect the perspective of the court, as well as the individual judge hearing the case (Vaughan, 2012), resulting in fluid statutory definitions that cause uncertainty and vulnerability for gig workers. The law has an important role to play in the area of whistleblowing and reforming work arrangements. Despite failing to protect the whistleblower, the Court of Appeal in Gilham v. Ministry of Justice (2017) acknowledged that in workplaces there should be an awareness of the right ‘to make responsible disclosure, even where that is uncomfortable’. As stated by Underhill L.J. the current whistleblowing law and its narrow definition of a worker who is within its provisions is not a ‘coherent or particularly satisfactory state of affairs’. Reform is required to extend the legal status of persons entitled to claim a detriment for making a public interest disclosure to reflect the shifting boundaries of work and prevent conflict in the workplace with regard to the receipt of public interest concerns. Despite some judicial judgment, most gig work falls within the boundaries of employment law and a consistent application of employment law in the gig economy is ‘but the first step towards tackling the challenge of rethinking employment law for the future of work.’ (Prassl, 2019). The ‘work-related context’ of the Whistleblowing Directive advances a better understanding of the work-related activities that inform public interest whistleblowing, and an acceptance of whistleblowing as an organisational resource to be promoted. The Directive would provide for the better protection of workers in the gig economy.

Despite its restrictive judgment, the Court of Appeal in Gilham v. Ministry of Justice (2017) recognised ‘whistleblowing detriment is a specific form of wrongdoing’, and all reporting persons need to be protected from suffering detriment. In coming to its conclusion, the court acknowledged that this is a field ‘which concerns social and economic regulation’ with repercussions for other legislation. It may be this that made the Court of Appeal reluctant to extend the definition, considering it was for Parliament to set the boundaries. Developments in the gig economy highlight the need for reform to protect all whistleblowers and unfortunately this was not an area explored by the Taylor Report (2017). As noted by Francis (2015), current protection is ‘cast entirely in an employment context’ (p. 49), proceeding from an assumption that an exception needs to be made to a general requirement of confidentiality, rather than an acceptance that individuals provide a public service in raising public interest concerns. The current legislative framework allows some disclosures of information by certain reporting persons, but does not place a statutory duty on organisations to introduce or maintain whistleblowing policies, as required by the Whistleblowing Directive. This neglects the fact that ‘effective whistleblowing is an essential aspect of good governance’ (Ashton, 2015b, p. 250). By taking ethical leadership in the establishment of effective and safe internal procedures, organisations can influence workers to raise concerns internally and prevent wrongdoing (Wen & Chen, 2016; Zhang et al., 2016).
The discussions in this chapter reveal a ‘real need for creative approaches to new models’ to protect workers (Prassl, 2019, p. 140) that raise a number of implications for key stakeholders in the gig economy. For gig workers themselves, it is essential that they are aware they are operating within a blurred boundary with regard to their legal status, so they can make informed decisions as whether to raise public interest concerns. This also highlights the importance of how rights and protections are communicated to individuals working in the gig economy as it grows in size and significance. As seen in the collective action within some gig sectors, the role of collective voices and trade unions, with an understanding of the legal protections for workers, becomes relevant in the proper advising of individuals engaged in the gig economy. Lewis and Vandekerckhove (2018) argue that trade unions have a vital role in facilitating and reviewing whistleblowing arrangements. Finally, for management strategies and Human Resource Management in the gig economy, the provision of a voice to those who come into contact with an organisation is essential with the shifting boundaries of organisational lines. This requires a recognition that the voice of workers and other individuals connected with an organisation are an important resource. This chapter has highlighted the role of the European Union and the Human Rights Act 1998 in broadening legal definitions, to allow all those engaged in the gig economy the right to voice concerns and contribute to organisational goals. A human rights perspective relies on the right of freedom of expression (Vaughan, 2012), but also requires an organisational understanding of its implications in respect of the autonomy and dignity of the individual. Whistleblowers have a key part in safeguarding organisations against all manner of wrongdoing, in both the public and private sectors (Nayir et al., 2018), even if they do not occupy a permanent role. Whistleblowing can act as an early warning system and promote good corporate governance (Lewis & Bowers, 2018). Employers should carefully consider their whistleblowing policies and procedures (Vandekerckhove & Lewis, 2012) as they should be adapted to the organisational culture (Loyens, 2013). The Whistleblowing Directive provides a pertinent moment to do so. Management strategies need to provide ethical leadership by proactively encouraging the voicing of concerns and responding to the voices of all individuals within and connected to the organisation in the gig economy.

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Chapter 7

Gig Economy and the Transformation of Professional Boundaries in Healthcare

Ali Naghieh

Introduction

The gig economy can be perceived as a significant work-level extension of the large-scale shift from collectivism to individualism that has emerged in the post-World War II era (Annandale & Field, 2001; Giddens, 1991). It follows the social parameters of late modernity such as risk, choice, uncertainty, and the prominence of ‘lifestyle’, as well as the need for individuals to actively construct identities amid a puzzling diversity of options and possibilities (Giddens, 1991). The gig economy follows from the neoliberal agenda in encouraging individuals to live an existence of calculation where they see their lives as an ‘enterprise of the self’ (Rose, 1989). It also extends what Giddens characterises as the emergence of ‘dis-embedding mechanisms’ – those that free social relations from the hold of specific locales, recombining them across wide time-space distances. The gig economy follows this trend by (Aldairy, Laverick, & McIntyre, 2012) disaggregating meaningful jobs into isolated on-demand micro-tasks and disaggregating workers into social isolation (Bajwa, Knorr, Di Ruggiero, Gastaldo, & Zendel, 2018), devoid of the social and collegial experience of organisational life.

The gig economy has utilised the technological advance of digital platforms to proliferate and establish as commonplace an updated rendering of the extant contingent, temporary agency-mediated work. Contingent work generally refers to the forms of employment tied to the completion of a specific task and of relatively short duration. It typically comprised a small proportion of work relative to the bureaucratic employment contract in organisations (Katz & Krueger, 2016). However, the digital platform has worked in tandem with the increasingly predominant project-based forms of organising, in order to establish gig working as the new norm (Barley, Bechky, & Milliken, 2017).

The tendency of digital platforms to attract mass subscription has resulted in disruption of the workflow of traditional recruitment agencies in various sectors, acquiring a sizeable proportion of the range of temporary work contracts available in a given geographical or sectoral jurisdiction. Individual workers may
view favourably the flexibility of work schedule, location as well as the choice over tasks. Furthermore, they may be reassured by the apparent abundance of work on digital platforms. Organisations could make savings on human resources by optimising payment for value-creating tasks (Marvit, 2014) rather than paying employees for a standard interval of time in employment (e.g. ‘9 to 5’) in traditional bureaucratic employment contracts. This would include relinquished employer responsibility for benefits, protections, and training associated with the traditional mode of employment.

The unbundling of jobs into a series of on-demand small-scale micro-tasks can entail a number of consequences for the workforce. It undermines ownership of the task and commitment to enhancing the quality of the product/service, diminishes challenging and stimulating work, and results in stunted skills development (Bajwa et al., 2018). As Prassl (2018) suggests, the marketplace created by the digital platform can in fact entail control over workers at levels comparable to direct employment. It negates the expectation by millennials of autonomy and resonates with Giddens (1991) observation that modern institutions can create mechanisms of suppression, rather than actualisation of the self. The realisation over time by worker collectives (i.e. unions) and individual workers that this flexible employment in fact recreates and reinforces uncertainty and precarious employment is well documented (Bajwa et al., 2018; De Stefano, 2015; Graham, Hjorth, & Lehdonvirta, 2017; Kessler, 2018; Prassl, 2018). However, most of this literature is ‘Uberised’ – they have a disproportionate focus on analysing the Uber transportation platform, followed by IT micro-task platforms such as Amazon MechanicalTurk. Gig economy in the healthcare sector, which is riddled with considerable complexity, is seldom discussed. The following sections discuss the unfolding of the gig economy in the healthcare sector and the dynamics of its inter-related implications for healthcare professionals and occupational boundaries.

**Gig Economy in Healthcare**

Healthcare as an industry is globally characterised as being challenged with significant labour shortages. Short-term contracts and temporary work are not historically uncommon. The US will need to hire 2.3 million new healthcare workers by 2025 to adequately care for its ageing population (Stevenson, 2018). Shortage of healthcare professionals in the UK National Health Service (NHS) has meant a regular need for locum doctors, dentists, and pharmacists employed via agencies. Similar systems of ‘staff banks’ exist for nurses, technicians, and healthcare assistants in hospitals.

Rising healthcare consumption due to increasing prevalence of chronic illness, ageing population, and heightened health awareness in society, coupled with a millennials workforce who demand autonomy, choice and flexible working, would mean a rising dependence of the healthcare sector on contingent workers for the foreseeable future. The promise of the gig economy to make task-based organisation of work more prevalent and accessible, translates to a more convenient and less costly means of connecting employers with professionals. It is taking the
contingent working trend to a new level, bringing the availability of gig work on par with permanent work arrangements, which has various implications for the healthcare sector.

In 2017, the British Secretary of State for Health and Social Care announced plans to introduce an ‘Uber-style’ app for the NHS that provided on-demand healthcare. The Government claimed that the app would help nurses work more flexibly, do extra hours at short notice, and get paid more quickly. The GMB (workers’ union) were quick to criticise these plans, stating: ‘It’s a terrible idea to have overworked, underpaid staff be told via an app that they are not needed for a shift’ (Armstrong, 2017). The response of worker collectives has been in line with concerns in other sectors that the gig economy reinforces precarious working.

Nomadhealth.com is a US-based platform that disintermediates multiple specialist recruitment agencies to connect physicians directly with hospitals. Physicians can search for and negotiate a wider variety of short-, medium-, and long-term ‘gig’ contracts. Hospitals save administrative costs of dealing with multiple agencies. Both parties make savings due to significantly lower commissions charged by the platform compared to the traditional recruitment agencies. Babylonhealth.com is a UK-based platform providing General Practitioner services in the UK and Canada. It extends gig working beyond the allocation of contingent work. Babylon Health provides virtual clinical consultations by healthcare professionals in ‘tele-health’ jobs, alongside the option of face-to-face clinic consultations for patients. Physicians and pharmacists are provided with competitive rates and the luxury of working from home. The ‘gigs’ are divided into 2- or 4-hour sessions which the clinician can choose at their convenience. Such ‘telemedicine doctor’ job postings are becoming more prevalent and commonplace. Doctor on Demand is a US-based company similar to Babylon Health with respect to providing virtual clinical consultations. It facilitates access to urgent care physicians and mental health professionals 24 hours a day via its tele-health digital platform (Reimers-Hild, 2018). The gig economy is thus shaping the way healthcare is managed and delivered. As well as facilitating a flexible and efficient allocation of contingent work in healthcare, it provides an emerging transformation of the content of medical work. This has implications for the status and power of the medical profession, the doctor–patient relationship, and inter-professional boundaries in healthcare.

**Gig Economy, Power and Trust in the Medical Profession**

The gig economy is another phase in the modern trend of the decline in the power of the medical profession. Within the digital realm, the internet challenged the medical professional’s monopoly on medical knowledge and challenged doctor–patient relationships with alternative sources of knowledge, enhancing self-diagnosis, and empowering patients to challenge the doctor’s diagnosis (Naghieh & Parvizi, 2016). The new digital phase in platform-based solutions for the organisation of work follows in these footsteps. It has the potential to further challenge the authority of the medical profession.
Establishment of the gig economy among healthcare professionals interacts with the ‘choice’ agenda emerging in healthcare policy and originating in the neoliberal shift in public administration (Rose, 1989; Warin, 2011). Patients exercising choice in their options for treatment and care can extend to the emerging gig economy in healthcare. In the UK healthcare context for example, the choice agenda has translated to patients exercising limited choice over the healthcare institutions in which to receive their treatment and care. The emerging prevalence of gig working of healthcare professionals can engender public-level evaluation and scrutiny of individual clinicians, compared to current publicly held judgements of NHS Trusts that entail groups of clinicians in hospital departments. Reputation can shift from the meso-level to that of the individual practitioner due to the shifted accountability that medical gig work can entail.

Consequently, the patient choice agenda would extend to patients having a say on which clinicians provide their treatment and care. This could result in more competition between physicians and potentially reduce their remuneration to levels determined by the market rather than by the traditionally held authority of the medical profession. This ‘race to the bottom’ is reinforced by gig workers in both rich and poor countries competing in the same border-spanning labour market (Graham et al., 2017). With the proliferation of tele-health technology presented on digital platforms, the body of medical profession in higher-wage countries will have diminished bargaining power. Furthermore, it can entail diminishing authority of the body of the medical profession via the enhanced public scrutiny and transparency of their work.

Riska (2001) asserts that the medical profession is founded on expert knowledge and mutual trust between the patient and the professional. A consequence of medical gig work and the shifting of the perception of accountability on the individual practitioner who is commoditised and rated, is the diminishing trust paramount to the functioning of the medical profession. The presence of rating systems on digital platforms reinforces this shift in accountability. Bajwa et al. (2018) discuss platform-based vulnerabilities of gig working, which include rating systems and a culture of surveillance. Rating systems on digital platforms are generally intended to establish trust between workers and clients. However, studies report workers feeling punished due to factors outside of their control and to customer bias and prejudice (De Stefano, 2015). These effects are pronounced in the medical profession, who start from the premise of high levels of trust in the doctor–patient relationship, and only stand to lose this trust with rating systems and its implications. The trend in commodification, rating, and transparency in the work of the medical profession can engender a change in the identity of medical work to one of a market-based service requiring more scrutiny and due diligence before being adopted (Mechanic, 2005). This scrutiny would naturally entail a higher level of attention to detail compared to buying another service or commodity, as it directly impacts the health and livelihood of the recipients of the service. These dynamics have profound consequences on the status of the medical profession in society, and consequently on their professional bargaining power with respect to regulation, workforce planning, and remuneration.
Gig Economy and Inter-professional Boundaries in Healthcare

The medical profession currently utilises digital platform businesses for contingent work of locum doctors and consultants. Some specialities are using the new technology for remote virtual medical work (e.g. general practitioners, consultant radiologists), while advances in technology is increasing adoption of ‘telemedicine’ in many parts of the world. As outlined earlier, the gig economy is therefore not only providing a new mode of allocation of work, but an emerging transformation of the content of medical work.

In medical care, the diffusion of the gig economy work culture of disaggregating jobs into small-scale micro-tasks (Bajwa et al., 2018; Deng, Joshi, & Galliers, 2016) can manifest in breaking up and exposing the various undertakings of the medical professional. If patient clinics, ward rounds, or the various procedures of surgery are offered on a platform as micro-task contracts, the professional authority of the medical professionals in determining the supply of physicians, regulating medical education, determining their own work contracts etc. is brought into question. The medical profession will find itself bargaining for task allocation and reimbursement on par with other occupational groups within healthcare, blurring the institutional boundaries of dominance in healthcare.

The Weberian notion of social closure can help explain these dynamics. Social closure theory posits that certain social groups monopolise advantages by restricting access to resources and privileges to a limited circle of individuals (Naghieh & Parvizi, 2016). Accessibility to medical education, public accessibility to sources of medical knowledge, and credentialist exclusion devices have traditionally been an exercise of exclusionary closure by the medical profession (Parkin, 1979). Parkin (1979) further developed the closure theory, postulating that exclusionary closure would be met with reactions of closure by the excluded, as a direct response to their status as outsiders. This is in line with Weber, Roth, and Wittich (1978), who acknowledge that: ‘such group action may provoke a corresponding reaction on the part of those against whom it is directed’. Parkin (1979) proposes two reciprocal modes of closure – exclusionary and usurpationary – with both being means for mobilising power to enhance a group’s share of rewards or resources. 

**Exclusionary closure** is the attempt by one group to secure for itself a privileged position at the expense of other related groups through a process of subordination. **Usurpationary closure** is mounted by a group in response to its outsider status and the collective experiences of exclusion. Usurpationary reactions entail biting into the resources and benefits accruing to dominant groups in society (Naghieh & Parvizi, 2016). Parkin suggests that usurpationary closure is always a consequence of and a collective response to exclusion. The intended scale of usurpation can range from marginal redistribution to complete expropriation (Parkin, 1979).

Closure theory can explain the role of ‘doctor rating’ websites on the decline in autonomy and the inevitable rise in regulation and monitoring of the medical profession. It can also be argued that the internet has challenged the closure on medical education by a limited number of medical schools, by facilitating provision of distance learning courses, and increasing the number of outlets that offer medical
education (Naghieh & Parvizi, 2016). From a usurpationary closure perspective, it can be argued that the public, via the internet, have been biting into the medical profession's monopoly on medical knowledge, and eroding their exclusionary closure with respect to power, autonomy, and self-regulation. Naghieh and Parvizi (2016) extensively argue the significant challenge that lay health knowledge poses to the once dominant expert knowledge of the medical profession. The increasingly broadcast and embraced experiential knowledge (patient experiences of treatment and care), coupled with appropriation of widely accessible health-related information by patients, leads to endless possibilities of alternative narratives to illness description and treatment options. Patient experience has become an essential indicator of the performance of healthcare organisations alongside efficiency, safety, and clinical outcomes (Coulter et al., 2009). Attention on patient compliance and adherence has progressively transitioned into attention for activation and involvement of patients (Morrow et al., 2013). Virtual communities, including patient-to-patient and patient-to-doctor digital health communities, have rapidly increased in prevalence. A study of the latter demonstrates that patients' value of medical knowledge was tantamount to the experiential knowledge broadcast by fellow patients (Vennik et al., 2014). The proliferation of virtual clinics via tele-health platforms facilitated by the gig economy would only pronounce this usurpationary closure of the monopoly on medical knowledge.

Usurpationary closure theory illuminates the development and evolution of the remit and status of allied health professionals in relation to the medical profession (Holloway, Jewson, & Mason, 1986; Larkin, 1983; Nancarrow & Borthwick, 2005; Traynor, Nissen, Lincoln, & Buus, 2015; Witz, 1990). There has been a trend of biting into the realm of the medical professional by allied health professions, such as running of diabetes and asthma clinics by nurses and treating of minor ailments by community pharmacists. Dental therapists are now providing scale and polish and even tooth filling procedures, which was previously the ‘bread & butter’ of the dental surgeon. Moreover, they are taking impressions for dentures and orthodontics procedures – a task which Orthodontic Specialists have traditionally been meticulous about. These developments in the role and remit of allied health professionals can be seen as a struggle across boundaries and exercising of closure with respect to the remit of the medical professionals.

The gig economy facilitates and reinforces this usurpationary closure, by exposing the work of the medical professional and making it more accessible to allied health professionals, who would make a claim on those tasks and procedures based on their training and acquired skills. This trend is supported by the rising prevalence of medical gig workers on digital platforms. Furthermore, innovations in the design and offering of medical micro-tasks on digital platforms for achieving efficiency by healthcare institutions are inevitable. The new norm displays a major impact on the authority that the medical profession wield in society (Naghieh & Parvizi, 2016) which has thus far been preserved by their collective, permanent and dominating presence in healthcare institutions. New modes of conflict emerges from this disruption, with nurses and other allied health professionals exercising closure with respect to their role, recognition, and remuneration in the provision of healthcare.
There is however a nuance in this inter-professional conflict. The usurpationary closure by allied health professionals can be characterised as an exercise of ‘insidious closure’. An out-facing traditional occupational struggle is not apparent. There is neither a major outcry by physicians in mass and social media over this trend nor a collective action by unions representing medical professionals. In fact at the individual-level, medical professionals welcome these developments. They see the running of asthma clinics by nurses, treatment of minor ailments by pharmacists, or simple fillings by dental therapists as off-loading the bulk of their lower-skill and monotonous workload. Instead, medical professionals can concentrate on more complex and intellectually challenging procedures. Furthermore, individual medical professionals see these professional developments of allied health professionals, who tend to be in direct subordinate roles to themselves, as contributing to the motivation of their staff and to a positive working environment.

However, this seemingly convenient and innocuous usurpationary closure exercised by allied health professionals has profound consequences at the collective professional level. The Foucauldian knowledge-power complex (Foucault, 1980) that extensively explains the sources of power of the medical profession in society and demonstrates the means by which the medical professional can demand high remuneration for their skilled work. The actual work that they do is in part concealed by this knowledge-power complex. Consequently, the medical profession have a major say on defining their work contracts and remuneration levels. Disaggregating jobs facilitated by the gig economy (Deng et al., 2016) would mean a new level of transparency of the work of the medical professional. A tooth filling conducted by dental therapists would be judged in relation to and as an extension of other tasks they perform, and so remunerated accordingly. The filling will not be charged at the previously held rate of the dental surgeon. In the same vein, other procedures that the medical professional performs is judged in relation to the new rates for procedures apportioned to other allied health professionals. Therefore, the exercise of usurpationary closure by allied health professionals on lower-skilled medical work leads to a revision of remuneration for that work, creating a gap and exposing the remuneration rates for other procedures that remain within the remit of the medical professional. This will eventuate in the renegotiating of contracts of the medical professional relative to the lower price paid for the devolved work to allied health professionals. Similar dynamics can emerge with the medical professionals’ control of medical education and influence on regulation.

The usurpationary closure exercised by allied health professionals, facilitated by the disaggregation of jobs in the gig economy, is therefore an insidious one. This insidious closure is initially amenable to the individual medical practitioner due to its proximal benefits. However at the collective level, it entails a degree of expropriation of the authority and exclusionary benefits traditionally accrued to the medical profession. The gig economy thus provides a new mode of allocation of medical work, and an emerging transformation of the content of medical work with an emphasis on virtual working. It facilitates the shifting of professional boundaries in healthcare, which as explained in this chapter, is at the expense of the medical profession at the collective level. However, the inter-professional
Conflict is insidious due to the transformation presenting proximal benefits to individual medical practitioners.

Conclusion

The gig economy is shaping the way healthcare is managed and delivered. As well as facilitating the allocation of contingent work in healthcare, it is transforming the content of medical work. The unfolding of the gig economy in the healthcare sector has profound consequences on healthcare and medical work and also inter-professional boundaries within the healthcare workforce. By disaggregating jobs into isolated on-demand micro-tasks on digital platforms, the gig economy challenges the power of the medical profession via multiple mechanisms.

The individualist nature of gig working would interact with the unfolding of the ‘choice’ agenda within healthcare policy. It would result in competition among physicians and reduction of remuneration to market mechanisms, in contrast to the current remuneration levels that are influenced by the traditionally held authority that the medical profession wield in society. This trend is reinforced by the proliferation of tele-health medical work on digital platforms, which translates to a border-spanning labour market in which medical gig workers from rich and poorer countries compete for the same patients. The enhanced transparency of medical work resulting from unbundling of jobs, commodification of medical professionals, and platform-based vulnerabilities such as rating systems will affect the authority and status of medical practitioners, as well as trust which is paramount to the doctor–patient relationship. The challenge of the latter is reinforced by reduction in face-to-face contact due to virtual consultations facilitated by digital platforms.

Exposing the work of the medical professional via the gig economy function of disaggregating jobs, makes medical work prone to more stringent regulation, revision of contracts and remuneration. Furthermore, it facilitates attempts by allied health professionals to mount usurpatory closure on the remit of the medical profession, challenging them with claims on tasks and procedures they deem relevant to their training and acquired skills. This includes challenging the authority of the medical professional in healthcare systems, as well as remunerations in the provision of healthcare. However, this inter-professional conflict is characterised as an exercise of ‘insidious closure’. The transformation is deemed amenable to the individual medical practitioner due to its proximal benefits on the quantity and quality of their work, as well as its role in promoting a positive work environment. At the strategic collective level, it entails a gradual expropriation of the authority and exclusionary benefits traditionally accrued to the medical profession.

Considering the disproportionately ‘Uberised’ focus of the gig economy literature, there is much scope to further research the unfolding of the gig economy in the highly complex and topical healthcare sector. The dynamics in inter-professional boundaries in healthcare has significant implications for health policy and the delivery of care. More empirical research is needed to deduce the perspectives and experiences of healthcare professionals in the gig economy, and how they perceive the tension between the individual-level and short-term benefits of gig working.
versus the long-term collective-level implications for the power and status of the medical profession. Another meaningful area of inquiry would be to examine how the gig economy affects the professional identity of medical professionals. The various facets include transformation in the content of medical work and the creation of new patterns of work relationships, the reductionist nature of patient contact in digital work, the emotional labour involved (De Stefano, 2015) that is in part due to rating systems, and the social isolation that greatly impacts physical and mental health (Marmot, 2015).

References


Section III

Micro Analysis
Chapter 8

Evolutionary Mismatch and Misbelief Impact on Participants in the Gig Economy

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Introduction

This study will consider evolutionary psychology, in relation to how people behave in (and relate to) their work organisations. It is hoped that by understanding more about the general processes involved in human decision making, it might be possible to better understand how and why people react to changes in their working environment. It has been argued that a better understanding of the human mind’s ‘toolkit’, could enable organisations to create an environment that elicits various cue sets or cognitive tools, that facilitate behaviour in line with organisational objectives (DeScioli, Kurzban, & Todd, 2015).

Evolutionary psychology is a lens through which we can shed a new and different perspective on organisational behaviour, especially in the gig economy. In this chapter, organisational behaviour relates to inter- and intra-organisational interactions, both face to face and conducted through technology. This lens is derived from biology, specifically the impact of evolution on observed behaviours. The underlying theories give us a clear review of the drivers of behaviour and the extent to which workers may be acting in ways that are functional for themselves, although they may appear to be irrational or at best dysfunctional. This is a useful perspective to enable insights into the emergent conflicts associated with the gig economy. The theoretical paradigm for this investigation is evolutionary psychology. The contribution that this perspective can offer is significant. Whilst in its infancy, this perspective retains the explanatory power to enable predictions of behaviour (Colarelli & Arvey, 2015). The benefit of this is clear for organisational actors and is extended for gig workers, who operate within an unpredictable and insecure precarious environment. The value for Human Resources (HR) is in providing insights into designing processes to motivate and support giggers. This is likely to be with a light touch as HR processes are less applicable to giggers who lack the status of employee.
Theoretical Basis of Evolutionary Approaches

The evolutionary lens is predicated on the acceptance that all of us are biological beings whose behaviour is therefore affected by our biological makeup. The specific ways in which this happens provides a useful lens to appreciate organisational behaviour. This is an area of growing interest, but also one in which there remains a paucity of research. Indeed, of what we do know much is fragmented. Nofal, Nicolaou, Symeonidou, and Shane (2018) identified the isolation of individual studies, which are reported across diverse journals, as a causal factor in this, as it prevents a coherent body of knowledge developing and therefore a lack of analysis and shared interrogation of the subject. This has left the discipline in a more initial phase than would otherwise be expected, given the provenance of some of the biological and neuroscientific evidence. Nofal et al. (2018) identify the gap as ‘how biology influences management, the different mechanisms governing each of these biological influences and the links between them’ (p. 3).

The lack of research into this area may be related to a difficulty with the naturalistic fallacy. This fallacy suggests that the design of humans is in some way intentional and that therefore there is a moral element that suggests preferred and even correct behaviour. For example, there are a number of clear findings in evolutionary psychology suggesting that we favour our own relatives, providing support for them, for example, in the form of parents providing mortgage deposits for their children. To suggest that this indicates that they ought to do so is a naturalistic fallacy (Curry, 2006). This example of preference for kin (Buss, 2019) is part of a theory of inclusive fitness for selection (Hamilton, 1964) which suggests that a broad range of behaviours and physical attributes contribute to successful reproduction. This has led to a strong focus both within scientific and popular evolutionary psychology on reproduction and the survival of our species resulting in evolutionary theory being co-opted as an argument for activities such as eugenics and apartheid. These are abhorrent and shied away from today. However, an avoidance of factors associated with these activities has included, somewhat unfairly, evolutionary theory. To demonstrate this, another example of a naturalistic fallacy quoted by Curry (2006) is ‘males have always been more promiscuous than females and therefore one ought not to change the order to things’ (p. 240). This argument may be an unspoken element of much anti-feminist activity, based on the fallacy that what is, ought to be. Or, put another way, what we have been used to, is that way because it is correct and so we ought not to seek to change it. There is perhaps an unspoken fear of the impact of change, particularly at a level of assumed cultural and behavioural norms. These may also be woven into identity, for example, around status and expectations both of our behaviour and the behaviour of others towards us and so strongly defended. As part of the machinery of previous philosophical approaches such as eugenics, evolutionary psychology has suffered at a reputational level which has had the impact of deterring those in the social sciences from pursuing these theories until very recently.

However, evolutionary psychology offers many insights into organisational behaviour, such as organisational hierarchy, conflict and co-operation in organisations, organisation size & structure, teamworking and so on (Colarelli & Arvey,
Cooksey and Gates (1995) identified the need for new research directions and disciplines to provide a stronger explanatory focus on HRM. Chan, Wang, and Ibarra (2018) note ‘Perceptual and cognitive systems evolved to address recurrent problems that humans have faced throughout their entire evolutionary history’ (p. 2). This history includes the millennia through which we were evolving. Evolutionary success is predicated on advantages which are not limited to merely physiological changes. An advantage that consistently ensured successful survival and reproduction could become a permanent mechanism shaping behaviour of descendants. These advantages developed over evolutionary time in a pre-agrarian context. From an evolutionary perspective, the recent changes in our environmental context have taken place at breakneck speed. We retain those mechanisms that shape our behaviour, often without conscious awareness, and may be influenced by them in our ever-changing modern context.

This chapter builds on evolutionary psychology theory in the area of misbelief and heuristics to interrogate communications between customers, gig workers, and organisations. It is our contention that an understanding of this perspective and its implications for success in the gig economy, both from a gigger and organisational perspective, would be valuable. It could, for example, support the development of algorithms to benefit and guide, rather than simply measure workers, and so reduce some of the more harmful effects of algorithmic control. Duggan, Sherman, Carbery, and McDonnell (2019) define algorithms as ‘a system of control where self-learning algorithms are given the responsibility for making and executing decisions affecting labour, thereby limiting human involvement and oversight of the labour process’ (p. 6). They go on to note the deleterious effects of algorithmic management as manipulation of gig workers by the algorithm ‘nudging’ behaviour, for example, through differential pricing strategies. This evidences the use of heuristics by the gig organisations.

Evolutionary timescales are vast, and hard to conceive of. The primary evolutionary processes are considered to have taken place when the human population was a minimal size, probably located near what we know today as the rift valley in East Africa. This is known as the evolutionary environment for adaptation and resembles a modern savannah and was not dissimilar to heathland in temperate climes (Buss, 2019). During the period of evolutionary adaptation, we experienced species level challenges which we resolved through adaptations. These adaptations were built into our bodies through the use of cognitive modules which emerge as observable routines and heuristics, guiding our behaviour both subconsciously and typically universally. They therefore provide a very useful lens to observe and analyse behaviour.

Of particular interest are behaviours which were once adaptive but now have become problematic for the species, known as mismatches (Li, van Vugt, & Colarelli, 2018). A relevant organisational example of a mismatch is the frequent selection of tall, masculine leaders. This may have been relevant in ancestral times when physical strength could provide a protective advantage for a group. However, in the modern workplace, height and physical strength are less valuable, leading to a mismatch in which irrelevant criteria are used as heuristics for selection despite their irrelevance (Li et al., 2018). Another well-worn example
of this is our preference for foods high in sugar and fat. Preferring these foods when resources are highly constrained will confer a survival advantage. However, today when food is relatively available, it confers obesity. Our adaptation is serving to disadvantage us. This may also be reflected as a mismatch (Wilson, 2007) between evolved behaviour patterns and the requirements of the modern workplace. The implications of a mismatch are that behaviours which were adaptive in the evolutionary ancestral era today prove to be maladaptive and lead to negative externalities. This applies in particular to the new non-standard working approach of gigs where the requirement to spend hours solitary and still in front of a computer screen is at odds with our social nature.

Another particularly interesting school of thought on evolutionary adaptations are spandrels. This architectural term was first applied in evolutionary biology by Gould and Lewontin (1979); using the San Marco Basilica as an example, they highlighted the triangular space formed by two arches meeting. This space is called a spandrel and is necessary to create and support the structure of the arches. However, these spaces, due to the nature of the buildings, are often filled with beautiful artwork. This artwork is a by-product of the original adaptation for structural necessity. To anyone visiting the basilica, the artwork may appear to be the focus whilst the space of the spandrels is simply there to hold the decoration, whereas in truth they are the product of architectural constraint.

In the same way, through evolution, we have developed adaptations to our environment to aid survival. However, it can be argued that these adaptations have also resulted in by-products or even that some adaptations themselves are by-products. If these by-products are not harmful to survival or reproduction they will remain in the genepool. Gould and Lewontin (1979) argue that this inability to see evolutionary traits as anything but a direct adaptation, is a flaw in the adaptationist thinking of evolutionary biology. They liken it to assuming that because noses are good at holding glasses in place that must be what noses evolved for.

Resultantly, this new way of thinking sparked debate within the evolutionary field between spandrels and selection (Goldman, 2001; Gould, 1997) and even around whether spandrels do in fact undermine adaptationist principles (Grantham, 2004). The construct of spandrels, as with many psychological constructs, has not been repeated successfully, leading to a question mark over the existence of the construct in the first place. This is a reflection of a wider issue in evolutionary science as a whole, namely that there is a general lack of evidence and support for theories, due to gaps in ecological history and the complexity of the issue (Forber, 2009). Olson (2019) has shed some doubt on the construct of spandrels from the perspective of their accuracy as a metaphor. He notes that since their conception some 40 years ago there has been no primary evidence of spandrels. We contend that there may be some overlap with the concept of mismatch and rather than spandrels not existing, our understanding and conception of both mechanism and effect could usefully be reconsidered.

One potential example of an evolutionary spandrel that is especially relevant to today’s gig economy is the schemata of misbelief (Dennett & McKay, 2009). Misbeliefs are beliefs held by an individual which are either completely false or at best inaccurate. Beliefs, and therefore misbeliefs, are a unique form of cognitive
process in that they affect past, present and future (Connors & Halligan, 2015). Beliefs are thought to be an evolutionary advantage, because they can act as a guide in the world, aiding sensible problem solving. Research also argues that they act as a social signal to others (Funkhouser, 2017). Such evolutionary systems are assumed to be truth searching yet so often in life we come across beliefs in ourselves or others that are false (De Cruz, Boudry, De Smedt, & Blancke, 2019; Dennett & McKay, 2009; Vlerick & Broadbent, 2015). Religion is a prime example of this, there are many conflicting religious views held by humans, which cannot all be correct, suggesting the presence of misbeliefs. These beliefs and misbeliefs drive behaviours, as do all beliefs and misbeliefs. Misbeliefs related to the gig economy drive corresponding but conflicting behaviours, for example, for giggers, I am part of a team, and for purchasers, I have engaged a dedicated provider who will focus entirely on my contract. This chapter considers the source and implications of those misbeliefs in this new gig economy.

An example of such misbelief is the delusion of control, which is the idea that we can control our outcomes (Matute & Blanco, 2014). Much of the gig economy is algorithmically controlled, this often gives the illusion of control to prospective participants in the gig economy however the reality often leads to a loss of control resulting in a wide range of issues for giggers including but not limited to: isolation and unsocial hours, low pay and exhaustion (Wood et al., 2019).

One core source of conflict in the gig economy may be generated by the unconscious application of proximal (immediate) behaviour for distal (distanced) purposes. All behaviour can be viewed as having both proximal and also distal purposes. For example, I eat for the proximal reason that I am hungry but for the distal reason of keeping my body healthy to promote chances of survival. Evolutionary biologists would also highlight increased chances of reproduction. Hales and Edmonds (2018) note the importance of this in managing the conflicts around in-group and out-group conflict.

**Evolutionary Psychology, Bounded Rationality and Heuristics**

Herbert Simon articulated the theory of ‘bounded rationality’ (Kahneman, 2003; Shah & Oppenheimer, 2008; Todd & Gigerenzer, 2000). He argued that the discovery of limitations of human computational abilities is based on: (i) measured limitations in the amount of information humans can store in their short-term memory and (ii) the simplest human reactions are measured in tens and hundreds of milliseconds rather than micro- or picoseconds (Simon, 1990, p. 7). This suggests that in real-life situations, humans do not have the ability or resources (including time) to accumulate all the information, or calculate all the variables, required to make a perfect decision and have, therefore, developed evolved approximating procedures to deal with complex situations. Simon (1990, p. 11) argues that heuristics are ‘methods for arriving at satisfactory solutions with modest amounts of computation’.

This branch of research into evolutionary psychology, advances the view that humans have a wide range (toolkit) of heuristics; cognitive decision-making tools, which have been developed and specialised in the process of evolution (Gigerenzer &
Brighton, 2009; Kothiyal, Gigerenzer, Neth & Meder, 2014). In humans, such heuristic (or intuitive) processes, have often been studied in comparison to the more involved process of ‘deliberate reasoning’ (Kahneman, 2003) or ‘systematic thinking’ (Chaiken & Maheswaran, 1994). Kahneman (2003, p. 698) summarises intuitive ‘system one’ type thinking as: ‘typically fast, automatic, effortless, associative, implicit (not available to introspection), and often emotionally charged … also governed by habit and are therefore difficult to control or modify’. In comparison, reasoning or ‘system two’ thinking is said to be: ‘slower, serial, effortful, more likely to be consciously monitored and deliberately controlled; they are also relatively flexible and potentially rule governed’ (p. 698). Whilst it is argued that these different thought process types are distinct, it is also believed that heuristics may operate alongside and influence systematic thought, to different extents in different circumstances (see Chaiken & Maheswaran, 1994; Kahneman, 2003).

There is some debate in regard to the outcome of heuristic thinking, with the likes of Gigerenzer and Gaissmaier (2010), advocating advantages that stem from it; ‘A heuristic is a strategy that ignores part of the information, with the goal of making decisions more quickly, frugally, and/or accurately than more complex methods’ (p. 454). Conversely, Kahneman (2003, 2011) and several others have studied how heuristic thinking creates imperfections, little judgement errors and builds non-objective biases in human decision making. Whilst neither theory necessarily diametrically opposes the other, both schools of thought recognise Herbert’s crucial concept of ‘satisficing’ which is an area of particular interest in studying the development of the gig economy. Satisficing is when a decision is made, based on a single (or relatively small number) of aspirational criteria (known in heuristics literature as cues) being achieved, regardless of what other undiscovered options or alternatives might be available (Todd & Gigerenzer, 2000). This is essentially an observation of human behaviour reflecting a process whereby humans will often set out and weight important criteria in their minds, in regard to a particular decision. From this point, they will cease to search further (often referred to as a stopping mechanism), take the decision and move on to the next decision in life, when one option satisfies the most important criteria; even if the decision taken might not be, at least theoretically, the optimal one. In the world of gig platforms, speed and availability or simplicity and accessibility many outweigh many other cues in the mind of a potential customer and secure business on the basis of heuristic decisions they take. This process may also be important for giggers who are negotiating limited resources and bounded rationality, that is, particularly those giggers working on micro-tasks may lack a visibility of other options available to them. Therefore, the capacity to recognise and evaluate options at pace could provide an advantage. The fast and frugal perspective supports a view of giggers as free agents selecting their best option at pace. In this chapter, a systematic word analysis has been conducted to consider whether the literal messages produced on gig company websites appear to feed into this heuristic process in relation to either consumers or gig workers.

Organisations, leaders within and managers thereof, often seek to influence the behaviour of workers in a way that produces beneficial outcomes for their organisations. However, from the standpoint of evolutionary psychology, human
Evolutionary Mismatch and Misbelief Impact on Participants

behaviour is the result of a process significantly more complex than a desire to ‘pursue carrots and avoid sticks’ (DeScioli et al., 2015). In a work context, it is argued that the decision-making process (and the observable behaviour that may stem from this), combine a person’s cognitive ability with their perception of the environment and how they construe their relationships within and with an organisation (DeScioli et al., 2015). This is of use to organisations as with giggers they are likely to have few touch points. A clear understanding of how giggers will typically respond and why will support the development of processes to support workflow. This reverts to a machine metaphor in which giggers are essentially ‘widgets’ who are little more than part of the value chain. Within this perspective, the organisation is less concerned with mutuality and development and more concerned with efficiency and efficient task delivery.

Definition of the Gig Economy

The use of technology, in many forms, has changed and is changing the nature of working life. One such technology-driven modernisation is the establishment of the gig economy, as a new employment market for buying and selling labour. The development of this new labour market has occurred over a relatively short period of time. The term gig economy dates from about 2009 (Hook, 2015) and has been diffused into wider consciousness through the growth of high-profile gig economy innovators like Uber and their contemporaries; Uber services launched in 2010 (initially in San Francisco) and expanded to London in 2012. The definition provided by a UK government research paper provides a helpful definition of gig work:

The gig economy involves the exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short-term and payment by task basis. (Lepanjuuri, Wishart, & Cornick, 2018, p. 12)

This definition is tighter than that used in the rest of the book and has been chosen to allow a focus on a specific sub-set of the gig economy, which has a place that is location and time independent, tenure is very short, a matter of a few hours to a few weeks, reward varies according to expertise of the gigger, trust also may vary with the expertise involved, but all contracting is carried out via a third-party website or app. Collectivity may be considered to be an asset for these giggers, where it exists through off-line communications as well as representation by the third-party app organisation. Whilst aspects of this definition (e.g. ‘short term and payment by task employment types) could be argued to have existed as a form of employment for many decades, it appears that the use of ‘digital platforms’ (often known as ‘apps’) mostly differentiates the modern gig economy from past practices. This factor is of particular interest in this study; as digitalisation potentially changes the nature of the employee/employer (or leader/follower) relationship, to one in which a computer programme with
a range of pre-set algorithms, acts as a primary point of contact between the parties, in place of direct human interaction. Estimates in the UK set the annual level of (working age population) participation in the gig economy at about 4% (CIPD, 2017; Lepanjuuri, Wishart, & Cornick, 2018); although it is also noted that for many, about 58% of participants according to the CIPD (2017), this is a supplementary rather than primary source of employment. Balaram, Warden, and Wallace-Stephen (2017) estimate that in the UK this means almost 1.1 million people, nearly as many as employed by the NHS, now work in the gig economy. Furthermore, it is argued that, internationally, levels of gig economy participation may increase in the coming years. For example, Manyika et al. (2016) point to: aspirations of traditional workers for independence; the desire for work amongst unemployed and inactive populations; growth in both consumer and organisation demand for independent services; and improvements in technological facilitation of such services, as potential drivers for growth in the gig economy.

In this context, there appears to be potential for significant deviations from traditional forms of interpersonal relationships in the work environment. App-based employment appears to be changing both the amount and nature of interactions with humans as the role of work allocation is being undertaken by algorithms and app-based messaging. Also note that the term ‘work environment’ and not ‘workplace environment’ is used, as technological progress may also be changing the definition of what a workplace is. This chapter will contribute to the literature on how our understanding of changes in human behaviour in the work environment, can be viewed from the perspective of evolutionary psychology.

Aims

The aim of this research is to identify the impact of misbelief on the engagement of giggers and customers with gigging organisations. The hypothesis is that the gigging organisations will adopt a communications strategy that supports the misbeliefs and confirmatory biases of giggers.

Method

The data collected are individual words or groups of words from the websites of companies involved in the gig economy, identified initially by their commonality in public marketing materials communicating with giggers or purchasers. Text files were gathered from the home pages of each company and, wherever possible, the other most relevant pages that could be found in one to three ‘clicks’, from the home page. On average, text from three to four different web pages was gathered from each website. Whilst text analysis can be used for a more discourse focussed analysis in more personal and immediate contexts, here the communication is a highly controlled market focussed website communications which is assumed to have the underlying intention of engaging the interest, prior to action, of both giggers and customers. Given this context, the
unit of analysis remains individual and groups of words, but not sentences or paragraphs due to the intentional construction of these. Our approach could therefore be characterised as positivistic and thorough analysis of the corpus. The aim is to identify underlying intentions, heuristics and attitudes common to the environment.

The method used to identify gig companies that conform to the criteria (below) was a series of internet (Google) searches using different combinations of the following key words were used: ‘gig’, ‘economy’, ‘platform’, ‘companies’, ‘biggest’, ‘top’, ‘best’ and ‘list’. This produced a number of results from third-party websites with lists of gig economy companies (most commonly containing 10–20 featured gig platforms), from which a research database of gig economy companies was steadily built using a type of the snowball sampling approach. At the point where it was felt a representative number of companies in one business type/industry had been identified (e.g. food delivery), a distinctly different gig company would be used as a base point for further snowball sampling of similar companies. Whilst it is not being claimed that the range of companies selected was even close to comprehensive, it is important to recognise that the results are based on variety of types of gig companies operating in a diverse range of industries.

**Inclusion/Exclusion Criteria**

A number of criteria were set to ensure that the data analysed was appropriate for this study. All the data used came only from the publicly available webpages of gigging organisations. In this case, ‘publicly available’ means available without requiring a user account with the company. As such, the text samples collected contain many examples of the language used to entice would be ‘customers’ and would be ‘providers’ into further interactions with the various gig platforms. The text files collated were divided into two distinct categories, entitled ‘customers’ or ‘providers’.

Two meanings of the term ‘customer’ were identified: firstly, individual (or what could be termed ‘end user’) consumers, such as those using a gig platform to book a ride; secondly, business customers, such as the restaurants being encouraged to ‘partner’ with gig platforms, to become part of the pool of food providers that could be accessed by end user customers using a specific gig app. provide a food service and encouraging business to sign up to use the services of the freelancers registered on their site. The term ‘provider’ was assigned to individual workers/service providers potentially seeking to exchange their individual labour for a payment, that is, the people undertaking (or those the gig companies were trying to entice to undertake) the actual paid gigs.

The first inclusion/exclusion criterion was to only include gig platforms that facilitate the provision of labour, rather than the rental of items. Therefore, a significant number of sharing platforms, such as Airbnb or Open Airplane, were excluded (along with sites promoting bike sharing or parking space rental, for example). This required some degree of discretionary judgement. For example, in Airbnb, some hosts choose to undertake cooking, cleaning and other activities that may turn their Airbnb participation into a type of job, but nonetheless it would be hard to justify that the primary function of the site as the supply of labour.
The second exclusion criterion was designed to also exclude sites primarily orientated toward selling products (such as eBay and Etsy). The exclusions were not about diminishing the importance of any of the areas not selected or an attempt to suggest that they cannot ever be considered as part of the broader gig economy. It is simply that this is a study based upon companies offering work in the form of specific gigs. Using the set criteria allowed for a clearer, less complicated and more meaningful like for like comparison, of the language being used by gig platforms of this type.

The authenticity or reliability of the third-party websites was not an issue as their role was purely to provide companies names, which were then added to the research database if further investigation demonstrated that: (a) they matched the set criteria and (b) the company website contained sufficient information. Again, this led to the exclusion, for purely practical purposes, of some companies that had an ‘app’ but no website, or a website that had little or no text beyond a link to the ‘app’ or a social media site. Every word included in the analysis came directly from gig company websites and not the third-party sites used, at times, as part of the searching process.

Inclusion into the research sample was also limited to English language websites and internet search engines that recognise that the search originated in the UK. These factors led to information about US and UK companies being more readily available in the search results, and it is recognised that this has left a degree of inevitable imbalance in the material analysed. By adding specific geographical terms, for example, ‘India’, ‘China’, ‘Asian’, ‘African’, to the general search terms (as aforementioned), more geographically diverse examples were found and included in the study. It is acknowledged that these are of more limited numbers, particularly in comparison to the predominately US-based companies. Nonetheless, they add an important international context to the study. Additionally, it is worth highlighting that many of the included gig companies founded or headquartered in the US operate in multiple countries and across several continents. Taking cognisance of the limitations created by the methodology used and recognising that the study is not fully comprehensive, it was still possible, however, to collate a significant amount of data for the text analysis undertaken.

Similar volumes of text, from the websites of 77 different gig economy companies/platforms, were entered into Antconc text analysis software. Each of the files were cleaned for unrecognisable characteristics, icons/hidden, computer code and repetitive text in menus and lists that might distort the findings. The words examined are generated by the companies themselves to market their product and to either explain the functionality and/or the process of engagement. The raw texts are representations of how the companies wish to be viewed not how they are viewed by others. Testimony of others is only included if it was added, by those seeking to market the organisation, to the official webpages of each company.

All 77 files contained multiple messages aimed primarily at potential customers or providers. In the vast majority of examples, the ‘homepage’ of the gig company website was included because it contained text of this nature. Interestingly, much smaller amount of companies aimed their homepage primarily at potential workers, whereas the majority aimed it primarily at
customers. To keep volume of text broadly similar, wherever possible two to three separate webpages each, for customers and providers, in the vast majority of cases within two clicks of the main page, were added to the collation. Using the Antconc software to conduct an individualised word count of all 77 multi-webpage text documents, it was possible to make a number of observations about the propensity towards the usage of certain words and the context in which they are used.

Extracting the many words that may not individually convey patterns of meaning (e.g. ‘and’, ‘the’ and ‘to’ being the three most commonly used words in our sample, sharing almost 6,000 appearances). The words selected for analysis are the top 10 significant words for each category of customer and provider.

**Findings**

The 10 most interesting and useful words were selected in each of the corpus. Table 8.1 provides the raw figures for the number of words used in provider and customer communications. The words and their variants have been included to make better sense of the data. For example, client/clients, community/communities were counted as one word in order to identify their true frequency.

Table 8.1. Frequency Chart of Key Words Communicated to Customer and Provider.

<table>
<thead>
<tr>
<th></th>
<th>Customer</th>
<th>Provider</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service</td>
<td>509</td>
<td>102</td>
</tr>
<tr>
<td>Work</td>
<td>338</td>
<td>401</td>
</tr>
<tr>
<td>Design</td>
<td>279</td>
<td>130</td>
</tr>
<tr>
<td>Project</td>
<td>273</td>
<td>219</td>
</tr>
<tr>
<td>Time</td>
<td>263</td>
<td>173</td>
</tr>
<tr>
<td>Business</td>
<td>262</td>
<td>139</td>
</tr>
<tr>
<td>Talent</td>
<td>166</td>
<td>45</td>
</tr>
<tr>
<td>Freelancer</td>
<td>228</td>
<td>113</td>
</tr>
<tr>
<td>Delivery</td>
<td>195</td>
<td>109</td>
</tr>
<tr>
<td>App</td>
<td>182</td>
<td>128</td>
</tr>
<tr>
<td>Best</td>
<td>182</td>
<td>85</td>
</tr>
<tr>
<td>Team</td>
<td>162</td>
<td>110</td>
</tr>
<tr>
<td>Help</td>
<td>221</td>
<td>140</td>
</tr>
<tr>
<td>Clients</td>
<td>133</td>
<td>264</td>
</tr>
<tr>
<td>Jobs</td>
<td>290</td>
<td>147</td>
</tr>
<tr>
<td>Community</td>
<td>98</td>
<td>145</td>
</tr>
<tr>
<td>Total</td>
<td>2,450</td>
<td>3,781</td>
</tr>
</tbody>
</table>
Discussion

The discussion focuses on analysing specific words relating to misbelief and the selected heuristics.

Service

The word which was the most common for the customer was service(s). When communicating with customers this was expressed in relation to the task that is provided, for example, cleaning. It was also related closely to verifying the quality of the service, for example, prime, professional and outstanding. There were also a number of personalisation terms used, such as ‘our’.

In relation to providers it was expressed in terms of partners, implying a community. It was then, also, discussed in terms of the services that the organisation provides to the giggers, for example, payroll, 24-hour support, etc.

The word ‘service’ is also particularly interesting as it is the word which had the biggest difference in the number of times it was used to communicate with customers and providers (fig. 8.1).

Work

The word ‘work’ was the most frequent word in communicating with providers. It was contextualised as location independent working as well as the ease of getting ‘steady and reliable’ work. By contrast, when using the word ‘work’ organisations tend to contextualise it by the quality, speed and reliability of the output. Work therefore has quite a different meaning for the two parties.
Time

Of the 77 different companies analysed, a significant 63 (81.8%) different companies included the word ‘time’ on the prominent pages of their websites, as sampled. The context of its usage is fascinating, and three distinct patterns were identified. One noticeable contextual pattern was messages that related to the customer being able to ‘save time’ generally and/or specifically use time saved for a much greater, more productive or more satisfying purpose. The China originating, multinational transportation behemoth Didi (2019), suggests that customers can ‘save time for a better life’; Sweep South (2019), the African provider of domestic help, urge browsers to ‘swap some of your household chores for time with the kids’; Udemy (2019), a multinational online teaching space, offer many thousands of courses for those who ‘do not have time or money for a college education’; and Door Dash (2019), the US delivery company, say ‘spend more time doing the things that matter most – we’ll take care of the rest’.

To a significant degree, these messages appear to correlate with companies that are undertaking tasks that could or would traditionally (predominately) have been completed by individuals themselves or by companies in-house, without the need for an intermediate party (in this case, a gig platform). Significant sections of the gig economy are attempting to create and/or extend demand for this type of service, for example, if customers choose not to clean their own house, collect their own groceries or meal, drive themselves; or to negate the need for a business to recruit a graphic designer, software engineer or admin support in-house. Therefore, it seems that the intermediate parties (gig platforms) appear to be investing considerable effort into communicating the advantages of not insourcing or undertaking tasks personally. The analysis demonstrates that the valuable resource of ‘time’, is being extensively used by a wide variety of business and service platforms, as an enticing central component of the ‘product offer’ aimed at (potential) customers. This appears to have become a significant part of the core public message delivered by gig platforms. The word ‘time’ was used in this context by 38 gig companies, which amounts to 60.3% of those that used the word ‘time’.

Availability

The word ‘time’ was also used in the context of availability. In all, 17 (26.9%) of all gig company texts sampled that used the word ‘time’, did so in connection to messages about availability, on their web pages. This was often connected to the idea of flexible availability based on the customers’ needs (although just outside the top 10 words, the word flexible and sentences that implied flexibility were also a notable feature in the study, for both customer and provider orientated text). For example, Your Mechanic (2019) says ‘simply pick a time that works for you’; or as said by Dolly (2019) ‘you set the time – your helper will be there’. Many of the messages were designed to demonstrate the potential customers that either the gig company could provide a service beyond traditional working hours and/or that the gig company service was available at short notice. This relates to
decision-making heuristics. If a person believes they need a service at short notice or at an unusual hour of the day, are they more likely to implement the stopping rule at the point that the one good reason criteria has been satisfied. Will the cue of ‘availability’ lead to a fast and frugal decision that ignores or disregards other cues in the search process?

Real Time

This is a particularly important theme in relation to the gig economy. One of the fundamental elements of the gig economy, is that it is being utilised to provide elements of the worker and consumer experience that did not previously exist. Using technology to enable types of monitoring and control, to be exercised from a geographical distance (i.e. enabling the person monitoring to do so without being in personal proximity to the person or activity being monitored) appears to be a big feature of the gig economy and is reflected in this manner by the text analysis. In all, 20 different companies (31.7% of those using the word ‘time’) referred directly to the ability to track, monitor or have information and services delivered in ‘real time’. Quiqup (2019): ‘Our customers have a reliable, recognizable service they can track in real-time’; HopSkipDrive (2019): ‘And you can track every safe mile online in real time because in transit should never mean invisible’; Uber (2019): ‘you can stay connected and protected every time you ride with us. Because safety never stops’; Gig Walk (2019): ‘our team (or ours) can report the real-time data you need’; Taskeasy (2019): ‘Real-Time Transparency & Analytics. Immediate performance insights for each location and across your entire commercial property portfolio’; Excello Law (2019): ‘The use of cloud-based and real-time technology for lawyers allowing them to support client cases wherever they are working’.

Talent

When communicating with customers talent is used 166 times compared to 45 times for giggers. The primary focus in gigger communications is around being able to get a gig through demonstrating your talent. However, when communicating with customers the focus is more on the quality of the talent, including flexibility and quality metrics such as ‘amazing’ available’, ‘best,’ ‘global’, ‘our’ and quality. The use of the term talent carries inferences of exclusivity and perhaps also a reduced availability.

Control

The term ‘control’ was reviewed as a result of the misbelief evolutionary theory which indicates that the offering of control is a key element of choice for giggers. ‘Control’ (and its corollaries ‘controls’ and ‘controlling’) was used 24 times in communications with customers and 21 times in communications with providers or giggers. In the communications to providers, the message focussed on control of time, career and schedule and was also linked to flexibility. In communications
with customers, by contrast, ‘control’ was contextualised as keeping control, being in-control, maintaining quality control and maintaining control of processes. In both cases, the inference is that by using this specific platform, giggers and customers will gain. For giggers, this is not in line with common experiences of working as a gigger. Wood, Graham, Lehdonvirta, and Hjorth (2019) note that the approach of gigging organisations is highly Taylorist with thorough discipline maintained through close measurement and observation of output. Therefore, whilst workers may be expecting flexibility and control over their own time, in effect they enter a far more highly controlled domain. Wood et al. (2019) also note that in terms of ‘job quality, this entails a lack of worker autonomy combined with high levels of work intensity’ (p. 62). Ravenelle (2019) notes how gig workers in the United States were required to accept all gigs, keep their apps turned on and ensure that they were always available. The flexibility promised became control. This is to the extent that some giggers described themselves as ‘indentured servants’ (Garling, 2014, quoted in Ravenelle, 2019).

Limitations

One of the primary limitations of this research is the judgement that was applied in using criteria for inclusion/exclusion. For example, if a website resembled little more than a forum for various employers to advertise temporary jobs and receive applications directly, then it was also excluded. Given that this has some similarities with large generalist gig platforms like Upwork and Freelancer have been included, a justifiable criticism of this analysis may be that the boundaries are, in places, slightly blurred. This, however, reflects the reality that the gig economy is evolving in different ways, across different industries and different geographical regions, in many ways it represents an evolution of historical employment practices as well as a disruptive revolution, and it cannot be neatly defined as a single entity.

The second limitation is that whilst text analysis provides a clarity that enables analysis; in a global economy, words may have multiple, nuanced meanings which shift over time and by location. The analysis was only conducted in English and so there may be sensitivities to language and understanding that have been lost.

One key issue to consider in this research is the impact of the belief on the behaviour that is produced. One criticism of belief is that they vary greatly in aspects, such as: their origins, evidence required to form, levels of awareness and scope. Importantly for this line of research, they also vary greatly in their influence on behaviours and their susceptibility to change (Connors & Halligan, 2015). This makes it difficult to analyse the affect that beliefs as a whole have on behaviour within the gig economy. Future research may need to take a bottom up approach by first identifying which misbeliefs or beliefs are prevalent within the gig economy and then assessing how they impact both consumer and provider behaviour.

Conclusions

This research has demonstrated that the gigging organisations have either with conscious awareness or, perhaps more interestingly, without awareness identified
key spandrels such as misbelief and confirmatory bias and design their communication to play into these. It may be that these mechanisms have been used through trial and error, whether within this specific project or as part of the career experience of those constructing the websites. Either way, a clear conflict between expectations and reality is identified. The boundaries of this are unclear and as a result it would be useful to conduct further research to identify specifically how the giggers and customers respond to these messages. It would be particularly useful to understand whether there is a universally similar response or whether the giggers respond in ways characteristic of their own idiopathic situation. For example, it may be that anxiety inducing scenarios such as constrained resources amplify the effectiveness of this communication.

The research also identified that the communicative vignettes aimed at customers appeared designed to engage the ‘take the best’ heuristic and so trigger a ‘stop search’ mechanism. This was particularly evident in communications around ‘time’. Whilst this text analysis has analysed communications as they have been sent, it has not addressed the communications as received or acted upon. This would be a particularly rich vein of analysis to both validate the conclusions around the specific heuristics that are triggered as well as the relative efficacy of each.

These heuristic responses to the communication are considered to be equally impactful for both customers and also giggers. However, there may well be a differential impact. The response of customers may vary as their requirements and situations may well vary through factors such as range of resource availability, urgency of the need, number of requests and the relative value that each customer places on the individual requests. By contrast, the giggers may be considered to have a somewhat more uniform response as they all working in a relatively precarious environment. Through taking on geographically independent online micro-tasks, the experience, isolation and stress levels of giggers could be exacerbated to induce an enhanced susceptibility to the heuristics. This is likely to be exacerbated even further by the loss of mutuality, expressed through the lack of face-to-face leadership. This mismatch (Li et al., 2018) may have considerable negative outcomes where it is engaged over the longer term. It may well exacerbate the misbelief heuristic where giggers have acted upon a perceived understanding and lack a collective to check back and share the difference between the expectations and the reality. This is likely to be a less than pleasant experience and may even relate to well-being issues over the longer term. It appears an important area for future research, given the spread of this form of work as well as its apparent concentration in specific industries such as graphic design and copy writing.

This research has demonstrated that gig organisations manage their communication to customers and giggers in different ways. The content of the communication varies in such a way as to potentially encourage misbelief about the origins of the service for customers and the nature of the role for giggers. In particular, the promise of freedom and autonomy varies significantly from the stated communication. Further research could usefully be conducted into the interaction between key words, where implications overlap and when certain words are used together and the ways that giggers consume and respond to these messages. For example,
do they place more trust in the communication from fellow giggers or that of the organisation? Do they actually engage in misbelief or simply appear to do so?

By investigating the heuristics that giggers use, HRM could ensure that the design of algorithmic control supports a work life balance for giggers. This will help to ensure that giggers are able to avoid undue stress and have a longer healthy gigging lifespan. This is likely to enhance their attractiveness to giggers where there is competition for the services of giggers.

A further area for research is into the impact of atomisation on social relationships and other mechanisms such as heuristics and misbelief. This will have an onwards impact on organisational behaviour and in particular followership. This may then have a far from insignificant impact on career and success in gigs and could be a useful and revealing topic for further research.

An interesting line for further research would be the interaction of confirmation bias with misbeliefs. If one has misbeliefs about aspects of the gig economy such as control then seeing information from companies advertising control will aid their confirmation bias and confirm their view. Making it more likely that they ignore other contradicting evidence. In particular, this is exacerbated when gigging companies communicate through vignettes. Understanding how misbeliefs influence behaviours within the economy is key to understanding the current work environment. However, it will also be crucial to understand how the reality of the gig economy affects these misbeliefs. Do they remain against the evidence or does one’s experience in the gig economy affect beliefs? This is likely to vary greatly between the beliefs that are held but even that variation could shed some interesting light on behaviours within the gig economy.

Interest in how biology affects business has been growing. Evolution is not the only lens through which this can be viewed. However, in order to develop this branch of study, organising and incorporating all branches of psychology in order to get a cohesive answer to the current gaps in research are advised (Nofal et al., 2018). This means taking a detailed view of the opportunities that psychology continues to offer business sciences and HRM in particular.

This chapter has applied theories of evolutionary psychology, focussing on misbelief and selected heuristics to identify the impact of communications between gigging organisations, customers and giggers. It has found a mismatch between the communication and the reality of gigging which may lead giggers to engage with tasks and a working life that is more precarious than is immediately apparent.

References


Evolutionary Mismatch and Misbelief Impact on Participants


Chapter 9

Frayed Careers in the Gig Economy: Rhythms of Career Privilege and Disadvantage

Elaine Yerby

Introduction

Inherent tension exists in the overall idea of female career experiences in the gig economy and contemporary labour markets. Critical discourses of precarity and instability compete with individualistic appeals to entrepreneurialism and the opportunity to pursue passions of labour and leisure harmoniously (Duffy & Pruchniewska, 2017). However, mainstream career research and practice has been slow to analyse these competing realities and the implications for understanding career management and behaviours in the gig economy (Hirschi, 2018).

Considerable diversity exists within the gig economy in terms of both the individuals undertaking gig work and the type of work they are doing (Broughton et al., 2018). The emerging picture suggests that men and women work in relatively equal numbers in the gig economy but stratified into different types of work, which reflect established and traditional patterns of occupational segregation based on gendered norms of work. As this chapter will explore less is known about the impact of other social categories and fluctuating intersectional positions and the impact these have on experiences of careers in the gig economy. Perhaps not unsurprisingly, as intersectionality as a method and way of understanding employment issues has often remained marginalised and obscured (McBride et al., 2017). This chapter seeks to address this gap by adopting a poststructuralist feminism and intercategorical intersectional lens to expose the blurred boundaries, shifts of power and contradictions that exist in relation to gender, ethnicity, class and career management experiences in the gig economy.

By moving beyond static categories of difference for understanding the complex global employment issues associated with the gig economy, the systems of domination and power that can marginalise or discriminate in employment and career outcomes can also be exposed.
In doing so, this chapter advocates for the concept of frayed careers (Sabelis, 2010; Sabelis & Schiling, 2013) to analyse female career experiences in the gig economy, as it seeks to illuminate broader connotations of success, privilege and disadvantage. This approach to understanding careers emphasises the rhythmicity in working life as a sum of parts, not stages. The explanatory benefits of the rhythmic model works in the gig economy by questioning the utility of mainstream career models, that whilst presented as unbounded are still designed around a linear ideal and the necessity to be accumulating employability skills and experiences to advance. In the process, ‘abnormal careers’ and limits on the diversity of accepted career experiences are created. The frayed career concept provides the opportunity to expose the underlying assumptions of the ‘normal’ linear career and the power and structural inequalities that maintain this status quo. The term frayed is used deliberately to connect periods of employed work and reproductive phases within an overall cycle of a working life; not viewing these periods as distinct and separate (Sabelis & Schiling, 2013). It provides the space for new discursive practices about careers beyond the starker bounded discourses of opting out and in, as seen in the current mainstream career management models, which have gendered, ethnicised and classist connotations. At the same time, there is an opportunity to highlight the temporal and complex character of careers, which is appealing to this feminist poststructural analysis and examination of the gig economy. The frayed career concept thus fits the intersectional lens of this chapter and the transnational nature of the gig economy, as the concept has a broader reach beyond the previous career management models that are heavily based on westernised connotations of work and family life.

Granularity in understanding women’s experiences in the gig economy is important as current debates in relation to gender in the gig economy tend to present women engaged in gig work across the world in two dichotomous camps; either in extreme precarity or highly empowered and privileged. An intersectional analysis allows for a more nuanced approach to understanding career experiences in the gig economy by identifying how both privilege and disadvantage are maintained, constructed and fluctuational, dependent on context (Tatli & Ozbilgin, 2012). Feminist poststructuralism and intersectionality, as applied here, are for some an easy marriage, as they both view the construct of gender in non-binary ways (Davis, 2008). Both perspectives highlight how focussing on just one category of social identity can oversimplify and obscure the causes and experience of inequality and privilege (Atewologun & Sealy, 2014). Arguably, the use of binary social categorisations has created a focus on career management practices based on deficit models of marginalised groups and has resulted in slow progress in addressing the structural inequalities propping up unequal outcomes for women (Rodriguez et al., 2016). A key goal for poststructuralist feminism is to provide a space for marginalised or silenced female voices and to reveal alternative discursive practices that resist the hegemonic discourses that maintain power structures and unequal gender outcomes (Baxter, 2003). Whilst the experiences of all gig workers are recognised as under-researched, the specific experience of female workers and how gender intersects with other categories of social identity requires urgent attention across the broad spectrum of varying types of gig work.
Frayed Careers in the Gig Economy

and sectors (Hunt & Samman, 2019). This will help to avoid simplistic presentations of women and assumed positions of advantage and precarity gained from engaging in gig work.

To address this gap, the broad definition of the gig economy that encompasses the ways of working ‘... based on people having temporary jobs or doing separate pieces of work, each paid separately, rather working for an employer’ (CIPD, 2017, p. 4) is adopted. The chapter provides an in-depth look at the career management experiences shaped by opportunities and periods of freelancing in the Human Resources (HR) manager role. Freelancing and contract work in professional services is one branch of the gig economy that is said to be burgeoning, accounting for nearly two million people (CRSE, 2018). HR contract work is accessible through a range of platforms and agencies where there is a high demand for HR experiences and skills, particularly in areas of managing change, TUPE (Transfer of Undertakings (Protection of Employment) Regulations) and generalist HR management. This chapter draws on data from 25 semi-structured interviews with a mixed ethnic and social class sample of female HR managers in London. The role of competing discourses is analysed to understand shifting intersectional subject positions that impact professional and career management decisions ‘to gig’ and their experience of this type of work. In doing so insights in relation to how the HR profession, whom are so often at the forefront of talent management and career management strategies, discursively construct employability and career management experiences in the gig economy are also considered.

The structure of this chapter starts with an examination of what is known and not known about gender and other intersecting social categories, in relation to career management experiences and outcomes in the gig economy, by exploring the small but growing body of literature that has sought to capture demographic data and lived experiences within gig economy. Given the scarcity of mainstream career management literature that has examined the specific conditions of the gig economy, feminist and gender studies that have critiqued the discourse of the growth of the empowered female freelancer and entrepreneurial careers is applied to the gig economy. This is followed by an analysis of the complex and shifting discursive practice of HR professionals through the intersectional lens, as they reconcile career management decisions to gig. The chapter concludes by exploring the practical career management implications of viewing gig work and experiences in more frayed career terms.

Gender, Intersectionality and Career Management in the Gig Economy

Understanding the impact of gender, ethnicity and class is problematic in the gig economy due to issues of measurement and scale of the gig economy. Conventional employment statistics were designed for a world in which work generally occurred within traditional employment relationships, largely within one country. Only now are the methodologies adjusting for types of work we see in the gig economy that cut across permanent and temporary arrangements (CIPD,
The challenges associated with trying to keep pace quantitatively with who actually works in the global gig economy reveal the problematic nature of attempts to understand, from an in-depth perspective, individual’s career management experiences and choices and how gig work fits in a life cycle career path (Abraham, Sandusky, & Haltiwanger, 2017). In addition, much of the emerging research on experiences from within the gig economy has focussed on Western and European countries, with less known about the impact of nationality and transnational experiences. Gender and the impact of other cross-cutting structural inequalities have also been identified as under-researched in the gig economy and hinders effective theory, policy and strategy development (Hunt & Samman, 2019).

One of the first and most cited reports on the gig economy that sought to build a more in-depth and, what could be consider intersectional sensitive understanding of working in the gig economy, was the McKinsey & Company 2016 Report, Independent Work: Choice, Necessity and the Gig Economy. This report explored the impact of gender, nationality, age and educational data from six Western countries and was able to debunk some common myths concerning who works in the gig economy and provided new insights into career management decisions. In particular, the report highlighted the extent of independent gig work conducted by professionals making decisions to gig, based on autonomy and flexibility. Broughton et al.’s (2018) UK-based survey with a mixed sample of 150 gig workers supported these findings by highlighting the extent of freelance professional service work in the gig economy. They identified the trend for respondents entering the gig economy to promote themselves as an independent contractor or freelancer in work for which they had previously been a permanent employee. Other examples of deliberate career strategies in the gig economy from the same research revealed how respondents took up short-term administration or professional and creative high-skilled gigs, as work experience that could ultimately lead to employee status. Career benefits that could be gained from the gig economy were perceived, as building skills for a Curriculum Vitae (CV) and networking with future employers (Broughton et al., 2018).

Notwithstanding these findings, economic circumstances and labour market conditions are still driving a significant proportion of people into low paid gig work, and the high ratio of unpaid work to paid labour in the gig economy is a significant problem for low-income households (McKinsey & Co., 2016). However, even in low-income households people report being able to control their own place of work and overcoming barriers to labour market participation, as being positive elements of working in the gig economy (Berg, 2016). Thus, complicating the dichotomy between choice and necessity in career decisions to work in the gig economy. In the UK, one of the first large-scale surveys that sought to understand career management decisions ‘To Gig or Not to Gig’ was published by the CIPD in 2017. Based on a representative sample of just over 5,000 gig workers. A key trend revealed in this research was the use of gig work to top up both permanent full-time and part-time work (the latter being significantly more likely).
Research in the USA reveals a similar pattern with a high proportion of those engaging in gig work (58%) being permanent employees (Edison Research, 2018). On the whole, gig economy participants have less overall financial resilience compared with other workers in the labour market and just under half suggest they are living comfortably. When this is broken down by gender, women are more likely to say they were working in gigs, as a short-term strategy to meet a particular financial goal (CIPD, 2017). This picture is reflected in the USA where 56% of women are more likely to work in the gig economy as a means of earning a secondary income. This raises questions about underemployment, precarity and pay in the wider jobs market and has implications for career management. The high level of top up work suggests not just socio-economic implications but a lack of opportunities to advance in either a chosen career field and or within the gig work itself (Edison Research, 2018). More in-depth studies of a cross section of sectors are required to understand the issues of choice and necessity in relation to these statistics through a gender and broader intersectional lens. In particular, whilst gender, precarity and socio-economic issues are starting to be explored in the gig economy much less attention has been paid to the impact of race and ethnicity (Haque, 2019).

Despite less emphasis on race and ethnicity, emerging research in Western countries reveals the extensive crowding of ethnic minorities in gig work and its most precarious forms (Haque, 2019). In the USA, Hispanic or African–American adults are much more likely to be engaged in gig work than White adults. In the same survey, half of the 55% of African–American’s working in the gig economy indicate this as their main source of income (Edison Research, 2018). In the absence of more detailed survey data relating specifically to the gig economy and ethnicity in the UK, the Trade Union Congress (TUC) conducted an analysis of the 3.1 million Black, Asian, Minority Ethnic employees in the UK and demonstrated that nearly a quarter of a million were in temporary jobs or on contracts not guaranteeing a minimum number of hours. Significantly, black women on temporary contracts soared by 82% between 2011 and 2016 (TUC, 2018). These findings from the USA and UK suggest that ethnic minorities face similar patterns of structural inequalities in the gig economy as they do in the traditional labour market (Haque, 2019).

The lack of attention on gender, class, ethnicity and the gig economy is perhaps surprising given they are considered the main organising principles of the labour market. Influencing patterns of employment and occupational status, they are also considered major sources of employment discrimination and disadvantage (Kirton & Green, 2015, p. 8). Emerging evidence suggests that these inequalities are already repeating themselves with gender pay gaps identified in work gained through the Uber platform. Despite women working for more hours on the platform, their average hourly rates were two-thirds lower than men’s (Cook, Diamond, Hall, List, & Oyer, 2018). A large global study using data of 37,599 professional service freelancers from a popular platform, revealed a significant gap in pay between male and female freelancers seeking gig work (Dubey, Abhinav, Hamilton, & Kass, 2017). These findings start to
undermine discourses associated with the ‘flexible’ gig economy, as being good for women. They also demonstrate the need for more in-depth, intersectional studies that seek to reveal the complex decision-making processes in relation to undertaking gig work and the structural inequalities shaping choice and necessity. Feminist literature has explored how gender-related historical and structural factors, such as patriarchy interact with dominant career management discourses to create shifting and multiple subject realities for women and their career experiences. These are now considered in the context of the gig economy.

The Feminist Lens on Gendered, Precarious and ‘Privileged’ Gig Work

Van Doorn (2017) advocates examining the gig economy platforms through the gendered and racialised history of service work. The argument is made that middle-class women’s professional careers combined with intensive parenting discourses create the conditions, whereby they ‘require’ a reserve army of workers to take care their domestic obligations. This work is accessed through platforms which are ‘thus far from post-racial or gender neutral’ (Van Doorn, 2017, p. 898). Domestic service-based online platforms used to control gig work exacerbate the precarious conditions of temporary migrant workers, predominately in the low-income service economy. This is achieved through the invisibility and immunity of the online platforms, as the locality of control and exploitation; intensification of work and pressure through software management techniques; and by creating the sense of individual’s as interchangeable and indistinguishable. The experiences of migrant workers undertaking this type of work make career management decisions based on work–life balance possible for other women (and men) but their own work–life balance and career management experiences are often neglected (Dyer, McDowell, & Batnitzky, 2011). In the process, gender and racial structural inequalities become more embedded by the growth of the low-skill gig work platforms, as the reliance on the reserve army does little to addresses issues of the lack of equalitarian distribution of household tasks between men and women (Van Doorn, 2017).

Feminist research and writing has also demonstrated how independent freelancing creates gendered conditions in career management outcomes and experiences. Feminist literature on the experiences of freelancing predates the gig economy. Research focussed on the ‘electronic cottage’, whereby in the 1990s, professional services and creative work moved online and out of offices and into homes. This flexibility was presented as appealing to women, as they could manage their careers and home life more effectively. However, subsequent career narratives from these women were characterised by insecurity, histories of redundancy and dependence on single client organisations, including former employers that created stress and conflicts of interests (Baines, 1999). The current era of enhanced digitalisation, automation and social media has extended the conditions for a range of freelance and gig-based work in new industries,
such as digital cultural production. Combined with career discourses of entrepreneurialism, authenticity and balance, women have been attracted to this type of gig work, as a form of aspirational labour. Promising to balance social and economic capital desires, the reality and outcomes are often different and can lead to gendered barriers in their careers (Duffy & Pruchniewska, 2017). The picture of gender inequality amongst freelancers in new media is evident across different European countries where issues of insecurity, low pay and long hours emerge. Precarity is enhanced in female careers when acting as an independent contractor because they can expect to engage in extensive invisible labour to finish work to extremely tight deadlines. Despite this additional work, women gained significantly fewer work contracts compared to men and where successful these were often lower value gigs for public sector organisations versus commercial organisations. The same research revealed that women and men in this type of work did not perceive there to be a disadvantage for anyone, irrespective of gender, ethnicity or disability seeking to enter this field of work (Gill, 2011). Thus highlighting the powerful discourse of ‘choice’ in this type of work and the downplaying of structural inequalities.

The above findings connect to research that has sought to expose the postfeminist regime which creates persuasive assumptions concerning choice and agency in female career management behaviours. Promulgated by Hakim’s (2002) preference theory, differences in gender experiences are then the result of women’s preferences for home and work, not discrimination and disadvantage (Lewis & Simpson, 2017). The preference theory infuses with other postfeminist and neoliberal discourses of individuals being free from structural constraints and that sexism, racism and classism are things of the past (Gill, 2016). These postfeminist and neoliberal discourses were demonstrated to influence career management experiences of young professionals where the ‘unspeakability of inequality’ exists when young professional describe their career experiences and goals (Kelan, 2014). These discursive patterns are also infused in the dominant mainstream career management models that also emphasise choice and agency.

The postfeminist critical analysts reading of choice and agency calls into question the dominant and mainstream career management models that hold the current status quo in thinking and researching about careers (Inkson, Gunz, Ganesh, & Roper, 2012). The dominant model used to explain female career management behaviours is the Kaleidoscope model (Mainiero & Sullivan, 2008). The model originated from the apparent phenomenon, whereby talented professional women facing poorer conditions for part-time working and the glass ceiling, opted to leave corporate life in large numbers. The so-called opt-out revolution and the kaleidoscope model used to define it are infused with discourses of choice and agency. The kaleidoscope metaphor implies women are able to commit to career and home in shifting and changing patterns, and there is not a one size fits all. Women also shape their career in the context of the different relationships and commitments in their lives and rotate and alternate their decisions and behaviours in the context of these other ‘pieces’ in the kaleidoscope.
Self and value driven careers with a focus on a responsibility for lifelong learning has been part of the dominant career management language for some time (Rodrigues and Guest, 2010). The hyper individualism (Fleming, 2017) we now see in the gig economy cements the notion that individuals have choice and responsibility for their own development and ‘human capital’ cumulation. Agency and choice also shape the concept of employability, which is a fundamental discourse in contemporary careers. It implies for career success the continuous acquisition of the optimal utilisation of competences and skill is essential (De Vos & Soens, 2008). As such these discourses are associated with both an independent and rational individual who has control over their mobility and capacity for career capital, which most commonly equates to financial capital (Böhmer & Schinnenburg, 2016). Feminist theorisation exposes the career project of a ‘rational man’ and highlights how subjective career success can be achieved beyond just financial accumulation and stresses the importance of relational measures of career success. In this sense current employability discourses ignore the importance of emotions, relationships and social groups for individual well-being and human decision-making processes in careers (McKie, Biese, & Jyrkinen, 2013).

Rational man models of careers fail to recognise individual career choices need to be understood in the broader context of the societal and organisational structures, policies and culture that can create disadvantage and privilege for women in the traditional labour market and the gig economy. The ideology of the rational working man or ideal worker ignores the wider patriarchal structures that create the divisions in paid and unpaid labour (Acker, 2006). These structures have been demonstrated to channel women into non-standards or atypical forms of working and with disproportionate outcomes, dependent on social class and ethnicity (Walby, 1997). Fernando and Cohen’s (2013) study of Sri Lankan female global careers highlighted the complexity of the factors shaping their experiences and whilst the dominant career management discourses of agency, values driven and challenge were presented in the talk of participants, so too were discourses of ‘having to’ in their decisions to take global assignments. Discourses relating to career ‘choice’ were also intertwined with respectable femininity and women experienced the paradox of needing to be viewed as a good women and successful careerist.

The Role of Frayed Careers in the Gig Economy

The assumption of continued employability and a narrow definition of success in mainstream career management models can limit acceptance of career experiences. This has led to female careers often being perceived as deviant. The frayed career concept proposes looking at careers in non-linear ways and challenging assumptions of self-enterprising behaviours and instead seeing careers not in stages, but as part of the wider rhythmicity and relational nature of life. This allows for marginalised gender and intersectional subject positions, in relation to career experiences, to be foregrounded (Sabelis, 2010). As female participation in global labour markets continues to grow, and increasingly in atypical forms of the work, the need for models that can effectively reflect the diversity
of experiences are required for effective policy development (Hunt & Samman, 2019).

Exploring careers from the whole life perspective, such as the frayed career concept helps to foreground marginalised voices and to shift thinking beyond careers, as stand-alone structures that women opt in and out of. This supports Cohen, Duberley, and Mallon (2004) view of careers, as ongoing processes in which women are actors in. In this sense, there is both agency and structural constraints directing the outcomes of female careers. The frayed career and life cycle career concept was explored by Sang, Al-Dajani, and Ozbilgin (2013) through the intersectional lens of migrant female professors in UK Higher Education. The use of the frayed approach located niches of strength and opportunities in career experiences and illuminated resilience through motivation and fighting spirit. The experiences of the participants in the research, in counterintuitive ways, revealed how they used positions of disadvantage as sources of career strength and to progress. From potentially marginalised positions, they were able to mobilise resources to succeed in their careers. The frayed concept has utility in the gig economy, as previous research has demonstrated how gig workers experience both agency and precarity often simultaneously (Healy, Nicholson, & Pekarek, 2017).

Applying a Feminist Poststructuralist and Intersectional Analysis to Career Management Experiences in the Gig Economy

The theoretical lenses adopted in this chapter are able to draw out the granularity of career management experiences in the gig economy and the power and structural inequalities that prop up dichotomous positions of disadvantage and privilege. Poststructuralist feminism rejects a single narrative of women’s ontological oppression and instead focusses on the category of ‘women’, as being complex, multiple and fractured (Thomas & Davies, 2005). This fits well with the intercategorical intersectional lens, which emphasises not an outright rejection of social categories but instead attempts to understand the active gender, ethnic and class processes at play in shaping the nature of social categories and how they are understood in a given context (McCall, 2005).

Identifying or selecting the social categories (and the desirability of doing this) is a key challenge within intersectional research (Davis, 2008). Gender, ethnicity and class were selected as our understanding of the impact of these social categorisations in the gig economy is under-researched. The research focussed on exploring the multiple discourses that shaped career management behaviours of female HR managers’ decisions to enter gig work in the form of freelance or independent contract work. Issues of gender, ethnicity and class and wider intersectional understandings are often overlooked in the relatively small body of research that has explored careers in the HR profession. The HR profession is a highly feminised environment and as such makes research into gendered practices in career management in the
gig economy fertile ground. HR managers are also often responsible for the implementation of workforce planning, career and talent management in organisations, so are a key stakeholder in the gig economy at the meso and micro level.

A mixed ethnic sample of British women was applied (Showunmi, Atewologun & Bebbington, 2015). This included Black African (7), Black Caribbean (7) and White (11) women. The fluidity inherent in poststructuralist feminism and intercategorial intersectionality also allowed space for other social categories such as nationality, sexuality and age to present at the fluid boundaries of the selected social categories. White women from the traditional middle class were included in the sample. Including participants with power in intersectional studies helps to illuminate how the systems of power and privilege are maintained and avoids the assumption that marginalised positions always mean disadvantage (McBride et al., 2017, p. 338).

Semi-structured interviews were conducted and lasted between one hour and two and half hours. A topic guide and open-ended questioning approach was adopted to encourage participants to talk at length in relation to their career management experiences in the gig economy, in order for authentic discourses and discursive practice to emerge. After the interviews ended, they were transcribed by the researcher as soon as possible. The transcription process in essence started the analysis phase of the research, as through listening, re-listening and writing down the ‘talk’ of the participants, the role of discourses could start to be understood.

Grounded in the thinking of Foucault discourses were understood to be ‘…practices that systematically form the objective of what they speak’ (Foucault, 1972, p. 49) and are a form of social and ideological practice (Baxter, 2003, p. 7). It was possible to locate discourse in the participants talk through identifying words, phrases and terms used repeatedly; which themes, issues and preoccupations were common to all transcripts; what were the contradictions, oppositions and competing viewpoints in the discursive practice (Baxter, 2003, p. 138). From here common and competing discourses were identified that shaped action and perspectives in relation to the gig economy and career management. Exploring the role of hegemonic and competing discourses and discursive practices from an intersectional perspective of gender, ethnicity and class also means that the simple dualism of the dominant discourse belonging to the oppressors and oppositional discourses belong to the oppressed, is avoided and thus provides a non-deficit approach to understanding gendered and multiple intersectional localities in the gig economy.

**Discourses Shaping Career Management Decisions ‘To Gig’ in the HR Profession Through the Poststructuralist and Intersectional Lens**

The following discursive practices of the participants are grouped around three key themes that shaped the HR managers’ decision to gig or not from multiple and complex intersectional localities. ‘Stepping off’ permanent work and into independent contract work; ‘stepping in’ actual experiences the participants had
in independent contract or freelance work; and ‘stepping on’ the broad perspective the participants had towards people engaged in freelance and independent contract work that were common and reoccurring across the participants talk. The following analysis reveals the complex ways in which dominant career, professional and gender, ethicised and classed discourses shaped their career management experiences and behaviours in relation to these themes and how the use of discourses position speakers as powerful, powerless or a combination of both in relation to the decision to gig.

**Stepping Off**

A common discursive practice amongst the participants in relation to the choice to enter freelance gig work was the capacity to ‘step off’. Stepping off represented the precarious process for some of the women in relation to leaving permanent employment. Stepping off was discursively constructed in complex ways from the different intersectional subject localities, and the talk of the participants were shaped by multiple professional, gendered, ethnised and classed discourses. The demanding nature of the HR generalist and business partner role, coupled with being a middle manager with pressure for managing upwards and downwards, impacted the participants wellbeing and commitment and led to discursive practices of needing time out. This was often expressed in terms of becoming an independent contract or freelancer in softer areas of HR practice such, as learning and development (L and D) or Organisational Development (OD). As illustrated in the following quote from the HR professional discourses of commerciality sits uncomfortably with the speaker,

> I want to try and do my coaching qualification and see if I can make it as a consultant. I want to try and make a positive difference to people’s lives. That is why I joined HR in the first place. I’m a bit fed up with all the case work. It endless. I’m not sure anyone really benefits from it in end.

From the intersectional locality of white, traditional working class, the pressure of the role creates conditions for discursively constructing freelancing, as more desirable. Middle class white women more commonly discussed opting out in positive discursive times. As needing time out to focus on more positive aspects of HR work and in a less available way to the business,

> I like the idea of freelancing. I think it would mean I have more time at home. This current role I’ve got means I’m logging back in evenings and weekend. If you’re a contractor I don’t think there would be the pressure to.

For others stepping off and opting out is replaced with ‘sitting it out’ and uncertainty. From the intersectional locality of British Black African and new affluent worker, discourses of sitting it out emerge.
Sometimes you have to pick your battles. We’re going through another restructuring. I’m tired of it. I know it won’t be handled well [...] But I’ll sit it out. Like the last one.

The participant goes on to say ‘… as least I know what you to expect here’. The researcher ask if they would consider contract or freelance work as an alternative and they reply:

I think to make the best money you’d need to be going to private sector for that. I’ve got friends working there who says it’s no better. Plus you’d need to know your face fits.

In the context of stepping off, even though they were experiencing pressure in their current environment there was a discursive tendency amongst the Black African and Caribbean participants from new affluent worker status to imply discrimination could be happening elsewhere, and this restricts discursive commitment to moving into contract roles. This was even the case when they perceived they were being discriminated against in their permanent role. This perceived disadvantaged position was offset with discursive practices about the importance of permanent and full-time work that had been embedded in them from their family relations. The experiences of their grandparents and parents discursively constructed the importance of gaining professional status and permanent full-time work:

My mum has always worked two jobs. I was always going to work and I knew I wanted to be a success. She worked hard so we could have the opportunities we’ve got now in our careers and I don’t want to give that up.

The most important thing in my family was for all of us kids to own our own homes. When my grandparents came here they always worked two or three jobs. All they wanted was for us (...) was for us to all own our own houses and have good jobs.

Permanent work and linear progression into the higher positions were expressed discursively and repeatedly in the context of what their families had done and sacrificed for them. Highlighting again the important role that external social relations can play in the career management experiences of women. Participants from non-traditional middle-class backgrounds could discursively construct and draw on wider historical and culturally specific discourses that meant their experiences of managing their working lives and family were constructed more positively. Their decision to work in permanent full-time work was shaped by this drive to work and not wanting to lose the professional status achieved through hard work and qualifications. Whilst there was a financial necessity or imperative to be in full-time and permanent roles time, they also gained satisfaction from working and developing their careers in a professional environment in the context of their social relations outside of work.
Stepping In

Whist all the participants were in permanent full-time positions at the time of the interviews, a number of participants had been independent consultants or freelancers at various stages of their careers. This is often constructed in terms of having stepped into the domain but always with the intention of stepping back. Limitations in relation to the development opportunities afforded by contract work were presented as one of the issues in relation to staying in this type of work. From shifting intersectional localities, socio-economic realities played a significant part in wanting to get back into a permanent role. From a white and traditional work class background, one participant discursively constructed contracting as being for ‘the privileged few’:

I took some temp contracts when I was made redundant. To be honest. I don’t think it’s really for me. The work wasn’t that interesting and the two contracts I did meant coming in at the end of processes so I couldn’t really make a positive impact …. The interesting contracts go elsewhere. To a select few. [Silence]

The silence at the end of the quotation indicates the closing down of alternative discourses and reveals the depth of the structural inequalities in relation to groups that can access the most privileged roles in the traditional labour market and gig economy. Socio-economic issues also played out in the context needing to drive their own training and development and without it opportunities for contracting could start to dry up. This was again discursively discussed in the context of good and bad gig-type contracts.

The thing with the temp market at the minute is, yes you can make quite good money. Particularly if you have a lot of experience in something like TUPE (Transfer of Undertakings (Protection of employment) Regulations) or redundancy but who wants to do that day in day out. It’s hard. In my last place I contracted I did a business analysis training course. I had to pay for it myself but if you want to get the better roles, something that you could say is more strategic’ [.] its what you have to do.

The need for training and investment in human capital was sometimes constructed cynically in the context that there was a recognition that contract working was part of a networking game.

Look at the end of the day. You have to want to be in it. Put yourself out there to get the best work and contracts. It means actively networking. Most of the time. That aspects of it can be very time consuming. I’m not sure the best people are always getting this work.

Through the intersectional lens, there was also the discursive need of ‘looking the part’ and this was an important part of both successful contract assignments
and securing them. From a Black African and middle class background, they found the pressure to be assimilating to an ideal worker problematic:

You have to be very, very professional. All the time. This means showing up first. Being available. And looking like you mean business. When I was contracting I always dressed immaculately. It’s about impression management. You don’t want people judging. [Silence]

Their silence inferred the need to work harder at assimilation for women from diverse ethnic background. Issues of assimilation also led to experiences of contracting, as being discursively constructed, as ‘lonely’ or ‘feeling on the outside’. The precarity in feel like being out on a limb was discursively constructed in a similar way to the glass cliff by the women from multiple intersectional localities.

At the end of the day you are brought in to do a job. If you don’t or can’t to it. You’re gone. Usually you are there in the first place with contracting because something has gone wrong or not managed right.

The multiple discursive patterns in relation to stepping in demonstrate the way gender, class and ethnised discourses intertwine and predominate at different times. A common theme for the women who had experienced contracting work was that it hadn’t lived up to their expectations and demonstrates the persuasiveness of the positivistic discourses that surround independent contract work and women being able to balance their competing worlds effectively, which doesn’t always match reality.

Stepping On

The final theme in the discursive practice in the talk of the participants relates to how they constructed the image of the HR contractor and how this shaped their career management choices in relation to deciding to gig. There was a largely consistent discursive presentation of the HR independent contractor, in the gendered, ethicised and classed ideal worker mode. Participants identified HR contractors, as being part of a ‘boys club’ and it’s ‘not what you know but who you know’. The following quote from Black African and middle class intersectional locality supports these connotations:

[…] the consultants round here just what in and out …. I think they get paid upwards of £500 a day. And for what. Essentially they want all our ideas … and yet we’re told … we lack gravitas to manage the strategic issues …. Just because we might not shout about and use all the fancy language. We have a much better idea of what is going on here then they do.
Gendered, ethnised and classist undertones for the permeant HR workface being able to cope with the strategic demands of the role become evident. The perception of the contractors ‘stepping on’ the work of permanent employees was also evident. Participants discussed contractors ‘taking all the ideas’ and ‘all the glory’. There was discursive tendency to discuss the amount they got paid for freelance work, as an exclusory function: ‘I dread to think what they get paid’. In this sense, the discursive space is created of an exclusive club based on white, middle class and gendered norms of the ideal worker.

Professional HR discourses shaped the discursive practices of the women, as they discussed HR contract work. Often intertwined with how much money they were paid was the notion that they were also low on ethics for taking the money: ‘They are just in it for the money, and that doesn’t sit too comfortably with me’. Discursive practices drew in ethical and welfare discourses that were at the foundation of their professional values and also presented as why they had wanted a career in HR. In this sense, the values driven discourse of the dominant career management models were evident. These were discursively presented around a gendered notions that ‘being nice’ wasn’t strategic. ‘I know you’re not meant to say it but the things I love most about working in HR are seeing people develop. I’m just not sure you going to get that if you always just in and out of organisations’. Through the intersectional lens, participants also constructed giving back as an important career discourse.

People look up to me in my community. My friend’s kids come to me with the CV’s and it’s great knowing I can help. You see the trends in business and jobs and you can advise people. I am always doing it with my kids. I wouldn’t give this aspect of my job up.

The wider interaction of their permanent roles with their home life was seen as integral. Social relations and experiences of friends and family outside of work shaped wider discursive practices of their decisions to gig or not. Intertwined with these discourses were evidence of structural inequalities in the labour market and barriers to permanent and non-permanent roles. ‘I’ve seen it with friends and how hard it is to get a permanent job. I feel lucky to have this role’. There was also an awareness of what breaks or gaps on their CVs could look like and the dominance of the linear career discourse.

I’ve had 3 breaks for maternity. I didn’t come back to work for 3 years after by my second baby. I’m not sure what any more gaps would like. That’s the risk with contracting.

Although alternative discursive practices revealed what they felt were changes in attitudes towards non-linear and interrupted progress.

I think attitudes to CVs are changing. I had loads of jobs at the start of my career and temped in some pretty dreadful places.
But ultimately it’s about what you can do now. As long as you are delivering now. That’s what counts.

The findings demonstrate that precarity exists within and outside of contract-based gig work but localities of the career privilege can be gained from positions of assumed multiple disadvantage. In addition, the findings also reveal the importance placed on permanent roles from varying positions of agency and restricted control.

**Discussion and Conclusions**

This chapter has revealed the complex discursive practices associated with ‘stepping off, in and on’ the gig economy through the intersectional lens. The frayed career concept is evident in much of the discursive practice of the women, as relational discourses associated with their families and wider communities connect with decisions to gig. Career management experiences are not experienced in a patchwork fashion but are shaped by work and life experiences as a whole. The experiences of parents and grandparents shape discursive practices in relation to wanting to stay in full-time and permanent work and shows that belonging to a ‘disadvantaged’ group sometimes translates into new motivations and opportunities (Sang et al., 2013).

The mainstream literature on female career management emphasises the discourse of opting out, as a choice for women or a ‘natural’ part of the cycle of female careers (Mainiero & Sullivan, 2008). The intersectional lens in this research demonstrates the complex ways in which ‘choice’ is constructed. The discourse of professional status is associated with its historical context of enhanced individual and social wellbeing (Muzio & Tomlinson, 2012), and many of the participants through the intersectional lens identified professional status as a key driver to wanting to stay in full-time and permanent work. The participants’ expectations for presentation and behaviour were often framed around a middle class, white and masculinised ideal, which was discursively created in taken for granted ways. The use of needing to be ‘very professional’ to assimilate quickly within contract roles, supports other research which has demonstrated an absence of naming whiteness ‘is a signal of its presence’ (Showunmi et al., 2015). All the women who experienced contract gig work felt the need for conformity to the expected standards of professional demeanour and appearance. There was also an impression that the best contract roles were only available to a select few or via a ‘boys club’. The pressure for networking and maintaining professional relations in this environment impacted many of the women’s decisions to stay in freelance work and supports previous research findings of the negative impact on women’s careers from independent contracting (Duffy & Pruchniewska, 2017).

The gender, ethnised and classed discursive presentation of the HR contractor also creates issues in relation to role models and mentors within the wider career management experiences of women in the HR profession. The intersectional lens reveals how good HR contract roles are discursively constructed as only accessible to a privileged few and acts as a barrier mechanism. Highlighting these
Intersectional understandings of the career management experiences in the gig economy could support the creation of more credible and realistic role models by exposing perceptions of ‘ideal workers’ in these roles. Frayed career experiences should also enter discursive practices to avoid exuberating this two-tiered HR contracting model within the profession.

The focus of this chapter has been on independent contract-based work in the gig economy, which is said to be burgeoning. With a specific focus on the feminised profession of HR, an in-depth examination of the complex and competing discourses shaping decisions to gig through the intercategorical lens of gender, ethnicity and class was conducted. From the findings, it can be deduced that the concept of frayed careers can account more effectively for the career management behaviours and choices, as the women reconcile discourses associated with social relations, family commitments, professional and career values and gendered, ethnised and classed discourses in their decisions to gig. The use of feminist discourse analysis allowed for an examination of the granularity in experiences of gig work and to expose the structural inequalities that create conditions for controlling choice and agency in the gig economy. The intersectional frame also allowed for alternative discourses to emerge that challenge hegemonic discourses and create competing discursive space in the gig economy to understand female career management decisions in more nuanced and non-deficit ways.

The research sought to explore differences and commonalities between women from different ethnicities and socio-economic groups to avoid binary categorisations which denies individual differences within groups. A key challenge within intersectional research is the selection of intersecting categories to analyse. Gender, ethnicity and class were selected as key sites of discrimination in the labour market but more research is required in relation to gender and other cross-cutting social identities in the gig economy to fully understand the granularity of experiences. Due to the heterogeneity of the gig economy and global reach, intersectional studies are required in each sector of the gig economy to ensure that policy responses account for the multiplicity of experiences and are not based on easy assumptions (Hunt and Samman, 2019).

The research has also demonstrated the importance of professional level studies in the gig economy, which is still under researched. This would support professional bodies in updating and developing career management advice and continuing professional development that keeps pace with contemporary labour markets and conditions. These findings also support a wider reframing of discourses in career management that focus less on cumulative and linear concepts of employability and choice. Exposing more voices in the heterogeneous nature of gig work creates more alternative discourses and will start to shift accepted attitudes towards career behaviours. In this context, career management guidance and advice in contemporary labour markets should be characterised by more frayed concepts and less value judgements on the nature of atypical working patterns and periods inside and out of the gig economy. Given the findings in this research and the discursive talk of the HR participants and the small incremental changes they are seeing in relation to attitudes towards non-linear careers, it
seems that change is possible in this area. In addition, the emphasis in their talk of more ethical and supportive career practices and behaviours that motivates them in their careers should be harnessed and applied to making the experience of career management within and outside the profession and organisations more beneficial.

References


Chapter 10

Conflict and Shifting Boundaries in the Gig Economy: Status Quo, Renewal or Decline?

Elaine Yerby and Rebecca Page-Tickell

Introduction

At the end of 2019, as the conclusions for this book were being explored, Uber was stripped of its London licence by the Transport for London (TfL). Uber had previously been declined a new licence in September 2017 over concerns relating to the quality of background checks for drivers. In 2019, the licence was declined again, as TfL identified as many as 14,000 rides were taken with drivers who had faked their identity on Uber’s app. Whilst Uber were permitted to appeal the decision and continue operating during this time, the decision came as a significant blow to the company. London represents Uber’s biggest European market and their share value was impacted immediately after the decision (BBC News, 2019). At the same time Uber’s global rivals, such as the Indian ride sharing app Ola were being granted London licences, the company expressed feeling singled out. Dara Khosrowshahi, Uber’s Chief Executive tweeted: “We understand we’re held to a high bar, as we should be. But this TfL decision is just wrong. Over the last two years we have fundamentally changed how we operate in London” (Khosrowshahi, 2019). Others groups were less sympathetic to Uber’s plight. The General Secretary of the Licensed Taxi Drivers Association indicated this was the right decision for public safety and transparency in the industry. The IWGB union responded to the news by saying that the drivers, already operating under precarious conditions would be impacted most by this decision. The union also indicated that Uber’s plan for introducing facial recognition technology to address this problem was disproportionate and potentially discriminatory (The Guardian, 2019).

This licencing decision and subsequent fall out encapsulates a key theme of the book, which is how activities at the macro, meso and micro level transverse and influence experiences for key stakeholders in the gig economy. The licence decision demonstrates the interplay of key actors, governmental and organisational policy and a range of institutional constraints that frame the experiences of conflict and shifting boundaries in the gig economy. The introduction of Ola to the UK ride sharing market reveals the non-static nature of the gig marketplace and
how power can shift. As established platform companies seek to compete through enhanced AI and digitalisation, this is being met with resistance from people and their representatives. In this final chapter the key interdisciplinary conclusions are drawn to identify the key trends, threats and opportunities in relation to debates on the future of work and for key stakeholders in the amorphous gig economy. As identified in the opening chapter of this volume these conclusions are drawn in somewhat tentative ways due to the still shifting and non-fixed foundations of the gig economy. Policy debates are contributed to but so too are a range of future research questions to support the ongoing development of theory and practice in the gig economy.

For policy debates the importance of defining the boundaries of the gig economy grows, particularly as it matures, in terms of an economic and organisational reality and linguistic turn. Academic enquiry into the gig economy is at a relatively nascent stage and as such definitions are still emerging and forming. Duggan, Sherman, Carbery, and McDonnell (2019) identify the utility of a narrower definition of the gig economy that includes work conducted through apps or platforms and is controlled algorithmically. The approach adopted here differs and took a more encompassing view of the gig economy to include app or platform-based work but also non-permanent and fixed hours of work and people doing individual, separately paid pieces of work. This definition addresses the aims of the research and also supports the definitional approach taken by key stakeholders in the management of people, such as the Chartered Institute of Personnel and Development (CIPD) and Trades Union Congress (TUC).

We contend that whilst it is still of ongoing significance to operationalise the gig economy in definitional terms, so to measure both its size and impact, what is of equal importance in definitional debates is there is scope for both broad definitions, encompassing diverse forms or contingent work and more narrow definitions that focus purely on platform and app enabled work. Not least as the trade-offs that are inherent in all forms of ‘gigging’ are still unevenly distributed (Dachs, 2018) and effective policy and practice recommendations require a broader evidence based, if everyone is to compete equally in this new landscape (Graham et al., 2017).

### Status Quo, Renewal or Decline?

The following discussions of the main themes identified in the book need to be understood within the neoliberal context, which in itself emerged as a dominant issue at each level of analysis and across the disciplines. Neoliberalism is applied and understand in the book as; ‘...a distinctive economic, political and social project that promotes profit-oriented, market-mediated accumulation as the primary axis of societalization’ (Jessop, 2016). This definition by Jessop (2016) emphasises how it reaches into geopolitics through global governance channels and is reproduced and extended into all aspects of life through political state support. This overarching economic and political paradigm has provided a fairly resilient boundary which precludes the consideration of alternative forms of economic organising outside the assumptions of
neoliberalism, as explored in Chapter 3. The gig economy operates with apparent ease within these confines and the shifting boundaries and conflict that we identify through this book relate not to the existence of the gig economy, but rather to its effects.

Neoliberalism has guided policy decisions and impacts at all levels in the gig economy (Cockayne, 2016). The outcome of this can be seen operating from the macro- to micro-levels and also in reverse. The response of trade unions and public policy in relation to the gig economy could be interpreted as a response to neoliberalism, which is then enacted at a meso-level. To illustrate, structures put in place to enable a flexible workforce, which influence the prevalence of flexible working policies bleed into wider forms of atypical working such as gigs. An organisation may then manage its profit margin through a non-permanent flexible workforce that allows a more fluid cost base which, whilst more easily managed against targets for reporting purposes, has externalities of mutuality, trust and engagement at a micro-level. Individual workers then lose the benefits of membership of an organisation and may balance this through ongoing arbitrage of their skills to the highest bidder on a regular and frequent basis (Johnston & Land-Kazkluskas, 2019). The impact of this at a meso-level may be a loss of innovation, loyalty and discretionary effort, reducing the efficiency and effectiveness of the organisation (Barlage, van den Born, & Witteloostuijn, 2019). At a macro-level this may impact productivity and have a knock-on effect on both sectoral and regional competitiveness. As the primary political philosophy of Western democracies neoliberalism also provides a restraining factor at a micro-level (Zwick, 2018). The role of neoliberal discourse and hermeneutics in shaping career choice and behaviours within the gig economy and masking structural inequalities were evident in Chapters 8 and 9 of this volume.

The theme of status quo emerges from this landscape, as dominant neoliberal discourses of flexibility and choice, for organisations, individuals and consumers, curtail change. Chapter 2 of this volume exposed the missed opportunity in The Taylor Review of Modern Working Practices (2017) to provide employment protections to a wider group of individuals engaged in gig work. There seems to be considerable reluctance to want to provide the minimum floor of employment rights within the gig economy. For example, the review suggests those gaining work through platforms should continue to enjoy flexibility, but also earn the national minimum wage (NMW) but with the caveat that people cannot expect to login at any time, including times when they know there is little work available, and expect to receive the minimum wage. Appearing to give and then take with one hand. Other institutions connected to the gig economy, including professional bodies, only exert luke-warm pressure in relation to changing the conditions for gig workers from previous generations of casual workers. The dominant discourse of flexibility both for the individual and organisations within a wider neoliberal regime of hyperindividualism (Fleming, 2017) creates the conditions for status quo in this area. There are signs this could change due to the significant growth in the number of working-age adults who had worked for an online platform, with the number of people working once a week a via
platform more than doubling, from 2.3 million three years ago, to 4.7 million by 2019 (*The Guardian*, 2019). This could create pressure to move away from the current legal status definitions. In addition, whilst there is no appetite locally because of the neoliberal agenda and a UK government distracted by Brexit, trade unions are organising globally to push both for a unified status approach and global universal wage, as was explored in Chapter 4. The recent AB5 legislation that is likely to see California to become the first state in the USA to provide enhanced employment protection for gig workers (*Irwin, 2019*) could also start to influence change in the UK.

The theme of status quo is also counter balanced with the theme of renewal, which ran through the chapters and creates conflict in new ways between the traditional interfaces of organisations, users, services providers and customers. Localities of renewal were identified for trade unions and opportunities for mobilisation. Renewal is also associated with innovation and opportunities for enhanced agency amongst worker organisations and individuals involved in the gig economy. Chapter 6 revealed how the use of human rights legislation could support embedding employee voice and whistleblowing protections in the gig economy and affording giggers renewed rights.

Against this theme is one of decline and sense of loss of agency from positions of traditional authority, such as the medical profession. Will this mean fairer distribution of power and resources or less? It seems unlikely given the emphasis in the surplus value still being poured into platform-based companies. We also see the neoliberal agenda at play in relation to declining authority as this quote from Chapter 7 highlights:

> The individualist nature of gig working would interact with the unfolding of the ‘choice’ agenda within healthcare policy. It would result in competition among physicians and reduction of remuneration to market mechanisms, in contrast to the current remuneration levels that are influenced by the traditionally held authority that the medical profession wield in society.

A point of contention explored in the book is how the neoliberal argument can account for the global nature of the gig economy. The majority of gig organisations, as identified in Chapter 8 are headquartered not only in the USA but specifically in San Francisco. The influence of these organisations and the culture from which they emerge is considerable on the gig economy and through that, potentially on those economies in which they act. However, the response of the economies will vary by many factors, but perhaps particularly by the resources and development status of that economy. At a micro-level it allows talented individuals to remain in their geographical location but enter the global job market creating new variations in the local socio-economic patterns. This introduces new routes to individual income which disrupts expected patterns with the potential to renew conflict within local social systems (*Graham et al., 2017*). At meso-level, as Chapter 4 discussed, it also enforces norms of management that emerge from
the culture of the USA and applied without variation or nuance to all global locations. Finally, as Chapter 2 indicates, there is a lack of flow of value to the geographical locality in the form of remittances, denuding those economies of the means of developing social support processes.

**Dynamic Structural Model of the Gig Economy: Interventions, Recommendations and Future Research**

At the outset of the book we identified the Dynamic Structural Model of the gig economy to reflect the primary elements of the gig economy and to highlight the dynamic relationships between each element. The following discussion considers each element discretely and how the elements interact together. The specific patterns of interaction between the elements and the outcomes of this are likely to be useful topics for further research. The drivers of agency, voice and identity are also explored as key themes in the book that mediate experience of peak precarity and also flexibility and lifestyle freedoms. The following also assesses the utility in the model as offering the potential for interventions to enhance conditions and experiences within the gig economy.
Trust

The impact of the mediator of voice on trust was demonstrated at the macro-level from the perspective of the trade unions working with specific groups of giggers to build trust between giggers and the organisation. In two organisations this resulted in recognition for the trade union and a shared predictable adaptation of the contract for giggers. The trust that was built up allowed an increase in agency for the giggers through the enhanced predictability of their working patterns, as well as the protection of the backing of the union.

Trust was also a central theme in discussions of whistleblowing in the gig economy. The findings from this analysis suggest that trust could be improved between giggers and organisations, if alternative mechanisms for them to voice concerns could be identified. Given issues of their employment status and protection within the law, informal intermediate processes could be established to allow the voicing of concerns. This could be potentially to a designated person within the organisation with whom a concern can be discussed informally, rather than initiating a formal internal whistleblowing process. This supports the recommendations in The Francis Report (2013) for a designated speak up champion amongst NHS workers. A similar designated person or channel to support giggers speaking up could be an organisational level development to build trust.

Incentive to build trust (mutuality) into the gig economy is clear. Guest, Oakley, Clinton, and Budjanovcanin (2006) note how atypical working can enhance trust as it allows workers in more emotionally demanding roles, such as the health service, to balance their working hours to protect themselves from burnout and adopt a more balanced approach to work and life, compared to full-time employees. This focus on quality of provision is one way in which trust could be enhanced between giggers, organisation and service users/clients but raises more significant debates about the nature of job quality deterioration in the traditional labour market. Mutuality, as explored in each chapter is a central focus of research into the gig economy with a focus on the impact of algorithmic management. As mutuality is such a core element of trust, bi-directionally, it will be of value to investigate this further to appreciate the boundaries of mutuality and the long-term impact of lack of mutuality on the relationship between gigger, organisation and customer as well as the long-term self-identity and life-work issues. Management by algorithm and also management via a playbook both infer a lack of trust in the worker. The long-term implications of this for identity and self-evaluation are unclear. Given the growth of the gig economy this could be a rich source of research.

Reward

Evidence of value (and power) being retained by the gigging organisation was explored in Chapter 3. Consideration of the macro-level flows of value identified that value is not flowing effectively to neither the worker nor the domestic economy where that worker resides. Economies are therefore in danger of being denuded of value and wider rewards which could be fed into the social system.
This conflict around value flows is likely to be significant for the further progress of the gig economy and is an issue of particular interest to trade unions, as discussed in Chapter 4. At the micro level Chapter 9 demonstrated the unpredictable and unbalanced nature of reward and pay in the gig economy. In the same chapter discourses of perceived reward from flexibility are also challenged, particularly through the intersectional lens. Beyond just pay the gig economy appears to offer untold rewards in relation to flexibility and lifestyle freedoms. The analysis in this book reveals a more complicated picture that needs to be balanced against the notion that precarity and flexibility will always be experienced simultaneously and in varying degrees, depending on issues of agency, voice and identity. Each of these mediators are shown to be impacted by existing structural inequalities that we see in the traditional labour market and continue to act to provide opportunities for some, whilst disadvantaged groups continue to experience discrimination in relation to access to the best ‘gigs’. The way in which power is retained in the hands of platform companies and the misbeliefs that are created in relation to gig work, particularly when this is experienced in the wider neoliberalist and post-feminist discursive paradigms of free choice and meritocracy, can mask experiences of frustrations and discrimination in the gig economy. The implications for these findings emphasise the need for continued research into the diverse experiences of gig work, in all forms of contingent work, to challenge existing hegemonic discourses and to provide more balanced and realistic portrayals of gig work.

**Collective**

The chapter on trade union unions has focussed on ways of engaging collectively to influence the working of the gig economy. One of the primary findings of this chapter has been around the importance of collective engagement for workers who are precarious and exposed to a lack of connectivity in particular. This has taken the form of both education and advocacy. In addition, workers have been organising amongst themselves to provide a collective voice to seek to address the power imbalance. The latter point is evident in a number of ways. For example Wood, Graham, Lehdonvirta, and Hjorth (2018) have noted that gig workers in sub-Saharan Africa moderate their earning opportunity, potentially to allow others to engage more closely with the platform. This provides a rich stream of new research to understand the group dynamics on gig platforms, which could enable some distribution of value. Specifically the following research questions are prompted; To what extent are workers/service providers choosing to temporarily disengage and if so why? How do gig economy workers engage with a peer group to manage work-life balance. How do workers/service providers engage in altruism/community spirit?

Addressing research questions related to bringing individual gig workers together is also likely to have organisational benefits. Tarafdaer, Cooper, and Stich (2019) comment on the impact of working online and it connectedness to ‘technostress’ but – also how it can cultivate innovation through its consistent connectivity to others. Organisations looking to capitalise on gig work should explore ways of ensuring collective experiences are emphasised through the online experience.
Place

The impact of geographically independent working is considerable, as explored through the chapters of the book. The distanciation of time as well as space is a significant element of the gig economy. Frequently proposed as providing flexibility so that giggers can fit work around their life, the reality is often different. Wood et al. (2018) identified outcomes such as social isolation, low pay, longer hours and unsocial hours, as well as sleep deprivation as potential outcomes of geographically independent gigs. They go on to note how algorithmic management exacerbates these effects. Certainly, the text analysis in Chapter 8 identified that gigging organisations carefully construct their communications differently for giggers and customers. One of their primary messages to giggers focuses on control of time through flexibility. This is somewhat at odds with research findings. Gilboa, Shirom, Fried, and Cooper (2008) identified work-life conflict and situational stressors as having a significant impact on performance. This meta-analysis was conducted in employment conditions and further research could usefully be conducted to understand the impact of gigs on both stress and individual levels of performance. We have found that provision of a place to work is also one of the barriers of entry to working that is a feature of gig working in contrast to employment. This may be for Uber drivers, the purchase of a car or for freelance lawyers the purchase of professional indemnity and access to a library such as lexis nexis. Keefer, Stewart, Palitsky, and Sullivan (2019) propose that the impact of time-space distanciation is a relevant and useful topic for research as it has an impact on societies and in particular where there is a lack of congruence between the individual and broader social understanding of time and space.

Tenure

The primary focus of tenure has been on the length of the gig offered by organisations. However, a characteristic of the gig economy is the perceived freedom of giggers to move at will. Building on the research findings presented in Chapter 9 more research, in a wider range of professions and sectors, exploring the drivers for changing gigs is likely to be of value in building a model of two-way tenure outcomes that supports explanations around gigger led turnover. The acquisition of the place (space and time) and tools to work are an innovation of the gig economy redolent of semi-skilled spot work by labourers in the past. Giggers have the responsibility of finding a space, time and tools to work before they are able to take on a task relative to the rewards, this seems to be particularly out of balance for workers who must provide an internet connection and at least a smart phone before taking on micro-tasks, which are frequently paid in pennies and have a tenure measured in hours. Chapter 8 considered the communication to these giggers in which certainty of work, number of projects and control of career was a primary element. The inference being invited was that the giggers could be assured of ongoing engagement in gigs, that is, an apparently long tenure, despite multiple organisations engaging the giggers. Chapter 5 unpacks this in the context of talent management, considering the paradox of the necessity
for an organisation to develop its workers to enhance and refine performance levels, whilst workers are not permanent. The impact of this on lower skilled giggers is that they may be trapped at a low level of skill and for higher skilled giggers that they must repeat the same routine with no development to more interesting and responsible tasks. Tenure is addressed most closely at a macro-level where Chapter 2 finds the impact of status and the permanency of work to be of particular importance.

The drivers that ameliorate the potential for precarity would benefit from further research here. Voice is a topic of enduring concern to the trade unions and Chapter 4 identified much of the work they are doing to raise the awareness of giggers of the reality of their situation. For example, through working with medical couriers to engage their voice the Independent workers of Great Britain (IWGB) union gained secure hourly pay, 12.5% increased pay for night work and also payments to cover the cost of equipment. This arguably involved also engaging the identity of giggers as well as providing practical paths such as striking in a formal manner, communicated via the union and ‘staying united and campaigning together’ (IWGB, 2019). This additionally demonstrates the interaction in the model between the collective element and the development of agency for these medical courier gig workers.

Our analysis reveals that organisations could usefully consider ways to enhance agency and voice for their giggers. At the meso-level management strategies should encourage the voicing of worker concerns, perhaps through intermediate processes to reflect all working arrangements. This engagement with gigger voice is built on a clear identity of being in some ways a responsible member of the organisation and whilst still gigging. This suggests not least a locus of identity around their status but also reaffirms their fundamental human rights.

Future of Work Debates and the Gig Economy

The following discussions set out how some of the key questions posed at the start of the book have been addressed. These include are legal changes required and or likely to be forthcoming to protect individuals against the precarious nature of the gig economy? Can trade unions have a valid and valuable role in this economy and has organisational and individual decision-making in relation to the management of people and careers fundamentally changed, as a consequence of the growth of the gig economy? These are addressed within the wider policy domain of the future of work. The gig economy is tied into debates about the future of work and if current economic systems can create global equitable work systems. Future of work debates centre on the conflicting picture in relation to what impact enhanced digitalisation, automation, artificial intelligence (AI) and robotics will have on job quality, skills and wages. This book seeks to contribute to policy debates on the future of work that are contextualised within this interdisciplinary and multilevel understanding of the gig economy.

The subsequent debates should also be contextualised against our contention in the book that the time–space distanciation and the denudation of interpersonal
and social elements of the workplace evident in the gig economy has started to create a qualitatively different form of casual labour to previous generations. This continuation and extreme form of the atomisation of the workplace which, with the lack of collectively that can be experienced in the gig economy as an isolating effect, heightens the impact of precarious work. It also can be seen to have a limiting effect on the entrepreneurial elements, as freelancers may have difficulty in contextualising their opportunities due to the lack of information provided through the platform and agencies, apart from specific individual opportunities. However, there is a difference between those platforms that have disrupted and created more modern versions of traditional industries such as Uber’s impact on taxi services. There are additionally a number of platforms that feed into either other gig platforms or industries that are very new to themselves and related very specifically to recent advances in technology. For example, a number of gig organisations such as Freelancer.com and Freeeup who supply giggers to work in Amazon web services. This is in their list of most popular experts. This suggests a self-feeding, potentially even incestuous bubble which raises underlying questions about longevity and thus our ability to accurately predict the role it will play in the future of work.

The Digitalisation and Automation of Work and AI

There are a number of what can be considered overly positive assumptions regarding the benefits that digitalisation and AI can bring to greater equity in the gig economy. In Chapter 9 it was demonstrated that gender pay gaps are already evident in the platform-based work where these are presented as neutral and equal playing grounds. The possibility of building in gender and diversity neutral AI to break down inequality is questionable seeing that such measures have not worked in the traditional labour market. In fact, there is some evidence that the use of AI and algorithmic management in particular, may exacerbate pre-existing biases. Rowcroft and Rubery (2019) suggest that these biases may be written into the coding in a way which cannot be adapted to learning and so over time tends to solidify and exacerbate such biases. Certainly Hanrahan, Ma and Yuan (2017) found in Uber the enabling of both gender and racial biases through the use of digitally mediated management whilst Cook, Diamond and Hall (2019) have identified a clear gender pay gap in apparently neutral ride sharing platforms. In addition, the opportunity costs of focusing on a more digital economy could be considered as a means of developing local skills and trades but in reality what we see is globalisation and homogenisation through the dominance of large platform companies. The structural analysis of the gig economy identified the strong dominance of California and San Francisco on the gig economy and how many gig organisations originate from San Francisco. This raises significant questions around cultural imperialism and given the atomisation of the workforce, also raises the extent to which these organisations are able to enculture to build on local cultures. Certainly, one of the themes that emerged during interviews with trade unionists was around the gigs as a new form of digital colonisation, as demonstrated by the following quote from one of the trade unionists: ‘…companies
that people are providing labour for through platforms are often multi-national very powerful very wealthy companies’. The onward impact of this global commercial presence should be researched further, particularly in light of the conclusions around the lack of flow of value both down towards the individual and up towards the state. In addition, further research into the mechanisms by which the pay gap and other biases are exacerbated could be usefully conducted.

**Forms of Non-Standard Employment in the Gig Economy**

The chapters demonstrate the increasingly fluid boundaries between different forms of non-traditional employment within the gig economy. This has blurred the legal status boundaries of individuals in terms of the rights and responsibilities that come as part of their work and remains a primary issue in discussion for the gig economy. Hence, this topic was privileged as the first chapter in considering macro-issues but status, in a number of guises, is demonstrated at all three levels in this relational analysis. At a micro-level, it impacts the choices and indeed agency of giggers. Where their national insurance is not paid as part of a gig, they lose future benefits in the UK in the form of pension rights. At a macro-level, the status impacts organisational remittances and can lead a nation state to suffer significant losses of remittances to the detriment of all citizens.

Status and a review of all forms of non-standard employment was a central issue in the Taylor Review of Modern Working practices in the UK. Many representations were made to the review to address some of the micro- and macro-issues described above. Suggestions included streamlining the nature of non-traditional employment with a binary distinction: either an employee or self-employed (as is the case for tax law). However, the review rejected this position and felt that worker status was still a valuable intermediate category to covering casual, independent relationships and was happy with the more limited set of employment rights this category afforded. As identified in Chapter 2 the key issue is the problem of employment status tests. The case for clear distinction and amended legislation proposed in The Taylor Review seems to ignore the complicated issues associated with this. The TUC position on the creation of a new worker category to capture agency workers, zero-hour contract workers and casual workers with the full floor of employment rights is advocated instead. This would go some way to resolving status issues and addressing peak precarity.

Status issues also apply within the burgeoning freelancer market where demarcations are occurring between highly skilled freelance project work versus more routine work with some project-based activity, with the former driving innovation and creativity (CRSE, 2019). These issues were identified in the book with access to the best freelancer roles only accessible to a select few and exuberates the notion of good and bad gigs (Wood et al., 2018). This analysis has shone the spotlight on the issue of good gigs and bad gigs at both ends of the high and low skills job market in the gig economy. There has been a resurgence in interest in good jobs and bad jobs in the context of job quality, their deterioration and potential improvements (Adamson & Ropper, 2019) and remains an important area of analysis in both high wage and low wage roles in the gig economy.
Is Gig Work the Alternative to Traditional Employment, Careers and Professions

A key debate surrounding the future of work and the gig economy is the importance and relevance of portfolio careers (Hirschi, 2018). The conclusions drawn here suggest that mindsets in relation to careers and permanent work have not fully transitioned in this way, particularly when viewed through the intersectional lens, as evidenced in Chapter 9. The meso and micro level analyses in the book, which explore how the gig economy impacts the medical profession and careers in the HR profession reveals the importance of traditional professional status and the meanings attached to this. Full professional status is understood in the context of permanent roles and the precarity that comes with freelancing and gig-based roles, diminishes this hard-earned professional status.

The evolutionary psychology chapter lends support to the argument that gig work and freelancing is often over sold or over promised through the use of heuristics. There exists disconnect between the promises of empowerment and flexibility and lived realities of gig workers. This is particularly evident in the freelancer branch of the gig economy which houses many professionals. The significance of this and the wider implications of the development of a body of ‘para-professionals’ that are in essence deregulated in the gig economy, requires consideration by a range of professional bodies and members of the wider profession and society. The contracting out of services traditionally offered by the medical profession to the gig economy has been discussed in this book. Similar processes can be seen operating in other professions, in which individual tasks can be contracted online and para-professionals may be engaged to conduct this work. For example, a legal executive may at times complete the work that was previously undertaken by a solicitor. The distal implications of this for quality, service and health of each profession as a whole are unclear and require further research.

Implications for Key Stakeholders in the Gig Economy

The following discussions reflect on the main findings of the interdisciplinary analysis and the implications for key stakeholders in the gig economy. With a particular emphasis on effective management and protection for gig workers, as the gig economy evolves. Specific emphasis is given to the issues of agency, identity and voice, as already identified as significant mediators in relation to how the gig economy is experienced.

Human Resource Management (HRM)

The analysis has revealed how the role of HRM becomes contested in the gig economy. This is in terms of its relevance and the extent to which HRM can serve a useful purpose in managing and developing giggers and their integration within wider talent frameworks. The themes emerging from the various chapters of this book demonstrate the extent to which giggers are treated
essentially, as parts of a machine for which there is a lack of mutuality. Therefore, constructs such as engagement, psychological contract and development become irrelevant and so the building blocks of mainstream strategic HRM become redundant or less convincing. The findings counter some of the more positivistic messaging around how HRM can and should be responding to the gig economy. Practitioner literature suggests that the blurred lines between customers and those working in the gig economy creates an opportunity for a holistic people management strategy to emerge, whereby performance management and engagement could be measured using similar ‘user’ experience surveys (Deliotte, 2019).

This approach to ‘holistic people management’ in the gig economy is called into question by the analysis in the book that reveals how platform companies have very different strategies for ‘recruiting’ and engaging gig workers compared to customers. Traditional organisations and their attempts to integrate gig workers often reveal, not so much a blurring of lines between permanent and non-permanent staff, but a sharp demarcation, which leads to what could be considered differential treatment. Ambitions for a new holistic approach to talent management strategies in the gig economy that can encompass all types of ‘users’ are also limited, as the need for enhanced talent management strategies go beyond just the gig economy. These limitations also suggest problems with the adoption of what the CIPD (2017) describes as ‘talent portfolio management’ in the gig economy. The provocative argument made in Chapter 5 through the critical HRM lens is that a more likely outcome is that the HR manager is replaced by a supply chain manager who simply ensures a steady stream of giggers, who are task completers to be engaged and rewarded on demand. In addition, given the hyperindividualism evident in the gig economy there is a rush to the bottom line in the provision of training and development and ‘agile talent’ (gig workers) become responsible for sourcing and resourcing their own talent.

There is of course significant risk to the HR profession if it cannot adapt and seek to work in new ways. Online platform companies not only serve to exchange information and goods but also increasingly promote their ability to take responsibility for ‘talent management’ away from individual organisations. As the gig economy evolves and platform companies are shown to adapt; the strategic contribution of internal HRM functions could be further called into question. If platform companies encroach into this space the more transactional and administrative HR functions would become, challenging HR’s professional status and subsequent higher salaries. Interdisciplinary analysis in this volume does provide an alternative route for the HR profession, which would be for them to embrace an approach to the gig economy that is underpinned by human rights (as seen in Chapter 6) and more sustainable approaches to HRM that encompasses career and talent management. In this sense, the gig economy could provide the opportunity for renewal within the HR function. Taking it back to its ethical and welfare routes and strategies for the management of people that account for the needs of wider stakeholders, beyond just shareholders. This position is supported by recent publications and recommendations on the gig economy made by the
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CIPD. They call for the HR professional body to work with other professional associations, trade unions, trade bodies such as Sharing Economy UK (SEUK) and individual organisations to develop better ways of representing the views of gig economy workers, creating robust codes of conduct and collective support packages in areas such as insurance and training and development for gig workers (CIPD, 2017, 2018). Translating these goals into practice will be a key issue for the profession, if it is to support more ethical and sustainable practices and outcomes for all stakeholders.

**Trade Unions**

The role of trade unions in the gig economy has been considered at the macro-level with their engagement with the gig economy interrogated in Chapter 4. This analysis has revealed the gig economy provides a central and perhaps even existential challenge for trade unions. The construct of trade unions as standard bearers of social justice remains a core part of their identity and activity. However, due in part to the status of giggers as non-employees, trade unions have been less proactive in their engagement with the gig economy until recently. They can now point to some victories, with a focus of attention on issues around status and recognition. Given the international nature and dominant size of a number of the gigging companies the international nature of trade union affiliations becomes a significant advantage. Through international support mechanisms they have been able to share resources and learning to support a drive for justice (Upchurch & Graham, 2018).

However, there has been a differential pace of engagement across trade union bodies which has limited the momentum of support for giggers and, indeed, in interviews trade unionists were clear about the level of resistance that remains around engaging with the gig economy. This is exacerbated by a difficulty in reaching giggers as well as new forms of organising such as Nuit Debout in France in which the trade unions follow the lead of others. In addition, some new trade unions have formed with different methods, in particular the IWGB trade union which uses the full range of approaches and is highly active in engaging, educating and advocating for giggers.

Thus, the value and potency of trade unions remains, particularly at an international level where they can have a significant impact through international organising. However, their focus on recognition at a local level may deflect from the broader struggle with which they are now engaging. Indeed, during interviews there was a clear split between those unionists focussing on the current pressing issues of justice for individual giggers and those engaged with a more strategic and long-term approach to influencing the context. These disparate elements could work together effectively to advocate for giggers at micro-, meso- and macro-levels, indeed, coordinating efforts may be considered a primary task for the trade union movement.

There are a number of specific areas for further research to promulgate the response of trade unions towards this new and potentially persistent form of spot work. Power as a construct for advocacy and support for gig workers
is particularly under-researched in relation to the trade unions (Juravich, 2018). This is an important area to address given the range of organisations seeking to engage with giggers. In particular, research could usefully be conducted into relationships between established players such as trade unions and newer forms of organising and how these social movements develop. Also, research into the forms of power that each of these bodies use and to what effect are a significant area for research. Social movement theory and social network theory provided an insightful framework for understanding both the current and potential future roles of the trade unions and could be usefully progressed through future research focusing on specific sectors or individual trade unions.

**Giggers**

Identifying this stakeholder has been problematic in itself due to the range of modes and types of work that they undertake. The factor that defines them is the process of working rather than the type of work. This is a clear departure from the norm in which the standard employment relationship is an accepted norm and standard against which all other forms of worker/employer are measured. This has the impact of blinkering the consideration of these new working relationships, preventing the generation of innovative solutions to which may limit the precarious nature of this work and support the flow of value throughout the supply chain. And given the size, growth and precarious nature of this way of working, research into new forms of engagement and reward are important at organisation and policy levels. Given the size and power of some of the gigging organisations this may best be conducted at regional level, for example, through NAFTA and the EU.

Another significant issue is the identification of this group of service providers/workers/on-demand professionals/giggers/giggsters is not without difficulty partly as they may each identify more closely with their aspirational and professional group rather than with giggers as a body. During the research for this book people would often comment that they hadn’t considered themselves to be giggers, but on reflection that is what they are. It also relates to the pejorative sense of the term gigs, hence the broad range of descriptors for this form of work. This heterogeneity and sense of denial of the reality of their situation is likely to have a somewhat suppressive effect on any calls to action to challenge the status quo and win enhanced rights. As demonstrated in this book the trade unions have more recently started to engage with this and identify a role for themselves in educating giggers about their real terms and conditions. For example, one union works with Uber drivers and will meet with them and calculate their actual pay per hour incorporating waiting times.

Another key finding from the book supports the notions of the fungibility of giggers as an important characteristic which has a particular impact at the more precarious end of the gig economy. Whilst giggers here may enjoy theoretical flexibility, their capacity to make advantageous choices for ‘better’ gigs is hindered by a lack of visibility of their options. This is exacerbated as
they themselves lack identifying characteristics and their work is fully fungible. Therefore, it can be swapped seamlessly with the work of other giggers and they gain no advantage over time, which would be expected in paid employment. Algorithmic measurement, with its precise focus on individual levels of work may support a differentiation between workers, but the limited number of characteristics which are measured (e.g. speed and accuracy) limit this. In addition, these characteristics are provided for large numbers of giggers and so, assuming a normal distribution, only those at the extremes may have the potential to be identified. The onward impact of this is that the giggers become trapped in an invisible and fully fungible mode of work which lacks a ladder to improved conditions or opportunities.

This relates to issues and problems of collective identity and how gigsters can develop channels for collective action. If formal channels for worker voice are not available, then workers may need to develop their own means for bringing their demands to bear upon any exploitative platforms or clients. For example, in a similar manner to how conventional physical picket lines have disrupted ‘business as usual’, could we envision online strikes and online picket lines having a similar effect? Activists might want to think about the ways to responsibly and effectively engage consumer-facing production networks, especially those with clients based in high income countries. In practice, this might entail tactical media approaches (such as ‘Google-bombing’ or ‘blackhat SEO’).

**Strategies for Conflict Resolution in the Gig Economy**

An expressed aim of the book was to reflect on how to manage organisational level conflict that is created by the gig economy. Given the focus of the book on conflict it also seems appropriate to consider specific strategies for this. Of particular concern is the temporal nature of gig work and lack of employment rights, which can mean the avoidance of addressing conflict, as relationships are terminated rather than resolving issues. This can have ongoing issues for organisational cultures and how leaders are perceived by the wider organisation. As demonstrated in Chapters 5 and 9 the way in which freelancers are treated sends signals to employees in relation to trust and organisational commitment. Conflicts can also arise for what can be seen as freelancers occupying a unique status within organisations, particularly when is the perception of them belonging to an exclusive group or ‘boys network’ which is difficult to penetrate. Therefore, organisations need to consider the integration of freelancers into their organisations in ways that minimise the opportunities for conflict. Consideration needs to be paid to restorative practices that occur post the removal of a freelancer and where conflict has been left unresolved, if sustainable cultures are to be maintained.

Platform companies also have an important role to play in the minimisation of conflict, which currently appears to be escalating, evident in the cases brought against some of the most high profile gig companies, such as Uber, Pimlico Plumbers and Deliveroo. As explored in this volume of work they have an opportunity to strengthen the voice mechanism for gig workers in a number
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of ways, which could go some way to alleviating conflictual relations and build more engaged workforces. In doing so there is also potential benefits to the platform companies, in terms of enhanced design of platforms and technology based on detailed feedback and suggestions from giggers. They also have an important role to play in alternative collective movements within the gig economy such as freelance co-operatives and collectives. However, given the dominant neoliberal context and desire to retain value flows a genuine shift change to more co-operative or mutual ways of working still seems some way off.

Reflections on Conducting Interdisciplinary Research on the Gig Economy

At the outset of this volume we identified how the heterogenous and complex nature of the gig economy made it fertile interdisciplinary territory (Michael, 2018). The following discussions reflect on the experiences of the research team in applying multimethodological and multitheoretical perspectives through the median of bricolage (Kincheloe, 2001, 2005). There remains considerable debate to how interdisciplinary research in management studies is best utilised and conducted; given concerns relating to the suppression of journal rankings for interdisciplinary research and performance regimes in higher education institutions (Radolsel, Leydesorf, O’Hare, Nightingale, & Stirling, 2012). We explore here the utility of the approach for applied and policy-orientated issues, such as the gig economy and the benefits interdisciplinary research can bring to pedagogy and the development of praxis through critical reflexivity amongst higher education students.

A key starting point is how the interdisciplinarity of this book had been enabled by a clear focus on the core character of each discipline, as well as the boundaries on which we can collaborate. For example, both sociology and psychology have informed analysis of the role of trade unions, buttressing the conclusions one to the other. Economics also informed the analysis in this chapter, feeding into the political, sociology macro-discourse which was analysed using social movement theory. This multitheoretical perspective has allowed for a richness of understanding that has informed the development of each chapter, as the authors shared perspectives and analytical lenses. This placed an onus on all of the writing team to engage in reflexivity. Adopting the definition of reflexivity as “…the process of continual internal dialogue and critical self-evaluation” (Berger, 2015, p. 220), we met regularly as team to discuss complementary theory development and to reflect on our own discipline subjectivities that could be shaping or narrowing a particular line of inquiry. This process of course created tension in relation to the identity and positioning of the researcher, which has previously been documented as an issue in interprofessional research projects (O’Boyle, 2017). Members of the interdisciplinary team discussed how interacting with a wider range of academic disciplines created surprising and unaccounted for discussions of the topic, which shaped and produced new negotiated understandings of the gig economy. This is an expressed aim of the bricolage approach, which encourages scholars to improvise, share and question their approaches rather than simply adhere to
disciplinary norms of methods and paradigm (Bryant & Lasky, 2007). We advocate for maintaining the blurring of disciplinary boundaries to develop a richer perspective on the work.

In doing so a recognition of the challenges associated with this type of inquiry are also important. The boundaries between the levels and the focus of each level was a point of particular interdisciplinary debate. This proved generative in developing a greater appreciation for the nuances of one another’s disciplines. The challenge for all colleagues has been holding open the space to consider ideas which are usually contrary to expectations within our own discipline. For example, in this volume at the micro level we brought together feminist post-structuralism, which focuses on discourse and discounts the impact of the body and an evolutionary perspective that privileges biology, accepting the impact of cognitions but framing them as embedded within our physical structures. These two approaches have their genesis in different disciplines, feminism is a branch of sociology and opposed to biological determinism and evolutionary psychology has emerged from biology. In this book we have tried to provide a space for both perspectives to interact to draw out the lessons which could positively impact giggers, particularly in the context of the mediators agency, voice and identity on the Dynamic Structural Model. We have found that holding the space and closely understanding the differences between disciplines, their assumptions, goals, methods and pattern of working has been essential to developing an interdisciplinary understanding of the topic. In doing so we have been able to integrate some elements of these disparate disciplines to provide a richer analysis and interventions and future research questions, as seen through a multi-discipline lens.

These insights have created reflections on how the gig economy has and can be taught across disciplines. In relation to teaching research methods, authors reflected on how this interdisciplinary research project supported a shift in thinking of students needing to learn research methods as objectified procedures, to an emphasis on developing students as researchers that can craft procedures that are integral to context and the environment being studied. Embedding reflexivity into this process is shown to support the ongoing mutual shaping that can occur between the researcher and research (Attia & Edge, 2017), as was evident on this project.

The interdisciplinary findings of the book, based on a broad range of perspectives and ontologies also provides an opportunity for a more questioning, dissenting and challenging stance to the social, economic and political power in the gig economy. Given that many higher education students are engaged in gig-based work or are likely to experience it in future roles, it is beneficial to gain a broader degree of perspectives, theoretical repertoires and insights that can be gained from going beyond a single disciplinary lens.

**Future Research Questions**

Taken together it is clear that the range of academic disciplines and research currently being undertaken is progressing our understanding of the gig economy at a quickening pace. The gig economy is a topic of growing and sustained interest
primarily due to its growth, spread across sectors and its impact on multiple points in economies affecting individuals, organisations and the broader socio-economic context. In the process of writing this book new academic literature was emerging daily, where previously only grey literature had dominated. There were also numerous calls for papers in special editions on the gig economy in journals across a range of business management specialisms. Thus, the following discussions build on future research areas already identified in this chapter, that whilst could be being addressed or been addressed by time of publication, summarise key research questions that we perceive could contribute to debates for a more equitable and constructive development of the gig economy.

Future research could usefully be conducted to investigate the conclusion that HRM lacks relevance and value for the gig economy. Research is also needed to identify the accuracy and extent of this suggestion and to identify useful models for HRM/D to provide an organisational service within the gig economy. It would also be very useful to identify whether it applies to all elements of the gig economy and to what extent. Whilst research has been conducted on wellbeing and the initial work-life balance of giggers, it is less clear what the long-term impacts will be into retirement. Other questions pertain to employability and the impact of gig work on the life chances of individual giggers. The potential for generational and international impacts is clear and is an area in which research could be particularly revealing and extends beyond just a focus on HRM strategies but wider social and economic policy.

A greater emphasis on the perspectives and experiences of gig worker would be of benefit across a range of topics in the gig economy. To support the development of effective HRM in the gig economy, giggers may have a positive role through interorganisational comparison in identifying effective processes to support HRM development. Whilst this observation will take place at a micro-level, research into processes to manage the knowledge gathered and feed it into meso-level actions is warranted. Also of immediate interest, is the way in which giggers and employees interact around shared projects. Again, exploring these issues from global and diverse perspectives would aid more effective policy and strategy development.

Placing gig workers experiences at the heart of the research agenda starts to address concerns relating to the current extent of their voice mechanisms. To illustrate, the role of giggers as whistleblowers is a positive externality that emerges from their particular circumstances as simultaneously both internal and external to an organisation with frequent opportunity to compare organisations, their internal processes, culture and ethical stance. This is addressed in detail in Chapter 6, where the protections afforded to whistleblowers is a primary focus. This is worthy of further investigation at sector level to identify ways to encourage and build on whistleblowing behaviour which could support the development of ethical norms within sectors such as finance, health and energy.

Power as a construct for advocacy and support for gig workers is particularly under-researched (Juravich, 2018). This is an important area to address given the range of organisations seeking to engage with giggers in a dynamic, heterogenous,
fast growing and partially obscured economy. In particular, research could usefully be conducted into relationships between established players such as trade unions and newer forms of organising and how these social movements develop. Also, research into the forms of power that each of these bodies use and to what effect are a significant area for research.

This book has demonstrated that the gig economy is a topic of continued importance that is impacting stakeholders at all relational levels. Interdisciplinary analysis has been productive in identifying the primary processes at play in the gig economy. These alongside the mediators of agency, identity and voice are relevant and useful tools for analysis at macro, meso and micro-levels. The interplay between these levels is an important area for further research into specifically how the mediators impact to support design proposals at all levels, for example, new forms of status and digital sovereignty, organisational remittances, workflow and task parcelling design, work-life balance and career management. As an emerging economy there is considerable debate around the definition, relevance and impact of the gig economy, much of which reflects its apparently nascent state. We contend in this book that the gig economy is a long-term innovation which emerges from the confluence of neoliberalism, globalisation and digitalisation. Its long-term impact is difficult to predict, but important to engage with for all stakeholders.

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