

11. Gig economy: «old wine in a new bottle»?¹

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First of all, I would like to thank the organizers of this event: I think that moments like this are very valuable and they help so much to understand the state of the world of work in our country and in general in much of the world. This is really important because, from the state of the world of work, obviously derives the rights of the women and men who are part of it and, of course, the rights of who, precisely thanks of his work, try to live a free and dignified existence, as recalled by our Constitution.

I begin this very short speech of mine by apologizing, since it will certainly be less “legal” than the other very interesting ones that have preceded it. However, I am convinced that it is really important to try to step outside the boundaries of our matter in order to fully understand also the cultural location of the phenomena we analyze. Personally, moreover, I set this method as a real scientific goal, since I am a doctoral candidate in comparative private law and therefore I consider it a primary duty.

The culmination of a critical reflection on the gig economy phenomenon can, with due approximation, be placed in 2018, coinciding with a news event that shook international public opinion. In that year, in fact, Don Lane, an English courier from the German logistics company *Dpd* died of a severe diabetes that had been afflicting him for some time, an illness that he had allegedly neglected due to the pace

¹ This short article, with a not strictly academic slant, collects my speech at the conference entitled *Improving working conditions in platform work in the light of the recent proposal for a directive*, held in Rome on 8 July 2022 at the Department of Legal Sciences of the University of Rome La Sapienza. I take this opportunity to renew my thanks for the kind invitation.

of work and the general working conditions he was subjected to². The case caused quite an outcry also because, the day before his death, the worker was fined 150 pounds by *Dpd* for not having made all the deliveries scheduled for that day: the delivery, however, was not actually possible as the worker underwent a medical examination related to the very disease that had been plaguing him for some time and which would shortly afterwards cause his death. The indignation was such that it led *Dpd* to change its company policy on medical examinations of workers³.

One of probably the most important elements to be highlighted first of all concerns the narrative surrounding the gig economy phenomenon (as with other important “innovations” in the world of work, such as smart working): in fact, one must begin by questioning oneself as to their real revolutionary scope, as to whether or not (and, if so, to what extent) the transformation that they have had the capacity to bring about in the working model, in the working relationship⁴. The first feeling one generally gets when it comes to gig economy is that of being confronted with something profoundly new, innovative, revolutionary. As such, evidently, related to our common idea of development, primarily technological, and therefore unstoppable, something we cannot avoid at all.

² What emerges from the chronicle of the incident is particularly disturbing and becomes clearer when reading the words of Don Lane’s widow, Ruth Lane, and Frank Field (House of Commons’ work and pensions committee): «Lane had collapsed twice, including once into a diabetic coma while at the wheel of his DPD van during deliveries, when the company fined him in July after he went to see a specialist about eye damage caused by diabetes. He collapsed again in September and finally in late December having worked through illness during the Christmas rush. He died at the Royal Bournemouth hospital on 4 January, leaving behind a widow, Ruth, and a 22-year-old son. He had worked for DPD for 19 years. (...) In the days before he died, he was feeling sick and vomiting blood, Ruth said, adding that he told her: “I really don’t want to work, but I have to.”. “They are like employees, not self-employed,” she said. (...) “How can modern Britain allow workers who are dedicated to their job to be driven to an early grave by such appalling exploitation?” said Field. “DPD have been told time and again that their punitive regime is totally unjust, particularly as their workers are labelled ‘self-employed’. Such mistreatment of workers smacks of sweated labour from the Victorian era». *DPD courier who was fined for day off to see doctor dies from diabetes*, *The Guardian* of 5 February 2018.

³ As reconstructed in C. Crouch, *Se il lavoro si fa gig*, Bologna, 2019, 7.

⁴ A. Perulli, S. Bellomo (Eds), *Platform work and work 4.0. Platform work and work 4.0: new challenges for labour law*, Padova, 2021; S. Bellomo, F. Ferraro (Eds), *Modern Forms of Work: A European Comparative Study*, Rome, 2020; S. Bellomo, A. Preteroti, *Recent labour law issues. A multilevel perspective*, Torino, 2019.

In essence, can we really consider the gig economy as something radically new (again, of course, restricting our reasoning to the employment relationship and the dynamics involved in it)⁵, or would it be more realistic to consider it as «old wine in a new bottle»⁶? It might be useful to start from the same word, *gig*, which now seems to have the capacity to clearly qualify the economy within which we move. In fact, it is curious how a decidedly ancient expression was chosen, for some dating back to the Middle Ages⁷, to qualify a phenomenon unanimously considered to be linked to the present day: the word would in fact be traditionally ascribable to something that *turns*, with a speed and frequency that is all but unpredictable (as it is linked to atmospheric agents such as the wind), perhaps a tool used in textiles. This is certainly an interesting root, evoking the dynamics of platform work: it tends to be unpredictable, depending on the *calls* and their flow determined by the users who use the platform, and in a certain sense this flow recalls the wind, in a circular dynamic devoid of linearity and conclusions, since one call is followed (hopefully for the operator) by the next.

⁵ G. Santoro-Passarelli, *Civiltà giuridica e trasformazioni sociali nel diritto del lavoro*, in *Dir. Rel. Ind.*, 2, 2019, 417-467; R. Voza, *Il lavoro e le piattaforme digitali: the same old story?*, WP CSDLE “Massimo D’Antona”, 2017; M. Weiss, *Digitalizzazione: sfide e prospettive per il diritto del lavoro*, in *Dir. Rel. Ind.*, 3, 2016, 651-663; V. Comito, *La sharing economy. Dai rischi incombenti alle opportunità possibili*, Roma, 2016; G. G. Balandi, *Concetti lavoristici impigliati nella rete*, in *Riv. trim. dir. proc. civ.*, 4, 2016, 461-469; P. Tullini, *Digitalizzazione dell’economia e frammentazione dell’occupazione. Il lavoro instabile, discontinuo, informale: tendenze in atto e proposte d’intervento*, in *Rivista giuridica del lavoro e della previdenza sociale*, 4, 2016, 748-764.

⁶ «A key posit is that the gig economy is just the latest trend catchphrase capturing a spectrum of flexible (or precarious) work arrangements that have existed in one form or another since the ascendancy of capitalism in the sixteenth century. Indeed, it could be argued that such work arrangements, aside from the post-Second World War welfare state phase in mature, western states, have constituted the dominant arrangement in capitalist societies. The gig economy then could be interpreted as “old wine in a new bottle”. However, the emergence of the gig economy has also been posited in terms of technological advancements that have led to the automation of certain functions and the coming together of information technology and telecommunications technologies». A. De Ruyter, M. Brown, *The Gig Economy*, New York, 2019, 1.

⁷ «One of the earliest uses of the word “gig” was in the medieval period where a gig referred to something that spins around. Indeed, the rotary washing line, a relatively recent invention, is sometimes colloquially referred to as a “whirligig”. The only stable pattern the whirligig has is its rotatory motion, but the direction, speed and frequency of rotation is unpredictable, sporadic and temporary, subject to the vicissitudes of the wind». A. De Ruyter, M. Brown, *cit.*,

The sense most commonly attributed to the expression, in any case, is traced back to the world of show business: a sense that may, however, be distorted from its original meaning.

In fact, it refers to those entertainers who, truly autonomous and freed from the client, perform in different places, at different times, emancipated from any possible form of heterodirection and, above all, perform for a plurality (even a vast one) of different subjects. Some have observed how the association of the gig economy with show business «seems more like a cynical attempt to associate a problematic form of employment with the glamour of show business than a sincere attempt to define a new form of employment relationship»⁸. However, it must be recognised that, even if associated with the world of entertainment, the expression does not necessarily imply the existence of particularly edifying working conditions: in fact, some put forward the hypothesis that it represents the acronym, perhaps developed in the American jazz scene, of *God Is Good*, meaning the absolutely fortuitous and “providential” nature of the work performance and its remuneration⁹.

Right from the start, there is a gap in meaning between what the gig expression might lead one to think of as positive, attributable for example to the carefree attitude we usually glimpse (perhaps unfoundedly) in a life devoted to art or entertainment, and the reality of things.

The characteristics of gig work would therefore be freedom, autonomy, carefreeness, and unpredictability (of place, time, client). It is difficult, however, to categorise in this sense what the chronicles give us of these categories of workers, where the person remains de facto bound to the functioning of the platform (declined in the singular, as the sole employer), at its complete disposal and under its strict direction and organisation¹⁰. In view of this, we also report a more colourful reconstruction of the term gig associated with this way of working, probably arbitrary and provocatively polemical: that provided by those who link its etymology to that of the word «gigolo»¹¹.

⁸ C. C. Crouch, *Se il lavoro si fa gig*, Bologna, 2019, 10.

⁹ A. De Ruyter, M. Brown, *The Gig Economy*, New York, 2019, 3.

¹⁰ On this point, see extensively A. Somma (Ed.), *Lavoro alla spina, welfare à la carte. Lavoro e Stato sociale ai tempi della gig economy*, Sesto S. Giovanni, 2019

¹¹ «The relationship between stakeholders in the gig economy is also served well by another use of the word gig, as part of the word “gigolo”. The gigolo is a male escort or social companion who is supported by a woman in a continuing relationship,

If you think about it, it is an all-too-recurrent narrative linked to great many phenomena concerning the world of work and its most recent transformations: think of the issue of flexibility in contractual forms, the weakening of protections and safeguards reserved for people in relation to the employment relationship, smart working. These are all processes presented as connected to the “changing world” and, therefore, to be addressed almost residually, in the small spaces vacated by these revolutions, by what for some is to be understood as the only possible progress¹².

And so, speaking of the gig economy, is it all that new, innovative and unprecedented?

Indeed, the word gig in itself represents several contradictions: it is still not very clear, for example, where it comes from or why it was adopted to qualify what we are talking about.

These brief remarks, which I have thought to intrigue, stimulate and perhaps even amuse, simply to try to mischievously advance a doubt: could the gig economy be, as someone wrote, «old wine in a new bottle»? could it be a new guise, that of, for example, an algorithm, behind which it tries to hide the well-known need to flex, perhaps precarize, the position of individuals to the advantage of the market of large industrial and financial groups? Could the narrative around the gig economy ultimately be the search for new arguments to achieve the same goals at the expense of individuals and their rights? A narrative that evidently describes itself as inevitable and progressive. We maybe will discover the truth at the end of the story.

Thank you very much for your patience and attention.

often living in her residence or having to be present at her beck and call.». A. De Ruyter, M. Brown, *The Gig Economy*, New York, 2019, 6.

¹² This type of narrative, moreover, has been strongly supported by the OECD, starting with the well-known 1994 *The Job Study*.

