Review

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**Book reviewed**


A few years ago, I happened to have a conversation with a dear friend and colleague. The topic was the gig economy and its potential impact on working relationships. At that time, I did not know much about it, and the debate was certainly not as widespread as it is today. My friend explained that the gig economy could have a substantial impact on the traditional issues surrounding labour law: not only on the misclassification of workers but also on the role of trade unions and representative bodies and ultimately on the formalisation of the exchange of work and remuneration outside the channels of a regular employment contract.

Probably due to the fact that the whole phenomenon was completely new to me at the time, the conversation left me perplexed and a bit sceptical. I asked myself whether the narrative that the traditional legal categories would be challenged or even disrupted by this new business model spreading around the world was realistic. Or, whether we were instead observing a problem that was not new at all.

Now, I can say that neither of the perspectives I considered at the time was right or reasonable.

The rich theoretical debate that followed the conversation with my friend proved me wrong. As usual, _in medio stat virtus_.

It is true that there are two competing narratives: on the one hand, that the gig economy would radically change our lives and ways of working and would nullify all the legal dogmatic concepts that we have used to build the labour law system thus far; on the other, that the gig economy is nothing but a temporary bubble doomed to be overcome by new trends and new topics for bored intellectuals.

However, some of the scientific works produced in recent years have shown that discussion of the topic can be essential and enriching in placing the phenomenon of the
gig economy and the labour issues that are related to it in the right perspective (to name a few: De Stefano, 2016; Davidov, 2017; Prassl & Risak, 2016).

Among these, a fundamental role is played by the latest book by Jeremias Prassl, Professor of Law at the University of Oxford: *Humans as a Service. The Promise and Perils of Work in the Gig Economy*. He provides a masterful analysis of the gig economy with balance and rigour and discusses the problems related to it by offering innovative insights into a debate that has been crowded by superficialities, which he disposes of based on method.

The book aims at providing an exhaustive description of the gig economy phenomenon and its legal implications to a public that lacks a legal background. This intention of the author, who has engaged not only with legal scholars, sociologists and economists but also with journalists and company CEOs, contemplating the numerous narratives that surround the gig economy from many different perspectives, has been fulfilled. This alone is a good reason to read the book. While being clear and informative, it engages with the complexity of the gig economy and the multitude of angles from which it might be observed.

While making clear that the business model adopted by the platforms might vary considerably from one case to another, Prassl underlines that there is one shared feature that prompted him to analyse the gig economy comprehensively. The fundamental premise of the functioning of the platforms is the availability of a large pool of on-demand workers. All the platforms are made up of on-demand work, provided by a multitude of people who might be spread around the world or might be in the same place as the customers, but all of whom are in the shared situation of being required to provide a small service (a gig) through a digital platform.

The essential role of labour in the functioning of these platforms is what captured the attention of Prassl and builds the core of his analysis. He explains that in some cases the platform business model might lead to extreme forms of labour commodification, leading him to ask ‘how can the gig economy sell humans as a service and ignore traditional employment law protection?’.

More specifically, Prassl starts from a critical assessment of the competing narratives about the gig economy. While the platforms define themselves as mere marketplaces that are able to match the demand and supply of certain services, often denying the fact that, to a large extent, they act like traditional employers (the ‘platform paradox’), Prassl looks far beyond the contractual terms, investigating the broader implications of the gig economy for consumers, taxpayers and markets.

His thesis is that the platforms do indeed provide digital work intermediation by means of close control over their workers. He demonstrates the level of the platforms’ interference in the organisation and monitoring of the activity by analysing what he defines as three archetypical operators: Uber, TaskRabbit and MTurk.

He also places the phenomenon in the right perspective when addressing the dimension of the market theme of the gig economy and the sources of its economic success and value, which is largely based on regulatory arbitrage: ‘the evasion [of] employment law is at the core of [the] platforms[’] business model’.

He goes further when analysing the terminology adopted by gig economy operators to channel a particular understanding of them as innovative and disruptive of big
monopolistic companies. He provides an excellent explanation of how language might deeply shape the understanding of such a phenomenon and ultimately discourage its legal regulation. In reality, the business model adopted by the platforms is far from new, but instead has deep historic roots.

A disclaimer: Prassl does not argue that the platform model is indeed wrong or harmful per se. Instead, he asserts that there are undeniably good aspects to providing fast and good services, while ensuring flexibility for the workers.

However, in the author’s opinion, employment law must play an essential role in the gig economy. There is no reason for the platforms to be considered as different from regular companies making use of the labour force to provide services to their customers.

This is the point where the book may leave us with some perplexities. The author addresses several legal problems related to the platforms’ business model: primarily, the identification of the workers’ legal status (as employees or as independent contractors); and the identification of the employer. With reference to the first issue, Prassl seems confident that various jurisdictions may have already successfully elaborated some good antidotes against the misclassification of workers. He refers to the well-known Aslam, Farrar v. Uber case decided by the Employment Tribunal of London and confirmed by the Court of Appeal, together with other cases that have involved courts in the USA and social security inspection bodies in various other countries (France, for example). With reference to the latter, he advocates for a flexible approach in identifying the employer reliance on the thesis developed in his previous monograph, The Concept of the Employer (Prassl, 2015).

Although we might rely on many judgements that have assessed the legal status of platform workers as employees, we might also consider many others in several jurisdictions that have reached the opposite conclusion. Self-evidently, each case has its own peculiarities, and it would be impossible to pretend that there is a general and always valid answer to the question of these workers’ legal status (as Prassl underlines, ‘gig workers are a vastly heterogeneous group’). However, it seems that Prassl is overly optimistic in assessing that the problem might be resolved merely by making reference to the traditional parameters for the classification of workers or by making use of the multiple notions of the concept of an employer, which is indeed an innovative and fascinating thesis, though it still does not have much space in the courts.

What is however convincing is his idea that employment law might not be enough. Prassl proposes that we should aim at specific measures that would protect gig workers, while making it possible for them to maintain their flexibility. This does not mean that new rules must be introduced for the platforms. On the contrary, Prassl advocates for the development of existing standards, among which European Union law must play a central role. In this respect, the author stresses that three main aspects should be considered: the unpredictability of the working hours; the effects of ratings on binding the workers to the platform; and the collective representation of gig workers. This covers the last part of the book, which is the most interesting and inspiring one. Prassl makes positive suggestions for how these issues might be regulated to guarantee protection for the workers, while ensuring the flexibility the platform-based model seeks and considering the perspective of consumers and taxpayers.
To conclude, the author has certainly succeeded in writing a rich and well-documented analysis of the gig economy. Prassl's book represents an authoritative critical assessment of the legal issues related to labour for digital platforms and stands as a contribution that has great value for scholars from many disciplines.

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REFERENCES