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A safety net fit for the sharing economy

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Paid holidays and other perks should not be exclusive to the salaried, writes Arun Sundararajan



Try using the legal vocabulary of the last century to describe the kind of work that people do now, and you discover it can be a fruitless task. Yet that is what the courts are being asked to do in legal actions now unfolding in several US states. As one judge noted: “The jury in this case will be handed a square peg and asked to choose between two round holes.”

Last week, Uber appealed against one such ruling. Like other peer-to-peer platforms, the smartphone-based taxi service sees its business as facilitating transactions between customers and independent providers, rather than employing people to provide a service itself. But the California Labor Commissioner disagreed, classifying the company’s drivers as employees — who have to be reimbursed for expenses such as fuel, vehicle depreciation and bridge tolls under California law.

Thousands of people who make a living on “sharing economy” services such as Uber have joined class-action suits claiming, on similar

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grounds, that they should receive benefits that are reserved for full-time employees. Start-ups that rely on a large pool of smartphone-toting casuals working irregular hours may find that their business models are no longer viable.

Yet the dichotomy of employees and independent contractors is out of date. True, there are still many people whose livelihoods consist of a durable economic relationship with a single employer. But this form of work is not universally coveted.

Many prefer to build up a portfolio of freelance contracts. And some prefer an intermediate arrangement, which provides a steady stream of work but without the commitment of fixed hours, or of working exclusively for a single company. Labour law should be based on equally fine-grained distinctions.

It should also be updated to provide a social safety net to people whose chosen form of work is something other than full-time employment. Health coverage, insurance against workplace injuries, paid vacations and maternity leave: these have long been universal entitlements in many economies. They should not become exclusive perks for a dwindling band of salaried employees.

Decoupling this safety net from full-time employment will require adjustment even in countries where many such safeguards are paid for by the state. In places such as the US and the UK, where large institutional employers have a bigger hand in providing them, the transition will be especially difficult.

But the answer need not be bigger government. Market-based solutions can work. Millions of people already rely for their retirement incomes on private pensions provided through government-supported schemes.

This framework could be extended to include other slices of the social safety net. "Sharing economy" companies themselves might even participate to make their platforms more attractive to workers, if the law gave them a way to do so that did not burden them with onerous obligations that are ill-suited to their flexible labour model.

A US government study showed that more than 80 per cent of independent contractors and self-employed workers would not choose a different employment structure. The law should not force such a choice on them.

As we move from the industrial era to a networked society where monolithic corporate forms will not always be the most efficient way to co-ordinate economic activity, we will increasingly rely on peer-to-peer platforms to marshal resources to provide the goods and services that people want. But without the appropriate labour frameworks, these digital technologies may not yield their promised economic gains.

Technology is not an unstoppable force, either for good or ill. Governments need to pay as much attention to modernising labour policy as they do to embracing the technology itself.

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