



The Global Shift in Gig Workers' Rights and its Cross-Border Implications

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Introduction

The seemingly clear line between gig workers and traditional employees is becoming increasingly blurry, with a growing clamour for legislative protection and social benefits for gig workers worldwide. Historically, gig workers have been categorised as independent contractors, which exempts companies from providing traditional employment benefits such as minimum wage, social security, health insurance, overtime pay, and paid leave, notwithstanding that many gig workers exhibit both the features of an employee and an independent contractor. Thus, the question of whether a person is an independent contractor or an employee often arises, as there is a thin line between the two concepts that often overlap. This issue of classification has raised many concerns, and the need to address these concerns is more pertinent now than ever.

As gig work becomes a dominant employment model, governments, courts, and labour unions are pushing for stronger legal protection, advocating for gig workers to be recognised as employees rather than independent contractors. Reacting to this, policymakers, legislators, and judges have set standards entitling gig workers to social benefits and other employment perks that traditional employees enjoy. This shift has significant cross-border implications for multinational companies operating in the gig economy, affecting labour laws, tax obligations, compliance risks, and business models across multiple jurisdictions.

This article examines the global legislative developments that are redefining the rights of gig workers, the implications for cross-border employment, and how multinational companies can strategically adapt to evolving labour laws.

The Employee/ Independent contractor overlap

The debate on the classification of gig workers has led policymakers, governments and judicial authorities to set certain tests/ standards to ascertain, based on the peculiarity of each case, whether a gig worker is a worker entitled to certain “employee” benefits such as minimum wage, paid leave, etc. Over the years, the level of control an independent contractor is subjected to has been established as a standard in determining whether such an independent contractor may be regarded as an employee and accorded some employee benefits.

Recently, other tests like disparity in negotiating power and consequences for actions and inactions have become determining factors in settling the employee/ independent contractor overlap. These tests, having been codified in laws and pronounced in judgments, seek to set the record straight globally on the rights of gig workers. For instance, in the United States, the Internal Revenue Service (IRS) employs a multifactor test that evaluates factors such as behavioural control, financial control, and the relationship between the parties involved in classifying workers and independent contractors.¹

Global Developments Redefining Gig Workers' Rights

In 2020 and 2021, New Jersey implemented several laws to prohibit workers' misclassification. These laws impose certain penalties on employers who deny workers their basic rights due to misclassification, given that the law presumes a worker to be an employee unless proven otherwise by an employer.

In 2023, the Irish Supreme Court held Domino Pizza's delivery drivers as employees in a tax dispute in the case of **The Revenue Commissioners v Karshan Midlands trading as Domino's Pizza**.²

In determining whether the delivery drivers were employees or not, the Supreme Court, amongst other tests, employed the control test to hold that the fact that the drivers had to wear Domino's Pizza uniforms, to affix Domino's Pizza branding to their vehicles and, to deliver pizzas directed to them by the on-site managers, they ought to be considered as employees and Domino Pizza ought to remit the relevant PAYE tax on their behalf.

¹ The Rise of Gig Workers: Navigating HR and Legal Implications <<https://nnroad.com/blog/the-rise-of-gig-workers/>> accessed on 26th March 2025.

² [2023] IESC 24.

On 23rd October 2024, the Parliament of the European Union (EU) released the Directive (EU) 2024/2831 on Improving Working Conditions in Platform Work³ (“the Directive”). The Directive seeks to protect the rights of platform workers and define their employment status.

The Directive establishes a rebuttable presumption of the existence of an employment relationship between a digital labour platform and a platform worker. According to the Directive, digital platforms that exercise de facto direction and control over platform workers will be considered to be in an employment relationship with the platform worker.

The landmark UK Supreme Court Ruling on Uber

The Supreme Court’s Ruling in **Uber & Ors. v. Aslam & Ors.**⁴ set a precedent on the classification of workers and for other gig workers operating in the UK. In this case, Aslam and others instituted an action against Uber claiming entitlement to minimum wage, paid leave and other workers’ rights. The Employment Tribunal held that they were workers under the Employment Rights Act of 1966 and are entitled to workers’ rights provided under the National Minimum Wage Act 1998. On appeal to the Supreme Court, the Court upheld the decision of the Employment Tribunal. The Supreme Court’s decision that Aslam and others were workers entitled to national minimum wage, paid leave and other workers’ rights was hinged on the following parameters (ratio):

1. The remuneration paid to drivers for the work they do was fixed by Uber, and the drivers had no say in it other than choosing when and how much to work.
2. The contractual terms on which drivers performed their services were dictated by Uber.
3. Although drivers had the freedom to choose when and where (within the area covered by their PHV license) to work, once a driver had logged onto the Uber app, a driver’s choice about whether to accept requests for rides was constrained by Uber
4. Uber exercised a significant degree of control over how drivers delivered their services.
5. Uber restricted communication between passengers and drivers to the minimum necessary to perform the trip and took active steps to prevent drivers from establishing any relationship with passengers capable of extending beyond an individual ride.

³ <https://eur-lex.europa.eu/eli/dir/2024/2831/oj/eng>

⁴ [2021] UKSC 5.

The Nigerian Jurisdiction

Nigeria is not left out in the clamour for the proper classification of the employment status of gig workers. Like other jurisdictions, gig workers in Nigeria are usually classified as independent contractors and, as a result, do not enjoy the benefits that traditional employees enjoy. Although a more intrinsic glance at the various Nigerian labour and employment laws would reveal the draftsmen's intention in ensuring that gig workers enjoy some level of legislative protection and benefits. Section 91(1) of the Nigeria Labour Act, Cap L1, LFN 2004 defines a worker as follows:

"Worker" means any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work or is expressed or implied or oral or written, and whether it is a contract of service or a contract personally to execute any work or labour, but does not include –

1. any person employed otherwise than for the purposes of the employer's business, or
2. persons exercising administrative, executive, technical or professional functions as public officers or otherwise, or
3. members of the employer's family, or
4. representatives, agents and commercial travellers insofar as their work is carried on outside the permanent workplace of the employer's establishment; or

5. any person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the articles or the material; or
6. any person employed in a vessel or aircraft to which the laws regulating merchant shipping or civil aviation apply;

In a similar vein, the provisions of Section 73 of the Employees' Compensation Act defined an "Employee" as follows:

A person employed by an employer under an oral or written contract of employment, whether on a continuous, part-time, temporary, apprenticeship or casual basis in the federal, state and local governments and any of the government agencies and the formal and informal sectors of the economy.

The use of broad terms such as "part-time," "temporary," and "casual" expressly shows the intention of the draftsmen to protect the interests of gig workers. However, the uncertainty whether gig workers are equally protected and entitled to employee benefits has led to several lawsuits inviting the Court to make pronouncements on the classification of gig workers in Nigeria.

One such case is **Suit No. NICN/LA/546/2017; Oladipo Olatunji & Anor (Representing themselves and other Uber and Taxify Drivers in Nigeria in a Class Action) v. Uber Technologies System Nigeria Limited & 2 Ors.**⁵

In this case, the Claimants instituted an action against Uber, claiming they ought to be classified as employees of Uber and are entitled to health insurance, pension and every other employee benefit. The Claimants raised issues as to whether, given the control of Uber over its drivers, they ought not to be regarded as employees and afforded the various employee benefits.

In dismissing the case, the Court highlighted the Claimant's failure to prove their case by not a

adhering to the rules of evidence regarding Affidavits, the failure of the Claimants to attach the alleged "contract of employment" and the Claimant's failure to abide by the purpose of filing a Reply on Points of law.

While this may seem that the entirety of the Court's decision was based on technicalities, there is a probability that the Court's decision may have taken the path of the UK Supreme Court in Aslam's case if the Claimants had been diligent enough in shutting down all grounds of technicalities. Nonetheless, this case has once again exhibited the blurry lines between employees and independent contractors, which may require the intervention of the Court.

Cross-Border Implications of the Shift in Gig Workers' Rights

As gig employment begins to take a new shift globally, multinationals are expected to keep abreast of policy changes, judicial decisions, and regulatory requirements affecting the rights of gig workers to avoid stringent legal sanctions for non-compliance. Some of the implications that the shift in the rights of gig workers may have on multinationals are as follows:

1. Jurisdictional Conflicts and Legal Uncertainty: Different countries apply different tests for employment classification, e.g., the "control test," "economic dependency test," or hybrid models.

A gig platform operating internationally may face simultaneous and conflicting obligations across jurisdictions, such as paying statutory benefits in France while maintaining an independent contractor model in Nigeria for the same set of workers.

2. Adapting to Unsettled and Evolving Worker Classification Standards: Multinationals must navigate an evolving global landscape of employment classifications for gig workers, who may be categorised as "employees," "independent contractors," or "dependent contractors."

⁵ <https://www.nicnadr.gov.ng/judgement/details.php?id=1647>

Whilst these classifications impact their access to benefits like minimum wage, paid leave, injury compensation, insurance coverage, etc., misclassification can lead to significant legal and financial risks. Hence, Companies in the face of increased regulatory unpredictability must remain informed and adaptive as courts and lawmakers continuously reassess existing labour laws and frameworks.

3. Taxation Challenges: With gig workers operating remotely or across borders, determining the situs of income and applying withholding tax, value-added tax (VAT), or other forms of corporate tax becomes complex. Platforms may be exposed to double taxation or permanent establishment risks in countries where gig workers operate frequently or substantially.

Strategies for Multinationals

Considering the global shift regarding the classification of gig workers and the benefits they are entitled to, multinationals can employ the following strategies:

1. Conduct Country-Specific Legal Risk Assessments:

Multinationals should map legal frameworks in each operating jurisdiction regarding employment classification, taxation, social security, and union rights. Establish a compliance strategy by identifying high-risk jurisdictions that require legal structuring or policy reform.

2. Invest in Local Partnerships and Stakeholder Engagement:

Multinationals who are unaware of policy changes may prioritize engaging with local labour experts (lawyers), regulators, labour unions, and civil society groups to co-create sustainable gig work frameworks and partner with insurers or FinTechs to offer voluntary benefit schemes to gig workers, such as micro-pensions, accident insurance, or health plans.

3. Establish Flexible Worker Models:

Multinationals may consider introducing hybrid or tiered worker classifications, such as "dependent contractors" or "platform workers", to strike a balance between full employment and independent contractor status. This may also include offering opt-in benefits or "worker-plus" models that give limited benefits without full employment obligations, while adhering to the laws peculiar to each country.

4. Prioritise Global Legal Compliance:

Given the evolving laws on gig workers' rights globally, multinationals should prioritise a global legal compliance strategy that would familiarise them with the policy standpoint of each country within which they operate.

Conclusion

There is a growing demand for legislative and judicial clarity on the rights of gig workers, as current employment laws fail to adequately address the evolving employer-employee dynamics in the gig economy. This gap calls for a regulatory overhaul that addresses public policy concerns on gig workers' rights and classification. Despite ongoing uncertainties about gig worker classification, stakeholders should push for policies that ensure minimum protection and define clear distinctions between independent contractors and traditional employees, promoting legal consistency without hindering self-employment. As the push for clearer definitions continues, multinationals must prioritise compliance, adopt flexible worker models, and engage local partnerships to navigate changing labour laws worldwide.

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Stren & Blan Partners is a full-service commercial Law Firm that provides legal services to diverse local and multinational corporations. We have developed a clear vision for anticipating our client's business needs and surpassing their expectations, and we do this with an uncompromising commitment to Client service and legal excellence.

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