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'Gender inequality- now available on digital platform': an interplay between gender equality and the gig economy in the European Union

Neha Vyas 

Goethe-Universität Frankfurt am Main, Frankfurt, Germany

Abstract

This article is directed towards addressing the employment related issues encountered by female workers in the gig economy in the EU. It revolves around analysing 'the switch' from the traditional labour market to the platform economy. It subsequently explains, by drawing comparisons, that the issues of gender inequality in the brick and mortar world are still prevalent in world of the digital platform. In fact, new challenges have emerged which are specifically related to the gig economy. Female workers are now affected by the inherent bias of algorithms. Moreover, due to the unequivocal propagation of 'flexibility' which is used as a weapon to glorify the gig economy; women are even more likely to be pushed into precarious work. The other prominent issues of gender inequality like the dynamics of intersectionality, the gender pay gap and hiring policies in traditional and digital platforms are also examined. Furthermore, the existing regulatory frameworks addressing these issues are discussed with the possibility of catering to the gender inequality issues in the gig economy through policy development. The article concludes with a reflection on the need for the EU to take immediate and efficacious policy measures in respect of female workers in the gig economy.

Keywords

Gig economy, gender inequality, EU, atypical work, female workers

Corresponding author:

Neha Vyas, Goethe-Universität Frankfurt am Main, 60323 Frankfurt, Germany.

E-mail: neha.vyas589@gmail.com

Introduction

‘I ask no favour for my sex . . . All I ask of our brethren is that they take their feet off our necks.’ - Sarah Grimké

Are women the weaker section of society? Or is it just a perceived notion stemming from the patriarchal mindset which is deeply ingrained in the labour market? The reason women are unable to progress in this day and age can no longer be blamed on their lack of education or questioning their credibility for a given job. Women, all over the world, are striving hard to break down the barriers and are accepting the battles which they can fight on their personal fronts. This includes embracing the double burden of work and care responsibilities. But there are certain challenges which are deliberately brought against women¹ and the only way to address them is by introducing amendments to the existing gender biased legislation, combined with effective implementation, and by using this as a tool to improve the condition of women in the workplace.

Women are sometimes compelled to accept precarious work because they have to undertake the unpaid care work which stems from family obligations. Precarious work which includes part-time work, agency work, etc. is more prevalent among women, than it is among men.² There are plenty of issues faced by atypical workers as compared to workers in standard employment, and since women are more likely to accept such employment, it is more gendered in nature. There is a need to reconsider and evaluate labour policy according to the gender perspective, not only to improve the conditions of women in non-standard employment but also to facilitate the transition from precarious work to full-time work by making working conditions suitable for women.

The advent of the ‘gig economy’³ has proved to be beneficial for the labour market. Due to technological advancements, there has been an increase in job opportunities on digital platforms. Of course, many jobs have become obsolete due to the introduction of machine intensive work, but there has also been an increase in job creation in the service sector. Employment in the manufacturing sector has declined by 20% while the service sector has seen a rise in employment opportunities of about 27% over the past two decades.⁴ This means that the gig economy has had a significant positive impact on the labour market.

It is equally important to note that the rise of the digital platform brings its own sets of challenges and regulatory requirements. To keep up with the advancement of technology, labour

1. ‘Job segregation by gender can depend on job assignment and promotion practices within firms. Some people who make job assignments intentionally discriminate against one sex for certain jobs; others discriminate statistically, using sex as a proxy for productivity. Statistical discrimination is often based on gender stereotypes—stereotypes of men as rational and women as emotional often favour men for managerial positions.’ World Bank, ‘Gender Differences in Employment and Why They Matter,’ World Development Report 2012, pp.205 & 235.

2. Young, MC. (2010), ‘Gender Differences in Precarious Work Settings,’ *Relations Industrielles / Industrial Relations*, pp. 74-97.

3. ‘The gig economy is the collection of markets that match providers to consumers on a gig (or job) basis in support of on-demand commerce. In the basic model, gig workers enter into formal agreements with on-demand companies (e.g., Uber, TaskRabbit) to provide services to the company’s clients. Prospective clients request services through an Internet-based technological platform or smartphone application that allows them to search for providers or to specify jobs. Providers (i.e., gig workers) engaged by the on-demand company provide the requested service and are compensated for the jobs.’ Donovan, S.A. David H. Bradley and Shimabukaro, J.O. (2016), ‘What does the gig economy mean for workers?’, *Congressional Research Service*, pp.1-2.

4. OECD Employment Outlook (2019), ‘*The Future of Work*.’

laws must be modified to accommodate the regulatory requirements which having a workplace on a digital platform entails.⁵

‘Technological advances and changes in social and economic organisation often present moments of opportunity and challenge.’⁶

This statement is of extreme importance when discussing the topic of digital labour platforms and the future of work. Every country, at present, has plethora of opportunities to introduce legislation for the protection of workers and the betterment of workplace conditions since the gig economy is at a nascent stage. This opportunity, if seized in a positive way, can improve the conditions of workers in the labour market as the platform economy is an integral part of today’s labour market.

The gig economy might be the necessary solution for women who can possibly transition from unemployment to employment without disturbing the male breadwinner –female care giver model.⁷ It presents a huge opportunity for enhancing women’s economic equality,⁸ thereby serving the purpose of striving towards economic empowerment and liberation of women generally. There might be various reasons for accepting such employment, but the reality remains that this employment is classified as atypical work, thereby making it precarious in nature. The problems faced by precarious workers, mostly women, are still prevalent, irrespective of the platform of work.

The evolution of work from the traditional platform to the digital platform calls for a diversification in the legislation, especially laws related to labour protection and social policy. The EU has already initiated the work to adjust the social protection for gig economy workers to comply with the European Pillar of Social Rights.⁹ The recent EU Directive¹⁰ focuses on providing minimum rights to platform workers, zero-hour contract workers and voucher based workers. This is a first step towards ensuring a balance between flexibility and security for workers in the digital economy. However, social protection in most of the EU Member States focuses primarily on full-time workers or full-time open-ended contracts. Therefore, when it comes to the social protection of women in the labour market, they end up facing a three-layered discrimination based on gender, race and the precarious nature of their work.

This article aims to cover four principal issues in respect of gender and the gig economy. The first relates to the hiring of women in this new setup and relays the part played by machine-learning algorithms resulting in discrimination. The second issue concerns the role of intersectionality in this new form of work. The importance of examining the labour market through the combination of identity markers¹¹ has become imperative. This shall be discussed with reference to the challenges

5. Brazilay, A.R. and Ben-David, A. (2017), ‘Platform Inequality: Gender in the Gig –Economy’, *Seton Hall Review*, p. 422.

6. Benkler, Y. (2006), *The Wealth of Networks: How Social Production Transforms Markets and Freedom*, Yale University Press, p.2

7. Pric, D. (2006), Gender and Generational Continuity: Breadwinners, Caregivers and Pension Provision in the UK, *International Journal of Ageing and Later Life*, pp.31–66.

8. Brazilay, A.R. and Ben-David, A. (2017), Platform Inequality: Gender in the Gig –Economy, *Seton Hall Review*, p. 400.

9. European Commission (2017), ‘The European Pillar of Social Rights in 20 principles.’

10. Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019, on transparent and predictable working conditions in the European Union.

11. European Commission, ‘Intersectionality, a different view on discrimination,’ Justice and Consumers, Newsroom, (09/04/2019). https://ec.europa.eu/newsroom/just/itemdetail.cfm?item_id=648894&newsletter_id=883&utm_source=just_

arising in the labour market through the intersectional dimension. The EU has recently taken a significant step towards recognising the importance of intersectionality in policy areas.¹² The third issue surrounds flexibility, which is bundled with vulnerability and precariousness. This shall be discussed in light of the Work-Life Balance Directive.¹³ The final issue concerns the gender pay gap in the gig economy with reference to systemic dysfunction, issues specific to the gig economy and existing relevant regulatory measures.

These issues shall be studied with reference to the gig economy, which includes work on-demand via app and crowdwork. The platform economy includes gig work¹⁴ however, the gig economy includes work on digital and traditional platforms. In this article, the gig economy limited to digital platforms shall be discussed. The definitions of these terms are as follows:

‘Platform workers and contractors are: people who earn income from work facilitated by digital work/services platforms, whether as a main source of income or in addition to other work. This includes independent professionals and people who run their own businesses.’¹⁵

‘Gig economy platforms are defined as two-sided digital platforms that match workers on one side of the market to customers (final consumers or businesses) on the other side on a per-service (“gig”) basis.’¹⁶

“‘Work-on-demand via app,” instead, is a form of work in which the execution of traditional working activities such as transport, cleaning, and running errands, but also forms of clerical work, is channelled through apps managed by firms that also intervene in setting minimum quality standards of service and in the selection and management of the workforce.’¹⁷

‘Crowdwork refers to working activities that imply completing a series of tasks through online platforms. These platforms put in contact an indefinite number of organizations and individuals through the internet, potentially allowing connecting clients, and workers on a global basis.’¹⁸

There are a handful of EU Directives covering the issues of social protection and non-discrimination for female workers: the Work-life Balance Directive,¹⁹ the Pregnant Workers Directive,²⁰ the Gender equality in Employment Directive,²¹ the Racial Equality Directive,²² the

newsletter&utm_medium=email&utm_campaign=Diversity%20Charters%20%20&utm_content=Intersectionality%20a%20different%20view%20on%20discrimination&

12. European Commission, ‘A Union of Equality: Gender Equality Strategy 2020-2025,’ COM (2020) 152.

13. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

14. World Economic Forum (2020), ‘The Promise of Platform Work: Understanding the Ecosystem’, p.4.

15. Ibid., p.9.

16. OECD (2019), ‘Gig economy platforms: boon or bane?’ See also note 3.

17. De Stefano, V. (2016), ‘The Rise of the Just-in-Time Workforce: On-Demand Work, Crowdwork, and Labour Protection in the Gig-Economy’, *International Labour Organisation*, p.1.

18. Ibid., p.1.

19. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

20. Directive 92/85/EEC on safety and health at work for pregnant workers (OJ L 348/1 of 28.11.1992)

21. Directive 2006/54/EC on gender equality in employment (OJ L 204, 26.7.2006)

22. Directive 2000/43/EC on equal treatment on grounds of race and ethnicity (OJ L 180, 19.7.2000)

Gender Equality in Social Security Directive,²³ and the Gender Equality of Self-employed Directive.²⁴ The relevant Directives are discussed with reference to the gender related issues addressed in this article. The European Commission also recently launched the Gender Strategy 2020-2025²⁵ which is a progressive step towards gender equality. Reference to the need for intersectionality and changing gender stereotypes are relevant to this article.

There are various dimensions of gender inequality which are specifically related to the gig economy and are a manifestation of technology-induced bias. Additionally, some of them are the variants of the gender inequality issues in the traditional labour market, which remain unresolved. These issues are discussed in detail below.

I. Hiring women in the gig economy

There is an unconscious bias in the mind of an interviewer when it comes to hiring any employee.²⁶ This bias is generated through various factors including, but not limited to, socially devised roles, cultural barriers, bias related to gender, ethnicity and other preconceived societal factors. In the EU, the equality laws include equal treatment when applying for a job²⁷ but they do not necessarily eliminate the possibility of discrimination altogether. There still exists an institutional bias²⁸ in the workplace which needs to be addressed. Since such institutional bias is difficult to identify, constant checks and balances should be carried out on the hiring policies of every organisation and their effective implementation be ensured.

Apart from the bias of employers, unintended or otherwise, the role of machine-based algorithms still cannot be overlooked even in the brick and mortar world. Human resource departments generally use different software programmes to sift through candidates. Such programmes might eliminate names, gender, ethnicity or any other demographic data but absolute reliance on, and growing use of, machine-learning algorithms can result in a pattern being formed.²⁹ There is a possibility that, unbeknown to the employer, such a pattern can be picked up by the algorithm.³⁰ This ultimately leads to machine-induced bias through no fault of employers. Therefore, despite of having equal treatment legislation and proper implementation of the same, algorithm-induced discrimination is still a grey area. The pattern is usually developed from the historical data of the company and given the long-standing history of race and gender bias, it could mean that ethnic minorities and women are adversely affected and may not even be selected for interview. Such bias can only be resolved through active measures taken by recruiters and legislators to focus on corrective measures and the enhanced transparency of algorithms.

23. Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security (OJ L 6, 10.1.1979).

24. Directive 2010/41/EU on gender equality of self-employed (OJ L 180, 15.7.2010)

25. European Commission, 'A Union of Equality: Gender Equality Strategy 2020-2025', COM (2020) 152.

26. Agarwal, P. (2018), 'Here is how bias can affect recruitment in your organisation', *Forbes*, (accessed 5 December 2019), <https://www.forbes.com/sites/pragyaagarwaleurope/2018/10/19/how-can-bias-during-interviews-affect-recruitment-in-your-organisation/#78166d4b1951>.

27. Directive 2000/78/EC on establishing a general framework for equal treatment in employment and occupation (OJ L 303, 12.2.2000).

28. Henry, P.J. (2010), 'Institutional Bias' in Dovidio, J.F. (ed.), *The Sage Handbook of Prejudice, Stereotyping and Discrimination*, London: Sage, pp.426-440.

29. Wen, T. (2018), 'How hidden bias can stop you getting a job,' BBC.

30. Criado, N. and Such, J. (2019), 'Algorithmic Regulation,' Oxford University Press.

In the platform economy, the workers often provide services to customers, thereby exposing them to the vulnerability of customer ratings being the decisive factor in obtaining future work opportunities. This generally takes place through ‘work-on-demand via app’³¹ or there is a possibility of being hired by organisations or intermediaries for completing a series of tasks i.e. crowdwork.³² But on digital platforms, creating an online profile is important when it comes to being hired by a customer/organisations, which leaves women open to discrimination due to the compulsory fields to be completed on the profile such as name, gender, photo etc. For example, gender discrimination is prevalent in work involving technical support, which is rarely entrusted to women. Gender plays an important role as a decisive factor in the type of services provided. For example, ‘software development’ and ‘transport’ are the most male-dominated services. By contrast, ‘translation’ and ‘on-location services’ are the mostly female-dominated ones.³³ The digital gender divide is yet another reason for the underrepresentation of women in highly intensive platform work.³⁴ The digital gender divide is not just a manifestation of technological issues, rather it is caused through the economic, social and cultural divide in society.³⁵ The job advertisements for male-dominated occupations consist more of stereotypically masculine words than jobs for female-dominated professions, but female-dominated occupations use both types of descriptions.³⁶

Machine learning involves computerised analysis to find patterns in existing data, and then developing an algorithm that will predict comparable patterns in new data; that is, the algorithms are produced by analysing data to find the statistical relationships that result in useful predictions. These algorithms rely on customer ratings, stated job preferences and times for work, past browsing history, speed of driving, rate of sales, or other data to establish their baselines.³⁷ Therefore, the machine learning capacity of algorithms is an additional barrier and leads to discrimination based on the existing societal norms and the mindset of the customers.

2. The gig economy and intersectionality

There is no such thing as a single-issue struggle because we do not live single-issue lives. – Audre Lorde

Women of colour are competent but are inadequately represented in the labour market and are often found in low-paid jobs despite their good education, which is always taken to be of

31. De Stefano, V. (2016), ‘The Rise of the Just-in-Time Workforce: On-Demand Work, Crowdwork, and Labour Protection in the Gig-Economy’, *International Labour Organisation*, p.1.

32. Ibid., p.1.

33. European Commission (2018), ‘Platform Workers in Europe’, Luxembourg: Publications Office of the European Union, p.4.

34. Ibid., p. 22. ‘In terms of gender distribution, we find that the representation of women progressively decreases as the intensity of platform work increases. More specifically, women represent 47.5% of the offline workers, 40.2% of the non-significant platform workers, 31.2% of the significant but not main platform workers and only 26.3% of the main and very significant platform workers.’

35. European Economic and Social Committee (2018), ‘Closing the digital gender gap would boost Europe’s GDP by 16 billion’, <https://www.eesc.europa.eu/en/news-media/news/closing-digital-gender-gap-would-boost-europes-gdp-16-billion> (accessed 7 December 2019).

36. Cahn, N., Carbone, J. and Levit, N. (2019), ‘Discrimination by Design?’, *Arizona State Law Journal*, p.23.

37. Ibid., p. 21.

secondary importance, and is in itself, astonishing. Intersectionality³⁸ needs to be addressed first, instead of discussing this whole matter from a white woman's perspective.³⁹ Moreover, the discussion continues to revolve around the experiences of women in western culture who face completely different issues from those encountered by women from other races and ethnicities. Therefore, while formulating the legislation and debating this topic at a global level, it is important now to include the perspective of 'postcolonial feminism'.⁴⁰ There is a layered discrimination, even among women, which is less pronounced. Intersectionality has become an integral part of the discussion of discrimination of any kind. It is unreasonable to expect women of different ethnicities to raise their voices in support of a solution from which they may or may not benefit, therefore their experiences and problems need to be addressed simultaneously.⁴¹ This will result in a concrete and unified upliftment and empowerment of women of all ethnicities in every part of the world. It is important that this layered discrimination is taken into consideration while formulating labour policies for the social protection of women.

The labour market in the EU is analysed in a one-dimensional manner i.e. either with gender or age or race as an identity marker. When discussing labour policies, the concept of intersectionality is discarded, thereby ignoring the impactful combination of identity markers.⁴² The heterogeneity of women leads to intersectional discrimination which is often unacknowledged in labour policies. The recent Gender Strategy 2020-2025 launched by the European Commission mentions the implementation of gender mainstreaming using intersectionality in all stages of policy design in all EU policy areas, internal and external.⁴³ To develop an effective labour policy, it is important to recognise the additional deterrents created by intersectional discrimination.⁴⁴

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38. Definition by EIGE: 'intersectionality' as an 'analytical tool for studying, understanding and responding to the ways in which sex and gender intersect with other personal characteristics/identities, and how these intersections contribute to unique experiences of discrimination'; European Institute for Gender Equality, Glossary & Thesaurus. See also Crenshaw, K. (1989), 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-discrimination Doctrine, Feminist Theory and Antiracist Politics', *University of Chicago Legal Forum*.
39. 'Postcolonial feminist theory has always concerned itself with the relationship between White feminist and her indigenous counter-part. In their eagerness to voice the concern of the colonized women, White feminists have overlooked racial, cultural and historical specificities that mark the condition of these women. In so doing, they have imposed White feminist models on colonized women, and thereby, worked as an oppressor'. Tyagi, R. (2014), 'Understanding Postcolonial Feminism in relation with Postcolonial Feminist Theories', *International Journal of Language and Linguistics*, p.47. See also Shield, A.D.J. (1963), *Immigrants in the Sexual Revolution: Perceptions and Participation in Northwest Europe*, Palgrave Macmillan, p. 151.
40. Ibid., p.45.
41. The criticism of Western feminism on the ground of ethnocentrism. Mohanty, C. (1984), *Under Western Eyes: Feminist Scholarship and Colonial Discourses*, Duke University Press, p. 336.
42. 'The report "Analyse de la transposition du concept d'intersectionnalité dans le cadre de la réforme des instruments de promotion de la diversité et de lutte contre les discriminations" highlights the necessity to cross gender, origin and other identity markers. It helps to expose processes leading to prejudices and inequalities on the labour market.' European Commission, 'Intersectionality, a different view on discrimination,' Justice and Consumers, Newsroom, (09/04/2019), https://ec.europa.eu/newsroom/just/itemdetail.cfm?item_id=648894&newsletter_id=883&utm_source=just_newsletter&utm_medium=email&utm_campaign=Diversity%20Charters%20%20&utm_content=Intersectionality%20a%20different%20view%20on%20discrimination&
43. European Commission, 'A Union of Equality: Gender Equality Strategy 2020-2025', COM (2020) 152.
44. Ibid., p.4.

Additionally, the European Pillar of Social Rights includes the important principles of gender equality⁴⁵ and equal opportunities,⁴⁶ and widely covers the aspects of equality of treatment and opportunities regardless of gender, racial or ethnic origin, religion or belief, disability, and age or sexual orientation, across the areas of employment, social protection, education and access to public goods and services. Moreover, the non-discrimination laws in the EU are strong, evidenced by the Racial Equality Directive⁴⁷ and the Employment Equality Directive.⁴⁸ The lack of intersectional approach, however, has led to ineffective implementation of Racial Equality Directive, which can be seen below:

‘The lack of an intersectional approach, i.e. maintaining structural barriers, also comes at a huge economic cost to society. A study by the European Parliament estimates that the quantifiable loss in economic terms, (i.e. in terms of GDP loss and loss in tax revenue) is as high as “€224–305 billion GDP and lost tax revenue of €88-110 billion in relation to ineffective national implementation of the Racial Equality and the Employment Equality Directives.”’⁴⁹

The issue of racial profiling plays a crucial role in hiring workers in the gig economy. The app-based online work is distributed based on the ratings given to the workers by the customer. It is also known that a higher rating increases the chances for the worker to get hired more often by other customers and the converse is also true. The importance of such ratings can be expressed through the following excerpt using the example of Uber:

‘Although of course rating systems are not intended to express implicit bias, the research I’ve mentioned suggests that they may indeed do so by providing an avenue for individual sharing economy participants to express implicit bias. The rating system then aggregates these individual biased scores, resulting in a composite score reflecting the net effect of many biased ratings. And negative ratings can become self-perpetuating. If a passenger sees that an Uber driver has a low rating, the passenger may be primed to view the driver negatively. Such priming may lead to interpreting ambiguous conduct more negatively, and, ultimately, to more negative ratings. The result is a vicious cycle of self-reinforcing bias.’⁵⁰

There are no substantial studies to date illustrating the inherent bias in the gig economy, although some research has been undertaken. A study by two Professors from Harvard Business School, Edelman and Luca, showed that Airbnb properties listed by non-black hosts charged 12% more per night than comparable listings with a black host.⁵¹ Another study suggests that guests with distinctively African-American names are less likely to make a successful reservation than those with distinctively white names on the Airbnb platform. This holds true across hosts of

45. European Commission, ‘The European Pillar of Social Rights - Principle 2: Gender Equality’.

46. European Commission, ‘The European Pillar of Social Rights - Principle 3: Equal Opportunities’.

47. Directive 2000/43/EC on equal treatment on grounds of race and ethnicity (OJ L 180, 19.7.2000).

48. Directive 2000/78/EC on establishing a general framework for equal treatment in employment and occupation (OJ L 303, 12.2.2000).

49. European Commission: Advisory Committee on Equal Opportunities for Women and Men (2020), ‘Opinion on Intersectionality in Gender Equality Laws, Policies and Practices’.

50. Leong, N. (2014), ‘The sharing economy has a race problem,’ *Salon*, https://www.salon.com/2014/11/02/the_sharing_economy_has_a_race_problem/ (accessed 14th November, 2019).

51. Edelman, B., and Luca, M. (2014). ‘Digital Discrimination: The Case of Airbnb.com’, Harvard Business School NOM Unit Working Paper No. 14-054, p. 21.

different races and they engage in this discriminatory practice even though in many cases it means lost revenue for them.⁵² Another study conducted in the US concluded that apps like TaskRabbit and Fiverr had more negative reviews of black people than that of white people.⁵³

The dependency on human programmers to formulate an unbiased and objective algorithm is problematic. This is only magnified when relying upon the machine learning artificial intelligence which procures and stores data from society.⁵⁴ ‘Algorithmic systems trained on past biased data without careful consideration are inherently likely to recreate or even exacerbate discrimination seen in past decision-making’.⁵⁵ ‘Socioeconomic, gender and racial discrimination are thus noted on various platforms, depending on the type of service and users, and the platform design’.⁵⁶ The visibility of ‘racially biased’ algorithms in the EU is reduced in comparison to the US. However, this can be attributed to a lack of findings, insufficient investigative journalism or a smaller research community.⁵⁷

The General Data Protection Regulation⁵⁸ provides a bundle of rights which provide remedial measures for platform workers. These rights include the right to access personal data,⁵⁹ the right to data portability,⁶⁰ the right to object to the processing of personal data,⁶¹ and rights in respect of automated individual decision-making.⁶² However, this does not automatically imply that effective implementation of the GDPR will eradicate algorithmic discrimination. The inequality and discrimination prevalent in society are ultimately reflected in the data collected by the algorithm⁶³ thereby creating a discriminatory pattern. However, trusting ordinary users to manage their own privacy via consent in the world of online dependence is unreasonable.⁶⁴ It is particularly difficult to regulate ‘unsupervised learning’⁶⁵ because it is dependent on societal factors and choices made

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52. Edelman, B., Luca, M. and Dan, S. (2015), ‘Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment’, Harvard Business School Working Paper, pp. 1-34.
53. ‘The Gig Economy Is Rife with Racial and Gender Discrimination’ (2016), *Telesur*, <https://www.telesurenglish.net/news/The-Gig-Economy-Is-Rife-with-Racial-and-Gender-Discrimination-20161124-0016.html> (accessed 17 November 2019).
54. European Commission, ‘Study to gather evidence on the working conditions of platform workers,’ VT/2018/032 (13.12.2019)
55. Edwards, L. and Veale, M. (2017), ‘Slave to the Algorithm? Why a “Right to an Explanation” Is Probably Not the Remedy You Are Looking For’, *Duke Law & Technology Review*, p. 28.
56. European Commission, ‘Study to gather evidence on the working conditions of platform workers,’ VT/2018/032 (13.12.2019) p.90.
57. Edwards, L. and Veale, M. (2017), ‘Slave to the Algorithm? Why a “Right to an Explanation” Is Probably Not the Remedy You Are Looking For’, *Duke Law & Technology Review*, p. 28.
58. Regulation (EU) 2016/679 of the European Parliament and of the Council, 27.4.2016 repealing Directive 95/46/EC (General Data Protection Regulation).
59. *Ibid.*, Article 15.
60. *Ibid.*, Article 20.
61. *Ibid.*, Article 21.
62. *Ibid.*, Article 22.
63. European Commission, ‘Study to gather evidence on the working conditions of platform workers,’ VT/2018/032 (13.12.2019) p.273.
64. Edwards, L. and Veale, M. (2017), ‘Slave to the Algorithm? Why a “Right to an Explanation” Is Probably Not the Remedy You Are Looking For’, *Duke Law & Technology Review*, p.67.
65. ‘Two main relevant forms of ML exist, which relate to the type of input data we have. “Supervised learning” takes a vector of variables, such as physical symptoms or characteristics, and a “correct” label for this vector, such as a medical diagnosis, known as a “ground truth.” The aim of supervised learning is to accurately predict this ground truth from the input variables in cases where we only have the latter. “Unsupervised learning” is not “supervised” by the

by people. The collection of more data and tracking behavioural patterns evident in the algorithm would be an effective solution.

3. The gig economy, work-life balance and the myth of flexibility

The platform economy offers a substantial degree of flexibility to women as far as their work schedules are concerned.⁶⁶ Flexibility and autonomy are considered as motivating factors to propagate the relevance of the platform economy and reasons for enticing more workers to engage in the same.⁶⁷ However, this does not address the concern relating to the work-life balance of women. Unpaid care and domestic work remain unresolved issues for women working in the platform economy. The ability to care for others is still regarded as an inherent female characteristic and not a ‘skill that needs to be acquired’,⁶⁸ learnt or accepted by men. The platform economy may be a good way for women to participate in the labour market but it does not address the problem of double burden of work placed upon them. It is like giving women the option of choosing to stay home, now, with the added liability of also foregoing their permanent employment and replacing it with gig work, which itself is precarious in nature. Without proper legislation on this matter, it is difficult to conclude that such work schedules are beneficial or disadvantageous for women in the gig economy.

The nature of the so-called flexibility is also questionable. The employers increasingly demand flexibility *from* their workers, even while they are providing flexibility *for* more of their permanent workers. These kind of work schedules are not only restrictive in nature but also prevent the workers from having a stable family life. Therefore, this uncertainty again makes it difficult for women to carry the double burden of work and family.

The rise of gig economy might be able to resolve the issues of paid employment for women by providing them with more opportunities to ‘make their work-life balance’ more convenient and evolved. However, focusing primarily on flexible work schedules to tackle the disproportionate care load women have to bear, is not enough and does very little to break the patriarchal pattern and social norm of unpaid work being assigned to women.⁶⁹

According to the International Labour Organisation’s agenda on decent work⁷⁰ and the Sustainable Development Goals (SDGs), it is not just enough for women to be included in the workforce. It is also important that the work improves their quality of life. The following SDGs depict perfectly the emphasis put on this particular issue:

ground truth. Instead, ML systems try to infer structure and groups based on other heuristics, such as proximity’. Edwards, L. and Veale, M. (2017), ‘Slave to the Algorithm? Why a “Right to an Explanation” Is Probably Not the Remedy You Are Looking For’, *Duke Law & Technology Review*, p.25.

66. Brazilay, A.R. and Ben-David, A. (2017), ‘Platform Inequality: Gender in the Gig –Economy’, *Seton Hall Review*, p. 400.

67. European Commission (2018), ‘Platform Workers in Europe’, Luxembourg: Publications Office of the European Union, p.6.

68. European Institute for Gender Equality (2017), ‘Gender, skills and precarious work in the EU’, p.15.

69. Hunt, A. and Samman, E. (2019), ‘Gender and the Gig Economy: Critical Steps For Evidence-Based Policy’, *Overseas Development Institute*, pp. 1-48.

70. International Labour Organisation (2013), ‘Decent Work Indicators: Guidelines for Producers and Users of Statistical and Legal Framework Indicators,’ p. 12.

‘**SDG 5.4:** Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate’.⁷¹

‘**SDG 8.5:** By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.’⁷²

Furthermore, the aim of the recent EU Directive on work-life balance⁷³ addresses dealing with the unpaid work done by women. This Directive has its roots as one of the deliverables⁷⁴ of European Pillar of Social Rights.⁷⁵ The aims⁷⁶ of the Directive are as follows:

- ‘better supporting a work-life balance for parents and carers,
- encouraging a more equal sharing of parental leave between men and women, and
- addressing women’s underrepresentation in the labour market.’

This Directive is a progressive step towards reducing the disparity between the unpaid work done by men and women, thereby contributing towards reducing the double burden of work placed upon women. Proper implementation of this Directive would improve the quality of work performed by women, thereby serving the objective of providing decent work for women.

Gender equality is at the heart of decent work as can be observed by the above stated excerpt depicting the recently introduced initiatives by the International Labour Organisation and the EU. The problem of women undertaking more unpaid work than men still persists.

4. The gig economy and gender pay gap

The gender pay gap is another unresolved issue which has been in existence for a long time. The ILO introduced the most constructive and crucial instrument for pay equity by way of ILO Convention, No. 100 on Equal Remuneration of Men and Women for Work of Equal Value (1951),⁷⁷ which was followed by the introduction of equal pay legislation in various jurisdictions. It is one of the core labour standards and has been ratified by 173⁷⁸ Member States.

71. United Nations, ‘Sustainable Development Goal 5: Achieve gender equality and empower all women and girls’.

72. United Nations, ‘Sustainable Development Goal 8: Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all’.

73. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

74. ‘Principle 9 -Work-life balance: Parents and people with caring responsibilities have the right to suitable leave, flexible working arrangements and access to care services. Women and men shall have equal access to special leaves of absence in order to fulfil their caring responsibilities and be encouraged to use them in a balanced way.’ European Commission, ‘The European Pillar of Social Rights’.

75. Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU.

76. Ibid., points 10 & 11.

77. ‘This fundamental convention requires ratifying countries to ensure the application to all workers of the principle of equal remuneration for men and women for work of equal value’. International Labour Organisation, ‘C100-Equal Remuneration Convention, 1951’.

78. International Labour Organisation, ‘Ratifications of C100 - Equal Remuneration Convention, 1951 (No. 100)’.

The EU has also been working towards the objective of equal pay for more than half a century now through enforcement of Article 157 of the Treaty on the Functioning of the EU which refers to the principle of equal pay for men and women for equal work or work of equal value. The right to equal pay for work of equal value was reiterated as a principle in the EU Pillar of Social Rights.⁷⁹ Moreover, initiatives have been taken by the EU to address the gender pay gap, one of those being the ‘EU Action Plan 2017-2019: Tackling the gender pay gap’ in November 2017.⁸⁰ Despite the enactment by the EU Member States of legislation relating to equal remuneration through the enforcement of the Gender Equality Directive⁸¹ and other initiatives complementary to the Directive, its implementation has not been as effective as intended. This can be evidenced through the recent labour statistics on the gender pay gap according to which ‘women earn over 16% less than men per hour in the EU, in other words, women earn 84 cents for every 1 euro men earn’.⁸²

Economic empowerment leads to the independence of women thereby shielding them against any kind of adversity. Therefore, it is imperative that women’s economic growth is not jeopardised in any circumstances. This should not be a difficult task, since women work the same hours as men, which should entitle them to the same pay. The question of the gender pay gap is still an issue even in the traditional labour market and will now have to be addressed in respect of digital platforms as well. There is a possibility that female workers can fare better on digital platforms but the profiling of the workers takes into consideration the gender and age of workers, which might lead to inherent gender discrimination. Despite anonymity, there are certain male-dominated and advanced technological roles for which women are not preferred. This leads to discrimination on digital platforms and makes women vulnerable, thereby resulting in stagnation of the position of women when it comes to the gender pay gap.

If there is any distinguishing feature of the platform world, it is the substitution of customer reviews in place of the personal supervision and feedback in more traditional workplaces.⁸³ But an analysis of customer reviews hints the presence of bias in the platform economy.⁸⁴ ‘The application of rating systems requires platform workers to have a service mentality, making these jobs far more emotionally demanding than their counterparts outside the platform economy.’⁸⁵ As previously discussed in this article, race and gender discrimination strongly affects customer reviews, and unfortunately the legal provisions relating to anti-discrimination only bind the companies and do not regulate customers’ behaviour.⁸⁶ There is also some anecdotal evidence regarding discrimination affecting the rating system in the EU, according to which, any discrimination in the ‘real world’ is reflected in the platform economy.⁸⁷

Women get less paid than men for various reasons. The negotiating power of women is one of those reasons. Literature on women and negotiations have identified a significant difference

79. European Commission (2017), ‘The European Pillar of Social Rights in 20 principles’.

80. European Commission, ‘EU action against pay discrimination: Ending pay discrimination by monitoring and enforcing laws and rules’.

81. Directive 2006/54/EC on gender equality in employment (OJ L 204, 26.7.2006)

82. European Commission (2019), ‘Equal Pay? Time to close the gap!’

83. Cahn, N. Carbone, J and Levit, N. (2019), ‘Discrimination by Design?’, *Arizona State Law Journal*, p.28.

84. *Ibid.*, p.30.

85. European Commission, ‘Study to gather evidence on the working conditions of platform workers’, VT/2018/032, (13.12.2019), p. 62.

86. Bartlett, K.T. and Gulati, M. (2016), ‘Discrimination by Customers,’ *Iowa Law Review*, p.257.

87. European Commission, ‘Study to gather evidence on the working conditions of platform workers,’ VT/2018/032, (13.12.2019), p. 89.

between men and women in their propensity to negotiate for wages and *a priori* lowering of salary expectations among women to avoid negotiation.⁸⁸ It is also possible that women might be put in a disadvantageous position by posting higher hourly rates because women are unsure of the expectations in the negotiation and therefore it might work against them.⁸⁹ Algorithms can be used as a tool to detect discriminatory patterns when it comes to wage differentiation. This would make it easier to take relevant policy measures to close the gender pay gap in the gig economy.

Conclusion

The increasing participation of women in gig work had crucial implications for their working conditions and their negotiating power due to the paid and unpaid work dynamics.⁹⁰ The rise of the gig economy is a fairly recent phenomenon, thus there is a possibility to take preventive steps. Along with the issues and challenges in the brick and mortar world, now there are new challenges arising in the platform economy which need to be resolved. The emerging gender issues on digital platforms have not been widely discussed or researched upon to by the policymakers in the EU. Therefore, from a regulatory point of view, there is a need to review the existing legislative framework relating to female workers to cater and adapt to the specificities of platform work, thereby striving for an inclusive labour market.

The EU is taking active measures in relation to the protection of the rights of platform workers. The recent Directive on Transparent and Predictable Working Conditions⁹¹ is a big step towards bettering the working conditions of platform workers. This Directive also reiterates the aim of European Pillar of Social Rights, specifically, Principles 5⁹² and 7,⁹³ thereby rightly extending the necessary protection of platform workers to provide them with fair working conditions. ‘The labour market requires flexible work contracts, but flexibility must be combined with minimum protection.’⁹⁴ This remarkable milestone for workers in the platform economy is definitely a commendable start towards improving the position of gig workers in digital platforms. The Gender Strategy 2020-2025⁹⁵ is yet another step towards furthering gender mainstreaming through the approach of intersectionality in all EU policies, which will hopefully even be reflected in EU labour policy for gig economy workers.

88. Brazilay, A.R. and Ben-David, A. (2017), ‘Platform Inequality: Gender in the Gig –Economy’, *Seton Hall Review*, p. 420.

89. Exley, C., Niederle, M. and Vesterlund, L. (2016), ‘New Research: Women Who Don’t Negotiate Might Have Good Reason,’ *Harvard Business Review*.

90. Hunt, A. et.al (2019), ‘Women in the Gig Economy: Paid work, care and flexibility in Kenya and South Africa’, *Overseas Development Institute*, pp.1-92.

91. Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019, on transparent and predictable working conditions in the European Union.

92. ‘Principle 5: Secure and adaptable employment.’ European Commission, ‘The European Pillar of Social Rights in 20 Principles’.

93. ‘Principle 7: Information about employment conditions and protection in case of dismissals’. European Commission, ‘The European Pillar of Social Rights in 20 Principles’.

94. ‘This legislation grants new rights for the most vulnerable employees on atypical contracts and in non-standard jobs, such as gig economy workers. The new rules protect workers by providing more transparent and predictable working conditions and prevent employers from stopping a worker from taking up another job outside of working hours and require that all new employees get key information on their responsibilities and working conditions within a week’. European Parliament (2019), ‘Gig Economy: EU law to improve workers’ rights’.

95. European Commission, ‘A Union of Equality: Gender Equality Strategy 2020-2025,’ COM (2020) 152.

Because of the gig economy, more people have the opportunity to participate in the labour market, thereby bringing down the unemployment rate. Partly, this is beneficial for women who were unable to participate in the traditional labour market due to various circumstances. However, it is not ideal if women are forced to shift to working in the gig economy because of the issues discussed at length in the article. Furthermore, if non-standard employment is on the rise, then the precarious nature of such employment must not be overlooked. The composition of standard and non-standard employment is of utmost importance while deciding upon labour policy measures. Moreover, the unemployment rate is not a perfect barometer with which to assess the existence of gender discrimination. Reducing the rate of unemployment is not sufficient since it does not ensure the quality of life of the workers nor does it focus on the composition of such employment. For example, in Germany the unemployment rate, on average, has been 3.1%,⁹⁶ but the gender pay gap in Germany is the highest at 21%.⁹⁷ With the rise of worker participation in the gig economy, there is also a threat of increasing atypical employment. It is imperative to not just provide minimum protection to the workers in the gig economy but rather to help them in transitioning from the state of atypical employment to standard employment.

Work in the gig economy is atypical in nature and even though there is the potential to increase employment rate, in general, through platform work, the vulnerability, uncertainty and precariousness inherent in such work should not be overlooked. The ‘switch’ from the traditional platform to the online platform also fails to resolve the problems faced by atypical workers or the deep-rooted gender bias affecting female workers. In fact, there are nuanced challenges, like the transparency in algorithms and other facets analysed throughout this article, which can affect female workers, for which EU policymakers are yet to address. The interface between the GDPR and its use to protect platform workers has been explained in the recent report issued by the European Commission.⁹⁸ However, both legal and technical approaches to resolving algorithmic discrimination would lead to effective implementation. The possible drawbacks of the GDPR when it comes to ‘unsupervised learning’ cannot be discounted.⁹⁹

Gender inequality in the traditional labour market is still a hornets’ nest. Instead of waiting for another century to correct the issues surrounding the new challenges of gender inequality in platform work, there is an option to take preventive measures to stop the deteriorating circumstances of women in this new form of employment. The gig economy might prove to be advantageous or disadvantageous for women in the EU labour market depending on the necessary policy modifications or initiatives taken by the EU policymakers.

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96. ‘Unemployment’ (2019), DESTATIS: Statistisches Bundesamt, <https://www.destatis.de/EN/Themes/Labour/Labour-Market/Unemployment/Tables/press-month2.html>

97. ‘German pay gap unchanged at 21 percent’ (2019), *DW*, <https://www.dw.com/en/german-gender-pay-gap-unchanged-at-21-percent/a-47906057>

98. European Commission, ‘Study to gather evidence on the working conditions of platform workers,’ VT/2018/032, (13.12.2019).

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ORCID iD

Neha Vyas  <https://orcid.org/0000-0001-9983-5427>