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Outsourcing, the Gig Economy, and International Scams

Winifred R. Poster*

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I. INTRODUCTION

I would like to talk about transnational dynamics that are underpinning the gig economy. Gig work is not only being done *within* countries but also *across* them, which has very important implications for how we think about regulating this work. I was so glad this morning when Assemblywoman Gonzalez mentioned the issue of fraud arising from different practices of gig work, because this is what I would like to talk about today. I want to expose the underside of what happens transnationally on these platforms, especially in the form of very pervasive kinds of deception.

I will start illustrating this with an example from my own personal experience about a phone scam. Normally, if we were all in person, I would ask everyone to raise their hand if they had ever received a scam call on the phone. I am going to trust that it is pretty common. For me, there was one call I received in 2010 that was a turning point for my studies of this topic. I was at home, and someone called saying that he was from the Federal Communications Commission (FCC). He asked if I was getting a lot of telemarketing calls and if I was on the federal Do Not Call list—which I was. He said he could solve the problem for me, and I should wait for a call from some other person who would give me an automated security code. He was going to call me back, get the code, and put it into a system.

I have received odd calls before, but this one was unique for many reasons. (And not even for the obvious reasons, which include: how complicated this process was; how it was supposed to help me; why the FCC would be making personal calls to customers; and why their scam was based on preventing scams.) Most curious to me was that it did not fit the profile of the call centers I had been studying in my ethnographic research in India, which I knew was most likely the source of this call. This call indicated to me that something was changing about global outsourcing. What used to be an industry mostly based in telemarketing and debt collections—for legitimate companies—was now shifting to impersonators, who are working for fake organizations and for the purpose of scamming. I will argue here that this is not an isolated incident, but instead quite widespread and indicative of several historical changes in global labor.

Taking you on a little trip into my ethnographic research, I will show first that there are many parallels in the outsourcing industry and the gig economy. In fact, the latter has emerged *from* the former. Second, both are highly predicated on transnational labor dynamics—especially when it comes to digital labor, or labor that happens through information and communication technologies. Both are facing existential problems having to do with fakes, frauds, and scams, which is a topic of a special issue that I am editing right now and should be out later this year¹ I will conclude by discussing why regulation of the gig economy should pay attention to these dynamics.

1. Winifred Poster, *Introduction to Special Issue on Scams, Fakes, and Frauds*, 24 NEW MEDIA & SOC'Y 1535 (2022).

II. OUTSOURCING

Let me start with what we call “outsourcing.” Outsourcing involves moving work over national borders largely through Information and Communication Technologies (ICT). Instead of using a multinational firm that has to travel itself and set up its own subsidiaries, employers can now pass work off to a third-party local firm and send those tasks over the internet.

A. India as a Transnational Destination

India started doing this around the year 2000, as state and private sector organizations in the United States invested in huge infrastructures for fast communication between the two countries in the form of fiber optic cables, satellites, and voice over internet protocols. India quickly became a popular destination for outsourcing, in part, because it had a massive labor force of young, educated, English-speaking, and cheap workers.² The Indian state obliged in this process with successive stages of legal exemptions for this industry, including women working at night and data privacy.³ Soon, most of the Fortune 500 companies in the U.S. had outsourced some work to this industry. They hired over two million workers, and their standing as the leading outsourcing location lasted for a decade.⁴

So, what changed? Other countries got in the game, and by 2011, the Philippines overtook India in numbers of call centers and employees.⁵ If you look at the rankings of new call center jobs now, you will see that India is further down on the list, while many Latin American countries are at the top.⁶ This was also complemented with rising unemployment in India, which hit a 20-year-high just a few years ago leaving a lot of people out of work.⁷

2. Brier Dudley, *Microsoft's Call-Center Business in India Gets an American Accent*, SEATTLE TIMES (Aug. 16, 2004), <https://archive.seattletimes.com/archive/?date=20040816&slug=indiaenglish16> (on file with the *University of the Pacific Law Review*).

3. See ET BUREAU, *Government Relents on New IT Security Rules, Exempts BPOs*, ECON. TIMES (Aug. 26, 2011), <https://economictimes.indiatimes.com/tech/ites/government-relents-on-new-it-security-rules-exempts-bpos/articleshow/9739251.cms> (on file with the *University of the Pacific Law Review*).

4. Dudley, *supra* note 2.

5. Vikas Bajaj, *A New Capital of Call Centers*, N.Y. TIMES (Nov. 25, 2011), <https://www.nytimes.com/2011/11/26/business/philippines-overtakes-india-as-hub-of-call-centers.html> (on file with the *University of the Pacific Law Review*).

6. SITE SELECTION GRP., 2022 GLOBAL CALL CENTER LOCATION TRENDS REPORT 3 (2022).

7. *India's Unemployment in 2020 at Worst Level in 29 Years, Shows Study*, BUS. TODAY (May 28, 2021), <https://www.businesstoday.in/jobs/story/india-unemployment-in-2020-at-worst-level-in-29-years-shows-study-297195-2021-05-28> (on file with the *University of the Pacific Law Review*).

B. A Shift to Scams

So why did a segment of this industry turn to scams? There are, of course, a lot of reasons related to dynamics of criminology, but I want to talk about one factor that's hard to ignore—the U.S. business sector actually gave these actors some of the key resources on how to do it. The Indian call center industry has been the recipient of a decade's-worth of training on how to carry out overseas digital communication. This includes supplying technologies for carrying it out and sending their own personnel and business consultants to give instruction on the minutia of outsourced voice work. When I was doing fieldwork in the call centers, I would encounter these people providing training on how to produce fakeness on the phone. They have been instructing managers on how to teach workers to act American. The purpose is to appease angry American customers who are angry about communication issues as well as the process of outsourcing more generally. I have called this labor process “national identity management.”⁸ It has components of using an American alias, learning U.S. accents and grammar, adopting conversational styles, and learning a script.

If we go back to my call with the scammer then,⁹ we see how he was using all of these same tactics with me. He said his *name* was Clive. He used *conversational skills* to show familiarity with my environment. He said he knew where I lived, listing off the counties next to me, where he said he had been recording unusual amounts of telemarketing. He had a *script* for how to respond when that cover fails. Because I knew the call center was not legitimate, I started asking questions like: “Where you are calling from?”, “Where do you work at the FCC?”, “What is your job title?”, and “How long have you worked there?”. He had answers for everything, whether they were improvised or scripted. What was new in this situation—and what I was so surprised about—is that his act included an affiliation with the U.S. government. And he was not alone in this. Here is a list of many scams of this kind enacted by Indian call centers that I have collected from news and scholarly reporting (Table 1). Not only are employees in these scam centers saying they're from the FCC, but also from the FBI, the IRS, the Social Security Administration, Customs, and many other government entities.¹⁰

8. Winifred R. Poster, *Who's on the Line? Indian Call Center Agents Pose as Americans for U.S.-Outsourced Firms*, 46 INDUS. RELS. 271 (2007).

9. See *Infra* Section I.

10. *Multiple India-based Call Centers and Their Directors Indicted for Perpetuating Phone Scams Affecting Thousands of Americans*, DEP'T OF JUST. (Feb. 3, 2022), <https://www.justice.gov/usao-ndga/pr/multiple-india-based-call-centers-and-their-directors-indicted-perpetuating-phone-scams> (on file with the University of the Pacific Law Review).

Table 1. Impersonation of US State Officials in Indian Call Center Scams

Impersonation	Scam	Number of Customers Reached	Total Amount of Money Accrued	Location in India	Year
Federal Communications Commission Officer	Receive and return access code to reduce telemarketing calls and restore your Do Not Call List status	N/A Call to me	N/A	N/A	2010
Federal Bureau of Investigation Agent	You've been charged with financial crimes. Pay penalties or face arrest	Thousands	\$1.2 million	N/A	2011 - 2013
Internal Revenue Service Officer	We are conducting a tax revision, and you need to pay additional taxes.	N/A	\$54 million	Mumbai, Maharashtra	2016
Social Security Administration Officer	Your SSN was being used by drug traffickers. To clear your number, pay a fee in the form of gift cards, bitcoin, etc. If not, we'll block your SSN number.	100,000	\$1.7 million	Madhya Pradesh	2019
Customs and Immigration Officer	Pay penalties, or face arrest and imprisonment	N/A	Millions of dollars	Ahmedabad, Gujarat	2019

Note: Compiled by author; sources available upon request.

The irony here is that the U.S. outsourcing industry has indirectly set up the conditions for this in the form of a vast scam-call-center sector. And the icing on the cake is that these new workers are actually posing as officials of the U.S. state—or U.S. private sector companies like Microsoft.

What was the result? These scammers were good at it and this industry prospered. Fake call centers started to appear in many regions of India, clustered in the big cities. In New Delhi alone, there were estimates of 10,000 fake call

centers by 2013.¹¹ In one case, the scammers were making more than 2.7 million calls to at least 600,000 different phone numbers nationwide. They collected more than 5.2 million dollars from consumers in two years.¹²

These fake call centers are also good at hiding in plain sight. Some were often located in large scale facilities with 700 workers and looked just like regular call centers. These were not back-alley operations, and, in fact, some of them operated *within the sites* of legitimate call centers. During the day, employees would come in to work for the legitimate call center; then at night, another set of employees would come in and do the scam work. Critically, the scam was at times hidden to workers themselves.¹³ Some of them did not realize when they applied for the job that they would be doing illegal work; others who took the job were ignorant of it even after making calls for some time.¹⁴ This is an important point, because this kind of deception in hiring is something that arises also in platform economies. Now let me turn to platforms and show you how this happens.

III. PLATFORM AND CLICKWORK LABOR

In my view, platforms are the next stage of global labor after outsourcing. Instead of sending a whole set of tasks to an outsourcing company in a specific country, firms—and even individuals—are now turning to a different source. Platforms for employment and gig work are the new middlemen or intermediaries for global information production and services.¹⁵ This is apparent in the fact that, as the *outsourcing* industry was starting to have trouble around the 2010s, the *platform* industry was taking off exponentially.

Furthermore, gig-economy platforms have adopted many of the deceptive features of outsourcing that I have described above, and amplified them. Gig platforms have spread those practices transnationally, while at the same time making them harder to see. To illustrate the reach of platforms, I turn to an excellent report by scholars at the International Labour Organization published in 2018.¹⁶ They study the spread of “web-based” work, which refers to tasks that are

11. *10,000 Fake Call Centres Running in Delhi, Say Police*, NEWS 18 (Jan. 22, 2013), <https://www.news18.com/news/india/10000-fake-call-centres-running-in-delhi-say-police-532870.html> (on file with the *University of the Pacific Law Review*).

12. Patrick Lunsford, *Operator of Scam Collection Agency Pleads Guilty to Federal Charges*, INSIDEARM (Oct. 15, 2014), <http://www.insidearm.com/news/00010542-operator-of-scam-collection-agency-pleads/> (on file with the *University of the Pacific Law Review*).

13. Yudhijit Bhattacharjee, *Who's Making All Those Scam Calls*, N.Y. TIMES (Jan. 27, 2021), <https://www.nytimes.com/2021/01/27/magazine/scam-call-centers.html> (on file with the *University of the Pacific Law Review*).

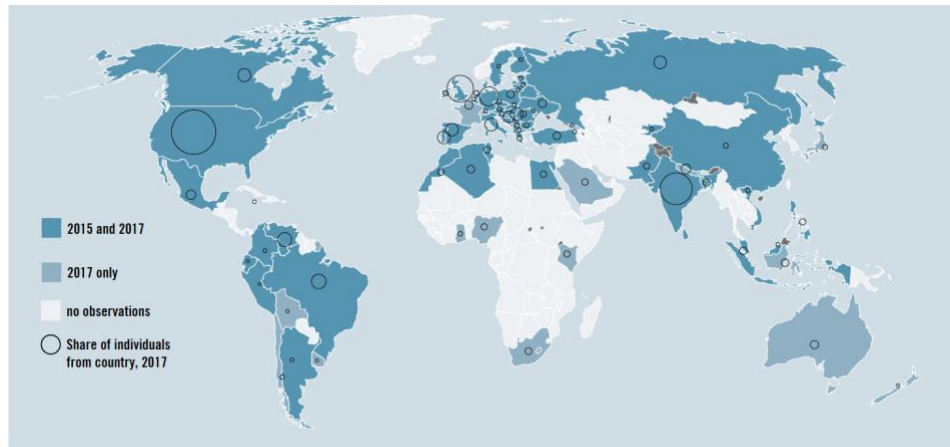
14. *Id.*

15. Winifred R. Poster, *The Virtual Receptionist with a Human Touch: Opposing Pressures of a Digital Automation and Outsourcing in Interactive Services*, in *INVISIBLE LABOR: HIDDEN WORK IN THE CONTEMPORARY WORLD* 87, 87–112 (Marion G. Crain, Winifred R. Poster & Miriam A. Cherry eds., 2016).

16. JANINE BERG ET AL., INT'L LAB. ORG., *DIGITAL LABOUR PLATFORMS AND THE FUTURE OF WORK* 85 (2018).

done mostly online. (This is in contrast to “location-based” work, like delivery or driving, which happen offline.) Focused on just five platforms, these scholars found 3,500 workers in 75 countries. We can see the spread of work across many countries on this map, represented in dark blue color (See Figure 1). A good deal of these platform workers were not making minimum wage for the countries they were in. And, as one might expect, earnings in the global south were lower than those in the global north.

Figure 1. Global Spread of Platform Labor in ILO Surveys, 2015-17¹⁷



What struck me in reading this report are the subcurrents of fakes, frauds, and scams within the gig platforms, and how they mirror what happens in outsourcing. Let me give you three examples of deceptive practices that I was seeing.

A. Manufacturing Fake Content

One is the trend of manufacturing fake content online. This is happening in microwork companies, which represent nearly half the jobs that they were studying in this report. This involves single tasks on the computer that might take a few minutes. It is often called click work. A growing proportion of this work involves creating false promotions for goods, services, and individuals.¹⁸ A typical task would be searching for a product and typing it into Google or visiting a company website—things that would generate fake traffic for someone or something. Alternatively, some of the tasks involve “liking” a product, downloading and installing an app, or retweeting a post on Twitter—things that would improve the

17. *Id.*

18. *Id.*

ratings of companies or people online. Workers in the study talk about how they were evaluating destinations that they've never traveled to and writing positive reviews about apps they actually do not like. In this way, these are fundamentally jobs of creating fake things.

More disturbing examples of this labor are troll farms and factories. These are organizations that produce fake content on social media for political purposes. One might think that this is a small-scale thing, but a report by the Computational Propaganda Research Project at Oxford shows how this industry is international.¹⁹ Their study on these troll farms spans eighty-one countries (represented by the darker colored countries on this map in Figure 2).

Figure 2: 81 Countries with Confirmed Reports of Political Troll Farms²⁰



Since 2009, this industry has accrued sixty million dollars. Not only that, but it also often operates across countries, as well as within regions. Neighboring countries will be doing troll work for other countries.²¹ Some of these work sites are set up directly by state governments, but most of the time by private sector firms and individuals who want to support particular candidates.²² Either way, the work ends up being remarkably similar to click work above, with activities like creating fake accounts, posting material that is false, etc. Also similar are the labor

19. See generally SAMANTHA BRADSHAW ET AL., UNIV. OF OXFORD: COMPUTATIONAL PROPAGANDA RSCH. PROJECT, INDUSTRIALIZED DISINFORMATION: 2020 GLOBAL INVENTORY OF ORGANIZED SOCIAL MEDIA MANIPULATION (2020).

20. *Id.*

21. *Id.* at 2, 9.

22. *Id.*

conditions, in that workers are sometimes compensated in small change for each post—which is how China’s 50 Cent Army got its name.²³ The size of that workforce was estimated to be close to two million workers in 2015.

B. Fake Ads and Fraudulent Jobs

Another type of deception on platforms is fake advertisements and fraudulent jobs. If you talk to anyone who has applied for a job on a platform, they will tell you that fake advertisements are very pervasive. There are several forms that this fraud will take. Sometimes there will be no actual job behind an advertisement. Scammers will post it simply for short-term financial gain—to pocket money from fake things like application fees or background checks.

Other advertisements have real jobs behind them, but not the jobs that are stated in the advertisements. Workers are duped into secondary jobs that were not originally part of the bargain. In some, those second jobs are overtly illegal like money mules, reshipping fraud, and check printing.²⁴

Going back to the troll farms, we can see these fraudulent advertisements in action. Recruitment for troll farms is sometimes done on employment platforms. One such advertisement on a Russian website says that employees will be part of a “friendly team” and work on “interesting projects.”²⁵ Yet, it declines to say anything about the content of the work, for whom employees will be working, and critically, how the work involves generating fake content for politicians.

In some cases, the industries behind the posts are themselves explicit scams. An example is shipping fraud. Workers are asked to send packages, yet they have no idea what is inside them, and why they are doing it. This scam is called “brushing.”²⁶ Brushing starts with policies on e-commerce sites like Amazon (based in the United States) and Alibaba (in China). These platforms have policies which invite scams by sellers. First, in order to get your item on the top of the viewing list for customers, you have to get a lot of positive customer reviews, and second, those customers have to be verified by receiving a package from the platform to their address.²⁷ Evidently, it is not hard at all to fake your way into both of those things. So, how do scammers do that? To start, they go to the dark web and access—sometimes for free, but also for purchase—leaked databases of

23. Gary King et al., *How the Chinese Government Fabricates Social Media Posts for Strategic Distraction, Not Engaged Argument*, 111 AM. POL. SCI. REV. 484, 494 (2017).

24. Rafael Grohmann et al., *Platform Scams: Brazilian Workers’ Experiences of Dishonest and Uncertain Algorithmic Management*, 24 NEW MEDIA & SOC’Y 1161 (2022); Alexandra Ravenelle et al., *Good Jobs, Scam Jobs: Detecting, Normalizing, and Internalizing Online Job Scams During the Covid-19 Pandemic*, 24 NEW MEDIA & SOC’Y 1591 (2022).

25. Jane Lytvynenko, *Here Are Some Job Ads for the Russian Troll Factory*, BUZZFEED (Feb. 22, 2018), <https://www.buzzfeednews.com/article/janelytvynenko/job-ads-for-russian-troll-factory> (on file with the *University of the Pacific Law Review*).

26. Zoe Kleinman, *The ‘Brushing’ Scam That’s Behind Mystery Parcels*, BBC (Sept. 7, 2020), <https://www.bbc.com/news/technology-54055669> (on file with the *University of the Pacific Law Review*).

27. *Id.*

addresses.²⁸ Then the scammers create an account for those people. Next, they hire gig workers to send the packages full of fake and often random things to those addresses so they can be verified. Finally, scammers log in and create the positive reviews.

The scenario has led to largescale cases of fake packages being sent from places like Kazakhstan and China to people in the United States and United Kingdom, partly because that is where some of the biggest breaches of personal data have occurred.²⁹ Gig workers become unwitting go-betweens for these globally-orchestrated and platform-based fraudulent industries. This underscores both the transnational dynamics of these industries, and how commerce platforms incentivize this behavior.

C. Reselling Gig Work

How platform work is becoming globalized, and in deceptive ways, is illustrated in a final case: reselling gig work. Also called “service arbitrage” or “drop servicing,” reselling gig work enables an individual to become their own outsourcer through the use of employment platforms. Coming full circle from the first section, this case will show how platforms are replacing outsourcing, and enacting troubling practices for workers in the process.

The story of a woman in Singapore with a big presence on TikTok provides an example.³⁰ She finds clients who are seeking services in video editing, social media, and branding. But then, instead of doing the jobs herself, she goes on Fiverr, which is an employment platform run out of Israel. Here, she hires workers from India, Pakistan, the Philippines, and Croatia to provide the service at a fraction of the cost. In this way, she resells gig work to make a profit. By advertizing this whole process on TikTok, she becomes the middleman (or middleperson) and marks up the price for the client, sometimes up to 500 percent. Advertisements for lessons on drop servicing promise that you can make thousands of dollars “by doing nothing.”³¹ Employment platforms, then, are facilitating exploitation of the lowest paid global workforces. They are enabling *individuals* to do practices that *outsourcing firms* have been doing for years, but now through a few clicks on a platform.

28. Dan Patterson & Graham Kates, *We Found Our Personal Data On the Dark Web. Is Yours There Too?*, CBS NEWS (Mar. 25, 2019), <https://www.cbsnews.com/news/we-found-our-personal-data-on-the-dark-web-is-yours-there-too/> (on file with the *University of the Pacific Law Review*).

29. Rob Sobers, *The World in Data Breaches*, INSIDE OUT SEC. (Mar. 29, 2020), <https://www.varonis.com/blog/the-world-in-data-breaches> (on file with the *University of the Pacific Law Review*).

30. Mia Sato, *Reselling Gig Work Is TikTok's Newest Side Hustle*, VERGE (Feb. 9, 2022), <https://www.theverge.com/22905356/gig-work-drop-shipping-fiverr-tiktok> (on file with the *University of the Pacific Law Review*).

31. *Id.*

IV. CONCLUSION

My point overall is that the gig economy has inherited many of the same problems of outsourcing—especially in targeting vulnerable workforces internationally and enabling deceptive practices. Often in the legal system, scams are considered crimes against consumers, but I argue that scams need to be treated as crimes against labor as well. We need regulation that protects workers from jobs that are masking illegal practices, so that people can know what jobs they’re signing up for, and whose interests those jobs are serving. In addition, the regulation of the gig economy should take into account the transnational patterns by which labor is being recruited. As the work itself crosses borders, it may escape the attention of nationally-based policy regimes. Finally, regulation of the gig economy should incorporate data protections as well, given the amount of data that is collected about workers on platforms and how it governs their experiences.

V. QUESTIONS AND ANSWERS

A. Is wage theft a big part of this in addition to the fraudulent schemes? What do you do?

Yes, this issue of not getting paid has been raised by workers in so many of these scam cases. In addition, there is no grievance procedure on many of the platforms where a worker can try to redress this. I recommend looking at the back of the International Labor Organization report I showed earlier,³² where there is a long list of protections for gig workers that should be instituted, especially in the context of microwork and gig platforms. So yes, absolutely, that’s definitely a number one issue.

B. Is this sort of platform economy more exploitable than others? Is it inherently exploitable? Are these just kinks that need to be worked out over time that, as we use it more and more, will be able to regulate, or are these problems inherently brought up by this format?

I think that the premise of this workshop today is partially about that. We are in an intermediate stage of these platforms. Initially, they were blowing up in popularity and everyone was signing on. Now, however, we are seeing how weak they are in protecting workers.

32. BERG, *supra* note 16, at 104.

A big factor, from my perspective, is the location of where these platforms are based—which is the United States. That came out in Valerio’s talk.³³ In the U.S., regulations over platforms are so weak, and the rights of workers are not being addressed adequately. When U.S. platforms operate in Europe, they have to behave differently. But I think that, since their home base is here, this is where the attention has to be focused. I’m an optimist, so I do believe that all these things are addressable. We just have to get on board and get to work.

33. Valerio De Stefano, *Platform Work and the Employment Relationship—A Global Overview*, GLOB. WORKPLACE L. & POL’Y (Mar. 31, 2021), <http://global-workplace-law-and-policy.kluwerlawonline.com/2021/03/31/platform-work-and-the-employment-relationship-a-global-overview/> (on file with the *University of the Pacific Law Review*).

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