

## The app worker and the urgency of a new employment contract model

*The gig worker and the urgency of a new employment contract model*

Samuel Matos Nahmias Melo – Amazonas State University (UEA), [smnm.dir21@uea.edu.br](mailto:smnm.dir21@uea.edu.br)

Advisor: Prof. Dr. Túlio Macedo Rosa e Silva-Amazonas State University (UEA), [tmsilva@uea.edu.br](mailto:tmsilva@uea.edu.br)

### SUMMARY

This paper analyzes the crisis of the classic model of legal subordination in Brazilian labor law, exacerbated by the advent of platform capitalism. The study argues that the current dichotomy between subordinate and independent work is insufficient to encompass the new labor relations mediated by digital platforms, which, despite their apparent autonomy, are characterized by economic dependence and algorithmic control. The research, qualitative and bibliographic in nature, proposes the adoption of a new legal paradigm, inspired by the concept of parasubordination, already present in European legal systems such as those of Italy and the United Kingdom. Through a comparative analysis, the article demonstrates that Brazilian jurisprudence, by rigidly clinging to the binary logic of "employee" or "independent," has contributed to precariousness and informality. Conversely, international experiences show that it is feasible and necessary to create an intermediate protective statute that guarantees basic rights such as minimum wage and vacation time to economically dependent workers. The research concludes that Article 8 of the Consolidated Labor Laws (CLT), by permitting the use of comparative law, provides the necessary hermeneutical basis for Brazilian Labor Courts, through an adapted interpretation, to overcome the regulatory gap and implement the constitutional principles of human dignity and the valorization of work. The study thus advocates the urgent need for a new employment contract model that ensures rights and social protection for app-based workers without hindering new production realities.

**Keywords:** Platform Work. Parasubordination. Platform Capitalism. Labor Law. Employment Relationship.

### ABSTRACT

This paper analyzes the crisis of the classic subordination model in Brazilian Labor Law, exacerbated by the rise of platform capitalism. The study argues that the current dichotomy between subordinate and autonomous work is insufficient to cover new work relationships mediated by digital platforms, which, despite apparent autonomy, are characterized by economic dependence and algorithmic control. The research, which is qualitative and bibliographic, proposes adopting a new legal paradigm inspired by the concept of "parasubordination," a model already present in European legal systems like Italy and the United Kingdom. Through a comparative analysis, the article demonstrates that Brazilian jurisprudence, by rigidly adhering to the binary logic of "employee" or "autonomous," has contributed to precarization and informality. In contrast, international experiences show that it is both viable and necessary to create an intermediate protective statute that guarantees basic rights such as minimum wage and vacation for economically dependent workers. The research concludes that Article 8 of the CLT (Consolidation of Labor Laws), by allowing the use of comparative law, provides the necessary hermeneutical basis for the Brazilian Labor Justice system to overcome the normative gap and enforce the constitutional principles of human dignity and the value of labor. The paper, therefore, advocates for the urgency of a new employment contract model that ensures rights and social protection for gig workers without stifling new productive realities.

**Keywords:** Platform Work. Parasubordination. Platform Capitalism. Labor Law. Employment Relationship.

## INTRODUCTION

In recent decades, the advancement of digital technologies and the growing popularization of so-called sharing economy has profoundly transformed the ways of organization of work. The emergence of digital platforms, which mediate the provision of services in a decentralized and flexible manner, has challenged traditional models of legal regulation, especially in the field of Labor Law. In Brazil, subordination is adopted as the central criterion for characterizing the employment relationship, serving as a basis for the recognition of labor guarantees and rights. However, this logic is increasingly inadequate in the face of new work dynamics, in which the link between worker and company is fragmented, fluid and, often, sometimes ambiguous.

The current legal model, centered on the dichotomy between subordinate work and autonomous, it proves insufficient to offer responses to the demands arising with the platform capitalism. This has contributed to the increase in informality and the exclusion of several workers from the protections guaranteed by labor legislation and social security. In this scenario, it becomes urgent to reflect on alternative forms of regulation that allow us to recognize and protect these subjects without restricting new realities productive. The European experience, especially the Italian one, which adopted the figure of the worker parassubordinate, offers relevant subsidies for this debate.

In fact, informality rates in Brazil, which affect 37.8% of the population occupied (IBGE, 2025), contrast with significantly lower rates such as, for example, for example, in Denmark and Sweden, countries where informality does not exceed 10% (OECD, 2024), revealing the effectiveness of more inclusive models of social protection.

This work aims to analyze the feasibility of applying the parasubordination as an intermediate solution between the rigidity of the classical model of subordination and complete autonomy, with a view to expanding social protection and construction of a more inclusive labor system adapted to contemporary challenges.



This research will be developed from a qualitative approach and bibliographical nature. To this end, a critical and hermeneutic analysis of the sources will be carried out theoretical, documentary and jurisprudential studies that address the theme of new relations of work and the crisis of the classical model of subordination.

The work will be based on the review of specialized literature on Law of Work, focusing on doctrinal works by national and foreign authors, such as Sandro Nahmias Melo Tom Slee, for understanding the phenomenon of platform capitalism. Furthermore, the analysis of normative texts will be used, such as the Federal Constitution of 1988 and the Consolidation of Labor Laws (CLT), as well as the analysis of case law national and comparative law, such as the decisions of European courts on the parasubordination.

The method to be used will be deductive, starting from general theoretical premises for the analysis of specific cases, with the aim of building a solid argument that justify the application of the figure of the parasubordinate worker in the legal system Brazilian as a solution to contemporary work challenges.

## **1. FROM SHARING ECONOMY TO CAPITALISM PLATFORM**

This chapter aims to trace the trajectory of the sharing economy, from its initial ideals to its transformation into a business model known as platform capitalism. To this end, the analysis will be divided into three parts. The first will address the rise of the digital economy and the initial promises of a fairer and more collaborative. The focus will then turn to the characteristics of capitalism. platform, which, in practice, generated precarious work. Finally, the last subchapter will discuss the impact of deregulation on labor relations and its implications for the future.

### **1.1. The digital economy and the promise of sharing**

The sharing economy, at first, presented itself as an alternative promising to combat passive consumption and materialism. Its main proposal was

prioritize the use of goods over ownership. This approach promised to be an alternative sustainable, moving away from materialism and fostering a more egalitarian vision. The idea was also encourage the creation of micro-enterprises, decentralizing consumer power which, is often concentrated in the hands of large businessmen. The initial proposal included a new form of supervision of service providers, a phase of personal trust and the encouraging microentrepreneurship (SLEE, 2018).

However, what the sharing economy has become is, in practice, a free market. Instead of fostering social interactions and micro-entrepreneurship, the model ended up encouraging big companies and even imprisoning individuals, instead of free them. This discrepancy raises a debate about whether the term "economy of sharing" is still the most correct (RIFKIN, 2014).

Sundararajan (2019) explores this tension by analyzing what he calls "capitalism crowd-based", a paradigm shift that is transforming the structures traditional corporate entities. For the author, the sharing economy is characterized by five main attributes: it is market-based, optimizes the use of capital, replaces institutions centralized by decentralized networks, disseminates personal and professional exchanges and, finally, overlaps types of employment.

Schor (2017) complements this analysis by stating that the reality of the economy shared is more complex than utopian or predatory visions. She argues that *Peer-to-peer* technology has powerful potential for building a movement social centered on genuine practices of sharing and cooperation, while recognizing that many companies profit from exploitation. For the author, the challenge is to go beyond the rhetoric and seek to democratize the ownership and governance of platforms so that the potential social is actually carried out.

Sundararajan and Schor's analysis adds a layer of complexity to the debate, showing that the discrepancy between the initial promise and the reality of the economy shared is an inherent tension in the model itself. They argue that this economy it is not a simple replacement of old models, but a fusion of market elements and present, the results of which are still under development and can both strengthen ties social or exacerbate isolation, depending on how the balance between purpose and profit leans.

In short, the debate over the sharing economy reveals a profound tension between their utopian ideals and their capitalist reality. According to the analyses of Sundararajan and Schor, the model is not limited to a simple revolution of principles, but to a hybrid complex that blends the potential of decentralized networks with the logic of market and the search for profit. The platforms, while promising empowerment and collaboration, reproduce hierarchies and create a new type of worker, whose vulnerability requires a rethinking of legal definitions and protections. The discrepancy between the initial promise of a socially just economy and the observed concentration of wealth demands that society and legislators address the issue in order to ensure that technological innovations serve human dignity and sustainability, rather than deepening precariousness and inequality.

## **1.2. Characteristics of Platform Capitalism: The Precariousness of Sharing**

The technology behind platforms like Uber and Airbnb is described as something that supports software to connect consumers with suppliers, allowing the extraction of a share of the profits. Additionally, the software provides a reputation system that, supposedly solves the screening problem. (SLEE, 2018)

The sharing economy was inspired by the culture of Silicon Valley, which preaches that, by making something a common good, it can leave the sphere of private property and be shared among a community. However, as pointed out by Slee Tom (2018), financial incentives often stifle the altruistic impulses that should have inspired this economy.

The book "Uberization: the new wave of precarious work" (ANTUNES, 2020) also explains that Uber is seen as individualistic and has no interest in creating a sense of community. Airbnb is described as a model that encourages flourishing of small local businesses, although it is also criticized for gentrification and exclusion of traditional residents.

To further this analysis, Sundararajan (2019) describes platforms as a hybrid of market and hierarchy. He argues that digital technology reduces the costs of coordination, allowing complex activities to be outsourced to the crowd. This



dynamics encourages micro-entrepreneurship, but raises the issue of precariousness, since that the line between production and consumption activities becomes increasingly blurred.

This criticism of exploitation is reinforced by Schor (2017), who points to the character "predatory" and "exploitative" of certain platforms, which may be "acting badly." The debate about precariousness, therefore, it is not just about the lack of labor rights, but about the very nature of a business model that appropriates the value generated by collaboration, without redistributing fairly.

Based on the authors' views, it is clear that the essence of capitalism is platform is this fusion of market logic and hierarchy. Platforms are not just connection tools, but new organizational structures that manage and control the workforce, while categorizing it as self-employed. This creates an environment where the promise of freedom and entrepreneurship coexists with the risk of a lack of rights and social protections, a tension that defines the new landscape of work.

### **1.3. The challenge of deregulation and the future of work**

The business model of platforms has transformed the promises of entrepreneurship in a new form of precarious work. Workers are called of "on-demand services", and the logic behind the deregulation promoted by platforms seeks the accumulation of private wealth. (SLEE, 2018)

Tom Slee (2018) argues that the Sharing Economy agenda, although appeal to ideals such as equality and sustainability, has failed to live up to the expectations of its advocates. The author expresses that for those who truly believe in the principles of equality and sustainability, there are no shortcuts to solving social problems complexes, and we need to abandon the arrogance of internet culture.

The sharing economy is invoking these ideals to build gigantic private fortunes, erode real communities, encourage more forms of consumerism and create a more precarious and unequal future.

The debate on deregulation takes on new contours with the prospect of Sundararajan (2019), which focuses on the need to adapt labor laws. He notes that existing employment tests are inadequate for models of the economy

shared, and ongoing legal disputes reflect the need to rethink the working definitions. For the author, the solution may involve a new classification of worker, as a "dependent contractor" or "independent worker", and the creation of a social protection network detached from traditional employment.

In this regard, Schor (2017) joins the discussion by focusing on the need to rescue the concept of the sharing economy from its commercial appropriation. She and her co-authors of the book argue that regulation is an instrument that can both promote and hinder the development of new solutions for society. To address real conflicts brought by these platforms, the regulatory debate must be conducted democratically.

As a result, the analyses demonstrate that the challenge of deregulation is not just an ideological struggle, but a practical issue that requires legislative and political solutions. To propose the creation of new job categories and social protection networks, they offer a way to reconcile the flexibility of the platform economy with the security and workers' rights, which represents an evolution in the debate on how to build a fairer and more equitable future of work.

## **2. NEW LABOR RELATIONS AND THE INSUFFICIENCY OF THE CLASSICAL EMPLOYMENT RELATIONSHIP MODEL**

This chapter aims to analyze the distinction between the different figures contractual in the Brazilian legal system, with a special focus on labor relations and employment. From the crisis of the criterion of legal subordination, the elements will be explored that characterize the employment relationship and the need to seek new solutions for the worker protection, such as the figure of parasubordination.

### **2.1. Subordinate, autonomous and parasubordinate work in the legal system**

#### **Brazilian legal system**

In Brazil, the characterization of the employment relationship is given by the joint presence of essential elements: personal nature, non-eventuality, onerousness and, mainly, the hierarchical or legal subordination (LEITE, 2023). The absence of any of these elements disqualifies the employment relationship.



Subordinate work is that in which the employee's work activity is subject to the employer's power of direction, while self-employment is carried out with independence. Some authors, however, have been debating the existence of a category intermediate: parasubordinate work. Nascimento (2008) defines parasubordination as a category that encompasses work that does not fit into traditional modalities, in which work is provided with personalization, continuity and coordination.

For Delgado (2020), parasubordination represents a new reality that requires a rebalancing of the protective labor law model, in order to accommodate atypical forms of functional subordination, compatible with the dynamics of digital platforms. In this sense, "legal regulation cannot ignore hybrid forms and must provide protection to those who needs it" (DELGADO, 2020, p. 217).

Tupinambá (2021) highlights that subordination in platform work is exercised through algorithms, with automated target control, evaluations and exclusions, which imposes on Labor Law a reinterpretation of the classic concept of subordination.

*De lege lata*, the Brazilian legal system does not regulate parasubordinate work in a specific way. Case law, however, has sought to adapt the concepts traditional contractual arrangements to protect these workers, such as *freelancers* who have an economic dependence on the service recipient.

## 2.2. BRAZILIAN BINARY JURISPRUDENCE AND THE REGULATORY VACUUM

Historically, Brazilian jurisprudence has established binary protection for Brazilian worker. If there is an employment relationship – as recognized by the employer services – we have the **1** of the binary system and, consequently, all the rights and protections listed in the Federal Constitution and the CLT. If there is an employment relationship (without legal protection specific) we have **0** in the binary system, corresponding to a total absence of rights labor, despite the provisions of Article 7 of the Federal Constitution.

In this sense, recent decisions by the Federal Supreme Court and Superior Court of Justice have consolidated an understanding that prioritizes economic freedom in detriment of labor protection (ARE 1532603. TOPIC 1389. Rel. Min Gilmar Mendes). Also within the scope of the STJ it was understood that the relationship between the driver and the platform does not characterizes an employment relationship, given the absence of the requirements of art. 3 of the CLT

(BRAZIL. STJ. Conflict of Jurisdiction No. 164,544-SP. Rapporteur Min. Moura Ribeiro. DJe 10/02/2020). The 0 of rights inherent to the binary system prevails.

However, as Schiavi (2021) argues, the link of economic dependence and the personality present in these relationships are sufficient to legitimize the existence of a "minimum protective status", even if outside the classic framework of the employment contract.

It should be reiterated that the Brazilian labor jurisprudential model has operated under a logic exclusionary binary: either the worker is considered an employee, holder of all rights provided for in the Constitution and the CLT (the "1" of the binary), or is considered autonomous, without any labor protection (the "0" of the binary). Such reductionism ignores the zones intermediaries of the employment relationship, especially those marked by dependence economic and coordination with the service recipient.

The case law of the Superior Labor Court has reiterated the absence of a link employment of app-based workers. In a paradigmatic ruling, the 4th Panel of the TST decided that there is no legal subordination between app drivers and the company Uber, rejecting the recognition of the bond (BRAZIL. TST. RR-1000123-89.2017.5.02.0038. Rel. Min. Maria Cristina Irigoyen Peduzzi. DJe 06/12/2019).

Critical of this view, Melo (2023) argues that Labor Law cannot continue to be held hostage by a dichotomous model that excludes the protection of thousands of workers intermediated by digital platforms, which operate with economic dependence and working hours exhausting, but without any guaranteed rights.

In this context, the rigidity of Brazilian jurisprudence, by strictly adhering to the classical criteria of subordination, creates a protection gap for a growing portion of workers. Instead of adapting the law to the new realities of work, the binary logic of the Judiciary, which reflects the binary logic of legislation, has contributed to precariousness, denying these professionals access to basic rights and social security. The insistence in this traditional model it not only fails to recognize dependence and vulnerability of these workers, but also disregards the need for a more flexible system and inclusive that can guarantee a minimum of dignity and legal security.

### **2.3. Insufficiency of the subordination criterion in the face of new forms of work**



Transformations in the world of work, driven by technology, have made it difficult to identify legal subordination in the traditional way. The work distance, for example, made direct hierarchical control almost invisible. In this context, Luiz Carlos Amorim Robortella (ROBORTELLA, 1998) states that subordination traditional is proving to be insufficient as a center of gravity for Labor Law. In response to this crisis, he proposes that Labor Law evolve towards a model of graduation of guardianship, which takes into account the levels of subordination and dependence, offering a differentiated treatment for the different forms of work. According to the author, "the degree of protection should focus more on contractual weakness than on the intensity of the subordination" (ROBORTELLA, 1998).

Corroborating this vision, other concepts emerge with a new approach. structural, integrative or reticular subordination, as defined by Maurício Godinho Delgado (DELGADO, 2006), occurs when the worker inserts himself into the dynamics of the recipient of services, regardless of receiving direct orders. For a more systematic exegesis of the employment relationship, overcoming the traditional idea of subordination, Marcus Menezes Barberino Mendes and José Eduardo de Resende Chaves Junior (MENDES AND CHAVES JÚNIOR, 2008) defend the centrality of the concept of alienity (or otherness, as names José Augusto Rodrigues Pinto).

Along the same lines, the scholar Arion Sayão Romita argues that the classical form of subordination, based on the employer's direct and personal control over the employee, if became insufficient for the modern world of work. In his view, subordination traditional is in crisis because it cannot embrace new forms of work that, although they do not fit into the classic molds, they also place the worker in a situation of vulnerability (ROMITA, 2005).

In short, the evolution of labor law in the face of new technological realities demonstrates a growing consensus in the doctrine that traditional subordination, based on direct hierarchical control is no longer a sufficient criterion for defining the employment relationship. In the face of this crisis, there is a need to rethink legal protection, focusing on new concepts such as structural subordination and alienation, which seek to protect the worker based on its contractual weakness and its insertion in the company's dynamics. This approach points to a future in which protection extends to a "third category" of

worker, economically dependent, but without a formal employment relationship, guaranteeing that technology does not advance at the expense of precariousness and social vulnerability.

#### **2.4. The need to review the traditional employment relationship model**

The contrast between subordinate and autonomous work has exhausted its historical function. The doctrine, with thinkers such as Alice Monteiro de Barros (BARROS, 2002), suggests the creation of a new typology of work, such as coordinated or parasubordinate work, with adequate protection: inferior to that of subordinate work, but superior to that of self-employment. Although this discussion persists, the Brazilian legal system still clings to the dichotomy traditional.

This rigidity, however, finds a counterpoint in the very interpretation of our legal system. As Leite (LEITE, 2023) points out, article 7 of the Federal Constitution of 1988 does not prevent the extension of social rights to other workers who are not employees, a direction already indicated by the protection of casual workers and the protection partial of domestic workers and public servants. In addition, the constitutional amendment 45/04 expanded the jurisdiction of the Labor Court to judge disputes arising from “employment relationship” (LEITE, 2023), showing a tendency to expand legal protection beyond the traditional employment relationship.

To overcome this crisis, Arion Sayão Romita (ROMITA, 2005) argues that the right of labor must expand its protection beyond the formal employment relationship. He proposes that legal protection is based more on contractual weakness and economic dependence than in the intensity of subordination. The author suggests that the law should also protect self-employed and “parasubordinate” workers who, despite not having a formal employment relationship, classic employment, are economically dependent on the company, ensuring that they do not become helpless (ROMITA, 2005).

In short, the contrast between subordinate and autonomous work, although still present in the Brazilian legal system, is a criterion that has exhausted its historical function, requiring a new legal approach. The 1988 Federal Constitution itself, by not prevent the expansion of social rights and expand the jurisdiction of the Labor Court for the work relationship, and not just the employment relationship, already signals a trend of greater protection. From this perspective, the consensus among legal scholars is the need



to overcome the traditional dichotomy in favor of a new typology of work, based on contractual weakness and economic dependence, and no longer in the rigidity of subordination classical. This evolution in the interpretation of Labor Law is essential for the legal protection adapts to new realities, without leaving workers in a situation of vulnerability.

### 3. PARADIGMS FOR THE BRAZILIAN LEGAL SYSTEM

The crisis of the traditional model of subordination, deepened by the advance of platform capitalism, requires that the Brazilian legal system seek new inspirations for protecting workers. This chapter will explore experiences international and the application of comparative law concepts. The analysis of models foreigners, added to the use of hermeneutical foundations present in Brazilian legislation, will demonstrate that it is possible to adapt the legal system to offer more appropriate protection to the new realities of work.

#### 3.1. EUROPEAN EXPERIENCES ON PARASUBORDINATION

Several countries already recognize intermediary contractual figures in Contract Law. Work. In Germany, the figure of the "arbeitnehmerähnliche Person" is legally protected, rights such as vacations, limited working hours and social security protection are guaranteed (SCHÖMANN, 2018). In Spain, Law No. 20/2007 created the "self-employed worker" economically dependent" (TRADE), with its own legal status and basic rights (FERNÁNDEZ, 2020).

Judicial action is complemented by specific legislation that formalizes this support. Italy, for example, did so through Legislative Decree No. 81/2015, which in its Article 2, paragraph 1 (in Italian legal language, "comma 1"), establishes the application of norms of work subordinate to relationships that, although not subordinate, are personally and continuously organized by the contractor, as transcribed *ipsis litteris*:

*“From January 1, 2016, the rules governing employment relationships subordinate work also applies to collaborative relationships that result in predominantly personal and continuous work performances, whose methods are arranged by the client. The provisions of this paragraph also apply when performance methods are organized through*



*platforms, including digital platforms.*” (LEGISLATIVE DECREE 15 giugno 2015, n. 81. *Our translation*)

The United Kingdom, for its part, already had a three-tier legal system that serves of support for the third way of work. The *Employment Rights Act 1996* and *National Minimum Wage Act 1998* defines the category of “worker”, which stands between the employee and the self-employed worker. This classification is fundamentally based in the obligation to perform the work personally for the contractor. Article 230(3) of the *Employment Rights Act 1996* and Section 54(3) of the *National Minimum Wage Act 1998* bring the same wording, which serves as the basis for judicial decisions granting rights to platform workers without configuring them as formal employees. This category legal guarantees workers essential rights, such as minimum wage and paid vacations, without him being considered a traditional employee. Here is the ***verbatim transcription***:

“(3) In this Act 'worker' (except in the phrases 'agency worker' and 'home worker') means an individual who has entered into or works under (or, where employment has ceased, worked under) —

(a) a contract of employment; or

(b) any other contract, whether express or implied, and (if express) whether oral or in writing, by which the individual undertakes to do or perform personally any work or service for another party to the contract whose situation is not, by virtue of the contract, the client of any profession or business in self-employment.” (Employment Rights Act, 1996; National Minimum Wage Act, 1998.

Belgium, in turn, adapted the “casual employee” legislation (known such as flexi-job) to apply to platform workers, granting them access to a simplified regime of contributions and social protections. This regime, which resembles a third way of work, was introduced by the *Loi-programme du 26 décembre 2015*.

The legal basis is found in Article 334 of this law. Below is a transcription of the legal device that defines the figure of the *flexi-job worker*:

“Art.334 The term “flexi-job” is understood to mean the worker, employee under an employment contract of indefinite or fixed duration, which carries out additional work under specific conditions, in sectors defined by law, and that meets certain conditions of employment in relation to his main occupation, which gives him

allows you to benefit from more favorable tax and social treatment." (Law-program of December 26, 2015. Our translation)

Such experiences demonstrate the legal viability of creating a specific statute for parasubordinate workers, without this representing a precariousness in employment relationships work.

### **3.2. ARTICLE 8 OF THE CLT AS A HERMENEUTICAL BASIS**

Article 8 of the CLT expressly authorizes the use of comparative law as a source subsidiary for the resolution of labor disputes. In times of regulatory vacuum, it is imperative that judges and legal professionals use the experiences international standards as an interpretative parameter to extend protection to those who, although not formally employed, are materially vulnerable.

As Delgado (2021) argues, art. 8 allows jurisprudence to adopt solutions innovative measures that implement the constitutional principles of labor protection and dignity of the human person. A practical and contemporary example of the application of this concept abroad, which serves as inspiration for the Brazilian legal system, is the UK Supreme Court ruling on Uber drivers. According to Brazil Fact (2021), the retired judge of the Regional Labor Court of the 3rd Region (TRT-MG), José Eduardo Resende Chaves Júnior, analyzed the decision that sentenced Uber to pay minimum wage and vacation to drivers.

The period worked, according to that decision, begins to be counted when the driver turns on the app and takes the first ride. In other words, he must also be paid for the time it waits for the next passenger. The Supreme Court reaffirmed the first decision based on the concept of parasubordination, considering the Uber driver a "intermediate" worker between the categories of employee and self-employed. The specialist praises the decision, describing it as "very clear, very pragmatic" (BRASIL DE FATO, 2021).

Among the arguments that configure parasubordination is the fact that Uber prohibits professional relationship between driver and passenger outside the app, in addition to being the company that sets prices, destinations, and routes. The decision left open the possibility to consider the driver an employee in the future, showing that the debate is not

terminated. After this determination, 70,000 Uber drivers in the UK now have right to vacation pay equivalent to 12.07% of earnings and automatic registration in a retirement system linked to the company.

Italian jurisprudence stands out for its innovative approach to the issue. In instead of recognizing a direct employment relationship, it applies the concept of parasubordination, which is already a legal source in its legal system. The decision of the Corte di Cassazione, expressed in Judgment No. 1663/2020, represents a milestone in Europe in addressing the nature labor law on digital platforms. In the case involving the platform's "riders" Foodora, the court did not classify them as formal employees, but applied the discipline of subordinate labor based on this concept. (Supreme Court of Cassation, 2020)

The core of the decision lies in the recognition that, despite the apparent autonomy, the the employment relationship was, in fact, "hetero-organized" by the platform. The algorithmic control, setting fares, managing routes and monitoring performance were considered elements that configure a link of functional and economic dependence, justifying the extension of labor protections. This judgment consolidated the interpretation of the Article 2 of Legislative Decree 81/2015, serving as an important precedent for the protection of rights in a flexible and technologically mediated work environment. (Court Suprema di Cassazione, 2020)

The case of UberEats in Milan is an even more significant example of the approach of Italian justice, going beyond the labor sphere to the criminal sphere. In 2020, the Court of Milan has placed Uber's Italian subsidiary under temporary judicial administration, under the accusation of "illicit intermediation and labor exploitation" (known as *caporalato*). The investigation revealed that the company benefited from a system that used intermediaries to recruit delivery workers, many of them migrants in vulnerable situations, who worked for around three euros per delivery, in conditions considered "at the limit of slavery". This decision, although based on a crime, reinforced the responsibility of digital platforms not only in the sphere of labor law, but also in the fight against abusive and inhumane practices. (Tribunale de Milano, 2020)

In short, the debate on the sharing economy reveals the need for a robust hermeneutical foundation for labor law in the digital age. The authorization

expressly stated in Article 8 of the CLT for the use of comparative law emerges as the main basis interpretative for judges and legal practitioners. Faced with a regulatory vacuum, this foundation allows us to go beyond the traditional dichotomy between employee and self-employed, seeking in international experiences — such as the status of "worker" in the United Kingdom or the concept of "parasubordination" in Italy — solutions that protect the dignity and vulnerability of workers. Thus, legal interpretation is not limited to applying the law in a strict, but acts proactively to ensure that the constitutional principles of protection of work are realized in the face of the new and complex relationships created by capitalism platform.

## FINAL CONSIDERATIONS

It's time to break with the binary paradigm of Brazilian labor jurisprudence. multifaceted reality of the world of work demands a new hermeneutical perspective, capable of recognize the parasubordinate worker as a subject of rights. The recognition legal basis of these relationships does not mean precariousness, but, on the contrary, represents a step necessary to implement the constitutional principles of human dignity, valorization of work and the social function of economic activity.

Throughout this work, it became evident that the sharing economy, despite from its initial promises of decentralization and collaboration, it has transformed into a form of platform capitalism driven by the accumulation of private wealth and deregulation. The dichotomous model, which distinguishes only between subordinate work and autonomous, is insufficient to protect workers who, although formally autonomous, they act with economic dependence and under the algorithmic control of the platforms.

The experiences of European countries, such as Germany and Spain, which have already recognize figures such as the "arbeitnehmerähnliche Person" and the "trabajador autónomo" economically dependent", demonstrate the legal viability of creating a statute protective for these workers. Furthermore, according to the Supreme Court's jurisprudence of the United Kingdom, it is possible to apply the concept of parasubordination to guarantee rights basic benefits, such as minimum wage and vacations, to app drivers.



Therefore, the expansion of the jurisdiction of the Labor Court to "actions arising of the employment relationship" and the use of comparative law as a hermeneutic source are fundamental for Brazilian jurisprudence to overcome the regulatory vacuum and offer adequate protection for these vulnerable workers. Adopt a graduation model of guardianship, which considers the need for protection rather than the rigidity of traditional subordination, is the way to build a more inclusive, fair and challenging legal system of the 21st century.

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