

LABOR LAW AND THE SHARING ECONOMY: DO THEY MATCH?

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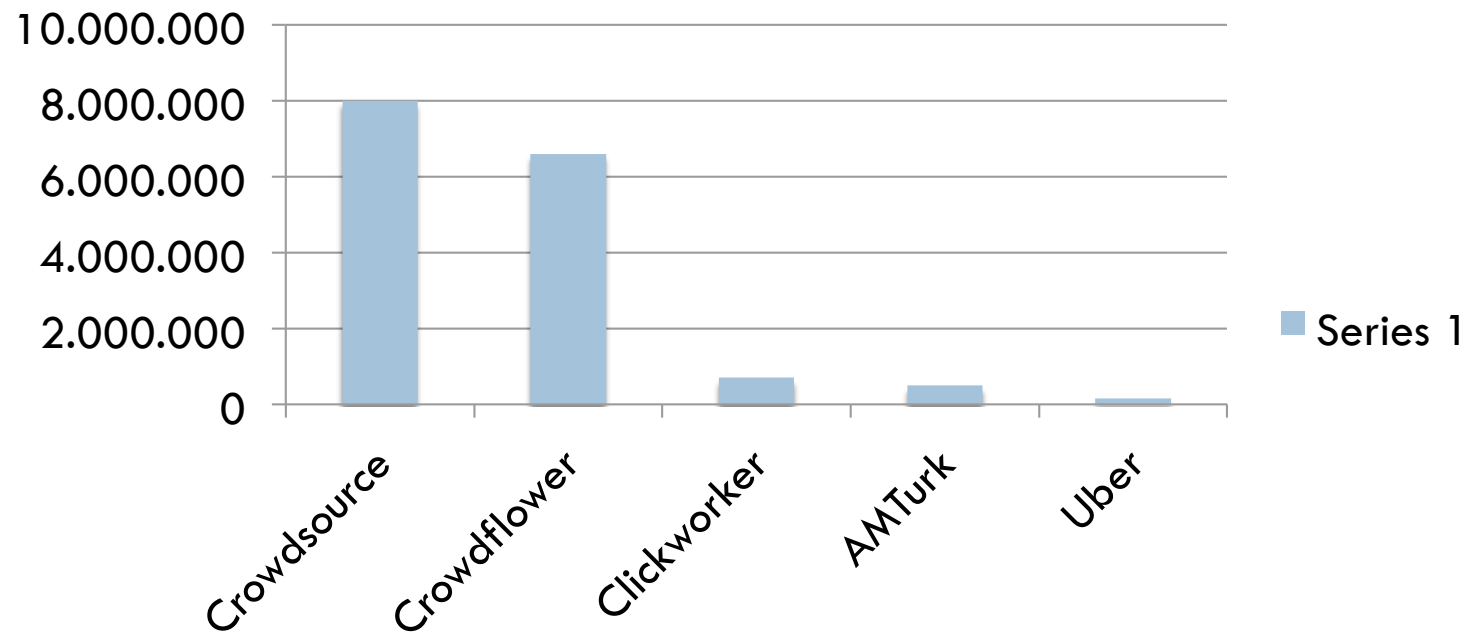
Introduction



- The sharing economy: gig economy, on-demand economy, crowdsourcing, crowdwork, collaborative economy, Uber economy
- The sharing economy is a recent phenomenon that has been growing rapidly
- PwC: increase the current global revenues from US\$ 15 bi to US\$ 335 bi by 2025
- The size of the companies may vary a lot: there are giant and small enterprises

Introduction

- Number of workers: rising



- The sharing economy impacts the world of work
- Classification: crowdwork and on-demand work (Valerio de Stefano)

Work in the sharing economy



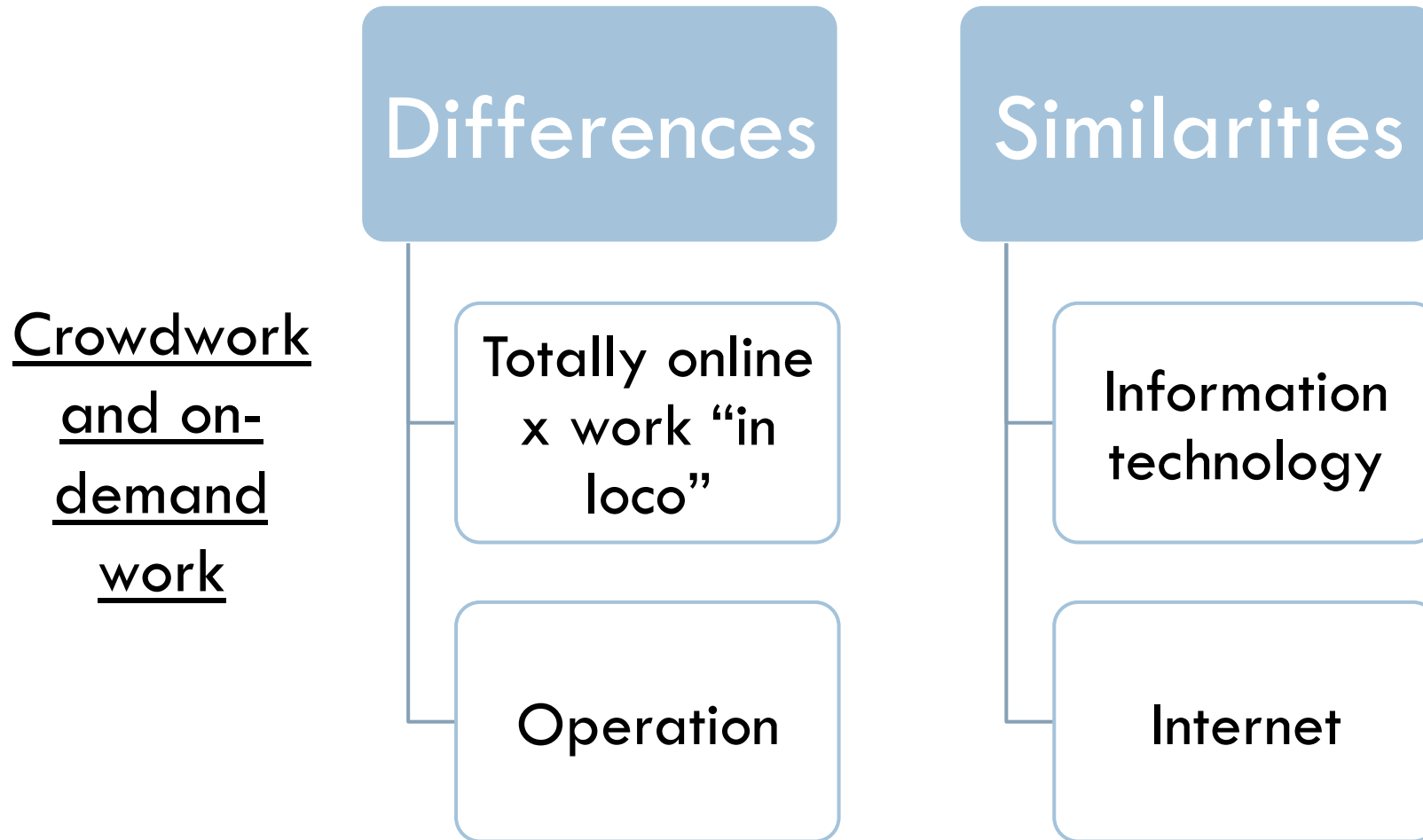
- **Crowdwork**
- Activities done in online platforms, connecting several organizations and individuals to other organizations and individuals, bringing together consumers and workers on a worldwide scale
- Fragmented tasks that do not require expertise and are repetitive, monotonous and menial
- Amazon Mechanical Turk

Work in the sharing economy



- **On-demand work**
- The service is offered through an application that establishes and grants a quality pattern for each task done, besides selecting and hiring the workforce
- Traditional labor activities as transportation, cleaning, and office and administrative tasks
- Uber

Work in the sharing economy



Employment relationship x autonomous work



- Many issues that should be analyzed and debated in the sharing economy scenario
- Controversial aspects + nature of the relationship between enterprise and worker
- The main debate: correct classification of workers in the sharing economy
- While some argue that there is an employment relationship, others state that there is an autonomous work and a third group defends that it is possible to identify characteristics of both situations

Employment relationship x autonomous work

- **Autonomous work**
- (i) there is no subordination
- (ii) freedom to choose how, when and where to do a task
- (iii) it is not mandatory to perform a minimum amount of tasks
- (iv) there is no exclusivity
- (v) workers have their own resources to perform a task
- (vi) the risk of the activity is taken by the worker
- (vii) payment is made according the amount of tasks
- (viii) the worker that has conditions to manage his/her activities
- (ix) there is flexibility in tasks execution
- (x) activities does not occur necessarily in a frequent way
- (xi) workers can decide how they will receive the payment

Employment relationship x autonomous work

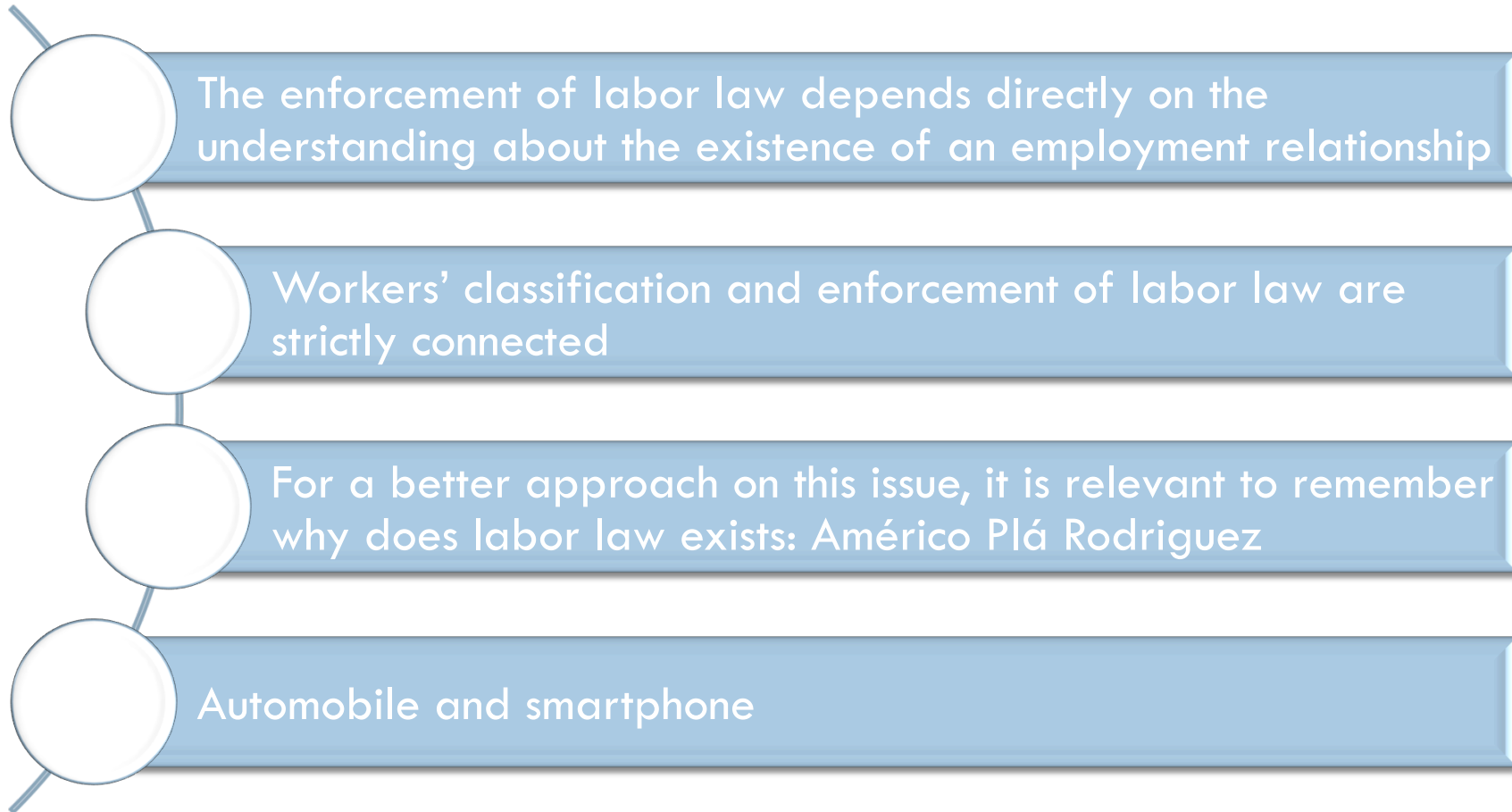
- **Employment relationship**
- (i) the enterprises determine procedures unilaterally
- (ii) the value of the services are established by enterprises
- (iii) work's policies are imposed by the companies
- (iv) enterprises try to persuade workers to accept as much tasks as possible
- (v) there are contractual clauses between companies, workers and customers that imply exclusivity of services providers
- (vi) the enterprises establish the characteristics of work instruments
- (vii) it is not required specific or qualified knowledge or skills
- (viii) there is not opportunities for take part in a different business
- (ix) customers' ratings might be a reason for workers dismissal

Employment relationship x autonomous work



- Autonomous work + employment relationship
- Contractual flexibility and the option to choose what time one will work (Autonomous work)
- The guidelines of how the service should be provided (employment relationship)
- These authors argue that it is not correct to point out that there is autonomous work and that the concept of employment relationship does not fit in the sharing economy
- Creation of a new category

Labor law, sharing economy and workers' protection



A proposal for a new category to classify workers

- Arguments for the creation of a new category
- Gray zone: very difficult to characterize work one way or the other. This would demand a creation of a new category of workers
- Considering work relations as employment relationship would derail certain business models
- The difficulties for workers' classification would lead many situations to be decided in Court: creating a new category would bring legal certainty

A proposal for a new category to classify workers

- **Independent workers:** an intermediate figure between the employee and the independent contractor.
- Main characteristics:
- (i) workers have no economic dependence on only one employer
- (ii) workers can have relations with more than only one enterprise
- (iii) workers would be able to control working hours as well as profit and loss opportunities

A proposal for a new category to classify workers

- Model that fosters innovation and certainty for workers, business and government
- (i) stability as well as flexibility are positive for workers, employers and society
- (ii) there is a need for a legal tool with portability for workers' protection that should be independent, flexible, universal and innovative friendly
- the granting of the social benefits should be separated from the employee's condition allowing workers to use regardless of their relation with a given company

A proposal for a new category to classify workers

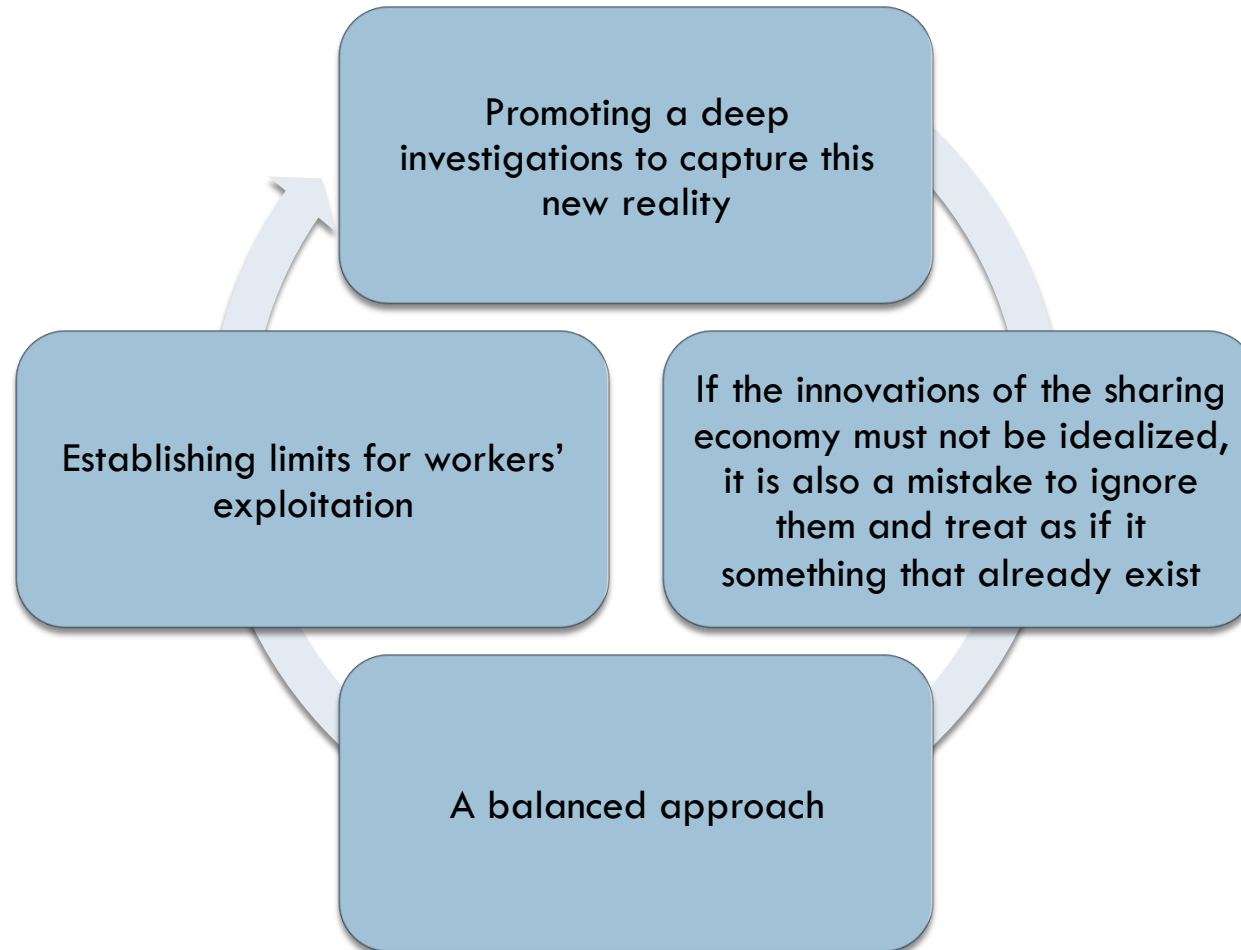


The Brazilian approach on the sharing economy and labor law



- Brazilian context
- Legal background
- “Human work is not a commodity”
- The work relations must be recognized and analyzed as they are
- Clients welfare and labor conditions
- Lawsuits and enquiries

Conclusions



Thank you for your attention

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