# Trump administration rolls back “joint-employer” labor provision in favor of big business

**E.P. Milligan**
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On June 7, US Secretary of Labor Alexander Acosta announced the withdrawal of joint employment independent contractor informal guidance, effectively removing what are called “administrator interpretations” implemented under the Obama administration designed to create employer liability. The decision will serve to further empower the major corporations while reducing their accountability and restricting the rights of workers.

The decision of the Obama administration to implement the regulation in 2016 grew out of legal problems over the question of employee and employer definitions in the context of the growth of third-party labor providers, gig-economy platforms, and franchise relationships.

The new legal interpretation was designed to provide some form of basic representation to workers employed by companies that refuse to recognize themselves as employers while still maintaining the level of control over the worker that an employer would have.

Following the 2007-2008 economic crisis and the subsequent “recovery” under the Obama administration, such forms of employment have been on the rise. Since the recession, small businesses have accounted for 67 percent of net new jobs—most of them low-wage, temp or contract work. From 2012 to 2016, franchises accounted for 10.9 percent of new private sector jobs. Franchises now account directly and indirectly for over 13 million jobs in the United States.

For example, drivers for car hailing services such as Uber and Lyft have been declared “contractors” and not employees. In the fast food industry, workers frequently have to report to a franchise operation rather than the corporation itself. Some workers also may be removed from employment at a large firm and told they now work for a third party.

A particular concern raised by the union bureaucracy is over their right to unionization and collective bargaining in this section of the economy, which they see as a growing and potentially lucrative pool of dues money. If workers such as these are not considered full employees, they have no legal basis for any form of representation.

Furthermore self-employed individuals are not allowed to organize or be involved in collective bargaining of any sort. In fact, for such employees to work together on pricing and conditions would be considered illegal price fixing.

In cases where issues concerning labor law compliance have arisen, companies often attempt to shift liability onto another business and vice versa. Under Obama, the Department of Labor at times used an interpretation that major corporations could be effectively considered to be “joint employers” who are therefore legally responsible for their employees. The Trump administration has put an end to this.

In a press release, Acosta stated: “Removal of the administrator interpretations does not change the legal responsibilities of employers under the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act, as reflected in the department’s long-standing regulations and case law. The department will continue to fully and fairly enforce all laws within its jurisdiction, including the Fair Labor Standards Act and the Migrant and Seasonal Agricultural Worker Protection Act.”

This means that the Department of Labor will not establish any new interpretations of regulations,

regardless of changes within the economy. Furthermore, this in effect represents a change in how employer legal responsibility is defined. The rolling back of the joint employer provision means that major corporations which profit off of the labor of contract or third party employees will no longer be liable.

Companies that do not directly employ the workers argue that questions regarding labor law compliance and working conditions are not applicable because they are "self-employed" contractors or their concerns are a matter for the smaller third-party employer.

Workers under third party employers likewise face many problems. Employees of third party employers may not be entitled to file a class action lawsuit against the central company through which the third party is employed. Fast food workers, for example, may not be able to sue the chain itself because they are technically employees of the local franchise only.

The decision to redefine labor law by the Trump administration is made all the more significant when taken in the context of a series of legal disputes in which workers have been fighting to be recognized as employees.

Uber drivers have filed class-action lawsuits seeking to be entitled to benefits, gas reimbursement and other expenses. Three drivers in the Amazon Flex program have sued Amazon on identical grounds, arguing they are owed back benefits, overtime pay and money for gas and vehicle maintenance. In 2014, McDonalds franchise workers sued the company over wage theft. The National Labor Relations Board ruled that the workers should be considered full-time employees of McDonalds.

For the ongoing lawsuits, the decision by the Department of Labor to reverse this will undercut the legal standing of workers' claims, paving the way for further cuts to living standards and working conditions on the part of the companies. Furthermore, it will provide a legal precedent further normalizing wage theft and lack of oversight of working conditions.

The rise of contract, subcontract, third party or otherwise "gig" labor points to the overall destruction of the living standards of the working class and the inability of capitalism to provide any relief to the growing social crisis.

It is clear the Obama administrations guideline did not drastically change conditions for workers that fall into this category. However, with its reversal, the Trump administration has made clear that it is committed to a renewed and ruthless onslaught to destroy any of the meager legal protections left for workers that may stand in the way of the insatiable drive for profit by the large corporations and big banks.