

The Dichotomy Of Moonlighting In India: Ethical And Legal Analysis With Employer-Employee Perspectives And Path To Acceptance

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Abstract

Infosys India, issued a stark warning, "No Double Lives," and subsequently laid off 300 employees for moonlighting. Wipro's Rishad Premji shared a similar view, "Moonlighting is cheating, plain and simple". IBM's Sandip Patel also echoed this sentiment. However, there were differing opinions, such as that of Tech Mahindra's C.P. Gurnani, who said, "If someone is meeting the efficiency and productivity norms and he wants to make some extra money, as long as he is not committing fraud, I have no problem." This conflicting view point is the moonlighting dichotomy.

Research Focus: This research focusses on answering questions like- is moonlighting really unethical? Is moonlighting illegal? Why are employers opposing it? Why are the employees seeking an acceptance? And what can be the best and balanced way forward?

Methodology: This is a conceptual study. The research draws from a wide array of secondary sources, articles, journals, research papers, and various internet resources.

Findings: Core ethical theories like Utilitarianism and Deontology allow Moonlighting within parameters; from legal standpoint, it's acceptable unless it conflicts with employment contracts. Thus, it is propounded that the best way forward is to put moonlighting in a legal framework, establish clear policies and acceptable practices. This would help remove ambiguity and uncertainty, ultimately benefiting all stakeholders involved.

Key words: Moonlighting, Legal aspect, Ethical considerations, Employer perspective, Employee perspective

Introduction

Moonlighting simply means the practice of holding a second job or engaging in additional work outside of one's main employment. Generally, the secondary employment is done discreetly or without the primary employer's knowledge, thus, considered cheating or dishonest by many. The practice of moonlighting garners no sympathy from employers. It may offer benefits like financial stability and career exploration for employees, but it raises ethical dilemmas, especially when secondary jobs clash with primary job responsibilities.

Objectives

In today's fast-evolving work environment, moonlighting is not merely a passing trend but a lasting reality. The paramount challenge now lies in making dual employment acceptable and advantageous for all stakeholders involved, including employers, employees, and even the broader business ecosystem. The pressing question is how to achieve this balance effectively, ensuring that the practice of moonlighting can coexist with the principles of integrity, productivity and mutual trust.

To develop a comprehensive solution, it is crucial to thoroughly understand the various dimensions of moonlighting, including ethical considerations, legal implications, and the practical needs and concerns of both employers and employees. This paper aims to address these multifaceted issues by pursuing several key objectives:

1. Analysing the ethicality of moonlighting through the lens of Core Ethical Theories
2. Reviewing Legal boundaries in India pertaining to dual employment
3. Exploring the employers perspectives on Moonlighting
4. Examining the Employee Perspectives
5. **Proposing Best Practices, Guidelines, and Strategies for the Future**

Literature review

Averett, S. L. (2001). Moonlighting: multiple motives and gender differences. *Applied Economics*, 33(11), 1391–1410. <https://doi.org/10.1080/00036840010007957>, highlights a model for understanding moonlighting by gender difference.

Behera, Biswabhusan & Kapoor, Anshul & Nayak, Pramod & Usmani, Asjad & Vadi, Vikas. (2024). The Rise of Moonlighting in India. *Splint International Journal Of Professionals*, Provide a understanding of the idea of moonlighting, its many viewpoints. The researchers have propounded that India requires a clear, standardized regulation on moonlighting across all professions. Currently, the legality of moonlighting varies depending on individual employers and the terms of employment.

Gulati, Monika. (2023). Analysis of Various Aspects of Moonlighting. *Journal of Business Theory and Practice*. 11. p32. 10.22158/jbtp.v11n1p32., says that the focus of the employer must not be banning employees from moonlighting rather than focusing on preventing any conflict of interest.

Gayatri MP, 2015. “A study on employee’s preference over moonlighting (with special reference to SME)”, *International Multidisciplinary E-Journal*, IV(VIII), 318–327, proposed that efforts aimed at improving the performance of employees engaged in moonlighting should be grounded in the development of appropriate policies. Employers should prioritize managing employee performance, ensuring that they meet job requirements and achieve their work-related goals.

Ara K and Akbar A, 2016, “A study of impact of moonlighting practices on job satisfaction of the university teachers”, *Bulletin of Education and Research*, 101–116, The study examined the impact of moonlighting practices on the job satisfaction of teachers in public sector universities across Punjab and the Federal Capital. The key findings revealed a significant effect of moonlighting on job satisfaction.

Seema, Seema & Choudhary, Vikas & Saini, Garima. (2020). Effect of Job Satisfaction on Moonlighting Intentions: Mediating Effect of Organizational Commitment. *European Research on Management and Business Economics*. This paper explored the impact of job satisfaction on moonlighting intentions, as well as the mediating role of organizational commitment. The findings revealed a strong positive influence of job satisfaction on organizational commitment, while organizational commitment was found to have a significant inverse relationship with moonlighting intentions.

Research methodology

This study primarily relied on secondary data to conduct a non-empirical analysis. Given the contemporary nature of the concept of moonlighting, many of its dimensions are still being explored and refined in academic and professional discourse. The research drew from a wide array of secondary sources, including articles, journals, research papers, review papers, and various internet resources. This comprehensive review allowed for an in-depth examination of several dimensions related to moonlighting within organizations. By leveraging existing literature and data, this study aimed to provide a thorough understanding of the multifaceted issues surrounding dual employment.

Moonlighting: The Ethical Dimension

Moonlighting, has become a fascinating ethical puzzle. While it offers financial benefits and career exploration, balancing loyalty to the main employer with the demands of side job concern many ethical points. Ethical considerations include competition with your primary company, managing time effectively to avoid neglecting duties, and keeping confidential information secure. This complex landscape necessitates careful navigation to ensure financial well-being goes hand-in-hand with professional integrity.

Analysing the concept of moonlighting from an ethical perspective we see that the morality of moonlighting can be complex and context-dependent. Each ethical theory provides a different perspective, highlighting different

aspects of the practice and its implications.

- **Utilitarianism Ethics**-Utilitarianism theory assesses the morality of actions based on their outcomes, aiming to maximize overall happiness and minimize suffering. From this perspective, moonlighting can be beneficial if it enhances someone's financial stability, reduces stress, and improves well-being by allowing them to pursue interests or acquire new skills. Conversely, it can be detrimental if it leads to excessive stress, burnout, or health problems, thereby reducing overall happiness. Additionally, if moonlighting negatively impacts performance in the primary job or adversely affects colleagues and the organization, it would be viewed as unfavourable under utilitarian principles.
- **Deontological Ethics**-Deontological ethics, focuses on duties and principles rather than outcomes. Moonlighting can be seen as ethical if it respects an individual's right to make their own choices about work and life. It aligns with the duty to provide for one's family and meet financial obligations. However, it can be unethical if it creates conflicts of interest or breaks the rules of the primary job. Deontologists stress the importance of honesty and transparency with both employers about moonlighting activities to avoid deception and maintain ethical standards.
- **Virtue Ethics**-Virtue ethics emphasizes the character and virtues of a person rather than specific actions or their results. Moonlighting can be viewed positively if it shows virtues like hard work, responsibility, and careful planning for the future. However, if it leads to neglecting self-care, rest, or personal relationships, it might be seen as lacking the virtue of moderation and self-care. Virtue ethics also considers whether moonlighting fits with the individual's overall integrity and life balance.
- **Social Contract Theory**-Social contract theory judges the ethics of actions based on the agreements and expectations within society. Moonlighting can be ethical if it follows societal norms and agreements about work, with both primary and secondary employers knowing and agreeing to it. It promotes mutual benefit and respects social contracts. On the other hand, if moonlighting breaks the terms of the employment contract or societal expectations about work commitments, it would be seen as unethical, as it violates the mutual agreements that support social cooperation.
- **Ethical Egoism Theory**-Ethical egoism says actions are morally right if they benefit the individual. Moonlighting is seen positively if it provides extra income, career growth, or personal satisfaction, fitting with self-interest. However, ethical egoism also considers long-term effects, so if moonlighting harms health, primary job stability, or overall well-being, it might not be ethical. The key is whether moonlighting serves the individual's long-term self-interest.
- **Care Ethics**-Care ethics highlights the importance of care, relationships, and emotional engagement. From this perspective, moonlighting can be ethical if it helps someone better care for their family and loved ones by providing extra financial resources or emotional satisfaction. However, it might be seen as unethical if it leads to neglecting important relationships or caregiving responsibilities. Care ethics looks at how moonlighting affects the person's ability to maintain and nurture personal relationships and fulfil caregiving roles effectively. Thus we can say that although moonlighting can offer significant benefits to employees, it must be carefully managed to align with ethical principles and maintain the integrity of the primary employment relationship. Transparent policies, open communication, and mutual understanding are essential in guiding the ethical prospect of moonlighting.

Moonlighting: The Legal Dimension

Globally, the legal rules regarding Moonlighting differ across countries. In the United States, it's generally allowed but restricted by contracts or policies. European Union countries enforce the Working time directives, limiting total no. hours to work for employees thus, preventing overwork. In the United Kingdom, exclusivity clauses in contracts may restrict secondary employment. In Canada, employers often use non-compete clauses. Middle Eastern countries like the UAE have strict regulations, requiring approval from state for additional employment. Australia permits moonlighting as long as it doesn't conflict with primary work. Overall, at a global level each country has varied rules and regulations thus, understanding local laws and contractual obligations is crucial before taking dual employment.

In India, moonlighting itself isn't against the law, but employees should be careful about their work contracts, possible conflicts of interest, and legal consequences. Although there isn't one specific law addressing moonlighting, several laws indirectly affect it. Here are some important ones

The Factories Act, 1948-Working Hours and Rest Periods: This act regulates the working hours, including rest

periods and overtime. Although not directly addressing moonlighting, it indirectly affects the feasibility of holding multiple jobs by limiting the total number of working hours.

Central Civil Services (Conduct) Rules, 1964-Government Employees: These rules strictly prohibit government employees from engaging in any other employment or business without prior permission from the government. This aims to prevent conflicts of interest and ensure full commitment to government duties.

The Industrial Employment (Standing Orders) Act, 1946-This act requires employers to define and publish conditions of employment, which can include provisions regarding dual employment or restrictions on additional work outside the primary job.

Professional Codes of Conduct- Certain professions such as law, medicine, and finance have specific codes of conduct and regulations set by professional bodies (e.g., ICAI, Bar Council of India, Medical Council of India) that may restrict additional employment.

Income Tax Act, 1961-While the Income Tax Act, 1961 doesn't restrict moonlighting, however the Income Tax Act says you must tell the government about all the sources of income, including from another job. Thus taking away the element of secrecy in moonlighting.

The Indian Contract Act, 1872-This act governs the enforcement of employment contracts. Any clauses within the contract that restrict moonlighting would be legally binding.

In conclusion, we can say moonlighting has become an increasingly prominent trend, particularly in the post-COVID-19 era. The legality of holding multiple jobs depends on a company's policies, employment contracts, the nature of the work, and other workplace factors. While Indian law does not explicitly ban moonlighting, certain legal provisions may impose indirect restrictions on the practice.

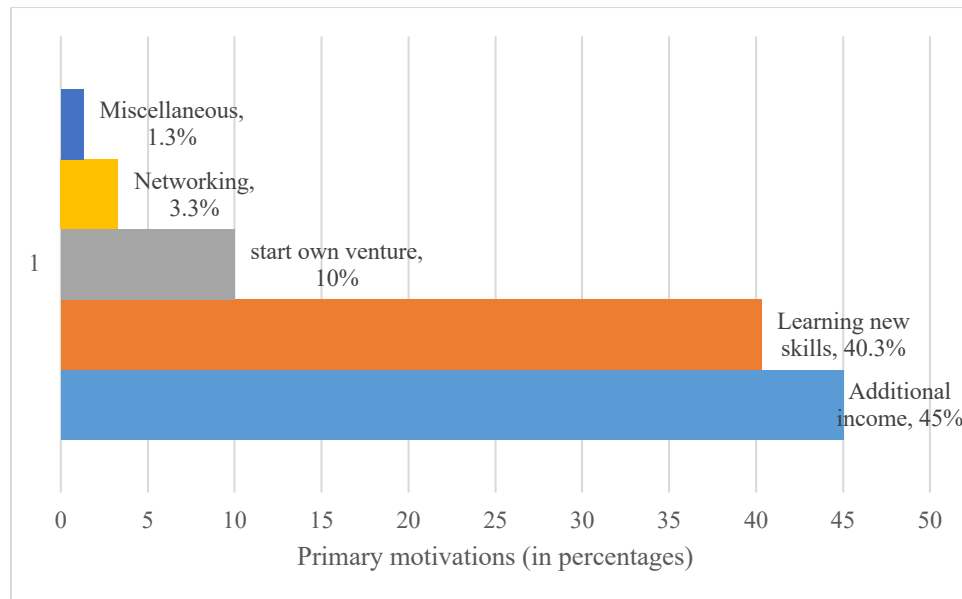
Moonlighting: The Employee's Perspectives And Motivations

From the employee's perspective, moonlighting offers a range of benefits that can enhance financial stability, professional growth, and personal fulfilment. However, it also requires careful consideration of potential challenges to ensure a harmonious balance between multiple roles.

Some of the primary motivations of moonlighting are-



According to the Moonlighting Ground Report, a survey conducted by Cutshort aimed to explore the key motivations, experiences, and attitudes of tech professionals regarding moonlighting. The survey gathered insights from 3,000 tech professionals at various stages of their careers. It revealed that earning extra income was a prominent reason for moonlighting across all experience levels. Notably, 47% of respondents with more than seven years of experience, as well as 47% of those with less than seven years of experience, indicated that the opportunity to earn additional income was a major driver. In addition to financial incentives, learning and applying new skills emerged as a strong motivator, with 73.41% of participants citing this as their primary reason for moonlighting. Another notable factor was the desire to build a professional network, which was also identified as a significant motivation for engaging in side work.



<https://cutshort.io/blog/hiring/the-moonlighting-ground-report>

Thus, from the employee's point of view, moonlighting can be a practical way to earn more money, learn new skills, and follow personal interests. Many people take on extra work because their main job doesn't pay enough to cover all their expenses. Moonlighting also allows them to gain experience in different fields and develop new talents. The employees understand the challenges too. They understand the need to be careful not to overwork themselves, avoid conflicts of interest, and keep both jobs' information confidential. Balancing two jobs requires good time management and honesty. In midst of these difficulties, many employees see moonlighting as a useful way to improve their lives, as long as they handle it responsibly and openly.

Moonlighting: Employer's Perspectives And Policies

From the employer's perspective, moonlighting can present both challenges and opportunities. Data breaches, conflicts of interest, and low productivity are major tribulation of moonlighting there is always the risk of employee working with competitors and divulging confidential information. Moreover, indulging in multiple jobs result in short attention spans and distractions. Extra work means physical fatigue, burnout, and disturbed work-life balance. Some employees utilize company resources which leads to increased operating expenses for the company.

According to a report by Indeed, a comprehensive survey conducted by Valuvox on behalf of Indeed during the second fiscal quarter of 2023 explored the perspectives of 1,281 employers and 1,533 jobseekers and employees regarding moonlighting. The findings revealed a predominantly negative stance among employers towards the practice of moonlighting.

More than half of the surveyed employers (53%) expressed the belief that moonlighting violated work ethics, reflecting concerns about potential conflicts of interest, reduced commitment, and diminished productivity. 25% of employers stated that moonlighting contravened the terms of employment contracts, raising legal and contractual issues. Furthermore, 13% of the respondents deemed moonlighting undesirable and immoral, citing ethical concerns and potential damage to company integrity and trust.



<https://economictimes.indiatimes.com/small-biz/sme-sector/indeed/articleshow/105433166.cms?from=mdr>

As we can see from the above pie chart more than half of employers believe moonlighting to be bad, against the work ethics or immoral and undesirable while only a few proportion are unaffected or even approve a secondary job. These viewpoints highlights a significant divide between employers and employees on the acceptability and impact of moonlighting. Employers’ resistance is rooted in fears of ethical breaches, contractual violations, and the overall impact on organizational culture and employee performance.

From the Employers viewpoint there are several areas of concern when it comes to moonlighting. They are concerned that employees might do work that helps competitors or shares sensitive information. They also worry that employees splitting their time between jobs might not perform well in their main role, leading to lower productivity. Health is another issue, as juggling multiple jobs can cause stress and burnout. The quality of work might suffer if employees are too tired, leading to more mistakes. Employers fear that company resources, like time and technology, might be misused for secondary jobs, increasing costs and security risks. Legal problems can arise if moonlighting breaks non-compete or confidentiality agreements. Workplace morale can drop if some employees seem more dedicated or productive than others, causing tension. Lastly, client relationships might be harmed if moonlighting leads to missed deadlines or lower quality service, hurting the company's reputation. Thus the main issues are:

Therefore, Moonlighting, if not managed carefully, can lead to serious consequences. Failure to address potential conflicts of interest and intellectual property concerns could result in legal disputes, financial losses, damage to reputation, and a decline in employee morale.



Case For Legalising Moonlighting In India

India's corporate environment needs a balanced approach that aligns with both employee aspirations and employer expectations. This includes clearer guidelines on what constitutes acceptable forms of moonlighting and transparent communication between employees and employers. For moonlighting to become accepted practice, there must be mutual understanding and cooperation among all stakeholders. This approach could ultimately lead to a more engaged, and productive workforce, contributing positively to India's economic growth and competitiveness.

The arguments for moonlighting in India are the potential benefits it offers to employees, including additional income, diverse skill development, entrepreneurial experimentation, and a safety net against economic uncertainties. For many professionals, especially in sectors like IT, media, and creative industries, moonlighting provides an opportunity to explore passions, build secondary income streams, and gain exposure to different industries. This can lead to enhanced job satisfaction, personal growth, and the fostering of an innovative and entrepreneurial mind-set.

However, the arguments against moonlighting cannot be ignored. Indian Employers are concerned about the risks associated with divided attention, conflicts of interest, decreased productivity, and burnout from managing multiple jobs simultaneously. There is a fear that moonlighting could lead to divided loyalties, reduced quality of work, and data breaches, especially in sectors like technology and finance.

Thus, the impact of moonlighting in India is, complicated. On one side, it encourages a flexible and dynamic workforce that can adapt to the changing demands of the modern economy. This flexibility is increasingly vital in a post-pandemic world, where remote work, gig economy opportunities, and digital platforms have become more prevalent. On the other side, it presents a risk of legal ambiguities and dilemmas that can strain employer-employee relationships if not managed properly. The absence of clear regulatory frameworks governing moonlighting adds to the complexity, leaving companies to draft their own policies and deal with potential conflicts on a case-by-case basis.

While there is no outright ban on moonlighting in India, the absence of clear legal regulations creates a grey area that can lead to misunderstandings and disputes between employers and employees. Implementing legal regulations for moonlighting could address several key issues and provide benefits:

- **Clarity and Protection Defining Boundaries:** Clear regulations can define acceptable practices, helping both employers and employees understand the limits and expectations regarding secondary employment. This reduces the risk of conflicts and ensures that employees are not unfairly penalized for pursuing additional work.
- **Legal Protection:** Employees engaging in moonlighting would benefit from legal protections against arbitrary dismissal or discrimination due to their secondary jobs. This can safeguard their rights and provide a sense of security.
- **Encouraging Transparency-Disclosure Requirements:** Regulations can require employees to disclose their moonlighting activities to their primary employers, promoting transparency and trust. This ensures that secondary employment does not interfere with primary job responsibilities or create conflicts of interest.
- **Monitoring and Compliance:** Legal frameworks can help establish mechanisms for monitoring and ensuring compliance, reducing the risk of unreported work and ensuring that moonlighting activities are conducted ethically.

Conclusion

Let's face it: moonlighting, which gained momentum during the pandemic, is here to stay. While not a new phenomenon, it has become much more prevalent. The shift towards hybrid work and the rise of the gig economy have made it easier for employees to take on additional jobs, making moonlighting more common and accessible than ever before. Although all the fears of employers, such as conflicts of interest, loss of loyalty and commitment, and the disclosure of confidential information, concerning moonlighting are valid, it is essential to find a middle ground. While these concerns are legitimate and can impact the organization negatively, completely rejecting moonlighting is not a practical solution.

Ethical theories such as utilitarianism, deontology, care ethics, and others generally accept moonlighting but within certain parameters. Utilitarianism, for example, may view moonlighting positively if it increases overall happiness by providing additional income or opportunities for personal growth. Deontological ethics might support moonlighting as long as it does not violate any moral principles or duties, such as honesty or loyalty to

one's primary employer. Care ethics may emphasize the importance of considering the well-being of all involved parties and may view moonlighting as acceptable if it does not harm anyone.

Similarly, the law supports the notion that an individual has the freedom to utilize their knowledge and skills in multiple settings, as long as this does not violate any confidentiality agreements, non-compete clauses, or other legal restrictions that are clearly defined in their employment contract. This means that as long as moonlighting remains within the legal boundaries set by these agreements, individuals are generally unrestricted to pursue such opportunities. It is only when these activities compromise sensitive information, pose a conflict of interest, or undermine the contractual relationship between the employee and the primary employer that legal concerns arise. As such, the law upholds the right of employees to diversify their professional engagements, provided that they remain compliant with the rules, terms, and limitations established by their current employment.

Therefore, I, advocate for transforming the concept of moonlighting into what can be termed as "daylighting"—bringing this practice out of the shadows and into the realm of transparency and clarity. By establishing clear boundaries and defining acceptable practices, moonlighting can be regulated in a way that benefits both employers and employees. Incorporating moonlighting into a legal framework will eliminate the ambiguity that currently surrounds it, providing both parties with a better understanding of their rights and limitations. This clarity will empower employers to monitor and address any potential issues effectively, ensuring that moonlighting does not negatively impact the organization. At the same time, employees will be able to openly pursue their passions or side interests without the fear of jeopardizing their primary employment. Conflicts arising from moonlighting can be more easily resolved, and the dilemma surrounding it can be seamlessly integrated into daily workplace routines, creating a more balanced and open work environment.

Declaration of Conflicting Interests

‘The Author declares that there is no conflict of interest’.

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