

Gig Workers – Independent Contractors or Employees?

R. Sridhar, K. Nanda Kumar & S. Panda

The claim that platform companies are ‘technology’ businesses and that those who are supplying their services, through the platforms, to end customers are independent contractors and not workers is a sham and that platform companies are engaging in to lower wages and benefit costs and avoid the effort of cultivating employee relations. The authors base their arguments on the theoretical frameworks on modes of employment, the nature and types of administrative control used by employers to manage worker performance, and the strategic human resource frameworks that recognize the influence of employment practices on employee behaviors and productivity for the benefit of organizations. They conclude by urging the platform companies to move away from practicing ‘digital Taylorism’ and towards fulfilling an agenda that promotes decent work.

R. Sridhar is Retired Head of Corporate Human Resources, ITC Ltd: E-mail: sridharr_us@yahoo.com. **K. Nanda Kumar** is a Hyderabad based HR Consultant. E-mail: nandu@first-principles.co.. **Swarup Panda** is Executive Vice President – HR, ITC Ltd. E-mail: Swarup.Panda@itc.in

Introduction

‘Gig workers’ are employed in occupations across the Indian economy. The term ‘gig’ originated from the employment of musicians to play for a particular set or for an evening performance. Now it is used to describe a wide range of employments – cab drivers, food and other products delivery partners, personal care attendants, dog walkers, accountants, editors, lawyers and business consultants. As the range of employments indicates, the gig workers do the same work as do traditional workers. Rather than skill or training, they are distinguished by the form of contract and employment relations of work, not the technology or the type of work (Friedman, 2014). In traditional employment, a worker’s position and earnings depend on current performance. By contrast, in gig employment workers are hired on the spot for the job without much regard for their past employment, with no promise for future employment, legacy pay, or deferred compensation. Making

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The gig economy in the country is witnessing accelerated growth due to the rapid spread of start-ups that connect and mediate between buyers and sellers in a range of markets, particularly markets for in-person services. This growth has generated employment for millions of people in India, but may not be the best model for job creation in the country, which is struggling to realise the full potential of its demographic dividend (The Economic Times, October 25, 2019). The quality and longevity of these jobs are highly suspect. In Bengaluru, thousands of delivery partners working with Zomato, Swiggy, and UberEats wanted to submit a memorandum to the labor department about their plight: 15 to 16 hours of work per day, for less pay, with no time to attend to family or personal work; 60 hours of mandatory clock-in time per week; no reimbursement for fuel expenses; and harassment from traffic police (The Times of India, October 2, 2019).

In many developed economies, particularly the United States, work has been radically overhauled, since the 1980s, in pursuit of greater labor flexibility and cost savings. A growing number of employers want workers waiting to be called when needed instead of engaging them

through long-term contracts that are meant to foster commitment and loyalty. The wisdom that companies seem to rely on is that “the only way to succeed in an era of global competition is to take advantage of the benefits of a largely unregulated, non-unionized, and low-wage environment” (Pfeffer, 1998). The result for many workers has been increased insecurity of employment and earnings, the loss of in-work benefits, and the splintering of internal and external career paths (Healy, Nicholson & Pekarek, 2017). The situation is so well entrenched that economists classify poverty as out-of-work and in-work poverty. Post the onset of economic liberalization in the early 1990s, many Indian companies too followed their western counterparts and put in place employment practices to leverage numerical labor flexibility and labor cost advantages. The numerous employment types that were introduced then – temporary, trainee, casual and contract – continue to proliferate even now. The advent of the gig economy has introduced one more employment type, the independent contractor or partner. These employment practices were, and continue to be, the major cause of labor unrest and industrial strife in the country.

In this paper, we discuss the logic that companies could use to arrive at an employment policy. In particular, platform companies or start-ups need to use a logic on employment that is perceived to be fair and reasonable from the Indian stand point. Moving beyond the immediate benefit of cost savings, an ‘investment’ approach should be adopted for the gig workers. We also argue that platform

companies have the scope to take a longer term and strategic approach to human resource management.

India's Job Market

India's job market faces the huge challenge of a burgeoning working-age population with a decrease in agriculture and organized sector jobs. The estimates vary between 20 and 25 million people attaining the age of 21 years and entering the job market every year. In a few decades since the country's economic liberalization and despite changes in the overall make-up of public and private sector employment, the fundamental structure of employment and self-employment in India has not altered significantly. Only 17 percent of the workforce earns a regular wage or salary and almost half of the working population is either self-employed or casually employed (Calvao & Thara, 2019). Thus far, India's economic growth has spurred only modest or sluggish job creation. Considering the expected increase in the working-age population over the next decade, this jobless growth will spell major trouble for the future. Manufacturing sector, particularly the automobile industry, has been a major contributor for regular jobs, But, in recent times, this industry is in a big swoon. Even otherwise, the manufacturing sector is the most susceptible to automation and job reduction is the most likely outcome. The education sector employs a large workforce (24.5 percent of all service jobs). But the entry barriers for this sector are several and high. The online retail sector, with fewer and lower entry barriers, was held out as a

hopeful avenue for large scale job creation. But, despite a strong growth of this sector, e-commerce and related services accounted for only about one million jobs in India due to high productivity and minimal labor input (KPMG and Snapdeal, 2016). Today, the job creation promise is largely being made by platform companies or start-ups. Food-delivery start-up Swiggy says it employs around 2.10 lakhs delivery partners and intends to increase the number to 5 lakhs in the next 18 months. Scores of others such as Swiggy's rival Zomato, on-demand delivery service Dunzo, and cab-hailing companies Uber and Ola together employ millions of workers (The Economic Times, October 25, 2019). But these workers are not considered 'traditional employees' and are paid per order or ride. They are termed independent contractors or partners. Several prominent Indian gig economy entrepreneurs are of the view that the gig economy is creating more 'bad' jobs than 'good', the kind of jobs that are far likely to be eliminated or automated soon (The Economic Times, October 25, 2019). We now turn to discuss whether gig workers, particularly delivery partners, are independent contractors delivering service to platform companies or they are employees.

Gig Workers

Generally, platform companies have maintained that those working via their apps are independent contractors or partners. The argument is that contractors choose when and where to work, and must invest their own capital (e.g., a car or a two-wheeler) to set up in operation.

Further, these new types of working arrangements have positive consequences for those seeking more flexible work arrangements, such as people with other jobs, caring responsibilities and mobility issues. Students, who would like to earn some income working part-time and those individuals who find it very difficult to get regular jobs would also benefit from these work arrangements. A study commissioned by the Department of Business, Energy and Industrial Strategy (BEIS) and undertaken by the Institute for Employment Studies (IES), UK, in 2018, (Broughton, Gloster, Marvell, Green, Langley & Martin, 2018) identified four categories of what they term independent workers: about 30 percent are free agents, who actively choose independent work and derive their primary income from this; around 40 percent are casual earners, who use independent work for supplemental income by choice; around 14 percent are ‘reluctants’, who make their primary living from independent work, but would prefer traditional jobs; and around 16 percent are the ‘financially strapped’, who do supplemental independent work out of necessity. Another study, in 2018, of the gig economy through the lens of Uber and its drivers in the UK found little evidence to suggest that the typical London driver has turned to the gig economy due to the absence of

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jobs in the conventional labor market. A majority of surveyed drivers pointed to autonomy over their working hours, scheduling flexibility, or improved work-life balance as reasons for joining the Uber platform. Most also stated that they would require significant earnings increases to accept working a fixed schedule, which suggests a high willingness to pay for flexibility. In other words, in the UK, a growing share of workers are trading the benefits associated with a regular job for work in the gig economy, even if such work provides less protection, stability and lower monetary rewards (Berger, Frey, Levin & Danda, 2018). But this study probably considered only those who are termed as free agents in the study discussed earlier. In India, however, people are taking up any job, including gig jobs, because of sheer absence of jobs in the conventional labor market. Hence, the argument that they are independent workers out of their free choice is not maintainable. Even when workers willingly chose to work in the gig economy, the issue of how gig work is treated legally, and the broader question of what rights and entitlements these workers should receive, remains contentious as authorities around the world pass judgments on platform companies. To cite a few:

- In the UK, in 2016, a tribunal deemed London’s Uber drivers to be employees of Uber.
- In the US, in 2017, a Florida appeals court upheld Uber’s position that its drivers are independent contractors.

- In 2016, in the US, Uber settled two separate class-action lawsuits brought by drivers, with large financial payouts, while retaining the right to engage its drivers as contractors
- In 2019, the California State in the US approved a bill that mandates many companies to classify independent contractors as employees

The decision makers who consider some types of gig workers (e.g., cab drivers) to be employees of the platform companies are convinced that the companies should no longer be allowed to shirk responsibility for their workers and that they should incur the expenditure for benefits such as medical, unemployment insurance and paid sick days. The platform companies such as Uber and Lyft have lost a third of their stock market values since July 2019, but are gearing up for a battle. The firms now hope to strike an alternative deal with unions and lawmakers by offering drivers some benefits including reimbursement for some expenses and guaranteed earnings that exceed the minimum wage. Should that fail, Uber, for its part, reckons it may still manage to keep its drivers as contractors. Uber would like to argue in court that its main business is being a technology company and that distinction could waive the requirement to treat drivers as employees (The Economist, September 14, 2019). We argue that this stance of platform companies that they are only technology companies is untenable. For cab hailing firms such as Uber and for food delivery companies such as Swiggy, the business operations are carried out by the drivers and delivery partners re-

spectively. Without them, there is no business that these companies could carry out. Hence, terming them as contractors is nothing but a huge sham that enables these businesses to disguise employment as independent contracting and exploit these workers by denying them their due entitlements (Bornstein, 2015). We substantiate our argument using three frameworks. The first is the theoretical frameworks that have been suggested by Porter (1985), Magretta (2012), and Lepak and Snell (1999) on modes of employment. The second is the nature and types of administrative control used by employers to manage worker performance (Snell, 1992) that serve as guidelines for regulatory agencies such as the IRS in the US and Labor Departments elsewhere. Third, the various strategic human resource frameworks that recognize the influence of employment practices on employee behaviors and productivity, for the benefit of organizations (Jackson, Schuler & Jiang, 2014). Now let us turn to examining each of these frameworks in turn.

Determination of Employment Modes

Porter (1985) suggested that it is a company's valuable and unique activities that are the primary components of its competitive advantage, which help it to differentiate its value chain from those of its competitors. Building on Porter's suggestion, Lepak and Snell (1999) use the dimensions of value (human resource skills that helps companies to improve efficiency and effectiveness) and uniqueness (company specificity) of human

capital, to identify four employment modes: internal development; acquisition; contracting; and alliance. Internal development and acquisition are internal employment modes providing the benefits of stability and predictability of a company's skills and capabilities, better coordination and control, enhanced socialization and lower transaction costs. However, internal modes may force companies to incur costs stemming from administering the employment relationship and constrain a company's ability to adapt to environmental changes, particularly those that influence the demand for labor. Contracting and alliance are external employment modes that enable companies to decrease overhead and administrative costs, balance workforce requirements, and enhance flexibility. They also provide companies with more discretion in both the number and types of employees used while focusing critical resources on the development of core capabilities.

More recently, Porter has argued (Magretta, 2012) that the logic of core competences has led many companies to pursue outsourcing without thinking through the strategic consequences. Instead of trying to determine which activities are core, he asks a different question: "which activities are generic and which activities are tailored? Generic activities – those that cannot be meaningfully tailored to a company's (strategic) position – can be safely outsourced to more efficient external suppliers." Companies almost always make outsourcing decisions for short-term cost savings. These decisions limit the opportunities for uniqueness and fit in the

company's strategy, and push an entire industry into greater homogenization (Magretta, 2012). We believe that companies, including platform companies, should answer Porter's question before reaching decisions on insourcing or contracting work.

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In India, contract employees constitute a large part of the total wage employment. Most of these workers are engaged in generic activities (loading and unloading of goods and materials; catering including canteen services; security services; civil and construction works; electrical/ air conditioning/ painting/ whitewashing; housekeeping services; computer maintenance, etc.) and those necessitated by seasonal/occasional requirement or in situations where there is a temporary increase of work. However, many companies today engage contract employees in regular and core activities, those that require "tailoring" to fit with a company's strategy. Saini (2010) cites studies that have found the share of contract employees in wage employment to be as high as 60 to 70 per cent as against the official claims of 15 to 26 per cent. There are also establishments where the number of regular employees is just a few hundred, but that of contract employees runs into several thousands. Although regular and contract employees are often found to work on same or similar tasks, regular employees earn between two and six times the wages earned by

contract employees. No wonder, employers are accused of “misusing” and exploiting this category of employees. In India, employers emphasize arm’s length relationships with contract employees, focusing on the work to be done, the results to be accomplished, the terms of the contract with contractors - and virtually nothing else. Given the transactional nature of contract work, HR activities tend to focus only on securing compliance with the terms and conditions of the contract. Rules and regulations governing work are strictly enforced and specific provisions regarding work protocols are upheld without any breach. This may sound reasonable, but in numerous instances contract employment practices are found to be unreasonable and unfair: for example, the practice of deploying contract employees to perform activities that reasonably should go to regular employees. Though the principle of equity would dictate that contract employees be paid at par with regular employees for performing the same or similar nature of work, in practice, the wage differential tends to be steeply inequitable, which labor activists term “naked capitalism”. The Contract Labor Act provisions and rules and other labor legislations are often violated with employees not having access to basic amenities at the work place; occupational health and safety standards not being applied and enforced; overtime pay being denied; and medical and social security contributions not being made.

Continued reliance on external modes of employment, as expected, has led to innumerable labor disputes and has mitigated the development of core capabilities

for long-term company performance. The tragic incident that occurred on July 18, 2012 at Maruti Suzuki’s Manesar (near Delhi) plant, the worst incident in the company’s industrial relations history, involving massive mob violence resulting in the plant HR Head being burned alive and nearly 100 managers suffering injuries is instructive (Saini, 2016). The management had to consider several issues that led to this tragic incident including the company’s policy in regard to employment of permanent and temporary workers. We are of the view that even if contract employees are engaged to perform generic activities they need to experience “inclusion”. If contract employees feel excluded and alienated, social tensions at the work place will rise impacting the morale of regular employees as well. Moreover, generic activities have a role to play in the overall operations of the establishment; otherwise they would have been entirely unnecessary. Porter and others have suggested the classification of generic and tailored activities to arrive at make or buy decisions on human capital, not to deny contract employees their due. Several companies operating in the organized sector of the economy, having faced a severe backlash, are making positive changes to the approaches they take to decide on insourcing or outsourcing of jobs. One of them is to provide logical and reasonable accounts to explain the choices they make in regard to modes of employment.

Lepak and Snell posit that human capital theory, transaction cost economics, and the resource-based view of the firm all converge on two dimensions –

the value and uniqueness of employee skills – as primary determinants of a HR architecture. Using the dimensions of value and uniqueness of human capital, as stated earlier, they identify four different employment modes: (a) internal development (b) acquisition (c) contracting and (d) alliance. Their view is that each employment mode is an inherently different form of employment relationship, shaped by the company, in terms of an exchange agreement between individuals and their companies. When value of the human capital to the firm is high, even when the uniqueness of that human capital in the labor market is low, the firm has to consider an employment relationship that is ‘symbiotic’ at the minimum and ‘partnership’ at best. A ‘transactional’ employment relationship can come into being only when the value of the human capital is low to the firm. If people, even when they are of value to the company, in a competitive sense, enjoy only a transactional relationship, then the company is missing a big opportunity to create a difference, competitively speaking, through its people. This is a huge loss, in addition to the reputational loss of being seen as a ruthless exploitative employer.

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With the advent of the gig economy, employers, in order to remain outside the ambit of the Indian Contract Labour Act and to minimize labor costs, have classified their workers as independent con-

tractors or partners. For these companies, the gig workers are to be denied even a transactional employment relationship and the HR configuration should be one of ‘No Compliance’. This is patently wrong. To support this argument, we turn to discuss control theory in human resource management.

Human Resource Management Control

Control can be defined as any process that helps align the actions of individuals with the interest of their employing firm (Tannenbaum, 1968). Formal human resource management practices such as staffing, training, performance appraisal and rewards contribute to regulate performance through three types of control systems: (i) behavior control; (ii) output control; and (iii) input control (Thomson, 1967). Behavioral control regulates the actions that workers exhibit on the job and structures the transformation process of work. Output control differs from behavior control in that standard operating procedures are replaced by specific targets such as financial results for the workers to pursue. Input control regulates the antecedent conditions of performance – the knowledge, skills, abilities, values and motives of employees. Snell (1992) suggests that the use of each type of human resource management control system directly depends on the amount and type of administrative information available to the company. Behavioral control is dependent on the firm having complete cause-effect knowledge of actions taken and results achieved by employees as well as crys-

tallized standards of desirable performance. Output control comes into play when goals and incentives are used to control performance and when cause-effect relations are not completely known. Input control may act in conjunction with behavior control on the assumption that selection and training require an understanding of the behaviors needed on the job.

We are led to consider that gig workers, particularly drivers and delivery partners, to be employees and not independent contractors on the basis of a few 'control' tests.

- Input/Behavior Control
 - o Platform companies use a formal process, including background checks, to select their workers.
 - o In many instances, training is provided before commencing work and is mandatory when workers are found to be below minimum standards.
 - o Though the workers have a significant capital investment in his or her work (car, two-wheeler, etc.), the company sets minimum standards for such equipment.
 - o The companies monitor performance and send disciplinary notices for not meeting standards.
- Output Control
 - o Platform companies predetermine rates of pay and incentives based on duration of time active on the

app, number of trips or deliveries made, time taken to make deliveries, etc.

- Relationship Control
 - o Some of the platform companies provide benefits to their 'partners' such as accident and medical insurance, life insurance, on-call doctors for partners and their families, and scholarship programs for them and their children. Benefits such as those mentioned above are provided by companies only when employees are involved. Independent contractors receiving such benefits is unheard of.
- Nature of Work
 - o The work performed by the workers is an integral part of the platform company's business. For example, Uber cannot exist without the services of drivers, making the drivers core to Uber's business and their skills and performance extremely valuable to Uber. A similar argument could be advanced in the case of delivery partners working for companies such as Swiggy.

The platform companies make a number of claims to support their stance that gig workers are independent contractors: (i) they do not set the number of hours required, time, or days required to work for the gig workers; (ii) these workers choose to do gig work because of the flexibility and autonomy that this type of work provides over pay

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and job security that regular jobs provide; (iii) in many instances, gig work is meant to provide supplemental income and not the mainstay income; and (iv) gig workers are independent because they incur all expenses related to the equipment that are required in their work. But these claims are valid only in the case of 'pure market places', which exert little or no control over the terms of the transactions between independent suppliers or professionals and customers (Hagiu & Wright, 2019). The notion of control over supplier-customer interactions has many dimensions: price, equipment, how the relevant product or service is presented or advertised, how the product or service is delivered or performed, work schedule and so on. And the stringency of the rules governing each of these dimensions can vary. We argue that in the particular case of platform companies that provide cab hailing or deliver services the workers are employees of such platform companies, and not independent contractors, because on several of the supplier-customer interaction dimensions, the platform companies have stringent control. The argument of independent contractors could hold in cases where the control is less stringent or non-existent on supplier-customer transaction dimensions (e.g., Airbnb, TaskRabbit, etc.).

Strategic Human Resource Management

Prior to the emergence of strategic HRM, its effectiveness was evaluated against the technical criteria that had been established by the profession (e.g., validity), social criteria embodied in laws and regulations (e.g., fairness), and individual employee reactions (e.g., job satisfaction and job performance) (Jackson, Schuler and Jiang, 2014). Recently, more than 180 CEOs, including the chiefs of Walmart and JPMorgan Chase, overturned three decades of orthodoxy to pledge that their firms' purpose was no longer to serve their owners alone, but other stakeholders – customers, employees, suppliers and communities (The Economist, August 24, 2019). Strategic HRM, to remain relevant, need to fully embrace systems thinking and consider the variety of forces that shape the work lives of employees. Protecting and promoting the interests of employees has long been considered one of the primary responsibilities of HRM and of HR professionals. But, the reasoning goes that HRM that protects and promotes employees' interests would be doing so at the expense of shareholders' gains. This needs to change to assert that addressing the concerns of employees is a prerequisite for achieving long-term organizational effectiveness. Thirdly, organizations need not, and should not, employ identical management practices across all groups of employees. HRM scholars (e.g., Lepak & Snell, 1999; Boudreau & Ramstad, 2007) have long advocated employee segmentation, as done in product markets, on the basis of occupations,

organizational level, labor market conditions, geographic location, past or expected future performance and so on. But, the segmentation should not lead to utter exploitation of any segment of employees. Rather, at a minimum, laws and regulations should be adhered to and employees should experience a sense of fairness in the ‘exchange’ that takes place between them and their companies. Though, in many instances, a “transactional” employment relationship is found to prevail, we find the study of Tsui, Pearce, Porter and Tripoli (1997) illuminating in answering the question, “Does investment in employees pay off?” They examined employee responses from ten companies under four types of employee-company relationships, as defined from the employer’s perspective. These four types are: (a) Quasi-spot contract, where the employer offers short term, purely economic inducements in exchange for well-specified contributions by the employee; (b) Mutual investment which involves a combination of economic and social exchange. In this case, the employer offers an extended consideration of an employee’s wellbeing as well as an investment in the employee’s career within the company. In exchange, the employee’s obligations and contributions include working on job assignments that fall outside of prior agreements or expertise, assisting junior colleagues, accepting job transfers, and, in general, being willing to consider the unit’s or company’s interests as important as core job duties; (c) Under investment, where the employee is expected to undertake broad and open-ended obligations, while the employer reciprocates with short-

term and specified monetary rewards, with no commitment to a long-term relationship or investment in the employee’s training or career; and (d) Over investment, where the employee performs only a well-specified set of job focused activities, but the employer offers open-ended and broad-ranging rewards, including training and a commitment to provide the employee with career opportunities. The study found, in general, that employees performed better on core tasks, demonstrated more citizenship behavior, and expressed a higher level of affective commitment to an employer, when they worked in a mutual investment or over investment (by the employer) relationship than when they worked in a quasi-spot contract or under investment relationship. The finding that both the mutual investment and over investment approaches perform substantially better than the other two employee-company relationships suggests that offering open-ended inducements and a high level of social exchange to employees is more important than balance in the exchange. This has important implications for human resource management practices. As one example, we detail the management approach that has been seeded in one business division of the company that we worked in for several years with regard to contract employees (Sridhar & Panda, 2014). The company wanted to seek ‘inclusion’ of

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contract employees based on “investments” being made in them. The key features of the new approach follow.

- Contract employees are to be considered as a category of employees just as regular, supervisory, front line, and managerial categories would be. To reinforce this, a name change has been considered - from contract labor to employees of service providers (ESPs).
- Treat contract employees distinctly, but without discrimination. No discrimination when it comes to employee amenities at the workplace, shift timings, work-break timings, etc. For instance, one of the factories celebrated its centenary this year. All regular employees were given a memento to commemorate the year. Nothing new here. But what was a welcome “new” was that all the contract employees engaged in the factory were given a memento as well – no discrimination.
- 100 per cent compliance to laws applicable to contract employees including work place safety with zero tolerance for any violation. The factory’s HR department works with contractors to ensure that contract employees are not denied their dues and their grievances, if any, are redressed quickly. It is also the intent to conduct employee satisfaction studies for this category of employees in the near future.
- Contract employees are to enjoy the freedom to form collectives. Several

of the factories have unions representing contract employees. Periodic Long Term Agreements are entered into between the contractors and the contract employees after due collective bargaining. The process of negotiations is facilitated by managers of the factory’s HR department. These agreements ensure that contract employees enjoy the same rights and obligations as regular employees. Where there are no collectives, it is ensured that contractors pay their employees fair wages, determined on the basis of region-cum-industry surveys.

- The company encourages and supports contractors to have “employee-connect” events; provide training for skill up gradation; and consider them for regular employment when vacancies arise.

It is reported that the company has extended implementation of this new approach to its other business divisions and that the employee relations climate in regard to contract employees has vastly improved.

In 2017, the German Metalworkers’ Union (IG Metall) listed a number of criteria for a fairer gig economy (Silberman, 2017). The first criterion on the list is that workers should not be misclassified as self-employed if they are employees in practice. Their pay should at the very least comply with minimum wage regulations in the worker’s location. Thirdly, workers should have a legally binding way to make their needs and desires heard to platform companies, such as forming collectives,

collective bargaining, and co-determination of rights. So many companies, including platform companies, loudly and often proclaim their zero tolerance for poor quality and waste. We consider it time that they apply equal fervor to employment violations. The consequences of not doing so are clear and present as evidenced by gig workers' agitations in several cities of the country.

Gig Workers & the New Labor Code

For the first time, the newly passed Labor Codes enacted by the Parliament in September, 2020, acknowledge Gig and Platform workers as new occupational categories in India. It is for the first time that laws in India have defined gig and platform workers and provide for social security along with workers of the unorganized sector.

The Code on Social Security defines a Gig worker {Sec 2(35)} as a “a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationships”. Similarly, a Platform worker is defined as “A form of employment in which organisations and individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services in exchange for payment.”

While it is correct to deduce that this employment arrangement offers flexibility to workers in terms of allowing them to choose to work for multiple

organisations at the same time and in some cases fix their own pay (decide how much one wants to earn and when), it is in some manner exploitation of the workers, since these workers are denied basic benefits that a regular worker is entitled to by the same organisations like medicals, leave, holidays, terminal benefits, etc. Moreover, the much touted flexibility that this employment mode offers is highly superficial, as these workers are still bound by mechanisms of DIRECT CONTROL, wired by the algorithms that these organisations use. This affects work hours, rest, pricing, etc. and in more ways than one, impedes flexibility.

The gig and platform workers are being treated on par with unorganized workers.

The proposed Code also lays down the process for registering of individual workers in an online portal so as to be eligible to avail benefits and welfare schemes under the Code that are applicable to workers in the unorganized sector. In short, it goes to say that the gig and platform workers are being treated on par with unorganized workers. This is devoid of sound logic in as much as they can claim welfare benefits under the Code but cannot claim labor rights! The Code states that provision of basic welfare measures will be the joint responsibility of the Government, aggregators and the workers. But there is no clarity as to which arm will be responsible for providing what benefits! This evidently shows that

there is lack of clarity at the initial policy making stage itself on the status of the Gig and Platform workers, and that it is a predetermined attempt to keep the Gig & Platform workers outside the purview of the employer-employee relationship which cuts at the very root of the objective of any Government policy, that is framed to better human conditions and lives and free them from exploitation!

Conclusion

Max Frisch, the Swiss playwright and novelist once said, “We asked for workers. We got people instead.” Over time, employers, world over, have been wanting workers – regular, temporary, contract, casual, gig – but, each time they have been getting people instead. People who want a decent work agenda fulfilled. Regular and contract employees have had to struggle for long and plenty before employers gave in. This time around, with the gig workers, the platform companies have a unique opportunity to swiftly move away from practising ‘digital Taylorism’ – a modern day version of scientific management in which technology is used to dehumanise work (The Economist, September 10, 2015). Instead of engaging in long drawn confrontations, the platform companies should implement a new agenda that would make work decent for the worker and purposive for the employer.

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