

# A Conceptual Study of Employment Relations in the Gig Economy in India

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## Abstract

The gig economy is transforming the work culture, of organizations across the globe. Technological innovation has brought significant changes to work, organization, and employment relationships with positive and negative impacts. Labor laws, freedom of association, and collective bargaining have long sought to balance the unequal relationship between employers and individual workers and enable workers to act collectively to improve their employment and working conditions. For gig workers specifically, many platforms classify them as independent contractors or partners in place of employees and escape all the responsibilities of an employer. In various jurisdictions this employment classification deters workers from forming unions and engaging in collective bargaining. By exploring different research papers this paper illustrates the changing employer-employee relationship, imbalance of power, and conflicting interests between the employer and the employees emanates the need for evolved Employment Relations. This paper takes insights from the industrial relations background in India and addresses the present employment relations situation in the gig economy.

**Keywords:** Gig economy, employment Relations, Gig workers, Platforms

## 1. Introduction

The nature of employment is changing in the gig economy. Since there is no employer-employee relationship, the gig workers are not employed by any particular employer there is greater flexibility in terms of choice of work and the hours they dedicate. Businesses do not depend on a set of employees to execute tasks and enjoy similar flexibility.

Organizations of work, workplaces, processes of production, and labor practices are changing due to new concepts of work due to the emergence of the gig/platform economy. Thereby flexible jobs and gig-based employment are rapidly expanding and heavily impacting the nature of work/employment, which has a different impact on employment relations. A free market system in which temporary positions are common and organizations contract with independent workers are task-based and mostly for the very short term are some of the important traits of gig economy.

NITI Aayog report, 2022, on the gig economy estimate that India had around 77 lacks (7.7 million) gig workers in 2020-21, forming 2.6% of the non-agricultural workforce and 1.5% of the total livelihood in India.

According to the Code on Wages, 2019, advocates universal minimum wage and floor wage to be provided for all organized and unorganized sectors, including gig workers. Whereas under the Code on Social Security, 2020, gig and platform workers are recognized as a new occupational category. Even though the

code provides gig workers benefits like maternity, life, and disability cover, old age protection, provident fund, employment injury benefits, etc. it does not ensure the guarantee of mentioned benefits to workers. The above codes fail to address many genuine concerns of the gig and platform workers.

Industrial relation is back in the discussion because of the precarious conditions of the gig workers. Industrial relations are based on democracy, decision-making, and the participation of workers. The subject matter of Industrial Relations ranges from the grievances of individual workers to the welfare of the workers. The basic approach to the workers' problems has undergone vast changes in recent years. Now the workers are considered as a partner in the industry, as co-sharers in the responsibility of management, catering the needs of the customer as well as in the outcome.

Excessive exploitation of workers by the owners of industries is one of the main reason behind the origin of the Industrial relation. The relationship was that of two unequal - the mighty employers and powerless workers. For example gig economy boasts in granting workers work flexibility, platform companies do not give direct commands to arrange the working hours and schedules of their workers.

To address the different aspects of IR and the welfare of workers with special reference to the gig economy there is a need to enhance the role of the parties involved in IR. The parties are employees, employer, employer associations, employee associations, Government, Courts, and Tribunals.

## 2. Objectives of the study

To study the employment relations with special reference to gig economy

To explore how a robust IR can be beneficial for the workers

## 3. Literature review

Recchia, (2021). The paper examines increasingly numerous disputes about the working relationship of platform workers, and a chance to assess the legal relevance of the collective interests of platform workers who are out of the employment relationship.

Johnston, (2020). The characteristics of collective labor struggle in the platform economy are examined in the article. The paper analyses the regulatory frameworks within which these workers' collective struggles fall. The paper gauges the collective voice for these to improve the terms and conditions of platform work.

Vicente, (2019). Questions related to the international protection of the right to collective bargaining and the right to strike, particularly in relation to competition law within the European Union are discussed in this paper. The paper draws attention to the British case law *IWGB v. Deliveroo*.

Kurt,(2019) evaluates the impacts of the 4th Industrial Revolution on the labor markets with the help of the literature review and analysis of the emerging trends with Industry 4.0.

Zwick,(2018). The paper uses a case study on Uber to discuss how Sharing Economy entities are indulging in merely (a) (mis)classifying workers, (b) engaging in regime shopping, and (c) most economically vulnerable workers, rather than giving rise to a new world of work altogether. The result is precarious 'gigs' that lack any kind of legal protections and employment benefits.

Kaine, & Josserand, (2019). The article emanates organization and experience of work in the digitally equipped gig economy in different nations. It explores aspects such as job quality, identity development, and algorithmic management and control.

Kilhoffer, et.al., (2017) in their paper explore the intersection of the platform economy, industrial relations, and social dialogue. The paper provides strong evidence that workers in the gig economy are being brought

into existing employee associations and also forming new associations for their collective voice.

Healy, et.al., (2017) The paper discusses a systematic research agenda, by elaborating indicative questions that need addressing to elevate understanding of ‘gig work relations’ and the other relevant aspects that threaten to decline or halt the gig economy’s growth.

Tassinari, & Maccarrone, (2017) demonstrates that collective action is possible even with a fragmented workforce .

Stewart, & Stanford, (2017). This article reviews the extent of this type of work in Australia and its main characteristics. It evaluate the existing employment regulations that are applicable to these ‘gig’ jobs, citing both Australian and international legislation and case law. The paper urges regulators to be creative and ambitious in better protecting workers' minimum standards and conditions in these situations.

Todolí-Signes, (2017). The paper advocates workers need protection, and examines the reasons for this claim.

Johnston, & Land-Kazlauskas, (2018) discuss the representation of workers, voice, and collective bargaining in the gig economy. Gig economy has significant implications for freedom of association and the effective recognition of the right to collective bargaining for gig and platform workers and must be acknowledged given the applicability of international labor standards is revealed by the paper. Review and development of existing regulations and an adaptation of machinery used for regulating terms and conditions of work, including through collective bargaining is required to ensure the rights of the workers. The paper suggests appropriate workplace protections must be implemented and fundamental principles and rights at work promoted, respected, and realized no matter how work is structured or unstructured.

Bhattacharjee, (2001) The evolution of Indian industrial relations is examined in the paper with reference to historical and structural context.

Delaney, & Godard, (2001) in their paper illustrates the industrial relations (IR) perspective to the high-performance paradigm to deepen the insights of HRM studies.

#### **4. Research Methodology**

The paper basically used different types of secondary sources of data like Government reports, Google Scholar, Research Gate, newspapers, SSRN, etc.

#### **5. Scope of the study**

This descriptive study is based on changing dimensions of industrial relations with special reference to the gig economy in India.

#### **6. Background of IR India**

##### **6.1 Employment Relations in India Before British Rule**

Earlier in India the relationship between Employers-Employees was of master and slave and, later on, of those of master and servant. The scriptures of our country show maintaining peaceful relations between capital and labor was emphasised in ancient times in India . The necessity of being united was felt by Craftsmen and workers. The statement in Shukla Yajurveda Samhita, “If men are united, nothing can deter them” emphasized the importance of Union.

Vedic literature and Shastras especially Artha Shastra of Kautilya give a comprehensive picture of the organization and its functions and a good description of unions of employees, craftsmen, or artisans.

## 6.2 Industrial Relations under British Rule

The British Government adopted the policy of Laissez-faire in the beginning. Later on, breaches of contract entailed penalties on workers. Some legislative measures were also adopted for this purpose. Sporadic attempts were made to form trade unions, which were resisted and crushed by employers. The First World War followed by Second World War gave a new spurt in the field of industrial relations. It created awareness among the workers which raised new standards in industries. The workers realized their importance, that wars cannot be fought successfully unless they produce goods required for war (like steel, etc.),.

Many other events happened that accelerated the pace of industrial relations during the period: The establishment of ILO in 1919 and the influence of its conventions and recommendations, formation of Central and Provincial Legislatures in 1919, establishment of AITUC in 1920, the Indian Trade Union Act of 1926, The Trade Dispute Act, 1929 Formation of Royal Commission on Labour, 1929-31, which made a comprehensive study of Indian labor problem regarding health, safety, and welfare of workers and made recommendations of far-reaching consequences. Trade Disputes Act, of 1929 was revised and the enactment of the ID Act, of 1947 was done.

## 6.3 Employment Relations post Independence

The spirit of industrial relations is enshrined in the Indian Constitution and was put into practice during Five-Year Plans. Each of the successive Five year Plans emphasized for the well-being, rights, and participation of the workers.

There was growth of trade unions and a plethora of labor legislations after Independence. Government policies facilitated and tried to present a role model of industrial relations as "Model-Employers" through public sector undertakings. Indian judiciary displayed sheer activism by giving pro-labour judgments, which had a far-reaching impact on industrial relations

## 6.4 Globalisation and employment Relations in India

The inflexible, rigid and ideologies-based, Industrial relation lost their relevance in due course of time as it was reactive, negative, passive, ad hoc and legalistic. Globalization demanded competitiveness of international standards in quantity, quality, cost-effectiveness and customers' concerns. This, in turn, required state-of-art technology, followed by innovation, creativity and strategic alignment of divergent resources to create a performing ambiance. A dynamic and synergetic employee relationship was need of the hour to evolve the performance environment.

The new type of market required flexible, resilient and aggressive employees relations and traditional industrial relations want to stick to status quo and no change. Traditional institutions of IR lost their importance and relevance. Trade unions were marginalized and kept away of mainstream of business. Strike lost its cutting edge. Individual bargaining comes to the fore by replacing collective bargaining.

## 7. Emergence of gig economy

We are living in an era where space, distance, and time have lost their relevance due to technological advancement. The requirements of emerging gig economy are entirely different from the requirements of the traditional economy. Short-term, Part-time employment, task based jobs, Contract worker/Contingent worker, International workers are regular features. Jobs in the gig economy are mostly informal or contractual or flexible, whereby workers do not possess any job security, as once the task is complete, their job gets over. No social security measures are offered to the workers in the ever-increasing number of jobs in the gig economy. While the workers are able to achieve lifestyle benefits, it is hard for them to

find traditional benefits like getting paid on time. While highly skilled and well-paid freelancers can save and buy personal insurance from the private sector, workers in unorganized/informal sector are left without any protective measure, as they cannot afford insurances provided by the private sector and do not qualify as beneficiaries in those provided by the public sector. In such cases, job insecurity coupled with financial instability can be a source of major stress for such workers.

In India, IT companies and other app-based services are embracing the ‘gig economy’. They market its flexibility and autonomy aspects in order to attract millennials and female workers. In this freelance economy, workers support themselves through a variety of part-time and short-term project-oriented jobs or gigs. This move away from the traditional employment options has opened up a number of exciting economic possibilities and boosted innovation. It has brought slight disruptions in the traditional labour market and is seen by critics as just an extension of the informal sector or poor-quality jobs. It certainly provides an easy entry to people in the labour market but is part of a new business model that is exploitative and deceives existing labour regulations. Many of those involved in gig work consider it as a temporary phase, and one Amazon delivery worker says, ‘This is a temporary solution and only working in it until I get a permanent or regular job’.

## 8. Upheaval of employment relations in Gig economy

In the gig economy, workers are viewed and called as independent contractors and partners. On the contrary to permanent jobs, their employment is characterized by a short-term contract. Unlike full-time employees, they are not included in the monthly payrolls and social protection benefits (e.g., insurance, medical leave, provident fund, maternity/paternity leaves, etc.) offered by companies. This raises significant ethical concerns about job security and how gig work can put relatively low-skilled workers in a vulnerable condition with little or no bargaining power. Gig workers are not represented by any trade union and hardly possess any collective bargaining power. Online platforms that enable on-demand work argue that they are neutral marketplaces that allow interaction between workers (service providers) and customers (service seekers). If this line of argument is followed, workers on these platforms would be counted as self-employed. However, a caveat that emerges here is that there are several employment conditions set by these platforms that result in the gig workers’ autonomy being conditional. These companies often ask gig workers to perform duties as employees, while desist themselves from taking the responsibilities as an employer.

There is absence of employee-employer relationships in the gig economy. The triangular relationship among the worker producing or performing the service, the digital intermediary/platform companies which facilitate the whole process, and the customers is the complication for industrial relation.

Even before the advent of the platform economy, industrial relations needed to evolve to stay relevant and representative. But it became more important than ever given the rapid growth of the platform economy.

The problem can be identified by two simple statements:

1. Lacunae in framework to govern dialogue between the different parties involved in the platform economy.
2. Due to the differences between platform workers and employees, and between platforms and employers the existing framework can’t be applied to the parties in the platform economy.

Such a paradigm shift could, in essence, bring industrial relations closer to their original conception, focusing on the employment relationship and all forms of labor-related problems. rather than workers-management relations. Such a shift could broaden the purview of industrial relations to better encompass

the modern economy. At the same time, a new paradigm would lay emphasis on greater cultural, national, and gender inclusiveness.

To summarise industrial relations and the gig economy, there are very few examples of platform workers organizing and negotiating with platforms. Whether this qualifies as industrial relations is conditional on the undefined question of whether platform workers are employees and whether platforms are employers.

## **9. Suggestions**

### **9.1 Redefining employment**

Recognizing gig and platform workers by social security 2020 may not be sufficient to provide acceptable levels of protection to the gig workers. these provisions could be accomplished by redefining the concept of employment which more clearly covers work that is organized, supervised, and facilitated by a digital intermediary. Workers should be given the same rights to engage in collective bargaining as employees.

### **9.2 Confirm and enforce existing laws**

There is a need to expand the reach of the existing legal framework. This is already occurring, with litigation being launched by or on behalf of gig workers in several countries. In India, the Social security code 2020 has been enacted but is yet to be implemented across India.

### **9.3 Create Rights for workers**

The most radical option would be to abandon employment status entirely as the trigger for regulating work. A similar approach could be used to reconfigure other labor regulations so that it becomes largely irrelevant whether a worker is an employee in the traditional sense. The social security act 2020 has 'obligatory' provisions for social security rather than mandatory provisions. Providing appropriate protections such as basic health and safety protections to anyone performing 'work' is important for the welfare of the workers.

### **9.4 High time to reconsider the concept of an employer and employee.**

9.5 A further suggestion has been to focus on what it means to be an 'employer'.

## **10. Conclusion**

Employment relations are the key to increased productivity in industrial establishments. The moral dimensions of Industrial relations discourage to be unethical on the part of any management to take advantage of the helplessness of workers and exploit them. The situation compels workers to take jobs with inhuman working conditions and low wages.

One of the objectives of industrial relations is to protect workers' interests and to improve their economic conditions and the economy as well. Industrial relations establish and maintain true industrial democracy which is a prerequisite for the establishment of a utopian society.

New standards and tools need to be developed to evaluate the nature and quality of jobs in the gig economy. This would allow for the formulation of appropriate policies that will help policymakers in making informed decisions. It would further provide an improved understanding of the realities of flexible work arrangements in both crowd work and on-demand-service work and fill the critical knowledge gap. The government has to push the enactment of the Social Security Code 2020 on an urgent basis to address the immediate concerns of extending social security benefits to gig workers, who are tirelessly working at the forefront by serving the needs of the Indian masses at their doorsteps.

Without robust labor regulations and safety nets to reflect new practices of gig work, it would not be possible to build an inclusive, fair economy. Active, innovative strategies to regulate the unstructured gig

economy are essential if the positive potential embodied in new digital technologies is to be reflected in improved human welfare.

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