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2ND GLOBAL INDUSTRIAL RELATIONS SUMMIT

Theme: Re-envisioning Industrial Relations in the changing dynamics of the Business World

11th - 12th March 2024, Federation House, New Delhi

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About AIOE

The All-India Organisation of Employers' (AIOE), an allied body of Federation of Indian Chambers of Commerce & Industry (FICCI), is the oldest and apex national employers' association of India set-up in 1932. It has a history of 8 decades in representing the interests of employers at national as well as international forums on social and labour policy matters.

AIOE serves its members, affiliated business chambers and associations through a team of experienced professionals specialized in Labour Laws, Human Resource and allied disciplines related to employment.

AIOE provides a forum for consultation and discussion among members on matters of common interest and seeks the adoption of sound principles and practices of human resource and industrial relations through information, advice, research, training and other activities.

Vision

Aims at serving the cause of Indian industry by promoting sound industrial relations and better understanding between employers and workers on the mutuality of interests.

Mission

To foster initiatives supporting accelerated and sustainable growth that embraces good industrial relations, livelihood, governance and skill development.

Affiliations & Collaborations

- It is one of the member constituent of International Labour Organisation (ILO).
- It is a member of International Organisation of Employers (IOE).
- It is a constituent of South Asian Forum of Employers (SAFE) and Council of Indian Employers (CIE).
- It has collaboration with The Association for Overseas Technical Cooperation and Sustainable Partnerships (AOTS), Japan to train HR & IR Professionals in Japan and India.

Representations

- AIOE represents the key interest of employers at both national and international forums.
- Advocates employers' interest in policy decision of the government.
- It proactively initiates national and regional bipartite and tripartite dialogues with government & trade unions.
- It is accredited as a national body for making representations at international forums and conferences highlighting the employers view and issues.
- It takes necessary steps for promoting, supporting or opposing legislative and executive action likely to effect the interest of industry.
- It has a notable presence at the International Labour Organisation, United Nations Organisation, International Organisation of Employers, International Chamber of Commerce and other conferences and committees.

Services Provided

AIOE is dedicated to provide impeccable timely service to its members as elucidated :

1. We stand committed to convey industry's concerns on labour and employment issues to the appropriate government authorities.
2. To provide expert consultancy and advisory service to members on the application of labour legislations, policies and guidelines.
3. Timely update our members on recent legislative and policy developments on industrial relations.
4. Enable employers develop a sustainable and competitive enterprise.
5. Regularly organise customised seminars, workshops, conferences, and training programmes benefiting industry.
6. Provide leading-edge and timely research and information on HR & IR and employment trends through news wrap and circulation of government notifications.

Membership

The membership of All India Organisation of Employers (AIOE) is open to all companies registered in India and abroad, having its operations within or outside Indian territory and all Associations/ Chambers representing any industry/ industries, trade/trades or commerce.

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This category is open for any individual firm or joint stock company engaged in any industry, trade or commerce. Annual Subscription **@ ` 7500/-** (excluding one time registration fee of ` **2000)**

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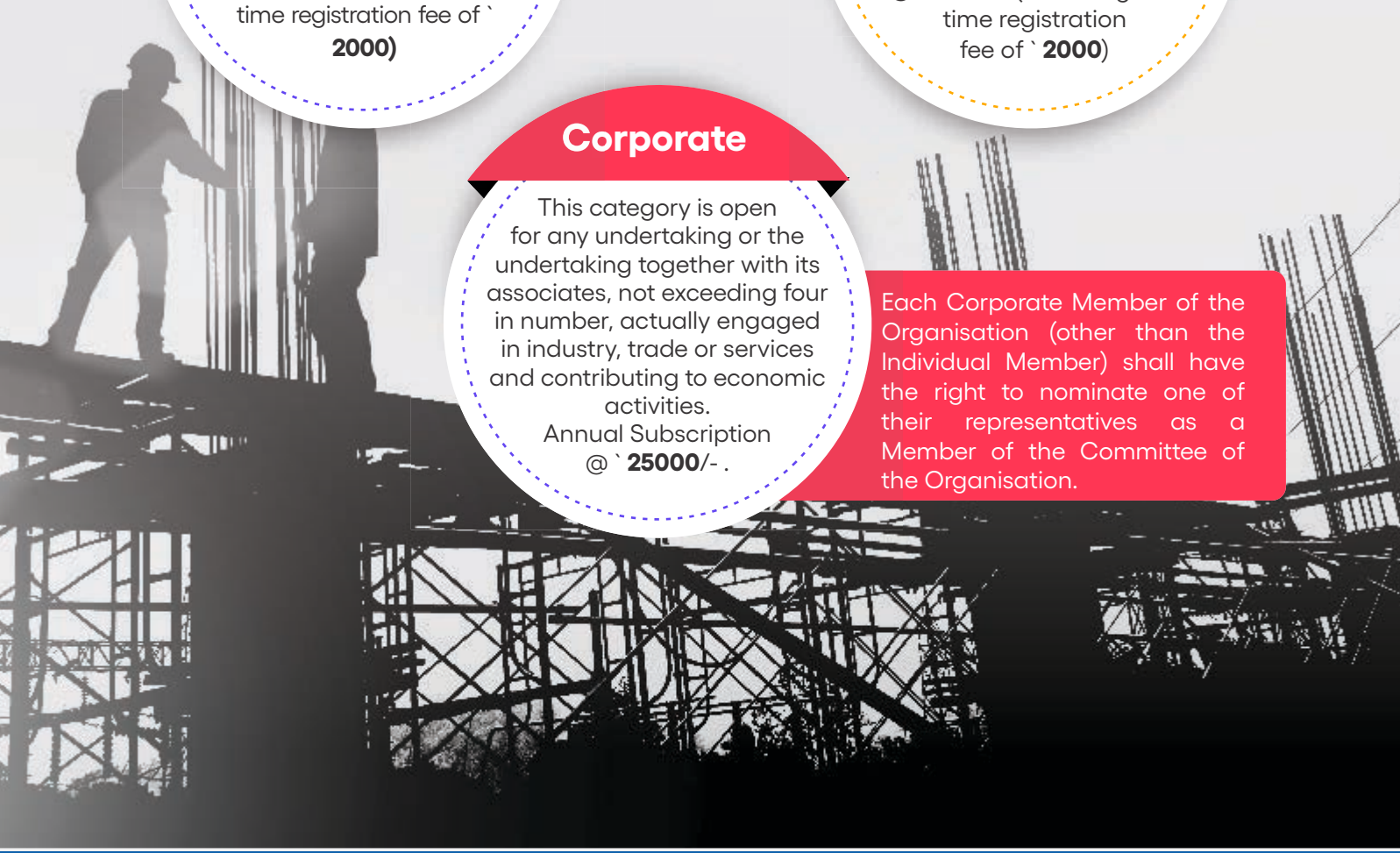

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Message from
President

Mr Alok B Shriram
President - AIOE &
Sr. MD & CEO, DCM Shriram Industries Ltd

I am delighted to welcome each of you to the 2nd Global Industrial Relations Summit.

AIOE has consistently demonstrated a proactive approach and has made significant contributions, in the field of labour and industrial relations.

Over the time industrial relations landscape has evolved, re-shaping the dynamics of employer-employee relationships. Instead of viewing unions as obstacles, they should be seen as partners. A notable illustration of this occurred during the COVID-19 pandemic, where employers and unions joined forces to protect businesses and jobs. Further, with the emergence of gig and platform economy, the relationship between employer-employee is extending beyond the traditional boundaries of organisations, requiring stakeholders to embrace a new mindset.

The summit's theme too focuses on exploring how industrial relations must adapt and evolve in response to the changing dynamics of the business world. It underscores the need to reconsider traditional approaches and embrace new strategies to effectively navigate the changing landscape of industrial relations within the context of evolving business environments.

I am confident that our time together will be filled with insightful discussions, meaningful connections, and valuable takeaways.

Alok B Shriram

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Message from
Deputy Director
International Labour Organisation

Mr Satoshi Sasaki
Deputy Director
International Labour Organisation

In the ever-changing industrial relations and business climate, Employer and Business Member organisations (EBMOs) are challenged to support their members in innovative ways. Sometimes, what we envision for the future takes a totally different turn, and we are forced to respond to the present. The outbreak of the COVID-19 pandemic taught us this reality. Re-envisioning industrial relations requires taking note of what is happening around us. In this regard, social dialogue becomes essential to the industrial relations toolbox.

The UN envisions a world where 'no one is left behind', and the ILO was founded on a similar principle, which advocates that universal and lasting peace can be established if it's based on social justice. The world of work is changing rapidly, and employers have the opportunity to take the lead in shaping the present and future of work. A partnership between management and workers that is built on mutual respect, trust and commitment to the enterprise is vital for business growth and success, and it's what will define industrial relations going forward.

Satoshi Sasaki

Message from
Chairperson – IR Summit

Ms Veena Swarup
Former Director HR Engineers India Ltd

Industrial Relations being a hallmark of collaborative work style is the dynamic relationship employers, employees and institutions have . It is the relationship between Managements and their Workmen-- an often very delicate and sensitive relationship which demands focus , attention and a spirit of trust and faith. It is at centre stage of Organisations and Infact a competitive edge. Hinging on collective workforce ensures continuity of work and production, impacts productivity,and gives fillip to self reliance and development of Business and the Nation at large.

With a view to give impetus to this very critical driver of successful Business, Industrial Relations,the All India Organisation of Employers, (AIOE) in collaboration with FICCI is convening this 2nd Global IR Summit on the theme " Re-envisioning Industrial Relations in the changing dynamics of the Business World ".This initiative is supported by ILO and EY is the Knowledge Partner. Focussing on the complexities involved, the Sessions have been very carefully curated to exhibit the nuances through examples and experiences globally,as learnings for future implementation.

Covering major aspects of successful Industrial Relations , the Summit includes Sessions on:

- Industrial Relations- Re-looking its Framework
- Industrial Relations as a driver for enhancing Productivity
- Industrial Relations at Centre stage of Business- the Global Scenario
- Nuances of Collective Bargaining & Long Term Settlements
- Industrial Relation Reforms & Labour Codes- preparing for Implementation
- Positioning Exponential Technology- Leveraging for effective Industrial Relations
- Future of Workforce in the Emerging Economies-- What Employers & Trade Unions should do

The Summit includes Panel Discussions, Plenary Talks, and a Master Class, where in through discussions and presentations the perspectives, thoughts,practices and experiences will highlight the issues and challenges and show case the Best Practices.An array of Speakers from India &Overseas , from Government, Public & Private Sector, Academia & International Organisations will share their thoughts & experiences.

To encourage the thought process in this very important area of Industrial Relations, we also held a Paper Writing Competition for Practising professionals & Students. The Winners will be awarded during the Summit. My Congratulations to the Winners.Another added feature is the Panel Exposition showcasing Best Practises.

A lot of effort has gone into preparing for the Summit.The rich experience of the Committee Members and the untiring hard work by Team AIOE has gone a long way in weaving the fabric of the Summit and the associated initiatives.Im sure the Participants will benefit and have rich takeaway as practices and future solutions.I wish the Summit all success.

Veena Swarup

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Rig Veda has emphasized on the importance of Panch Tatva (five elements), Prithvi (Earth), Ap (Water), Tejas (Fire), Vayu (Air), Akash (Ether/Space).

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Platform Economy - Issues and Challenges for Social Partners

by Mr Ravi Peiris [1]
Sr. Specialist – Employers Activities,
International Labour Organisation

(The views expressed in this Article are those of the Author and do not necessarily reflect the views of the International Labour Organisation)*

The ILO Governing Body (GB) decided that issues concerning decent work in the Platform economy be placed as an item in the agenda of the 113th session of the International Labour Conference (ILC) in June 2025.[2] This decision was based on a normative gap analysis that was submitted to the GB. In October 2022 there was a meeting of the experts on decent work in the platform economy. The reference document for this experts meeting was the ILO document on "Decent work in the Platform Economy".[3]

In this brief paper, I wish to highlight some important issues and challenges, ILC may need to consider in taking forward this discussion. What is below, is based on the GB decision[4] and the reference document of the ILO.[5]

1. Complexity and diversity in the platform economy

As already explained in the reference document of ILO, the platform economy concept covers many different work arrangements, worker profiles, business models and sectors of the economy. We cannot therefore have a 'one size fits all' approach in resolving the normative gaps that have been identified in the GB decision paper. There is a need to keep the classifications of workers broad without causing prejudice to the different approaches policy makers, and Courts of law have taken already in this regard. We cannot broadly classify a "Platform worker" as an "employee" or as a 'self – employed' worker. The legal debate over the classification continues all over the world. It is important that we acknowledge and respect the sovereignty of each state and the independence of the judiciary to formulate and interpret its laws.

2. " Normative gap" challenge

If we examine the ILO standards, we can broadly categorise them as follows:

(I) **Standards that presuppose the existence of an employment relationshi :** ILO standards on working hours, minimum wages, termination of employment, maternity

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[2] GB.347 / POL /1
[3] MEDWPE/2022
[4] GB.347 /POL /1
[5] MEDWPE/2022

protection etc envisage an employment relationship and are **not applicable to all workers.**

(ii) **Standards that cover all workers irrespective of an employment relationship:** ILO standards on social security, freedom of association, collective bargaining, Occupational safety and health, etc which broadly apply to all workers (with a few exceptional conventions not applying to self-employed workers) irrespective of employment status. These standards cover both employees and other workers who do not have an employment relationship.

(iii) **Standards that cover work arrangements outside an employment relationship:** ILO Standards on Home workers (C 177), Private Employment Agencies (C 181) and the ILO Recommendation on Transition from the informal to the formal economy,[6] envisage work arrangements outside an employment relationship.[7] The Recommendation refers to "Economic Units" which include "units that are owned by individuals working on their own account, either alone or with the help of contributing family workers."[8]

Each of these categories focus on a particular work arrangement practice that is clearly defined. In the context of the Platform economy the situation is different. A plethora of work arrangement practices are found, which may fall into any one of the categories depending on the circumstances of the case. Circumstances would depend on each country's law and practises.

Therefore, could we address issues surrounding the platform economy only by a gap analysis on the current labour standards ?

Perhaps what is needed, is to appreciate that this is an economy that is fast changing and will not be the same tomorrow.

The process needs to start with a closer understanding of classification of work arrangement practices, worker profiles, sectors, and the different business models. This needs to be followed by a broad classification that would facilitate the formulation of " guidelines " that can further be developed into standards wherever possible. The landscape is still evolving.

3. Would Recommendation 198 (2006) on Employment relationships need a review ?

The GB decision paper refers to Recommendation 198 and states it is "considered as fully relevant in the context of the platform economy." [9]

Before we consider Recommendation 198 in relation to the platform economy, we may need to review it once again.

For example, how does this Recommendation stand with Convention 181 ?

Recommendation 198 creates legal presumptions of employment in certain situations. In paragraph 11 (b) there is a presumption of an employment relationship when one or more indicators are present. As regards indicators, para13 (a) and (b) gives examples of situations where the presumption will be drawn.

[9] GB.347/POL/1 – para 8

On the contrary, Convention 181 on Private Employment Agencies defines an Agency as one which provides labour market service which involves " service consisting of employing workers with a view to making them available to a third party, who may be natural or legal person which provides one or more of the following labour market services ...." Article 1(b) further refers to the natural or legal person as a "User enterprise", ***which assigns tasks and supervises the execution of these tasks.*** At no point would the user enterprise be deemed to be having an employment relationship with the workers to whom the tasks are assigned. However, in terms of the indicators set out in para 13 of Recommendation 198 there is a presumption of an employment relationship in a similar situation.

This dichotomy assumes even greater significance in terms of para23 of Recommendation 198 when it reiterates and confirms that the Recommendation does not revise Convention 181.

4. Platforms vis a vis Private Employment Agencies (PEA)

There is a fundamental ***difference*** between a platform and PEA as envisaged under ILO Convention 181. Once the PEA fixes a worker with a " User Enterprise" it ceases to have any control over the worker. Convention 181 is clear on it. In the case of the Platform, it is different. Platform continues to exercise control throughout by algorithmic management.

In fact, it may even be argued that the Platforms have a " direct" liability vis a vis the workers by receiving part of the 'fee'. The fee is charged by the Platform. The payment of salary or remuneration for work is an indication of 'control' which determines the status of an 'employee', under the English common law tests. The payment of the "fee" which is actually paid by the customer creates the necessary nexus to establish 'control'. Although Platforms may argue that the fee is paid by the worker for the work opportunity afforded, it is paid by the customer to the platform for work done by the worker and a portion retained by the platform before it is paid to the worker. A comparison can also be drawn with the 'service charge' that is levied by hotels from customers. Most often, it is given to employees with deductions made for administrative costs, breakages, and losses. Therefore, there arises a plausible argument that the receipt of a 'fee' by the platform, is an indication of "Control" that would treat it as the employer.

5. The Concept of 'Dependent Contractor'

The ILO reference document[10] refers to many different court rulings on platform worker classifications. Broadly, they fall into three categories – workers, self - employed and dependent contractor.

The concept of 'dependent contractor' in UK employment law was applied by the courts as far back as 1984. It was upheld in the case of *O'Kelly vs Trusthouse Forte*.[11] In order to provide some employment protection rights to **Dependant Contractors** and others whose personal work contracts are closely akin to contracts of employment, many statutory employment rights were granted by statute, to the statutory employment status of a 'Worker'.[12] Limb (b) of Section 230 (3) of Employment Rights Act of 1996 is the first of such examples.

[10] Table 5
[11] (1984) QB 90 (CA
[12] Labour Law: (2nd edition) Hugh Collins K D Ewing Aileen McColgan page 216

The UK Supreme Court in the case of **Uber vs Aslam**[13] clearly held that UK Employment law distinguishes three types of people:

(i) Those under a Contract of Employment

(ii) Those Self Employed who are in business on their own account

(iii) Self-employed but who provide services as part of a profession or business undertaking carried on by someone else.[14]

It was held[15] that some statutory rights such as unfair dismissal are confined to those under a contract of employment; but other rights including those claimed in the proceedings apply to 'workers' who fall within limb (i) and (iii).[16]

This judgement reflects the willingness of the Court to take account of developments relative to new ways of doing business, instead of being restricted by concepts, which were developed at a time when ways of doing business were simpler and limited. Technology and other factors such as increased emphasis on entrepreneurial innovation have led to more complex and new ways of doing business. The law needs to keep pace with social and other developments to be relevant, socially, and otherwise, and this objective can be achieved through legislation or judicial means, or by a combination of both.

WAY FORWARD

1. We need to recognise that the 'platform economy' is inherently heterogeneous.[17] There is a clear distinction between location based and online web-based platform work. A global standard therefore may not be a solution. There is a clear need to go beyond the “naïve classification” of platform workers and cluster/classify the so-called platform workers in groups according to the specific homogenous features.

   There needs to be a comprehensive study done on the different aspects relating to the workers and work arrangements in the economy. This would possibly open space for a categorisation within the economy that would help in formulating guidelines, before engaging in 'standard setting'.

2. EBMOs need to be more effectively engaged in responding to the needs of this economy. A recent study[18] has revealed opportunities for EBMOs to offer a new value proposition to this economy. The following findings are significant.[19]

- EBMOs need to take specific steps to recognize and attract membership among platform companies
- The services rendered by EBMOs need to evolve and become more relevant to platform companies.
- EBMOs need to play a role in convening and shaping national debates and be an informed partner in policy issues on the platform economy and gig work.
- EBMOs' need to review its mandates and institutional structure.

[13] 2021 UKSC 5
[14] Cited Baroness Hale of Richmond in Bates Van Winklehof vs Clyde & Co.LLP (2014) 1 WLR 2047
[15] ibid
[16] Section 230 (3) of Employment Rights Act of 1996
[17] IOE – Diverse forms of work I the platform economy (2022)
[18] ILO ACTEMP research study on Gig and platform economy in Bangladesh, India and Sri Lanka (2023)
[19] Briefing note to EBMOs

3. Trade Unions need to take a pragmatic approach in responding to the issues and challenges. There is a need to move out from seeking for an “employer” in respect of certain categories of workers. The reality that work can be done outside the scope of an employment relationship need to be acknowledged. The Self-Employed Women's Association (SEWA) which is the largest trade union of informal workers in the world, and the National Association of Street Vendor's in India (NASVI), which was formed in 1998 for promoting the rights of street vendors recognising them as self - employed workers are examples of workers organising themselves to pursue their rights outside a traditional employment relationship.

4. Governments must respect and acknowledge the sensitivities surrounding the issues and challenges of this economy in making policy interventions. Governments must make use of tripartite social dialogue and initiate national conversations.

CONCLUSION

There is much to be done to ensure that digital labour platforms are best positioned to provide decent work opportunities, foster the growth of sustainable enterprises, and contribute towards achievement of the Sustainable Development Goals.

As the 113th international Labour Conference takes decent work in the Platform economy for discussion in 2025, it is hoped that during the intervening period ILO will encourage and support national / regional conversations / studies which would help to identify the nuances of this fast-emerging economy and formulate suitable guidelines that may help to make a considered decision on standard setting. Decent work encompasses all work, irrespective of an employment relationship. We need to accept this reality and ensure that it encompasses all workers. What is crucial is - how we to do it.

Standing Orders in India: An important pillar of industrial relations

by

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Mr Puneet Gupta
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The law relating to Standing Orders is governed by the Industrial Employment (Standing Orders) Act, 1946 ('Standing Orders Act') which requires employers in industrial establishments to define with the sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them. To state simply, Standing Orders define the foundation which governs the relationship between an employer and workmen in an industrial establishment.

Prior to enactment of the Standing Orders Act in 1946, the conditions of employment in industrial establishments were generally governed by the contracts between employer and workmen and policies/practices of the employer. During the time, such conditions often promoted the interests of the employer but ignored the interests of the workmen.

The Supreme Court of India in the case of M**/s Glaxo Laboratories (I) Ltd. v. Presiding Officer, Labour Court (AIR 1984 SC 505**), dated 6 October 1983, observed that "Moving from the days when whims of the employer were supreme, the Industrial Employment Act, 1946 took a modest step to compel by statute the employer to prescribe minimum conditions of service subject to which employment is given."

The Standing Orders Act applies to all industrial establishments employing 100 or more workmen and covers the following industrial establishments:

(i) An industrial establishment as defined under the Payment of Wages Act, 1936;

(ii) A factory as defined under the Factories Act, 1948;

(iii) A railway as defined under the Indian Railway Act, 1890;

(iv) Establishment of contractor who employs workmen for fulfilling the contract with an industrial establishment.

To protect the interest of workmen in smaller establishments, some states have reduced the threshold number of workmen, for the applicability of the Standing Orders Act, from 100 to either 50 or 20 or 10. For example, in states like Haryana, Karnataka, Kerala and Maharashtra – the threshold limit is 50. In Punjab and Tamil Nadu – the limit is 20 and in Gujarat, the limit is 10.

- The matters to be provided in the Standing Orders are specified in the schedule attached to the Standing Orders Act.

Aspects to be covered in Standing Orders

The Standing Orders Act was enacted with the object to have uniform Standing Orders covering matters enumerated in the Schedule to the Act. The said Schedule specifies the matters with respect to conditions of employment to be set out in Standing Orders of the industrial establishments, and broadly covers the following aspects:

(i) **Classification of workmen –** whether the workmen employed in the industrial establishment are permanent, temporary, apprentices, probationers or badlis. This classification helps in determining the rules and wages applicable to the particular category of workmen.

(ii) **Manner of intimation –** the mode and manner of intimating the periods and hours of work, holidays, pay-days, and wage rates to the workmen.

(iii) **Working shifts, attendance and leave –** include rules regarding shift working, attendance and late coming, set procedures for applying for leave and holidays. The authority which may grant leave and holidays should also be specified.

(iv) **Rights and liabilities –** in case any industrial unit or section has been closed or in case of temporary stoppage of work, the rights and liability of the workmen and employer must be clearly spelled out.

(v) **Termination –** to specify the process of termination of employment including notice to be issued by employer to workman in such case.

(vi) **Grievance redressal mechanism –** to specify the means of redressal for workmen in case of unfair treatment or wrongful exactions by the employer.

- (vii) **Misconduct –** to specify the acts or omissions which constitute misconduct leading to suspension or dismissal for such misconduct. With the changing times, the courts in India through judicial intervention are expanding the scope of misconducts under the Standing Orders Act.

Recently, on 12 December 2023, in the case of **Hitachi Astemo Fie Pvt. Ltd. v. Nirajkumar Prabhakarrao Kadu**, the Bombay High Court examined whether the act of posting provocative posts on social media qualifies as 'misconduct' under the Model Standing Orders. The matter was in relation to a dispute over wage settlements whereby negotiations were not concluded, and the respondent workman had posted two posts on a social media platform against the company. This was treated as a 'misconduct' and the respondent's employment was terminated by the company.

The court observed that the posts were directed towards the company with a clear intent to incite hatred and were provocative and could have resulted in a disorderly act, especially when the atmosphere was extremely sensitive. The court stated that freedom of speech and expression cannot be allowed to be transgressed beyond reasonableness and if that is allowed, it could lead to disastrous consequences. Accordingly, it was held that such act was a 'misconduct' that was squarely covered under the clauses of the Model Standing Orders and the enquiry against the respondent workman was valid.It is important that employers review their standing orders / internal disciplinary action policies to ensure comprehensive coverage of acts that may constitute misconduct / gross misconduct by workmen. This may act as a safeguard in case of any litigation / dispute.

Moreover, the matters to be included in the Standing Orders may not be limited to the list above. The Appropriate Government has the power to notify other matters which may be provided in the Standing Orders.

Importance of Standing Orders

The Standing Orders Act aims at ensuring well-defined, fair and reasonable conditions of employment to workmen in an industrial establishment and acts as a protective shield against unfair labour practices. It was the absence of uniform law to govern the relationship between the industrial establishment and its workmen that led to the evolution of Standing Orders Act in India.

In the case of **Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamgar Union (1999 Lab IC 430 SC),** dated 14 December 1998, the Supreme Court held that, *"The Industrial Employment (Standing Orders) Act, 1946 was made by the Parliament to require employers of all industrial Establishments to define formally the conditions of employment on which the workmen would be engaged. The object underlying this Act, which is a beneficent piece of legislation, is to introduce uniformity of terms and conditions of employment in respect of workmen belonging to the same category and discharging same and similar work under the industrial Establishment and to make the terms and conditions of industrial employees well-settled and known to the employees before they accept the employment."*

The Standing Orders were essentially put in place to protect the interest of workmen in matters of employment - ranging from working hours and leave to disciplinary proceedings and termination. Recently, in the case of **M/s Hindustan Lever Employees Union v. M/s Hindustan Unilever Limited,** dated 3 January 2024, the Bombay High Court while examining the issue of denial of subsistence allowance to a suspended employee observed that customary practice followed by company cannot override existing statutory provisions on payment of subsistence allowance. The court held that the condition stipulated in the suspension order for marking attendance in order to be eligible for payment of subsistence allowance was an illegal, unfair, unjust and mala fide condition which was contrary to the provisions of Section 10A of the Standing Orders Act.

However, on the other hand, the benefit of Standing Orders for employers, although not equally explicit, cannot be denied. Standing Orders help streamline the relations between employers and workmen in an industrial setting. The theme is to create an environment where there are fewer disputes. There is less probability of a dispute between establishment and workmen if the terms of service and conditions of employment are stated and known to the workmen, which in turn can lead to increased efficiency and productivity of workmen in the industrial establishment

Exemptions from Standing Orders

Under the Standing Orders Act, the Appropriate Government has the power to issue notifications exempting any class of establishments from the application of the Standing Orders Act.

The state of Karnataka, being at the forefront of India's IT and ITeS sector since the 1990s, the State Government had originally exempted the IT/ITeS sectors from the applicability of the Standing Orders Act in 1999. The exemption was thereafter renewed several times.

The last such notification was issued by the Karnataka State Government on 25 May 2019, exempting IT / ITeS / Startups / Animation / Gaming / Computer Graphics / Telecom / BPO / KPO / other knowledge-based industries from the provisions of the Standing Orders Act for a further period of 5 years, subject to the following conditions:

1. Constitution of an Internal Committee as per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
2. Constitution of a Grievance Redressal Committee to address any complaints/grievances of the employees.
3. Information regarding cases of disciplinary action including suspension, discharge, termination, demotion, dismissal etc. should be intimated to the jurisdictional Deputy Labour Commissioner and Commissioner of Labour in Karnataka.
4. Any information regarding service conditions of the employees sought by the jurisdictional Deputy Labour Commissioner and Commissioner of Labour in Karnataka should be promptly and fully submitted within reasonable time frame fixed by the authority.

While the exemption from Standing Orders in Karnataka allows establishments to adopt flexible policies and processes that suit their needs, at the same time, the conditions imposed on the employers protect the interests of workmen and reinstate the fact that the exemption from the Standing Orders Act would not absolve employers from other compliances.

Conclusion

Multiple judicial precedents have highlighted the importance of Standing Orders and have held that Standing Orders override contrary internal policies and terms of employment. Details of working hours, leave and holidays in the Standing Orders provide clarity to the workmen on applicable terms and conditions of employment in the establishment. List of misconducts, the process for handling disciplinary proceedings and subsistence allowance payable during suspension laid down in the Standing Orders provide a good reference document for both employers and workmen in strenuous situations. Overall, well drafted Standing Orders contribute greatly to maintaining good industrial relations.

Decoding the definition of 'workman': Initial step in handling industrial disputes

by

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The concept of 'workman' is central to the topic of industrial relations in India. The debate around 'employee' versus 'workman' classification refuses to die down and keeps resurfacing before the Indian Courts from time to time.

The term 'workman' is defined under the Industrial Disputes Act, 1947 ('ID Act') as any person employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work, for hire or reward, whether the terms of employment be express or implied. However, the said definition does not include a person:

(i) who is employed mainly in a managerial or administrative capacity;

(ii) who, being employed in a supervisory capacity, draws wages exceeding INR 10,000 per month.

A person can be said to be employed in a managerial or administrative capacity if such person occupies a position of command, has freedom to take independent decisions that bind the company or has the authority to take certain administrative decisions in the organisation such as power to sanction leave, initiate disciplinary action and issue orders for termination / dismissal. On the other hand, a person is deemed to be employed in a supervisory role if the person has a team reporting to him/her to perform various functions.

Over the years, the courts in India have laid down various tests to determine whether a person would fall within the definition of 'workman' under the ID Act. One of the most relevant tests in this regard is the 'dominant nature' test whereby an employee will be classified as a 'workman' based on the dominant nature of their job profile and not his/her designation. Since the ID Act is a beneficial legislation, the courts through judicial intervention have enlarged the scope and applicability of the ID Act by giving a wide interpretation to the term 'workman.'

Importance of the definition of 'workman'

The importance of the definition of workman lies in the fact that an employee's entitlement to various benefits is contingent on his/her classification. For instance, the definition of 'workman' is the fundamental legal basis to invoke the jurisdiction of an industrial tribunal under the ID Act. A person who does not fall within this definition cannot take recourse to the grievance redressal mechanism as covered in the ID Act.

Thus, whenever an industrial dispute is raised for consideration before the courts, the first and foremost issue to be dealt with by the court is whether the said individual would qualify as a

'workman' or not, before delving into the dispute raised. Hence, the question – 'Who is a workman?' becomes imperative.

Further, the debate around workman classification also holds relevance for employees engaged through contractors. For coverage under the Contract Labour (Regulation and Abolition) Act, 1970, it becomes important to first prove that an employee engaged through third party falls within the definition of 'workman.'

Another example which highlights the relevance of this debate pertains to applicability of standing order to an industrial establishment since the applicability of this law depends on the number of 'workmen' employed in the industrial establishment which may be 100 or 50 or 20 or 10 (as applicable). The standing orders cover various aspects relating to conditions of employment of the workmen such as working shifts, attendance, leave, termination and grievance redressal mechanism and thus, in order to understand the applicability of said conditions on workmen employed in the industrial establishment, the workmen categorization becomes important.

The aforesaid examples clearly highlight why the definition of 'workman' becomes extremely important and it can be said that that the definition of 'workman' is paramount to industrial relations in India.

Principles laid down by the courts while analysing the definition of 'workman'

As stated earlier, the courts in India through judicial intervention have laid down various tests to determine whether an individual would qualify as a 'workman' which may include consideration of factors such creativity, initiative, autonomy, co-ordination, nature of the work performed and the core responsibilities and duties associated with the role.

The Supreme Court of India in the case of Management of **Sonepat Cooperative Sugar Mills Ltd. v. Ajit Singh (Civil Appeal Nos. 8453-54 and 8455 of 2002),** dated 14 February 2005, analysed whether the nature of job performed by a 'legal assistant' having a degree in law and a practicing license, is 'clerical' and whether the said individual would qualify as 'workman' or not.

The Court observed that the job of a clerk implies stereotype work without power of control or dignity or initiative or creativeness. Whether employee has been performing a clerical work or not is required to be determined basis the dominant nature of work. In order to give effect to the expression to do 'any manual, unskilled, skilled, technical, operational, clerical or supervisory work', the job of the concerned employee must fall within one or the other category thereof. Merely because the employee had not been performing any managerial or supervisory duties, he would not be a 'workman'.

The court held that job of a “Legal Assistant” was not falling within any of the above category as it was not a stereotype job and involved creativity as the employee was rendering legal opinions, drafting pleadings, representing company before various courts/authorities, discharging quasi-judicial functions as an enquiry officer in departmental enquiries against workmen.

The Bombay High Court in the case of Standard Chartered Bank v. Vandana Joshi and Ors., (Writ Petition No. 975 of 2009), dated 17 December 2009, analysed whether 'Personal Financial

Consultant' appointed in the Bank, whose letter of appointment stipulates that she is placed in the management cadre of the Bank, would qualify as a 'workman' or not.

The Court analysed the roles and responsibilities of the employee and held that she would not qualify as a 'workman' as the work done by her was not 'clerical' in nature. The Court also laid down the following observations:

1. Letter of appointment having reference to appointment in management cadre of the bank is not decisive of whether the employee is performing duties which predominantly are those of a 'workman'.

2. Burden lies on the employee to establish that the dominant nature of his / her duties is such that the work performed falls within one of the stipulated categories, i.e., 'any manual, unskilled, skilled, technical, operational, clerical or supervisory work'.

3. Employee would rarely have authoritarian control over business decisions. Managerial decisions are subject to verification and approval. The fact that decisions of an employee are subject to verification does not establish that the employee is a 'workman'. Managers do not become workmen because their decisions are structured by processes and approvals.

4. Absolute autonomy is not the norm in managerial decision making. The law does not insist on absolute discretion or absolute autonomy for a person to be a manager. The answer to the question must depend upon the dominant nature of the duties and responsibilities.

The Chennai Labour Court in the case of **Thirumalai Selvan Shanmugam v. Tata Consultancy Service Limited (I.D.No.34/2016),** dated 8 June 2022, analysed whether an 'Assistant Consultant' who has been working as a lead assessor and co-ordinating with other team members would qualify as a 'workman' or not.

The Court held that Assistant Consultant would fall within the definition of 'workman' as his principal nature of duties were 'skilled technical' work and not in the nature of 'managerial' duties, and made the following observations:

1. The list of responsibilities shared as part of counter statement included phrases such as “also empowered, “also expected” and “also provided” which would make those responsibilities as incidental to other principal duties.

2. Email correspondences suggested a joint effort of technical work and that the employee is also one among the person in the team, may be, first among the equals.

3. Principal nature of the employee's work was only a 'skilled technical' work. The employee used to do his own personal skilled technical work and incidentally was also seeing others by way of coordination. Such incidental work of giving advice, goals and sharing his views will not change the principal nature of work.

4. It is well settled principle of law that in the course of employment, there is every possibility for a person to attend varied responsibilities. While doing so, some of them could also come within the parameter of supervisory or managerial function. But, the principal nature of duty alone would decide and define the nature of work entrusted with the person.

The principles highlighted in the above-mentioned judicial precedents for determining the status as 'workman' need to be analysed considering the facts and circumstances of each case and may vary on a case-to-case basis, depending on the actual activities carried out by the individual during the course of employment.

The Bombay High Court in the case of **Rohit Dembiwal v. Tata Consultancy Services Ltd. & Ors., (Writ Petition No. 10523 of 2023),** dated 2 January 2024, analysed whether an employee who has been assigned project job operation and acting as a Module leader of the said project would qualify as a 'workman' or not.

The roles and duties performed by the employee were - control and supervision on other team members who were part of the project, performance appraisal of team members, approval to time sheets / leave / travel expenses of team members, interacting with client as team leader and to take corrective action in order to achieve the desired results.

The Court held that it is clear that predominant nature or substantial work performed by the employee has to be analysed and any designation of employee or any incidental work done by him cannot determine or qualify him as a workman or otherwise.

The Court further observed that all relevant tasks and duties performed by the employee, if perused, cannot be said to be that of an ordinary workman. Infact the employee's main role was that of a supervisory nature having managerial ability, competence and empowerment. Hence, the employee cannot say that he was working as a mere 'workman' in order to go under the umbrella of the definition of 'workman'.

Conclusion

The determination of who qualifies as a 'workman' under the ID Act, holds significant implications for various aspects such as industrial dispute resolution and understanding the applicability of certain statutes / statutory provisions.

The principles laid down by the Courts assert that mere absence of managerial or supervisory tasks does not automatically classify an employee as a workman. Instead, the focus is on the nature of the work performed the core responsibilities and duties associated with the role and whether such activities can be classified as 'manual, unskilled, skilled, technical, operational or clerical work'.

It is the actual work performed, the predominant nature of work and the individual responsibilities undertaken which become relevant in identifying the status as 'workman', rather than the designation or any incidental work performed..

Nuances of Collective Bargaining & Long-Term Settlements

*by Dr. Rajen Mehrotra**
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ILO Convention on Right to Organize and to Bargain Collectively

In 1949, the General Conference of International Labour Organization (ILO) adopted Convention No. 98 which highlights the application of the principles of the "Right to Organize and to Bargain Collectively".

In 1981, ILO adopted the Convention "Concerning the Promotion of Collective Bargaining" - also known as Convention No. 154 - and its accompanying Recommendation - also referred as Recommendation No. 163 – with the view to facilitate the implementation of Convention No. 98 and to show how it can be implemented in a practical way.

India to date has not ratified ILO Convention Numbers 98 & 154. The trade unions in India have been appealing to the Government for ratification of Convention Number 98, which is one of the present ten core conventions of ILO dealing with "Fundamental Principles and Rights at Work".

Though India has not ratified ILO's Convention No. 98 and Convention No. 154, Employers and Employers' Organizations as well as the Workers Organizations (i.e. Trade Unions) are well conversant with collective bargaining and negotiating long term settlements which are signed within the ambit of The Industrial Disputes Act, 1947.

The Concepts & Nuances of Long-Term Settlement

In our country, The Industrial Disputes Act ,1947 has a provision for the workers / trade union or the management of an enterprise to raise an industrial dispute / demand. Quite often the industrial dispute/demand raised by the workers / trade union is for enhancement of wages plus improvements in existing working conditions plus welfare benefits. When such an industrial dispute/demand is raised by the workers / union, the Management of an enterprise also raises a demand for improvement in productivity which can offset the increase in financial expenses.

There have been occasions in enterprises, when the industrial dispute / demand raised by the workers / trade union are not agreed by the management of enterprises. Similarly, there are also instances when the requirements / demands of the management ae not accepted by the workers / trade union. This does result in turbulences at the work place, which can take various forms based on the approaches of either of the parties. These industrial disputes / demands need to be resolved and **collective bargaining** is an approach of finding a solution.

When these industrial disputes / demands are resolved a settlement is signed between the

parties. This settlement can be signed under Sec 18(1) of the Industrial Disputes Act, 1947 or it can also be signed before a Labour Officer of the labour department, under Sec 12(3) of the Industrial Disputes Act, 1947.

The Opportunities & Challenges

The permanent and temporary workers, once they become members of a trade union, normally put up a charter of demand for revision in wages plus improvements in existing working conditions plus welfare benefits, though the wage structure does deal with inflation because of the dearness allowance scheme which is a part of the monthly wage in most enterprises. This leads to negotiations between the management and the workers, which finally results into a Long-Term Settlement which is by and large for three to four years' time period in the private sector and for ten years' time period in most public sector units.

The Challenge arises when the management of an enterprises refuses to bargain for any increase in wages based on the charter of demand submitted by the workers / union or the union refuses to agree to the productivity improvement / changes desired by the management. This does lead to a confrontation situation between the workers and the management, which finally needs to be resolved in the interest of both parties. The process if resolving the dispute can be by various approaches, such as conciliation, litigation, arbitration, dialogue.

Another challenge is that contract labour working in most enterprises is paid minimum wages and they do not receive any increase in wages when the Long-Term Settlement benefitting the permanent workers is signed. This does create some discontent amongst the contract workers who have been working in the enterprise through a contractor / service provider for years. In certain enterprises this has resulted in the contract workers joining the union of the permanent workers or bringing in a new union and desiring increase in remuneration benefits through a Long-Term Settlement similar to the one given to permanent workers. Managements of most enterprises take a stand, that the contract workers are employees of the contractor and not of the enterprise, hence the enterprise is not responsible to give any wage rise. However, there are some enterprises in India wherein Long-Term Settlements for wage rise have been signed between the contractor and the contract workers with the blessing of the enterprise, as the enterprise has to bear the additional cost.

Sector Specific Long-Term Settlements

We have sector specific, as well as enterprise specific Long-Term Settlements.

Sector specific Long-Term Settlement presently in India is limited to very few sectors of the Indian economy like cement, plantation and banking sector. Sector specific settlements mainly deal with benefits to the workers and ensure that the wages and benefits of the workers in that sector is identical for each enterprise of the sector that is party to the settlement. These settlements do not deal with any enterprise specific problem or any productivity improvement steps to be undertaken by the workers in a particular enterprise, as the same will vary from one enterprise to another. For example, most cement companies in India are members of The Cement Manufacturers' Association (CMA) and this organization on behalf of its members for years has been negotiating Long-Term Settlement.

On 21 June 2023, CMA representing **20 cement companies also involving their factories** located in various parts of the country [i.e. ACC Ltd, Ambuja Cement Ltd, Birla Corporation

Ltd, Chettinad Cement Corporation Ltd, Dalmia Cement (Bharat) Ltd, Gujarat Sidhie Cement Ltd , J K Cement Ltd , J K Laxmi Cement Ltd, Kesoram Industries Ltd, Malabar Cement Ltd, Mangalam Cement Ltd, Nuvoco Vistas Corporation Ltd, Orient Cement Ltd, Prism Cement Ltd, Saurashtra Cement Ltd, Shree Cement Ltd, Tamil Nadu Cements Corporation Ltd, The Ramco Cements Ltd, Ultratech Cement Ltd and Zuari Cement Ltd] signed a Long-Term Settlement with **6 trade unions** [i.e. Indian National Cement Federation Union (INTUC), Akhil Bhartiya Cement Mazdoor Sangh (BMS), All India Cement Workers' Federation (AITUC), All India Cement Employees Federation (HMS), NCC of Cement Unions (CITU) & Cement Workers Progressive Union's Federation (LPF)] representing the workers of these companies for a four-year period starting from 01 April 2022. As per the settlement each worker received an increase of Rs 5,750/- per month (i.e. Rs 3,450/- per month with effect from 01 April 2022 and Rs 2,300/- per month with effect from 01 April 2024). The Long-Term Settlement document does not deal with any mention of productivity improvement or changes desired by the management of the enterprises.

Enterprise Specific Long-Term Settlements

In India, we mainly have enterprise specific settlements. The wage and benefit increase that an enterprise can agree to pay in the Long-Term Settlement in an enterprise is dependent on various factors such as (i) type of industry, (ii) size of the enterprise, (iii) location of the enterprise, (iv) age of the enterprise, (v) settlements in the region, (vi) number of employees, (vii) profitability of the enterprise, (viii) capacity of the enterprise to pay and (ix) willingness of the enterprise to pay.

Presently enterprises signing a Long-Term Settlement are seeking improvements in productivity from various resources, including the beneficiary workforce to partly fund the increased financial payout. This does lead to negotiations, wherein the settlement specifies existing and improved level of productivity to be achieved by the workforce.

There are some innovative enterprises specific Long Term Settlements taking place in the country. On 28 December 2023 Bosch Chassis Systems India Private Limited signed a Long-Term Settlement with Bosch Chassis Systems Employees Union for their plant at Chakan, Pune for a four-year period starting from 01 January 2024. **Both the parties mutually agreed not to submit a Charter of Demand and resolve all issues amicably with a common vision of giving competitiveness and sustainability to the Chakan plant.** The workers and union have agreed to deliver the production output and productivity as per standards as set from time to time. The parties have agreed to enhance the capabilities of the workers to be future ready in the area of technological advancement, e.g. Industry 4.0. The skill and knowledge upgradation are to ensure the improved value and future employability of the workers which shall facilitate career progression in digital roles of the permanent workers.

The management agreed to an annual increase in wages as a percentage of a defined restructured monthly Cost to Company (CTC) (i.e., Basic pay plus Personal Pay plus Variable Dearness Allowance plus House Rent Allowance plus Conveyance Allowance plus Children Education Allowance plus Adjustment Allowance plus Medical Allowance plus Provident Fund plus Gratuity). The Annual CTC increase for the four years period is in two parts Fixed and Variable. The Fixed percentage increase in the first year is 7%, in the second year 7 %, in the third year 6 % and in the fourth year 6 %. As for the Variable percentage increase it is 1% to 2% per year for four years. There is also a table specifying that 10% of the work force who receive the rating of excellent will receive 2% increase, 10% of the work force who receive the rating of

Very Good will receive 1.75 % increase, 15% of the work force who receive the rating of Good will receive 1.50 % increase, 15% of the work force who receive the rating of Above Average will receive 1.25 % increase, 50% of the work force who receive the rating of Average will receive 1.00 % increase.

There are quite many companies where in the Long-Term Settlements clearly specifies the productivity increase that the workers have agreed to give and the wage increase, they will get which is a fixed amount and not a percentage of the CTC as cited above in the case of Bosch Chassis Systems India Private Limited.

Delays in Signing Long-Term Settlements

We generally find the signing of Long-Term Settlement in most enterprises is delayed from the date the settlement is made operative. In these cases, the management bears the implications of the wage rise, but does not reap the benefits of productivity increase if agreed by the workers from the date the financial benefit has been given. The Top Management of an enterprises, where such delays have been occurring in the past needs to work on this. The top management needs to ensure that the new Long-Term Settlement is signed before the expiry of the present settlement or the benefits of financial gain are given from the date of the signing of the Long-Term Settlement in case of a delayed signing of settlement. This change obviously will be resented by the workers and their union.

Conclusion

Long-Term Settlement in enterprises mostly cover the permanent and temporary workers of the enterprises. Long-Term Settlement are signed by enterprises to ensure that during the currency of the settlement, no new financial demands come up and also there is presence of industrial peace. Long-Term Settlements are mostly present in manufacturing enterprises and to a limited extent in the service sector.

There are quite many enterprises in the service sector who only employ executives and contract workers through a contractor / service provider. Hence there are no Long-Term Settlements in these enterprises.

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Gig workers and Social Security Code, 2020 - A profound analysis.

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The gig economy's importance was felt very badly only during the Covid- 19 pandemic period. In accordance with the report by ASSOCHAM, India's gig sector economy is expected to grow to US$455 billion by 2024. In another estimate, India is likely to have 350 million gig jobs by 2025, offering a huge opportunity for potential job seekers to capitalise on and adapt to the changing work dynamics.

As of today, India has a pool of 15 million freelance workers staffed in projects across IT, HR and designing. In addition, India's workforce is growing by 4 million people annually. And as most of them are millennials, they are showing an increasing preference for gig contracts. This trend is expected to significantly impact gig economy soon. (Emergence of India's Gig economy- IBEF- Knowledge Centre- 2021).

Gig workers are independent contractors or freelancers who do short term work for multiple clients. The work may be project-based, hourly or part-time, and can either be an ongoing contract or a temporary position.

The Social Security Code, 2020 (hereinafter referred to as “SS Code”) has an exclusive Chapter IX which provides social security for Gig workers, unorganized workers and Platform workers. In this regard, it may be pertinent to look at Section 2(35) of the SS Code which defines the term “gig worker as follows:

"gig worker" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship”

In India, the main grievances of the gig workers have been related to remuneration and the working conditions. The payment being made to them often pushes them to work longer than the stipulated eight hours and typically work on all days of the week.

In this regard, the judgement of the Supreme Court of the United Kingdom in the matter of **Uber BV and others vs Aslam and Others UKSC 5**, has expanded the principles of English Common Law of Master and Servant.

1) Uber London contracts as Principal with the passenger to carry out the booking,
2) Remuneration is fixed by Uber and drivers have no say in it
3) Uber dictates contractual terms on which the drivers perform services
4) Uber exercises significant control over the way in which the driver delivers services.

It is clear from the above that there was a contract of service and not contract for service.

In India, the gig workers were in a regulatory grey zone for so many years. Against this backdrop, the SS Code, 2020 provides legal recognition and social security benefits to this category of workers which have been enumerated in the following sections.

109. (1) The Central Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers on matters relating to—

(I) life and disability cover, (ii) health and maternity benefits, (iii) old age protection, (iv) education; and

(v) any other benefit as may be determined by the Central Government.

(2) The State Government shall frame and notify, from time to time, suitable welfare schemes for unorganised workers, including schemes relating to-

(i) provident fund; (ii) employment injury benefit; housing, educational schemes for children, skill upgradation of workers & funeral assistance; and old age homes. Building and Other Construction Workers' Welfare Fund and its application. Framing of schemes for unorganised workers.

The Central Government has proposed to generalize benefits such as health and maternity benefits, as well as life and disability insurance. The state government is responsible for providing benefits to workers such as provident fund, skill upgradation, and accommodation.

Nirmala Sitharaman, the finance minister of the nation, has also stated that all sorts of workers would now be subject to minimum wage regulations and that the Employees State Insurance Corporation.

Interestingly, the Central Government also has no information about how many gig workers at present are now employed in India; however, some independent estimates put the figure at above 130 million.

To reap the benefits of these planned incentives, the government has planned to create an online platform for all qualified unorganised workers in the country. It's mandatory for all the gig workers to register on this portal. In order to be eligible, the worker must be over the age of 16 and under the age of 60. Also, they have worked for at least 90 days in the past 12 years.

The worker would be required to submit a self-declaration, either online or offline, as well as additional documents, including the Aadhar Card.

The Central Government could also choose five members for the unorganised sector to the National Social Security Board, which will frame policies and regulations for gig workers. Furthermore, the SS Code requires aggregators (employers in the case of gig workers), to donate a set proportion of their revenue to a social security fund for their workers welfare.

Against this backdrop, the following likely scenarios deserve thorough analysis and consideration:

1) The mandatory contribution to the Social Security Fund by the aggregators will result in increased cost for the aggregators which, in all probability, they will aim to pass on to the workers.

2) The legal obligation to maintain register of workers eligible for the fund will result in additional monetary burden on the aggregators.

3 It may be noted that large number of gig workers are generally registered with multiple platforms at the same time to enable them to fix their own working hours shifts etc. They can work for longish working hours for only a few days to supplement their income. Will this flexibility be legally recognized?

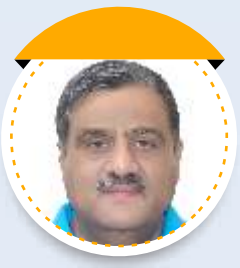
4) Company will have to pay for health benefits, maternity benefit, education, housing etc. The Draft Rules make it mandatory to frame policies to provide social security. And both Central and State Government have the power to frame welfare schemes under the SS Code and as such both the governments are authorized to constitute funds requiring contributions from the companies. Surprisingly, there is not even a whisper in the Code/ Rules on how these funds are going to be managed and dealt with and is there anybody who has been authorized to do so.

5) While Provident fund and Gratuity will be beneficial to these workers in the longer run, there might be some initial hue and cry because it would impact their immediate income.

6) In the absence of appointment letters, a driver working for one app-based cab aggregator may work for his competitor as well falling under the gig worker definition. Will this scenario be considered as a violation of the conditions of service as specified in the said appointment letters?

7) Gig workers should be treated as employees rather than independent contractors, by making them liable for all employment-related benefits such as minimum wage, annual leave, and insurance. In other words, there is a need for proper guidance on the issue by the Judiciary so that a proper policy could be framed by which the interest of the workers can be protected.

Nevertheless, in view of the new way in which business is conducted and the need to provide protection to those who are dependent on others for their livelihood, it is high old time to have a special Code to safeguard the interest of the Gig workers which will go a long way in improving the gig economy in India.



Positioning Exponential Technology-leveraging for effective Industrial Relations

by Mr Satish Anand
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Leveraging exponentially growing technology for effective industrial relations in India and globally requires a multi-faceted approach that integrates technological advancements with human-centered strategies.

Data Analytics and Predictive Modeling: Companies like Flex, a manufacturing services provider, utilize data analytics to predict workforce demand and optimize staffing levels. By analyzing historical production data and market trends, Flex can anticipate fluctuations in demand and adjust workforce schedules accordingly, thereby minimizing the risk of layoffs or underemployment among blue-collar workers.

AI-powered Chatbots for Employee Assistance: Companies such as Walmart and Amazon have deployed AI-powered chatbots to assist blue-collar workers with common HR queries, such as scheduling, benefits enrollment, and payroll inquiries. These chatbots provide 24/7 support, enabling workers to access information and resolve issues quickly without the need **for human intervention.**

Remote Work and Collaboration Tools: Construction companies like Bechtel leverage remote work and collaboration tools to facilitate communication and project management among dispersed blue-collar teams. Platforms such as Procore and PlanGrid enable real-time collaboration on construction plans, progress tracking, and issue resolution, improving **efficiency and coordination on job sites.**

Virtual Reality (VR) for Training and Safety: Companies like Ford and General Electric use VR technology to provide immersive training experiences for blue-collar workers in manufacturing and maintenance roles. VR simulations allow workers to practice operating machinery, troubleshooting equipment malfunctions, and adhering to safety protocols in a realistic virtual environment, reducing the risk of accidents and injuries on the job.

Blockchain for Transparent Supply Chains: Companies in the garment industry, such as Levi Strauss & Co., utilize blockchain technology to create transparent supply chains and ensure ethical sourcing of materials. By recording every step of the supply chain on a blockchain ledger, from raw material extraction to garment manufacturing, companies can verify the authenticity and sustainability of their products, thereby enhancing trust and accountability among blue-collar workers and consumers.

Employee Wellness Apps and Wearables: Manufacturing companies like Toyota and Siemens provide blue-collar workers with wellness apps and wearable devices to promote health and safety in the workplace. These technologies track workers' physical activity, monitor vital signs, and provide personalized recommendations for ergonomics and injury prevention, contributing to a healthier and more productive workforce.

Online Platforms for Skills Development: Organizations like Caterpillar and Schneider Electric offer online platforms and mobile apps for blue-collar workers to access training modules and certification programs. These platforms provide interactive learning experiences on topics such as equipment operation, maintenance procedures, and safety protocols, empowering workers to enhance their skills and advance their careers within the company.

Ethical AI and Responsible Automation Practices: Automotive manufacturers like Tesla and Volkswagen prioritize ethical AI and responsible automation practices in their production processes. These companies implement AI algorithms and robotic automation systems in ways that complement and augment the capabilities of blue-collar workers, rather than replacing them entirely. For example, collaborative robots (cobots) work alongside human workers on assembly lines, improving efficiency and ergonomics while preserving job opportunities for blue-collar workers.

Worker Feedback and Engagement Platforms: Companies like Unilever and Nestlé utilize digital platforms to collect feedback and engage with blue-collar workers on issues related to workplace safety, diversity and inclusion, and employee well-being. These platforms enable workers to anonymously report safety hazards, voice concerns, and participate in surveys and discussions, fostering a culture of open communication and continuous improvement in industrial relations.

Collaboration with Trade Unions and Advocacy Groups: Organizations such as the International Brotherhood of Electrical Workers (IBEW) and the United Auto Workers (UAW) collaborate with employers to leverage technology for the benefit of blue-collar workers. Trade unions and advocacy groups negotiate collective bargaining agreements that address the implementation of new technologies, ensuring that workers receive training, support, and fair treatment in the face of technological advancements and automation in the workplace.

These examples demonstrate how technology is being leveraged to improve industrial relations and enhance the well-being and opportunities for blue-collar workers in various industries around the world.

INDUSTRIAL RELATIONS & NEW LABOUR CODES FOR INDIA - PROSPECTS & CHALLENGES

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(under the aegis of ICSSR, MoE, GoI)

Introduction

During the last three decades, modern challenges have been encountered by the industry. The Government of India has been approached time and again by the chambers of commerce and trade unions representatives with proposals for amendments in the labour laws as per the contemporary requirements of the industry. The reform process gradually shifted to providing relaxations in inspections and compliance mechanism. However, this was not enough. Hence, the Government initiated with the implementation of the new Industrial Relations Codes, 2020 envisioned to transform the labour relations scenario of the country (Upadhyaya and Kumar, 2017). There are approximately 50 crore workers in India. Workers in the 'organised' category have some formal rights. They have greater social security and better wages. However, nearly 90% of the workers still fall under the unorganised category that does not have access to any social security benefits. Rapid industrialization and modernization resulted in the exploitation of workers. Labour had to accept unfair working conditions to ensure basic minimum wages for themselves and their families. Long working hours, hazardous working conditions, poor safety provisions and absence of social security have been the major challenges throughout the history of the country (Gehlot, 2015).Industrial Reforms in India

In India, the industrial reforms began in the year 1991. Since then, extensive demands have been made for further restructuring of the industrial relations system in the country (Sundar, 2016). India has always been challenged with multiplicity, duplication and inconsistencies in laws related to labour and employment. New legislations introduced or amendments made only increased the intricacies of compliance procedures. For the first time, the government has initiated to take a revolutionary step to amalgamate 29 labour laws into four codes and bring all categories of workers under the purview of the law and judiciary. The new labour codes are anticipated to ensure benefits, health cover and social security to all. This will facilitate in 'nation building'. It is believed that this will bring stability to businesses and create a win-win situation for both employers and employees. (Booklet on Labour Codes, Ministry of Information and Broadcasting, Government of India).

Gehlot, 2015 states that several legislative, administrative, and e-governance initiatives have been taken up by the central and state governments. The new codes would provide wider coverage and help India grow globally. The country will become more competitive and attractive for foreign investments. The Industrial Relations Code 2020 is a government effort to simplify and restructure the plethora of complex and overlapping labour laws (Ara, 2020). Negi and Dhillon, 2021 are of the opinion that the codes are both pro-employer and pro-

worker, significantly creating mutually beneficial outcomes for both. Chaudhary and Remesh, (2021) state that the trade unions have contradictory views on the codification. They term it as 'anti- worker' as rigid procedures have been introduced for going on a 'strike'. Trade unions assume that the Indian labour laws have always been flexible to the requirements of the employers only. As per the study, mere consolidation of various laws seems to be unconvincing on various grounds. The study contends that although the introduction of the 'fixed term employment'will ensure some form of benefits to the worker, but it will prove to be a negative incentive to the employers to recruit permanent workers. This will have long term implications affecting job security for a vast majority of workers in the country. Due to poor financial knowledge and digital illiteracy in most parts of the country, digitisation of all records may turn out to be a cumbersome task. According to Sundar (2020) the foremost objective of the Industrial Relations Code, 2020 is to facilitate rationalisation and 'ease of doing business' without compromising on the labour welfare. However, the forming of 'sole negotiating unions/ councils' and going on strike by the worker have become more stringent in comparison to the previous laws. With the introduction of the concept of 'fixed term employment', the employers will now have a variety in selection of workers based on the nature of work like, casual, temporary, trainees, fixed-term, seasonal and contract workers. Satpathy, et. al, (2020), discuss that the 'minimum wage policy' is an indispensable policy instrument and the wage code is expected to reduce the gender pay gap. However, the redistributive outcomes will depend upon the effectiveness of the implementation of the minimum wage policy. A detailed examination demonstrates that the universal minimum wage policy in practice would be a challenge leading to ambiguity in terms of definitions of 'establishments', 'contractor' and some new forms of 'non-standardised employment' and work relationships. There are some missing components in the code which pose doubts on its effective application. The research suggests inclusion of a scientific and evidence-based criteria for wage fixation. As per a survey conducted on 277 respondents working in different sectors from manufacturing industries to information technology (IT) companies, retail, healthcare and hospitality organisations and logistics, the recent reforms in labour legislations will have bearing on the employment relationship between employers and employees, workplace strikes and agitation by workers, social security, occupational safety, health and working conditions. The major findings from the survey that came to light are that the new labour codes will have huge implications on the labour costs.Organisations need to focus more on innovative and technology driven workforce practices to stay competitive. Compliance mechanism may become simplified yet more stringent. To build a future ready workforce, the digitisation of records will provide further boost to the workforce management (HRKatha and Ultimate Kronos Group, 2021). Sarkar (2022), highlights that the provisions under various Acts do not conform to the modern ways of doing the work. Hence, the introduction of new codes will be an opportunity to address the critical issues in the labour market. Goswami and D'Cunha (2018) feel there has been little empirical evidence on the aspect as to what extent this amalgamation of laws might be helpful in dealing with issues like unemployment, jobless growth or contract labour employment. It is stated in the study that any major decision should be in larger social interest; else the entire purpose of codification of laws may lose its rationality and creditability.

'Ease of doing business'

Doing business in India is highly complex. It can be attributed to long compliance procedures, delays in registrations, obtaining licenses and approvals from several authorities. Many entrepreneurs are discouraged to invest into India. The enforcement of the codes might prove

to be even more challenging due its vast coverage (Srija, 2019). The role of 'inspector' will now be of 'inspector-cum-facilitator', who will correspondingly be an 'advisor and facilitator' to the workers as well as employers in compliance with the provisions of the Act. This will eliminate all possibilities of malpractices and any form of arbitrariness in the inspections (Ministry of Information and Broadcasting, Government of India).

Wider Social Security Net

Presently, India has a very basic social security system which provides monetary assistance to a small percentage of the country's workforce. The social security schemes largely coverpension, health insurance and medical benefits, disability benefits, maternity benefits, and gratuity. However, these schemes do not extend to the unorganised sector. The primary objective of the Code on Social Security 2020 is to provide a resilient safety net for each worker under all categories. A social security fund is to be created which will utilise the corpus obtained under the corporate social responsibility (CSR). The code has proposed to also provide benefits to all categories of workers like the freelancers, 'platform workers', 'gig workers', 'home- based' and even self-employed workers (Dezan Shira and Associates, 2022). However, the code does not define the term 'social security' clearly. The terms like 'worker', 'wages', 'organised- unorganised categories' or even 'principal-agent' are difficult to understand in the context of the code (OpIndia, 2020).

Safety, Health and Working Conditions

The Occupational Safety, Health and Working Conditions Code, 2020 provides for regulation of the health, safety and working conditions of workers in all establishments including the mines and docks. As per the requirement of the code, a centralised database is proposed to be prepared for all establishments across the country. With the intention of early detection of diseases for proper treatment and prevention, the employer is required to offer free annual health checkups to employees of certain age group with prescribed tests. The code appoints the National Occupational Safety and Health Advisory Board instead of multiple committees. The role of these bodies will be more of policy making and 'advisory' in nature.

Inter-state Migrant Labour

The alarm for inter-state migrant labour has caught lot of media attention during the countrywide lockdown due to the COVID-19 pandemic. The issues of such workers are dealt with under the Inter-State Migrant Workmen (Regulation of Employment and Conditions ofService) Act, 1979. However, no such system existed earlier for maintenance of a central record for such workers. The ration cards issued to such workers were also non-portable. The code now introduces a “one nation, one ration card” policy which is expected to benefit around 670 million migrant workers (Mishra, 2020).

'Single license, single registration and single return'

The provision of 'single license, single registration and single return' and a single decentralised authority for execution will save time, money, and energy. A comprehensive social security package of schemes is formulated. The code also brings within its purview new forms of employment created by rapidly advancing technology (Negi and Dhillon, 2021).

Conclusion

The labour codes have demonstrated to be a ground-breaking reform for India. However, not everyone appears to be pleased. The codification may seem to be promising as few amendments are highly progressive in nature. However, it has raised several other concerns, too. Will these reforms increase the vulnerability of the workforce in India? (Chaudhary and Remesh, 2021). The codification is anticipated to enormously benefit a labour –intensive country like India. Technological advancements are expected to bring huge changes. Conflicts might arise between central and the state government, but hopefully they will work together harmoniously. Nevertheless, it is a welcome move. These modifications might lead to revamping of the workplaces. Major labour reforms are happening for the first time in the history of India. It is expected to significantly impact the well-being of all workers and employees in the country. The new codes will considerably influence and simplify the dispute resolution mechanism as well. There is a need to educate the workforce, employers, management and all stakeholders ina timely manner. The codification is believed to create 'one India and one law' (Sharma, 2022).

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NOTES

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