

GIG ECONOMY: THE NEW CHALLENGE IN LABOR RELATIONS

Partner Adriana Adani attended a Convention this month, in Toronto, Canada, sponsored by the (*Centre for Labour Management Relations*) which addressed a theme in the labor field ("*The Gig Economy and Your Protections & Rights*") which has been affecting employment worldwide.

Gig Economy also referred to as *Flexibility Economics*, is characterized by a flexible business model, which, on the one end offers a product or service in different forms and, on the other, the consumer, whether an individual or a corporate entity.

Within that format, we find the role of workers without formal employment, who provide their labor through various relations, the so-called *freelancers*, *part time*, self-employed, corporate entities (PJ's), etc., both in the external or local markets. This is a global trend, in light of the contemporary scenario and globalization, as well as the need for flexing labor rules.

In this issue, within the construct of *Gig Economy*, irrespective of the legal mode, which varies according to the legislation of each country, what we face is the flexibility, freedom and autonomy-of-the-worker paradox, who is inserted into this market, versus the guarantees and financial benefits obtained through his/her work, always inferior to the labor rights of those formally employed.

In Canada, for example, where the legal protection is implemented on a province/state basis, the *Acts* or *Codes* protect and confer rights to the employees, with little mention

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of the non-employees. These workers end up seeking better protection, not actually on equal basis, since the relationship is different, but concerning some benefits, such as life insurance, social security plans, dental insurance, arising of laws that were either amended or designed for this modulation, or the positive results of *class actions*, for instance, where are declared the rights/benefits to certain classes of workers. A classic of those is the situation of *Uber* drivers, professionals who work not only in Canada, but in several countries and who, lately, have been claiming additional benefits, other than simply being paid the “fares” (e.g. the *class action* brought by these workers in the United States).

As we know, in Brazil, Federal Law applies to all employees across the country, who work under the characteristics of formal employment. Parallel to the employment relation, there is a high number of non-employee workers, called “informal workers”, either because they chose this form of work, or due to the lack of opportunity for placement in the formal market, considering the cost of said formality in the country is one of the highest in the world, and companies have been trending toward information relations. Here, likewise, there is no protection under the typical rights of labor relations, only a payment agreed for services performed. And, quite frequently, after these relations are terminated, workers seek in Labor Court to have employment declared and acknowledged, claiming payment of the relevant rights and they are mostly successful in their complaints.

What happens in reality is that, although *Gig Economy* “is there”, in whatever country, there is still a growing attempt to compare the rights of employees and these non-employee workers. Without a doubt, what is required is an outlining adjusted to reality, without disregarding globalization: the path has to be a balance between different interests and not pursuing comparison.

In this context, the worker must indeed keep to seek fairer payment in consideration for his work force, guarantees or insurance that may bring comfort to this alternative relation, dispelling with the mentality of an employee, in the capacity as owner of his own work, enjoying the relevant benefits, especially in regards to flexibility and autonomy.

On the other end of the spectrum, businessmen who have already been using and intend to use more and more this new form of labor/capital must, before anything else, respect and pay attention to the different characteristics of the relationship with this worker, especially by remembering the absence of subordination, using the same practical and functional mechanisms applied effectively throughout the relationship and, not any less importantly, financially value the work force, agreeing on prices more adequate to this reality, and which allow these employees to seek the guarantees they deem necessary (e.g.: health insurance, life insurance, etc.). That is what means the aforementioned balance.

The worldwide challenge has been issued long ago, the path is still long and hard, but the movement must be continued and evolve. You, either worker or business owner, are invited to join in!