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LABOUR LAWS IN THE GIG ECONOMY: A CRITICAL EVALUATION

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ABSTRACT

The rapid growth of the gig economy has fundamentally transformed the nature of employment, especially in urban India, through digital platforms like Uber, Zomato, Swiggy, and Urban Company. Although these platforms provide workers with flexibility and independence, they have also created a form of insecure labor that largely operates outside the scope of traditional labor laws. Gig and platform workers are frequently classified as independent contractors, which denies them essential employment rights such as fair wages, job security, social security benefits, and the ability to unionize. This paper critically examines the challenges faced by gig workers stemming from the inadequacies of India's current labor legal framework, focusing on issues like misclassification, algorithmic control, income instability, and the absence of effective grievance redressal mechanisms.

A key focus of this analysis is the Code on Social Security, 2020, which represents a legislative effort to recognize gig and platform workers as distinct categories. While this recognition is a positive development, the Code is limited in its scope and effectiveness. It does not require enforceable welfare benefits and leaves critical provisions—such as contributions, implementation procedures, and coverage—unclear and subject to discretion. The lack of specific obligations for aggregators and the absence of strong enforcement mechanisms render the Code more symbolic than practical.

Through a detailed doctrinal review and comparative analysis of international regulatory practices, this paper advocates for a more comprehensive and enforceable legal framework. It concludes that without reforms to India's labor laws to establish minimum standards and social protections for gig workers, the goal of achieving equitable growth within the platform economy will remain elusive.

INTRODUCTION

The definition of Gig worker according to the Code on Social Security is -“A person who performs work or participate in a work arrangement and earns from such activities outside of traditional employer-employee relationship”¹A gig economy, also known as the sharing economy, relies heavily on temporary and part time positions filled by independent contractors and freelancers rather than full-time permanent employees.²it is mainly a free market system in which temporary position are common and organization hire independent workers for short term commitments. Some examples of gig work are – drive a car for booked rides or delivers like Rapido, Uber and delivery services such as Swiggy, Zomato. It also includes e-commerce platform such as Amazon, Flipkart etc.

The gig economy allows different people across cities under different age groups and skills to pick up work without being tied under one single job by which they can utilize their skill under different project and areas. By the advancement of gig economy, it had a major impact over the country’s labour market. The financial instability and lack of labour protection are some of the consequences of working as a gig worker.

As per Section 2(35) of the Code on Social Security, 2020 defines a gig worker as, ‘a person who performs work or participates in a work arrangement and earns from such a system which is characterized by a non-traditional employer-employee relationship.’³

The gig economy's rise has significantly changed how traditional labor markets are organized. Long-term, stable work ties have given way to flexible, task-based contracts as a result of the growth of digital platforms like Uber, Zomato, Swiggy, and Amazon Flex. Gig workers, sometimes known as "independent contractors," are paid on a per-task basis and provide services as needed. Although this new paradigm offers freedom and autonomy, it also presents significant ethical and legal issues with relation to social safeguards, job stability, and workers' rights. Gig workers are lacking the status of ‘employee’ under Indian law. In India, Indian labour and employment laws recognize three main categories of employees: Firstly, government employees -, secondly, employees in government controlled corporate bodies known as Public Sector Undertakings (PSUs) and private sector employees.

¹Ministry of Labour and Employment, Government of India, Code on Social Security, 2020, No. 36 of 2020

² Available at: <https://www.investopedia.com>

³ Section 2 (35) Code on Social Security

CRITICAL ANALYSIS OF THE CODE ON SOCIAL SECURITY, 2020

The Code on Social Security, 2020, marks a significant milestone by recognizing gig and platform workers within India's legal framework; however, it is hindered by several notable deficiencies that impede its ability to offer genuine protection to these workers. One major critique is that the Code grants only symbolic acknowledgment without establishing enforceable rights or comprehensive safeguards. Although it defines “gig workers” and “platform workers,” it stops short of extending essential labor rights such as minimum wages, regulated working hours, paid leave, or protection against arbitrary dismissal—rights typically afforded to formal sector employees.

Furthermore, the Code's approach to welfare remains vague and discretionary. It authorizes both central and state governments to develop schemes for gig and platform workers but does not specify any mandated benefits or set deadlines for their implementation. This leaves the provision of social security highly contingent upon political will, administrative capacity, and available funding—factors that are often inadequate for informal and vulnerable workers. Additionally, the Code lacks clear mechanisms for contribution. While it indicates that platform companies may be required to contribute a portion of their turnover to a social security fund, it does not specify the amount, enforcement procedures, or penalties for non-compliance.⁴ This ambiguity creates loopholes that could enable companies to delay or evade their responsibilities.

The legislation also falls short in addressing platform accountability and algorithmic governance, which are crucial to the working conditions of gig workers. Digital platforms frequently employ opaque algorithms to assign tasks, monitor performance, and deactivate workers. The absence of regulation in this area leaves workers vulnerable to digital exploitation without accessible avenues for redress.⁵

Lastly, the non-binding language of the Code and its heavy reliance on delegated legislation diminish its potential effectiveness. Instead of establishing a comprehensive legal framework with enforceable rights, it offers a skeletal structure that defers many specifics to future rules and regulations. Consequently, gig and platform workers remain in a state of legal

⁴ Nasscom Report on Indian Gig Economy (2019) 15-17

⁵ R. V. Dastur, Labour Rights and the Gig Economy: The Changing Landscape of Employment (2020) 39 Indian Journal of Labour Law 23.

acknowledgment without substantive protection. To genuinely serve the interests of these workers, the Code needs to be amended to include clear entitlements, enforceable mechanisms, and mandatory standards for welfare, safety, and fair treatment.

CHALLENGES FACED BY GIG WORKERS DUE TO LEGAL INADEQUACY

In India, gig workers encounter significant hurdles due to the insufficient protection offered by current labor laws, which fail to adequately address their rights and welfare. Although they are integral to the modern urban economy, performing vital roles such as food delivery, passenger transport, and digital service provision, gig workers are largely excluded from the standard legal protections afforded to traditional employees. Their classification as "independent contractors" under prevailing legal structures deprives them of fundamental benefits like minimum wage, overtime compensation, job security, paid time off, maternity benefits, and social security provisions. While the Code on Social Security, 2020, formally recognizes gig and platform workers, the safeguards it offers are limited, disjointed, and lack the legal enforceability given to those of regular employees. Furthermore, the implementation frameworks are weak, lacking clear directives regarding contribution obligations, coverage boundaries, and methods for resolving disputes. Ambiguity also surrounds key areas such as accident compensation, health insurance, and retirement benefits. The absence of robust union representation or collective bargaining avenues hinders gig workers' ability to negotiate improved working conditions or contest unfair practices. Digital monitoring and algorithmic management by platforms further diminish worker independence, yet no legal standards exist to ensure algorithmic accountability. Compounding these issues, the majority of Indian labor laws, formulated during the industrial age, are ill-suited to the dynamic and intricate characteristics of platform-based work, creating a regulatory vacuum.⁶ As a result, gig workers are susceptible to exploitation, arbitrary dismissal, and unstable earnings, with limited access to legal redress. These pervasive shortcomings underscore the pressing need for thorough, legally binding legislation specifically designed to reflect the realities of the gig economy. Gig workers usually lack the financial security and other privileges enjoyed by on roll employees

⁶ ILO, World Employment and Social Outlook 2021: The Role of Digital Platforms in Labour Markets (International Labour Organization 2021).

such as paid sick and casual leaves, travel and housing allowances, and provident fund savings etc.,

CONCLUSION

The gig economy, while fostering innovation and offering flexible employment options, has highlighted significant shortcomings in traditional labour law frameworks, leaving gig workers susceptible to exploitation and economic insecurity. The lack of clear and comprehensive legal standards for gig workers not only threatens their fundamental rights but also sustains their financial instability, especially as the legal system struggles to keep up with the rapidly evolving nature of platform-based work. An examination of the Code on Social Security, 2020, shows that although it marks an important step toward acknowledging gig and platform workers, its shortcomings are evident. The Code fails to guarantee enforceable welfare benefits, does not clearly define the responsibilities of platform companies, and lacks mandatory regulations regarding social security contributions, leaving gig workers vulnerable to ongoing exploitation. Moreover, the absence of effective grievance redress mechanisms and protections against digital surveillance further increases their susceptibility to harm.

Addressing the challenges faced by gig workers requires a well-structured and inclusive approach that ensures fair classification of workers, access to social security, wage protection, and opportunities for skill development. By implementing clear and consistent policies, guaranteeing equitable benefits and fair remuneration, and promoting continuous learning, we can foster a more just, stable, and sustainable gig economy that upholds the dignity and well-being of all workers. To effectively confront the challenges posed by the gig economy, India must undertake comprehensive reforms in labour laws. The legal framework should go beyond symbolic recognition and provide concrete, enforceable protections for gig workers, such as minimum wage guarantees, access to social security benefits, and safeguards against unfair dismissal. It is also essential to establish regulations that hold platform companies accountable for their treatment of workers, particularly concerning algorithmic management and transparency.

In conclusion, the gig economy cannot be examined separately from labour rights. Excluding gig workers from full legal protections not only jeopardizes their well-being but also hampers the broader objectives of equitable economic development and social justice. For the gig

economy to truly serve workers' interests, a holistic and progressive approach to labour law reform is necessary—one that harmonizes technological innovation with the fundamental rights and dignity of workers.