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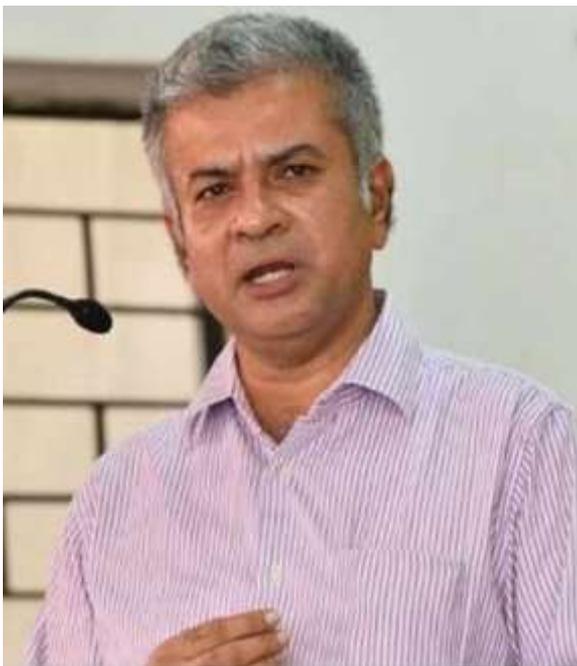
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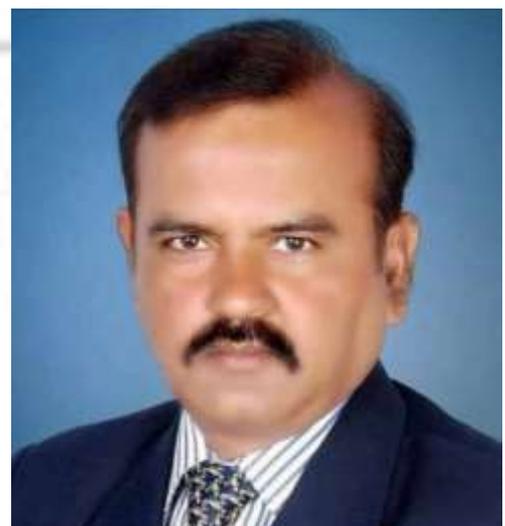
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

EVOLVING LABOUR LAWS FOR GIG WORKER PROTECTIONS

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ABSTRACT

The gig economy, which finds expression in flexible, short-term, and task-based work, has completely altered the landscape of labour markets worldwide. As it accords more flexibility and autonomy to the workers, very serious questions are being raised in regard to their labour rights and protections. Untraditional labor laws that target the regulating of employers and employees' relationship in formal employment have failed to deal with unique problems confronting gig workers, such as undefined income, no social security benefits, and insecurity at the workplace. The paper will look into how labor regulations regarding the rights and protections of the workers of the gig economy have evolved. This article takes a deep look into how different jurisdictions have responded to the difficulties posed by the gig economy using an in-depth review of existing labor frameworks and comparative legal studies. Among the key issue areas identified were the designation of gig workers as independent contractors rather than employees, minimum wage legislation, social security, and the right to collective bargaining. An increasing number of reforms are closing the gap between traditional labor regulations and the realities of gig work, but a significant gap continues to exist among many jurisdictions, with some countries still implementing full protections and others not even granting the most basic rights to gig workers. The paper suggests that to make labour laws as current as the digital age, it follows that labour laws need to change to uphold proper protection to a gig worker without endangering the available flexibility and innovation which mark the gig economy. The paper thus postulates the upgrade of labor laws to be crafted in a balance that will protect the rights of gig workers but one that spur further growth of the gig economy. The emerging future research should always reflect novel legal processes and policy attitudes that mirror the shifting nature of labor.

KEYWORDS

Gig Economy, Evolution of Labor Law, Classification of Workers, Social Security, Collective

Bargaining

Introduction:

In the context of a gig economy, work is short term, flexible, and task-based. This has changed the global labor market dramatically. Uber, Lyft, DoorDash, and Fiverr have provided for millions of workers the new level of autonomy to work on demand. Yet again, it is a moment when the nature of labor law becomes increasingly relevant. But this turn toward a gig-based economy has exposed deep flaws in traditional labor rules-concepts, the purpose of which was to safeguard permanent employees holding secure, long-term jobs. The expansion of the gig economy raises significant questions about how to ensure that workers-expectation and reality-who often lack even the most basic protections in labor law-can be appropriately compensated and protected from exploitation. The legal status of gig workers remains one of the most discussed issues in contemporary labour law. Most countries classify gig workers as independent contractors and, as such, do not include them in the list of employees entitled to social benefits and protections, including the minimum wage, healthcare, unemployment benefits, and rights to organize. This outcome has led to unstable work conditions and limited access to legal protection for gig workers.

This has created calls to review current labor legislations to ensure these workers are protected against the inherent weaknesses of gig workers and offer fair protections for safeguarding the flexibility that most of them desire. In fact, many countries have begun adjusting their labor laws in recent years as the gig economy keeps growing. For example, AB5 in California tried to classify a tremendous amount of gig workers as employees. The measure gained opposition, however, and its Proposition 22 exempted app-based gig companies from the reclassification of the law. In the same line of thinking, the European Union, among others, is considering legislation that gives gig workers more rights but takes into account the very different nature of work derived from platforms. Of course, change of this sort is far from normal, and so far, there lacks consensus on how well protection of workers is balanced with flexibility that gig employment offers.

This article of research focuses on how labor laws have evolved to respond to the rights and protections of workers in the gig economy. By comparing legal frameworks of many jurisdictions, the study aspires to discover both victories and shortcomings of measures currently followed and indicate more policies for a more inclusive and responsive regime of

labor law.

Literature review:

While alternative flexible employment options facilitated by platforms such as Uber, TaskRabbit, and Deliveroo are transforming the labor market, empowered by this is also generating intense legal and regulatory issues based on the fact that millions of gig workers remain outside standard labor rights. These workers, largely classified as independent contractors, are more exposed to uncertain income, lack of social benefits, and limited legal redress against the violations that take place in the workplace. As such, both policymakers and scholars have sought to provide guidance on how labor laws should evolve to reconcile the protections that workers require with the flexibility that is associated with the gig economy.

The classification conundrum is the most critical issue in labor law concerning gig workers. Gig workers are, by and large, construed as independent contractors, automatically excluding them from benefits like minimum wage, overtime pay, health insurance, and unemployment insurance. Millions of gig workers around the world are denied access to labor rights essentially because of massive misclassification. The legal question is essentially whether the gig workers should be considered as employees or a new form of "dependent contractors" who would come under some labor laws but not all the benefits that employees get.

The gig economy represents a more significant trend toward the unemployment of labor - where nonstandard forms of employment, such as temporary, part-time, or freelance work, become more prevalent. Like precarious work, gig labor exhibits many characteristics, not least with regard to income insecurity and entitlement to few social benefits. Changes in attachment patterns away from traditional jobs also undermine the social safety net and demand new labor law regulations sensitive to changing patterns of work.

According to the International Labor Organization, gig workers are the most vulnerable persons in the global economy because of their lack of labor rights. Gig work is a departure from the conventional employer-employee relationship that underlines most labor laws in the world. The ILO has, for instance stressed the need for filling the existing loopholes in the legal protections accorded to gig workers especially in industries where Casualization is evident. Countries have responded differently to issues caused by gig work worldwide. For example, the European Union has been one of the most proactive regions in implementing legislation for the protection of gig workers. Among the countries that have passed laws for this particular set

of workers are France, Spain, and Italy.

In France, courts decided that Uber drivers are employees and ought to be paid minimum wage with social security benefits. Similar to Spain, it passed legislation forcing food delivery services to classify gig workers as employees, but they keep on changing their business model to somehow sideline the implementation of the law.

In the UK, the Supreme Court judgement last year 2021 classified Uber drivers as "workers" in British Law. This categorization may give them some advantages, such as paid leaves and the minimum wage, but does not confer employee status. Such decisions, according to Adams and Prassl (2018), better reflect their understanding of the issues specifically related to platform labour. But such rulings are only a small portion of a larger reform that will need to deal with the transboundary character of platform work and the variety in its organization across sectors. There have been a number of regulatory fixes taken across countries to ensure the rights of gig workers. Other states have taken much longer to pass a comprehensive law on gig workers; they have relied on rulings by courts and localized initiatives. Instead, the European Union takes a more integrated approach. In 2021, the European Commission proposed new rules for fair pay and working conditions for platform workers, which are still being deliberated. In Australia, the Fair Work Commission has initiated several inquiries on the gig economy, particularly targeting food delivery services. For example, the state of New South Wales studied the need to offer stronger protections, clearer definitions regarding employment status, and improved safety measures for gig workers. Similarly, in Canada, the state of Ontario is considering offering more substantial protections to workers at large by extending that to gig workers though not without gradual progress. One of the major issues surrounding gig workers is their inability to participate in collective bargaining. This aspect of long-term, stable relationships in the workplace aligns with traditional labor rules, which does not fit the shape the gig economy creates for decentralized and flexible work arrangements. However, there have been steps towards introducing gig workers' rights to organize and engage in collective bargaining in Europe. Food delivery workers have managed to unionize and negotiate better wages and working conditions with platform companies. However, these efforts are in response to legislation at the EU level to protect the right to collective bargaining across all workers- whatever the employment classification may be. In contrast, efforts to organize gig workers have been decidedly more splintered, but again-brightened by certain successes. For instance, in New York City, food delivery workers were able to fight for and win protections not only

under the minimum wage but other rights-basically, access to a bathroom. Grassroots efforts like this point to an emerging trend toward expanding collective bargaining rights for gig workers, regardless of their status as employees or independent contractors.

The continued growth of the gig economy means that it is also time for labor law reform that protects workers without sacrificing flexibility-a core element of the work model. Advances are noted, to be sure, most particularly in Europe, though the responses by labor law remain patchy and occasionally insufficient to deal with the challenges gig workers face. Future directions for scholars and policymakers point to a more integrated response, possibly through further refining new worker categories, extending present labor protections to all workers, or establishing unique regulatory frameworks fit to the demands of the digital age. As the gig economy evolves, so too must the laws governing it, such that the rights of workers are not left behind in the pursuit of technological and economic progress.

Legal Classification of Gig Workers: Employees or Independent Contractors?

The legal classification of gig workers is perhaps the most controversial and contentious issue around labor law in relation to the gig economy. Today, however, the great majority of gig workers are classified as independent contractors. Thus, they are outside of the traditional realm of labor rights, that is, not employees. The classification matters for it determines, among others, the set of benefits to which they are eligible: the minimum wage, the overtime pay, health care, unemployment insurance, and unionization.

Gig workers have traditionally been classified as independent contractors primarily due to the fact that their work is flexible and self-directed, and the platforms are just a facilitator between clients and service providers. That classification carries crucial financial implications for gig companies because the declination of workers as independent contractors saves firms from the obligation of making social security contributions, providing health insurance, and other employee benefits. For example, in the United States, this categorization enables companies such as Uber and Lyft to enjoy exceptions from financial implications that come with employee status.

Jurisdictions have taken on different types of reforms to modify the challenges in the classification of gig workers. One of the most publicized court fights involved California, where Assembly Bill 5, known as AB5, tried to reclassify many gig workers as employees.

AB5 established the "ABC test," which requires employers to prove workers are independent contractors by showing that:

- (A) the worker is not under the company's control
- (B) the work performed is outside the usual course of the company's business, and
- (C) the worker is engaged in an independent business or trade.

AB5 was a resounding victory for the labor activists who argued that the gig workers must also have the same rights as the traditional employees.

This gig businesses pushed back with a ballot proposition -Proposition 22-that exempted app-based drivers from AB 5. Under Proposition 22, drivers still get considered independent contractors but come with some limited benefits, including a guaranteed minimum wage and health insurance for those who work a certain number of hours. In return, it did provide some protection; however, it excluded other benefits to workers, like unemployment insurance and the right to form. The victory of Proposition 22 is an example of the tug-of-war between companies that serve gig economies and labor organizations that fight for more protection in general. Among other countries in Europe, governments in France and Spain have endeavored to reclassify gig workers as employees. In Spain, the "Riders Law," adopted in 2021, forces food delivery companies to hire its couriers as workers to alleviate insecure working circumstances prevailing in most gig economy jobs. In France, courts have come to a decision to classify gig workers as employees, making companies like Uber pay full-time employee benefits.

But as the gig economy continues to grow, some experts propose developing a new legal classification for gig workers. The proposed compromise is the term "dependent contractors," which would provide labor protections to gig workers while still maintaining the flexibility. A number of jurisdictions have proposed such concept. In fact, this is some sort of compromise on the changing nature of labor in the digital age.

In the large, the dispute of classification forms the center of moves to reform labor rules in the direction of the gig economy. The argument's solution will dictate to what extent the gig workers will be covered by the protections afforded employees in the past or whether the business model of gig organizations needs a shift based on new regulatory frameworks.

Benefits for Gig Workers and Social Workers:

The gig economy, which is growing faster than ever-thanks to ride-hailing services like Uber and online holiday apartments like Airbnb-exposed a critical gap in labor protections: access to social security and benefits for freelancers.

Traditional labor laws and social protection schemes are crafted with long-term, steady employment in mind, but gig workers, who are often classified as independent contractors, are frequently denied these advantages. This results in individuals being exposed to certain dangers, such as going without health insurance, retirement plans, and unemployment benefits. Following the rising gig labor worldwide, the issue of the alleged workers being left without a safety net has become a principal concern which, in turn, has challenged the needed social security reforms better suited to the needs of the non-standard workers. It is supposed that many gig workers do not have social security benefits such as regular employees.

In most cases, social security systems rely on employers' contributions for health insurance, pensions, unemployment compensation, and any other forms of protection. Since gig workers are considered independent contractors, their employers are not obligated under law to contribute to such social security schemes. Instead, gig workers are expected to make their own payments, which many cannot afford to do mainly because of variable and sometimes inadequate income streams.

The International Labor Organization has, on its own part, noted that the gig workers are uniquely exposed to economic shocks for the reason that they lack access to significant benefits such as health insurance, paid sick leave, and unemployment coverage.

This was indeed most visible during the COVID-19 epidemic, where various gig workers lost their jobs yet could not avail of the same governmental facilities that traditional employees access. During this period, many countries responded by amending labour laws or initiating new legislation focused on extending greater benefits to non-standard workers. A landmark case is Spain's Riders Law, passed in 2021, which obliges food delivery firms to classify riders as employees and, therefore, provide them with all the coverage afforded to them under social security. The new legislation effectively sealed the deal in the discussion over the gig economy, duly acknowledging the precarious nature of gig labor and providing those who rely on it the same safety nets as regular employees.

Other countries have adopted similar models. In Italy, labor courts have already ruled that 'gig' workers are "collaborators" rather than independent contractors, thereby enabling them to claim certain social security benefits, such as health coverage. Reforms in France are partial: Gig workers can now gain access to some social protections, though they still remain officially independent contractors. These reforms reflect growing recognition that workers in the gig economy require greater protections, with approaches varying very widely around the world. While there are these good improvements, there is still irregular provision of social security benefits to gig workers and many complications. Labour regulation for most countries has not caught up with fast growth in the gig economy. For instance, in the United States, most gig workers are still classified as independent contractors and do not qualify for employer-based benefits. New legislation aimed at enumerating the status of platform workers as employees and expanding their social protections is already on the table of the European Commission to be adopted, given that they haven't yet fully implemented it within the member states. The legislations of countries and industries cannot be put in one frame of social security for gig workers.

Since the traditional employer-based mechanism of social security is not ideal, researchers have proposed innovative alternative mechanisms to provide social security for gig workers.

One such alternative mechanism for ensuring universal social protection plans is to cover all workers, regardless of the worker's situation, for all workers. The World Bank and others have suggested that countries create portable benefit systems where people, regardless of their employment status, can be afforded social security benefits. Such systems could be financed through contributions by the business entities themselves and the workers, perhaps through some form of payroll taxation and, in appropriate circumstances, government subsidies. Gig workers would thus not rely on the good nature of gig businesses or the law to provide benefits. Instead, workers would be considered to have such social protections as a human right, and the system would, by default, move toward greater equality, of course recognizing that the labor being used is becoming ever more digitized in nature. Gig work is becoming so prevalent that exclusion of such gig workers from regular social security systems stands immediately within view. While some countries have been relatively successful in extending benefits to gig workers, the efforts are scattershot, often reaching inadequate provision levels to confer the same protections as employees. Going forward, labor law reform should focus on establishing flexible, universal social protection systems adapted to non-standard work realities. Only

through such reforms will gig workers be afforded the security and benefits they so rightly deserve.

Collective Bargaining and the Right to Organize in the Gig Economy

The most significant challenge faced by gig workers is the denial of collective bargaining rights and the inability to band together. From time immemorial, long-term employer-employee relationships have been at the basis of traditional labor laws. They make the employees have unions as well as negotiate collectively concerning wages and benefits, and working conditions. However, in most cases, such benefits are not available for gig workers, who are primarily independent contractors. This results in gig workers being deprived of the ability to negotiate through collective bargaining power to improve terms with gig sites. In the absence of unionization or even collective bargaining, there is little room for labor rights, in addition to unreliable work conditions and unequal pay. This problem is very obvious in service-based industries like food delivery and ride hailing, whereby workers work alone and get heavily reliant on algorithms by the platform to determine pay. The very decentralized and fractured nature of gig work makes organizing difficult.

Gig workers do not share a workplace or an employer that can be taken as a unit or to create some kind of collective identity or worker solidarity.

Gig workers will typically work alone, driving for Uber or preparing and delivering food for DoorDash, so few job opportunities come with the sort of in-person contacts that generally form the foundation of a union. Additionally, laws in a number of jurisdictions prohibit independent contractors from attempting to engage in collective bargaining due to antitrust laws. In some European countries and also beginning to be recognized in a small minority of other global locales, there is growing acceptance of the right of gig workers to organize. French courts have held in favor of the unionization of gig workers, allowing food delivery drivers to organize for better working conditions. An important sectoral bargaining tradition is also present in France, which has created a more welcoming environment for bargaining at the sectoral level, including even up to the levels of complete industries and certainly encompassing the gig economy as well. Food delivery workers in Belgium have organized unions and bargained collectively with platforms for better wages and protections. Italian judges in 2020 ruled that riders are employees and can bargain collectively and garner social protections because of that. There is an increasing agreement that labor laws have to change

and become more fluid to allow for this gig economy.

New legislation would result in a new framework that allows collective bargaining between gig workers without running afoul of the antitrust laws.

A new class of worker would be established - "dependent contractors" whose workers, though independent, have the rights of collective bargaining. They can actually form a union to negotiate better terms but don't need to reclassify them as employees, a change which most gig platforms oppose in most cases. The gig economy collective bargaining rights campaign remains on its course, but France, Belgium, and Italy are examples of where successful efforts certainly are possible. When the gig economy grows, authorities all over the world will face mounting pressure to change labor laws so that gig workers will be allowed to bargain collectively.

Conclusion:

The evolution of labor laws in the gig economy complex and on-going will always have its measure cut across conflict lines of freedom undergirded by gig employment and the need to safeguard rights, benefits, and conditions enjoyed by traditional employees.

The main challenge has been how best to adapt labor regulations for fair working conditions while not limiting innovation as well as attraction into the gig economy.

Debates over which category of worker defines gig work-teachers have heatedly fought in courts and legislatures around the globe. Hybrid classifications-the juridical creations of "dependent contractors"-now attempt to bridge the gap of giving some labor rights to gig workers but avoiding full employee definition. While a compromise seems more legitimate in some European countries, it still remains highly controversial. They argue that such categories are not close enough to complete the protection needed, especially concerning employment security and more about health, pension plans. A major issue is that there is no social security and benefits for gig workers. Gig companies save on the bottom line by making these workers independent contractors, thus stripping them of most benefits such as healthcare, retirement plans, and unemployment benefits.

Whereas some countries, such as Spain and its "Riders Law," have been advancing to better

theirs to gig workers, the situation varies around the world.

Still, so much work remains to be done with regard to addressing the absence of fundamental rights to gig workers who risk exposure to economic uncertainty. Among the potential answers are proposals for transferable benefits that workers would take with them from job to job, beyond their status as employed. Labor laws and their evolution in adapting to workers in the gig economy generally are still at a very infantile stage with much yet to be done. Some of the most notable legal victory include verdicts on the ability of gig workers to engage in collective bargaining and reclassification initiatives, which, by any stretch, are piecemeal and location-specific.

Even though the gig economy is different in structure, it still poses great challenges to regulatory bodies regarding flexibility and protection for workers.

The legal structure must, for the better good, change to ensure that gig workers are at no disadvantage than other workers in regards to basic labour rights. Policies must balance the conflicting goals of preserving gig work's inventiveness and flexibility on the one hand, with fair treatment, good pay, and access to important social benefits for the workers on the other. Cross border coordination may be necessary to treat gig workers on different sides of borders according to the same standard.

Hybrid classifications, portable benefits, and collective bargaining rights each offers a potential way forward, to be implemented with care lest surprise consequences undercut the benefits of the gig economy itself.' Concurring with Hacker, I believe labor laws need to be evolved in order to keep pace with new workforces, and now with a focus on the rights and protections of the gig worker. With increasing jurisdictional experimentation on the meaning of reforms, the image of best practices will grow, possibly to better guide future legislation on what flexibility is fair.

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