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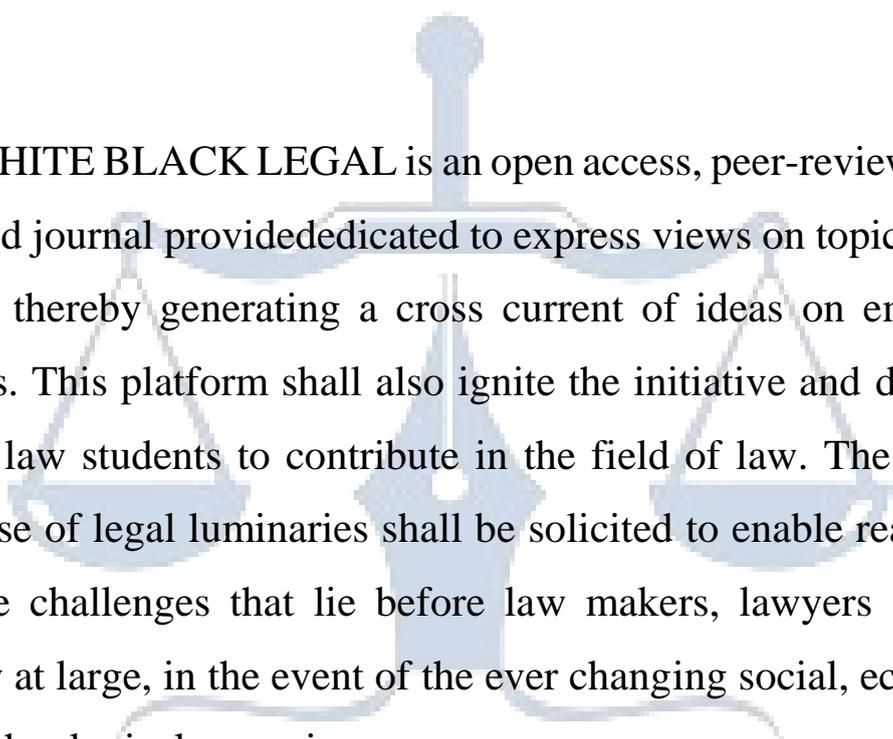


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With this thought, we hereby present to you

W H I T E B L A C K
L E G A L

THE GIG ECONOMY AND THE CHANGING LANDSCAPE OF LABOUR LAWS

AUTHORED BY - ABHIJEET PANAD & TANSHIKA TYAGI

ABSTRACT

With the advent of the gig economy, the form of work has been completely altered, providing temporary, flexible, and real-time access in many sectors. Although it offers workers and employers greater degrees of autonomy and enhanced cost-effectiveness of scalability, it has also borne the burden of many inadequacies in classical labour legislation. Problems including worker classification, no social security, and poor access to collective bargaining rights complicate the existing regulatory environment. This study explores the intersection of the gig economy and labour law, analyzing global responses, court decisions, and collective efforts to address these challenges. It emphasizes the continuous contradiction between economic progress and worker's rights and contributes to theorising on how legal orders, in these times of modern work dynamics, can adapt.

Key Words: Gig Economy, Labour Law, Worker Classification, Social Security, Future of Work.

INTRODUCTION

The 21st century has been a turning point that established new and essential changes in the dynamics of work, imposed by major forces such as technology, globalization, and socio-cultural trends. The bouncing gig economy—flexible, on-demand—of workers whose employment arrangements tend to be short-term, flexible, and on-demand is at the heart of this change. Hence, Uber, Swiggy, and Upwork have transformed the traditional employer-employee relationship and are triggering a tidal wave of a new paradigm of work.

The gig economy offers workers freedom of movement and businesses flexibility, simultaneously promoting innovation while cutting operational costs. Nonetheless, this points to dangerous lacunae in the labour legislation since they are drafted within the traditional frameworks of full-time employment. The fact of this unfair classification of gig workers as

independent workers, consequently, prevents them from the benefit of such basic protections as, for example, health care, minimum wage, and the right to collective bargaining and having no equivalent job for which they are grounds of remunerations and wages as intended towards them. This article addresses the issue of how the labor economy intersects with labour laws and worldwide attempts to modify those legal frameworks with respect to gig workers. It takes into account novel frameworks, case law, and worker responses with respect to how they have sought to reconcile economic growth with worker fairness. The gig economy is a test case for the evolving nature of work and for the responsiveness of legal regulation.

THE GIG ECONOMY: REDEFINING WORK AND LABOUR LAW IN THE 21ST CENTURY

The gig economy offers temporary work, freelance jobs, or short-term contract-based work and has become a major player in the contemporary labor market. The change put a strain on the traditional employer-employee relation, thereby rendering these distinctions between independent contractors and regular employees imprecise. The new modality of work would, however, not have gained this momentum but for platforms such as Uber, Deliveroo, and TaskRabbit, which confer upon the worker the flexibility to choose when and how to work. However, gig worker flexibility at the expense of labor rights is generally the consequence of their exclusion from the purview of social insurance programs by virtue of labor laws governing traditional employment.¹

The "Employment Exchange Act"² (1959), takes an all-encompassing view of the term employee, which includes any person performing any task for any kind of remuneration. "Minimum Wages Act" from 1948 states that wages should be paid on a scheduled, fixed manner and, as a result, effectively excludes gig workers because this is not an employer-employee relationship. A true classic would be the Swiggy-Zomato incident of 2019, where a bunch of delivery partners accused both platforms of engaging in an unfair trade practice and failing to provide adequate compensation and benefits to their staff.

¹ Jinyang Cao, *Research on Development and Optimization of Human Resources in Gig Economy*, 615 Proceedings of the 2021 4th International Conference on Humanities Education and Social Sciences (ICHESS 2021) 1-11 (2021).

² The Employment Exchanges (Compulsory Notification Of Vacancies) Act, No. 31, Acts of Parliament, 1959 (India).

In the case of *The Indian Federation of App-Based Transport Workers (Ifat) & Ors. v. Union of India & Ors.* (2021),³ the high-profile employers effectively denied there being any real employee-employer relationship with the gig workers and termed them as mere independent contractors. In September 2021, the petition moulded the claim so that gig workers be recognized as unorganised workers under the Unorganised Workers' Social Security Act, 2008, making them eligible for social security benefits. Claims by them under Articles 14 (Right to Equality), 21 (Right to Life), and 23 (Prohibition of Forced Labour) of the Indian Constitution were asserted by petitioners, who argued that the classification now existing in the market, of gig workers as partners rather than employees, is decidedly the infringement of those rights by the game companies like Ola, Uber, Swiggy, and Zomato.

In the *Ayantika Mondal vs. The State of Karnataka* matter, , the Karnataka High Court declared the writ petition as absent for the legislative basis to compel the state to safeguard and ameliorate the condition of life and work of gig workers setting. The court acknowledged that while gig workers did suffer grievous hardships, any direction to draft laws was beyond their authority in the absence of some current legislation providing for those rights or any constitutional mandate. It shed light on the absence of protection in the gig economy and likewise underscored the need for an immediate policy response on their behalf .⁴

The Code on Social Security⁵ of 2020 tries to clarify who the gig workers are and only to provide them with social security benefits in the form of health and life insurance, maternity and disability benefits, and contributions to the provident fund. However, these benefits are less than what regular "employees" get from the government. Yet, the low level of legal regulation, hence of regulation in general, regarding the specific needs of gig economy workers is evidenced by the findings of many studies. This overlocking is responsible for unstable protection and benefits for gig workers, making it difficult for them to be protected in the absence of integral legislation. This blind spot occurs, and therefore those gig workers are left defenseless because there is a lack of a comprehensive legislative measure about the issue.

³ *The Indian Federation Of App-Based Transport Workers (Ifat) & Ors. v. Union of India & Ors.* (2021) Writ Petition 1068/2021.

⁴ Anto Robert G, *Gig Economy: Prospects & Challenges Under Social Security Code*, 4 International Journal of Law, Management & Humanities 3863-3874 (2021). <https://doi.org/10.1000/IJLMH.11907>

⁵ The Code on Social Security, Ministry of Labour & Employment: Government of India, <https://labour.gov.in/code-social-security>

FUNDAMENTAL WORKPLACE PROTECTION AND WAGE DISPARITIES

In a 2021 Fairwork India Ratings report, they scored 0 out of 10 when rated based on five fundamental principles of just gig work: fair pay, fair conditions, fair contracts, and fair management and fair representation.⁶ The corporations deny liability over these drivers, by labelling them as micro-entrepreneurs, and in the absence of a robust legal framework. The promises of freedom, flexibility, and bonuses have evaporated as the workers are now involved in no less than modern slavery. According to the IFAT survey, gig workers work 12-16 hours a day and get less than 6 hours of sleep. In addition, since there is no minimum wage requirement, there is such a great wage disparity between the average gig worker and the average the salary of an urban man.⁷ Until and unless the ambiguity of the employer-employee relationship is specifically cleared up inside the 2020 Code, the exploitation in the form of no accidental coverage, occupational risks, and violence will remain a permanent condition.

In its report, NITI Aayog⁸ stressed the point that for most gig economy workers, comprising delivery executives and logistics partners, gig work is the primary source of income. While, in the beginning, many tout sweeteners such as increments, bonuses, autonomy, and flexibility, the hard realities of the gig economy dawn soon. Underneath the glamour lies a multitude of major challenges such as job insecurity, financial insecurity, high vulnerability to downtimes or fix-ins, and harassment. Such workers suffer from increased psychological and physical stress due to lack of basic protection and rights and insufficient legal safety. As a result, mere survival on gig work becomes a most daunting and risky endeavor.

CHALLENGES IN THE GIG ECONOMY

Countries like India, being an emerging market for gig economy services, are experiencing accelerated growth encompassing various services ranging from food delivery and ride-sharing to freelancing activities. The pace of this extraordinary growth has far exceeded attempts to frame some kind of regulatory architecture for providing fair and safe working conditions for

⁶ Ola: Uber: Ola and Uber score 0/10 for gig worker conditions in new report," The Economic Times, - <https://economictimes.indiatimes.com/tech/tech-bytes/ola-and-uber-score-0/10-for-gig-worker-conditions-in-new-report/articleshow/88572332.cms?from=mdr>.

⁷ IFAT and ITF - protecting workers in the digital platform economy: Investigating Ola and Uber drivers' occupational health and safety, Centre for Internet & Society <https://cis-india.org/raw/ifat-itf-protecting-workers-in-digital-platform-economy-ola-uber-occupational-health-safety>.

⁸ Niti Aayog Report, https://www.niti.gov.in/sites/default/files/2023-02/25th_June_Final_Report_27062022.pdf

gig workers. This has thus created for gig workers numerous concerns today:

1. Erratic Income

The most significant of the problems faced by the gig worker is that of income instability. The jobs are neither stable nor is the income. In fact, many times economic instability pushes gig workers into working for others out of bare necessity to survive. In fact, it becomes very difficult to plan for the future or manage contingencies in the absence of regular income, which only adds to their agony of having to cope with hardship situations now.⁹

2. Legal Protection and Social Security

As gig workers are invariably being treated as independent contractors, they lie beyond the ambit of Indian labor laws and thus gain no protection against all discrimination, wrongful termination, or harassment at the workplace. They currently do not enjoy any basic provisions like health insurance, pension, or paid sick leave. The absence of these therefore causes further uncertainties toward economic instability in case of emergencies due to health-related issues or any provisions toward retirement at a later stage while denying them assistance in the case of illness or any personal crisis.¹⁰

3. Poor Working Conditions

Work conditions in the gig economy hardly ever favor health and well-being. Most gig workers, mainly delivery boys, have to spend long and stressful hours weakening their physical condition and putting themselves in increased risk of accidents at work. In other words, a policy like "10 minutes delivery deadline" imposed by certain e-commerce platforms had already enhanced the risk, encouraging workers to rush through their work and thus putting themselves in more danger.¹¹

WOMEN IN THE GIG ECONOMY

The stunning rise of gig economies in India and its potential to empower women service providers is overshadowed by the inadequate attention devoted to the troubles women encounter in permitting themselves to work in the gig space. Gig work is, therefore, similarly gender-biased like traditional employment, and it has not contributed to enhancing the Female Labour Force Participation of India substantially. This issue brief will go through existing

⁹ Radhika Dinesh & Tathya Sarkar, *Workers Rights in Gig Economy: Legal Framework and Challenges*, Manupatra (2024), <https://articles.manupatra.com/article-details/WORKERS-RIGHTS-IN-GIG-ECONOMY-LEGAL-FRAMEWORK-AND-CHALLENGES>.

¹⁰ Id.

¹¹ Id.

literature with a purpose of identifying barriers against women workers from gig operations and studying the terms of service of select apps catering to women. It thus highlights critical missing links in policies and practices which stand as an obstacle to the inclusion of women into the gig economy through a gender-friendly perspective. The brief will also provide practical recommendations to address these gaps in order to engender a more equal and inclusive gig ecosystem for women workers.

Women in towns and cities are often the greatest victims of unpaid care work and domestic chores due to the largely nuclear family setups. This gives them a relatively fair chance in choosing gig work, which is very flexible. However, unpredictability with hours gained by gig work does not help. Women, especially mothers who do not have childcare or family support to care for young children, are often forced to decline service calls that mandate work during wee hours or irregular hours. This naturally precludes them from a further opportunity in the gig economy.¹²

There are challenges that women face or will face wherever opportunities for flexible work and relatively high earnings compared to traditional jobs present themselves inside the gig economy. Survey results indicated that women gig workers average 37 hours a week and earn ₹1,552 daily (35,000–40,000 monthly), which is significantly more than the traditional employment of ₹8,000–₹10,000 a month from salon jobs. However, due to the nature of their work, this is highly contingent on the number of tasks they undertake, leading to income instability. It is also reported that more than 60% of the women surveyed are the primary income earners in their families, successfully balancing household duties with paid work.

A challenge for women operating in the gig economy is the absence of non-wage benefits. Although 92% of these workers claim to have health insurance, many claimed they lacked certain critical protections like maternity benefits, and more than 81% agreed with this. Similarly, 63% evaluated incentive and increment systems as dissatisfactory to the point of obstructing their upward journey towards financial growth and stability. Together, with such meager benefits, the hard life of women workers has become more economically vulnerable, caught between paltry wages and a dire need for guarantees against economic downturns.

¹² Ruchika Chaudhary, "India's Emerging Gig Economy: The Future of Work for Women Workers," Initiative for What Works to Advance Women and Girls in the Economy, June 2020, <https://iwwage.org/wp-content/uploads/2020/08/IWWAGE-Gig-Economy-Report>.

Another very complicated issue entering into consideration concerns the penalty imposed on workers for canceled jobs. More than half, or 53%, said they had been penalized for refusing jobs, whereas the cancellations were initiated by customers.¹³ Such modes of penalty aggravated financial instability for workers facing unpredictable incomes. Correspondingly, the automated rating and review mechanisms have also left them out to dry; 90% of low-rating reasons were never brought forth by the customers, thus denying the worker any useful information to rectify the issue at hand or form a counterargument for their performance. The absence of appropriate avenues for dispute resolution only adds insult to injury in such experiences.

Safety issues weigh more heavily on women gig workers who often offer their service within private homes. Focus group discussions revealed that workers were generally in a heightened state of awareness regarding their personal safety as immediate assistance was almost impossible in emergencies. Unfortunately, such states of high vigilance add to the physical and mental burden of such work. Furthermore, women in the gig economy do not enjoy protection under the law, such as the right to bargain collectively or form an association. Many gig workers operate with one another in various localities and often do not know their peers. This serves to hinder support networks and severely curb their options for engaging in collective bargaining.¹⁴

The precariousness of this gig work further erodes any possibility of sustained career development. With poor safety nets or guaranteed protection, job insecurity and financial incapacity are stated by most women unemployed. For the higher number of women gig workers, COVID-19 deepened such vulnerability. Many lost jobs, confronted economic shocks, or had to fold into care responsibilities due to the lockdown of beauty, wellness, and domestic caregiving services. With some platforms providing only token support: paid time off, loan forbearance, and rent-support, the majority sought in vain for meaningful protections.¹⁵

As a consequence, women gig workers are highly susceptible to crises, as no insurance products or benefits exist to address catastrophes, epidemics, or any other emergencies. Their livelihoods

¹³ Id.

¹⁴ Id.

¹⁵ Id.

remain on the line without any guarantee for wages, sick pay, or healthcare. The problems just mentioned highlight the dead urgency to address matters of safety, social protection, and just opportunity for women in the gig economy through policy measures so that flexibility and autonomy may never infringe upon their elementary rights and security.

LOOPHOLES OF THE CURRENT LEGISLATIONS

In India, gig workers are otherwise debarred under any statute, being covered under the Social Security Code 2020 (nearly). This is the only legislation with regard to gig workers; however, it doesn't require any particular benefits to be provided. Rather, it suggests the granting of government social assistance programs to these labourers, but this solution doesn't present a specific plan of action. Furthermore, the code has yet to be enforced.¹⁶

The main gap in the existing legal framework is its lack of clear definition and categorisation of contract work, which makes it hard to define the obligations of digital platform towards their workers. This ambiguity breeds gender inequalities because women are restricted to low-margin jobs in the freelance economy and are systematically underutilized. Furthermore, the lack of legislation specifically in favor of the BEC working contract model that informs workers what rights they possess and how to resolve disputes properly has a negative impact.¹⁷

Section 2(35)¹⁸ of the Code on Social Security, 2020, defines a gig worker as any person who undertakes work or enters into a work arrangement in which the classical employer-employee relationship does not exist. In simple terms, a gig worker is a person who performs intermittent or short-term contractual work and is paid on his/her own, as opposed to being employed by someone else. This definition includes work in the forms of taxi drivers, freelancers, and designers who work on a project-to-project basis based on their skill in a particular subject.¹⁹

Chapter IX into the Social Security Code (2020), however, is principally concerned with the unorganized workers' economy. Of these sections, only Sections 112, 113, and 114 propose

¹⁶ Shashank Rawat, *Gig Workers: A Need for Labor Law Reform*, IP & LEGAL FILINGS (Sept. 18, 2024), <https://www.ipandlegalfilings.com/gig-workers-a-need-for-labor-law-reform/>.

¹⁷ Naveen Kumar, *Regulatory Framework and the Protection of Basic Rights of Gig Workers*, Bar & Bench (May 16, 2024), <https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers>.

¹⁸ The social security code, 2020, § 2(35), No. 36, Acts of Parliament, 2020 (India).

¹⁹ Radhika Dinesh & Tathya Sarkar, *WORKERS RIGHTS IN GIG ECONOMY- LEGAL FRAMEWORK AND CHALLENGES*, Manupatra (Aug. 12, 2024), [RK-AND-CHALLENGES](#).

rules that are restrictive to platform workers (gig workers).

Section 112²⁰ empowers government agencies to create helplines or facilitation/center for gig and platform workers, denoting the functions and responsibilities of that center.

Section 113²¹ requires that all unorganized sector workers register with the central government so that they will be entitled to any government scheme benefits. It outlines certain prerequisite conditions for such registration.

Under the social security scheme for gig and platform workers enacted in Section 114,²² the Central Government is given the power to establish social security schemes. Such schemes may include life and accident insurance, health and maternity benefits, coverage in case of accident, old-age protection, childcare facilities, and other welfare-related aspects that the government deems necessary. Nevertheless, the development of such schemes is not compulsory, and the funds may be provided by the central government, state governments, corporate bodies, employees, or a mix thereof.

However, the Code does not fully adequately address critical aspects (e.g., income fluctuations and income inequality). Many social security schemes require workers to contribute a portion of their income regularly, which then forms their social security fund. Facilities for this fund may or may not be funded by the scheme, depending on the scheme. With the already meager and erratic level of income for gig workers, many of them do not participate in such programs and are left unprotected and exposed. In addition, the government requirement that employers contribute to these arrangements has had unforeseen adverse effects. Employers in search of ways to cut expenses frequently reduce labor (number of workers) as a consequence. That effect was also found when the government imposed maternity leave on female gig workers. Instead of improving their quality of life, this requirement led to a decline in the number of female gig workers hired.²³

Moreover, problems such as sexual harassment and safety are still unaddressed for gig and platform labour. Although the possibility opens a wide set of states to respond to workplace-

²⁰ The social security code, 2020, § 112, No. 36, Acts of Parliament, 2020 (India).

²¹ The Social Security Code, 2020, §113, No. 36, Acts of Parliament, 2020(India).

²² The Social Security Code, 2020, §114, No. 36, Acts of Parliament, 2020(India).

²³ Kumar, *supra* note 17.

related harassment, it is uncertain whether its definition of "workplace" applies to the Internet tools platformworkers use. This ambiguity leaves a significant gap in protecting gig workers in virtual work environments.

THE RAJASTHAN PLATFORM-BASED GIG WORKERS (REGISTRATION AND WELFARE) ACT

In 2023, Rajasthan took the lead with quite a groundbreaking piece of legislation, a law that aimed at regulation of gig work which is based on platforms. Rajasthan enacted what they called the Rajasthan Act for Platform Workers - or Raffaetto as they call it (which is a mix of official English and local language). It essentially regulates this sort of work done on apps and different platforms and is a big step forward for them. Under this new law, gig workers are those who are totally independent, meaning they are not under any sort of traditional employment. They get their income from bits and pieces of temporary jobs. These jobs have clear boundaries in terms of when they will begin and when they will end, and of course there's payment attached to them.²⁴

This law provides that the Rajasthan Platform-Based Gig Workers Welfare Board, which will be tasked with the enrollment of all the relevant actors participating in gig work industry such as workers, main contractors, and aggregators, is to be set up. The Board runs the dispensary of schemes for social security, manages a welfare fund, and sanctions observance of the provisions of the Act. If not obeyed, the law is applied to offenders, however, there are procedures in place that let the employees claim against their statutory rights via authority bodies.

This Act, in fact, is an innovation by India in the realm of gig and platform workers, which is quite apart from the normal. It has come before the implementation of the Social Security Code of 2020, which is an unfinished project and has still to be rolled out completely to all the states. This new regional guideline for Rajasthan is placed in contrast with the more traditional provinces and marks a progressive method of ensuring worker welfare.

The Rajasthan Platform-Based Gig Workers Act, 2023, serves as a pioneering effort to establish a comprehensive regulatory framework at the state level for gig workers. This Act introduces a redressal mechanism to address disputes and concerns involving aggregators—digital

²⁴ Dinesh & Sarkar, *supra* note 19.

intermediaries like Swiggy—and platform-based gig workers. It also enforces stringent penalties to ensure compliance.²⁵

One really important part of this Act is that it requires us to put in place a Welfare Board which uses special identification numbers in order to check up on what workers are up to. The Board is tasked with providing social security benefits, including monthly welfare contributions, accident and health insurance, maternity benefits, pensions, and scholarships. These provisions aim to address the unique vulnerabilities of gig workers, considering the non-traditional nature of the gig economy.

However, critics have highlighted significant gaps in the legislation. While gig workers are recognized as employees in many countries, Indian labor laws do not grant them this status. This exclusion limits employer accountability and prevents gig workers from benefiting under existing labor codes. Now some critics feel that this Act tilts way towards workers which kind of crushes aggregators and could really harm the finances of these gig platforms. It gives workers very generous benefits and rights that actually inconvenience and make work harder for the aggregators who are running these platforms.

India's existing labor codes do not adequately address the unique relationship between employers and gig workers, where the traditional employer-employee framework does not fit. This gap has led to challenges in addressing key issues faced by gig workers, such as job insecurity, limited internet access, inadequate insurance, and fluctuating incomes. To ensure both worker protection and the sustainability of the platform-based economy, a more balanced and targeted regulatory approach is essential.

LEGAL **RELEVANT CASE LAWS**

In India, the legal environment in the gig economy is an ever-evolving one and quite a few cases have moved and set precedents for the recognition and protection of gig workers' rights. A gig worker of IFAT grabbed the eyes of the legal system with his daring move filing public interest litigation against the Supreme Court for the welfare of the working class including gig workers demanding "Right to Social Security" for all workers were served by the Court. The plaintiff is asserting the claim that those workers hired through applications like Zomato,

²⁵ Rane, Vidhi, Platform-based Gig Workers: a Blind Spot in the Indian Labour Laws (October 31, 2023). Available at SSRN: <https://dx.doi.org/10.2139/ssrn.4821229>

Swiggy, Ola, and Uber should be considered as casual workers under existing laws and shall have the right to enjoy the social security benefits given to them. The public interest litigation has drawn attention to the several problems faced by gig workers-long working hours, little pay, no social security. It is demanding schemes regarding health care, maternity, pensions, etc. It further contends against the partnership characterization of gig-workers' relations with platforms, insisting instead that it constitutes a de facto employer-employee relationship.²⁶

In yet another interesting instance, in the case of Uber India Systems Private Limited v. Union of India & Anr.,²⁷ a group of gig workers sued Uber and criticized some of the company's practices that include lack of minimum wages and social security benefits. It is the latest legal matter that has brought the issue of decent earning and benefits in periods of the gig economy to the forefront. The tech companies want to change the relationships between workers and platforms.

NAVIGATING THE GIG ECONOMY: CHALLENGES AND OPPORTUNITIES FOR LABOUR LAW

India stands on the threshold of a gig economy revolution, with projections indicating that the country will have around 50 million gig workers by 2030.²⁸ This rapid expansion of the gig economy is paving the way for numerous opportunities. A considerable number of part-time workers are shifting from traditional part-time employment to what Gen-Z commonly refers to as a 'side hustle.' However, with the emergence of new opportunities come several challenges. The popular phrase, "*two sides of the same coin*," aptly captures this situation, as the gig economy, primarily driven by short-term contracts and freelance work, poses several difficulties for individuals who rely on it for their livelihood.²⁹

This evolving work model is reshaping employment dynamics, impacting not only workers and employers but also influencing the nation's labor laws. A typical view of India's expanding gig economy might include cab drivers waiting for ride-share bookings, food delivery personnel rushing through traffic, and freelancers working from home on their laptops, enjoying a flexible

²⁶ *Supra note 17*

²⁷ *Supra note 44*

²⁸ Dr. Vikas Singh, Navigating the Gig Economy: Striking the Balance between Empowerment and Security, Vol. 1, No. 2, SAMRIDDHI Journal of MCR HRD IT, 17, 17 (2024).

²⁹ Shakshi Bharti, Navigating the Gig Economy: Opportunities and Challenges for Today's Workforce, Finodha (Nov. 22, 2024) <https://finodha.in/gig-economy-opportunities-and-challenges-workforce/>.

work schedule. Additionally, warehouse employees packaging e-commerce goods and professionals offering services like graphic designing, content writing, and virtual assistance further highlight the diversity of gig work. This growing trend has undoubtedly introduced a wide array of work opportunities but has also brought forth critical challenges that need to be addressed.

Despite its remarkable growth, the gig economy operates within a regulatory vacuum, as the existing labor laws in India are insufficient to govern this emerging work culture.³⁰ The absence of robust legal protections exposes gig workers to various risks, including low wages, exploitation, and lack of social security benefits such as health insurance or pension schemes. Moreover, the very flexibility that attracts workers to gig work also contributes to job insecurity and limited legal safeguards, increasing their vulnerability to unfair labor practices. As the gig economy continues to grow, it becomes imperative to establish a comprehensive legal framework that ensures the protection of gig workers' rights while fostering a balanced and sustainable work environment.³¹

There are numerous opportunities for the Labour Laws to undergo a complete makeover from defining the meaning of gig-worker, provisions regarding their working hours to legal matters related to it and provisions for their healthcare, social security, etc. thereby providing gig-workers with a sense of security. When it comes to gig workers, the Indian Law is somewhat silent. The current paradigm does not accommodate very well the particular characteristics of gig work. More precisely, gig workers are usually deprived of the protection afforded by minimum wage regulations, social security benefits, or job security restrictions.³² Though the gig-workers are recognised by the government, there is no specific legislation to safeguard the rights of gig-workers as of now. However, The Code on Social Security (2020)³³ is one such code that provide protection to unorganized employees, platform workers, and gig workers. The term "employee" is defined across various laws, with the Code on Social Security introducing categories like "gig workers," "platform workers," and "unorganized workers"

³⁰ Simrandeep Kaur, THE IMPACT OF THE GIG ECONOMY ON LABOUR LAWS AND SOCIAL PROTECTION IN INDIA, Vo. 12 Issue 5, IJCRT, m328, m329-m330 (2024).

³¹ Valentina Brailovskaya, Digital labor gig economy from the worker's perspective: A literature review, IDinsight, (Dec. 12, 2023) <https://www.idinsight.org/publication/digital-labor-gig-economy-from-the-workers-perspective-a-literature-review/>.

³² Sachin, Legal Landscape of the Gig Economy in India: Challenges and Implications, Record of Law, (Aug. 31, 2024) <https://recordoflaw.in/legal-landscape-of-the-gig-economy-in-india-challenges-and-implications/?i=2>.

³³ THE CODE ON SOCIAL SECURITY, 2020, No. 36, Acts of Parliament, 2020 (India).

under Sections 2(35), 2(61), and 2(86),³⁴ respectively. However, gig workers are excluded from provisions on salaries, workplace safety, and labor relations. The Code mandates gig employers to contribute 1% to 2% of their annual turnover to a social security fund, benefitting registered gig workers. While the Code offers benefits like life insurance and gratuity and establishes a National Social Security Board to oversee schemes, it falls short of ensuring minimum wages, job security, and workplace safety. Gig workers, including platform workers, are individuals earning outside traditional employment, often through online platforms that connect them with organizations or individuals for specific tasks or services.

There is a need for redefining the employer-employee relationship in the gig economy. There's a need to not just recognise gig workers but bring them to the same level as employees of the organization. The Unorganised Workers' Social Security Act, 2008³⁵ also is not adapted to the gig workers trend. In the backdrop of this, the Rajasthan government has introduced an Act to implement social security schemes for gig workers by mandating employers to submit a database of workers thereby making it a formalised sector. The act is named THE RAJASTHAN Platform Based Gig Workers (Registration And Welfare) Act, 2023³⁶ with an aim to constitute a Welfare Board and to set up a welfare fund for platform-based gig workers. With this initiative, Rajasthan has become the first state in India to pass a legislation, which regulates the engagement of gig workers and aims to provide social security and other benefits to platform-based gig workers.³⁷ This initiative will also motivate other states to enact such legislation for gig workers.

REFORMS REQUIRED IN LABOUR LAWS IN LIGHT OF THE RISING GIG ECONOMY

Reforms are essential in any industry to ensure its sustainable growth, adaptability to changing environments, and fairness to all stakeholders. Industries evolve over time due to technological advancements, market dynamics, regulatory changes, and social expectations. Without

³⁴ THE CODE ON SOCIAL SECURITY, 2020, § 2(35), 2 (61), 2 (86), No. 36, Acts of Parliament, 2020 (India).

³⁵ THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008, No. 33, Acts of Parliament, 2008 (India).

³⁶ THE RAJASTHAN PLATFORM BASED GIG WORKERS (REGISTRATION AND WELFARE) ACT, 2023, No. 29, Acts of Rajasthan State Legislature, 2023 (India).

³⁷ Bishen Jeswant & Luv Saggi, Rajasthan passes Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Cyril Amarchand Mangaldas, (Aug. 30, 2023) <https://corporate.cyrilamarchandblogs.com/2023/08/rajasthan-passes-rajasthan-platform-based-gig-workers-registration-and-welfare-act-2023/>.

reforms, industries risk stagnation, inefficiency, and exploitation. The very basic feature of law is that it is dynamic in nature. It changes with the changing socio-economic and political conditions of a society.³⁸ Just like the newly introduced criminal laws, there's a need for reforms in Labour Laws too. The very first concern with gig workers remains regarding their classification.

Under various laws, the term gig is not expressly defined. However, there are certain exceptions to it as discussed earlier like The Code On Social Security, 2020³⁹ and The Rajasthan Platform Based Gig Workers (Registration And Welfare) Act, 2023.⁴⁰ Both acts recognise gig workers yet they are not entitled to any benefits like ordinary employees. Currently, there is a lack of legal reforms to safeguard their rights and the availability of basic social security.⁴¹ The Parliament has also passed various bills as a part of the New Labour Code. Yet, it remains silent on benefits to be provided to gig workers. The mere recognition of the workers would fail the objective behind it. The new labour codes also missed out on the opportunity to re-assess the employment contract and the employee-independent contractor distinction, particularly in light of gig work. Thus, the labour codes merely mask the problems plaguing the gig economy without offering any conceptual or legal resolution to the classification problem. This fails to bring gig workers directly within the ambit of the labour and employment regime in India.⁴²

Apart from benefits, incentives, and social security, reforms in dispute resolution for gig workers are also needed. Currently, gig workers are excluded from the specialised redressal mechanism provided under the Industrial Disputes Act of 1947.⁴³ Bringing gig workers under the scope of this Act, as proposed, would offer them an effective legal remedy to address grievances against their employers.

Also, due to the contract-based nature of their work, gig workers do not have the explicit right to engage in collective bargaining. Collective bargaining, a core principle of modern labour

³⁸ Bonani Goswami, Nature & Significance of Law, Law Colloquy, (Nov. 18, 2020). <https://lawcolloquy.com/publications/blog/nature-significance-of-law/163>.

³⁹ THE CODE ON SOCIAL SECURITY, 2020, No. 36, Acts of Parliament, 2020 (India).

⁴⁰ THE RAJASTHAN PLATFORM BASED GIG WORKERS (REGISTRATION AND WELFARE) ACT, 2023, No. 29, Acts of Rajasthan State Legislature, 2023 (India).

⁴¹ Shashank Rawat, Gig Workers: A Need for Labor Law Reform, IP & Legal Filings, (Sept. 18, 2024) <https://www.ipandlegalfilings.com/gig-workers-a-need-for-labor-law-reform/>.

⁴² Sahaj Mathur, Labour Law and the Gig Economy: Towards a Hybrid Model of Employment, IndiaCorpLaw, <https://indiakorplaw.in/2022/12/labour-law-and-the-gig-economy-towards-a-hybrid-model-of-employment.html>.

⁴³ THE INDUSTRIAL DISPUTES ACT, 1947, NO. 14, Acts of Parliament, 1947 (India).

law, plays a crucial role in protecting workers' interests by balancing the power dynamics between employers and employees. Although trade unions in India are increasingly advocating for gig workers' rights, the ambiguous legal status of gig workers creates obstacles to their formal registration as trade unions, as seen in the case of the *Uber India Systems Private Limited v. Union of India & Anr.*⁴⁴ Without official registration, these unions cannot benefit from legal immunities that shield them from civil, criminal, and contractual liabilities, which are essential for effectively representing workers' demands. While the introduction of new labour codes marks a significant step in India's labour law framework, they do not sufficiently address the unique challenges faced by gig workers.

Keeping aside the Legislature, the Judiciary has also expressed concerns regarding gig workers and issued directions to Central and State governments. Still, any concrete decision or step has not yet been taken by any government except a few as seen earlier. In June, 2021 the National Human Rights Commission filed a writ petition⁴⁵ before the Hon'ble Supreme Court praying for better conditions for gig workers, platform workers, and migrant workers. The Hon'ble Supreme Court directed the Central Government and the State Governments to complete the registration processes required so that these unorganized workers can benefit from the schemes introduced by the Central Government and various State Governments. Further, the Hon'ble Court directed all State Governments to file affidavits specifying the mechanisms of how dry ration is going to be distributed amongst these workers, under the Atma Nirbhar Bharat Scheme.⁴⁶

These reforms are essential not only for the growth of the economy but for the inclusive growth of this industry as well as the workers. Reforms are necessary to ensure that industries remain relevant, efficient, and fair in an ever-changing world. Whether driven by economic, social, or technological factors, reforms help industries thrive, benefit society, and contribute to overall economic progress. Moreover, enhancing grievance redressal mechanisms and raising awareness and advocacy among gig workers are the things that need to be done to create a balanced gig economy in India.⁴⁷ The sustainability hinges on ensuring that the rights and

⁴⁴ *Uber India Systems Private Limited v. Union of India & Anr.* W.P.(C)-14048/2021

⁴⁵ *Problems and Miseries of Migrant Labourers, In re*, 2021 SCC OnLine SC 398.

⁴⁶ Manpreet Singh, *India's Gig Economy: A Legal Minefield*, Manupatra, (Aug. 20, 2024) <https://articles.manupatra.com/article-details/India-s-Gig-Economy-A-Legal-Minefield>.

⁴⁷ Yashi Ashok Mehta, *FROM SIDE HUSTLES TO LEGAL STRUGGLES: THE GIG ECONOMY AND INDIA'S LABOR LAWS*, Vol. 2, Issue 7 IJLRA 5, 18, (2024)

welfare of gig workers are adequately protected.⁴⁸ A multifaceted approach will be needed to address these shortcomings, which include amending laws, creating gig-specific regulations, and creating specific guidelines to protect their rights. In this rapidly changing world, our labour laws should change too and adapt to this modern problem through legislative reforms.⁴⁹

PEOPLE'S PERSPECTIVE ON THE GIG ECONOMY AND WORKERS

The new type of employment is getting widely popular among youths. Even the youths of second-tier and third-tier cities are moving towards gig employment rather than traditional part-time jobs. On the other hand, the customers have a variety of views on these online platforms and gig workers. While some praise the 10-minute delivery model, others prefer the traditional way. Despite the convenience provided by this new model, a lot can go wrong when 1.4 billion consumers start expecting even household appliances to arrive in 10-minutes and are not willing to take stock of the consequences of their impatience.⁵⁰ Road accidents in recent times have shown a steep increase. The contribution of the gig economy to this data is also alarming. Adding to the worry of road accidents, the incentive to the consumer of quick 10-minute delivery might lead to over-speeding by the delivery partner due to the stress of delivering on time.⁵¹ There have been numerous cases where gig workers were inhumanely treated by the customers. Thus, even though the new model provides comfort and ease to one person, the other risks his life to fulfill his desires. There is a need to explore more in this domain to find an alternative solution. As a society, a compassionate view towards gig workers is necessary.

CONCLUSION

There is no doubt that the gig economy has transformed the global labor landscape, offering numerous opportunities for both workers and employers. However, with such opportunities, the security of workers, fair wages, and legal protection is still a big question that traditional labour laws fail to address. The challenges such as job insecurity, lack of social benefits, and the absence of collective bargaining rights, etc. underscore the need for comprehensive legal reforms.

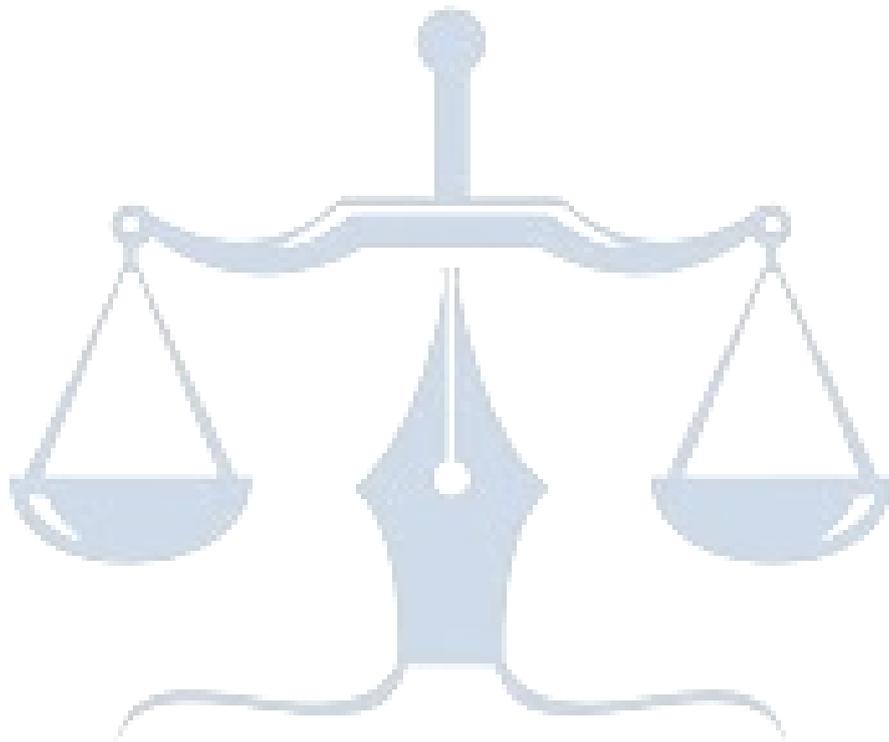
⁴⁸ Singh, *supra* note 25.

⁴⁹ Rawat, *supra* note 20.

⁵⁰ Bloomberg, Here's why a lot can go wrong when everything arrives in just 10 minutes, Business Standard (Oct. 29, 2024) https://www.business-standard.com/industry/news/here-s-why-a-lot-can-go-wrong-when-everything-arrives-in-just-10-minutes-124102900062_1.html.

⁵¹ Vinayak Malhotra, Impact of the 10-Minute Grocery Delivery Incentive on Consumer Habits, Demand and Road Accidents, 18, (2022), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4161893

Initiatives like the Code on Social Security, 2020, and the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023 have given a positive direction to this industry and the workers. However, these initiatives alone are not sufficient. A uniform system and centralized framework along with robust implementation across states are needed for the overall protection and upliftment of the gig-workers. Thus, to create an inclusive and equitable work environment, a balanced approach is necessary to ensure social security benefits and enforce fair labor standards.



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