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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated 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

GIG WORKERS AND SOCIAL SECURITY: A GORDIAN'S KNOT IN AN UNCERTAIN INDIAN ECONOMY

AUTHORED BY - SANIGHDHA

Abstract:

An economy is a state of business transactions, occupational and professional workplace as well as trading activities, that help the exchange of money and kind easy, as well as trustworthy. Gig economy is a type of newly developed labour market that relies heavily on part-time and temporary positions that are filled on the basis of non-strict compliance with qualification as well as other requirements. It is filled with contractual workers and freelancers, who do not have any kind of job security. These individuals work on the directions of corporate entities and are based upon the demand-supply chain mechanism of workers as well as consumers. It is a free market system with short-term commitments. However, there is no guarantee of future work in such a system and it is based completely on probability or high demand systems. According to a report presented by the Times of India Group, whereby NITI Ayog was quoted, it was presented that, the Indian gig force is expected to grow to 23.5 million workers by 2029- 30, which is a massive jump from the existing 7.1 million force. As India is successfully charting a path towards becoming a US\$5tn economy, the increasing gig workforce will be playing a significant role of a building block towards achieving this goal. Even though the gig economy is growing, the social security of workers and the protection that is accorded to these workers, is declining, and even receding over the years. If left unchecked, this kind of anomaly in a sector can lead to heavy dependence on circumstances and lower dependence on active policy and decision making of the government. The recent labour codes of 2020 have led to the development of these lacunae and are in a better position to deal with the rising issues of unemployment, lack of social security and inadequate implementation of social security measures in the country. This particular research paper is going to delve in the issue of seeking whether the newly framed labour codes are capable of solving the social security concerns of the gig workers, as of now and in the future amidst the backdrop of the present status quo.

Keywords: Gig workers; Indian economy; platform workers; social security; labour laws.

I. INTRODUCTION

In any nation, the workforce of that nation is extremely important as it forms the basis of the growth and development of that particular nation-state. An economy is the soul and breath of a thriving diplomatic state. According to Investopedia, an economy can be defined as, “a *complex system of interrelated production, consumption, and exchange activities that ultimately determines how resources are allocated among all the participants*. The production, consumption, and distribution of goods and services combine to fulfill the needs of those living and operating within the economy. An economy may represent a nation, a region, a single industry, or even a family.”¹ This outline or layout of the economy defines the roles, responsibilities, and the duties of particular people with regard to their contribution to the development of the nation. There are two major sectors of workers in an economy and these are organised workers and unorganized workers. The Ministry of Labour and Employment defines organised workers or unions as, “Organized labour is an association of workers united as a single, representative entity to improve the economic status and working conditions of employees through collective bargaining with company management. Organized labour groups are also known as unions.”² These workers and unions get the maximum benefits in any economy and have the highest regard in the eyes of people as well. Whereas, the unorganized sector or workers as defined by the Ministry of Labour and Employment is, “The unorganised sector, covers most of the rural labour and a substantial part of urban labour. It includes activities carried out by small and family enterprises, partly or wholly with family labour. In this sector wage-paid labour is largely non-unionised due to casual and seasonal nature of employment and scattered location of enterprises. This sector is marked by low incomes, unstable and irregular employment, and lack of protection either

¹ INVESTOPEDIA, <https://www.investopedia.com/terms/e/economy.%20it> (last visited Apr. 14, 2024); JEFFREY CARPENTER & ANDREA ROBBETT, GAME THEORY AND BEHAVIOUR (2022); JOHN STACHRUSKI, ECONOMIC DYNAMICS: THEORY AND COMPUTATION (2022); PRAJIT K. DUTTA & WOUTER VERGOTTE, STRATEGIES AND GAMES: THEORY AND PRACTICE (2022); W. BENTLEY McLEAD, ADVANCED MICROECONOMICS FOR CONTRACTS, INSTITUTIONAL AND ORGANISATIONAL ECONOMICS (2022); ANNA ESPINOLA ARREDONDO & FELIX MUNOZ GRACIA, INTERMEDIATE MICROECONOMIC THEORY (2022); SANJEEV GOYAL, NETWORKS: AN ECONOMICS APPROACH (2023); MARTIN HUBER, CAUSAL ANALYSIS: AN IMPACT EVALUATION AND CAUSAL MACHINE LEARNING (2023); XAVIER FREIXAS & JEAN CHARLES ROCHET, MICROECONOMICS OF BANKING (2023); JAY PRAG, MICROECONOMIC ESSENTIALS (2020).

² MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA, <https://labour.gov.in/organized-worker#:~:text=Organized%20labour%20is%20an%20association,1>. (last visited Apr. 14, 2024)

from legislation or trade unions. The unorganised sector uses mainly labour intensive and indigenous technology. The workers in unorganised sector, are so scattered that the implementation of the Legislation is very inadequate and ineffective. There are hardly any unions in this sector to act as watch- dogs. But the contributions made by the unorganised sector to the national income, is very substantial as compared to that of the organised sector. It adds more than 60% to the national income while the contribution of the organised sector is almost half of that depending on the industry.”³ Unorganised workers are the most underdeveloped category of workers and do not have the liberty to access a number of facilities that the organised workers get to. On the other hand, gig economy is defined as, “A gig economy is a labor market that relies heavily on temporary and part-time positions filled by independent contractors and freelancers rather than full-time permanent employees. Gig workers gain flexibility and independence but little or no job security. Many employers save money by avoiding paying benefits such as health coverage and paid vacation time. Others pay for some benefits to gig workers but outsource the benefits programs and other management tasks to external agencies.”⁴ Gig workers are the workers working in the gig economy and have little to no social job security. These workers were not, until recently, covered under the government social benefit schemes. This conundrum of adding or not adding them under the benefits of social security, thus leads to huge confusion and dilemmas in giving them protection in social net.

II. GIG WORKERS AND THE ECONOMY: A HISTORICAL AND PRESENT TREND ANALYSIS-INDIA AND THE WORLD





Gig economy just did not come over on the scene by chance. It has a long history associated to it and therefore it is pertinent to examine that history in the light of growing and booming of gig economy. According to McKinsey and Company’s American Opportunity Service, a full 36 percent of employed respondents—roughly 58 million Americans—identify as independent workers. That is a significant increase from 2016, when McKinsey research estimated that 27 percent of the workforce was

³ MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA, <https://labour.gov.in/unorganized-workers> (last visited Apr. 14, 2024).

⁴ GIG ECONOMY, <https://www.investopedia.com/terms/g/gig-economy-security>. (last visited Apr. 14, 2024); JAMIE WOODCOCK, THE GIG ECONOMY: A CRITICAL INTRODUCTION (2020); SARRAH KESSLER, THE END OF JOB AND FUTURE OF WORK (2018); LOUIS HYMAN, TEMP: HOW AMERICAN WORK, AMERICAN BUSINESS AND AMERICAN DREAM BECAME TEMPORARY (2018); S.B. DIVYA, MACHINEHOOD (2021); ALEXANDREA J. RAVENELLE, HUSTLE AND GIG: STRUGGLING AND SURVIVING IN THE SHARING ECONOMY (2019); COLIN CROUCH, WILL THE GIG ECONOMY PREVAIL; KAT TANG, THE FIVE STAR STRANGER (2024); WILLIAM GIBSON, VIRTUAL LIGHT (1993).

independent.⁵ According to the United Kingdom Government’s website, gig economy is defined as something that, “involves the exchange of labour for money between individuals or companies via digital platforms that actively facilitate matching between providers and customers, on a short-term and payment-by-task basis.⁶ Gig economy involves a number of services that customers avail everyday and has a huge impact on the psyche of the customers. The following figure will clarify the whole scenario in a better way.

FIGURE 1.1.- WHAT IS THE GIG ECONOMY

Sector	Description	Sub-Sectors Included	Example Platforms
Asset-Sharing Services	Digital platforms that facilitate short-term P2P rentals of one owner’s (or “freelancer”) property to another individual	Home-sharing, car-sharing, boat-sharing, parking space-sharing, P2P equipment sharing	
Transportation-Based Services	Digital platforms that require a freelance driver to complete the requested transport service	Ride-sharing, carpooling, restaurant delivery, and goods delivery	
Professional Services	Digital platforms that connect freelancers directly with businesses to complete projects	Business work, microwork, design, tech/coding, writing/translation, administrative	
Handmade Goods, Household & Miscellaneous Services (HGHM)	Digital platforms for freelancers to sell homemade crafts or offer on-demand services for household-related tasks	Home-services, babysitting, handmade crafts, tutoring, pet services, and misc. (DJ, events, etc.)	

(Source: <https://www.weforum.org/agenda/2021/05/what-gig-economy-workers/>- last visited Apr. 14, 2024).

Since the gig economy is so ever-encompassing, it is inevitable at this stage to delve into the history of the same. It is said that the future belongs to those who want to grow on the basis of their own skills.

According to the information available on a number of webpages and books, the gig economy is not a new phenomenon but was prevalent before the 19th century industrial revolution. It was very normal then to be engaged in numerous occupations to acquire a standard income. A person involving only in a single career for a lifetime is a recent sensation. But with the advent of the internet and

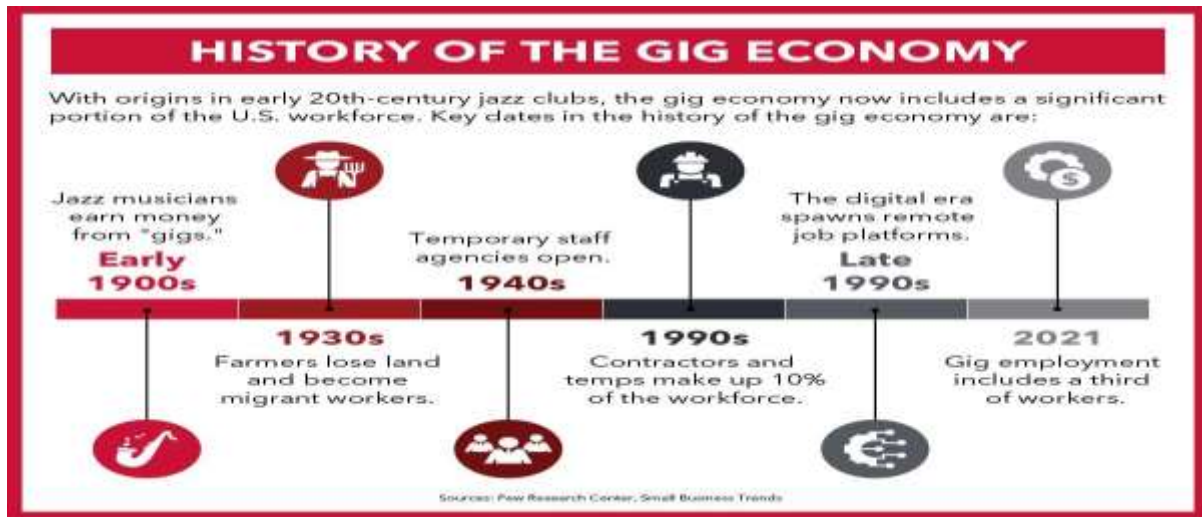
⁵ McKinsey & COMPANY, <https://www.mckinsey.com/featured-insights/mckinsey-explainers/what-is-the-gig-economy> (last visited Apr. 14, 2024).

⁶ WORLD ECONOMIC FORUM, <https://www.weforum.org/agenda/2021/05/what-gig-economy-workers/> (last visited Apr. 14, 2024)

technology such a concept of one career for a person is undergoing tremendous changes. The beginning of the 20th century has witnessed a great recession that resulted in severe unemployment that forced people to engage in several works to make a living. The great depression and famine occurred at that time triggered the lives of farmers that forced them to sell their farm lands and to move out as migrants, they had to work in several farm lands in a gig manner to make the ends meet. This is the earliest recorded gig work. Later during the time of World War II companies who had to finish an abundance of tasks and were lacking enough workforce, hired workers on a short-term contract basis. In 1995, Craigslist, an online site to find jobs, was launched in the USA and Elance (now renamed as Upwork) introduced in 1999 that helped lots of freelancers to find remote works and connect with the client online. In the later years the real job providing platforms and crowdsourcing marketplaces like Airbnb, Amazon's Mechanical Turk (Murk), Uber, and Lyft were introduced that marked a new era in the digital marketplace. By the last decade of the 20th century, the digital era has begun to take off, which has increased the demand for gig workers in the USA. It has marked the beginning of a new era of the gig economy. The Internet and technology have significantly taken over the world, influencing the lives and perspectives of individuals. Access to smartphones and computers with internet connections predominantly changed the way people think about work, and consequently broke the conventional idea about employment. Gig economy was here from ages but the thing is there was no specific term or concept that has been introduced until recently to indicate such gigs. Some of the earliest gig works include, courier services, truck and taxi drivers, nannies and caretakers, personal grocery shoppers etc.⁷ The following figure will clearly put out the history of gig economy for better understanding.

⁷ THE DAILY SKILLS, <https://dailyskills.co.in/blog/the-origin-of-gig-economy> (last visited Apr. 14, 2024); GIG ECONOMY STATISTICS, <https://www.mbauniverse.com/group-discussion/topic/business-economy/gig-economy> (last visited Apr. 14, 2024); HR FUTURE, THE HISTORY AND FUTURE OF GIG ECONOMY, <https://www.hrfuture.net/future-of-work/gig-economy/the-history-and-future-of-the-gig-economy/> (last visited Apr 14, 2024); LOGICS, A BRIEF HISTORY OF THE GIG ECONOMY, <https://logicmag.io/security/a-brief-history-of-the-gig/> (last visited Apr 14, 2024); THE ROCK ECONOMY, <https://rockcontent.com/blog/the-history-of-the-modern-gig-economy/#:~:text=Gig%20work%20often%20involved%20breaking,define%20their%20type%20of%20work.> (last visited Apr. 14, 2024).

FIGURE 1.2.- THE HISTORY AND GROWTH OF GIG ECONOMY



(Source: <https://online.maryville.edu/blog/what-is-the-gig-economy/> last visited Apr. 14, 2024).

The workers of the gig economy fall into four major categories and these are:

FIGURE 1.3.- CATEGORISATION OF THE GIG WORKERS



Source: 2016 McKinsey Global Institute survey of ~8,000 US and European respondents

McKinsey&Company

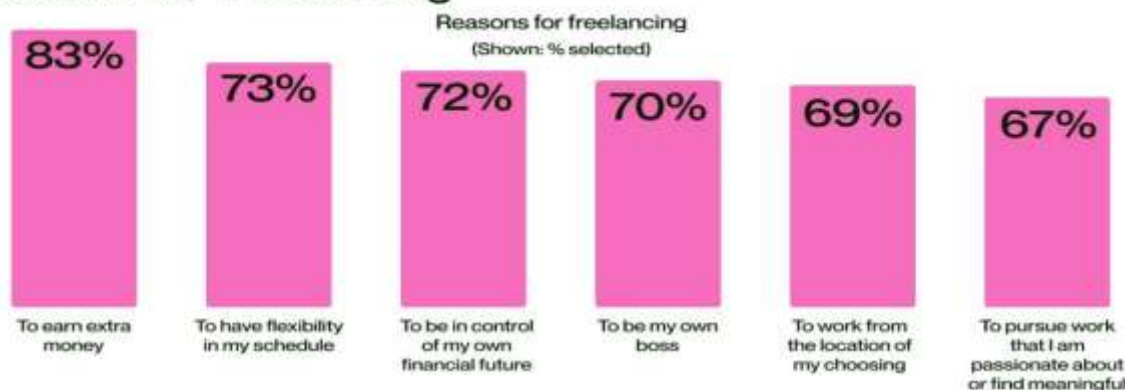
(Source: <https://www.weforum.org/agenda/2021/05/what-gig-economy-workers/>, last visited Apr. 14, 2024).

According to the report presented by the Economic Times and as the data collected by the World Bank, the report estimates the number of global online gig workers at as many as 435 million people

and says demand for gig work increased 41 per cent between 2016 and the first quarter of 2023.⁸ This particularly means that the craze or the need engage in more than one occupation is growing more than ever before in these unprecedented times of today.⁹ The total number of freelance and gig workers is on the rise. According to Upwork’s Freelance Forward report, in 2022, 39% of the American workforce did some sort of freelance work—up three percentage points from 2021. Upwork’s Future Workforce Report 2022 also found that, among hiring managers surveyed who engage independent talent, 66% plan to increase their utilization or number of freelancers over the next two years. As the gig workforce grows, so does the associated economic impact. The Freelance Forward report shows that freelancers contributed \$1.35 trillion to the U.S. economy in annual earnings in 2022, up \$50 billion from 2021. On a global scale, data from The World Bank shows that the global gig economy accounts for up to 12% of the labor market, which is much higher than previous estimates for the total number of gig workers. Additionally, research from Staffing Industry Analysts estimates that the gig economy generated \$5.4 trillion in revenue in 2021.¹⁰

FIGURE 1.4.- THE INCREASE IN THE GIG WORKERS

Financial gain, flexibility, and control are among the top reasons for freelancing



(Source: <https://www.upwork.com/resources/gig-economy-statistics.workers>. (last visited Apr. 14 2024).

⁸ THE ECONOMIC TIMES, [https://economictimes.indiatimes.com/jobs/fresher/online-gig-work-is-growing- rapidly-but-workers-lack-job-protections-a-world-bank-report-says/articleshow/103480121.cms?from=mdr](https://economictimes.indiatimes.com/jobs/fresher/online-gig-work-is-growing-rapidly-but-workers-lack-job-protections-a-world-bank-report-says/articleshow/103480121.cms?from=mdr) (last visited Apr. 14, 2024); JAMIE WOODCOCK, THE GIG ECONOMY: A CRITICAL INTRODUCTION (2020); SARRAH KESSLER, THE END OF JOB AND FUTURE OF WORK (2018); LOUIS HYMAN, TEMP: HOW AMERICAN WORK, AMERICAN BUSINESS AND AMERICAN DREAM BECAME TEMPORARY (2018); S.B. DIVYA, MACHINEHOOD (2021); ALEXANDREA J. RAVENELLE, HUSTLE AND GIG: STRUGGLING AND SURVIVING IN THE SHARING ECONOMY (2019); COLIN CROUCH, WILL THE GIG ECONOMY PREVAIL.

⁹ Ibid.

¹⁰ UPWORK, <https://www.upwork.com/resources/gig-economy-statistics.workers>. (last visited Apr. 14, 2024).

In India, however the story is extremely different. In ancient India, it was the nature of the professionals to not only engage in the job that they were trained to do but also do a lot of other work too, to earn their livelihood and not become dependent on just one stream of work. It was then, a beautiful blend of harmonious working conditions that was created. According to a recent report by the NITI AAYOG¹¹ of India released on February 6, 2023, the institution has given out certain interesting numbers on the growing gig economy in India. Certain important pointers from the said report are:

1. The Indian gig workforce is expected to expand to 23.5 million workers by the year 2029- 30, which is nearly a 200% jump from the current 7.7 million.¹²
2. Women's participation has increased from 18% to 36% showing a remarkable growth of 2X last year whereas Youth participation in the Gig economy has seen an 8-fold increase between 2019-2022, the report further showed.¹³
3. As per an Aon survey—'Decoding the Gig Economy,' 49% of the 145 companies have already employed gig workers and 65% plan to increase this number over the next two to five years. Hence, there is a vast potential for job seekers in blue, white, and grey collar jobs.¹⁴
4. The gig economy is predicted to be a significant building block in achieving India's aim to become a \$5 trillion economy by 2025, the reports indicated. This would help in bridging the income and unemployment gap.¹⁵
5. The Indian gig economy has the potential to serve up to 90 million jobs in the non-farm sectors of India.¹⁶

Last year, Rajasthan and Karnataka became the first states to enact a law on the gig workers and provide them social security benefits under the Rajasthan Platform Based Gig Workers

¹¹ DIGITAL SANSAD,

<https://sansad.in/getFile/annex/259/AU101.pdf?source=pqars#:~:text=NITI%20Aayog%20in%20its%20report,7.7%20million%20in%202020%2D21>, (last visited Apr., 14, 2024); FINANCIAL EXPRESS, <https://www.financialexpress.com/jobs-career/education-indian-gig-workforce-to-witness-200-jump-by-2030-niti-aayog-2972631/> (last visited Apr 14, 2024); NITI AAYOG, https://www.niti.gov.in/sites/default/files/2022-06/Policy_Brief_India%27s_Booming_Gig_and_Platform_Economy_27062022.pdf (last visited Apr. 14, 2024).

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

(Registration and Welfare Act) 2023 and the Karnataka Platform Based Gig Workers (Registration and Welfare Act) 2023¹⁷, respectively. Both these Acts have heralded a new era in defining the contours of safety of gig workers and their social security benefits, at large. According to a Business India Report, it is a first-of-its-kind ground-breaking piece of legislation aims to establish a welfare board and a dedicated social security fund for platform-based gig workers in the state. The bill is a result of persistent campaign mounted by civil society pressure groups like MKSS (Mazdoor Kisan Shakti Sangathan), best known for its demand for the Right to Information Act (which grew out of the demand for minimum wages for workers) and workers' unions like IFAT (Indian Federation of App-based Transport Workers).¹⁸ The term 'gig' is borrowed from the music world in the West, where performers book 'gigs' that are single or short-term engagements at various venues. Such schemes are not unfamiliar – platform workers in the transport sector in Thailand and Malaysia, for instance, benefit from health and accident insurance as well as social security that is financed by a deduction of 2 per cent for every ride. In the US, the National Labour Relations Board recently issued a ruling that makes it easier for Uber and Lyft drivers, construction workers, home health aides and even strippers to organise and join unions. So far, the existing labour law in the US extended the right to unionise only to workers with employee status, excluding independent contractors. The new ruling broadens the factors considered in the federal government's test for determining a worker's status as an independent contractor or an employee.¹⁹ The following figures and tables will break down the statistical rise and trend analysis of gig work in India.

FIGURE 1.5.- INDIA'S GIG WORKFORCE IS LOW SKILLED



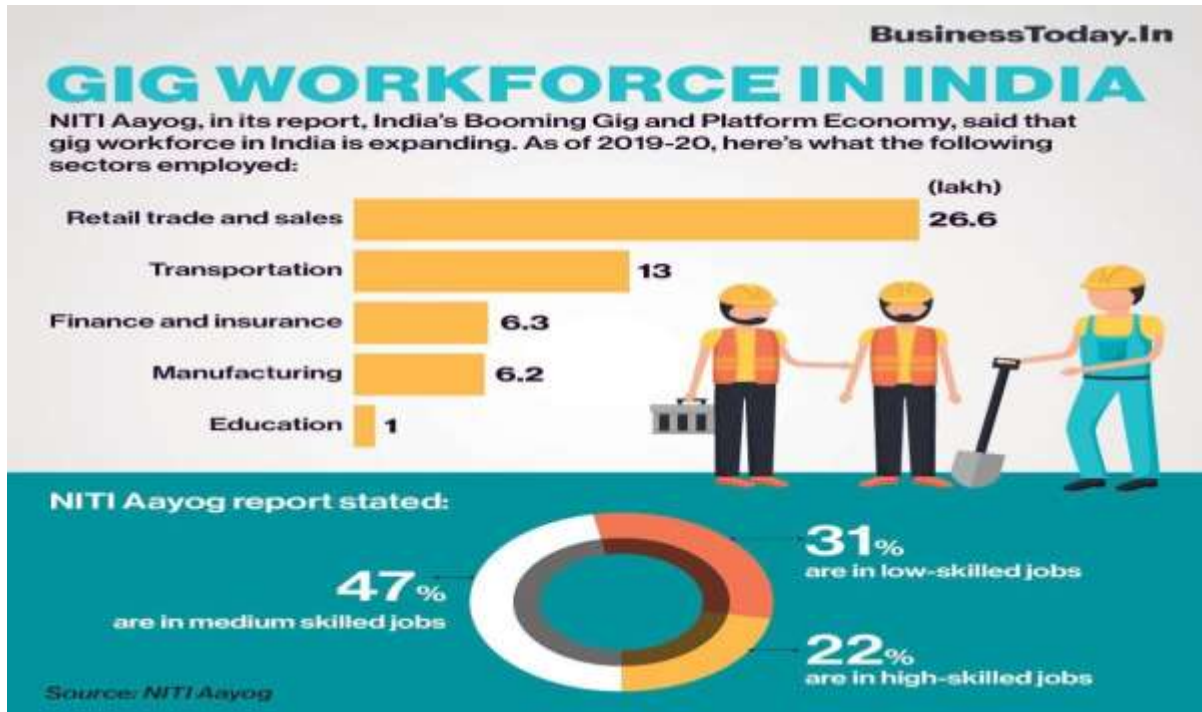
(Source- BCG Future of Work Report)

¹⁷ Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023; Karnataka Platform Based Gig Workers (Registration and welfare) Act 2023.

¹⁸ BUSINESS INDIA, <https://businessindia.co/magazine/rise-of-the-gig-economy> (last visited Apr. 14, 2024).

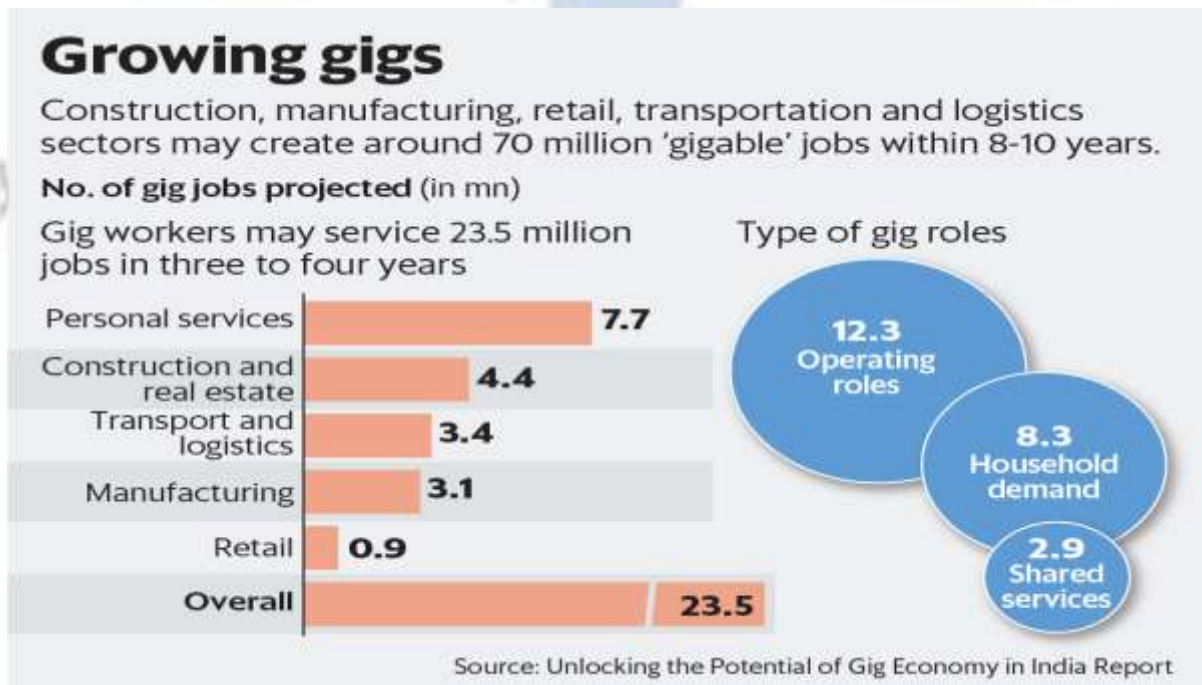
¹⁹ Ibid.

FIGURE 1.6. INDIA'S GIG ECONOMY



(Source: NITI Aayog)

FIGURE 1.7.- GROWING GIGS



(Source – Unlocking the Potential of Gig Economy in India Report)

FIGURE 1.8.- DATA ON GROWING GIG ECONOMY IN INDIA



(Source: Taskmo Gig Index)

However, there are many challenges faced by the gig workers in India and around the world. Job insecurity, Income instability, lack of formalization, lack of legal protection, unequal bargaining power, issues of payments, training and upskilling, social stigma, etc are many of the factors that are counted in the disadvantages of the gig economy.

According to a report by the International Labour Organization (ILO), India is the second- largest gig economy in the world, with around 56% of all gig workers in the Asia-Pacific region working in India. According to a report by NASSCOM, the gig economy in India is expected to grow at a Compound Annual Growth Rate (CAGR) of 17% with 23.5 million gig workers and the growth projection of reaching a market size of \$455 billion by 2023 are impressive figures. The gig economy is predicted to be a significant building block in achieving India's aim to become a \$5 trillion economy by 2025, the reports indicated. This would help in bridging the income and unemployment gap. The study conducted by Boston Consultancy Group (BCG) estimates that the Indian gig economy has the potential to create up to 90 million jobs in the non-farm sectors, which is about 30% of India's workforce. The growth of the gig economy is expected to lead to efficiency and productivity gains, which can contribute up to 1.25% to India's GDP. This indicates that the gig economy can have a significant impact on India's economy by providing employment opportunities and boosting

economic growth. The gig economy has already started to make an impact in various sectors, and with further growth and development, it has the potential to create a substantial positive impact on India's economy diverse range of sectors and industries²⁰.

III. GIG ECONOMY AND SOCIAL SECURITY IN INDIA: THE NEED TO STEP-UP

The new labour codes introduced in 2019 defines a gig worker as, “A person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship”.²¹ ‘Platform work’ is defined as “a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment.”²² *The Minimum Wages Act 1948, Employees provident Fund and Miscellaneous Provisions Act 1952, Payment of Bonus Act 1965, Contract Labour (Regulation and Abolition) Act 1970, Inter-State Migrant Workmen (Regulation and Conditions of Services) Act 1979, Unorganised Workers Social Security Act 2008, Pradhan Mantri Jeevan Jyoti Yojana, Ayushman Bharat- Pradhan Mantri Jan Aarogya Yojana- are all the social security schemes that provide protection to organised and unorganised workforce in India. It is pertinent to note that these protections even though extendable to the whole of the worker community, is not designed to actually cater to the gig workers.*

As a result, gig workers, especially in tech-based platforms where the ratio of employees to gig workers is approximately 1:20, are not entitled to any protection or benefits. Some challenges faced by such gig workers include salary shortfall, lack of insurance, access to credit and income fluctuations. Furthermore, specific difficulties faced by platform workers are, access to quality internet services, lack of job security, and the contractual relationship between the platform owner and worker being considered other than one of employment. Gig workers have protested and filed cases before the Indian courts demanding social security benefits.²³ Despite the non-recognition of gig workers under law,

²⁰ ISME, <https://www.isme.in/gig-economy-in-india-drivers-challenges-road-ahead-dr-pooja-nagpal/> (last visited Apr. 14, 2024).

²¹ NYAAYA, <https://nyaaya.org/guest-blog/the-law-for-gig-workers-in-india/> (last visited Apr. 14, 2024).

²² Labour Code, 2020.

²³ Lexology, <https://www.lexology.com/library/detail.aspx?g=0a14cdc3-5b43-472c-8974-5bcd43e74096> (last visited Apr. 14, 2024); Acuity Law, <https://www.acuitylaw.co.in/publication-and-news/india-rules-governing-the-gig-economy> (last visited Apr. 14, 2024).

some Indian corporations such as Big Basket, Flipkart, and Urban Company made a commitment in 2021 to ensure that all gig workers on their platforms earn at least the hourly local minimum wage after factoring in their work-related costs. Furthermore, the Indian Government also developed a web-based portal called e-SHRAM for creating a National Database of Unorganized Workers for optimum realization of their employability and to extend the benefits of the social security schemes to migrant workers, construction workers, gig and platform workers, etc.²⁴ Pursuant to the recommendation of the National Commission on Labour to consolidate central labour laws, the Ministry of Labour and Employment introduced the Code on Social Security, 2020 (Code) which recognizes workers such as building workers, contract labour and unorganized workers. Additionally, the Code introduces and recognizes gig workers and platform workers. Pursuant to the enactment of this Code, social security would be provided to all employees and workers, either in the organized, unorganized, or any other sector. The Code replaces various labour and employment legislations which had varied applicability and coverage such as the Employees' Compensation Act, 1923, the Maternity Benefit Act, 1961, the UWSSA, and the Payment of Gratuity Act, 1972. Currently, the Code is not in effect as the State Governments of each state in India are in the process of finalizing the rules for the purposes of the Code. Recently, the Labour Minister of India indicated that the rules have been prepared by most states and the law will be implemented at an appropriate time.²⁵

Through various judgements, the Indian courts have outlined the considerations that will be required to be considered to establish an employer-employee relationship. These considerations include: (i) control exercised by the employer; (ii) supervision of work by the employer; (iii) whether the employer decides the conditions of employment; (iv) disciplinary action by the employer; (v) supply of tools and materials to perform the work; (vi) insurance contribution deductions; and (vii) the mutual obligations between them. The extent of control and supervision exercised by the employer and the extent to which a person is fully integrated in the employer's organization or remains independent from it, are key considerations among other factors. Consequently, a person who is not bound by any employment contract and works flexibly on an assignment basis with minimal or no control and supervision may be classified as a gig worker.²⁶ Although the Code recognizes 'gig workers'

²⁴ Ibid.

²⁵ Lexology, <https://www.lexology.com/library/detail.aspx?g=0a14cdc3-5b43-472c-8974-5bcd43e74096> (last visited Apr. 14, 2024); Acuity Law, <https://www.acuitylaw.co.in/publication-and-news/india-rules-governing-the-gig-economy> (last visited Apr. 14, 2024).

²⁶ Ibid.

including platform workers, it distinguishes between employees and gig workers. The Code provides for mandatory provision of gratuity, employee compensation, insurance, provident fund, and maternity benefit to employees. On the other hand, it has provided for framing of suitable social security schemes (Schemes) by the Central and State Governments for gig workers on matters relating to life and disability cover, accident insurance, health and maternity benefits, old age protection, etc.²⁷ The Code further requires the Central Government to establish a social security fund (Fund) for gig workers. It imposes an obligation on the gig employers such as, ride sharing services, food and grocery delivery services or other goods and services provider platform to contribute 1-2% of their annual turnover into the Fund which may be used for carrying out the Schemes. This contribution by the gig employers will be subject to a limit of 5% of the amount paid or payable by a gig employer to gig workers. The Code also mandates the registration of all gig workers and platform workers to avail the benefits of the Schemes.²⁸

Labour rights are quintessential for the working class, it induces a feeling of social security and trust in the working class. Labour Laws apply to a wide ambit of workers in India spreading across multiple industries regulating the conditions at the workplace, social security benefits, rules relating to salary and wages etc. A new development rising in the labour industry is the gig economy. Gig work consists of income-earning activities outside of standard, long-term employer-employee relationships, they are engaged in livelihoods outside the traditional employer-employee arrangement, a free market system in which temporary positions are common and organisations hire independent workers for short-term commitments. The gig economy accounts to 1.5% of the total working class or the labour class in the country. A study estimates that 7.7 million workers were engaged in the gig economy and is expected to rise to 23.5 million by 2029-30, generating up to 4% of the country's income.²⁹ *The Code of Wages 2019, Code on Social Security 2020, Code on Occupational Safety, Health and Working Condition 2020 and the Code on Industrial Relations 2020 was passed by the Government of India and has been in application since then. But for taking the benefits of the same, the registration of a candidate is a must, but the fact remains that there is no single code that exclusively deals with*

²⁷ Lexology, <https://www.lexology.com/library/detail.aspx?g=0a14cdc3-5b43-472c-8974-5bcd43e74096> (last visited Apr. 14, 2024); Acuity Law, <https://www.acuitylaw.co.in/publication-and-news/india-rules-governing-the-gig-economy> (last visited Apr. 14, 2024); NYAAYA, <https://nyaaya.org/guest-blog/the-law-for-gig-workers-in-india/> (last visited Apr. 14, 2024); Labour Code, 2020; ISME, <https://www.isme.in/gig-economy-in-india-drivers-challenges-road-ahead-dr-pooja-nagpal/> (last visited Apr. 14, 2024).

²⁸ Ibid.

²⁹ SSRN, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4558703 (last visited Apr. 14, 2024).

the gig workers only. It is mandatory and necessary to be made because of the simple reason that gig working conditions are a world apart from other working conditions and these cannot be addressed without a separate code, which the nation lacks right now.

IV. CONCLUSION

Even though the concept of gig working is not new in India or around the world, still the laws that have been made to address the issues of gig workers and their counterparts are very different. Gig workers need dedicated platforms to work and function and specific laws that can deal with their own problems. But, right now this is lacking. However, if India studies the gig laws of other economies like the European laws or the United States of America laws or the laws of Scandinavian nations, Indian government can take some cues and invest in the well-being of the gig workers and help in improving their present as well as future conditions. The execution of laws and the formation of specific legislations, along with updating the same with regard to technological changes and challenges, India can surely prove to be a heaven for gig workers.



WHITE BLACK
LEGAL