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## BETWEEN FLEXIBILITY AND PRECARIETY: LEGAL CHALLENGES OF THE GIG ECONOMY IN INDIA

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### ABSTRACT

The gig economy has been identified as a characteristic feature of the contemporary Indian labour market, and technological advancements, business models, and consumer behaviour are the forces that have driven this change. While digital platforms such as Uber, Zomato, and Swiggy have offered employment and greater accessibility of services, they have also rendered gig economy workers susceptible to economic insecurity, job insecurity, and the deprivation of basic rights as workers. This article will critically examine the legal challenges faced by gig economy workers in India, in the backdrop of the controversy between labour flexibility and labour rights. The article discusses the special features of gig economy jobs, particularly the absence of the typical employer-employee relationship, which allows platform aggregators to avoid the typical obligations imposed by labour laws, such as vicarious liability, minimum wage guarantees, and social security benefits. The article also evaluates the applicability of the new legislative framework in India, namely the Code on Wages, 2019 and the Code on Social Security, 2020. While the Wage Code has broad definitions of the terms “employee” and “worker,” the absence of a clear definition of gig workers results in a great deal of ambiguity and ineffectiveness. In contrast, the Social Security Code, 2020 is a welcome change that recognizes gig and platform workers and extends them welfare-oriented benefits such as insurance, health, and pension schemes<sup>1</sup>. However, as per the article, these legislative steps are still not sufficient, as they do not address the basic issues of minimum wage standards, collective bargaining, and job security. The article also throws light on state-level legislation, especially the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023, which is a welcome move.

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<sup>1</sup> JS Mann (ed.), *Liberalising Labour Law* (National Law University Delhi, 2023) available at: <<https://www.nludelhi.ac.in/download/Book%20on%20Liberalising%20Labour%20Law%202023.pdf>> (last visited on Jan. 31, 2026).

Conclusion: The article concludes that if there is no legislative step to regulate the gig economy, the gig economy will continue to exploit workers. There is a need to strike a balance between economic innovation and the dignity, equity, and social justice of workers.

**Key Words:** - *Gig Economy, Platform Workers, Labour Rights, Social Security Code 2020, Employment Classification*

## INTRODUCTION

The gig economy in India has grown rapidly, driven by technological advancements in various sectors, mass utilization of technological equipment. The rise of startups like Uber and Zomato was convenient for the people in many ways. Within the few clicks on the smartphone, they can now order food, deliver essential goods, book cabs on the right time. However, the ease comes at the expense of significant human resources. In addition to facing tough working conditions and being denied basic labour rights, these low-paid workers—who often earn only 11,000 per month or less—are also prohibited from engaging in regular employer-employee relationships.<sup>2</sup>

The gig economy is expanding rapidly, and the platforms that are facilitating this are expanding more expeditiously in the startup culture. According to NITI Aayog, the gig economy is predicted to reach 23.5 million workers by 2029–2030. These gig worker's incomes and the wealthy clients they service differ significantly. This disparity raises serious concerns regarding the gig economy's long-term viability.<sup>3</sup>

## GIG WORKER

Gig workers are different from traditional and permanent employees. They don't have employer-employee relationships, making employer free from the ambit of vicarious liability. The employer

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<sup>2</sup>Economic Policy Institute, "EPI Gig Worker Survey Highlights Economic Insecurity and Unfair Treatment of Workers in the Gig Economy" available at: <<https://www.epi.org/publication/gig-worker-survey/>> (last visited on Oct. 26, 2024).

<sup>3</sup>NITI Aayog, "India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work" (Policy Brief, June 2022) available at: <[https://www.niti.gov.in/sites/default/files/2023-06/Policy\\_Brief\\_India%27s\\_Booming\\_Gig\\_and\\_Platform\\_Economy\\_27062022.pdf](https://www.niti.gov.in/sites/default/files/2023-06/Policy_Brief_India%27s_Booming_Gig_and_Platform_Economy_27062022.pdf)> (last visited on Oct. 26, 2024).

is no longer made liable for the acts of the gig worker, nor they have to, most of the time, compensate for the wrongful acts of the gig worker.<sup>4</sup>

The gig workers are hired by the company for specific projects or tasks and hired on hourly basis. With the assistance of gig workers, online platforms act as facilitators in the process. These platforms manage communications, distribution, and payment processing.

### **AVANTAGES OF GIG ECONOMY**

The gig economy has empowered the persons to work in a way that fits their daily work life and personal goals. Making it advantageous to students, freelancers, and individuals with care giving responsibilities. The flexibility it offers is one of the most compelling benefits, allowing the individual to set their own hours and choose assignments that best suits to their skills and lifestyle. Gig workers avoid traditional barriers to employments like strict educational or experience requirements, making entry and exit from the job easier.

There is also financial independence, especially to those who may have challenges in accessing the 'conventional' employment merely due to being too old, located at a remote area, or not being formally qualified. Freelance writers, graphic designers, and consultants can engage on various projects with continuous skills training and experience of new concepts. The absence of hierarchies in this sector further improves their morale since the workers will have much more freedom in making decisions.

### **LEGISLATIVE FRAMEWORK**

Previous to the second decade of the 21st century, this industry functioned in a legislative vacuum. The gig workers were neither statutorily recognized as regular employees nor entitled to benefit from rights and privileges extended in labour laws. This absence of statutory recognition kept them liable to risks like employment insecurity and social security benefits obscurity. They had few alternatives for the resolution of disputes.

Traditionally, the labour laws in India were drafted for the welfare for workers who work in a formal or structured economy. The Industrial Dispute Act of 1947 and Factories Act of 1948 were

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<sup>4</sup>FasterCapital, "Vicarious Liability in the Gig Economy: Challenges and Solutions" (2024) available at: <<https://fastercapital.com/content/Vicarious-Liability-in-the-Gig-Economy--Challenges-and-Solutions.html>> (last visited on Oct. 26, 2025).

more targeted towards permanent employees and left out independent contractors and informal workers<sup>5</sup>. Gig workers are often categorized under independent contractor and, hence, did not fall under any such protections, and were deprived of basic benefits like minimum wage guarantee, social security benefits, or rights against unfair termination<sup>6</sup>.

However, exponential expansion of activity through a platform, fuelled by changing behaviour of consumers and technological developments, brought to the fore the fact that prevailing legal frameworks were inadequate. The increasing reliance on gig workers in sectors like food delivery, ride-hailing, and freelance servicing underscored the need for comprehensive legislation. These demand of worker's rights and legal status were further spurred by the perilous working conditions faced by them during the COVID-19 pandemic.

### **CODE ON WAGES, 2019**

The 2019 Wage [Code](#) is a significant piece of legislation in India that consolidates and simplifies regulations governing bonuses, pay, and related labour rights. While it largely addressed formal employment ties, certain of its regulations may have an indirect impact on gig workers, particularly if construed broadly.

#### 1. Broad Definition of 'Employee' and 'Worker'

The code on wages, 2019, defines the terms 'employee' and 'worker' broadly.

- Employee: Any individual engaged in carrying out manual, operational, supervisory, management, technical, clerical, skilled, or unskilled labour is featured.
- Worker: Refers to individuals that conduct manual, unskilled, skilled, technical, operational, or clerical labour; it does not include people in high-level positions such as managers or supervisors who make more than a certain amount.

Although, gig worker, classified under independent contractors, the broad definitions leave the room for potential inclusion of gig workers if their roles align with those outlined in the code.

#### 2. Applicability of Minimum Wages

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<sup>5</sup>Sarvagya Chitranshi and A Dhruvi, "Determining the Status and Treatment of 'Gig-Workers' under the Industrial Disputes Act, 1947" 6 GLS Law Journal 134 (2024) available at:< <https://glsjournal.in/index.php/glsjournal/article/view/134/119>> (last visited on Oct. 28, 2024).

<sup>6</sup>Chirag HB, Utsav Chandrappa and Bhargav A R, "An Analysis of the Labour Rights of Gig Workers in India" (September 1, 2023) available at:<[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4558703](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4558703)>(last visited on Oct. 28, 2025).

The code on wages, 2019 ensures that every worker, regardless of the type of their work, is entitled to a statutory minimum wage. While gig workers are not explicitly mentioned, if interpreted progressively, platform companies might be obligated to ensure that gig workers will also be granted minimum wage for the hours of task performed.

### 3. Timely Payment of Wages

The code requires the wages be paid at regular intervals (daily, weekly, or monthly, depending on the worker's classification). This provision could influence the gig economy platforms to ensure timeliness in paying their workers, many of whom depend on daily or task-based earning.

### 4. Non-compliance Penalties

The code prescribes the punishments for the employees who fail to adhere to the code's provisions. This serves as a safeguard for the gig workers against the unfair practices by their employers.

## **DRAWBACKS FOR GIG WORKERS UNDER THE CODE**

1. Classification Ambiguity: Gig workers, often categorized as independent contractors, fall outside the traditional employer- employee frameworks, led to limiting the direct applicability of the code to them.
2. Implementation Gaps: Enforcement mechanisms for ensuring rights and protection of the gig workers in remain weak.
3. Lack of Explicit Inclusion: The Code does not explicitly recognise gig or platform workers, leaving their status dependent on judicial interpretation or additional legislative action.

Although the Wage Code of 2019 fails to explicitly cover gig economy employees, its detailed definitions and principles regarding minimum wages, timely payments, and non-discrimination provide a potential basis for their inclusion. This law establishes the framework for a national minimum wage. However, the rights and protections of gig workers are still not completely recognized by the statute. Further law is needed to fully safeguard gig workers; in this regard, the government passed the 2020 Code on Social Security.

## **CODE ON SOCIAL SECURITY, 2020**

The Code on Social Security, 2020 is a landmark legislation in India to recognise and safeguard the rights of temporary and platform-based employees. It streamlines and improves various previous social security legislation, expanding coverage to include non-traditional employment. Key features include-

### **1. Definitions of Gig and Platform Workers**

The legislation recognised and properly defined the nomenclature of gig workers as well as platform workers:

- **Gig workers:** An individual who works or participates in an employment arrangement that differs from the traditional employer-employee relationship, usually in flexible or temporary employment.
- **Platform Workers:** Refers to individual who uses online platform to access work or provide services, such as ride-hailing drivers or food delivery personnel.

These definitions formally acknowledge the gig economy workforce, setting the stage for their inclusion in social security schemes and granting them legal rights<sup>7</sup>.

### **2. Social Security Benefits**

Previously, due to fact that gig economy was not recognised and also excluded from the scope of the employer-employee relationship. So that they were denied any social security benefits. But by this legislation they were granted equal perks and benefits like traditional form of employment. These benefits were-

- **Life and Disability Cover-** Providing financial support in cases of death or disability arising out of work-related incidents.
- **Health and Maternity Benefits-** Covering medical expenses and for women workers, ensuring maternity benefits.
- **Old Age Protection-** Introducing measures such as pension schemes to ensure financial security during retirement. Pradhan Mantri Shram Yogi Maandhan(PMSYM) is such example.

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<sup>7</sup>Sanvi Bhatia, "Can the New Social Security Code of 2020 Help Solve the Swiggy-Zomato Labour Law Crisis?" (September 23, 2021) available at:<<https://cll.nliu.ac.in/can-the-new-social-security-code-of-2020-help-solve-the-swiggy-zomato-labour-law-crisis/>> (last visited on Oct. 30, 2025).

- Accident Insurances- Protecting the worker's financial burden due to the accident during the work. The Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY) is one such life insurance policy for unorganised workers.

### **3. Social Security Fund for Gig Workers**

The Code, for the preservation of rights of gig and platform workers, mandates the creation of the Social Security Fund.

- Funding Mechanism- Aggregators (companies such as Uber, Swiggy, and Zomato) were legally obliged to contribute 1-2 % of their annual turnover, subject to a cap of 5% of the total amount paid to gig workers<sup>8</sup>.
- Government Contributions- Centre and State government are expected to contribute to this fund to enhance its efficacy.

### **4. Role of Aggregators**

The Code **categorises aggregators** in specified categories to contribute to the social security fund.

- Ride-hailing platforms (e.g. Ola, Rapido)
- Food delivery platforms (e.g. Zomato, Swiggy)
- E-commerce companies (e.g. Amazon, Flipkart)

These aggregators are essential to guaranteeing social security benefits for platform and gig workers.

### **5. Registration of Gig Workers**

The code places an emphasis on gig platform employees registering on the e-Shram Portal, a nationwide database for unorganized sector labour. The objective of this is to build an extensive database for efficient social security benefit distribution.

The 2020 Social Security Code is a laudable first step in securing rights and providing social security to India's gig and platform workers. By recognising their unique employment status and introducing welfare measures, the code addresses critical gaps in the legal framework. However, many of the rights and benefits of gig and platforms workers remained in abeyance.

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<sup>8</sup>The Code on Social Security, 2020 (Act 36 of 2020) available at: < [https://labour.gov.in/sites/default/files/ss\\_code\\_gazette.pdf](https://labour.gov.in/sites/default/files/ss_code_gazette.pdf) > (last visited on Oct. 30, 2025).

The Code, although provides social security such as health benefits, insurances and other but it does not address other critical concerns of the gig workers, such as job security, minimum wages, and collective bargaining rights. Not providing minimum wages to gig workers remains major concern and questions their job security.

According to the code, workers, platform aggregators, and the central government all share duty for providing fundamental welfare measures. However, the code makes no mention of which stakeholder bears responsibility for what amount of welfare, leaving room for ambiguity over obligation.

### **NEED TO ADDRESS ISSUES**

Currently, there is no legislation in India that is made specifically for the gig worker's rights and protection. The existing legislations are broad that covers all sorts of employment, workers and wagers. But without the specific legislation for gig workers, considering the fact that the sector is developing exponentially aligning with the technological advancements, the vast majority of unorganised workers remained in curtain of legislation void. This can be rectified by amending current labour laws or passing new legislation aimed exclusively at gig workers, ensuring their right to minimum wages and other job rights.

The 'Platform-Based Gig Workers (Registration and Welfare) Act, 2023', which was adopted in Rajasthan, should be passed by more states to ensure platform worker's job rights, social security, and welfare. The Act is a trailblazer in addressing issues and ensuring rights and protections for unorganized workers. This establishes the Rajasthan Platform-Based Gig Workers Welfare Board, for identifying gig workers, aggregators, and the core workers, advises enrolled gig workers on social security initiatives, and guarantees that workers receive benefits under the plans<sup>9</sup>.

More states should enact similar legislation to recognize unorganised sector workers while granting them legal rights and social security benefits. According to the 2020 Social Security Code, gig workers are now eligible for social benefits like as maternal benefits, health and

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<sup>9</sup> Bishen Jeswant and Luv Saggi, "Rajasthan passes Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023" *India Corporate Law Blog* (August 30, 2023) available at: <https://corporate.cyrilamarchandblogs.com/2023/08/rajasthan-passes-rajasthan-platform-based-gig-workers-registration-and-welfare-act-2023/> (last visited on Nov. 01, 2025)

disability coverage, retirement protection, and job accident compensation, among others. However, none of the clauses guarantee secure benefits, which means that while the central government can create welfare plans that address these aspects of personal and employment security on occasion, they are not guaranteed.

### **HOW CONDITIONS CAN BE IMPROVED**

Empowering gig workers necessitates the formation of an umbrella union that will grant them collective bargaining rights. The union should address issues such as inadequate wages, lack of recognition, and demand their rights. The union can have the negotiating power to platform aggregators. Formal recognition of such union by the government and platform is crucial for legitimacy and effective dialogue. Additionally, ensuring workers have recourse to accurate information concerning their rights and platform policies will promote to informed decision-making. The combination of collective representation and transparency can create a more equitable gig economy, protecting their rights and dignity.

Although there is anticipation that gig workers will be recognized by labour rules, social security terms are still unclear and lack a defined regulatory body. It is therefore necessary to extend mandated coverage for platform workers under centrally sponsored programs such as Pradhan Mantri Suraksha Bima Yojana, Pradhan Mantri Jeevan Jyoti Bima Yojana, and Pradhan Mantri Jan Arogya Yojana. In the platform economy, women gig workers are often the most vulnerable, and aggregators may assist in safeguarding them.

The platform and governments must take protective measures in respect of gig workers from the extreme heatwaves. Some such measures include the supply of cooling gear, mandating frequent breaks, providing compensatory pay-in accordance with labour department guidelines. One such instance is Zomato's latest advisory where it has encouraged its customers not to make orders during peak hour on afternoons unless "absolutely necessary," thus showing concern for the safety and well-being of workers in harsh situations.

### **CONCLUSION**

The gig economy in India is emerging as a disruptive force, thanks to its new paradigm of flexible labour arrangements and unrivalled customer convenience. However, this quick rise has revealed substantial issues for gig workers, such as poor earnings, insufficient social security,

and limited legal protections. The legislation that governs this sector, particularly the 2019 Code on Wages and the 2020 Code on Social Security, deserves credit for recognizing and resolving these concerns. These steps, however, are insufficient because they do not guarantee gig workers' rights to minimum pay, collective bargaining, or job security.

It is imperative that legislation be crafted specifically to suit the unique needs of platform and gig worker. One example of how state-level initiatives can result in meaningful change is the Platform-Based Gig Workers (Registration and Welfare) Act, 2023 in Rajasthan. Coordination with federal policy and the extension of similar models to other states can result in a unified legal and welfare framework. A more sustainable and equitable gig economy can also be ensured by empowering workers through collective bargaining processes and unions, in addition to open platform policies.

However, in addition to the above-mentioned statutory changes, the future course of regulating the gig economy must be informed by the constitutional values of social justice, dignity of labour, and substantive equality, as enshrined in Articles 14, 19, and 21 of the Constitution of India. The gig workers, despite being categorized as independent contractors, engage in labour that is an essential part and parcel of the platform businesses and the digital economy in general. This recognition of reality necessitates a paradigm shift from the formalistic approach to a rights-based approach that ensures fair compensation, occupational safety, and grievance redressal mechanisms. It is only by incorporating worker-friendly provisions into the digital labour regime of India that the gig economy can become a model that is not only efficient but also just and equitable.

Ultimately, the success of the gig economy should not come at the cost of Indian workers' rights and dignity. By resolving existing flaws and creating a balanced regulatory environment, India can ensure that its gig economy develops while adhering to the concepts of justice, equity, and fairness. This comprehensive approach would protect workers while simultaneously promoting the industry's long-term profitability and resilience.