INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 5 AND ISSUE 5 OF 2025

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

AN ANALYSIS OF GIG WORKERS AND THE CHALLENGES SURROUNDING THEIR EMPLOYMENT

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BEST CITATION - JANANI P, AN ANALYSIS OF GIG WORKERS AND THE CHALLENGES SURROUNDING THEIR EMPLOYMENT, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (5) OF 2025, PG. 376-381, APIS – 3920 – 0001 & ISSN - 2583-2344

ABSTRACT

There are around 450 million unorganized laborers in India, making up 92.4% of the country's employment. Approximately 83% of the workforce is employed in the unorganized sector. Remarkably, a brand-new unorganized labor market known as "gig workers" or "platform-based" workers has arisen in the past ten years. The Unorganized Workers' Social Security Act of 2008 defines an "unorganized worker" as a wage worker, self-employed worker, or home-based worker. Gig workers may not be included in this definition, but they are covered by the second clause, which states that no labor regulation defines the word. Since they are hired by companies using digital applications, resulting in a platform-dependent employment structure, they are referred to as platform workers. The first Indian state to create legislation protecting gig workers and giving them a sufficient regulatory framework to stop exploitation of their freelancing employment was Rajasthan. This essay examines a number of gig economy-related topics while accounting for the growing need for platform labor. It also offers a well-thought-out framework for harmonious connections between the aggregator and the workers, as well as specific actions to fulfill their requirements. During the COVID-19 epidemic, the gig economy flourished in large part because it was useful for delivering necessities, food, and transportation services, all of which were severely impacted. The scope of the research is limited to discussing various issues faced by platform workers (workers employed by aggregators like Swiggy, Ola, Uber etc.) and suggesting certain solutions for the same.

Keywords : Gig Workers, Digital Platform, Social Security, Redressal Mechanism, Platform Workers

EVOLUTION OF GIG ECONOMY IN INDIA

They can be found wherever. Highways, little streets, packed booths, desolate road and everywhere. They are always confined to their car seats, whether they are serving clients or retail establishments. Since their pay is based on their performance ratings, they put forth every effort to do the assignment effectively. One of the major effects of the smartphone revolution, which created a new type of labor force in the Indian market, is the gig economy, as it is commonly known. They can take many different shapes. taxi drivers, delivery partners, independent contractors, beauticians, technicians, etc. Because it offers flexible work schedules and no oversight from superiors, it mostly appeals to the country's youth. Additionally, it markets itself as a way to get rapid money with no investment, which draws in a lot of middle-class and lower-class people. Many recent graduates are earning their living through the gig economy as a result of the Indian labor market's dearth of official, long-term work possibilities.

They deal with several issues on a daily basis, and after corporate business deductions, their income is quite low. Much of the issue stems from the fact that our labor rules do not give any legal classification for this type of gig work. They are neither classified as independent contractors nor as informal. Their work mostly involves dealing with outside agents or vendors, thus there aren't any formal "employer-employee" connections. Workers in this ill-defined group are not entitled to any social security benefits that regular wage earners are. Digital technology has expanded the gig economy's online presence, despite its organizational limitations. There are several tales concerning the nature of employment in the gig economy and the diverse experiences that gig workers have, ranging from thrilling to terrifying.

DEPENDENCY OF LABOUR FORCE ON GIG ECONOMY

Due to the lack of legitimate employment opportunities in the labor market, the number of unorganized laborers in India has been steadily increasing in recent years. Particularly since the pandemic, the percentage of unorganized workers in the labor force has significantly increased. Before the gig economy took off in India, a sizable and intricate network of unorganized workers existed there, consisting of self-employed people and small businesses. Similar labor force shifts occurred in India as the gig economy spread throughout the rest of the world.

According to a recent study by NITI Aayog, there were 77 lakh (7.7 million) gig economy workers in 2020–2021, and by 2029–2023, there would likely be 2.35 crore (23.5 million) gig workers. In contrast to 2021, the demand for gig workers has grown tenfold overall, while gig workers' involvement has climbed thrice in 2022. Demand for the gig segment has skyrocketed for job profiles such as Business Development Executives (500%), Field Sales Executives (374%), Digital Promoters (200%), Brand Promoters (75%), and Micro Influencers (50%). The fact that 48% of gig laborers today are Millennials and Gen Z, or those between the ages of 19 and 25, indicates that young people in India are rapidly adopting gig and freelance work and are eager for flexible schedules. Although just 20% of gig workers are between the ages of 41 and 60, 32% of gig economy workers are between the ages of 26 and 40. Furthermore, gig labor provides working women in India with a flexible kind of employment, even though women only make up 28% of this group [638].

CIEL HR Services, India's leading provider of comprehensive talent solutions, has prepared a study paper on the country's gig labor situation. According to the thorough analysis of the data, 50% of gig workers expressed a want to seek full-time employment. It appears that many gig workers view gig work as a temporary or transitional phase in their careers with the goal of eventually landing a more permanent full-time position, despite the fact that it has grown in popularity as an alternative form of employment. The study finds that of the several factors affecting people's decisions to seek gig work, two primary motivations stand out: (a) The chance to engage in a range of initiatives (a) The autonomy that accompanies becoming their own manager. Gig workers are capable of taking control of their professional life, making their own decisions, and setting their own hours.

As of 2021, Swiggy, one of the most popular meal delivery apps in India, was predicted to have 50 million users. The company works with over 200,000 restaurants across the country and is well-known in major cities like Bangalore, Delhi, Mumbai, and Kolkata. Ola offers up to one billion rides a year overall through its platform [639]. Ola's driver-partner-focused strategy to ride-sharing, which entails investing in its partners to give them the resources, incentives, and training they need to deliver best-in-class transportation services, is what has allowed it to flourish and grow quickly.

CHALLENGES SURROUNDING GIG WORKERS

Though most of the issues associated with gig workers are similar to that of the labourers

[638] Ghosh, Anweshaa and Ramachandran, Risha and Zaidi, Mubashira, Women Workers in the Gig Economy in India: An Exploratory Study (May 1, 2021). Available at SSRN: https://ssrn.com/abstract=3944205 or http://dx.doi.org/10.2139/ssrn.3944205

[639] Source : https://www.olacabs.com/about.html

employed in informal jobs, some issues present itself as unique and true to the nature of the work performed by the gig workers. Some of the main challenges are discussed here :

1. Limited Career Advancement Opportunities : It is one of the serious issues that one has to look into. There is always a limit set upon the development that platform based workers can expect in their field of work. When a young person takes up platform based work as his principle means of income, he loses his prime years to platform based workers, which stagnates advancement opportunities at a particular level. Such an employment, is a liability to the country as the worker's skill may become obsolete and he wouldn't be able to contribute to the country's economic production.
2. Expense Burdens : When a worker takes up certain jobs like driving, food delivery, where one has to depend on resources beyond his skills, the cost of maintaining the resources lies upon the worker, which adds up to the cost and reduce overall earnings.
3. Unpredictable work hours : The fashion of being available throughout day and night became popular in during the COVID times. Main reason for emergence of such a fashion is the availability of platform based workers 24/7. Such unpredictable work hours can affect a worker mentally and most importantly, physically too.
4. Income Volatility : Platform workers, similar to informal workers, face income volatility. One day, they might earn big, the next day it would be simply be a hand to mouth existence. This leaves one with no motivation to do a job, especially when the worker is not afforded any support from his aggregators Platform based workers often lack a steady or a predictable income. The nature of their work are freelance and they often work at their own intervals with varying work opportunities. Such dynamic work schedule and payment schedule renders it impossible for a worker to budget and plan for the future.
5. Health Hazards : Certain type of platform works, like, drivers or delivery services face are exposed to dangerous working conditions which come with health hazards. Workers travel long distance in motorbikes with no safety measures, often defying traffic rules, in order to increase their performance based incentives. Such long travel, day and night can also lead to health complications in the long term.
6. Burnout and overwork : Platform workers, do not have the ability to regulate the timings of their employment. They are forced to work flexible hours, seeking new gigs and manage various aspects of business. The working time is in the hands of the customers than the aggregators of the worker himself which is a pathetic situation. This leads to burnout and may cause psychological problems for a worker.
7. Extreme levels of flexibility to the employers : Gig economy provides huge flexibility to employers—numerical, functional and financial.15 Such flexibility gives extreme autonomy to the employers that the job security, the functional aspects of a task, the numerical labour required for a job is all at the mercy of the employer.

NEED FOR SOCIAL SECURITY BENEFITS

As was said above, gig workers have working circumstances that are comparable to those of regular employees. In order to obtain social security benefits, gig workers should be able to be classified as "workmen" under the 2020 Code of Wages. Paid leave, health insurance, bonuses, and reimbursement for additional costs spent by the operational instruments used for the job are all crucial for employees.

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The Tamil Nadu Shops and Establishment Act's Section 25 guarantees employees working in stores or other businesses, such as IT and service firms, at least 12 days of paid leave annually. By requiring the aggregators to give their employees at least 12 days of paid leave annually, the same clause might be used as a precedent and applied to gig workers. The relevant government can set a cap on the maximum amount of paid leave. Additionally, as a worker needs to take a day off when performing physically demanding labor, plans should be established to offer one full day off each week.

Section 32(1)(ii) [640] of the Occupational, Safety, Health, and Working Conditions (OSH&WC) Code of 2020, 32 provides for paid leave for the worker, when he or she has worked for a minimum period of 20 working days. The same provisions should also be extended and the aggregators should allow the worker to avail the leave, if he had worked with that aggregator for a period of 20 years.

Additionally, the majority of gig workers work for companies like Swiggy, Zomato, Ola, and Uber that transport goods or services to customers. Being on wheels is a constant requirement for these services. It is inevitable that an employee will have accidents while working. It should be required of the aggregators to offer health insurance or health coverage to employees who sustain injuries while working for that particular aggregator. It makes sense for the employer to offer health insurance for these kinds of injuries when the primary function of the job is delivering or attempting to supply products or services. While doing so, it is important to not deduct the premium towards such insurance from the workers themselves but rather the aggregators should undertake and insure the workers at large on their muster-roll.

To address the issue of flexible work arrangements, it is also possible to incorporate gig workers under the Employee State Insurance Act. The relevant government can then offer insurance coverage. To make the procedure more simpler, the government should create a board or site where employees who identify as gig workers may sign up and buy insurance to cover any injuries they may experience on the job. Because gig work is variable, the portal need to allow him to adjust his job source on a regular basis. Adequate measures has to be prescribed by the appropriate government in regulating the insurance cap and cover. Regular rules and regulations governing the process shall also be applied accordingly. Women workers are denied benefits and protection under the Maternity Benefit Act, 1961 [641] as well.

The Payment of Gratuity Act of 1972 [642] similarly denies gratuity payments to workers engaged in platform-mediated labor. Gratuity is another urgent issue. Right now. According to the Code on Social Security Bill, 2019 [643], a gratuity is given to employees who have worked continuously for five years. However, independent contractors are not granted this protection, and as a result, platform workers are also denied it.

Nearly 74% of gig workers, according to a poll done between December 2021 and February 2022, are unable to save money. This is because they spend the majority of their revenue on maintaining the operating equipment needed for their jobs as well as on daily necessities. They are living hand to mouth because they are caught in a vicious cycle. In order to compensate gig workers for the real wear and tear of their equipment, the aggregators are required to provide them a specific amount of allowance on a percentage basis. This can allow the gig worker create a contingency fund or prepare for unforeseen expenses in the future, providing him with some stability.

A WAY FORWARD

640 Source : https://dgfasli.gov.in/sites/default/files/2018-12/OSH_Gazette.pdf

641 Source : https://labour.gov.in/sites/default/files/the_maternity_benefit_act_1961_0.pdf

642 Source : https://clc.gov.in/clc/sites/default/files/PaymentofGratuityAct.pdf

643 Source : https://labour.gov.in/sites/default/files/ss_code_gazette.pdf

Gig workers should no longer be referred to as "partners" as this is a tactic employed by aggregators to avoid labor requirements. In order to provide many social security benefits to at least 250 million unorganized workers, including gig workers, by the next five years, the central government enacted the Social Security Code in 2020. Due to COVID-19, the conversation on it appears to have stalled. This allowed the government to provide health insurance, disability benefits, old age pensions, and other benefits to all groups, including migrant, gig, and platform workers. These days, a gig worker is someone who works "outside the traditional employer employee relationship," whereas a platform worker is someone who offers their skills online. The Information Technology Act defines platforms or aggregators as digital interfaces that facilitate relationships between users and service providers.

The Indian stance on gig workers is based on the historic Hussainbhai [644] case, which holds that an employer-employee connection must be clearly present for a worker to be defined under Section 2(s) of the Industrial Disputes Act. However, this turns out to be a somewhat laborious task. Additionally, they must meet the requirements for "continuous service" outlined in Chapter 5A of the ID Act, which addresses compensation in the event of a worker's layoff. 50 Commercial laws still apply to them, but because of the unique nature of their employer-employee relationship, they are not very helpful.

Two tiers of solutions must be implemented: first by the aggregator or employer, and then by creating a board that is only for gig workers. The employer can offer benefits like insurance, Mediclaim policies, maternity leave, minimum wage payment, fair working conditions, and more. The board can be established to first check that the aggregators are following labor laws. The board can also handle grievance redressal, bonus and gratuity payments, and other benefits that aren't industry-specific.

CONCLUSION

To summarize, the status of gig workers in India is definitely complex, considering the various kinds of employer-employee connections that present both obstacles and possibilities. Gig employment still offers a lot of advantages over other flexible work arrangements, but it also has serious drawbacks. It is crucial to establish a legal framework that ensures no one is left in danger while taking into consideration the financial standing of both gig workers and aggregators. We should be able to implement comprehensive changes with a multi-stakeholder approach and a hint of Marxian thought, and India can seek to establish labor laws that are fairly inclusive and uphold the rights and dignity of all workers.

The creation of a new legal structure that solely addresses the unique requirements of gig workers rather than attempting to fit them into the conventional classifications is an often requested suggestion. Regarding employer-employee interactions, a number of theorists suggest a possible "dependent contractor" category that serves as a compromise. However, avoiding issues like minimum salaries and unjust deactivation necessitates quick policy changes or directives since they are among the most urgent issues, and because there are no laws governing them, infractions are not taken severely. This paper recommends making policy decisions on some topics while lawmakers work on an updated or new piece of legislation, ideally comprehensive.

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