

## GIG ECONOMY AND LABOUR RIGHTS IN INDIA

**AUTHOR** – KAVITHA CHITTRARASU, STUDENT AT SCHOOL OF EXCELLENCE IN LAW, THE TAMIL NADU DR AMBEDKAR LAW UNIVERSITY

**BEST CITATION** – KAVITHA CHITTRARASU, GIG ECONOMY AND LABOUR RIGHTS IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (5) OF 2026, PG. 643-649, APIS – 3920 – 0001 & ISSN – 2583-2344.

### ABSTRACT:

*THE RAPID EXPANSION OF THE GIG ECONOMY IN INDIA, DRIVEN by digital platforms and technological advancement, has fundamentally transformed traditional employment structures. While this model offers flexibility and increased employment opportunities, it simultaneously raises significant concerns regarding labour rights and worker protection. Gig workers, typically classified as independent contractors, remain excluded from essential legal safeguards such as minimum wages, social security, job security, and safe working conditions. This paper critically examines the legal status of gig workers in India, highlighting the inadequacy of existing labour laws that are primarily designed around conventional employer-employee relationships. Although the Code on Social Security, 2020 marks a progressive step by recognizing gig and platform workers, it fails to grant them enforceable rights or comprehensive protection. Through an analysis of judicial principles and comparative international frameworks, the paper underscores the urgent need for legal reforms. It advocates for the introduction of an intermediate worker classification, expansion of basic labour rights, and enhanced regulatory oversight of platform-based work. The study concludes that a balanced legal framework is essential to ensure that the growth of the gig economy does not come at the expense of worker welfare, thereby promoting both economic efficiency and social justice.*

**KEYWORDS:** Gig Economy, Platform Work, Labour Rights, Social Security, Economic Dependency, Labour Law Reforms, Worker Protection, Job Security.

### INTRODUCTION:

The concept of employment has undergone a major transformation with the rise of digital platforms. The gig economy refers to a labour market characterized by short-term, flexible, and task-based work arrangements. In India, this model has expanded rapidly with the growth of platforms like Uber, Zomato, and Swiggy.

While the gig economy provides employment opportunities, it raises serious legal concerns. Gig workers are often classified as independent contractors, thereby excluding them from labour law protections such as minimum wages, job security, and social security benefits. The introduction of the Code on Social Security, 2020 marks an important step in recognizing

gig workers. However, significant gaps remain in ensuring their rights and welfare.

In India, the gig economy has experienced rapid growth due to factors such as increasing internet penetration, widespread smartphone usage, and the expansion of platform-based services. Companies offering ride-sharing, food delivery, and other on-demand services have created employment opportunities for millions of individuals. However, this growth has also raised critical legal and social concerns, particularly regarding the status and rights of gig workers. Unlike traditional employees, gig workers are generally classified as independent contractors, which excludes them from the protection of labour laws.

The absence of a clear legal framework governing gig workers has resulted in significant gaps in their protection. They are often denied access to essential benefits such as minimum wages, social security, job security, and safe working conditions. Recognizing these challenges, the Indian legislature introduced the Code on Social Security, 2020, which provides limited recognition to gig and platform workers. However, the effectiveness of this legislation remains questionable due to issues relating to implementation and enforceability.

This research paper aims to critically examine the legal status, rights, and challenges faced by gig workers in India. It also seeks to analyze the adequacy of existing laws and explore the need for comprehensive reforms to ensure that the benefits of the gig economy are not achieved at the cost of worker welfare.

#### MEANING AND NATURE OF GIG ECONOMY:

The gig economy refers to a labour market characterized by the prevalence of short-term contracts or freelance work, as opposed to permanent jobs. The term “gig” originates from the music industry, where performers would take up temporary engagements. In the modern context, the gig economy encompasses a wide range of work arrangements facilitated by digital platforms that enable individuals to provide services on demand.

One of the defining features of the gig economy is its flexibility. Workers have the freedom to choose when, where, and how much they work, which makes it an attractive option for individuals seeking additional income or work-life balance. However, this flexibility often comes at the cost of job security and stability. Gig workers are typically paid on a per-task basis, which means their income is directly linked to the number of tasks they complete.

Another important characteristic of the gig economy is the absence of a formal employer-employee relationship. Digital platforms act as intermediaries, connecting workers with

customers without assuming the responsibilities of an employer. This arrangement creates ambiguity regarding the rights and obligations of both parties. Furthermore, the use of algorithms to allocate work and evaluate performance introduces a new dimension of control, which challenges the traditional understanding of employment relationships.

The gig economy can be broadly categorized into platform-based work, freelance work, and crowd work. Platform-based work involves services such as ride-sharing and food delivery, while freelance work includes professional services like writing and design. Crowd work involves the completion of small tasks distributed online to a large number of workers. Despite these variations, all forms of gig work share common features such as flexibility, independence, and lack of formal protection.

#### STATEMENT OF THE PROBLEM :

The rapid expansion of the gig economy in India has significantly transformed the nature of employment by introducing flexible, platform-based work arrangements. While this model has generated new income opportunities, it has also created a class of workers who operate outside the protection of traditional labour laws. Gig workers are generally classified as independent contractors, which excludes them from essential rights such as minimum wages, job security, social security benefits, and safe working conditions.

The existing legal framework in India is primarily designed around a conventional employer-employee relationship and is therefore ill-equipped to address the complexities of gig work. Although the Code on Social Security, 2020 recognizes gig and platform workers, it fails to grant them enforceable rights or comprehensive protection, thereby leaving significant gaps in their welfare and legal security.

This situation has led to increasing concerns regarding worker exploitation, income instability, and lack of accountability of digital

platforms. The absence of clear legal classification and effective regulatory mechanisms has created ambiguity and imbalance in the relationship between gig workers and platform companies.

#### OBJECTIVES OF THE STUDY :

- To examine the concept and growth of the gig economy in India and its impact on the traditional employment structure.
- To analyse the legal status of gig workers in India, particularly in the absence of a clear employer–employee relationship.
- To evaluate the adequacy and effectiveness of existing labour laws, especially the Code on Social Security, 2020, in protecting gig workers.
- To identify the key challenges faced by gig workers, including lack of job security, income instability, and absence of social security benefits.
- To study the role of judicial principles such as the control test and economic reality test in determining employment relationships.

#### RESEARCH QUESTIONS :

1. What is the nature and scope of the gig economy in India, and how has it transformed traditional employment relationships?
2. What is the legal status of gig workers in India, and why do they fall outside the conventional employer–employee framework?
3. To what extent does the Code on Social Security, 2020 effectively protect the rights and welfare of gig workers?
4. What are the major challenges faced by gig workers in India, particularly in terms of job security, income stability, and social protection?
5. How do judicial tests such as the control test and economic reality test apply to gig workers?

6. How does algorithmic management by digital platforms affect the autonomy and working conditions of gig workers?
7. How do international legal frameworks address the issue of gig worker classification and protection?

#### HYPOTHESES :

Primary Hypothesis,

The existing legal framework in India, including the Code on Social Security, 2020, is inadequate to effectively protect the rights and welfare of gig workers, resulting in their continued legal and economic vulnerability.

Secondary Hypotheses,

Gig workers in India are misclassified as independent contractors, leading to their exclusion from fundamental labour rights such as minimum wages and job security.

The Code on Social Security, 2020 provides limited and non-enforceable social security benefits, thereby failing to ensure comprehensive protection.

Algorithmic management by digital platforms exerts significant control over gig workers, creating a relationship similar to an employer–employee relationship.

Gig workers face income instability and lack of social protection, resulting in precarious employment conditions.

International legal frameworks provide more effective models of protection for gig workers compared to the Indian legal system.

#### RESEARCH METHODOLOGY :

This study adopts a doctrinal research methodology, focusing on the analysis of existing legal frameworks, judicial decisions, and secondary sources. The research is primarily analytical and descriptive in nature, aiming to examine the legal status and challenges faced by gig workers in India.

- The study relies on secondary data sources, including:

- Statutes such as the Code on Social Security, 2020
- Judicial decisions of the Supreme Court of India and foreign courts
- Reports of organizations such as the International Labour Organization (ILO) and NITI Aayog
- Books, journal articles, and online legal databases

A comparative approach is also employed to analyse international practices relating to gig worker protection. The research evaluates the adequacy of existing laws and identifies gaps in the current legal framework, with a view to suggesting necessary reforms.

#### LITERATURE REVIEW :

##### 1. Valerio De Stefano

In his work on the “just-in-time workforce,” De Stefano highlights how gig workers face precarious employment conditions and lack of legal protection, emphasizing the need for regulatory intervention.

##### 2. Jeremias Prassl

In *Humans as a Service*, Prassl argues that gig economy platforms often exercise significant control over workers, challenging the classification of workers as independent contractors.

##### 3. International Labour Organization

ILO reports stress the importance of “decent work”, advocating for fair wages, social security, and safe working conditions for all workers, including those in the gig economy.

##### 4. NITI Aayog

The report on India’s gig economy recognizes its growth potential but also highlights policy gaps and lack of worker protection.

#### LEGAL STATUS OF GIG WORKERS IN INDIA :

The legal status of gig workers in India remains ambiguous and inadequately defined. Traditional labour laws in India are based on the existence of a clear employer-employee relationship, which serves as the basis for

determining the rights and obligations of workers. However, gig workers do not fit neatly into this framework, as they are typically classified as independent contractors rather than employees.

This classification has significant implications for gig workers, as it excludes them from the protection of various labour laws relating to minimum wages, social security, and industrial disputes. The determination of employment status in India is generally based on judicial tests such as the control test, integration test, and economic dependency test. While these tests were developed in the context of traditional employment, they may not be fully applicable to the gig economy, where the relationship between workers and platforms is mediated by technology.

A major development in this area is the recognition of gig workers under the Code on Social Security, 2020. This legislation defines gig workers and platform workers and provides for the formulation of social security schemes for their benefit. However, the Code does not grant them the status of employees, nor does it provide enforceable rights. As a result, gig workers continue to operate in a legal grey area, with limited protection and significant uncertainty regarding their rights.

#### RIGHTS AND CHALLENGES OF GIG WORKERS :

Gig workers face a range of challenges arising from their precarious employment status. One of the most significant issues is the absence of job security. Since gig work is inherently temporary and task-based, workers do not have any guarantee of continuous employment. This uncertainty makes it difficult for them to maintain a stable income and plan for the future.

Income instability is another major concern. Gig workers are paid on a per-task basis, and their earnings are subject to fluctuations based on demand, competition, and platform policies. This unpredictability often results in financial insecurity and vulnerability.

The lack of social security benefits further exacerbates these challenges. Unlike traditional employees, gig workers do not have access to benefits such as health insurance, paid leave, and retirement pensions. This absence of a safety net leaves them exposed to various risks, including illness, accidents, and old age.

The use of algorithmic management by digital platforms introduces additional challenges. Algorithms are used to allocate tasks, determine pricing, and evaluate performance, often without transparency or accountability. Workers may face penalties or deactivation based on ratings or other metrics, without any opportunity for appeal. This raises concerns about fairness and due process.

Despite these challenges, gig workers play a crucial role in the functioning of the digital economy. Therefore, it is imperative to ensure that they are provided with adequate rights and protections to prevent exploitation and promote fair working conditions.

#### JUDICIAL APPROACH AND CASE LAWS :

The judiciary has historically played a transformative role in shaping labour jurisprudence in India by adopting a purposive and welfare-oriented approach. In the context of the gig economy, although there is an absence of direct judicial pronouncements, existing principles laid down by courts provide a robust analytical framework for determining the legal status of gig workers.

- In *Dharangadhara Chemical Works Ltd. V. State of Saurashtra*, the Supreme Court emphasized the importance of control and supervision in identifying employment relationships. However, in the gig economy, control is exercised in a more subtle yet pervasive manner through algorithmic management, thereby challenging the traditional application of this test.
- The Supreme Court's decision in *Hussainbhai v. Alath Factory Thezhilali Union* marked a paradigm shift by

emphasizing the doctrine of economic reality over contractual formalism. The Court held that the true nature of employment must be determined by examining the economic dependence of workers rather than the terminology used in contracts. This principle is particularly relevant in the gig economy, where workers are economically dependent on platforms despite being labeled as independent.

- Similarly, in *Bandhua Mukti Morcha v. Union of India*, the Court underscored the constitutional mandate to protect vulnerable workers and uphold the dignity of labour. The judgment reinforced the idea that labour rights are intrinsic to fundamental rights, thereby expanding the scope of judicial intervention.

#### INTERNATIONAL PERSPECTIVE :

The regulation of the gig economy has emerged as a critical issue in labour law across jurisdictions, prompting diverse legal responses. The global discourse reflects an ongoing effort to reconcile the competing interests of economic flexibility and worker protection.

The International Labour Organization has consistently advocated for the extension of labour rights to all workers, irrespective of their employment status. Its framework of "decent work" emphasizes fair wages, social security, and safe working conditions as fundamental entitlements. The ILO's approach underscores the necessity of adapting labour laws to contemporary forms of employment.

The United Kingdom has emerged as a pioneer in this domain by introducing an intermediate category of "workers," thereby granting gig workers partial employment rights. Judicial interventions, particularly in cases involving ride-sharing platforms, have reinforced this approach by recognizing the element of control exercised by platforms.

In contrast, the United States adopts a fragmented approach, with regulatory

frameworks varying across states. Legislative measures such as California's AB5 sought to reclassify gig workers as employees, but subsequent political and economic pressures have led to a diluted implementation. This highlights the complexities involved in regulating the gig economy.

European jurisdictions have generally adopted a more protective stance, with several countries extending full employment rights to gig workers. The European model emphasizes social welfare and regulatory oversight, ensuring that technological innovation does not undermine labour standards.

India's approach, as reflected in the Code on Social Security, 2020, represents a cautious step towards recognition without fully addressing the issue of worker classification. The comparative analysis reveals that India must adopt a more comprehensive and proactive approach to align with global best practices.

#### IMPACT OF LABOUR CODES :

- I. The codification of labour laws in India marks a significant shift towards modernization and simplification of the legal framework. Among the four labour codes, the Code on Social Security, 2020 is particularly relevant to gig workers as it formally acknowledges their existence.
- II. The Code introduces a framework for social security schemes, thereby recognizing the need to extend welfare benefits to gig workers. It also mandates contributions from aggregators, reflecting an attempt to impose responsibility on platform companies.
- III. However, the impact of the Code is constrained by its structural limitations. The absence of employee status for gig workers perpetuates their exclusion from core labour protections such as minimum wages and collective bargaining rights. Moreover, the enabling nature of the provisions undermines their enforceability, as the

realization of benefits depends on administrative action.

- IV. The exclusion of gig workers from other labour codes, such as the Code on Wages, 2019 and the Industrial Relations Code, 2020, further highlights the fragmented nature of the legal framework. This selective inclusion reflects a policy approach that prioritizes economic flexibility over comprehensive worker protection.
- V. In essence, while the labour codes signify progress, they fall short of addressing the structural vulnerabilities inherent in the gig economy. A more integrated and enforceable legal framework is required to ensure meaningful protection.

#### NEED FOR LEGAL REFORMS :

- ✓ The evolving dynamics of the gig economy necessitate a re-examination of traditional labour law principles. The existing legal framework, premised on binary classifications, is ill-equipped to address the complexities of platform-based work.
- ✓ A critical reform requirement is the introduction of an intermediate legal category, such as "dependent contractors," which would acknowledge the hybrid nature of gig work. This would enable the extension of essential labour protections without undermining the flexibility that characterizes the gig economy.
- ✓ Furthermore, there is a pressing need to universalize basic labour rights, including minimum wages, social security, and protection against arbitrary termination. The current exclusion of gig workers from these rights represents a significant gap in labour law.
- ✓ Regulatory oversight of digital platforms is equally important. The opacity of algorithmic management raises concerns regarding fairness, accountability, and due process. Legal

reforms must mandate transparency and establish mechanisms for grievance redressal.

- ✓ Aligning domestic laws with international standards set by the International Labour Organization is essential to ensure that India's labour framework remains consistent with global norms.

#### CONCLUSION :

The gig economy represents both an opportunity and a challenge for labour law. While it has expanded employment opportunities and introduced flexibility, it has also exposed workers to precarious conditions and legal uncertainty. The current legal framework in India, despite recognizing gig workers under the Code on Social Security, 2020, remains inadequate in ensuring comprehensive protection. The absence of clear classification, enforceable rights, and effective implementation mechanisms continues to undermine worker welfare.

A forward-looking approach that integrates flexibility with security is essential to address these challenges. By adopting progressive legal reforms and aligning with international standards, India can ensure that the gig economy evolves in a manner that is both economically efficient and socially just. Ultimately, the future of the gig economy in India depends on the ability of the legal system to adapt to changing realities. A forward-looking, inclusive, and rights-based approach is essential to ensure that the benefits of the gig economy are equitably distributed, fostering both economic efficiency and social equity.

#### SUGGESTIONS :

- Introduce a clear legal classification for gig workers, such as "dependent contractors."
- Amend the Code on Social Security, 2020 to provide enforceable rights instead of only welfare schemes.
- Ensure minimum wages or fair remuneration for gig workers.

- Provide social security benefits such as health insurance, pension, and accident coverage.
- Protect gig workers from arbitrary termination or sudden deactivation by platforms.
- Regulate algorithmic management to ensure transparency in ratings, pricing, and task allocation.
- Establish grievance redressal mechanisms for dispute resolution between workers and platforms.
- Allow and promote unionization and collective bargaining rights for gig workers.
- Make platform companies (aggregators) contribute to social security funds.
- Create a dedicated regulatory authority to oversee gig economy practices.
- Maintain a national database of gig workers for better policy implementation.

#### REFERENCES:

##### Books:

- P.L. Malik, Industrial Law (Eastern Book Company, latest edn)
- S.N. Mishra, Labour and Industrial Law (Central Law Publications, latest edn)
- V.G. Goswami, Labour and Industrial Law (Central Law Agency, latest edn)
- O.P. Malhotra, The Law of Industrial Disputes (LexisNexis, latest edn)

##### Journal Articles:

- "Gig Economy and Labour Rights in India" – Indian Journal of Labour Economics
- "Platform Work and Labour Regulation" – Economic and Political Weekly
- "Digital Labour Platforms and Worker Protection" – International Labour Review