

## LEGAL STATUS AND RIGHTS OF GIG WORKERS IN PLATFORMS LIKE UBER AND SWIGGY

**AUTHOR** – NAVEEN KUMAR .M, STUDENT AT SCHOOL OF EXCELLENCE IN LAW, THE TAMIL NADU DR AMBEDKAR LAW UNIVERSITY

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### ABSTRACT

The rapid growth of the gig economy has fundamentally altered traditional employment relationships across the globe. Digital platforms such as Uber and Swiggy have introduced flexible work opportunities but simultaneously created legal ambiguities regarding the status and rights of workers. This research paper critically examines whether gig workers should be classified as employees, independent contractors, or a distinct third category under labour law frameworks in India.

The study adopts a doctrinal research methodology, analyzing statutory provisions such as the Social Security Code, 2020, judicial precedents, and international practices. It identifies gaps in the current legal regime, particularly concerning social security, minimum wage protection, and collective bargaining rights. The paper argues that despite statutory recognition, gig workers continue to face precarious working conditions due to weak implementation mechanisms.

The research concludes by proposing comprehensive reforms, including the recognition of gig workers as a hybrid category, stronger regulatory oversight, and effective enforcement of welfare schemes.

### INTRODUCTION

#### BACKGROUND OF THE STUDY

The emergence of digital platforms has revolutionized the labour market by creating new forms of work arrangements commonly referred to as the “gig economy.” Companies such as Uber and Swiggy operate through technology-driven platforms that connect service providers with consumers on a demand basis.

Unlike traditional employment, gig work is characterized by:

- Task-based assignments
- Flexible working hours
- Absence of long-term contractual obligations

While this model enhances flexibility and economic participation, it also raises serious concerns regarding labour rights and protections.

#### Meaning and Nature of Gig Work

Gig workers are individuals engaged in income-earning activities outside traditional employer-employee relationships. Under the Social Security Code, 2020, gig workers are recognized as a separate category, distinct from organized sector employees.

#### Importance of the Study

This study is significant because:

- It addresses the legal vacuum surrounding gig workers
- It evaluates the effectiveness of recent labour law reforms

- It contributes to ongoing debates on labour rights in the digital economy

#### Scope of the Study

The research focuses on:

- Legal status of gig workers in India
- Rights and protections available under existing laws
- Comparative international perspectives
- Policy recommendations

#### RESEARCH PROBLEM

The central problem addressed in this study is:

*Whether the current legal framework in India adequately protects gig workers engaged through digital platforms like Uber and Swiggy.*

Key Issues:

- Ambiguity in employment classification
- Lack of enforceable labour rights
- Inadequate social security coverage
- Absence of dispute resolution mechanisms

#### RESEARCH GAP

Despite increasing academic and policy attention, several gaps remain:

1. Lack of empirical enforcement analysis
2. Limited judicial interpretation in India
3. Absence of clarity on employer liability
4. Insufficient focus on algorithmic control mechanisms

#### OBJECTIVES OF THE STUDY

- To analyze the legal status of gig workers in India
- To examine rights available under labour laws
- To identify shortcomings in the existing framework
- To compare international legal approaches

- To suggest reforms for better protection

#### RESEARCH QUESTIONS

1. What is the legal status of gig workers under Indian law?
2. Are gig workers entitled to labour law protections?
3. How effective is the Social Security Code, 2020?
4. What lessons can India learn from international jurisdictions?

#### HYPOTHESIS

**H1:** Gig workers are economically dependent on platforms and should not be treated as independent contractors.

**H2:** The Social Security Code, 2020 is insufficient in ensuring comprehensive labour protection.

**H3:** Recognition of gig workers as a separate legal category would enhance their rights and welfare.

#### RESEARCH METHODOLOGY

The study adopts a doctrinal research methodology, relying on:

- Statutory analysis
- Case law review
- Comparative legal study
- Secondary sources (journals, reports, books)

#### LITERATURE REVIEW

1. Antonio Aloisi (2016) – “Commoditized Workers”

Antonio Aloisi argues that gig economy platforms commodify labour by fragmenting work into micro-tasks. According to Aloisi, platform workers operate in a legal grey area where they are neither fully independent nor adequately protected as employees.

He emphasizes:

- Lack of bargaining power
- Absence of employment security

- Algorithmic control over work

This work is foundational in understanding precarity in gig work.

2. Valerio De Stefano (2016) – “The Rise of the Just-in-Time Workforce”

Valerio De Stefano critically examines the “on-demand economy” and highlights the problem of worker misclassification.

Key arguments:

- Gig workers are often falsely classified as independent contractors
- Platforms exercise control similar to employers
- Labour protections are deliberately avoided

This study is significant for establishing the legal fiction behind gig work arrangements.

3. Jeremias Prassl (2018) – “Humans as a Service”

Jeremias Prassl explores how digital platforms exercise control through algorithms, effectively acting as employers without assuming legal responsibility.

He introduces the idea of: “Functional employer” – where control, not contract, determines employment.

His work is crucial in arguing that:

- Platforms dictate wages, working conditions, and performance metrics
  - Workers lack genuine autonomy
4. Frank Pasquale (2015) – “The Black Box Society”

Frank Pasquale focuses on algorithmic governance, explaining how opaque algorithms control gig workers.

Key insights:

- Lack of transparency in decision-making
- Workers cannot challenge algorithmic penalties

- Creates asymmetry of power

This contributes to understanding digital exploitation in gig work. Indian Scholarship and Policy Analysis

### NITI AAYOG (2022) REPORT ON GIG ECONOMY

NITI Aayog provides a comprehensive analysis of gig work in India.

Key observations:

- Gig workforce expected to grow significantly
- Lack of regulatory clarity
- Need for social security reforms

Recommendations include:

- Skill development programs
- Platform accountability
- Data transparency

### LEGAL FRAMEWORK IN INDIA

The legal framework governing gig workers in India is still evolving and remains largely fragmented, with limited but significant recognition under the Social Security Code, 2020, which marks the first statutory attempt to acknowledge gig and platform workers as a distinct category within labour law. The Code defines gig workers and mandates the formulation of social security schemes relating to life and disability cover, health benefits, maternity benefits, and old-age protection, to be funded through contributions from aggregators (digital platforms) such as Uber and Swiggy. However, the framework stops short of granting gig workers the status of “employees,” thereby excluding them from core labour protections such as minimum wages, paid leave, job security, and the right to collective bargaining under traditional labour legislations like the Industrial Relations Code. Additionally, the implementation of welfare provisions under the Code is largely dependent on executive rule-making and scheme formulation, resulting in weak enforceability and practical limitations. The absence of clear

employer-employee relationships, coupled with the increasing reliance on algorithmic management by platforms, further complicates accountability and regulatory oversight. Thus, while the existing legal framework represents a progressive step towards inclusion, it remains inadequate in ensuring comprehensive protection and reflects a transitional phase in adapting labour law to the realities of the gig economy.

### RIGHT OF GIG WORKERS AND THEIR MISSING RIGHTS

Gig workers in India have received limited but important recognition of their rights under the Social Security Code, 2020, which marks a shift towards acknowledging their role in the modern labour economy. The Code provides for the formulation of social security schemes specifically for gig and platform workers, including provisions for life and disability insurance, health and maternity benefits, and old-age protection. It also introduces the concept of aggregator contributions, requiring digital platforms such as Uber and Swiggy to financially contribute towards worker welfare funds. This recognition is significant because it formally brings gig workers within the ambit of labour welfare policy, even though they are not classified as traditional employees. Additionally, the framework aims to create a database of gig workers to ensure better delivery of benefits and targeted policy implementation.

However, despite these developments, gig workers continue to lack several fundamental labour rights that are typically guaranteed to formal employees. They are not entitled to statutory protections such as minimum wages, fixed working hours, paid leave, or protection against arbitrary termination, primarily because they are classified as independent contractors rather than employees. This classification also limits their ability to engage in collective bargaining or form strong unions, leaving them with minimal negotiating power against large

platform companies. Furthermore, the increasing reliance on algorithmic management systems—where work allocation, performance evaluation, and even deactivation are controlled by opaque digital processes—raises concerns about transparency and fairness. As a result, while the existing framework offers a foundation for social security, it falls short of ensuring comprehensive labour rights, highlighting the urgent need for legal reforms to bridge this gap.

### FINDINGS

Based on the above analysis, the study arrives at the following key findings:

1. **Ambiguous Legal Status:** Gig workers occupy a grey area between employees and independent contractors, leading to legal uncertainty.
2. **Inadequate Protection:** The Social Security Code, 2020 provides limited recognition but fails to guarantee enforceable labour rights.
3. **Economic Dependency:** Despite being labeled as independent, gig workers are economically dependent on platforms like Uber and Swiggy.
4. **Algorithmic Control:** Platform-based management systems significantly control working conditions, reducing worker autonomy.
5. **Lack of Collective Representation:** Gig workers have limited ability to unionize or negotiate better terms.
6. **Weak Implementation Mechanisms:** Social security schemes remain largely unimplemented or ineffective in practice.

### CONCLUSION

The emergence of the gig economy has significantly transformed the nature of work, challenging the traditional foundations of labour law in India. Platforms such as Uber and Swiggy have created new economic

opportunities by offering flexible, technology-driven employment models. However, this flexibility has come at the cost of legal protection, as gig workers remain situated in a grey area between employees and independent contractors. The existing legal framework, particularly the Social Security Code, 2020, represents a progressive step by formally recognizing gig workers and introducing provisions for social security. Nevertheless, the framework is largely welfare-oriented and lacks enforceable rights, leaving workers vulnerable to income insecurity, arbitrary termination, and lack of basic labour protections.

This research establishes that gig workers are, in reality, economically dependent on platform companies, which exercise substantial control through algorithmic management, thereby resembling traditional employer-employee relationships. The absence of statutory guarantees such as minimum wages, collective bargaining rights, and job security highlights a significant gap in the current legal regime. Comparative insights from jurisdictions like the United Kingdom further demonstrate that a more functional and rights-based approach is both feasible and necessary. Therefore, it is imperative for Indian labour law to evolve by recognizing gig workers as a distinct category, ensuring minimum labour standards, strengthening social security implementation, and regulating platform practices. A balanced approach that harmonizes innovation with worker protection is essential to uphold the principles of fairness, dignity, and social justice in the rapidly evolving digital economy.

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