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With this thought, we hereby present to you

LEGAL STATUS OF GIG AND PLATFORM WORKERS IN INDIA: A CRITICAL ANALYSIS OF THE NEED FOR LABOUR LAW REFORMS

AUTHORED BY - RITIKA SINGH¹

ABSTRACT

The gig economy has rapidly reshaped the nature of work in India, providing flexible income opportunities through digital platforms such as Swiggy, Zomato, Uber, and Urban Company. This new mode of employment offers workers increased autonomy and adaptability but also exposes them to significant vulnerabilities due to the lack of clear legal protections. In contrast to traditional forms of employment, gig work does not fit into conventional labour law frameworks, which were designed for fixed employer-employee relationships. As a result, gig and platform workers in India remain largely excluded from essential labour rights, such as minimum wage guarantees, social security benefits, health insurance, and grievance redressal mechanisms.

The enactment of the Code on Social Security, 2020, represents an initial step towards recognizing gig workers within India's legal structure. However, the Code offers only a partial framework, leaving critical issues unaddressed. While the Code defines gig and platform workers, it does not fully empower them with the rights and benefits that other workers in more traditional employment forms enjoy. This paper critically examines the evolving legal status of gig workers in India, analyzing the current inadequacies in the law, the socio-economic challenges they face, and the global trends in regulating gig work. The research highlights that superficial legislative recognition without substantial welfare provisions exacerbates the precarious nature of gig work.

In conclusion, the paper calls for comprehensive labour law reforms to ensure that gig workers are protected under a fair and just legal framework. It proposes specific measures, including mandatory minimum wages, health and pension benefits, grievance mechanisms, and collective

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bargaining rights, aimed at striking a balance between innovation in the digital economy and the protection of workers' rights.

Keywords- Gig economy, platform workers, labour law reforms, Social Security Code 2020, worker rights.

1) EVOLUTION OF LABOUR LAWS IN INDIA AND GIG WORK-

The legal framework for labour in India has undergone significant transformation since the colonial era, evolving in response to changing socio-economic realities. Traditionally, Indian labour law focused on regulating formal employment relationships, where the employer-employee relationship was well-defined, and workers were entitled to statutory benefits such as minimum wages, social security, and dispute resolution mechanisms. The cornerstone of Indian labour law remains the Industrial Disputes Act, 1947, which defines a "workman" and provides for the regulation of industrial disputes, including strikes and lockouts. However, this definition has been largely focused on formal employment and does not account for the complexities of non-traditional employment, such as gig work².

With the emergence of gig and platform-based work, a major shift in employment dynamics occurred. The flexibility of the gig economy, exemplified by digital platforms like Uber, Swiggy, and Zomato, stands in stark contrast to the traditional model of fixed working hours, permanent employment contracts, and employer-driven benefits. In response to these challenges, the Indian legal system has been slow to adapt. A key turning point came with the passage of the Code on Social Security, 2020, which for the first time provided a legal definition of "gig workers" and "platform workers" under Section 2(35) and Section 2(61)³. This Code aimed to extend certain welfare benefits to gig and platform workers, such as access to social security, but its implementation has been criticized as inadequate in addressing the full spectrum of challenges faced by these workers⁴.

Despite the Code's provisions, gig workers remain largely excluded from many critical protections offered to traditional employees. Key issues such as the minimum wage, health

² Industrial Disputes Act, 1947, § 2(s), 3(2).

³ Ministry of Labour and Employment, Government of India, *The Code on Social Security, 2020 (No. 36 of 2020)*, ss. 2(35), 2(61).

⁴ Rajeev Kumar, "The Rise of Gig Work in India: A Legal Perspective," *Labour Law Journal*, Vol. 34 (2021), at 56.

benefits, and job security remain unresolved, leaving gig workers in a vulnerable position. The lack of clarity regarding whether gig workers should be classified as employees or independent contractors has perpetuated this exclusion. Gig platforms, in turn, argue that the nature of the work is independent, voluntary, and not subject to traditional employer obligations. As a result, workers often face exploitation, lack of adequate compensation, and limited access to legal recourse⁵.

A significant gap in the Indian legal framework lies in the absence of a uniform, national-level approach to platform-based employment. While some states have taken steps to implement regional regulations—such as the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023—the lack of a national policy leaves gig workers exposed to inconsistent protection across jurisdictions. Furthermore, the E-Shram Portal, which was intended to register informal sector workers, including gig workers, has seen limited success, and the full potential of this initiative remains unrealized⁶.

Comparative perspectives from other countries provide valuable insights into how India might strengthen its legal protections for gig workers. For example, in the United Kingdom, the *Uber BV v. Aslam*⁷ case recognized Uber drivers as workers rather than independent contractors, granting them access to certain employment benefits, including minimum wage and holiday pay. Similarly, in California, the passage of AB5 redefined the criteria for classifying workers, making it more difficult for companies to label workers as independent contractors⁸. These international examples underscore the need for India to adopt a more comprehensive approach that ensures gig workers are afforded essential legal protections while balancing the innovative flexibility of the gig economy.

In summary, while the evolution of labour laws in India has provided some recognition for gig workers, the legal framework remains inadequate in addressing their needs. The existing laws fail to provide sufficient protections or clarity, leaving gig workers vulnerable to exploitation. A more comprehensive and robust legal framework is needed to ensure that gig and platform workers are afforded rights and protections commensurate with the critical role they play in

⁵ Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023, § 4(2).

⁶ E-Shram Portal, Ministry of Labour and Employment, Government of India, available at <https://eshram.gov.in> (last visited Apr. 27, 2025).

⁷ *Uber BV v. Aslam*, [2021] UKSC 5.

⁸ California Assembly Bill 5 (AB5), 2019.

India's growing digital economy.

2) CURRENT LEGAL STATUS OF GIG WORKERS IN INDIA

The legal status of gig workers in India has been a subject of growing concern as the gig economy rapidly expands. Gig workers, typically engaged in temporary, short-term, or flexible work arrangements facilitated by digital platforms, face a unique set of challenges that distinguish their working conditions from those of traditional employees. The absence of a well-defined legal framework has resulted in gig workers being left out of protections typically provided under Indian labour laws. This chapter aims to analyze the legal recognition of gig workers, the existing legal protections available to them, and the key challenges that hinder their rights and welfare.

Legal Framework: A Comparative Approach

In India, the legal treatment of gig workers remains ambiguous due to the existing labour laws, which were designed with traditional employment relationships in mind. Gig workers are often categorized as independent contractors or freelancers, a status that excludes them from the protections provided to employees under laws such as the Industrial Disputes Act, 1947 and the Factories Act, 1948. For instance, these workers are not entitled to statutory benefits like minimum wages, social security, or paid leave.

International jurisdictions, however, have made considerable strides in defining the status of gig workers and extending certain protections to them. The California Assembly Bill 5 (AB5), passed in 2019, redefined the classification of workers to make it more difficult for companies to classify workers as independent contractors, instead requiring them to be classified as employees if they perform core activities for the company. Similarly, the *Uber BV v. Aslam* case in the UK led to a landmark judgment that classified Uber drivers as workers, thereby granting them rights such as minimum wage and holiday pay benefits, which are unavailable to independent contractors under UK law⁹.

In comparison, India has yet to adopt a clear stance on gig work, leaving workers largely unprotected. The legal framework in India, with its historical focus on traditional employment,

⁹ *Uber BV v. Aslam*, [2021] UKSC 5.

is not equipped to deal with the nuances of gig economy work arrangements¹⁰.

Indian Legal Recognition of Gig Workers

The Code on Social Security, 2020, marks a significant, albeit partial, recognition of gig workers within the Indian legal landscape. Section 2(35) of the Code defines a "gig worker" as an individual who performs work or participates in work arrangements outside the traditional employer-employee relationship¹¹. However, the Code's provisions are limited in scope and fail to extend comprehensive legal protections to gig workers. For example, it creates a framework for the establishment of a National Social Security Board, but the execution of social security schemes for gig workers remains inconsistent across different states¹².

While the Code does take a step towards recognizing gig workers, it falls short of providing the same level of protection enjoyed by regular employees. The social security measures it introduces are mostly voluntary, and the application of welfare provisions is not mandatory, which means gig workers remain exposed to vulnerabilities such as low income, lack of health benefits, and no retirement savings¹³.

Challenges to Legal Recognition and Protection

a) Classification of Workers: Independent Contractors vs. Employees

One of the most significant challenges is the legal classification of gig workers. Many gig economy platforms classify workers as independent contractors to avoid the burden of statutory obligations such as employee benefits, insurance, and taxes. This classification denies gig workers crucial protections such as minimum wages, maternity leave, and paid sick leave. As independent contractors, gig workers are also excluded from collective bargaining mechanisms, leaving them vulnerable to exploitation by platform companies¹⁴.

b) Absence of Minimum Wage Protections

Another key issue is the lack of enforcement of minimum wage regulations for gig

¹⁰ P.K. Ghosh, "The Gig Economy and the Future of Labour Law in India," *Indian Labour Law Review*, Vol. 28 (2021), at 40

¹¹ Code on Social Security, 2020, § 2(35).

¹² Ministry of Labour and Employment, The Code on Social Security, 2020 (No. 36 of 2020), available at <https://labour.gov.in> (last visited Apr. 27, 2025).

¹³ Rajeev Kumar, "The Rise of Gig Work in India: A Legal Perspective," *Labour Law Journal*, Vol. 34 (2021), at 56.

¹⁴ *Industrial Disputes Act*, 1947, § 2(s).

workers. Although the Minimum Wages Act, 1948, mandates minimum wage standards for workers in specific sectors, gig workers are generally excluded from this Act. Consequently, many gig workers often receive payments below the minimum wage standards and have no mechanism to ensure fair compensation. This further exacerbates the economic insecurity faced by these workers¹⁵.

c) Social Security and Health Benefits

Social security and health benefits, which are critical components of employee welfare, are largely unavailable to gig workers in India. While the Code on Social Security, 2020, introduced some provisions for gig workers, these are insufficient. The voluntary nature of these schemes means that many gig workers remain outside their coverage. This is particularly problematic for workers in the gig economy, who lack access to employer-provided healthcare, pension plans, or insurance coverage¹⁶.

d) Dispute Resolution Mechanisms

Gig workers often face difficulties in resolving disputes with their employers, particularly because they are not formally recognized as employees. The lack of a formal employer-employee relationship means there is no designated mechanism for grievance redressal. This creates an environment where gig workers may face exploitation without legal recourse. The E-Shram Portal, launched by the Ministry of Labour and Employment, has aimed to register informal sector workers, including gig workers, but its implementation has faced significant challenges in terms of coverage and access¹⁷.

e) Enforcement of Rights

Another significant challenge is the enforcement of any rights granted to gig workers. Even when legal protections are available, the absence of a national-level framework means that gig workers are not uniformly covered by state laws. Inconsistent enforcement of these provisions creates disparities between states, leaving gig workers in unprotected situations depending on where they are located.

Future Prospects and Recommendations

To address these challenges, India needs to adopt a more robust regulatory framework that recognizes the unique status of gig workers. Some key recommendations include:

¹⁵ Minimum Wages Act, 1948, § 3

¹⁶ Ministry of Labour and Employment, The Code on Social Security, 2020 (No. 36 of 2020), ss. 2(35), 2(61).

¹⁷ E-Shram Portal, Ministry of Labour and Employment, available at <https://eshram.gov.in> (last visited Apr. 27, 2025).

- **Minimum Wage Regulations:** The government should extend minimum wage laws to gig workers and ensure that they receive fair compensation for their work.
- **Expanded Social Security Benefits:** The scope of the Code on Social Security, 2020, should be expanded to provide mandatory social security benefits such as health insurance, retirement savings, and unemployment benefits to gig workers.
- **Clear Worker Classification:** India should revise its labour laws to provide clearer distinctions between independent contractors and employees, ensuring that gig workers receive appropriate protections without stifling the flexibility of the gig economy.
- **Access to Grievance Redressal:** A dedicated grievance redressal mechanism for gig workers should be established, enabling them to resolve disputes with platform companies in a fair and timely manner.
- **National-Level Policy on Gig Work:** A national policy should be introduced to ensure uniformity in the legal treatment of gig workers across states, addressing disparities and ensuring comprehensive protections for workers in the gig economy.

In conclusion, while India has made some progress in recognizing gig workers, much remains to be done. A comprehensive legal framework that addresses the specific needs and challenges of gig workers is essential to ensure their rights are adequately protected in the growing gig economy.

3. CHALLENGES FACED BY GIG WORKERS IN INDIA

The gig economy in India has witnessed exponential growth in recent years, with millions of workers engaged in various digital platform-based jobs. Despite its rapid expansion, gig workers face a range of challenges that hinder their economic security, social welfare, and overall quality of life. These challenges stem from the lack of clear legal protections, inconsistent enforcement of existing laws, and the precarious nature of gig work itself. This chapter explores these challenges in detail, examining their impact on gig workers rights and suggesting possible reforms to improve their working conditions.

- ***Lack of Legal Recognition***

One of the most fundamental challenges faced by gig workers in India is the lack of legal recognition as employees. Under existing Indian labour laws, gig workers are often classified as independent contractors, which means they are excluded from the protections that traditional employees enjoy. This includes the right to minimum wages,

paid leave, social security benefits, and dispute resolution mechanisms. The absence of a clear legal status leaves gig workers vulnerable to exploitation by employers (platform companies) who can adjust working conditions without legal constraints.

The Code on Social Security, 2020 attempts to address this issue by recognizing gig workers as a distinct category of workers. However, as discussed in Chapter III, the implementation of this recognition remains partial and inconsistent. The voluntary nature of the social security schemes under this Code further undermines the legal security that gig workers need. Gig workers, as independent contractors, often lack collective bargaining power, and their ability to advocate for better conditions remains severely limited.

- ***Economic Insecurity and Lack of Job Stability***

Gig workers face significant economic insecurity due to the short-term and unpredictable nature of their employment. Unlike traditional employees, gig workers typically do not have long-term contracts or stable incomes. They are often paid per task or project, which makes it difficult for them to maintain a consistent standard of living. This lack of income stability is further exacerbated by the absence of benefits like paid sick leave, maternity leave, or retirement savings.

The National Sample Survey (NSS) reported that the income of gig workers fluctuates significantly depending on the availability of tasks, with many workers struggling to meet basic needs¹⁸. This instability creates a significant burden on gig workers, particularly in times of economic downturns or disruptions in the supply of work. Moreover, gig workers often bear the costs of work-related tools and transportation, further diminishing their earnings.

- ***Inadequate Social Security and Welfare Benefits***

Despite the introduction of the Code on Social Security, 2020, gig workers in India still face challenges in accessing adequate social security benefits. The Code only provides a limited framework for social security coverage, and its provisions are mostly voluntary. As a result, gig workers are often excluded from critical welfare schemes, including health insurance, pensions, and unemployment benefits.

¹⁸ National Sample Survey (NSS), "Employment and Unemployment in India: A Report on the Labour Market," Ministry of Statistics and Programme Implementation, Government of India (2020).

In addition to the limited scope of the Code, the voluntary nature of social security schemes makes it unlikely that all gig workers will benefit from them. For example, the E-Shram Portal, launched to register informal workers, including gig workers, faces implementation issues, and many gig workers remain unaware of or unable to access its benefits. Without a guaranteed social safety net, gig workers are left exposed to various risks, including health emergencies, accidents, and loss of income.

- ***Absence of Collective Bargaining Rights***

The absence of formal employment relationships for gig workers also means they are denied the right to collective bargaining. Traditional employees have the ability to form unions and negotiate with their employers for better wages, benefits, and working conditions. However, gig workers, classified as independent contractors, are not entitled to such rights. As a result, they are often at the mercy of platform companies that dictate the terms of their work.

The lack of collective bargaining power makes gig workers particularly vulnerable to exploitation. For example, many gig workers are paid below the minimum wage or forced to work under poor conditions without the ability to negotiate better terms. Additionally, the gig economy's reliance on algorithms and automated systems for work allocation often leaves workers with little to no control over their schedules or tasks, further undermining their bargaining power.

- ***Discrimination and Gender Inequality***

Gig workers, particularly women, face discrimination and gender inequality within the gig economy. Women workers are often concentrated in lower-paying gig jobs, such as those in domestic work, caregiving, and delivery services. They also face challenges related to safety and harassment, particularly in roles that require them to travel alone or interact with customers. The lack of protective legal frameworks for women in the gig economy exacerbates these vulnerabilities.

Furthermore, the lack of paid maternity leave and other family-related benefits in the gig economy further disadvantages women workers. Unlike traditional employees, gig workers are not entitled to maternity leave, which significantly impacts women's ability to balance work and family responsibilities. Gender-based discrimination and the absence of supportive policies contribute to the gender pay gap in the gig economy,

with women workers often earning less than their male counterparts.

- ***Legal Barriers and Limited Access to Dispute Resolution***

Gig workers in India often face difficulties when seeking legal recourse for disputes with platform companies. The lack of a formal employer-employee relationship means that gig workers do not have access to established dispute resolution mechanisms, such as labour courts or tribunals. Instead, they must rely on general civil courts, which can be time-consuming and costly.

The E-Shram Portal, while a positive step towards registering informal workers, has faced challenges in providing a practical means for gig workers to resolve disputes. Additionally, the absence of clear laws governing platform companies leaves gig workers with limited options when seeking redress for issues like unfair pay, exploitation, or unfair terminations¹⁹.

Recommendations for Addressing Gig Workers' Challenges

To address the challenges faced by gig workers in India, several reforms are necessary:

- **Clear Legal Recognition:** Gig workers should be granted clear legal recognition as a distinct category of workers, with access to employee-like benefits such as minimum wages, social security, and dispute resolution mechanisms.
- **Universal Access to Social Security:** The social security provisions under the Code on Social Security, 2020 should be expanded and made mandatory to ensure that gig workers have access to health insurance, pensions, and other essential benefits.
- **Collective Bargaining Rights:** Gig workers should be granted the right to form unions or associations to negotiate better terms and conditions of work, thereby enhancing their bargaining power.
- **Gender Equality Initiatives:** Policies should be introduced to ensure gender equality within the gig economy, including paid maternity leave, anti-harassment provisions, and measures to ensure equal pay for equal work.
- **Dispute Resolution Mechanisms:** A dedicated mechanism should be established for gig workers to resolve disputes with platform companies quickly and efficiently. This could include the creation of a specialised tribunal or an online platform for dispute resolution.

¹⁹ Ministry of Labour and Employment, The Code on Social Security, 2020 (No. 36 of 2020), ss. 2(35), 2(61).

The challenges faced by gig workers in India are multifaceted and require comprehensive legal and policy reforms to ensure their rights and welfare. While the Code on Social Security, 2020 marks a step towards recognizing gig workers, much remains to be done. A more inclusive and protective legal framework, along with better enforcement of existing laws, is essential to provide gig workers with the protections they deserve.

4. RECOMMENDATIONS FOR LEGAL REFORMS -

The gig economy in India has experienced rapid growth, providing workers with flexible job opportunities through digital platforms. However, gig workers face numerous challenges related to legal recognition, economic insecurity, inadequate social security, and lack of fair compensation. These issues have led to exploitation, inequality, and limited access to essential benefits. The existing legal framework, though evolving with initiatives like the Code on Social Security, 2020, remains insufficient to fully address the needs of gig workers. This final chapter aims to present comprehensive recommendations for legal reforms to protect gig workers rights, followed by a conclusion that discusses the way forward to ensure their socio-legal welfare in the Indian gig economy.

- **Legal Recognition of Gig Workers**

Clear Classification and National Gig Worker Policy

A key step in addressing the challenges faced by gig workers is providing them with clear legal recognition under Indian law. The Code on Social Security, 2020 introduced a distinction for gig workers but did not sufficiently clarify their legal status. Gig workers should be classified as a distinct category under Indian labour laws, enabling them to access employee-like benefits and dispute resolution mechanisms.

Recommendation: The Code on Social Security, 2020 should be amended to ensure gig workers are legally recognized and entitled to minimum wages, health insurance, pensions, and other social security benefits. Additionally, a National Gig Worker Policy should be introduced to standardize rights, wages, and welfare protections for gig workers across all sectors of the gig economy.

- **Minimum Wage and Fair Compensation**

Minimum Wage Regulations and Transparent Payment Systems

Gig workers face significant income insecurity due to the nature of the gig economy, which

often leads to lower-than-minimum wages and inconsistent pay. It is crucial to extend the protections of the Minimum Wages Act, 1948 to include gig workers, ensuring they receive fair compensation for their work.

Recommendation: Amend the Minimum Wages Act, 1948 to cover gig workers and establish a wage structure that takes into account sector-specific requirements. Additionally, platform companies should implement transparent payment systems that clearly outline how pay is calculated and communicated to workers.

- **Social Security and Welfare**

Mandatory Social Security Coverage and Accident Compensation

Social security schemes under the Code on Social Security, 2020 are voluntary and limited in scope. Gig workers should have mandatory access to comprehensive social security benefits, including health insurance, pensions, disability benefits, and retirement savings. Moreover, gig workers in physically demanding sectors like delivery services should be provided with compensation for work-related injuries.

Recommendation: Make the social security provisions under the Code on Social Security, 2020 mandatory for all gig workers. Establish a dedicated accident and injury compensation scheme to provide immediate relief to workers injured during their gig work.

- **Right to Collective Bargaining and Unionization**

Strengthening Collective Bargaining Rights

Gig workers lack the right to form unions and engage in collective bargaining. The absence of union representation leaves workers vulnerable to exploitation, as they have no formal avenue to negotiate wages or working conditions.

Recommendation: Amend Indian labour laws to recognize gig workers' right to form unions or workers' associations. These unions should be allowed to engage in collective bargaining with platform companies to improve working conditions and ensure fair pay. Establishing workers' councils can further empower gig workers to participate in platform decision-making processes.

- **Gender Equality and Protection Against Discrimination**

Addressing Gender-Based Discrimination

Women gig workers face particular challenges, including gender-based discrimination, unsafe

working conditions, and unequal pay. The lack of legal protections exacerbates these challenges, leading to further marginalization.

Recommendation: Implement gender-sensitive policies that protect women gig workers from discrimination and harassment. This includes ensuring equal pay for equal work, providing paid maternity leave, and implementing safety protocols for women working in delivery services and other vulnerable sectors.

- **Improved Dispute Resolution Mechanisms**

Online Dispute Resolution and Labour Tribunals

Gig workers face difficulties in resolving disputes with platform companies, often due to the lack of formal employer-employee relationships. The existing legal mechanisms are inadequate for resolving these disputes efficiently.

Recommendation: Establish an Online Dispute Resolution (ODR) platform dedicated to gig workers. This platform should provide an accessible and timely process for resolving disputes regarding payment, termination, and working conditions. Additionally, the creation of a Labour Tribunal focused on gig economy issues will offer a specialized venue for quicker resolution of worker grievances.

5. WAY FORWARD AND CONCLUSION

Way Forward:

Strengthening Gig Workers Legal Framework-

The legal reforms proposed in this chapter will significantly improve the socio-legal status of gig workers in India. However, these reforms must be implemented in a phased manner, with attention given to ensuring that they do not stifle the flexibility and innovation that characterize the gig economy. For the reforms to be effective, there must be concerted efforts from both the government and platform companies to create an ecosystem that supports gig workers while also fostering sustainable economic growth.

Building Public Awareness and Encouraging Stakeholder Participation-

Public awareness campaigns should be launched to educate gig workers about their rights and the available social security benefits. Platforms should also be encouraged to engage in dialogue with workers to understand their needs and concerns. Stakeholder participation, including gig workers, unions, and legal experts, is crucial in designing policies that address

the real needs of the workforce.

Conclusion:

While the gig economy offers numerous opportunities, it also presents significant challenges that require immediate legal reforms. By ensuring clear legal recognition (Ensuring Sustainable Gig Work in India), minimum wage protections, social security, and the right to collective bargaining, India can create a fairer, more sustainable gig economy. These reforms will not only benefit gig workers but will also contribute to the overall stability and growth of the economy.

Gig workers are an essential part of India's workforce, and their legal and social welfare must be prioritized in the evolving gig economy. By taking a comprehensive approach to reform, India can build a more equitable, inclusive, and productive gig economy that benefits all stakeholders.

