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THE GIG WORKERS PARADOX: REVISITING WORKER CLASSIFICATION UNDER INDIAN LABOUR LAW

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INTRODUCTION

Over the past decade, the Indian digital economy¹ has experienced unprecedented growth in platform work. Gig and platform jobs are now one of the employment avenues in the world, including India. The traditional Indian Labor law jurisprudence relies on a dichotomy between independent contractor and employee with regard to the level of control and supervision. This has informed legislation that has had a profound impact. Industrial Disputes Act, 1947², Employees Provident Funds and Miscellaneous Provisions Act, 1952³, Employees State Insurance Act, 1948⁴, Payment of Gratuity Act, 1972⁵ depend on this employer-employee relationship.

HISTORY OF THE WORKING CONDITIONS OF THE GIG WORKERS

It dates back to the colonial period in India. The working conditions of the gig workers⁶ were extremely poor, and the employers focused mainly on work, production, and profits, with the employee's health not taken into consideration because labor was cheap and replaceable.

Early laws sought only to regulate extreme exploitation, but the real concern for working conditions emerged only after independence, a shift from laissez-faire to welfare-oriented labor laws. Globalization and Technology have affected labor conditions and created new challenges

¹ "Workers' Rights in Gig Economy: Legal Framework and Challenges,"

² *Industrial Disputes Act, 1947, No. 14, Acts of Parliament, 1947 (India).*

³ *Employees' Provident Funds and Miscellaneous Provisions Act, 1952, No. 19, Acts of Parliament, 1952 (India).*

⁴ *Employees' State Insurance Act, 1948, No. 34, Acts of Parliament, 1948 (India).*

⁵ *Payment of Gratuity Act, 1972, No. 39, Acts of Parliament, 1972 (India).*

⁶ *Khirbha S. Gounder, Gig Economy: Need for Labour Laws, 4(1) Indian Journal of Legal Review 33 (2024),*

for labor protection, and there has been a rise in gig and platform work. Working conditions must be redefined to suit the new realities.

THE ARCHITECTURE OF THE AMBIGUITY

Tripartism is an important component of Labour Law, involving governments, employers, and workers to set labor standards, but the question of whether India's current labor legislation effectively addresses the needs of modern workers, such as gig economy workers, remains critical. Although gig workers have become necessary for both the workers and the platforms that employ them, they are neither employees who enjoy the protective umbrella of labor legislation nor fully bear the risks and rewards. This is the gig worker's paradox.

In the past decade, the digital economy in India has seen unparalleled growth in jobs on such platforms, whether it is a food delivery rider navigating the city or a freelancer working across different time zones. Right from changing the way we work, companies such as Zomato, Swiggy, Ola, Uber, Rapido, Urban Company, and many more have brought change to consumers and the Workplace. The gig economy has become a reality for many people in India.

A legal question had arisen about who is a gig worker, and that could mean the difference between whether a delivery partner is entitled to provident fund contributions or whether a cab driver can claim workmen's compensation. Recently, for this purpose, the Ministry of Labor and Employment has introduced new labor codes, including the Code on Social Security 2020⁷, which incorporates nine labor laws to provide social security for employees in the unorganized sector as well.

GIG ECONOMY AND THE CHALLENGES IT PRESENTS

The gig economy in India has expanded, covering employment in almost all sectors of the food delivery industry, ride-sharing platforms, and freelance work, but the growth has outpaced the framework itself. The challenges they face include income fluctuations, as most gig workers do not have a fixed job and often work overtime to make ends meet.

Further, the working conditions of the gig workers are detrimental to worker's health. Working conditions refer to the overall environment in which labor performs work and encompass all aspects, such as physical conditions, the regulation of hours of work and rest intervals, and the social and psychological environment at the workplace. Some companies have strict policies,

⁷ *Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).*

such as 10-minute delivery to the doorstep, which increases the risk and pressure of these deliveries and puts pressure on meeting the stipulated time, leading to chronic stress and, ultimately, a dangerous work environment. Working conditions are a fundamental part of labor welfare, as they affect workers' health, dignity, and productivity.

THE NEW LABOUR CODES: WHAT HAS CHANGED

In recent years, states like Rajasthan and Karnataka have introduced legislation in relation to gig workers and the gig economy. Four labor codes that consolidated twenty-nine central Labour laws into a framework were enacted to provide benefits to workers in the unorganized sector. The Code on Social Security, 2020⁸, is one of the four labor codes that were introduced. It also defines unorganized workers.

The recent legislative initiatives, which include the Code on Wages, 2019⁹, and the Code on Social Security, 2020, serve a purpose to provide safeguards to individuals working in the gig economy. Under the Social Security Code¹⁰, gig workers have been distinguished from employees under sections 2(35)¹¹ and 2(26)¹² of the code respectively. The two consecutive nationwide strikes by gig workers in December 2025 sent strong signals to the platform capitalists to rethink

RAJASTHAN PLATFORM-BASED GIG WORKERS (REGISTRATION AND WELFARE) ACT, 2023¹³

Rajasthan has become the first state in India to pass legislation regulating the engagement of gig workers and providing social security and other benefits to platform-based gig workers. While at the central level, the Code on Social Security recognizes gig and platform workers as a separate class of workers, and the same was enacted in September 2023.

KARNATAKA PLATFORM-BASED GIG WORKERS (SOCIAL SECURITY AND WELFARE) BILL, 2025¹⁴

⁸ *Id.*

⁹ *Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).*

¹⁰ *Id.*

¹¹ *Code on Social Security § 2(35), No. 36, Acts of Parliament, 2020 (India).*

¹² *Code on Social Security § 2(26), No. 36, Acts of Parliament, 2020 (India).*

¹³ *Bishen Jeswant & Luv Saggi, Rajasthan Passes Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023,*

¹⁴ *PTI, Karnataka Assembly Passes Gig Workers Bill, Proposes 1–5% Fee on Online Aggregators,*

There was an increase in the number of gig workers; therefore, the Legislative Assembly passed the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill 2025¹⁵ in order to protect the rights of worker's.

In the debate on the Bill, the Minister for Labour had stated that there was a welfare fee proposed in the Bill that would be paid 1% to 5% of the amount paid to the worker in each transaction, depending on the type of platforms and aggregators for the same.

The Bill aims to provide dispute-resolution mechanisms, establish a welfare fund for gig workers through a board, and ensure income security and reasonable working conditions for workers. This Bill has replaced the ordinance.

CASES AND DEVELOPMENT

The two consecutive nationwide strikes by gig workers in December 2025 sent strong signals to the platform capitalists to rethink, and besides that, it has left indelible imprints on the labor history of India. The Telangana Gig¹⁶ and Platform Workers Union a strike that was organized by the Telangana Gig and platform workers, was backed by the Indian Federation of App Based Transport Workers.

The Indian Federation of App Based Transport Workers (IFAT) vs. Union of India: Practical Reality of Laborers¹⁷

In the case¹⁸ of The Indian Federation of App Based Transport Workers (IFAT) vs. Union of India. The trade union was registered in 2019 as IFAT with 35 thousand gig workers as members until 2021. In 2020, during the COVID-19 pandemic lockdown, IFAT held demonstrations to demand safety and fair wages. The companies did make some financial contributions, but they were not involved in changing the pay systems. In 2021, IFAT filed a Petition in the Supreme Court, claiming that the Companies' agreements infringed upon Articles 14¹⁹, 21²⁰, and 23²¹ of the Constitution of India, 1950. The heart of the matter is that the company labels the workers as partners rather than employees, removing workers from the

¹⁵ *The Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2025 (Karnataka).*

¹⁶ *Resisting Insta-Gig Work,*

¹⁷ *Indian Federation of App-Based Transport Workers v. Union of India, W.P. (C) No. /_ (India) (pending).*

¹⁸ *Gig Workers' Access to Social Security: The Indian Federation of App-Based Transport Workers (IFAT) v. Union of India,*

¹⁹ *INDIA CONST. art. 14.*

²⁰ *INDIA CONST. art. 21.*

²¹ *INDIA CONST. art. 21.*

protection of the law, and giving the company exemption from paying social security benefits. The case is pending before the Supreme Court and is considered to be the most impactful legal challenge to the 'gig economy' model in India to date. The other case is a gig worker's company.

In *Uber India Systems Private Limited v. Union of India*²², which has protested against Uber and the lack of social security benefits and minimum wages for gig workers. It is these relevant cases that are attempting to reframe the relationship between employee and employer in this 'digital world'.

In 2025, app-based taxi drivers in Jaipur staged a strike and protested the failure to implement the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act of 2023²³. The workers griped about companies' exploitation of them and their unfair policies. These events and cases make it clear, however, that the legal landscape for gig workers is one of dynamics and that gig workers deserve to be recognized as having rights and properly protected by the law.

LOOPHOLES IN THE PRESENT LABOUR CODES

The foundational paradox persists²⁴, and the ambiguity remains. The code about social security does not make gig workers employees, but rather a parallel system of welfare is created, which acknowledges the precariousness without undermining the power structure responsible for creating it. There are definitions that overlap and are unclear. Moreover, the aim of the new labor codes is to update the codes, and the notions of hire and fire are regarded as important loopholes. Of the Labour Codes now in force only the Code on Social Security²⁵ recognizes gig workers.

However, under the Industrial Relations Code, 2020²⁶ which regulates the Collective Bargaining, recognition of trade unions and dispute resolution process, they have been excluded by stating that Gig workers cannot form or join trade unions as platform workers, and cannot access Industrial tribunals. Similarly, the Occupational Safety Code, 2020²⁷ has not been extended to the gig workers.

²² *Uber India Systems Private Limited v. Union of India*, 2023 SCC Online Del 2216 (India).

²³ *The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023 (Rajasthan)*.

²⁴ Naveen Kumar, *Regulatory Framework and the Protection of Basic Rights of Gig Workers*,

²⁵ *Id.*

²⁶ *The Industrial Relations Code, 2020 (India)*.

²⁷ *The Occupational Safety, Health and Working Conditions Code, 2020 (India)*.

The implementation gap is further added to the legislative gap. The statistics show that in the year 2025, about 3 lakh people had registered on the E-Shram portal as workers. The revised labor codes have not yet been completely published in the central schemes and certain key provisions are not clear, which opens the doors for litigation.

Despite the Supreme Court in the ongoing IFAT vs. UOI²⁸ cases criticizing the government for its delay in providing protection, the heart of the unresolved classification issues will persist. The gig workers are still on paper partners, but effectively and practically, they are still workers, as one commentator put it.

SEWA AND LABOUR LAWS

The Self-Employed Women's Association (SEWA) is the biggest single central trade union in India that represents around 20 lakhs of self-employed women from informal economy in 20 states. SEWA's members belong to the vast unprotected working population of India's informal workers who constitutes 93% of India's labour force, yet few labour laws or social protection schemes include them. Their significant contributions to the nation's economy are largely uncounted and invisible.

SEWA is a pioneering example of how workers outside the traditional employer-employee relationship, such as gig workers, can organize and demand rights and legislative policy changes. Decades before the term "gig economy" existed, SEWA was fighting the same paradox: the workers who were economically dependent but legally invisible.

CONCLUSION

The dilemma faced by the gig worker is not yet resolved in the new Labor Codes in India; it has become an issue, an issue that has been articulated in one way or another. However, visibility is not dignity for the gig workers, and acknowledging is not full safeguarding.

The new Labor Codes have opened a door; the strikes of December 2025, including the protest by women gig workers and online strikes organized by trade unions, have left an imprint on labor history. The strikes brought to light an inability of the platform capitalists to reflect on their exploitative practices of labour. As the gig economy continues to evolve, it is crucial to adopt a balanced approach for a sustainable labour market.
