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## INVISIBLE RIGHTS OF GIG WORKERS OF INDIA

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Challa Pranavi, Guru Gobind Singh Indraprastha University

### ABSTRACT

There has been a rapid rise of 'gig economy' in India, which has raised significant concerns about their rights, social security and the working conditions of the workers. This research paper examines how the current central and state laws address these concerns, focusing on the legal status and the social protection of these workers.

The study discloses the significant gaps in the legal framework and the need for its reformation. The paper offers actionable recommendations to improve the legal protection, reduce occupational hazards and to ensure transparency. The main motive of this paper is to urge the government both Centre and the State to make laws and for its effective implementation to secure the working environment of India's rapidly growing gig economy.

**Keywords:** gig workers, social security, occupational hazards, human rights, labour rights.

## Introduction

According to Business Standard report<sup>1</sup>, India's gig economy is projected to reach \$455 billion by the end of the year, with a 17% annual growth rate, providing almost 90 million jobs and contributing 1.25% to the GDP. To understand the gravity, it is important to understand the meaning of 'gig worker' and 'gig economy'. A 'gig worker' is a temporary or freelance worker for a particular organisation which may be organised or unorganised in nature. On the other hand, Gig economy is the labour market characterised by such workers. This method of labour engagement has brought a high demand in digital platforms like food–grocery delivery, from companies like 'Zomato', 'Blinkit', 'Zepto', 'Swiggy' etc.

The paper focuses on the same food/grocery delivery platforms, outlining the limitations and gaps present in the system causing harm to rights of the gig workers. The government has been able to form certain legal frameworks initially defining the 'gig'. There is certain socio-economic, gender specific or intersectional factors that influence the employment of gig workers. Initiatives like, Code of Social Security, 2020, E-shram Portal of Registration of Gig Workers and certain state specific laws have influenced the protection scenario of the workers. With due research, it is very important to find out the real status of gig workers and establish a stand for them, the paper works for the same. This paper delves into the depths of gig work while exploring the work environment, its impacts and finally suggesting what better can be done.

## Definitions and Distinctions

Under 'The Code on Social Security, 2020' which is the act no. 36 of 2020;

Section 2 (35)<sup>2</sup> states that "*gig worker*" means a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship. They are, basically, anyone engaged in a temporary, short-term or freelance work, who are often compensated on a task-by-task basis. The common examples would be a taxi driver in a ridesharing company, an event photographer, or a food delivery person. However,

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<sup>1</sup> India's gig economy could add 90 mn jobs, enabled by large multinationals, BUSINESS STANDARD, Nov. 28, 2024, [https://www.business-standard.com/economy/news/india-s-gig-economy-could-add-90-mn-jobs-enabled-by-large-multinationals-124112800721\\_1.html](https://www.business-standard.com/economy/news/india-s-gig-economy-could-add-90-mn-jobs-enabled-by-large-multinationals-124112800721_1.html).

<sup>2</sup> THE CODE ON SOCIAL SECURITY, 2020, No. 36 of 2020, § 2(35), [https://labour.gov.in/sites/default/files/ss\\_code\\_gazette.pdf](https://labour.gov.in/sites/default/files/ss_code_gazette.pdf).

there is an absence of the proper definition, which specifies the various types of employment to be considered under the umbrella.

It is essential to understand the meaning of platform workers as “all platform workers are gig workers, but not all gig workers are not platform workers”. Under section 2 (60)<sup>3</sup> states that a “*platform work*” means a work arrangement outside of a traditional employer-employee relationship in which the organisations or individual use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such activity as notified by the Central Government, in exchange for payment. So, it can be deciphered that platform worker is a subcategory of gig worker who perform their work through digital intermediaries. Section 2 (61)<sup>4</sup> states that “*platform worker*” means a person engaged in or undertaking platform work.

It is pertinent to note that the ‘Code of Social Security’ has not been implemented as of now, although it is under debate whether ‘gig workers’ fall under the category of the ‘unorganised sector’ and whether they would be protected under the ‘Unorganised Worker’s Social Security Act, 2008<sup>5</sup>, as the gig workers lack formal contracts, neither receive benefits like provident fund, maternity leave, nor do they have collective bargaining rights which is provided in an organised sector. Even though they may fall under the unorganised sector, gig workers face unique challenges that traditional unorganised workers (like street vendors, construction workers) do not, may it be the lack of employer accountability which makes legal redressal difficult, or the dependence on the algorithms and rating which makes their income and access to work dependant on the digital metrics. Therefore, separate recognition of the gig workers is necessary as it ensure targeted social security and regulatory safeguards as the existing protections of the unorganised sector are inadequate.

The Contract Labour (Regulation and Abolition) Act, 1970, was designed to regulate the contract labour employed through contractors in establishments. But the gig workers do not fit into the traditional definition. A person hired through a contractor to work for an establishment which were called as the contract labour, the owner or the manager of this establishment would

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<sup>3</sup> THE CODE ON SOCIAL SECURITY, 2020, No. 36 of 2020, § 2(60), [https://labour.gov.in/sites/default/files/ss\\_code\\_gazette.pdf](https://labour.gov.in/sites/default/files/ss_code_gazette.pdf).

<sup>4</sup> THE CODE ON SOCIAL SECURITY, 2020, No. 36 of 2020, § 2(61), [https://labour.gov.in/sites/default/files/ss\\_code\\_gazette.pdf](https://labour.gov.in/sites/default/files/ss_code_gazette.pdf).

<sup>5</sup> THE UNORGANISED WORKERS' SOCIAL SECURITY ACT, 2008, No. 33 of 2008, [https://www.indiacode.nic.in/bitstream/123456789/15481/1/the\\_unorganised\\_workers\\_social\\_security\\_act%2C\\_2008.pdf](https://www.indiacode.nic.in/bitstream/123456789/15481/1/the_unorganised_workers_social_security_act%2C_2008.pdf).

be the 'principal employer' and the person who supplies these workers to the principal employer would be the 'contractor'. The platforms in case of gig economy work as an 'aggregator' instead of a contractor. It is crucial to note that gig workers sign the 'terms of service' and not the employment contracts. In *Uber BV v. Aslam*<sup>6</sup> (UK Supreme Court, 2021), the court recognised uber drivers as 'workers' instead of independent contractors. Suffice to state that gig workers are not recognised under the CLRA act, 1970, however the nature of control and the economic reality of their relationship places them in a 'grey zone'.

## Challenges

In *Uber India Systems Private Limited v. Union of India*<sup>7</sup>, Uber challenged the applicability of the social security provisions under the Code of Social security on the issue whether the drivers are entitled to the security benefits under the new labour codes which are specifically for the employees. Gig workers face the denial of the social security, despite being economically dependent of the platforms. Similarly, in the case of *Delivery Worker's Union v. Zomato & Others*<sup>8</sup>, delivery workers had complained against the arbitrary account deactivations, absence of fair grievance redressal and the pressure to meet target under the tight deadlines, leading to questions of digital labour rights.

In *National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) v. Union of India*<sup>9</sup>, the failure of the central and the state governments was brought forward in implementing the welfare schemes for the unorganised sector workers leading to the issue whether the non-implementation of social welfare laws amount to a violation of fundamental rights of unorganised workers, leaving them without access to pension, insurance or health benefits. These cases reflect the legal invisibility, algorithmic control, lack of social security and absence of employment status that gig workers face in India.

## Analysis

The progressive aspect of the code includes the recognition of the new work categories like the 'gig workers', 'platform workers' and the 'unorganised workers', which gives them the legal

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<sup>6</sup> *Uber BV v. Aslam* [2021] UKSC 5.

<sup>7</sup> *Uber India Systems Pvt. Ltd. v. Union of India*, W.P.(C) 14048/2021 (Del. High Ct. 2021).

<sup>8</sup> *Indian Federation of App-Based Transport Workers v. Union of India*, W.P.(C) 14048/2021 (Supreme Court 2021).

<sup>9</sup> *National Campaign Committee for Central Legislation on Construction Labour (NCC-CL) v. Union of India*, (2018) 5 SCC 607 (India).

identify overcoming the traditional ‘employer-employee’ relationship. Section 109 clearly states that the government may frame schemes for the gig and platform workers for their social security. At the same time, the code leaves the implementation of these schemes entirely to the discretion of the government recognising the particular worker as a part of gig structure.

As discussed in the *Delivery Worker’s Union v. Zomato*<sup>10</sup>, the arbitrary deactivations and algorithmic bias is pressing concern for which the code does not provide any legal remedy. The gig workers must be self -registered on the government portal but the lack of awareness or digital access in less developed areas contradicts the universal and accessible social protection. Without a binding legal obligation, grievance redressal and proactive enforcement, this economy remains unprotected and a legal vacuum.

## Recommendations

The foremost and a dire need for the Ministry of Labour and Employment (MoLE) to notify and implement ‘The Code on Social Security, 2020’ which will help in the national recognition and protection of gig workers. It is essential as ‘labour’ is a subject of the ‘concurrent list’ in which the combined co-ordination of the centre-state is essential for the implementation.

Establishment of Central Gig worker’s Welfare Board, which should include representatives from government platform workers and gig workers to institutionalise a triparty dialogue to oversee the insurance, pension and health benefits of the workers. This can be initiated by the NITI Aayog and the MoLE, with the monitoring of the NHRC to ensure the participation of the government.

National Human Rights Commission should establish a cell for gig worker’s rights, which should be responsible for the compliant redressal, Suo motu inquiries and an annual report on the rights of the digital platform workers. The audits can be of four step model: based on Income Stability, Job security, flexibility and career progress.

Karnataka’s welfare ordinance<sup>11</sup>, Telangana’s Gig-worker policy<sup>12</sup>, Tamil Nadu’s set up of Air-

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<sup>10</sup> *Indian Federation of App-Based Transport Workers v. Union of India*, W.P.(C) 1068/2021 (Supreme Court)

<sup>11</sup> Economic Laws Practice, *Karnataka Enacts Ordinance for Gig Workers' Welfare*, ELP Law (May 27, 2025), <https://elplaw.in/leadership/karnataka-enacts-ordinance-for-gig-workers-welfare/>.

<sup>12</sup> P. B. R. J. Rakesh & Saptarshi Mandal, *Telangana Set to Become Third State to Introduce Legislation for Gig and Platform Workers*, The Wire India (June 29, 2025).

conditioned rest stations with proper washrooms for gig workers<sup>13</sup> and Rajasthan's draft bill-serves as a best initiative. NHRC should compile these innovations and recommend their adoption through Parliamentary Legislation. Gig workers, especially delivery personnel, often work long hours without rest to meet incentive thresholds or complete more deliveries. This can lead to exhaustion, poor mental health, and increased risk of accidents. To protect their well-being, governments should set legal limits on daily working hours for platform workers and mandate algorithmic inclusion of rest breaks and downtime within the delivery schedule.

## Conclusion

The denial of the social security and fair working conditions to gig workers undermines their 'right to livelihood' as provided under Article 21 of the Indian Constitution. It also contravenes the Directive Principles like Article 38, 39 and 43, which mandates the State to ensure 'proper living wages' and ensure 'proper and dignified conditions at work'. These rights align with the International Labour Organisations' principles of 'decent work' which is very essential in the current situation of economy. This paper urges that the structural invisibility of the gig workers within the labour laws is not merely a policy gap but a human rights concern and as India Strives towards a digitally inclusive economy, it must ensure that the rights of its workers are not sacrificed in the name innovation, only then can its economy be equitable, sustainable and humane.

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<sup>13</sup> P. B. R. J. Rakesh & Saptarshi Mandal, *Telangana Set to Become Third State to Introduce Legislation for Gig and Platform Workers*, The Wire India (June 29, 2025).