How Effectively Labor Laws Protect Gig Workers' Rights in India?

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The rise of the Gig economy, especially in platform services like cab driving and food delivery, has transformed traditional labor frameworks. Gig workers, classified as independent contractors, often lack the protections afforded to regular employees. This article examines the legal status of gig workers, existing protective legislation, and compares international regulatory approaches. It also discusses the International Labor Organization's (ILO) efforts to address the challenges faced by gig workers and the debate over classifying them as employees, weighing the pros and cons of such a change, including its impacts on flexibility, protections, and economic effects.

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Introduction

The rapid growth of digitalization worldwide is driving a major economic shift, significantly shaping the future of work and employment. According to the International Labor Organization, the quick spread of digitalization across the globe is causing substantial changes to the economy that will greatly impact the future of work and jobs. A World Employment and Social Outlook report published by the International Labor Organization (ILO) in 2021 states that the number of digital labor platforms has increased five-fold over the past ten years. These platforms not only offer individuals many opportunities to develop their skills, but they also help businesses grow their revenue. Additionally, the Economic Survey 2020–21 shows that India has become a favorable destination for gig and platform labor worldwide. Experts predict that the growth of e-commerce platforms will speed up this trend in the coming years. In 2020–21, the gig economy employed 7.7 million people (77 lakh), accounting for 2.6% of India's non-agricultural workforce and 1.5% of the total workforce. By 2029-30, this number could rise to 23.5 million, which would be 6.7% of non-agricultural jobs and 4.1% of all jobs (Niti Aayog, 2022).

Gig jobs are becoming more popular because they allow workers to choose their hours, offer flexibility in taking time off, and even enable them to select organizations based on their preferences. These benefits have made temporary and contract jobs more attractive, especially for people seeking more freedom and flexibility in balancing work and life. However, despite these advantages, gig economy jobs face many challenges. Concerns include less job security, non-negotiable terms, and short-term contracts with fixed wages. Gig workers often struggle with low income, excessive working hours, rigid leave policies, and a lack of social security benefits. There's also a high risk of exploitation by employers, as there is no transparent and structured legal system to protect and support them in case of grievances or problems.

On the other hand, the rapidly expanding gig economy and technological advancements are disrupting traditional employment structures, calling for a reassessment of labor law systems. A clearer and more precise definition of independent contractors and employees is necessary to prevent complications when enforcing existing labor regulations. Gig jobs are increasingly becoming popular as they enable workers to choose their hours, provide flexibility to choose their holidays, and even allow them to choose the organizations based on their preferences. These benefits have made temporary and contract-based jobs more popular, especially among people who want more freedom and flexibility in how they combine work and life.

Gig work provides benefits such as flexibility and autonomy, along with a variety of project options. Nevertheless, it also comes with drawbacks, including income volatility, the absence of conventional benefits like health insurance and retirement plans, and reduced job security. Additionally, the gig economy poses challenges for companies, such as overseeing numerous contractors and facing possible legal complications.

Legal Status in India

Originally, the word "gig" meant an employment that lasted a specified amount of time. A "gig worker" is someone who takes on short-term jobs that have to be done by a certain date and occasionally in odd circumstances. In India's gig economy, there are two different types of workers: those who work on platforms and those who do not. People who work on platforms like Amazon or Uber use online algorithmic matching tools to find clients. People who work outside of these digital platforms, including in construction or day labor, where technology is rarely used, are called non-platform workers. They work for a limited time or on a temporary basis.

Section 2(35) of the Code of Social Security, 2020, says that a "gig worker" is someone who works or takes part in a work arrangement and makes money from these activities outside of the usual employer-employee relationship. The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023 makes it clear what a "gig worker" is. A gig worker refers to an individual who engages in tasks or establishes work agreements, earning income through these endeavors beyond the conventional employer-employee dynamic, as per law. These people work under contracts that set a pay rate and require them to follow the terms and conditions of those contracts. The word covers all kinds of piece-rate work.

There are several laws in the labor sector that try to define and defend the rights of different kinds of workers. These rules apply to many different types of work arrangements, such as those between employers and employees, contract labor, migrant workers, informal sector workers, and gig workers. Employees, contract workers, and informal workers usually get protections like minimum wages, bonus payments, employee provident funds, gratuity as required by the Payment of Gratuity Act, equal pay, and medical and insurance benefits. However, gig workers do not get these protections.

The Factories Act of 1948 and the Workmen's Compensation Act of 1923 are two important pieces of labor law that were made with regular workers in mind. The Factories Act focuses on safety, health, and welfare for factory workers, while the Workmen's Compensation Act gives money to workers or their families if they are hurt or killed at work. The Trade Unions Act of 1926 also lets people create trade unions to encourage collective bargaining. The Minimum Wages Act of 1948 says that corporations must pay workers a set minimum wage.

Aggregators, like ride-hailing and food delivery services, call gig workers "Independent Contractors," "Partners," or "Individual Entrepreneurs."

Even while there are protections for other workers, gig workers are not covered by these laws, which means they don't have the same rights and benefits. Swiggy (2024) says that aggregators, like ride-hailing and food delivery services, call gig workers "Independent Contractors," "Partners," or "Individual Entrepreneurs." They say that the relationship between these aggregators and gig workers is not like that of an employer and employee. The difference between an independent contractor and an employee raises questions about the basic structure of work contracts in the gig economy. To find out if someone is an employee or an independent contractor, look at how much power the employer has and what both sides want. The Supreme Court of India has looked into the meanings of "employee" and "independent contractor" in a number of cases. In Dharangadhara Chemical Works v. State of Saurashtra, for instance, the court said that there must be a clear employer-employee or master-servant relationship, which is shown by the employer's supervision and control over the employee. The Court also identified numerous important factors to think about when deciding if there is an employer-employee connection in Balwant Rai Saluja v. Air India Ltd. These factors are: (i) the person in charge of assigning tasks; (ii) the company that pays the worker; (iii) the power to fire the worker; (iv) the power to punish the worker; and (v) the level of control and supervision over the worker (Pawar & Srivastava, 2022).

Popular Laws Governing Gig Workers

This overview includes the Code of Social Security, 2020; the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023; and the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024. The primary government has put into place four labor rules that are mostly based on its authority from the concurrent listing of the 7th schedule of the constitution. The Social Safety Code, 2020 is the most important of these codes for understanding gig and platform work formally. This Code puts aggregators in the seventh schedule because it sees them as a separate type of agency. Also, gig and platform workers must sign up in order to get social security benefits. The Code says that those who are younger than 16 or older than 60 cannot sign up to work as gig or platform workers. The seventh schedule also contains plans for helplines and facilitation centers to aid gig and platform workers (Chirag, Chandrappa, & Bhargav, 2023).

The Social Security Code lists six social protection groups: the Personnel Provident Fund Board of Trustees (an important Board), the Employees State Insurance Corporation (ESIC), the National Social Security Board for Unorganized People (NSSBU), the National Social Security Board for Gig and Platform Workers (NSSBGP), national boards for unorganized people, and state welfare forums for people who work on construction sites. The NSSBGP and the ESIC are especially relevant to gig and platform workers. Section 45 of the 2020 Social Security Code says that the Central Government can work with the ESIC to create initiatives that help unorganized, gig, and platform workers and their families. These plans may also cover things like diseases, maternity leave, and injuries that leave one unable to work or kill him/her. With the new ESI program, both aggregators and gig workers are expected to put money into the ESI Fund. Aggregators can deduct their contributions from their taxes if they make their payments on time (Pawar & Srivastava, 2022),

The NSSBGP is in charge of organizing, running, and keeping an eye on social safety packages for gig and platform workers. It will also be in charge of managing the price ranges set for this project. These programs are meant to provide life and disability insurance, health and maternity care, retirement protection, childcare benefits, and accident insurance. The "Social Protection Fund"

(SSF) could pay for some applications, according to Section 141 of the Social Protection Code and Section 150 of the Occupational Protection Code. The SSF is expected to get money from the government, national governments, aggregators, beneficiaries, and the business social responsibility fund. According to section 114(4) of the Code of Social Protection, 2020, donations from aggregators can be between 1% and 2% of their yearly revenue, but they cannot be more than 5% of the bills that gig and platform workers get through the aggregator (Kaur, 2024).

Rajasthan has become one of India's first states to put rules in place that control the hiring of gig workers on a national level, just as the Social Security Code of 2020. The Rajasthan government passed the Rajasthan Platform-based Gig Employees (Registration and Welfare) Act, 2023, on July 24, 2023. Its goal is to give gig workers social security benefits (Choksi, 2024).

The Rajasthan Platform-based Gig People (Registration and Welfare) Act, 2023, creates the Rajasthan Platform-based Gig Employees Welfare Board, which is mostly in phase three. This board is in responsible for keeping track of platform-based gig workers' registrations, making sure that registered workers have access to social security plans, and advising the government on how to put those plans into action. Some of its duties are to make sure that platform-based gig workers may get the advantages that the state offers, safeguard their rights, help them resolve complaints about their rights quickly, and take care of other related tasks.

This law also sets up a welfare fund to help registered gig workers who work on platform-based arrangements. The Rajasthan Platform-based Gig Workers (Registration and Welfare) Act, 2023, Phase 10 says that this fund could be funded by welfare charges, donations from the state government, and other assets. Also, the Act sets up a way for registered gig workers to file complaints. They can do this by sending a petition to an officer chosen by the national authorities or through an online site. These petitions can also talk about any problems with their rights, payments, or benefits that are covered under the Act.

On June 26, 2024, the Karnataka Government released a draft called "The Karnataka Platform-Primarily Based Gig People (Social safety and Welfare) Invoice" 2024 in response to Rajasthan's attempt. This rule sets up social security benefits to protect the rights of gig workers. The Act's key parts are the Registration and Welfare Board, social protection, welfare, and fitness, as well as dispute resolution and other rules.

Also, the Karnataka Government has set a standard by starting the Karnataka State Gig Workers Coverage Scheme. People between the ages of 18 and 60 can join this plan as long as they are not profit taxpayers and do not contribute to the Personnel Provident Fund or employees' state coverage. The Karnataka State Gig Employees Coverage Scheme and the Karnataka State Unorganized Employees

Social Protection Board say that the scheme offers a number of benefits, such as coverage for accidental deaths (Rs. 4 lakh, which includes Rs. 2 lakh for accidental coverage and Rs. 2 lakh for lifestyle coverage), compensation for permanent disability caused by an accident (up to Rs. 2 lakh), and coverage for sanatorium costs related to coincidence instances.

The Indian Federation of App-based Totally Delivery Workers (IFAT) has launched a Public Interest Litigation (PIL) in the Supreme Court to challenge the idea that everyone who works, even those in the gig economy, has a "right to Social Security." The person who filed the petition said that gig workers who work for companies like Zomato, Swiggy, Ola, and Uber should be considered "unorganized people" and hence should be able to get social protection benefits under current labor laws (Kaur, 2025). This petition shows how gig workers have taken advantage of since they have to work long hours for little pay and lose their social security benefits. It wants to set up special programs to help people with health insurance, maternity leave, pensions, and other things. The gig workers do not agree with the idea that their dating with platform owners makes them partners; instead, they want it to be seen as a de facto agency-employee relationship (Kumar, 2024). In another case, the All India Gig Workers Union is suing Uber India Structures Pvt. Gig workers have fought against Uber's policies, especially the company's refusal to offer minimum wages and social protection benefits. This shows how hard it is for gig workers to get basic employment rights (Singh, 2024).

The labor policy of the Government of India has now formally incorporated gig workers via the Code on Social Security, 2020. This legislation defines gig and platform workers for the first time and requires the provision of social security benefits. This marks a notable departure from the conventional labor laws, which have faced challenges in categorizing gig workers. Furthermore, the government is actively developing national-level regulations aimed at safeguarding their welfare, which includes the establishment of social security schemes, while also acknowledging their increasing role in the economy. The Code on Social Security, 2020 represents a significant policy shift that formally acknowledges gig and platform workers, who have historically been excluded from numerous labor regulations. It characterizes gig workers as individuals who earn their income outside the conventional employer-employee framework. This legislation establishes the foundation for social security initiatives, including life and disability insurance, accident coverage, health and maternity benefits, and protections for the elderly. The Ministry of Labor and Employment is currently formulating a new national statute aimed at more effectively integrating gig workers into social security and various welfare initiatives. Additionally, there is a proposal for a social security fund designed to encompass workers in the unorganized sector, which includes gig and platform workers, thereby ensuring extensive social security protection. Furthermore, there are suggestions to create a specialized Gig Workers Welfare Board tasked with overseeing the welfare contributions and delivering direct benefits to gig workers.

Global View

The California Supreme Court heard a full-scale lawsuit about gig workers in the United States. The case was called Dynamex Operations West, Inc. v. Superior Court of Los Angeles. Before 2004, Dynamex, a delivery company, considered its drivers to be workers. But in 2004, the group altered its status to independent contractors, which meant that drivers had to pay for their own petrol, tolls, and other transportation-related costs. The drivers were in charge of setting their own work hours for Dynamex. Dynamex and the customers have talked about the expenses for such drivers. The appeals court said that putting impartial contractors in the wrong category was unfair and wrong for employees. Because of this, the court used the ABC test to discern the difference between personnel and impartial contractors. This check assumes that employees are personnel unless the agency can show three things: that the employee works for the hiring entity on their own, that the work is outside the normal course of business, and that the employee is running a separate business or exchange on their own. California enacted Meeting Bill Five (AB5) in 2019. This law says that corporations must treat gig finance system workers, such ride-hailing drivers, as employees. Uber and Lyft, on the other hand, don't like this law and want to keep the independent contractor system. In November 2020, a referendum called Proposition 22 was passed. This repealed AB5 and let gig workers work as independent contractors. In the UK, gig workers are called "personnel," "people," or "self-employed." Workers don't have many rights. The important lawsuit Aslam v. Uber showed that gig workers have big problems, such as the fact that Uber controls the rates, which makes it hard for drivers to set their own prices. Uber helps set up contracts, which means that drivers have little capacity to negotiate. They may only accept or deny the terms. Uber video display units are in charge of overall performance and can end contracts if expectations are not met. This shows that employees are subordinate. Also, Uber restricts the number of trip requests and punishes people who cancel too often. The court said that Uber drivers were in a "subordinate and dependent" position. Because of this, the court decided that these drivers should be considered "people" under the Employment Rights Act of 1996. This means they are entitled to benefits like the minimum salary and paid time off. There has been a lot of talk in Brazil about the employment status of gig workers. First of all, some labor tribunals said that Uber drivers should be treated as employees. But the Brazilian Supreme Court of Justice made a big ruling that could affect how similar cases are decided in the future. They said that Uber drivers are in-

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dependent contractors. In France, the Court of Cassation determined that an Uber driver had an employment relationship with Uber, even if a planned bill to improve the reputation of gig economy workers failed. The court docket showed how much power Uber had over the drivers, including the ability to set prices, set routes, and limit the services offered. This ruling, together with another that said a shipping worker was an employee, should make things better for gig workers in France when it comes to the law. In Switzerland, a March 2023 ruling affirmed that drivers within the gig finance system ought to be categorized as workers rather than independent contractors (Choubey, 2024).

ILO & Protection of Gig Workers' Interests

The International Labor Organization (ILO) has not yet created a specific convention or guideline for gig or platform-based workers. The ILO's recent book, "Knowing Decent Work Inside the Platform Economy," is a big step forward. It looks into how to create a global labor standard that deals with the challenges and opportunities that come with the rise of platform work. It gives a lot of information on current global rules and practices, showing how different countries are adjusting to the platform economy. There is also a questionnaire in the document for governments to share their ideas on capacity workforce needs. Responses are due by August 31, 2024. The comments collected may be referenced at the forthcoming international labor conferences in 2025 and 2026, perhaps establishing a foundation for a future global paradigm centered on dignified employment within the platform economy. Additionally, several ILO conventions are indirectly pertinent to gig workers, including the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); the Right to Organize and Collective Bargaining Convention, 1949 (No. 98); the Equal Remuneration Convention, 1951 (No. 100); the Workers with Family Responsibilities Convention, 1981 (No. 156); the Violence and Harassment Convention, 2019 (No. 190); and the Promotional Framework.

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Challenges in Categorizing Gig Workers as Employees

Scholars often refer to the relationship between gig workers, clients, and aggregators as a "triangular courtship," which makes it harder to regulate gig workers. The major problem is that gig workers have traits of both independent contractors and employees. Uber drivers might be considered employees because Uber has a lot of power over them, such as collecting fares, handling complaints, setting behavioral standards, and figuring out costs. All of these point to a company-worker relationship. The program also employs algorithms to assign tasks, set hours of operation, figure out pay, create rankings and scores, and finally decide if employees can keep working. Random photographs, time monitoring, and assignment logs can also be used by systems to keep an eye on the staff. Algorithms are just a kind of computerized supervision that employs ratings and reviews from customers. Uber drivers do have some freedom, though. For example, they can choose their own work assignments, refuse clients or locations, make their own schedules, and connect with a number of platforms. This is more in line with the tendencies of independent contractors (Mukherjee, 2024),

If gig workers were considered employees, aggregators would have to obey a lot of employment laws and procedures. These standards could include following rules about working hours, taking breaks, paying the minimum wage, keeping the workplace safe, and providing the right paperwork. If one does not follow these felony rules, you could face criminal prosecution or fines. One of the best things about gig employment, though, is that it gives workers the freedom to choose when and where they work. Also, these things are available 24 hours a day, seven days a week, which is great for people who lead busy lives. If gig workers are considered employees, they would not be able to choose when to paint, which will change the whole point of gig paintings. The unbiased contractor model lets aggregators grow quickly while keeping costs low, which makes this business model attractive. But calling gig workers "staff" could make things more expensive for aggregators, such as salary, perks, taxes, and insurance. These extra expenditures could affect how profitable buildings are, especially in places where labor prices are considerable. To keep costs down, aggregators can raise buyer fees or limit how much they pay the workers. On the other hand, if gig workers are still considered independent contractors, they may continue to be taken advantage of and denied important worker rights. The dispute regarding the classification of gig workers as employees often centers on the control check, which evaluates the extent of an employer's authority over its workers. This study has led to varied results in different nations, with judges often interpreting how popular gig artists are in different ways. Because of this, there may not be a widely agreed definition of employment courting for gig workers, which makes the problem further harder to solve.

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Conclusion

It is good that important people are trying to integrate gig workers in the Code of Social Safety, 2020, and raise social security payments for this group. The Karnataka Government's draft bill for platform-based gig workers has also made headway by addressing concerns like occupational health and safety, ways to settle disputes, and protections against unfair termination. This shows that a lot of progress has been made. But these rules do not go far enough to protect the basic rights of gig workers, such as getting rid of minimum pay legislation, operating hour laws, and other benefits. To solve these problems in a way that works, a middle ground may be created between impartial contractors and employees. This would not hurt aggregators' revenue models. The UK has developed a category called "worker," which is midway between an employee and an independent contractor. This group has good perks, including paid vacation days, and still lets workers be flexible, which is what they need.

Also, gig workers need to get at least the minimum wage, have their insurance benefits properly implemented, and have important protections. This is because many people in this area work in dangerous conditions, like being exposed to extreme weather, having to deal with the stress of the pandemic, or having to meet tight deadlines. To make sure that justice is served, the government must also stress the importance of collective bargaining and set up good ways to settle disagreements. A strong three-way social communication between governments, businesses, and workers is necessary to solve the regulatory problems that come up with the platform financial system while also encouraging social justice, sustainable corporate practices, and inclusive growth. The All India Gig Workers Union (AIGWU), the App Drivers & Couriers Union (ADCU), and the Telangana Gig and Platform Workers Union (TGPWU) are just a few of the many unions in India that have formed to help gig workers. There is an urgent need to rethink and build new frameworks that encourage cooperation among different groups of people in the gig economy system in order to make social interaction better. A new agenda for social discourse should encourage collaborative projects that bring together governments, employers' businesses, platform companies, and employee businesses to deal with the huge problems in the gig economy and get the most out of its potential benefits.

On October 31, 2024, women gig workers in eleven major Indian cities celebrated "Black Diwali Day." They turned off their phones in protest against the unfair practices of platform agencies, which was led by the Gig and Platform Services Workers Union (GIPSWU). They wanted things like basic living wages, safety and health measures, and extra protections for women workers, like maternity leave.

Many gig workers have said they have been sexually harassed, had trouble finding restrooms, been treated aggressively, and even been hurt while doing their jobs. When these kinds of things happen, though, platform businesses do not help much, if at all. These events show how important it is to protect gig workers in the same way that full-time employees are. An effective preeise definition for gig workers that gives them fundamental rights and protections is very important. This is not simply a case of misclassification; it shows how labor laws need to change since the gig economy has gone from being a way to make extra money to becoming the main source of income for many people.

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