

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 4 [2025] | Page 400 - 403

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THE GIG ECONOMY AND THE QUESTION OF LABOUR RIGHTS IN INDIA: A LEGAL VACUUM?

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ABSTRACT

The gig economy has emerged as a dominant form of employment in India, offering flexibility but lacking adequate legal safeguards. This paper examines the precarious position of gig workers, who operate outside traditional employment structures and are often denied basic labour protections. It analyses the gaps in Indian labour laws, reviews key legislative developments like the Code on Social Security, 2020, and draws insights from international frameworks. The study highlights the urgent need for comprehensive reforms to ensure gig workers are not excluded from social security and employment rights. Through comparative legal analysis and policy critique, this paper proposes a rights-based legal framework tailored to the Indian context.

INTRODUCTION

The gig economy has rapidly reshaped the landscape of employment in India. With the rise of digital platforms like Swiggy, Zomato, Ola, Uber, and Urban Company, a significant portion of the workforce now falls outside the traditional employer-employee relationship. These “gig workers” offer their labour through platforms but remain legally classified as independent contractors. This article explores the legal ambiguities surrounding their employment status, the lack of protective labour rights, and the legislative and judicial responses to this evolving sector.

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LEGAL FRAMEWORK IN INDIA: EMPLOYEES VS. INDEPENDENT CONTRACTORS

Under traditional Indian labour laws like the Industrial Disputes Act (1947) and the Contract Labour (Regulation and Abolition) Act (1970), employees are entitled to benefits such as minimum wages, job security, provident fund, and grievance redressal mechanisms.

However, gig workers are not explicitly covered under these frameworks. The categorisation of gig workers as “independent contractors” excludes them from the ambit of such protections.

The Code on Social Security (2020) marked a shift by recognising gig and platform workers as a distinct category. However, while it aims to provide social security benefits like insurance and maternity leave, it does not equate gig workers to regular employees, thus still depriving them of fundamental labour rights like minimum wage or the right to unionise (Government of India, 2020).

JUDICIAL AND POLICY DEVELOPMENTS

Globally, courts have taken varying approaches to the question of gig workers' rights. In the UK case *Uber BV v. Aslam* (2021), the Supreme Court held that Uber drivers were “workers,” not independent contractors, and entitled to minimum wage and holiday pay (UKSC, 2021).

In contrast, Indian courts have not yet definitively classified platform workers as employees. The absence of a legal test for determining gig workers' status has led to uncertainty. While courts have acknowledged the economic dependency of such workers on platforms, no binding precedent mandates platforms to provide labour protections.

Policy-wise, the Indian government has introduced schemes like the e-Shram portal, which aims to register unorganised workers, including gig workers. However, the implementation remains weak, and actual benefits have been minimal (Ministry of Labour and Employment, 2022).

CHALLENGES FACED BY GIG WORKERS

1. No Minimum Wage Guarantee: Gig workers are paid per task or delivery, often earning below minimum wage after accounting for fuel, data, and maintenance expenses.
2. Lack of Social Security: Although the Social Security Code recognises them, the contribution model is unclear, and enforcement remains lax (ILO, 2021).
3. No Collective Bargaining Rights: Independent contractors cannot form trade unions or access mechanisms like collective bargaining, leaving them vulnerable.
4. Absence of Dispute Redressal: Most gig platforms require workers to resolve disputes through arbitration, with limited scope for legal recourse.

COMPARATIVE PERSPECTIVES

United Kingdom: Uber v. Aslam marked a landmark shift in recognising platform workers as eligible for employment rights (UKSC, 2021).

European Union: A proposed Directive (2021) aims to ensure rights like collective bargaining, transparency, and algorithmic accountability for platform workers (European Commission, 2021).

USA (California): Assembly Bill 5 (AB5) attempted to classify most gig workers as employees, although later modified by Proposition 22 following pushback from companies (State of California, 2019).

RECOMMENDATIONS AND CONCLUSION

The current Indian legal regime is insufficient to address the needs of gig workers. While flexibility is the key attraction of the gig economy, it must not come at the cost of basic rights. Legal reforms must:

Clearly define “gig workers” and provide a statutory test for classification. Ensure mandatory contributions from aggregators to a gig workers’ welfare fund.

Guarantee basic labour rights including minimum wage, accident insurance, maternity benefits, and access to grievance redressal.

Allow platform workers to unionise and engage in collective bargaining.

The Constitution of India guarantees the right to livelihood and protection from exploitation (Constitution of India, Arts. 21 & 23). Denying gig workers basic rights contradicts this spirit. As the gig economy becomes a dominant employment mode, it is imperative for India to address this legal vacuum and move towards a more equitable labour framework.

REFERENCES

Constitution of India. (1950). Government of India.

European Commission. (2021). Proposal for a Directive on improving working conditions in platform work. COM(2021) 762 final.

Government of India. (2020). Code on Social Security, 2020.

ILO. (2021). The Role of Digital Labour Platforms in Transforming the World of Work. Ministry of Labour and Employment. (2022). e-Shram Portal Progress Report.

State of California. (2019). Assembly Bill No. 5 (AB-5).

UK Supreme Court (UKSC). (2021). Uber BV v. Aslam, [2021] UKSC 5.