

“Labour Laws in the GIG Economy: Erecting a Fair Future”

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Introduction

In the past few years, the emergence of the gig economy has revolutionized how work is conducted and business is conducted. Enterprises such as Uber, Airbnb, and TaskRabbit have revolutionized conventional employment structures by presenting adaptable work options and novel avenues. Nevertheless, this thriving gig economy has also introduced numerous legal complications and apprehensions. This article centres on the present legal predicaments encircling the gig economy and investigates the significance of guaranteeing equity and safeguards for workers within this evolving panorama.



Gig economy participants, also referred to as freelancers or independent contractors, are individuals who partake in short-term, adaptable work setups often facilitated through digital platforms. These workers function outside the customary employer-employee interaction, providing their expertise, services, or effort on a per-project basis. Found in diverse sectors like transportation, delivery services, online freelancing, and more, gig workers possess the freedom to determine their work hours and clients, enabling them to harmonize work and personal obligations. Nonetheless, these individuals frequently confront obstacles like irregular earnings, restricted access to perks, and diminished legal safeguards when compared to conventional staff. As the gig economy continues its evolution, conversations regarding labor entitlements, job categorization, and the necessity for regulations that secure equitable treatment and well-being for gig workers have gained momentum.

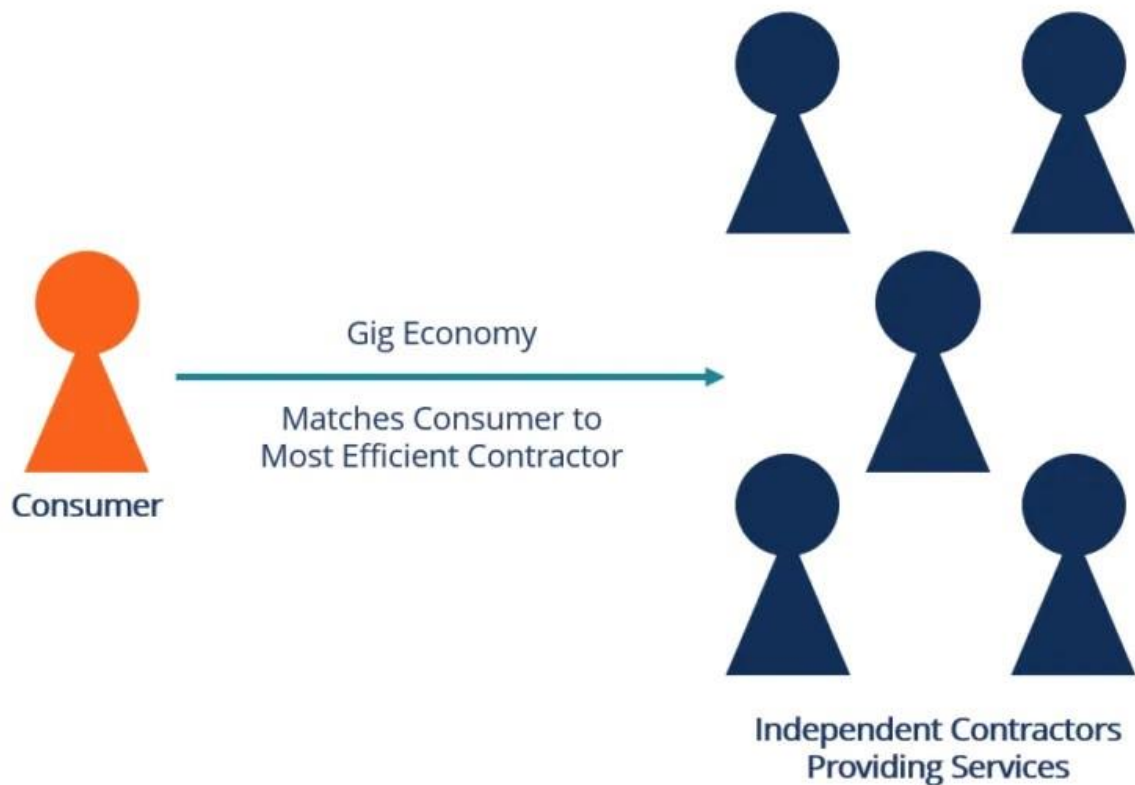
Define the GIG Economy

In India, the gig economy has blossomed into a robust open-market structure, characterized by the prevalence of temporary roles and businesses enlisting freelancers for short term commitments. As per findings about 15 million independent laborers are active across diverse sectors in India, encompassing software, shared services, and professional domains. India stands as the world's fifth-largest nation in flexible staffing, trailing only behind the Japan, US, Brazil and China.

The gig industry in India holds noteworthy potential, as approximately 57% of fresh employment opportunities stem from gig economy enterprises, accommodating both manual and professional labor requirements. While the gig economy conventionally pertains to manual labor roles, there is an increasing mandate for gig workers in professional capacities such as specialized advisers, sales personnel, web developers, content creators, and software engineers. Predictions suggest that the gig economy could potentially generate up to 90 million positions in non-agricultural sectors in India, contributing around 1.27% to the nation's GDP over the long run. As India strives to realize its objective of attaining a USD 5 trillion economies by 2025, the gig economy is primed to assume a pivotal role in narrowing income disparities, addressing unemployment concerns, promoting economic advancement, and furnishing employment avenues.

The gig economy pertains to a job market distinguished by the prominence of transient, adaptable, and short-term employment setups. Within this setup, individuals commonly engage in task-specific or project-based work, functioning as freelancers or independent contractors instead of being in the employ of a sole employer. These individuals, often termed as gig workers, make use of digital platforms or online marketplaces to establish connections with prospective customers or clients. These platforms facilitate the trade of services, enabling gig workers to present their abilities, knowledge, or effort to a diverse array of customers or clients.

The term "gig" originally denoted a single performance or commitment, primarily within the entertainment sector. However, its scope has broadened to encompass diverse work setups extending beyond conventional employment. Individuals engaged in the gig economy can be found across various industries, including transportation (like ride-hailing drivers), delivery services, online freelance platforms, home-sharing endeavours (such as Airbnb hosts), among others. The gig economy presents numerous advantages, including enhanced adaptability, the opportunity to engage in multiple projects concurrently, and the potential for elevated earnings. Additionally, it enables both businesses and individuals to access specialized skills and services as needed, often at a reduced cost compared to established employment models.



Nonetheless, the gig economy also brings about difficulties. Gig workers frequently lack the customary benefits and safeguards linked with conventional employment, including healthcare, retirement plans, paid time off, and legal safeguards. Moreover, there can be unpredictability regarding income stability, given that gig employment might not ensure a consistent or foreseeable income source. The expansion of the gig economy has spurred conversations concerning labor entitlements, job classification, and the necessity for regulations that can tackle the distinct attributes of gig labor. These dialogues involve policymakers, labor advocates, gig platforms, and gig workers themselves, as they navigate the intricacies and repercussions of this advancing labor landscape.

New Labor code 2020

The recent labor code of 2020 is set to extend legal safeguards and advantages to gig workers. This labor code seeks to tackle the difficulties faced by gig workers concerning their classification and employment entitlements. With the introduction of this new code, gig workers might gain access to safeguards for minimum wage, social security benefits, and specific labor privileges. This initiative has the potential to enhance their financial stability and social coverage. Moreover, the code could establish mechanisms for resolving disputes and grant gig workers the ability to form associations or unions to collectively negotiate for improved working conditions.

Furthermore, the code might establish more precise criteria for discerning the employment status of gig workers, differentiating between independent contractors and employees. This

differentiation is vital to ensure that gig workers receive suitable legal safeguards in accordance with their actual work arrangement. Nevertheless, the success of this new labor code in safeguarding gig workers hinges on several factors, including the effectiveness of enforcement mechanisms, industry-specific regulations, and the readiness of gig platforms to adhere to the newly introduced regulations.

Labour Laws Governing the Gig Economy:

Over the past few decades, propelled by technological growth, internet proliferation, urbanization, and more freshly, the impact of the COVID-19 pandemic, discussions surrounding the "future of work" have gained momentum among employers. According to the World Bank Group's 2019 report on the "Changing Nature of Work," the global participation in the gig economy by the active labor force was estimated to be less than 0.5%, with even lower numbers in developing countries, at less than 0.3%. However, as highlighted in India's public policy think tank NITI Aayog's 2022 report titled "India's Booming Gig and Platform Economy," the proportion of gig workers within the overall workforce has increased from 0.54% in 2011-12 to 1.33% in 2019-20. Technological advancements have also facilitated the rise of impermanent workers who utilize online platforms, further intensifying the spotlight on gig work.

According to the NITI Report, 'gig workers' are defined as individuals involved in tasks that deviate from the conventional employer-employee setup. Within this category, there are two distinct groups: platform workers and non-platform workers. Platform workers are those gig workers who employ online algorithmic matching platforms such as websites or apps like Amazon or Uber to link up with clients. On the other hand, non-platform workers are those who undertake tasks without utilizing such platforms. This category mainly encompasses workers in fields like construction, day labor, and non-technology-dependent temporary employment.

India's Gig Economy



Within the framework of Indian labor regulations, employees can be classified into three primary categories:

- (i) Employees,
- (ii) Contractual employees, comprising contract laborers and inter-state migrant workers,
- (iii) Workers engaged in the informal labor sector.

Worker: An individual engaged by an organization to carry out tasks in exchange for compensation is referred to as an employee. Employees have the right to receive various advantages, such as a stipulated minimum salary, bonuses, a provident fund, gratuity, equitable pay, medical perks, and maternity benefits. These entitlements are governed by legislations such as the Minimum Wages Act of 1948, the Employees' Provident Fund and Miscellaneous Provisions Act of 1952 (EPFA), the Payment of Bonus Act of 1965, among others.

Contractual Labor and Migrants in Employment: Individuals engaged by an employer via a contractor are categorized as contract labor. Should a person be hired by a contractor in a different geographical region, they are identified as migrant workers. The wellbeing and medical care of contract labor fall under the purview of the Contract Labour (Regulation and Abolition) Act of 1970 (CLRA). Moreover, they are eligible for additional benefits, including a provident fund as outlined by the EPFA. The activities of migrant workers are overseen by the Inter-State Migrant Workmen (Regulation of And Conditions of Service) Act of 1979.

Workers in unorganised economy: These individuals engage in tasks that include home-based work, self-employment, or wage-based labor within the unorganized economy. The Unorganised Workers' Social Security Act of 2008 (UWSSA) oversees the well-being of these workers, offering a range of welfare programs such as life and disability coverage via

the Pradhan Mantri Jeevan Jyoti Yojana, as well as health and maternity benefits through the Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana.

Gig workers currently receive incomplete acknowledgment within the existing labor regulations of India. While regulations like the CLRA, UWSSA, and the Building and Other Construction Workers Act of 1996 do provide a degree of oversight for migrant workers, construction workers, and those in the unorganized sector, they were not originally crafted to accommodate contemporary gig workers, especially those operating within online platforms. This lack of alignment with modern labor practices is evident in the case of platform workers. Despite the potential for including platform workers within the ambit of the CLRA, these workers are not afforded any legal benefits stipulated by labor laws, including those concerning contract labor. Additionally, even if the definition of 'contract labor' could be stretched to encompass platform workers, these benefits are not extended to them by the platforms themselves.

Consequently, gig workers, particularly within technology-driven platforms where the proportion of traditional employees to gig workers stands at around 1:20; find themselves devoid of protective measures and entitlements. This segment faces a range of challenges, encompassing income discrepancies, absence of insurance coverage, restricted credit access, and unpredictable earnings. Specifically, platform workers encounter issues such as limited admittance to reliable internet services, absence of job stability, and the distinct characterization of the contractual rapport between platform operators and workers as something other than an employer-employee relationship. In response, gig workers have taken to protests and legal actions in Indian courts, aiming to secure benefits related to social securities.

In spite of the legal non-recognition of gig workers, select Indian enterprises like Big Basket, Flipkart, and Urban Company pledged in 2021 to guarantee that gig workers on their stages produce at least the locally mandated minimum wage per hour, factoring in associated work-related expenses. Moreover, the Indian government introduced an online platform named e-SHRAM, designed to establish a National Database of Unorganized Workers. This initiative aims to optimize the employability of these workers and extend the coverage of social security schemes to various groups including migrant workers, construction laborers, and gig and platform workers.

Proposed Legislation for the Gig Economy:

In response to the recommendations put forth by the National Commission on Labour to streamline central labor regulations, the Ministry of Labour and Employment has introduced the Code on Social Security in 2020 (referred to as the "Code"). This Code acknowledges various categories of workers, including building workers, contract laborers, unorganized laborers, as well as introducing recognition for gig workers and platform workers. Once enacted, this Code will extend social security provisions to entire workforce, regardless of whether they belong to organized, unorganized, or any other sectors. The Code replaces a

range of existing labor and employment statutes that had varying scopes and exposure, like Employees' Compensation Act of 1923, the Maternity Benefit Act of 1961, the Unorganised Workers' Social Security Act, and the Payment of Gratuity Act of 1972.

Currently, the Code remains inactive because various State Governments in India are still in the process of completing the required regulations and guidelines for its enactment. Recently, the Indian Minister of Labour indicated that most states have completed the formulation of these rules, and the implementation of the law will take place at an appropriate juncture. The framework of Labor Regulations Governing the Gig Economy is outlined within this proposed legislation.

Social Security for Gig Workers:

While the Code acknowledges the category of 'gig workers,' which includes platform workforces, it establishes a difference between these workers and traditional employees. The Code ensures that employees receive mandatory provisions like gratuity, compensation, insurance coverage, provident fund, and maternity benefits. Conversely, it requires the Central and State Governments to devise appropriate schemes related to social security (referred to as "Schemes") for gig workers. These schemes encompass aspects such as life and disability coverage, accident insurance, health and maternity benefits, as well as provisions for old age security.

In line with this, the Code mandates the formation of a social security fund (referred to as the "Fund") specifically for gig workers. Gig employers, which encompass entities providing services like ride sharing, delivery of eatables and grocery, or different goods and services through platforms, are obligated to contribute 1-2.5% of their yearly turnover to this Fund. The Fund's resources can then be utilized to administer the designated Schemes. However, the contribution from gig employers is limited to a maximum of 5.5% of the total amount paid or payable to gig workers. Furthermore, the Code requires the registration of all gig workers and platform workers, ensuring their eligibility for benefits provided by these Schemes.

It is important for policymakers to continuously monitor and evaluate the impact of the labor code on gig workers, considering the evolving nature of the gig economy and the need for adaptive regulations that strike a balance between worker protection and the flexibility inherent in gig work.

Impact of the Gig Economy on Women:

The gig economy can yield both positive and negative consequences for women.

Flexibility and Work-Life Balance: The gig economy frequently grants women enhanced flexibility in managing work schedules, a boon particularly for those juggling work alongside caregiving duties or other commitments.

Economic Empowerment: For women facing entry barriers into traditional employment due to caregiving roles or restricted mobility, the gig economy can serve as an avenue to join or rejoin the workforce.

Income Disparity: Research has revealed that women in the gig economy tend to earn less than men. This wage gap can be attributed to factors such as gender-based biases in pricing, job segregation, and women's propensity for lower-paying gig positions.

Absence of Benefits and Safeguards: Women gig workers often encounter difficulties accessing essential benefits like healthcare, retirement plans, and paid leave. Their legal protections may also be limited, complicating the resolution of issues like harassment or bias.

Gender-Based Bias: Within the gig economy, women might face discriminatory practices tied to their gender. This could manifest as biases in hiring, promotions, and interactions with customers, leading to fewer job prospects, lower ratings or reviews, and unequal treatment **compared to male counterparts.**

Job Segregation: Some gig sectors, like caregiving or domestic work, as well as platforms catering to fields traditionally dominated by women, can perpetuate gender-based job segregation and reinforce existing inequalities.

Support Systems and Mentorship: Establishing dedicated support networks and mentorship avenues tailored to women within the gig economy can help them navigate challenges and bolster their success.

Advocacy and Policy: Policymakers should take into account gender-specific concerns within the gig economy and strive to formulate inclusive regulations that foster equal opportunities, equitable pay, and benefits for women involved in gig work. Overall, while the gig economy opens doors for women to participate in the workforce with greater flexibility, addressing obstacles and ensuring gender parity necessitates a comprehensive strategy involving advocacy, supportive policies, and societal shifts.

Advantages of the Gig Economy:



Disadvantages of the Gig Economy:



Conclusion:

In conclusion, as the gig economy continues to shape the contemporary labor landscape, it becomes imperative to formulate and modify labor regulations that uphold equity, safeguarding, and empowerment for gig workers. While the gig economy does present advantages like flexibility and chances for entrepreneurship, it also presents challenges including income unpredictability, absence of benefits, and insufficient legal safeguards. To construct an equitable path forward, policymakers need to strike a harmonious equilibrium between fostering innovation and safeguarding the rights of workers.

This encompasses addressing concerns like worker classification, access to benefits, and mechanisms for resolving disputes. Continuous monitoring and assessment of labor laws within the gig economy are essential to stay in sync with the evolving work landscape and establish a regulatory structure that secures the rights and welfare of gig workers. By embracing the potentials of the gig economy while championing worker protections, we can aspire to a future where gig workers are empowered, respected, and granted just opportunities for advancement and accomplishment.

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