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RESEARCH ARTICLE

UNDERSTANDING THE FUNDAMENTALS AND DYNAMICS OF THE GIG EMPLOYMENT LANDSCAPE IN INDIA

Ruchi Singh and Dr. Vani Bhushan

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Abstract

The Gig Economy in India has emerged as a significant force in reshaping the traditional employment landscape, and offering unique opportunities for workers seeking flexible work arrangements. This article explores the dynamic and evolving nature of the gig economy in India and its impact on gig workers. The first part of the article introduces the historical and analytical concept of the terms ‘gig economy’, ‘gig workers’, ‘platform workers’ and ‘app-based workers’. the author uses various illustrations to coin the terms and differentiate between them legally and technically.The second part of the paper revolves around certain challenges for gig workers in India because of the absence of formal employment relationship and categorisation as ‘independent workers. This part raises arguments of social security under the Indian legal system. The arguments are substantiated around denial of essential benefits, social protections, and job security and other raising concerns for gig workers about their constitutional labour and economic rights.In the last part the author argues around the position of unorganised workers before and after Social Security Code 2021 and gives an in-depth analysis of the changes in legal regime and status of gig workers in the last one decade. Overall, the article sheds light on the complexities of the gig economy in India.

Introduction:-

The gig economy and gig workers are concepts that have gained significant attention in recent years. The term "gig" originally referred to a one-time musical performance, but in today's context, it has expanded to include any short-term, freelance, or independent work that is completed on a project-by-project basis. The gig economy, then, refers to the economic activity that surrounds this type of work, where workers are contracted for short-term projects rather than long-term employment. This mode of work has become increasingly prevalent due to the growth of online platforms that connect workers with clients or customers.

While the gig economy provides opportunities for flexible work and income, it has also been the subject of debate regarding workers' rights, social protections, and job security. There are concerns about the lack of legal protections for gig workers, such as sick leave, holiday pay, and pensions. Additionally, the gig economy is often associated with low-paying, precarious work, and workers may struggle to make ends meet.

Despite the controversies surrounding the gig economy, it continues to grow and transform the labour market. As such, it is important to understand the concept of gig work and its implications for workers and society.

Corresponding Author:- Ruchi Singh

There have been many studies and publications that have explored the gig economy and gig workers in depth. For instance, a study by McKinsey & Company estimated that 20 to 30 percent of the working-age population in the United States and Europe are engaged in some form of independent work.[i]Another study by the International Labour Organization (ILO) found that while there are benefits to gig work, such as increased autonomy and control over work, there are also significant challenges, including income volatility and lack of access to social protections.[ii]

Understanding the Term Gig and Gig Economy

The term 'Gig,' coined a few years ago, has gained a lot of popularity and controversy in the world of work in last few years. The word "gig economy" comes from the fact that a specified job and effort are equivalent to a specific "gig." The gig economy, according to Collins Dictionary, is an employment market in which people who are self-employed or on temporary contracts perform short-term or part-time work.[iii] The number of people working as independent contractors in the gig economy has risen dramatically. A gig economy is defined as "all platforms that hire independent professionals, consultants, and workforces in a variety of segments, be it automation, social media platforms or any other digital or online work for promotion and communications, aggregators, food, retails, and creative fields such as art and design."[iv]

"The gig economy's fast evolution shows that this is the best future employment opportunity." The gig economy takes its name from the fact that each type of job is analogous to a single 'gig,' albeit such activity can have a variety of names. Not every gig economy job title is centred on a digital or online platform. Workforce from the gig economy can also be found in more traditional and traditional enterprises A 'gig economy' in today's context refers to a short-term contractual employment, freelancing or brief contract, or ad-hoc labour that an individual might earn on a job project-by-job project basis, with payment given after the assignment is completed.[v]

Historical Origin of Gig and Platform Economy

The roots of gig work can be traced back to the Industrial Revolution, when advances in technology and transportation created new opportunities for workers to provide goods and services on a freelance or contract basis. In the late 19th and early 20th centuries, gig workwas common in fields such as construction, transportation, and agriculture, where workers were hired on a project-by-project basis.[vi]

The rise of the gig economy in its current form can be traced back to the early 2000s, when the internet and mobile technology made it easier for individuals to connect with potential clients and customers. Companies such as Uber, Airbnb, and TaskRabbit began to emerge, offering platforms for individuals to offer their services on a flexible, on-demand basis. These platforms quickly gained popularity, and by 2019, it was estimated that approximately 36% of the US workforce engaged in some form of gig work.

The gig economy has been praised for its ability to provide flexible work arrangements and opportunities for entrepreneurship. However, it has also been criticized for its lack of job security and protections for workers. Many gig workers are classified as independent contractors rather than employees, which means they are not entitled to benefits such as healthcare, retirement savings, or unemployment insurance. Additionally, the unpredictable nature of gig work can make it difficult for workers to plan and budget their income.

In response to these concerns, governments around the world have begun to implement regulations and protections for gig workers. In 2018, California passed Assembly Bill 5, which established stricter criteria for classifying workers as independent contractors. Similar legislation has been introduced in other states and countries, with the goal of providing greater protections and benefits for gig workers.[vii]

Therefore, we can say that the gig economy has a long history, dating back to the Industrial Revolution, but it has evolved significantly in recent years with the emergence of digital platforms. While it has provided new opportunities for flexibility and entrepreneurship, it has also raised concerns about job security and worker protections. As the gig economy continues to grow, it will be important for governments, businesses, and workers to work together to find ways to ensure that gig work is a sustainable and equitable form of employment.[viii]

Origin of the word 'Gig Work'

The term "gig work" has its origins in the world of music, where it originally referred to a single performance or engagement by a musician or band. The term was first popularized in the 1920s and 1930s by jazz musicians in the United States, who would refer to their performances as "gigs."

Over time, the term "gig" began to be used more broadly to refer to any type of short-term or freelance work, particularly in the creative arts. In the 1990s and 2000s, with the rise of the internet and the growth of the digital economy, gig work began to expand beyond the creative industries and into a wider range of sectors, including transportation, delivery, and home services.

Today, gig work is a global phenomenon, with millions of people around the world engaging in this type of work. While the nature of gig work varies from country to country, it is generally characterized by short-term contracts, flexible working arrangements, and the use of digital platforms to connect workers with customers or clients.

Understanding Platform Work

Platform work refers to work that is carried out through digital platforms, typically facilitated by the internet and mobile technologies. This type of work typically involves the provision of services or the sale of goods on online platforms such as Uber, Airbnb, and Amazon Mechanical Turk. Platform workers are individuals who perform work through these digital platforms, often as independent contractors, and are paid for their work on a task-by-task basis.

According to a report by the International Labour Organization (ILO) titled "Working anytime, anywhere: The effects on the world of work", platform work is a growing trend, and it is estimated that there are around 70 million platform workers globally. These workers include those who work through ride-hailing and delivery platforms, as well as those who provide services such as web development, graphic design, and writing through freelance platforms.[ix]

Another report by the European Foundation for the Improvement of Living and Working Conditions titled "Platform Work and Collective Bargaining", provides further insights into the characteristics of platform work and platform workers. The report highlights that platform work tends to be more prevalent among younger workers and those with higher levels of education. It also notes that platform workers often have more flexible working arrangements than traditional employees, but they may experience challenges related to social protection, collective bargaining, and access to training and career development opportunities.[x]

Overall, platform work is a growing and increasingly important aspect of the modern economy, and understanding the nature of this work and the experiences of platform workers is crucial for policymakers, employers, and workers themselves.

Understanding the difference between gig and platform workers

Gig work and platform work are both forms of work that are part of the larger gig economy, but they have some differences.

Gig work refers to a type of work where an individual works on a project or task basis, often as an independent contractor. This can include jobs like freelance writing, consulting, or event planning. In gig work, the worker typically has more control over their work schedule and the projects they take on. They may find work through online platforms or through personal networks.

Platform work, on the other hand, refers to work that is completed through an online platform or app, such as Uber, Lyft, or TaskRabbit. These platforms often connect workers with customers who need specific services, such as transportation or handyman services. Platform work typically involves less control over work schedules and pay rates, as the platform sets the terms for the work.

Here is an example to illustrate the difference:

Gig work:

A freelance writer who works on a project basis for multiple clients they found through personal networking or online platforms like Upwork or Fiverr.

Platform work:

A ride-share driver who works for a company like Uber or Lyft, accepting rides through the app and following the company's policies and pricing structure.

To understand better let us get into the detail of this hypothetical illustration to understand the difference between gig work and platform work:

Suppose you are a freelance writer and you have a client who hires you to write an article for their blog. This would be an example of gig work, as you are a self-employed worker providing a specific service to a client on a project-by-project basis. In this case, you are not working for a platform but are finding clients on your own through networking, word of mouth, or online marketplaces such as Upwork or Freelancer.

Now, let us say you decide to offer your writing services on a platform such as Fiverr or TaskRabbit. You create a profile on the platform, which lists your skills, rates, and availability. Potential clients can then find and hire you through the platform, and the platform takes a commission on each job you complete. In this case, you are engaging in platform work, as you are using a third-party platform to find clients and manage your work.

The key difference between gig work and platform work is that gig work refers to self-employed individuals providing a service directly to clients, while platform work involves using an intermediary platform to find and manage work. Both gig work and platform work offer flexibility and autonomy, but platform work can provide additional benefits such as a built-in client base, payment processing, and dispute resolution. However, platform work can also come with downsides such as lower pay due to platform commissions and potential lack of control over the work process.

Understanding App based work

App-based work refers to employment or gig work that is organized and managed through a mobile application, often called a gig app or on-demand platform. These apps connect workers with customers who need specific services or products, such as transportation, delivery, cleaning, or odd jobs.

For example, one of the most popular app-based work platforms is Uber, which connects riders with drivers through a mobile app. Drivers can work whenever they want, accept, or decline ride requests, and get paid through the app. The app provides a rating system that allows drivers and riders to rate each other based on their experiences, which helps maintain the quality of the service.

Another example of app-based work is TaskRabbit, which connects people who need help with tasks such as cleaning, moving, or assembling furniture with skilled workers who are willing to do these tasks for a fee. The app allows users to browse through available tasks, select the ones they want to do, and get paid directly through the app once the task is completed.

In both examples, the app acts as a middleman between the worker and the customer, providing a convenient and efficient way for people to find work and for customers to get the services they need. However, app-based work is not without controversy, as some workers argue that they are not treated fairly by these platforms and lack the benefits and protections that traditional employees enjoy.[xi]

Understanding food delivery apps with respect to gig work

Food delivery apps and the empirical study related to workers popularly called as food delivery partners is a part of study of this thesis and hence here, we shall first understand how these apps are used by the consumers and then substantiate the related research in the upcoming chapters of this thesis. These apps are used by consumers to order food from restaurants, cafes, or other food establishments, which is then delivered to their doorstep by a delivery person. These apps are popular because they offer convenience, speed, and a wide range of food options from different cuisines and restaurants. Here is an illustration of how food delivery apps are used:

Search for food options: The first step is to download a food delivery app such as Uber Eats, Swiggy, Zomato and create an account. The app typically asks for the user's location to show available restaurants and food options in their area.

Formulating the steps taken for finally receiving food:

1. **Select food items:** Users can browse through menus, search for specific dishes or restaurants, and select the food items they want to order. The app also allows users to customize their orders, such as adding or removing toppings, sauces, or sides.

2. **Place the order:** Once the user has selected the food items, they can proceed to place the order, select the payment method, and confirm the delivery address. Some apps also offer tracking features that allow users to see the status of their order and estimated delivery time.
3. **Delivery:** After the order is placed, the app sends the request to a nearby delivery person, who accepts the request and picks up the food from the restaurant. The delivery person then delivers the food to the user's doorstep.
4. **Rating and feedback:** After the food is delivered, users can rate the delivery person and provide feedback on the food quality and overall experience. This helps the app to maintain the quality of the service and improve the user experience.

The COVID-19 pandemic has also accelerated the growth of food delivery apps, as more people have turned to online ordering and contactless delivery options.

According to a survey conducted by Pew Research Centre in 2019, about 37% of Americans had used a food delivery app at least once, with younger adults being more likely to use these apps than older adults.[xii]The status of India regarding use of this app shall form part of the study in upcoming chapters of this research.

Gig Economy v Platform Economy

The gig and platform economy has been booming in India in recent years, driven by technological advancements, increasing internet penetration, and changing work culture. The gig economy refers to a labour market characterized by short-term contracts or freelance work, while the platform economy refers to the use of digital platforms to facilitate transactions between consumers and service providers.

According to a report by the National Skill Development Corporation (NSDC), the gig economy in India is expected to grow at a compound annual growth rate (CAGR) of 17% to reach a market size of $455 billion by 2023. [xiii]The report also states that the platform economy in India is expected to grow at a CAGR of 25% to reach a market size of $335 billion by 2025.[xiv]

One of the main drivers of the gig and platform economy in India is the rise of online platforms that connect service providers with customers. Platforms like Uber, Ola, Swiggy, and Zomato have transformed the transportation and food delivery industries in India, creating new opportunities for workers to earn income on a flexible schedule.[xv]

However, the gig and platform economy in India is not without its challenges. Many gig workers in India are classified as independent contractors and do not receive benefits like health insurance, sick leave, or overtime pay.[xvi] Additionally, platform companies have faced regulatory challenges in India, with the government introducing new rules to govern the gig economy and protect the rights of workers.[xvii]

Recently gig and platform economy in India has experienced rapid growth, creating new opportunities for workers and transforming traditional industries. However, there are still challenges to be addressed, including the need to provide workers with better labour protections and the need for platforms to comply with regulatory requirements.

In India, gig workers are categorized as independent contractors or freelancers and there are no specific laws that govern their working conditions. However, there have been some recent regulatory developments that offer certain protections to gig workers.

Various business models that have emerged in gig economy

The gig economy refers to a type of economy often facilitated by online platforms. There are several business models that have emerged in the gig economy, and I will explain some of the most common ones with relevant examples:

a. On-demand platforms:

These platforms provide a marketplace for customers to connect with service providers in real-time. The service providers, often referred to as gig workers, are typically independent contractors who provide services such as ride-sharing, food delivery, or home cleaning. An on-demand platform is a type of business model that connects customers with service providers in real-time, enabling customers to receive services quickly and conveniently. These platforms typically utilize mobile apps or websites to facilitate the connection between customers and service providers.Examples of on-demand platforms include Uber, Lyft, and DoorDash.

One of the key benefits of on-demand platforms is their ability to provide customers with immediate access to services. A study by Harvard Business Review[xviii] found that the top reasons customers use on-demand services are convenience, speed, and reliability.

Overall, on-demand platforms have become a significant part of the gig economy and offer benefits and challenges for both customers and service providers.

b. Freelance platforms:

A freelance platform is a type of business model that connects businesses with freelance professionals who offer specialized skills and services. These platforms enable businesses to find talent for one-off projects or ongoing work. Freelance platforms typically use online platforms to facilitate the connection between businesses and freelancers.

Some examples of freelance platforms include Upwork and Freelancer.com.

Upwork, for instance, connects businesses with freelancers in various fields such as web development, graphic design, writing, and marketing. According to Upwork's Q4 2021 report, there were 25.2 million registered freelancers on their platform, and the company had paid out over $3.1 billion in earnings to freelancers in 2021.[xix]

One of the key benefits of freelance platforms is their ability to provide businesses with access to a global talent pool. Freelance platforms allow businesses to find freelancers with specialized skills from anywhere in the world, enabling them to access a broader range of expertise than they would have otherwise.

Another benefit of freelance platforms is their flexibility. Freelance platforms enable businesses to find talent for one-off projects or ongoing work, allowing them to adjust their workforce as needed without incurring long-term commitments or overhead costs.

However, there are also concerns about the quality and reliability of freelancers on freelance platforms. Some freelancers may lack the necessary skills and experience to complete a project successfully, while others may be unreliable or difficult to work with. To mitigate these risks, freelance platforms typically offer tools such as reviews and ratings to help businesses assess the quality and reliability of freelancers.

Overall, freelance platforms have become a significant part of the gig economy and offer benefits and challenges for both businesses and freelancers. Freelance platforms have enabled businesses to access a global talent pool and benefit from flexible staffing arrangements, while freelancers have benefited from greater work flexibility and access to a broader range of job opportunities.

c. Sharing economy platforms:

These platforms allow individuals to share underutilized assets such as homes, cars, or equipment. Sharing economy platforms enable individuals to monetize their assets while providing affordable options for consumers. Examples of sharing economy platforms include Airbnb, Trivago, Agoda, Goibibo, MakeMyTrip[xx], Turo, and TaskRabbit.

Sharing economy platforms can provide consumers with affordable options for accessing goods and services. Sharing economy platforms often offer lower prices than traditional options, enabling consumers to save money while accessing high-quality goods and services.

Another benefit of sharing economy platforms is their ability to enable individuals to monetize underutilized assets. By allowing individuals to rent out their assets to others, sharing economy platforms provide an additional source of income for asset owners.

However, there are also concerns about the impact of sharing economy platforms on traditional industries and local communities. Sharing economy platforms have been criticized for undermining traditional industries such as hotels and taxi services, and for contributing to rising housing costs in some cities.

Thus, the author thinks that, sharing economy platforms have become a significant part of the gig economy and offer benefits and challenges for both consumers and asset owners. Sharing economy platforms have enabled consumers to access affordable goods and services, while providing asset owners with a new source of income. However, sharing economy platforms have also raised concerns about their impact on traditional industries and local communities.

Business Models in Gig Economy[xxi]

There are several business models[xxii] that companies in the gig economy use to generate revenue. Here are some examples:

Commission-Based Model:

Companies such as Uber and Lyft operate on a commission-based model where they take a percentage of each ride fare as their revenue. This model incentivizes the company to increase the number of rides taken by their drivers, thereby increasing their revenue.

Let us take the example of Airbnb, a platform that operates on a commission-based model. Airbnb charges a commission on every booking made through their platform, which ranges from 5% to 15% of the total booking amount. This model incentivizes Airbnb to increase the number of bookings made through their platform, which they achieve through advertising and improving their website's user experience.[xxiii]

d. Subscription-based platforms:

These platforms provide customers with ongoing access to products or services for a monthly or yearly fee. Subscription-based platforms often provide a more predictable revenue stream for businesses and provide customers with a convenient way to access products or services.[xxiv]

Examples of subscription-based platforms include Netflix[xxv], Spotify[xxvi], and Amazon Prime[xxvii]. Netflix, for instance, offers subscribers access to a wide range of movies and TV shows for a monthly subscription fee, while Spotify provides subscribers with access to a vast library of music and podcasts.

Statutory Recognition of the Term 'Gig Worker' In India

The New Labour Codes which have been notified and published in gazette but are awaiting dates of implementation intends to amalgamate nine laws related to social security including The Unorganised Workers' Social Security Act, 2008. The term 'unorganised workers'[xxviii] had been used for them since the inception of codified labour laws in India until the new Labour codes passed by the parliament and approved by the president[xxix] used the term 'gig workers'[xxx] and 'platform workers'[xxxi] for the first time. The social security code defines gig worker as a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship. This meaning given to the term gives gig worker the status of an independent contractor.[xxxii] Similarly the term "platform worker" also presupposes a work arrangement outside of a traditional employer employee relationship by using online platform,[xxxiii] but the technicalities of their work and its nature can only be understood after analysing their specific work contracts.

These so-called unorganised workers termed as gig workers, popularly known as online labour but legally catalogued as independent contractors if we go into the nuances of contact law are standing in large chunk at the paradox of emerging technologies and vanishing subjectivism of normative legal orders. This problem needs an elabourate study of intersecting points of different laws applied to such workers and scrutinizing them with the social justice lens of labour laws.

The statutory recognition of the term gig workers in the new proposed and notified Social Security Code in India are awaiting date of implementation.[xxxiv]

Understandingunorganised sector and unorganised sector labour

The unorganized sector refers to a segment of the economy where employment is not regulated by any form of government legislation or protections. It is also characterized by the absence of fixed hours of work, regular wages, or job security. Workers in this sector are typically self-employed or working for small businesses, and they often lack access to benefits such as health insurance and retirement plans.

Examples of the unorganized sector include street vendors, domestic workers, construction workers, small-scale farmers, and others who work in informal or unregulated settings.

One illustration of unorganized sector labour is the case of street vendors in India. According to the National Sample Survey, there are over 10 million street vendors in India, most of whom operate in the informal sector. They sell a wide range of goods, including food, clothing, and household items, and often face harassment from local authorities and police.

Another example is domestic workers, who are predominantly women and often work in households without any legal protection or formal employment contracts. They are often paid very low wages and work long hours, and they may also be subject to abuse or exploitation.

Overall, the unorganized sector is characterized by a lack of formal employment contracts, limited legal protections, and low wages. Workers in this sector often face a high degree of insecurity and are vulnerable to exploitation, making it an important area for policy makers to address.

Position of unorganised Sector Labour in India

India has a significant workforce in the unorganized sector, which is not registered with the government and lacks job security and social security benefits. The ratio of organized versus unorganized sector labour in India has been fluctuating over the years.

According to the latest available data from the National Sample Survey Office (NSSO), the ratio of organized sector employment to total employment in India was 18.2% in 2019-20, while the rest of the workforce was in the unorganized sector.[xxxv]

However, it is worth noting that the COVID-19 pandemic has severely impacted the unorganized sector, with many workers losing their jobs or facing reduced incomes due to lockdowns and other measures. The exact impact on the ratio of organized versus unorganized sector labour is yet to be determined.[xxxvi]

Role and contribution of Unorganised Sector in Indian Economy

The unorganized sector plays a significant role in the Indian economy, contributing to employment, income generation, and overall economic growth. According to the National Sample Survey, the unorganized sector accounts for more than 90% of the total workforce in India.

One of the key contributions of the unorganized sector is in the area of employment generation. Due to its informal and flexible nature, the sector has the ability to absorb a large number of workers, including those who may not have the necessary qualifications or skills to work in the formal sector. This helps to reduce unemployment and poverty levels in the country. As per the Economic Survey 2020-21, the unorganized sector contributes around 50% of India's Gross Domestic Product (GDP).[xxxvii]

Additionally, the unorganized sector also contributes to the growth of other sectors of the economy, such as agriculture and manufacturing. For example, small-scale farmers who operate in the unorganized sector provide inputs for the agro-processing industry, which is a major source of exports and foreign exchange earnings for the country. Similarly, small-scale manufacturers who operate in the unorganized sector often provide inputs for the formal manufacturing sector, helping to increase productivity and efficiency.

Another significant contribution of the unorganized sector is in the area of entrepreneurship and innovation. Many small-scale businesses and self-employed workers in the unorganized sector are involved in developing new products and services, often in response to changing market demands or consumer needs. This helps to drive innovation and competitiveness in the economy.

Despite these contributions, however, workers in the unorganized sector often face a high degree of insecurity and are vulnerable to exploitation. There is a need for policy makers to address these issues and provide better support for workers in the sector. As per the Economic Survey 2020-21, the government has undertaken various measures such as the Pradhan Mantri Mudra Yojana and the National Rural Livelihoods Mission to provide credit and other forms of support to small-scale businesses in the unorganized sector.

Consolidation of Labour Laws in India

The consolidation of labour laws into different codes in India was done to simplify and streamline the labour laws and regulations. Prior to the consolidation, there were numerous laws that dealt with different aspects of labour, which made compliance difficult for employers and employees alike.

The consolidation of labour laws into codes was initiated by the Indian government in 2019. The objective of this exercise was to reduce the complexity and multiplicity of labour laws and to make compliance easier for businesses. The consolidation was also aimed at ensuring that labour laws were in sync with the changing economic and industrial landscape of the country.

The government introduced four labour codes: the Code on Wages, the Occupational Safety, Health and Working Conditions Code, the Industrial Relations Code, and the Social Security Code. These codes subsumed 44 existing labour laws, and they cover aspects such as minimum wages, safety, and health, working conditions, industrial relations, and social security.

1. **The Code on Wages, 2019**: The Code on Wages subsumed four existing laws: The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, the Payment of Bonus Act, 1965, and the Equal Remuneration Act, 1976. The Code on Wages regulates the payment of wages to employees in India and provides for minimum wages to be fixed by the central and state governments.[xxxviii]
2. **The Occupational Safety, Health and Working Conditions Code, 2020**: The Occupational Safety, Health and Working Conditions Code subsumed 13 existing laws, including the Factories Act, 1948, the Mines Act, 1952, and the Contract Labour (Regulation and Abolition) Act, 1970. The Code regulates the safety, health, and working conditions of workers in establishments.[xxxix]
3. **The Industrial Relations Code, 2020:** The Industrial Relations Code subsumed three existing laws, including the Industrial Disputes Act, 1947, the Trade Unions Act, 1926, and the Industrial Employment (Standing Orders) Act, 1946. The Code regulates the formation, recognition, and functioning of trade unions, and provides for the settlement of industrial disputes.[xl]
4. **The Social Security Code, 2020**: The Social Security Code subsumed nine existing laws, including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Employees' State Insurance Act, 1948, and the Maternity Benefit Act, 1961. The Code regulates the social security benefits of employees in India, including provident fund, pension, and insurance.[xli]

By consolidating the labour laws into codes, the government aims to provide a more conducive environment for businesses to operate in and create a better regulatory framework for workers. The consolidation of labour laws into codes is a significant step towards labour reforms in India, and it is expected to have a positive impact on the economy and the labour market.

Understanding the Social Security Code 2020

The Social Security Code 2020 is a comprehensive legislation that amalgamates and rationalizes the laws relating to social security for workers in India. The Code came into force on 3rd November 2020, and it replaces nine different laws, including the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Employees' State Insurance Act, 1948, and the Maternity Benefit Act, 1961.

The Social Security Code 2020 aims to ensure the availability of social security benefits to all workers, including those in the unorganized sector, and to simplify the compliance and administration of social security laws. Some of the key changes brought about by the Code are:

a. **Universalization of social security:** The Code extends social security benefits to all workers, including those in the unorganized sector, and provides for a framework for the gig and platform workers.
b. **Portability of social security benefits:** The Code allows for the portability of social security benefits, which means that workers can transfer their social security benefits across different jobs and geographical locations.
c. **Rationalization of schemes:** The Code rationalizes the social security schemes by reducing the number of schemes from 44 to four, namely, the Employees' Provident Fund, Employees' State Insurance, Gratuity, and Maternity Benefit.
d. **Increase in maternity benefit:** The Code increases the maternity benefit from 12 weeks to 26 weeks.
e. **Creation of a Social Security Fund:** The Code provides for the creation of a Social Security Fund, which will be used to provide social security benefits to workers.

Benefits under the Code:

Some of the benefits given under the Social Security Code 2020 to workers are:[xlii]

1. Provident Fund: The Code mandates employers to contribute 12% of the employee's wages towards the Provident Fund, which will be used to provide retirement benefits to workers.
2. Employees' State Insurance: The Code provides for medical and cash benefits to workers in case of sickness, maternity, and employment injury.
3. Gratuity: The Code mandates employers to provide gratuity to employees who have completed five years of continuous service.
4. Maternity Benefit: The Code provides for maternity benefits to women workers, including paid leave, medical expenses, and nursing breaks.

Overall, the Social Security Code 2020 is a landmark legislation that aims to provide universal social security to all workers in India, and to simplify the compliance and administration of social security laws. Its implementation is expected to bring significant benefits to workers, particularly those in the unorganized sector.[xliii]

Position of Unorganised Workers before Social security Code 2021

India has several labour laws that aim to protect workers in the unorganized sector. Some of these laws are:

1. **The Unorganised Workers Social Security Act (UWSSA), 2008 -** This act aims to provide social security benefits to unorganized sector workers such as healthcare, life, disability, and maternity benefits, old age protection, and the education of children. The act defines an unorganized worker as "a home-based worker, self-employed worker, street vendor, head loader, scavenger, domestic worker, or other worker who is not covered by any of the organized sector laws."[xliv]
2. **The Minimum Wages Act, 1948** - This act aims to prevent the exploitation of workers in the unorganized sector by ensuring that they receive a minimum wage. The act provides for fixing minimum rates of wages for different categories of workers in different industries.
3. **The Payment of Wages Act, 1936 -** This act aims to ensure that workers receive their wages on time and without any unauthorized deductions. The act requires employers to pay wages on time and in full, and it also prohibits unauthorized deductions from wages.
4. **The Employees' State Insurance Act, 1948 -** This act provides for the social security of workers in the unorganized sector by providing them with benefits such as medical care, cash benefits during sickness, and maternity benefits.
5. **The Maternity Benefit Act, 1961 -** This act provides for maternity benefits such as paid leave to women working in the unorganized sector.
6. **The Contract Labour (Regulation and Abolition) Act, 1970 -** This act regulates the employment of contract labour in certain establishments and ensures that they receive basic amenities, wages, and other benefits.

Position of Gig workers before Social Security Code 2021

The Unorganised Workers Social Security Act (UWSSA) 2008 is an Indian legislation aimed at providing social security and welfare benefits to unorganised workers, who form a significant portion of the workforce in India.[xlv]

The act defines unorganised workers as "home-based workers, self-employed workers, street vendors, waste pickers, head-load workers, cobblers, rag pickers, domestic workers, and other similar workers." However, the act does not explicitly mention gig workers, who are part of the emerging gig economy and may not fall under any of the above categories.

In 2020, the Indian government proposed a new social security code, which aimed to expand the coverage of social security benefits to gig workers as well. The code, known as the Occupational Safety, Health, and Working Conditions Code, 2020, proposed to provide gig workers with benefits such as accident and health insurance, maternity benefits, and pension schemes.[xlvi]

However, as of April 2023, the Occupational Safety, Health,and Working Conditions Code, 2020 is still under review by the government and has not yet been passed into law.

A Database Survey on Gig Workers around the World codification of Social Security Code 2021

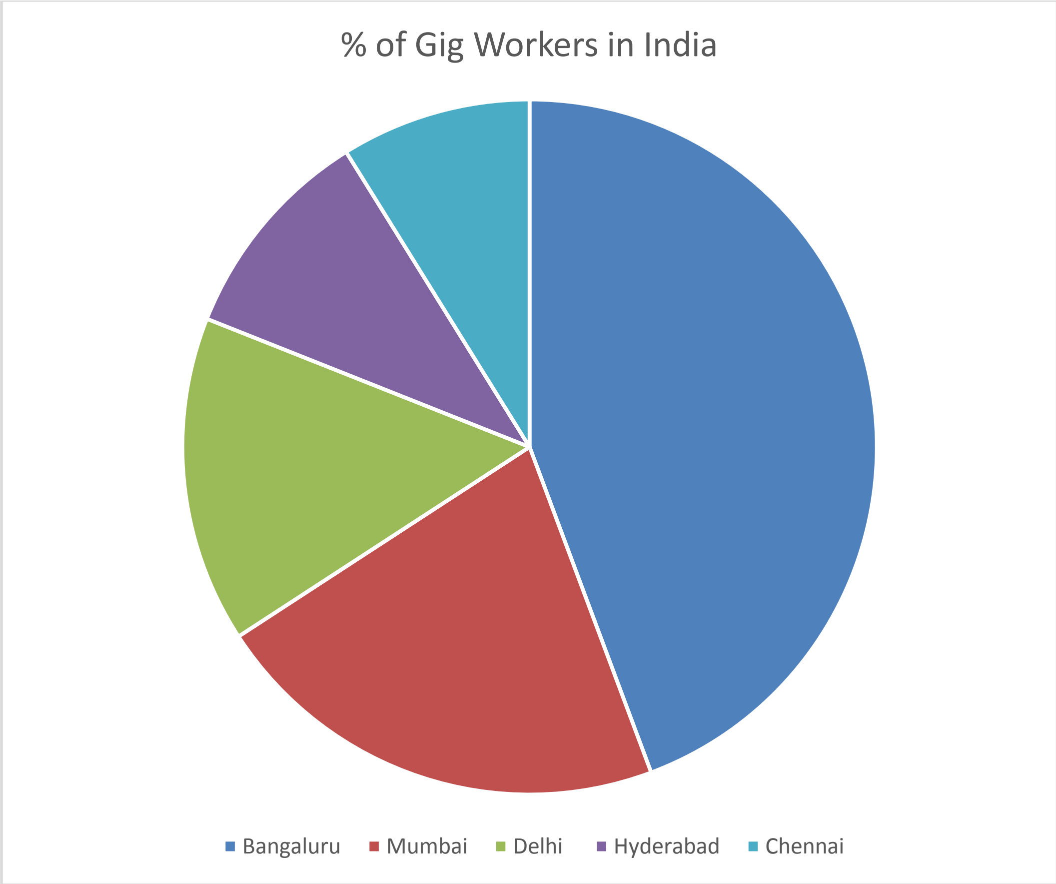
The following statistics suggests that the highest number of Gig Workers from around the world as around the time when in India the Social Security Code was drafted were from United States and then from India in 2020 during the first phase of the outbreak of the COVID 19.

1. United States - According to a survey by Gallup, 36% of U.S. workers were gig workers in some capacity in 2021.[xlvii]
2. India - According to a study by the Centre for Monitoring Indian Economy (CMIE), the number of gig workers in India reached 9.7 million in 2020.[xlviii]
3. China - According to a survey by the National Bureau of Statistics of China, there were 200 million flexible employees, which includes gig workers, in China in 2019[xlix]
4. United Kingdom - According to a study by the University of Hertfordshire, there were 4.7 million gig workers in the UK in 2020.[l]
5. Brazil - According to a survey by the Brazilian Institute of Geography and Statistics (IBGE), there were 10.4 million gig workers in Brazil in 2019.[li]

A Database Survey on Gig Workers in India codification of Social Security Code 2021

The cities in India that see the maximum number of gig workers are:

1. Bengaluru
2. Mumbai
3. Delhi
4. Hyderabad
5. Chennai



According to a report by Betterplace and Awign, Bengaluru tops the list with 35% of the gig workforce in India, followed by Mumbai with 17%, Delhi with 12%, Hyderabad with 8%, and Chennai with 7%.[lii]

Definition of Gig and Platform Workers under Social Security Code 2021

The legal definition of gig and platform workers in India is still evolving, and there is no specific legislation that defines these terms. However, some recent developments and initiatives by the government provide some insights into how gig and platform workers are being classified and regulated in India.

The term "gig worker" has been used in India for several years, but it gained significant attention in 2020 due to the COVID-19 pandemic and the resulting economic downturn.

In India, gig work has been defined as "a form of employment where workers are hired for short-term engagements to perform specific tasks or assignments, generally on a project-by-project basis" [liii]However, the pandemic led to widespread job losses and a surge in demand for gig work, as people sought alternative sources of income.

According to a report by the International Labour Organization (ILO), the pandemic has highlighted the vulnerabilities of gig workers in India, who often lack social protections and face significant risks to their health and safety.[liv]

As a result, the Indian government introduced new labour laws in 2020 aimed at providing social security benefits to gig workers, including access to health insurance and pension schemes.[lv]

Overall, while the term "gig worker" has been used in India for several years, the pandemic brought increased attention to the challenges faced by gig workers and the need for greater protections and social safety nets. This has led to new regulations and policies aimed at improving the conditions of gig workers in India.

In 2020, the Ministry of Labour and Employment issued a draft code on social security that seeks to provide social security benefits to gig and platform workers.

1. The draft code defines gig workers as "a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationships."
2. It defines platform workers as "a person who accesses an online platform to gain access to other organisations or individuals to solve specific problems or to provide specific services in return for payment."[lvi]

Additionally, the National Platform for Domestic Workers, an initiative of the Ministry of Labour and Employment, includes gig and platform workers in its definition of informal workers. The platform defines informal workers as "workers who are not protected by any form of labour legislation or social security and who are generally excluded from the purview of labour law enforcement agencies."[lvii] However It is important to note that these definitions are not legally binding and may evolve as the government formulates specific policies and regulations for gig and platform workers.

The Ministry of Labour and Employment introduced the Code on Social Security, 2020 which came into force from April 1, 2021. This code aims to extend social security benefits to gig workers and other informal sector workers. Under this code, gig workers are entitled to receive benefits such as life and disability cover, health and maternity benefits, old age protection, and any other benefits as may be notified by the government from time to time.[lviii]

Furthermore, in 2021, the Ministry of Labour and Employment introduced the Draft Model Standing Orders (Industrial Employment (Standing Orders) Central Rules) Amendment Rules, 2021 which seeks to extend certain protections to gig workers. According to the draft rules, gig workers who have been engaged for a period of at least 90 days will be considered as regular employees and will be entitled to the same benefits as regular employees such as paid leave, social security benefits, and access to dispute resolution mechanisms.[lix]

It is important to note that these regulations are relatively new and are subject to change as they are still in the process of being implemented.

The recognition of gig workers as employees

The concept of recognizing gig workers as employees under traditional labour laws was first introduced in the United Kingdom. The landmark decision was made by the UK Supreme Court in the case of Uber BV v Aslam and Others in February 2021.[lx]

In this case, the UK Supreme Court ruled that Uber drivers should be classified as workers rather than independent contractors, entitling them to benefits such as the minimum wage, sick pay, and paid holidays. The court found that Uber drivers were not truly self-employed, but rather were integrated into Uber's business and subject to significant control by the company.

This decision was seen as a significant victory for gig workers in the UK and set a precedent for similar cases around the world. The ruling was widely reported in the media also.

The recognition of gig workers as employees under traditional labour laws is an important step towards ensuring that they receive the same protections and benefits as other workers. It also highlights the need for regulatory frameworks that can accommodate the changing nature of work in the digital age.

Significant Changes in Gig Economy in a decade

The gig economy in India has seen significant growth over the last ten years. According to a report by consulting firm BCG, the gig economy in India is expected to grow to $455 billion by 2023, up from $20 billion in 2015.[lxi]

One of the main drivers of the gig economy in India has been the rise of digital platforms, such as Ola, Uber, Swiggy, Zomato, and Urban Company. These platforms have enabled millions of people to earn a livelihood by providing services such as ride-hailing, food delivery, and home services.

Another factor contributing to the growth of the gig economy in India is the country's large and young workforce. India has the world's largest population of young people, with more than 600 million people under the age of 25. Many of these young people are highly skilled but unable to find traditional employment, making gig work an attractive option for them.

However, the gig economy in India has also faced challenges, including concerns over worker rights and job security.

Overall, the gig economy in India has undergone significant changes over the last ten years, with digital platforms driving growth and new regulations aimed at protecting workers' rights.

Conclusion:-

The gig economy and gig workers are concepts that are rapidly changing the way we think about work and labour. While there are opportunities for flexible work and income, there are also significant challenges and concerns about workers' rights and job security. It is crucial to continue studying and exploring this phenomenon to better understand its impact on workers and society.

The gig economy and gig workers are concepts that are not just limited to the western world but have also taken root in India. In recent years, India has seen a surge in gig work and the emergence of online platforms that connect workers with clients or customers. This has brought opportunities for flexible work and income for many, especially in urban areas, where traditional employment opportunities are limited.

In India gig workers are not classified as employees and do not receive the same benefits as traditional employees, such as paid sick leave, maternity leave, and pensions. Additionally, there are concerns about the lack of regulations and protections for gig workers in the country.

Despite these challenges, the gig economy in India is expected to continue to grow and transform the labour market. It is important for policymakers and stakeholders to address the challenges facing gig workers and ensure that they have access to social protections and fair wages. It is also crucial to promote the development of a supportive regulatory environment that can balance innovation and the protection of workers' rights.

In conclusion, the gig economy and gig workers have become an important part of India's labour market, offering both opportunities and challenges. A better understanding of this phenomenon is necessary to ensure that it benefits workers and society. The government, employers, and civil society need to work together to find ways to address the challenges and make the gig economy a more sustainable and equitable option for workers.

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