



RESEARCH ARTICLE

UNVEILING THE INVISIBLE: EXAMINING THE LEGAL COMPLEXITY AND SOCIAL SECURITY BENEFITS OF GIG WORKERS

Subhashchandra Rajkumar Chaudhary and Pradeep Prajapati

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Abstract

Gig economy has seen dramatic increase in the workforce participation due to Digital Revolution, Excess Labour supply, Outbreak of Pandemic 2020. However, Gig workers are struggling for social security benefits (Health Benefits, Pension Plans, Maternity Leaves, Accidental Plans, Insurance, Leave Payment, Accidental benefits), that is essential for just and equitable society that governed by regulatory bodies through statutes. However, Unorganized economy in general and particularly Gig workers are denied to have economic protection due to their legal Status. Prior to Code on Social Security 2020 gig workers are considered as sharing partners and Firms are not obliged to provide economic benefits to sharing partners. Despite having potential, Gig workers have no social security due to the legal complexity of their status as compared to traditional workers. This paper is an attempt to examine the legal taxonomy and analysis of social security issues and to understand the potential and reach of gig workers in the economy.

Objective:

1. To examine the legal Status of Gig workers in India.
2. To Understand the social security issues of gig workers.
3. To understand the potential and reach of gig workers in the economy.

Hypothesis:

1. The legal status of traditional and Gig workers is the same.
2. There is no significant difference in social security available to traditional and Gig Workers
3. There is no impact of the Gig economy on the Nation's Economy.

Research Methodology: This research paper is solely based on secondary research from various published and unpublished sources like Magazines, Websites, Newspapers, and Government and non-government organizations.

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Introduction:-

What is the Gig Economy Model?

The gig economy is a working structure featuring flexibility and seasonality of work which consist of Skilled, Semi-Skilled, and unskilled workers ranging from Intellectual freelancers to delivery partners and labourers in the construction industry. Unlike the traditional hierarchy, Employment is based on contracts or virtual apps that

facilitate the connection between working partners and establishments. Platform Economy and Sharing Economy can be used interchangeably with Gig economy. The Gig Economy consists of the Following four Components namely, Service Provider, Gig Worker, Platform(Apps), Customer. The Gig worker and demand company gets connected by a virtual platform usually an application(app), Gig worker register on that app and the customer also enrol on the same and the company through Platform match the demand with supply

What is Social Security?

Social Security is a most essential human right that includes a primary layer of protection for individuals in or by society in the form of access to Health Care, Income security, Unemployment Benefits, Medical Leave, Work Injury, Maternity Leave, and Retirement Benefits. 20% world's population is covered under the social security scheme. Social Security leads to Economic protection and consequences to the achievement of sustainable development goals(SDG), Social Security(SS) and SDG are positively correlated enabling the achievement of goals primarily

Goal 1 - End poverty in all forms everywhere

Goal 5 - Gender Equality

Goal 8 - Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all

H1. The legal status of traditional and Gig workers is the same.

The gig economy is an economic revolution, described as a form of relation of employment between employer and employee beyond the traditional limitations and forms. It consists of Platform and Non-platform-based workers. Platform-based connections are based on digital apps whereas Non-Platform Based is temporary arrangements with employers in various sectors of the economy. However social security measures available to traditional labourers are the outcome of their recognition under the statute as labour or employee, whereas Gig workers are loosely defined under Social Security Code Bill 2020 and relevant Acts(**Code on Wages, 2019, Industrial Relations Code, 2020, Code on Social Security, 2020, Code on Occupational Safety Health and Working Conditions, 2020**) which fails to recognize Gig workers as employees instead they are considered as partners, because of this they lack benefit of employee. The social security measures include the retirement benefit and job benefits through employer and employee contributions.

The following Acts examine recognition as employees and benefits accrue on that account.

Sr. No.	Act	Traditional Workers	Gig Labours	Benefits
1	The Employees Compensation ACT 1923	Employee	N.A	An Act to provide for the payment by certain classes of employers to their workmen for compensation for injury accident.
2	The Payment Of Wages Act, 1936	Employee	N.A	An Act to regulate the payment of wages of certain classes [employed persons]
3.	The Industrial Employment	Employee	N.A	An Act shall apply to every industrial establishment wherein one hundred or more workmen are employed or were employed on any day of the preceding twelve months.
4.	The Minimum Wages Act, 1948	Employee	N.A	An Act to provide for fixing minimum rates of wages in certain occupations.

5.	The Employees' State Insurance Act, 1948	Employee	N.A	An Act to provide for certain benefits to employees in case of sickness, maternity and employment injury and to make provision for certain other matters in relation thereto.
6	The Factories Act, 1948	Employee		An Act to consolidate and amend the law regulating labour in factories.
7	The Plantation Labour Act, 1951	Employee		An Act to provide for the welfare of labour, and to regulate the conditions of work, in plantations.
8	The Mines Act, 1952	Employee		An Act to amend and consolidate the law relating to the regulation of labour and safety in mines.
9	The Employees' Provident Funds And Miscellaneous Provisions Act, 1952	Employee	N.A	An Act to provide for the institution of provident funds for employees in factories and other establishments
10	The Employees' Provident Funds And Miscellaneous Provisions Act, 1952	Employee	N.A	An Act to establish institute provident funds, pension funds, and deposit-linked insurance funds for employees in factories and other establishments.
11	The Working Journalists (Fixation Of Rates Of Wages) Act, 1958	Employee	N.A	An Act to provide for the fixation of rates of wages in respect of working journalists and for matters connected therewith.
12	The Employment Exchange (Compulsory Notification Of Vacancies) Act, 1959	Employee	N.A	An Act to provide for compulsory notification of vacancies to the Employment Exchanges and for the performance of returns relating to Employment situations by the employers.
13	The Motor Transport Workers Act, 1961	Employee	N.A	An Act, contains provisions, pertains to, among other things, (i) welfare and health; (ii) hours of work; (iii) employment of young persons; and (iv) wages, over-time payment and leave.
14	The Maternity Benefit Act, 1961	Employee	N.A	An Act to ensure the women employees of maternity benefits which is getting their salary paid during their absence from work to take care of the newborn child.

15	The Payment Of Bonus Act, 1965	Employee	N.A	An Act which ensures each employer must pay each employee a minimum bonus equivalent to 8.33 percent of the employee's salary or wage earned during the accounting year, or one hundred rupees, whichever is greater.
16	The Contract Labour (Regulation And Abolition) Act, 1970.	Employee	N.A	An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.
17	The Payment Of Gratuity Act, 1972	Employee	N.A	According to Section 4 of the Act, an employee is entitled to the payment of gratuity if they have rendered five years of continuous service upon their superannuation, retirement, resignation, disablement, or death.
18	The Sales Promotion Employees (Conditions Of Service) Act, 1976	Employee	N.A	An Act to regulate certain conditions of service of sales promotion employees in certain establishments.
19	The Equal Remuneration Act, 1972	Employee	N.A	An Act to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment.
20	The Cine- Workers And Cinema Theatre Workers (Regulation Of Employment) Act, 1981	Employee	N.A	An Act to provide for the regulation of the conditions of employment of certain cine- workers and cinema theatre workers and for matters connected therewith.
20	The Dock Workers (Safety, Health And Welfare) Act, 1986	Employee	N.A	An Act to contains provisions like Powers of Inspectors, Facilities to be afforded to an Inspector, Advisory Committee, Protection of action taken in straightness, Power of court to form orders, Provision regarding fine and General provision concerning rules and regulations
21	The Building And Other Constructions Workers' (Regulation Of Employment And Conditions Of Service) Act 1996	Employee	N.A	An Act watchdogs the employment and working conditions of the building and other constructions for workers and it aims to provide welfare measures for the construction workers

22	The Building And Other Construction Workers Welfare Cess Act, 1996	Employee	N.A	An Act that contains Welfare Schemes funded from BOCW welfare cess fund are exclusively for the building and other construction workers. Diversion of the cess fund for welfare of other categories of workers is not permissible under the BOCW (RECS) Act, 1996.
23	The Unorganised Workers' Social Security Act, 2008	Employee	N.A	An Act to provide for the social security and welfare of unorganised workers and for other matters connected therewith or incidental thereto

(Table 1:- Acts examine recognition as employees and benefits accrue on that account sector-wise)

The four labour codes

SR. NO	CODE	BENEFITS
1	Code on Wages, 2019	<p>The Wages Code seeks to regulate wage and bonus payments in all employments where any industry, business, trade or manufacture is carried out. Minimum wages set by central or state governments must surpass floor wages, and if existing minimum wages exceed floor wages, they cannot be lowered. The government, when establishing minimum wages, should consider the difficulty of the work and the skill levels of the workers. A government review of the set minimum wage should occur at least every five years.</p> <p>This code replaces the following laws: Minimum Wages Act, 1948 Payment of Wages Act, 1936 Payment of Bonus Act, 1965 Equal Remuneration Act, 1976</p> <p>(Table 1: Acts examine recognition as employees and benefits accrue on that account sector-wise)</p>
2	Industrial Relations Code, 2020	<p>The Industrial Employment (Standing Orders) Act, 1946 mandates that employers with 100 or more workers in industrial establishments define conditions of employment and establish rules of conduct for their workmen.</p> <p>Under the new Code, establishments now require a minimum of 300 workers to implement standing orders. The increased threshold, enhances flexibility in hiring and firing, ultimately promoting increased employment. Notably, government approval is now mandatory for closure, lay-offs, or retrenchment in establishments with over 300 workers. The new Code suggests the establishment of a re-skilling fund, funded by employers at an amount equivalent to 15 days' last drawn salary for training retrenched</p>
3	Code on Social Security, 2020	<p>Social security refers to protection measures provided to workers to ensure healthcare and income security in case of certain contingencies such as old age, maternity, or accidents. It has provisions for the registration of all three categories of workers – unorganized workers, gig workers, and platform workers</p> <p>This code replaces the following laws: 1.The Employees' Compensation Act, 1923 2.The Employees' State Insurance Act, 1948 3.The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 4.The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 5.The Maternity Benefit Act, 1961</p>

		6.The Payment of Gratuity Act, 1972 7.The Cine Workers Welfare Fund Act, 1981 8.The Building and Other Construction Workers Welfare Cess Act, 1996 9.Unorganised Workers' Social Security Act 2008.
4	Code on Occupational Safety Health and Working Conditions, 2020	The Code expands factory criteria, limits work hours to 8, defines inter-state migrant workers, allows women's night work with consent, sets a 50-worker threshold for OSH Code, prohibits safety charges, and establishes a National Advisory Board for Occupational Safety and Health

The above Act has statutory provision for traditional workers whereas in recent Code of Social Security 2020, consider gig workers as an employee, however, it is loosely defined and the Execution model is still questionable.

H2. There is no significant difference in social security available to traditional and Gig Workers

Social Security is an inclusive term that covers a wide range of benefits that accrue to employees like Leave Pay, Medical Leave, Maternity Leave, Retirement Benefits, Pensions, Accidental Claims, and many more. Under traditional machinism employees and covered under various statutes that force them to consider and comply with rules and regulations. However, In the unorganized sector, in particular, Gig workers the model of the economy is based on sharing partners and benefits accrue to firms in terms of less compliance and applicability of laws, whereas employees are suffering. As per International labour organisation, Employed covered in the event of injury is less than 5% and population covered by at least one social protection benefit is less than 25%, which shows there is requirement to cover the remaining workforce within the scope of social protection.



(Source: International Labour Organisation.)

H3 There is no impact of Gig workers on the Economy.

India's growth as a developing nation has also led to a rise in young entrepreneurs, contributing to a self-made India. The gig economy's characteristics like flexibility and on-demand service along with technological advancements make it more favourable for startups and other industrial sectors resulting in fostering success. For instance, Zomato earned 2604 crores in the year 2019-20 with 10.7 million customers ordering food from 131,233 active restaurants which were delivered by 161,637 delivery partners, Zepto, the online grocery store became India's first unicorn of 2023 by raising \$200 million. A lot of tech industries are also now investing in gig workers and 97% of these companies want to keep gig workers at their current level or hire more gig workers.

According to ASSOCHAM India's gig economy is growing at a CAGR of 17%. Aside from benefitting start-ups and various other industries, the gig economy has also unlocked new employment opportunities. The table below shows how further employment in the gig economy has expanded and is likely to expand soon.

	Employment	Non-AgriEmployment	Gig Workers
2011-12 (actuals)	46.99	24.52	0.25
2017-18 (actuals)	45.5	26.38	0.53
2018-19 (actuals)	46.75	27.62	0.54
2019-20 (actuals)	51.1	28.79	0.68
2020-21 (projected)	51.66	29.37	0.77
2021-22 (projected)	52.22	29.97	0.87
2022-23 (projected)	52.79	30.58	0.99
2023-24 (projected)	53.37	31.2	1.12
2024-25 (projected)	53.95	31.84	1.27
2025-26 (projected)	54.54	32.49	1.43
2026-27 (projected)	55.14	33.15	1.62
2027-28 (projected)	55.74	33.82	1.84
2028-29 (projected)	56.35	34.51	2.08
2029-30 (projected)	56.96	35.2	2.35

As per the table (NITI AAYOG), the gig workforce has constantly seen an increase from 2011-12 till 2019-20 and is expected to see a rise from 68 lakhs to about 2.35 crores in 2029-30. This indicates how the gig economy has proved to be favourable not only for startups and other industries but also in terms of employment opportunities with the potential to add 1.25 % to the Indian GDP, thereby contributing to the Indian economy.

Conclusion:-

As a segment in the economy, the gig economy has the potential and its need of hours to go beyond the traditional hierarchy and work for mutual benefit, however, it also emphasizes skill enhancement and concentration of labour forces in skill-based categories. The statute and governmental mechanism are comparatively complex and loosely defined and its execution is always questionable.

Suggestion:-

1. It has to be exclusively defined under specific Acts and code bills.
2. Governmental machinery should focus more on the execution of rules and regulations.
3. There should be an effective channel for dispute resolution.

4. The execution process must be gig worker-friendly.

Research Gap

1. This paper is only examining the legal status of gig workers as compared to traditional workers.
2. The impact of gig workers can be based on projection, not actual data.
3. Social Security issues can be further classified for microanalysis.

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