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# **FROM SIDE HUSTLES TO LEGAL STRUGGLES: THE GIG ECONOMY AND INDIA'S LABOR LAWS.**

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## **Abstract**

The gig economy is now a large part of the global workforce and is defined by temporary, contract-based work that is commonly found through digital platforms. In India, the gig economy is growing at a very fast pace due to the technological changes, demographic changes and changes in the work culture. At present, about 15 million people in India are involved in gig work, and the numbers are expected to rise. Despite the advantages that the gig economy provides to the workers in terms of flexibility, independence, and cost-saving to the firms, it has its drawbacks, especially in relation to job insecurity, exclusion from social protections, and legal limbo of the gig workers.

The objective of this research is to identify the legal issues that gig workers in India encounter. Its goal is to determine the contemporary state of the gig economy, evaluate the current legislation regulating labour relations, determine the issues faced by gig workers, and develop recommendations for improving their legal status. The research responds to the following questions concerning the characteristics of the gig economy in India, the relevance of the existing labour legislation, the challenges faced by gig workers, and the changes in the law required to enhance their situation.

The research is based on the secondary qualitative data collected from the academic articles, government reports, and industry studies to identify the patterns and themes of the gig work and its legal regulation. The study shows that there are major deficiencies in legal frameworks, the majority of gig workers are considered independent contractors and do not have access to labour rights and social security. The study also points out the lack of legal provisions for the gig workers and the need to classify them as a separate category that must be paid minimum wages, health insurance and other social security measures.

This research further emphasizes the need to reform the laws to protect the gig workers in India. It calls for enhanced employment categorization, better social security programs, and effective

complaint handling systems. Thus, by revealing the legal issues and proposing improvements, this study helps in developing a fair and safe environment for gig workers and, therefore, a balanced and sustainable gig economy in India.

## **Introduction**

Gig economy is now a major part of the global economy, with workers taking up short-term, flexible work arrangements often through online platforms. This trend has also started in India and is progressing at a fast pace due to the factors such as – technology, demography, and work culture. Currently, India is among the leading countries for gig work with around 15 million people working in different freelance and contract jobs and this number is expected to increase significantly in the future<sup>1</sup> There are many advantages of the gig economy such as flexibility for workers, independence, and affordable solutions for companies. But it also raises some concerns especially on employment insecurity, social entitlements, and legal status of gig workers<sup>2</sup>

## **Aim and Objectives**

The aim of this study is to identify the legal issues that gig workers encounter in India, specifically within the context of the gig economy. The objectives of this study are:

- To understand the current position of gig economy in India in terms of its development, target population, and contribution to the economy.
- To assess the current labour laws and regulations that apply to gig workers, with a view of ascertaining their strengths and weaknesses.
- To determine the problems experienced by gig workers especially on their employment status, remuneration, and legal protections.
- To suggest the possible changes in the existing laws that may help to improve the position of gig workers in India.

## **Research Questions**

To guide the investigation, the following research questions will be addressed:

- What are the important features and developments of gig economy in India?

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<sup>1</sup> Dr. Vijeta Banwari, "Gig Economy: Challenges and Opportunities in India," Journal of Emerging Technologies and Innovative Research, Maharaja Surajmal Institute (Affiliated to GGSIP University), accessed August 1, 2024, <https://www.jetir.org/papers/JETIR1811661.pdf>.

<sup>2</sup> Naveen Kumar, *Regulatory Framework and the Protection of Basic Rights of Gig Workers*, Bar and Bench - Indian Legal news (2024), <https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers> (last visited Aug 4, 2024).

- What provisions are currently available under the Indian labour laws for the gig workers?
- What are the main problems of gig workers in relation to the legal regime and social security?
- What changes are required to be made in order to bring about a positive change in the conditions of gig workers in India?

## **Significance of Research**

This research is important in the following ways: First, it contributes to the existing literature on the gig economy, especially in the Indian context in which the sector is still developing. This paper, therefore, draws attention to the legal challenges faced by gig workers and the necessity for policy changes to safeguard their interests. In addition, the conclusions can be useful for policymakers, trade unions, and digital platforms to understand the challenges of gig work and the need for an appropriate regulation<sup>3</sup> In the end, this research seeks to contribute to the creation of a labour market environment that is conducive for all employees, especially those in atypical employment relationships.

## **Rationale**

The need for this research lies in the fact that the gig economy has recently gained popularity in India and the current labour laws are insufficient to regulate it. As gig work continues to increase as a form of work, the absence of legal safeguards leaves workers vulnerable to different risks that include; exploitation, low wages, and poor access to welfare benefits like health care and pension. Also, the flexibility of the gig economy makes it difficult to protect the rights of workers since they are vulnerable to unfair treatment<sup>4</sup>

The Code on Social Security, 2020 has been recently enacted to address the issue of gig workers' recognition, but the problem is still in implementation. This research aims at engaging a critical assessment of these developments and examine the implications for gig workers' livelihood and the Indian labour market. Thus, by identifying the existing legal loopholes and calling for the changes that are needed, this work will help to pave the way for a fair and balanced gig economy in India.

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<sup>3</sup> Rupa Korde, Prachi Agarwal, Deepthi Adimulam & Mahika Gandhi, *Gig Economy India: 2020-2021* (WageIndicator Foundation, 2021), [https://wageindicator.org/documents/publicationslist/publications-2021/gig\\_report\\_india.pdf](https://wageindicator.org/documents/publicationslist/publications-2021/gig_report_india.pdf).

<sup>4</sup> Valentina Brailovskaya Brailovskaya, *Digital labor gig economy from the worker's perspective: A literature review*, IDinsight (2023), <https://www.idinsight.org/publication/digital-labor-gig-economy-from-the-workers-perspective-a-literature-review/>.

In conclusion, it is important to understand the impact of the gig economy on labour laws and workers' rights as the phenomenon grows. This research will help to identify the problems of gig workers and suggest the ways to improve their legal status and provide the opportunities of this new type of labour market for all the parties involved.

## **Methods**

This chapter explains the research method used to examine the gig economy and labour laws in India with an emphasis on legal challenges faced by gig workers based on secondary qualitative data. Qualitative research was used to capture the experiences, difficulties, and opinions of gig workers within the current legal environment. The secondary data collection involved the use of articles, reports, policies, and industry studies to gain an understanding of the current status of gig work in India. This approach allows the discussion of issues like workers' rights, employment security, and social safety in the context of the socio-economic environment. In the process of choosing the sources, ethical factors were considered to make sure that the data collected was relevant and credible. Therefore, this methodology of using only secondary qualitative data seeks to give an in-depth understanding of the factors that characterise the gig economy and its legal issues before delving deeper into the results<sup>5</sup>

## **Research Design**

The method used in this research is the qualitative research method, which entails the use of secondary data to analyse the legal challenges faced by gig workers in India. This design is especially helpful in comprehending the issues and dynamics of the gig economy because it enables a critical analysis of the existing literature, governmental reports, and policy studies that focus on gig workers' situations and difficulties. Thus, using the data obtained from the analysis of qualitative sources, such as academic articles and industry reports, the research intends to reveal important issues concerning the rights of workers, employment protection, and social security in the context of India's changing labour legislation. This also helps in gaining a broad perspective on the state of gig work today and to identify areas of the legal structure that may be lacking and the consequences for policy changes. Finally, the qualitative research design helps in offering an understanding of gig workers' realities and the regulatory issues they encounter in the modern, digital, and more flexible workplace.

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<sup>5</sup> Nicole Ruggiano & Tam E Perry, *Conducting Secondary Analysis of Qualitative data: Should we, Can we, and how?*, 18 *Qualitative Social Work* 81 (2019), <https://journals.sagepub.com/doi/10.1177/1473325017700701>.

## Data Collection

For this research, secondary qualitative data will be used to establish the legal challenges that gig workers in India encounter. The data collection process will entail searching for information from various literature sources such as peer reviewed journals, government publications, industry reports, and policy analysis. These sources will help in understanding the experiences of the gig workers, the problems they face and the legal protection offered to them<sup>6</sup>

Secondary data sources will comprise of journal articles that discuss the effects of the gig economy on labour laws, reports on gig workers' experiences by labour unions, and government publications on the legal framework of gig work. Also, industry research will be considered to get insights into the impact of gig work on the economy and the adequacy of existing legal safeguards. Thus, the research intends to make use of this qualitative data to find out the emerging patterns and the areas of lacuna in the legal safeguards provided to the gig workers, which will help in building a comprehensive understanding of the relationship between the gig economy and labour laws in India<sup>7</sup>

## Data analysis

The data analysis for this research will employ thematic analysis, a qualitative research method that enables the researcher to search, find, and describe patterns or themes in the secondary qualitative data. This approach is appropriate for studying the essence of the gig economy and its legal regulation since it allows for the systematic processing of different sources, such as articles, reports, and studies. The process of thematic analysis will then proceed with the initial exposure to the data by reading and re-reading the selected literature with the purpose of understanding the context and content<sup>8</sup> The researcher will then determine features of the data that are relevant to the research questions and these will include aspects like worker rights, job security, and social protections that will be grouped into broader themes that capture the emerging issues and challenges of gig workers in India. In this process, care will be taken to understand the context of language used and the environment in which gig workers operate to ensure that the findings align with the literature. Last, the emerged themes will be critically discussed and compared to the

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<sup>6</sup> Isabelle F. Dufour & Marie-Claude Richard, *Theorizing from secondary qualitative data: A comparison of two data analysis methods*, 6 Cogent Education (2019), <https://www.tandfonline.com/doi/full/10.1080/2331186X.2019.1690265>.

<sup>7</sup> Pertti Alasuutari, *The SAGE Handbook of Social Research Methods*, The SAGE Handbook of Social Research Methods 1 (2008), <https://www.torrossa.com/gs/resourceProxy?an=4913741&publisher=FZ7200#page=523>.

<sup>8</sup> Michael Larkin & Andrew Thompson, *Qualitative Research Methods in Mental Health and Psychotherapy* 209–223 (David Harper & Andrew R. Thompson eds., 2011), <https://onlinelibrary.wiley.com/doi/book/10.1002/9781119973249#page=212>.

current legal regulation with the focus on the existing weaknesses and possible changes. This thematic analysis is intended to help to give a detailed description of the current situation with gig work in India and to contribute to the discussion of labour rights and protections for gig workers, which will allow to identify the legal challenges that gig workers experience and the measures that are needed to improve the situation for this segment of the population<sup>9</sup>

## **Ethical Consideration**

### **Accuracy and credibility**

While researching on gig economy and legal challenges faced by gig workers in India, there were certain ethical concerns that were important while dealing with the rights of the participants. First, the use of secondary qualitative data required the adherence to the standards of accuracy and credibility by choosing the sources, which were peer-reviewed academic articles, government reports, and industry studies. This cautious choice was intended to prevent distortion of the workers' experiences and the legal environment<sup>10</sup>

### **Ethical Concerns in Data Analysis**

In addition, ethical consideration was made in the analysis of data to avoid reinforcing prejudice or prejudice against gig workers while presenting the study's findings.

### **Advocacy for Fair Treatment**

The research also looked at the implications of the study and recommended that gig workers should be treated fairly and should be granted better legal status, making the research contribute to the positive change of the gig workers' rights.

### **Transparency in Research Process**

Finally, the authors ensured that the research process was ethical by providing clear information about data sources and methods to maintain the credibility of the study with the stakeholders of the gig economy. Thus, by taking into account these ethical considerations, the research was designed to make a significant input into the study of gig workers' rights and the laws regulating

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<sup>9</sup> Victoria Clarke & Virginia Braun, *Thematic Analysis*, 12 *The Journal of Positive Psychology* 297 (2016), <https://www.tandfonline.com/doi/full/10.1080/17439760.2016.1262613>.

<sup>10</sup> Carrie Coltart, Karen Henwood & Fiona Shirani, *Qualitative Secondary Analysis in Austere Times: Ethical, Professional and Methodological Considerations*, 38 *Historical Social Research / Historische Sozialforschung* 271 (2013), <https://www.jstor.org/stable/24142699>.

them<sup>11</sup>

## Data Findings

### Overview of Gig Economy in India

Gig economy in India has been growing at a fast pace over the recent past and it is estimated that there are 15 million gig economy workers in India in 2023. This figure is expected to grow to 23.5 million by 2029-30. Independent contractors at the moment make up 2.6% of the non-agricultural employment in India or 1.5% of the total workforce of the country is constituted by the disabled people<sup>12</sup>

The gig economy in India spans a diverse range of occupations, including:

- Blue-collar jobs: Delivery drivers, ride-hailing drivers, cleaners, etc.
- White-collar jobs: It is suitable for digital marketers, bloggers, designers, freelance consultants, etc.

Key growth drivers of the gig economy in India include:

- Rise of internet and mobile technology: The use of smart devices and fast internet connection has allowed the workers and businesses to connect through the internet.
- Economic liberalization: The open market policies have fostered the gig economy.
- Increasing demand for flexible work: Gig economy is suitable for employees who want to engage in flexible working arrangements due to other commitments.
- Demographic factors: India's large, young, educated population is attracted to gig work as a source of additional income and as a career path.
- Growth of e-commerce: Growth of online retail has created a demand for delivery services hence boosting the gig economy in logistics.

The gig economy offers several benefits to workers, companies and the economy:

- For workers: Opportunities to work from home, self-employment, and access to jobs, better work-life balance
- For companies: Reduced expenses, ability to hire a large number of employees with a flexible schedule

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<sup>11</sup> A Ross, G Smith & H Morrow, *Chapter 6 Ethical considerations*, Oopen.org (2015), <http://library.oopen.org/handle/20.500.12657/29876>.

<sup>12</sup> Gig Economy Data Hub, GigEconomyData.org (2019), <https://www.gigeconomydata.org/>.

- For the economy: According to the latest research, gig economy companies are contributing towards the creation of 56% of new jobs in India. The gig economy could contribute up to 1. It also envisages to contribute 25% to India's GDP in the long run.

However, the gig economy also faces challenges:

- Lack of job and social security: Most of the gig workers do not have access to basic employment perks such as health insurance and retirement plans.
- Digital divide: The use of technology hinders access for the people who cannot use the internet.
- Exploitation by companies: They may be paid very low wages and their employment status may be disguised as independent contractors.
- Social isolation: Freelancers have no co-workers and thus have no social support as opposed to other employees.

In conclusion, the gig economy has emerged as a large and constantly expanding segment of the Indian labour force with its advantages and disadvantages. With the growth of the platform economy, the challenges related to workers' rights and social security will be among the key concerns of policymakers and stakeholders.

### **Demographics of Gig workers**

The characteristics of gig workers in India show that gig economy is a fast-growing segment of the population that has a great influence on the Indian labour market where 15 million people are involved in gig economy by 2023, and this number can reach 23.5 million by 2029-30<sup>13</sup> It is observed that the gig workforce is mostly young people in the age group of 18 to 35 years who prefer the flexibility of the gig economy; education wise, they are a diverse lot with a good number of them having higher education in engineering, management, and arts; however, the gender disparity is seen where men dominate sectors like ride-hailing and logistics while women face issues like safety and social pressure. In terms of location, gig economy is predominantly located in urban areas, major cities being the primary centres of gig economy, and in terms of skill level, 47% of gig economy jobs are medium skilled and 31% are low skilled, which are major employment generators and provide income diversification, and it's estimated that 56% of new jobs in India are being generated by gig economy companies<sup>14</sup>

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<sup>13</sup> Jasmine Gill & Sadhna Gupta, *THE GIG ECONOMY AND ITS IMPLICATIONS ON CONTRACT LABOR LAWS*, 9 (2024), <https://journals.nujs.edu/index.php/njrs/article/view/11> (last visited Aug 7, 2024).

<sup>14</sup> Anweshaa Ghosh, Risha Ramachandran & Mubashira Zaidi, *Women Workers in the Gig Economy in India: An Exploratory Study*, papers.ssrn.com (2021), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3944205](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3944205).

## **Legal Framework governing Gig workers**

The legal protections for gig workers in India are still evolving and are commensurate with the nature of gig work, which is often temporary, freelance, or contract-based work that is enabled through digital platforms. With the gig economy growing and approximately 15 million workers participating in some form of gig work in 2023, it is important to know the laws, classifications and protections that pertain to this population.

### ***Classification of Gig Workers***

The main feature of the legal regulation of gig economy is the distinction between gig workers and employees. This difference has a great impact on the chances of receiving rights and advantages. The Code on Social Security, 2020 has defined a gig worker under Section 2(35) as any person who carries out tasks or works under any contract and earns from such activities. This classification reduces the coverage of gig workers under the conventional labour laws, relating to wage protection, medical care, and social security<sup>15</sup>

The Indian judiciary has given certain principles regarding how one can decide the existence of employer-employee relationship through case laws. For instance, in *Dharan Adhara Chemical Works Ltd vs. State of Saurashtra (1957 AIR 264)*<sup>16</sup>, the Supreme Court laid down the standards for the existence of a master-servant relationship such as the degree of control by the master, supervision of work, and supply of tools and materials by the master. These criteria show the problems in defining the status of gig workers and stress the importance of a legal framework that would take into account the specifics of gig economy employees.

### ***Relevant Legislation***

Several key pieces of legislation are pertinent to the legal framework governing gig workers in India:

Code on Social Security, 2020: This new law categorizes gig workers separately and seeks to cover them under social security provisions. It provides for the creation of a social security fund for gig workers, which will make gig employers pay a certain percentage of their turnover to

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<sup>15</sup> Ashok Yogesh, S Mahajan & Maniyar, GAP BODHI TARU A GLOBAL JOURNAL OF HUMANITIES AN APPROACH OF LABOUR LAWS TOWARDS SOCIAL SECURITY, (2022), [https://www.gapbodhitaru.org/res/articles/\(32-35\)%20AN%20APPROACH%20OF%20LABOUR%20LAWS%20TOWARDS%20SOCIAL%20SECURITY.pdf](https://www.gapbodhitaru.org/res/articles/(32-35)%20AN%20APPROACH%20OF%20LABOUR%20LAWS%20TOWARDS%20SOCIAL%20SECURITY.pdf) (last visited Aug 7, 2024).

<sup>16</sup> Devansh Aeron & Ridhima Singh, *Case Analysis: Dharangdhara Chemical Works Ltd. v. State of Saurashtra, 1956*, SSRN Electronic Journal (2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4292079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4292079) (last visited Aug 7, 2024).

finance social security programs for health and accident insurance, maternity, and pensions. However, the specific rules and implementation details are still under the process of determination by the individual states<sup>17</sup>

Code on Wages, 2019: This legislation provides the framework for the national minimum wages that apply to all industries, including the gig economy. Although the Code establishes the minimum wage, the latter depends on the state and skill level, which creates disparities in wage security for gig workers<sup>18</sup>

Contract Labour (Regulation and Abolition) Act, 1970: While this act is mainly concerned with contract labour, it does offer some information regarding the rights of workers in the context of temporary employment. However, gig workers are usually excluded from this legislation and as such, they have little to no protection<sup>19</sup>

Rajasthan Platform-Based Gig Workers Act, 2023: This state-level law sets a template for the protection of gig workers. It prescribes the process of their registration and formation of welfare board for the social security of gig workers who are working through platform-based gigs.

### ***Social Security Measures***

The absence of social security for gig workers has been an issue of debate for a long time since most of these workers are not protected from economic shocks and they do not enjoy basic rights to health care and other amenities. The Code on Social Security, 2020 tries to fill this gap by mandating the Central and the State Governments to formulate appropriate social security schemes for gig workers. These schemes are expected to provide for the life and disability insurance, the health and maternity insurance and the insurance for old age.

However, the provisions of social security measures are still not fully complied with. Most gig workers are ignorant of their rights and the available benefits and due to weak registration processes, they cannot access the benefits. However, the requirements placed on gig employers may be met with resistance from companies, and thus may slow the development of efficient social

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<sup>17</sup> Aishwarya Raman, Sreelakshmi Ramachandran & S Sasikumar, *India's Social Security Code, 2020: A Catalyst for Promoting and Protecting Platform Labour* / *India's Social Security Code, 2020: A Catalyst for Promoting and Protecting Platform Labour*, (2021), <https://www.drupal.co.in/sites/default/files/2024-05/indiasocialsecuritycode2020acatalystforpromotingplatformlabourbyaishwaryaramansreelakshmiramachandranandksasikumar.pdf> (last visited Aug 7, 2024).

<sup>18</sup> The Code on Wages, 2019, Bill No. 184 of 2019, introduced in Lok Sabha, available at [https://labour.gov.in/sites/default/files/the\\_code\\_on\\_wages\\_as\\_introduced.pdf](https://labour.gov.in/sites/default/files/the_code_on_wages_as_introduced.pdf).

<sup>19</sup> Contract Labour (Regulation and Abolition) Act, 1970, No. 37 of 1970, § 1 (India).

security systems.

### ***Challenges and Gaps in the Legal Framework***

Despite the recent legislative actions being taken to enhance the legal status of gig workers, there are still some issues and gaps. Among them, the most important one is the uncertainty of the definition of gig workers and their legal status. The lack of proper legislation that would protect gig workers and their rights makes them susceptible to unfair labour practices.

Also, the implementation of the existing laws and regulations is another challenge that is faced. Most gig workers work under precarious conditions, and it is hard for the law enforcement agencies to ensure that the gig workers are protected by the laws. The use of digital platforms as intermediaries makes it even more challenging to enforce labour rights because these platforms usually claim that they are not employers of the workers and therefore, they cannot be held legally responsible for their treatment.

## **Data analysis**

The evaluation of the gig economy in India raises several relevant issues based on the questions related to the characteristics of the gig economy, legal frameworks, issues faced by gig workers, and the modifications required to enhance the situation.

### **Theme 1: Significant Characteristics and Trends of the Gig Economy in India**

The gig economy in India has been on the rise and has been further boosted by the COVID-19 pandemic. Currently, it is estimated that about 15 million workers are involved in gig work with predictions that the figure could hit 23 by 2023. 5 million by 2029-30. The gig economy covers almost all sectors of the economy such as ride-hailing like Uber, Ola, food delivery like Zomato and Swiggy, and freelance services like graphic designers, content writers, etc.

Key features of the gig economy include:

**Flexibility and Autonomy:** They have flexibility in terms of working hours, places, and clients which enable them to meet other responsibilities. This flexibility is especially valuable to the young workers who want to balance between work and the rest of their lives.

**Income Generation and Entrepreneurship:** Gig work offers sources of income that might not be accessible in the conventional employment. Most employees use their expertise to establish their businesses or have other sources of income.

**Skill Utilisation and Innovation:** Freelancers can apply their current knowledge base or discover new fields of interest; this leads to the development of new approaches to providing services. It also enables the workers to improve their chances of getting a job and discover various fields of work.

However, the gig economy also has its drawbacks, especially when it comes to workers' rights and their compensation.

## **Theme 2: Facilities Provided under Indian Labour Laws for Gig Workers**

The legal position of gig workers in India is mainly defined in the Code on Social Security, 2020, which defines gig workers as a separate category under Section 2(35). However, the provisions that are available to the gig workers are very few and are usually inadequate.

Key points include:

**Lack of Comprehensive Protections:** It is important to note that although the Code mentions gig workers, it does not offer tangible perks or safeguards. The government is expected to notify schemes for gig workers in the future, but these have not been set up.

**Exclusion from Existing Labor Laws:** Freelancers are usually categorized as the independent contractors, which means they are not protected by the regular employment legislation, including the Minimum Wages Act and the Industrial Disputes Act. This classification restricts their rights to such things as minimum wages, medical care, and freedom to bargain collectively.

**State-Level Initiatives:** Certain states have come up with specific legislation in relation to gig workers, for instance, the Rajasthan Platform-Based Gig Workers Act, 2023. This Act creates the legal basis for registration and receipt of social security benefits, thus creating a precedent for other states.

## **Theme 3: Main Issues of Gig Workers in Connection with the Legal Framework and Social Security**

Gig workers in India face several significant challenges related to the existing legal regime and social security provisions:

**Inadequate Social Security:** While the Code on Social Security does include gig workers, the lack of enacted codes means that many workers lack basic protections. This means that gig workers do not have any social protection that can shield them from fluctuating economic conditions or any

individual crises.

**Job and Income Insecurity:** The nature of the gig work is that it is characterized by instability in the income level and job insecurity. Some of the challenges faced by gig workers include; fluctuating availability of jobs, which makes it hard for gig workers to make a steady income and insecurity of the job in as much as they are self-employed.

**Exploitation and Unfair Practices:** The platform companies often exploit gig workers by deactivating their accounts, changing the pay model and providing poor or no recourse mechanism. This is because the workers have no legal ground to stand on when they want to fight unfair treatment.

**Legal Ambiguities:** The current legal status of gig workers as independent contractors leads to legal uncertainties concerning their entitlements. This uncertainty also makes it difficult for them to seek relief under the Industrial Disputes Act and weakens their bargaining power.

#### **Theme 4: Reforms needed to enhance the circumstances for gig economy employees in India**

To enhance the conditions of gig workers in India, several changes are necessary:

**Establishment of a Comprehensive Legal Framework:** It is high time that legal systems that classify gig workers as a separate entity and grant them the necessary rights and benefits exist. This framework should cover areas like minimum wages, health insurance, and pension among others.

**Implementation of Social Security Schemes:** The government needs to fast track the formulation of social security measures for gig workers to avail basic necessities like health insurance, unemployment and maternity benefits.

**Clarification of Employment Status:** The lack of a clear definition of gig workers' employment status is problematic because it leaves them out of labour protections. This could involve coming up with a new category that will accommodate the gig workers given that they are different from the traditional employees while at the same time entitling them to the necessary rights and privileges.

**Strengthening Grievance Redressal Mechanisms:** There is a need to ensure that there are proper grievance handling systems that will address the issues of gig workers. This includes availing platforms for workers to report cases of exploitation and unfair treatment, and also the right to appeal for unfair treatment.

**Promoting Awareness and Advocacy:** It is imperative that gig workers receive more information about their rights and the protections they have. The advocacy should therefore be geared towards

mobilizing gig workers to come together and fight for better conditions at work as well as ensuring that gig workers collaborate with trade unions in order to have a better bargaining power.

## **Conclusion**

Gig economy in India is a large and expanding part of the economy that is flexible and independent in nature due to the advancement in technology, change in demography, and change in the culture of work. Gig work has been estimated to be around 15 million at the moment, and it is expected to reach 23. By 2029-30, the figure will reach 5 million, which proves that the gig economy will remain an essential part of the employment market in India.

Nevertheless, the gig economy has some issues, especially related to the legal and social security rights of gig workers, despite its fast development and numerous prospects. Despite the measures like the Code on Social Security, 2020, the existing labour laws in India are still insufficient to protect gig workers' rights and their specific needs. Due to the fact that gig workers are classified as independent contractors, they are not afforded any of the fundamental employment rights and benefits that include minimum wage, health care, and retirement among others.

The challenges that gig workers in India experience include; uncertainty in employment and earnings, inadequate social protection, vulnerability to exploitation, and legal grey areas in their employment status. These challenges are made worse by the fact that the digital platforms are notorious for shifting the responsibility of workers' rights, thus making it even harder to enforce fair labour practices.

For the enhancement of the status of gig workers, the following changes are required: Some of these are the development of a proper legal structure that will cater to the needs of gig workers, the provision of proper social security measures, and the determination of the employment status of gig workers to give them the necessary labour rights. Moreover, enhancing the grievance redressal mechanisms and raising awareness and advocacy among gig workers are the things that need to be done for the creation of a balanced gig economy in India.

## **References**

Banwari, Vijeta. "Gig Economy: Challenges and Opportunities in India." *Journal of Emerging Technologies and Innovative Research*. Maharaja Surajmal Institute (Affiliated to GGSIP University). Accessed August 4, 2024. <https://www.jetir.org/papers/JETIR1811661.pdf>.

Rupa Korde, Prachi Agarwal, Deepthi Adimulam & Mahika Gandhi, *Gig Economy India: 2020-2021* (WageIndicator Foundation 2021), [https://wageindicator.org/documents/publicationslist/publications-2021/gig\\_report\\_india.pdf](https://wageindicator.org/documents/publicationslist/publications-2021/gig_report_india.pdf).

The Code on Wages, 2019, Bill No. 184 of 2019, introduced in Lok Sabha, available at [https://labour.gov.in/sites/default/files/the\\_code\\_on\\_wages\\_as\\_introduced.pdf](https://labour.gov.in/sites/default/files/the_code_on_wages_as_introduced.pdf).

Naveen Kumar, *Regulatory Framework and the Protection of Basic Rights of Gig Workers*, Bar and Bench - Indian Legal news (2024), <https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers> (last visited Aug 4, 2024).

Valentina Brailovskaya Brailovskaya, *Digital labor gig economy from the worker's perspective: A literature review*, IDinsight (2023), <https://www.idinsight.org/publication/digital-labor-gig-economy-from-the-workers-perspective-a-literature-review/>.

Nicole Ruggiano & Tam E Perry, *Conducting Secondary Analysis of Qualitative data: Should we, Can we, and how?*, 18 *Qualitative Social Work* 81 (2019), <https://journals.sagepub.com/doi/10.1177/1473325017700701>

Perti Alasuutari, *The SAGE Handbook of Social Research Methods*, *The SAGE Handbook of Social Research Methods* 1 (2008), <https://www.torrossa.com/gs/resourceProxy?an=4913741&publisher=FZ7200#page=523>.

Michael Larkin & Andrew Thompson, *Qualitative Research Methods in Mental Health and Psychotherapy* 209–223 (David Harper & Andrew R. Thompson eds., 2011), <https://onlinelibrary.wiley.com/doi/book/10.1002/9781119973249#page=212>

Carrie Coltart, Karen Henwood & Fiona Shirani, *Qualitative Secondary Analysis in Austere Times: Ethical, Professional and Methodological Considerations*, 38 *Historical Social Research / Historische Sozialforschung* 271 (2013), <https://www.jstor.org/stable/24142699>

A Ross, G Smith & H Morrow, *Chapter 6 Ethical considerations*, Open.org (2015) <http://library.oapen.org/handle/20.500.12657/29876>.

Gig Economy Data Hub, GigEconomyData.org (2019), <https://www.gigeconomydata.org/>.

Isabelle F. Dufour & Marie-Claude Richard, *Theorizing from secondary qualitative data: A comparison of two data analysis methods*, 6 *Cogent Education* (2019), <https://www.tandfonline.com/doi/full/10.1080/2331186X.2019.1690265>

Victoria Clarke & Virginia Braun, *Thematic Analysis*, 12 *The Journal of Positive Psychology* 297 (2016), <https://www.tandfonline.com/doi/full/10.1080/17439760.2016.1262613>

Jasmine Gill & Sadhna Gupta, *THE GIG ECONOMY AND ITS IMPLICATIONS ON CONTRACT LABOR LAWS*, 9 (2024), <https://journals.nujs.edu/index.php/njrs/article/view/11>

Anweshaa Ghosh, Risha Ramachandran & Mubashira Zaidi, *Women Workers in the Gig Economy in India: An Exploratory Study*, papers.ssrn.com (2021), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3944205](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3944205)

Ashok Yogesh, S Mahajan & Maniyar, *GAP BODHI TARU A GLOBAL JOURNAL OF HUMANITIES AN APPROACH OF LABOUR LAWS TOWARDS SOCIAL SECURITY*, (2022), [https://www.gapbodhitaru.org/res/articles/\(32-35\)%20AN%20APPROACH%20OF%20LABOUR%20LAWS%20TOWARDS%20SOCIAL%20SECURITY.pdf](https://www.gapbodhitaru.org/res/articles/(32-35)%20AN%20APPROACH%20OF%20LABOUR%20LAWS%20TOWARDS%20SOCIAL%20SECURITY.pdf)

Devansh Aeron & Ridhima Singh, *Case Analysis: Dharangdhara Chemical Works Ltd. v. State of Saurashtra, 1956*, SSRN Electronic Journal (2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4292079](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4292079) (last visited Aug 7, 2024)

Aishwarya Raman, Sreelakshmi Ramachandran & S Sasikumar, *India's Social Security Code, 2020: A Catalyst for Promoting and Protecting Platform Labour | India's Social Security Code, 2020* <https://www.drupal.co.in/sites/default/files/2024-05/indiasocialsecuritycode2020acatalystforpromotingplatformlabourbyaishwaryaramansreelakshmiramachandranandsksasikumar.pdf>

