

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 5

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact Gyan@vidhiaagaz.com.

To submit your Manuscript for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to submission@ijlmh.com.

Inclusion of Gig Workers of India under the Labour Welfare Schemes: A Critical Analysis

UDAYASIMHA N.G.¹

ABSTRACT

India based gig economy has also expanded a lot as a result of digitization and flexible employment models. Ride hailing drivers, food delivery agents, and freelance workers on whom the Gig Economy relying heavily are not included in all the labor welfare schemes that have been applicable to organized employee workers. Women labour force exclusion culminates in this section where they are left with other problems such as; income insecurity, employment insecurity and inadequate access to social security measures namely health insurance.

This paper will therefore involve a critical evaluation of the current labor welfare Law in India focusing on their inefficiency in addressing gig employees' demands. It shows how these frameworks that have worked in the paradigm of employment with long-term, stable, and formal jobs fail to address gig work that is characterised by short-term, project-based engagements. The evaluation also involves other socio-economic factors that force people into gig employment and that exposes gig employees to certain risks.

From the findings of the study, the following policy recommendations are provided in an effort to help the gig workers join the labor welfare system. These recommendations stress such pillars as targeted social security measures, effective cooperation of digital platforms, policymakers and other relevant stakeholders and the need to expand the legal framework that should address the specificity of platform gig economy workers and their liabilities. It is therefore important that a fair and more inclusive regulator be supported in favor of labor welfare in order to ensure stability of gig economy in India in the future.

Keywords: *Gig economy, Labor welfare, Social security, Informal employment, India.*

I. INTRODUCTION

The gig economy is becoming important in the Indian context not only as a source of income but also as a manifestation of capital's interest in a casual, contractual workforce without having to work within the regulatory environment of labor welfare schemes.² It is still an open question whether gig workers should be focused on as a separate category within the informal workforce.

¹ Author is an Assistant Professor at KLE Law College, KLE Technological University, Bangalore, India.

² G. Roy and A. K. Shrivastava, "Future of gig economy: opportunities and challenges," Imi Konnect, 2020. imik.edu.in

Gig work is considered one of the alternative ways of employment and economic activities, essentially driven through digital platforms.³ Some studies also view gig work or digital platforms as a transformation of traditional work, while others consider gig work as contributing to the creation of a precarious labor market.⁴ This paper categorizes gig work as non-standard or atypical work that is flexible in essence, wherein working conditions and employment relationships differ from the characteristics of standard employment, occasional work, temporary work, seasonal work, part-time work, on-call work facilitated by an intermediary, zero hours, self-employment, or work with multiple authorities.

Socio-economic considerations of workers combined with emergent needs determine how workers prefer the nature of their employment.⁵ Gig workers can either be pushed into such work because of a lack of suitable opportunities within the standard mode of employment, or choose to 'gig' because of socio-economic factors such as available time, skill, space, and resources, irrespective of whether the worker holds a standard job or not.

II. DEFINITION AND SCOPE OF GIG ECONOMY

Definition and Scope Gig work is a multi-layered concept that encapsulates different forms such as part-time, contract, temporary work, and freelance work.⁶ The use of short-term contracts and on-demand contracts characterizes platform-driven gig work, where the worker is engaged for a single task on and off. Formally, gig workers are recognized as independent contractors or freelancers, instead of traditional employees. One of the important distinguishing factors between a traditional job and gig work is that traditionally, one has an employee-employer relationship and usually works on a long-term contract, with regular wages or compensation for services. In the case of a gig worker, they are usually hired on a short-term basis and paid per assignment, irrespective of the hours put in. India has become the fifth largest country for flexible staffing after the US, China, Brazil, and Japan. There is an upward trend in the usage of flexible staffing, with the market estimated to be around \$200-250 million, rapidly increasing at a pace of 30-35% annually.⁷ The size and share of platform-enabled gig work as a percentage of total employment is less in India at present, but projections made by various agencies show that it will grow. It is estimated that there are about 0.125 to 1.2 million gig

³ <https://onlinelibrary.wiley.com/doi/full/10.1002/poi3.237>

⁴ <https://www.emerald.com/insight/content/doi/10.1108/IJSSP-08-2020-0400/full/html>

⁵ A. Piasna and J. Drahoukoupil, "Flexibility unbound: understanding the heterogeneity of preferences among food delivery platform workers," *Socio-Economic Review*, 2021. [researchgate.net](https://www.researchgate.net)

⁶ A. Murgia and V. Pulignano, "Neither precarious nor entrepreneur: The subjective experience of hybrid self-employed workers," *Economic and Industrial Democracy*, vol. 42, no. 3, pp. 567-586, 2021. [unimi.it](https://www.unimi.it)

⁷ M. T. Neely, "The portfolio ideal worker: Insecurity and inequality in the new economy," *Qualitative Sociology*, 2020. [ox.ac.uk](https://www.ox.ac.uk)

workers in India.⁸ The share of freelance work in the workplace has been growing significantly. This is attributed to the increasing acceptance of technological advancements, which facilitate freelance work like mobile applications, social media, online, and cloud computing. A projected market size of \$1 billion with respect to freelance workers in India by 2020. The annual freelancer growth rate in India is more than 65% among youth, and the average cost to hire is less than USD 5 per hour in India, making it a highly incentivized economy to hire freelance talent.

III. CHALLENGES FACED BY GIG WORKERS

India has a sizeable number of workers employed in the gig economy, with the official numbers being approximately 3 crore.⁹ These workers carry out operations solely based on contractual and individual transactions between themselves and their customers. Trading and earning a living in this manner, without a long-term commitment, have their own advantages and drawbacks. Despite its various benefits, it comes with its challenges.

Following are many of the challenges faced by gig workers:

1. Job Security: The primary issue that most gig workers face is job security. Because most of the time, gig workers do not receive compensation or benefits; multiple conditions of recruitment make their employment more uncertain and put them at risk. Human labor is treated as a commodity, and gig workers do not have fair work or earnings traps.

2. Income Instability: A major challenge faced by gig workers is that pay is unpredictable and varies significantly.

3. Limited Access to Social Security Services: Most gig workers have little or no access to social security resources. Poor conditions with inadequate pay make it difficult to be an odd-job worker in the gig economy because most gig workers cannot rely on sick pay, holiday pay, and paid leave.

4. Technological Economic Impact: The breakdown of practices in social contracts will fuel support for technological decisions in the gig market.

5. Limited Legal Resources: Gig workers often lack a trade union or legal body that defends their rights.

⁸ Ibid.

⁹ <https://www.markgraham.space/publications>

6. Psychological Impact: A large proportion of gig workers believe that gig work severely affects their mental health and the level of stress was rated at 4 out of 10. Gig work typically creates uncertainty about the future.

(A) Lack of Job Security

One of the major challenges for gig workers is the lack of job security. Gig economy work is characterized by short-term project-based assignments and contracts, flexible work environments, non-standard and temporary work arrangements, and a lack of job security. Lack of predictability in terms of job availability adversely affects the mental health and overall well-being of gig workers. While there is no minimum income guarantee, the absence and variation of income also affect their quality of life. This prevailing uncertainty due to unpredictable job availability makes it challenging for gig workers to plan for future studies or start-ups, marry or set up a family, or make long-term commitments. It is said that work defines a person in society, and yet gig workers do not have permanent jobs and a guaranteed regular monthly income, with minimal stability and productivity, which greatly affects their outlook on life.

A person clarified that he is completely dependent on earning a minimum of ₹30,000 per month to meet his family's expenses, EMI, children's education, and his father's medical bills. The gig worker added: "Any income less than the minimum will cause huge stress and anxiety associated with uncertainty about when a next job will be available again." It is understood that given the uncertain availability of jobs, they are asked to work in excess of what is required, hands are in high demand, and salaries are affordable. The gig economy works in this setting. Creating an induced requirement for the need is what leads to exploitation and sometimes accidents and injuries. Economic conditions and a casual and increasing diffusion system also led to a shift from "decent" work with proper legislative formalities to non-standard practices and out-of-the-way employment.

IV. CURRENT LABOUR WELFARE SCHEMES IN INDIA

Labor welfare schemes in India have been implemented since the early 20th century.¹⁰ These schemes are meant to mitigate the vices that are attached to an industrial economy, namely, sickness, old age, and unemployment, among others. Every such scheme circles around the risks that are faced in the context of paid work. However, these schemes have grown haphazardly and without any unique basis. At present, these schemes leave out the unorganized gig workers

¹⁰ R. Marimuthu, B. Sankaranarayanan, S. M. Ali, "Assessment of key socio-economic and environmental challenges in the mining industry: Implications for resource policies in emerging economies," *Sustainable Production*, vol. 2021, Elsevier, 2021.

and, for most purposes, cover mostly traditional artisans mainly for identity reasons.

Since the notable change in the nature of employment that has taken place since the 1980s, several complaints have been raised to provide labor welfare services to non-workers. There were no schemes for many years for gig or platform workers. A few schemes have been gradually introduced for all workers, and their size is about 9.4 million.¹¹ A flagship social security scheme was announced in the budget speech of the government in 2015. It was re-launched as various welfare programs in 2015. Since then, a significant number of gig workers have been brought under one of these schemes as of 31.03.2019.¹² The analysis that follows would raise questions on whether the welfare framework in the country is truly interested in providing welfare to the workers. An examination of the concrete conditions of the various labor welfare schemes in India will throw light on some of the issues that merit serious consideration. How equal are the benefits provided by the schemes? How logistically difficult is it to frame the benefits in a manner that equalizes them across various shades of workers?

The convenience at various junctures in terms of the given political economy should also be critically inquired. With the change in the nature of work, extending pre-sale and post-sale support for traditional workers alone proves to be inadequate. The concept of 'labor welfare' should be either diluted enough to accommodate wider social security measures for even the vanishing farm workers, gig workers, and casual construction workers, or an effort should be made to adapt these workers and provide welfare measures to suit their requirements.¹³

(A) Overview of Existing Schemes

A plethora of welfare measures exist in India to address diverse issues faced by workers in the 'organized' and 'unorganized' sectors, including the gig economy. In this chapter, we broadly focus on existing social insurance and pension welfare measures for specific sub-categories of workers and discuss whether they can be used to integrate gig workers within these three welfare measures, i.e., the Employees' State Insurance, Employee Provident Fund, and Employees' Pension Scheme. This is intended to inform our discussion on sectoral initiatives for the welfare of gig workers in the next chapter, which primarily focuses on policy design for a national welfare scheme for the gig economy.

As welfare schemes for workers already exist in India focusing on, one, their objectives; two, eligibility criteria; and three, the worker population they intend to serve. Major schemes that

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

have welfare components for formal-sector employee workers are the Employees' State Insurance Scheme and the National Pension Scheme. In addition, we also discuss specific schemes for workers in the construction sector, such as Building and Other Construction Workers Act welfare schemes and welfare boards, and the Kamgar Swasthaya Bima Yojana. These schemes and measures are a part of a patchwork of welfare measures for certain categories of workers, many of whom, as observed in the previous chapter, do not effectively and efficiently cover the vast and growing population of gig workers. We focus on the formal workers employed in specific establishments or operations who can be additionally covered under these formal welfare measures as gig workers. Again, the challenge is around limited gig workers employed in the establishments covered by these specific welfare schemes. Moreover, access has its own challenges. Access to these welfare measures requires a level of bureaucracy. The Employees' State Insurance Corporation has faced criticism for not being 'user-friendly'. In many cases, employees have to run between offices of employers and officers of the Employees' State Insurance Corporation before they get the facilities due to delays in getting smart cards, misplacement of data, etc.¹⁴ This is a significant challenge for the many gig workers who frequently change jobs or operations and thus do not have continuous tenures to concomitantly access these formal welfare measures. In the next chapter, we will focus on policy aspects related to the integration of gig workers within these schemes.

V. POLICY RECOMMENDATIONS AND CONCLUSION

Recommendations that can help in the achievement of the above are as follows therefore several strategic initiatives should be instituted. New laws that would regulate gig employment would provide for the workers in terms of financial risks such as layoff and sickness. Social protection measures which are in the form of social security, insurance, subsidies and other products or programs can be used to enhance the development of financial systems in tackling income redistribution.

Social safety measures can be developed in collaboration with the society's stakeholders. Other stakeholders that can be added in the ecosystem include digital platforms, tailors and policymakers to facilitate the advancement of strategic measures. This will enable the workers to be given a fair role in the advocacy process as well as to be recognized and represented legitimately.

In conclusion it is high time for action: This working paper therefore provides an analysis of

¹⁴ R. G. Wilkinson, "Socio-economic differences in mortality: interpreting the data on their size and trends," *Class and health*, 2022

the evidence and concerns which lay down policy and institutional change recommendations on how the gig workers can be considered as workers who are entitled to the existing legal rights and labor welfare standards. Two sets of gatekeeping and social responsibility issues of economics inequality and efficiency are critical when assessing policy recommendations. The discussions about the definition and the ensuing issue of whether gig workers belong or not has, essentially, focused on the role of the regulatory body. In addition, it aims at discussing the consequences for enterprise and economic ecosystems. Therefore, when looking at the gig work through the lens of economic ecosystem, the conclusion can be made that eliminating the gig workers is not a solution. This is not because the exclusion results in economic exclusion, but also because the inclusion may make the industry self-regulated in a proper and inclusive way. As such, all of the policy recommendations are meant to be for the fair outcomes.
