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Unorganized Labour and the Gig Economy: Enhancing Union Rights

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ABSTRACT

The foundation of India's economy and a major factor in its expansion is the unorganised work sector. But this workforce—which is mostly made up of contract labourers, daily wage earners, and the quickly growing gig economy—is subject to systemic exploitation, which includes low pay, unfavourable working conditions, and a lack of social security. The lack of legislative frameworks that adequately safeguard their rights—such as the freedom to form and join trade unions—as guaranteed by international human rights standards is one of the primary challenges. This article examines the shortcomings in the laws that safeguard unorganised labour, evaluates the need of bolstering trade union rights, and makes reform recommendations to guarantee that these workers can fully utilise their rights to collective bargaining and freedom of association.

Keywords: *Unorganized Labour, Gig Workers, Trade Union, Collective Bargaining.*

I. INTRODUCTION

India's unorganized labour sector comprises about 90% of its workforce, employed across industries such as agriculture, construction, domestic work, and small-scale manufacturing.² Despite their critical role in driving the economy, these workers are deprived of basic protections under labour laws and face exploitation in various forms—unfair wages, job insecurity, hazardous working conditions, and the absence of welfare provisions.

The gig economy, a rapidly expanding sector, marks a significant departure from conventional employment structures, granting workers increased flexibility and independence across various industries. However, this emerging model, largely driven by digital platforms, presents its own challenges. Gig workers, who often fall outside the traditional employer-employee framework, are frequently subjected to exploitation due to a lack of adequate legal safeguards. Additionally, India's large unorganized workforce, which includes gig workers, remains largely neglected in terms of ensuring fair labour standards and worker rights. A core issue for unorganized workers is the lack of strong legal mechanisms that secure their right to organize and bargain

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² Shantanu Braj Choubey, *The Uber Conundrum: Analysing the Worker Rights of Uber Drivers in India*, 17 NLSJ. 1 (2024).

collectively. While the Indian Constitution guarantees the right to freedom of association, including the right to form unions³, the practical enforcement of these rights remains weak, particularly for unorganized labour.

II. CRITICAL ANALYSIS

The exploitation of unorganized labour in India has worsened in recent years, driven by globalization and the increasing informalization of the workforce, with the COVID-19 pandemic further exacerbating their vulnerability. Millions of workers lost jobs or were pushed into precarious employment, and despite these challenges, many remain outside the scope of formal labour laws, unable to effectively unionize due to legal and institutional barriers. These people, who deal with unfavourable working circumstances, long hours, and restricted access to necessities like healthcare, social security, and minimum wage safeguards, comprise both conventional informal labourers and those in the expanding gig economy. Their precarious situation is made more vulnerable by the platform-based gig model, which prevents them from accessing formal channels of recourse or collective bargaining. Unionization and freedom of association are recognised as fundamental human rights in international conventions such as the Universal Declaration of Human Rights (UDHR) and the International Labour Organisation (ILO); however, these rights have not been fully realised for India's unorganised workers.

(A) Adapting labour laws for fair working conditions and social security

India's labour laws were initially created with typical employer-employee relationships in mind. However, the gig economy offers a new paradigm in which employees function as self-employed contractors, exempt from numerous legal safeguards. Ensuring that gig workers have access to social security and good working conditions is the main obstacle here, without compromising the flexibility that makes gig labour unique.

- **Need for Minimum Wage Protections:** “One key issue in the gig economy is the lack of guaranteed minimum wages. Workers on platforms such as Uber, Zomato, and Swiggy often work long hours without earning sufficient income to meet basic living expenses. In the case of *IFAT v. Union of India*, gig workers, represented by IFAT, have filed a PIL in the Supreme Court regarding the “**Right to Social Security**” for all workers, including those in the gig economy.⁴ It emphasizes the exploitation they face due to long hours, low pay, and lack of social security, seeking specific schemes for

³ INDIA CONST. art. 19, § 1, cl. c.

⁴ *IFAT v. Union of India*, W.P.(C) 1068/2021.

health insurance, maternity benefits, pensions, and other assistance.⁵ The absence of wage protections exposes workers to financial instability, with earnings largely dependent on demand fluctuations. Amending labour laws to include provisions for minimum wage requirements for gig workers could ensure a baseline level of financial security while still preserving the flexibility that gig work offers.”

- **Access to Social Security Benefits:** “Gig workers are generally excluded from social security programs such as health insurance, pensions, and paid leave. The **Code on Social Security, 2020** attempts to address this issue by including gig and platform workers under its scope, but the implementation remains patchy and inconsistent.⁶ Without proper enforcement, gig workers continue to lack essential safety nets. In the recent case of *All India Gig Workers Union v. Uber India Systems Pvt. Ltd.*, the gig workers challenged Uber’s refusal to offer minimum wages and social security benefits.⁷ This highlights the ongoing fight for fair compensation in the gig sector and seeks to redefine employer-employee dynamics within digital platforms.⁸ Expanding social security schemes to cover gig workers and ensuring enforcement could address this imbalance.”
- **Collective Bargaining and Unionization:** “Gig workers face significant barriers to unionizing and collective bargaining. The **Industrial Relations Code, 2020** does not explicitly recognize gig workers as part of formal labour forces, thus limiting their ability to form unions or engage in collective bargaining.⁹ In other countries, courts have ruled in favour of classifying gig workers as employees, giving them access to collective bargaining rights. India’s labour laws could be adapted to allow gig workers to organize and negotiate better terms with platform companies, protecting their rights while preserving the flexibility that makes gig work attractive.”

(B) Identifying gaps in India’s labour laws that leave workers vulnerable

Despite several legislative attempts to incorporate gig and unorganized workers into India’s labour law framework, significant gaps still leave these workers vulnerable to exploitation. In 2020, a draft labour code aimed to clarify the status of gig workers, who operate outside the traditional employer-employee relationship, proposing that they should receive accident, health, and retirement benefits funded by contributions from the state and central governments, as well

⁵ Ibid.

⁶ The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).

⁷ All India Gig Worker Union v. Uber India Systems Pvt. Ltd., W.P.(C) 14579/2021.

⁸ Ibid.

⁹ The Industrial Relations Code, 2020, No. 35, Acts of Parliament, 2020 (India).

as the platforms, into a welfare fund. However, rules to implement this at the national level have yet to be established. The **Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023** sets a significant benchmark for protecting gig workers by providing an innovative approach to fill existing gaps at the state level.¹⁰ Nonetheless, a comprehensive national framework that guarantees uniform protection for gig workers across all states is still lacking.

- **Ambiguity in Legal Definitions:** One of the most prominent gaps in India's labour laws is the ambiguity in how gig and platform workers are defined. While the Code on Social Security, 2020 provides a definition for gig and platform workers, there is still no clear classification of their employment status. This vagueness allows digital platforms to classify workers as independent contractors, avoiding obligations like social security contributions and minimum wage requirements. A clearer, legally enforceable classification that acknowledges the unique status of gig workers is needed to prevent their continued exclusion from basic labour protections.
- **Inadequate Enforcement of Existing Protections:** While several protections have been extended to unorganized and gig workers, enforcement remains weak. Workers in the unorganized sector are often unaware of their rights, and even when they are, the mechanisms for claiming these rights are underdeveloped. Additionally, platforms that employ gig workers are not held accountable for providing fair working conditions, with weak regulatory oversight. Strengthening the enforcement of existing laws, possibly through independent regulatory bodies, is necessary to ensure gig workers' rights are respected.
- **Lack of Focus on Occupational Safety and Health:** Gig and unorganized workers often work in hazardous conditions without adequate safety measures. For example, delivery workers frequently face road accidents and harsh weather conditions, while having no access to accident insurance or health benefits. The **Code on Occupational Safety, Health, and Working Conditions, 2020**¹¹ does not sufficiently cover gig workers. Expanding its scope to include such workers is critical to ensuring their well-being on the job.

(C) Legal Reforms: Pathway to Strengthened Protections

To address the identified gaps and ensure fair working conditions, several legal reforms are

¹⁰ Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Acts of Parliament, 2023 (India).

¹¹ The Occupational Safety, Health and Working Conditions Code, 2020, No. 37, Acts of Parliament, 2020 (India).

needed to strengthen India's labour laws for unorganized and gig workers.

- **Legislative Clarity and Comprehensive Definitions:** “The legal status of gig workers should be clearly defined, with a focus on recognizing them as a distinct category of workers. The government can consider introducing legislation similar to the *California Assembly Bill 5 (AB5)*¹², which requires companies to classify gig workers as employees under certain conditions. This would ensure that gig workers receive the same basic protections as traditional employees, including minimum wage, overtime pay, and health benefits.”
- **Institutionalizing Social Security for Gig Workers:** While the Code on Social Security, 2020 is a step in the right direction, further amendments and robust implementation are necessary. Social security schemes should be designed specifically for the needs of gig workers, including provisions for accident insurance, health care, and retirement benefits. Moreover, the government should ensure that contributions to social security schemes are shared between platform companies, the government, and workers, to avoid overburdening one party.
- **Establishing Mechanisms for Collective Bargaining:** Legal reforms should also focus on enabling gig workers to form unions and engage in collective bargaining. The creation of a dedicated legal framework for gig worker unions could empower workers to negotiate better working conditions, wages, and benefits. Additionally, including gig workers in the Industrial Relations Code would give them a formal avenue to resolve labour disputes and claim their rights.

III. CONCLUSION

Inadequate and dispersed legal safeguards are afforded to unorganised workers in India. Due to the informal nature of employer-employee relationships, many unorganised workers operate in industries where unionization is challenging under the current legal framework. Their exploitation is made even more entrenched by the lack of collective bargaining mechanisms, which provide employers the leverage to exploit their lack of bargaining power. The implementation of unionization and freedom of association is not only legally required but also morally important, as international human rights rules highlight their significance. India can only guarantee the rights and dignity of its gig and unorganised workers—and make sure they don't fall behind in the nation's economic development—by enacting comprehensive legal

¹² California Assembly Bill 5 (AB5), 2019-20 Leg., Reg. Sess. (Cal. 2019).

reform and enforcing it effectively.

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