Gig Workers and the New Labour Codes: Rights, Benefits and Obligations

Introduction

This expansion of the digital economy has changed the mode of employment in India. The permanent workers in employer-controlled companies with fixed hours, now being substituted by flexible, technology-enabled forms of work. Numerous Indians are now earning their livelihood through an application-based economy, where agents and customers are directly connected by a service. Cycles, led-vehicles, freelance architect and graphic designer, online teachers, warehouse workers, digital service providers have now started comprising the Indian labor force. Such workers are called “gig workers” or “platform workers”.

The rise of company names such as Zomato, Swiggy, Uber, Ola etc, have infused a new setup of economic opportunities and labor-market flexibility. The gig economy has offered a new set of exciting business opportunities but on the other side has created a host of serious legal and social problems. Unlike regular employees, the workers in the gig economy do not receive any pay, job security, provident fund, mediclaim insurance, paid holidays and retirement benefits. Many believe that to avoid the labour law, the platforms classify their workers as “independent contractors” and deprive them of the labour law protection.

Without the fig leaf of workplace regulation, gig workers could no longer resist the pressure for labour reform or social security coverage, and this led to the new Labour Codes in India. **The Code on Social Security 2020**[1] is a major reform as gig workers and platform workers are formally embedded in Indian labour law for the first time[1]. The registration of gig workers under the law marks an increasing awareness that digital labour platforms cannot remain insulated from the protected space of worker happiness.

Understanding Gig Workers and Platform Work

Gig work generally refers to services in temporary, flexible, or task-based work arrangements where a worker is paid for each completed task or job rather than on a regular employment basis. Platform workers are those who provide services through an internet app or a digital platform acting as the intermediary between customer and worker (app delivering food, driver accepting multitude of trips via platform, freelancer sourcing jobs through online marketplaces, etc.) The gig economy surged mainly due to proliferation of smart phones, access to cheap internet, digital payments and changing consumer behaviour. Because the enterprises have an advantage of access to the workforce on a larger scale and at a cheaper rate than conventional employment.

Additionally, workers are motivated by ease of access, lower barriers to entry and individual earning potential. The pressurised flexibility of gig work can sometimes mask that workers are often deprived of earning-ones, social security, insurance or employee status and that their working conditions entail job insecurity. Workers are generally trapped by the engine of the platform which define incentives, allocate tasks, demote or penalise employees, keep them under constant control of surveillance and quickly deactivation or suspension without explanation or right of appeal. These challenges have prompted hot debates whether gig workers should remain as independent contractors or should be recognized for protections of the traditional workforce.

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[1] Code on Social Security, 2020.

The New Labour Codes and Recognition of Gig Workers

India's labour reforms consolidated numerous labour laws into four major Labour Codes:

- the Code on Wages, 2019[2],
- the Industrial Relations Code, 2020[3],
- the Occupational Safety, Health and Working Conditions Code, 2020[4],
- and the Code on Social Security, 2020[5].

Of these, the Code on Social Security, 2020 is most relevant for gig workers as it is the first time the legal concept of 'gig worker' and 'platform worker' has been introduced in Indian law. So far, the entire statutory labour legislation has only concerned itself with traditional employer-employee relationships.

The definition of gig worker in the Code is that of a worker without a usual employer-employee relationship and platform workers are those workers who carry out such work on digital platforms or digital applications. The Code also defines 'aggregators' as digital platforms. The creation of a separate category of gig workers under the Code risks the institutionalisation of the understanding that work centres are no longer relevant in the face of the evolution of new technology, thereby camouflaging the changes and shifting the way of thinking of labour regulation to keep up with the technological change.The Code puts the responsibility for decision making on social security schemes for health, accident insurance, life and disability cover, retirement and maternity benefits for gig and platform based workers within the parameters established by state authorities upon governments. While the new law does not seek to make gig workers employees, it is also quite a radical departure from anchored law to provide welfare rights to previously unprotected workers.

Rights and Benefits of Gig Workers

One of the most important trends taking place in the new labour structure about social security is the creation of social security rights for gig-workers. Social security rights like provident fund pension insurance and health insurance were previously made available to regular workers of the system. The gig-workers thought life on the platform in effect meant life without these social security rights. A Code on Social Security gives for certain benefit schemes, including those funded by the State, aggregator or other authorized schemes by way of contribution by the worker and the aggregator.

Such schemes could include accident insurance, health care scheme, disability insurance and pension scheme. Considering the hazardous or risky jobs in gig economy Mainly when it comes to transport and delivery services, the protections are not much away. Another significant problem faced by gig workers is about security at the place of work. Workers in the gig economy face risk of working for longer hours, road accidents, weather-related dangers, mental health issues, economic insecurities. The increased employment of algorithmic management has become an important labour issue. Digital firms now assign tasks, control workers behaviours, reward and punish them and assess worker's performance through automated systems. Automation is carried out through ratings, GPS tracking, response-time analysis, and avatar-automated punishments. The system is under criticism for imposing great control on workers even if they are technically

[2] Code on Wages, 2019.
[3] Industrial Relations Code, 2020.
[4] Occupational Safety, Health and Working Conditions Code, 2020.
[5] Code on Social Security, 2020.

hired as ‘independent contractors’. This way, the legal debate is evolving more and more into whether platform moderation which controls technology establishes an implied employment relationship. When there is intense control over prices, work assignment, discipline and working conditions there is less way to tell from one's employee.

Obligations of Aggregators and Digital Platforms

Implication for the gig companies (as a consequence of the new labour code) will be some obligations for the aggregators or digital platforms. Since the gig companies make profit from gig work, more and more will be expected to have some burden for social security and well-being. The legislation Yet shows an admission that for those employers, establishing such types of business models cannot be a way out of the social security net as they declare their employees or self-employed workers to be independent contractors. Companies will in some cases may need to pay a certain percentage of their turnover to those providing welfare schemes to gig and platform workers.

Platforms should also keep record of those workers and just follow the state legislation that goes with social security payments and workers well-being. This increased attention of digital platforms for work suggests an overall trend within the gig economy of corporate responsibility. Gig workers also have responsibilities themselves that are job-related.

Judicial Developments and Case Laws

Cases filed in India and worldwide have also often looked into the legal classification of gig work and platform-based work relationships. An important Indian case is ***Indian Federation of App-based Transport Workers v. Union of India***[6]. In this case, questions related to social security protections and well-being of app-based workers were submitted to the Indian Supreme Court. This case also revealed the precarious economic situation of gig workers and have further escalated the discourse surrounding improvements in work reforms for platform workers in recent time. One of the most significant decisions at an international level is ***Uber BV v. Aslam*** (2021)[7] by the Supreme Court in the UK. The Court ruled that Uber drivers should not be considered independent contractors rather they are classified as workers, given that major control over setting prices, work conditions, matching drivers to riders, and quality monitoring was made by Uber. The judgment showed that platform companies cannot escape labour requirements by putting workers as self-employed suppliers. A further important ruling is Dynamex Operations ***West Inc. v. Superior Court by the California Supreme Court***[8]. This ruling laid down a more rigid standard to test if the worker was Yes an independent contractor. This ruling had a big impact on the worldwide discourse on the regulation of the gig economy and employment status.

Indian labour jurisprudence has also increasingly recognized the importance of welfare-oriented interpretation in employment relationships. Although not directly concerning gig workers, cases such as *Indian Medical Association v. V.P. Shantha* (1995)[7] emphasized accountability and protection in service-related sectors. Such principles continue influencing broader discussions surrounding platform accountability and worker protection.

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[6] *Indian Federation of App-based Transport Workers v. Union of India*, Writ Petition (Civil) No. 1068 of 2021 (Supreme Court of India).

[7] *Uber BV v. Aslam* (2021) UKSC 5.

[8] Dynamex Operations West Inc. v. Superior Court, 4 Cal.5th 903 (2018).

Challenges in Implementation

Though, there are still many hurdles in the way of providing gig workers with the benefits envisaged in the new Labour Codes. The single largest problem that still remains is the lack of a definite classification of their employment. Gig workers, at the moment, are in an ambiguous and uncertain legal position, somewhere between being independent contractors and employees. This creates ambiguity and concern for minimum wages, protection against industrial disputes, protection against termination and collective bargaining.

The provision of welfare schemes is still a serious concern. Regulations on key issues like source of funds, registration procedure, contribution system and proper disposal of benefits are being debated. A large number of workers are unaware of their legal entitlements or do not have access to mechanisms for raising formal grievances. Still, the burgeoning field of algorithmic management and digital monitoring adds another layer of complexity to labour regulation. Because platform decisions are increasingly being made through algorithms, workers might lack recourse or even find that they are arbitrarily deactivated without due process. Courts around the world are grappling with how to regulate algorithmic modes of employment.

Economic insecurity is still a concern. For many gig workers, the knowledge of unstable demand on the platform, unknown earning level, the drain of fuel prices, and lack of fixed income is disconcerting. Even though convenience, or flexible schedules, are often shown to be the benefits of gig work, most workers who have to work under such kind of working conditions are still financially stressed and rely on the platform system.

Conclusion

The rapid growth of gig work may be the most profound change in contemporary labour relations. While technology-enabled platforms have generated new economic opportunities and flexible income streams for millions of workers, they have also cast many into a world of legal ambiguity, economic insecurity and social exclusion. Because existing labour legislation cannot adequately address platform work, labour law must be adapted and reformed. The new Labour Codes most worth noting the Code on Social Security, 2020 are a positive acknowledgment of the realities of the digital economy. The formal recognition of gig workers and platform workers in the Indian labour legislature marks an effort by the law to extend welfare protections to a much growing segment of the population.

The recognition of social security, aggregator responsibilities and worker welfare suggests a changing perspective on the future of labour justice. Even so, the eventual impact of these reforms will rest on how well they are implemented, how clear and certain regulatory setups are, and how courts interpret them. Yet uncertainties about employment classification, algorithmic management, remittance of social security benefits, and gig worker interests persist. What the future holds for gig worker’s dignity, equality, and economic security as India’s digital economy grows remains one of the most significant issues in both labour law and public policy.