
THE GIG ECONOMY IN INDIA: LEGISLATIVE APPROACHES FOR URGENT SOCIAL SECURITY REFORMS

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ABSTRACT

The gig economy has shaken up the conventional job market, bringing forth a host of challenges regarding social security for workers in India. Traditionally, social security benefits have catered to those in formal employment, leaving gig workers exposed to financial uncertainty. Without access to essential perks like health insurance and retirement plans, these workers are rallying for government support. The platform workers union has emerged as a powerful advocate, championing the rights of gig workers and pushing for reforms that would integrate them into social security programs. The legal landscape surrounding gig workers' social security is gradually changing, with the Code on Social Security, 2020 marking a pivotal move towards extending benefits to this workforce. However, despite these advancements, concerns linger about how effectively these laws will be implemented, as they may not fully cater to the distinct challenges faced by gig workers. Many still find themselves navigating their jobs without fundamental protections, underscoring the urgent need for further reforms to guarantee that all workers can access vital benefits. The government has started to take steps toward fostering a more inclusive and fair labor market, yet the sluggish and uneven rollout of these reforms has left numerous gig workers in a precarious position. Looking ahead, the evolution of social security systems may involve crafting more adaptable frameworks that can keep pace with the dynamic nature of work, such as portable benefits and dedicated funds specifically for gig workers. The future of India's legal approach to social security for gig workers is a mix of hope and uncertainty, necessitating a shift in laws to embrace the burgeoning gig economy. Collaboration among policymakers, labor unions, and gig platform companies will be essential in shaping a robust social security system for these workers. By engaging with all stakeholders and prioritizing the welfare of workers, regardless of their employment status, policymakers can lay the groundwork for a more secure future for everyone. Ultimately, the success of these initiatives hinges on a steadfast commitment to ensuring that gig

workers receive the basic protections they deserve in this ever-evolving economic landscape.

Keywords: Gig Workers, Social Security, Laws, Gig Economy, Platform, Policymakers

INTRODUCTION

The number of gig workers in India grew to 7.7 million in 2021, showing remarkable market expansion. These workers provide services through digital platforms and apps but don't get proper social security benefits and legal protections. Food delivery services, ride-sharing platforms, and e-commerce companies have expanded rapidly. This growth creates an immediate need to build complete legal frameworks that protect the workforce.

Gig workers' social security needs create complex legal challenges. The Code on Social Security 2020 represents a key milestone that recognizes platform workers' rights, though putting it into practice remains difficult. This piece looks at current legal frameworks and recent developments like the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023. It also explores various programs that aim to give gig economy workers health insurance, minimum wages, and other basic benefits in India.

THE RISE OF THE GIG ECONOMY IN INDIA

The winds of technological change and evolving work priorities have transformed the landscape of India's labor market, giving rise to a vibrant gig economy. In this dynamic new world, workers are embracing short-term, freelance, and contract-based opportunities. Thanks to digital platforms, the bridge between these skilled individuals and their clients or businesses has never been stronger, fostering a thriving ecosystem of flexible work arrangements.¹

DEFINITION AND SCOPE OF GIG WORK

NITI Aayog paints a vivid picture of gig workers as those who dance to the beat of a different drum, stepping away from the conventional 9-to-5 grind. They can be divided into two distinct tribes. The first are the platform warriors, who harness the power of digital apps and websites to seek out their next gig. The second group consists of non-platform gig workers, who either

¹Future of India's Gig Work, Drishti IAS, *available at*: <https://www.drishtias.com/daily-updates/daily-news-editorials/future-of-india-s-gig-work> (last visited on Nov. 16, 2024).

dabble in casual roles across various sectors or proudly run their own small enterprises. The gig economy is a vibrant tapestry, woven with threads from diverse fields; think food delivery heroes, ride-sharing drivers, skilled professionals offering their expertise, and creative minds crafting captivating content.²

GROWTH PROJECTIONS FOR INDIA’S GIG WORKFORCE

India’s gig economy is on an impressive upward trajectory, boasting a vibrant community of 7.7 million gig workers in 2020-21. This dynamic workforce is set to soar, with projections indicating a leap to 23.5 million by 2029-30. The financial outlook is equally bright, with revenue forecasts suggesting a staggering INR 38,113.40 billion by 2024. Exciting times lie ahead for this burgeoning sector.³

The gig economy’s workforce shows this skill distribution pattern:

<i>Skill Level</i>	<i>Percentage</i>
Medium-skilled	47%
High-skilled	22%
Low-skilled	31%

KEY CHALLENGES FACED BY GIG WORKERS

Gig workers navigate a labyrinth of hurdles in their professional journeys, largely due to their position outside the traditional employment landscape. Here are some of the most pressing issues they encounter:

² Government of India, “India’s Booming Gig and Platform Economy Perspectives and Recommendations on the Future of Work” 12 (NITI Aayog, 2022)

³ *Id.* at 3.

- ❖ Absence of basic rights and social safety nets;
- ❖ Vulnerability to wage exploitation with no minimum wage guarantees;
- ❖ No provisions for paid time off or health benefits;
- ❖ Restricted opportunities for retirement savings plans.⁴

Stepping away from the conventional 9-to-5 grind has opened a Pandora's box of challenges for workers. Without the power to unite in unions, many find themselves trapped in unjust contracts. Those toiling in the gig economy face an even tougher road, grappling with ever-shifting commission rates and payments that seem to vanish into thin air. The lines of communication from companies about potential earnings are often blurred, leaving workers in the dark. For women navigating the gig landscape, the hurdles are even higher. They encounter not only barriers to career advancement but also the sting of gender-based pay disparities that hold them back.⁵

India's economic landscape is undergoing a digital transformation like never before. With a surge in smartphone ownership and the availability of budget-friendly internet, the nation has taken the lead globally in mobile data usage per smartphone user. It's a thrilling time as technology reshapes the way people connect and interact!⁶ This shift creates new opportunities for gig work. However, it also shows we need complete worker protections and benefits.

EXISTING SOCIAL SECURITY FRAMEWORK IN INDIA

India's social safety net is a labyrinth of intricate schemes and initiatives woven into various laws and regulations. Unfortunately, this system only touches a small segment of the population. Alarmingly, a whopping 91% of the workforce operates in the informal sector, leaving them without the benefits of formal social security programs.⁷

⁴ *Supra* note 1.

⁵ Sana Satpathy, "Social Protection to Mitigate Poverty: Examining the Neglect of India's Informal Workers" 2 (2023)

⁶ *Supra* note 1.

⁷ Dezan Shira & Associates, "Introduction to the Social Security System in India", *India Briefing*, May 06, 2022, available at: <https://www.india-briefing.com/news/introduction-social-security-system-india-6014.html/> (last visited on Nov. 16, 2024).

OVERVIEW OF MAJOR SOCIAL SECURITY LAWS

India’s social security framework is a blend of insurance-driven premium contributions and one-time employer responsibilities. It encompasses five key categories of social insurance, offering a safety net that includes pensions, health coverage, medical assistance, disability support, maternity benefits, and gratuity. Participation in this system is mandatory for companies, with requirements varying by size; certain programs necessitate universal participation, while others are tailored for businesses with ten or more employees.⁸

Key Social Security Legislation:

<i>Legislation</i>	<i>Year</i>	<i>Primary Focus</i>
Employees’ State Insurance Act	1948	Health Insurance & Medical Benefits
Employees’ Provident Funds Act	1952	Retirement Benefits
Maternity Benefit Act	1961	Maternity Protection
Payment of Gratuity Act	1972	End-of-service Benefits

LIMITATIONS IN COVERING GIG WORKERS

Gig workers are navigating a tough landscape when it comes to social security, as the existing system poses significant hurdles. Many of these platform warriors find themselves shut out from essential benefits due to a variety of structural roadblocks:

- ❖ Their meager earnings often fall short of the eligibility requirements;

⁸ Dr. Kai-Uwe Schanz/The Geneva Association, “Gig Economy Work: Mind the Protection Gaps” 378 (2022)

- ❖ As self-employed individuals, they miss out on the employer contributions that traditional workers enjoy;
- ❖ Access to voluntary occupational pension plans remains out of reach;
- ❖ And the unpredictable nature of their income makes it challenging to keep up with contributions.⁹

The issue of health protection is a pressing one, with only about half of platform workers having the safety net of health insurance. The situation is even more dire when it comes to additional benefits: fewer than one in three have coverage for work-related injuries, and a mere one in five can look forward to a pension in their golden years.¹⁰

THE UNORGANIZED WORKERS' SOCIAL SECURITY ACT, 2008

The Unorganized Workers' Social Security Act (UWSSA) of 2008 marked a significant milestone in safeguarding the rights of informal workers by introducing essential social security provisions. This groundbreaking legislation empowers the Central Government to roll out welfare initiatives aimed at securing lives and addressing disabilities, while also offering health and maternity benefits, along with ensuring a safety net for old age. Meanwhile, state governments have the flexibility to design supplementary schemes that cater to provident funds, employment injury support, housing assistance, educational resources, and skill enhancement opportunities.¹¹

The National and State Social Security Boards serve as the fundamental components of the implementation framework. The National Board is responsible for recommending appropriate schemes and overseeing their execution. Additionally, it evaluates the progress of registration processes and the distribution of identity cards. Conversely, State Boards are tasked with the development of schemes, the monitoring of welfare programs, and the assessment of record-keeping practices at the district level.¹²

⁹ International Labour Organization, International Social Security Association, *et.al.*, "Providing Adequate and Sustainable Social Protection for Workers in the Gig and Platform Economy" 9 (2023)

¹⁰ The Unorganised Workers' Social Security Act, 2008 (Act 33 of 2008), s. 3

¹¹ The Unorganised Workers' Social Security Act, 2008 (Act 33 of 2008), ss. 3-4

¹² Gig and Platform Workers, BYJU'S, 2023, *available at*: <https://byjus.com/free-ias-prep/gig-and-platform-workers/> (last visited on Nov. 16, 2024).

The UWSSA has fallen short of its goals. Vague definitions and the exclusion of numerous worker categories have hindered its impact. The Act's performance is far from what it could be. Financial constraints and ineffective implementation strategies struggle to offer comprehensive social protection for those in the unorganized sector.¹³

THE CODE ON SOCIAL SECURITY, 2020

India's Code on Social Security 2020 marks a defining moment in labor laws. This groundbreaking legislation makes the first detailed effort to bring social security benefits to gig and platform workers. The new law recognizes how work has evolved in the digital age and wants to safeguard workers who don't have traditional employment arrangements.

- **Key Provisions related to Gig Workers**

The new Code introduces exciting measures to safeguard those navigating the gig economy. To unlock these benefits, workers simply need to sign up on a dedicated online platform.¹⁴ A specialized Social Security Fund is set to support welfare programs designed for these workers.¹⁵ The government is now empowered to introduce and implement a range of social security initiatives that encompass:

- ❖ Coverage for life and disabilities;
- ❖ Insurance for accidents;
- ❖ Health and maternity support;
- ❖ Safeguards for the elderly;
- ❖ Childcare facilities.¹⁶

¹³ *Supra* note 7.

¹⁴ Government of India, "ASSESSMENT of GIG and PLATFORM WORKERS Code on Social Security, 2020 Provides for Framing Social Security Measures for Gig Workers and Platform Workers" 1 (Ministry of Labour & Employment, 2024)

¹⁵ Sunetra Choudhury and Zia Haq, "Govt Plans to Unveil Social Security Plan for Gig Workers", *Hindustan Times*, Sept. 11, 2024, available at: <https://www.hindustantimes.com/india-news/govt-plans-to-unveil-social-security-plan-for-gig-workers-101725993306735.html> (last visited on Nov. 17, 2024).

¹⁶ *Supra* note 14.

Platform companies need to contribute 1-2% of their revenue to the social security fund.¹⁷ This marks a major step to ensure reliable funding for worker benefits.

- **Definition of Gig and Platform Workers**

The Code distinctly outlines various classifications of individuals engaged in the gig economy:¹⁸

<i>Type of Workforce</i>	<i>Description</i>	<i>Distinctive Traits</i>
Gig Workers	Individuals who operate beyond the conventional employer-employee framework	Engaged in freelance, short-term, or contract roles
Platform Workers	Individuals who earn their living via online platforms	Delivering services through digital avenues

These definitions carve out distinct legal classifications that acknowledge workers who were overlooked by earlier labor regulations. However, there are some caveats, as platform workers typically fall under the gig economy umbrella, yet not all gig workers engage with digital platforms.¹⁹

- **Proposed Social Security Schemes**

The Code outlines detailed social security measures for gig and platform workers. These schemes have several key protection elements:

- 1. Health and Medical Benefits:-**

¹⁷ Deepika M G and Madhusoodhan M, “How Does the Law Define the Gig Worker?” *EPW Engage* (2022).

¹⁸ *Supra* note 14.

¹⁹ Ulka Bhattacharyya and Soumya Jha, “Understanding Social Security for Gig Workers: Analyzing Recent Developments” 11 *NLIU Law Review* 97 (2022).

- ❖ Full health insurance coverage;
- ❖ Maternity benefits for female workers.

2. Financial Security Measures:-

- ❖ Old-age protection mechanisms;
- ❖ Disability coverage;
- ❖ Accident insurance.

The new measures are still in limbo, waiting to be set in motion as they haven't officially kicked in yet.²⁰ Rajasthan has taken the pioneering step of becoming the first state to bring order to the gig economy with the introduction of the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023. Meanwhile, Karnataka is busy crafting a bill aimed at ensuring social security benefits for those earning their living through gig work. Additionally, the framework of the Code has given rise to the e-Shram portal, which has successfully registered approximately 300 million informal workers, granting them access to federal social welfare programs.²¹ This resilient infrastructure makes access to benefits easier and ensures proper workforce documentation.

India's gig economy is poised for an impressive surge! The workforce, which stood at 7.7 million in 2020-21, is projected to soar to a staggering 23.5 million by 2029-30. The future looks bright for this dynamic sector!²² This projected expansion highlights why strong social security systems must be established quickly.

CHALLENGES IN IMPLEMENTING SOCIAL SECURITY FOR GIG WORKERS

India struggles to implement social security measures for gig workers. Recent laws aim to protect this workforce, but several challenges persist. The unique characteristics of gig work and its complex integration with traditional social security systems create significant roadblocks.

²⁰ *Supra* note 15.

²¹ *Supra* note 17.

²² *Supra* note 15.

- Ambiguities in Worker Classification

India's labor landscape is grappling with a significant dilemma - the ambiguous status of gig workers. The existing framework struggles to navigate the intricate dynamics between workers, platforms, and clients, creating a stark contrast to traditional employer-employee relationships.²³ Platform companies like to refer to their workers as ‘partners’ rather than employees. This clever wording leads to significant challenges when it comes to adhering to labor regulations.²⁴

The classification problems show up in several ways:

<i>Challenge Area</i>	<i>Impact on Social Security</i>
Employment Status	Limited access to traditional benefits
Multiple Platform Work	Difficulty in determining primary employer
Income Fluctuation	Challenges in contribution calculations
Working Hours	Complications in benefit eligibility

This classification problem leads to several issues:

<i>Classification Impact</i>	<i>Consequences</i>
Employment Status	Limited access to labor protection

²³ Challenges Faced by the Gig Workers, Drishti IAS, available at: https://www.drishtiias.com/daily-updates/daily-news-analysis/challenges-faced-by-the-gig-workers/print_manually (last visited on Nov. 17, 2024).

²⁴ *Supra* note 17.

Social Benefits	Restricted social security coverage
Legal Rights	Reduced bargaining power

• **Funding Mechanisms for Schemes**

Establishing dependable funding mechanisms poses significant hurdles in the rollout of social security programs. Conventional systems rely heavily on contributions from employers and employees, but this approach falls short in the ever-evolving gig economy.²⁵ The major hurdles in funding, often referred to as Contribution Structure Challenges, encompass a few key issues:

- ❖ Figuring out the ideal contribution amounts can be quite a puzzle;
- ❖ The erratic nature of workers' income adds another layer of difficulty;²⁶
- ❖ Employees push back against compulsory cuts from their paychecks;²⁷
- ❖ The landscape of cost-sharing for platform workers is still a tangled web of complexities.

Establishing dependable funding sources presents significant challenges in operations. Conventional social security frameworks rely on contributions from both employers and employees. However, the unique nature of the gig economy complicates the application of this model, making it a tough nut to crack.²⁸ One of the major hurdles in the realm of funding and revenue collection lies in the erratic nature of workers' earnings, which creates a rollercoaster effect on the reliability of their contributions.²⁹ The ideal contribution levels remain a mystery

²⁵ Naveen Kumar, “Regulatory Framework and the Protection of Basic Rights of Gig Workers”, *Bar and Bench*, May 16, 2024, available at: <https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers> (last visited on Nov. 17, 2024).

²⁶ “Social Security Policy for Gig, Platform Workers Under Process: Mandaviya”, *Business Standard*, Oct. 17, 2024, available at: https://www.business-standard.com/india-news/police-nab-up-teen-for-selling-over-4-000-child-pornography-videos-124101701355_1.html (last visited on Nov. 17, 2024).

²⁷ *Ibid.*

²⁸ *Supra* note 25.

²⁹ *Supra* note 25.

to all. Employees are standing their ground, resisting deductions from their hard-earned wages.³⁰

The Social Security Code of 2020 proposes the establishment of a specialized Social Security Fund. However, there are still lingering questions regarding how it will function and whether it can sustain itself in the long run.³¹ A number of states, including Rajasthan, have launched welfare boards backed by specific funding. However, the core team's knack for efficiently handling these centralized funds is still a bit of a mystery.³²

The Code on Social Security 2020 is calling for aggregators to chip in 1-2% of their earnings, but so far, no one has taken the plunge. History suggests we might be in for a bumpy ride. Just look at the Construction Workers Welfare Act of 1996, which highlighted the pitfalls of welfare board models that often struggle to function effectively.³³

- Enforcement and Compliance Issues

The enforcement of social security measures is grappling with a host of operational hurdles. As it stands, the level of protection varies widely from one state to another, largely due to the absence of a comprehensive national framework.³⁴ The intricate dance of legislative processes grows even more challenging, thanks to the rich tapestry of diversity within the sector.³⁵ The road to implementation is often paved with obstacles, and these challenges grow even more intricate because of:

1. Bureaucratic Bumps in the Road:-

- ❖ Many institutions and organizations find themselves short on the resources needed

³⁰ *Ibid.*

³¹ India's Gig Economy: Challenges, Opportunities & the Future, Indian School of Business Blog, *available at:* <https://blogs.isb.edu/bhartiinstitute/2024/09/03/indias-gig-economy-challenges-opportunities-the-future/> (last visited on Nov. 17, 2024).

³² Neeraj Vyas and Abhishek Malhotra, "Bridging the Gap: Expanding Social Security for Gig Workers in India", *Bar and Bench*, Oct. 29, 2024, *available at:* <https://www.barandbench.com/law-firms/view-point/bridging-the-gap-social-security-gig-workers-india> (last visited on Nov. 17, 2024).

³³ *Supra* note 5.

³⁴ *Supra* note 26.

³⁵ Nabodita Ganguly, "Should Gig Work Be Treated as Employment? Ola's Case in Karnataka HC Reignites the Debate", *Outlook Business*, Oct. 04, 2024, *available at:* <https://www.outlookbusiness.com/start-up/explainers/should-gig-work-be-treated-as-employment-olas-case-in-karnataka-hc-reignites-the-debate> (last visited on Nov. 17, 2024).

to uphold regulations and keep a watchful eye on adherence;

- ❖ Additionally, states tend to stray from established protocols, adding to the confusion;³⁶
- ❖ Various parties find it challenging to collaborate seamlessly;
- ❖ Employee databases require regular refreshes to stay current;³⁷
- ❖ Surveillance systems have their limitations.

2. Technical Limitations:-

- ❖ Robust technological frameworks are essential for system reliability;
- ❖ Platforms encounter challenges when it comes to data sharing;³⁸
- ❖ Worker registration proves difficult to verify.

Wading through the maze of data management can feel like solving a riddle, particularly when team members dart between various platforms, turning them into slippery shadows that are hard to track down.³⁹ Government bodies and their platforms are finding it tough to work in harmony. The process of calculating benefits is tangled up in the intricacies of income evaluation.

The casual vibe of gig work on digital platforms leads to some tricky enforcement issues. Workers find themselves without proper safeguards, as the responsibilities of these platforms are often muddled and ambiguous.⁴⁰ On top of that, the Code's complex structure and overlapping definitions make it hard to understand.

Gig workers' social security measures in India face many structural and operational roadblocks, even with new laws in place.

³⁶ *Supra* note 17.

³⁷ International Social Security Association (ISSA), "Platform Workers and Social Security: Recent Developments in the Americas" (2023)

³⁸ *Supra* note 25.

³⁹ *Supra* note 25.

⁴⁰ *Supra* note 26.

States lack comprehensive national systems that guarantee uniform protection across the board.⁴¹ Rajasthan and Karnataka have rolled out unique legislation, yet the application of these laws often lacks uniformity.⁴² Employees often struggle to decipher which programs are relevant to them due to the Code's tangled definitions and intricate layout.⁴³

Many gig workers find themselves in the dark when it comes to understanding their rights and the benefits they may be entitled to.⁴⁴ The gap in understanding, coupled with inadequate backing from institutions, leads to a decline in the utilization of benefits. In this power struggle, platform companies hold the upper hand over workers, resulting in a host of challenges. Over time, these companies chip away at incentives and lower income levels, leaving workers in a precarious position.⁴⁵

The fleeting essence of gig work poses a challenge for securing consistent social security benefits. With platform companies frequently tweaking their commission rates and payment policies, gig workers find it tough to stay on top of their social security contributions.⁴⁶ The system is in dire need of fresh ideas! Implementing portable benefits and enhancing educational initiatives could be the key to tackling these hurdles.⁴⁷

LEGAL DEVELOPMENTS AND JUDICIAL INTERVENTIONS

Court decisions have changed the legal status of gig workers in India by a lot. The courts now focus on understanding employment relationships based on digital platforms. This development marks a significant milestone that sets precedents for worker classification and social security benefits in the digital world.

- Key Court Cases on Gig Worker Rights

The Karnataka High Court has made waves with its groundbreaking decision regarding Ola drivers, signaling a new era for gig worker rights. Initially, the court declared that ANI Technologies Private Limited (Ola) must recognize its drivers as employees and adhere to

⁴¹ *Ibid.*

⁴² *Supra* note 17.

⁴³ *Supra* note 26.

⁴⁴ *Supra* note 25.

⁴⁵ *Supra* note 5.

⁴⁶ *Supra* note 5.

⁴⁷ *Supra* note 32.

workplace protection regulations. However, this ruling was temporarily put on hold for further contemplation, sparking vital discussions about corporate responsibility and the classification of workers in the ever-evolving gig economy.⁴⁸

The Court made these most important observations:

- ❖ Labor laws define ‘employee’ in broad terms;
 - ❖ Platforms must protect their workers;
 - ❖ Workplace complaints need proper investigation systems.
- Public Interest Litigations Filed

The Indian Federation of App Based Transport Workers (IFAT) has embarked on a crucial mission to safeguard the rights of gig workers through groundbreaking legal actions. In a bold move, the organization took a significant step by filing a Public Interest Litigation (PIL) with the Supreme Court back in September 2021.⁴⁹ Their appeal calls for a series of essential transformations:

- ❖ Acknowledgment of gig workers as “wage workers” within the framework of current labor regulations;
- ❖ Access to social security perks that align with those enjoyed by conventional employees;
- ❖ Safeguarding of workers’ rights as outlined in Articles 14, 21, and 23 of the Constitution.⁵⁰

⁴⁸ Salman S.H., “In a First for India, PIL in SC Seeks to Classify Gig Workers as Registered Wage Workers”, *Inc42*, Sept. 22, 2021, available at: <https://inc42.com/buzz/in-a-first-for-india-pil-in-sc-seeks-to-classify-gig-workers-as-registered-wage-workers/> (last visited on Nov. 17, 2024).

⁴⁹ Gig Workers’ Access to Social Security, Supreme Court Observer, available at: <https://www.scobserver.in/cases/gig-workers-access-to-social-security-the-indian-federation-of-app-based-transport-workers-ifat-v-union-of-india/> (last visited on Nov. 17, 2024).

⁵⁰ The Unsettled Status of Gig Workers in India: Towards a Comprehensive Legal Framework, National Law Institute University, available at: <https://ell.nliu.ac.in/the-unsettled-status-of-gig-workers-in-india-towards-a-comprehensive-legal-framework/> (last visited on Nov. 17, 2024).

The Public Interest Litigation takes aim at the big players in the game, such as Swiggy, Zomato, Ola, and Uber. It questions their tendency to label their workforce as ‘partners’ rather than recognizing them as employees.⁵¹ This legal move highlights a collective commitment to safeguard workers and ensure social security within the gig economy.⁵²

- The Rise of Legal Thinking on Employment Status

Courts have created several tests to figure out employment relationships in the gig economy. The legal framework looks at:

<i>Test Type</i>	<i>Key Considerations</i>	<i>Application to Gig Work</i>
Control Test	Degree of control over work assignment	Platform’s control over service delivery
Integration Test	Worker’s integration with business	Connection to platform’s core operations
Combined Approach	Multiple factors analysis	Detailed evaluation of relationship

Legal decisions about employment status now draw from international cases. The landmark ruling by the UK Supreme Court regarding Uber has set the stage for India to rethink and enhance its approach to safeguarding the rights of its workforce.⁵³ Courts are now diving deeper into the real dynamics of working relationships, rather than simply taking contracts at face value.

Legal minds are diving into the murky waters of “sham contracts”, where genuine employment ties exist but lack the necessary safeguards for workers. This legal evolution is crucial,

⁵¹ *Supra* note 49.

⁵² Vidhi Centre for Legal Policy, “Model Law for Platform Based Gig Workers (Working Draft)” 7 (2024)

⁵³ *Supra* note 52 at 9.

especially as India's gig economy is projected to swell to a staggering 23.5 million by 2029-30.⁵⁴

The Karnataka Platform-based Gig Workers Bill and the pioneering legislation enacted in Rajasthan exemplify the responses of state governments to recent judicial rulings. The discourse surrounding the classification of gig workers as either independent contractors or employees remains ongoing.⁵⁵ These new laws show that the nation needs specific legal frameworks that work for platform-based jobs.

CONCLUSION

India's legal framework concerning the social security of gig workers is currently at a pivotal juncture. Recent legislative developments, coupled with ongoing challenges in implementation, significantly influence this domain. The Code on Social Security 2020 represents a notable advancement in safeguarding the rights of platform workers. However, ambiguities surrounding worker classifications and funding mechanisms complicate the execution of these protections. Various states have initiated efforts in this regard, with Rajasthan's Platform Based Gig Workers (Registration and Welfare) Act, 2023, serving as a prominent example. Nonetheless, there remains a pressing need for uniform protection across all states in India.

To effectively safeguard the expanding gig workforce in India, collaboration among multiple stakeholders is essential. The judiciary plays a crucial role in adjudicating workers' rights, and public interest litigation can facilitate systemic enhancements. The issue of worker classification stands out as the most pressing challenge requiring immediate resolution. Furthermore, a robust enforcement framework must be established to align with the dynamic nature of platform-based work. Implementing sustainable funding mechanisms will be vital in ensuring the effective protection of this critical segment of India's labor force.

⁵⁴ *Supra* note 48.

⁵⁵ *Ibid.*