
GIG WORKERS AND THE LABOUR LAWS: THE STRUGGLE BETWEEN FLEXIBILITY AND PROTECTION

Saranya A.T, LL.M., The Tamilnadu Dr. Ambedkar Law University, Chennai

ABSTRACT

Labour laws apply to workers and employees engaged in various industries across India, which regulate their salaries, wages, conditions at workplace and providing them with the social security benefits. In recent years, there was a paradigm shift in the traditional labour setup with the increase in Gig economy particularly the platform based. Examples of platform-based gig workers includes Cab-drivers, food-delivery partners. Since their classification as independent contractors, there has been little to no protection under the labour laws which was provided to the traditional employer and employees. This article explores the current legal status of gig workers, examining existing laws that aim to protect them. It provides an international perspective, contrasting the approaches taken by different countries to regulate gig work. Additionally, the role of the International Labour Organization (ILO) is analyzed, focusing on its efforts to address the unique challenges faced by gig workers in the global labour market. The article delves into the contentious issue of whether gig workers should be classified as employees, weighing the potential benefits and drawbacks of such a change. It also discusses the implications of bringing gig workers under employee status, including concerns about flexibility, worker protections, and the broader economic impact.

Keywords: Gig workers, Platform-based gig workers, independent contractors, Labour rights, social security.

Introduction

The rapid rise of digitalization worldwide is driving a transformative economic revolution, profoundly shaping the future of work and employment. According to the International Labour Organization's (ILO) 2021 World Employment and Social Outlook Report, the number of digital labour platforms has surged fivefold over the last decade. These platforms provide workers with a range of skill opportunities and offer businesses expanded market reach. As noted in the Economic Survey 2020-21, India has emerged as one of the largest global hubs for gig and platform work, a trend expected to grow with the expansion of e-commerce platforms. In 2020-21, approximately 7.7 million workers (77 lakh) involved in the gig economy, representing 2.6% of India's non-agricultural workforce and 1.5% of the total workforce. By 2029-30, this figure is projected to rise to 23.5 million (2.35 crore), accounting for 6.7% of the non-agricultural workforce and 4.1% of the overall workforce¹.

Gig economy work offers several benefits that attract individuals to such arrangements, including the ability to set personal schedules, take time off when needed, and choose employers based on preferences. These advantages have made temporary and contract-based employment more common, particularly among those seeking more independence and flexibility in balancing work and personal commitments.

However, despite these benefits, gig economy work presents several challenges. The lack of job security, limited bargaining power, and the temporary nature of these jobs create significant concerns. Gig workers often face issues such as low wages, long working hours, no paid sick leave, and inadequate workplace protections. Furthermore, the absence of a clearly defined employment status leaves workers vulnerable to exploitation, with little recourse in the event of disputes or grievances. The rapid growth of the gig economy and technological advancements have disrupted traditional employment structures, raising important questions regarding labour law systems. The distinction between independent contractors and employees has become increasingly ambiguous, complicating the application of existing labour laws.

Current Legal Status of Gig Workers

The term "gig" initially referred to jobs with a fixed duration. A "gig worker" is someone who accepts short-term tasks that must be completed within a set timeframe, often under non-traditional working conditions. In India's gig economy, there are two categories: platform

¹ India NITI Aayog, "India's booming gig and platform economy perspectives and recommendations on the future of work", (2022).

workers and non-platform workers. Platform workers engage with online algorithmic matching platforms, such as Amazon or Uber, to connect with clients. Non-platform workers, on the other hand, are those involved in temporary or short-term employment outside of these digital platforms, including sectors such as construction and day labour, where technology is not typically involved.

A "gig worker" is defined as a person who performs work or participates in a work arrangement and earns from such activities outside of the traditional employer-employee relationship².

The **Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023** further clarifies the term, stating that a "gig worker" refers to a person who performs work or participates in a work arrangement, earning from such activities outside of the traditional employer-employee relationship, and works on a contract that stipulates a given rate of payment, based on the terms and conditions laid down in such a contract. This includes all forms of piece-rate work.

The labour industry is governed by a comprehensive set of laws that aim to define and protect the rights of various categories of workers. These laws address different types of employment relationships, including Employer-Employee, Contract Labour, Migrant Workers, informal sector workers, and Gig Workers. While employees, contract workers, and informal workers generally benefit from protections like **Minimum Wages, Bonus Payments, Employee Provident Fund, Gratuity** under the **Payment of Gratuity Act, Equal Remuneration, and Medical and Insurance Benefits**, gig workers are excluded from these protections.

Key labour laws, such as the **Factories Act of 1948**, which focuses on safety, health, and welfare measures for factory workers, and the **Workmen's Compensation Act, 1923**, which provides compensation to workers or their families in case of workplace accidents resulting in death or disability, were designed with traditional workers in mind. Additionally, the **Trade Unions Act, 1926** allows for the formation of trade unions to facilitate collective bargaining, and the **Minimum Wages Act, 1948** ensures that employers pay workers a prescribed minimum wage.

Despite these safeguards for other workers, gig workers remain outside the scope of these legal frameworks, leaving them without similar rights and benefits. Their exclusion from these protections stems from their status as "Independent Contractors." Aggregators, such as ride-

² Code of Social Security, 2020, section 2(35).

hailing or food delivery platforms, have classified gig workers as "Independent Contractors," "Partners," or "Individual Entrepreneurs," claiming that the relationship between the aggregators and gig workers is not that of an employer and employee or agent and principal³. The distinction between an independent contractor and an employee raises questions about the basic structure of employment contracts in the gig economy.

To determine whether a person is an employee or an independent contractor, one must assess the level of control exercised by the employer and the intentions of both parties. The **Supreme Court of India** has examined the concept of employee and independent contractor in several cases. For example, in the case of *Dharangadhara Chemical Works v. State of Saurashtra*,⁴ the court ruled that there must be a clear employer-employee or master-servant relationship, where the employer exercises supervision and control over the employee. Similarly, in the case of *Balwant Rai Saluja v. Air India Ltd.*⁵, the Court outlined several relevant factors to consider when determining the existence of an employer-employee relationship. These factors include: (i) who assigns tasks; (ii) who pays the remuneration; (iii) who has the authority to terminate employment; (iv) who can take disciplinary action; and (v) whether there is complete control and supervision over the worker.

Laws Governing Platform-based Gig workers

A. Code of Social Security, 2020

The Central Government has enacted four labour codes under its powers derived from the concurrent list of the Seventh Schedule of the Constitution. Among these, the Social Security Code, 2020 is the first to formally acknowledge gig and platform work. The Code identifies aggregators as a unique category of employers, classifying them in the Seventh Schedule. It also mandates the registration of gig and platform workers to access social security benefits. However, individuals under sixteen or over sixty years of age are not eligible to register as gig or platform workers under the Code. Additionally, the Seventh Schedule includes provisions for helplines and facilitation centers to support gig and platform workers.

The Social Security Code outlines the creation of six social security bodies: the Employees Provident Fund Board of Trustees (Central Board), Employees State Insurance Corporation (ESIC), the National Social Security Board for Unorganized Workers (NSSBU), the National

³ Terms and Conditions, Swiggy available at <https://www.swiggy.com/terms-and-conditions> (last visited on November 10, 2024)

⁴ AIR 1957 SC 264

⁵ (2014) 9 SCC 407.

Social Security Board for Gig and Platform Workers (NSSBGP), State Unorganised Workers' Boards, and State Building Workers Welfare Boards. Gig and platform workers are particularly covered by the ESIC and the NSSBGP.

It allows the Central Government, in consultation with the ESIC, to create schemes that benefit unorganized, gig, and platform workers, as well as their families⁶. These schemes may provide benefits such as insurance for sickness, maternity, and injuries resulting in disability or death. Drawing from the existing ESI scheme, it is anticipated that both aggregators and gig workers will contribute to the ESI Fund, with aggregators permitted to deduct their contribution for tax purposes, as long as payments are not delayed.

The NSSBGP is responsible for framing, administering and monitoring of social security schemes for gig and platform workers. It will also monitor the expenditure of the funds created for this purpose. These schemes are designed to offer life and disability coverage, accident insurance, health and maternity benefits, old-age security, and childcare facilities. The funding for these schemes will come from the 'Social Security Fund' (SSF), as per Section 141 of the Social Security Code and Section 115 of the Occupational Safety Code. Contributions to the SSF are expected to be made by the Central Government, State Governments, aggregators, beneficiaries, and the corporate social responsibility fund. The contribution from aggregators could range from 1% to 2% of their annual turnover, but it cannot exceed 5% of the payments made to gig and platform workers by the aggregator⁷.

B. Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023

In addition to the Social Security Code of 2020, Rajasthan has become one of the first states in India to regulate the employment of gig workers at the state level. On July 24, 2023, the Rajasthan Government passed *Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023* for providing social security benefits to gig workers.

The Act provides for establishment of Rajasthan Platform-Based Gig Workers Welfare Board⁸, which is responsible for:

1. Overseeing the registration of platform-based gig workers.
2. Monitoring the social security schemes for registered workers and advising the state

⁶ Code of Social Security, 2020, Section 45.

⁷ Code of Social Security, 2020, Section 114(4).

⁸ *Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023*, Section 3.

government on their implementation.

3. Ensuring that platform-based gig workers can get benefits under the schemes created by the state.
4. Safeguarding the rights of platform-based gig workers.
5. Facilitating the prompt resolution of grievances related to their rights, along with other related responsibilities.

This Act further provides for the creation of a welfare fund to support registered platform-based gig workers. This will include contributions from welfare fees, state government grants, and other sources⁹.

Additionally, the Act outlines a grievance redressal mechanism, allowing registered gig workers to file petitions with an officer appointed by the state government or through an online portal. These petitions can address any issues regarding their entitlements, payments, or benefits under the Act.

C. Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024

Following Rajasthan's initiative, the Karnataka government introduced a draft "The Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill", 2024 on June 26, 2024, aimed at protecting the rights of gig workers by implementing social security benefits. The key provisions of the Act includes:

Registration and Welfare Board

The proposed Bill provides for the establishment of the Karnataka Gig Workers Welfare Board under section 3 of the bill. This board will oversee the registration of gig workers and aggregators and ensure the implementation of welfare measures as specified by the state government.

Social Security, Welfare, and Health

- Gig workers must be notified about any changes to the terms of their contract at least 14 days in advance.
- Aggregators cannot terminate a gig worker without providing a written explanation and

⁹ Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Section 10.

a 14-day prior notice¹⁰.

- Gig workers must receive compensation on a weekly basis at the very least.
- Aggregators must comply with relevant occupational safety and health standards, which may be set for specific sectors.
- Contributions made by gig workers, welfare fees collected from aggregators, and grants-in-aid from the government will be part of the Karnataka Gig Workers' Social Security and Welfare Fund.
- All payments made on the platforms will be recorded and tracked using Central Transaction Information and Management System (CTIMS), that will be operated by the state government and overseen by the board. Payments to gig workers and the deposited welfare fees will be monitored through CTIMS¹¹.

Dispute Resolution and Other Provisions

- If gig workers have grievances regarding entitlements, payments, or other benefits under the Act, they can file a complaint either via a web portal or with a grievance redressal officer. Any appeals against the officer's decision can be made to an Appellate Authority within 90 days.
- Aggregators who have more than 50 gig workers registered on their platforms must establish an Internal Dispute Resolution Committee to handle disputes concerning issues like unfair termination, delayed payments, and other matters listed in Schedule II.
- Penalties for aggregators can range from INR 5,000 to 1,00,000, with an additional penalty of up to INR 5,000 for each day of continued non-compliance¹².
- Legal action under the Act can only be initiated in courts not lower than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class.

Moreover, the Karnataka government has set a precedent by launching the Karnataka State Gig Workers Insurance Scheme. Workers aged between 18 and 60 years are eligible to register for this scheme, provided they are not income taxpayers and are not enrolled in the Employees'

¹⁰ Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024, Section 15.

¹¹ Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill", 2024, Section 22.

¹² Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill", 2024, s.25

Provident Fund or Employees' State Insurance. The scheme offers the following benefits:

1. Accidental death: Rs. 4 lakh (includes Rs. 2 lakh for accidental insurance and Rs. 2 lakh for life insurance).
2. Permanent disability due to an accident: Up to Rs. 2 lakh.
3. Hospital expenses reimbursement for accident cases: Up to Rs. 1 lakh.
4. Life insurance coverage: Rs. 2 lakh¹³.

Gig workers, represented by the **Indian Federation of App-based Transport Workers (IFAT)**, have filed a **Public Interest Litigation (PIL)** before the **Supreme Court**, questioning the "Right to Social Security" for all working individuals, including those who work in the gig economy. The petitioner claimed that gig workers, employed by platforms such as **Zomato, Swiggy, Ola, and Uber**, should be classified as "unorganized workers" and, therefore, be entitled to social security benefits under existing labour laws. It brings attention to the exploitation faced by gig workers, who endure long working hours, low earnings, and lack of social security. The petition calls for the introduction of specific schemes to provide health insurance, maternity benefits, pensions, and other forms of assistance. The gig workers challenge the concept that their relationship with platform owners is a partnership, asserting it should be regarded as a de facto **employer-employee** relationship¹⁴.

In another case, *All India Gig Workers Union v. Uber India Systems Pvt. Ltd.*, gig workers have contested **Uber's** practices, particularly the company's refusal to provide minimum wages and social security benefits, further highlighting the struggles of gig workers in securing basic worker rights¹⁵.

International Perspective on status of Platform-based Gig workers

In the **United States**, the California Supreme Court addressed key issues related to gig workers in the case *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*¹⁶. Prior to 2004, Dynamex, a delivery service company, classified its drivers as workers. However, in 2004, it

¹³ Karnataka State Gig Workers Insurance Scheme, Karnataka State Unorganized Workers Social Security Board available at <https://ksuwssb.karnataka.gov.in/info-> (last visited on November 14, 2024)

¹⁴ Naveen Kumar, "Regulatory Framework and the Protection of Basic Rights of Gig Workers" Bar and Bench (May 6, 2024) available at <https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers>

¹⁵ Manpreet Singh, "India's Gig economy : A Legal Minefield", Manupatra (August 20,2024), available at <https://articles.manupatra.com/article-details/India-s-Gig-Economy-A-Legal-Minefield>

¹⁶ 4 Cal. 5th903

reclassified them as independent contractors, requiring drivers to manage their own vehicles, fuel, tolls, and other transportation expenses. The optimal time to work for Dynamex was entirely up to the drivers. Dynamex and the clients would negotiate the fees to be paid to these drivers. The court of appeal determined that the misclassification of independent contractors was “harmful and unfair to workers.” Thus, the court adopted the ABC test to distinguish between employees and independent contractors. The test assumes that workers are employees unless the company can prove three things:

1. The worker operates without control or direction from the hiring entity.
2. The work performed is outside the usual course of the business.
3. The worker is independently engaged in a separate trade or business¹⁷.

In 2019, Assembly Bill 5 (AB5) was passed in California, mandating that companies classify gig economy workers, such as ride-hail drivers, as employees. However, companies like Uber and Lyft resisted the law and argued to retain the independent contractor model. In November 2020, a referendum known as Proposition 22 was passed, reversing AB5 and allowing gig workers to be classified as independent contractors.

In the **United Kingdom**, gig workers can be classified as an "employee", a "worker", or "self-employed". Workers are entitled to certain employment rights, though limited. The Supreme Court case *Aslam and others v. Uber BV and others*¹⁸ clarified key issues regarding gig workers. The court while delivering the judgement, considered the following elements:

1. Uber controls the fare structure for each trip, meaning drivers do not have the freedom to set their own prices, unlike what would be expected in a self-employed arrangement.
2. The terms of the contract are established by Uber, with drivers having no input or negotiation power; they are only able to accept or reject the set conditions.
3. Uber closely monitors drivers' performance ratings, with the authority to terminate the working relationship if a driver does not meet expectations after multiple warnings.
4. The Court recognized this as a clear example of subordination, a key indicator of an employment relationship.

¹⁷ Heidi Pond, “AB5 California: Impacts to Independent Contractors and Businesses” <https://o2employmentservices.com/> (March 31, 2020)

¹⁸ 2021 UKSC 5

5. Uber also oversees the volume of ride requests that drivers receive and may impose penalties on those who cancel too many rides¹⁹.

These findings led the court to conclude that Uber drivers were in a position of “subordination and dependency”. The court ruled that drivers should be classified as ‘workers’ under the Employment Rights Act 1996, granting them rights such as minimum wage and paid annual leave.

In **Brazil**, the employment status of gig workers has been a debatable issue. Various Labour Courts initially ruled in favor of classifying Uber drivers as employees. However, in a landmark ruling, the Superior Court of Justice of Brazil determined that Uber drivers were independent contractors, setting a precedent that may influence future rulings on similar cases.

In **France**, while a proposed bill to create a specific employment status for gig economy workers failed, the Court of Cassation ruled that an Uber driver had an employment relationship with Uber. The court pointed to the control Uber had over the drivers, such as setting fare prices, dictating routes, and imposing conditions on the service provided. This decision, along with another ruling that classified a delivery worker as an employee, may positively influence the legal landscape for gig workers in France²⁰.

In **Switzerland**, a ruling in March 2023 confirmed that gig economy drivers should be classified as employees rather than independent contractors²¹.

International Labour Organization’s Approach to Protecting Gig Workers

The International Labour Organization (ILO) has yet to establish a dedicated convention or recommendation specifically for gig or platform-based workers. However, a significant step forward is marked by the ILO's new report, "*Realizing Decent Work in the Platform Economy*". This study aims to explore the development of an international labour standard to address the challenges and opportunities posed by the rise of platform work. The report provides comprehensive information on the current regulations and practices around the world, shedding light on how different countries are managing the platform economy²². It includes a

¹⁹ Kingshuk Sarkar, “Why UK Supreme Court’s Uber Driver Verdict Can Impact Indian Gig Workers”, The Leaflet *available at* <https://theleaflet.in/analysis/why-uk-supreme-courts-uber-driver-verdict-can-impact-indian-gig-workers> (last visited on November 12,2024).

²⁰Gig Economy Workers :Employees or Independent contractors *available at* <https://www.kmo.legal/2021/09/30/gig-economy-workers-employees-or-independent-contractors/> (last visited on November 14,2024)

²¹ “Labour Law and the Gig Economy: Towards a Hybrid Model of Employment”, IndiaCorpLaw (December 5, 2022).

²² International Labour Organization, Report on *Realizing Decent Work in the Platform Economy*, 2024

questionnaire for governments to express their views on potential labour standards, with a submission deadline of August 31, 2024. These responses will be discussed in the upcoming International Labour Conferences in 2025 and 2026, and may lay the groundwork for a future international standard on decent work in the platform economy.

Below are some ILO conventions that are implicitly applicable to gig workers:

1. **The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87):** This convention applies to all "workers," without distinction, including those in the informal economy and self-employed workers. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) has clarified that Convention No. 87 extends to all workers, regardless of their employment status, emphasizing the right to organize.
2. **The Right to Organise and Collective Bargaining Convention, 1949 (No. 98):** The CEACR has affirmed that the right to collective bargaining should extend to organizations representing self-employed workers. This principle was highlighted in its 2020 General Survey, underscoring the applicability of fundamental rights at work regardless of a worker's employment status.
3. **The Equal Remuneration Convention, 1951 (No. 100):** The CEACR has stated that Conventions No. 100 and 111 apply to all workers, regardless of their nationality or employment type, covering both the formal and informal sectors. This means that gig workers should also be entitled to fair pay, regardless of their work status.
4. **The Workers with Family Responsibilities Convention, 1981 (No. 156):** This convention applies to all workers, including those in full-time, part-time, temporary, or non-wage employment. The CEACR has stressed that workers with family responsibilities should be covered, irrespective of their work arrangement.
5. **The Violence and Harassment Convention, 2019 (No. 190):** This convention applies to workers in all circumstances, including those not classified as employees, such as self-employed workers, volunteers, and jobseekers. It also extends protection to individuals who may exercise employer-like duties.
6. **Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197):** This recommendation emphasizes the need for national occupational safety and health (OSH) systems to protect all workers, especially vulnerable groups

such as those in the informal economy, and migrant or young workers. This is especially relevant for gig workers in high-risk sectors.

7. **The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)**: This recommendation applies to all workers in the informal economy and aims to provide guidance on transitioning informal workers, such as gig workers, into the formal economy with appropriate protections.
8. **The Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)**: While this convention sets standards for working hours in commercial establishments, it does not directly address platform workers. However, it discusses the concept of "on-call" or "standby" time, concluding that such periods may not always count as working hours. If not considered work, workers should still be compensated for being "on call." Several gaps remain in current standards, such as how to regulate overtime effectively, manage the total working hours of multi-job workers, and protect workers' rights to disconnect from platform work without facing negative consequences.

Issues in classifying Gig Workers as Employees

The relationship between gig workers, customers, and aggregators is often referred to as a triangular relationship, which complicates the regulation of gig workers. The core issue lies in the fact that gig workers display characteristics of both **independent contractors** and **employees**. Take, for example, **Uber drivers**: they may be seen as employees because **Uber** exercises some control over them in areas such as fare collection, complaint management, setting standards of conduct, and fixing prices, all of which point to an employer-employee relationship. Additionally, the platform uses algorithms to offer tasks, define working hours, calculate remuneration, implement ratings and rankings, and ultimately determine whether workers can continue providing services. Platforms may also monitor workers through random screenshots, time tracking, and task logs. In essence, algorithms act as a form of **automated supervision** using customer ratings and rankings²³. However, Uber drivers also have some **autonomy**, such as choosing their work assignments, refusing clients or locations, setting their schedules, and working with multiple platforms, which aligns more with the characteristics of independent contractors.

If gig workers were to be classified as employees, **aggregators** would need to comply with a

²³ Supra note 22 at 11

range of **employment laws and regulations**. These include adhering to standards for **working hours, rest breaks, minimum wages**, ensuring **workplace safety**, and providing proper documentation. Failure to meet these obligations could result in **legal disputes** or fines. One of the main appeals of gig work, however, is the flexibility it offers workers, allowing them to decide when and where they work. Additionally, consumers benefit from these services, which are **accessible 24/7** and meet their **fast-paced lifestyles**. If gig workers are classified as employees, they may lose the **freedom** to control their schedules, which could alter the very nature of gig work. The **independent contractor model** allows aggregators to scale quickly and minimize costs, which makes the business model attractive.

However, if gig workers are classified as employees, this could lead to increased **costs for aggregators** due to wages, benefits, taxes, and insurance. These additional expenses may impact the **profitability** of platforms, especially in markets with high labour costs. To compensate for these costs, aggregators may raise prices for consumers or reduce workers' pay. On the other hand, if gig workers remain classified as independent contractors, this could continue **exploitation** and the **denial of basic labor rights**.

The debate over whether gig workers should be classified as employees often revolves around the **test of control**, which evaluates the level of authority an employer has over workers. This test has resulted in **conflicting outcomes** in various countries, with courts often make different interpretations of the status of gig workers. Consequently, there is no universally agreed-upon definition of the employment relationship for gig workers, making the issue even more complex to address.

Conclusion

The recent efforts by the Central Government to include gig workers under the Code of Social Security, 2020 and extend social security benefits to them is a positive move. Similarly, the Karnataka government's draft bill on platform-based gig workers has taken a further step by addressing occupational health and safety, dispute resolution, and protection against unfair termination, which is a significant development. However, these legislations still do not address fundamental labour rights that gig workers have been demanding, such as minimum wages, regulation of working hours, and leave entitlements.

To resolve these issues, an intermediate classification between independent contractors and employees can be introduced, without disrupting the economic model of aggregators. For example, the UK has implemented a category called "worker," which exists between an

employee and an independent contractor. This category provides some benefits like paid holiday leave while maintaining flexibility for the workers. Furthermore, gig workers should be entitled to minimum wages, proper implementation of insurance benefits, and protection, as many of them face dangerous working conditions, such as working in harsh weather, during the pandemic, or under time-sensitive targets (e.g., 10-minute delivery windows). The government should also prioritize measures for collective bargaining and establish mechanisms for dispute resolution to ensure fairness. Effective tripartite social dialogue among governments, employers, and workers is crucial for addressing the regulatory challenges of the platform economy and fostering inclusive growth, social justice, and sustainable businesses. In India, several unions representing gig workers have emerged, including the All India Gig Workers Union (AIGWU), App Drivers & Couriers Union (ADCU), and Telangana Gig and Platform Workers' Union (TGPWU). To foster social dialogue, there is a pressing need to rethink and create new frameworks that enable collaboration among the diverse stakeholders in the gig economy. A renewed agenda for social dialogue should encourage joint efforts, bringing together governments, employers' organizations, platform companies, and worker groups to address key challenges in the gig economy and maximize its potential benefits.

On October 31, 2024, a “Black Diwali Day” was observed by women gig workers in 11 major Indian cities. Led by the Gig and Platform Services Workers Union (GIPSWU), these women held a digital strike, refusing to work by switching off their phones to protest the exploitative practices of platform companies. Their demands included minimum living wages, health and safety protections, and specific protections for women workers, such as maternity benefits. Many gig workers have reported facing sexual harassment, lack of bathroom facilities, abusive behavior, and violence while on the job, yet when such incidents occur, the platform companies have provided little to no support²⁴.

These incidents highlight the urgent need for employee-like protections for gig workers without classifying them as full-fledged employees. What is required is a separate legal definition for gig workers, which provides them with basic rights and protections. This is not a misclassification, but rather an essential evolution of labour laws, as the role of the gig economy has shifted from a supplementary income source to becoming the primary source of income for many individuals.

²⁴ Editorial, “Calling out exploitative labour dynamics on platforms”, *The Hindu*, November 11, 2024

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