

THE NEW ECONOMY- STATUS OF GIG ECONOMY WORKERS IN GLOBAL LABOUR LAW FRAMEWORKS

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INTRODUCTION

Since the last decade, the world has advanced rapidly in terms of digital innovation and technological revolution. It has affected the nature of employment¹ over the years and has led many corporations and start-ups to bring upon a new type of employment that is temporary in nature in order to improve efficiency and profits. On the other hand, the job seekers have to prefer to change the character of the job, giving them flexibility and an additional source of income. Today, as per the World Development Report 2019², an estimated 0.5 percent of the active labour force participates in the gig economy globally, which is around 84 million of the total working population (3.5 billion). This trend is growing every year because of constant digital innovations and changing priorities of companies and people.

The market is also reaching new heights with every passing year, showing the prospects of tremendous growth. As per the Mastercard Industrial Outlook³, the gig economy market will reach \$45 billion in 2023 from \$20 billion in 2018, which is a 123% rise in just five years. With the advent of digital technologies and Artificial Intelligence, the demand for new jobs is ascending, whose nature differs very much from the earlier ones. Now people- professionals, students, or workers- are looking for freelance or task-based employment with flexible work hours to get extra money. The digital gig economy is also contributing to several social groups such as students and women by providing new opportunities⁴. Now women have the option to use their skills to earn money online along with managing household work. In

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¹ The World Bank, World Development Report 2019: The Changing Nature of Work (World Bank Publications 2018) XXXX; Chapter 1. <https://documents1.worldbank.org/curated/en/816281518818814423/2019-WDR-Report.pdf>

² The World Bank, World Development Report 2019: The Changing Nature of Work (World Bank Publications 2018) XXXX; Page 36, <https://documents1.worldbank.org/curated/en/816281518818814423/2019-WDR-Report.pdf>

³ The Global Gig Economy: Capitalizing on a ~\$500B Opportunity (Mastercard 2019) XXXX. <https://newsroom.mastercard.com/wp-content/uploads/2019/05/Gig-Economy-White-Paper-May-2019.pdf>

⁴ Palagashvili L, "Commentary: The Gig Economy Is Making the Future of Work Brighter for Women" (Fortune May 13, 2021) < <https://fortune.com/2021/05/13/gig-economy-pros-cons-women-careers-unemployment-freelance-independent-contractors/>>

developed countries, the majority of the people work as casual earners or free agents for supplementary income⁵. However, this trend changes drastically in developing countries, as most people work out of necessity or due to a lack of better opportunities.

But with the rapid change, apprehensions regarding whether global labour laws frameworks are keeping pace with these changes or not are also arising. Another concern arises from the level of development of the countries. We have observed watertight labour laws in developed countries, but in developing and poor countries, the labour law frameworks are still at a nascent stage. Moreover, we cannot ignore the impact of the Covid-19 pandemic that has led us to contemplate the future possibilities and issues that may affect the labour law frameworks for gig economy workers. In the light of changing nature of jobs, it is pertinent to discuss the existing labour law frameworks that cover the new economy. We are observing a new trend where gig workers are inadequately paid and exploited without receiving adequate legal support. An interesting example comes from observing the condition of internship opportunities in India. The students work for long hours without being adequately paid. The problem becomes more serious because of the lack of a legal framework that incorporates internships under the Indian labour laws giving minimum wages, work hours, social protection, fixed working hours, etc⁶.

In this essay, we will stick to the legal and social aspects of the digital gig economy, keeping in mind the status and role of gig economy workers. We will cover the reasons for a sudden increase in the gig economy and how it will influence the future relationship between employers and employees. We will also try to build a framework to help policymakers through case studies of legislation and case laws. Further, we will cover the difference in the effect of the gig economy in developing and developed countries. In a nutshell, this essay aims to provide a holistic view to the readers for understanding the issue in focus.

⁵ James Manyika and others, 'Independent work: Choice, necessity, and the gig economy' (McKinsey & Company, 10 October 2016) <www.mckinsey.com/featured-insights/employment-and-growth/independent-work-choice-necessity-and-the-gig-economy> accessed March 25, 2022.

⁶ Suryesh K Namdeo, 'Overdue: A Formal Internship Policy in India That Protects Its Students - The Wire Science' (The Wire Science) <<https://science.thewire.in/education/india-internship-policy-student-workforce-employability-exploitation-social-damage/>> accessed March 25, 2022.

WHAT IS A GIG ECONOMY?

Defining the gig (per task) economy in terms of today's employment laws would be complex as it includes several facets that should be taken into account while making a framework for gig workers. Thus, before defining the gig economy, we will divide it into two categories for a better understanding of the issue-

1. **Traditional Self-Employed worker⁷**- It involves physical presence for delivery of labour or services. It includes the daily wage and casual labourers who get their wages on a pro-rated basis and workers such as plumbers, carpenters, and painters, who get their wages according to the number of hours they work or the task they complete. It does not involve any role of the digital platform.
2. **The new gig economy⁸**- Involves services that are provided online or through online platforms. It may involve both physical and online presence. It involves freelancing, outsourcing, crowd work, etc.
3. **The physical gig economy** - Mainly includes low or semi-skilled workers⁹ such as cab aggregators and deliverymen who provide location-based service delivery.
4. **The digital gig economy** - It covers freelancers who work from digital platforms for a certain amount of money. It includes intangible work like online outsourcing, freelancing, crowd work, microwork, etc.

For this essay and the subsequent framework, we will cover the new gig economy aspects as its role is advancing rapidly in the new economy. Therefore, we will stick to the following definition for our purposes throughout the essay: -

⁷ D Hunter and K Leslie with inputs from M Frosch, F Eberlein and J Humphrys, 'Statistical definition and measurement of dependent "self-employed" workers' in 20th International Conference of Labour Statisticians (International Labour Office 2018) XXXX; https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_636042.pdf

⁸ Richard Heeks, 'Decent Work and the Digital Gig Economy: A Developing Country Perspective on Employment Impacts and Standards in Online Outsourcing, Crowdsourcing, Etc' [2017] SSRN Electronic Journal XXXX <<http://dx.doi.org/10.2139/ssrn.3431033>> accessed March 25, 2022.

⁹ K Sunil Thomas, 'Gig workers face both challenge, and opportunity, in COVID-19 second wave' (The Week, 30 April 2021) <<https://www.theweek.in/news/biz-tech/2021/04/30/gig-workers-face-both-challenge-and-opportunity-in-covid-19-second-wave.html>> accessed March 25, 2022.

“Gig economy refers to the exchange of labour using a digital platform that is short term, temporary, independent and task specific.”

The majority of the gig economy workers are self-employed individuals making it difficult for traditional labour laws to inculcate them to provide social and economic security benefits. However, many nations, especially developed ones, have started to build a framework through case laws for these gig economy workers based on their nature of work and the problems they face.

WHY A SUDDEN RISE IN THE GIG ECONOMY?

The concept of the gig economy has always been there for several centuries with people providing their services as independent contractors/self-employed or seasonal employees in both formal and informal sectors. The institution of lawyers, builders, business professionals, and other service providers also work on a contractual or task-specific basis. With the fourth industrial revolution, this trend has been changed and expanded significantly in the last ten years. It is one of the main reasons for a sudden rise in the gig economy. Nowadays, gig economy workers are connected through online digital platforms where they provide services on a temporary or task-specific basis, thus giving them flexibility and convenience. Today, over 80% of gig economy gross volume is generated only from Transportation-Based Services or Asset-Sharing platforms.¹⁰ Other sectors include household-related services, microwork, business related services, etc. Another reason stems from the shift in preference of people from a permanent job with fixed work hours to flexible jobs. The gig economy offers flexible work hours and independence to work from anywhere, which seems more viable to many people. Furthermore, it represents a decentralised nature of work where people can work independently without going through a traditional hierarchy of the company. It also allows other employed people to work temporarily to get extra money from providing different services.

THE COVID-19 IMPACT

Since the onset of Covid-19, a severe blow on the gig workers has hit in the form of diminishing wages, lacking health protection, and employment uncertainty. Although it has affected every gig worker in the world, the situation is more precarious in poor and developing countries. For

¹⁰ The Global Gig Economy: Capitalizing on a ~\$500B Opportunity (Mastercard 2019) XXXX.
<https://newsroom.mastercard.com/wp-content/uploads/2019/05/Gig-Economy-White-Paper-May-2019.pdf>

instance, according to a survey conducted by a global Fintech firm, Flourish Ventures¹¹, 90% of the gig workers in India have lost their income due to the Lockdown imposed. The average income of workers has reduced to less than 15,000 from 25,000 after the pandemic hit the country. The same trend has been observed in other developing countries as well. The income and livelihood of freelancers have been affected severely due to which they are not able to support their families. However, according to some experts, this trend seems to be a short-term phenomenon and as the economies open, the number and condition of gig workers will again improve substantially. Therefore, it remains to be seen what will actually happen when the economies will open with the machinery of globalization working in full swing.

THE RISE OF THE GIG ECONOMY IN DEVELOPING NATIONS

As mentioned earlier, the problems and their intensity vary from country to country. This section covers the impact of the rise of the gig economy on developing countries for discovering the issues and solutions associated with it. The rise has led to the boom of new and flexible job opportunities for the people, which, in turn, contributes to the growth of the country. It has also provided a platform for skill development among the youth to get better opportunities in the future. Furthermore, it significantly contributes to the inclusion of diverse social groups by providing several opportunities in getting reasonable earnings.¹² However, this new trend has also led to the exploitation of workers by digital platforms. The labour laws and employment regulations are archaic or not well implemented, which gives a wide loophole in the system to exploit gig workers without providing adequate protection. At the same time, there is a paucity of adequate data in developing countries that identify the problems for formulating an effective legal framework.

However, with all the problems, the rise of the gig economy will play a very important role in the development of the countries in the long run. Therefore, there is an immediate need to protect the workers through new regulations and protective mechanisms that put companies responsible to fulfil their statutory duties.

¹¹ 'The Digital Hustle: Gig Worker Financial Lives under Pressure, India Spotlight 2020 - Flourish VC' (Flourish VC) <<https://flourishventures.com/perspectives/the-digital-hustle-gig-worker-financial-lives-under-pressure-india-spotlight-2020/>> accessed March 25, 2022.

¹²Richard Heeks, 'Decent Work and the Digital Gig Economy: A Developing Country Perspective on Employment Impacts and Standards in Online Outsourcing, Crowdwork, Etc' [2017] SSRN Electronic Journal XXXX <<http://dx.doi.org/10.2139/ssrn.3431033>> accessed March 25, 2022.

THE PROBLEMS

The sudden rise of digital platforms providing a plethora of services through temporary workers has led to several additional problems which are not adequately covered under the existing labour laws, thus leaving a wide gap in protecting workers from exploitation. Further, the uncanny practices of the companies do not sync with the international labour standards of ILO¹³ that provide for decent work and social security. Many digital platforms do away with their responsibilities by considering the workers as independent contractors, thus not giving them social security benefits and protection from exploitation. Here are some pertinent intricacies related to the gig economy, which should be tackled at the earliest to protect the workers.

THE LACK OF RELEVANT DATA

The most fundamental problem that the policymakers and scholars are the lack of relevant data. The data at present is limited and inadequate to cover every aspect of the gig economy. This problem is further accentuated in poor and developing nations, where data is not altogether collected or, if collected, it cannot be relied upon. However, many independent organisations/corporations conduct surveys and studies on the gig economy workers, but it is limited to a few thousand workers or a specific sector. Furthermore, many sources do not distinguish between the global south and global North, thus generalizing the whole observation. Another issue stems from the legal aspects of the gig economy, which have also not been properly covered in the existing data. The data misses on the aspects such as discrimination against minorities, impact on health, and the role of education. Therefore, there is a dire need to conduct a wide range of surveys in different regions and economies to build a better mechanism while dealing with this problem.

REDUCED BARGAINING POWER

The issue has been observed in many cases where workers are not allowed and encouraged to bargain for better contractual terms and working conditions. Flexibility and the non-permanent nature of work reduce the bargaining power of the workers while making their demands. The issue arises out of the fact that if the workers are independent contractors, then why they are

¹³ 'Conventions and Recommendations' (International Labour Organization)
<<https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>> accessed March 25, 2022.

not allowed to sign a contract on mutual terms. The workers are not allowed to bargain while signing the contractual terms, nor do the platforms leave scope for collective bargaining through trade unions.

NO FIXED MINIMUM WAGES

The companies, while asserting that the workers are self-employed contractors, exploit them by not fixing the minimum wages. Moreover, the companies have the power to reduce the wages for the same work at their discretion. It makes them vulnerable to overexploitation without any entitlements of social and economic protection.

ABUSIVE CONTRACTUAL TERMS

As mentioned above, companies provide one-sided contractual terms without the workers' say, thus not giving them any chance to bargain or put forward their genuine demands. Similarly, many of the platforms do not specify the procedure for dispute resolution in case a problem arises. Moreover, the contracts also do not specify the method they use to determine their pay scale. Nor do the contracts provide for social security provisions that a worker should get. This problem becomes more pertinent in the case of physical gig economy workers.

NO MINIMUM STANDARDS

This problem arises out of the lack of oversight by the government agencies while scrutinising the companies. It leads to laxity in determining the minimum standards by the companies, which ultimately affects the workers severely.

ARBITRARY REMOVAL POLICY

The removal policy of the digital platforms is arbitrary and does not comply with the procedure that the International Labour Organization set for everyone. It is also against the common law principle of arbitrary adjournment of the contract without being properly heard. Therefore, a company can remove its workers based on vague reasons without following a proper procedure.

SOCIAL SECURITY

The lack of regulatory mechanism and legal framework for these workers motivates companies to not provide any social benefits to these gig workers such as health insurance, accident insurance, and paid holidays. The case study of Uber will provide us with more critical insights into how companies pass on their responsibilities.

THE CASE STUDY OF UBER

In April 2021, the Supreme Court of the United Kingdom in *Uber BV and others v Aslam and others*¹⁴ unanimously passed the judgement against Uber's uncanny practices. Uber long held that the drivers are independent contractors, and it is only a facilitator between the consumers and the drivers. However, at the same time, Uber decides the wages on the number of rides and not on the number of hours they are logged in. Moreover, the platform decides the rates and disciplines workers based on consumer ratings. Due to this, drivers did not receive benefits of minimum wages, paid holidays, health benefits, insurance, and pension.

The question put before the court was to decide whether the drivers fall in the category of an independent contractor or the category of employee or worker. Consequently, the court found five core problems while dealing with the case:

1. The company decides the remuneration of the driver based on several factors that are controlled by them.
2. They set the terms of the contract without taking into account the drivers' demands.
3. Uber constrains the discretion of drivers to cancel the ride.
4. They use ratings to control and discipline drivers.
5. They make sure that drivers and passengers do not establish a relationship outside the particular ride.

The court, while refuting the arguments of the app, held that given the restrictions and strict guidelines to drivers, it does not make them self-employed or independent contractors. The

¹⁴ 'Uber BV and others (Appellants) v Aslam and others (Respondents) - Press Summary' (The Supreme Court) <<https://www.supremecourt.uk/press-summary/uksc-2019-0029.html>>

court further stated, “As on the facts there was no written contract between the drivers and Uber London, the nature of their legal relationship had to be inferred from the parties’ conduct [45 - 46] and there was no factual basis for asserting that Uber London acted as an agent for drivers”.

The court also acknowledged them as the workers of the ride-hailing company under the Employment Rights Act 1996, thus making the company liable for giving social benefits and protection. It also said that the drivers must be paid for the hours they are logged in, regardless of the ride demand. However, the court clarified that the drivers cannot be regarded as employees of the online platform because they enjoy significant independence in choosing the ride and also do not have a fixed number of working hours or salary.

The decision might increase the cost of these platforms but will also give protection to the gig workers. It will also set a precedent for other nations and international organisations while deciding on an efficient framework. The Uber case has led to the debate on the inclusion of gig workers under the International Labour Organization’s norms on employment. Uber has also been challenged in the California Supreme court (Castellanos v. California Uber) on the same issue of exploitation of drivers. Uber has made several changes since then in its UK operations and now the time has come to implement it in other regions too¹⁶. The Uber case gives us several lessons and interesting insights which can help us in designing a better framework for gig economy workers. It can also lead to change in the workings of other digital platforms while making hiring arrangements, thus paving the way for better working conditions in the long run.

THE EXISTING FRAMEWORK

Historically, labour laws have been strengthened to prevent exploitation of the workers in the form of minimum wages, fixed work hours, and social protection schemes. The principle of self-employment has been evolved through several case laws around the world. One such example that led to the development of intermittent employment was Carmichael and Another

¹⁵ HECTOR CASTELLANOS, JOSEPH DELGADO, SAORI OKAWA, MICHAEL ROBINSON, SERVICE EMPLOYEES INTERNATIONAL UNION CALIFORNIA STATE COUNCIL, and SERVICE EMPLOYEES INTERNATIONAL UNION, Petitioners, vs. STATE OF CALIFORNIA and KATIE HAGEN, in her official capacity as Director of the California Department of Industrial Relations Respondents., SUPERIOR COURT OF THE STATE OF CALIFORNIA (USA) XXXX. <https://aboutblaw.com/VA8>

¹⁶ Dinah Wisenberg Brin, ‘UK Supreme Court’s Uber Ruling May Prompt Gig-Economy Changes’ (SHRM, 14 April 2021) <[\[www.jlrjs.com\]\(http://www.jlrjs.com\)](https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/uk-uber-ruling-changes.aspx#:~:text=In%20a%20unanimous%20decision%20in,the%20drivers%20based%20on%20ratings.>></p>
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v. National Power Plc¹⁷ in 1999, where the Supreme court of the UK gave security to intermittent workers. The court noted that the concept of mutuality between the employer and employee or worker becomes the foundation for labour and employment security. This case law can be used as a principle to protect gig economy workers and acknowledge their contribution to the economy. The existing labour law frameworks are not enough to protect the workers of the new economy and, in some cases, are too old to cover the aspects of the new relationship between the employer and the employee. Moreover, we also do not have a uniform framework that incorporates the problem all around the world uniformly.

However, some jurisdictions have passed legislation to protect the workers. For instance, in 2019, the legislature in California, USA, passed Assembly Bill 5 ("AB5")¹⁸ that "addresses the "employment status" of workers when the hiring entity claims the worker is an independent contractor and not an employee. Although with some exceptions, the Act codifies the decision of the California Supreme Court in the landmark judgement *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*¹⁹.

THE NEW FRAMEWORK

So far, we have covered several nuances of the gig economy, from its benefits to problems, case studies, definitions, and the impact. In this section, we will try to make a brief framework for the efficient growth of the gig economy while, at the same time, protecting the workers. We will try to balance out the problems of workers and the reservations of companies about regulating the gig economy. The neutral laws that do not over-benefit workers and at the same time make companies responsible towards their workers will be the primary motive. The framework considers the norms of the International Labour Organization (ILO) to include the best practices while making the framework.

¹⁷ Carmichael v National Power plc [1999] UKHL 47, <https://publications.parliament.uk/pa/ld199900/ldjudgmt/jd991118/car.htm>

¹⁸ CA AB5 | 2019-2020 | Regular Session." LegiScan. LegiScan LLC, 18 Sep. 2019. Web. 16 Oct. 2021. <https://legiscan.com/CA/bill/AB5/2019>, https://www.dir.ca.gov/dlse/faq_independentcontractor.htm

¹⁹ *Dynamex Operations West, Inc. v. Superior Court of No. S222732* (Cal. Sup. Ct. Apr. 30, 2018), <https://scocal.stanford.edu/opinion/dynamex-operations-west-inc-v-superior-court-34584>

DEFINING GIG WORKERS

This is the first thing that should be done while deciding on a framework covering several aspects. We can go with the earlier definition while understanding the nature of the gig work. We can either define gig workers as a whole new category while giving them protections or put them under one of the existing ambits under the definition of “worker” or “employee” or “independent contractor”. Whatever be the case, the law must clearly and unambiguously define the important aspects to not affect the new business model which is in boom today. From the above arguments, we can say that they do not come under the ambit of an independent contractor as many companies claim them to be. We have already seen several instances where companies straitjacket their provisions while signing the contract and also during the work. Nor do they come under the definition of employee, as they are not permanent employees with fixed working hours and salaries.

The new labour codes of India have moved a significant step in this regard. The code, under section 2(35)²⁰, has defined gig workers as “a person who performs work or participates in a work arrangement and earns from such activities outside of a traditional employer-employee relationship”. It also defines platform workers as “who are involved in work, in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services in exchange for payment²¹.” The code also distinguishes them from the definition of a traditional employee and makes provisions for social security benefits through schemes²² for these workers. The code can set a precedent for establishing the legitimacy of the workers of the new economy by protecting them from exploitation.

1. NEUTRALITY IN LABOUR LAWS²³

Businesses see the gig economy as beneficial to increase their profits. However, protecting gig workers is also a very important facet, especially at this point in time where the nature of

²⁰ (Home | Ministry of Labour & Employment | GoI)
<https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf

²¹ Section 2(55) read with Section 2(56) of the Code,
https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf

²² Section 114 of the Code; https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf

²³ Schweltnus, C., et al. (2019), "Gig economy platforms: Boon or Bane?" OECD Economics Department Working Papers, No. 1550, OECD Publishing, Paris, <https://doi.org/10.1787/fdb0570b-en>. Page- 20

employment is changing drastically. Therefore, the policymakers should balance both facets in such a way that no one is extremely affected. For instance, if governments give excessive protection to gig workers, it can discourage corporations from engaging in these types of services, thus hampering the prospects for employment and economic benefits. Therefore, today, the pejorative for the government should be to strike a balance to placate the needs of both parties.

THE CASE STUDY OF SPAIN²⁴

Recently, the legislature of Spain passed a bill in the wake of a recent ruling by the top court to regulate digital platforms in order to secure the rights of the workers. The court, last year, while rejecting the claim of a food delivery app, Deliveroo, ruled that food delivery riders are employees and not self-employed workers²⁵. The legislation is aimed at making gig workers “employees” and putting the responsibility on companies to share the algorithm through which they decide the efficiency of the workers. The law makes “mandatory for all businesses the ground-breaking requirement of having to hand over to the workers ‘legal representatives’ information about how algorithms and artificial intelligence systems function in assigning jobs and assessing performance, among other aspects”²⁶. For a long time, the demand has been there to put a fair share of responsibility on digital platforms for their workers. Many workers complained of not getting the wages according to the work they do. The companies say that the wages they get are as per their performance which is based on their algorithms.

Journal of Legal Research and Juridical Sciences

The new legislation aims at solving this problem by making gig workers employees, thus protecting them through the labour laws that consider the rights of employees. It will help workers in the form of minimum wages, social benefits, and protection from a vague determination of their capabilities based on the algorithm. However, the new law only affects food-delivery riders, not workers of other digital platforms, such as ride-hailing apps²⁷. The

²⁴ Maria Alemany Ortiz, ‘Spain is about to shatter the gig economy’s algorithmic black box’ (WIRED UK, 20 April 2021) <<https://www.wired.co.uk/article/spain-gig-economy-algorithms>>

²⁵ MANUEL V. GÓMEZ, ‘Spanish Supreme Court rules food-delivery riders are employees, not self-employed’ (EL PAÍS English Edition) <https://english.elpais.com/economy_and_business/2020-09-24/spanish-supreme-court-rules-food-delivery-riders-are-employees.html?rel=listapoyo>

²⁶ ARITZ PARRA and RENATA BRITO Associated Press, ‘Spain adopts landmark law to protect ‘gig’ delivery workers’ (ABC News, 11 May 2021) <<https://abcnews.go.com/International/wireStory/spain-adopts-landmark-law-protect-gig-delivery-workers-77620461>>

²⁷ ‘Spain approves landmark law recognizing food-delivery riders as employees’ (EL PAÍS English Edition) <https://english.elpais.com/economy_and_business/2021-05-12/spain-approves-landmark-law-recognizing-food-delivery-riders-as-employees.html>

companies have raised concerns that sharing their unique algorithm can give them a competitive advantage over their competitors. Furthermore, it will also affect their profits and independence to monitor the workers who work as independent contractors for them. This case study gives us new insights into the gig economy and the practices of digital platforms. It helps us understand the importance of protecting the workers in the new economy where algorithms decide the work efficiency of the gig workers.

REGULATION THAT SETS MINIMUM STANDARDS

It is pertinent to develop minimum standards for companies in order to protect their workers. It includes an unambiguous hiring process, well-defined contract, power to bargain, minimum wages, and set standards and provisions that control workers. They are a very intrinsic part of any business establishment for its smooth functioning. The government plays a very crucial role in setting up minimum standards for the companies while dealing with the workers. However, the companies maintain that they are self-employed contractors, working independently with flexible hours, and companies only act as a facilitator between the contractors and consumers. The role of reasoning is not being relied by many courts and experts, since the digital platform controls the wages and also discipline them through their algorithms, thus evading the sense of independence.

STRUCTURED JUSTICE MECHANISM

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This facet relates to the inherent rights of the people to seek justice and protection from any exploitation, ranging from discrimination to slavery. It is intrinsic for every organisation to establish a justice mechanism in sync with the legal frameworks to prevent the exploitation of its employees. Here the idea of justice means a very basic right provided to every gig worker by the companies as an ethical and legal consideration that complies with the universal norms of human and labour rights.

The idea of justice may relate to procedural justice that provides for a fair platform for work processes that includes discipline, dispute resolution, and fairness in communication among clients, companies, and workers. Furthermore, it includes fairness in the distribution of

²⁸ Richard Heeks, "Decent Work and the Digital Gig Economy: A Developing Country Perspective on Employment Impacts and Standards in Online Outsourcing, Crowdwork, etc", Centre for Development Informatics Global Development Institute, SEED University of Manchester, 2017, Page- 22, http://hummedia.manchester.ac.uk/institutes/gdi/publications/workingpapers/di/di_wp71.pdf

platform work like benefits, risks, technology, etc. Another type includes the rights-based justice that covers rights envisaged for everyone under the 1948 Universal Declaration of Human Rights and ILO decent work conventions. It makes sure to have rights against discrimination and forced labour, the right to privacy and access to information, freedom of association with trade unions, paid holidays, and adequate remuneration. It also protects vulnerable groups such as women, children, and minorities. Therefore, the structured justice mechanism is important to ensure no worker is exploited in any domain that pertains to his/her work.

SOCIAL SECURITY

Last but not the least, a legal framework must consider the social security aspects of gig workers. As per the ILO's standards framework on social security²⁹, a person who is considered a worker is eligible for getting benefits such as paid holidays, health insurance and other health-related benefits, pension, maternity leave for women, provident funds. It allows workers to feel secure about their needs in the future and also makes them productive. It is one of the important facets of the global labour law framework which must be taken into account while building a framework for gig economy workers.

THE WAY AHEAD

As the world witnesses the fourth industrial revolution, we are observing a shift from the traditional to non-traditional/new nature of work. The employer-employee relationship is changing rapidly due to the creation of a new type of employment where the internet as a medium plays a very important role. The companies must acknowledge their responsibility towards the new economy workers by respecting their dignity. Since the last decade, the demand for new employment opportunities has been on the rise and these digital platforms play a significant role in supporting the youth. The state and International Institutions also have the role to protect workers and at the same time encouraging digital platforms to engage in innovation and higher profits. The balance for both is a very crucial facet in this regard. Neutral laws will play a very significant role in the future growth of the world economy. It also becomes imperative because several suites are being filed in different jurisdictions against gig economy

²⁹ Ilo.org. 2021. *International Labour Standards on Social security*. [online] Available at: <<https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang-en/index.htm>>

companies because of their uncanny practices that lead to bad publicity and increased cost, thus affecting their businesses. For instance, the popularity and revenue of Uber are in a constant decline due to court cases and its indifferent attitude towards the workers. Apart from that, Uber and Deliveroo are losing a string of cases and face over 40 legal challenges in different courts³⁰. Thus, the entire issue not only affects the workers but also the companies. Therefore, the time has come to resolve the issue at the earliest to protect the interests of both sides and also ensure the sustainable growth of the world economy.



³⁰ Sarah Butler, 'Courts close in on gig economy firms globally as workers seek rights' (the Guardian, 17 March 2021) <<https://www.theguardian.com/business/2021/mar/17/courts-close-in-on-gig-economy-firms-globally-as-workers-seek-rights>>.

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