

## GIG ECONOMY AND LAWS PROTECTING GIG ECONOMY IN INDIA'S GIG ECONOMY/GIG WORKER

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### INTRODUCTION

Employees, contractual workers (such as migrant workers who cross state lines temporarily), and members of the unorganized labour sector are the three primary categories of workers in India. The development of technology, the internet, growing urbanization, and most recently, the Covid-19 pandemic, has resulted in an increased percentage of the gig economy from 0.54 percent in 2011-2012 to 1.33 percent in 2019-2020, as per the reports of 2022 research on "India's Booming Gig and Platform Economy" (NITI Report) by India's, NITI Aayog (National Institution for Transforming India).

More than 15 million gig workers are working in India in industries like software, shared services, and professional services. Social media buzz is making a strong argument for the feasibility of contract labour. Independent employees are becoming more accustomed to the gig economy, with most individuals feeling more secure financially. The findings highlight how financially dependent people are on the gig economy, with many having to work additional gigs on top of their normal jobs to make ends meet.

### WHAT IS A GIG ECONOMY?

A "Gig" is the colloquial term for any task that lasts for a predetermined amount of time. Musicians have long used the word "gig" to refer to a performance engagement. In a gig economy, businesses regularly use independent contractors for temporary positions and brief projects for a specific amount of time, it's a sort of free market.<sup>1</sup>

These days, this kind of business is fairly common. All self-regulating contractors, project-based employees, temporary or part-time employees, and freelancers are considered as gig workers in the gig economy. Gig companies generally use customized automated gig apps to

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<sup>1</sup> 'India's Booming Gig and Platform Economy: Perspectives and Recommendations on Future of Work' (NITI Aayog, June 2022) p xix, <[https://www.niti.gov.in/sites/default/files/2022-06/25th\\_June\\_Final\\_Report\\_27062022.pdf](https://www.niti.gov.in/sites/default/files/2022-06/25th_June_Final_Report_27062022.pdf)> accessed 15 December 2022

sell their products and services to customers. Gig workers and customers are commonly connected through using these digital technological gig apps.

### **THE EMERGENCE OF THE GIG ECONOMY**

The gig financial system is a recent trend that has largely become famous and has risen as a result of two most crucial factors which are as follows,

- 1 - The workforce is more mobile and itinerant now.
- 2 - Today, a growing number of people want to work remotely via digital platforms as virtual working solutions proliferate.

As a result, locales, and jobs no longer have a strong correlation with one another. This implies that independent contractors are free to accept a position or project with an employer from anywhere in the world. Additionally, independent and gig workers don't have to follow set hours or schedules; they may simply work when it suits them. On the other side, companies also have the freedom to select the best worker from a pool of candidates that is larger than what is available in any one place, allowing them to select the ideal applicant for a particular job.

Along with the sharing economy, barter economy, gift economy, and more adaptable occupations, the gig economy is a component of a changing cultural and commercial environment. The effects of the gig economy on culture are still evolving. The gig economy has been more significantly impacted by the Covid-19 pandemic, which has greatly impacted hiring patterns.<sup>2</sup>

### **WHO COMES UNDER THE GIG ECONOMY?**

The gig economy includes all companies, employees, and customers who practice brief assignments. Not all gig workers are the same; there are different types of gig workers. A few are listed below,

1. Assignment-based / Freelancers who work as independent contractors on a particular task

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<sup>2</sup> Kaviya A, 'New Rules in Place If You Employ Gig Workers' (Vakil Search, 5 December 2022) <<https://vakilsearch.com/blog/new-rules-in-place-if-you-employ-gig-workers/>> accessed 14 December 2022

2. Freelancers or independent contractors who work on an agreement and are paid on a contractual basis
3. Project-based employees who are compensated based on the project
4. Temporary employees with a set term of employment
5. Individual workers who work for lesser hours or part-time basis
6. People who want to earn extra income in their free time

## **POSITIVE ASPECTS OF THE GIG ECONOMY**

Customers benefit from gig economies because they have alternatives to traditional industries like retail and manufacturing. Nowadays, consumers rely heavily on gig economies for either greater service or more convenience. Gig economies employ automated, user-friendly applications where both workers and clients may choose the service with ease. Gig applications have also satiated customer demand in cases where a service is pricey or difficult to get. These gig apps offer all types of services at much cheaper rates. Most common gig economy jobs are found in a variety of industries, such as the following:<sup>3</sup>

- ✓ Finance and Accounting
- ✓ Independent mortgage brokers
- ✓ Counselors.
- ✓ Admin assistants
- ✓ Graphic designers
- ✓ Artists, musicians, gym/yoga instructors
- ✓ Construction workers
- ✓ Carpenters
- ✓ Educational instructors and tutors
- ✓ Content developers,
- ✓ Copywriters,
- ✓ Technicians, engineers,
- ✓ Food outlets/takeaway,
- ✓ Transportation drive-by-phone drivers, etc are a few examples

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<sup>3</sup> Robin Madell, 'What is the Gig Economy? Definition, Pros & Cons, Gig Jobs' (Flexjobs) <<https://www.flexjobs.com/blog/post/what-is-the-gig-economy-v2/>> accessed 14 December 2022

Whether you are a business, employee, or consumer, the benefits of the gig economy can differ. From the perspective of the business, A gig economy may enable companies to save money and resources. Many employee benefits, such as paid time off, sick pay, maternity pay, ESI, and health insurance, are not their responsibility or obligation to provide. They typically are not needed to grant workers access to a particular setting, certain tools, and a certain level of training.<sup>4</sup>

Another benefit of the gig economy, and one that is frequently highlighted, is that businesses may recruit employees on a project-by-project basis. This is because businesses can now hire remote workers, which significantly reduces the need to maintain expensive workspaces and large offices. Instead, these workers can work from the comfort of their own homes on a relatively small budget, diverting funds that might have been better spent on hiring full-time employees.

From an employee's point of view, a gig economy can enhance work-life balance compared to many other service occupations. Independent workers are free to choose the freelancing prospects that pique their interest, offer fresh perspectives, and seem to fit their tastes and schedule. They avoid being forced to work a full-time job that doesn't provide the independence they want or appeal to them. In this type of economy, workers may also choose their working hours, preventing them from being reliant on or bound to one particular company where they cannot change employment or work on their terms.

From the point of view of the customers, they can gain more benefits from the gig economy by having work that is more receptive to their requirements at any given time and their desire for a flexible lifestyle. They typically discover that a gig model provides more alternatives and convenience in terms of the given personal services. Frequently, more expensive services may be found for more affordable rates. In addition, there are more alternatives for service providers, and services are easier to get and more readily available at reasonable prices at all times and all locations.<sup>5</sup>

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<sup>4</sup> Gurpreet Singh, 'Gig economy: The possibility of building a dynamic, flexible, and inclusive workforce is coming alive' (Forbes India, 27 July 2022) <<https://www.forbesindia.com/blog/enterprise/gig-economy-the-possibility-of-building-a-dynamic-flexible-and-inclusive-workforce-is-coming-alive/#:~:text=The%20gig%20economy%20offers%20workers,up%20multiple%20and%20varied%20projects>> accessed on 14 December 2022

<sup>5</sup> Harsh Jain in Voices, India, TOI, 'Is gig economy the future of work? (THE TIMES OF INDIA, 1 May 2022) <<https://timesofindia.indiatimes.com/blogs/voices/is-gig-economy-the-future-of-work/>> accessed 15 December 2022

## NEGATIVE ASPECTS OF THE GIG ECONOMY

The gig economy has many drawbacks. Regardless of all the numerous benefits, a gig economy offers, several drawbacks come along with them. Including the following:

The absence of advantages is the biggest drawback of a gig economy. The advantages that come with being a full-time employee, which includes health insurance, are often not available to gig workers. Additionally, companies often do not adhere to paying temporary employees overtime or the minimum wage they deserve.

Moreover, gig employment can be disruptive, if the gig worker fails to maintain a balance between personal and professional life, and handle the problems of juggling work and life, he will face a lot of issues. For example; if a person isn't used to setting their schedule and prioritizing their priorities. Furthermore, inexperienced workers are readily tempted to accept too many jobs, which can result in overwork and burnout. There is no stable income and a lack of job security. With gig employment, it might be difficult to find enough work to sustain a consistent income.

## MAJOR LEGAL CONCERNS SURROUNDING THE GIG ECONOMY

This is a complicated area. There are several aspects of the gig economy that creates intriguing legal questions. Such as:

- ✓ Whether gig workers should legitimately be recognized as employees?
- ✓ Whether they should be given equal rights as a full-time employee?
- ✓ Whether they should be given all/few benefits as that of the full-time employee? <sup>6</sup>

## GIG WORKERS: WHO ARE THEY?

People who work on gigs and perform labour or take part in contractual work and generate income from it instead of a typical employer-employee relationship are known as gig workers. Gig worker has flexibility in terms of choosing their working hours, working from home, and being their boss which most full-time employees can only imagine.

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<sup>6</sup> A.M. Jigeesh, 'Centre to hold sessions on rights of gig workers' The Hindu (New Delhi, 1 June 2022) <<https://www.thehindu.com/news/national/labour-ministry-to-hold-brainstorming-session-on-gig-workers-gig-economy/article65484720.ece?homepage=true>> accessed 14 December 2022

## INDIA'S CURRENT SITUATION WITH GIG WORKERS

The fact that gig workers are currently not protected as "employees" under Indian law has several detrimental implications, including making it harder for them to form unions to safeguard their rights and making them more susceptible to abuse. In India, benefits and labour rights for gig workers are still elusive. Several policies to support gig workers were announced in the budget for 2021. But even a year later, gig workers still don't have access to social security or a minimum salary guarantee.

Unlike the majority of typical long-term employees, gig workers cannot claim benefits like minimum wages, hours of labour, overtime, or paid leave off since gig labour is a relatively new kind of economic involvement that has not yet been legalized by Indian courts. This is because existing labour laws do not pertain to the type of work done by gig workers. Gig workers have protested and brought legal actions to ask for social security benefits.<sup>7</sup>

## LEGAL MEASURES PROTECTING THE RIGHTS OF GIG WORKERS

**The Contract Labour (Regulation and Abolition) Act of 1970** governs contract labour in India, which includes work performed by independent contractors from the outside. Following this statute, gig workers who work for platforms may be considered "independent contractors. This enforces obligations on businesses to follow the guidelines outlined in this statute, including the well-being and health responsibility to provide employees with amenities like canteens, first aid, and other essentials. However, neither the majority of platforms nor an Indian court has yet to execute this law.

Employers will need to provide compensation to employees who sustain injuries as a consequence of occupational hazards by the Employment Compensation Act of 1923. Also, whether gig workers are covered by this law will be decided by the courts. If the law did cover gig workers, it would go a long way toward securing pay for workplace safety threats. Nine important labour rules are integrated with **the Code on Social Security, 2020**. These laws include the Employees' State Insurance Act of 1948, the Employees' Compensation Act of 1923, the Employment Exchanges (Compulsory Notification of Vacancies) Act of 1959, the Cine Workers Welfare Fund Act of 1981, the Maternity Benefit Act of 1961, the Payment of

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<sup>7</sup> Robin Madell, 'What is the Gig Economy? Definition, Pros & Cons, Gig Jobs' (Flexjobs) <<https://www.flexjobs.com/blog/post/what-is-the-gig-economy-v2/>> accessed 14 December 2022

Gratuity Act of 1972, the Building and Other Construction Workers Welfare Cess Act of 1996, and the Unorganized Workers.

The Code on Social Security 2020, which incorporates these nine pieces of legislation, gives the Center the power to announce some social programs, including the EPS, EPF, and ESI for the benefit of employees across all industries. Further, it enables the Center the freedom to design any new initiatives for the families of the gig, platform, and self-employed workers.<sup>8</sup>

The Unorganized Workers' Social Security Act of 2008 (UWSSA) also governs the welfare of gig workers and provides various other government assistance, such as the Pradhan Mantri Jeevan Jyoti Yojana for life and disability insurance and the Ayushman Bharat-Pradhan Mantri Jan Arogya Yojana for wellness and maternity perks. The Indian government also established e-SHRAM, a website, to establish a National Database of Unorganized Employees, enhance the mobility of these workers, and broaden the reach of social programs to gig and gig economy workers.

Additionally, several Indian businesses, including Flipkart, Bigbasket, and Urban Company, committed to guaranteeing that, in 2021, all gig workers on their platforms will be compensated at least the hourly local minimum wage after deducting their associated costs. KarmaLife, Tartan, Onsurity, and other fintech companies are among those working to offer a practical solution to the financial difficulties experienced by gig economy employees.

## **GOVERNMENT INTERVENTION IN PROTECTING THE RIGHTS OF GIG WORKERS**

The Center has chosen to hold seminars on gig worker rights due to the lack of employment and social security among these employees. It has chosen to educate the representatives of the Central and State Governments on technological developments, new employment reforms, better working circumstances, and the safeguards for the social security and labour rights of these gig workers.

On June 13 – 15 2022, The V.V. Giri National Labour Institute (An Autonomous Body of the Ministry of Labour and Employment, Government of India), the training division of the Union

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<sup>88</sup> Bhupender Yadav, 'Almost all states prepared draft rules on labour codes; implementation at an appropriate time (Economic Times, 15 July 2022) <<https://economictimes.indiatimes.com/news/india/almost-all-states-prepared-draft-rules-on-labour-codes-implementation-at-an-appropriate-time-bhupender-yadav/articleshow/92892472.cms?from=mdr>> accessed 15 December 2022

Labour Ministry, hosted one such brainstorming session as part of the program it is putting together to share knowledge and positive experiences on international policies and practices on gig workers and their social security.<sup>9</sup>

## CONCLUSION

The gig economy is expanding rapidly and is headed on the right track with a consistent effort on acquiring all the top companies worldwide. Over the long term, the gig economy has the potential to accomplish over \$250 billion worth of work and add 1.25 percent to India's GDP. Upon the implementation of India's Code, gig workers may be recognized under Indian law. Taking into account the rise in short-term or project-based labour used by businesses to evade employment regulations, the Code has provided clear definitions whilst bringing short-term or project-based work within the ambit of social security. Although the Code does not grant gig workers all the benefits of an employee at present. Maybe in near future, once the Code is framed, gig workers might get all benefits with support from the judiciary and by taking note of the best practices in other jurisdictions.<sup>10</sup>

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<sup>9</sup> 'Registration of Unorganized Workers begins across the Country as Government of India launches the e-Shram Portal', Ministry of Labour and Employment, (26 August 2021)

<<https://labour.gov.in/sites/default/files/PIB1749294.pdf>> accessed 14 December 2022

<sup>10</sup> 'Online Training Programme on Gig and Platform Workers Social Security Issues from 13-15 June 2022', V.V. Giri National Labour Institute, (No. PRG/SPL01/22, 3 June 2022)

<[https://vygnli.gov.in/sites/default/files/Gig%20and%20Platform%20Workers%20June%2013-15%2C%202022\\_0.pdf](https://vygnli.gov.in/sites/default/files/Gig%20and%20Platform%20Workers%20June%2013-15%2C%202022_0.pdf)> accessed 14 December 2022