



Riding The Digital Wave, Missing The Legal Net: Gig Workers, Labour Rights, And Constitutional Safeguards In India

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Abstract

The gig economy in India has expanded rapidly, driven by digital platforms such as Swiggy, Zomato, and Uber. However, gig workers face legal ambiguities concerning their employment status, social security, and fair wages. This paper critically examines the constitutional safeguards for gig workers, evaluates labour policies, highlights hurdles faced, and suggests policy interventions. It incorporates statistical data, case laws, and visual representations to comprehensively analyse.

Keywords: Gig Economy, Labour Rights, Digital Platforms, Employment Law, Social Security, India, Wage Regulation, Constitutional Safeguards, Platform Economy, Policy Framework.

1. Introduction

The gig economy, characterised by short-term, flexible jobs, has transformed the employment landscape in India. While it offers flexibility, gig workers face significant vulnerabilities due to the lack of employment benefits and legal recognition. The study aims to:

- ❖ Assess the legal status of gig workers under Indian labour laws.
- ❖ Examine the hurdles they face in terms of wages, job security, and benefits.
- ❖ Analyse policy frameworks and judicial interventions.
- ❖ Provide recommendations to enhance workers' rights.

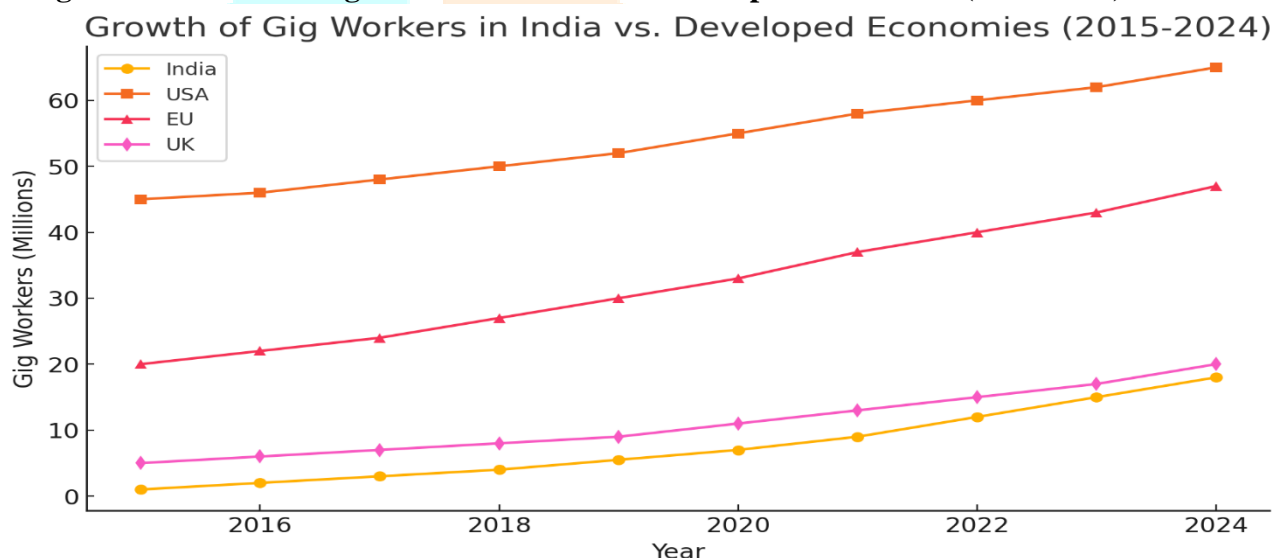
2. The Growth of the Gig Economy in India and Global Comparison

According to NITI Aayog's 2022 report, India had **7.7 million gig workers** in 2020, projected to reach **23.5 million by 2030**. The gig economy contributes significantly to India's GDP but lacks comprehensive labour protections.

Comparison with Developed Economies

- ❖ **United States:** The U.S. gig workforce accounted for **36% of the total workforce (57 million workers) in 2020**, as per a McKinsey Global Institute report. California's **AB5 Law** reclassified many gig workers as employees, offering them greater protection.
- ❖ **European Union:** The EU has introduced directives to ensure **fair wages, social security, and protection against arbitrary termination** for gig workers.
- ❖ **United Kingdom:** The Supreme Court ruled in Favor of Uber drivers in 2021, granting them **worker status, minimum wages, and holiday pay**.

Figure 1: Growth of Gig Workers in India vs. Developed Economies (2015-2024)



Graph showing exponential growth in gig workers over the years in India compared to the U.S., EU, and UK)

3. Legal Status and Constitutional Safeguards

Gig workers are not recognized as employees under the **Industrial Disputes Act, 1947** or the **Factories Act, 1948**, denying them social security benefits. However, they are entitled to certain protections under:

- ❖ **Article 21** (Right to Livelihood)
- ❖ **Article 41** (Right to Work and Public Assistance)
- ❖ **Article 43** (Living Wage and Social Security)

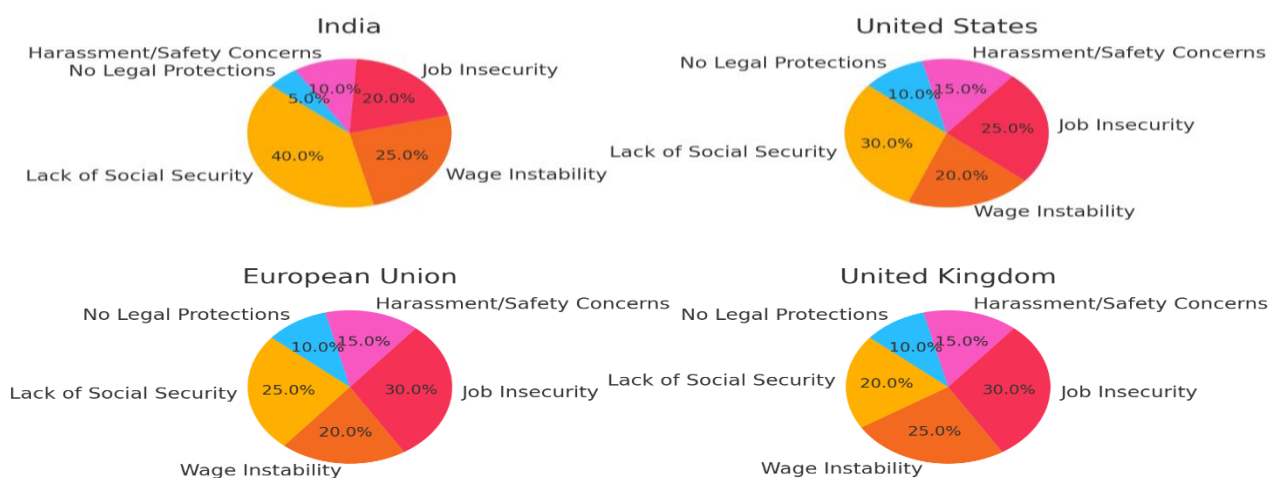
Relevant Case Laws

- ❖ **Ola and Uber Drivers Union v. State of Maharashtra (2021):** The Bombay High Court ruled that gig workers have limited legal protections.
- ❖ **Zomato Delivery Partners v. Zomato (2022):** Highlighted the absence of a formal employer-employee relationship.
- ❖ **Uber Drivers v. Aslam (2021, UK Supreme Court):** Landmark case recognizing Uber drivers as workers entitled to minimum wage and benefits.
- ❖ **Dynamex Operations v. Superior Court (2018, California Supreme Court):** Laid the groundwork for the AB5 Law, reclassifying gig workers as employees.

4. Hurdles Faced by Gig Workers

1. **Lack of Social Security:** No health insurance, pension, or maternity benefits.
2. **Wage Disparities and Unstable Income:** Earnings fluctuate due to algorithmic decision-making.
3. **Job Insecurity:** Workers can be terminated without notice.
4. **Harassment and Workplace Safety:** Especially for female gig workers.

Figure 2: Percentage of Gig Workers Facing Key Challenges (India vs. Developed Economies)



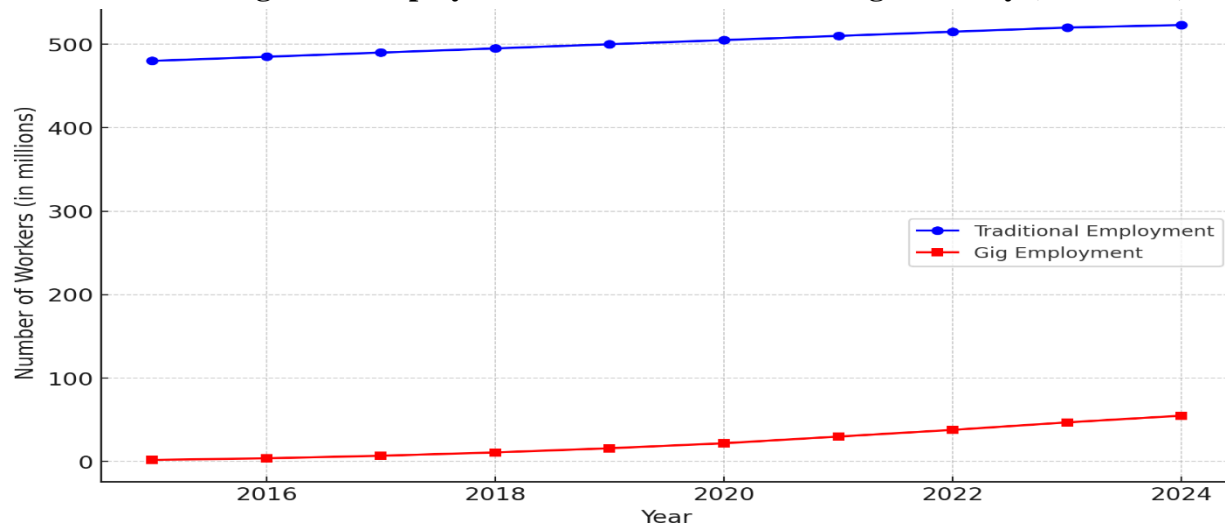
(Pie chart showing distribution of various issues faced by gig workers in India, U.S., EU, and UK)

5. Impact of the Gig Economy on Indian Society and Economy

5.1 Impact on Unemployment

The gig economy has played a dual role in India's unemployment scenario:

- **Positive Impact:** It has created new opportunities for millions, especially those who struggle to find formal employment. Many unskilled or semi-skilled workers can now earn a livelihood through digital platforms.
- **Negative Impact:** Gig work is often unstable and does not offer long-term career growth, keeping workers in a cycle of underemployment.

Figure 3: Employment Trends in the Indian Gig Economy (2015-2024)

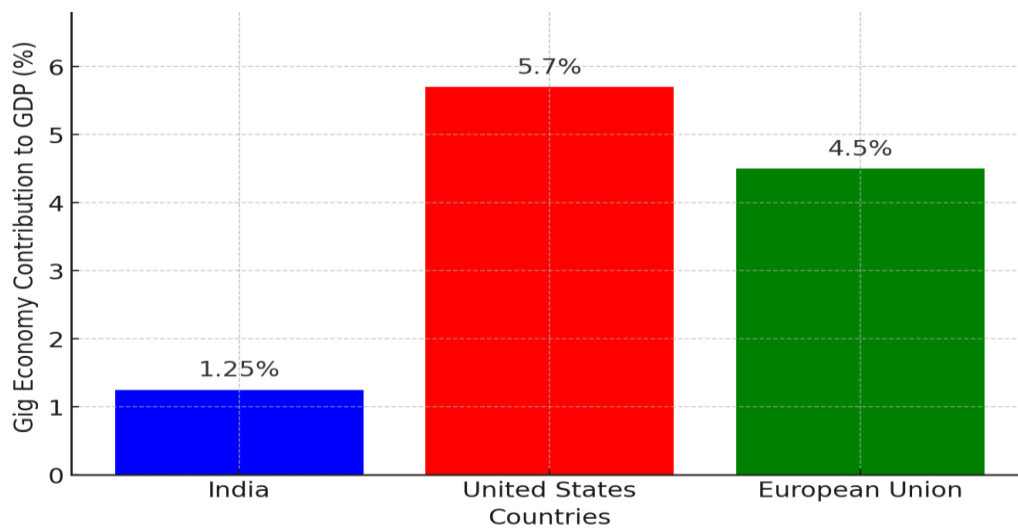
(Graph comparing traditional employment with gig-based employment growth in India)

5.2 Societal Changes Due to the Gig Economy

1. **Changing Work Culture:** Traditional 9-to-5 jobs are increasingly being replaced by flexible work models.
2. **Economic Empowerment of Youth and Women:** Many young professionals and women have found financial independence through gig work.
3. **Digital Dependency:** Gig workers rely heavily on technology, making digital literacy a crucial factor in employability.

5.3 Contribution to India's Economy

- ❖ The gig economy contributes an estimated **1.25% to India's GDP**, and this is expected to rise significantly by 2030.
- ❖ A report by the Boston Consulting Group (2021) highlights that **over 56% of gig workers in India earn more than their counterparts in traditional employment.**

Figure 4: Gig Economy's Contribution to GDP (India vs. Developed Economies)

(Graph showing the percentage of GDP contributed by gig workers in India, the U.S., and the EU)

5. Policy Interventions and Government Initiatives

- ❖ **Code on Social Security, 2020:** Provides for social security for gig and platform workers, but implementation is weak.
- ❖ **E-Shram Portal (2021):** Aims to register gig workers for welfare benefits but lacks coverage.
- ❖ **State-Level Policies:** Karnataka and Rajasthan have proposed social security measures for gig workers.
- ❖ **International Policies:**
 1. **California's AB5 Law (USA):** Recognizes gig workers as employees with benefits.
 2. **EU Platform Work Directive:** Aims to improve working conditions and establish a fair employment status.
 3. **UK Uber Ruling:** Ensures minimum wages, paid holidays, and pensions for gig workers.

7. Research Gaps

1. Lack of uniform legal framework for gig workers.
2. Limited empirical studies on gig workers' working conditions.
3. Absence of government-mandated wage protection policies.
4. Inconsistent implementation of existing social security measures.
5. Need for cross-country policy evaluations for better regulatory frameworks.

8. Recommendations

1. **Legal Recognition:** Amend labour laws to classify gig workers as formal employees.
2. **Social Security Coverage:** Ensure health insurance, pension, and accident benefits.
3. **Minimum Wage Regulations:** Set fair wages through a tripartite agreement.
4. **Regulation of Digital Platforms:** Implement algorithmic transparency to prevent wage discrimination.
5. **Strengthening Unionization:** Encourage the formation of gig worker unions for collective bargaining.
6. **Learning from Global Best Practices:** Implement a structured gig worker rights framework based on successful policies from the EU, UK, and the U.S.

9. Words before concluding

While the gig economy has created employment opportunities, the lack of legal safeguards leaves workers vulnerable. Stronger legislative reforms, social security measures, and wage regulations are imperative to ensure fair treatment of gig workers in India. Lessons from developed economies can help India build a more robust framework for gig worker rights.

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