

## GIG WORKERS IN INDIA: A SOCIAL SECURITY PERSPECTIVE

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### Abstract

The gig economy is a temporary work arrangement that has got a wider platform after the digitalization of the economy. Gig workers contribute nearly 7 lakhs of the labour force in the Indian Economy. Despite the fast-growing nature of employment, the gig workers are deprived of social security, which is a basic human right, enjoyed by organised and unorganised workers in India. The Social Security Code 2020 put forward by the Government of India, proposed establishment of a National Social Security Board which aims to formulate and monitor schemes for the well-being of gig workers. In this context the paper tries to analyse the trend and penetration of gig workers among various sectors of the economy. It also analyses the social security obtained, especially by gig workers, and the benefits that they can avail themselves within the proposed Code on Social Security 2020. The paper asserts that it is high time for the authorities to take action on protecting the interests and concerns of the gig workers in India, including the creation of a legal framework.

**Keywords:** Gig economy; Social security; Code on Social Security, 2020; e-SHRAM portal

### Introduction

Social security is a concept that emerged out of the need for the protection of employees from risks associated with worksites and society. International Labour Organisation (n.d.) defines social security as “a human right which response to the universal need for protection against certain life risks and social needs. Effective social security systems guarantee income security and health protection, thereby contributing to the prevention and reduction of poverty and inequality, and the promotion of social inclusion and human dignity.” Social

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security considers that the individuals of a community should be secured by collective activity against social problems causing undue hardship and privation to people whose private assets can rarely be adequate to meet them (Ministry of Labour, Employment and Rehabilitation, 1969). Thus, social security is provided especially to those who are not able to go along with the mainstream working conditions.

The Report of the Working Group on Social Security for Twelfth Five Year Plan points out that social security has become a crucial prerequisite for the welfare of labourers, it is considered that the fulfilment of social security will enhance a nation to achieve its development goals and also improving productivity and promoting a sense of pride and self-respect amongst the citizens (Ministry of Labour & Employment, 2011). The provision of social security varies with the type of employment. A new development in the employment ecosystem is called the gig economy. The gig economy has become a topic of attention with the arrival of digital platforms. The gig economy is a part of the informal economy, the payment is based on each gig or each task completed. The workers in this particular work arrangement can leave their job at any time they want. There are various provisions for social security available for labourers in formal and informal sectors. But compared to the formal sector informal labourers struggle to avail their social security due to its diverse job characteristics. In the case of gig workers, as there is the absence of a proper employer-employee relationship and its 'out of the traditional' job characteristics the concept of social security itself is in a deplorable condition. The present paper analyses the social security obtained, especially by gig workers, and also examines the benefits that they can avail themselves of within the proposed Code on Social Security, 2020 by the Government of India.

### **Social Security: A Necessity**

Social security of labour is very important as it ensures protection of employees from unforeseen risks associated with work and life. This will give a work life balance to the employees. A well satisfied worker will be more productive in their work. Therefore, in order to satisfy the workers social security measures are inevitable. It is the role of employers and the government to protect and safeguard the workforce's rights. Social security can be simply defined as measures, including protection of workers against risk of resignation, retirement, health issues, old age, maternity, unemployment and so on. The need for social security is increasing at an alarming rate. Inflationary tendencies lead the people to work more to earn more. Decent standard of living is an important objective of social security. Another major concern of social security schemes is regarding income and health.

In this fast moving, busy scheduled life people often struggle to grasp their basic needs; so that schemes connected to future savings like pensions are really a relief for many workers. Social protection is therefore equally important in today's complex working condition. International Labour Organisation pointed out the importance of social security as: "It can help to make people capable of earning an income and to increase their productive potential; it may help to maintain effective demand at the national level; and it may help create conditions in which a market economy can flourish, notably by encouraging workers to accept innovation and change" (ILO, 2001).

### **Social security and working conditions of labour in India**

India, the world's second-largest populous country, has a higher number of informal workers compared to formal sector workers. The organised sector workers have advantages in many phases. When it comes to the time, they have a fixed hour for working and there are provisions for getting additional income for overtime work. Employers are bound to protect their employees at any cost in the formal work setup, especially on issues connected to social security. Here the labour can seek the help of the court for availing their rights because there are clear-cut laws for the organised workers. This workforce can take casual leaves where there is no salary cut. Permanency of the job is the main point that distinguishes formal from informal works. The small section of people who depend upon formal work has easy access to the legal framework of India and various schemes are introduced for their social security. Various schemes pertaining to organised sector workers include:

- The Employees' Provident Funds Scheme, 1952;
- The Employees' Pension Scheme, 1995;
- The Employees' Deposit Linked Insurance Scheme, 1976;
- Employees State Insurance Act, 1948

The unorganised sector workforce constitutes a large number in India; they are considered as a vulnerable category. Mostly their voice is not heard by the authorities, regarding good working conditions and social security. Even though entry into such a work ecosystem is easy, it is hard to maintain the job for long, which is the main drawback of the informal sector. The Act of 2008 connected to social security of unorganised workers has mentioned regarding framing of scheme, funding etc. Labour Unions play an important role here as it helps to achieve their rights by proper means. The gig economy is a novel development in the workforce but struggles to make their voice heard.

Working hours of the unorganised workers are also different compared to the nine to five jobs in the organised sector. The employees are forced to work more than the prescribed working hours due to various reasons. One among the

distinct features of an unorganised job is the uncertainty connected to it; it is unpredictable how long a person can stick on to one job. Therefore, the wages are distributed in the unorganised sector mostly based on the hours of the job. This nature of the job usually forces the workers to work more hours in order to avail more income. This can also open a way for exploitation by employers. In the case of workers, the organised sector has provision of pay for time not worked. It is considered as an employer's most costly benefit. This particular benefit seems to be absent in the case of unorganised workers and can be considered as an extra benefit for employers in this sector. Benefits like sick leave enjoyed by workers in the organised sector cannot be seen in many of the job types in the informal or unorganised sector.

Sick leave is the provision of full payment for a certain number of sick days. Another important issue is with the data connected to the workers involved in the job. Proper documentation and collection of data is not done in the case of unorganised workers and many of the time it is impossible too. Workers in the unorganised sector can change their job titles whenever needed and can work for different employers at the same time. This makes the process of data collection and documentation highly complicated. The unorganised workers in India are around 92 per cent of the workforce (Joddar et.al., 2006). Various schemes and policies have been implemented by the Government of India for unorganised workers. The main drawback lies in the inclusion of all categories. Social Security has become a daydream for these workers. Hardly a small number of workers are getting the benefits when a large number is outside it. The lack of laws that shall become the voice of the voiceless presents a conundrum. A plausible solution for all these problems experienced by the unorganised workers is yet to be addressed.

### **Status Quo of Indian Gig Workers**

The term labour is subject to evolution at all times. The recent past has witnessed a great transformation in the definition of labour, especially after the boom of the digital economy. Data usage in India has increased significantly in the past decade, and this has led to the innovation of internet-enabled ecosystems, this has helped transport, retail, financial services, and health care sectors (Woetzel et.al.,2017). The gig economy is one such development in the labour market, Goyal (2020) uses the term gig economy as “a free market system in which temporary positions are common and organisations contract with independent workers for short term engagements”. The distinct feature of the gig economy rests upon the fact that it is out of an employer-employee relationship, where an employer and employee don't need to have direct contact. “Gig worker” means a person who performs work or participates in a work arrangement and earns from such activities outside of the traditional employer-employee relationship” (Ministry of Law and Justice, 2020).

Individuals are attracted to the gig economy for many reasons, in which the most important one is that it helps them to earn an additional income. The gig worker is free to choose their place to work and it also provides a highly flexible pattern of work. Studies show that people enter into this labour ecosystem where they can earn a better income and give more freedom than that of 9 to 5 job settlements. The work arrangement in the gig economy enables a worker to do overlapping tasks or multiple tasks. The most popular platforms in India include Uber and Ola in the transport sector, Swiggy, Zomato, Delhivery, Dunzo, and Foodpanda in the delivery sector, Urban Company, Housejoy, Handy, and Mr. Right personal in the service sector (Boston Consulting Group, 2021).

The agents involved in the gig economy are freelancers, independent contractors, project-based workers, part-time employers, and app-based workers. It is considered to have 200 million people involved in the gig workforce through freelancing. A study associated with Boston Consulting Group (2021) found that a considerable amount of global output is associated with gig-related work arrangements and in 2019, 4.5 trillion USD have been generated exclusively from non-traditional work and showing that out of 39 percent of gigs 31 per cent consider gigs as a secondary source of income and 8 per cent consider it as the primary source of income in India and during 2017-18 total workforce was 47.14 crore and it has increased to 48.78 crore during 2018-19 as per the Periodic Labour Force Survey report 2018-19 (Boston Consulting Group, 2021).

It is estimated that 7,29,447 have registered as gig workers in the 'e-SHRAM' Portal as of 02.12.2021 and the data available on registered gig workers shows that West Bengal has more than 2 lakh workers in its labour force as gig workers and more than one lakh gig workers registered under the labour force are from Uttar Pradesh (Rajyasabha, 2022). As part of the pandemic lockdown, the year 2020 highlighted the increasing demand for the online workforce. The Economic Survey, 2020-2021 points out that "78 per cent of gig workers earn less than INR 20,000 a month, whereas only about 50 per cent of non-gig workers in similar profiles of work earn in the same range. Consequently, gig workers are more likely to be secondary contributors to household income, with 30 per cent of workers contributing less than 50 per cent of household income, as compared to only 10 per cent in the non-gig worker's segment" (Ministry of Finance, 2021).

Despite the unpredictable growth of the gig economy, recent studies show the deplorable condition of gig workers on the other side. Gig workers face different types of problems which mainly include uncertainties connected to income, instability in work, and lack of social benefits compared to other employees. Even their employment is fragile and continuity of job is absent. Since the gig economy is a part of the informal workforce, they share more or less the same challenges. Gig workers are always out of the legal realm and there are

fewer platforms for the redressal of grievances. Workers involved in the gig economy are eligible for social security benefits but the basic threat lies in the question of how to provide the same.

Every job demands social security, so does Gig work. The uncertainty that exists regarding payment, working hours, incentives, continuity of the same job etc. overshadow the advantages connected to the gig economy. It is the responsibility of the employers and government to make sure that these uncertainties are addressed in limelight and possible solutions are prescribed. Gig workers are distinct from other jobs especially because they sought the help of digital technology. Today people trust online sites and apps more than fellow beings. The star rating often shows the collective opinion of people on that particular product; this can be one among the plausible reasons behind the same. For example, if a particular product has five-star rating customers buy it and shut their eyes on the quality of the real product. Rating system is present in the App-based gig economy too. Workers are really conscious about their individual rating in the particular app because the lower the rating the lower will be the orders especially in the delivery sector. In order to withstand such hurdles gig workers are forced to maintain their standards and need to improve their skills.

Gig workers are known by various names such as platform workers, on demand workers, independent contractors etc. The different nomenclature for the same title stands as an obstacle for policy making. Because each of these terms has their own characteristics but is used unreasonably. The absence of an employer employee relationship has also generated issues in policy making. In this App based workspace the direct relationship between employer and employee is not necessary. People used to join the workforce directly through the concerned app with easy registration procedure and there is no need for an interview where the employer often meets employees. As Remesh. P.B et.al. (2020) points out ‘workers are not recognized as employees’ in the gig economy.

Gig work is an emerging trend in the neoliberal era. As of now their working conditions are different from other informal works. The roles and responsibilities of the gig workers vary according to each gig or assignment. The absence of legal coverage for these workers makes the condition more exacerbated. Unionisation has helped many of the unorganised workforces to raise their voice for acquiring basic rights. But precarious working conditions restrict the gig workers from unionising. Behl, A. et al. (2022) state that high competition, longer login hours, late-night deliveries, poor payment structures, and strict terms and conditions for receiving the incentives are the main barriers faced by the gig workers. Therefore, it has become a necessity for the employees to have legal help and schemes for protecting themselves from all these challenges.

### **Code on Social Security, 2020 and Gig Workers**

Social Security Code, 2020 put forward by the Government of India gives a new ray of hope to the social security of gig workers. The Social Security Code, 2020 is “An Act to amend and consolidate the laws relating to social security with the goal to extend social security to all employees and workers either in the organised or unorganised or any other sectors and for matters connected therewith or incidental thereto” (Ministry of Law and Justice, 2020). It was in September 2020 that the Code on Social Security was passed by the Indian Parliament and also attained presidential assent. The Employees’ Compensation Act, 1923, Employees’ State Insurance Act, 1948, Employees’ Provident Funds and Miscellaneous Provisions Act, 1952, Maternity Benefit Act, 1961, Payment of Gratuity Act 1972, Cine Workers Welfare Fund Act 1981, Building and Other Construction Workers Cess Act, 1996, and Unorganised Workers Social Security Act, 2008, these are the eight laws that will be merged under the Code of Social Security, 2020. According to the Code on Social Security “means the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code” (Ministry of Law and Justice, 2020).

The National Social Security Board shall recommend the Central Government for formulating and monitoring appropriate schemes for unorganised workers including gig workers. Social Security Code, 2020, points out that “The Central Government may frame and notify, from time to time, suitable social security schemes for gig workers and platform workers on matters relating to— (a) life and disability cover; (b) accident insurance; (c) health and maternity benefits; (d) old age protection; (e) crèche; and (f) any other benefit as may be determined by the Central Government” (Ministry of Law and Justice, 2020). The main objective of the National Social Security Board is the welfare of gig workers and platform workers under the provisions of the Social Security Code, 2020. Most importantly the board shall include five representatives of the gig workers and platform workers as the Central Government may nominate. Another significant step mentioned in the Social Security Code is regarding a fund for the welfare and social security of the workers involved in unorganised sectors like gig workers. The companies which provide the services like ride sharing services, food and grocery delivery services, logistic services, e-Market place, professional services provider, healthcare, travel and hospitality, content and media services, any other goods and services provider platform online are mentioned as aggregators in Code on Social Security 2020. These aggregators shall contribute

to the fund for social security by a rate not exceeding two per cent, but not less than one per cent of their annual turnover.

### **Policy Implications**

The gig economy has become a worldwide phenomenon. It is spreading everywhere whether it is a developed or developing country. This form of job can be considered as the informal of informal jobs due to its distinct features. An initial step has been taken by the Government of India by introducing Code on Social Security, 2020 because it has mentioned gig and platform workers for the first time in the history of India. Despite wide acceptance, the code depicts obscurity in certain important aspects. Firstly, the gig workers are not considered as employees in the Social Security Code, this will create confusions during policy making and there is a chance for neglecting the privileges under the tag of employee. Secondly, the code has given separate definitions for gig workers and platform workers; but hasn't mentioned that category of workers who does gig work and platform-based work simultaneously and the definitions lack clarity.

Thirdly, the creation of the e-SHRAM portal can be considered as a great initiative by the government, which aims at creation of a centralised database for gig workers and other unorganised workers. But the issue lies on the fact that anybody can become part of the gig economy, including organised workers they can involve in these Apps based platforms for extra earnings. One among the condition for registering in E-SHRAM portal is not a member of EPF/ESIC OR NPS; so, it is important to notice that the gig workers who are a member of above-mentioned schemes will not be counted as a gig worker or platform worker and that will affect the number of registered gig workers adversely. Fourth point to be considered is that the App-based workers shall be given extra consideration on matters regarding health. The health issues connected to the gig workers are different from other unorganised workers. During pandemics some of these workers were considered as essential workers, which means that their chance of getting contagious diseases were high. Finally, The Social Security Code, mentioned about making the gig and platform workers a part of EPFO and ESIC; but has failed to mention how they will implement the same because a regular contribution shall be done by an employee into these schemes and it is crystal clear that most of the time gig workers are not able to create a regular income out of this system. The Code on Social Security, 2020, shall be revised as it is inadequate in mentioning the real issues connected to gig economy.

### **Conclusion**

Social security is indeed a basic human right of the workers in all sectors of employment, even though it is not considered a fundamental right in India. The government shall ensure that these measures are available to all types of

labourers. They are vulnerable to many exploitations and it is high time for the authorities to take action in order to protect the gig workers. An appreciable initiative has been taken by the Indian government recently to create a first-ever national database for unorganised workers including gig workers. It is named as e-SHRAM Portal, formulated in August 2021, the one who is willing to register their name shall be aged between 16 to 59, and also, he or she shall not be a member of EPF/ESI or NPS. The Social Security Code, 2020, and the recent Labour Code have given hope in the direction of new schemes and initiatives for the protection of gig workers. Indian Federation of App-based Transport Workers, formed during 2019, has given a writ petition to the Supreme Court seeking intervention in the matters connected to the gig economy.

A crucial plea of the workers was that the Court shall direct the government to consider the gig workers as unorganised and front-line workers thereby extending all the associated benefits. Recent years witnessed various protests by gig workers which depicts the exploitation of workers by their aggregators. The number of gig workers is increasing day by day; this is actually a derived demand that came from dependency of people on online platform services. Most of the platform providers are big companies, they will be reluctant to channelize the profit earned to the workers, which is evident from the low level of incentives and bonus provided. Many of the time these incentives and perks are removed without prior notice. Therefore, proper government intervention and legal help has become mandatory to the gig workers. That means there is a long way ahead for addressing the challenges of the gig workforce.

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