

Gig Workers and Social Security

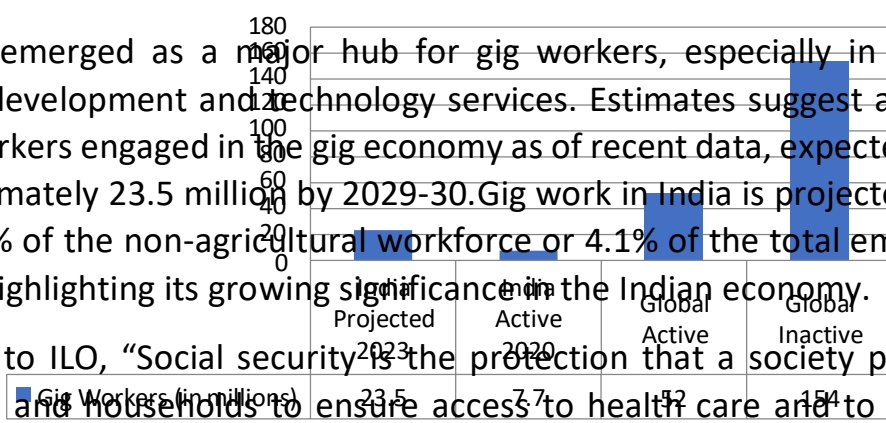
According to ILO, the gig economy, simply put, is “a labour market that is characterized by independent contracting that happens through, via, and on digital platforms. It is characterized by short-term, temporary work, and could either be geographically tethered work or cloud based work and those who work on these platform is a Gig Worker. Various methodologies estimate the number of gig workers differently. One method that combines data scraping and global surveys suggests there are approximately 154 million registered gig workers globally, with about 52 million considered active, indicating engagement in gig tasks.(world Bank).In developing countries, a larger fraction of the labor force participates in gig work compared to developed countries. Estimates suggest that gig workers could constitute between 0.3% to 0.5% of the global workforce, with significant variations across regions.

Source- World bank report- Chapter 2: Working Without Borders: The Promise and Peril of Online Gig Work

Gig Workers (in millions)

India has emerged as a major hub for gig workers, especially in fields like software development and technology services. Estimates suggest around 7.7 million workers engaged in the gig economy as of recent data, expected to grow to approximately 23.5 million by 2029-30. Gig work in India is projected to form about 6.7% of the non-agricultural workforce or 4.1% of the total employment by 2030, highlighting its growing significance in the Indian economy.

According to ILO, “Social security is the protection that a society provides to individuals and households to ensure access to health care and to guarantee income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner.” Many countries are coming up with their laws, rules and regulations for gig and platform worker.



International Laws for Gig and Platform Economy

Continent	Country	Law/Initiative	Key Provisions
Asia	India	Code on Social Security, 2020	Includes gig and platform workers; provides health, disability, and old-age protections.
	Japan	Worker Dispatch Law	Provides certain protections to freelancers, often applicable to gig workers.
	South Korea	Labor Standards Act Amendments	Includes some protections for gig workers, recognizing their labor rights under specific conditions.
	China	Measures on the Management of Internet Employment Services	Provides guidelines for platform employers, including obligations toward gig workers' rights.
	Singapore	Tripartite Standard on Contracting with Self-Employed Persons	Encourages fair contracting practices to protect self-employed persons, including gig workers.
	Thailand	Ministerial Regulation on the Protection of Home workers, 2019	Broadens labor protection to include certain types of gig workers under home-based work.
North America	USA	California Assembly Bill 5 (AB5), 2019	Reclassifies some gig workers as employees, granting access to benefits like minimum wage, workers' compensation.

	Canada	Bill C-86, 2018	It does not specifically or explicitly mention "gig workers." The amendments made by Bill C-86 primarily focus on improving protections for all workers under federal jurisdiction, which can include some gig workers depending on their industry and employment status.
	Mexico	Federal Labor Law Amendments	Recent reforms aim to improve social security and labor rights for gig workers.
Europe	European Union	Directive on Transparent and Predictable Working Conditions, 2019	Enhances rights of gig workers, mandates clear working conditions, and grants more predictable hours.
	UK	Employment Rights Act 1996 amendments	Gig workers classified under "limb (b) worker" category, granting minimum wage and holiday pay.

	Spain	"Riders Law" 2021	Classifies delivery riders as employees, not freelancers, ensuring social security and union rights.
	Netherlands	Various Court Rulings	Courts have repeatedly ruled in favor of gig workers being considered employees with full benefits. (FNV vs. Uber 2021 and FNV vs. Deliveroo 2019)
	Germany	Act on Temporary Work Businesses	While not directly targeting gig workers, has implications for employment status and rights.
	Italy	Dignity Decree, 2018	Imposes stricter conditions on temporary work, affecting gig workers' contracts.
	France	Various legal rulings	Court decisions increasingly recognizing gig workers as employees with rights to benefits.
South America	Brazil	Labor Reform Law 2017	Extended labor rights to app drivers, though not as comprehensive as for regular employees. Introduction of intermittent contracts. Paid by hour, day or occasion.
	Argentina	Gig Economy Workers Law Proposal (under discussion)	Proposes to recognize gig workers as employees with full labor rights.
Africa	South Africa	National Minimum	Broad Definition of Workers but does not

		Wage Act, 2018	mention Gig Worker explicitly.
Oceania	Australia	Fair Work Act amendments (proposed)	Proposals to grant gig workers minimum wage and other employment protections.
	New Zealand	Employment Relations Amendment Act 2018	Talks about independent contractor but it do not explicitly talks about Gig workers.

Table- Classification of Global Gig Worker Regulations

Category of provisions	Countries
Employee Classification and Rights	USA, Spain, Netherlands, France
Minimum Wage and Basic Protections	Australia, UK, South Africa, New Zealand
Comprehensive Social Security and Protections	India, European Union, Canada
Specific Protections and Rights Under Existing Laws	Brazil, Germany, Japan, Italy, China, South Korea
Encouraging Fair Contracting Practices	Singapore, Thailand
Proposed or Under Discussion	Argentina, Mexico

Employee Classification and Rights

- **USA (California Assembly Bill 5, 2019):** AB5 introduced Section 2750.3 to the California Labor Code, applying the "ABC test" to determine whether workers are employees or independent contractors. This test has significant implications for gig workers, such as Uber drivers, regarding their eligibility for employment benefits.
- **Spain ("Riders Law," 2021):** The "Riders Law" amended the Workers' Statute to classify individuals providing delivery services through digital platforms as employees, thereby granting them employment rights.
- **Netherlands:** The Amsterdam Court of Appeals has interpreted existing Dutch labor laws to include gig workers under employee classification, though no specific statutory amendments have been made.
- **France:** The Paris Court of Appeals ruled that an Uber driver should be considered an employee based on the control exerted by the company over the driver's working conditions, interpreting provisions of the French Labor Code.

Minimum Wage and Basic Protections

- **Australia (Fair Work Act amendments, proposed):** Proposed amendments aim to redefine employment terms within the Fair Work Act 2009 (**Subdivision B—Digital platform work**) to potentially include gig economy workers under the definition of employees.

- **UK (Employment Rights Act 1996 amendments):** Amendments to Section 230(3) have extended the definition of "limb (b) workers" or dependent contractors, providing them with rights such as minimum wage and paid holidays.
- **South Africa (National Minimum Wage Act, 2018):** Section 4 of the Act under the umbrella of minimum wage protection and definition of worker provided in the act is – ““worker" means any person who works for another and who receives, or is entitled to receive, any payment for that work whether in money or in kind.” So it is still unclear whether this act include gig workers or not.
- **New Zealand (Employment Relations Amendment Act 2018):** Section 6 of the Act has been crucial in reinterpreting who is considered an employee, aimed at reducing misclassification of gig workers.

Comprehensive Social Security and Protections

India (Code on Social Security, 2020): Sections 2(35) and 2(36) define gig and platform workers, respectively, and Section 114 outlines the government's duty to formulate suitable social security schemes for them. Section 141 talks about Social Security Fund for social security and welfare of the unorganised workers, gig workers and platform workers.

European Union (Directive on Transparent and Predictable Working Conditions, 2019): The Directive requires that all workers, including those in the gig economy, be provided with clear terms of engagement and predictable work patterns.

Canada (Bill C-86, 2018): This bill includes a wide range of amendments to the Canada Labour Code aimed at enhancing labor protections for workers under federal jurisdiction. These changes include new rules for scheduling, rest periods, and leaves, among other provisions. However, whether these amendments apply to gig workers depends on their classification as employees or independent contractors under Canadian law. The bill does not explicitly classify gig workers as employees; therefore, whether gig workers are covered by these provisions depends on their employment status determination. Specific Protections and Rights under Existing Laws

Brazil (Labor Reform Law 2017): The reform introduced the term "autonomous transporters," offering certain protections to app-based drivers.

Germany (Act on Temporary Work Businesses): While not specific to gig workers, this Act delineates conditions under which a worker can be classified under temporary employment, indirectly affecting labor leasing in the gig sector.

Japan (Worker Dispatch Law): The law regulates dispatch businesses, impacting gig workers by defining conditions under which freelancers and similar workers can receive protections usually reserved for traditional employees.

Italy (Dignity Decree, 2018): The Decree regulates contract durations and renewals, impacting gig workers by limiting the use of successive fixed-term contracts, a common practice in gig employment.

China (Measures on the Management of Internet Employment Services): These measures lay down guidelines for platform companies regarding their obligations towards the contracts and labor rights of gig workers.

South Korea (Labor Standards Act Amendments): The amendments include protections for workers engaged in non-traditional employment settings, like gig work.

How India is leading?

When compared to other countries, India's approach to regulating gig workers through the Code on Social Security, 2020, is considered innovative, particularly in its broad inclusion of gig and platform workers inside the framework of social security safeguards.

Social Security's Comprehensive Inclusion

India: Chapter-9 (Section 109-114) of the Code on Social Security, 2020, explicitly include gig workers in its scope, requiring the government to develop social security schemes that cover broad aspects such as life and disability insurance, health and maternity benefits, old-age protection, and any other benefits determined by the government.

In comparison to the United States: While California's AB5 grants employee status to some gig workers, there is no national regulation that covers gig workers in social security plans.

European Union: The Directive on Transparent and Predictable Working Conditions, while progressive, concentrates on working conditions rather than offering a comprehensive spectrum of social security benefits.

Specific Legislation for Gig Workers

India: The Code is expressly designed to accommodate the interests and

rights of gig workers, demonstrating a strong acknowledgment of this sector in national policy.

In comparison, the UK and Australia's legal systems adapt existing rules to incorporate gig workers, rather than drafting new legislation that recognizes the unique character of gig labor.

Government-Managed Social Security Schemes

India: The government is responsible with developing and implementing social security plans specifically for gig workers, demonstrating a proactive commitment to welfare in the gig economy.

Brazil's Labor Reform Law provides some rights to app drivers, but does not require comprehensive social security coverage.

Progressive Outlook on the Gig Economy

India's social security legislation specifically defines gig and platform workers (COSS 2020- Section 2- Definition, Section 114- Social security schemes, and Section 141- Social security fund), recognizing the gig economy's growing role in the future of work. In contrast, China and South Korea have guidelines and amendments that address gig workers but lack a comprehensive approach like India's social security Code.

Conclusion

India's approach to incorporating gig workers into its social security laws puts it in a reasonably strong position compared to many other nations, particularly in terms of legislative clarity and range of coverage. While nations such as Spain and the Netherlands have made progress in designating gig workers as employees, India's complete approach to social security stands out. This method not only protects workers, but also stabilizes the gig economy by allowing them to work without the usual employment risks of health, disability, and retirement. Thus, India can be viewed as a model for how to incorporate non-traditional employment into the formal economic framework, benefiting both the economy and individual workers.

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