

Protecting Female Gig Workers in India: Bridging the Legal Void

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Executive Summary

This paper begins by discussing the challenges faced by women in the gig economy as explored by various studies. An exploratory study by the Institute of Social Trust highlights barriers to entry, uncertain wages, unpredictable working hours, rigid reward penalty systems, and the lack of safety and environmental facilities available to traditional workers. The Niti Aayog report adds that female gig workers face limited access to the internet and have a greater share of household chores, which limits their participation in the gig economy. Meanwhile, the ORF study delves into the complexities of negotiating contract terms, gender wage gaps, and earning disparities between developed and developing countries, as well as the preferential isolation of some workers due to algorithm-based work allotment. The International Labour Global Survey reveals further concerns about job safety, theft, and physical assault. These challenges highlight the need for policies and measures to address the unique obstacles faced by women in the gig economy.

In the following section, the legislation applicable to the traditional female labour force in India is introduced. However, the argument is made that simply including gig workers in existing legal frameworks is inadequate in addressing the complexities of issues specific to gig workers, and calls for a separate legal framework. The section begins by analyzing the POSH Act and emphasizes the need to address the intricacies in framing laws for protecting gig workers against sexual harassment. The Maternity Benefit Act is also discussed, with the question raised as to who should shoulder the responsibility for providing benefits associated with the act to gig workers. While the Occupational Health, Safety, and Working Code of 2020 provides a safe environment for traditional workers, the issue of extending work safety to every corner of the country where gig work is often done remotely is raised. Finally, the Minimum Wages Act of 1948 is questioned as to how it can be applied when there is no single employer for gig workers.

The third section of the paper includes efforts undertaken by private organizations as well as the government to safeguard some rights of gig workers. Swiggy introduced a sexual harassment policy, assigned deliveries within a 4-6 km radius, and provided pepper spray and a 24x7 helpline. The Urban Company installed an SOS button on their app for emergencies, providing a helpline for female partners, an internal partner care system, and the services of psychologists and counsellors. Sakha Cabs gave cash incentives for nighttime driving, provided self-defence training, made female drivers aware of PCR vans and police stations, and offered access to a peer group for support. Ola implemented an AI-enabled "Guardian" safety function, provided a dedicated 24x7 safety response team, and added safety features such as phone number masking, facial recognition for driver identification, and an OTP system.

The fourth section of the paper discusses the code on social security of 2020. It is the first legal framework in India which recognises gig workers and makes them eligible for government schemes. Additionally, the law legitimises the creation of the National Social Security Board to look after the welfare of gig and platform workers and directs the establishment of a Social Security Fund by the Central Government for social security and the welfare of gig workers. However, companies or organizations themselves discourage labour from

unionising or forming an association, making it difficult for gig workers to unite and collectively bargain. Women may face further challenges in this regard as unions are often seen as male-dominated spaces. The only labour union for gig workers in India is the All India Gig Workers Union (AIGWU), founded by the Centre of Indian Trade Unions. Their most notable achievement is supporting Swiggy workers engaged in protests in August 2020 and calling on the Ministry of Labour to not exclude gig workers from contributing to the state social security.

The fifth section of the paper examines the approaches adopted by various countries in improving the conditions of gig workers. In the US, Congress is considering several proposals, such as the Worker Flexibility and Choice Act (WFCA), to address the classification of gig workers as independent contractors and the lack of benefits and protections. Private companies like Lyft and DoorDash have also made significant changes by providing their workers with access to health insurance, paid sick leave, and other benefits. In France, platforms are required to provide greater transparency in their terms, and gig workers are entitled to some basic benefits, such as minimum wage, overtime pay, and union rights. Similarly, the UK has made it mandatory for companies to provide a written statement of terms and conditions and has branded gig workers as "dependent contractors" entitled to employment rights and holiday pay. The Netherlands government has clarified the employment status of gig workers and set up a task force to investigate their working conditions, as well as extending collective bargaining rights to self-employed workers. These global approaches provide potential lessons to be drawn in order to improve the conditions of gig workers around the world.

The final section of this paper discusses possible recommendations for implementation. The recommendations section of the research paper suggests various measures to improve the gig economy in India. Firstly, a comprehensive law should be implemented that defines and clarifies the employment status of gig workers to ensure they receive appropriate rights and benefits. Creating a new category of worker, such as the "dependent contractor" status proposed in the UK, that offers some of the benefits of employment without requiring a full employment relationship could be helpful. Additionally, a uniform overarching platform for employers and gig workers to contribute a percentage of their earnings to a social security fund should be established. The government should ensure gig workers are protected under labour laws and courts should make significant rulings to protect gig workers' rights. Efforts by companies to place restrictions on female gig workers are regressive, and a more progressive mechanism would be to have policies that don't constrain female gig workers from undertaking contracts. Moreover, a uniform framework is needed to address environmental safety concerns for gig workers, including provisions such as access to clean restrooms, bottled water, mandatory first aid kits, grading of areas based on safety, and a robust policy for providing insurance. Finally, any legislation in this sphere should ensure a balance between autonomy and responsibility without compromising the sphere of autonomy that comes with its own responsibilities and risks.

Introduction

Gig workers are people who undertake contracts with multiple clients through platform-based or location-based websites for a living. They don't have a single employer, but rather multiple organizations that employ them for paid projects. Today, gig workers or platform workers constitute approximately 1.5% of the total workforce as estimated by the Niti Aayog in its report on the gig economy of 2021. As of 2020-2021, there are an estimated 77 Lakh workers who are a part of the gig economy as per the Niti Aayog study on "India's Booming Gig and Platform Economy". Approximately 16-23% of these workers are estimated to be women. The report also suggested that the gig workforce could grow by 2.35 crore workers by 2029-30.

The reason for its growth may be attributed to many reasons. This field offers greater flexibility and autonomy than the traditional nine-to-five employment setup. Workers are at liberty to decide their working hours, terms and nature of work. This aspect is particularly appealing to married women who are bound by their household obligations. This setup also knits a safety net in case of unemployment and layoffs. Corporations or companies also save on training and social security if they employ workers on a contractual basis instead of employing a large workforce. They also enjoy greater liberty in selecting suitable workers depending on the peculiar nature of the project.

Although, the gig economy doesn't come without its downside. From the workers' point of view, the absence of social security benefits like paid vacation, sick leave, life insurance, retirement funds, paid maternity or paternity leave and pensions is a huge loss. Particularly for women, the omission of this social security net has negative consequences since this is a field which could liberate them from depending on their male counterparts. The absence of a safe environment and uncertain stream of revenue further makes this field one which women don't wish to approach. Finally, when it comes to negotiating contracts, female gig workers find it extremely difficult to bargain with their employers due to a supply-demand imbalance caused by intense competition among gig workers.

Therefore, to create a level-playing field there is a need to bring in some level of legislation and regulations. This paper touches upon the many factors such a legislation would need to detail, the dilemmas of drafting a coherent legislation and concludes with recommendations. This paper begins by detailing the challenges women face in this field. It further clarifies the challenges associated with a simple extension of present laws to gig workers and then analyzes the present steps taken by private organizations and the government.

Literature Review

The study "Women Workers in the Gig Economy in India - An Exploratory Study" by the Indian Society of Labour Economics examines the experiences of women working in the gig economy. The study notes that the lack of legal recognition of gig work in India makes it difficult for gig workers, especially women, to access social protections and benefits. The major recommendations of the study "Women Workers in the Gig Economy in India - An Exploratory Study" include the need for legal recognition of gig workers, improvement in working conditions, social security measures, strengthening of grievance redressal mechanisms and the creation of a platform for gig workers to voice their concerns.

The ILO's report "COVID-19 and the World of Work: Impacts and Responses" highlight the significant impact of the pandemic on female gig workers worldwide. It reveals that female gig workers are more vulnerable to economic insecurity, lack of social protection, and health risks than their male counterparts. The report emphasizes the urgent need for inclusive policies that address the unique challenges faced by female gig workers and promote their social and economic empowerment. In its recommendations, the report includes the implementation of social protection measures, such as sick leave and access to healthcare, to safeguard female gig workers' well-being. It also suggests enhancing access to training and education, digital infrastructure, and financial services to enable female gig workers to develop and expand their skills and entrepreneurship opportunities.

In the article "Future of Gig Economy: Opportunities and Challenges," authors Gobinda Roy and Sumit Kumar Ghosh explore the future of the gig economy in India. The authors argue that the gig economy has significant potential for job creation, especially for women. However, the authors also note that the lack of social protections and benefits for gig workers remains a significant challenge. Major recommendations of the article were - Building a supportive ecosystem for women gig workers, Encouraging women's participation in high-growth sectors, Facilitating access to financial services, Ensuring fair pay and benefits for women gig workers and Promoting digital literacy and access to digital infrastructure.

The report "Gig and Platform Work: Indian Experience" by the National Institution for Transforming India (NITI Aayog) examines the growth of gig work in India. The report notes that the gig economy has significant potential for job creation, but it also highlights the challenges faced by gig workers, including a lack of social protections and benefits. The report highlights the need for a comprehensive legal framework for gig workers in India, including provisions for minimum wage, social security, and protection against exploitation. It also recommends the establishment of a grievance redressal mechanism and the promotion of digital literacy among gig workers.

The report "Women in the Platform Economy" focuses on fostering economic empowerment and entrepreneurship for women in the platform economy. The report highlights the challenges faced by women in the platform economy and provides recommendations to address these challenges. The recommendations include creating a supportive ecosystem for women entrepreneurs in the platform economy, increasing access to

financing and resources, developing digital skills and literacy, and promoting women's leadership and representation. The report also recommends implementing policies that promote fair and equal treatment of women in the platform economy, including anti-discrimination laws and regulations to protect workers' rights. Additionally, the report suggests creating partnerships between platforms, government agencies, and civil society organizations to provide support and resources to women in the platform economy. Finally, the report highlights the importance of data collection and analysis to monitor and evaluate progress towards gender equality in the platform economy.

The study "Gender and the Gig Economy in India" suggests several recommendations for addressing gender-related issues in the gig economy. Firstly, the study recommends introducing policies and regulations that protect the rights of gig workers, especially women. This includes providing social security, healthcare benefits, and flexible work arrangements. Secondly, the study suggests promoting gender diversity in the gig economy by creating awareness among employers and encouraging them to hire more women. Thirdly, the study recommends addressing gender biases in the digital platform by incorporating gender-neutral algorithms and enhancing transparency in hiring and payment processes. Fourthly, the study suggests developing digital literacy and skills training programs specifically targeted towards women. Finally, the study recommends establishing effective grievance mechanisms to address harassment and discrimination faced by women gig workers.

The literature reviewed in this paper highlights the significant potential of the gig economy for job creation, particularly for women. The analyzed data from multiple sources has provided a comprehensive and in-depth understanding of the trajectories of female gig workers in India, their challenges, and the efforts undertaken to improve their lives. The paper has also identified the limitations of existing legal frameworks, which do not extend to gig workers, and the need for a comprehensive legal framework that safeguards their rights. By weaving together the complexities of having a legal framework and providing substantial arguments for separate legislation and a unique and uniform platform for the regulation of gig workers, this paper has made a substantial contribution to the academic discourse on the gig economy. Moreover, the paper has drawn insights from global counterparts and lessons learned from abroad to provide the best possible recommendations. In conclusion, this paper suggests that implementing the recommendations made by various studies and reports can significantly improve the lives of female gig workers. It is necessary to address the issues faced by gig workers to ensure a fair and just future of work for all, irrespective of their gender, class, or socio-economic background.

Trajectories of Women

This section of the paper provides an in-depth analysis of various official reports and data that form the basis of the research conducted later. It covers the findings from multiple sources, including the Institute of Social Studies Trust, Niti Aayog Report, Observation Research Foundational Paper, and the International Labour Organization Global Survey. The section delves into these reports and their research findings, providing a comprehensive understanding of the current state of the topic under discussion.

Findings of ISST

An exploratory study by the Institute of Social Studies Trust highlights some concerns surrounding the field of the gig economy for women. This study researched four groups of female gig workers - cab drivers, beauty service providers, food delivery agents and domestic workers. The report highlighted that in terms of barriers to entry, freelancers are often asked for a security deposit against the training provided and the tools lent. Therefore, fields like freelancing require initial capital or investment and pose a significant entry barrier. Their report compares the promise of greater freedom and control associated with the gig economy with the reality of uncertain wages and unpredictable work hours necessary to meet daily targets. The prevalent reward-penalty system is also a heavy constraint on the freedoms that the field had earlier pledged. For example, location-based workers could also incur penalties due to lack of punctuality, uninformed leaves, a fall in their ratings refusing to accept a booking/task, incomplete tasks or not covering a minimum number of daily bookings. In terms of facilities, the gig economy is behind the regulated and nine-to-five traditional one. For example, female cab drivers working as part of the gig economy reported a lack of clean toilets, especially at night. There is also a lack of childcare arrangements for the workers employed in the gig economy since the associated companies shield themselves from such a responsibility.

NITI Aayog Report

The NITI Aayog report on Gig workers has also presented an analysis which highlights the troubles faced by women. In terms of access, only one-third of internet users in India are women as per the India Inequality Report 2022: Digital Divide by Oxfam NGO. Traditionally, women are known to undertake most of the household work while men contribute a mere 12% to household chores and responsibilities as highlighted by the Time Use Survey conducted by the National Statistical Office. This significantly impacts the choice of women constraining their regularity in traditional work and limiting their preference for gig or platform-based work.

ORF Study

A 2018 study by Observer Research Foundation and the World Economic Forum found that 35% of female participants surveyed showed no interest in participating in the gig economy due to the absence of job stability and unclear employment status. Their inability to negotiate the terms of their contract or garner decent work is another reason for their hesitation. This may be understood in the context of the report of the International Labour Organization titled World Employment and Social Outlook which highlights the evidence of earning gaps between developed and developing countries. According to this data, workers from developing countries earn less than those in developed countries. For instance, workers in the freelance sector from developing countries earn 60% less than their developed countries counterparts. Since the primary supply comes from developing countries and the limited demand comes from developed countries. The algorithm-based platform further isolates and segregates a considerable amount of workers from being hired for projects. This process leads to a fast-paced competition which pushes up labour hours and cuts down prices. Although in developing nations, the average hourly earnings (paid and unpaid work) for women are typically higher compared to those of men.

ILO Global Survey

ILO global surveys reveal that a significant majority of workers in the app-based taxi and delivery sectors, 83% and 89% respectively, expressed concerns about job safety, frequently regarding road safety, theft, and physical assault. As per the same report, a higher proportion of women than men have experienced discrimination and harassment.

Legal Perception

The temptation to simply add the word 'gig worker' into the broader definition of 'employee' to provide a substantial solution to all the above-mentioned troubles must be avoided. Because this is a sphere of work which has changed the fundamentals of the employee-employer relationship which has effectively rendered the erstwhile guidelines redundant in this sector. This new sector works on a strict talent-based approach, the increased flexibility of which has made it unstable. The next part of the paper substantiates the above thesis by expanding on some practical reasons for the inapplicability of present legal protections in this area.

POSH Act of 2013

Sections 375, 376, 509 and 354 of the Indian Penal Code protect all women citizens of the country against rape, sexual assault and abuse. Although, a more specific, POSH act came into effect in 2013 which deals with sexual harassment in the workplace which adds preferential or deferential treatment, a threat to employment status, creating an intimidating environment at work or humiliating treatment to the definition of sexual harassment. The act necessitates the creation of an internal complaints committee for processing relevant complaints in the case of an established company. To cover informal organizations which only have less than ten people working under them, the act calls for the creation of a Local Committee to receive and deal with complaints of sexual harassment of women working in informal establishments. The act also provides for conciliation as a mode of amicable settlement between the aggrieved and the accused (settlement doesn't mean monetary settlement). In case no settlement is reached, there will be an internal enquiry and a police complaint about the incident.

This act however doesn't specifically cover gig or platform-based workers, which perpetuates the feeling of lack of safety within the field. Could the issue be resolved by specifically involving the term gig workers in the POSH Act, 2013? The complexity of integrating an entirely new sector of employment by the inclusion of a single term might not be justifiable. Firstly, how would the committee then deal with an incident of sexual harassment happening in the course of the gig worker's employment while carrying out the project, by a direct client or an associated client? How would such a provision be catered to while ensuring fairness to both parties? Secondly, how would such a provision protect the confidentiality and anonymity of the gig worker since in this type of employment companies are no longer affected by maintaining the reputation of the associated gig workers? For instance, in case a gig worker filed such a complaint with the respective committee, the accused may or may not reveal the details of the incident on the review or rating of the worker and further damage his/her employment prospects. Finally, how would the impartiality of the committee be ensured now that the contractor isn't directly associated with the organisation but the accused is? Ultimately, the issue requires a nuanced and carefully considered solution that accounts for the complexity of gig work and the need to protect the rights and safety of all workers, regardless of their employment status.

Maternity Benefit Act

In the case of the Maternity Benefit Act, the employing organisation takes it into their ambit of responsibility to continue to pay their traditional employees during such a leave. The question for gig workers arises when we take into account that they regularly engage with multiple companies over a while, which organisation should shoulder the burden of financially assisting women during pregnancy? Whatever formula is applied to calculate the burden of this responsibility on any employing organisation, it is bound to attempt to find ways to evade such responsibility and might even decrease a company's overall contracts with female gig workers.

Occupational Health, Safety and Working Conditions Code, 2020

Terms of the Occupational Health, Safety and Working conditions code, 2020 refer to access to a safe hazard-free working environment, compensation in case of injury or death, a clean and hygienic environment, access to clean drinking water and restroom facilities, and emergency medical assistance requirements among other important aspects. In the gig economy sector where workers have to regularly travel, it is difficult to provide these benefits. For example, the responsibility of administering first aid to an injured gig worker cannot be placed on an unknown bystander, and neither can companies afford to send someone with them all the time. Companies can neither provide their gig workers with locker or dining facilities as is enabled to traditional workers under the provisions of this law. Another issue at hand is that delivery partners or cab drivers sometimes have to travel to dangerous locations because of their work requirements. How will safety be ensured there?

Minimum Wages Act, 1948

The **Minimum Wages Act**, secures a minimum remuneration rate for hourly, daily and monthly for all employees which has been drafted considering the basic cost of living, therefore subject to change from time to time. Additionally, in its definition of wages, it includes non-cash benefits which are provided to employees. The act also has provisions which provide an hourly rate of compensation or a rate of compensation as provided by the law, whichever is higher for an employee who is working overtime. While the provision of providing a minimum wage could be extended to the gig workers just as it is extended to the self-employed, in the field of gig work, it becomes a whole different story. Gig competitions or biddings wherein many gig workers submit their best of the company's required project and the company only pays the best of them is extremely exploitative. In terms of fixing deadlines for projects as well, research shows that employers have a greater hand. For location-based gig workers, companies sometimes set an impossibly high number of contracts to complete to receive remuneration.

Efforts in India

The Private Sector, the Government and Labour Unions, all have made efforts in different sectors to provide recognition and relief to gig workers. Major companies which hire gig workers have drafted and implemented certain policies concerning safety and some have even provided social security benefits to their gig workers. In its recent New Labour Code, the Indian Government has officially recognised gig workers as labours and provided them with certain provisions.

Private Endeavours

This part of the paper sheds light on approaches undertaken by various companies associated with the gig economy - Swiggy, Urban Company, Sakha Cabs and Ola.

Swiggy's Sexual Harassment Policy

Swiggy has introduced a policy for tackling Sexual Harassment among female delivery executives. Female executives are assigned deliveries within a 4-6 kilometre service radius to ensure their physical protection. The executives' sense of security has been further helped by the use of call number masking while contacting or being contacted by customers. All female executives have pepper spray on them for self-defence in an emergency, in addition to a specialised helpline that is available around the clock and an SOS button on the mobile application.

Urban Company's SOS button

On their app, Urban Company provides an SOS button for emergencies. After 7 PM, no bookings for female partners are permitted. As part of its safety initiatives, the platform also provides a helpline for female partners, an internal partner care system, and the services of psychologists and counsellors. The partner's safety and well-being are further ensured by the availability of IRIS intervention in the event of an accident while commuting, a confrontation with the customer at the customer's home, or harassment by the client.

Sakha Cabs' Cash incentives

Female drivers working in Sakha Cabs are given cash incentives for nighttime driving (particularly with trips to and from airports). They also train their female drivers with the self-defence training programme. Furthermore, Sakha Cabs makes sure its female drivers are aware of PCR vans, know how to approach police stations, and have access to a peer group or solidarity group where they may support one another.

Ola's Guardian Safety function

The shared and electric mobility platform Ola has implemented an AI-enabled "Guardian" safety function that leverages real-time ride data to automatically identify irregular trip activity. Ola's dedicated 24x7 Safety Response Team is then notified in real-time of irregular activity. The team calls clients and drivers right away to check on their safety and to offer on-the-spot help till the ride is complete. The emergency button, phone number masking, facial recognition system for driver identification, and one-time password (OTP) system are some of Ola's additional safety innovations.

Government Efforts

This part discusses government and civil society endeavours to address and strengthen the position of gig workers in the economy.

Provisions in The New Labour Code

The Code on Social Security of 2020 is the first legal framework to recognise gig work in India. It defines a gig worker as someone who is earning from work outside of the traditional employer-employee relationship and entitles them to social security benefits. Upon registration of gig or platform-based workers, they become eligible for schemes by the government for their welfare. Schemes can be drafted by the government to provide life and disability coverage, accident insurance, health and maternity benefits, old age protection, creche etc. It also recommends the establishment of toll-free call centres to promulgate information regarding such schemes. These call centres also assist gig workers in ensuring the filing, processing and forwarding of applications to facilitate the enrolment of gig workers into registered schemes. The law also legitimates the creation of the National Social Security Board to look after the welfare of gig and platform workers. The law also directs for the establishment of a Social Security Fund by the Central Government for social security and the welfare of gig workers which may be funded partly or wholly by the central or the state government.

The Hesitancies of Unionisation

Companies or organizations themselves discourage labour from unionising or forming an association even in traditional work set-ups. Among non-traditional or platform-based workers, there needs to be more unity or collectivity. Since all their co-workers are only visible to them as usernames and not physical people. Besides, to unionise or bargain with an algorithm which is responsible for running platform-based work opportunities isn't sensible. For women, the story is further complicated since Labour Unions are largely seen as male-dominated spaces. Women may be kept out of union circles and may have to depend on their male counterparts for keeping updated. In such a situation, it is difficult to reach out to unions if needed. The OMEN WORKERS IN THE GIG ECONOMY IN INDIA report claims that women are afraid of getting caught up in the middle of conflicts and don't arrive at an actionable solution even if they approach unions.

Current Framework: AIGWU

The only labour union for gig workers in India is the All India Gig Workers Union (AIGWU) founded by the Centre of Indian Trade Unions. Their most notable achievement is their support to Swiggy workers engaged in protests in August 2020 and calling on the Ministry of Labour to not exclude gig workers from contributing to the state social security. Their social media following on platforms like Twitter and Facebook could be much higher. The website on its Twitter handle is also engaged in retweeting protest posters against the new labour code which is essentially the first such code to recognise and provide benefits to gig workers.

Efforts Outdoors

The rise of the gig economy has presented a significant challenge to traditional employment models and raised questions about the rights and protections afforded to workers in this sector. In response, many countries have introduced new laws, regulations, and judicial rulings to ensure that gig workers receive fair treatment and are not exploited. Four countries that have taken significant steps in this area are the United States, Spain, the United Kingdom, and the Netherlands. These countries have implemented a range of measures to improve the working conditions and employment rights of gig workers, including the establishment of new legal categories for workers, the extension of social protections, and the clarification of the employment status of gig workers. In this way, these countries are at the forefront of the global effort to address the challenges posed by the gig economy and to create a fairer, more equitable labour market for all workers.

USA

Worker Flexibility and Choice Act

The Worker Flexibility and Choice Act (WFCA) is one of several proposals being considered by the US Congress to address the challenges faced by gig workers, including their classification as independent contractors, lack of benefits and protections, and limited opportunities for collective bargaining. Supporters of the WFCA argue that it would provide a framework for gig workers to negotiate better working conditions, while opponents argue that it would create a new class of workers who lack critical employment protections.

Other Proposals

The PRO Act, which would expand collective bargaining rights for gig workers and classify them as employees under the National Labor Relations Act, and the Portable Benefits for Independent Workers Pilot Program Act, which would establish a pilot program to test new models for providing benefits to gig workers. These proposals reflect growing recognition of the challenges faced by gig workers and the need for policy solutions that ensure that they have access to fair and dignified work.

Industry-led Efforts

In addition to these legislative efforts, some companies have taken steps to improve conditions for their gig workers. For example, Lyft announced in 2021 that it would provide some benefits to its drivers, including access to health insurance and paid sick leave. Similarly, DoorDash has established a program to provide workers with accident insurance and other benefits.

Trials to Conquer

Despite these efforts, many gig workers continue to face challenges in accessing benefits and protections. According to a report from the Aspen Institute, nearly half of the gig workers do not have health insurance, and more than two-thirds have no retirement savings. These challenges have been compounded by the COVID-19 pandemic, which has exposed the vulnerabilities of gig workers and highlighted the need for stronger protections and benefits.

France

Greater Transparency

One of the key changes introduced by the French government is the requirement for gig economy platforms to provide more information to workers about their work conditions. Platforms are now required to provide detailed information about the jobs that are available, including the type of work, the payment rates, and any necessary qualifications or equipment. This information is designed to help gig workers make more informed decisions about the jobs they accept and to ensure that they are not exploited by platforms offering substandard working conditions.

Legal Protections and Unions

The French government has also taken steps to ensure that gig workers have access to the same benefits as traditional employees. The French government has introduced these laws through various legislative measures. In 2020, the French Parliament passed a new labour law that extends protections to gig workers, including minimum wage requirements, overtime pay, and the right to form a union. The law also mandates that gig economy platforms provide their workers with access to training and professional development opportunities. Additionally, in May 2022, France passed a new law that requires gig economy platforms to allow their workers to elect union representatives to negotiate on their behalf. This law is part of a broader labour reform initiative aimed at improving working conditions for gig economy workers. The French government has also increased penalties for companies that violate labour laws and has made it easier for workers to file complaints against their employers. Under the new labour law, employers who are found to have misclassified workers as independent contractors rather than employees could face fines of up to 10% of their payroll.

Special Tax

France's new taxation scheme, known as the "Uber tax," was implemented to benefit gig workers by ensuring that companies that provide services through digital platforms contribute to the social welfare system. The law requires that companies such as Uber, Deliveroo, and other digital platforms with more than 50 employees pay a 10% social security tax on the total amount of their workers' earnings. Under the scheme, gig workers who

earn a minimum of €3,000 per year through digital platforms are entitled to the same social welfare benefits as employees, including unemployment insurance, paid leave, and retirement benefits. The scheme makes sure that they receive their fair share of social welfare benefits, private companies pay their fair share of taxes and provides gig workers with greater job security.

Continuing Conundrums

Despite these efforts, there are still debates over whether gig workers should be classified as independent contractors or employees. While the French court recently ruled that gig platform workers are independent contractors, this issue is far from settled, and there are ongoing debates over how to define the relationship between gig platforms and their workers. However, the French government has made it clear that it is committed to protecting the rights of gig workers and ensuring that they have access to the same rights and benefits as traditional employees.

Britain

Rights Received

In the UK, the status of gig workers has been the subject of much debate, with many arguing that these workers should be classified as employees and entitled to the same rights and benefits as traditional employees. The UK government has introduced some measures to improve the rights of gig workers. For example, since April 2020, all workers are entitled to a written statement of terms and conditions from day one of their employment, including gig workers. In addition, gig workers have the right to be paid the National Minimum Wage, to receive paid annual leave, and to be protected against discrimination.

Dependent Contractor

The government has also launched a number of consultations and reviews to explore the possibility of further reform to improve the rights of gig workers, including a review of the employment status of gig workers and the introduction of a new category of workers called a "dependent contractor." Employee unions in the UK, such as the Independent Workers Union of Great Britain (IWGB), have also been actively campaigning for the rights of gig workers. In 2018, the IWGB won a landmark case against the courier company CitySprint, which ruled that a group of couriers were workers, not self-employed, and were entitled to employment rights such as holiday pay and the National Minimum Wage.

UK Supreme Court Rulings

In 2021, the IWGB also won a case against Uber in the UK Supreme Court, which ruled that Uber drivers are workers and entitled to employment rights such as the National Minimum Wage, holiday pay, and rest breaks.

This ruling has significant implications for the rights of gig workers in the UK and may lead to more gig economy companies being required to provide their workers with employment rights and benefits. To prevent the misclassification of gig workers as self-employed, the UK government launched a consultation on employment status in July 2021, seeking to provide clarity on the employment status of gig economy workers to ensure that they are not deprived of their rights. The government has also introduced new laws to protect gig workers, such as the Employment (Allocation of Tips) Act, which ensures that tips left for workers are received in full by the worker.

Good Work Plan

The Good Work Plan, introduced in 2018, gives all workers, including gig workers, the right to a payslip and a statement of employment particulars from day one of their employment. The landmark case involving Uber drivers set a precedent and has been followed by other rulings. Trade unions, such as the Independent Workers Union of Great Britain, have been advocating for better protections and benefits for gig workers, including fair pay, sick pay, and the right to unionise.

Netherlands

Clarification of Employment Status

One of the key measures undertaken by the Dutch government is the tightening of the definition of self-employment. This move was made to prevent companies from misclassifying their workers as self-employed, which would enable them to circumvent certain employment rights and protections.

Task Force

The Dutch government has also set up a task force to investigate the working conditions of gig workers. This task force is aimed at identifying the specific challenges faced by gig workers, such as low pay, long hours, and limited social protections. By gaining a better understanding of these issues, policymakers can develop more targeted solutions to address them.

Collective Bargaining Rights

Another important development in the Netherlands is the extension of collective bargaining rights to self-employed workers. This means that gig workers are now able to negotiate better pay and working conditions through collective bargaining agreements. This is a significant step, given that collective bargaining has historically been restricted to traditional employees.

Impediments to Progress

Despite these efforts, many gig workers in the Netherlands still face significant challenges. Low pay, long working hours, and limited social protections remain major issues for these workers. As such, there is still a need for further reforms to better protect the rights of gig workers.

Recommendations

Taking into consideration the current set-up of gig workers, the following recommendations can be made -

Designing a Sexual Harassment Prevention Act for Gig Workers

A specific legislation catering to the protection of gig workers against sexual offences could be drafted. The legislation may include the creation of a separate committee for resolving related disputes. The committee could have a decentralized structure and independently operate at the grassroots or city level. However, it would be answerable to the state-level administration. The committee would require a clear set of laws to deal with such offences which identify gig workers and lay down a solution mechanism for every possible kind of crime that may take place during the course of the gig workers' tenure. The starting point could be incorporating all the regions where the delivery worker is going to work as part of their workplace. A policy addressing sexual advances, requests for sexual favours, inappropriate actions, and statements coming from both the clients/customers and employers needs to be in place. This policy should keep in mind the special circumstances associated with the nature of this job. Additionally, separate divisions of discourses need to be created.

Addressing the Nuances of Legislation

To improve the gig economy in India, a comprehensive law addressing its challenges must be implemented. First and foremost in the law, governments should define and clarify the employment status of gig workers to ensure that they receive the appropriate rights and benefits. This could include creating a new category of worker, such as the "dependent contractor" status proposed in the UK, that offers some of the benefits of employment without requiring a full employment relationship. Governments should ensure that gig workers are protected under labour laws, such as the right to the minimum wage, a safe working environment and protection against discrimination. Courts in the UK have made significant rulings in this area, with Uber drivers now classified as workers entitled to employment rights such as the minimum wage and holiday pay. It would make sense to create a new category for gig workers and entitle them to some basic social security benefits to the extent that it balances with the proportion of freedom they enjoy. Legislation needs to be drawn with extreme care in this area since any tilt could reduce the associated autonomy of the field and make the field less appealing to people.

A Uniform Overarching Platform

One possible solution is to create a platform for employers and gig workers to contribute a percentage of their earnings to a social security fund, with a larger share allocated for employees. The government may also contribute to this fund, and its allocation could be determined based on an algorithm that maximises the number of clients for gig workers. All hiring of gig workers should be done through a single platform, subservient to which individual platforms can operate. This would help build a sense of community and unity

among gig workers. The government could also establish a mechanism of basic terms of a contract agreement which has certain non-negotiable terms directly benefiting the gig worker but keeping in mind the temporary association of the gig worker.

Protectionist vs Enabling Policies

Efforts by companies like Urban Company, which place restrictions on female gig workers, are regressive and may lead to lower income for them. On the other hand, companies like Ola and Sakha Cabs have implemented commendable measures to protect their female gig workers. A more progressive mechanism would be in the direction of policies which don't constrain female gig workers from undertaking contracts.

Learning from Private Endeavours

A uniform framework is also needed to address environmental safety concerns for gig workers. This may include provisions such as subsidised or free bottled water, mandatory first aid kits in cabs, grading of areas based on safety, and a robust policy for providing insurance to gig workers. Access to clean restrooms is also important, and companies like Zomato have set an example by ensuring gig workers have access to restroom facilities offered by restaurants and schools.

Introducing a new Taxation system

Much like what France has accomplished in this sector, India could also implement a separate tax regime which holds private corporations accountable for hiring gig workers by contributing to the social security benefits that gig workers receive. The process would involve the identification of gig workers who qualify for this scheme by establishing a clear definition of the term along with determining the tax rate through a comprehensive survey of the average income of gig workers and the level of demand for gig workers. A mechanism would also need to be worked out which is suitable to the Indian context and taxation laws. Laws clarifying the status of dispute resolution mechanisms would also be important.

Appointing a Task Force

Like the Dutch government, India could also appoint a task force composed of representatives from the government, employers, and gig workers themselves. The task force should conduct research and analysis to understand the gig economy's impact on employment, wages, and working conditions in India. This research should focus on identifying the gaps in policy and regulation that create difficulties for gig workers. Based on the research and stakeholder engagement, the task force should develop policies and regulations that address the challenges facing gig workers.

Balancing Autonomy with Responsibility

Utmost care needs to be taken while drafting any legislation in this sphere to ensure that the sphere of autonomy which comes with its own responsibilities and risks isn't compromised or regulated to the extent that it limits or in any way penalises the employer or the employee. Basic legislation to ensure a safe work environment and minimum salary needs to be in place by laws and in terms of funds each stakeholder needs to contribute a small share to effectively create a large pool without burdening any one section.

Conclusion

In conclusion, the gig economy presents both opportunities and challenges for women in India. While it has enabled women to participate in the labour market on their own terms, it also exposes them to various forms of exploitation and abuse. Existing legal frameworks are inadequate in addressing the complexities of issues specific to gig workers, and there is a need for a separate legal framework that recognizes their unique working conditions and provides them with appropriate rights and benefits. The Code on Social Security of 2020 is a significant step in this direction, but it must be effectively implemented and enforced to ensure that gig workers are protected.

Private organizations have also taken some initiatives to safeguard the rights of gig workers, such as implementing sexual harassment policies, providing self-defence training, and offering access to peer support groups. However, companies must not discourage labour from unionising or forming an association, which is a critical tool for collective bargaining and ensuring that workers' rights are protected. Women may face further challenges in this regard as unions are often seen as male-dominated spaces. Therefore, there is a need to encourage the formation of unions that are inclusive and represent the interests of all gig workers, including women.

Global approaches provide potential lessons to be drawn in improving the conditions of gig workers around the world. The US is considering several proposals to address the classification of gig workers as independent contractors and provide them with benefits and protections. France, the UK, and the Netherlands have also taken significant steps in ensuring that gig workers receive some basic benefits, such as minimum wage, overtime pay, and union rights. These examples suggest that there are various ways in which governments and private organizations can work together to improve the conditions of gig workers.

The recommendations presented in this paper provide a starting point for addressing the challenges faced by gig workers in India. A comprehensive law should be implemented that defines and clarifies the employment status of gig workers to ensure they receive appropriate rights and benefits. A new category of worker, such as the "dependent contractor" status proposed in the UK, could be helpful in offering some of the benefits of employment without requiring a full employment relationship. A uniform overarching platform for employers and gig workers to contribute a percentage of their earnings to a social security fund should be established. The government should ensure gig workers are protected under labour laws, and courts should make significant rulings to protect gig workers' rights. Companies must not place restrictions on female gig workers, and a uniform framework is needed to address environmental safety concerns for gig workers, including provisions such as access to clean restrooms, bottled water, mandatory first aid kits, grading of areas based on safety concerns, and so on.

In conclusion, the gig economy has the potential to offer women greater economic opportunities, but it also exposes them to various forms of exploitation and abuse. A comprehensive legal framework that recognizes the unique working conditions of gig workers and provides them with appropriate rights and benefits is necessary.

Governments and private organizations must work together to improve the conditions of gig workers, and there is a need to encourage the formation of inclusive unions that represent the interests of all gig workers, including women. The recommendations presented in this paper offer a starting point for addressing the challenges faced by gig workers in India and creating a more equitable and just labour market for all.

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