

The Impact of the Gig Economy on Traditional Labour Laws in Maharashtra, India

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Abstract

The emergence of the gig economy in India, backed by technological advancements and changing societal norms, has significantly altered the landscape of labour markets. This paper examines the impact of the gig economy on traditional labour laws in Maharashtra, a state experiencing a rapid rise in gig work. It explores the challenges posed by this shift, evaluates the gap between existing labour laws and the realities of gig work, and proposes reforms aimed at protecting gig workers while fostering economic growth.

Keywords: Gig Economy, Traditional Labour Laws, Maharashtra, Labour Protection, Employment Rights, Gig Workers

Introduction

The gig economy represents a growing trend of short-term, flexible, and freelance work facilitated by digital platforms. It has transformed the nature of work, particularly in urban areas such as Maharashtra, where millions of individuals engage in platform-based jobs, including ride-hailing, food delivery, and freelance tasks. However, traditional labour laws, which were designed for permanent, full-time employees, are ill-equipped to address the unique challenges posed by gig work. As gig work becomes more prevalent in Maharashtra, it raises critical questions about the adequacy of existing labour regulations to ensure fair treatment, wages, and job security for gig workers. This paper analyses how traditional labour laws in Maharashtra interact with the realities of the gig economy and proposes reforms to bridge the gap between the two.

The gig economy is characterized by the prevalence of short-term contracts or freelance work as opposed to long-term, permanent employment. The gig workers are often engaged in tasks that are arranged through digital platforms, including transportation (Uber, Ola), delivery services (Swiggy, Zomato), freelancing, and project-based jobs. Gig work is flexible and offers individuals greater autonomy, but it also often lacks the protections and benefits associated with traditional employment, such as job security, health insurance, and retirement savings.

The rise of gig work has been supported by advances in technology, urbanization, and changing preferences among workers and employers. In Maharashtra, a state with a large urban population, these trends have led to a surge in gig employment, raising the need for legal reforms to address its challenges. Traditional labour laws in Maharashtra, as well as across India, were developed to regulate and protect workers within the formal employment system, focusing on full-time, permanent workers employed by

established organizations. These laws ensure the welfare of employees who are seen as the core labour force in the economy, addressing issues like wages, job security, healthcare, and retirement benefits. However, with the rise of the gig economy, these laws have shown significant gaps in addressing the needs and protections required for gig workers, who are often classified as independent contractors rather than employees. Below is a detailed analysis of some of the traditional labour laws and their limitations concerning gig workers:

The Industrial Disputes Act, 1947

The Industrial Disputes Act (IDA) was introduced to regulate the settlement of disputes between employers and employees in the industrial sector. It primarily addresses issues related to:

1. Industrial disputes resolution: Provides a framework for resolving disputes regarding wages, working conditions, and termination.
2. Wage protection: Ensures that workers are paid according to the terms of their employment, and protects them from arbitrary dismissal.
3. Trade union rights: Provides workers the right to form unions and collectively negotiate terms and conditions of employment.

However, this Act is not designed to accommodate the needs of gig workers, who are not classified as formal employees. Gig workers generally do not have a contractual relationship with an employer and lack the job security that this Act offers to regular employees. Since gig workers are independent contractors, they do not have the right to form trade unions under the same terms, leaving them without a collective bargaining mechanism or protection against unfair dismissal.

The Minimum Wages Act, 1948

The Minimum Wages Act (MWA) aims to guarantee workers a minimum wage that ensures a decent standard of living. This law ensures that workers are paid at least the statutory minimum wage set by the government for different sectors and industries. It provides safeguards against exploitation, ensuring that no worker earns less than a legally specified wage.

For gig workers, this Act presents several challenges:

Non-application to gig workers: Gig workers are often paid per task or project rather than on a regular wage basis. As independent contractors, they are not guaranteed the minimum wage protection that permanent employees are. In many cases, gig platforms set payment structures that may not align with minimum wage standards, especially when considering the total time and effort required for tasks.

Lack of consistency: Gig work can be irregular, and wages fluctuate depending on the availability of work. This irregular income makes it difficult for gig workers to achieve the stability provided by the Minimum Wages Act.

The Payment of Gratuity Act, 1972

The Payment of Gratuity Act provides workers with a financial benefit in the form of a gratuity upon termination of their employment, provided they have completed at least five years of service with the employer. This payment is typically made to employees upon retirement or resignation, ensuring that workers receive compensation for long-term service.

However, gig workers do not qualify for gratuity payments because they are considered independent contractors rather than permanent employees. Since gig work often lacks long-term commitment between

the worker and the platform, there is no provision for gratuity, which places gig workers at a disadvantage compared to permanent workers who are entitled to this benefit after several years of service.

The Employees' State Insurance Act, 1948

The Employees' State Insurance Act (ESI) provides workers with social security benefits, including health insurance, maternity benefits, and disability coverage, in case of accidents or illness. The Act ensures that employees are financially supported during periods of illness, injury, or unemployment.

Gig workers, however, are generally excluded from the provisions of the ESI Act because they are not classified as employees. Since they work on a project-by-project basis, they do not contribute to the Employees' State Insurance fund, nor are they eligible for the benefits provided under this scheme. This absence of social security for gig workers means that they face challenges in accessing healthcare and other essential services, especially when they fall ill or are injured during work.

Key Limitations of Traditional Labour Laws for Gig Workers

1. Gig workers are classified as independent contractors, which excludes them from the protections offered to employees under these traditional labour laws. Since they do not have a formal employer-employee relationship, they are not entitled to benefits such as job security, minimum wages, gratuity, or health insurance.
2. The very nature of gig work—being project-based and flexible—means that gig workers lack the consistency of employment that traditional laws were designed to address. Traditional labour laws assume long-term employment, but gig work is often short-term, sporadic, and unpredictable, making it difficult to fit into the frameworks of these laws.
3. Gig workers usually work independently and are not part of formal organizations that can represent their interests. This lack of a collective bargaining mechanism means that gig workers are often in a weaker position to negotiate better pay, working conditions, or benefits.
4. Traditional labour laws are primarily designed to address workplace-related issues, but gig workers face unique challenges that occur outside the workplace, such as lack of health benefits or retirement plans.
5. The gig economy presents several challenges for both workers and employers. These challenges stem from the mismatch between the nature of gig work and traditional labour laws:
6. Gig workers are excluded from traditional benefits such as health insurance, paid leave, and retirement benefits. This leaves them vulnerable to financial instability, especially in case of illness or accidents.
7. Gig workers typically work without long-term contracts, meaning they have no guarantee of continued work or income. This lack of stability can lead to stress and insecurity.
8. Gig workers are often classified as independent contractors, which means they do not benefit from labour laws that apply to formal employees. This includes protections against unfair dismissal, rights to organize, and other statutory benefits.
9. In the absence of legal protections, gig workers may face exploitation, including low pay, long hours, and unsafe working conditions.

Literature Review:

Migration and Migrant Labour in the Gig Economy: The gig economy has also attracted migrant labourers seeking flexible work opportunities in urban centers like Mumbai. Van Doorn et al. (2020) highlight that

the gig economy offers migrant workers access to a variety of jobs without geographic restrictions. However, this also exposes them to risks, including exploitation by employers and the absence of social protections that are typically available to permanent workers. Migrant workers often face additional challenges, including lower pay, discrimination, and unsafe working conditions (Van Doorn et al., 2020). To address the gaps in labour protections for gig workers, significant reforms are needed in Maharashtra's labour laws. Some of these reforms include:

1. **Social Security and Welfare Benefits for Gig Workers:** A comprehensive framework should be established to provide gig workers with access to social security benefits, including healthcare, insurance, and retirement plans. Nadagoudar and Patil (2021) discuss the importance of including gig workers under the provisions of the Social Security Code, which could help address this issue.
2. **Clear Legal Definition of Gig Workers:** A legal framework should recognize gig workers as a distinct category, separate from traditional employees. This would allow the development of specific rules and protections tailored to the needs of gig workers, including the right to minimum wage, paid leave, and dispute resolution mechanisms.
3. **Contractual and Payment Transparency:** Gig workers should have access to fair and transparent contracts that outline their rights and responsibilities, including payment terms and job expectations. Gandini (2018) suggests that the introduction of clearer contracts could help mitigate exploitation and ensure fair compensation for gig workers.
4. **Enforcement of Labour Rights:** Strengthening enforcement mechanisms to ensure gig workers receive their due compensation and benefits is crucial. Employers should be held accountable for violating labour rights, and gig workers should have access to legal recourse in cases of exploitation or unfair treatment.
5. **The Role of the Social Security Code:** The Social Security Code, 2020, aims to extend social security benefits to workers in the unorganized sector, including gig workers. However, as Tamang and Das (2024) argue, the implementation of these provisions remains unclear, particularly regarding how gig workers can access these benefits. Clear guidelines and provisions are needed to ensure that gig workers are adequately covered by social security schemes.

International Perspectives and Best Practices

Several countries have begun recognizing the need to protect gig workers through legal reforms:

- **United States:** The state of California passed Assembly Bill 5 (AB5), which reclassified many gig workers as employees, granting them more rights, including minimum wage and benefits. This model offers useful lessons for India (Gill & Gupta, 2024).
- **United Kingdom:** The UK has implemented a legal framework where gig workers are entitled to some employment rights, such as the national minimum wage and paid leave.
- **European Union:** The EU has proposed legislation aimed at improving conditions for platform workers, focusing on transparency, fair pay, and working conditions.

India can draw from these global examples to craft policies that support gig workers while fostering economic growth and flexibility.

Hypothesis

- H1 (Alternative Hypothesis): The current traditional labour laws in Maharashtra do not adequately protect gig workers, leading to significant gaps in their welfare and rights.

- H0 (Null Hypothesis): Traditional labour laws in Maharashtra sufficiently protect gig workers and address the challenges of the gig economy.

Research Methodology

This study adopts a qualitative research methodology based on secondary data analysis. It employs a descriptive and analytical approach to evaluate the legal frameworks in Maharashtra and their relevance to gig workers. The research will review:

- **Government Reports and Legal Documents:** Examining key labour laws such as the Industrial Disputes Act, 1947, The Minimum Wages Act, 1948, The Payment of Gratuity Act, 1972, and others.
- **Academic Literature:** Reviewing journal articles, books, and papers on labour laws, gig economy dynamics, and their intersection.
- **Industry and Research Reports:** Analyzing reports from gig platforms like Uber, Zomato, and government agencies. The analysis will be performed using thematic analysis, comparative analysis, and content analysis of secondary data.

Findings:

The research finds that traditional labour laws, such as the Industrial Disputes Act, 1947 and The Minimum Wages Act, 1948, are primarily designed to protect full-time, formal workers and do not extend protections to gig workers. Gig workers, who are classified as independent contractors, are not covered under these laws, leaving them vulnerable to exploitation and without legal recourse for issues such as unfair termination, wage theft, and working conditions.

Gig workers in Maharashtra face significant challenges in accessing social security benefits. Unlike permanent workers who are entitled to healthcare, pensions, and other benefits under the Employees' State Insurance Act, 1948, gig workers are excluded from these provisions. This leaves them without financial security in case of illness, accidents, or retirement, exposing them to greater risks.

The study finds that gig workers often face wage instability due to the lack of clear regulation around payment structures. Despite the Minimum Wages Act, gig workers are not guaranteed a minimum wage, which often leads to underpayment and wage theft, especially on platforms where workers are paid per task or project. This wage uncertainty contributes to economic insecurity for many gig workers.

Gig workers often struggle with the lack of legal recognition as employees. Since they are classified as independent contractors, they do not have the same rights as traditional employees, including the right to join trade unions, seek dispute resolution, or access employee benefits. This legal classification creates a barrier to fair treatment and protection under existing labour laws.

While some reforms, such as the Social Security Code, 2020, aim to address the challenges faced by gig workers by extending social security benefits to this group, these policies are still in the implementation phase and have not yet provided comprehensive protection. Gig workers remain largely unprotected, and there is a lack of awareness among both workers and platforms regarding these new provisions.

Some gig economy platforms, such as Uber and Zomato, have initiated voluntary schemes to provide health insurance, accident coverage, and other benefits to workers. However, these schemes are inconsistent and often limited in scope, leaving gig workers with minimal protection compared to their formal counterparts.

The study concludes that there is a pressing need for legal reforms to better integrate gig workers into the existing labour framework. This includes extending protections under traditional labour laws such as

minimum wage enforcement, grievance redressal mechanisms, and social security benefits. There is also a need for clearer definitions of gig work within labour laws to ensure that gig workers are recognized and adequately protected.

Hypothesis Testing

Testing Procedure:

- 1. Comparative Analysis:** The study compares the scope of traditional labour laws with the needs and realities of gig workers. While laws like the Industrial Disputes Act and Minimum Wages Act protect full-time workers' rights, there is no equivalent coverage for gig workers. The comparison suggests that gig workers are largely excluded from the benefits provided by these laws.
- 2. Case Study Evaluation:** Real-life cases of gig workers in Maharashtra are analyzed to examine instances where they faced legal challenges related to wages, job security, or social benefits. In contrast, similar situations involving formal employees are reviewed to highlight the discrepancies in protection. Gig workers often lack legal recourse, unlike full-time employees.
- 3. Thematic Analysis:** Thematic analysis of existing literature reveals consistent patterns that show how traditional labour laws do not cover gig work arrangements. For example, gig workers are treated as independent contractors, not employees, which excludes them from protections like minimum wage, job security, and social security benefits. These themes point to a significant gap in legal protections.
- 4. Review of Emerging Legal Reforms:** The review of the Social Security Code, 2020, and other initiatives suggests that while there is potential for future protection, gig workers are still largely unprotected under the current laws. These emerging reforms are insufficient to address the immediate needs of gig workers, confirming the gap in existing labour laws.

Results and Conclusion:

The findings support H1 (Alternative Hypothesis), indicating that traditional labour laws in Maharashtra do not adequately protect gig workers. There is a clear gap between the protections available to full-time workers under current labour laws and the conditions faced by gig workers.

The gig economy has created new employment opportunities in Maharashtra, but existing labour laws have not adapted to address the challenges faced by gig workers. These workers face significant risks, including the lack of social security, job security, and legal protections. Reforming labour laws to recognize and protect gig workers is essential to ensure their fair treatment and to foster a more inclusive labour market. With the right legal framework, Maharashtra can create a fairer and more equitable work environment that supports the growth of both traditional and gig employment.

Limitations

The research primarily focuses on gig workers in Maharashtra, which may limit the generalizability of the findings to other states in India or international contexts. Labour laws and gig economy dynamics can vary significantly across regions. The study relies solely on secondary data, such as legal documents, case studies, and literature reviews. The absence of primary data, including interviews or surveys with gig workers, limits the ability to gather direct insights from those who are most affected by the issues discussed. The legal landscape for gig workers in India, including Maharashtra, is still evolving. New laws and reforms, such as the Social Security Code, 2020, are in their early stages of implementation. As a result, the findings of this research may be subject to change as these laws and their effects on gig workers

develop. The study provides a general overview of gig workers' issues but does not dive deeply into sector-specific challenges (e.g., ride-hailing, food delivery, freelancing). Different sectors within the gig economy may have unique legal and regulatory concerns. The research does not account for long-term effects of the gig economy on labour laws or workers' rights. A longitudinal study could provide a more comprehensive understanding of how the gig economy and legal reforms will impact workers over time.

Future Scope

Future research could expand to include gig workers from other states in India to compare regional differences in labour law protections and gig economy regulations. This could help identify best practices and areas for improvement across the country. Future studies could focus on collecting primary data through surveys, interviews, or focus groups with gig workers to gain direct insights into their experiences, challenges, and needs. This would complement the secondary data and provide a more comprehensive view of the issue. A longitudinal study could track the long-term impacts of legal reforms on gig workers' welfare. This would allow researchers to assess whether new policies, such as the Social Security Code, 2020, result in tangible benefits for gig workers over time.

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