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Gig Economy: Prospects & Challenges under Social Security Code

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ABSTRACT

Undoubtedly, on one hand the social security code will be providing plenty of welcoming recognition of gig workers. But on the other hand, the code had created few impediments like that of compulsory registration. This Research work will be basically analysing about the level of protection provided for the Gig workers under the Social Security Code, 2020 and will further examine as to whether the said code had completely plugged in the loopholes in existing legislations.

Keywords: *Gig Economy, Social Security Code.*

I. INTRODUCTION

Emerging trends are always a subject matter of debate and Gig Economy is one among them. The Social Security code had defined Gig worker as, “*a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationships*”². Now that many Gig workers have actually entered the field. This preview outside the formal sect of employment had enhanced emergence of innumerable employment opportunities. While few claim they are constrained to work in Gig Economy for sake of survival, they are also people who claims getting both spiritual and material fulfilment.

Undoubtedly there are innumerable benefits in having Gig Economy, but at the same time since gig workers are often classified as independent contractors/ Freelancers, they aren't covered under most of the labour or social security legislations. Correspondingly, such gig workers finds themselves abandoned from the protections which are generally provided for the labours in formal sectors. In this regard Social Security Code, 2020 have come up with recognition of gig workers and also it is expected to protect the gig workers like that of other who are in so called proper employer-employee relationship. It's been almost a year since the unrest of COVID-19 started. Many lost their jobs and they were constrained to be a part of gig economy.

¹ Author is a student at Tamil Nadu National Law University, India.

² Section 2(35) of the Social Security Code, 2020

Thereby the need for recognition of Gig workers got intensified in the outbreak of COVID-19 pandemic.

Undoubtedly, on one hand the social security code will be providing plenty of welcoming recognition of gig workers. But on the other hand, the code had created few impediments like that of compulsory registration. This Research work will be basically analysing about the level of protection provided for the Gig workers under the Social Security Code, 2020 and will further examine as to whether the said code had completely plugged in the loopholes in existing legislations.

(A) Research Problem

Now that it is high time to examine the saviour of freelancers i.e. Social Security Code, which had at least provided some sort of recognition. Mere drafting of labour legislations can never plugin the loop holes and shield the gig workers. It is equally important to implement the same. It is expedient and necessary to check whether existing provisions Social Security Code of 2020 provide holistic protections for Gig workers.

(B) Research Objectives

- To scrutinize the Rise in Gig Economy
- To Evaluate the need Gig Workers
- To analyse the ambit of Gig Economy in reference to Social Security Code.
- To examine the impact of Social Security Code upon Gig Workers.
- To compare the recognition of gig workers in India with that of Span.

(C) Research Questions

- Whether there is any pressing need for recognition of Gig Workers?
- Whether the Social Security Code will act as full-pledged protection for the Gig Workers?

(D) Research Methodology

This Research work will be basically a Doctrinal and Non- Empirical study undertaken using the secondary data. Since my Research concept is an emerging one it will be mostly relayed upon the online sources.

II. GIG ECONOMY

Most of the significant socio-economic and cultural changes have occurred within India in the

last 70 years.³ In a study undertaken by Kalra Sahi (2013) with 374 Indian adults as the sample it was found that persons employed in a government offices had a positive effect on their financial stability. From time immemorial, considering the job security and work-life balance people tend to have a craze over the public sector or Government jobs. It is apposite to note that, as per Census India⁴, there are 402 million working population in India. In that case, it is highly improbable to expect this whole lot of 402 million people to fit in the classical government jobs. Of course there are several substitutions like that of jobs in private sectors. But still the need for employment opportunities never got settled. That was when people started shifting their goals from traditional approach of employment to the innovative approaches of employment wherein there might not necessarily be a proper employer employee relationship. This shift of employment outside the traditional employment relationship was the starting point for the Gig Economy.

(A) Meaning of Gig Economy

The shift from the formal instinct of employment to the informal one is called as the “gig economy”, or the “sharing economy” or the “on-demand economy”⁵. Gig Economy refers to those labour markets where in digital platform is used for independent Contracting. The nature of work of the Gig workers is that casual and is not permanent. “*Crowd work*” and “*Work-on-Demand via App*” are the two major forms of the works which constitutes the gig-economy.⁶ Crowd work refers to those types of works wherein works are assigned to the organisations/ Individuals using Internet as the medium. Since online platform is used here it becomes easier to connect the workers and the client in a global basis. Whereas, in the case of work-on-demand via App, the traditional types of works are done with the help of an app. Here a firm controls the labours in terms of the quality and availability of services.⁷ Ola and Uber are the best examples for work-on-demand via App. In a survey conducted by International Labour Organisation in the year 2015, it was revealed that, even those firms which uses Crowd workers for generating their main source of income, only less than 10% of income is contributed for their social security of the Crowd workers.

Of course, through the massive availability of gig workers both the employers as well as the

³ Chatterjee, Devlina, Mahendra Kumar, and Kapil K. Dayma. "Income security, social comparisons and materialism: determinants of subjective financial well-being among Indian adults." *International Journal of Bank Marketing* (2019).

⁴ CensusIndia, https://censusindia.gov.in/census_and_you/economic_activity.aspx (Last visited March 15, 2021)

⁵ United Nations Research Institute for Social Development, [https://www.unrisd.org/80256B3C005BF3C2/\(httpPages\)/CA07213831388523C125817200437603?OpenDocument](https://www.unrisd.org/80256B3C005BF3C2/(httpPages)/CA07213831388523C125817200437603?OpenDocument) (Last visited March 15, 2021)

⁶ Carolyn Said, *Growing Voices Say Gig Workers Need Protections, Benefits*, SFGATE, Feb. 17, 2015

⁷ Emanuele Dagnino, *Uber Law: Prospettive Giuslavoristiche Sulla Sharing/On-Demand Economy*, *Adapt Labour Studies* (Bergamo, Adapt, 2015)

consumers are benefited. For say in the case of swiggy, we as customer happy that we get food items at doorstep in a discounted rate, on the other hand, in the year 2020 even “Swiggy” has reported to have earned increased revenue of 127.8 per cent.⁸ But what the rights and basic rights of the Delivery boys of Swiggy? The stability of Income and Employment are the two fold basic requirements for achieving the spiritual satisfaction. The sufferings of the Gig workers like that of Swiggy workers became evident when they broke out for strike in September 2020.⁹ They claim to work for 15 hours a day and their salary was suddenly struck down from Rs. 20,000/- to Rs. 5,000/-. In that case they can very well go for strike but the same is of no use. Firstly, in order to avail the benefits under appropriate enactments, the gig workers need to be qualified as a worker or employee right? That is the basic underlying issue for the gig economy.

(B) Why Gig Economy is on Rise

With the technological development there is an explicit change in the labour market. The Gig Economy is blooming day by day. As we trace back the reason for rise in Gig Economy the first major reason is unemployment. Just because we are constrained to be unemployed we are not going stay back at home right? Hoke or Crook people will be finding an alternative and that has been reflected in the rise in Gig Economy. The change herein is such that the formal nature of employment is transformed to an informal one. The Rise in Gig Economy reflects the emergence of new types of works.

Yet another major reason for the rise in Gig Economy is the development in Technology. Since the online platform is the major source for the relevance of Gig Economy, this rise in Gig Economy would not have been possible without the increased usage of smartphones and internet. Practically, what is the use in merely providing Ola and Zomato services without prospective customers who uses smart phones? Also, Artificial intelligence is reshaping the way businesses are functioning today.¹⁰ In order to make the business more profitable, in this competitive world the business firms tends to adhere to the technological advancements. As the business firms transforms more and more into a technologically driven one, the opportunities for the gig workers also spontaneously gets increased.

The Gig Economy has brought in flexibility in the working environment. In a way Gig

⁸ Financial Express, <https://www.financialexpress.com/industry/sme/swiggys-fy20-revenue-jumps-127-to-over-rs-29500-cr-even-as-losses-widen-by-65-and-expenses-nearly-double/2180234/> (Last visited March 15, 2021)

⁹ NewsClick, <https://www.newsclick.in/striking-wages-swiggy-workers-champion-collective-care>, (Last visited March 17, 2021)

¹⁰ Hitender Mehta, Managing Partner, CENTRUM LEGAL; Member, Managing Committee, ASSOCHAM Central Council Member, ICSI had expressed the views on “The Rise of GIG Economy in India”

Economy is beneficial for all the key players of the market including the employers, gig workers as well as the customers. From the side of the employers they can avail the service of the gig workers as and when it is required. They need not waste their money in the name of salary even during the non-productive times. Moreover, since the companies just need to accommodate temporary workforce in accordance with the requirement of the customers, the Gig Economy will be Cost effective for the companies. From the stand point of the gig workers, they need not confine their employment opportunity to one particular job. Such nature of job had enhanced the Gig workers to work at their leisure. In this tech enabled platform except few circumstances, the workers are not even bound to the organisation, they are free to choose their tenure in the Gig firm. From the customer's side, they find flexible and feasible to avail the services. For say in the case cab facilities nowadays customers can avail the same in their fingertips as and when they require.

(C) Influence of Gig Workers in Indian Economy

As and when most of the workers were suffering due to unemployment, the gig economy had showed a new scope for survival and it is estimated that by virtue of the Gig Economy 56% of all new employment will be created, 3 million of which are in India.¹¹ Even the Associated Chambers of Commerce of India had predicted that the Gig Economy will grow at an annual rate of 17% to \$455 billion by 2023.¹² In India, the gig economy has come into existence only very recently, but still it is growing rapidly in Indian Labour market. As per the Research Report made in the year 2018 by Payoneer, after US which is the largest, India is having the second largest freelancers market in the world. Also, it was estimated that in the year 2020, 50% of the Indian workforce would be freelancers out of which 85% of the workers would be between the age of 21-39 years.¹³

At the outset of this COVID-19 pandemic, on one hand unemployment was at its peak on the other gig economy had enhanced innumerable people with a new means for survival. With due regard to the social strata prevalent in the Indian Society, gig economy had also helped in women empowerment. It is apposite to note that, in absence of any sort of restriction in entry more and more people have come forward to participate in the Gig Economy. This had enhanced the increase in participation of people in the development of the Indian Economy.

¹¹ Economic Times-Government, <https://government.economictimes.indiatimes.com/news/economy/opinion-indias-gig-economy-needs-affirmative-policy-push/73121847>, (Last visited March 23, 2021)

¹² Spontaneous Order, <https://spontaneousorder.in/how-the-social-security-code-2020-fails-gig-workers/>, (Last visited March 23, 2021)

¹³ Sonal Singh, CEO Maitri India, had expressed the views on "The Social Sector Pioneered the Gig Worker Concept"

Despite the fact that things are hectic to work upon, the gig workers like that of Uber drivers in India finds themselves to grow as independent small business owners.¹⁴ It is undeniable to note that, this emergence of non-standard type of employment had also contributed a lot for the economy.

With an embarking influence of the Gig Economy, there is a steep increase in working population which is roughly about four million people every year, this by itself has a great impact in the labour market. Since the protection is extended for the gig and platform workers, through the social security code of 2020, definitely more and more people will be inclined to enter the Gig Economy.

III. IMPACT OF SOCIAL SECURITY CODE

Anshul Prakash,¹⁵ opines that for the very first time the Social Security Code, 2020 had recognised the gig workers.¹⁶ It can be prudently suspected that this legislation was introduced in furtherance to the rise in Gig Economy and the pressing need for protecting them. Recently in the case of *Ayantika Mondal vs. State of Karnataka*, on 12.05.2020, merely because there was no legislative backing for directing the State Government to enact legislation in respect of protection for the gig workers, the Karnataka High Court was constrained to dismiss the writ petition. Even prior to the introduction of the draft Social Security Code, 2020 few of the unorganised workers were protected under Unorganised Worker's Social Security Act, 2008. But the thing is, the Act of 2008 had confined itself to the ambit of unorganised workers. Whereas, in the case of the Act of 2020, wide ambit of protection is given for the gig worker, platform workers and the unorganised workers. Apart from that the Social Security Code had simplified and rationalised nine social security legislations and had extended the protection for gig workers.¹⁷

Moreover, in the case of Act of 2008, there was lack of penalising provisions even for the non-compliance of administration. But the Social Security Code had rectified the same and had come up with a chapter XII wherein offences and penalties are dealt with. Generally, when the employers are made to pay some penny in the interest of the welfare of the employees, they tend to grab the same from the pockets of the employee. In order to curb the same, the Social

¹⁴ Prabhat, Shantanu, Sneha Nanavati, and Nimmi Rangaswamy. "India's" Uberwallah" profiling Uber drivers in the gig economy." Proceedings of the Tenth International Conference on Information and Communication Technologies and Development. 2019.

¹⁵ Specialist in Employee and Labour Law and partner at Khaitan and Co.

¹⁶ Bloomberg Quint, <https://www.bloomberquint.com/business/gig-workers-may-end-up-paying-for-their-own-social-security>, (Last visited March 19, 2021)

¹⁷ Mondaq, <https://www.mondaq.com/india/employment-and-workforce-wellbeing/955662/gig-economy-legal-developments>, (Last visited March 27, 2021)

Security code had specifically penalised such attempts of deductions on account of employer's contributions.¹⁸

It is apposite to take note of the impediments in Social Security Code too. The non-negotiable reliance on electronic registration for around 400 million workforces, which constitute the unorganised sector, is an unjust demand and is practically improbable.¹⁹ Merely because the Social Security code of 2020 had recognised the Gig workers does not mean that it provides straight jacket protection. It is expedient and necessary to analyse the same with its prospectus and challenges. This chapter will be basically discussing the pre and post era of the Social Security Code.

(A) Pre-Social Security Code Era

It is not that the issue pertaining to non-recognition of the Gig workers is a recent call. More than 90% of the labour force in India is in the unorganised sector and are technically deprived of the benefits of the most of the labour legislations in India. Hence, even prior to the introduction of the draft Social Security Code, 2020, the Unorganised Worker's Social Security Act, 2008 was enacted. Considering the scenario which existed in the year 2008 the Unorganised Worker's Social Security Act, 2008 majorly covered only unorganised workers and the wage workers. It is apposite to note that even the ambit of their definition in Section 2(m)²⁰ and 2(n)²¹ of the Unorganised Worker's Social Security Act, 2008 were not as wide as to extend the benefit of the legislation to all the gig workers.

Leave alone the protection for unorganised workers after the enactment of the Unorganised Worker's Social Security Act, 2008, think about the situation prior to that. At that point of time in absence of a holistic protection of social security for the unorganised workers, the workers deployed in unorganised sector would have definitely suffered from identity crises. Despite being the major contributors for the economy, they would not have a space for protection under any of the labour laws.

Apart from the fact that the Unorganised Worker's Social Security Act, 2008 did not duly covers all those persons who suffer from the identity crisis brought in due to the change in

¹⁸ Section 133(b) of the Social Security Code, 2020

¹⁹ By labour economist and XLRI Jamshedpur professor K.R. Shyam Sundar.

²⁰ "unorganised worker" means a home-based worker, self-employed worker or a wage worker in the unorganised sector and includes a worker in the organised sector who is not covered by any of the Acts mentioned in Schedule II to this Act.

²¹ "wage worker" means a person employed for remuneration in the unorganised sector, directly by an employer or through any contractor, irrespective of place of work, whether exclusively for one employer or for one or more employers, whether in cash or in kind, whether as a home-based worker, or as a temporary or casual worker, or as a migrant worker, or workers employed by households including domestic workers, with a monthly wage of an amount as may be notified by the Central Government and State Government, as the case may be.

nature of works, it had finely enhanced its protection for the unorganised workers in general. Also, as contemplated in schedule one of the Unorganised Worker's Social Security Act, 2008, several schemes like that of Indira Gandhi National Old Age Pension Scheme, National Scheme for Welfare of Fishermen and Training and Extension, Janani Suraksha Yojana, Handicraft Artisans' Comprehensive Welfare Scheme, etc were introduced in the interest of the unorganised workers. How far the unorganised workers were benefited from the act of 2008 is yet another question. This reveals that what so ever the enactment might be, at the end of the day it all depends upon how the letters of law are interpreted.

(B) Post-Social Security Code Era

After introducing the Code on September 28, 2020, the gig workers had been widely recognised. The Social Security Code, 2020, defines Gig Worker as the one who does the work and earns from the same outside the traditional employer-employee relationship.²² In line with the said definition, the code also defines platform work²³ as those works which are done through online platform. Apart from the Gig Workers, the code had also covers the building workers, commissioning mother, contractors, dock-work, employee, home-based workers, unorganised worker, and wage worker. This shows the holistic coverage of loopholes present in the labour legislations in India in furtherance to promotion of social security.

The Code also enable establishment of the National Social Security Board and the State Unorganised Workers Board.²⁴ Subsequently, the said National Social Security board will be recommending the suitable schemes to the Central Government for the different sections of the Gig Workers²⁵ and will be monitoring the administration of the same by the Central government.²⁶ Apart from all this the Central Government by itself can introduce schemes for ensuring the interest of gig workers and their family members under the ambit of Corporation.²⁷ Also, in the interest of the Gig Workers this Code provides for establishment of Social Security Funds.²⁸

Chapter Nine of the Social Security Code exclusively deals with the Social Security for the Unorganised Workers, Gig Workers and the Platform Workers. In the said chapter, by virtue of Section 112 of the Code, the Central Government may set up a Helpline Number or facilitation centre so as to assist in knowing the available social security schemes, registering,

²² Section 2(35) of the Social Security Code, 2020

²³ Section 2(60) of the Social Security Code, 2020

²⁴ Section 6(1) of the Social Security Code, 2020

²⁵ Section 6(7)(a) of the Social Security Code, 2020

²⁶ Section 6(7)(c) of the Social Security Code, 2020

²⁷ Section 45 of the Social Security Code, 2020

²⁸ Section 141 of the Social Security Code, 2020

and for enrolment in social security schemes for the registered gig workers. It is apposite to note that, in order to avail the benefits of the schemes formed under this code it is mandatory for the gig worker to get registered. And in order to get registered one must have completed the age of sixteen years²⁹, provided self-declaration³⁰ and processes Aadhar number.³¹

IV. CHALLENGES UNDER THE CODE

The ambit of protection for gig workers can be sensed majorly from the definition for gig workers. The term “outside the traditional employer-employee relationship” in section 2(35) of the social security code, 2020 leaves a loophole pertaining to failure in defining the traditional employer-employee relationship. This Code seem to leave aside the agricultural workers, street vendors and domestic workers.

Even prior to the introduction of the draft Social Security Code, 2020, by virtue of the Unorganised Worker’s Social Security Act, 2008, National Security Board was constituted and positively contributed to the welfare of the unorganised workers. But how far such establishments have achieved its moto is the question. By virtue of the new code of 2020, the National Social Security board might suggest suitable schemes in respect of enhancing the social security of the Gig Workers. But at the end of the day the final decision as to the enforcement of the suggested schemes rests with the Central Government.

Admittedly, there is provision for establishment of the Social Security Fund but no guidelines have been stipulated under the code with regard to the application of the said Social Security Fund. Also, Discretion is given for the Central Government to exempt any class of establishment from the liability of contribution to the Social Security Fund, but there is no clarity as to the requisite conditions for exempting³²

This Code seems to have enhanced the Appropriate Government with numerous discretionary powers for the ends of justice for the Gig Workers. Even with regard to the setting up of Helpline number for the benefit of gig workers, the legislation had not mandated or stipulated any timeframe for the Appropriate Government, instead it has been stated that the “Appropriate Government may set up...” One of the major challenges for Gig workers is the mandatory requirement of Registration of Gig Workers. The Code on Social Security (Central) Rules, 2020 stipulates that the Gig/ Platform/ Unorganised will have to update their current address,

²⁹ Section 113(1)(a) of the Social Security Code, 2020

³⁰ Section 113(1)(b) of the Social Security Code, 2020

³¹ Section 113(2) of the Social Security Code, 2020

³² Medianama, <https://www.medianama.com/2020/12/223-ifat-recommendations-draft-social-security-rules/>, (Last visited March 22, 2021)

their tenure in gig firms, mobile number, etc.,³³ Admittedly, registration of gig workers will prove good in long run but what about workers who does not have much idea about registration and process involved in the same.

V. RECOGNITION OF GIG WORKERS: INDIA VS. SPAIN

Just like how a model project helps in enhancing your project, perusal to prevailing situations in Spain might help us in identifying and fixing the loopholes pertaining to Gig Economy. In Spain, wherein there is serious issue of people committing tax fraud, by way of digitalisation and the growth in gig economy had brought in the situation under control.³⁴When we specifically look into the aspect of Social Security for the Gig workers in Spain it is evident that, the platform collaborators are considered as employee and are covered under the general schemes for social security. But for the independent contractors including self-employed, by virtue of Section 305 of the Social Security General Act, only if those persons work in regular manner they will be protected else they lack their recognition.

In such a scenario, Supreme Court of Spain had tried to extend the protection by way of stipulating minimum level of (net) income in accordance with the National Minimum Wage.³⁵But still the same is not sufficient.³⁶Also, as per the existing laws of Spain the employers are to make 90% contribution for the social security funds, this by itself had let to reduced contributions. . Moreover the UGT and CCOO³⁷have reported companies like that of Glovo, Deliveroo, Uber Eats, and Stuart to the Directorate General of Labour Inspection and Social Security Inspectorate and most of the judgements were in favour of workers. With due regard to the Decision of the Supreme Court of UK and the order of the Italian Labour Inspectorate, recent observation was made by the Supreme Court of Spain, in such a way to presume employment for the delivery boys in Glovo, UberEats and Deliveroo.³⁸ With effect to the same, new laws are proposed to be enacted.³⁹

Just like Spain, Gig Economy is evolving in many of the countries including India. That has created the expedient need for recognising the Gig workers and for protecting their rights.⁴⁰

³³ Business Standard, https://www.business-standard.com/article/economy-policy/gig-workers-need-to-register-update-info-for-social-security-draft-rules-120111500631_1.html, (Last visited March 24, 2021)

³⁴ Corujo, Borja Suárez. "The sharing economy: the emerging debate in Spain." *Spanish Labour Law and Employment Relations Journal* 6.1-2 (2017): 30-41.

³⁵ Supreme Court Rulings of 29 October 1997 (No. 406/1997) and 20 March 2007 (No. 5006/2005).

³⁶ DESDENTADO BONETE and TEJERINA ALONSO (2004, 61-67).

³⁷ trade unions in Spain

³⁸ Shifted, <https://sifted.eu/articles/spain-riders-law-glovo/>, (Last visited March 30, 2021)

³⁹ Reuters, <https://www.reuters.com/article/us-spain-tech-labour-rights-idUSKBN2AV10P>, (Last visited March 30, 2021)

⁴⁰ Kasliwal, Ria. "Gender and the Gig Economy: A Qualitative Study of Gig Platforms for Women Workers." *Observer Research Foundatio, ORF Issue Brief 359* (2020).

With regard to India, when the Social Security Code, 2020 is brought into force then it will provide strait jacket means for recognition and protection of Gig / Platform workers.

VI. CONCLUSION

Prior to the Introduction of the Social Security Code, 2020, under the Indian employment laws, in order to establish that a person is an employee, several tests will be undertaken like that of nature of control employer exerts over the employee, who can hire/fire, who pays salary, etc. But the same proves to be of no use for the freelancer or consultant.⁴¹ According to the Centre for Monitoring Indian Economy⁴², there are currently 31 million unemployed Indians looking for opportunities and for them Gig Economy has proved to be the best remedy for all their issues. Now most of the online platforms seem to be targeting the women and working population in the rural areas. Also, the flexibility in Gig Economy had enhanced increased use of services and the same in turn have positive impact in the economy. This had led to increased participation of people in the Gig Economy. In the present scenario we can't actually conceive the Gig Economy to be independent; its contribution has become the part and parcel of the Indian Economy.⁴³ It is also equally important to note that, on the flip side of the positive impact in the economy, the prevalence for the formalised service providers has been reduced. Also, it is pertinent to note that in the Gig Economy, wherein online platform is used as a medium, there is a lack no in collective bargaining which is much prevalent in the formal labour setup.

Due to this rise in Gig Economy the need for protection of gig workers have also raised spontaneously. In furtherance to the same, the Social Security Code, 2020 had covered the Gig / Platform/ Unorganised workers and had enhanced protection from them under the preview of social security.⁴⁴ Despite the fact that the Social Security Code, 2020 had widely tried to protect the gig workers, it is apposite to note that, there are few legal impediments like that of compulsory registration for availing social security schemes without even providing any grace period, lesser contribution by digital aggregators (1 to 2%), failure to stipulate minimum wage limit for gig workers and so on. But still, this attempt made by the legislative department for protection of Gig Workers is highly appreciable. It is expected that with due consideration to

⁴¹ Bhumesh Verma, *Employment Laws in a gig Economy*, (2018) PL (CL) October 74

⁴² Centre for Monitoring Indian Economy, <https://www.cmie.com/>, (Last visited March 30, 2021)

⁴³ De Stefano, Valerio. "The rise of the just-in-time workforce: On-demand work, crowdwork, and labor protection in the gig-economy." *Comp. Lab. L. & Pol'y J.* 37 (2015): 471.

⁴⁴ Section 2(78) of the defines social security as 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;

the on-going debates even these loopholes will be filed.

VII. RECOMMENDATIONS AND SUGGESTIONS

In order to make the Social Security Code, 2020 effective appropriate direction maybe passed by the Appropriate Government to the local Panchayats, Ration shops and other feasible local bodies to create awareness about the registration as contemplated in the Code, Helpline number, Social Security Schemes and Benefits thereof. Considering the prevalent situations in India, time maybe given for the gig workers to register and avail the benefits of the Schemes. Furthermore, regarding the execution of the welfare measures as attributed in the Code clarity can be provided. With due regard to the Aadhar Judgement,⁴⁵ a nine Judge Bench Judgement of the Supreme Court, the mandatory rendition of Aadhar details of the Gig workers as stipulated in the code has to be relaxed. Else this would become infringement of Article 21. Also recommended by the Standing Committee,⁴⁶ minimum time period of service for availing gratuity maybe reduced to 1 year and the recommendation pertaining to the plantation workers may be adopted. Lastly, bar on Civil Court to entertain disputes⁴⁷ under the code can be removed so as to provide an opportunity for those who prefer the lower courts rather than the High Court or Supreme Court.

In order to understand the real needs and opinions of the Gig Workers, the Researchers suggests to work on collecting the responses of the Social Security Code, 2020 from the Gig Workers and to provide an analysis of the actual voices of the Gig Workers

⁴⁵ K.S.Puttaswamy v. Union of India, 2017 10 SCC 1

⁴⁶ PRS India, https://prsindia.org/billtrack/the-code-on-social-security-2020#_edn16, (Last visited March 30, 2021)

⁴⁷ Section 49(3) of the Social Security Code, 2020