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## GIG ECONOMY WORKERS AND LABOUR PROTECTION IN INDIA: REIMAGINING EMPLOYMENT RIGHTS IN THE DIGITAL AGE

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### ABSTRACT

*The rise of the gig economy has become a defining element of India's digital economy, transforming conventional employment relations through its flexible, platform-based, and technologically enabled nature. Digital platforms like Uber, Swiggy, Zomato, and Urban Company have created significant employment opportunities, especially for young urbanites, migrants, and semi-skilled individuals. On the other hand, the exponential growth of platform labour has revealed fundamental deficiencies in India's legal framework for workers' protection. Gig workers are treated as independent contractors instead of employees, thus denying them access to several mandatory protections concerning minimum wages, social security, workplace safety, collective bargaining, and conflict resolution.<sup>1</sup> The current labour legislation system, which is primarily based on traditional employer-employee relationships, lacks sufficient legal provisions to govern work done via digital mediation and algorithmic control.<sup>2</sup>*

*The paper seeks to critically analyse the legal, constitutional, and socio-economic aspects of the gig economy in India and determine if the present laws governing workers protect their interests and ensure their well-being. In particular, the Code on Social Security, 2020, new welfare schemes being introduced, and constitutional ideals of social justice and dignity of labour will be considered. Other topics to be discussed include wage uncertainty, algorithmic governance, the absence of collective bargaining rights, and occupational vulnerability of gig*

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<sup>1</sup> International Labour Organisation, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 23–29 (2021).

<sup>2</sup> NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* xvii–xxi (2022).

*economy workers.*<sup>3</sup> *Some comparative analysis is made of how other countries like the UK, California, and the European Union have approached the issue of platform labour.*<sup>4</sup>

**Keywords:** *Gig Economy, Platform Workers, Labour Protection, Digital Labour Markets, Social Security, Employment Rights.*

## INTRODUCTION

The change in labour relations in the era of the twenty-first century has been shaped to a great extent due to digitalisation, platform capitalism, and the development of flexible labour forms. One of the most noticeable changes within this sphere has been the advent of the gig economy. In particular, the gig economy is understood as a labour market in which work takes place within short-term, task-based, and platform-dependent employment forms where workers offer their services as needed on digital apps and platforms.<sup>5</sup> Contrary to the regular models of employment based on long-term contracts between an employer and employee, gig employment involves using technology to categorise workers as "independent contractors" rather than employees.<sup>6</sup> Unlike conventional employment models based upon long-term contractual relationships between employers and employees, gig work is organised through technological intermediaries that classify workers as "independent contractors" rather than employees.<sup>7</sup>

The gig economy has seen immense development in India in the last decade due to fast-paced urbanisation, high internet penetration, affordability of smartphones, and the advent of digital trade.<sup>8</sup> Companies such as Uber, Ola, Swiggy, Zomato, and Urban Company are creating huge job opportunities through digital platforms in fields like transportation, logistics, food delivery, housekeeping services, freelancing, and e-commerce.<sup>9</sup> As per figures provided by NITI Aayog, the total number of gig workers in India stood at around 7.7 million in 2020–21, and it is

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<sup>3</sup> De Stefano, Valerio, *The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdsourcing and Labour Protection in the "Gig-Economy"*, 37 *Comp. Lab. L. & Pol'y J.* 471, 484–92 (2016).

<sup>4</sup> Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 91–118 (Oxford Univ. Press 2018).

<sup>5</sup> Guy Standing, *The Precariat: The New Dangerous Class* 10–18 (Bloomsbury Academic 2011).

<sup>6</sup> International Labour Organisation, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 25–31 (2021).

<sup>7</sup> Valerio De Stefano, *The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdsourcing and Labour Protection in the "Gig-Economy"*, 37 *Comp. Lab. L. & Pol'y J.* 471, 473–76 (2016).

<sup>8</sup> NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* xvi–xviii (2022).

<sup>9</sup> V. V. Giri National Labour Institute, *Platform Work and the Indian Labour Market* 14–18 (2021).

expected to reach 23.5 million in 2029–30.<sup>10</sup> Such growth demonstrates the increasing dependence of India's digital economy upon flexible and platform-mediated labour systems.

There is no doubt that the gig economy has created various opportunities for growth in the economic sector through the provision of easily accessible employment options, flexible work schedules, and participation in the labour market by students, immigrants, women, and semi-skilled workers.<sup>11</sup> Gig work has provided extra income options to workers who have more control over their working hours as compared to other types of employment.<sup>12</sup> Additionally, digital platforms have facilitated accessibility and innovation within the country's nascent digital economy.<sup>13</sup>

Nevertheless, even as this growth has brought these benefits to many, it has also revealed numerous challenges concerning labour exploitation, social insecurity, and inadequate regulations. Gig work is often undertaken by individuals without a guarantee of income, social security, paid vacations, health care, safe working conditions, and pension plans.<sup>14</sup> The classification of most of the gig workers by platform companies as independent contractors ensures that they do not benefit from the protection offered by some of the existing labour laws that applied previously to conventional employment arrangements.<sup>15</sup> Lack of accountability on the part of employers has led to significant control exercised by the platform companies.<sup>16</sup>

However, the vulnerability associated with gig jobs was most evident during the coronavirus crisis, where delivery people, drivers, and other gig service providers provided critical services at great personal risk of illness, financial instability, and lack of institutional backing.<sup>17</sup> Despite the importance of gig workers for maintaining urban logistics networks during the coronavirus crisis, many online platforms did not offer sufficient medical care, insurance coverage, or

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<sup>10</sup> NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* xvii (2022).

<sup>11</sup> Arjun Ramani & Nicholas Bloom, *The Donut Effect of Covid-19 on Cities*, 37 Nat'l Bureau Econ. Rsch. Working Paper 5–7 (2021).

<sup>12</sup> Tejas Yaduvanshi et al., *Gig Economy in India: Transforming Employment Dynamics in the Digital Age*, 5 J. Informatics Educ. & Rsch. 374, 375–76 (2025).

<sup>13</sup> Sundararajan Arun, *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism* 27–35 (MIT Press 2016).

<sup>14</sup> International Labour Organisation, *World Employment and Social Outlook 2021* 198–203 (2021).

<sup>15</sup> K.D. Ewing & John Hendy, *The Dramatic Implications of the Gig Economy for Employment Law*, 46 Indus. L.J. 420, 425–29 (2017).

<sup>16</sup> Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 56–63 (Oxford Univ. Press 2018).

<sup>17</sup> Janine Berg et al., *COVID-19 and the World of Work: Impact and Policy Responses*, Int'l Labour Org. Working Paper 17–22 (2020).

financial security to their gig workers.<sup>18</sup> During this period, there was increased attention on the need to extend labour rights and social security provisions to gig workers.

In terms of legality, Indian labour law has always been based on the presence of a definite relationship between the employer and the employee marked by supervision, control, and continuous service.<sup>19</sup> For instance, legislations like the Industrial Disputes Act of 1947, the Employees' State Insurance Act of 1948, and the Minimum Wages Act of 1948 were introduced to cover formal industrial employment and organised labour.<sup>20</sup> It means that gig workers find themselves in a kind of grey area where their engagement cannot be categorised in accordance with legal definitions of “workman,” “employee,” or “contract labour.”<sup>21</sup> This structural limitation has resulted in inadequate legal recognition and fragmented welfare protection for platform workers in India.

A significant milestone was witnessed with the introduction of the Code on Social Security, 2020, wherein, for the first time, “gig workers” and “platform workers” were statutorily defined as unique types of labourers.<sup>22</sup> The Code provides for the establishment of social security programmes concerning life insurance, healthcare, maternity assistance, provision of support for the elderly, and more such welfare provisions for gig and platform workers.<sup>23</sup> However, the Code has faced criticism for failing to provide any legal entitlements or obligations for platform companies.<sup>24</sup> The absence of comprehensive implementation mechanisms and precise accountability standards continues to undermine effective labour protection for gig workers.

There have been judicial advancements in different jurisdictions that have further fuelled the debate about the legal nature of platform workers. There have been judicial cases in countries like the United Kingdom, Spain, and the United States where the issue of gig workers being considered employees, workers, or independent contractors is debated.<sup>25</sup> In India, there are not many judicial decisions available regarding the status of gig workers. However, principles from the Constitution that address social justice, dignity of labour, and welfare governance can serve

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<sup>18</sup> NITI Aayog, *India's Booming Gig and Platform Economy* xxiii–xxiv (2022).

<sup>19</sup> *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, A.I.R. 1957 S.C. 264.

<sup>20</sup> Surya Narayan Misra, *Labour and Industrial Laws* 42–47 (Central Law Publications 2021).

<sup>21</sup> Shyam Sundar K.R., *Emerging Trends in Indian Labour Law and the Gig Economy*, 55 *Indian J. Lab. Econ.* 121, 129–34 (2022).

<sup>22</sup> Code on Social Security, No. 36 of 2020, §§ 2(35), 2(61) (India).

<sup>23</sup> *Id.* § 114.

<sup>24</sup> Anushree Sinha & Aditi Gupta, *Social Security for Gig Workers in India: Analysing the Code on Social Security, 2020*, 13 *NUJS L. Rev.* 87, 101–07 (2021).

<sup>25</sup> *Uber BV v. Aslam* [2021] UKSC 5; *Dynamex Operations W. Inc. v. Superior Court*, 416 P.3d 1 (Cal. 2018).

as an ethical basis for labour reform.<sup>26</sup> Articles 14, 21, 23, 39, 41, and 43 of the Constitution are relevant when discussing the responsibility of the State to provide humanitarian working conditions and welfare for labourers.<sup>27</sup>

In light of the foregoing discussion, this paper seeks to assess the changing dynamics of the gig economy in India, along with an assessment of how well current labour laws address issues related to gig workers in the contemporary era. In doing so, this research seeks to evaluate the issues raised by the emergence of gig-based work and identify any shortcomings within the existing system of regulation and labour protection, while also examining the ways in which courts have begun to respond to such issues. It further argues that the future of labour governance in India requires a reimagined framework that balances economic innovation with constitutional commitments to social justice and decent work standards.

### **CONCEPTUALISING THE GIG ECONOMY AND DIGITAL LABOUR**

The development of the gig economy signifies an important shift in the dynamics of labour relations in the digital era. Conventional models of employment had always been built on a foundation of stable employer-employee relations, definite working hours, a specific workplace, and contractual agreements. The gig economy, however, functions based on transient, flexible, and task-based work systems, which are predominantly enabled by technology.<sup>28</sup> The advent of technology, especially the proliferation of smartphones and internet connectivity, and service provision through applications has made it possible for companies to reshape labour markets using platform-based work systems.

"Gig Economy" is defined by a labour market characterised by people taking up temporary assignments or offering their services on demand instead of holding permanent employment relationships. Digital companies act as intermediaries between the workforce and the consumer base in the gig economy. The gig economy can be best illustrated by the example of companies like Uber, Ola, Swiggy, Zomato, and Urban Company in India. Such platforms assign tasks to the workforce using algorithms, evaluate them digitally, and enforce standards of service through customer reviews and incentives.<sup>29</sup>

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<sup>26</sup> *Bandhua Mukti Morcha v. Union of India*, (1984) 3 S.C.C. 161.

<sup>27</sup> INDIA CONST. arts. 14, 21, 23, 39, 41 & 43.

<sup>28</sup> International Labour Organisation, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 25–39 (2021).

<sup>29</sup> Alex Rosenblat, *Uberland: How Algorithms Are Rewriting the Rules of Work* 95–117 (Univ. of California Press 2018).

The gig economy comprises many types of jobs, like transportation services, food delivery services, logistics, household services, freelance jobs, software programming, teaching over the internet, and advisory consultancy. In general, gig jobs can be divided into two main types – location-based jobs and digital-based jobs performed over the internet. Location-based jobs entail personal presence for delivering their services. These include transport and delivery services. Web-based jobs, on the other hand, are based on online platforms that involve providing various services through the internet, like graphics designing, software programming, and writing. The expansion of these sectors reflects the growing integration of technology into labour markets and commercial transactions.

A feature that makes gig work distinctive is the lack of an employer-employee dynamic. Platform organisations tend to label their workers as “independent contractors” or “partners” instead of employees.<sup>30</sup> This approach allows platform organisations to circumvent any responsibility that comes with hiring employees, such as minimum wage payments, provident fund contributions, vacation pay, gratuity, maternity benefits, and social security. While gig workers may have the impression that they are free to schedule their working hours as they please, the very nature of a digital platform may compel them economically to depend on the platform organisation.

Flexibility is generally highlighted as the major benefit of gig work. Workers are able to select their working hours and selectively take up projects while interacting with several platforms at once. Gig work can provide accessible sources of income for many, including students, migrants, women, and semiskilled workers, with relatively lower barriers to entry.<sup>31</sup> Also, the use of digital labour platforms makes the economy efficient through fast delivery of services and reduced transaction costs, among other benefits.

But while gig jobs offer flexibility, there is a fair amount of economic insecurity that goes along with them. Gig workers typically face issues such as unstable incomes, lack of job security, and inability to bargain. The income earned depends on changing demand patterns, algorithm-based pricing, and incentives provided by the platforms themselves. They can also be suspended unilaterally from their accounts, receive low ratings that cost them in the long run,

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<sup>30</sup> Valerio De Stefano, *The Rise of the “Just-in-Time Workforce”: On-Demand Work, Crowdsourcing and Labour Protection in the “Gig-Economy”*, 37 *Comp. Lab. L. & Pol’y J.* 471, 478–81 (2016).

<sup>31</sup> NITI Aayog, *India’s Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* xviii–xx (2022).

and have policies changed overnight by the platforms. This makes gig labour precarious by nature.<sup>32</sup>

Another significant aspect of digital labour systems is algorithmic management. In contrast to conventional firms, where the management of employees takes place using human supervisors, online platforms manage workers by use of an algorithmic mechanism whereby the distribution of tasks, assessment of performance, and payment take place. The algorithms track the number of acceptances, ratings, delivery timeframes, cancellations, and efficiency. It is worth noting that this technological management system has a great impact on how workers receive future tasks and pay. This form of technological control significantly influences workers' access to future assignments and income opportunities. Critics argue that algorithmic management creates asymmetrical power relations while allowing platforms to deny the existence of formal employment relationships.<sup>33</sup>

The gig economy also poses a challenge to the understanding of traditional labour laws. Traditionally, labour laws have been made for regular industrial employment, which had definite employers, continuity in service, and physical establishments. However, the gig economy is decentralised and fragmented such that the workers may not always have a definite employer, may engage independently, and do not have an organised form of representation. Consequently, gig economy workers are typically outside the scope of traditional labour laws.<sup>34</sup> This legal ambiguity has generated global debates regarding whether platform workers should be treated as employees, independent contractors, or a distinct intermediate category deserving specialised labour protection.

For India, the legal identification of gig workers started with the introduction of the Social Security Code, 2020. The statute identifies and defines both terms 'gig worker' and 'platform worker,' and also envisages plans for their social security.<sup>35</sup> However, it still leaves open many aspects of the issues that pertain to employment status, labour laws applicable, and employer liability, among others. Therefore, there is an uncertainty regarding gig workers in India.

As such, the definition of the gig economy thus illustrates a dichotomy. While digital platforms create jobs, stimulate innovations, and enhance flexibility within the labour market, they also

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<sup>32</sup> Guy Standing, *The Precariat: The New Dangerous Class* 24–39 (Bloomsbury Academic 2011).

<sup>33</sup> Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 64–72 (Oxford Univ. Press 2018).

<sup>34</sup> K.D. Ewing & John Hendy, *The Dramatic Implications of the Gig Economy for Employment Law*, 46 *Indus. L.J.* 420, 432–37 (2017).

<sup>35</sup> Code on Social Security, No. 36 of 2020, §§ 2(35), 2(61) (India).

result in informality in the labour market, economic instability, and dilution of worker rights. It is imperative, therefore, for the continued growth of platform work in India to revise and review the principles of labour law to ensure that advances in technology align with constitutional values of social justice and respect for the dignity of labour.

### **GROWTH OF THE GIG WORKER IN INDIA AND ITS ECONOMIC SIGNIFICANCE**

The rise of the gig economy in India has become one of the greatest labour market shifts in the digital age. The combination of fast development of technologies, higher use of smartphones, low costs of internet services, increasing urbanisation and consumption has been leading to an even faster growth of the platform-based employment. Platforms have changed the organisation of labour and services by linking buyers and sellers via application software. Hence, gig workers can be observed among different fields, including transportation, food deliveries, logistics, housekeeping, freelancing, and e-commerce activities, through digital platforms.

The demographic and economic profile of India has also played its part in contributing towards the growth of the gig economy. The abundance of youth, prevalence of unemployment and underemployment, urbanisation of people from rural areas, and growing demand for flexible sources of income have provided a conducive environment for gig work. Gig jobs have turned out to be an appealing choice for those who are looking for an additional source of income or temporary employment. The COVID-19 crisis also triggered the usage of apps and intensified the demand for gig workers.

As per the figures given by NITI Aayog, there were roughly 7.7 million gig workers in India during 2020-21, which is estimated to rise to almost 23.5 million gig workers by 2029-30.<sup>36</sup> In addition to this, the report also highlighted that the gig and platform workers in India are increasingly contributing towards the growth in areas like retail, transport, manufacturing, finance, and other professional services. A considerable amount of gig labour in India comprises medium-skilled jobs; however, the amount of low and high-skilled jobs is also rising.<sup>37</sup>

Businesses that utilise digital platform services like Uber, Ola, Swiggy, Zomato, Blinkit, and Urban Company have emerged as significant employers in urban areas. Such platforms have

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<sup>36</sup> NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* xvii–xviii (2022).

<sup>37</sup> *Id.* at xviii.

been able to grow extensively even in metropolitan cities and even Tier-II and Tier-III cities, contributing significantly to the expansion of the geography of the digital labour market. There has been an increased demand for personnel in the e-commerce and quick-commerce sectors because of their growing popularity.

The gig economy has played an important role in creating employment opportunities in India. The gig economy has opened up alternate avenues of livelihood for students, migrants, women, semi-skilled labourers, and even workers who have lost their jobs in conventional sectors of employment. Many times, gigging is used as a stepping stone into urban economies where workers do not possess any formal education or technical expertise. The ease of entry into gigging platforms has allowed more people from all walks of life to earn a living through digital apps.<sup>38</sup>

One of the key economic benefits of gig work is its flexibility. Individuals can select the working time, work on several platforms at once, and decide how much they want to participate in the workforce based on personal needs. Platform work can be more flexible for women and caregivers than traditional workplaces. Likewise, digital freelancing has allowed many professional workers to deliver their services without visiting offices, both locally and globally. Such flexibility is one of the reasons behind the rising popularity of gig work in the changing Indian economy.

The gig economy has also increased efficiency in the service sector. Through digital platforms, transactions become more efficient since they connect service providers and customers, thus making them faster, more accessible, and convenient. Transport apps have revolutionised city travel, whereas food ordering and online shopping platforms have changed consumption and delivery methods. Using algorithmic systems makes labour supply and demand matching more efficient and productive, which has increased commercial scale. The platform economy is now deeply connected with India's digitisation process.

Entrepreneurship and self-employment are other factors that should be considered when talking about the gig economy. Often, platform companies depict gig workers as entrepreneurs whose labour is characterised by independence. Numerous workers use their personal resources, including motorcycles, cars, and smartphones, to earn money via platforms. Thus, there is an opportunity for micro-entrepreneurship and the involvement of individuals in platform work

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<sup>38</sup> Tejas Yaduvanshi et al., *Gig Economy in India: Transforming Employment Dynamics in the Digital Age*, 5 J. Informatics Educ. & Rsch. 374, 375–76 (2025).

on an as-needed basis. Moreover, government projects related to digital development have enhanced this phenomenon.

Notwithstanding these contributions towards the economy, however, the exponential growth of the gig economy has raised concerns about labour informality and the precariousness of employment. Most gig workers do not have any formal contract, consistent wages, social security or job-related guarantees. The income of these workers continues to be contingent on the demand of the market, incentives, and controls through algorithms provided by the platform. These workers incur costs in terms of fuel, vehicle repairs, and internet costs, among others, without any compensation. Therefore, even as the gig economy facilitates employment, it has also transferred great economic risk from businesses to workers.<sup>39</sup>

The issue of income insecurity is still among the most crucial ones in the world of the gig economy. The problem here is that platform employees have to endure fluctuating commissions, flexible pricing models, and reduced incentives. It is especially true for industries like food delivery or ride-hailing, where platform workers are forced to work for longer periods of time to be able to receive a stable income. It has been reported that many platform workers are working more than ten or twelve hours a day.<sup>40</sup> Such conditions raise concerns regarding occupational fatigue, health risks, and exploitative labour practices.

The economic importance of gig work must thus be considered against the backdrop of the Indian informal labour market. Although platform work is based on technological advancements, many of its basic labour features are those that are akin to informal labour, whereby the worker lacks bargaining strength and proper welfare benefits. The flexible nature of gig work often conceals the economic dependence of the worker, along with the lack of any kind of security. It is such a paradox that demands an appropriate policy approach that will be able to stimulate digital economy growth without compromising the well-being of the workers.

The expansion of the gig economy in India will proceed along the lines of increased digitalisation, adoption of AI, and app-enabled businesses. Platform work will be crucial in areas like transport, logistics, healthcare services, education, commerce, and household services. However, the sustainable development of the digital economy necessitates the

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<sup>39</sup> David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* 201–18 (Harvard Univ. Press 2014).

<sup>40</sup> Anshuman Ankit, *Reimagining Labour Market Formalisation through Labour Reforms Trajectory: A Policy Analysis of Gig Workforce in India*, 10 Int'l J. for Rsch. Trends & Innovation a535, a536 (2025).

formulation of labour policies that take care of matters of social security, wages, occupational health, and accountability. The success of platform businesses economically cannot be divorced from the need to uphold labour rights as per the constitution.

### **LEGAL STATUS OF GIG WORKERS UNDER INDIAN LABOUR LAW**

The emergence of the gig economy has revealed certain inadequacies in the traditional labour laws in India. Labour laws in the past have been drafted to address issues arising out of employment relationships in industries where there was a presence of a defined employer, a fixed place of employment, and long-term employment. However, gig workers work under decentralised and digital platforms where the workers are regarded as self-employed individuals. There is much ambiguity surrounding whether labour laws apply to such gig workers and whether the future of employment law in India will be influenced by the gig economy.

The definition of employment is an important aspect of labour law jurisprudence since, in most cases, the statutory rights under the labour law apply only to those who are officially recognised as being in the capacity of an employee or a workman. The conventional labour laws, such as the Industrial Disputes Act of 1947, the Employees' State Insurance Act of 1948, the Employees' Provident Funds and Miscellaneous Provisions Act of 1952, and the Minimum Wages Act of 1948, have been designed mainly to protect those who are employed in the traditional sense.<sup>41</sup> This implies that there has to be a relationship between the employer and the employee based on control, supervision, and continuity of employment.

The Indian judicial system has always relied on several judicial tests in order to ascertain the presence of an employer-employee relationship.<sup>42</sup> "Control and Supervision Test" became one of the earliest tests to be adopted by the Indian judicial system to detect employer-employee relations.<sup>fn38</sup> According to this test, the amount of control that the employer exercises in carrying out his duties becomes very significant.<sup>43</sup> The other two tests, which were devised by Indian courts, include "Integration Test" and "Economic Dependence Test". The aim behind these tests was to ensure that the employer did not evade any labour-related duties.

Nonetheless, the application of these tests under traditional forms of work is becoming more challenging in light of the nature of the platform-based labour system. It can be noted that the

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<sup>41</sup> Surya Narayan Misra, *Labour and Industrial Laws* 41–53 (Central Law Publications 2021).

<sup>42</sup> *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, A.I.R. 1957 S.C. 264.

<sup>43</sup> Mark Freedland & Nicola Kountouris, *The Legal Construction of Personal Work Relations* 89–102 (Oxford Univ. Press 2011).

platforms control their workers through algorithms instead of physically controlling them. The distribution of tasks, rewards, ratings by clients, pricing, and punishment all take place via automatic systems built within apps. Although the platforms have assured that workers enjoy flexibility in choosing their hours and assignments, they still rely economically on the platform for earning opportunities.

One judicial precedent of major relevance for determining the status of employment in India is *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, where the Supreme Court laid emphasis on the role of control and supervision in establishing the relationship between employers and employees.<sup>44</sup> In another case, namely *Bangalore Water Supply & Sewerage Board v. A. Rajappa*, the Supreme Court has adopted an expansive approach towards labour welfare policies while acknowledging the importance of safeguarding the interests of vulnerable workers who participate in organised economic activities.<sup>45</sup> Although these decisions were delivered in contexts unrelated to digital labour platforms, the principles articulated therein remain relevant for examining contemporary gig work arrangements.

Gig workers being classified as independent contractors allows platform companies to be absolved of any responsibility related to minimum wage, social security, provident fund contribution, gratuity, leave period, maternity leave, and occupational safety requirements. Operational costs like fuel expenses, vehicle upkeep, internet costs, and the cost of acquiring equipment have to be borne entirely by gig workers. Additionally, platform firms have sole discretion to change terms of service, change commissions, and penalise or suspend gig workers without any legal or procedural process. This is indicative of a huge disparity in bargaining power between gig workers and platform firms.

Introduction of the Code on Social Security, 2020, into legislation represented a significant step forward in the labour legislation of India. For the first time, “gig workers” and “platform workers” were defined as different classes of labour.<sup>46</sup> According to Section 2(35), a gig worker is an individual who provides services or works under any arrangement other than an employer-employee relationship. At the same time, a platform worker is defined by Section 2(61) as a person working in a platform-based arrangement.<sup>47</sup> This statutory recognition reflects legislative acknowledgement of the changing nature of labour markets in the digital economy.

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<sup>44</sup> *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, A.I.R. 1957 S.C. 264.

<sup>45</sup> *Bangalore Water Supply & Sewerage Board v. A. Rajappa*, (1978) 2 S.C.C. 213.

<sup>46</sup> Code on Social Security, No. 36 of 2020, §§ 2(35), 2(61) (India).

<sup>47</sup> *Id.*

Moreover, the Code on Social Security has strengthened the powers of the Central and State Governments in framing welfare schemes for gig and platform workers related to life insurance, health insurance, maternity benefits, pension for old age, creche facility, and social security in general.<sup>48</sup> This code also envisages the creation of social security funds with the aid of payments by aggregators and government agencies. Certain platform companies working in certain industries may be mandated to pay an amount from their income to the welfare schemes of the workers.<sup>49</sup>

However, even in light of these changes, the Code on Social Security has been widely criticised for its inability to create any legally enforceable rights for gig workers. The law does not recognize platform workers as employees, nor does it place any duties on the employers regarding minimum wage, right to collective bargaining, working hours regulation, or termination of employment terms.<sup>50</sup> Majority of the welfare measures in the Code are conditional on further schemes by the government in the future. Consequently, the legal status of gig workers continues to remain ambiguous despite statutory recognition.

Yet another major limitation concerning Indian labour laws involves the lack of any form of collective bargaining process for gig workers. Labour union laws and industrial disputes were developed considering traditional workplace settings that had identifiable employers. However, gig workers work in fragmented digital platforms with no concrete organisational structure. However, there have been numerous instances where such gig workers, particularly delivery persons and drivers of ride-hailing applications, have protested for better wages, algorithm transparency, insurance protection, and fair working conditions. There have been various platform worker unions that have formed in urban areas to negotiate with platform employers.

The principle of constitutionalism offers an essential normative foundation for the extension of labour rights to gig workers in India. The Constitution of India, under Article 21, enshrines the right to life and dignity, and under Articles 39, 41, and 43, mandates the State to ensure a decent standard of living and humane working conditions, as well as social security. Fundamental rights have been interpreted by the judiciary in a manner that gives prominence to socio-economic justice and labour welfare within India's constitutional system. In the case of *Bandhua Mukti Morcha vs. Union of India*, the Supreme Court held that humane working

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<sup>48</sup> Id. § 114.

<sup>49</sup> Id. §§ 109–114.

<sup>50</sup> Anushree Sinha & Aditi Gupta, *Social Security for Gig Workers in India: Analysing the Code on Social Security*, 2020, 13 NUJS L. Rev. 87, 101–07 (2021).

conditions and protection from exploitation are vital aspects of constitutional governance.<sup>51</sup> These principles gain new relevance in light of digital labour platforms with their exploitative working conditions.

International comparative trends have also shaped current discussions regarding the classification of platform workers. In jurisdictions including the UK, Spain, and California, there has been an increasing trend of treating gig workers as employees or workers and providing them with labour rights due to the extent of economic control exercised by platforms over their employment relations.<sup>52</sup> The judgment of the UK Supreme Court in *Uber BV v. Aslam* was especially significant as the court did not rely on the labelling provided by the platform but instead considered the level of control being exercised.<sup>53</sup> Such developments indicate a growing judicial willingness to prioritise substantive labour realities over formal contractual terminology.

The present legal scenario in India thus presents a paradoxical juxtaposition of technology and workers' rights. Whereas technology plays a vital role in generating both wealth and jobs, the absence of an inclusive legal regime leaves gig workers vulnerable to exploitation and uncertainty. What Indian labour law needs to achieve is to develop an inclusive framework that will recognise the distinct nature of work on a digital platform while protecting workers' interests in terms of adequate wages, social security, and safety.

## **CONTEMPORARY CHALLENGES, COMPARATIVE PERSPECTIVES AND REFORMATIVE FRAMEWORK**

### **A. CHALLENGES FACED BY GIG WORKERS**

Even though the gig economy creates employment on a large scale in India, it exposes workers to socio-economic vulnerabilities. The main disadvantage of gig workers is that they lack fixed incomes, job security, social protection, and occupational safety.<sup>54</sup> They have unpredictable incomes depending on demand, price algorithms, and incentives. People working as gig labourers in the transportation sector usually find themselves forced to work more hours in order to earn an acceptable amount of money.

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<sup>51</sup> INDIA CONST. arts. 21, 39, 41 & 43.

<sup>52</sup> Valerio De Stefano, *The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdsourcing and Labour Protection in the "Gig-Economy"*, 37 *Comp. Lab. L. & Pol'y J.* 471, 492–98 (2016).

<sup>53</sup> *Uber BV v. Aslam* [2021] UKSC 5.

<sup>54</sup> Guy Standing, *The Precariat: The New Dangerous Class* 24–39 (Bloomsbury Academic 2011).

Another critical issue is the lack of adequate social security. Most of the platform workers are deprived of benefits such as provident fund contribution, gratuity, paid leave, maternity provision, pension plan, and medical coverage. Despite the inclusion of gig and platform workers in the Code on Social Security, 2020, the implementation process of these benefits is still weak.<sup>55</sup> Moreover, these workers also have high occupational hazards like road accidents, physical and psychological fatigue due to constant monitoring through algorithms.

Algorithmic management exacerbates the vulnerability of the worker further. The management of the assignment, the ratings, the rewards, and the punishments is done automatically through a system that does not have any element of transparency and accountability. The worker could even be suspended or the account deactivated at their whim. Hence, despite the flexibility provided by gig work, there are elements of economic dependence here.

## **B. COMPARATIVE AND JUDICIAL ANALYSIS**

In light of recent international developments, there appears to be a greater realisation regarding labour protections for platform workers. In the UK, for instance, the Supreme Court ruling in the case of *Uber BV v. Aslam* classified Uber drivers as “workers,” meaning that the platform workers were eligible for benefits such as minimum wage and paid leave as a result of considerable control by the platform over the working conditions. Another example is the “Riders Law” in Spain that recognised food delivery riders as employees on digital platforms.

The state of California has used the judicial and legislative methods to introduce the “ABC Test”, which is used to decide whether individuals are employees or not. The emergence of such measures indicates that the focus is being shifted from mere labelling of the nature of the contract towards the reality of control by the platform.

India is yet to take concrete steps through judicial processes concerning the classification of gig workers. But the constitution of the country has several provisions and legal principles related to the dignity of labour, social justice, and protection from exploitation, which can serve as a good theoretical foundation for labour legislation. For instance, *Bandhua Mukti Morcha v. Union of India*.<sup>56</sup>

## **C. REFORMS AND RECOMMENDATIONS**

A balanced approach is needed to formulate regulations for India that can reconcile innovation with worker welfare. Firstly, gig workers must be regarded as a separate category of workers

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<sup>55</sup> Code on Social Security, No. 36 of 2020, §§ 109–114 (India).

<sup>56</sup> *Uber BV v. Aslam* [2021] UKSC 5.

who must receive social security provisions such as health insurance, pension schemes, compensation for injuries, and maternity benefits. Mandatory provisions to ensure worker welfare according to the Code on Social Security, 2020, must be ensured through contributions made by aggregators and the government.

Second, the regulatory measures need to guarantee that there is transparency in the system of management through algorithms. The workers ought to be kept informed about how the rating system works, how their incentives are calculated, and the reasons why they may be suspended or de-platformed.

Finally, there must be legal recognition of the right to engage in collective bargaining among platform workers. The trade unions or labour groups can become key players in ensuring that wages and working conditions are reasonable. Finally, labour policies must concentrate on occupational health and safety, fair wage levels, and digital inclusion so that technology does not violate social justice.

## **CONCLUSION**

The rise of the gig economy has revolutionised the Indian labour market through flexible, technology-enabled job opportunities. Nevertheless, the lack of adequate labour regulations has contributed to economic instability, a reduction in bargaining power, and worker precariousness. The current regulatory regime falls short of addressing the challenges associated with new forms of employment based on digital platforms. For sustainable development in the digital economy, there is a need for an innovative approach to labour regulation that incorporates social justice principles in the Indian context. Extending social security, ensuring procedural fairness, and strengthening labour rights for gig workers are essential for preserving constitutional commitments to social justice within India's evolving digital economy.