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CAN INDIAN LABOUR LAWS REGULATE GIG WORKERS EFFECTIVELY?

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INTRODUCTION

The landscape of work in India is undergoing a seismic shift, driven by the explosive emergence of the gig economy. Driven by cheap internet and a booming tech ecosystem, a hyper-connected consumer base has fuelled an unprecedented demand for on-demand services.[1] This economic evolution has triggered a massive workforce migration, marking a definitive shift from traditional employment characterized by stable, fixed salaries and structured corporate ladders to platform-based work. Today, millions of delivery executives, ride-hailing drivers, and freelance professionals form the backbone of this decentralized labour pool.[2]

At the heart of this transformation is an increasing reliance on digital labour platforms. These applications utilize sophisticated algorithms to match consumer demand with worker availability in real time. While this ecosystem offers workers unparalleled autonomy, flexibility, and a low-barrier entry to earning an income, it also introduces deep socioeconomic vulnerabilities. Because these individuals operate outside the conventional "employer-employee" relationship, they exist in a legal grey area, largely excluded from minimum wage guarantees, healthcare benefits, and corporate social safety nets.[3]

[1] N. Akhila, *The Dynamics of Blooming Gig Employment in India: An Overview*, 13 **Int'l J. Eng'g Dev. & Res.** 196 (2025).

[2] Anagha Roy, *The Emerging Platform Economy in India – A Broad Review*, Giri Institute of Development Studies Working Paper (2025).

[3] Madhurima Saha, *Gig Economy in India: An Analysis with Survey Data*, 5 **Int'l J. Contemp. Res. Multidiscip.** 80 (2026).

As the lines between workplace flexibility and systemic exploitation continue to blur, India stands at a critical legislative crossroads. This backdrop forces a vital central question of labour regulation and worker protection: **Can Indian labour laws effectively adapt to regulate gig workers and safeguard their livelihoods, or will the fast-evolving algorithms of the digital age permanently outpace the country's legal frameworks?** Navigating this balance is no longer just a legal hurdle, but a defining socio-economic challenge for India's future.

UNDERSTANDING GIG WORK AND GIG WORKERS

STATUTORY CATEGORIZATION AND CLASSIFICATION

To evaluate modern labour regulations, one must first deconstruct how non-traditional labour is legally categorized. For the first time in Indian legislative history, the Code on Social Security, 2020, formally recognized this ecosystem by establishing two distinct statutory definitions.[4] The Code defines a "gig worker" as a person who performs work outside a traditional employer-employee relationship, serving as a broad umbrella term for short-term or freelance earning structures. Conversely, the statute defines a "platform worker" as an individual whose work is managed via a digital intermediary[5] or online application. Thus, while all platform workers are inherently gig workers due to their task-based compensation, independent freelancers hired directly without an app qualify strictly as gig workers.

Historically, Indian jurisprudence relied on a binary division: formal employees governed by traditional labour statutes like the Industrial Disputes Act, 1947, or independent contractors governed by general contract law under the Indian Contract Act, 1872. To determine a worker's status, the Supreme Court of India established the "supervision and control" test in *Ram Singh v. Union of India*, which evaluates who dictates the methods, working hours, and disciplinary terms of employment.[6] Formal employees who satisfy this test receive statutory benefits like minimum wages, provident funds, and working-hour ceilings.

Digital aggregators exploit this legal binary by contractually labelling gig workers as independent "partners"[7] or "contractors," assuming they possess absolute autonomy over their tasks. However, this creates a profound paradox: while contractually categorized as

[4] Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).
[5] Id. §§ 2(35), 2(61)
[6] *Ram Singh v. Union of India*, (2004) 1 S.C.C. 126 (India).
[7] Deepika M.G. & Madhusoodhan M., *Labour Laws for Gig Workers in the Context of Labour Law Reforms*, 58 **Econ. & Pol. Wkly.** 42 (2023).

independent economic agents, these workers remain heavily subordinated to algorithmic management, automated performance metrics, and platform-dictated pricing structures.

CORE FEATURES AND KEY SECTORS

Gig employment is structurally defined by three interconnected features:

- **FLEXIBILITY:** The theoretical autonomy to choose working hours and work across competing platforms simultaneously.
- **TEMPORARY WORK ARRANGEMENTS:** A transient relationship that lasts only for the duration of a specific contract, leaving workers vulnerable to sudden account deactivation.
- **TASK-BASED PAYMENTS:** A piece-rate compensation model where earnings are tied directly to completing discrete units of work rather than a fixed salary.

As outlined in Schedule VII of the Code on Social Security, 2020, this model thrives across four major domestic sectors: ride-hailing services (Ola and Uber), food and hyperlocal delivery aggregators (Swiggy and Zomato), e-marketplace logistics (Flipkart and Amazon), and on-demand professional or household services (Urban Company).

GROWTH OF THE GIG ECONOMY IN INDIA

The rapid expansion of India's gig economy is structurally tied to the acceleration of digitalisation and deep smartphone penetration. The proliferation of low-cost mobile data and affordable handsets transformed digital platforms from localized urban experiments into a ubiquitous national infrastructure, embedding algorithmic work into Tier-2 and Tier-3 ecosystems.

This digital expansion collided with the unprecedented economic shock of the COVID-19 pandemic. As formal sectors experienced widespread retrenchments and strict lockdowns curtailed traditional commerce, digital platforms served as vital socioeconomic buffers. Displaced formal workers migrated toward temporary platform roles to protect household incomes, while public health demands exponentially increased consumer reliance on contactless logistics and hyperlocal deliveries.

Empirical indicators highlight the sheer velocity of this shift. According to NITI Aayog, the gig workforce grew to 7.7 million individuals by 2020–21, representing approximately 1.5% of the country's total workforce. This base is projected to aggressively expand to 23.5 million workers by 2029–30,[8] accounting for 4.1% of national employment, with the broader gig market targeted to reach a valuation of 455 billion USD.

This trajectory represents a massive engine for employment generation within the modern digital economy. The primary benefit lies in highly flexible work opportunities, which allow workers to monetize underutilized time and balance multiple platform applications. This model absorbs India's massive demographic dividend by providing immediate, low-barrier youth employment when formal corporate entry tracks are constrained.

Furthermore, platform work facilitates female workforce entry, helping to circumvent historically low female labour force participation rates by allowing women to manage flexible earning schedules around domestic responsibilities.[9] However, clear barriers remain: women platform workers are highly concentrated in female-selected niches like beauty and care work, navigate a persistent gender wage gap of approximately 8% to 10% relative to male peers, and lack explicit statutory protection frameworks against workplace sexual harassment

CHALLENGES FACED BY GIG WORKERS

A. ECONOMIC INSECURITY

The modern gig economy operates on a system of structural precarity that compromises workers' financial stability. Because gig workers are classified as independent "partners," they are excluded from the minimum wage guarantees established under traditional labour frameworks[10] like the Code on Wages, 2019. This exclusion leaves them vulnerable to unpredictable fluctuations in earnings dictated by market dynamics and platform-controlled pricing shifts. To offset low base rates, platforms tie compensation heavily to complex, shifting incentive systems and performance bonuses. This payment architecture forces workers to complete long, gruelling shifts to meet strict delivery and ride quotas, turning theoretical schedule flexibility into economic compulsion.

B. ABSENCE OF SOCIAL SECURITY

The lack of structural employer-employee ties denies gig workers the institutional safety nets standard in formal employment. They are largely cut off from statutory provident funds,

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[8] NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022).
[9] Sayantani Santra & Amit Kundu, *Opportunities for Indian Women in Gig Jobs without Using Digital Platforms*, 21 **Managing Global Transitions** 295 (2025).
[10] Code on Wages, 2019, No. 29, Acts of Parliament, 2019 (India).

gratuity, and corporate pension networks.[11] Furthermore, gig workers generally lack comprehensive health insurance, workplace accident indemnities, or medical leave provisions—obligations that platforms avoid by functioning as technological intermediaries. This creates a significant gender barrier, as women platform workers are left without statutory maternity benefits, leaving them financially exposed during periods of family care and health disruptions.

C. JOB INSECURITY

Job security is practically non-existent for gig workers, who typically operate without formal employment contracts or fixed tenures. Platforms maintain unilateral authority over labour retention through automated "account deactivation." A worker's livelihood can be terminated instantly by algorithmic systems based on unverified customer claims or minor drop-offs in acceptance rates. Operating outside traditional industrial courts, deactivated gig workers face an institutional vacuum with few legal channels to contest arbitrary terminations or seek reinstatement.

D. ALGORITHMIC EXPLOITATION

Behind the promise of workplace independence lies a system of tight algorithmic control. Platforms track workers via persistent digital surveillance, monitoring exact acceptance rates, live GPS locations, and speed metrics. Work allocation and earning potential are strictly gated by automated, rating-based systems that rely heavily on consumer reviews. This rating mechanism creates intense psychological stress, forcing workers to tolerate customer mistreatment, speed through traffic, and accept high-risk delivery windows to prevent small drops in their rating, which could trigger algorithmic penalties or deactivation. [12]

E. LACK OF COLLECTIVE BARGAINING

These vulnerabilities are intensified by systemic barriers to collective bargaining. Because gig workers are legally categorized as independent contractors[13] rather than corporate "workmen," their right to form legally recognized trade unions and engage in collective negotiation under frameworks like the Industrial Relations Code, 2020, remains constrained and legally contested. This leaves a highly atomized, decentralized workforce with minimal leverage to

[11] Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Employees' State Insurance Act, 1948.
[12] S. Kashyap, *The Digital Mirage: India's Evolving Legal Battle Against Deepfake Technology*, 22 **SCRIPTed** 112 (2025) (for algorithmic governance analogy).
[13] Industrial Relations Code, 2020, No. 35, Acts of Parliament, 2020 (India).

challenge unilateral platform policies, leaving individual workers with little choice but to accept platform-dictated terms.

APPLICABILITY OF EXISTING INDIAN LABOUR LAWS

TRADITIONAL LABOUR LAW FRAMEWORK

India's foundational labour jurisprudence was constructed to regulate organized, industrial workspaces characterized by physical factories and predictable working hours. Under this traditional regime, welfare benefits and workplace safety protections are distributed through several key statutes. The Industrial Disputes Act, 1947, functions as the bedrock for job security, setting forth strict legal procedures for retrenchment, layoffs, and the resolution of collective industrial disputes. The Minimum Wages Act, 1948, mandates regular, statutory base compensation across scheduled employments to prevent the economic exploitation of vulnerable labourers. For long-term financial safety, the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, establishes retirement security through mandatory, co-contributory savings accounts shared between employers and employees. Finally, the Employees' State Insurance Act, 1948, provides an integrated social insurance web, securing medical care, cash benefits during sickness, and coverage for employment-related physical injuries.[14]

WHY THESE LAWS ARE INEFFECTIVE FOR GIG WORKERS

Despite this extensive statutory web, traditional labour protections fail to shield the gig workforce due to a fundamental mismatch between twentieth-century legal definitions and modern digital work models.

The primary hurdle is that almost all traditional protections depend strictly on proving a formal employer-employee relationship.[15] Indian courts have long relied on the "control and supervision" test to establish this tie, looking at whether a management layer dictates the daily methods, physical location, and disciplinary terms of labour.

Digital aggregators bypass this framework by structuring their digital agreements to classify workers as independent contractors or autonomous partners. Because gig workers choose when

[14] Industrial Disputes Act, 1947; Minimum Wages Act, 1948; Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Employees' State Insurance Act, 1948.
[15] Balwant Rai Saluja v. Air India Ltd., (2014) 9 S.C.C. 407 (India).

to log into an application, platforms argue they lack the direct supervisory control characteristic of a traditional employment relationship.[16]

Furthermore, the decentralized, fluid nature of platform ecosystems makes fixing employer liability exceptionally difficult. Digital labour platforms operate as technology aggregators rather than direct employers, framing their role as merely matching independent service providers with end consumers. By positioning themselves as neutral software intermediaries, platforms distance themselves from the legal responsibilities of worker upkeep, leaving gig workers structurally excluded from the very laws designed to protect them.

THE CODE ON SOCIAL SECURITY, 2020

RECOGNITION OF GIG AND PLATFORM WORKERS

The Code on Social Security, 2020, marks a paradigm shift in Indian jurisprudence by offering the first statutory recognition to non-traditional workers. It introduces distinct legal identities outside the classical industrial model. Section 2(35) defines a gig worker as someone performing work outside the traditional employer-employee relationship, while Section 2(61) defines a platform worker as an individual providing services via digital intermediaries.[17]

WELFARE PROVISIONS UNDER THE CODE

To support this workforce, the Code mandates the creation of specialized social security schemes. These frameworks focus on establishing health insurance, accident coverage, maternity relief, and old-age safety nets. Financing relies on aggregator contributions; platforms like ride-hailing services, e-marketplaces, and food delivery apps are required to contribute between one to two percent of their annual turnover, capped at five percent of the total amount paid to gig workers. These funds feed into a centralized National Social Security Board tasked with managing welfare distribution.[18]

LIMITATIONS OF THE CODE

Despite its progressive intent, the Code suffers from significant implementation gaps. First, it completely separates social security from fundamental labour rights, leaving gig workers without statutory minimum wage guarantees or working-hour caps. Furthermore, the framing lacks administrative teeth, offering no clear enforcement structure or penal accountability to

[16] *Ram Singh*, (2004) 1 S.C.C. 126.
[17] Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).
[18] Id.

prevent platforms from misclassifying workers. There is also persistent legal ambiguity regarding rights and obligations, as the law fails to clearly define how independent contractors can challenge arbitrary platform decisions.[19] Finally, because labour is a concurrent subject in India, the slow rollout of state-level rules has left the central framework largely un-implemented, leaving millions of workers without actual access to its promised safety nets.[20]

JUDICIAL AND COMPARATIVE PERSPECTIVES

INDIAN JUDICIAL DEVELOPMENTS

The Indian judiciary has shown increasing concern over the vulnerable status of app-based workers in the digital economy. The Supreme Court of India has actively considered public interest litigations demanding the extension of social security benefits to gig workers, emphasizing that the "Right to Life" under Article 21 of the Constitution must encompass the right to livelihood and decent working conditions.[21] Landmark judgments, such as *Ram Singh v. Union of India*, are being re-examined by lower courts and labour tribunals to argue that the historic "control and supervision" test must evolve. Given that digital platforms exercise immense control over pricing, task allocation, and disciplinary actions via automated systems, the judiciary increasingly recognizes that the lack of formal labour protection in digital employment leaves workers exposed to systematic exploitation under the guise of partnership.[22]

INTERNATIONAL APPROACHES

Globally, regulatory and judicial bodies have begun dismantling the "independent contractor" misclassification used by digital aggregators:

- **THE UNITED KINGDOM APPROACH:** In a landmark ruling involving Uber drivers, the UK Supreme Court rejected purely contractual labels, establishing that drivers qualify as "workers." The Court defined working time as any period an individual is logged into the app within their territory and ready to accept trips, thereby guaranteeing them access to a statutory national minimum wage and paid leave.

[19] Id

[20] Anuj Kumar & Shivam Shani, *Gig Workers in India: Bridging Legal Gaps and Ensuring Sustainability*, 14 **NLIU L. Rev.** 141 (2025).

[21] *Balwant Rai Saluja*, (2014) 9 S.C.C. 407.

[22] *Uber BV v. Aslam*, [2021] UKSC 5 (U.K.).

- **CALIFORNIA'S AB5 LEGISLATION:** California codified the rigorous "ABC Test" through Assembly Bill. Under this law, a worker is presumed to be an employee unless the hiring entity proves the worker is free from its control, performs work outside the core hiring business, and regularly engages in an established independent trade.
- **EUROPEAN UNION'S PLATFORM WORKER REFORMS:** The European Union enacted the Platform Work Directive (Directive 2024/2831), which member states must transpose into national law by December 2026.[23] The directive introduces a rebuttable presumption of employment whenever facts indicate platform direction or control, shifting the burden of proof entirely onto the platforms. It also establishes the world's first comprehensive rules for algorithmic transparency and human oversight of automated deactivations.

LESSONS FOR INDIA

These international frameworks offer critical lessons for India as it refines its digital labour policies. India must move beyond fragmented social security schemes and adopt models that successfully balance technological innovation with fundamental labour rights. True worker protection requires stronger enforcement models rather than reliance on self-regulation by aggregators. India's regulatory trajectory must shift from merely managing welfare funds to establishing a legally binding "worker status" that guarantees basic workplace safety, structural transparency in algorithmic pricing, and enforceable dispute resolution mechanisms.

CAN INDIAN LABOUR LAWS REGULATE GIG WORKERS EFFECTIVELY?

ARGUMENTS SUPPORTING EXISTING LAWS

Proponents of India's current legislative trajectory argue that the nation has made historic strides toward safeguarding non-traditional labour. The foundational achievement is the formal recognition of "gig workers" and "platform workers" under the Code on Social Security, 2020. This statutory acknowledgement marks a significant departure from rigid, obsolete binaries that left freelance operators entirely invisible to the state.[24]

Furthermore, increasing government awareness has translated into active policy initiatives, highlighted by the central government's recent notification of the final Social Security Rules.

[23] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on Improving Working Conditions in Platform Work, 2024 O.J. (L 2831).
[24] Code on Social Security, 2020.

These rules establish an administrative mechanism mandating that digital aggregators contribute between one to two percent of their annual turnover to finance dedicated welfare boards. Supported by the deployment of Aadhaar-linked Universal Account Numbers, these measures lay a technical and legal baseline for portable social protection, demonstrating a strong potential for ongoing regulatory evolution.

ARGUMENTS AGAINST EFFECTIVE REGULATION

Conversely, critics contend that the current framework is structurally flawed and incapable of ensuring genuine workplace justice. A primary weakness lies in enforcement and implementation bottlenecks. Despite the passage of the overarching Code, the slow rollout of coordinated state-level rules has delayed actual field execution.

More critically, the regulatory architecture leaves deep legal loopholes regarding worker classification. By explicitly defining gig work as an activity occurring outside the traditional employer-employee relationship, the law unintentionally shields digital platforms from direct employer accountability.[25] Aggregators can legally treat workers as independent partners, bypassing minimum wage codes, workplace safety mandates, and overtime limits. Furthermore, the newly introduced social security rules enforce a strict eligibility hurdle, requiring workers to complete at least 90 days of active earnings with a single aggregator before they can access welfare funds, effectively excluding highly transient, part-time, or algorithmic-penalized labourers from comprehensive protection.

NEED FOR STRUCTURAL REFORMS

To resolve these systemic contradictions, India's labour regime must undergo comprehensive structural reforms:

- **DEFINING EMPLOYMENT RELATIONSHIPS CLEARLY:** The state must introduce intermediate legal classifications—similar to the United Kingdom's "worker" status or California's "ABC test"—that acknowledge how algorithmic tracking compromises a freelancer's actual autonomy, thereby preventing strategic worker misclassification.[26]

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[25] G. Madhavi, *Labour Rights in the Shadows: Addressing Gaps in Informal Sector*, 3 **United Int'l J. Multidisciplinary Res.** 164 (2026).
[26] Directive (EU) 2024/2831, supra note 24.

- **UNIVERSAL SOCIAL SECURITY FRAMEWORK:** Welfare networks must be universally accessible, removing rigid day-count eligibility thresholds and establishing portable, state-backed healthcare and accident insurance that remains active across different platform applications.
- **FAIR WAGE STANDARDS:** Lawmakers must integrate gig labour into the Code on Wages, establishing transparent, enforceable minimum floor-wage calculations calculated on an hourly basis to end predatory piece-rate structures.
- **TRANSPARENCY IN ALGORITHMS AND RATINGS:** Regulatory oversight must extend into the digital workspace by mandating algorithmic transparency. Platforms must provide workers with clear insights into rating-based task allocations and establish mandatory human-in-the-loop review boards to contest arbitrary account deactivations.

RECOMMENDATIONS AND REFORMS

To effectively formalize India's booming digital workforce, the state must enact dedicated, comprehensive gig worker legislation similar to pioneering frameworks in Rajasthan and Karnataka that transitions individuals out of regulatory grey zones. Central to this reform is mandating platform aggregators to pay social security contributions, financed via a transaction-based welfare fee (ranging from 1% to 5%) to fund vital life, health, and accident insurance. To ensure operational accountability, platforms must establish transparent, multi-tiered grievance redressal mechanisms, featuring internal dispute resolution committees alongside state-appointed appellate officers to handle unfair deactivations. Furthermore, recognizing the collective bargaining rights of gig workers will allow them to legally unionize and negotiate fair piece-rates and safe working hours. This regulatory evolution must extend to automated systems, imposing strict algorithmic management laws that mandate transparency in performance metrics and prohibit biased, AI-driven terminations. Ultimately, realizing these protections hinges on tripartite collaboration between the government, platforms, and worker unions, creating a co-governed welfare board capable of adapting to shifting digital landscapes.

CONCLUSION

The rapid expansion of India's gig economy has exposed critical structural vulnerabilities, leaving millions of platform workers caught in legal gaps devoid of standard minimum wage guarantees, health provisions, and occupational safety. While the sector serves as a massive engine for digital innovation and youth employment, sustaining this momentum requires balancing corporate economic growth with fundamental labour rights. Transitioning toward worker-centric labour reforms is no longer an optional ethical consideration, but a structural necessity to prevent systemic exploitation. As state-level enactments increasingly challenge traditional employer-employee binaries, the future of gig economy regulation in India must shift toward a permanent, federally integrated model. Embracing a framework that pairs technological flexibility with robust social safety nets will ensure that India's digital transformation remains both economically vibrant and socially equitable.