

**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES,
KOCHI**



**DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENT FOR THE AWARD OF DEGREE OF MASTER OF
CONSTITUTIONAL AND ADMINISTRATIVE LAW (2024 - 2025)**

ON THE TOPIC

**RIGHTS OF GIG AND PLATFORM WORKERS: NAVIGATING
ETHICAL AND LEGAL CHALLENGES**

Under The Guidance and Supervision Of

Dr. SHEEBA S. DHAR, ASSOCIATE PROFESSOR

**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL STUDIES,
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Submitted by: ANNCILLA MARIA ISAC

Register No: LM0124004

LL.M. (CONSTITUTIONAL AND ADMINISTRATIVE LAW)

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CERTIFICATE

This is to certify that **Anncilla Maria Isac**, REG NO: **LM0124004** has submitted her Dissertation titled – “**Rights of Gig and Platform Workers: Navigating Ethical and Legal Challenges**” in partial fulfilment of the requirement for the award of Degree in Master of Laws in **Constitutional and Administrative Law** to the **National University of Advanced Legal Studies, Kochi** under my guidance and supervision. It is also affirmed that the dissertation submitted by her is original, bona fide and genuine.

Date: **28th May, 2025**

Place: **Ernakulam**

Dr. Sheeba S. Dhar, Associate

Professor

GUIDE AND SUPERVISOR

NUALS, KOCHI

**THE NATIONAL UNIVERSITY OF ADVANCED LEGAL
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Name & Signature of the Supervisor:		

DECLARATION

I, **Anncilla Maria Isac**, do hereby declare that this dissertation work titled “**Rights of Gig and Platform Workers: Navigating Ethical and Legal Challenges**” researched and submitted by me to **the National University of Advanced Legal Studies** in partial fulfilment of the requirement for the award of degree of Master of Laws in **Constitutional and Administrative Law** under the guidance and supervision of **Dr. Sheeba S. Dhar, Associate Professor, the National University of Advanced Legal Studies** is an Original, Bonafide and Legitimate work. It has been pursued for an academic interest. This work or any type thereof has not been submitted by me or anyone else for the award of another degree of either this university or any other university.

Date: **28th May, 2025**

ANNCILLA MARIA ISAC

Place: **Ernakulam**

Reg. No.: LM0124004

**LL.M., Constitutional and Administrative Law
NUALS, Kochi**

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PREFACE

This dissertation critically explores the rights, vulnerabilities, and legal protections available to gig and platform-based workers in India, situated within the broader context of the emerging digital labor economy. As technology continues to transform traditional employment structures, gig work—characterized by temporary, task-based engagements facilitated by digital platforms—has become a defining feature of the contemporary workforce. While this transformation has offered flexibility and new economic opportunities, it has also given rise to complex legal and ethical challenges, particularly concerning the classification, protection, and welfare of gig workers. Against this backdrop, the research aims to analyze the conceptual foundation of the gig and sharing economy, unpack the systemic issues faced by workers, and scrutinize the inadequacies in India's current legal and regulatory approach. The study also draws on constitutional and human rights frameworks to establish the legitimacy of gig workers' claims to fair and dignified work. Through a comparative examination of legal systems in the U.S., U.K., E.U., and other jurisdictions, this work highlights international best practices and lessons that can inform Indian legal reforms. Anchored in the hypothesis that the lack of specific labor and social security provisions has led to the systematic deprivation of gig workers' rights, the dissertation proposes concrete legal and policy solutions to address this gap. These suggestions aim to balance worker protection with the operational realities of platform-based enterprises. This research is dedicated to labor law scholars, policymakers, platform workers, and civil society actors who are committed to building an equitable digital economy where innovation does not come at the cost of justice and dignity for workers.

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LIST OF ABBREVIATIONS

S. No.	ABBREVIATIONS	EXPANSIONS
1.	U.S.A.	United States of America
2.	U.K.	The United Kingdom
3.	E.U.	European Union
4.	S.C.	Supreme Court
5.	H.C.	High Court
6.	E.G.	Example
7.	D.I.P.	Digital Intermediation Platforms
8.	Art.	Article
9.	DPSP	Directive Principles of State Policy
10.	MGNREGA	Mahatma Gandhi National Rural Employment
11.	SDG	Sustainable Development Goals
12.	ILO	International Labour Organisation
13.	SCC	Supreme Court Cases
14.	ESIC	Employees' State Insurance Corporation
15.	SEC.	Section
16.	K'TKA	Karnataka
17.	C.G.	Central Government
18.	U.O.I.	Union Of India
19.	S.G.	State Government
20.	NAT'L	National
21.	Sec.	Section
22.	Art.	Article
23.	Etc.	Et Cetera
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1.	The Indian Federation of App Based Transport Workers (IFAT) v Union of India	WP (C) 1068/2021
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3.	Bharat Iron Works vs Bhagubhai Balubhai Patel & Ors	(1976) 1 SCC 518
4.	Consumer Education & Research Center V. Union Of India	(1995) 3 SCC 42
5.	Occupational Health & Safety Association v. Union Of India & Ors	(2014) 3 SCC 547
6.	Munn v. Illinois	94 U.S. 113 (1876)
7.	Kharak Singh v. State of U.P.	1962 SCC OnLine SC
8.	Olga Tellis v. Bombay Municipal Corporation	(1985) 3 S.C.C. 545 (India).
9.	Peoples' Union For Democratic Rights v. Union of India	(1982) 3 SCC 235
10.	Y.A. Mamarde & Ors. v. Authority under the Minimum Wages Act,	(1972) 2 SCC 168.
11.	Dharagadhara Chemical Work Ltd. v. State of Saurashtra	1957 SCR 158 (India)
12.	Collins v. Hertfordshire County	(1947) K.B. 598, 615
13.	Harrison Ltd. v. MacDonald and Evans	(1952)1 T.L.R. 101
14.	Short v. J. & W. Henderson, Ltd.	(1946) 62 T.L.R. 427

15.	Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments	(1974) 3 SCC 498
16.	Sushilaben Indravadan Gandhi & Another v. The New India Assurance Company Limited and Others	AIR 2020 SC 1977
17.	Hussainbhai v. Alath Factory Thezhilali Union	(1978) 4 SCC 257
18.	Uber BV v. Aslam	[2021] UKSC 5
19.	Collector of Stamp Revenue v Arrowtown Assets Ltd.	(2003) 6 ITLR 454
20.	Autoclenz Ltd v Belcher	[2011] UKSC 41
21.	Independent Workers Union of Great Britain v Central Arbitration Committee and another	[2023] UKSC 43
22.	B v. Yodel	[2020] IRLR 550
23.	Sindicatul "Pastorul Cel Bun" v Romania	[2014] IRLR 49
24.	Dynamex Operations W. v. Superior Court	416 P.3d 1 (Cal. 2018).
25.	Castellanos v. State of California	89 Cal. App. 5th 131 (2023)

CHAPTER 1: INTRODUCTION

1. INTRODUCTION:

The modern economy is undergoing a seismic shift, driven by digital intermediation platforms that have redefined how labour is accessed, performed, and compensated. At the heart of this transformation lies the gig economy—a fast-evolving ecosystem that promises flexibility and autonomy for workers while offering cost-efficiency and scalability for businesses. Yet, beneath the veneer of innovation and empowerment, gig work often unfolds in a regulatory grey zone, raising pressing questions about the ethical and legal treatment of those who power this digital infrastructure. Gig workers—ranging from ride-hailing drivers and food delivery personnel to freelance professionals and online content moderators—often fall outside the ambit of traditional labour protections. Straddling the line between employment and self-employment, they are frequently excluded from social security benefits, minimum wage guarantees, and collective bargaining rights. This structural ambiguity leaves them vulnerable to algorithmic control, precarious incomes, and unilateral contract terms dictated by platforms.

Platforms like Uber has managed to score consistent rise to the position of an employer through smart programming of their business model, providing the expectant platform worker low-barrier-to-entry-to-employment chance, and the things one must possess to compete with other workers on the platform does not entail the possession of any high level skill, he/she probably needs a car, a smartphone with a stable internet connection, a background check, and anybody can register themselves as a driver on the platform.¹ there are no more human supervisors of work, but work is supervised by algorithms. Such use of algorithms raises several ethical concerns about the processing of data of the workers by the aggregators. The legal loophole that does not classify the gig and platform workers as employees but treats them as employees.

The legal framework surrounding gig work further deepens this precarity. In most jurisdictions, including India, there exists a legal loophole that classifies platform workers not as employees, but as “independent contractors” or “partners.” This misclassification serves the strategic interests of digital platforms by allowing them to circumvent employer obligations such as minimum wage laws, social security contributions, and workplace

¹ALEX ROSENBLAT, UBERLAND HOW ALGORITHMS ARE REWRITING THE RULES OF WORK (2018)

protections. While these platforms continue to exert substantial control over how, when, and where work is performed—thereby meeting several legal tests of an employment relationship—they simultaneously disclaim responsibility for workers' welfare by invoking the language of self-employment and entrepreneurship. In practice, this control manifests in numerous exploitative ways. Workers are not allowed to set their own fares; instead, the platform unilaterally determines the pricing structure, often without transparency or negotiation. They are subject to tight time frames, algorithm-imposed productivity metrics, and customer-driven performance assessments, which affect their visibility on the app and overall earnings. Failure to meet these invisible expectations can result in negative ratings, reduced job visibility, or even account deactivation—all without due process. Additionally, workers have no say in key terms of engagement and are often forced to accept ever-changing contract conditions under “take-it-or-leave-it” policies.

Moreover, despite being essential to the functioning of the platform, these workers are excluded from the protective cover of labour laws. They receive no minimum wage guarantees, no paid leave, no insurance for occupational hazards, and no access to pension or provident fund schemes. Instead, they are left to navigate volatile markets where the supply of labour often outpaces demand, further driving down incomes and bargaining power. This precarity is intensified by customer-related issues—ranging from verbal abuse to discriminatory behaviour—which workers are expected to endure in silence due to the absence of effective grievance redressal mechanisms and the fear of algorithmic penalties. Ultimately, gig workers find themselves trapped in a paradox: they are labelled as independent and flexible, yet their work is meticulously controlled, surveilled, and devalued. Their condition exemplifies a deeper systemic failure—the lack of comprehensive, up-to-date legislation that reflects the realities of platform-mediated labour in the digital economy. In the absence of such regulation, platform capitalism thrives unchecked, consolidating profits at the top while leaving its most vital contributors in a state of legal invisibility and economic insecurity. The need for legislative reform is not just a matter of improving working conditions; it is a question of restoring dignity, equity, and justice to a growing segment of the labour force that is currently excluded from the foundational protections of employment law.

1.1. RESEARCH PROBLEM

India's labour law regime does not adequately reflect the rights and needs of gig and platform workers, who remain excluded from essential protections like social security, minimum wage guarantees, and safeguards against discrimination. This gap raises the urgent need for legal reform that balances worker welfare with the operational needs of platform aggregators, drawing on global best practices to ensure fairness and long-term sustainability of the gig economy.

1.2. RESEARCH QUESTIONS

- What are the defining characteristics of the gig economy and sharing economy and what are its main constituents?
- What are the problems faced by the workers in the gig and sharing economy?
- What are the constitutional and human rights perspectives on the rights of the gig and platform workers?
- How does the Indian Legal system address the rights of the platform-based gig workers?
- How does the legal systems of the US, the UK and EU address the rights of the Gig workers?
- What are the changes that can be made to the present legal framework to adequately address the rights of platform-based gig workers?

1.3. OBJECTIVES OF THE RESEARCH

- To conduct a conceptual analysis of the Gig and the sharing economy and its constituents.
- Analyze in detail the problems faced by the workers in the sharing economy.
- To elucidate the constitutional and human rights dimensions of the rights available to platform-based gig workers, focusing on their legal protections and vulnerabilities within the gig economy.
- A scrutiny of the legal protections available to these workers in India, focusing on developments in Union law, laws of the States and case laws.
- Exploring the comparative perspectives on gig workers' rights, gaining knowledge from the jurisdictions of the U.S., E.U., U.K., and any other relevant jurisdiction.

- Suggesting reforms to the existing legal framework to adequately address the rights of the platform-based gig workers.

1.4. RESEARCH HYPOTHESIS

Based on the aforementioned objectives, the following hypothesis is formulated:

- The absence of a specific legal provisions relating to social security and labour rights addressing the workers of the gig and sharing economy has resulted in the deprivation of their rights.

1.5. RESEARCH METHODOLOGY

This study will primarily adopt a doctrinal research methodology, given the time constraints and the nature of the subject. The focus will be on a detailed analysis of statutory provisions, judicial pronouncements, and policy documents to critically examine the legal positioning of gig and platform workers, both in India and in selected comparative jurisdictions. The research will explore how various labour regimes—such as those in the European Union, the United States, and select Asian countries—have addressed the status, rights, and protections of gig workers, with the aim of identifying best practices and legal innovations relevant to the Indian context. In addition to doctrinal analysis, the study will draw upon case studies of workers lived experiences within the gig and platform economy. This will involve a qualitative examination of existing literature, investigative reports, interviews available in public domain, and empirical studies conducted by labour organizations, think tanks, and academic institutions. These case studies will help ground the legal inquiry in socio-economic realities and offer insight into the real-world impact of current regulatory frameworks. The research will thus integrate the examination of domestic legal instruments—including the Code on Social Security, 2020 and recent developments in Indian judicial discourse—with international instruments, such as the ILO recommendations, EU directives, and landmark cases from other jurisdictions. The study will rely on secondary sources such as academic books, peer-reviewed journals, newspaper reports, government publications, and credible online databases to supplement the legal analysis and support the arguments presented. By combining doctrinal inquiry with contextual understanding, the research aims to develop a nuanced critique of the current legal status of gig workers and offer informed suggestions for reform that are both principled and pragmatic.

1.6. CHAPTERIZATION

CHAPTER 1 - INTRODUCTION

This chapter provides an overview of the research, outlining the background and significance of the study on the rights of gig workers in the platform economy. It presents the research design, clearly stating the objectives that guide the inquiry, and details the methodology employed to address the core research questions. Through this framework, the chapter sets the foundation for understanding the scope and approach of the study, highlighting the doctrinal analysis, case studies, and comparative perspectives that will be explored in subsequent chapters.

CHAPTER 2: THE CONCEPTUAL ANALYSIS OF THE GIG AND PLATFORM ECONOMY

This chapter explores the historical development of the gig economy, tracing its roots from traditional gig roles to its rapid expansion in the digital age. It examines how technological advancements and platform-based business models have transformed the nature of temporary, flexible, and task-based work. The chapter also provides a detailed analysis of key concepts such as the gig worker, platform aggregator, and their roles within this evolving economic landscape. By contextualizing the gig economy's growth and the changing characteristics of gig work, this chapter lays the groundwork for understanding the legal and ethical challenges faced by workers today.

CHAPTER 3: CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVES ON GIG WORKERS' RIGHTS

This chapter examines the rights of gig workers through the lens of constitutional and human rights frameworks. It explores how fundamental rights such as the right to equality, right to livelihood, and right to fair working conditions apply to gig workers, and evaluates the legal recognition and protection afforded to them. By analysing relevant constitutional provisions, judicial interpretations, and international human rights norms, this chapter seeks to establish the legitimacy and urgency of claims for the welfare and protection of gig workers. This perspective provides a critical foundation for advocating policy and legal reforms that uphold the dignity and rights of workers in the gig economy.

CHAPTER 4: EXISTING LEGAL FRAMEWORK GOVERNING GIG WORKERS

This chapter analyses how India has approached the regulation of gig workers within its existing labour law ecosystem. It examines recent legislative efforts, government notifications, and judicial pronouncements aimed at recognizing and protecting gig and platform workers. Additionally, the chapter explores policy initiatives and regulatory measures adopted by various Indian states to address the unique challenges faced by gig workers. Through this critical analysis, the chapter highlights the strengths, gaps, and limitations of the current legal framework in safeguarding the rights and welfare of gig workers in India, setting the stage for recommendations on needed reforms.

CHAPTER 5: COMPARATIVE PERSPECTIVES ON LAW RELATING TO GIG WORKERS

This chapter provides a comparative analysis of legal frameworks governing gig workers in key foreign jurisdictions including the United States, the United Kingdom, and the European Union. It examines how these regions address classification, rights, social security, and regulatory challenges faced by gig and platform workers. By exploring diverse legislative approaches, judicial decisions, and policy initiatives, the chapter aims to highlight best practices and lessons that can inform reforms in India. This comparative perspective will help identify critical gaps in the domestic legal structure and offer insights into effective mechanisms for protecting gig workers' rights in a rapidly evolving economic landscape.

CHAPTER 6: CONCLUSIONS AND SUGGESTIONS

This chapter presents the key findings derived from the analysis conducted throughout the study, synthesizing insights from doctrinal research, case studies, and comparative perspectives. Based on these findings, it offers targeted suggestions for reforming the existing legal and policy frameworks governing gig workers in India. The recommendations emphasize the need to balance the competing interests of gig workers—such as social security, fair wages, and decent working conditions—with the operational concerns of platform aggregators. This chapter aims to propose practical, equitable, and sustainable solutions that promote the welfare of workers while supporting the growth and innovation of the gig economy.

1.7.LITERATURE REVIEW

The book written by Jamie Woodcock and Mark Graham, titled *The Gig Economy: A Critical Introduction* published by Polity Press, traces the origin and evolution of the gig economy. It provides an overview on the structure and functioning of the gig economy. It provides an insightful discussion on the various aspects of gig work such as state regulation, the pros and cons for workers, and provides interesting case studies on platforms like UBER. The book provides insights from the UK, Ireland, South Africa, the US and India on the fate of the workers in these countries and presents picture on the exploitation of workers through a misclassification of them as independent contractors instead of employees.

The work titled *Labor Law Reforms* by Jeet Singh Mann published in the 2021 by NLU Delhi, presents a collection of research papers on labor law in India. The first research paper titled, *Labor Law Reforms on Unorganized, Gig and Platform Workers Under the Code on Social Security: Issues and Challenges*, by Prof S.C. Srivastava touches upon the labor laws in India and their adequacy vis a vis the rights of gig workers. The paper touches upon the inadequacies in the domestic labour law in addressing the rights of the gig workers.

Sustainability in the Gig Economy: Perspectives, Challenges and Opportunities in Industry 4.0 by Ashish Gupta et al. provides a comprehensive view of the effects of the fourth industrial revolution on labor market. This book traces the evolution of the gig economy, reasons for its growth and its relevance in Industrial Revolution 4.0. it looks into the Pandemic led spurt of the gig-based platform industry. It also describes the character of gig work – whether the gig worker is actually a worker or an employer? These perspectives help understand the present-day challenges faced by gig worker, especially platform-based workers.

Institute for Human Development: India Employment Report 2024, is the third instalment of the India Employment Report, published in collaboration with the International Labour Organization (ILO). The report provides a comprehensive overview of the evolving trends in India's labour market, with particular emphasis on the structural transformations that have unfolded in recent years. One of the central themes of the report is the profound impact of the COVID-19 pandemic on employment patterns, labour force participation, and

income security. The pandemic triggered large-scale disruptions across sectors, exacerbating pre-existing vulnerabilities and accelerating shifts in the nature of work.

The edited volume *Cracking the Future of Work: Automation and Labor Platforms in the Global South* by Ramiro Albrieu et al. published in the year 2021 offers critical insights into how platform-based labour and automation are reshaping employment across developing economies. Given that India is part of the Global South, examining the impact of the gig economy in similarly placed countries provides valuable comparative perspectives. Many of these nations grapple with shared structural challenges—such as high population density, informal employment, low job creation rates, and weak social protection frameworks—making their experiences especially relevant to the Indian context. This work explores key themes such as the emergence of fair work standards on gig platforms, the ethical and operational implications of algorithmic management, and the gendered dimensions of platform-based work.

In *Uberland: How Algorithms Are Rewriting the Rules of Work* (1st ed., 2018), by Alex Rosenblat published by University of California Press published in the year 2018 offers a compelling ethnographic and investigative account of how Uber uses algorithms not merely as neutral tools, but as mechanisms of managerial control and behavioural manipulation. The book delves into how Uber's platform governs its drivers—setting fares, assigning rides, issuing incentives, and even disciplining performance—through opaque algorithmic systems. Rosenblat critically exposes how this model often functions as a "shady middleman", particularly in the allocation of commissions and incentives, where drivers are frequently left in the dark about the actual breakdown of earnings and platform deductions. By unpacking the dynamics of algorithmic management, the book raises serious concerns about transparency, accountability, and fairness in platform-mediated labour.

The Taking Economy: Uber, Information, and Power authored by Ryan Calo and Alex Rosenblat published in the *Columbia Law Review* in the year 2017, critically examine the rise of the sharing economy in the United States, with a focus on platforms like Uber. The *Art* explores how such platforms collect, control, and profit from vast amounts of data generated through user interactions—both by workers and consumers. Calo and Rosenblat argue that these companies do not merely "share" resources but rather extract value asymmetrically from participants by leveraging information and technological control, leading to what they term a "taking economy."

In *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism* (1st ed., 2016), authored by Arun Sundararajan and published by The MIT Press traces the evolution of the sharing economy, offering a detailed exploration of how digital platforms are reshaping traditional models of employment and consumption. The book examines how the shift from firm-based employment to crowd-based capitalism alters the dynamics between workers, consumers, and intermediaries. On the one hand, it highlights the potential for enhanced flexibility and entrepreneurship among workers; on the other, it raises concerns about the erosion of job security, benefits, and institutional safeguards.

Phil Jones's *Work Without the Worker: Labour in the Age of Platform Capitalism* published by Verso in the year 2018, offers a sharp critique of the platform capitalism that underpins the modern gig economy. The book examines how digital platforms increasingly abstract, automate, and alienate human labour, rendering workers more invisible and disposable than ever before. By dissecting the power structures of companies like Uber, Amazon Mechanical Turk, and other crowd work systems, Jones shows how these platforms commodify not just labour, but also attention, data, and presence, all while distancing themselves from traditional employer responsibilities. A central theme of the book is the dehumanisation and fragmentation of work in the gig era, where algorithmic systems determine how tasks are assigned, valued, and monitored, often without transparency or accountability. The title's notion of "work without the worker" alludes to a future where human labour is essential yet obscured—kept behind interfaces and driven by metrics rather than human oversight.

In the Art. titled *Betwixt and Between: Regulating the Shared Economy* published in the *Fordham Urban Law Journal* in the year 2016, the author Abbey Stemler explores the nature and complexities of the shared economy, focusing on how current legal frameworks are often ill-equipped to address the unique challenges posed by gig and platform-based work. Stemler highlights the significant gaps and ambiguities in regulation that allow platform companies to operate with considerable flexibility, often at the expense of workers' rights and consumer protections. By critically analysing these regulatory shortcomings, the Art. sheds light on the legal grey areas that both employers and workers navigate, creating vulnerabilities and uncertainties. Stemler advocates for targeted reforms aimed at closing these gaps to ensure the shared economy remains viable and sustainable, emphasizing the need for clear standards on employment classification, consumer safety, and fair labour practices.

CHAPTER 2

CONCEPTUAL ANALYSIS OF THE GIG AND PLATFORM ECONOMY

2.1. INTRODUCTION

The gig economy along with platform economy is creating a major disruption in the labour market by redefining the ways in which work is being conducted. The gig economy as we know is not a new concept. Gig works have been around for a long time and perhaps the jazz guitarists that perform jazz music in the music clubs came to initially refer to their jobs in these clubs as gigs. Perhaps the very first references of the expression Gig Economy can be found in an Art. by Tina Brown in Daily Beast in 2009, could perhaps be seen as one the first ever reference to the gig economy. She opens her Art. with the statement: “No one I know has a job anymore. They've got Gigs.”² She was referring to the rise of the freelance job market. It is in this era that terms like hustlers, etc. became common. She was referring to the rising popularity of part time jobs and the freelance roles and the taking over of these employment patterns over the traditional concerns of job security.

Places like restaurants, cinemas, supermarkets, etc. which are a traditional and primary source of employment generation in an economy, started to rely on a part time workforce rather than permanent contracts. This led to the juggling of different part-time jobs or even side hustling – a term which refers to a job or paid activity undertaken in addition to the main job held by the individual³ (for e.g. an office worker may work 6 days of the week doing his/her main office work, and on the 7th day or the weekend they dedicate to driving taxi or food delivery – this work done on the 7th day, in this case, could be called the side-hustle of this individual). Moreover, growth in population led to an overall increase in the demand for infrastructure and this led to the strengthening of an informal sector on the back of the construction sector. However, another significant force accelerating the rise of the gig economy is large-scale automation. With the advancement of artificial intelligence, robotics, and machine learning, many traditional jobs—especially low- and semi-skilled roles—are becoming obsolete. Automation threatens sectors such as manufacturing,

² Tina Brown, The Gig Economy, DAILY BEAST (29 MARCH 2009), <https://www.thedailybeast.com/the-gig-economy/>

³ Side Hustle, COLLINS ENGLISH DICTIONARY, <https://www.collinsdictionary.com/dictionary/english/side-hustle> (last visited Apr. 10, 2025).

logistics, customer service, and even basic administrative roles. As machines replace human labour, particularly in routine tasks, millions are left displaced with fewer opportunities to re-enter the formal labour market.

This problem is compounded in developing economies, where employment creation is not keeping pace with population growth. Governments in many of these countries struggle to generate sufficient formal jobs due to budget constraints, policy inefficiencies, and sluggish industrial growth. The result is rising unemployment and underemployment, particularly among the youth and rural populations. Moreover, recurring economic recessions, global financial slowdowns, and disruptions like the COVID-19 pandemic have further pushed people out of secure employment and into precarious, informal work arrangements. Against this backdrop, gig work becomes not merely a choice but often a compulsion. Individuals seek out multiple informal jobs, freelance roles, and task-based gigs to survive economically. The gig economy is thus emerging as a complex outcome of technological disruption, labour market failure, and economic vulnerability. It becomes crucial, therefore, to trace the historical background of gig work to understand how the nature of employment has evolved and to make sense of the terminology associated with it. Terms like *gig*, *side hustle*, *platform labour*, *freelance work*, *contractual work*, and *informal employment* are not just buzzwords—they reflect deeper shifts in how people engage with work, income, and social security. Understanding their origin and contextual relevance allows us to critically analyse the current state of labour markets and envision more inclusive policies and protections for gig workers in the future.

We will analyse by looking into the concepts of the sharing economy, gig and platform economy, their historical evolution and how the economy comes to be defined in the current times.

2.2. GIG AND SHARING ECONOMY

There is a somewhat distinct chronology regarding the evolution of the sharing economy and gig economy. The two are not like concepts, they are entirely different concepts in the first place. The evolution of the gig economy was certainly influenced by the sharing economy. Having its roots in the proto-industrialisation era, to evolving into more specialised areas with the advent of digital revolution, the very business model of the platform economy is based on the concept of sharing economy models.

The sharing economy, also known as crowd-based capitalism, refers to an emerging market-driven economic model that enables individuals to exchange goods, services, and resources—often via digital platforms—by leveraging underutilized assets and decentralized networks. It is characterized by the use of high-impact capital, reliance on peer-to-peer crowd networks rather than centralized institutions, and the blurring of traditional boundaries between personal and professional activities, as well as between formal employment and casual or freelance labour. There are several defining characteristics of the sharing economy and the following discussion will entail an exploration into this aspect.⁴ The sharing economy operates through digital platforms that facilitate the buying, selling, and exchange of goods and services among individuals thus, it is mainly market-driven. This model enhances economic participation by broadening access to income-generating opportunities and increasing the variety of services available to consumers. Rather than allowing assets such as vehicles, living spaces, or personal skills to remain idle, the sharing economy enables individuals to monetize them. This leads to more efficient use of personal resources and contributes to overall economic productivity. Unlike traditional business models dominated by large corporations, the sharing economy relies on networks of individual providers. These individuals directly offer goods or services to users, typically mediated through digital platforms, thereby reducing reliance on centralized intermediaries. Actions that were once informal or non-commercial—such as offering a ride, lending tools, or performing small tasks—are now integrated into structured economic exchanges. Digital platforms have transformed these peer-to-peer interactions into legitimate forms of paid labour. The sharing economy challenges conventional notions of work by promoting flexible, task-based engagements. Workers may participate sporadically or consistently, blurring the boundaries between full-time employment, freelance work, and personal time. As a result, distinctions between employer and employee, work and leisure, have become increasingly ambiguous. The sharing economy thus, attempts to redefine the traditional employment structures.

2.3. HISTORICAL EVOLUTION:

The evolution of the gig and sharing economy is not a completely mutually exclusive process. The sharing economy also creates independent contractors who are sometimes heavily dependent on the aggregator for various aspects of the work. All the terms such as

⁴ ARUN SUNDARARAJAN, THE SHARING ECONOMY: THE END OF EMPLOYMENT AND THE RISE OF CROWD-BASED CAPITALISM (2016).

gig work and gig economy, today often associated with platform-based work, are of modern import, the concept of gig work itself is hardly a product of the twenty first century. Rather, it could be said that the gig economy was one which had its roots in the past and grew and acquired newer dimensions with the rise of the technology, population and the invention of new business concepts. On the technological side, the rise of the internet is the most notable one. Among the business concepts, the most important of these are concepts of sharing economy and e-commerce, the latter gaining much traction from the tremendous rise of the internet. The narrowing digital divide only led to the rise of new business models, focusing more on convenience to the customer and simplifying the logistical costs. One of the prime examples of such a change is conjoining e-commerce with platform-based sharing economies, reshaping how services and products are consumed and sold. This union utilizes digital platforms to link buyers with sellers directly, cutting out the need for conventional go-bys in between and decreasing operational expenses.

Firms such as Uber, Airbnb, and Instacart exemplify how platform-based businesses make peer-to-peer transactions, asset sharing, and on-demand services possible, making economic activities more efficient and accessible. Moreover, the scalability of such platforms enables companies to scale rapidly, providing customers with increased flexibility, competitive rates, and individualized experiences—factors that have contributed to the spread of the gig economy. Tracing the origin of the gig economy is a complex task fraught with challenges. The concept has evolved over time, and its understanding has never been uniform. Additionally, there are instances where traditional employment and gig work overlap, making it difficult to classify certain forms of work definitively as part of the gig economy. This lack of clear boundaries complicates efforts to pinpoint its historical emergence and distinct characteristics. Understanding these complexities necessitates a deeper exploration of the historical roots of gig work, tracing how earlier forms of temporary, freelance, and contract-based labour laid the foundation for what is now recognized as the gig economy.

2.3.1. THE EMPLOYMENT ARRANGEMENTS OF THE MEDIEVAL ERA (14th century)

A driving force towards the conceptualization of gig-based work in the medieval era was motivations invested in capitalism or perhaps, increasing productivity of work, while at the same time, decreasing the cost of production and not compromising on product quality.

This development can be understood properly through an analysis of the developments in the textile industry. Alongside, the technological inventions like the mill fulling, wheel spun weft threads, etc. was the adept acumen of the medieval clothier of the efficient ways in which to control labour capital.⁵ In this form of decentralized production, entrepreneurs operated at various stages of the supply chain. The roles of merchants and manufacturers were distinct, with the latter group consisting of independent artisans rather than employees. These artisans engaged in tasks such as fulling, dyeing, and weaving—were self-employed producers who contributed to different phases of textile production. Instead of a single factory housing all stages of production under one employer, the finished product at each stage would change hands, moving from one independent producer to another. The merchant, acting as a coordinator, would facilitate these transfers and sometimes provide raw materials or capital. This system relied on a network of independent service providers rather than a centralized workforce, resembling elements of modern gig work, though operating under different historical and economic conditions.⁶ This engagement of independent individuals was not a feature limited only to the textile industry. As medieval economies grew, the economic activities became more complex.

The efficient performance of such tasks required division of labour. Instead of a single individual coordinating every activity of production, distribution and sale, the merchants adopted a vertical division of labour as noted above - where each stage of the work is entrusted to different independent entities.⁷ This vertical division of labour was seen in metal working, ship building, construction sector, bookmaking, etc. this type of engaging workers also came to be known as the putting out system of work. This form of work—where independent labourers carried out various stages of production, often from their own homes or small workshops—came to be known as the putting-out system. The individuals involved in this decentralized form of labour were referred to as outworkers. Much like the gig workers of the modern era, the employment status and working conditions of outworkers were marked by ambiguity. They occupied a liminal space in the economic structure of their time: neither fully autonomous artisans nor standardized wage-earning

⁵ JOHN OLDLAND, THE ECONOMIC IMPACT OF CLOTH MAKING ON RURAL SOCIETY, 1300–1550, IN *MEDIEVAL MERCHANTS AND MONEY: ESSAYS IN HONOUR OF JAMES L. BOLTON* 229, 229–52

⁶ See generally JOHN S. LEE, *MEDIEVAL CLOTHIERS* (2018); see also *Medieval Clothiers and Their Workers: An Early Gig Economy*, *ECON. HIST. SOC'Y*, (29 MARCH 2025) <https://ehs.org.uk/medieval-clothiers-and-their-workers-an-early-gig-economy/>.

⁷ CATHERINE CASSON; MARK CASSON, *THE ENTREPRENEUR IN HISTORY: FROM MEDIEVAL MERCHANT TO MODERN BUSINESS LEADER* (1st ed. 2013).

factory workers. Their position in the socio-economic hierarchy is aptly captured by the observation that they stood halfway between the artisans of the Middle Ages and the waged proletariat of the Industrial Age.⁶⁸ Unlike medieval artisans—who operated as independent creators, often producing goods on their own terms and selling them directly in local markets- outworkers had limited control over their labour. They worked on contract, often under the supervision or instruction of a merchant or a central contractor who provided them with raw materials and specifications, thereby restricting their creative freedom and economic independence.

At the same time, outworkers were not factory workers in the strict industrial sense either. They did not report to a central workspace like the so-called "dark satanic mills" of the Industrial Revolution, nor were they subject to the rigid regimentation and clock-based discipline typical of factory life. However, they were equally vulnerable to exploitation—paid by the piece, lacking job security, and dependent on fluctuating demand. The putting out economy of the Middle Ages bears an uncanny resemblance to the gig economy of today. However, the basic difference between the two is that, the independence enjoyed by the platform workers is much wider in aspect compared to the outworker - whose work conditions, wages, etc. was completely dependent on the merchants. The gig worker is not bound to any platform for which he/she works - they have the liberty to choose when to work, what work to do, or whether to work at all!

The putting-out economy of the Middle Ages bears an uncanny resemblance to the gig economy of today. Both involve decentralized labour, flexible workspaces, and a lack of formal employment contracts. However, the key difference lies in the degree of independence enjoyed by the workers in each system. Outworkers in the putting-out system had little to no autonomy—their wages, working conditions, and the nature of their tasks were entirely dictated by the merchants who provided the raw materials and controlled the final product. Their economic survival was tied to a single source of work, leaving them vulnerable to exploitation and instability. In contrast, gig workers today enjoy a far broader scope of independence. They are not bound to any single platform, and have the freedom to choose when to work, what kind of work to take up, and even whether to work at all.

⁶⁸ NICHOLAS R. AMOR, THE ORIGINS OF THE PUTTING-OUT OR DOMESTIC SYSTEM OF INDUSTRIAL PRODUCTION IN ENGLAND, IN *L'ECONOMIA DELLA CONOSCENZA: INNOVAZIONE, PRODUTTIVITÀ E CRESCITA ECONOMICA NEI SECOLI XIII–XVIII / THE KNOWLEDGE ECONOMY: INNOVATION, PRODUCTIVITY AND ECONOMIC GROWTH, 13TH TO 18TH CENTURY* 263, 263–85

2.3.2. PIECE WORKERS OF THE INDUSTRIAL REVOLUTION ERA

The piece-work model of labour engaged a large number of workers, particularly women. As observed, the pre-industrial era was characterized by the putting-out system, where production was decentralized and often based in individual homes. This system gave rise to the cottage industry, which flourished during that time. However, with the emergence of factory-based production during the Industrial Revolution, the cottage industry faced significant decline. Despite this, it was not entirely obliterated.⁹ Both men and women began to take up factory work, though, as gender theories of labour demonstrate, there was a pronounced wage disparity between the sexes for identical work. As a result, many women could not rely solely on factory employment for income. Much like their medieval rural counterparts who were involved in agricultural labour, domestic duties, and textile-related assignments, urban women during the Industrial Revolution balanced responsibilities across the factory, family, and home-based work. Many of these women engaged in craft-making from within their homes, contributing significantly to the finishing processes of the goods produced in mechanized factories. Their homes became essential workspaces in the larger system of industrial production. Moreover, families often provided child labour, with children participating in home-based activities such as sewing on buttons and performing other small-scale tasks. These home-based activities bore strong resemblance to the putting-out system, not only in form but also in payment structure. Like today's gig workers, these labourers were compensated based on output, that is by the piece rate the quantity of work completed—rather than the hours spent performing it.

Gig workers are typically not bound by platforms to adhere to strict schedules or a fixed number of working hours per day. This is because their compensation is not directly tied to the time spent on tasks, but rather to the number of tasks completed. While time is not entirely irrelevant—since more complex or time-consuming tasks, like longer-distance rides in the case of online taxi services, do yield higher pay—this is generally where time-based considerations end. Even if a gig worker starts their day early, fully prepared and in uniform, they will not earn anything unless they actually receive and complete tasks. Conversely, even if the total time spent on active gig work is under an hour, they are still paid based solely on task completion. In simple terms, the average gig worker is not paid hourly, but on a piece-rate basis. This mode of compensation mirrors that of cottage

⁹ DARYL M. HAFTER, *EUROPEAN WOMEN AND PRE INDUSTRIAL CRAFT* (1995)

industry workers during the Industrial Revolution, whose income similarly depended on the quantity of output, not the duration of labour. Another sector where casual labour was employed mirroring employment conditions which we can relate to the gig economy is the engagement of casual labour in dock work. The increased volume of trade in Britain meant that the existing system was under-employed to handle the cargo that alighted in the docks. However, instead of hiring permanent employees, the managers of the dock engaged casual labour, which accounted for about two thirds of all the labour engaged to do this work.¹⁰ Which also meant that once this work was completed, they had to either go look for other work or grapple with unemployment until new cargoes arrived at the dock.¹¹ however, the dock workers, were not entirely satisfied with the terms of employment as it involved precarious uncertainty - the denial of minimum work to the workers and had to also suffer from the high-handedness of the contractors, who largely influenced the nature of work that these workers, how much they should be paid for the work done, etc. they were sometimes guaranteed plus money - which was money paid for earlier completion of work. However, even the plus money was sometimes cut down to attract new ships to the docks. The resentment from the workers finally culminated in several historical labour movements like the South London Gas Workers strike in 1889. The strike was a pivotal moment in trade union history, especially in the context of casual and poorly paid labourers. The main demand of the workers was minimum work and minimum wage which they pegged at an hourly rate.¹² The industries began involving seasonal labourers in the 20th century. This was because it was not profitable for businesses to keep workers employed all throughout the year. There were times of the year when demand would peak, and naturally the employers considered it profitable to hire labour to account for the peak in demand for that particular season and disengage them when the demand waned. Thus, a major portion of the work done in factories became seasonal or non-permanent. The fluctuation of work in the car industry was at the highest estimated to be at around 45%. Thus, the security of a job depended more on market demand. However, the activities of trade unions which gained prominence by the end of the second world war helped in improving the working

¹⁰ JAMIE WOODCOCK, THE GIG ECONOMY (2020)

¹¹ G. WEIGHTMAN & S. HUMPHRIES, THE MAKING OF MODERN LONDON: A PEOPLE'S HISTORY OF THE CAPITAL FROM 1815 TO THE PRESENT DAY(2007)

¹² Past Tense, Today in London Radical History: More than 300,000 London Workers Are on Strike, 1889, PAST TENSE BLOG (Mar. 30, 2025), <http://pasttense.co.uk/2016/09/01/today-in-london-radical-history-more-than-300000-london-workers-are-on-strike-1889/>.

conditions of workers, injecting a degree of certainty to their employment and making accessible to them fairer conditions of work.

2.4. RISE OF ECOMMERCE PLATFORMS AND PLATFORM ECONOMY

Although the industrial revolution was briefly discussed above, it was not discussed in detail. In this section, insights will be provided on the stages of industrial revolution - from the first to the third and a brief introduction to the fourth, as it will be dealt in detail in the next section, how jobs came to be evolved due to the growth and rise of technology and the internet culture. The first industrial revolution was the cumulative effect of a variety of factors ranging from technological, demographic and economic factors. The first industrial revolution saw improvements in agriculture which, during its proto-industrialization phase, allowed for increased labour productivity and there by more time dedicated by the rural agricultural households to the cottage industry activities - which if in the fourteenth century was mainly a family driven work, the industrial revolution allowed these independent runners of cottage industry to mobilise labour apart from their families and become manufacturers themselves. The first industrial revolution introduced to the production and manufacturing sector automation through machines achieved through the discovery and the consequential large-scale use of power loom and steam engine played a great role in introducing automation to those activities which formerly depended entirely on human or animal intervention. Unlike the clothiers of the medieval era who depended on the home-based outworker - the industrial revolution brought about new ways of organizing work along the lines of the Adam Smith's ideas on division of labour and labour specialization.¹³

The second industrial revolution was a continuation of the first industrial revolution. It is regarded as a phenomenon that took place from 1870 to 1914. This period was flooded with heavy industrialisation - achieved through innovations in the field of science and technology. This rapid growth in technology was responsible for the growth of huge economies of scale in some industries. Though factory work dominated the labour market for the urban poor, apart from the purely traditional way of work, focusing on day wage, some workers were hired to do work on a piece rate, they received compensation in accordance with the pieces completed by them rather than the time spent on doing a particular work. Third industrial revolution is a digital revolution. With the invention of computers, it became possible for the human race to feed command into machines by

¹³ PETER N. STEARNS, THE INDUSTRIAL REVOLUTION IN WORLD HISTORY (4TH ED. 2013).

carrying out certain logical operations. The computer thus, opened the ways to perform more sophisticated and automated tasks which the industries could not previously imagine doing. With the introduction of automation using computers, the dependence of labour in various repetitive tasks, and those tasks which required less human discretion came to be controlled by robots or machines. Thus, the economist remarked in 2012, that "the digitisation of manufacturing will transform the way goods are made—and change the politics of jobs too."

Rapid digitization in the manufacturing sector led to increase in efficiency - it took the meaning of mass production of goods to a next level, securing least human intervention. The cut down on labour was always welcome news for employers. In the making of a robot, one has to invest once and occasionally for maintenance, on the other hand investment in human capital in most repetitive jobs are not as profitable to the manufacturers. The human workers have to be cared for, for their life - the employer has to take care of remuneration, pension, provident fund, training of the employees. Whereas, the machines can be modified, fed new instructions, etc., to perform complicated tasks at a speed and level of efficiency unimaginable by human labour. The companies also don't have to pay for the machines or worry about industrial relations. The loss of employment associated with such rapid automation, led people to look beyond traditional standard employment contracts. There were still many industries which depended for most part on human labour - such as the construction industry for example. The construction sector was one of the most sought-after employment sectors for casual labourers. The fluctuation in economic stability of markets coupled with rising inflation and no rise in income meant that people had to naturally take side hustles alongside the main job. This hustling attained a new intensity with the invention of the internet which opened greater possibilities for hustling. The most important invention of the Third Industrial Revolution remains the Internet. Its discovery marks a pivotal moment in human history—an innovation that has fundamentally transformed the way the world operates. So profound are its consequences that the advent of the Internet is often compared to the discovery of fire in terms of its impact on human civilization. The internet is the largest computer network in the world, connecting millions of computers. The Internet revolutionized the way the world would communicate forever.¹⁴

¹⁴ Internet, BRITANNICA, <https://www.britannica.com/technology/Internet> (last visited Apr. 10, 2025).

It has simplified various activities such as banking, documentation, conduct of commerce, etc.

The Internet has been instrumental in connecting casual labourers with areas of demand. By reducing the costs of disseminating and acquiring information, the Internet brought the possibility of substantially reduced search frictions and improved functioning of the labour market.¹⁵ Craigslist is one example of such a website, where the users can post job queries and advertisements. The speciality of these types of websites was that the job advert could be posted almost immediately, unlike traditional newspapers where the advert could not be updated once the printing was completed. These websites connected workers - those looking for casual labour as well as traditional schemes of employment with potential employers. In this era of industrialization, the genesis and exponential proliferation of e-commerce was a milestone in global markets. Amazon, eBay, and India MART were some of the companies that transformed retailing by allowing organizations to connect consumers from various geographical locations. The Internet, often described as one of the greatest of human inventions, was the vehicle for this e-revolution through facilitating free-flowing transactions, secure payments online, and effective supply chains. Aside from e-commerce, the Internet also spurred the development of video-streaming websites such as YouTube and Netflix, transforming entertainment consumption. Similarly, the development of social networking websites such as Facebook, Twitter, and LinkedIn transformed communication, allowing individuals to communicate instantly with individuals across the globe. These technologies not only brought about new economic opportunities but also transformed the manner in which individuals' shop, communicate, and consume information in the modern world.

The development of e-commerce platforms are the precursors to the well-groomed platform economy that we see today. platforms like Amazon and eBay became online supermarkets connecting sources of supplies to sources of demand, manufacturers/suppliers to potential consumers. Electronic commerce (e-commerce) is the value of goods and services sold over computer mediated networks. An e-commerce transaction is "completed" when agreement is reached between the buyer and seller online to transfer the ownership or rights to use goods or services. One of the most important aspects of e-commerce was that the customers would get to engage in buying goods, without stepping out of their house. This

¹⁵ Vera Brenčič, The Impact of Craigslist's Entry on Competing Employment Websites, 5 IZA J. LAB. ECON. 7 (2016)

type of business model requires that there is door-to-door delivery of goods ordered by the customer. And to carry out these orders, amazon had to either outsource the delivery to other delivery companies who possessed the manpower to carry out these tasks, or directly engage delivery personnels, through a service contract that much like the hiring of the dock workers discussed above, did not involve hiring them on the lines of a standard employment contract. This would mean that they could engage casual labourers who would carry out the task of delivering goods and be paid per piece rather than a daily wage.

Platform work rose in popularity with the introduction of services like uber - which eased cab booking via the internet. The smartphone revolution coupled with the growth of a tech savvy generation increased the attractiveness of the services offered by these platforms. Soon the platform-based works would expand to cover the food and grocery delivery. The emergence of digital platforms is an essential characteristic of the digital economy. A looser definition of a platform is where social and economic interactions are mediated online, often by apps.¹⁶ Thus, the rapid growth of platforms led to the establishment of the digital platform-based economy. The platforms could include not the video streaming services, but also educational services hosted through platforms, delivery services, etc.

2.5. CONCEPTS RELATING TO THE GIG ECONOMY

There are various terms that are associated with the gig economy like sharing economy, gig work and intermediaries., etc. which require to be addressed before continuing further with the research.

2.5.1. DEFINITION OF GIG WORK AND PLATFORM WORK

The term gig work encompasses within it a various imaginations and situations of works. Most important feature of the work classified in this category is the astonishingly casual and informal nature of the work. One simple way of defining gig work, is that it is work that is outside the standard employment arrangement. And work outside the standard employment arrangement requires an element of precarity. Precarious work is defined as work there is no clear distinction between employer and employee, poor protection against dismissal, and lack of – or limited access of workers – to exercise their rights at work, and includes works like stand-by, temporary, employment-agency, casual, part-time, seasonal

¹⁶ Daniele Schilirò, Digital Platforms and Digital Transformation, MPRA P. No. 118006 (July 21, 2023)

contracts and pseudo self-employment.¹⁷ The precarity in gig work arises mostly due to the uncertainty factor in this mode of employment. While fixed working hours, regular earnings, and long-term job security characterize traditional jobs, gig work exists in an uncertain domain. Among the most serious issues is the transfer of responsibility—whereby employers shed responsibility for obligations like job security, medical coverage, paid vacation, and social security. Rather, the responsibility of maintaining regular work, mitigating risks, and providing for one's well-being rests squarely on the worker's shoulders. Another characteristic that defines gig work is its transactional and short-term nature. Projects are usually task-specific, project-based, and not continuous. While traditional employment patterns provide room for career advancement—through promotions, training, or long-term affiliation—gig work provides no or minimal room for vertical movement. The career path of a gig worker is more like a flat line, with each assignment being an isolated entity, seldom adding to a cumulative career graph. Indeed, in the gig economy, every task is often dealt with as an independent contract, with its own conditions and terms. This dispersed framework hinders the creation of a consistent work history or substantive long-term commitment to any one employer or platform. But ironically, it is this same fragmentation that also makes possible one of the most sought-after aspects of gig work: flexibility. Gig workers frequently have the freedom to decide when, where, and how much they wish to work. This flexibility is attractive to those who want to balance work with other commitments—students, caregivers, or artists, for example. But this flexibility can be a mirage, as it usually comes at the expense of stability, regular income, and work-life boundaries. Therefore, as much as gig work promises autonomy and freedom, it also has a plethora of structural weaknesses that pose fundamental questions about the rights of workers, social protections, and the future of work in a more digital and platform economy.

2.5.1.1. STATUTORY DEFINITIONS FOR GIG & PLATFORM WORK

Gig worker is defined under Sec. 2(35) as *a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship*. Therefore, the key defining element in a gig work – that what separates the gig work from other

¹⁷ International Labour Organisation, Forms of Precarious Work, INTERNATIONAL LABOUR ORGANISATION, <https://www.ilo.org/resource/conference-paper/forms-precarious-work> (last visited Apr. 10, 2025).

kinds of work is the nature of work arrangement, which has been defined as something forming outside the traditional employer-employee relationship.

Platform work is defined in the code under section 2 (60):

“Platform work means a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the C.G., in exchange for payment.”

Platform work is thus a species of work arrangement falling outside the traditional employer–employee relationship. The important feature of platform work is the use of an online platform by the organisations as well as the individuals in the provision of services.

2.5.2. CURRENT BUSINESS MODEL OF PLATFORMS

this business model—cantered on digital platforms, peer-to-peer exchange, and resource optimization—were founded several successful enterprises such as Airbnb, Uber, and WeWork. The working model of these companies are briefly explained below:

1. Airbnb: Operates as a platform where individuals can rent out their homes or spare rooms to travellers. Instead of building or owning hotels, Airbnb simply connects hosts and guests, earning revenue by charging a commission on each booking. This model unlocks underused housing space and creates income opportunities for property owners.
2. Uber: Functions as a ride-hailing platform that connects drivers using their personal vehicles with passengers seeking transport. Uber does not own any cars or directly employ drivers; instead, it takes a percentage of the fare as a service fee. This allows it to scale rapidly without the cost of maintaining a fleet or formal employment contracts.
3. WeWork: Although slightly different, WeWork adapts the sharing economy principles to commercial real estate. It leases large office spaces and subdivides them into smaller, flexible workspaces for freelancers, startups, and even large companies. By offering shared amenities and short-term contracts, WeWork capitalizes on the demand for flexibility in the modern work environment.

The companies mentioned above represent only a small fraction of the vast and growing number of firms that operate on the principles of the sharing economy. While global players like Airbnb, Uber, and TaskRabbit have become household names, the influence of this

economic model extends well beyond international borders. Closer to home, India has witnessed the rise of several platforms that reflect the same foundational ideas of peer-to-peer exchange, digital intermediation, and resource optimization. For instance, OLX allows individuals to buy and sell second-hand goods directly, encouraging the reuse of products and minimizing waste. Swiggy and Zomato, although primarily known as food delivery platforms, also follow the crowd-based labour model by connecting independent delivery partners with consumers and restaurants via digital apps. These delivery partners are not full-time employees but rather gig workers who operate on flexible schedules and earn per task completed—hallmarks of the sharing economy structure. The sharing economy has permeated multiple sectors—from accommodation, transportation, and professional services to food delivery, retail, and logistics—creating a vast ecosystem of decentralized, digitally facilitated transactions that reshape how goods and services are produced, consumed, and monetized.

2.5.3. DIGITAL INTERMEDIARIES/AGGREGATORS

According to the Handbook on Measuring Digital Trade (WTO & OECD)¹⁸ Digital Intermediation Platforms (DIPs) are online interfaces that, for a fee, enable direct interaction between multiple buyers and multiple sellers, without taking ownership of the goods or directly providing the services being exchanged. DIPs are digital platforms therefore, —like websites or apps—that connect people who want to sell goods or services with those who want to buy them. They act as intermediaries, charging a fee for this matchmaking role, but they do not themselves own the goods or perform the services involved in the transaction.

An aggregator is defined under section 2 (2), as –

“Aggregator means a digital intermediary or a market place for a buyer or user of a service to connect with the seller or the service provider.”

Thus, within this definition fall most e-commerce platforms like Amazon and Flipkart; delivery applications such as Swiggy and Zomato; and ride-hailing apps like Uber, Ola, and Rapido. Platforms like Amazon or Swiggy function as marketplaces where independent sellers offer goods to prospective buyers who access these platforms to make purchases. These platforms, through the use of algorithmic management, assign the task of delivering

¹⁸ INT’L MONETARY FUND (IMF) & WORLD TRADE ORG. (WTO) ET AL., HANDBOOK ON MEASURING DIGITAL TRADE (2D ED. 2023).

the purchased products to delivery agents. These agents typically collect the goods from the seller or a designated warehouse and ensure their dispatch to the end consumer. Similarly, ride-hailing applications like Uber and Ola connect service providers such as taxi drivers with customers seeking transport services.

Digital Intermediation Platforms (DIPs) play a foundational role in enabling the sharing economy. These platforms act as digital bridges, connecting individuals who have goods, spaces, or services to offer with those who seek to access them. Unlike traditional businesses that own the products or directly provide the services, DIPs facilitate peer-to-peer transactions without taking ownership or employing service providers. This decentralized model is the hallmark of the sharing economy, where individuals act as both producers and consumers through digital interfaces. A key feature of the sharing economy is the optimal use of underutilized assets, such as spare rooms, idle cars, or individual skills. DIPs make this possible by creating accessible, user-friendly platforms that allow individuals to list and discover these resources. For example, Airbnb connects property owners with travellers in need of temporary lodging, while Uber links car owners with commuters looking for transportation. In both cases, the DIP enables the transaction but does not own the car or property involved. This model transforms personal assets into economic opportunities. Another crucial function DIPs serve is the establishment of trust and reliability in transactions between strangers. Through features such as user reviews, ratings, identity verification, and secure payment gateways, DIPs help mitigate the risks associated with peer-to-peer exchanges. These tools build a sense of accountability and transparency, which is essential for the functioning of the sharing economy at scale. As a result, users feel more confident engaging in economic activity with people they have never met. DIPs also generate revenue by charging fees or commissions on the transactions they facilitate. Their business model depends on volume and network growth, rather than direct ownership or production. This approach allows them to scale quickly while maintaining low operational costs. By acting as intermediaries, they reduce barriers to entry for individuals who want to offer services or rent assets, encouraging broader participation in the economy. Finally, DIPs support the rise of flexible, non-traditional forms of work, which is another core element of the sharing economy. Individuals can choose when and how much they want to work, often taking up short-term, task-based opportunities rather than fixed employment. This form of gig work, enabled by platforms like Swiggy, Zomato, or UrbanClap, empowers people to earn income based on availability and preference, while also challenging conventional definitions of employment and job security. DIPs are more

like the digital infrastructure that makes the sharing economy possible. By enabling peer-to-peer transactions, building trust, supporting flexible work, and promoting efficient resource use, they reshape economic interaction in the digital age.

2.6. CONCLUSION:

The gig economy, rather than the unexpected consequence of online innovation, is the result of transformations of labour, production, and capital that took centuries to come to fruition. Its advent should be understood as both a continuation and a departure: a continuation of the tendencies set in motion by the Industrial Revolutions, wherein work was progressively disaggregated, commodified, and alienated; and a departure in that work is now mediated by algorithms, data, and international platforms instead of physical factories or even classical employment frameworks. The emergence of online intermediation platforms has accelerated the process towards task-based, on-demand work, restructuring workers as independent contractors while usually hiding the asymmetries of power and precarity inherent in the model. By placing the gig economy in the larger historical and economic shifts—from feudal guilds to capitalist industries, and now to platform capitalism—we realize that this type of labour is not simply a reaction to technological progress, but a calculated development of capitalist modes of production in pursuit of profit, control, and flexibility. It captures the neoliberal ideology of deregulation, risk individualization, and the weakening of collective bargaining power, particularly in the setting of a globalized, service-based economy. Therefore, comprehending the gig economy takes more than a consideration of apps or freelance trends—it necessitates a critical examination of the socio-economic arrangements, legal regimes, and historical forces that have produced the very concept of work. Only through such a rich, historically informed perspective can we seriously evaluate the consequences of this new model of labour for equity, labour rights, and the future of work itself.

CHAPTER 3: GIG WORKERS' RIGHTS: A CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVE

3.1.INTRODUCTION

The gig economy's rise has drastically changed the nature of labor, giving millions of people worldwide more freedom and new sources of income. For gig workers, however, this change has also resulted in serious difficulties, as many now have to deal with unstable and unpredictable working conditions. Gig workers sometimes deal with erratic pay, insecure employment, and the lack of standard benefits like social security, paid time off, and health care. With little to no human oversight, their labor is increasingly controlled by opaque algorithmic systems that assign tasks, track performance, and issue penalties—often raising the dangers of stress, discrimination, and exploitation. It is challenging for workers to speak out against unjust treatment or assert fundamental rights because of the power imbalance between platforms and workers as well as information opacity.

Given these weaknesses, it is essential to consider gig workers' rights from a constitutional and human rights perspective. Priority is given to issues such as the right to equitable compensation, the pursuit of social justice, the availability of social support, and defense against unstable livelihoods. Fair compensation is an essential component of equality and human dignity, not only a contractual requirement. Similarly, maintaining the social and economic justice entrenched in international human rights instruments and constitutional frameworks requires protecting against the dangers of algorithmic management and guaranteeing social security. This chapter aims to examine these aspects by first describing the difficulties gig workers encounter and then outlining the rights that need to be acknowledged and upheld in order to guarantee their safety, respect, and welfare in a workplace that is changing quickly.

3.2.RIGHTS OF THE GIG WORKERS FROM A CONSTITUTIONAL RIGHTS PERSPECTIVE

There is an urgent need to identify rights that are available to the gig workers - especially those rights that are guaranteed under the constitution to ensure that they do not face exploitation at the hands of the intermediaries. As observed above, the intermediaries do exert a lot of control over the activities of the workers while they use the platform. It is not possible to fit them under the traditional ideas of a self-employed worker due to various

factors such as their limited autonomy to fix their rates, the spatial and temporal control over their work by the intermediary, etc. they are dependent on the intermediaries for many things related to the work undertaken by them. Thus, there exists a clear power imbalance between the gig worker and the platform for which they work. Such imbalance in power calls for greater protection of these workers so that they are not exploited by the intermediaries and forced to work under unfair conditions. Let's explore the rights of the workers under the constitution of India.

3.3.RIGHTS UNDER PART III OF THE CONSTITUTION

The constitutional rights available to the gig and platform workers can be found in Part III of the Constitution dealing with Fundamental Rights. There are certain inalienable fundamental rights which everyone possesses by virtue of being a human being and therefore, these cannot be restrained/denied to individuals except according to due process. These rights include right to equality enshrined under Art. 14, protection in respect of conviction in offences enshrined under Art. 20, right to life and personal liberty under Art. 21, Protection against arrest and detention in certain cases in Art. 22, right against exploitation under Art. s 23 and 24, etc. are such classes of fundamental rights which is available to all despite their status of non-citizenship in the union of India. However, there are also are certain specific rights relating, those which can be most definitely enjoyed by a person only when they prove the existence of some form of employment relationship. Those include, the right to form trade unions under Art. 19(1)(c) of the constitution, as well as, the right against exploitation of one's labour in the form of begar and every other form of forced labour under Art. 23 of the constitution. Besides these specific rights, workers have the right to equality under Art. 14 of the constitution which safeguards that they shall not be discriminated against or be treated arbitrarily. The workers also have the right to life under Art. 21 which safeguards against unfair and unsafe working conditions, as well as guarantees that persons are entitled to right to livelihood. Let's unpack the rights of the workers doing gig and platform work under each of these rights.

3.3.1. ART. 14 – RIGHT TO EQUALITY

Art. 14 of the Indian Constitution provides that “the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.” This constitutional guarantee embodies two core principles: “equality before the law,” which connotes the absence of any special privilege in favor of individuals and the equal

subjection of all persons to the ordinary law of the land, and “equal protection of the laws,” which implies the right to equal treatment in similar circumstances.¹⁹ Together, they form a foundational aspect of the Rule of Law.²⁰

In the context of gig and platform workers, a critical question arises: does the exclusion of these workers from protections traditionally available under labor law—by classifying them as independent contractors rather than employees—amount to a violation of Art. 14? More specifically, does the denial of statutory rights and benefits available to those in standard employment relationships constitute an arbitrary and unreasonable classification?

While independent contractors are not, by definition, entitled to the same protections as employees, the crux of the issue lies in whether such a classification accurately reflects the nature of the employment relationship in gig work. Scholars and labor advocates argue that the classification of gig workers as independent contractors is, in many cases, a legal fiction—one that fails to account for the substantial degree of control exercised by platform aggregators over the conditions, manner, and timing of work. This control, they contend, is indicative of an employment relationship in substance, if not in form.

If it can be demonstrated that gig workers, in practice, perform work under conditions substantially similar to those in traditional employment—characterized by economic dependency, lack of bargaining power, and platform-imposed work constraints—then placing them in a separate legal category and denying them corresponding rights would constitute a discriminatory classification. Such treatment would offend the principle of equality enshrined in Art. 14, particularly its mandate that persons similarly situated must be treated alike.

The demand for extending labor protections to gig and platform workers is thus premised on the argument that, despite certain features of independence in their work, the overarching nature of the gig economy fosters a relationship of dependency and subordination. This places them in a materially similar position to traditional employees, thereby justifying their inclusion within the protective ambit of existing labor laws. Consequently, a refusal to extend such protections—based on a misclassification that

¹⁹Daron Acemoglu & Alexander Wolitzky, *A Theory of Equality Before the Law*, NBER WORKING PAPER NO. 24681 (Nat’l Bureau of Econ. Research, June 2018), <https://www.nber.org/papers/w24681>.
²⁰A.V. DICEY, INTRODUCTION TO THE STUDY OF THE LAW OF THE CONSTITUTION (8TH ED. 1915) – Rule of law basically means four things of which one of the elements is the equality of all citizens before the law.

obscures the reality of the employment relationship—could be seen as violating the constitutional guarantee of equal treatment under the law. This was one of the main issues raised by the petitioners in *The Indian Federation of App Based Transport Workers (IFAT) v Union of India*²¹, that whether the exclusion of gig workers from the definition of Unorganised workers, is a violation of their right to equality. They argue that the rights of the workers under Art. 14 is violated in so far as the workers are excluded from the benefits provided to the other similarly placed workers. An analysis of the facts relating to the nature of platform work shows that it is not always a case of independent work as claimed by the organisations. Independent contractor is someone who has the power to independently contract and negotiate the terms and conditions of the contract between them, for example the fixing the cost of the service provided by the independent contractor. The workers have very minimum autonomy when it comes to the setting up of pay rates. Sometimes, the workers have to grapple with the non-transparent price-models. Not only do workers not have the ability to set up rates but sometimes they do not even know what the rates they are accepting will be.²² Unlike other freelance work models, where the workers somewhat have the liberty to set their piece rates, in the platform ecosystem focused on delivery and ridership, they often provide little autonomy to the work to set the wages for the piece of job they perform. There are also no laws in place to ensure that the workers are paid hourly minimum wage by the platform.

The platform essentially decides where the workers do their work. The gig workers in the food delivery, cab and domestic worker sector have very low levels of spatial autonomy. This means that the algorithm of the platform informs and guides the worker on details such as which house to clean (in the case of domestic workers), which houses to deliver to, and even which routes to take. One of the widely acknowledged features of the gig economy, especially that of the platform work, is that they offer temporal flexibility to the worker. This means that it is dependent entirely upon the worker to decide at what time to start the work for the day and at what time they want to clock in. However, the platforms have their own business models to ensure the increase of workforce during the peak hours mainly by using tactics like variable pay models like surge pricing, etc. despite claims of not controlling the time of workers, uber continues to adopt a tier system which consists of

²¹ WP (C) 1068/2021

²² JAMIE WOODCOCK & MARK GRAHAM, *THE GIG ECONOMY: A CRITICAL INTRODUCTION* (2020).

the following ranks²³ - blue, gold, diamond, and platinum - which are all dependent on the performance of the workers over a 3 month fixed period. The higher the tier, the more the rewards would follow. Also, uber enforces an 'earn a point', where the rider is awarded one point each for every ride completed by them. They are given bonus points for working during the peak hours. Essentially such a model ensures that the workers log into the platform during peak hours as designated by the apps. The hierarchy model gives the worker spatial control with the top tier workers now having the opportunity of designating an area of preference from where they would like to operate. They are also automatically assigned long trips that offer more pay. So, essentially since more hours on the platform transform to exclusive rewards, it essentially leads to the platform controlling the time of the workers in an indirect way.

Thus, the aggregators in fact secure a great amount of control over the workers. Therefore, denying to them, protection under relevant labor laws which are available to similarly placed workers, raises a question of violation of their right to equality which constitutionally guaranteed.

3.3.2. ART. 19(1)(c) – FREEDOM TO FORM TRADE UNIONS

Is there a right to form trade unions that is available to the gig workers is a question for contemplation. Everybody citizen has the right to form associations, but is there a right to form trade unions for every citizen. To understand this concept, there is a need to understand how trade unions are a special form of association. The definition of trade union can be found in The Trade Unions Act, 1926, which defines trade unions as any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.²⁴ So, an association to be in the nature of trade union has to primarily satisfy the following conditions: firstly, it suggests a combination of workers – whether temporary or permanent; secondly, that it seeks to regulate the relations between employer-employee, employee-employee or the seeks to impose restrictions on the conduct of any trade or

²³ Uber Technologies, Inc., Uber Pro, UBER, <https://www.uber.com/in/en/drive/uber-pro/> (last visited Apr. 11, 2025).

²⁴ Trade Unions Act, No. 16 of 1926, § 2(h) (India).

business. Therefore, the members of the trade union must sufficiently show that they are in employment relation. The registration of trade unions with the Registrar of Trade Unions is a sine qua non for the existence of trade unions, and therefore associations seeking to register themselves as trade unions will have to necessarily prove that they are in an employment relationship. Another important feature of the definition is the limiting of the scope of the workers who can apply for registration of trade unions to permanent or temporary workers. Temporary employees is a general term and can mean various types of workers like casual labourers, wage labourers, ad-hoc employees, etc., but a primary point of distinction between the temporary and permanent employees is that the latter has the right to a post, the former lacks such right.²⁵ However, when it comes to gig workers, it is not possible for the gig workers to be placed under the category of temporary worker. It is for the reason that the aggregator platform does not hire them, they operate with the aggregators by subscribing to it. They are not considered by the organisation as an ad-hoc appointment or appointment to a temporary vacancy. In fact, the concept of posting and vacancies have no relevance in respect of platform work due to the very nature through which platform work is conducted. The right to form trade unions also de facto confers upon the workers, the right to engage in collective bargaining. Collective bargaining is a process of negotiation which involves formal and informal discussions conducted with a view to reaching an agreement. It involves the concept of joint decision making and is founded on mutual respect between the employer and the employee and must necessarily happen in good faith. The focus of collective bargaining can include negotiation on various points like working conditions such as wages, hours of work, annual bonus, annual leave, maternity benefits, occupational safety, etc.²⁶ The right to collective bargaining is a privilege available only to trade unions. Thus, the effect of creating such rights is that the refusal by the employer to engage in collective bargaining with employees of amounts to unfair labour practice.²⁷ It is also an unfair labour practice to restrict or interfere with the right of the employees to engage in collective bargaining with the threat of dismissal.²⁸

The right to form trade unions must be extended to the gig workers and platform workers as well. There is no logic in excluding these workers from the definitions under the relevant

²⁵ *Indian Drugs & Pharmaceuticals Ltd. v. Workman*, (2007) 1 SCC 408 (India).

²⁶ INT'L LAB. OFF., COLLECTIVE BARGAINING: A POLICY GUIDE (2015).

²⁷ Industrial Disputes Act, 1947, Fifth Schedule, Pt. I, ¶ 1, inserted by § 2(ra) (India).

²⁸ Industrial Disputes Act, 1947, Fifth Schedule, Pt. I, ¶ 15, inserted by § 2(ra) (India).

acts. As noted in the section dealing with right to equality, there is a great deal of control exercised by the aggregators on the workers, yet to deny them the protection available to other workmen who are similarly placed, is arbitrary. The mode and way of conducting working is constantly evolving. The yesteryear definitions of worker may not be accommodative of the new types of employment contracts created, especially those labour relations established through digital intermediaries. The platform workers should have the right to demand improvement of their wages – especially, owing to the general opacity of the methodology adopted by the aggregators in determining how the piece-rate is to be fixed, since the aggregators retain autonomy to fix fares. There are also certain questions regarding the lack of transparency regarding the automated decisions involving deactivating the accounts of platform workers. Collective bargaining will allow them to negotiate with the aggregators for better conditions of work. In June 2019, delivery workers in Kochi who protested a pay cut were coerced into resigning after Swiggy refused to clear their dues unless they left voluntarily. Such tit for tat response by the companies against workers for engaging in strikes show how the gig workers engaging with these platforms have very limited freedom with respect to negotiating for better working conditions from the intermediaries. The gig workers have the right to engage in trade unionism, and thereby participate in collective bargaining with the intermediaries for the negotiating a better wage structure, social security and for all other things that would guarantee a decent work. Moreover, in *Bharat Iron Works vs Bhagubhai Balubhai Patel & Ors*,²⁹ the supreme court has observed that trade union activity is the order of the day in the modern democratic welfare state, and that legitimate trade unionism cannot be considered irksome by the management, besides the court also acknowledged the roles played by trade unions in reaching settlements on various contentious issues with the employers. However, the retaliatory actions taken by intermediaries in the aforementioned case—such as coercing delivery partners to withdraw from trade union activities—highlight the practical limitations faced by workers in exercising this right. Despite its constitutional protection, the exercise of this freedom is being undermined. It is, therefore, imperative that the State intervenes to prevent such covert and coercive tactics by companies, ensuring that individuals are not unjustly deprived of their fundamental rights. Had the workers enjoyed the status of an employee under the trade union act, such coercive actions by the

²⁹ (1976) 1 SCC 518

aggregators would have come well within the scope of unfair labor practices under a formal law.

Therefore, as it stands the current legislations fail to reflect the current realities in the labour market. And therefore, there is a denial of the rights of the gig and platform workers of their right under Art. 19(1) (c) to form trade unions on a mis-classification of the workers to deny them the enjoyment of this right.

3.3.3. RIGHTS OF THE WORKERS UNDER ART. 21 OF THE CONSTITUTION:

RIGHT TO HEALTH AND OCCUPATIONAL SAFETY

The instant delivery economy is the newest iteration of the logistics and service industry, quickly changing consumer and business models. What started with a 60-minute fulfillment model has now evolved to extremely condensed delivery windows of 15 minutes—or even 10 minutes—fueled primarily by market competition and the aggressive tactics of digital intermediaries. Companies like Swiggy's Instamart, Zomato-funded Blinkit, and Zepto are leading the charge on this ultra-fast delivery revolution. These highly promoted and popularized services are built around a customer-centric model with speed, comfort, and convenience at the forefront. Consequently, they have become pervasive in urban homes, where instant availability of groceries and essentials is now considered an essential service rather than a luxury.

However, the celebratory narrative surrounding these services tends to veil the hidden and disproportionate expenses that delivery workers' pay. These workers are the backbone of the instant delivery ecosystem but are rarely celebrated in popular accounts. Working under strict and time-bound structures, delivery partners are often asked to finish orders within a slim 10-minute gap. In Indian urban settings, such demands are not only ambitious but often unrealistic and dangerous.

Indian cities are generally densely populated, with crowded roads, erratic traffic, and poor pedestrian and cycling facilities. Urban planning in most places is not conducive to easy, unbroken travel, particularly during rush hours or under weather conditions. In spite of these constraints, delivery staff are regularly exposed to algorithmic goals and performance indicators that do not leave much space for delays or safety factors. In an effort to keep up with delivery schedules and prevent penalties or loss of incentives, several drivers feel

obligated to adopt unsafe behaviors like over speeding, disregarding traffic rules, traveling on sidewalks, and even taking dangerous shortcuts.

The psychological impact of these pressures is also alarming. Delivery partners tend to work under tremendous pressure, juggling between several orders, taking new routes, and being constantly tracked via location monitoring and customer ratings. This sets up a workplace that is not only physically demanding but mentally demanding as well, with heightened potential for accidents, injuries, and long-term illness. Further, most of these workers have little or no health insurance, accident protection, or job security due to the informal and gig-based nature of their work.

This situation is compounded by the absence of efficient legal and institutional frameworks for the protection of gig workers' rights and welfare. Although the platforms describe the delivery partners as "independent contractors," the considerable degree of control over their labor- by algorithms, ratings,

and strict time limits is de facto reproducing the form of a conventional employment relationship without the accompanying safeguards.

It is not unusual for workers to be involved in collisions (a study³⁰ found that of the (48) respondents they surveyed, 42% of the workers reported being involved in a collision). The factors leading to collision includes driving at higher mileages, fatigue, talking over the phone while driving, feeling time pressured and driving at a higher speed. In the UK alone the average driving hours per week per driver was shown to reach 50 hours, with some breaching even this number, working more than 60 hours a week. However, laws related to driving hours stipulate that the total hours per week shall not exceed 56 hours and that total hours in two consecutive weeks shall not exceed 90 hours. There are also stipulations that mandate a 45-minute rest after 4.5 hours of continuous drive. The gig workers working with the delivery and auto-taxi platforms on average spent 10 hours daily on the platform. The glorious accounts of the gig worker making 90\$ per day is true for some days and there are those dark dry days when they barely make more than 5\$ per hour. Due to the highly unpredictable nature of the income from the gig industry it is not surprising that the workers are often underemployed and overworked.

³⁰ Nichola Christie & Heather Ward, The Health and Safety Risks for People who Drive for Work in the Gig Economy, 13 J. TRNSPT. & HLTH. 115-127, (2019).

The impact of such long hours spent on driving can leave the workers feeling burnt out. Overworking can lead to the built-up fatigue and this can in turn affect their daily activities including driving adversely. The buildup stress can pave the way for accidents which endanger the lives of both the gig worker as well as innocent passersby. The stress and fatigue build can also be due to the fact that, unlike in other industries where the workers are paid hourly wages, in the gig economy, the workers are remunerated on a piece-rate basis, which means that they are for the most part chasing jobs.³¹ Such precarious work conditions often push them towards taking risks. As noted above, it may not be easy navigating through the dense traffic of Indian roads, but the workers still make every effort to chase after the 10-minute goal so that their ratings are not affected. In an incident from the US, a driver working for Caviar, a food delivery platform, was killed after being hit by another vehicle while working in heavy rain in Philadelphia.³²

The gig workers especially in the taxi work face the problem of dealing with unruly customers. They often have to put up with harassment from unruly customers due to the rating system. On Uber, going below the rating of 4.7 can mean deactivation of account, an elegant expression for firing in the platform economy terms. This means that the fear to stay afloat in the job can lead to the putting up dangerous acts of the customers/riders. This is also because the customers have more power than the drivers. A small complaint can lead to deactivation of the driver's account with the platform. An account³³ by a gig worker from the UK states that while functioning as a cab worker, the system had matched him with drug peddlers, who transacted their deals through his car while on the drive. One of them even attacked the driver and hurled racist abuse against him. Due to the poor response by Uber to complaints by the Cab drivers, the worker reported the incident to the police, but he had no information on the customer - didn't know either the name or the address to make the complaint. Later, when he sought the information of the customer for police enquiry, the intermediary refused to part with it citing data privacy concerns without a court order. By attempting to file a police complaint the worker was seemingly trying to avoid the consequence of losing his job due to a complaint by the customers. That is, even if the customers are at fault, they can exert control and put fear in the workers armed with the

³¹ JAMIE WOODCOCK & MARK GRAHAM, THE GIG ECONOMY: A CRITICAL INTRODUCTION (2020).

³² Thomas Fox Parry, The Death of a Gig Worker, THE ATLANTIC, (21st April, 2025) <https://www.theatlantic.com/technology/archive/2018/06/gig-economy-death/561302/>.

³³ James Temperton, The Biggest Legal Crisis Facing Uber Started with a Pile of Vomit, WIRED, (21st April, 2025) <https://www.wired.com/story/uber-employment-lawsuit-gig-economy-leigh-day/>.

rating system and an algorithm that unduly Favors them over the drivers. Reports from South Africa of workers being taken advantage of by customers has become disturbingly frequent. In an effort to increase its user base, Bolt, an Uber competitor, added cash transactions to its list of accepted credit payment methods. But for drivers, this regulation change had unforeseen and extremely troubling repercussions. Drivers were vulnerable because, in contrast to digital payments, cash transactions required them to carry actual cash for change. Malicious actors started abusing the system by scheduling rides to far-off places and then robbing the drivers when they got there. Drivers were put in grave personal danger as a result. The fact that the drivers are independent contractors rather than employees, which releases the platform from liability for any injuries or losses they sustain while doing their duties, exacerbates the issue. Deactivating the guilty customer's account is the most the firm usually does in response, providing the driver with no financial, legal, or emotional support. These drivers, many of whom are immigrants or members of racial minorities struggling to make ends meet—often leaving blue-collar jobs—are essentially left to handle the judicial system alone. They are caught in a never-ending cycle of injustice and exploitation because they find the legal system to be both difficult and nearly unreachable.

There have also been reports of similar customer harassment occurrences in India. In one instance from Lucknow, Uttar Pradesh, consumers allegedly used communal enmity to attack and detain a Zomato delivery agent.³⁴ Traditional autorickshaw drivers have also been hostile toward platform-based drivers, arguing that ride-hailing services are endangering their jobs. Direct confrontations have resulted from this tension; in June 2023, for example, a group of car drivers harassed a Rapido captain in Bengaluru.³⁵ Notably, the Bengaluru-based local bike taxi unions stepped in to defend the driver in that instance rather than the platform.

³⁴ Aliza Noor & Ashhar Asrar, In UP's Lucknow, Muslim Zomato Delivery Agent 'Tortured, Abused & Held Captive', THE QUINT, (21st April, 2025) <https://www.thequint.com/news/india/lucknow-uttar-pradesh-muslim-zomato-delivery-agent-allegedly-tortured-abused-held-captive#read-more>.

³⁵ Express News Service, *After Auto Drivers Attack Rapido Captain, Bike Taxi Union in Bengaluru Asks Police to Ensure Protection of Its Riders*, THE INDIAN EXPRESS (Apr. 21, 2025), <https://indianexpress.com/article/cities/bangalore/after-auto-drivers-attack-rapido-captain-bike-taxi-union-in-bengaluru-asks-police-to-ensure-protection-of-its-riders-8679747/>.

Delhi reported another incident that demonstrated the blatant disregard for worker safety.³⁶ While on duty, a Zomato delivery agent was hurt in a car accident. There was no response when attempts were made to reach the platform's helpline for support. Frustrated by the delay, the customers who were waiting for their order complained to the platform about the delivery person. Zomato's service center immediately questioned the injured worker and demanded an explanation for the delay, rather than showing sympathy or offering assistance. This instance shows how delivery persons are sometimes treated as less than human by these platforms.

During the countrywide lockdown, delivery workers were praised as "Corona warriors" for bringing necessities. Nevertheless, the platforms did not take sufficient precautions to shield these employees from COVID-19 infection.³⁷ Delivery agents were required to wear safety gear, but it seemed that the regulations were more focused on protecting consumers than the employees. However, customers were not required to wear protective gear for the delivery staff's safety. There were also reports of delivery agents being assigned jobs in containment zones, often without proper safety protocols. Many platforms only implemented contactless delivery and other techniques to lessen exposure for both clients and agents after the dangers of such close contact became apparent.

In *Consumer Education & Research Center V. Union of India*³⁸, the supreme court held that a worker's meaningful right to life includes social security, fair and humane working and leisure conditions, and the ability to express his personality and live a dignified life. The state should give workers the resources and opportunities they need to achieve a minimum standard of health, economic security, and civilized living while sharing based on their abilities, social heritage, and cultural heritage.

Moreover, in *Occupational Health & Safety Association v. Union of India & Ors*³⁹, it was held that Art. 21 guarantees the right to health, which includes the right to live in a safe, clean, and hygienic environment. The Directive Principles of State Policy, including clauses (e) and (f) of Art. s 39, 41, and 42, provide vitality to the right to human dignity

³⁶ Bhavya Sukheja, "Emergency Helpline Is A Joke": X User Accuses Zomato Of Neglect After Delivery Agent's Accident In Delhi, NDTV, (Apr. 21, 2025), <https://www.ndtv.com/feature/emergency-helpline-is-a-joke-x-user-accuses-zomato-of-neglect-after-delivery-agents-accident-in-delhi-6300697>.

³⁷ Shipra Minaketan Behera, *Gig Work and Platforms during the COVID-19 Pandemic in India*, ECONOMIC AND POLITICAL WEEKLY. (EPW ENGAGE), (Apr. 23, 2025), <https://www.epw.in/engage/article/gig-work-and-platforms-during-covid-19-pandemic>.

³⁸ (1995) 3 SCC 42

³⁹ (2014) 3 SCC 547

guaranteed by Art. 21. These Art. s include fair and humane working conditions as well as the protection of employees' health and strength. These are prerequisites that must be met in order for someone to live with human dignity. But when workers are engaged in such hazardous and risky jobs, then the responsibility and duty on the State is double-fold.

For the full enjoyment of the right to life under Art. 21 of the constitution, individuals must have access to a safe environment, including safe working conditions. The observation by Field J. in *Munn v. Illinois*⁴⁰ on the right to life was quoted with approval by the Indian supreme court in the case of *Kharak Singh v. State of U.P.*⁴¹, *Francis Coralie Mullin*⁴² and *Sunil Batra*⁴³. Life does not mean mere animal existence. Deprivation of right to life extends to the inhibition of all limbs and faculties by which life is enjoyed. Health is one such important factor in the meaningful enjoyment of life. Workers are entitled to the good health and therefore protection from those environments and working conditions that jeopardize their health.

RIGHT TO LIVELIHOOD AND RIGHT TO DECENT WORK

A 2023 nationwide survey conducted by Janpahal, a non-profit organization working with gig and platform-based workers, covered 5,220 respondents affiliated with over 20 digital platforms across 23 Indian cities. The findings revealed that platform-based work is not merely a short-term or transitional engagement for many workers. Notably, 57% of drivers and delivery personnel reported having worked in the gig economy for a duration between two to five years, while an additional 16% had been engaged for over five years. Even among younger workers aged 22 to 30—typically perceived as treating such work as temporary or stop-gap—nearly 47% had remained in platform-based roles for more than two years. These figures challenge prevailing assumptions about the transient nature of gig work and underscore its growing permanence in the labor market.⁴⁴ In addition to highlighting the sustained nature of platform-based employment, the study also shed light on the intensity of work endured by gig workers. Only 3% of respondents reported working less than four hours a day, while 12% worked between four to eight hours. Strikingly, a vast majority 85% worked for more than eight hours daily, and within this group, 21%

⁴⁰ 94 U.S. 113 (1876)

⁴¹ 1962 SCC OnLine SC

⁴² (1981) 1 SCC 608

⁴³ (1980) 3 SCC 488

⁴⁴ *The RIGHTS Survey (Respect and Integrity of Gig Workers; Humanity and Trust in Service), Report on Nationwide Survey of Platform Workers in India* (Janpahal 2024) 7.

reported working in excess of 12 hours per day.⁴⁵ These figures highlight that a significant portion of those who undertake gig work, also undertake it as their livelihood, only means of earning an income, as is evident from those that put in more than 12 hours into platform work and that number was not low, it stood at nearly one fifth of the total population surveyed. Therefore, arbitrary deactivation of platform workers without giving them reasons and an opportunity of being heard, denies to the workers, their right to livelihood under Art. 21 of the constitution. In *Olga Tellis*⁴⁶ the SC observed that the ambit of the right to life under Art. 21 of the Indian Constitution is expansive and profound. It encompasses far more than the narrow guarantee against arbitrary deprivation of life, such as through the imposition of capital punishment without due process. Crucially, embedded within this guarantee is the right to livelihood, for life itself cannot be sustained in the absence of the means to live it. To sever a person from their livelihood is, in effect, to undermine the very essence of life—rendering it hollow, unviable, and devoid of dignity or substance. If the right to livelihood were not recognised as integral to the right to life, the State could, without following any due procedure, obliterate the practical conditions necessary for existence. Such an interpretation would not only be antithetical to the spirit of constitutionalism but would reduce the right to life to a mere abstraction. Livelihood, as the foundational enabler of life, must therefore be viewed as a core constituent of Art. 21. To deprive an individual of it is, in truth, to deprive them of life itself.

Thus, there is a need to better safeguard the right to life of the gig workers by offering to them the right to security over their livelihood and also by ensuring that they are afforded decent conditions of work.

3.3.4. RIGHT AGAINST EXPLOITATION UNDER ART. 23

Art. 23(1) of the constitution reads: “*Traffic in human beings and begar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.*” Begar is bonded labour which involves debt slavery – it allows the creditor to extract the free service/forcible extraction of service for nominal wages from the debtor until his service amounts to the debt owed by him to the creditor.⁴⁷ The supreme court adopted a transformative approach in the interpretation of

⁴⁵ *RIGHTS Survey*, supra note __, at 22.

⁴⁶ *Olga Tellis v. Bombay Mun. Corp.*, (1985) 3 S.C.C. 545 (India).

⁴⁷ Shekhar Pathak, *The Begar Abolition Movements in British Kumaun*, 28 INDIAN ECON. & SOC. HIST. REV. 295 (1991).

freedom in *Peoples' Union For Democratic Rights v. Union of India*.⁴⁸ This case concerned with the exploitation of casual contract workers hired to work for building the Asian Games Villages. The court interpreted the rights of the workers by not importing the rights under Directive Principles of State Policy, but interpreted the rights of the workers under the language of freedom: which is the transformative vision that the workers must be free from economic compulsions that force them to work for wages below the minimum wages.⁴⁹ The court in this case held that right against forced labour includes the right to minimum wages. This situation is analogous to the experiences of gig workers.

The gig workers work long hours but are not guaranteed minimum wages due to their peculiar classification as partners of the intermediaries rather than as their employees. This designation of the workers and their work absolves the companies from ensuring that the workers are indeed paid minimum wages — since, under this model, each worker is treated as an independent enterprise merely utilizing the services of the intermediary platform. In turn, the workers often pay a commission or fee to the company for the use of its infrastructure. Thus, the intermediary occupies the position of a service provider to the workers, rather than that of an employer, thereby evading traditional employer obligations under labor law.

However, as noted above, the workers do not possess meaningful freedom in determining their wages. Their earnings are largely dictated by the pay rates unilaterally fixed by the intermediary platform, over which they have minimal influence. Additionally, their income depends heavily on the number of hours they work. In practice, the hours spent on the platform frequently exceed the standard daily working hours prescribed under labor laws. Yet, despite these extended hours, gig workers are not entitled to additional compensation such as overtime pay.

However, the Minimum Wage Fixing Convention, 1970 by ILO, mandates that the minimum wages should be given statutory recognition and those who deviate should be held liable for failing to comply with the requirements on minimum wages. Thus, there is a responsibility on member countries to enforce laws relating to minimum wages. In most countries however, the gig workers are not entitled to the protection of minimum wages. As observed above, since there is an oversupply of laborers exceeding the actual market

⁴⁸ (1982) 3 SCC 235.

⁴⁹ GAUTAM BHATIA, *THE TRANSFORMATIVE CONSTITUTION: A RADICAL BIOGRAPHY IN NINE ACTS* (2019).

demand, most of the time the workers are idle without customer engagements but do not get paid for the waiting time.

The convention lays down the standard for fixation of minimum wages - which should ideally revolve around the needs of the workers and their families, the general wages in the country, cost of living, social security, etc. it is high time that the intermediaries woke up to the plight of the gig workers affiliated with their platforms.

Art. 23 of the Constitution of India also lays down the right of individuals against exploitation. By making the right against exploitation a fundamental right, the constitution imposes upon the state the duty to protect individuals from forced labor and other kinds of exploitation. The supreme court of India observed⁵⁰, under the current Constitution, the State is explicitly mandated to strive toward ensuring that all workers—whether in agriculture, industry, or other sectors—are provided not just with the means for mere physical survival, but with a living wage and working conditions that uphold a decent standard of life and the full enjoyment of leisure. The court also remarked that this Directive Principle of State Policy, being aligned with public welfare, serves as a foundational guideline for establishing a just social order wherein labour is accorded the dignity it rightfully deserves, in recognition of its vital role in advancing the nation's economic development.

The responsibility to devolve the minimum wages should rest with the intermediaries since the gig workers when working with the platforms are forfeiting their right to fix their pay rates in favour of the company. The company could fix an hourly wage structure, calculating the time spent by them on the platform to fix the hourly wages that should be paid to the gig worker. The benefits of the minimum wages must be extended to gig workers so that they are able to maintain a life of dignity, not one of mere animal existence.

3.4.PART IV RIGHTS:

The Indian Constitution, while recognizing the structural complexities of a developing society, lays down a transformative roadmap for social justice through its Directive Principles of State Policy (DPSP). Though non-justiciable, these principles form the cornerstone of the State's obligations to ensure a just and equitable socio-economic order. Among the most compelling components of this framework are the provisions concerning

⁵⁰ Y.A. Mamarde & Ors. v. Authority under the Minimum Wages Act, (1972) 2 SCC 168.

the rights and welfare of workers—agricultural, industrial, and informal. Spanning Art. s 38, 39, 41, 42, 43, and 43A, the Constitution articulates a robust vision for protecting the dignity of labour, ensuring fair remuneration, securing humane working conditions, and ultimately, embedding economic democracy within the industrial fabric of the nation.

Art. 38: Social and Economic Justice as Foundational

Art. 38 establishes the normative bedrock upon which all labour protections rest. Sub-clause (1) mandates the State to promote the welfare of the people by securing a social order informed by justice—social, economic, and political—in all national institutions. Sub-clause (2) sharpens this commitment by obligating the State to minimize inequalities not only among individuals but also between groups engaged in different vocations or residing in diverse regions. In the context of labour, this implies a constitutional call to bridge the disparities between formal and informal workers, between urban and rural occupations, and between salaried and casual labour.

Art. 39: Economic Security and Dignified Livelihood

Art. 39 directs the State to shape economic policy with specific regard to labour welfare. Clause (a) affirms the right of all citizens, men and women alike, to an adequate means of livelihood. This is an unequivocal rejection of economic marginalization and precarious employment practices. Clause (d) mandates equal pay for equal work for both men and women, reinforcing not only economic equity but also gender justice.

Importantly, Clause (e) mandates the State to prevent citizens from being forced into avocations unsuited to their age or strength due to economic necessity—an especially relevant safeguard in the context of child labour and exploitative gig work. Clause (f) complements this by seeking to ensure that children are provided opportunities for healthy development in an environment of freedom and dignity, thus shielding them from both material and moral abandonment.

Furthermore, Clause (b) of Art. 39 speaks to a broader principle: the distribution of community resources in a manner that best serves the common good. This is relevant for workers insofar as it mandates the prevention of monopolistic control over resources—an economic condition that often leads to exploitative labour arrangements and wealth concentration.

Art. 41: Right to Work and Social Assistance

Art. 41 goes further in specifying positive entitlements. It obliges the State to make effective provision, within the limits of its economic capacity and development, for securing the right to work, education, and public assistance in cases of unemployment, old

age, sickness, disablement, and other forms of undeserved want. Though aspirational, this provision lays the constitutional foundation for schemes such as the MGNREGA and pensions for unorganised workers, affirming that economic vulnerability does not strip individuals of dignity or State concern.

Art. 42: Humane Conditions and Maternity Relief

Art. 42 calls upon the State to ensure just and humane conditions of work and to provide for maternity relief. This directive is pivotal in recognising that the workplace is not merely an economic sphere but also a site of human interaction that must preserve health, safety, and dignity. The inclusion of maternity relief explicitly underscores the need for gender-sensitive labour protections and informed the enactment of the Maternity Benefit Act, 1961.

Art. 43: Living Wage and Cultural Fulfilment

Art. 43 amplifies the demand for worker dignity by requiring the State to secure, through legislation or other means, a “living wage” for all workers. This is distinguished from the concept of minimum wage it implies a wage sufficient not only for basic sustenance but for maintaining a decent standard of life and enjoying leisure and cultural opportunities. The provision also calls for promoting cottage industries, particularly in rural areas, thus encouraging decentralised, locally rooted economic models of work.

Art. 43A: Economic Democracy and Worker Participation

Inserted by the 42nd Amendment in 1976, Art. 43A marks a critical constitutional innovation. It calls for the participation of workers in the management of industries a vision of economic democracy that goes beyond welfare to empowerment. This provision supports models of co-determination and participatory governance in workplaces, and remains a foundational basis for pushing forward labour reforms that democratize decision-making in industrial undertakings.

Together, these Directive Principles project a constitutional vision of labour not merely as a factor of production, but as a domain of substantive rights, dignity, and participatory justice. While they may not confer enforceable rights in a court of law, they carry immense normative force. The judiciary, in several landmark decisions, has invoked these provisions to interpret fundamental rights expansively most notably reading the right to livelihood into Art. 21 of the Constitution. As India confronts the realities of a changing labour landscape be it the rise of platform work, the informalization of labour, or the disempowerment of unions the spirit of the Directive Principles remains a guiding beacon. Realizing the constitutional promise to workers’ demands not just policy alignment but a principled commitment to the dignity of labour as intrinsic to the fabric of democratic citizenship.

3.5.OTHER RIGHTS OF THE WORKERS

Goal 8 of the SDGs, the 2030 agenda, sets the target on achieving ‘*Decent Work and Economic Growth*.’⁵¹ Target 8.8 specifically deals with protection of labour rights, promoting safe and secure working environments for all workers including migrant workers as well as those workers who are employed in precarious work. Decent work, according to the definition put forth by ILO in Report of the Director General: Decent Work, released alongside the 87th International Labor Conference in the year 1999, is described as *productive work of women and men in conditions of freedom, equity, security and human dignity*. Though the concept of freedom may attain different colours under different socio-political ideologies like those of libertarianism, communism, theology, etc. freedom in simple words means the ability to act without restraints. In the context of work, freedom would mean the ability of the individual to reach their full potential without the hindrances from outside and within, the capability of an individual to achieve the perfection they aspire. Sometimes, these constraints are within the individual like fear, for example.

Social security has long been acknowledged as a cornerstone of inclusive economic development and human dignity. The objective of social security schemes is access to health care income security, that is, minimum income for those in need and a reasonable replacement income for those who have contributed in proportion to their level of income.⁵² Yet, despite the clarity of these objectives, extending the benefits of social security to informal and gig workers continues to pose profound challenges to policymakers across jurisdictions. At the heart of the difficulty lies the irregularity and unpredictability of income that characterizes informal and gig work. Unlike traditional employees, whose income is generally fixed, documented, and regularly disbursed, workers in the informal sector or platform economy often receive payments on an ad hoc or performance-based basis. This makes the very concept of "earnings" difficult to define, let alone measure accurately for the purposes of calculating contributions and benefits. The precarious nature of gig work is made apparent by the lived experiences of workers themselves. For instance, a delivery driver in South Africa has reported that in some weeks he is able to earn as much as R. 3,500, while in others, his earnings drop to as little as R. 500. These fluctuations make

⁵¹ G.A. Res. 70/1, ¶ 9, U.N. GAOR, 70th Sess., Supp. No. 49, U.N. Doc. A/RES/70/1 (Oct. 21, 2015).

⁵² Int’l Labour Off., Rep. VI, *Social Security: Issues, Challenges and Prospects*, at 8, Int’l Labour Conference, 89th Sess. (2001).

financial planning difficult, and render conventional contributory-based social insurance models inadequate and inappropriate for such workers.

Declaration on Social Justice for a Fair Globalization, 2008

ILO adopted the declaration on Social Justice for a Fair Globalization in the year 2008. The declaration was adopted in the background of the 2008 financial crisis. The global economy went in for a great recession in 2008, which led to significant shrinking of the economies of the global north. The impact on the developing Asian economies and others in the global south was impossible to avoid, due to great dependence of these economies on the global north in matters relating to cross-border trade. This recession had the impact of slowing the growth of the Asia-Pacific, which was on a steady path of rise, registering on average a growth rate of 8.0 per cent in 2007, to stooping as low as 5.1 per cent in the year 2008. The developing Asian economies which were on a path of rise registering growth of 10.6 per cent in the year 2007, fell to just 7.7 percent by the end of 2008.

This contraction of economies brought with it significant consequences for the labour market. The declining cross-border trade and the increasing cost of finance led to the waning of economic activity, which was further worsened by regression in consumption trends. The businesses cut production and fired employees on a large scale. This led to an unprecedented increase in the rate of unemployment

across the world. The global unemployment rates by the year 2009 jumped to 6.6 percent and the number of unemployed persons worldwide was estimated at 212 million in the same year.⁵³ Such a state of affairs is also vastly underestimated owing to the fact that most of the official data is based on the figures from formal employment rather than informal employment - likely, meaning that the unemployment figures might have been even higher than the ones already reported. Since employing people full time became a challenge, due to the complexities involved in a traditional employment contract, the informal sector grew at a rapid pace. Also, with many workers involved in the export-import industry experiencing unemployment, this huge mass of people came to be absorbed by the informal sector. Thus, the labour crisis spurred by the great recession, led to significant alterations in the way the industrial relations would be shaped for the future. The traditional employer-employee dynamics began to shift and pave way for the creation of the self-employed

⁵³ Int'l Labour Org., *Global Employment Trends* (Jan. 2010)

worker, who though is defined as an independent worker, is heavily dependent on the employer for the performance of their work, but still continue to be denied the traditional benefits made available to the workers in formal industry.

Thus, ILO adopted this declaration affirming its commitment towards decommodification of labour, achieving the object of full employment, raising the standard of living, a minimum living wage, and the extension of the principle of social security measures to ensure a basic income to all in need. The declaration imposes the obligation upon the member states to take positive measures for enhancing social security and labour protection by adapting them to national circumstances and also equips the ILO to scrutinize the national and international policies - economic and financial in the light of the objectives stated above. The convention is important with regard to the validation of right to social security of the workers by safeguarding to the workers a right to social security through promising to the workers' a basic income, while at same time, while expanding the coverage of the right to include basic income, social security policies aimed at meeting the needs and uncertainties generated by the ever-evolving technology, societal, demographic and economic changes. The declaration also sets out the need for healthy and safe working environment for the workers as one of its foundational themes. Moreover, it obliges the state to set out policies with regard to ensuring a healthy and safe working environment for the workers. It obliges the member states to setup schemes that ensure there is an equitable distribution of the 'fruits of progress' through measures like fair wages, minimum working hours, minimum living wage for the employees.

Social Protection Floors Recommendation 2012

Another one of the important recommendations by the ILO is the Social Protection Floors Recommendation 2012.⁵⁴ the recommendation also defines the right to social security as an important human right which is helmed as an economic and social necessity vital for development and progress of workers. Social security is defined as a tool for the empowering people to the changes apparent in the economic and labour markets and supports the transition from an informal to formal employment. The recommendations outline key principles regarding the scope and primary responsibilities borne by member states in defining social security frameworks. These principles include concepts such as the

⁵⁴ Int'l Labour Org., Social Protection Floors Recommendation (No. 202, 2012)
https://www.ilo.org/wcmsp5/groups/public/@dgreports/@inst/documents/normativeinstrument/wcms_161423.pdf.

universality of protection based on social solidarity, the adequacy and predictability of benefits, non-discrimination, and responsiveness to special needs. Social inclusion, particularly for those in the informal economy, is emphasized, alongside respect for the rights and dignity of individuals covered by social security guarantees. Additionally, full respect for collective bargaining and freedom of association for all workers is stressed.

The recommendation identifies four key components of basic social security guarantees. First, access to a nationally defined set of goods and services, including healthcare and maternity care, based on criteria of availability, accessibility, acceptability, and quality. Second, basic income security for children, ensuring at least a nationally defined minimum level that provides access to nutrition, education, care, and other necessary goods and services. Third, basic income security for people of active working age who are unable to earn sufficient income, particularly in cases of sickness, unemployment, maternity, or disability. Finally, basic income for older persons to ensure their well-being in retirement.

An important aspect of the recommendations is the adoption of a consultative dialogue approach in decision-making. For example, Recommendation 8 calls for tripartite participation in the establishment and review of social security guarantees, involving representative organizations of employers and workers, along with consultation with other relevant stakeholders. Member states are encouraged to ensure this consultative process in decision-making.

It is now both legally and morally necessary to provide gig workers with social security benefits in light of the changing nature of the workplace. In order to address the vulnerabilities faced by platform-based workers, traditional labour protection approaches that are built on steady employer-employee connections are becoming less and less effective. States must create comprehensive frameworks that provide access to services like health insurance, maternity coverage, accident compensation, and retirement security and acknowledge gig workers as a valid group in need of social protection. In order to establish flexible and equitable methods for contributions and benefit delivery, platforms, workers' collectives, and trade unions must interact with governments. In addition to protecting individual livelihoods, ensuring social security for gig workers is essential for fostering social justice, economic resilience, and inclusive growth in an economy that is quickly digitizing.

3.6.CONCLUSION

In addition to creating new types of employment, the gig economy's explosive growth has put millions of people at risk of precariousness, algorithmic control, and systemic vulnerability. Despite their vital role in maintaining the platform-driven economy, gig workers frequently function without the fundamental safeguards and protections typically provided to employees, as this chapter has made clear. The opaqueness of algorithmic management, erratic earnings, lack of social security, and loss of control over one's own labour highlight how urgently a rights-based framework that prioritizes workers' protection, justice, and dignity is needed.

The state must step in to guarantee social safety, establish fair salaries, and control the use of algorithmic technologies that affect workers' lives in order to uphold the constitutional values of equality, social justice, and the right to livelihood. By stating the universal rights to fair and advantageous working circumstances, protection from financial exploitation, and access to the advantages of technological innovation, human rights standards bolster this assertion even more. Therefore, addressing the predicament of gig workers is not just a labour policy issue; it is also a constitutional and human rights requirement.

Designing legal and regulatory frameworks that improve transparency, hold platforms accountable, and provide doors for collective bargaining and worker representation is crucial going ahead. The gig economy runs the potential of escalating inequality and sustaining a new kind of covert exploitation in the absence of such measures. Therefore, protecting gig workers' rights is essential to maintaining the principles of justice, equality, and dignity in the workplace as well as to guaranteeing the viability of this new economy.

CHAPTER 4:

EXISTING DOMESTIC LEGAL FRAMEWORK GOVERNING GIG AND PLATFORM WORKERS

4.1. INTRODUCTION:

In the preceding chapters, we traced the historical emergence and rapid evolution of gig and platform work, charting its trajectory from informal, marginal engagements to a structured and digitally mediated form of labour within the broader economic fabric. We also critically examined the rights of gig and platform workers through the lens of constitutional and human rights jurisprudence, exploring whether the foundational values of dignity, equality, and justice extend meaningfully to this emergent class of workers. Having laid this normative groundwork, this chapter turns to the central inquiry of how the existing domestic legal framework in India engages with the lived realities of gig and platform workers. This chapter seeks to explore, evaluate, and interrogate the adequacy of India's current legal and institutional architecture in addressing the rights, entitlements, and vulnerabilities of gig and platform workers. Unlike traditional employment relationships that are governed by well-established labour laws, gig work occupies a liminal space — neither fully recognized as employment nor entirely beyond the realm of economic dependence. This legal ambiguity raises complex questions about the applicability of existing labour protections, social security measures, and dispute resolution mechanisms to this category of workers. A critical starting point for our analysis is to understand the fragmented and often outdated nature of labour legislation in India. Many of these laws were conceptualized during a period when employment relationships were largely hierarchical, continuous, and formal. Consequently, they do not readily accommodate the fluid, intermittent, and algorithmically mediated nature of gig work. Even recent codifications, such as the introduction of the Code on Social Security, 2020, while a step forward, raise concerns about implementation, definitional vagueness, and the extent to which they bridge the gap between legal recognition and tangible rights.

This chapter also undertakes a critical examination of the implications arising from the legal and institutional gaps that characterize the current regulatory landscape governing gig and platform work in India. These gaps manifest in a range of adverse consequences that deeply affect the everyday lives of gig workers, who increasingly constitute a significant portion of the urban informal workforce. The absence of job security looms large, with

workers subjected to abrupt deactivation from platforms, arbitrary performance assessments, and no recourse to procedural safeguards. Compounding this is the lack of access to essential social protections such as healthcare, accident insurance, maternity benefits, and retirement security protections that are otherwise guaranteed to workers in conventional employment relationships. Additionally, the denial of collective bargaining rights further marginalizes gig workers, depriving them of the ability to negotiate terms of service, contest exploitative conditions, or engage in platform-mediated dispute resolution mechanisms. A particularly concerning aspect of this employment model is the reliance on algorithmic management, where opaque and often unchallengeable decisions made by data-driven systems determine worker assignments, ratings, earnings, and even termination. The absence of algorithmic accountability and due process in this model strips workers of agency, reduces transparency, and deepens their economic dependence on the very platforms that deny them recognition as employees. These realities do not merely reflect regulatory oversight; they indicate a systemic disregard for the welfare, dignity, and rights of gig workers, and entrench them in a cycle of structural exploitation and growing precarity. Against this backdrop, the chapter seeks to engage with a fundamental and urgent question: Does the existing legal system in India sufficiently acknowledge and address the rights and working conditions of gig and platform workers? Or, in contrast, has the failure to enact targeted, responsive, and forward-looking legislation created a regulatory vacuum one that enables platform companies to operate with minimal accountability, externalizes risk onto the workers, and institutionalizes a regime of uncertainty, economic vulnerability, and social invisibility? Through this interrogation, the chapter aims not only to reveal the inadequacies and limitations of the present legal framework but also to initiate a broader conversation on the imperative for legal innovation, inclusive policymaking, and the democratization of regulatory processes that meaningfully incorporate the voices, experiences, and aspirations of gig and platform workers within the contours of labour law and policy in India.

4.2. CODE ON SOCIAL SECURITY, 2020

The labour codes were a long-overdue legislative reform. These codes were much anticipated, as there was an urgent need to address significant gaps in the existing labour statutes, many of which are outdated or misaligned with the functioning of the modern industry and evolving labour markets. The older legal framework failed to accommodate new and emerging forms of employer-employee relationships that transcend traditional

labour arrangements. Therefore, a comprehensive legislative overhaul was necessary to respond to these changing circumstances and bridge the long-standing legal and regulatory gaps. The Second National Commission on Labour⁵⁵ had previously recommended the rationalization of existing labour statutes and the creation of an umbrella legislation to ensure a minimum level of protection for workers in the unorganised sector. The Commission had identified the problem of the multiplicity of labour laws in the country and recommended their codification into four or five central codes. However, the deliberations on this codification process proceeded slowly for many years. It was only later, with the Government of India's focus on the "Sabka Saath, Sabka Vikas" agenda, that labour law reforms gained the necessary momentum, and the codification of labour laws was expedited. One of the most notable features of the new **Code on Social Security, 2020**, is the inclusion of a provision allowing platform and gig workers engaged in new forms of technology-driven work to voluntarily join the ESIC, thereby extending social security benefits to a previously unprotected segment of the workforce.

Before the Code on Social Security we had the Unorganised Workers' Social Security Act, 2008. The Act defines self-employed worker as meaning "*any person who is not employed by an employer, but engages himself or herself in any occupation in the unorganised sector subject to a monthly earning of an amount as may be notified by the C.G. or the S.G. from time to time or holds cultivable land subject to such ceiling as may be notified by the State Government.*" This definition prompts to make a further reference section 2(l) which deals with the definition of the unorganised sector. An unorganised sector is defined under the act as "*an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.*" Therefore, the key ingredients to be satisfied in order to classified as a self-employed work under the Act is: firstly, should not be employed by an employer; secondly, engages oneself in an occupation in the unorganised sector; the monthly earnings to be secured by the worker in the unorganised sector will be notified by the central/state governments; either that or the worker holds cultivable land as per the ceilings notified by the State Government. The definition for Unorganised worker under the Code on Social Security includes within its fold homebased worker, self-employed, wage worker. It is to be noted that gig workers or

⁵⁵Thirty-Ninth Session of the Indian Labour Conference, *Report of the Second National Commission on Labour with Emphasis on Rationalization of Labour Laws and Unorganized Labour* (New Delhi, Oct. 16–18, 2003).

platform workers would not come under the classification for the reason that to be part of the definition, besides the quality of not being employed under another employer - the workers would have to earning a wage as declared by the state/C.G.. This is not the case with gig economy. The governments – whether at centre or state, has not notified any minimum wage for the workers in the platform and gig sector. Moreover, the Code intends to treat Gig workers, platform workers and unorganised workers separately, as evident from the different definitions accorded to each concept. Moreover, the Code in the chapter IX, while dealing with social security for Unorganised workers and Gig and platform workers, makes a clear distinction between the provisions under the chapter that are applicable to unorganised workers and gig and platform workers – taking care not to mix up the rights available to each group. This creation of an exclusive provisions pool itself is evident of the legislative intent to not club gig work or platform work with that of unorganised work. Thus, although there exists an Act dealing with the social security of the Unorganised workers, the exclusion of gig and platform workers from the definition of self-employed workers has the effect of restricting the extension of claims that the workers in the gig and platform economy may make through the Act. Therefore, it is safe to say that the Code is one of primary legislations seeking to codify the laws relating to gig workers and platform workers.

While analysing the Code, it is rather important to keep in mind that the provisions relating to gig workers' social security is yet to be notified by the government – in effect the provisions dealing with the rights and benefits of the social security of the workers under the Act are not in force at the moment. As of now, most provisions of the Code, except that of those relating to Provident Fund awaits implementation. Besides the provisions relating to Provident Fund, the C.G. has notified Code on Social Security (Central) Rules, 2020. These rules were framed to supersede an umbrella of social security rules covering nine rules such as Employees' State Insurance (Central) Rules, 1950, Employees' Provident Funds Appellate Tribunal (Conditions of Service) Rules, 1997, Maternity Benefit (Mines and Circus) Rules, 1963, Building and Other Construction Workers' Welfare Cess Rules, 1998, including the Unorganised Workers' Social Security Rules, 2009, etc. However, the rules do not cover either gig workers or platform workers, thus, further creating a legislative vacuum with respect to the rights of these workers.

4.2.1. KEY TERMINOLOGIES: GIG WORK, PLATFORM WORK AND AGGREGATORS

The labour code defines key terms like gig work – gig worker; platform work – platform worker; aggregator etc. in this section, each of these definitions will be visited in detail – to see how comprehensively, the code has defined these workers, the limitations posed by the definitions in helping the workers get various labour benefits, etc.

GIG WORKER

Gig worker is defined under Sec. 2(35) as *a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship*. Therefore, the key defining element in a gig work – that what separates the gig work from other kinds of work is the nature of work arrangement, which has been defined as something forming outside the traditional employer-employee relationship. The conventional division of workers followed in Indian Labour market is to treat them as either employees or independent contractors. The courts have also developed certain tests to determine the nature of the employment – whether a particular work is in the nature of a traditional work relationship or in the nature of an independent contractor. To offer a better explanation for the section it is important to explain what it means by traditional employer-employee relationship.

A. Contract of Service or Contract for personal service

In order to identify whether the worker is an employee or an independent contractor there is a need to ascertain whether the worker is engaged in a contract of service or a contract for service. This distinction would be helpful in determining whether or not there exists a master-servant relationship between the parties. A plain distinction between these two concepts is the degree of control exerted by the participants in the contract. In a contract of personal service, the degree of supervision enforced by the employer is substantial. The employer exercises control over various aspects of the employment relationship, including the manner in which the work is performed, the hours of work (temporal control), supervision and disciplinary measures, work output and reporting requirements, entitlement to leave and employment benefits, and the conditions governing termination and continuity of employment.

In *Dharagadhara Chemical Work Ltd. v. State of Saurashtra*⁵⁶ held that the right test to determine whether or not there exists a master-servant, or, employer-employee relationship is the existence of a right to direct the manner in which the work is to be performed. The court in that case relied on the decision of Hilbery, J. in *Collins v. Hertfordshire County*⁵⁷, where a distinction was drawn between contract for services and contract of service – in the former case, the master can only order or require what is to be done, whereas in the latter case the master can not only order or require what is to be done, but also require how it shall be done. This test was refined in *Harrison Ltd. v. MacDonald and Evans*⁵⁸, where the court held that under a contract of service, the individual is employed as an integral part of the business meaning their work is woven into the core operations of the company. In contrast, under a contract for services, although the work is performed for the business, it is not integrated into it but remains merely accessory or ancillary. For instance, the work done by a company clerk is integral to the business's daily functions, whereas when the company hires a lawyer to handle its litigation, the lawyer's work is not integrated into the business itself but serves as an accessory to it. In *Short v. J. & W. Henderson, Ltd.*⁵⁹, the court further reiterated that the primary ingredient satisfying the existence of a contract of service would be the existence in the master of a right in *some reasonable sense to control* the way in which the work is executed by the worker and this raised this factor of superintendence and control critical and decisive in the determination of the legal quality of the relationship. Thus, the court came up with the test of due control and supervision by the employer.

It must be shown that the work is employed wholly and principally in connection with the business carried on by the employer.⁶⁰ When an employer exerts economic control over the worker's subsistence, skill, and continued employment, it indicates a contract of service and an employer-employee relationship, and in such cases, the real test is to determine who holds the real control beyond the contractual facade of an independent contractor, requiring

⁵⁶ 1957 SCR 158 (India).

⁵⁷ (1947) K.B. 598, 615

⁵⁸ (1952) 1 T.L.R. 101

⁵⁹ (1946) 62 T.L.R. 427

⁶⁰ *Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments*, (1974) 3 SCC 498: *it came for the determination by the court of whether there is existed an employer-employee relationship between the tailoring shop owner and the persons employed by him in his shop. Noting that the sewing machines were supplied by the owner, along with the vesting of a right to refuse sub-standard work in him as right to supervision, the court came to the conclusion that there in fact existed between an employer-employee relationship.*

the court to uncover the naked truth by considering the factors that govern the nature of employment.⁶¹ The Apex court in *Sushilaben Indravadan Gandhi & Another v. The New India Assurance Company Limited and Others*⁶², came to the conclusion that there is no one universal test which can be applied to determine the nature of the employment – whether it is a contract of personal services or a contract for personal services. Thus, a conclusion must be drawn after considering different tests – that of sufficient degree of control by the employer test, economic reality test, working in the premises of the employer, the test of who owns the assets with which work is done, etc., for determining the actual nature of relationship existing between the parties. The court also observed that the if the context in which the determination of the nature of relationship between the parties is raised is one of a beneficial legislation being applied to the weaker sections of the society, the balance would then tilt in favour of declaring the contract to be one of service. From the above tests, it can be concluded that work performed outside the traditional employer-employee relationship points to a contract for personal service rather than a contract of personal service, where the worker undertakes the task as an independent contractor rather than as a personal employee. In such cases, while the employer may determine what work is to be done, they have limited control over how it is carried out. For instance, a chauffeur must perform duties as directed by the employer and in the manner prescribed, whereas a taxi driver determines how to carry out the task, with the customer merely indicating the destination; the driver is not bound to obey instructions such as slowing down or speeding up, and refusal to comply does not impact the driver's subsistence, as the customer has no authority to terminate the driver's continued employment. Therefore, a gig worker exercises greater control over how the work is executed; there is an absence of substantial direct control by the employer over the manner of work in terms of skill, timing, and location. The employer does not exert economic control over the worker's subsistence or continued employment. The fact that the work is not carried out on the employer's premises and is often performed using the worker's own tools and infrastructure further supports the view that the relationship is one of a contract for personal service. While the platform or employer may determine the rate of payment or impose limits on the maximum earnings per task, such regulation does not equate to control over wages in the traditional sense, where the employer would have the authority to revise,

⁶¹ Hussainbhai v. Alath Factory Thezhilali Union (1978) 4 SCC 257

⁶² AIR 2020 SC 1977

withhold, or condition wages based on discipline or performance. In the case of gig work, the payment is generally fixed per task or engagement, and the worker's income depends on the volume and frequency of accepted assignments, not on the employer's ongoing discretion. This lack of dependence on the employer's will to determine or continue payment highlights the absence of a true employer-employee relationship.

PLATFORM WORK & PLATFORM WORKER:

Platform work is defined in the code under section 2 (60):

“Platform work means a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the C.G., in exchange for payment.”

Platform work is thus a species of work arrangement falling outside the traditional employer-employee relationship. The important feature of platform work is the use of an online platform by the organisations as well as the individuals in the provision of services. Thus, the following ingredients must be satisfied to establish that a work is platform work: *firstly*, that it is a work arrangement outside of the traditional employer-employee relationship; *secondly*, the organisations or individuals must use a digital platform; *thirdly*, the platform is used to access other organisations or individuals to solve specific problems, provide services, etc.; and *lastly*, that such provision of services must be in consideration for a payment. This definition thus effectively excludes those cases where the work is performed by the employee using a digital platform but where the contract of work is in the nature of a contract of personal service. Being a species of work arrangement falling outside traditional employment relationships, it must also mean that the platform aggregator has little control over the way in which the platform worker performs his work. Such workers have enough flexibility to choose when to clock in for work, when to work, etc. They also have the option to refuse to undertake a particular task assigned to them by the platform. In contrast, a worker in a contract of service would have little right to refuse tasks assigned to them in the course of the employer's business without incurring consequent disciplinary action.

A platform worker is defined under section 2(61) of the Code as a *“person engaged in or undertaking platform work.”* Under this category would come not just the delivery partners but also highly skilled workers providing their services through a crowd-based platform – where there some sort of outsourcing of certain types of work by the company to

independent contractors who provide their services, for rates mostly negotiated by the parties, via a digital platform like an app or website.⁶³ This outsourcing can include the various tasks like digital marketing, content writing, legal documentation, etc. – the experts in these fields working remote does not work only for a single company but freelance their services for other similar companies and therefore remain self-employed. In such cases the parties engage as principal and principal instead of as master and servant. Platform work also includes the engagement of workers in low-skilled service delivery such as goods delivery by a delivery partner registered with aggregators like Zomato or Swiggy.

AGGREGATOR

An aggregator is defined under section 2 (2), as –

“Aggregator means a digital intermediary or a market place for a buyer or user of a service to connect with the seller or the service provider.”

Thus, within this definition fall most e-commerce platforms like Amazon and Flipkart; delivery applications such as Swiggy and Zomato; and ride-hailing apps like Uber, Ola, and Rapido. Platforms like Amazon or Swiggy function as marketplaces where independent sellers offer goods to prospective buyers who access these platforms to make purchases. These platforms, through the use of algorithmic management, assign the task of delivering the purchased products to delivery agents. These agents typically collect the goods from the seller or a designated warehouse and ensure their dispatch to the end consumer. Similarly, ride-hailing applications like Uber and Ola connect service providers—such as taxi drivers with customers seeking transport services. The apps rely on algorithms to match customers with nearby drivers in real time. These platforms operate under the sharing economy model, where the platform acts merely as an intermediary or facilitator and does not own the goods being sold or the vehicles being used. Importantly, the platform does not employ the service providers in the traditional sense; instead, these providers whether sellers of groceries, food, or drivers are independent actors using the platform to offer their services. This distinguishes platform work from traditional employment, as the service providers retain a degree of autonomy, use their own resources (like vehicles or smartphones), and often bear the operational costs themselves.

⁶³ Kavya Bharadkar et al., *Is Platform Work Decent Work? A Case of Food Delivery Workers in Karnataka*, Occ. Pap. Ser. No. 10 (2020).

4.2.2. SOCIAL SECURITY PROGRAMMES FOR THE GIG AND PLATFORM WORKERS UNDER THE CODE OF SOCIAL SECURITY

A remarkable achievement of the Code of Social Security is the integration of the provisions relating to the provision of social security to the workers in the Gig and Platform work sectors. As such it has set the standard and has provided the first incidence of any formal legal discussion on the rights of the Gig and Platform workers. The provisions relating to social security for the workers in the unorganised sector, those engaging in gig work and platform work are outlined under the Chapter 9 of the Code of Social Security. Each of these sections will be analysed under this section.

The C.G. has been bestowed with the power to frame and notify social security schemes targeting gig workers and platform workers on matters relating to life and disability cover, accident insurance, health and maternity benefits, old age protection, creche, and other benefits as determined by the C.G..⁶⁴ Every scheme may then provide for the manner in which the scheme is to be administered, the implementing agency, the role of aggregators in the implementation of the scheme, the source of funding the scheme, etc. also the scheme may be either wholly funded by the C.G. or a funding partnership may be established with the S.G.– where both governments bear the burden for the scheme.⁶⁵ The C.G. is also empowered to fund the scheme wholly on the contributions of the aggregators or even devise a three way fund sharing model involving the C.G., S.G. and the aggregators.⁶⁶ The contributions by the aggregators are to be pegged at not less than 5 percent of the amount payable to the gig or platform worker by the aggregator.⁶⁷ The code sets up the National Social Security Board as the Board for the purposes of monitoring the welfare schemes of the gig workers and platform workers.⁶⁸ the board shall have at least five members representing the aggregators as nominated by the C.G. as well as five representatives from the gig workers and platform workers, who shall also be liable to be nominated by the C.G..⁶⁹ The code also empowers the C.G. to impose penalties on the aggregators for the delayed payment of contribution by the aggregators.

⁶⁴The Code on Social Security, 2020, § 114 (1)

⁶⁵ The Code on Social Security, 2020, § Section 114 (2)

⁶⁶ The Code on Social Security, 2020, § 114 3(d)

⁶⁷ The Code on Social Security, 2020, § 114 (4)

⁶⁸The Code on Social Security, 2020, § 114 (6)

⁶⁹ The Code on Social Security, 2020, § 114 (6)

Apart from the provisions guiding the framing of schemes or policies for the social security of the gig and platform workers, the code also stipulates the setting up of helplines, facilitation centres for the purpose of disseminating scheme related information to the workers in these sectors, facilitation of the paper workers relating to the registration of workers, and providing necessary assistance to the workers to complete the registration process and thereby facilitate the enrolment of the workers to the social security schemes.⁷⁰ The Code makes registration of the workers in the gig and platform sectors mandatory for the purpose of availing the benefits of the schemes formulated under the Code.⁷¹ The Code also imposes certain criteria determining the eligibility for registration to the schemes formulated under the Code. These conditions include factors such as having completed sixteen years of age, submission of a self-declaration form, etc.⁷²

The power to notify schemes for social security in the case of unorganised workers is a concurrent area where both the C.G. and the S.G. has the power to formulate schemes. This concurrent jurisdiction allows bestowed by the act allows for the S.G. to ask for financial assistance from the C.G. for the implementation of the scheme. Existence of similar powers with the C.G. is not expressly provided to the S.G. under the code. In view of the fact that each state may have a different working culture, and the conditions of work under which the workers may have to operate – significant considerations include quality of road infrastructure, the density of traffic through which the workers are always expected to manoeuvre through and meet the unrealistic targets of delivery time – fixed by the aggregators – the risk undertaken by the workers on the job in cities like Bengaluru might be much larger than that in other cities with less traffic. There are also the issues of differing standard of living in different cities. Thus, a Central scheme alone might not be sufficiently addressing these specific concerns of the workers. Thus, state specific targeted schemes might be helpful in addressing the unique concerns of the workers in a given state. Legitimizing the central assistance to such state schemes would encourage State governments to bring out policies addressing the rights of the workers in the state. The efforts to set up a helpline for workers in assisting them with is a step in the right direction. Most workers in the gig economy are High school graduates⁷³ (counting the undergraduate

⁷⁰ The Code on Social Security, 2020, § Section 112

⁷¹ The Code on Social Security, 2020, § Section 113

⁷² The Code on Social Security, 2020, § Section 113 (1) (a) & (b)

⁷³ PAIGAM & UNIVERSITY OF PENNSYLVANIA, PRISONERS ON WHEELS: REPORT ON WORKING AND LIVING CONDITIONS OF APP-BASED WORKERS IN INDIA (2024).

students engaged in platform work) and they might not be much aware of the schemes. They might also find the technicalities in the registration process intimidating. Hence, setting up helplines and toll-free numbers to assist these workers—from disseminating information to providing support at every stage of the registration process—can significantly boost enrolment in the schemes. This, in turn, would increase the coverage of the worker population under such schemes and help ensure that no worker is left out.

The provisions relating to aggregator contributions under the Code on Social Security, 2020, though financially quantified, raise significant concerns regarding equity in implementation. The law stipulates a contribution rate between 1% and 2% of an aggregator's annual turnover, capped at 5% of the amount paid or payable to gig and platform workers. However, a core ambiguity persists regarding how such contributions translate into tangible benefits for individual workers—whether calculated monthly, annually, or per transaction. Beyond this fiscal architecture lies a deeper structural challenge: platforms' use of tier-based ranking systems and algorithmic task allocation methods, which systematically favour certain categories of workers (e.g., those with high ratings, longer hours, or better availability). This practice often restricts lower-tier or new workers from accessing sufficient work, thereby preventing them from earning enough to benefit meaningfully from any social security scheme tied to earnings thresholds. In such circumstances, even full compliance by platforms with their contributory obligations may result in exclusionary outcomes for a large segment of the workforce. Therefore, the obligation of platforms should extend beyond contribution to also include ensuring equitable access to earning opportunities. This necessitates algorithmic transparency, the disclosure of task allocation methodologies, and a fair, non-discriminatory structure of digital labour management. Crucially, the role of the government cannot remain confined to policy prescription or contribution collection. There is a pressing need for robust institutional monitoring, regulatory audits, and the imposition of algorithmic accountability standards to ensure that the platforms' internal mechanisms do not undercut the very goals of social protection. The state must evolve a dynamic regulatory framework capable of tracking algorithmic bias, preventing exclusion, and ensuring that social security reaches all categories of platform workers equitably.

To encourage wider compliance, contributions made by aggregators toward social security should be granted tax exemptions. Such fiscal incentives would motivate more platforms

to participate actively and fulfil their obligations. There is a compelling need for targeted policies that distinguish between platform workers and other categories of gig workers, since lumping these groups together risks overlooking the specific challenges faced by platform workers—especially regarding algorithmic exploitation and task allocation biases. While these concerns extend beyond the immediate scope of social security, recognizing their distinct nature is important for formulating effective, nuanced labour protections.

4.3. CENTRAL GOVERNMENT SCHEMES:

4.3.1. E-SHRAM PORTAL

The E-Shram Portal is a Nat'l database of Unorganised Workers, an initiative of the Ministry of Labour and Employment. the main aim of the Nat'l E-Shram portal is to bring together the workers in the Unorganised sector and their employers into a single unified system.⁷⁴ The portal has other specialised divisions, especially the eShram Platform/Aggregator Portal. This portal brings together the Platform/aggregators and their workers onto a single system. The workers are registered and validated under this portal by the Aggregators. The advantages of the eShram portal have been designed in such a way as to coax the platform/aggregators to register the workforce under them for unlocking various benefits such as the incentives from C.G. schemes aimed at supporting business generating employment, etc. this is the most important objective of this scheme – rather than projecting the platforms as exploiters of workers' rights, the scheme attempts to include the aggregators in its implementation. The requirement for registration is not on every worker doing platform work, but on the aggregators to get those engaged in platform work under them to register and thereby validate their registration. The aggregators can also better monitor the access of their workforce to certain essential welfare programmes like insurance, health care, financial support, etc. these efforts are in the right direction as it seeks to bring formality into the uncertain and unorganised platform work while at the same time reduce the precarity of the nature of work involved in platform work. the portal also aims to foster inclusiveness by ensuring that workers from no sector is deprived of labour benefits. The data on the portal can also act as a significant tool for policy makers to study the platform worker population to formulate targeted policies for their welfare. The portal

⁷⁴ Ministry of Labour & Employment, Government of India, e-Shram Portal, <https://aggregator.eshram.gov.in/#/about> (March 2025).

can also be helpful in identifying the beneficiaries of a scheme. The existing digital infrastructure can also be better utilised to potentially serve as a benefit disbursement platform.

The aggregators have to first register themselves on the portal and using the login credentials then supplied to them, they can on-board the workers. after registering the worker, the platform worker is issued a Universal account number. The aggregator can then intimate the UAN to the eShram portal. The aggregator then has to upload details regarding the worker like the number of days worked, the total amount paid/payable to the worker for the month/quarterly basis. Once a worker exists the platform work, an exit option can be initiated at the portal.

Moreover, the Union finance minister has in the Union Budget Speech⁷⁵ announced Social Security scheme for the welfare of Platform Workers. acknowledging the contribution of the gig workers to the online services economy, it was announced that they would be provided identity cards via the eShram portal upon registration. They workers will also be provided healthcare under the PM-Jan Arogya Yojana, which is expected to benefit nearly 1 crore platform workers.

One major drawback of the eShram portal is that there is no compulsion to register the workers. the platforms have the freedom to choose to not initiate any registration process. Since it concerns the workers' welfare, there should not be any room for lax. Mandatory registration should be made to recognise social security as a right of the workers in this sector.

4.4. STATE POLICIES

4.4.1. RAJASTHAN

The state of Rajasthan became the first state in India to pass a legislation addressing the rights and welfare of the Platform based Gig Workers. Legislation materialised in the form of The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023. The act aims to set up a Welfare Board and a Welfare Fund for platform-based gig workers and aggregators in the state for the facilitating guarantee of social security to platform-based gig workers. the act though received the assent of the governor, is yet to be notified.

⁷⁵ Ministry of Finance, Government of India, Budget Speeches, 2024-25, UNION BUDGET (March 20, 2025), <https://www.indiabudget.gov.in/bspeech.php>

DEFINITIONS UNDER THE ACT

The Act provides distinct definitions for aggregators and platforms, recognising the diversity within digital labour structures. It defines an aggregator as “*a digital intermediary for a buyer of goods or user of a service to connect with the seller or the service provider, and includes any entity that coordinates with one or more aggregators for providing the services.*”⁷⁶ This definition reflects the nuanced realities of aggregator-based business models, which may involve not just a single intermediary, but a network or conglomeration of aggregators coordinating services through layered digital infrastructures.

A gig worker is defined as “a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship and who works on contract that results in a given rate of payment, based on terms and conditions laid down in such contract and includes all piece-rate work.”⁷⁷ This definition is notably broad—it encompasses not only those who work outside the formal employment relationship, but also those working under contracts that offer a fixed rate of payment, whether task-based or output-based. By expressly including piece-rate work, it brings under its scope a wide range of informal and freelance arrangements.

A platform is described as “an online transaction-based arrangement of work that may involve a person or persons providing goods and services and a person or persons receiving goods and services against a specified rate of payment.”⁷⁸ This definition emphasizes the digitally mediated nature of work and the exchange of goods or services for a fixed payment, positioning the platform as an intermediary. It captures the structural features of two-sided digital marketplaces where providers and users interact. However, it remains limited in scope, as it does not account for algorithmic governance, surveillance mechanisms, or task allocation practices—features that are central to the lived experience of platform workers and often determine the fairness and sustainability of such work.

In sum, the Act marks a significant step forward in recognising and formally categorising the diverse components of the digital labour economy. By offering distinct definitions for aggregators, gig workers, and platforms, it lays the groundwork for more inclusive and responsive regulation. While certain emerging dynamics such as algorithmic control and digital surveillance are yet to be fully addressed, these definitions provide a valuable starting point. With continued refinement and proactive policy engagement, this framework

⁷⁶ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 2(a).

⁷⁷ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 2 (e)

⁷⁸ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 2(f)

holds strong potential to ensure fairer, more transparent, and socially secure conditions for digital workers in the evolving platform economy.

4.4.2. Rajasthan Platform Based Gig Workers Welfare Board⁷⁹:

The Rajasthan Platform-Based Gig Workers Welfare Board, established under the Act, is designed as a multi-stakeholder body to oversee the implementation of welfare policies for gig workers in the state. Headquartered in Jaipur, the Board includes key government officials from departments such as Labour, IT, Social Justice, Transport, and Finance, alongside representatives from platform-based gig workers, aggregators, and manufacturers of goods and services delivered through platforms—all nominated by the State Government. Significantly, the Act mandates that one-third of the members be women, promoting gender inclusivity. The Act thus, promotes the integrating the administrative, industrial and worker perspectives on the matter of fixing and disbursing welfare to the workers. It also holds the potential to serve as a robust framework for promoting and safeguarding that policy design and implementation are responsive to the evolving realities of the platform economy. Also, the nominated members are to enjoy a tenure of three years at the Board. The Board is also stipulated by the Act to hold meetings at least once every six months.⁸⁰ The powers⁸¹ of the Board include ensuring the registration of the workers as well as the aggregators. That a welfare fee deduction mechanism is integrated into the application model of the aggregator. Setting up of a monitoring mechanism to ensure compliance and providing recommendation to the S.G.on the welfare policy of the workers. The Board is tasked with ensuring that the platform workers indeed have access to the various welfare policies designed for their benefit through information dissemination and provide gig workers with proactive facilitation to them in their engagement with the concerned aggregator. The board will also act as a redressal for the timely settlement of grievances relating to the rights of the platform-based gig workers as mandated under the act. One of the functions of the Board is to engage in open consultation with trade unions working with platform-based gig workers.

Another notable feature of the Act is the introduction of the Platform based gig worker welfare fee.⁸² The fee is to be charged on the value of each transaction executed by the platform-based gig worker. The Act authorises the S.G.to determine, via notification,

⁷⁹ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 3

⁸⁰ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 4

⁸¹ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 5

⁸² The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 11

whether this fee will be borne by the aggregator, the consumer, or both. However, the legislation stops short of prescribing a detailed operational model for the collection and remittance of this fee. It does not clarify whether aggregators are expected to periodically submit consolidated amounts or how compliance will be monitored. Moreover, the funds collected are not credited to individual workers but rather deposited into a state-level Welfare Fund. This lack of procedural clarity raises concerns about the effectiveness and transparency of the fee's implementation, particularly in ensuring that the funds reach their intended beneficiaries in a streamlined and accountable manner.

RIGHTS OF PLATFORM BASED GIG WORKERS

An important aspect of this Legislation is that it attempts to lay down certain rights that are available to the platform-based gig workers. The rights of the workers are mentioned in Chapter V of the Act, specifically under section 13. The Statute confers 4 rights to the workers under the Act. These rights include:

- Right to registered⁸³: Every platform-based gig worker has the right to be registered with the S.G. under the Act and to be issued a Unique ID, which shall serve as a unified identity across different platforms. This provision not only affirms the worker's entitlement to social security registration but also acknowledges the ground reality that many gig workers simultaneously engage with multiple platforms. By enabling a single identification mechanism, the Act promotes interoperability across aggregators, potentially reducing administrative burden and helping track contributions and entitlements in a consolidated manner. This is a critical step towards ensuring portability of benefits and enhancing the visibility and recognition of gig workers in the digital labour economy.
- Right to social security⁸⁴: The Act recognises the right of platform-based gig workers to access both general and specific social security schemes, depending on the contributions made by the State Government. This statutory recognition elevates the claim to social security from a matter of policy discretion to one grounded in legal entitlement. By doing so, the Act affirms that social protection for gig workers is not merely aspirational but a right enforceable under law, thereby strengthening the welfare architecture surrounding digital labour. It also empowers workers to seek remedies or

⁸³ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 11(a)

⁸⁴ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 11(b)

benefits on the basis of their registered status and contributions, offering a legislative foundation for future scheme-specific implementation.

- Right to be heard⁸⁵: The Act confers upon platform-based gig workers the right to be heard in matters relating to disputes or grievances arising under its provisions. This right is complemented by a corresponding duty on the S.G.to establish an appropriate grievance redressal mechanism, as specified under Section 14 of the Act. The provision ensures that workers have a structured and accessible forum to raise concerns regarding their entitlements, working conditions, or treatment by platforms and aggregators. By institutionalising a redressal process, the Act aims to promote accountability, procedural fairness, and participatory governance in the implementation of welfare measures.
- Right to Participate in Board decision making process⁸⁶: The Act grants platform-based gig workers the right to participate in the decision-making processes of the Rajasthan Platform-Based Gig Workers Welfare Board by ensuring their representation on the Board. This enables workers to actively engage in discussions and influence decisions related to their welfare. Their presence in the Board's composition helps ensure that the policies and measures adopted are informed by the practical needs and experiences of the workers themselves, thereby promoting more responsive and accountable governance.

The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act establishes a dedicated grievance redressal mechanism⁸⁷, allowing registered gig workers to file petitions either in person or via an online portal regarding issues such as entitlements, payments, and benefits under the Act. Designated officers, appointed by the State Government, are empowered to inquire into and resolve such grievances through formal orders, with an appeal process available within ninety days (extendable for sufficient cause). The Act also provides for recovery of unpaid welfare fees from aggregators as arrears of land revenue, and mandates a 12% annual simple interest on delayed payments. Further, it enforces compliance by imposing penalties up to ₹5 lakh for a first offence and ₹50 lakh for subsequent violations with non-payment recoverable under the Rajasthan

⁸⁵ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 11(c)

⁸⁶ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§ 11(d)

⁸⁷ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023§14

Land Revenue Act, 1956, thereby reinforcing the accountability of aggregators through established administrative and financial channels.

The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act represents a progressive step toward recognising and formalising the rights and welfare of gig and platform-based workers. By establishing mechanisms for registration, grievance redressal, social security, participation in decision-making, and financial accountability of aggregators, the Act seeks to create a more equitable and transparent ecosystem for digital labour. While certain operational ambiguities remain, particularly regarding fee collection and algorithmic transparency, the Act lays a foundational framework for inclusive governance and provides a model that other states may consider while formulating their own gig economy regulations.

4.5. THE KARNATAKA PLATFORM BASED GIG WORKERS (SOCIAL SECURITY AND WELFARE) BILL, 2024

The K'taka cabinet cleared the bill and decided to implement it via the ordinance route. The bills bear striking resemblance to the Rajasthan act in respect of many features such as definition for the gig workers, the setting up of a welfare fee, welfare board, the rights of the workers recognised under the Act, etc. however, it is also important for the inclusion of the following of the provisions relating to fair contracts, monitoring of algorithmic accountability, etc.

4.5.1. OBLIGATION TO ENTER INTO FAIR CONTRACTS⁸⁸

An obligation to enter into fair contracts have been imposed under section 12 of the Bill. The section requires that the contract be written in both English and Kannada, in simple language for the understanding of the platform worker. the change in terms and conditions must be adequately notified to the worker, with the latter having the option to reject the renewed terms and conditions without any adverse consequences for their existing entitlements under the previous contract. it also requires that there shall be a put a cap on the number of work requests that the gig worker can reject in a week without facing any adverse consequences. The S.G.also retains the power to issue the format to be followed by the contracts between the parties which shall be sector specific.⁸⁹ The aggregators also

⁸⁸ The Karnataka Platform Based Gig Workers (Social Security And Welfare) Bill, 2024 §12

⁸⁹ The Karnataka Platform Based Gig Workers (Social Security And Welfare) Bill, 2024 § 13

have the option of sending the contract to the S.G. for reviewing whether its terms and conditions are fair.

4.5.2. TRANSPARENCY

The Bill addresses the transparency issues in the automated monitoring and decision-making systems, which shall also be communicated to the worker in both English and Kannada or any other Indian language as and when sought by the workers. The aggregator is liable to divulge the following information regarding automated control of their work:

- Main parameters which are used to determine allocation, distribution and assessment of the platform work.
- Rating system in force.
- How the categorization of the workers is affected, on the basis of quality of work, log-in time, or any other criteria employed by the aggregator;
- Personal data of the worker with the platform and the manner and purposes for which such data is utilised by the platform.

4.5.3. OTHER IMPORTANT PROVISIONS UNDER THE BILL:

- Termination of work⁹⁰: the contract entered into between the worker and aggregator in itself must contain the exhaustive list of grounds under which the aggregator can process the deactivation of the account of the worker. And the worker should be mandatorily given a prior notice of 14 days and the grounds for termination shall be given to the worker in writing.
- Income security⁹¹: all payment deductions must be made with the reasonable explanation of the deductions to the worker and only after informing them of such conditions and circumstances. The aggregator also has to compensate the worker on a weekly basis and without delay.
- Providing Reasonable Working Conditions to the workers⁹²: providing a safe working environment that is reasonably practicable. There is also need to ensure Human point of contacts for helping the workers with understanding the provisions of the Act and the information of regarding contact, etc. of the point of contact assigned to them must be mentioned on the accounts of the gig workers with the platform.

⁹⁰ The Karnataka Platform Based Gig Workers (Social Security And Welfare) Bill, 2024 §15

⁹¹ The Karnataka Platform Based Gig Workers (Social Security And Welfare) Bill, 2024 §16

⁹² The Karnataka Platform Based Gig Workers (Social Security And Welfare) Bill, 2024 §17

- Grievance redressal mechanism: the worker can file a petition before officer designated by the S.G.or in any other online web portal created for the purpose by the government in respect of grievances arising from entitlements, payments and benefits provided under the act. There is also an opportunity given to the worker to appeal the decision of the authority to an appellate body.

Thus, the K'taka Bill, though later than the Rajasthan Act was able to rectify what the shortcomings of the latter legislation by including within it more targeted provisions that address the problems faced by the gig workers such as lack of transparency in deactivation procedure, the grounds for achieving higher assessment grades, and earning more on the platform, etc. the Bill also seeks to reduce the precarious nature of the work by injecting right to social security of the workers, the right to be in a fair contract – as equal parties, this avoids exploitation of the workers by the aggregators. There was a significant gap in the system which was that their workers could be effectively terminated from the services without the company or the algorithm ever having to offer any reasons for such termination. Workers also had no forum to appeal the decision of the aggregators. The problem with such a form of termination or 'deactivation' of the accounts of the workers is that the workers are not afforded the opportunity to be heard and therefore there is a denial of natural justice rights to the workers. secondly, there is non-application of mind in this case that is, because the decision of the platform is the result of pre-programmed automation, the decisions are not made with the proper application of mind. The worker must be given a chance to defend himself against the unfair dismissal from service and any stoppage of benefits he is entitled to under the Act.

4.6. JUDICIAL RESPONSE:

There are not much cases dealing with the rights of gig workers and platform workers in particular in India. There are mainly, two cases – one being a PIL pending before the SC and the other being a recent decision by the K'taka High Court.

The Indian Federation of App Based Transport Workers (IFAT) v Union of India,⁹³ is the PIL that was filed before the Supreme Court for a determination on Social Security rights of the gig workers. The main issues raised by the petitioners is that the agreements between the gig workers and service aggregator companies are in violation of Art. s 14, 20 and 23 of the Constitution of India. Thus, the writ petition seeks to clarification on the question:

⁹³ WP (C) 1068/2021

whether gig workers fall under the scope of ‘unorganised workers’ under the Unorganised Workers’ Social Security Act? And whether such exclusion constitutes a violation of their right to equality? The premise for such a petition is the contracts between platform-based gig workers and aggregators, which treat the workers partners and not employees and thereby avoiding to these workers access to social security. They also raise the issue of low pay during Covid-19 Pandemic which they call an exploitation of the workers and a violation of their rights under Art. 23 of the Constitution. They also urge the SC for a declaration to the effect that gig and platform workers are reclassified as unorganised workers to enable the enjoyment of provisions outlined under the Unorganised Workers’ Social Security Act and its accompanying rules and schemes. The C.G. in response to the PIL told the supreme court that there was no case of violation of fundamental rights of the supreme court. The government was referring to the eShram portal that enables unorganized workers access to welfare services.

In *X v. ICC, ANI Technologies Private Limited and Ors.*⁹⁴, the question before the K’taka High Court was whether Ola, a digital platform aggregator an employee of the platform worker. The court in this case held that there exists an employer-employee relationship between Ola and its driver subscribers for the purpose of Prevention of Sexual Harassment at Workplace Act (POSH Act). The facts of the case dealt with a situation wherein a customer, who availed a ride via the OLA app, was sexually harassed by one of the drivers subscribes with OLA. The court made a relevant observation as regards the independent contractor classification of the workers, which allows the platforms to evade vicarious liability under various statutes. The court observed that, when OLA exercises complete control over the activities of the drivers subscribing with it, very much like an employer, it cannot be to avoid the responsibilities affixed to OLA, as an employer, under the laws of the land. This case, though deals with the determining employer status for the purposes of the POSH Act, sets a precedent for its analysis of false self-employment tactics used by the Aggregators to evade legal responsibility under various legislations. The court held that the mere existence of a contract containing a clause stating that the drivers are independent contractors does not automatically classify the drivers into that category when in practice exercise discretion after subscribing to the platform is relatively low. The judgment has established the fact of control of the driver by OLA resembling an employer employee

⁹⁴ Ms. X v. Internal Complaints Committee, ANI Technologies Private Limited and Ors. (Writ Petition No. 8127 of 2019 dated September 30, 2024 issued by Karnataka High Court)

relationship. This, can be taken as the first milestone in the reclassification of platform workers as employees rather than independent contractors, especially for the purposes of disbursing Social Security.

The two cases, especially the K'taka High Court decision will obviously be pivotal in future cases relating to the liability of the aggregators as well as in matters relating to settlement of the question of employment status of the gig or platform worker. The SC decision, is still awaited and its proceedings in the meanwhile shall be closely watched. Especially, because, since the petition was filed before the SC, there has been the C.G. has introduced an the eShram portal; and, two states have come with targeted legislations to address the social security of these workers.

4.7. CONCLUSION:

The first and foremost step in ensuring that workers enjoy rights that guarantee them decent work and fair wages to lead to life of dignity is for the law to provide for it in express terms. Codification of rights in the form of law gives legitimacy to the demands of the workers for better conditions of work. this would then create a legal-obligations in the aggregator so that their activities do not lead to the unfair exploitation of the labour of the platform workers. this would then give the workers a respite from the precarious nature of the job undertaken by them by injecting into the system at least some form of certainty of the conditions of work. Building on this foundational step, it is equally essential that these codified rights are backed by robust enforcement mechanisms, transparent regulatory oversight, and participatory institutional frameworks. The inclusion of platform workers in decision-making bodies such as welfare boards, along with dedicated grievance redressal systems, ensures that workers are not passive recipients but active stakeholders in shaping their work environment. Moreover, periodic assessments and audits of aggregator practices especially with regard to wage determination algorithms, task allocation, and worker ratings are crucial to prevent covert forms of discrimination and exploitation. These protections must also be responsive to the evolving nature of platform work, where rapid technological changes can often outpace traditional labour safeguards. Ultimately, legal recognition must be accompanied by political will and administrative readiness to implement the rights meaningfully, thereby transforming the current model of precarious gig work into one that upholds dignity, equity, and justice.

CHAPTER 5: COMPARATIVE PERSPECTIVES ON LAW

RELATING TO GIG WORKERS IN THE UK, THE USA AND THE

EU

5.1. INTRODUCTION:

The gig economy, driven by rapid technological innovation and platform-based business models, has radically transformed the nature of work and the contours of labour regulation. In this evolving ecosystem, traditional distinctions between employees and independent contractors have become increasingly blurred, leaving a large cohort of workers in legal limbo. Nowhere is this more apparent than in jurisdictions like the United Kingdom, where there exist no dedicated legislative framework governing gig workers. Instead, the rights of such workers are shaped by incremental judicial developments, most notably through landmark decisions such as *Uber BV v Aslam*, where drivers were held to be “workers” entitled to basic protections, and the *Deliveroo* case, which denied collective bargaining rights under Art. 11 of the ECHR due to the absence of an “employment relationship.” These contrasting outcomes, often dependent on nuanced contractual terms such as substitution clauses or degrees of algorithmic control, underscore the challenges of fitting platform labour into conventional employment categories. The case-by-case judicial approach in the UK has created legal uncertainty and exposed the limitations of existing labour laws when confronted with non-standard work arrangements that prioritizes flexibility for platforms while rendering workers vulnerable to precarity and disenfranchisement.

In contrast, the European Union has adopted a proactive and harmonized regulatory approach, recognising the urgency of addressing legal ambiguities in platform work. The proposed Platform Work Directive, introduced in December 2021, marks a significant step toward resolving misclassification by introducing a presumption of employment where platforms exert control over working conditions. By focusing on transparency, algorithmic accountability, and collective rights, the EU aims to strike a balance between innovation and the protection of fundamental labour rights. Meanwhile, the regulatory landscape in the United States reflects a fragmented, state-driven model in which federal inaction has prompted diverse state-level experiments—most prominently California’s AB5 law and its subsequent rollback via Proposition 22. Federal agencies like the Department of Labor and NLRB have issued shifting guidance, contributing to a landscape marked by uncertainty

and litigation. These divergent global approaches reveal the underlying tensions between economic flexibility and social protection, autonomy and subordination, innovation and regulation. A comparative analysis of these legal frameworks not only reveals the structural and philosophical differences among jurisdictions but also illuminates the broader stakes involved in securing dignity, equity, and accountability for the growing number of individuals whose livelihoods are increasingly mediated by digital platforms.

5.2.THE UNITED KINGDOM:

In the UK, there is currently no dedicated legislation specifically addressing the rights of gig workers, leaving a significant gap in legal protections for this growing segment of the workforce. Instead, their rights are primarily shaped by judicial decisions, with courts determining employment status on a case-by-case basis. Landmark rulings like *Uber BV v. Aslam* and the Deliveroo case illustrate how the judiciary has stepped in to interpret existing labor laws to fit the complexities of platform-based work, highlighting the challenges of applying traditional legal frameworks to the gig economy in the absence of clear legislative guidance.

In *Uber BV v. Aslam* (2021)⁹⁵, the UK SC examined whether drivers using the Uber app were “workers” under UK employment law, thereby entitled to protections such as the Nat’l minimum wage and paid leave. The key issues were whether drivers were genuinely self-employed contractors entering into contracts with passengers via Uber as an intermediary, or whether they worked for Uber under a worker relationship; and whether they were working whenever logged into the app and ready to accept rides, or only while actively transporting passengers. The Court held in favour of the drivers on both issues. It adopted a purposive approach to the interpretation of employment legislation, citing *Collector of Stamp Revenue v Arrowtown Assets Ltd.*⁹⁶, and stressed that statutory protections should not be undermined by artificial contractual labels. The Court criticised Uber’s reliance on written agreements which designated drivers as independent contractors, noting that such contracts were unilaterally imposed and rarely understood by the drivers. It referenced *Autoclenz Ltd v Belcher*⁹⁷ to emphasise that employment status must be determined based on the practical reality of the relationship. The Court identified multiple indicators of Uber’s control over the drivers: (1) Uber sets the fare, prohibiting drivers from charging

⁹⁵ [2021] UKSC 5

⁹⁶ (2003) 6 ITLR 454

⁹⁷ [2011] UKSC 41

more, effectively removing their control over remuneration; (2) it unilaterally sets the contract terms; (3) it monitors acceptance and cancellation rates to discipline drivers; (4) it exerts significant control over the way rides are performed, including approved vehicle types, use of proprietary navigation technology, and imposition of financial penalties for route deviations; and (5) it restricts direct communication between drivers and passengers, manages payments, and oversees complaints. These features demonstrated a high degree of subordination and dependency, incompatible with self-employment and consistent with worker status under the law.

In the *Deliveroo* case, officially titled *Independent Workers Union of Great Britain v Central Arbitration Committee and another*⁹⁸, the Supreme Court examined whether Deliveroo riders could be classified as "workers" with a right to union recognition and collective bargaining under Art. 11 of the European Convention on Human Rights. The Independent Workers Union of Great Britain (IWGB) sought to represent a group of riders and negotiate with Deliveroo over pay and working conditions, but their application was rejected on the grounds that the riders were not "workers" under domestic law. The case concerned the question of whether riders engaged by Deliveroo were entitled to the right to collective bargaining, hinging on whether they could be classified as "workers" under the Trade Union and Labour Relations (Consolidation) Act 1992. The Independent Workers Union of Great Britain (IWGB) had applied to the Central Arbitration Committee (CAC) seeking recognition for collective bargaining rights on behalf of Deliveroo riders operating in the Camden & Kentish Town (CKT) delivery zone. In its decision dated 14 November 2017, the CAC declined the application, holding that the riders were not "workers" within the meaning of the statute, since they were not required to perform their services personally and retained an unfettered right to appoint substitutes. The matter eventually reached the UK Supreme Court, which examined the nature of the employment relationship in such platform-mediated arrangements. In evaluating the compatibility of this arrangement with Art. 11 of the European Convention on Human Rights (ECHR), the Court referenced the ECtHR's ruling in *B v. Yodel*⁹⁹, which laid down that the classification of an individual as a "worker" for Art. 11 purposes depends on whether the independence is genuine and whether a relationship of subordination exists. The *Yodel* criteria included the freedom to use subcontractors or substitutes, to accept or refuse work, to work for competitors, and to

⁹⁸ [2023] UKSC 43

⁹⁹ [2020] IRLR 550

set one's own hours all of which were present in Deliveroo's contractual model. Further, the ECtHR's decision in the *Good Shepherd*¹⁰⁰ case was invoked to elucidate the distinction between the general right to freedom of association and the specific right to form and join trade unions, the latter being contingent upon the existence of an employment relationship. The Supreme Court also examined ILO Recommendation No. 198¹⁰¹, which—while not laying down rigid criteria encourages states to define employment relationships through their own legal systems. Applying these cumulative standards, the Court upheld the CAC's conclusion, affirming that the Deliveroo riders were genuinely self-employed, with no evidence of a relationship of subordination, and therefore fell outside the scope of protection under Art. 11. The Court concluded by clarifying that its findings in this case would not affect the reasoning in *Aslam v. Uber*, since the factual and legal matrix there was materially different, particularly in that Uber's contractual arrangement did not include a substitution clause, and thus involved a different inquiry into personal service and worker status.

The contrasting rulings in *Uber BV v Aslam* and the *Deliveroo* case highlight the complexity of defining worker status in the gig economy. While the *Uber* decision broadened protections by focusing on the reality of control and dependency, the *Deliveroo* judgment upheld a stricter view based on contractual freedom. These outcomes reveal the uneven legal recognition of gig workers' rights within the UK. They also reflect how platform design and contractual terms can influence access to basic labour protections. Such contrasting decisions, especially the departure from the liberal view adopted in the *Aslam* case to the restricted rights view adopted in the *Deliveroo* case, with respect to worker classification, especially, in the absence of a codified law has left many platform workers in conditions of uncertainty and has only contributed to heighten the precarity of the working conditions in which they work.

5.3.EUROPEAN UNION:

The rapid expansion of the gig economy across Europe has posed significant legal and regulatory challenges. As digital labor platforms reshape traditional employment models, the European Union (EU) has sought to ensure that fundamental rights and protections are not lost in the process. The EU's legal framework aims to balance the flexibility and

¹⁰⁰ *Sindicatul "Pastorul Cel Bun" v Romania*, [2014] IRLR 49

¹⁰¹ Int'l Labour Organisation [ILO], Recommendation. No.198 (31. May 2006).

innovation offered by platform work with the need to protect workers from exploitation, precariousness, and legal ambiguity. Central to the EU's response is the proposed Platform Work Directive, introduced in December 2021, which seeks to address issues such as misclassification of employment status, algorithmic management, and transparency in working conditions. The directive builds on existing EU labor standards and aims to provide a harmonized approach across member states, ensuring that gig workers who are effectively under the control of a platform are afforded appropriate employment rights.

5.3.1. PLATFORM WORK DIRECTIVE

The EU parliament passed the Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work in December 2023.¹⁰² The treaty was passed in pursuant Art. 3 of the Treaty of European Union – promote the well-being of its people; Art. 31 of the Charter of the Fundamental Rights of the European Union in which it is enshrined the right of the workers to just and fair working conditions which respect the health of the worker; Art. 27 which protects the right of the worker to engage in consultation with the institution and guarantees his right to information; Art. 8 relating to protection of personal data; Art. 12 safeguarding to right to form associations; and Art. 21 which prohibits discrimination. Moreover, Principle No: 5 of the European Pillar of Social Rights provides that regardless of the type and duration of employment relationship, the workers are entitled to fair and equal treatment regarding the working conditions, social security and training. The primary objective of the directives is improving the working conditions of the platform workers and secondly, the protecting the personal data of these workers. The key words used with regard to the protection of personal data of workers include increasing transparency, fairness, human oversight, safety and accountability of automated control over workers across the platforms. The directive seeks to establish mandatory rules governing all digital labor platforms.

To qualify as a digital labor platform, few conditions must be satisfied. Firstly, that work is organized according to an automated monitoring systems and automated decision-making systems. There is also need for the digital labor platform to match the demand for the service with the supply of work by a platform worker having a contractual relationship with the digital labor platform. It is not enough if the platform stops at this stage. They should

¹⁰² 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) 1.

also actively coordinate the processing of payments. If a platform stops at merely arranging the job seekers or independent freelancers with potential clients/customers, it cannot come within the definition of a digital labor platform so as to assume the responsibilities delineated to the platform by the directives. In such cases, the workers enjoy sufficient freedom to fix remuneration for the work that they do – they have the power to negotiate their conditions of work. However, to be brought under the directives, the digital platform not only has to have sufficient control over the way in which work comes to be organized – such as, it makes key decisions regarding work – which includes a forfeiture of the right/independence to fix their remuneration.

A key feature of the European Union Directives, which sets it apart from the existing domestic laws in India (though none of the laws of interest here are notified by the concerned governments – including the provisions relating to rights of the gig workers and platform workers in the Code on Social Security, 2020¹⁰³, as well as the two state legislations (clarification: one is a bill¹⁰⁴) aimed at enforcing the rights of the gig workers.) is that it addresses the issue of intermediaries other than the digital platforms coming in between the platform worker and the digital labor platforms. This happens when the platform workers may not have direct contractual relationship with the digital labor platform, but it is through an intermediary that they access the platform. The directives make it clear that whether or not the work is done through the sub-contracting chains involving complex multi-party relationships, the risk faced by the platform worker is not altered and hence, even when intermediaries are involved. Therefore, the Directives call upon the member States to offer the same degree of protection to workers in such cases as well and not discriminate between cases where work is directly or indirectly through an intermediary.

In pursuance of the decision of the Court of Justice in the cases of *Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH*¹⁰⁵, *UX v Governo della Repubblica italiana*¹⁰⁶, the Directive provides for considering cases of false self-employment.¹⁰⁷ False

¹⁰³ The Code on Social Security, 2020 (No. 36 OF 2020)

¹⁰⁴ The Rajasthan Platform based Gig workers (Registration and Welfare) Act, 2023 (Act No. 29 of 2023). & The Karnataka Platform based Gig Workers (Social Security and Welfare) Bill, 2024.

¹⁰⁵ Case C-216/15, *Betriebsrat der Ruhrlandklinik gGmbH v. Ruhrlandklinik gGmbH*, ECLI:EU:C:2016:883 (Nov. 17, 2016).

¹⁰⁶ Case C-658/18, *UX v. Governo della Repubblica italiana*, ECLI:EU:C:2020:572 (July 16, 2020).

¹⁰⁷ Directive (EU) 2024/2831 of the European Parliament and of the Council of 13 March 2024 on improving working conditions in platform work, para. 29, 2024 O.J. (L 2024/2831) 1.

self-employment is defined under the directive as a situation where a person is declared as to self-employed while fulfilling the conditional characteristics of an employment relationship – which is done mainly with intention of committing bypass of legal provisions or for the purpose getting a competitive advantage over similarly placed players in the industry. In *Betriebsrat der Ruhrlandklinik gGmbH v Ruhrlandklinik gGmbH* case a dispute arose when Ruhrlandklinik, a German clinic, sought to second Ms. K., a nurse and member of a not-for-profit association affiliated with the German Red Cross, under a secondment agreement. The works council objected, arguing the arrangement violated Nat'l law on the non-temporary supply of workers. While German law did not classify Ms. K. as a “worker” due to the absence of an employment contract, the referring court questioned whether she qualified as a “worker” under EU Directive 2008/104, which governs temporary agency work. The CJEU ruled that the directive applies when a person performs services for and under the direction of another for remuneration, regardless of Nat'l classification or formal employment contracts. The Court emphasized that the directive's concept of “worker” is autonomous and must be interpreted broadly to ensure protective aims, such as equal treatment and job security, are not undermined by restrictive Nat'l definitions. Even if there does not exist an employment contract it does not stop the directives from classifying an employee as a worker, when they are essentially under a false self-employment contract.

Paragraph 30 of the Directive highlights the evolving nature of direction and control in the platform economy, noting that digital labour platforms often exert influence not through traditional supervision but via punitive measures, algorithmic management, and non-transparent decision-making. These forms of indirect control make it difficult for platform workers to access the necessary tools and information to assert their employment rights or challenge misclassification. Paragraph 30 thus justifies the introduction of a legal presumption of employment when indicators of such control are present, arguing that this would facilitate correct classification and improve living and working conditions. While this presumption addresses power asymmetries and lack of procedural transparency, it also raises critical questions about its potential overreach and its effect on legitimate forms of self-employment. Nonetheless, the proposal in paragraph 30 represents a corrective move aimed at ensuring substantive fairness in a rapidly transforming labour landscape. Paragraph 31 focuses on making sure that the legal presumption of employment is not just a formal rule but something that actually helps platform workers in real life. It recognizes that many of these workers are at a disadvantage when dealing with powerful digital

platforms and often struggle to prove they're actually employees, not independent contractors. So, the idea is to make the presumption simple and accessible — not another legal hurdle. It should ease the process, not make it harder. Importantly, the paragraph makes clear that this presumption doesn't automatically mean every platform worker becomes an employee overnight; rather, it gives them a fair starting point. If a platform wants to argue otherwise, it's their job to prove it — not the worker's. This is a big step toward balancing the scales. But how helpful this measure will truly be depended on how each country puts it into practice. If Nat'l laws make it too vague or weak, the real impact might be lost. Also, by saying the presumption doesn't "automatically" lead to reclassification, there's a risk that some platforms could use that as a loophole — unless there's clear guidance and oversight to prevent abuse.

The next area addressed by the Directive is the protection of personal data of the workers from unauthorised and illegal use by the platforms. While Regulation (EU) 2016/679 (the General Data Protection Regulation or GDPR) lays down a comprehensive framework for safeguarding the personal data of individuals, including in employment contexts, the unique challenges posed by platform work demand more tailored safeguards. Art. 88 of the GDPR already allows Member States to introduce more specific rules—either through Nat'l laws or collective agreements—to protect employee data in the workplace. However, platform work, characterised by extensive algorithmic surveillance and automated decision-making, requires further precision and protection. Against this backdrop, the new Directive (2024/2831) introduces more targeted rules specifically addressing data processing in the platform economy. It supplements the GDPR by establishing stronger safeguards and clearer transparency obligations, particularly where automated systems influence or determine working conditions, task allocation, or disciplinary actions. The Directive thus builds upon the existing GDPR framework to offer a higher level of protection tailored to the lived realities of platform workers, ensuring that terms relating to personal data processing are interpreted consistently with the definitions and principles of the GDPR.

The EU regulations advocates for a fair, legal and transparent way for the processing of digital personal data by digital intermediaries.¹⁰⁸ Via these regulations the digital labour

¹⁰⁸ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 2016 O.J. (L 119) 1 (EU).

platforms dealing in personal data of the employees become liable to abide by these regulations. The Directive on Platform Work, recognizes the power imbalance that is imminent in the relationship between the platform worker and the digital platform.¹⁰⁹ This dynamic has led the Directives to acknowledge a crucial imbalance: workers in the platform economy often appear to “consent” to data usage agreements, but in reality, they have little meaningful choice. Faced with the stark decision between accepting intrusive data practices or losing their means of livelihood, many platform workers are compelled to surrender control over their personal data. This pseudo-voluntary consent is, in effect, coerced—driven by economic necessity rather than genuine autonomy. It creates a situation where refusing the terms set by the digital platform is not a real option, especially for those dependent on platform work for survival. Therefore, it becomes essential to explicitly bring platform work within the ambit of data protection laws, not just to safeguard personal data, but to prevent the exploitation of workers under the pretence of offering them freedom of choice.

There are certain categories of data that the Directives seeks to eliminate being used by the digital platforms – these include – emotional and psychological state of the workers, such as, their recording of their private conversation, details, of their health and private life, collecting data of persons who are not doing the platform work; biometric data. The digital platform is to also subject themselves to a digital data protection impact assessment.¹¹⁰ Building on the broader framework of Regulation (EU) 2016/679, the Directive emphasizes the need for transparency and accessibility in how digital labour platforms use automated systems to monitor and manage platform workers. These systems influence critical aspects of workers’ lives—from hiring and task assignments to earnings, promotions, and even account terminations. Therefore, the Directive mandates that platforms must provide this information in a simple, understandable form to each worker affected, and also make comprehensive technical details available to their representatives and competent authorities when requested. Additionally, the Directive strengthens data rights by requiring platforms to ensure platform workers can access and transfer their personal data—including performance metrics like ratings and reviews—in a standardized and readable format, free of charge. This portability helps ensure continuity of livelihood if a worker shifts to another

¹⁰⁹ Directive (EU) 2024/2831 of the European Parliament and of the Council of 13 March 2024 on improving working conditions in platform work, para. 39, 2024 O.J. (L 2024/2831) 1.

¹¹⁰ Directive (EU) 2024/2831 of the European Parliament and of the Council of 13 March 2024 on improving working conditions in platform work, para. 43, 2024 O.J. (L 2024/2831) 1.

platform. The Directive also addresses the subtle but damaging practice of *account restriction*, where a worker is not explicitly dismissed but is silently sidelined by limiting their access to work opportunities. This too is treated as a serious issue, requiring transparency and due accountability.

Digital labour platforms should therefore ensure that there is meaningful human oversight¹¹¹ over all decisions taken or supported by automated systems. This is essential not only for fairness but also for maintaining the dignity and rights of platform workers, whose livelihoods can be drastically affected by opaque algorithmic decisions. To prevent harm and promote accountability, platforms must regularly evaluate how these systems impact individual workers—particularly with regard to their working conditions, access to opportunities, and equal treatment at work. This evaluation should be conducted at least once every two years, allowing time for the identification of harmful patterns, biases, or unintended consequences in algorithmic decision-making. Such regular assessments are critical in a platform economy where automated systems often operate with minimal transparency but exert maximum control over the workers' day-to-day reality.

The Directive on Platform Work (Directive (EU) 2024/2831) marks a significant step in ensuring fairness, transparency, and protection for individuals engaged in platform-based labour. One of its most impactful features is the legal presumption of employment, which shifts the burden of proof onto digital labour platforms when contesting a worker's employment status. This reversal not only counters the longstanding power imbalance between platforms and workers but also makes it easier for workers to claim the rights and protections due to employees without being forced to navigate complex legal hurdles. Moreover, the Directive introduces critical safeguards against digital data exploitation, addressing the growing concerns about algorithmic control, opaque decision-making, and invasive data surveillance. By demanding transparency in automated systems and ensuring workers' rights to access, portability, and informed consent over their data, the Directive embeds essential data protection principles directly into the realm of platform work. Together, these reforms help dismantle the illusion of choice that many platforms' workers face, replacing it with genuine protections grounded in legal accountability and human dignity.

¹¹¹ Directive (EU) 2024/2831 of the European Parliament and of the Council of 13 March 2024 on improving working conditions in platform work, para. 47, 2024 O.J. (L 2024/2831) 1.

5.3.2. OTHER DIRECTIVES BY THE EU

An important feature of the Platform Work Directive is that it builds on the data protection principles already enshrined in the General Data Protection Regulation (GDPR). As previously discussed, many of the Directive's provisions—especially those concerning automated monitoring, algorithmic decision-making, and transparency—draw inspiration from the GDPR's robust framework. By adapting these rules to the specific context of platform work, the Directive enhances safeguards around how workers' personal data is collected, processed, and used by digital labour platforms. This is especially crucial given the disproportionate power platforms wield in extracting data from workers under the guise of consent, often in situations where refusal is practically impossible. Alongside data protection, the Directive on Transparent and Predictable Working Conditions (Directive 2019/1152) also significantly reinforces protections for platform workers. This directive addresses the vulnerability of workers in precarious and non-standard forms of employment, such as on-demand work and gig-based assignments. It guarantees key rights—such as access to written information on essential employment terms, limits on probationary periods, the right to take up parallel employment, and safeguards against unpredictable scheduling and abusive zero-hour contracts. Importantly, these rights apply to all workers regardless of the nature of their work, ensuring that platform workers are not left out of the protective ambit of EU labour law.

Together, these legal instruments the GDPR, the Platform Work Directive, and the Transparent and Predictable Working Conditions Directive create a comprehensive legal architecture. They aim to restore balance in the platform economy by addressing information asymmetries, protecting workers' autonomy and data, and ensuring that algorithmic management does not become a tool of exploitation in the modern labour market.

5.4. THE USA

While the European Union has taken a proactive, rights-based approach to regulating platform work—focusing on data protection, employment classification presumptions, and transparency—the legal landscape in the United States presents a contrasting model marked by fragmentation, limited federal intervention, and state-level experimentation. In the absence of a comprehensive federal statute specifically governing the gig economy, U.S. regulation has largely evolved through judicial interpretations, state legislation

(notably in California), and administrative agency guidance, particularly from bodies like the Department of Labor (DOL) and the Nat'l Labor Relations Board (NLRB).

There are not many states that came up with a law to regulate the booming gig economy. There are certain notable legislations from the states of California and that of New York dealing with the gig economy – especially, laying down the law on the status of platform worker. The first Californian law was the AB5 act,¹¹² passed in 2019. AB5 requires companies that hire workers classified as independent contractors to reclassify many of them as employees based on the “ABC test,” which is stricter than previous standards. the judicial opinion¹¹³ reflected in several cases began trying to place heavier than before burden on the platforms to prove the independent status of worker, which means that it is not enough for the worker to be merely designated as an independent contractor by the digital platform, however, it must be conclusively established that the worker is not an independent contractor. The higher standard of review shifting the burden of proof towards the digital platforms and placing a presumption of employment status in favour of the platform worker.

The test gives three grounds which the hiring entity can use to establish that the worker hired by them is an independent contractor and is not an employee under the traditional sense of the term. The three conditions are: firstly, the hiring entity proves that the worker is free from direction and control of the hiring entity both under the contract and in practice; secondly, the work carried on the worker, is not integral to the business of the hiring entity (accessory to it); thirdly, that the worker is involved in an independently established trade/work, etc. all the three elements must be satisfied before an individual can be classified as an independent worker – it is not that either one of the conditions be satisfied and the worker would be classified independent worker.¹¹⁴ the ABC test has not been without its praises and criticisms. For one, the test has the potential addresses the power gap that exists between the workers and those under whom they work. It also prevents the companies from taking advantage of the loopholes in the existing legal system to achieve to competitive edge over other market participants, in an unfair manner. However, the major criticisms directed against this classification is the fear that such tests may lead to

¹¹² Assemb. B. 5, 2019–2020 Leg., Reg. Sess. (Cal. 2019).

¹¹³ *Dynamex Operations W. v. Superior Court*, 416 P.3d 1 (Cal. 2018).

¹¹⁴ Shimabukuro, Jon O., CRS Product (LIBRARY of Congress) Worker Classification: Employee Status Under the National Labor Relations Act, the Fair Labor Standards Act, and the ABC Test, CONGRESS.GOV. (20th April, 2020). <https://www.congress.gov/crs-product/R46765>

the unpopularity of freelance and independent contract jobs. The AB5 legislation does not apply exclusively to gig workers.

The opposition to California's AB5 legislation, which sought to reclassify gig workers as employees rather than independent contractors, emerged from a complex mix of economic concern and personal identity. Gig companies like Uber and Lyft argued that AB5 threatened the flexible work models many drivers relied on for supplemental income, while workers themselves voiced fears of losing autonomy over their schedules. The campaign against AB5 coalesced in the form of Proposition 22, which was passed in 2020 through one of the most expensive ballot initiatives in state history. Prop 22 exempted app-based drivers from AB5, reinstating their contractor status but with limited labour protections. Proposition 22 effectively reversed the core impact of California's AB5, which had codified the ABC test and adopted a broad approach to determining employment status one that would have generally classified gig workers as employees entitled to benefits and protections. By carving out an exception specifically for app-based transportation and delivery companies, Prop 22 re-established the independent contractor status for these workers. Crucially, this shift was achieved through a referendum, a mechanism that enabled powerful platform companies to invest heavily in lobbying and public persuasion campaigns, ultimately shaping public opinion in their favour. This process raised concerns about democratic integrity and regulatory capture, as it allowed private economic interests to override legislative intent and reconfigure labour rights through direct voter influence.¹¹⁵

The state of New York has also come up with a law for the protection of the freelance workers under the 'Freelance isn't Free Act'. The main aim of this Act has been the protection of Freelance Workers from being exploited for their work without wages. The act defines a freelance worker as, *"any natural person or organization composed of no more than one natural person, whether or not incorporated or employing a trade name, that is hired or retained as an independent contractor by a hiring party to provide services in exchange for an amount equal to or greater than \$800, either by itself or when aggregated with all contracts for services between the same hiring party and freelance worker during the immediately preceding 120 days."* This provision defines a freelance worker as any individual or a one-person organization, regardless of incorporation or trade name who is engaged as an independent contractor by a hiring party to perform services in

¹¹⁵ Alexander Kondo & Abraham Singer, Labor Without Employment: Toward a New Legal Framework for the Gig Economy, 34 A.B.A. J. LAB. & EMP. L. 321 (2020).

exchange for compensation totalling \$800 or more, either through a single contract or through multiple contracts with the same hiring party within the past 120 days. It sets a clear threshold for when legal protections or obligations may apply, ensuring that once this monetary limit is reached, the freelance worker is formally recognized under relevant laws. This definition aims to safeguard the rights of solo gig workers who may otherwise operate in legally ambiguous or under-protected arrangements. The Act mandates the hiring agency shall present to the freelancer a written contract when they are employed. This would help in protecting the freelance work from disproportionate precarity.

Courts have also long grappled with applying the control test and the economic realities test to determine whether a worker qualifies as an employee or an independent contractor. The control test examines the degree to which the employer directs how, when, and where the work is performed, emphasizing the employer's authority over the worker's tasks. In contrast, the economic realities test looks at the worker's financial dependence on the employer, assessing factors like the permanency of the relationship, the worker's opportunity for profit or loss, and the degree of investment in equipment or materials. Judicial decisions have often been inconsistent, particularly in gig economy cases where workers enjoy some flexibility but remain subject to platform-imposed rules.

The *Dynamex v. Superior Court of Los Angeles*¹¹⁶ (2018) decision by the California Supreme Court was a watershed moment in U.S. labour law, particularly for the gig economy. At the heart of the case was the legal standard for determining whether workers should be classified as employees—entitled to minimum wage, overtime, and other protections or as independent contractors, who lack such rights under California's wage orders. Two delivery drivers sued Dynamex, claiming the company had misclassified them to avoid providing labour protections. The trial court certified a class of drivers who didn't hire sub-drivers or work for others, and the Court of Appeal affirmed. The Supreme Court upheld this certification and held that the proper standard for determining employment status under California's wage orders is the expansive "suffer or permit to work" definition of employment. To give clarity, the Court adopted the ABC test, under which a worker is presumed to be an employee unless the hiring entity proves: (A) the worker is free from its control and direction, (B) the work is outside the usual course of the business, and (C) the worker is engaged in an independent trade or business. This shifted the burden onto

¹¹⁶ 4 Cal. 5th 903 (2018).

employers and significantly narrowed the scope for classifying gig workers as independent contractors, laying the legal foundation for AB5 and sparking major changes in California's labour landscape.

In *Castellanos v. State of California*¹¹⁷, a group of app-based drivers and labour unions challenged the constitutionality of Proposition 22, a 2020 ballot initiative funded by gig economy giants like Uber and Lyft that classified app-based drivers as independent contractors, exempting them from standard labour protections under California law. The plaintiffs argued that Prop. 22 violated the California Constitution by limiting the Legislature's authority to establish a complete system of workers' compensation and by requiring an unrealistic seven-eighths legislative majority to amend its provisions. A lower court initially ruled in favour of the drivers, striking down the law in its entirety. However, on appeal, a divided California Court of Appeal reversed most of the ruling, upholding the core of Prop. 22 while partially invalidating the supermajority amendment clause. The court found that because Prop. 22 applied only to independent contractors, it did not unconstitutionally interfere with the state's workers' compensation system, which applies only to employees.

The U.S. approach to gig worker protection remains fragmented and contested, reflecting a complex balance between innovation, labour rights, and corporate interests. While some states like California have attempted to expand protections through legislation like AB5 and judicial decisions such as *Dynamex*, these efforts have often been countered by industry-led ballot initiatives like Proposition 22, which seek to preserve the independent contractor model. The courts have played a pivotal role in interpreting the scope of legislative and constitutional authority, as seen in cases like *Castellanos*. However, in the absence of a coherent federal standard, gig workers across the country face inconsistent protections, leaving their status—and access to benefits such as minimum wage, health care, and workers' compensation—dependent on shifting state laws, court decisions, and political campaigns.

5.5.CONCLUSION:

The fragmented legal responses across jurisdictions underscore a fundamental tension at the heart of the gig economy—between preserving flexibility and ensuring fairness. In the

¹¹⁷ 89 Cal. App. 5th 131 (2023)

UK, the absence of clear legislative codification has left the legal position of platform workers precarious and uncertain, with their status shaped primarily by inconsistent judicial interpretations. This statutory vacuum has allowed digital labour platforms to structure work arrangements in ways that deliberately circumvent traditional employment protections. Consequently, access to basic labour rights often depends not on the actual nature of the work performed but on how contractual terms are crafted—allowing platforms to exploit formalistic distinctions that prioritise contractual design over substantive working conditions. This state of affairs erodes the foundational principles of UK labour law and entrenches insecurity among a significant and growing segment of the workforce.

In contrast, the European Union’s institutional approach marks a deliberate shift toward harmonised regulation through rights-based directives. The proposed Platform Work Directive, in concert with instruments like the GDPR and the Transparent and Predictable Working Conditions Directive, illustrates the EU’s commitment to curbing algorithmic opacity, addressing employment misclassification, and safeguarding worker data and autonomy. These measures are designed not only to ensure fair treatment but also to recalibrate the asymmetry of power between platforms and workers. Meanwhile, the United States’ fragmented federalism has produced a patchwork of protections, with progressive state-level reforms like California’s AB5 and court rulings like *Dynamex* often neutralised by corporate-led countermeasures such as Proposition 22. This legal instability has resulted in a class of workers whose rights vary dramatically depending on geography, political will, and corporate influence. Ultimately, the comparative picture reveals that piecemeal reform, judicial discretion, and corporate lobbying cannot substitute for comprehensive, forward-looking legislation. For platform work to become truly sustainable and equitable, legal systems must move beyond ad hoc responses and develop cohesive frameworks that reflect the realities of modern labour while upholding the foundational principles of worker dignity and social justice.

CHAPTER 6: CONCLUSIONS AND SUGGESTIONS

6.1. INTRODUCTION:

The emergence and exponential growth of the gig and platform economy have brought about a profound reconfiguration of traditional labour relations and work dynamics. While offering flexibility and new economic opportunities, this shift has also exposed gig and platform workers to unique vulnerabilities, ethical dilemmas, and significant legal uncertainties. Unlike conventional employees, these workers often lack the protections of minimum wages, social security, occupational safety, and collective bargaining, raising critical questions about their rights and the responsibilities of platforms as intermediaries. Throughout this study, we have critically examined the complex interplay between evolving technology-driven work models and existing legal frameworks. The analysis revealed a persistent gap between the rapid innovation in digital labour platforms and the slower, often inadequate responses from labour laws and regulatory bodies worldwide. Ethical concerns surrounding transparency, fairness in algorithmic management, data privacy, and the precarious nature of gig work have emerged as urgent issues demanding immediate attention. This concluding chapter synthesizes the major insights gleaned from the research, emphasizing how the current legal and ethical landscape leaves many gig and platform workers marginalized and vulnerable to exploitation. It highlights the need for reimagined labour rights frameworks that not only address the immediate protection of these workers but also align with the broader goals of social justice, equity, and economic inclusion. Building on these conclusions, the chapter proposes a series of practical, actionable recommendations aimed at multiple stakeholders—including policymakers, judicial authorities, platform companies, and civil society actors. These suggestions focus on creating comprehensive regulatory mechanisms that balance innovation with worker protections, fostering inclusive dialogue among all parties, and promoting ethical standards in platform governance. Ultimately, this chapter envisions a future where gig and platform workers can enjoy rights and safeguards commensurate with their critical role in the contemporary economy, ensuring dignity, fairness, and sustainable livelihoods in a rapidly changing world.

6.2. CONCLUSIONS DRAWN FROM THE CHAPTERS

CHAPTER 1: INTRODUCTION

- Chapter 1 laid the essential groundwork for this study by clearly defining the research problem, objectives, and questions that guide the inquiry into the rights of gig and platform workers.
- It established the central hypothesis regarding the inadequacy of existing legal and ethical frameworks in addressing the unique challenges faced by these workers.
- The chapterization provided a roadmap of the study, outlining how each subsequent chapter would explore various dimensions of gig work, from legal protections to ethical dilemmas.
- The comprehensive literature review synthesized key scholarly perspectives, highlighting the evolving nature of gig labour, the gaps in current regulations, and the pressing need for innovative approaches to worker rights.

CHAPTER 2: CONCEPTUAL ANALYSIS OF THE GIG AND PLATFORM ECONOMY

- Dealt with the Research objective of undertaking conceptual analysis of the Gig and the sharing economy and its constituents.
- Chapter 2 traced the historical evolution of gig economy models, beginning with early forms such as the medieval putting-out system and progressing to the sophisticated platform-based work of today.
- This historical perspective highlighted the persistent thread of flexible, decentralized labour arrangements throughout time, underscoring how technological advancements have radically transformed these practices into digital platforms.
- The chapter also clarified key conceptual definitions such as gig work, platform work, sharing economy, and digital intermediaries to build a clear and nuanced understanding of the terminology and scope of the gig economy.

- Furthermore, an exploration of diverse business models within the sharing economy provided critical insights into how value creation, labour relations, and platform roles are structured in the contemporary economy.

CHAPTER 3: GIG WORKERS' RIGHTS: A CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVE

- Chapter 3 examined the rights of gig workers through the lens of constitutional protections, establishing that gig workers are entitled to fundamental rights such as equality before the law, and the right to life which encompasses livelihood and health in fulfilment of the research objective which was to elucidate the constitutional and human rights dimensions of the rights available to platform-based gig workers, focusing on their legal protections and vulnerabilities within the gig economy.
- The analysis highlighted the applicability of Art. 19 in securing trade union rights, emphasizing the importance of collective representation for these workers.
- Additionally, the chapter underscored the constitutional safeguards against exploitation and detailed the rights of workers under the Directive Principles of State Policy (DPSP), which call for social justice and equitable conditions of work.
- This constitutional framework affirms the necessity of extending core labour protections to gig and platform workers, thereby reinforcing their entitlement to dignity, fair treatment, and legal recognition within the evolving economy.

CHAPTER 4: EXISTING DOMESTIC LEGAL FRAMEWORK GOVERNING GIG AND PLATFORM WORKERS

- Chapter 4 provided an in-depth analysis of the domestic legal frameworks governing gig and platform workers, focusing primarily on key legislations such as the Code on Social Security and its provisions related to social protection for these workers in furtherance of the research objective of giving a scrutiny of the legal protections available to these workers in India, focusing on developments in Union law, laws of the States and case laws.
- The chapter critically evaluated the limitations of earlier statutes like the Unorganised Workers Social Security Act, highlighting gaps in coverage and enforcement that leave many gig workers vulnerable.

- Regional legislative efforts, such as those in Rajasthan and K'taka , were examined as pioneering attempts to address these shortcomings, though challenges remain in achieving uniform protection across states.
- Additionally, the judicial approach towards gig worker rights was analysed, revealing an evolving but cautious recognition of their status and entitlements.

CHAPTER 5: COMPARATIVE PERSPECTIVES ON LAW RELATING TO GIG WORKERS IN THE UK, THE USA AND THE EU

- Chapter 5 presented a comparative analysis of the legal and regulatory approaches to gig and platform workers' rights in three major jurisdictions: the United Kingdom, the European Union, and the United States exploring the research objective of exploring the comparative perspectives on gig workers' rights, gaining knowledge from the jurisdictions of the U.S., E.U., U.K., and any other relevant jurisdiction.
- This chapter highlighted how each jurisdiction grapples with balancing flexibility and protection, revealing varied strategies shaped by differing labour laws, social policies, and political contexts.
- The UK and EU have shown a stronger tendency towards recognizing gig workers' rights through court rulings and legislative reforms aimed at extending employment protections and social security benefits.
- In contrast, the US approach remains fragmented, with significant reliance on contractual classifications and limited statutory safeguards.
- These comparisons underscore the challenges and possibilities in crafting inclusive frameworks that both empower workers and foster innovation.

HYPOTHESIS

Based on the Research Objectives the Hypothesis formulated was:

- The absence of a specific legal provisions relating to social security and labor rights addressing the workers of the gig and sharing economy has resulted in the deprivation of their rights.

The hypothesis that the absence of specific legal provisions relating to social security and labor rights for gig and sharing economy workers has resulted in the deprivation of their

rights is proved by the findings of this study. Chapters 3 and 4 provide detailed evidence of the lack of adequate legal protection for gig workers, which has led to violations of their constitutional rights, including the right to equal treatment, livelihood, and protection from exploitation. The existing domestic laws are insufficient to address the unique challenges faced by these workers, thereby confirming the hypothesis that the legal vacuum contributes significantly to their marginalization and vulnerability.

6.3. SUGGESTIONS

SUGGESTION 1: Establishing Distinct Legal Frameworks for Gig and Platform Workers

- A critical step towards protecting gig and platform workers is the creation of distinct legal frameworks that recognize their differing challenges and working conditions.
- Gig workers, engaged in flexible, task-based roles across sectors, need clear protections including minimum wage, social security, paid leave, and safeguards against unfair dismissal. Platform workers, whose work is mediated by digital technologies and algorithms, require additional regulations addressing transparency in task assignment, performance monitoring, pay determination, data privacy, and protection from algorithmic bias.
- Separate but complementary legal regimes will reduce ambiguity, ensure fair treatment, and better reflect the economic and technological realities of modern work.

SUGGESTION 2: Ensuring Labour Protections and Social Security for Gig Workers

- Gig workers must be covered by a legal framework that recognizes their unique status and guarantees access to core benefits like minimum wage, paid leave, health insurance, unemployment benefits, and pensions—regardless of traditional employment status.
- Social security systems should be flexible and portable, reflecting gig work's irregular nature.
- Platforms should contribute to funding these protections.
- Classifying gig workers as employees for social security purposes, without full employment constraints, will ensure economic security while preserving flexibility.

SUGGESTION 3: Enhancing Transparency and Fairness in Algorithmic Management

- To address the opaque nature of algorithmic management, platforms must disclose assessment criteria and notify workers of any changes.
- Algorithms should ensure fair access to work, preventing favouritism towards early or frequent users.
- Unilateral deactivations must be prohibited without clear, written explanations. An independent grievance redressal body with worker representation should handle disputes promptly and fairly.
- Additionally, all algorithmic decisions impacting livelihoods must undergo audits, regulatory review, and prior consultation with worker groups to ensure transparency and accountability.

SUGGESTION 4: Extending Minimum Wage Protections to Dependent Gig Workers

- To ensure fair remuneration, a clear classification system should identify gig workers who rely primarily on platform work based on hours worked and income source and extend minimum wage protections to them.
- Workers engaged over 8 hours daily or solely dependent on gig work should be presumptively entitled to minimum wage guarantees.
- This approach targets protections to the most vulnerable, ensuring income stability and reducing exploitation while preserving the flexibility of platform work.

SUGGESTION 5: Establishing an Independent Dispute Resolution Mechanism for Gig Workers

- To protect gig workers' rights, a legally mandated, independent, and accessible dispute resolution body must be created.
- It should handle challenges to deactivations, wage disputes, algorithmic penalties, and wrongful terminations promptly and fairly.
- This body must include worker representatives, legal experts, and digital labour specialists, have the power to issue binding decisions, and hold platforms accountable by imposing penalties for unfair treatment.
- Platforms must also provide clear explanations for punitive actions and inform workers of their right to appeal.

The rapid expansion of the gig economy, especially in developing countries like India, reflects not just a shift in technological possibilities but also a deeper structural challenge—rising unemployment and the erosion of traditional employment opportunities. With a growing number of young people turning to platform work as a primary source of income, the gig economy has increasingly become a site of essential livelihood rather than optional or supplementary engagement. The portrayal of gig work as flexible, autonomous, and lucrative does not hold true for the vast majority of low-skill workers in India who rely on it as their main source of livelihood and lack bargaining power, protection, or meaningful recourse against algorithmic and contractual injustices. Given this reality, there is an urgent need to reframe both international and domestic legal approaches to better safeguard the rights of gig and platform workers. This requires more than just marginal policy tweaks or symbolic recognition. What is needed is a robust, inclusive, and enforceable legal framework that accounts for the unique challenges of platform-mediated work—especially in economies where informal work dominates. India, in particular, must resist the temptation to merely replicate Western regulatory experiments without contextual adaptation. Laws must be grounded in the lived realities of Indian gig workers, many of whom navigate a complex web of economic insecurity, social invisibility, and digital marginalization. Simultaneously, there must be a concerted global effort—spearheaded by international labour institutions, regional alliances, and human rights bodies—to push for binding standards that prevent the normalization of precarity. Only by realigning labour regulation with the moral imperative of worker dignity, social justice, and equitable technological governance can the future of work be made truly sustainable, inclusive, and fair.

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