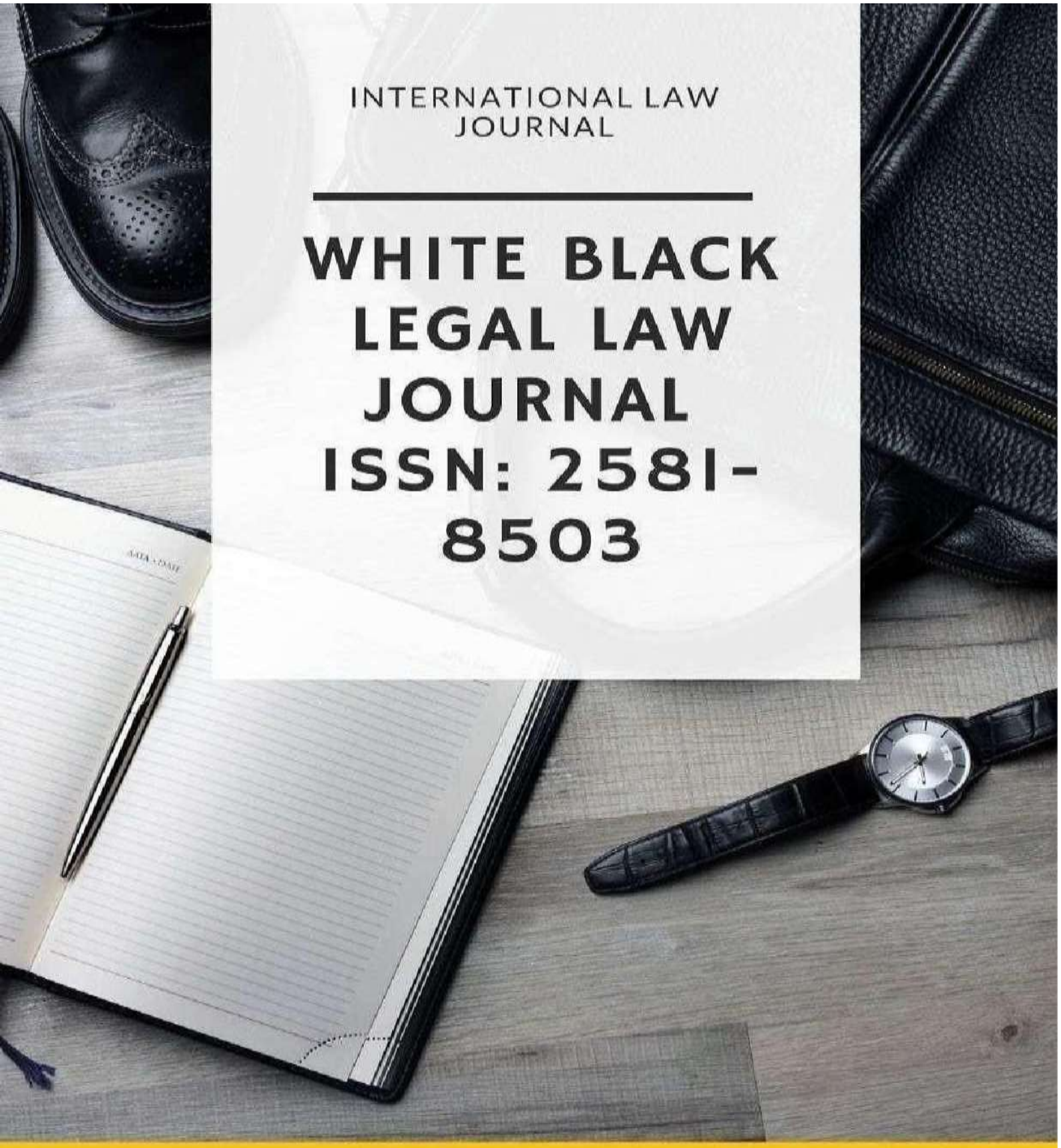

INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

www.whiteblacklegal.co.in
Volume 3 Issue 4 | Feb 2026 ISSN: 2581-8503

ALGORITHMIC MANAGEMENT OF PLATFORM WORKERS IN THE AGE OF AI: A CRITICAL ANALYSIS UNDER THE EU AI ACT AND THE EU PLATFORM WORK DIRECTIVE

AUTHORED BY - CHANDRALA S KATTE

Abstract

The rapid proliferation of Artificial Intelligence ("AI") in digital labour platforms has significantly altered traditional employment settings. As algorithms increasingly perform managerial functions, risks of bias and discrimination pose a threat to worker fairness and equality. This paper critically examines algorithmic bias in platform work through the lens of the EU Artificial Intelligence Act (2024) and the EU Platform Work Directive (2024). The study explores how algorithms have the ability to perpetuate historical trends of bias through opaque decision-making. While the EU AI Act and Platform Work Directive mark strides in regulating AI-associated risks in platform work, they fall short of reaching maximum efficiency due to overreliance on ex ante provisions and overly formalistic procedures. AI in digital platforms decides key aspects of employment like task allocation, remuneration, and termination. Regulatory refinement, including independent auditing standards, compulsory human review, and collective worker participation, is the need of the hour to tackle algorithmic bias and balance innovation with fairness effectively.

Keywords: *EU AI Act, EU Platform Work Directive, Bias, Platform work, Algorithmic management.*

1. Introduction

In an age where technology is advancing rapidly, its influence is evident in almost every human endeavour in some form or another. The nature of jobs is no exception to this, and it has undergone significant development in response to the evolving technological landscape. The most recent and emerging form of employment has been 'gig-work', which is predominantly work on demand via an app known as the physical gig economy[1]. In the gig economy, workers

[1] Valerio De Stefano, 'The Rise of the Just-in-Time Workforce: On-Demand Work, Crowd Work, and Labour Protection in the Gig-Economy' (2015) 37 Comparative Labor Law and Policy Journal 471.
[2] International Labour Organization, ILO Mini Guide: Digital Labour Platforms (2025) https://www.ilo.org/sites/default/files/202506/ILO%20%20Mini%20Guide_%28Digital%29_13jun.pdf.

provide services on several platforms rather than being employed by a single organization. Unlike traditional jobs, they must find their own clients and projects through online platforms. 'Platform work' means work organised through a digital labour platform and performed in the Union by an individual based on a contractual relationship between the digital labour platform or an intermediary, and the individual, irrespective of whether there is a contractual relationship between the individual or an intermediary and the recipient of the service.[2]

Digital labour platform provides service on request and is managed at least in part by electronic means involving the use of automated monitoring/controlling systems.[3] A key feature of platform work is that it attempts to minimise the outside regulation of the relationship between employer and employee. Through algorithms, they govern key aspects of employment such as work allocation, performance monitoring, remuneration, and promotion. In this sense, algorithms operate as functional equivalents to human managers in the traditional workplace, thereby creating a distinct form of managerial control.

This is done by automated monitoring systems and 'automated decision-making systems facilitated by AI and Machine Learning ("ML"), and Natural Language Processing Methods ("NLP"). An algorithm is a set of rules that guides a system to arrive at an answer in a given scenario, through logical and mathematical steps. The growth of computing power, coupled with increased access to greater amounts of data, has made computer models and their underlying algorithms more powerful and prevalent,[4] enabling them to manage complex issues. Like every other technological application, the use of algorithms to manage platform work comes with risks, in this case, a deeply embedded risk of bias. 'Algorithmic bias'[5] leads to unintended discrimination amongst workers, often on irrational grounds like race, religion, sex, caste, nationality etc. Bias can be a result of (a) the programmer's recognition of a set of values that can turn out to be discriminatory in another lens or (b) the training data fed/data relied upon by the tainted by a prejudicial infirmity.[6] Such bias in deciding worker termination, hiring,

[3] Directive (EU) 2024/2831 of the European Parliament and of the Council on Improving Working Conditions in Platform Work, art 1(b).

[4] Yanyou Chen, Yao Luo and Zhe Yuan, 'Driving the Drivers: Algorithmic Assignment in Ride-Hailing' (25 May 2024) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4299499 archived at https://perma.cc/N7M4-KGBX.
[5] Solon Barocas and Andrew D Selbst, 'Big Data's Disparate Impact' (2016) 104 California Law Review 671.
[6] David S Lee and Felicia F Chen, 'Governing Global Gig Platforms in the Age of AI: When the Manager is an Algorithm' (2025) 27 Vanderbilt Journal of Entertainment and Technology Law 689 https://ssrn.com/abstract=5316241.

remuneration etc. leads to unequal treatment of workers and hampers fair opportunity at work. Platform work in itself is a nascent form of employment and laws governing it are still taking shape. Currently, the EU Artificial Intelligence Act, 2024, provides the general law on the usage and regulation of AI. More specifically, the Platform Work Directive (EU) 2024/2831 addresses the regulation of AI within the context of platform work. This paper argues that while the EU AI Act and the EU Platform Work Directive mark a watershed moment in regulating platform-based work, they fall short in ensuring effective worker redressal, clarifying its applicability across diverse sectors of employment, and resolving ambiguities concerning the varying degrees of algorithmic control. Ex ante mechanisms are heavily reliant on self-assessment and procedural documentation; ex post mechanisms are undermined by vague authority and lack of effective remedies for immaterial harm. A regulatory refinement surrounding bias in platform work is the need of the hour, to prevent platforms from employing AI systems embedded with bias and provide workers with adequate redressal mechanisms against irrational discrimination.

The paper critically addresses three questions, namely:

(a) How does AI bias manifest in platform-managed gig work?

(b) What provisions do the EU AI Act and Platform Work Directive contain that specifically deal with algorithmic bias?

(c) How effective are these provisions in mitigating bias?

This paper employs a doctrinal approach with a robust theoretical framework to critically analyse the bias faced by platform workers as a consequence of changing management dynamics in employment and assess how effectively the EU AI Act and EU Platform Work Directive seek to tackle bias and discrimination. Both the legislations are extraterritorial in the sense that they apply to foreign states that have customers in EU. The recent enactment of both legislations and limited implementation makes available limited precedents that directly serve our subject. Further, several other EU legislations[7] also address bias and discrimination, but this paper is restricted to analysis only under the EU AI Act and the EU Platform Work Directive.

[7] 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 (General Data Protection Regulation) [2016] OJ L119/1. Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation [2000] OJ L303/16. Charter of Fundamental Rights of the European Union [2012] OJ C326/391. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services (Digital Services Act) [2022] OJ L277/1.

2. Understanding Algorithmic Bias in Platform Work

Platform-based gig work operates over digital platforms to allocate, monitor and manage work. These platforms serve as 'managers' in their capacity to control and monitor worker duties. It is pertinent to note that algorithmic management does not always require the use of AI, although it is largely employed to enhance operations. Software algorithmic management differs from AI-driven management as the former is mostly 'rule-driven (static), while the latter runs on 'dynamic data' (adaptive). As of today, most platform-based companies employ AI to enhance algorithmic management. AI-driven management in platform work broadly covers (a) Task matching (b) Dynamic pricing (c) performance ranking (d) disciplinary actions. [8] This computational mechanism largely employs an Input-Process-Output (IPO) framework. Simply put, it refers to how input data (worker location, nationality, age, consumer rating, etc.) interpreted using complex computational methods manifests into managerial actions that decide work allocation, deactivation, and earnings.[9] The large amount of data needed for algorithmic decision-making in AI-managed platform work creates a fertile ground for data-driven bias, an unintended consequence of AI-managed platform work. While existing scholarship has extensively examined EU legislation on algorithmic bias in platform-based gig work, there seems to be a paucity of literature proposing concrete and practical solutions to mitigate such bias in practice.

Algorithmic management can be understood as a sociotechnical concept emerging from the interaction of organisational members and the mediating algorithms.[10] It is a confluence of social actors and technical systems that jointly form a platform-based company's organisational structure. Algorithmic management is an assemblage in which the components of humans and algorithms of differing origins and natures are put together and relationships between them are established." Traditional managerial methods involve direct negotiation and deliberation with workers and offer adequate room for grievance redressal. Algorithmic management on the other hand, functions through a 'black-box', and is considered technocratic, dispassionate and lacking any sense of individual purpose.[11] It is almost impossible to understand the reason

[8] Iysha Kadolkar, Stefan Kepes and M Subramony, 'Algorithmic Management in the Gig Economy: A Systematic Review and Research Integration' (2024) 46 Journal of Organizational Behavior 1057, doi:10.1002/job.2831.
[9] Ibid.
[10] M H Jarrahi and W Sutherland, 'Algorithmic Management and Algorithmic Competencies: Understanding and Appropriating Algorithms in Gig Work' in International Conference on Information (Springer International Publishing 2019) 578–589.
[11] Ibid.

behind certain algorithmic decisions. This leaves an open-ended risk of bias that may lead to subsequent algorithmic actions as discriminatory. "It is not technology that determines employment patterns or organizational design but the other way around. The specific use of machinery is informed by socio-organizational forces, with power being a particularly salient factor."[12] However, in the case of platform work, it seems that the opposite is true. AI-based algorithm technically determines employment aspects and significantly controls the organisational design. Worker agency is reduced to zilch as the algorithm is the final decision maker, with no higher authority to review and recall its decisions.

Another important theoretical articulation can be drawn from the Adverse Selection Theory which states that information asymmetry between two groups will gradually cause the party with more information to strategically dominate over the other, leading to unfair outcomes.[13] In the context of platform-work managed by AI, platforms hold privileged access to the logic underpinning algorithmic decisions. Opaque AI systems further exacerbate this asymmetry by preventing workers from accessing information on procedural aspects like task allocation, ratings, and remuneration. This can cause efficient workers to exit the platform due to perceived unfairness and risk of biased decisions. Information asymmetry can also be detrimental to the platform's efficiency as it largely relies on worker data and customer ratings to manage operations. In several cases, workers might give proxy or incomplete data, citing privacy risks and customer ratings can be biased or untrue. This leads to misclassification and exclusion of potential workers based on flawed algorithmic management. Consider an example of a ride-hailing service where worker retention and promotion largely depend on customer ratings[14]. There is a huge risk of a smooth ride being rated negatively, based on the driver's ethnicity, gender or other immaterial factors. Fairness is largely compromised if such inputs are the deciding factors in algorithmic management and platforms, which initially appeared to be objective, with the power to create a fair labour market due to their technological facade,

[12] P Fleming, 'Robots and Organization Studies: Why Robots Might Not Want to Steal Your Job' (2019) 40(1) Organization Studies 23.
[13] G Akerlof, 'The Market for Lemons: Quality Uncertainty and the Market Mechanism' (1970) 84 Quarterly Journal of Economics 488. T Moloi and T Marwala, 'Adverse Selection' in Artificial Intelligence in Economics and Finance Theories (Springer 2020) 71–79. Sarah Lee, 'The Ultimate Guide to Adverse Selection in Algorithmic Game Theory' (2025).
[14] Martin Wiener, W Alec Cram and Alexander Benlian, 'Algorithmic Control and Gig Workers: A Legitimacy Perspective of Uber Drivers' (2021) 32(3) European Journal of Information Systems 485, doi:10.1080/0960085X.2021.1977729. Alexander Benlian, Martin Wiener and W Alec Cram, 'Algorithmic Management' (2022) 64 Business and Information Systems Engineering 825, doi:10.1007/s12599-022-00764-w.

actually might further facilitate discrimination.[15]

3. The EU Artificial Intelligence Act, 2024: Promises and Gaps

The EU AI Act is the world's first comprehensive legal framework on AI. The rules aim to foster trustworthy AI in Europe and set a global precedent to support the development of human-centric and trustworthy AI. The AI Act sets out a clear set of risk-based rules for AI developers and deployers regarding specific uses of AI. It classifies AI systems into different categories based on the potential risks they will impose and labels those systems as high-risk AI that directly pose a threat to the health, safety or fundamental rights of natural persons.[16] Classification of AI systems as high-risk depends on the extent of adverse impact the system has over certain individual rights like the right to dignity, the right to non-discrimination, and workers' rights.[17]

Algorithmic management of platform workers clearly qualifies as high-risk, as it directly controls task allocation, pricing, termination, and retention of workers, and may have a significant impact on the future career prospects and livelihoods of workers.[18] Platform workers are assigned tasks by an app's algorithms, which are also designed to measure workers' efficiency and diligence in completing the task, including by factoring in the ratings and reviews that customers assign to them. Bad scores or performance below the algorithm's standards can lead to workers' exclusion from the platform and thus to 'dismissal' from online and offline platform work.[19] The Act takes into notice the possibility of AI systems to perpetuate historical patterns of discrimination based on religion, race, caste, creed, sex, nationality, etc. While such bias may stem from training data, which is inherently biased, the programmer's personal prejudice also manifests in discriminatory decisions. With machine learning being used in most platform-based gig work, the algorithm makes decisions using pre-fed data and simultaneously tracks patterns in real-time to adapt constantly. Such a 'dynamic-data-driven' approach enables the algorithm to function objectively, but also allows it to

[15] David S Lee and Felicia F Chen, Governing Global Gig Platforms in the Age of AI: When the Manager Is an Algorithm (n 6).
[16] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L168/1, art 6.
[17] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L168/1, recital 48.
[18] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L168/1, recital 57.
[19] ILO, 'The Algorithmic Management of Work and Its Implications in Different Contexts' (International Labour Organization Report) https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_emp/documents/publication/wcms_849220.pdf

reproduce existing structural inequalities and perpetuate bias.

The Act prescribes AI systems that can be controlled and overseen by humans while upholding the principles of diversity, non-discrimination, and fairness to promote equal access and avoid bias. Thus, the first step to avoid discriminatory AI decisions is to ensure the dataset is free of bias.[20] However, as algorithmic management largely relies on dynamic data, a continuous iterative process is required to manage the risk of bias, including the identification and evaluation of risks, and the adoption of relevant risk management measures. It mandates manufacturers of high-risk AI to develop the system in a non-biased way, reducing the risk of bias to the maximum extent.[21] This is a crucial element in algorithmic performance monitoring, which is decided based on customer feedback. Biased customer feedback results in misclassification of workers, which drives workers away from fair work opportunities. It can be inferred that nearly all of the provisions governing risks in platform work of the AI

Act are Ex-ante in approach, making the legal scaffold pre-emptively regulatory. This approach presumes that risk can be foreseeable and evaluated at every stage. However, platforms themselves are often unaware of the specific instance (training data, algorithmic processing, decision output) when bias manifests in the system, making it even more arduous to mitigate bias. Moreover, most of the harms caused by AI systems in digital labour platforms arise only when the technology is used over time, allowing systems to escape liability at the initial stage. In scenarios where harm is discovered after the initial approval, the burden of enforcement shifts to regulators and victims who must prove the impact of these systems in fragmented legal settings.

Recital 27 sets a precondition for high-risk AI systems to maintain transparency and fairness but ignores the impact and monitoring of such regulatory practices. Article 9 calls for a risk management system that can identify, evaluate, analyse, and estimate reasonably foreseeable risks that may emerge from high-risk AI systems, throughout the system lifecycle. However, practice shows that post-deployment evaluation is ineffective and fragmented. Article 15 requires such systems to be "as resilient as possible" to errors or inconsistencies in interactions

[20] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L168/1, art 10(2)(f) and (g).Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) OJ L168/1, art 9.
[21] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) OJ L168/1, art 15.

with actual beings, as well as to attain "appropriate" levels of accuracy and robustness. However, this ambiguous drafting gives deployers the freedom to decide for themselves what is "appropriate" or "resilient," effectively defeating the provision's rudimentary intent to address bias and rendering it counterintuitive to the Act's stated purpose.

The Act falls short as an effective tool due to fragmented enforcement and vague provisions. A major drawback of the Act is its overreliance on self-certification of systems as high-risk AI. For systems the provider does not consider high risk, the Act does nothing more than warrant documentation of the system's assessment. [22]This allows platforms to deploy AI systems that are certified by the platforms as not being high-risk systems. Such = self-classification via ex-ante conformity assessments is akin to self-adjudication, where platforms have little incentive to expose their exploitative practices.[23] The intent of the Act to make a robust internal control and transparency mechanism fails to reach the mark by creating a false sense of security by driving systems into a 'compliance trap' instead of providing substantive ex post corrective methods and redressal. Relying on the very deployers who create and commercialise AI systems to self-classify systems further presumes their ability to foresee every harm that the system might cause. With platforms increasingly employing systems with Regenerative AI ("R-AI") that can continuously adapt and refine their operations over time, several harms might emerge only over time and cannot be predetermined. Moreover, the Act fails to attach liability to a single entity. This dilutes the severity of the harm high-risk AI systems might cause and aids potential exploiters to dodge liability, leaving accountability unanswered. Lastly, by assigning powers to many bodies like the national competent authority, AI office, law enforcement, authorised representative, notifying body, notifying authority, without clearly establishing the jurisdiction of each, the Act fails to establish an efficient and well-organised governing body to deal with AI matters. The hierarchy of powers amongst these authorities also remains blurred. The Act's formalistic regulatory approach encourages box-ticking over genuine accountability, and remains structurally vulnerable to practical implementation risks and post-market harms. Thus, the Act remains stressed largely on ex ante compliance and procedural formalities, leaving significant gaps in accountability and justice for those facing harm.

[22] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 15 May 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act) [2024] OJ L168/1, art 6(4).
[23] G Malgieri and F Pasquale, 'Licensing High-Risk Artificial Intelligence: Toward Ex Ante Justification for a Disruptive Technology' (2024) 52 *Computer Law and Security Review* 105899 https://doi.org/10.1016/j.clsr.2023.105899.

4. The EU Platform Work Directive, 2024: Promises and Gaps

The enactment of the EU Platform Work Directive marks a watershed moment for gig workers[24], as it is one of the first pieces of legislation to directly address the algorithmic management of platform workers. It represents a pivotal intervention in the gig economy that directly confronts the role of AI in platform work, making a shift from the minimal safeguard platform workers got through judicial interpretation, case law, or general human rights provisions. The directive aims to promote fairness, accountability and transparency in digital labour platforms.[25] It not just codifies the law on AI in platform work but also balances the power dynamics in algorithmically managed platform work. As a first step, it has eliminated the longstanding misclassification of platform workers and recognized them as 'employees' under the direction and control of the platforms. This has concretely granted recognition to platform workers as genuine employees and not 'independent contractors' or 'self-employed' persons. This has ensured recognition of platform workers' rights under the Charter of Fundamental Rights[26] of the European Union, making them entitled to fair and just working conditions that respect their health, safety, and dignity.[27] While this marks a crucial step in the welfare of platform workers, it is insufficient. As algorithms increasingly assume managerial functions such as allocating tasks, pricing individual assignments, determining working schedules, giving instructions, evaluating the work performed, providing incentives, or applying adverse treatment[28], it becomes imperative to have adequate safeguards in place that protect workers from the risks of algorithmic management. Algorithms have significantly progressed from being mere facilitators to active managers in employment. "Le pouvoir dans les rapports de travail" or "power in employment relations" is exercised through technological mediation, displacing traditional hierarchies with data-driven mechanisms.[29] Algorithmic direction and control often lead to misclassification of workers and deter equal treatment of workers. Moreover, platform workers are often unaware of the reasons behind decisions made

[24] David S Lee and Felicia F Chen, Governing Global Gig Platforms in the Age of AI: When the Manager is an Algorithm (n 6).
[25] Directive (EU) 2024/2831 of the European Parliament and of the Council on improving working conditions in platform work (EU Platform Work Directive) OJ LXXX/XX, art 1.
[26] Directive (EU) 2024/2831 of the European Parliament and of the Council on improving working conditions in platform work (EU Platform Work Directive) OJ LXXX/XX, recital 7.
[27] Directive (EU) 2024/2831 of the European Parliament and of the Council on improving working conditions in platform work (EU Platform Work Directive) OJ LXXX/XX, art 31 (Charter of Fundamental Rights of the EU), recital 2.
[28] Directive (EU) 2024/2831 of the European Parliament and of the Council [2024] on improving working conditions in platform work (EU Platform Work Directive) [2024] OJ LXXX/XX, recitals 8 and 47.
[29] E Dockès, 'Le pouvoir dans les rapports de travail: essor juridique d'une nuisance économique' (2004) Droit social 620.

or supported by automated systems and are unable to obtain an explanation for those decisions or seek rectification. This dynamic creates a profound imbalance of power and gives ample scope for the exploitation of workers. Additionally, algorithmic management of platform work directly affects workers who might not have direct contact with a human supervisor. New forms of digital interaction, if unregulated, can jeopardize equal treatment and fairness in employment. This Directive regulates algorithmic management by embedding transparency as a non-negotiable obligation.[30] Digital labour platforms are required to inform platform workers, representatives, and other authorities of the use of automated monitoring/decision-making systems. Such information should include categories of data monitored, the methods used for monitoring, the parameters used for decision-making, and the importance of each of these parameters. Digital labour platforms are further directed to carry out 'impact-assessments' to evaluate the impact of automated decisions on working conditions and equal treatment at work. In cases where there is a high risk of discrimination or the rights of a worker have been infringed in the use of automated decision systems, the digital platform should take the necessary steps to mitigate that risk and can even order discontinuation of its use. A human being should make any decision to suspend, terminate, or restrict the contractual relationship.[31] The directive grants platform workers the right to obtain an explanation from digital labour platforms in an intelligible and transparent manner. Additionally, the directive requires digital platforms to produce a written statement explaining the reasons for any automated decision that affects essential aspects of employment, such as suspension, termination, or non-payment for work.[32]

The Directive's approach to combat bias is mostly ex ante, albeit with some ex-post mechanisms. Article 1, Recitals 2, 7, 8, and 47, Article 5(1) in gist, mandate deployers to anticipate, prevent, and pre-determine fair working conditions. It calls for deployers to actively determine employment status, transparency and fairness in platform work. Clearly, such rules only seek to address bias before harm occurs. However, the directive fails to provide a robust redressal mechanism to serve workers after harm has occurred. Such 'frontload' mechanisms that merely seek to prevent harm and shy away from providing concrete solutions to

[30] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work (EU Platform Work Directive) [2024] OJ L331/1, art 9.
[31] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work (EU Platform Work Directive) [2024] OJ L331/1, art 10.
[32] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work (EU Platform Work Directive) [2024] OJ L331/1, art 11.

compensate workers are nothing more than an overly formalistic compliance exercise. Ex ante rules must be matched with parallel ex post redress to build a strong regulatory framework. While Article 9 intends to provide an avenue for redressal, it relies extensively on workers' ability to evaluate and prove bias. Not all workers will be aware that they have been wronged in the first place and might not be able to successfully prove bias. Platforms remain the sole controllers of all data used to make algorithmic decisions and will obviously hesitate to provide evidence that might help workers prove bias in platform work. Article 10 requires workers to present proof of bias to establish their case. However, with heavily encrypted data and complex algorithms governing decision-making, it becomes almost impossible for workers to present proof, making the case prima facie one-sided. Lack of class action and collective redressal mechanisms further silences workers' voices in addressing widespread algorithmic bias. The directive, under Article 11, addresses monitoring and sanctioning but allows deployers to reframe discriminatory processes as technical necessities to enhance operations. This freeway, given to deployers to self-determine what is 'harmful' helps them to escape liability and avoid scrutiny. Thus, while all these provisions aim to serve workers post-harm, their effectiveness is limited due to complex procedures and structural limitations.

5. Judicial Scrutiny and Regulatory Recommendations

There is an abundance of judicial findings that show the prevalence of algorithmic bias in gig economies. Litigation against ride-hailing platform Uber has shown wage discrimination against black drivers, where algorithms allegedly favour the white race in ride allotments and remuneration. In addition to adverse algorithmic decisions, workers are also subject to biased ratings and feedback from customers. Passengers may give a driver a low rating for gender- or race-based reasons, rather than due to the quality of the ride.[33] The inputs that facilitate matching, pricing, and calculating driver and passenger ratings can represent an embedding of algorithmic bias and the reification of societal bias into the sharing economy, leading to a disproportionate impact on minority or women gig workers.[34]

In O'Connor v. Uber Technologies, Inc.[35], Uber drivers alleged that the platform discriminated

[33] Bobby Allyn, 'Uber Fires Drivers Based on "Racially Biased" Star Rating System, Lawsuit Claims' NPR (26 October 2020) https://www.npr.org/2020/10/26/927851281/uber-fires-drivers-based-on-raciallybiased-star-rating-system-lawsuit-claims.
[34] David S Lee and Felicia F Chen, Governing Global Gig Platforms in the Age of AI: When the Manager is an Algorithm (n 6).
[35] O'Connor v Uber Technologies Inc, 2019 WL 2244614 (ND Cal 24 May 2019).

against minority drivers, which significantly impacted their earnings and job security. The Court recognized that algorithmic management could produce biased decisions and demanded platforms to produce algorithmic data for scrutiny. In Pa Edrissa Manjang v. Uber Eats,[36] Uber's real-time ID check failed several times on Mr. Manjang (driver) who faced subsequent deactivation due to the algorithm's discriminatory actions. Uber's claim that such measures were in place for fraud evaluation was rejected as it provided no transparency or procedural principles on how these checks were made. Another major precedent is Garante per la Protezione dei Dati Personali v. Foodinho S.r.l. (Glovo)[37] where rider performance was evaluated using an opaque 'excellence score,' which significantly influenced worker remuneration and promotions. The respondent's claim that such practices were necessary for operational efficiency stood no ground as the Court declared the 'excellency score' to be against principles of fairness and transparency, citing failure to provide adequate notice and explanation to the biased algorithmic decision. This case has a broader influence on policymaking in EU and beyond.

While the EU regulatory scheme aims to offer comprehensive mitigation of bias, it falls short to due to fragmented enforcement, vague regulations and procedural complexities. Rights-based remedies offer better safeguards than lengthy ex post litigation to address platform-related grievances. Ex ante preventive measures can only be effective with adequate human oversight and an independent auditing procedure. Periodic independent audits of AI-based platform work will ensure accountability and highlight real-time gaps in operations, thereby urging platforms to ensure compliance with set standards and uphold worker rights. Moreover, worker participation and collective bargaining will significantly aid in sustainable redressal. While the EU AI Act establishes the European Artificial Intelligence Board for coordination, advisory and assistance in uniform implementation of the Act, the Board is limited in powers to adjudicate disputes and directly enforce sanctions. It is sufficient in addressing algorithmic bias in platform work. Thus, the establishment of a separate authority to deal with disputes arising from AI platform work will lead to faster and more efficient resolution of such disputes. Such authorities can also conduct regular meetings with relevant stakeholders to bring in necessary reforms and address worker concerns.

[36] Pa Edrissa Manjang v Uber Eats [2021] ET 3206212/2021.
[37] Garante per la Protezione dei Dati Personali v Foodinho Srl (Glovo) (2021).Deliveroo and Riders' Strikes: Discriminations in the Age of Algorithms' (2021) 7(3) International Labour Rights Case Law.

6. Conclusion

The EU AI Act, along with the Platform Work Directive, demonstrates a significant advance in the governance of algorithmically managed platform work. These legal instruments collectively build a regulatory framework that recognizes the use of AI in platform work as 'high-risk' and mandates transparency to provide workers a recourse to identify the logic behind an algorithmic decision. The Act's risk-based approach relies on preventive mechanisms that deployers of AI systems must follow to reduce the occurrence of bias. Despite their strengths, both instruments are limited due to overreliance on ex ante practices and complex procedures. Ex post remedies are scanty and underdeveloped, leaving questions of accountability and restoration of rights unanswered. Detailed consideration of workers' rights and participatory governance should be taken to develop a holistic framework to combat bias. Overly formalistic regulations and arduous procedural formalities will lead to 'box-ticking' instead of actual grievance redressal. Due consideration should be given to maintain the balance between innovation and preservation of fundamental rights. Uncertainty in the enforcement of certain provisions has weakened workers' ability to effectively seek recourse under the Act. Thus, the regulatory framework governing bias in platform work must evolve to address the dynamic challenges of algorithmic management and secure the rights of platform workers.