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INFORMAL ECONOMY, GIG WORKERS AND THEIR RIGHTS

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Abstract

“In India, over 7 million gig workers operate without protection, constantly exposed to legal gaps and wage exploitation.” Rising unemployment and a shift toward flexible work are fuelling the rapid expansion of India’s gig economy. The gig economy is reshaping work through freelancing and contract-based opportunities, with its market projected to reach \$ 1.8 trillion by 2032. Platforms exploit loopholes in central and State labour laws to avoid obligations such as minimum wages, social security, and other statutory benefits, leaving workers unprotected. This paper examines the legal and structural aspects of India’s informal economy and gig work. It explores how labour laws, constitutional provisions, and digital platforms shape emerging employment challenges. Although labour laws are being modernized, informal and gig workers remain vulnerable due to weak enforcement and unclear definitions of employment. Digital platforms and technologies have become critical in promoting labour rights awareness and improving regulatory compliance. Examples from food delivery, ride-hailing, and e-commerce highlight how platforms can enable worker exploitation or, with proper oversight, serve as tools for empowerment. According to the ILO, the expansion of India’s gig economy, combined with unclear laws and informal employment, has made millions of platform workers vulnerable, emphasizing the need for robust labour protections and regulatory reform. This study stresses the urgent need for comprehensive legal and regulatory reforms to protect gig workers and ensure fair treatment in India’s platform economy.

INTRODUCTION

The informal sector concept emerged in the early 1970s, sparking debates on its definition and role in economic systems.¹ An initial international definition in 1993 enabled data collection

¹ Int’l Labour Org. (ILO), *Resolution Concerning Statistics of Employment in the Informal Sector* (15th Int’l Conf. of Labour Statisticians, Jan. 1993).

through national surveys but left conceptual disputes unresolved. A broader framework introduced in 2003 under the term informal employment expanded its analytical scope. This evolution helped integrate clearer definitions into regular labour surveys, marking a major step toward a more consistent global understanding of informal economic activity² While the gig economy has undeniably generated new employment opportunities, the very structure of platform-based work raises pressing concerns about labour rights, job security, and widening economic inequality. In India, most gig workers operate without formal contracts, social protection, or access to essential benefits, leaving them exposed to exploitation and financial instability.

This paper investigates the growth of digital labour platforms in India and their implications for labour rights and economic inequality. It analyses the structure of the gig economy, the key challenges confronting platform workers, and the gaps within the existing regulatory framework governing digital labour.

The digital economy has reshaped labour markets across the world, and India is no exception. With the emergence of platforms such as Uber, Ola, Zomato, and Swiggy, the gig economy has become an integral part of the nation's employment landscape. These digital platforms provide flexibility and opportunities for individuals who may be excluded from traditional forms of employment, especially in urban centres. By linking workers to short-term, task-based jobs through online applications, they have created income avenues for millions across the country.³

LITERATURE REVIEW

The informal economy also referred to as the informal sector or grey economy comprises economic activities that operate outside government regulation and taxation. ⁴While it represents a substantial portion of many developing countries' economies, it is often perceived as chaotic, unmanageable, or even problematic.⁵ Yet, the informal sector plays a crucial role in providing economic opportunities for the poor and has been growing rapidly since the 1960s.

² Janine Berg, *Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World* (Int'l Labour Off. 2016).

³ NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022).

⁴ Int'l Labour Org. (ILO), *Women and Men in the Informal Economy: A Statistical Picture* 13 (3d ed. 2018).

⁵ Keith Hart, *Informal Income Opportunities and Urban Employment in Ghana*, 11 *J. Mod. Afr. Stud.* 61 (1973).

Integrating this sector into the formal economy remains a significant policy challenge.⁶

Unlike the formal economy, informal activities are frequently excluded from a country's GDP or GNP calculations. Exceptions exist: Italy has included informal economic activity in its GDP estimates since 1987, increasing its GDP by an estimated 18%.⁷ In 2014, several European countries revised their GDP calculations to formally account for activities such as prostitution and narcotics sales, resulting in an increase of 3–7%, in line with international accounting standards.⁸ The informal sector is often described as a grey labour market, encompassing concepts such as the black market, shadow economy, or underground economy.⁹ Such activities typically involve unreported earnings and cash-based exchanges beyond official oversight, representing a complex space where economic survival, entrepreneurship, and regulatory evasion intersect.¹⁰

The ethical debates surrounding the new organization of work centre on the growing influence of gig economy platforms as instruments of algorithmic control and digital management. Scholars have raised critical concerns about how platform-driven reputation systems which govern job search, task allocation, performance monitoring, and worker accountability reshape power dynamics in the workplace.¹¹ These algorithmic systems, while designed to enhance efficiency and trust in decentralized labour markets, also raise pressing questions about fairness, transparency, and autonomy.¹² Notably, the role of reputation mechanisms in mediating trust and exchange among dispersed workers has long been recognized, but in the platform economy, such systems have evolved into powerful tools of digital surveillance and control.

Employers often prefer hiring independent contractors because it allows them to cut costs associated with traditional employment—such as taxes, training, promotions, overtime pay, benefits, unemployment insurance, workers' compensation, FMLA leave, and retirement

⁶ Martha Alter Chen, *The Informal Economy: Definitions, Theories and Policies*, WIEGO Working Paper No. 1 (2012).

⁷ OECD, *Measuring the Non-Observed Economy: A Handbook* 42 (2002).

⁸ Eurostat, *European System of Accounts 2010 (ESA 2010)*, para. 3.03 (2014).

⁹ Keith Hart, *Informal Income Opportunities and Urban Employment in Ghana*, 11 *J. Mod. Afr. Stud.* 61 (1973).

¹⁰ Hernando de Soto, *The Other Path: The Invisible Revolution in the Third World* (Harper & Row 1989).

¹¹ Shoshana Zuboff, *The Age of Surveillance Capitalism* 351–58 (Profile Books 2019).

¹² Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (Oxford Univ. Press 2018).

contributions.¹³ Contractors also offer the advantage of immediate expertise, enabling companies to fill skill gaps quickly and efficiently without long-term commitments. However, this convenience can easily lead to overreliance.

Over time, employers may begin to treat contractors like full-time employees, blurring legal and ethical boundaries.¹⁴ When this line is crossed, even unintentionally, companies risk facing significant legal, financial, and reputational consequences, highlighting the delicate balance between flexibility and compliance in modern workforce management.¹⁵

CONCEPTUAL FRAMEWORK:

Despite impressive economic growth over the past two decades, India's informal economy continues to dominate the labour landscape, accounting for over 80% of non-agricultural employment.¹⁶ Informality persists not only within traditional unregulated sectors but has also penetrated the formal economy, reflecting the deep structural challenges of India's labour market. With limited job creation in the formal sector, millions of workers are left with no choice but to seek livelihoods in informal and precarious forms of employment.¹⁷

Informality in India is also marked by a distinct gender dimension.¹⁸ While both men and women participate extensively in informal work, women are disproportionately concentrated in informal jobs within formal enterprises, where they face lower pay, fewer protections, and limited opportunities for advancement.¹⁹ The expansion of informal employment within formal enterprises is largely driven by the increasing reliance on contract labour and outsourced production. This trend indicates that merely incentivizing informal enterprises to formalize through compliance measures or limited enforcement is insufficient.²⁰ What is needed instead

¹³ Int'l Labour Org. (ILO), *Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World* 74 (2018).

¹⁴ Prabha Kotiswaran, *Labour in the Platform Economy: Emerging Trends and Challenges*, 55 *Econ. & Pol. Wkly.* 24 (2020).

¹⁵ International Labour Organization (ILO), *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 122 (2021).

¹⁶ Nat'l Statistical Office (NSO), *Periodic Labour Force Survey (PLFS) 2022–23*, Ministry of Statistics & Programme Implementation, Gov't of India (2023).

¹⁷ Ravi Srivastava, *Understanding Informal Employment in India: From Macro to Micro*, 55 *Indian J. Labour Econ.* 1 (2012).

¹⁸ Renana Jhabvala & Jeemol Unni, *Informal Economy: The Growing Challenge for Labour Regulation in India*, in *Labour Regulation and Development: Evidence from India and South Africa* 223 (Haroon Borhat et al. eds., 2013).

¹⁹ Int'l Labour Org. (ILO), *Decent Work and the Informal Economy: Report VI* (2002).

²⁰ NITI Aayog, *India's Booming Gig and Platform Economy* 18 (2022).

is a comprehensive rethinking of labour regulation and social protection that addresses the growing informalization within formal structures of India's rapidly evolving economy.²¹

GIG WORK /PLATFORM WORK

Despite rapid economic growth over the past two decades, India's informal economy continues to dominate, accounting for over 80% of non-agricultural employment.²² Informality now exists not only in traditional unregulated sectors but increasingly within the formal economy itself, reflecting limited formal job creation and persistent labour market vulnerabilities.²³

A notable gender disparity characterizes this trend women are slightly more likely than men to work informally overall but are significantly overrepresented in informal roles within formal enterprises, often with lower wages and weaker protections.²⁴ The rising informalization of formal enterprises, driven by contractualization and outsourcing, suggests that simply encouraging informal firms to formalize through incentives or enforcement is no longer sufficient. Instead, India requires a comprehensive policy framework that addresses the deepening informality within formal structures to ensure equitable and secure employment.

Law Avoidance vs. Law Evasion

In the digital era, platform-based companies have mastered the art of navigating the grey zone between law avoidance and law evasion. Unlike traditional employers, these platforms do not openly break labour laws; instead, they skillfully design work arrangements and contracts to sidestep legal obligations.

Through cleverly worded "partner agreements", algorithmic management, and the rhetoric of flexibility and entrepreneurship, they construct a façade of innovation that conceals deep-rooted informality. This strategy represents law avoidance rather than direct evasion a deliberate manipulation of legal categories to achieve compliance in form but not in substance. By reclassifying workers as "independent partners" instead of employees, platforms avoid responsibilities such as minimum wage payments, provident fund contributions, and social

²¹ De Neve, Geert, *Power, Inequality, and Corporate Social Responsibility: The Politics of Ethical Compliance in the South Indian Garment Industry*, 47 *Econ. & Pol. Wkly.* 63 (2012).

²² Nat'l Statistical Office (NSO), *Periodic Labour Force Survey (PLFS) 2022–23*, Ministry of Statistics & Programme Implementation, Gov't of India (2023).

²³ Ravi Srivastava, *Labour, Employment and Economic Growth in India: The Unfinished Job*, 57 *Econ. & Pol. Wkly.* 39 (2022).

²⁴ Int'l Labour Org. (ILO), *Women and Men in the Informal Economy: A Statistical Picture* 3rd ed. (2018).

security coverage. The result is a new architecture of informality, where technology becomes a shield against accountability.

In essence, digital platforms have blurred the traditional boundaries of employment, replacing clear employer–employee relationships with algorithmic control and contractual opacity. Under the banner of innovation, they have reinvented informality in a digital disguise, turning the promise of flexibility into a powerful mechanism of legal evasion, economic exploitation, and structural inequality.²⁵

LEGAL AVOIDANCE: The ‘Not an Employer Strategy’.

Platform companies frequently structure labour relationships to minimize or evade statutory obligations under core labour laws.²⁶ Three central statutes illustrate the gap between legal protections on paper and practices on the ground.

Payment of Wages Act, 1936: This Act mandates timely wage disbursement and restricts unauthorized deductions for workers in covered establishments.²⁷ Platforms circumvent these safeguards by classifying couriers, drivers, and other gig workers as “independent contractors” or “partners,” thereby excluding them from the Act’s protections. The result is irregular payment schedules, opaque deductions (through app penalties or commission structures), and weakened recourse for workers who face delayed or reduced payments.²⁸

Industrial Disputes Act, 1947: The IDA provides mechanisms for dispute resolution, collective bargaining protection, and rules around strikes, retrenchment, and closures rights that apply to recognized employees. By avoiding employee status and keeping workforces atomized and decentralized, platforms undermine the collective voice of workers and place them outside the IDA’s protective framework. This fragmentation reduces workers’ ability to seek redress through tribunals, weakens bargaining power, and makes lawful collective action more difficult.²⁹

²⁵ K.P. Kannan, *Insecure Work and the Informalisation of the Indian Labour Market*, 55 *Econ. & Pol. Wkly.* 22 (2020).

²⁶ Aayush Rathi & Ambika Tandon, *Platforms, Power, and Politics: Perspectives from the Gig Economy in India*, 56 *Econ. & Pol. Wkly.* 45 (2021).

²⁷ *The Payment of Wages Act, 1936*, No. 4 of 1936, India Code.

²⁸ Int’l Labour Org. (ILO), *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* (2021).

²⁹ *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India*, W.P. (C) No. 12759/2021 (Del. HC).

Employees' Provident Fund Act, 1952 (EPF): The EPF mandates employer and employee contributions to provident and pension funds for covered employees.³⁰ Platforms' prevalent use of contractor relationships enables them to disclaim employer responsibility for provident fund contributions, leaving workers without retirement savings, deposit-linked insurance, or the social security benefits that formal employment provides. This omission compounds long-term financial insecurity for gig workers.³¹

Code on Wages, 2019: Definition of "Employee" and Implications for Platform Work

The Code on Wages, 2019 consolidates key labour laws, including the Payment of Wages Act and Minimum Wages Act, into a single framework. Its definition of "employee" covers any person employed for hire or reward, including part-time or contract workers.³² However, gig and platform workers are not explicitly included, allowing companies to classify them as independent contractors and evade minimum wage, timely payment, and other statutory protections.³³

While the Code standardizes wage rules and equal remuneration, the exclusion of digitally mediated labour leaves enforcement gaps. This omission facilitates strategic law avoidance by platforms, perpetuating informality under the guise of contractual independence.³⁴ Recognizing gig workers as employees under the Code is increasingly seen as essential to prevent wage theft and ensure social security in India's platform economy. Taken together, these avoidance strategies reliance on contractor status, algorithmic management, and workforce casualization allow platforms to capture the flexibility and cost advantages of marketized labour while sidestepping statutory duties. The effect is a hollowing out of legal protections that were designed for traditional employment, producing a workforce that is operationally indispensable but legally excluded from basic labour rights and social security entitlements.³⁵

³⁰ *Employees' Provident Funds and Miscellaneous Provisions Act, 1952*, No. 19 of 1952, India Code.

³¹ Renana Jhabvala & Jeemol Unni, *Informal Economy: The Growing Challenge for Labour Regulation in India*, in *Labour Regulation and Development* 223 (Haroon Borat et al. eds., 2013).

³² Ministry of Labour & Employment, *Code on Wages (Central) Rules, 2020* (Draft), Gov't of India.

³³ Aditi Surie & Sarayu Natarajan, *The Digital Platform Economy and India's Informal Labour Market*, 53 *Econ. & Pol. Wkly.* 57 (2018).

³⁴ Deepa Das Acevedo, *Regulating the Gig Economy in India: Lessons from Global Practice*, *Indian J. Labour Econ.* (2021).

³⁵ Ravi Srivastava, *Social Protection for Gig and Platform Workers in India: Issues and Policy Options*, Institute for Human Development Working Paper (2023).

JUDICIAL PRECEDANTS:

A key feature of the platform economy is the use of click-wrap or digital “partner agreements”, which require workers to accept predefined contractual terms before gaining access to work through the platform.³⁶ These agreements are deliberately structured to deny any form of employment relationship, explicitly classifying drivers and delivery partners as independent contractors rather than employees.³⁷

By doing so, platforms strategically evade obligations related to minimum wages, overtime, social security contributions, and other statutory benefits. This approach is not merely a legal ambiguity it represents a deliberate strategy of legal avoidance designed to minimize costs and liabilities.³⁸

In the landmark case of *Uber BV v. Aslam (UK, 2021)*, the UK Supreme Court rejected Uber’s argument that its drivers were independent contractors, recognizing them instead as “workers” entitled to minimum wage and paid leave.³⁹

This judgment underscored how contractual classifications cannot override the reality of subordination and control exercised by digital platforms. Similar issues are unfolding in India, where cases such as *Ola Drivers Union v. State of Karnataka* (pending) and multiple complaints by food delivery workers before Labour Commissioners challenge the denial of employment rights and social protections.⁴⁰

Despite these ongoing legal proceedings, Indian platform companies continue to rely on contractual language to justify algorithmic deductions, unexplained pay cuts, and incentive manipulations, which collectively amount to digital wage theft.⁴¹

The opacity of payment systems, fluctuating commission rates, and unilateral rule changes reinforce workers’ dependency while depriving them of mechanisms for redress. These

³⁶ Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 42 (Oxford Univ. Press 2018).

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

³⁸ Prassl, *supra* note 1, at 54.

³⁹ *Ola Drivers Union v. State of Karnataka*, W.P. No. 10180/2021 (Karnataka High Ct., pending).

⁴⁰ ILO, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 78–80 (Int’l Labour Org. 2021).

⁴¹ Indian Federation of App-based Transport Workers (IFAT), *Press Release on Gig Worker Exploitation* (2022).

practices reveal how the gig economy's promise of flexibility often conceals a systematic extraction of labour value through misclassification and regulatory evasion turning the rhetoric of "partnership" into a tool of economic control.⁴²

WAGE THEFT AND UNFAIR COMPENSATION PRACTICES:

Wage theft in the platform economy takes on new and often concealed forms, hidden behind algorithms and digital contracts.⁴³ Traditional manifestations such as underpayment below the minimum wage, non-payment of overtime, withholding promised bonuses or commissions, and forcing workers to labour "off-the-clock" are now being reengineered through platform systems that obscure accountability.⁴⁴

Companies frequently misclassify workers as independent contractors, thereby avoiding obligations to pay benefits, insurance, or social security contributions.⁴⁵ Likewise, unauthorized or opaque deductions, justified through performance ratings, order cancellations, or so-called "service fees," further erode workers' actual earnings.⁴⁶

Modern platforms also engage in incentive manipulation and dynamic pricing models that constantly shift compensation rules without notice. These algorithmic mechanisms allow platforms to cut incentives during high-supply periods or adjust fares in real time, effectively shifting business risk onto workers. The resulting volatility in income makes it nearly impossible for workers to predict or plan their earnings. Compounding this issue is a lack of transparency: gig workers have no legal right to audit the algorithmic payment systems that determine their wages, leaving them powerless against automated deductions or unfair pay structures.⁴⁷

Empirical studies and Fair work India Reports (2022–2024) have documented widespread

⁴² De Stefano, *supra* note 2, at 493.

⁴³ Trebor Scholz, *Uberworked and Underpaid: How Workers Are Disrupting the Digital Economy* 33–35 (Polity Press 2017).

⁴⁴ Miriam A. Cherry, "Beyond Misclassification: The Digital Transformation of Work," 37 *Comp. Lab. L. & Pol'y J.* 577, 582 (2016).

⁴⁵ Valerio De Stefano, "Non-Standard Work and Limits on Freedom of Contract: A Human Rights-Based Approach," 44 *Indus. L.J.* 469, 472 (2015). Valerio De Stefano, "Non-Standard Work and Limits on Freedom of Contract: A Human Rights-Based Approach," 44 *Indus. L.J.* 469, 472 (2015).

⁴⁶ Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 59 (Oxford Univ. Press 2018)

⁴⁷ ILO, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 78–80 (Int'l Labour Org. 2021).

instances of such practices, revealing systematic underpayment, opaque pay structures, and arbitrary penalties across major platforms like Swiggy, Zomato, Ola, and Urban Company. These findings expose a troubling pattern: the digital mediation of labour has not eliminated exploitation but rather digitized and normalized it.⁴⁸

The rhetoric of “flexibility” masks a system where workers bear the costs of algorithmic control, while platforms reap the benefits of low-cost, unprotected labour a modern evolution of wage theft dressed in technological sophistication.⁴⁹

Challenges faced by gig workers

In India, gig workers currently occupy an ambiguous position within the existing labour law framework. Unlike traditional employees, they do not fall squarely within the protective scope of most labour statutes. While certain categories of informal and vulnerable labour—such as migrant workers, building and construction workers, and unorganised sector workers—are covered under specific legislations like the *Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996*,⁵⁰ the *Unorganised Workers’ Social Security Act, 2008 (UWSSA)*,⁵¹ and the *Contract Labour (Regulation and Abolition) Act, 1970 (CLRA)* *The Contract Labour (Regulation and Abolition) Act, 1970, No. 37 of 1970, INDIA CODE (1970)*.⁵², no comparable comprehensive mechanism yet governs the rights and welfare of platform-based gig workers.

One of the most pressing legal challenges confronting gig workers in India is their exclusion from statutory labour protections. Platform-based workers are contractually designated as *independent contractors* rather than employees, thereby placing them outside the purview of India’s labour legislation. Consequently, they are deprived of entitlements such as minimum wages, health benefits, and social security safeguards that are otherwise guaranteed to workers in the formal employment sector.

Gig workers are largely excluded from the ambit of statutory benefits and employment protections, particularly within technology-driven platform enterprises where the ratio of

⁴⁸ Fairwork India, *Fairwork India Reports 2022–2024* (Oxford Internet Institute & IIIT Bangalore 2024).

⁴⁹ De Stefano, *supra* note 3, at 481.

⁵⁰ *The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996*, No. 27 of 1996, INDIA CODE (1996).

⁵¹ *The Unorganised Workers’ Social Security Act, 2008*, No. 33 of 2008, INDIA CODE (2008).

⁵² *The Contract Labour (Regulation and Abolition) Act, 1970*, No. 37 of 1970, INDIA CODE (1970).

permanent employees to gig workers is estimated to be nearly 1:20.⁵³ As a result, these workers face multiple socio-economic challenges, including income instability, absence of insurance coverage, limited access to institutional credit, and significant disparities in remuneration.

1. Ambiguity in Employment Status

Since gig workers in India are typically engaged on a project or assignment basis rather than as permanent employees, they are inherently deprived of employment security. The absence of stable contractual relationships exposes them to financial volatility and uncertainty, making it difficult to plan for long-term economic stability or social welfare.

This contractual classification enables digital platforms to circumvent obligations imposed under several key labour legislations. These include:

- The *Industrial Disputes Act, 1947*, which safeguards employees from unfair dismissal.⁵⁴
- The *Payment of Wages Act, 1936*, which ensures regular and equitable remuneration.⁵⁵
- The *Employees' Provident Funds and Miscellaneous Provisions Act, 1952*, which mandates social security contributions.⁵⁶
- The *Code on Wages, 2019*, which guarantees payment of minimum wages and timely disbursement of earnings.⁵⁷

2. Income Uncertainty:

Gig employment offers no guarantee of a stable or predictable income, as earnings are contingent upon fluctuating demand, algorithmic allocation of tasks, and variable working conditions.⁵⁸

3. Inadequate Enforcement Mechanisms

Even where protective labour laws formally exist, their enforcement remains weak due to the absence of clear mechanisms of accountability. Labour departments possess limited jurisdictional capacity to regulate digital platforms that operate across multiple

⁵³ NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022).

⁵⁴ *The Industrial Disputes Act, 1947*, No. 14 of 1947, INDIA CODE (1947).

⁵⁵ *The Payment of Wages Act, 1936*, No. 4 of 1936, INDIA CODE (1936).

⁵⁶ *The Employees' Provident Funds and Miscellaneous Provisions Act, 1952*, No. 19 of 1952, INDIA CODE (1952)

⁵⁷ *The Code on Wages, 2019*, No. 29 of 2019, INDIA CODE (2019)

⁵⁸ NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022)

states or transnationally.⁵⁹ The online, app-based nature of gig work further blurs the traditional employer–employee relationship, thereby complicating labour inspections and compliance monitoring. Moreover, the grievance redressal systems available to gig workers are largely internal to the platforms themselves, lacking independence and transparency, which often results in biased or ineffective outcomes.⁶⁰

4. Ambiguity in Employment Status:

In India, gig workers are generally engaged on a project or assignment basis rather than as permanent employees, which deprives them of employment continuity and job security. This non-standard form of engagement, rooted in contractual ambiguity, leaves workers vulnerable to arbitrary termination and inconsistent income streams. As a result, many experience financial instability and find it difficult to formulate long-term economic or social plans, reinforcing their dependence on precarious work arrangements.⁶¹

5. Income instability

The inherently unpredictable and irregular nature of gig employment often results in fluctuating income levels for Indian platform workers. Such volatility in earnings makes it difficult for them to maintain financial stability, plan for the long term, or meet recurring financial obligations such as rent, education, or debt repayments.⁶²

6. Payment problems:

Non-payment or delayed payment of wages remains a persistent challenge for gig workers in India. The absence of statutory mechanisms ensuring timely remuneration and compensation for overtime work places these workers in a position of economic vulnerability. To address this, it is imperative that the government establish clear regulatory frameworks and dispute resolution mechanisms to guarantee prompt payment and provide effective remedies for wage-related grievances.⁶³

7. Unfair negotiating power:

Gig workers in India often lack the collective bargaining power necessary to negotiate fair wages and equitable working conditions, particularly in an environment

⁵⁹ ILO, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* (Int'l Labour Off. 2021).

⁶⁰ *Code on Wages, 2019*, No. 29 of 2019, INDIA CODE (2019)

⁶¹ *Code on Social Security, 2020*, No. 36 of 2020, INDIA CODE (2020).

⁶² Vidhya Soundararajan, *Understanding Platform Work and Worker Rights in India*, 57(4) *ECON. & POL. WKLY.* 44 (2022)

⁶³ Ministry of Labour & Employment, Government of India, *Report of the Expert Committee on Platform Workers* (2021)

characterized by intense competition among a large pool of platform-based workers.⁶⁴

Policy and Legal Recommendations

Although recent legislative frameworks in India have begun to formally acknowledge gig and platform workers, this recognition remains largely symbolic, offering little substantive protection.⁶⁵ Genuine reform must move beyond mere definitional inclusion to impose binding obligations on platform enterprises, ensure comprehensive social security coverage, and facilitate the realization of collective labour rights consistent with constitutional and international labour standards.⁶⁶

8. Legal Recognition of Employment Relationship

The law should adopt a presumption of employment for all platform workers, requiring platforms to prove otherwise—similar to the approach under the EU *Platform Work Directive, 2024*.⁶⁷ Amendments to the *Code on Wages, 2019* and the *Industrial Relations Code, 2020* should explicitly recognize “platform-based employment” as a distinct category of work entitled to statutory protections.⁶⁸

9. Mandating Minimum Standards of Pay and Working Conditions

Platforms should be mandated to maintain transparent payment structures and issue digital payslips specifying all deductions, incentives, and components of remuneration.⁶⁹

The government should prescribe minimum hourly earnings for platform workers, taking into account fuel costs, waiting time, and depreciation expenses to ensure equitable remuneration.⁷⁰

10. Enforceable Social Security Contributions

The *Code on Social Security, 2020* should be operationalized through binding regulations requiring platform companies to contribute a fixed percentage (such as 2% of their annual turnover) to a National Gig Workers’ Welfare Fund.⁷¹

⁶⁴ ILO, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* (Int’l Labour Off. 2021).

⁶⁵ *Code on Social Security, 2020*, No. 36 of 2020, INDIA CODE (2020).

⁶⁶ Constitution of India, art. 43; ILO Convention No. 102 on Minimum Standards of Social Security, June 28, 1952.

⁶⁷ Directive (EU) 2024/1239 of the European Parliament and of the Council on Improving Working Conditions in Platform Work, 2024 O.J. (L 123).

⁶⁸ *Code on Wages, 2019*, No. 29 of 2019, INDIA CODE (2019); *Industrial Relations Code, 2020*, No. 35 of 2020, INDIA CODE (2020).

⁶⁹ Ministry of Labour & Employment, Government of India, *Report of the Expert Committee on Platform Workers* (2021).

⁷⁰ NITI Aayog, *India’s Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022).

⁷¹ *Code on Social Security, 2020*, No. 36 of 2020, INDIA CODE (2020).

Workers should be entitled to health insurance, accident compensation, maternity benefits, and retirement savings.⁷²

11. Ensuring Algorithmic Transparency and Accountability

Platforms should be mandated to disclose the criteria by which algorithms determine pay, ratings, and deactivation. Companies must also provide workers with clear reasons for any automated decisions impacting their livelihoods.⁷³

An independent **Digital Labour Authority** should be established with statutory powers to audit platform algorithms for fairness, transparency, and non-discrimination.⁷⁴

12. Strengthening Collective Bargaining and Representation

The *Trade Unions Act, 1926* and the *Industrial Relations Code, 2020* should be amended to recognize associations of gig and platform workers as legitimate trade unions with collective bargaining rights.⁷⁵

Sectoral bargaining councils for platform-based work, modeled on South Africa's framework, should be encouraged to facilitate collective negotiation of wages and working conditions.

13. Encouraging Tripartite Dialogue and Stakeholder Engagement

A co-regulatory framework should be adopted, requiring platforms to consult worker representatives prior to implementing significant changes in pay algorithms or incentive structures.

Additionally, public consultations should be conducted in the formulation of platform-specific labour regulations to ensure inclusivity and transparency.⁷⁶

14. Judicial Interpretation and Progressive Jurisprudence

Courts should adopt a purposive and rights-based interpretation of existing labour statutes to extend protections to gig and platform workers.

Courts should apply a "control and dependency" test, rather than relying solely on the formal terms of contract, to determine the existence of an employment relationship.

Indian jurisprudence can draw guidance from international precedents such as *Uber BV v. Aslam* (UK), *Glovo v. Spain*, and *Foodora v. Canada* to broaden the interpretation of "workman" and "employer" under domestic labour law.⁷⁷

⁷² Id.

⁷³ Ajay Bhalla, *Algorithmic Governance and the Future of Work in India*, 12 INDIAN J.L. & TECH. 88 (2023).

⁷⁴ OECD, *Algorithmic Management and the Future of Work* (2021)

⁷⁵ *Trade Unions Act, 1926*, No. 16 of 1926, INDIA CODE (1926).

⁷⁶ ILO, *Tripartite Consultation (International Labour Standards) Convention (No. 144)*, June 21, 1976.

⁷⁷ *Dhrub Kumar v. Uber India Systems Pvt. Ltd.*, W.P. (C) 5072/2023 (Delhi H.C. May 2024).

15. Awareness, Data, and Worker Education

The government should invest in awareness campaigns and digital literacy programs to educate gig workers about their legal rights and entitlements.⁷⁸

Comprehensive data should be collected on the number, income levels, and working hours of gig and platform workers to support informed policymaking. Digital literacy and legal awareness programs must be promoted to educate workers about their rights and available grievance mechanisms.

Collaboration with NGOs, legal aid cells, and universities should be encouraged to facilitate outreach, representation, and capacity building within the gig workforce.⁷⁹

16. Present Indian scenario and The Way forward

India's gig and platform economy has witnessed rapid expansion over the past decade, propelled by technological innovation and the rising demand for flexible labour. According to NITI Aayog's 2022 report, the country currently employs over 7.7 million gig workers, a figure projected to reach 23.5 million by 2030. Major digital platforms such as Swiggy, Zomato, Uber, Ola, and Urban Company have revolutionized service delivery and consumer convenience; however, this growth is fundamentally sustained by informal and largely unprotected labour arrangements.⁸⁰

In an effort to extend social security coverage to nearly 250 million unorganised workers—including gig and platform workers—the central government enacted the *Code on Social Security, 2020*. The legislation aims to provide health insurance, disability benefits, old-age pensions, and other welfare measures to diverse categories of workers such as migrant and platform-based labour. However, the onset of the COVID-19 pandemic led to a temporary slowdown in its implementation and public discourse, delaying the realization of its intended protections.⁸¹

Several issues define the present scenario:

- 1. Wage Theft and Pay Volatility:** Gig workers often experience unfair wage deductions, delayed or inconsistent payments, and abrupt alterations to incentive structures,

⁷⁸ Ministry of Labour & Employment, Government of India, *Report of the Expert Committee on Platform Workers* (2021).

⁷⁹ International Labour Organization (ILO), *Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World* (Int'l Labour Off. 2021).

⁸⁰ Aditi Surie & Janaki Nair, *Platform Labour in India: Emerging Forms of Urban Inequality*, 55(3) *ECON. & POL. WKLY.* 45 (2020).

⁸¹ Sumeet Gupta, *Social Security and the Gig Economy: Lessons from COVID-19*, 8 *INDIAN J.L. & PUB. POL'Y* 67 (2022).

implemented without prior consultation or transparency.⁸²

2. **Weak Collective Representation:** Unions representing platform workers, such as the Indian Federation of App-Based Transport Workers (IFAT), continue to face limited legal recognition. Collective action is frequently discouraged through practices such as worker deactivation or blacklisting, undermining the right to association and collective bargaining.⁸³
3. **Absence of Social Protection:** The existing social security framework remains largely unimplemented, leaving gig and platform workers without essential safety nets in cases of illness, workplace accidents, or economic instability.⁸⁴
4. **Law Avoidance and Misclassification:** Digital platforms often classify workers as “partners” or “independent contractors” to evade employer liabilities, despite exercising significant algorithmic control over work allocation, performance evaluation, and remuneration—thereby creating a façade of autonomy while maintaining de facto employment relationships.⁸⁵

However, given the diverse regulatory approaches adopted globally, the implementation of the *Code on Social Security, 2020* may face significant challenges—particularly in establishing clear and consistent definitions of “gig worker” and “platform worker.”⁸⁶

Conclusion

The emergence of digital labour platforms in India has reshaped the national labour market, creating new avenues for employment while simultaneously raising serious concerns regarding labour rights, job security, and widening economic inequality.⁸⁷ The condition of gig workers in India is inherently complex, shaped by diverse and evolving employer–employee relationships that present both opportunities and challenges. While gig work offers flexibility and autonomy, it also exposes workers to significant vulnerabilities in terms of job security, income stability, and legal protection.

⁸² Indian Federation of App-Based Transport Workers (IFAT), *Report on Wage Practices in India's Platform Economy* (2023).

⁸³ *Id.*

⁸⁴ ILO, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* (Int'l Labour Off. 2021).

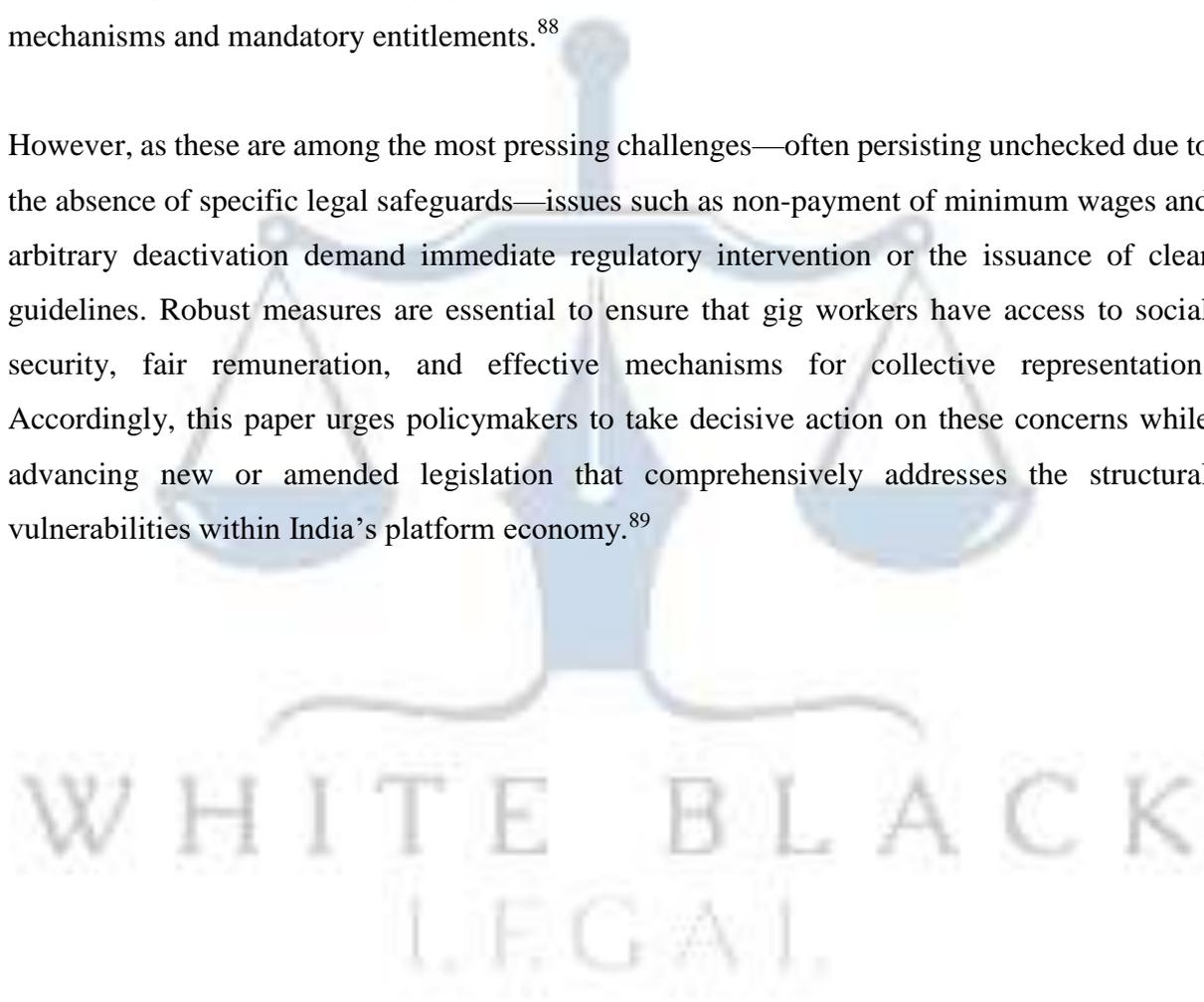
⁸⁵ *Uber B.V. v. Aslam*, [2021] UKSC 5 (U.K.); *Glovo v. Spain*, STS 805/2020 (Spain Sup. Ct. 2020).

⁸⁶ OECD, *Regulating Platform Work: Policy Perspectives* (2022).

⁸⁷ International Labour Organization (ILO), *Digital Labour Platforms and the Future of Work: Towards Decent Work in the Online World* (Int'l Labour Off. 2021).

The expansion of the gig economy in India has intensified economic and gender disparities, deepening the divide between workers in the formal sector and those engaged in platform-based labour. Gig workers in India epitomize the paradox of the nation's developmental trajectory—participating in a technologically advanced, digitally driven economy while remaining excluded from fundamental labour rights and social protections. Although the *Code on Social Security, 2020* extends formal recognition to gig and platform workers, such acknowledgment remains largely symbolic in the absence of effective enforcement mechanisms and mandatory entitlements.⁸⁸

However, as these are among the most pressing challenges—often persisting unchecked due to the absence of specific legal safeguards—issues such as non-payment of minimum wages and arbitrary deactivation demand immediate regulatory intervention or the issuance of clear guidelines. Robust measures are essential to ensure that gig workers have access to social security, fair remuneration, and effective mechanisms for collective representation. Accordingly, this paper urges policymakers to take decisive action on these concerns while advancing new or amended legislation that comprehensively addresses the structural vulnerabilities within India's platform economy.⁸⁹



⁸⁸ Sumeet Gupta, *Social Security and the Gig Economy: Lessons from COVID-19*, 8 INDIAN J.L. & PUB. POL'Y 67 (2022).

⁸⁹ OECD, *Regulating Platform Work: Policy Perspectives* (2022)