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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **THE DIGITAL MASTER: WELFARE WITHOUT RIGHTS IN INDIA'S GIG ECONOMY**

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## **Abstract**

The gig economy has spread very fast in India and has broken the traditional jurisprudence of labour that has resulted in the emergence of a so-called fissured workplace, where human supervision is replaced by an algorithmic management. In this paper, I critically examine the current law in the form of the Code on Social Security, 2020, by arguing that it is flawed because it does not lift the veil of technology cast by the platform aggregators. The Code relegates the gig worker to a tautological exclusion that removes substantive labour provisions in favour of meager, state-mediated welfare, by explicitly defining the gig worker as someone who is not in the employer-employee relationship. The paper follows the legal development of the employment tests since the archaic Control Test was formulated in the past to the current day economic Reality test, instituted in *Sushilaben* and the law of inaction legislators has made the progress of these judicial solutions useless in the case of platform workers. By conducting a comparative study of opaque algorithmic termination and surveillance as it impacts state-level innovations in Rajasthan and Karnataka, in addition to international examples of the European Union and Singapore, the paper reveals the constitutional dilemmas of opaque algorithmic termination and surveillance. It ends by recommending the statutory creation of an alternative structure, a Dependent Contractor, that balances the flexibility of gig work with fundamental protections such as collective bargaining and algorithmic transparency such that the digital dividend in India does not come at the cost of industrial democracy.

**Keywords:** Gig Economy, Code on Social Security 2020, Algorithmic Management, Dependent Contractor, Labour Law, Employment Status.

## **Introduction - The Digital Disruption of Labour Jurisprudence**

The modern Indian labour market is experiencing a structural revolution, the defining feature of which is the disaggregation of the old model of employer-employee relationship into separate, digitally mediated tasks. The result is a crisis in labour jurisprudence, both existential, and regulatory in nature. The dynamic expansion of the digital platform, be it the ride-hailing application or the hyper-local delivery network has formed a new legal arena. The traditional opposition of the master and the servant that has supported the industrial jurisprudence since the middle of the last century is being systematically undermined and the lexicon of partnership, flexibility, and entrepreneurship applies in this field. The latest estimations state that the gig economy is not just an isolated, peripheral niche but the centerpiece of the Indian economic future, and it is estimated that the sector may embrace up to 90 million workers and even represent about 1.25% of the Indian GDP<sup>1</sup>. Yet, this dynamism in the economy covers a tangled mess of legal uncertainties. The main doctrinal conflict is the categorization of these workers. Putting the participants of the workforce in the category of an independent contractor or a partner, platforms simultaneously fissure the workplace, maintaining rigid algorithmic domination of the labor process and avoiding the social security, minimum wage, and protection against unfair dismissal liability. The paper hypothesises that the existing legal system in India, namely the Code on Social Security 2020 (SS Code), has not been able to lift the veil of technology by platform aggregators. Rather than acknowledging the economic fact of subordination, the new trend in legislation establishes a division of labor between a superior and inferior segment of the workers. This level is also entitled to state-mediated welfare handouts but they are systematically deprived of substantive labour rights to generate a regulatory vacuum in which algorithmic management is carried out without safeguarding by administrative law.

### **The Jurisprudence of Employment Status: The Decline of the Control Test**

It is necessary to first break down legal history of judicial development of the distinction between a Contract of Service (employment) and a Contract for Service (independent contracting) to see the legal precariousness of the gig worker. The challenge that the Supreme Court of India has been facing over time is to ensure that these common law concepts are modified to suit production evolution. The prima facie test of the master-servant relationship

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<sup>1</sup> K R Mangalam University, Rise of Gig Economy in India (K R Mangalam University, n.d.) <https://www.krmangalam.edu.in/rise-of-gig-economy-in-india/>.

was formed in *Dharangadhara Chemical Works Ltd v State of Saurashtra*, wherein the Supreme Court decided that the right of the master to control and supervise the work performed by the servant not only over the work to be done but also the work methodology is the test to determine the existence of the master-servant relationship<sup>2</sup>. This distinction on platforms now takes advantage of the same manner of work and the platforms claim that since a driver is in charge of their route, or a delivery partner in charge of the hours they log in, the supervision aspect is not present. The judiciary however came to realize that the strict control test was not adequate in skilled or specialized work. The *Silver Jubilee Tailoring House v Chief Inspector of Shops and Establishments* case introduced the Test of Integration wherein it was found that the integration of the control over the manner of work can be unrealistic in most cases of employment. Rather, it would require the court to enquire whether the individual is wholly a part of the business or otherwise but incidental to the business of the employer<sup>3</sup>. Importantly, *Silver Jubilee* further expressed the fact that the Right to Reject substandard work also amounts to control. Applying it to the gig economy, one can see that platforms utilize this right at all times; in case a worker does not act according to the expectations of the algorithm, he or she is reprimanded by being deactivated a digital form of rejection that is much more powerful than human inspection. The jurisprudence ended with the Economic Reality test of *Workmen of Nilgiri Coop Marketing Society Ltd v State of Tamil Nadu*<sup>4</sup> and subsequently confirmed in *Sushilaben Indravadan Gandhi v The New India Assurance Company Limited*<sup>5</sup>. The Court ruled that the "control test is not the only controlling factor but one should examine the totality of the circumstances, i.e. on who owns the assets, who is at risk of loss, and whether the worker is economically dependent on the recruiting organization. *Sushilaben* is a solid foundation doctrinally to redefine the gig workers as employees because they rely on the platform to access the market and price determination wholly. However, even statutory developments have taken a turn in the contrary, more or less overcoming these judicial tests.

### **Statutory Analysis: The Tautological Exclusion in the Code on Social Security 2020**

The implementation of the Code on Social Security, 2020 is a breakthrough in Indian labour law, but it is conceptually incorrect on the issues of gig work. The definition of a gig worker is

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<sup>2</sup> *Dharangadhara Chemical Works Ltd v State of Saurashtra* AIR 1957 SC 264.

<sup>3</sup> *Silver Jubilee Tailoring House v Chief Inspector of Shops & Establishments* (1974) 3 SCC 498.

<sup>4</sup> *Workmen of Nilgiri Coop Marketing Society Ltd v State of Tamil Nadu* (2004) 5 SCC 514.

<sup>5</sup> *Sushilaben Indravadan Gandhi v The New India Assurance Company Limited* (2020) SCC OnLine SC 367.

in section 2(35) as the one who does work outside of the conventional employer-employee relationship<sup>6</sup>. This concept is essentially exclusionary and tautological. The fact that a gig worker is a priori an individual who is not a party to the employment relationship, as defined by the Parliament, has established a statutory barrier preventing the judiciary in the future application of economic reality test Sushilaben. When a worker is statutorily declared not to be in a relationship of employer-employee, he is automatically prevented to claim his right under the industrial dispute act or code of wages. More so, the SS Code changes the regulatory philosophy to the Liability to Levy. Section 114 also requires aggregators to pay a percentage of their annual turnover (not exceeding 5 percent of the pay made to the workers) into a Social Security Fund<sup>7</sup>. This frees the platform of the burden of the individual worker. Traditional employment relationship pegs the contributions (such as Provident Fund) to the wage of the particular employee. The platform is subject to a lump sum tax to a government fund under the SS Code. Though this guarantees a certain amount of welfare income, it water downs the direct responsibility of the platform to the worker. The worker also becomes no more than a recipient of state subsidies provided by a corporate cess, which virtually cleanses the platform of labour standards<sup>8</sup>.

### **Federalism and the Laboratory of Labour Law**

Without central implementation of the SS Code, the individual states have implemented Indian federalism as laboratory to regulation, which has shown a range of doctrinal approaches. The first was the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 which created a welfare board and a transactional cess. Nevertheless, it is still conservative in terms of doctrine, accepting the designation of workers in the platform as partners and concentrating more in terms of funding welfare than working rights<sup>9</sup>. It is not as strong on unreasonable termination and the balance of power has not been reshaped. Conversely, the current draft Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024 is an important doctrinal shift toward a rights-based one. Under Section 14 of the draft bill, it is stated that the aggregators should be required to enter written agreement and most importantly, it is stated that, a worker should not be dismissed (deactivated) without reason in

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<sup>6</sup> Code on Social Security 2020, s 2(35).

<sup>7</sup> Code on Social Security 2020, s 114.

<sup>8</sup> Corrida Legal, 'Gig Workers under Social Security Code: Employer Obligations & Benefits' (Corridalegal.com, 2023) <https://corridalegal.com/gig-workers-under-social-security-code-employer-obligations-benefits-legal-framework-in-india/> accessed 18 November 2025.

<sup>9</sup> Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023.

writing and a 14 day<sup>10</sup> prior notice is required before the termination can be effected (14). This is an effective way of making platforms have employment-like obligations. Karnataka will be trying to apply the principles of natural justice to the private contractual relations of the gig economy by enforcing the principles of notice and causing termination in writing, which will blur the line between a contractor and employee. On the other hand, the Jharkhand Platform-Based Gig Workers Bill, 2024 is not popular with the industry because it suggests a tax on gross revenue, not on worker payouts, and this is the tension between state welfare policies and platform business strategies<sup>11</sup>.

### **The Algorithmic Boss and Constitutional Challenges**

The most notable attribute of the gig economy is the so-called Algorithmic Management the application of data and code to assign tasks, price and punish workers. This, in terms of doctrine, is a thorny matter when it comes to Article 14 (Equality) and Article 21 (Right to Livelihood) of the Constitution. Audi Alteram Partem (no one should be condemned unheard) is one of the pillars of administrative law<sup>12</sup>. The gig economy also subjects workers to deactivation, which is triggered by an algorithm and includes factors like receiving less than a star rating or a significant cancellation rate without necessarily an opportunity to be heard or a fair hearing. The upcoming case in *The Indian Federation of App Based Transport Workers (IFAT) v Union of India* states that such arbitrarily applied de-platforming is a breach of the basic right to livelihood<sup>13</sup>. When the State puts Welfare Boards to control these workers (as in Rajasthan), the platforms are a kind of laying on of duties in the society. That is why, the unjust dismissal of an employee without a hearing nullifies their right to the means of living that is guaranteed by the State. Moreover, the Digital Personal Data Protection Act, 2023 does not offer particular measures to prevent the surveillance panopticon of gig applications, which record braking style, position, and power supply<sup>14</sup>. This heavy monitoring fulfills the supervision requirement of the Dharangadhara test but the law is silent on the consequences of the such data control.

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<sup>10</sup> The Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill 2024, s 14.

<sup>11</sup> The Hindu, 'Platforms decry Jharkhand gig worker Bill's gross revenue benchmark for welfare contributions' (*The Hindu*, 28 August 2025) <https://www.thehindu.com/incoming/platforms-decry-jharkhand-gig-worker-bills-gross-revenue-benchmark-for-welfare-contributions/article69988836.ece> accessed 18 November 2025.

<sup>12</sup> Shubham Rohila, 'Audi Alteram Partem and Beyond: Natural Justice Principles in the United Kingdom and India' (2024) 3(1) *LawFoyer International Journal of Doctrinal Legal Research* 123.

<sup>13</sup> *The Indian Federation of App Based Transport Workers (IFAT) v Union of India* WP(C) 1068/2021.

<sup>14</sup> *Digital Personal Data Protection Act* 2023.

## Conclusion

The existing legal system lacks any depth in its dissonance. Although the Supreme Court has developed more advanced tests, such as Economy Reality to identify disguised employment, the model of the SS Code 2020 has made a codifier of a welfare-without-rights model. An international best practice presents a way out. The Platform Work Directive of the European Union presents a legal presumption of employment, which places an onus of proving on the platform<sup>15</sup>. Equally, the Platform Workers Act 2024 of Singapore establishes a separate category that requires Central Provident Fund (CPF) contributions to incorporate the gig workers into the national social security mainframe, instead of outsourcing this to ad-hoc welfare boards<sup>16</sup>. To have a truly equitable future of work, Indian jurisprudence needs to be aware of a status of a Dependent Contractor<sup>17</sup>. This group will consist of workers who are economically dependent on one platform but need to be flexible. This status should have collective bargaining powers to break the antitrust cases employed by platforms and require that algorithms be made transparent. The future of work is in danger of doing little more than returning to pre-industrial casual work in the disguise of an app, unless that is accompanied by such doctrinal reform.

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<sup>15</sup> European Parliament, 'MEPs call for new rules on the use of algorithmic management at work' (Press Release, 10 November 2025).

<sup>16</sup> Julia Yeo and Li Lian Eu, 'Platform workers: a new era of labour protection in Singapore' (Employment Law Worldview, 18 October 2024).

<sup>17</sup> Karan Sangani, 'Dependent Contractors in the Gig Economy: A Comparative Approach' (2017) 9(1) NLIU Law Review 108.