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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

NO BOSS, NO RIGHTS? A COMPARATIVE LEGAL ANALYSIS OF GIG WORK IN INDIA

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ABSTRACT

The gig economy in India has grown rapidly and transformed the working patterns of millions. While platform-based gig work offers flexibility and new income opportunities, it also raises serious questions about the legal recognition and protection of those engaged in such arrangements. Often classified as independent contractors, gig workers face significant challenges, including lack of job security, social protection, and fair working conditions. This study begins by examining the definitions and legal status of gig and platform workers under India's labour codes, especially the Code on Social Security, 2020. It also looks at state-level laws, such as those introduced in Rajasthan and Karnataka, which aim to provide better welfare and rights to these workers. Further, the paper compares India's approach with legal developments in other countries like the USA, UK, European Union, France, and Spain. The paper finds that while some progress has been made, Indian gig workers continue to live and work in a legal grey area. Finally, it argues for the need for a central law that clearly defines their rights and ensures fair treatment, while balancing the operational interests of digital platforms.

Keywords: Gig Economy, Platform Workers, Labour Rights, Code on Social Security 2020, Legal Status.

I. INTRODUCTION

The proliferation of the internet and the widespread use of smartphones have ushered in a new era in how we perceive work and those who perform it. Rapid advancements in technology, coupled with a system that demands quick and efficient services, have given rise to what we now call the gig economy.

The gig economy refers to that part of the economy that is characterized primarily by demand driven short-term contractual jobs or freelance work performed by individuals who accept tasks and complete them according to specified terms and conditions. In other words, it denotes a labour market based on temporary contracts or freelance engagements rather than long-term, permanent employment.¹ This has become a recognized economic model globally.

In this context, the individuals who accept and complete such tasks are known as gig workers, a term that has gained significant attention in recent discussions on labor rights, employment classification, and the future of work in the digital economy.

Gig workers undertake temporary jobs through digital labour platforms or other informal arrangements. While gig work represents a broader concept with several undefined dimensions, platform work constitutes a more structured and prominent segment within it.² This is due to the rise of digital startups offering platform-based services and the widespread availability of smartphones coupled with low-cost internet data. As a consequence, a growing number of individuals are becoming associated with digital platforms such as Uber, Zomato, Swiggy, Ola, Urban Company etc. These platforms serve as intermediaries between service providers and consumers, facilitating gig-based exchanges of services. Gig workers who utilize digital applications (like Uber) or websites to connect with customers and offer services in exchange for payment are called platform workers.³ While reliance on the internet may help distinguish between gig workers and platform workers, the essential characteristics of their employment are mostly the same.⁴

Gig platforms have thus emerged as a means to fulfill the growing demand of consumers wanting quick services and those who are willing to perform it. This flexible form of modern platform driven employment offers several attractive benefits that draw individuals towards the platform work. The main reason platform work is popular is because it offers flexibility and choice. Workers can choose which company they wish to work with and decide how long they

¹ Aruna Henry, Henry Babu, Prachi Kanungo and Urvashi Ohri, "Challenges and Benefits of Gig Economy: Modern Employment Practices to Revolutionise Traditional Workplace Culture" 12(1) *International Journal of Food and Nutritional Sciences* 3095 (2023).

² NITI Aayog, "India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work" (2022).

³ OECD, "Measuring the Digital Transformation: A Roadmap for the Future" 176 (2019).

⁴ Anand Pawar and Ankit Srivastava, "Gig Workers and Employment Laws: An Indian Perspective" V *Shimla Law Review* 89 (2022).

want to stay, instead of being tied to a permanent job.⁵ Some of its key benefits include low entry barriers, ease of use, and the option to do multiple jobs at the same time.⁶ One of the biggest advantages, especially with online platforms, is that workers can choose when and where to work.⁷ This is especially helpful for people with disabilities or those who have care giving duties, as it allows them to work in a way that suits their personal needs.⁸

While platform-based employment offers apparent advantages and has opened new avenues for flexible work, it also raises critical concerns related to job and income insecurity, as well as occupational safety and health risks.⁹ A major challenge lies in the ambiguous legal status of gig and platform workers, who are typically treated as independent contractors instead of regular employees. As a result, they are often excluded from the protections guaranteed under traditional labour laws, including minimum wage provisions, limits on working hours, paid leave, and access to social security benefits.¹⁰

Additionally, app-based workers, especially women engaged in ride-hailing and delivery services, are exposed to significant occupational hazards such as traffic-related dangers, incidents of theft, physical violence, and even harassment or discrimination.¹¹ These challenges highlight the precarious nature of platform work and emphasize the urgent need for regulatory intervention to protect the rights and well-being of gig and platform workers.

In India, the gig economy has grown significantly in the past decade, driven by accelerated digitalisation, increased smartphone usage, and the rise of several platform-based companies. With a vast labour force, a predominantly young population, increasing urbanisation, and the accelerated use of digital technologies, India has become a key hub of this transformation.¹² According to NITI Aayog's report "*India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work*," India had approximately 7.7 million gig workers in 2020–21, accounting for 2.6% of the non-agricultural workforce and 1.5% of the

⁵ *Ibid.*

⁶ *Supra* note 2.

⁷ BRICS, "Gig and Platform Workers: Role in Labour Markets, Issue Paper prepared for the BRICS Employment Working Group under the Indian Presidency" (April 2021).

⁸ *Ibid.*

⁹ *Supra* Note 2.

¹⁰ Fairwork India, "Fairwork India Ratings 2021: Labour Standards in the Platform Economy" (2021).

¹¹ ILO, "World Employment and Social Outlook: The Role of Digital Labour Platforms in Transforming the World of Work" (2021).

¹² *Supra* note 2.

total workforce. The report further projects that this number will rise to 23.5 million by 2030, comprising 6.7% of the non-agricultural workforce and 4.1% of the total workforce. At present, most gig workers are in medium-skilled jobs, but in the future, more gig jobs are expected to emerge in both high-skilled and low-skilled areas.¹³

This exponential growth of gig and platform-based workforces raises important legal and policy challenges, particularly in relation to the protection of labour rights. Gig workers in India often operate in a regulatory grey area, lacking the safeguards traditionally available to formal employees such as minimum wage guarantees, social security benefits, occupational safety, and mechanisms for grievance redressal. In an effort to address some of these issues, the Indian Parliament introduced the Code on Social Security, 2020, marking the first formal legislative recognition of gig and platform-based workers and provides for specific measures aimed at their welfare. However, it is noteworthy that the implementation of this law by the government remains pending, thereby limiting its practical impact on the ground. Along with this, some states like Rajasthan and Karnataka have taken progressive steps by enacting state-level legislation that seeks to provide social security, welfare benefits and certain rights to platform-based gig workers.

Against this backdrop, the present research seeks to critically examine the labour rights of gig and platform workers in India from a legal perspective. It aims to assess the Indian legal framework relating to gig workers by analyzing relevant statutory provisions and drawing comparative insights from global practices. The study further offers recommendations to strengthen India's legal regime concerning gig workers, with the objective of ensuring more effective protection of their rights.

II. GIG WORKERS: MEANING, DEFINITION, AND CLASSIFICATION

The term "gig" originated as a slang word used by musicians and artists to describe short-term performance jobs that were scheduled for a specific time and duration.¹⁴ Over time, this terminology has been adopted more broadly to describe work that is temporary, task-based, and not permanent in nature. Consequently, a "gig worker" is an individual who undertakes

¹³ *Id.* at 25.

¹⁴ Sarah Kaine and Emmanuel Josserand, "The Organisation and Experience of Work in the Gig Economy" 61(4) *Journal of Industrial Relations* 479 (2019).

such temporary jobs, often under non-standard or flexible working conditions, and is typically paid for the completion of specific tasks rather than being employed on a long-term contractual basis.

At present, gig workers in India are engaged in a diverse range of services, including transportation of passengers, delivery of food and groceries, household tasks, beauty services, logistics, and other on-demand activities. A study conducted by the Boston Consulting Group (BCG) projects that the number of gig workers in India could reach up to 90 million within the next decade.¹⁵ The report identifies four major sectors which are construction, manufacturing, retail, transportation and logistics, having the highest potential to generate “gigable” employment opportunities. Together, these sectors are expected to contribute over 70 million jobs to the gig economy in the near future.¹⁶

The NITI Aayog Report states that gig workers are “those engaged in livelihoods outside the traditional employer- employee arrangement” and can be broadly classified into “platform and non-platform-based workers.” Non-platform gig workers are typically “casual wage workers” or “own-account workers” operating in traditional sectors, either part-time or full-time. In contrast, platform workers are those whose work is “based on online software apps or digital platforms.” These platforms are further distinguished by their mode of operation: **location-based platforms** facilitate in-person services such as “delivery” or “driving” at specific physical locations, whereas **web-based platforms** enable individuals to perform online tasks remotely for clients across the globe. In other words, **web-based gig workers** perform tasks virtually or digitally such as data analytics, content writing, software development, digital marketing, and while **location-based gig workers** carry out tasks physically at specific sites, coordinated through digital platforms like Ola, Urban Company, Zomato and Uber.¹⁷

To grant legal recognition to this emerging form of work, the Indian Parliament enacted four labour codes, one of which is the **Code on Social Security, 2020**. Section 2(35) of the Code defines a *gig worker* as “a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer–employee relationships.”

¹⁵ Boston Consulting Group, “Unlocking the Potential of the Gig Economy in India” 10 (2021).

¹⁶ *Ibid.*

¹⁷ Ritwika Patgiri, “How Gig Workers Struggle Between Flexibility and Insecurity”, *The Indian Express*, July 4, 2025, available at: <https://indianexpress.com/article/upsc-current-affairs/upsc-essentials/how-gig-workers-struggle-between-flexibility-and-insecurity-10102129/> (last visited on July 7, 2025).

Similarly, *platform workers* are separately defined under Section 2(61) as “a person engaged in or undertaking platform work.” *Platform work* refers to “a work arrangement outside of a traditional employer–employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment.”¹⁸ Additionally, Section 2(2) defines an “aggregator” as a digital intermediary or a marketplace connecting users with service providers, encompassing companies like Ola, Uber, and Zomato.

While the Code defines these terms separately, a harmonious reading of these provisions suggests that both categories refer to forms of work that fall outside the traditional employer–employee relationship. In this regard, the legislative intent appears to constitute platform workers as a subset of gig workers, as they fall within the broader classification of those engaged in income-generating activities outside traditional employment structures. However, not all gig workers are platform workers; some may operate independently or in conventional sectors without the use of digital platforms.

To sum up, the term *gig worker* under Section 2(35) is defined in broad and general terms to refer to any person engaged in non-traditional work arrangements. In contrast, the term *platform worker* under Section 2(61) is narrower, specifically referring to individuals who perform work through online platforms.

In addition to the central legislation, the state of Rajasthan has enacted a dedicated law for platform-based gig workers. Section 2(e) of the **Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023** defines a “gig worker” as a person who performs work or participates in a work arrangement and earns from such activities “outside the scope of a traditional employer–employee relationship.” The definition further clarifies that such a worker operates under a contractual arrangement that specifies a given rate of payment and is governed by the terms and conditions laid down in the contract. It also includes all forms of *piece-rate work*. Similarly, the Karnataka Platform-based Gig Workers (Social Security and Welfare) Ordinance, 2025 defines a gig worker under Section 2(e) in terms that are quite similar to the definition provided in the Rajasthan Act.

¹⁸ The Code on Social Security, 2020 (Act 36 of 2020), s. 2(60).

Thus, while the Code on Social Security, 2020 offers a broad statutory foundation by recognising gig and platform workers, the Rajasthan and Karnataka legislations take a progressive step by providing a more detailed and functional definition, including contractual terms and piece-rate work.

III. LEGAL FRAMEWORK GOVERNING GIG WORKERS IN INDIA

The Indian Parliament, has taken a historic step by exercising its legislative powers under the Concurrent List of the Seventh Schedule of the Constitution, codifying **29 existing labour laws into four comprehensive Labour Codes**, namely: (i) *The Code on Wages, 2019* (ii) *The Industrial Relations Code, 2020* (iii) *The Code on Social Security, 2020* and (iv) *The Occupational Safety, Health and Working Conditions Code, 2020*. This major reform initiative aims to simplify, rationalise, and modernise India's complex labour law framework to ensure that all workers whether in the organised, unorganised, or gig sectors receive the benefits of labour protections with greater ease and efficiency.

For instance, the Wage Code consolidates four previous laws, the Social Security Code integrates nine, the *Occupational Safety, Health and Working Conditions Code* amalgamates thirteen, and the Industrial Relations Code unifies three previous enactments.¹⁹ This reform has been projected as a critical move toward enhancing workers' access to **security, dignity, and welfare** in the modern labour market.²⁰

A. Code on Social Security, 2020

Among these, the *Code on Social Security, 2020* is particularly noteworthy for being the first legislation to **formally recognize gig and platform work**. The Preamble of the Code declares its purpose as extending social security to “all employees and workers either in the organised or unorganised or any other sectors.”²¹ This broad mandate signals the legislative intent to cover new forms of employment beyond the traditional employer–employee relationship, including gig and platform work arrangements that are increasingly prevalent in the digital economy.

¹⁹ Ministry of Labour and Employment, Government of India, *Labour Codes Booklet: New Labour Code for New India*, available at: https://labour.gov.in/sites/default/files/labour_code_eng.pdf (last visited on July 8, 2025).

²⁰ *Ibid.*

²¹ The Code on Social Security, 2020 (Act 36 of 2020), Preamble.

As discussed earlier, the Code defines “gig workers,” “platform workers,” and “aggregators,” thereby formally acknowledging new forms of work arrangements that fall outside the traditional employer–employee relationship. These definitions already examined in the previous section form the foundation for extending social security coverage to such workers under this new legal regime. These definitions reveal that **platform workers are a sub-category of gig workers**, with both operating outside the bounds of regular employment contracts.

Chapter IX of the *Code on Social Security, 2020* represents a landmark step in extending welfare entitlements to **unorganised workers, gig workers, and platform workers**, who have traditionally been excluded from the ambit of labour protections. This chapter obliges the **Union and State Governments** to frame as well as notify suitable welfare schemes tailored to the specific needs of these categories of workers.

A key feature is the emphasis on **mandatory registration** of all unorganised, gig, and platform workers as per **Section 113**. To register, a worker must be at least **16 years of age** (or as prescribed by the Central Government) and must submit a **self-declaration**, along with the prescribed documents (including Aadhaar) to obtain a distinguishable registration number. Once registered, a worker becomes eligible to **avail benefits under the schemes framed** under Chapter IX.

Section 114 exclusively deals with the framing of **social security schemes specifically for gig and platform workers**. The Central Government has discretion to design and implement schemes offering benefits like accident insurance, life and disability coverage, maternity and health care, old-age security, crèche services, and any other welfare provisions it considers necessary. The administration and implementation of such schemes, the aggregator’s role and funding mechanisms may also be included while framing scheme.

The funding for such scheme may come entirely by the Central Government, jointly by the Central and State Governments, **wholly by aggregators**, or from a combination of government support and contributions from beneficiaries or aggregators. The scheme can also be financed through Corporate Social Responsibility (CSR) funds under the *Companies Act, 2013*, or any other source specified by the government. All these funds, among others, will contribute to the **Social Security Fund** established under **Section 141** of the Code by the Central Government.

In this context, aggregators must contribute between **1% and 2% of their annual turnover** (excluding taxes and levies) in this fund.²² However, this contribution **cannot exceed 5% of the total amount the aggregator pays to its gig and platform workers.**²³ This provision aims to ensure that aggregators **share responsibility** in funding social welfare for the workers who rely on their platforms for income.

Additionally, the **National Social Security Board for Gig and Platform Workers**, constituted under Section 6 of the Code, is designated as the **statutory authority for overseeing the welfare** of this emerging workforce.²⁴ While performing this function, the Board will include experts, representatives from aggregators, gig and platform workers, State Governments, and relevant Central Government officials. As per **Section 6(7)(a) of the Code**, one of the key functions of the Board is to recommend to the Union Government the framing of suitable social security schemes for unorganised, gig, and platform workers. The inclusion of these stakeholders will ensure that the formulation and monitoring of social security schemes are inclusive, need-based, and reflect the practical needs of the workers.

Section 112 of the Code plays an important supportive role in helping gig and platform workers access the social security schemes made under **Section 114**. Section 112 ensures that workers are made aware of these schemes and can actually register for them. It allows the appropriate government to set up helplines and facilitation centers to spread information, help workers with the registration process under Section 113, and assist them in joining these schemes.

While the Code on Social Security, 2020 explicitly recognises gig and platform workers, the other three labour codes - the “Industrial Relations Code, 2020, the Occupational Safety, Health and Working Conditions Code, 2020, and the Code on Wages, 2019” do not provide protections to this category of workers. For instance, the Industrial Relations Code, 2020 applies only to employees within formal industrial establishments. Since gig workers often lack a fixed workplace or formal employer–employee relationship, they fall outside its scope. Consequently, they are excluded from legal protections related to forming trade unions,

²² *Id.*, s. 114(4).

²³ *Id.*, proviso to s. 114(4).

²⁴ The Code on Social Security, 2020 (Act 36 of 2020), s. 114(6).

collective bargaining, and safeguards against arbitrary hiring or termination.²⁵ Similarly, the Occupational Safety, Health and Working Conditions Code, 2020 does not cover gig workers, despite the fact that many of them work in high-risk environments such as during the COVID-19 pandemic without adequate safety guarantees.²⁶ Additionally, under the Code on Wages, 2019, gig workers are not recognised as employees, which means they are not entitled to protections such as minimum wages.²⁷

B. Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023

Rajasthan has become the first state in India to enact dedicated legislation for the protection and welfare of gig workers through the *Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023*. This landmark Act aims to establish a Welfare Board and a welfare fund for platform-based gig workers, ensure their registration along with aggregators, and guarantee social security and related benefits to such workers in the state.²⁸ It ensures that gig workers in the state are not left out of the social security and welfare net despite the informal and flexible nature of their work. While the central Code on Social Security, 2020, does recognize gig and platform workers and proposes to provide them with welfare measures, its implementation remains incomplete.²⁹ In the meantime, Rajasthan's proactive legislative action addresses these concerns at the state level, setting a meaningful example for other states to follow.³⁰ By doing so the Act fills a legislative vacuum, as central labour laws, except the Code on Social Security, 2020, do not adequately address the unique needs of gig workers.

The Act applies to all aggregators operating within the State of Rajasthan and to any work or service that falls within the definitions of "gig worker" and "platform" as provided in Section 2 (e) & (f) of the Act. A *gig worker* is defined as a person who "performs work or engages in a work arrangement" outside the bounds of a "traditional employer-employee relationship." Such work is typically contractual, remunerated at a predetermined rate, and includes "all piece-rate work". A *platform* is described as an "online transaction based arrangement" where

²⁵ Tanya Saraswat and Meenakshi Ogra Mukherjee, "Laws Governing Gig Economy in India", *available at*: <https://www.khuranaandkhurana.com/2023/03/02/laws-governing-gig-economy-in-india/> (last visited on July 10, 2025).

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023 (Act 29 of 2023), Preamble.

²⁹ Esha Rathi, "Rajasthan's Gig Workers' Legislation: Paving the Way for Transformation?", *available at*: <https://indiacorplaw.in/2023/09/04/rajasthans-gig-workers-legislation-paving-the-way-for-transformation/> (last visited on July 8, 2025).

³⁰ *Ibid.*

individuals offer or receive goods and services for a fixed payment. Further an aggregator is defined to mean a **digital intermediary** that connects buyers of goods or users of services with sellers or service providers. It also includes entities that coordinate with one or more aggregators to offer such services.³¹

Section 3 of the Act provides for the establishment of a Welfare Board to oversee the welfare of gig workers. The Board comprises government officials, representatives of gig workers, aggregators, civil society members, and other stakeholders. Under Section 5 of the Act the Board is tasked with ensuring the registration of both platform-based gig workers (as per Section 8) and aggregators operating within the state (as per Section 9). It is also responsible for overseeing the deduction of welfare fees, monitoring compliance and implementation of social security schemes, for registered gig workers and provides recommendations to the State Government for their administration. It also facilitates access to these benefits for gig workers and ensures their rights are protected under the Act. Additionally, the Board must ensure time-bound redressal of grievances and actively engage with unions working in this sector by holding regular consultations. The Board may also constitute a committee to recommend policy and review the schemes meant for gig workers. Through these functions, the Board plays a central role in realizing the objectives of the Act by safeguarding the rights and welfare of gig workers in the state.

Further, the Act establishes a dedicated welfare fund called the “Rajasthan Platform Based Gig Workers Social Security and Welfare Fund” to support the welfare measures for registered gig workers in the state. The fund shall comprise welfare fees, grants provided by the State Government, and contributions from other sources.³² The welfare fee is to be charged from aggregators and is calculated as a percentage of the value of each transaction involving gig work, excluding any applicable taxes.³³

In addition to above, the Act under Section 13 outlines the rights of gig workers in the state. It ensures that all platform-based gig workers have the right to be registered with the State Government and be provided with a unique ID that works across all platforms, regardless of how long they work. They are entitled to access social security schemes, participate in decisions

³¹ Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023 (Act 29 of 2023), s. 2(a).

³² *Id.*, s. 10.

³³ *Id.*, s. 11.

affecting their welfare through representation on the Welfare Board and have their grievances heard through a proper redressal mechanism. Such mechanism is introduced under Section 14 where registered gig workers can file complaints regarding payments, entitlements, or other welfare-related issues either in person or via an online portal. A designated officer will inquire into the matter and pass appropriate orders for redressal which is appealable.

The Act also includes provisions for penalties. Section 17 provides that if an aggregator violates any provision of the Act or the rules made thereunder, the State Government may impose a fine up to ₹5 lakh for the first contravention and up to ₹50 lakh for any subsequent violations.

C. Karnataka Platform-based Gig Workers (Social Security and Welfare) Ordinance, 2025

Following Rajasthan's lead, Karnataka has enacted the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Ordinance, 2025. The Ordinance reflects an increasing awareness that conventional labour laws, which are built around formal employer-employee relationships, are not suitable for the flexible, task-based nature of gig work.³⁴ Some other states, including Jharkhand and Telangana, have proposed similar welfare laws for gig workers, though these have not yet been brought into effect.³⁵ These developments mark a growing trend among Indian states to acknowledge and protect the rights and welfare of gig workers through formal legal measures.

The said Ordinance applies to all aggregators and platforms offering listed services in Karnataka, and to every registered gig worker. The definition of gig worker is quite similar to that in Rajasthan Act. It refers to “a person who performs work or participates in a work arrangement that results in a given rate of payment, based on terms and conditions laid down in such contract and includes all piece-rate work, and whose work is sourced through a platform, in the services specified in the Schedule.”³⁶

³⁴ Avik Biswas, Ivana Chatterjee and Snehal Walia, “Karnataka Platform Based GIG Workers (Social Security and Welfare) Ordinance, 2025: A Paradigm Shift in Labour Welfare”, available at: <https://www.lexology.com/library/detail.aspx?g=6846315a-83dd-4aa0-8ec1-3f0bf48d2466> (last visited on July 8, 2025).

³⁵ *Ibid.*

³⁶ Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025, s. 2(e).

Like the Rajasthan Act, the Karnataka Ordinance provides for the establishment of a **Welfare Board** specifically for the benefit of platform-based gig workers in the state.³⁷ The Board's main functions include ensuring the registration of gig workers and aggregators, monitoring the collection of welfare fees, and overseeing the implementation of social security schemes. It is also responsible for facilitating access to these schemes, engaging with gig worker associations, and regularly consulting them. It may also create committees to advise the government, develop schemes tailored to specific groups like women and persons with disabilities, and request aggregated data from platforms for better oversight and planning.³⁸

The ordinance also grants certain rights to gig workers which include the right to be registered with the Board upon onboarding, receive a Unique ID usable across platforms, access social security schemes based on contributions and work completed, and avail a grievance redressal mechanism.³⁹ Further Section 12 of Ordinance mandates that all contracts between aggregators and gig workers must ensure fairness and transparency. The contractual terms must be clearly communicated and should include details regarding payments, deductions, incentives, and work calculations. Importantly, the contracts must explicitly acknowledge the worker's right to refuse tasks. Additionally, if any changes are proposed to the contract after it is signed, the aggregator must inform the gig worker at least 14 days in advance. With respect to termination of work, Section 14 requires that all contractual agreements must include a detailed list of valid grounds for termination or deactivation of a gig worker from the platform. Aggregators are prohibited from terminating services or deactivating workers without providing valid written reasons and a prior notice of 14 days. However, in cases involving bodily harm, immediate termination is permitted without notice, but the worker retains the right to appeal the decision as prescribed.

The ordinance also includes provisions to ensure income security for gig workers. Under Section 15, aggregators are required to provide timely payments according to terms of contract and clearly state reasons for any deductions in the invoice. Moreover, all gig workers must be compensated at least once a week, and there must be no delay in the disbursement of their earnings. Aggregators are also obligated to maintain a reasonably safe and risk-free working environment for gig workers, as mandated under Section 16.

³⁷ *Id.*, s. 3.

³⁸ *Id.*, s. 6.

³⁹ *Id.*, s. 7.

The State Government shall also create a **Welfare Fund** to support registered platform-based gig workers. This fund will collect money from various sources, including welfare fees paid by platforms, voluntary contributions from workers, government grants, and donations.⁴⁰ The welfare fee is a mandatory charge payable by aggregators or platforms, ranging from 1% to 5% of the payment made to a gig worker per transaction.⁴¹

Section 22 provides a two-tier grievance redressal mechanism for registered gig workers- one against the aggregator or platform, and the other against the Welfare Board. Aggregators and platform companies are required to establish an **Internal Dispute Resolution Committee** to address grievances raised by gig workers related to payouts, deductions, or termination. Workers may file grievances either in person or through a designated web portal. The committee must process the grievance and submit a written **Action Taken Report within 14 days**, and ensure the final disposal of the petition within **45 days**. If the worker does not receive a response within 14 days, or is dissatisfied with the resolution, the grievance is then forwarded to the **Welfare Board**, whose decision shall be final. For issues related to social security benefits, entitlements, or other benefits by the Board, workers may file a petition either in person before a Grievance Redressal Officer (appointed by the government) or through the web portal. The officer will inquire into the matter and pass an appropriate order. If the worker is not satisfied with the officer's decision, he has the right to appeal within 90 days to an Appellate Authority, which will be notified by the State Government. The Board may also appoint an Ombudsman to handle such matters.

Lastly, to ensure compliance, the Ordinance empowers the State Government to impose penalties on aggregators or platforms that violate its provisions. A fine of up to **₹5,000** may be imposed **for the first contravention** and up to **₹1 lakh for each subsequent contravention**.⁴² Thus, with this legal framework in place, Karnataka's legislation to regulate platform-based gig workers is more detailed and expansive in its scope and protections compared to the Rajasthan legislation. By recognizing the rights of workers and addressing key issues such as income security, social protection, fair contracts, grievance redressal, and platform accountability, the state has taken a pioneering step toward formalising gig work.

⁴⁰ *Id.*, s. 19.

⁴¹ *Id.*, s. 20.

⁴² *Id.*, s. 23(2).

IV. LEGAL STATUS OF GIG WORKERS: EMPLOYEES OR INDEPENDENT CONTRACTORS?

The nature and purpose of gig work often place gig workers in a unique position, sharing traits with both independent contractors and employees.⁴³ Like contractors, their work is typically governed by individual agreements or terms of service. Yet, in practice, the work they perform closely resembles that of regular employees.⁴⁴ This overlapping of characteristics makes it difficult to classify gig workers neatly within the traditional binary of employee or independent contractor.

The classification of gig workers as independent contractors or employees has become a contentious and evolving issue worldwide. The advent of the gig economy has challenged traditional notions of the nature of work and the employer-employee relationship. Consequently, labour laws that were designed to regulate conventional employment have struggled to accommodate the emergence of digital labour platforms and their associated workforce.

This is because of the fact that working conditions on these platforms are primarily regulated by agreements entailing terms of service which typically define the relationship between the platform and the worker as “other than one of employment.”⁴⁵ A major issue, as highlighted by the Fairwork Report 2021, is that most platform workers are not classified as employees but independent contractor and therefore lack income security, social protection, and a clear work-based identity.⁴⁶ This classification as independent contractors, often excludes them from essential safeguards such as minimum wages, collective bargaining, health insurance, social security, and protection against unfair dismissal, raising serious concerns about precarious working conditions of gig workers.⁴⁷

Thus, for platform workers, being recognized as employees opens the door to essential rights and protections. However, for many platforms, such recognition poses a significant risk to their

⁴³ S. Mathur, “Labour Law and the Gig Economy: Towards a Hybrid Model of Employment”, *available at: <https://indiacorplaw.in/2022/12/labour-law-and-the-gig-economy-towards-a-hybrid-model-of-employment.html>* (last visited on July 12, 2025).

⁴⁴ *Supra* note 4 at 91.

⁴⁵ *Supra* note 2 at 36.

⁴⁶ *Supra* note 10.

⁴⁷ *Supra* note 11.

business model.⁴⁸ Classifying gig workers strictly as employees could impose significant financial burdens on aggregators, including obligations related to taxes, back wages, and potential penalties which could hamper the profitability of their business model.⁴⁹ Conversely, treating gig workers solely as independent contractors risks perpetuating their exploitation by denying them access to fundamental employment rights, such as overtime pay, medical leave, and social security benefits.⁵⁰

A. Comparative Perspectives

In response to the growing challenges of classifying gig workers within their legal frameworks, several jurisdictions have explored alternative approaches. One of the most significant judicial developments in this regard in the United States arose from the case of *Dynamex Operations West, Inc. v. Superior Court of Los Angeles*,⁵¹ decided by the California Supreme Court. The case marked a major development in California's labour law, particularly regarding the classification of workers.

The case involved Dynamex, a delivery company, which had reclassified its delivery drivers as independent contractors rather than employees, thereby avoiding compliance with labour standards related to minimum wages, working hours, and other employee benefits. One of the drivers, Charles Lee, challenged this reclassification, alleging that it violated California's labour laws. After a prolonged legal battle, the California Supreme Court ruled in favour of the drivers and established a new standard for worker classification known as the **ABC Test**.

Under the ABC test, a worker is presumed to be an employee unless the hiring entity can prove all three of the following conditions:

- (A) the worker is free from the company's control and direction in performing the work,
- (B) the work performed is outside the usual course of the company's business, and
- (C) the worker is engaged in an independently established trade, occupation, or business of the same nature as the work performed.

California adopted the ABC Test through Assembly Bill 5 (AB-5), strengthening legal protections for many gig and platform-based workers. As a result many app-based transport and delivery companies reclassified their drivers as employees, making them eligible for

⁴⁸ *Ibid.*

⁴⁹ *Supra* note 43.

⁵⁰ *Ibid.*

⁵¹ 4 Cal.5th 903.

benefits such as overtime pay, sick leave, and rest breaks. However, following pushback from platform companies, voters passed Proposition 22 in 2020 to exclude app-based drivers from these protections, and instead defined them as independent contractors, albeit with limited benefits like a minimum earnings, accident insurance, and **healthcare subsidies**. However, these workers were **excluded** from the **California workers' compensation system** and most protections under the **California Labor Code** and wage orders.⁵² In 2021, the Alameda County Superior Court invalidated Proposition 22 in 2021, stating it unlawfully restricted the Legislature's authority.⁵³ However, on **July 25, 2024**, the **California Supreme Court unanimously upheld Proposition 22**, stating that it does not violate the state constitution.⁵⁴

Turning to the United Kingdom, the legal framework adopts a different approach by recognizing an intermediate category between employment and self-employment known as “**workers**” under the **Employment Rights Act of 1996**. An illustrative case in this regard is the *Uber BV v. Aslam*⁵⁵ where the United Kingdom Supreme Court held that Uber drivers were not employees but still qualified as “workers” under the 1996 Act and are entitled to minimum wage and paid leave. The Court observed that Uber controlled key aspects of the job, including setting fares and limiting the number of ride requests a driver could reject before facing penalties. Additionally, the Court held that drivers were considered to be working not only when they were transporting passengers, but also during the time they were logged into the app and waiting for ride requests. This judgment emphasized that the drivers were not truly independent, as their working conditions were largely controlled by the company which justified their recognition as workers entitled to statutory protections.

In some jurisdictions, courts consider the **specific legal purpose** for which employment status is being determined. As a result, a gig worker might be recognized as an **employee for certain claims**, such as **accident compensation**, but not for others due to **varying legal definitions** of

⁵² Duane Morris LLP, “California’s Supreme Court Decides Gig Economy Drivers Are Independent Contractors”, *available at* <https://www.duanemorris.com/alerts/californias-supreme-court-decides-gig-economy-drivers-are-independent-contractors-0824.html> (last visited on July 12, 2025).

⁵³ Olson Remcho, “California Judge Rules that Proposition 22 Is Unconstitutional”, *available at* <https://olsonremcho.com/2021/08/california-judge-rules-that-proposition-22-is-unconstitutional/> (last visited on July 12, 2025).

⁵⁴ Daniel Wiessner and Brendan Pierson, “California top court upholds ballot measure treating Uber, Lyft drivers as independent contractors”, *Reuters*, July 25, 2024, *available at* <https://www.reuters.com/legal/california-top-court-upholds-ballot-measure-treating-uber-lyft-drivers-2024-07-25/> (last visited on July 12, 2025).

⁵⁵ [2021] UKSC 5.

employment across different laws.⁵⁶ This approach creates a de facto intermediate category. Some judicial decisions in the Republic of Korea and China reflect this approach.⁵⁷

In 2020, France's highest court, the **Cour de Cassation**, ruled that an Uber driver should be classified as an employee rather than an independent contractor. The Court found that several indicators pointed to the existence of an employment contract including Uber's control over the fares, terms of service, disciplinary measures such as account deactivation and the working conditions of drivers.⁵⁸ Similarly, in 2020, the Spanish Supreme Court ruled that delivery riders, such as those working for Glovo, were not self-employed but employees, due to the high level of control the platforms had over their work.⁵⁹ Following this, in 2021, the Spanish government introduced the "**Riders Law**", making it the first country in the EU to establish a legal presumption that delivery platform workers are employees rather than independent contractors. The law requires companies to provide these workers with employee benefits and also introduces a right to algorithmic transparency, mandating disclosure of how algorithmic decisions affect working conditions.⁶⁰ Taking a similar stand, the District Court of Amsterdam in 2021, ruled that Uber drivers in the Netherlands are not independent contractors but employees. The court found that the relationship between Uber and its drivers "aligns with all the characteristics of an employment relationship: work, salary and authority."⁶¹

At the broader EU level, a landmark development occurred with the adoption of the **EU Platform Work Directive**, which came into force on December 1, 2024. The development marked a major step toward regulating gig work across member states. A key feature of the Directive is the Article 5 which introduces a **legal presumption of employment** for platform workers. According to this provision, if **factual indicators of control and direction** are present in the relationship between a platform and a worker, the contractual arrangement is

⁵⁶ *Supra* note 11.

⁵⁷ *Ibid.*

⁵⁸ Mondaq, "Uber: The Cour de Cassation Reclassifies the Contractual Relationship Between Uber and a Driver as an Employment Contract" (March 5, 2020), available at: <https://www.mondaq.com/france/contract-of-employment/904176/uber-the-cour-de-cassation-reclassify-the-contractual-relationship-between-uber-and-a-driver-as-an-employment-contract> (last visited on July 13, 2025).

⁵⁹ Manuel V. Gómez, "Spanish Supreme Court rules food-delivery riders are employees, not self-employed", *EL PAÍS*, September 24, 2020, available at: https://english.elpais.com/economy_and_business/2020-09-24/spanish-supreme-court-rules-food-delivery-riders-are-employees.html (last visited on July 12, 2025).

⁶⁰ Willem Waeyaert, Karolien Lenaerts and Dirk Gillis, "Spain – Riders Law: New Regulation on Digital Platform Work", European Agency for Safety and Health at Work (EU-OSHA), 2022, available at: https://osha.europa.eu/sites/default/files/2022-01/Spain_Riders_Law_new_regulation_digital_platform_work.pdf (last visited on July 12, 2025).

⁶¹ Politico, "Uber drivers are employees, Dutch judge rules" (September 13, 2021), available at: <https://www.politico.eu/article/uber-drivers-are-employees-dutch-judge-ruled/> (last visited on July 12, 2025).

presumed to be an **employment relationship**. These indicators are assessed in accordance with **national laws, collective agreements, or existing practices** within the Member States.⁶² EU member states are required to implement the directive into national law by **December 2, 2026**, and may also introduce penalties for non-compliance and clarify the legal criteria for rebutting the presumption of employment.

On the other hand, in jurisdictions such as Brazil and Australia, legal authorities have classified gig workers as independent contractors rather than employees.⁶³

B. Legal Position in India

As already discussed, the Indian Parliament enacted four new labour codes, replacing several existing labour laws with the objective of streamlining the legal framework, modernizing the labour market, and addressing emerging challenges. Among these, only the **Code on Social Security, 2020** has, for the first time, defined *gig workers* and *platform workers* as distinct categories. However, it does not attempt to classify them as employees.⁶⁴ The remaining three labour codes do not include gig and platform work within their scope. As a result, gig workers are excluded from key protections and benefits under these codes, such as minimum wages, occupational safety and health standards, and overtime pay.⁶⁵ Thus, the new codes missed an opportunity to revisit the employee–independent contractor distinction in light of the rise of gig work.⁶⁶

Like several other countries, **India too has been witnessing litigation** concerning the rights and legal status of gig and platform workers. The **Indian Federation of App-Based Transport Workers (IFAT)** filed a petition before the Supreme Court seeking **social welfare benefits** for gig workers.⁶⁷ Among other things, the petition **seeks the formal legal inclusion** of gig and platform workers within existing social security frameworks—either by recognizing them as

⁶² Silvia Rainone and Antonio Aloisi, “The EU Platform Work Directive: What’s New, What’s Missing, What’s Next?”, ETUI Policy Brief No. 2024.06 (August 2024), available at: <https://www.etui.org/publications/eu-platform-work-directive> (last visited on July 14, 2025).

⁶³ *Supra* note 43.

⁶⁴ *Supra* note 4 at 99.

⁶⁵ *Supra* note 43.

⁶⁶ *Ibid.*

⁶⁷ Supreme Court Observer, “Gig Workers’ Access to Social Security: Writ Petition Summary (The Indian Federation of App-based Transport Workers)” (February 18, 2025), available at: <https://www.scobserver.in/reports/gig-workers-access-to-social-security-the-indian-federation-of-app-based-transport-workers-ifat-v-union-of-india-writ-petition-summary/> (last visited on July 15, 2025).

“unorganised workers” under the Unorganised Workers’ Social Security Act, 2008 (UWSSA) or by acknowledging their status as **employees** under applicable labour laws.

The petitioners contend that the **terms of engagement** between app-based workers and digital aggregators reveal a relationship that resembles a **regular employer–employee relationship**. In support of this, the petition relies on the Supreme Court’s ruling in *Hussainbhai, Calicut v. Alath Factory Thezhilali Union*⁶⁸, wherein the Court held that “**where a worker or a group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer.**” It further held that “**economic control over the workers’ subsistence, skill and continued employment**” is a key factor. Thus, when workers contribute to the business of an entity and are economically dependent on it, that entity is the actual employer even if there are intermediaries involved.

Additionally, the petition cites *Ram Singh v. Union Territory of Chandigarh*⁶⁹, where the Supreme Court observed that while **control** is an important factor in determining an employer–employee relationship, it is **not the sole criterion**. The Court called for the “integration” test to be one of the relevant criteria, wherein multiple factors are to be considered, such as the power to hire and fire, payment of wages, provision of tools, and the extent to which the worker is integrated into the employer’s business.

The petitioners have also highlighted **international judicial recognition** of the employer–employee relationship in the context of app-based work, particularly citing **landmark rulings in the United Kingdom and France**, where courts have recognized the **employee status of gig workers**, thereby entitling them to labour protections and benefits.

Further, the petitioners highlight that while workers in traditional employment relationships are covered under various **labour welfare legislations such as** Employees Provident Fund Act, 1952, Gratuity Act, Maternity Benefit Act, Payment of Bonus Act, 1965, Minimum Wages Act, 1948, Employees State Insurance Act, 1948, Gratuity Act, 1972, etc. **gig workers remain excluded** from these protections. This exclusion arises because these laws are dependent **on a formal employer-employee relationship** and usually apply only to establishments employing

⁶⁸ (1978) 4 SCC 257.

⁶⁹ (2004) 1 SCC 126.

a **minimum number of workers**. Gig workers, by the nature of their **digital and non-traditional employment arrangements**, do not fit into this framework. The argument presented is that if gig workers cannot be covered under these statutes due to such legal limitations, they should at least be recognized as “**unorganised workers**” under the **Unorganised Workers’ Social Security Act, 2008**, and be granted corresponding benefits. Accordingly, the question of whether gig workers are to be classified as 'employees' or 'independent contractors' is currently under consideration before the Supreme Court.

V. CHALLENGES FACED BY GIG WORKERS IN INDIA

Despite the fast growth of the gig economy and its potential to offer flexible work opportunities, gig workers face a wide range of challenges that affect their livelihood, dignity, and well-being. Most platform-based workers are not covered under traditional labour laws, which make them more vulnerable to unfair treatment. The nature of their work, combined with the lack of legal protection, exposes them to significant economic and occupational risks. Some of the major issues faced by gig workers as highlighted in various reports are briefly discussed below.⁷⁰

- **Unclear Employment Status:** As discussed earlier, gig workers are usually classified as *independent contractors* or *partners*, rather than as formal employees. This classification effectively excludes them from the protections available under key labour laws such as the Industrial Disputes Act, Minimum Wages Act, and Employees’ Provident Fund Act. As a result, they are denied crucial entitlements like job security, social benefits, paid leave, and protection against unfair dismissal.
- **Income Insecurity and Job Instability:** Gig workers are typically paid on a per-task or per-delivery basis. Their income changes from day to day, and there is no fixed salary or job security. Platforms can also reduce bonuses or payments without any notice.
- **Poor Working Conditions:** Gig workers often work for more than 12–14 hours a day. There are no rules limiting their working hours, and they sometimes work in bad weather or during late nights. Fast delivery models like “10-minute delivery” increase pressure and risk of accidents.
- **Health and Safety Issues:** Gig workers often face serious health and safety risks. These include road accidents, injuries while working, illness, and even incidents of violence

⁷⁰ See, e.g., NITI Aayog, *India’s Booming Gig and Platform Economy* (2022); PAIGAM & University of Pennsylvania, *App-based Worker Survey: Working and Living Conditions of App-based Workers in India* (2024).

or harassment. Many also suffer from stress and other mental health problems due to long working hours and job pressure.

- **Unfair Blocking of Accounts:** Digital platforms control workers using apps and algorithms. Sometimes, platforms suddenly block or deactivate a worker's account without giving a reason. This can lead to an immediate loss of income, and workers have no clear way to complain or appeal.
- **Complicated and One-Sided Contracts:** The contracts offered by platforms are often long, difficult to read, and written in legal language. They usually protect the platform more than the worker. Workers have no power to negotiate or change the terms.
- **Limited Collective Strength:** Since gig workers get their tasks individually through apps and rarely meet each other in person, it becomes difficult for them to form associations for collective bargaining. As a result, they are unable to come together to demand better working conditions or challenge unfair treatment by platforms.
- **No Formal Grievance Redressal System:** Gig workers do not have a clear legal way to raise complaints or challenge unfair treatment by platforms. While some states like Rajasthan and Karnataka have made rules that include ways to resolve disputes, there is no nationwide law that provides such protection across India.
- **Absence of Social Security and Delay in Implementation:** The Code on Social Security, 2020, was a significant step forward in recognizing gig and platform workers under Indian labour law. However, the Code is yet to be implemented.

VI. CONCLUSION AND SUGGESTIONS

The gig economy has emerged as a transformative force in the global labour market, and India is no exception. With rising unemployment, a large working-age population, and widespread use of mobile phones and the internet, many people in India now rely on gig work especially platform-based work as their main source of income. In such a situation, it is important that gig workers are not denied their basic rights and protections.

Some Indian states, like Rajasthan and Karnataka, have taken the first steps by introducing laws that focus on the welfare of platform-based gig workers. However, there is still no national-level law that clearly addresses the rights and protections of gig workers across the country. A central law is necessary to provide uniform rules and standards. Without it, platform

companies that operate in multiple states will face confusion and difficulty in following different state-level laws. This could hurt both businesses and workers in the long run.

A central law should be the product of inclusive and participatory dialogue. It is crucial that both gig worker representatives and platform aggregators are actively involved in the drafting process, ensuring that the law reflects the lived realities of all stakeholders. To be effective, such legislation must also incorporate global best practices. It should guarantee fair contracts, minimum wage protections, access to social security, and decent working conditions. Key issues such as arbitrary account deactivations and algorithmic decision-making must be addressed through enforceable transparency and accountability measures. This balanced approach will safeguard workers' rights while also supporting the sustainability of platform businesses, which play a vital role in job creation.

Moreover, harmful practices that endanger workers must be reconsidered. For example, the 10-minute delivery model followed by some companies puts a lot of pressure on delivery workers and increases their chances of meeting with accidents. Such practices should be reviewed and, if necessary, banned to ensure workers' safety.

Meanwhile, the **Code on Social Security, 2020**, which for the first time recognizes gig and platform workers, must be implemented without further delay. While the Code is a welcome step, the benefits it promises remain inaccessible until its enforcement begins and welfare schemes are put into effect. Importantly, these schemes should not remain discretionary or policy-based, but should acquire the status of enforceable legal rights.

Right now, gig workers fall in a legal grey area and Courts have yet to definitively classify gig workers as employees or independent contractors under general employment law. This legal categorization places gig workers in a **grey zone** they are acknowledged as a part of the workforce, yet they remain **excluded from formal employment protections**. A strong, clear law will help give these workers the dignity, protection, and stability they deserve.