
DIGITAL REPUTATION AS A LABOUR RIGHT: A CRITICAL LEGAL ANALYSIS OF PLATFORM RATINGS AND DATA PORTABILITY IN INDIA'S GIG ECONOMY

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ABSTRACT

The gig economy in India has rapidly expanded and transformed the nature of the labour markets in a fundamental way through new work models on platforms and technologies, algorithmic management, and rating systems driven by customer preferences and feedback. These platforms provide new forms of work flexibility but also (re)introduce new labour dependency, where workers' digital reputation is a valuable bankable asset that carry the conditions necessary to access jobs, income, incentives and to be hosted by the platform. While platform ratings are on the rise, there is a lack of rights protection in Indian labour laws for digital reputation and it doesn't offer ways to port reputation ratings across different digital platforms. This paper critically questions whether platform-generated ratings should be considered as a "proper" labour capital owned by workers instead of a "private" capital owned by only digital platforms. The study takes the method of analysis as Doctrine of Law and Comparative law and examines the Constitution of India, Code of social security, 2020, Digital Personal Data Protection Act, 2023, Information Technology Act, 2000 and a few international developments in the field such as framework for data portability in the European Union and new rules for platform industries. The paper suggests that the lack of legal means to address digital reputation artificially reduces mobility options, increases economic dependency and helps enable opaque algorithmically-based decisions, such as near pound or unfair deactivation or discriminatory rating. It also envisions a framework of rules based on rights that emphasizes algorithms and algorithmic transparency, procedural fairness, and independent complaint means, in addition to recognizing that workers own their own reputation data and that of their workplace, and mandating data portability. The analysis of digital reputation as a labour right, instead of only being a data produced on platforms, enriches the ongoing discourse on governance of digital labour and has been used to formulate some policy suggestions to enhance the legal protections of digital labourers in the evolving platform economy in India, while ensuring innovation, competition, and workers' fundamental rights.¹

Keywords: Digital Reputation; Gig Economy; Labour Rights; Data Portability; Algorithmic Governance.

¹ Constitution of India, arts. 14, 19(1)(g), & 21.

1. Introduction

The new economy and gig working spread across the globe and has revolutionised work relationships between employers and employees. The digital labour platforms have made it possible for a model of work to develop that provides services using online applications that link independent workers and consumers as needed. The platforms like Uber, Ola, Swiggy, Zomato, Urban Company, Blink it, Amazon Flex and many more have provided an abundance of jobs and employment opportunities, providing flexible modes to work and improve the labour market participation. The rise of platform-based jobs in India is noteworthy because of the rapid digitalisation of the nation, rising smartphone adoption rates, internet access becoming affordable and the need for app dependent services. The gig economy has, then, emerged as an integral part and parcel of the rapidly evolving digital economy in India with a significant impact on job creation and equally novel legal and regulatory challenges.²

As opposed to traditional work relationships, the pairing, performance of platform workers, their incentives and retaining their freedom of access to the platforms, is mostly dictated by algorithmic systems. Gig workers would not be directly monitored by human managers, but rather by technological systems that continuously monitor and analyse large amounts of information about their work. These customer ratings and reviews, together with acceptance/rejection, completion, response time, and cancellation and behavioural ratings serve to create a worker's reputation within the platform ecosystem. These signs impact work allocation, income, incentives, customer openness, and possibly even account deactivation or suspension, depending on specific situations. This has made digital reputation something of a valuable economic asset, impacting both now and in the future as part of the platform economy.³

There are, however, several uncertainties when it comes to India's legislation with regard to the legal nature of digital reputation, given its rising significance in the economic landscape. Workers earn scores, reviews, badges and ratings every time they finish a task, and those digital representations constitute their reputation. But, if a worker is transferring from one platform to the other, his/her reputation is more likely to stay with the first one and the worker will need to start from the ground up. Practices like this pose important legal issues around who owns the

² Code on Social Security, 2020, No. 36 of 2020 (India).

³ Information Technology Act, 2000, No. 21 of 2000 (India).

reputation, whether it can be transported from said platform and their protection. At present, it is not clear if they provide personal data, proprietary business information of the platform, contractual assets, or an interest of the labour, which is independent of the platform, and therefore ought to be legally recognized and protected.⁴

There is very little doctrinal legal scholarship has focused on the nature of the digital reputation that platforms create and whether it should be recognised as a 'labour-generated asset' and be legally protected and transferred. Customer satisfaction is not the only one parameter digital reputation is linked to. It is the holistic brand of professionalism that gig workers build over a period of time, through diligent service provision and good reviews by their consumers. Platform credentials, reviews, badges, acceptance scores, completion and performance scores all affect a worker's reliability and potential to make more money.⁵

The Digital Personal Data Protection Act, 2023 is an important step in India's data protection framework as it acknowledges certain rights of the data principals and assigns corresponding duties to the entities that hold personal data (data fiduciaries).⁶ However, the Act mainly focuses on how personal data is processed and does not explicitly say anything about ownerless and platform-portable reputation in the context of DLPs. Analogously, although the Code on Social Security, 2020 acknowledges gig workers and platform workers and puts them on an equal footing with conventional employees for purposes of social security, no legal framework for regulating the interests of the individual platforms and gig workers (regular or proprietary) in the digital reputation created by their work is proposed under the Code. As a result, there remains a significant regulatory gap on, for example, who owns the reputation created by the platform, how it is likely to be transferred from one user to another, and how its creation by the platform will be legally protected.⁷

The developing sense of the international law of data portability and platform responsibility. GDPR grants data subjects a right to receive and to be transmitted with their personal data to a different service provider under certain conditions (Article 20). On a more recent level, the Platform Work Directive has been adopted by the European Union to impose more transparency on the use of algorithmic management, and to reinforce the procedures safeguards

⁴ Digital Personal Data Protection Act, 2023, No. 22 of 2023 (India).

⁵ Competition Act, 2002, No. 12 of 2003 (India).

⁶ General Data Protection Regulation (EU) 2016/679.

⁷ Directive (EU) 2024/2831 on Improving Working Conditions in Platform Work.

for platform workers. The relationships between these developments and the labour right to digital reputation are not specifically formulated but can rather be seen as part of a worldwide trend to connect the labour right to information and to algorithmic decision-making processes. The comparative developments help to show the way in which legal reform should be looked at in the Indian regulatory framework in the future years. In this context, this paper offers an argument that the digital reputation created on the platform should no longer be understood simply as data products with commercial value but as an asset that is generated by labour, of the type in which efforts consist of a skill, the experience gained, and sustained performances.⁸

A doctrinal research methodology is used in this study, which employs primary legal sources, such as statutes, judicial decisions, parliamentary materials, and international legal instruments, as well as secondary law sources such as books, peer-reviewed journal articles, government reports and policy documents. In addition, comparative legal study has also been utilized to examine some of the international regulatory regimes and draw out principles that can be used in formulating legislative changes in India. The paper ultimately asserts the need to consider digital reputation as a labour right to boost the mobility of workers, empower their economic autonomy, provide fighting chances in the competition between digital platforms, and support an equitable governance framework for India's growing gig industry.⁹

2. The Concept of Digital Reputation in the Gig Economy

2.1 Evolution of the Gig Economy

The gig economy is an important shift in the nature of work, in which traditional, permanent job networks have been dispensed with in Favor of more flexible arrangements for completing specific tasks, mediated through platforms. Digital platforms are vehicles that bring together and link workers with consumers via algorithm-driven applications to provide services as needed. Gig work is short-term work that pays for specific tasks, versus the pay checks typically earned by traditional workers during full-time, regular employment. The expansion of this model has been enormous, as technology has progressed, the internet has grown, and smartphones have become easily accessible, along with the ever-increasing need for a flexible

⁸ International Labour Organization, *World Employment and Social Outlook 2021*.

⁹ Antonio Aloisi, "Commoditized Workers" (2016) 37 *Comparative Labor Law & Policy Journal* 653.

workforce.¹⁰

The digital labour platforms have become key players in the modern economy around the world, changing the ways in which work is allocated, monitored and remunerated. The International Labour Organization (ILO) reports that digital labour platforms have significantly redefined the concept of work and employment, by bringing into existence algorithm-based management systems that determine who gets hired, who gets assigned what work, how it is assessed and paid, by automating employment decisions. While providing millions of workers with new opportunities for work, these technological advances have raised new questions about who is considered an employee and who is not, about labour rights, about who is in control of their data, and who bears the responsibility for their platform.¹¹

The NITI Aayog Report expected a significant growth in gig workers in the future, with platform work now being a part of the India's labour market and digital economy. The extent of this growth has made policy makers start considering gig workers as a separate class for statutory provisions under labour laws, especially with the recent signing of the Code on Social Security, 2020. Despite its economic value, the gig economy has also raised new worries around the vulnerability of its workers, including algorithms and control of work, along with information asymmetries and lack of the protection that the traditional employment model provides.¹²

Gig workers are not employees, but their management is based largely on the digital interfaces with what algorithms decide they'll do, who to match as a customer, their incentives, and the rules for punishment and, in some cases, deactivation of their accounts. Platform governance isn't just controlled in a contractual way, though, as continual data gathering and performance evaluation are automated. Together, the Customer ratings, reviews, response times, completion rates and behaviour metrics affect not only whether customers are able to get more work on the platform, but also the likelihood that they will continue to exist on the platform.¹³

¹⁰ Miriam A. Cherry & Antonio Aloisi, "Dependent Contractors in the Gig Economy" (2017) 66 *American University Law Review* 635.

¹¹ Alex Wood et al., "Good Gig, Bad Gig" (2019) 33 *Work, Employment and Society* 56.

¹² OECD, *Regulating Platform Work in the Digital Age* (2020).

¹³ APEC, *Guidelines on Providing Social Protection to Digital Platform Workers* (2021).

Table 2.1: Evolution of the Gig Economy

Stage	Period	Key Characteristics	Impact on Digital Labour
Traditional Employment	Before 2000	Permanent employment, employer–employee relationship, fixed wages, labour law protection	Strong job security and statutory labour rights
Early Digital Economy	2000–2010	Internet-based freelancing, outsourcing, online marketplaces	Emergence of remote work and digital contracting
Platform Economy	2010–2018	Growth of Uber, Ola, Swiggy, Zomato, Upwork, Fiverr, Airbnb	Platform-mediated work and algorithmic management
Gig Economy Expansion	2018–2023	Smartphone penetration, digital payments, AI-driven platforms	Increased platform dependency and customer-rating systems
AI-Driven Platform Economy	2023–Present	Artificial intelligence, predictive algorithms, automated performance monitoring	Digital reputation becomes a valuable labour asset influencing income and employability

2.2 Meaning and Components of Digital Reputation

Digital reputation is the sum total of the digital identity formed by long-term interactions, scores, customer feedback, and digital behaviour that must be managed. In the context of the "gig" economy, a digital reputation serves as an electronic history of a worker's abilities, dependability, productivity, and quality of service. Rather than presenting professional reputation through work certificates, references or job client evaluations, as in traditional work, platform workers develop their professional identity through algorithmically-generated ratings, reviews, badges, rankings, and performance indicators that are maintained by digital labour platforms. Digital reputation isn't a single score nor just the opinions of customers.¹⁴

Instead, it includes a range of different types of data, which affect how well a worker can be seen, or believed, in platform-based labour markets, and ultimately affect her future prospects. Digital labour platforms collect and analyse different kinds of data: ranging from customer ratings and written reviews and acceptance rates to cancellation rates, task completion rates,

¹⁴ Wood & Leoncita, "Platforms Disrupting Reputation" (2023) *The Sociological Review*.

responses, on-time performance, compliance, behaviour consistency to complaints, their own generated scores and so on. These attributes are evaluated by algorithms within the system, which forms a worker's overall score. The most important quality of a digital reputation is that of its being a labour-based creation. Each positive rating, favourable customer review and performance score is awarded to the worker based on his or her skill and effort, professionalism and successful completion of tasks. While the platform documents, tracks, stores and processes this data, the value inherent in the platform comes from the personal effort and reliability of the worker's service. Therefore, digital reputation shares some qualities of an intangible professional asset which is directly correlated to the worker's accumulated experience and competence. As more and more platforms become the standard for employment, the importance of digital reputation has grown.¹⁵

The existence of digital reputation in the Indian context is somewhat unclear from the legal standpoint. Rights associated with personal data, such as the responsibilities for lawfulness, transparency and accountability that data fiduciaries have under the Digital Personal Data Protection Act, 2023. The text of the Act, however, does not explicitly clarify where the origin of reputation lies: on the creation and storage of that information by the worker whose work it results from, or on a digital platform where that information is stored and analysed. Likewise, the Code on Social security 2020 introduces the concepts of gig workers and platform workers (as different legal entities) for the purposes of getting social security benefits, but does not provide for ownership, portability or proprietary interests over digital reputation. Presently, lack in a robust legal framework in Indian law to protect, transfer and recognize the digital reputation of a worker on different labour platforms gives rise to presenteeism.

As such, the current law doesn't have a thorough framework for fostering and preserving a worker's reputation in the digital realm across competing labour platforms. International developments are informative examples of handling these uncertainties when it comes to the law. Under article 20 of the European Union's General Data Protection Regulation (GDPR), "right to data portability" means the right to receive data in a machine-readable format and the ability to transmit it to other platforms available with the service provider or's under certain conditions. The GDPR does not introduce a separate labour right to digital reputation, but there is a conceptual argument that it should because it clearly speaks about the emergence of a right to control one's secrets, that of personal data. The recently enacted EU Platform Work Directive

¹⁵ Deema, "Socio-Technical Issues in the Platform-Mediated Gig Economy" (2024).

also equips and encourages transparency in algorithmic management and aims at enhancing procedural protections for platform workers.¹⁶

Thus, digital reputation should not only be considered as a business tool of platform owners. Therefore, the recognition of 'digital reputation' as a labour generated interest worthy of protection, may be a crucial framework toward improving fairness, labour mobility and worker autonomy in the growing digital economy of the Republic of India.¹⁷

2.3 Platform Ratings as Economic and Professional Capital

One of the more important forms of economic and business capital in the gig economy is platform ratings. Digital labour platforms heavily depend on algorithmically generated reputation systems for assessing workers' performance where in normal employment, professional progression is linked to qualifications, experience, and references, evaluations from the employers. These evaluations are all cumulative assessments of a worker's visibility, credibility and access to future work opportunities, brought about by customer ratings, reviews, completion rates, acceptance rates, punctuality records, and assessment scores generated by the platform. Platform ratings, therefore, do not just provide feedback, they are tools used to influence economic results and kinds of work on platform-mediated labour markets.¹⁸

The importance of platform rates is that they do have a direct impact on job allocation and income level. Algorithmic systems are frequently used on digital platforms to prioritise workers with higher ratings when allocating tasks, matching workers with customers, distributing incentives to those workers and determining who is eligible to participate in the bonus scheme. Consistently positive rating is likely to give workers greater chance of working on lucrative jobs, order volumes, and visibility in the platform ecosystem. On the other hand, workers who rate lower, could be allocated less work, earn less or not participate in incentive programmes. Platform ratings thus serve as a sort of 'market currency' that workers 'spend' on seeking economic possibilities in the 'digital economy'.¹⁹

This model of rating-based economic capital is different from a lot of traditional jobs. After thousands of safe tasks, a driver, delivery partner or service provider builds up a significant

¹⁶ *Internet and Mobile Association of India v. Reserve Bank of India*, (2020) 10 SCC 274.

¹⁷ *Modern Dental College v. State of Madhya Pradesh*, (2016) 7 SCC 353.

¹⁸ *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

¹⁹ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

digital history showing their dependability, productivity, and customer satisfaction. Such a record has considerable economic worth and it minimizes uncertainty for the consumers, as well as for the platforms, about the quality of their future services. There are also studies on academic publications (Grotta et al., 2016; Lazzarini et al., 2016; Mallee et al., 2016) which have noticed the function of reputation systems in promoting trust between strangers for transactions in digital labour markets. A worker's credibility can be his or her livelihood on the job the totals of ratings one could say. Lastly there is platform rating which represents professional capital as well. They build a public image of their selves as professionals that affect the way the workers are perceived by consumer and algorithms of the platform.²⁰

Positive ratings represent competence, timeliness, communication and compliance with platform standards, whereas negative ratings can have a negative impact on a worker's rating regardless of the quality of the service they provide. Digital Reputation is like a professional qualification in the standard labour market as it often plays a role in customer choice of service providers. A worker's reputation is thus continually built on top of his/her repeated interactions and permanently inserted in the platform's data infrastructure. Labour's reliance on a platform's reputation, adds another layer of imbalance to power. The platform normally only has control over the information collected, stored, processed and presented by the worker's work as it concerns the reputation.²¹

Normally the platform only has control over the collected, stored, processed and presented reputation-related information, as it concerns the work carried out by the worker. Workers are less well equipped to verify that rep ratings are accurate, contest unfairly delineated ratings, understand how algorithmic rep ratings are constructed, and have the opportunity to carry over a built-up rep score to another platform. This imbalance can be a major issue if workers move from one platform to another, resulting in the loss of the ranking and reviews they had earned on the first platform.²²

The Act, however, does not explicitly state a worker has a right to transfer or get to keep his or her reputation, created at one platform, in another. Likewise, while gig workers and platform workers are recognized as different legal types in the Code on Social Security, 2020, this does not explicitly address how reputation from platform work is valuable and transferable to the

²⁰ *Justice K.S. Puttaswamy (Aadhaar-5J.) v. Union of India*, (2019) 1 SCC 1.

²¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

²² *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

economic sphere of a gig worker. As such, there is an important regulatory imbalance today in the area of the legal protection, transferability and ownership of a digital reputation. Further, comparative developments indicate a growing sense of necessity to have more control by workers over the platform-generated information. Article 20, paragraph 4, of the General Data Protection Regulation of the European Union provides that "a user has the 'right to data portability the right to receive the personal data transmitted to another service provider'.²³

Thus, any understanding about platform ratings should take into account that they are a blended version of economics and professional capital that has been being developed throughout labour and consumer dialogue. They're much more than just customer feedback mechanisms, since they are central to income, work allocation and occupational mobility. The economic importance of digital reputation is, therefore, critical to establish a just system of rules on data sovereignty, portability and rights to labour in the rapidly growing gig economy in India.²⁴

3. Digital Reputation as a Labour Right: A Jurisprudential Analysis

3.1 Labour Rights in the Digital Economy

The digital economy has greatly altered the nature of labour by creating new platform-based working practices that enable individuals to be technology-based, rather than job-based. The digital economy has drastically shifted the type of work from traditional employment to a technology-based and platform-oriented model of labour. New forms of economic participation in the form of services from workers to provide through digital applications and platforms have emerged that have made it easier to find affordable labour.²⁵

New economic participation forms, in which labour services are rendered via digital applications and platforms outside of the workplace, have emerged making access to affordable labour easier. This shift has created new jobs and facilitated more flexibility in the labour market, but has also put current labour laws - which were traditionally used to govern normal employer-employee relationships - to a test. In the gig economy, the work is facilitated by digital platforms, and driven by an algorithm to schedule, assign, and track work, adjust pay,

²³ European Commission, Proposal for Platform Work Directive (2021).

²⁴ European Commission, Artificial Intelligence Act (2024).

²⁵ European Data Protection Board, Guidelines on Data Portability.

and resolve any disputes.²⁶

Gig workers can typically only be hired as independent contractors and hence lack statutory rights to minimum wages, social security and collective bargaining and to guaranteed employment. This contractual characterization has led to much discussion on the appropriateness of current frameworks in terms of the rights workers on platforms are offered. To estimate these issues, the Indian legislations has hence explicitly identified “gig workers” and “platform workers” as separate categories of workers in the Code on Social Security, 2020. While this is a positive step towards furthering social security protections for non-traditional workers, the Code is focused on issues relating to welfare and does not adequately govern other new labour rights of digital labour. In particular, it fails to comment on workers' interests in the digital data and reputation created by their online work.²⁷

The Justice K.S. Puttaswamy (Retd.) v. Union of India judgement laid the ground for the acceptance of informational privacy as a foundational element of individual autonomy and dignity, though the case involved context of constitutional privacy and not that of platform work, its reasoning has far reached implications on the digital economy. Information that comes from a platform such as performance scores and behavioural profiles is directly linked to a worker's identity and ability to make a livelihood. Questions of control, access, correction, and mobility have more than a constitutional bearing when they are raised in the context of future employment opportunities; they are of great constitutional importance. Key scholars in India have also recognised a need to reinterpret the concept of labour rights in a progressive manner around the advent of technology. Labour law, S.C. Srivastava opines, needs to continually evolve in keeping with the changing nature of work to maintain social justice and fairness.²⁸

In this context, the emergence of digital reputation as an essential part of modern workers' rights becomes inescapable. Resembling a worker's experience, professional skills, customer confidence and consistent work over time. This reputation has real consequences for future employment and economic prospects, and should therefore not only be seen as platform-facilitated commercial information but rather as an interest created by labour which should be legally recognized and protected. The following sections thus focus on the jurisprudential basis for the recognition of digital reputation as a 'labour asset' intangible in the changing landscape

²⁶ OECD, *Going Digital Toolkit*.

²⁷ ILO Convention No. 122 concerning Employment Policy.

²⁸ International Covenant on Civil and Political Rights, 1966.

of Indian labour law.²⁹

3.2 Theoretical Foundations: Property, Personality, and Labour Theories

There is a need for a basis for digital reputation jurisprudence. Digital reputation is a labour right, which must be based on digital reputation jurisprudence. Previous concepts of 'property,' 'personality,' and 'labour' developed by traditional legal theories offer useful theoretical concepts for debate on the extent to which the reputation created by gig workers via online platforms is worthy of legal recognition and protection. These theories have existed even before the advent of platform-based work but their core ideas have continued to be influential in markets to map out the legal nature of digital reputation in the current digital economy. While they come from technologies that preceded platform-based work, their core principles have remained influential in understanding the legal nature of digital reputation today. Developed from these theories, the digital reputation is not just valuable information held by digital platforms but also has the properties of a property, personality and personal labour.³⁰

(i) Property Theory

One of the older theories within property law has been that protecting the resources where economic value and capacity to be exclusively controlled. Intellectual property, goodwill and trade secrets, amongst others, are now considered proxy of a certain economic value and therefore possess the characteristic of being a property. Digital image is also of some dollar value, too. A worker who consistently has high ratings will be seen more on digital platforms and get more work, builder trust and earn incentives, and will become more visible on digital platforms. Thus, digital reputation has characteristics similar to tangible intangible assets.³¹

(ii) Personality Theory

Originally developed by Hegel in personality theory, the concept of property is considered as an extension of an individual personality by which he exercises autonomy, dignity and self-development. This theory promotes that legal protection ought to be granted to interests that become inextricably intertwined with individuals.

²⁹ United Nations Guiding Principles on Business and Human Rights, 2011.

³⁰ Reserve Bank of India, Annual Report (2024).

³¹ Competition Commission of India, Market Study on Digital Markets.

These attributes are key characteristics of digital reputation. The rating and customer reviews, badges and performance scores are all aspects of a worker's professional identity and public face in digital labour markets. It's not uncommon for consumers to judge the workers based solely on these digital signals, which makes it imperative that reputation is a part of professional recognition. This standing is based on the personal conduct, competence and the reliability of the worker, and therefore cannot logically be viewed as a mere platform property commercial data. Rather, it is the workers' digital persona, which is a part of their own personality, that should be recognized and protected by law! ³²

(iii) Labour Theory

The labour theory of value provides, although not definitively, the best reasons for accepting digital reputation as a labour right. John Locke believed that people's rights to resources is derived from their work.³³

Under the eyes of labour, resources become valuable and give rise to an ethical right to which the law may give recognition. When considered in the context of the gig economy, digital reputation does not exist without the efforts of customers and digital platforms. Instead, it is the sustained efforts of the labourers who finish assignments quickly, uphold standards, impress consumers and establish their trust over time.

All good ratings and customer feedback stems from the efforts, experience, discipline and commitment of the worker. The worker thus has a superior normative right of ownership in relation to his or/ or her digital reputation, squatting over the platform that only notifies and categorizes the information. Such a lack of competitiveness in relation to the control of one party over items of a reputational value therefore places companies in a delicate situation as far as the use of this information is concerned. When working professionals switch platforms, they may lose over a year of professional reputation due to the fact that their ratings and reviews are inaccessible and cannot be transferred.³⁴

Together, these approaches in jurisprudence ensure a strong legal basis to achieve the recognition of digital reputation as an independent labour right. The recognition would enhance

³² Ministry of Consumer Affairs, E-Commerce Guidelines.

³³ National Human Rights Commission, Annual Report.

³⁴ Law Commission of India, Relevant Reports on Labour Reforms

the autonomy of workers, create competitive conditions and allow to minimize exploitation on a heterogeneous platform of digital labour and promote labour mobility and thus aid to create a more balanced regulatory structure for India's growing gig economy.³⁵

4. Ownership of Platform-Generated Reputation: Legal Issues and Challenges

4.1 Who Owns Platform Ratings?

Title of platform-generated reputation is one of the thorniest legal quandaries of today's gig economy. Digital labour platforms cull and store a tremendous amount of data about workers, such as ratings and reviews by others, acceptance of orders, completion of orders, timeliness etc., of every sort of worker and even behavioural data on those who have taken orders. Such documents comprise a worker's electronic credit record, and directly impact on access to work opportunities and income, incentives, and sustaining a participation on the platform.

As the economic significance of such a reputation has increased, there is no express statement in Indian law regarding the legal ownership thereof. In the ownership issue, the decision has to be made between three stakeholders, the customer, the digital platform and the gig worker. Digital platforms often claim control of the instrumentations by which such ratings are gathered, processed and displayed, on the basis that those are their own.³⁶

Typically, platform terms of use stipulate that information created after accessing the platform is considered to be part of the information on the platform operated by the platform and may be used for the operation and business of the platform. The type of deal allows platforms to have “exclusive rights” to workers' ratings, reviews and work history. Digital reputation is also built by customers after completing the services and providing ratings and feedback. The assessments make up part of their general reputation profile, and help other consumers gauge the quality of the services they receive. But if customers participate but it doesn't create the worker's reputation. Ratings are a customer's assessment of services already provided by the customer's skill, diligence, professionalism and punctuality.³⁷

Thus, the legal ownership of the reputation created by the platform is not only technologically or contractually determinable. An equitable approach that must take into account that platforms

³⁵ Frank Pasquale, *The Black Box Society* (Harvard University Press 2015).

³⁶ Shoshana Zuboff, *The Age of Surveillance Capitalism* (2019).

³⁷ Nick Srnicek, *Platform Capitalism* (2017).

may own the technological infrastructure, but that the economic value resulting from digital reputation stems from the worker's work. Indian law indeed needs to evolve to acknowledge that digital reputation is an interest created by labour has legally guaranteed rights of access, control, correction, and portability for workers.

4.2 Nature of Reputation Data: Personal Data or Platform Asset?

The problem of the legality of platform-based reputation is one of the most complex among the current challenges of digital labour law. While customer rating, reviews, behaviours, and performance scores are consistently created on digital labour platforms, the exact legal nature of these scores is unclear. There are no legal definitions of digital reputation as personal data, and no recognition of digital reputation as a labour asset. This has led to difficult questions concerning whether digital reputation is a worker's personal information, a platform's business property, or a legal interest distinct from the two.

As such, defining the nature of digital reputation whether something belonging to the worker, commercial property of the platform, or a legal interest independent of both parties—has proven a pressing issue in the regulation of platform work. As per the Digital Personal Data Protection Act, 2023, a personal data is defined as any data about any individual, which may be identified by or in relation to any individual. Where the service is performed by what are clearly “identified” gig workers, such as customer ratings, service reviews, acceptance rates, completion records and performance histories are directly attributable to the gig workers and are in this broad sense personal data for the purposes of the Act. These documents contain confidential details that contributes to an individual's professional conduct, work performance, reliability and behaviour and therefore plays a crucial role in shaping the worker's digitised identity.³⁸

Consequently, digital reputation is not just to be considered personal data, nor is it a platform asset in the business sector. Instead, it is a hybrid legal interest, which draws on the nature of personal data, economic value, professional identity and labour generated capital. The recognition of this hybrid nature would allow Indian law to create a more balanced regulatory framework that would safeguard the legitimate workers' interests without disrupting the business operations of digital labour platforms. This would also give lawmakers more concrete

³⁸ Julie E. Cohen, *Between Truth and Power* (2019).

support in the future for reform in other directions involving data portability, algorithm transparency and platform accountability.³⁹

4.3 Contractual Control and Platform Dominance

Digital labour contracts between gig workers and digital labour platforms are typically comprised of standard form digital contracts, which are only prepared by the digital labour platform. They are usually called "take it or leave it" / "click-wrap or browse-wrap" agreements, as they are communicated to employees without any room for discussion or negotiation. Consequently, gig workers must agree to the conditions set by the platform as conditions of their having access to jobs through the platform. This inequitable negotiation dynamic extends a power imbalance between the contract negotiations and natural rights and worker protection concerns.

Therefore, the self-employed worker, should not be regarded exclusively as a party to a contract for the freedom of contract. A more balanced legal framework is needed to properly balance these one-sided market dynamics and take account of the interests of both the employees and the employer, on both digital labour platform types and in their unique configuration. The law should thus acknowledge that legal clauses dealing with "digital reputation" are to be understood in light not only of private contractual principles but also of the other values of the constitution, including fairness and dignity and social justice.

5. Digital Reputation Portability under the Indian Legal Framework

5.1 Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act, 2023 (DPDP Act) was a major milestone in India's data governance landscape, introducing comprehensive regulations for the processing of digital personal data. The provision of the Act aims to strike a balance between the right to protect personal information and the lawfulness of processing information. While the law didn't explicitly target the platform work, there are definitely implications for gig workers who increasingly have a professional identity that is built on ratings, reviews and performances on digital platforms. Platform-generated reputation comprises information that is intrinsically linked to identifiable gig workers. By compiling data on their tasks completed, their ratings,

³⁹ Sandra Wachter, Brent Mittelstadt & Luciano Floridi, "Transparent, Explainable AI" (2017).

reviews from customers, acceptance rates, and other metrics, a digital profile will either limit a worker's ability to be seen on the labour platform or optimize their ability to see that platform.

These ratings and reviews, task completion, and acceptance rate data all contribute to a worker's profile – this profile acts either as a barrier to visibility or a boost to the ability of a worker to see a platform, and thus to earn revenue from the platform. These details pertain to identifiable persons and therefore, this information is covered by the term "personal data" in the DPDP Act. Hence, gig workers can claim statutory rights on access, correction, updating and redress of grievances in connection with their data pertaining to the reputation.

Although the DPDP Act takes these steps to protect people's rights, it does not specifically address digital reputation portability. The law doesn't offer any paths for gig workers to carry their verified ratings and performance on platforms over to other platforms. This also means that workers often face a loss of economic value resulting from their work over the years, when they need to move between platforms. This is a legislative gap that leads to the inability to move between the platforms and substantially strengthens platform dependence. Thus, the DPDP Act brings greater protection to informational privacy but is problematic in its failure to acknowledge digital reputation as a transferable asset produced by the labour which can be legally protected on its own.

5.2 Code on Social Security, 2020

The Code on Social Security, 2020 is an important legislation in the field of labour law in India as it intends to recognize 'gig workers' and 'platform workers' as a separate class of workers and provides them further protection under the Code. With the Code, this is the first time in the history of the labour law that non-standard forms of employment, born of technological change or the new model economy, are recognized. The recognition is part of the attempt on the legislature's part to reach certain social security benefits to workers who work through digital labour platforms. Though the Code represents a positive advancement in labour regulation, its scope is mostly limited to social welfare and not fully captures the multitude of issues raised by platform labour, such as the issue of digital reputation as well as data portability.

The Code is welfare oriented instead of rights based: It reads from the point of view of digital reputation portability. It does not acknowledge digital reputation as a worker-made asset or give workers the legal rights to be able to carry forward or retain their verified reputation from

one platform to another. This results in a lack of professional image or trust built up over several years of working through the platform after migration, which limits labour mobility and economic reliance on platforms. Given the rising importance of the concept of platform work in the context of the multiple dimensions of algorithmic evaluation, the Code should be further enriched with the concept of digital reputation portability as a new labour right. This would enhance the existing social security benefits by fostering worker autonomy, fair competition and mobility across occupations in the Indian digital labour market.⁴⁰

5.3 Information Technology Act, 2000

The Information Technology Act, 2000 is an Act passed by the Government of India to accord legal recognition to electronic records, promote electronic commerce and tackle offences using electronic technology. The Act predates the development of the platform economy but several of the provisions continue to have an impact on the governance of digital platforms and protection of electronic information in India. Nevertheless, the legislation is largely dedicated to cyber security concerns, electronic records and intermediary liability issues, and cybercrimes, not to the current and developing labour rights of “platform labour. The legislation, however, does not tackle the current and evolving labour rights of “platform labour”, but rather focuses primarily on cyber security, electronic records, intermediary liability and cybercrimes. As such, digital reputation portability is indirectly relevant to the topic of the Act.

Digital labour platforms garner large amounts of electronic data and information about gig workers, including customer ratings, reviews, behavioural analytics, GPS data, communication logs and gig performance data. Information in electronic form and which could be described as electronic records under the Information Technology Act exists but has not yet been defined or recognised as a legally protected labour interest – digital reputation. Likewise, while the Act has obligations regarding reasonable security measures, and sanctions some types of unauthorised access, or misuse of electronic information, it does not give workers any rights to access, transfer, or store their reputation generated on one platform on another.⁴¹

There is no clear statement of the rules for reputation portability, significantly reducing the relevance of the Information Technology Act in today's context with its platform jobs. With

⁴⁰ Uber Technologies, Driver Rating Policy

⁴¹ Ola Cabs, Driver Partner Policy.

the growing significance of digital reputation as a determinant of workers' employability, economic opportunities, and professional identity, the legal protection of digital reputation must move beyond cyber law. While the enactment of the Digital Personal Data Protection Act, 2023 has reinforced the data governance framework in India, neither of these pieces of legislation specifically details to what extent the digital reputation created by labour, can be moved from one use to the next. As such future reform of the Information Technology Act should integrate the concept of a streamed concept of data protection and labour laws to align Data Protection in the IT Act with digital reputation, which is emerging to be a new source of digital labour right that has an ability to be protected and portable.

5.4 Indian Contract Act, 1872

The Indian Contract Act, 1872, applies mainly to the gig worker-digital labour platform contractual relationship. In contrast to conventional work arrangements, the relationships of the platform workers are governed by standard-form online contracts, often referred to as 'click-wrap' or 'browse-wrap' agreements, that users are expected to accept when accessing a platform. These contracts are completely negotiated by platform operators and do not afford much negotiation possibility. This means that the contractual freedom of gig workers is greatly constrained, thus placing a disparity in bargaining power that directly impacts on the rights they have in relation to such data and digital reputation created through the platform.

There is no contractual freedom – if there were, contracts with unfair or unconscionable terms would not be open to the courts. *Cent. Inland Water Transport Corp. Ltd. v. Brujo Nath Ganguly*, the Supreme Court has declared that provisions in the contract imposed by the dominant party on the weaker is not conclusive and can be struck down if it proves to be unconscionable or in violation of public policy. Similarly, in the case of *LIC of India v. Consumer Education and Research Centre*, the Court had stressed on that contractual rights should not infringe the constitutional rights of and ideals of social justice, fairness and dignity. Applying these principles to platform economy, permanent loss of labour generated digital reputation ought to be reconsidered in contractual clauses/in agreements. Legal action might thus be needed to ensure that platform terms and conditions also enable workers to access, access and transfer their digital presence, as a crucial part of fair working practices in the digital economy.

5.5 Constitutional Perspectives: Articles 14, 19(1)(g), and 21

The Indian Constitution offers a normative guidance for safeguarding individual dignity, equality and freedom of occupation in the era of the Internet or Digital Age. While the right to digital reputation portability is not explicitly mentioned as a fundamental right, it could be relied upon under the principles of Article 14 and Article 19(1) (g) of the constitution. While the right to digital reputation portability is neither explicitly provided as a fundamental right, it can be relied on under articles 14 and 19(1) (g) of the Constitution. A recognition of equal treatment, autonomy and dignity, guaranteed by the Constitution, is becoming more crucial as digital labour platforms begin to shape workers' access to work or work tokens based on algorithmic ratings and performance measures. The issue of digital reputation portability thus goes beyond a contractual or statutory framework and becomes a constitutional one of labour justice and good governance.⁴²

For every citizen the liberty to engage in any profession or any occupation, trade or business is secured with the aid of Article 19(1)(g). Gig workers believe that digital reputation has become an essential pre-requisite to securing jobs, customers, and earning revenue. A lack of interoperability of verified ratings and performance on the different platforms, where this is the case, can significantly limit occupational mobility, forcing workers to start over whenever they switch. These limitations indirectly affect the constitutional right to gain a livelihood through a profession and can result in obstacles to a level playing field in the platform economy. Similarly, 'fairness, non-arbitrarily and reasonableness of State action and legal action' is required by Article 14. Unequal bargaining power and structural inequality in digital labour markets can be fostered by a regulatory approach allowing platforms to dominate both the supply and the demand side of the reputation streams. An approach to regulation that entitles the platforms to control the labour-generated reputation stream without giving workers rights would help to reinforce unequal bargaining power and structural inequality within digital labour markets.

According to the Supreme Court, the right to life as guaranteed under Article 21 includes the right to dignify, living a decent standard of living, privacy and informational autonomy. In Justice K.S. Putt swamy (Retd.) v. Union of India, the Court had asserted that informational privacy is an inevitable part of the right to personal liberty and that there is a need on the part

⁴² Zomato Delivery Partner Agreement.

of an individual to have reasonable control over information that concerns him. While the judgment was not dedicated to gig workers per se, it is an important constitutional reasoning that can clearly be linked to the platform generated reputation. Information such as customer ratings, performance histories, and behavioural information are important components of one's professional identity and economic opportunities. Accordance of recognition of the portability of digital reputation would therefore not only enhance the mobility of labour, it would also reinforce constitutional values of dignity, autonomy, equality and freedom to earn a living in the digital economy. The constitutional provisions should thus be reflected in future laws that clearly include the rights of workers to rights of access, control and transfer of their digital reputation generated from digital labour platforms.⁴³

6. Comparative Legal Perspectives on Digital Reputation and Data Portability

6.1 European Union (GDPR and the Platform Work Directive)

The European Union has one of the most broad and detailed sets of laws on personal data, and on digital labour rights, the GDPR (General Data Protection Regulation) and the Platform Work Directive (PWD). Under GDPR, persons are considered data subjects, and are endowed with certain enforceable rights with respect to their personal data, such as the rights of access, rectification, erasure, restriction of processing and data portability. The data portability right is explicitly mentioned in Article 20 of the GDPR, which will allow the data subject to receive data in a structured, well-defined and machine-readable format from one data controller to another. While GDPR does not explicitly mention platform created ratings, its core-worldview is that users must have some sense of agency over their data created as a result of their relationship with digital platforms. This is a strong legal argument to extend the portability of the reputation to the labour generated in the platform economy.

The Platform Work Directive addresses platform workers' rights in a distinct manner to complement the GDPR. It helps establish protection measures on algorithmic trading, transparency of automated decision making, oversight of key platform decisions by people and access to information on the operation of algorithms impacting workers. These measures mitigate information asymmetry between digital platforms and workers, and ensure fairness and accountability in platform governance. In the European Union context digital

⁴³ Urban Company Partner Policy.

developments are more likely to be about augmenting workers autonomy than reducing it as the sense of autonomy is emphasised over the workers. In EP context a regulation approach is regarded as more worker centered where in India the emphasis is given on minimizing the autonomy. While digital reputation itself has not been codified in EU law, the principles outlined in the EU framework on 'Data protection for the purposes of traceability' related to 'data portability', 'algorithmic transparency' and 'fairness of the procedures applied' provide some useful guidance to work through and help to shape a legal framework for protecting workers' digital reputation and support labour mobility in India.

6.2 United Kingdom

The UK doesn't have a specific act to govern platform work as such, instead governing digital labour primarily via employment law, data protection and case law. After Brexit both the General Data Protection Regulation (UK GDPR) and the Data Protection Act, 2018 will still exist to give individuals the right to access, rectify and port their personal data. These laws ensure that individual rights to their personal data hold greater weight, but don't explicitly acknowledge the value of digital reputation or platform ratings as transferable labour skills. As a result, it is still unclear how workers will be able to use and retain reputation data under platform-specific contractual arrangements.⁴⁴

But the UK judiciary has ensured a significant role in safeguarding gig workers. The UK Supreme Court's ruling in *Uber BV v Aslam* led to the acceptance of Uber drivers as "workers", and hence protected by statutory employment rights despite the fact that the terms agreed to between Uber and its drivers referred to them as independent contractors. The case highlighted the Court's approach of analysing the 'substance over form' doctrine of platforms engaging in work on behalf of others. While the ruling was decided on an issue other than digital reputation portability, it set a valuable precedent that digital platform operators can't contract away liability. This method can provide some insights into how platform agreements may be interpreted in India, which could further be influenced by constitutional issues, labour law principles and practical considerations of algorithmic management.

6.4 Lessons for India

Through the comparative analysis it has been shown that none of the jurisdictions have so far

⁴⁴ Blinkit Delivery Partner Terms.

expressly recognised digital reputation portability as a separate labour right. However, EU and UK have taken important steps through law, creating greater protection for workers through data rights, judicial intervention, algorithmic transparency, and oversight by the regulatory frameworks. The recent trends are part of an international trend towards recognizing platform workers' needs as the authors of information of value to their work and economic interests. While there are differences as to their extent and applications, these are all measures that acknowledge the need to reform traditional labour laws to fit the realities of the digital economy.

The experiences are comparative to the importance of shifting from a welfare regime to a rights-based approach of digital labour in India. Relevant laws and regulations should explicitly address people's rights to access, control and transfer their verified digital identity to other platforms and to guarantee transparency of algorithms and contracts. It would also fill the gap which remains in the existing legislative framework with the Digital Personal Data Protection Act, 2023 and Code on Social Security, 2020. The recognition of digital reputation portability would contribute to labour mobility, to lessening platform dependency, to reinforcing the freedom of occupation guaranteed also by the 19(1)(g) of the SDP union, and to the constitutional values of dignity and informational autonomy guaranteed by Article 21 of the SDP.⁴⁵

Suggestions and Recommendations

In light of the findings of this study, the following recommendations are proposed to strengthen the legal protection of gig workers and ensure fair governance of digital labour platforms in India:

1. **Recognise Digital Reputation as a Labour Right:** The legislature should expressly recognise digital reputation as a labour-generated intangible asset rather than treating it solely as platform-owned data. Ratings, reviews, and performance records created through a worker's skill and effort should receive legal protection.
2. **Introduce a Statutory Right to Digital Reputation Portability:** The Digital Personal Data Protection Act, 2023, or a dedicated law governing gig and platform work, should provide workers with the right to transfer their verified ratings, reviews, and

⁴⁵ Porter Driver Partner Agreement.

performance records from one platform to another without losing their accumulated professional reputation.

3. **Strengthen the Code on Social Security, 2020:** The Code should be amended to include rights relating to digital labour, including access to reputation data, portability of verified work history, protection against arbitrary account deactivation, and safeguards against algorithmic discrimination.
4. **Ensure Algorithmic Transparency and Accountability:** Digital labour platforms should be legally required to disclose the principal criteria used for worker ratings, task allocation, incentive distribution, account suspension, and automated decision-making. Workers should also be entitled to meaningful explanations and human review of significant algorithmic decisions affecting their livelihood.
5. **Provide Rights of Access, Correction, and Appeal:** Gig workers should have statutory rights to access their complete reputation profile, seek correction of inaccurate ratings or reviews, challenge malicious customer feedback, and appeal against unfair deactivation or adverse platform decisions before an independent authority.
6. **Regulate Unfair Platform Contracts:** Standard-form contracts drafted by digital platforms should be subject to statutory scrutiny to prevent unfair terms that deprive gig workers of their rights over labour-generated reputation. Contractual clauses restricting access to or transfer of reputation data should be declared unenforceable where they are arbitrary or unconscionable.
7. **Establish an Independent Regulatory Authority for Platform Work:** The Government should establish a specialised regulatory body to oversee digital labour platforms, ensure compliance with labour and data protection laws, resolve disputes relating to digital reputation, monitor algorithmic governance, and enforce workers' rights.
8. **Develop Standardised Reputation Portability Mechanisms:** The Government, in consultation with digital platforms and industry stakeholders, should formulate common technical standards enabling secure, interoperable, and authenticated transfer of workers' digital reputation across recognised platforms while maintaining data

accuracy and authenticity.

9. **Strengthen Digital Grievance Redressal Mechanisms:** Every digital labour platform should establish an independent, transparent, and time-bound grievance redressal system to address disputes concerning ratings, account suspension, algorithmic bias, and misuse of reputation-related data.
10. **Promote Awareness and Capacity Building:** Government agencies, labour departments, and digital platforms should conduct awareness programmes to educate gig workers about their rights relating to digital reputation, data protection, grievance mechanisms, and platform governance. Enhancing legal literacy will empower workers to effectively safeguard their interests within the digital economy.

These recommendations are intended to establish a balanced legal system to ensure the protection of gig workers while fostering innovation, fair competition, transparency and accountability in the fast-growing platform economy in India. They also promote equality, dignity, freedom of occupation and social justice as overall constitutional values.

Conclusion

With massive growth in gig economy, job value has been changing with rise of digital labour platforms in job generation. Within this dynamic ecosystem, digital reputation akin to customer ratings and reviews and various other hunter metrics is becoming an essential parameter to consider when evaluating a worker's employability, income and professional identity. But the existing Indian legislation like Digital Personal Data Protection Act, 2023, Code on Social Security, 2020, Information Technology Act, 2000, and Indian Contract Act, 1872 does not explicitly include digital reputation as a labour-generated asset, nor does it state any guarantee for the gig workers to get access, control, or transfer their digital reputation from one platform to another. Labour mobility is consequently often compromised, as workers time and time again lose professionally earned credibility because they have to deal with relogging. In the meantime, workers' credibility is often repeatedly undermined by relogging onto other platforms, consequently limiting labour mobility and deepening platform dependence.

In this study, I suggest that digital reputation should be considered as a new form of labour right, which stands for aspects of personal data, professional identity and economic value. The

comparative analysis reveals that there are certain gaps in the portability of digital reputation, despite the related efforts and regulations of the European Union, the United Kingdom and Australia to bolster data protection and platform governance. India is, therefore, ripe to create a forward-looking legal regime which expressly allows digital reputation portability, fosters transparency of the algorithms and protection of fair contractual practices. These changes could further improve the mobility of gig workers and their economic possibilities while reinforcing the equality, dignity, privacy and freedom of occupation enshrined in the Constitution under Articles 14, 19(1)(g) and 21, that would help in providing a more fair, just and inclusive digital labour market.

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