
GIG WORKERS' RIGHTS AND THE CORPORATE EXPLOITATION: THE PRICE OF THE CONVENIENCE

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ABSTRACT

The rise of the gig economy has significantly changed traditional employment by replacing managerial oversight with algorithmic control. While this tech-driven business model offers efficiency, flexibility, and convenience to workers, entrepreneurial freedom often comes at the cost of fundamental labor rights and protections, as employers label workers as '*independent contractors*' to avoid responsibilities toward them. This paper offers a comparative analysis of the legal and human rights implications of the gig economy in India and other countries, including the UK and the USA. It also talks about the challenges faced by gig workers. Furthermore, it examines how algorithmic management, misclassification, and the lack of a comprehensive welfare framework have exacerbated this instability. Ultimately, judicial intervention is crucial for comprehending and addressing this ongoing issue, given the absence of a clear legal framework.

INTRODUCTION

In the twenty-first century, the nature of work has undergone a significant shift. It began with industrial production lines in early society, where labor laws became essential to protect workers. Now, these app-based labor platforms have altered the contours of employment, reshaping the traditional relationships between employers and employees. The rise of the gig economy has improved operational efficiency through task-based work facilitated by online platforms like Ola, Uber, and Zomato. Although gig work is praised for its flexibility, autonomy, and the ability for workers to switch between platforms, it also represents both innovation and exploitation. This group of workers has been operating within legal and social gaps.

Globally, the International Labour Organization (ILO) defines platform work as employment “mediated through digital technologies that match workers with consumers for specific tasks.”¹ In India, the recognition in the Code on Social Security, 2020, marks an important step toward inclusivity; however, its implementation remains ineffective. Gig workers today make up a significant part of the economy, often working in insecure and unprotected conditions, lacking basic protections like minimum wages, paid leave, and health benefits, in both developed and developing countries. The vulnerabilities and shortcomings of these workers were further highlighted by the COVID-19 Pandemic. Delivery drivers, service providers, and other gig workers were praised as essential, yet most had no access to health benefits. This highlights the irony of being indispensable yet disposable².

THE CONCEPTUAL UNDERSTANDING OF THE GIG ECONOMY

The gig economy marks a fundamental shift in its administrative structure, splitting labor into distinct on-demand jobs managed through digital platforms, thus establishing a triangular relationship among the platform, the worker, and the consumer. This triangular relationship appears to be neutral, with the platform claiming it is just a technology intermediary connecting customers and service providers, and not acting as an employer in any capacity. This understanding has major legal implications, enabling businesses to exploit legal gaps to avoid

¹ International Labour Organization, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work* 2–4 (2021).

² Ulka Bhattacharyya & Soumya Jha, *Understanding Social Security for Gig Workers: Analyzing Recent Developments*, 11 NLIU L. Rev. 61, 67 (2021).

labor laws related to basic rights.³

The Algorithmic Management by Online Platforms

Algorithmic management forms the foundation of this economy, where technology functions as both employer and supervisor, assigning tasks, determining pay, evaluating performance, and even removing workers from the platform. Invisible yet consistent surveillance replaces traditional management oversight in this digital space. A worker's livelihood is essentially controlled by the platform's authority over pricing and access to work, leaving little to no bargaining power. This makes it difficult to distinguish between autonomy and dependence. Technically, workers are free to choose when to log in; however, these algorithms utilize surge pricing, bonus programs, and penalties for low acceptance rates to encourage constant availability⁴. This data-driven management model compels workers to follow the rules of these online platforms, ensuring their full availability while giving the impression of freedom. In academic terms, this is referred to as “automated subordination.”

This technological reorganization of labor raises concerns about justice and accountability, especially when decisions about pay and work assignments are made by an opaque algorithm. Traditional labor laws, which are based on clear and familiar employer control, are no longer enough to regulate this kind of supervision. Therefore, legal principles need to be re-examined to redefine the nature of employment relationships.

Beyond the Binary Classification

The main question in the debate over the gig economy is whether gig workers should be classified as employees or independent contractors. Gig workers don't fully display the independence of entrepreneurs nor the subordination typical of employees.⁵ They usually rely on a single platform and have little or no power to negotiate, being subject to standard terms of service that are unilaterally set by these platforms. This misclassification has led to legal cases worldwide over these issues. Courts across various jurisdictions have been compelled to reassess established legal standards of employment, including the control test, the integration

³ Alex J. Wood, Mark Graham & Vili Lehdonvirta, *Good Gig, Bad Gig: Autonomy and Algorithmic Control in the Global Gig Economy*, 33 Work, Emp. & Soc'y 56, 58 (2019).

⁴ Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 44 (Oxford Univ. Press 2018).

⁵ Aditi Mishra & Suyog Ghosh Dastidar, *Navigating the Challenges of the Gig Economy: A Legal Analysis of Protection to Gig Workers in India and Overseas*, 2 Int'l J.L. Mgmt. & Hum. 2183, 2189 (2023).

test, and the economic realities test.⁶

For instance, in India, the Code on Wages 2019 broadly defines ‘employee,’ while the Code on Social Security separately recognizes gig workers. This creates a distinct category separate from traditional employees.⁷ However, this dual structure poses a significant risk by establishing a two-tiered system, which limits benefits for these workers, despite being progressive in recognizing them under the new labor laws. The gig economy creates jobs in a mostly informal labor market, but it also introduces uncertainty by creating legal ambiguity. Under Articles 14, 19, and 21 of the Indian Constitution, policymakers must find a balance between social fairness and economic growth.

From a human rights perspective, the lack of basic protection standards for gig workers directly violates the decent work principle outlined in Article 7 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which guarantees equal opportunity, safe working conditions, and fair wages⁸. Similarly, under the ILO’s Declaration on Fundamental Principles and Rights at Work (1998), member countries are obligated to eliminate forced labor, discrimination, and unfair wages⁹. The gig economy model, which relies on opaque algorithms and information, conflicts directly with the responsibilities established by the convention.

THE LEGAL FRAMEWORK OF GIG WORKERS IN INDIA

India’s approach to managing the gig economy and regulating platform-based labor is still in its early stages, positioned at the intersection of welfare laws, constitutional protections, and the reality of a rapidly expanding informal economy. Unlike the Anglo-American model of classification disputes, the Indian framework seeks to offer limited social security coverage to workers who are not part of the traditional employer-employee relationship.

Statutory Framework

The Code on Social Security, 2020, marks the first effort by the Parliament to recognize ‘gig workers’ and ‘platform workers’ as separate categories of labor.¹⁰ Sections 2(35) and 2(61)

⁶ Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments, (1974) 3 SCC 498 (India).

⁷ *The Code on Wages*, No. 29 of 2019, § 2(k), India Code (2019); *Code on Social Security*, No. 36 of 2020, § 2(35), India Code (2020).

⁸ International Covenant on Economic, Social and Cultural Rights, art. 7, Dec. 16, 1966, 993 U.N.T.S. 3.

⁹ International Labour Organization, *ILO Declaration on Fundamental Principles and Rights at Work* (June 18, 1998).

¹⁰ *Code on Social Security*, No. 36 of 2020, §§ 2(35), 2(61), India Code (2020).

define these workers as individuals engaged in platform-mediated activities outside traditional employment.

The Central Government, under Chapter IX of the code, is authorized to develop social security schemes for these workers, including health benefits, maternity assistance, life insurance policies, accident insurance, and other related benefits.¹¹ Under Section 6, a National Security Board is to be established to recommend and oversee these welfare programs and maintain a centralized database. Nonetheless, a cautious legislative mindset is evident from the construction of the Code. By using wording such as “*the Government may frame schemes*,” it suggests not a mandate but discretionary power in the hands of the government, making most of the relevant clauses optional for implementation.¹² Additionally, the Government may exclude some aggregators based on turnover under section 114(7), which could allow large businesses to avoid paying taxes. This weakens enforceability and risks creating an appearance of inclusiveness without real protection.¹³

Similarly, to address these issues, many states have drafted their own legislation, such as the Karnataka Gig Workers (Conditions of Service and Welfare) Bill, 2024, which proposes providing contracts in both English and regional languages to ensure accessibility and imposes an obligation on such aggregators to ensure fair and transparent disclosure of algorithms.¹⁴ However, it still leaves ambiguity regarding compensation in the event of an accident or other mishap.

Judicial Developments and Tests of Employment

Indian jurisprudence on worker classification has traditionally relied on three main tests: the control test, the integration test, and the multi-factor test. Recently, the Supreme Court in *Dharangadhra Chemical Works Ltd. v. State of Saurashtra* ruled that the degree and level of supervision an employer exercises over a worker are key factors in determining the nature of the employment relationship.¹⁵ Likewise, in *Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments*, the Court, while recognizing the limits of the control test,

¹¹ Id. ch. IX.

¹² Id. § 114(7).

¹³ Rahul Kanna R.N., *Gig Workers: Social Security Code and Implication, an International Comparative Jurisprudence*, 3 Indian J.L. & Legal Rsch. 1, 7 (2021).

¹⁴ Karnataka Gig Workers (Conditions of Service and Welfare) Bill, 2024 (India) (draft bill pending enactment).

¹⁵ *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, A.I.R. 1957 S.C. 264 (India).

emphasized the significance of economic dependency in the context of skilled labor.¹⁶ Finally, the court clarified in *Ram Singh v. Union Territory, Chandigarh*, that deciding employment status is a factual matter that requires considering the entire relationship.¹⁷

These doctrinal tests were reexamined in light of the gig economy. The Karnataka High Court interpreted the term "employee" under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, broadly to include an Ola driver accused of misconduct in *Ms. X v. ANI Technologies Pvt. Ltd. (2019)*. The court reasoned that Ola had substantial control over its digital platform.¹⁸ This practical interpretation showed the court's willingness to look beyond contractual disguises when necessary for justice, extending statutory protection to passengers without strictly reclassifying gig workers as employees.

The ongoing writ petition, *Indian Federation of App-Based Transport Workers v. Union of India*, filed under Article 32 of the Constitution, presents a more structural challenge.¹⁹ By claiming that denying social security benefits violates Articles 14 (equality), 21 (right to livelihood and dignity), and 23 (prohibition of forced labor), the petitioners seek recognition of gig workers as "unorganized workers" under the Unorganized Workers' Social Security Act, 2008. It is expected that resolving this case will reinterpret the constitutional basis for labor protections in digital platform work.

Constitutional and Policy Context

Labour welfare and social security are included in the Concurrent List of the Seventh Schedule of the Indian Constitution, meaning both Parliament and the States can legislate on them.²⁰ The Directive Principles of State Policy, primarily Articles 38, 39, 41, and 43, mandate the State to foster a social order founded on justice, the right to work, and a minimum wage. Although non-justiciable, they are guiding principles for interpreting fundamental rights. In *People's Union for Democratic Rights v. Union of India*, the Supreme Court interpreted Article 23's prohibition of forced labour to include economic compulsion arising denial of minimal wages, thereby integrating social justice into fundamental rights.²¹ Such reasoning may also be applicable to

¹⁶ *Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments*, (1974) 3 S.C.C. 498 (India).

¹⁷ *Ram Singh v. Union Territory of Chandigarh*, (2004) 1 S.C.C. 126 (India).

¹⁸ *Ms. X v. ANI Techs. Pvt. Ltd.*, 2019 SCC OnLine Kar 682 (India).

¹⁹ *Indian Fed'n of App-Based Transport Workers v. Union of India*, W.P. (Civil) No. 1274 of 2021 (S.C. India) (pending).

²⁰ India Const. sch. VII, list III.

²¹ *People's Union for Democratic Rights v. Union of India*, (1982) 3 S.C.C. 235 (India).

gig workers who are subjected to algorithmic coercion and lack the bargaining power to counter it.

At the policy level, India appears to be grappling with the balance between promoting innovation and ensuring social justice. Official discussions often portray the gig economy as a route to entrepreneurship and economic upliftment; however, empirical studies show widespread insecurity, unpredictable earnings, and a lack of collective representation.²² The NITI Aayog's 2022 report praises the vast potential of the gig economy, downplaying its regulatory gaps and drawing criticism that the government has prioritized flexibility over fairness.²³

Assessment

India's regulatory evolution reflects a gradual shift rather than a strong focus on welfare, which is mainly needs-based. By distinguishing gig and platform workers from full-time employees, the Code on Social Security, 2020, unintentionally formalizes a dual labor market: one with enforceable rights and another based on discretionary welfare. Although the judiciary's occasional actions are progressive, they have not developed into a consistent doctrinal framework governing algorithmic control and cross-platform dependencies. Without mandatory employer contributions, open governance, and union recognition, social protection risks remaining illusory despite its potential.

THE COMPARATIVE LEGAL ANALYSIS

United Kingdom

The UK's legal system for gig work has evolved through a combination of statutory categories and robust judicial interpretation. The 1996 Employment Rights Act (ERA 1996) does not align easily with these pay definitions, although the law distinguishes between the three statuses of "employee," "worker," and "self-employed."²⁴ Maintaining an open boundary for employment regulation ensures that employees receive comprehensive protection, including fundamental rights, fair wages, and leave. The self-employed also benefit from a broad range of labor laws

²² Ulka Bhattacharyya & Soumya Jha, *Understanding Social Security for Gig Workers: Analyzing Recent Developments*, 11 NLIU L. Rev. 61, 70 (2021).

²³ NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* 9 (2022).

²⁴ *Employment Rights Act 1996*, c. 18, §§ 230–233 (U.K.).

designed to protect them. Since this section contains only basic definitions, courts have played a key role in shaping its boundaries through purposive interpretation.

Uber BV v Aslam (2021) UKSC 5²⁵ It was a landmark ruling in the field of gig economy work. Initially, the Supreme Court unanimously ruled that Uber drivers are “workers,” noting that the platform's written contractual terms often do not accurately reflect reality. Lord Leggatt noted that Uber exercised “a high degree of control” over drivers: it set fares, dictated contractual terms, restricted driver interaction with passengers, and used rating systems as de facto performance management tools. This indicated that drivers were considered to be “working” whenever they were logged into the app and available for work, including during breaks, making them eligible for the National Minimum Wage and holiday pay.

The judgment in the Deliveroo case was different.²⁶ The Court of Appeal ruled that Deliveroo riders were genuinely self-employed, as they had a right to substitution, which signaled a lack of personal service. The court declined to extend the right to collective bargaining under Article 11 of the European Convention on Human Rights because the riders’ independence outweighed signs of dependence. The differing outcomes for Uber and Deliveroo show that English law has created an intermediate category that reflects the real-life experience of algorithmic control while also respecting contractual freedom.

Platforms all over the UK started reassessing their models after Uber. Uber maintained that drivers were still considered contractors for tax purposes, despite announcing compliance measures such as paid leave and pension contributions, revealing a recurring dichotomy between labor and fiscal classifications.

United States

The most debated and fragmented landscape of gig-worker classification is found in the United States. Both federal and state governments regulate labor, resulting in standards that sometimes overlap and conflict. Only “employees,” who are broadly defined, are covered by the main federal statute, the Fair Labor Standards Act (FLSA) of 1938, but they are subject to judicially

²⁵ *Uber BV v. Aslam* [2021] UKSC 5 (U.K.).

²⁶ *The Independent Workers’ Union of Great Britain v. Central Arbitration Committee and Deliveroo UK Ltd.* [2021] EWCA Civ 952 (U.K.).

developed tests.²⁷

American jurisprudence is primarily governed by two tests. The first is the common-law control test, which focuses on the employer's authority to oversee the specifics of the job; the second is the economic-realities test, which assesses whether the worker is financially dependent on the alleged employer.²⁸ The algorithmic oversight and multi-app employment common in gig work are not well addressed by these tests, which were developed in an industrial context. The ruling in *Dynamex Operations West, Inc. v. Superior Court (2018)*²⁹ The California Supreme Court's decision marked a significant development. The Court adopted the ABC test, which presumes a worker to be an employee, unless the hiring entity can prove that (A) the worker is free from control while performing the work; (B) the work is outside the usual course of the company's business; or (C) the worker is engaged in an independently established trade. As a result, most app-based drivers were effectively categorized as employees under state wage orders due to this strict standard.

In response, the California legislature took action by passing Assembly Bill 5 (AB5) in 2019 and establishing the ABC test statewide.³⁰ Platform companies aggressively lobbied against AB5, which led to the 2020 referendum Proposition 22, designating rideshare and delivery drivers as independent contractors with limited benefits. After a lower trial court struck down Proposition 22 as unconstitutional, appellate courts reinstated the law, leaving unsecured platform workers in a state of limbo.³¹ Outside California, states chose different strategies. Massachusetts and New Jersey implemented versions of the ABC test, while Texas and Florida relied on the common-law control test. Moreover, the Department of Labor's definition of "employee" under the FLSA has evolved in response to changes in administration. In 2023, the Biden Administration is proposing a regulatory rule that returns to a broad, multi-factor "totality of the circumstances" definition, which supports employee status and demonstrates a renewed federal focus on addressing gig-worker misclassification.³²

²⁷ *Fair Labor Standards Act* of 1938, 29 U.S.C. § 203(e) (2018).

²⁸ *Nationwide Mut. Ins. Co. v. Darden*, 503 U.S. 318 (1992); *Rutherford Food Corp. v. McComb*, 331 U.S. 722 (1947).

²⁹ *Dynamex Operations W., Inc. v. Superior Ct.*, 416 P.3d 1 (Cal. 2018).

³⁰ *Assembly Bill No. 5*, 2019 Cal. Stat. Ch. 296 (USA).

³¹ *Castellanos v. State of California*, 299 Cal. Rptr. 3d 22 (Cal. Ct. App. 2023)

³² U.S. Dep't of Labor, Notice of Proposed Rulemaking: Employee or Independent Contractor Classification under the Fair Labor Standards Act, 88 Fed. Reg. 62,218 (Sept. 2023).

The framework of U.S. labor law remains a persistent obstacle to reform. The FLSA lacks a third contractual category similar to the UK's "worker" status, and unionization is limited by the National Labor Relations Act, which excludes independent contractors. The legal system and ballot initiatives will continue to shape the nature of platform work, underscoring significant political divides between labor advocates and tech companies.

Analysis

A comparison of individualist approaches across jurisdictions reveals significant differences in normative attitudes. The United States has a binary system that fluctuates between control tests and economic dependence tests, resulting in a costly, inefficient, and piecemeal litigation process. The United Kingdom has established a hybrid model recognizing "workers" as a third category of individuals entitled to certain basic rights. In contrast, India pursues a welfare-rights strategy, expanding social security benefits without changing employment status.

Each model has its compromises. The U.S. model emphasizes entrepreneurial freedom, but this comes at the expense of protections. In contrast, the U.K. model provides limited fairness, leading to inconsistent taxation and social insurance. Meanwhile, Indian welfare laws promote inclusion, although this depends on the discretion of the state. Algorithmic management remains a relatively unregulated system in all three countries. None of these systems imposes strict transparency requirements or mandates "human-in-the-loop" reviews before automating decisions, such as deactivations or pay cuts. Additionally, platform workers lack collective bargaining rights, and in the UK, such rights are legally uncertain. In the U.S., these rights are limited, and in India, they do not exist. This largely unregulated environment allows each platform to operate internationally while navigating different labor laws.

From a policy standpoint, the UK's intermediate category provides the most flexible system overall. It aligns with ILO recommendations for the "progressive formalization" of informal work while maintaining economic flexibility. India could learn from the UK by incorporating core employment protections, such as minimum wage, occupational health and safety, and the right to representation, into its social security scheme. Meanwhile, the US urgently needs federal coordination to unify its fragmented and complex classification standards with modern developments in algorithmic oversight.

Ultimately, the comparative landscape emphasizes a shared understanding: digital labor blurs

the distinction between independence and deference. To evaluate dependency, control, and vulnerability in algorithmic environments, legal systems must shift from static classifications to a more functional approach.

CONCLUSION

A comparative analysis of India, the United Kingdom, and the United States reveals that, despite differences in their legal systems, all three face a common core issue: the promise of independence in the gig economy versus deep-seated structural reliance. In the U.S., a clear lack of a middle tier is seen, exemplified by judicial opinions like *Dynamex* compared to legislative efforts such as AB5 and company initiatives like Proposition 22. The U.K., through decisions such as *Uber BV v. Aslam*, focuses less on contract details and more on platform control; however, the differing approaches in tax and labor law reveal the limits to judicial action. India's approach to recognizing gig workers through social welfare policies is a positive step; however, the Code on Social Security, 2020, will not support informal work unless the economic model shifts from discretionary benefits to enforceable rights grounded in constitutional commitments to dignity and equality.

More broadly, the gig economy exposes the limitations of traditional 20th-century ideas of work in managing algorithmic control and data-driven oversight. Classic methods of control, integration, and dependence will need to be reevaluated in a digital world, where power lies not with supervisors but with hidden algorithms and rating systems. Since gig platforms operate across borders, effective regulatory reform will also require international coordination. ILO Recommendation No. 204 offers a foundation for expanding social protections to non-standard workers, and a multilateral framework on platform work could help prevent regulatory arbitrage and elevate standards.

Ultimately, the key issue is not whether gig work exists, but rather under what conditions it continues. Protecting gig workers is a matter of policy and constitutional duty, rooted in fairness and human dignity. A hybrid approach, inspired by the U.K.'s flexible worker category, India's dedication to social protection, and the U.S.'s emphasis on innovation, provides the most practical way forward. By adding algorithmic transparency, portable benefits, and fundamental worker rights, governments can promote the growth of the digital economy while upholding the principles of equity, fairness, and human dignity that have endured for centuries.