
EXPLORING THE HUMAN RIGHTS CHALLENGES OF PLATFORM-BASED GIG WORKERS IN INDIA: A LEGAL PERSPECTIVE ON EMERGING ISSUES AND VIOLATIONS

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ABSTRACT

As the gig economy expands, the challenges faced by platform-enabled gig workers are becoming increasingly complex. This study focuses on these workers, who are hired through online platforms to provide various services. Despite the introduction of the Social Security Code, 2020, which addresses the social security needs of these workers, their human rights remain largely unprotected by existing laws. International human rights conventions offer a framework of rights for labourers, yet platform workers often lack the necessary mechanisms to address violations. This study aims to shed light on the human rights issues faced by gig workers in India and the urgent need for effective redressal mechanisms to protect their rights.

Keywords: gig workers, human rights, redressal mechanism, online platforms.

Introduction

The term “Platform Workers” often brings to mind images of food delivery partners or app-based cab drivers. Historically, the concept of food delivery through online platforms began with Pizza Hut's launch of “Pizza Net” in California in 1994. Following this, “World Wide Waiters” was introduced in 1995, aggregating around 60 restaurants in the San Francisco Bay Area for home and office deliveries. The Social Security Code, 2020, has acknowledged the existence of gig workers or platform workers. However, in 2021, the Indian Federation of App-Based Transport Workers filed a writ petition with the Supreme Court seeking recognition as unorganized workers, highlighting that the new code has not yet come into force. This delay and the absence of current statutory recognition leave these workers in a precarious position. They lack effective dispute redressal mechanisms, clarity on union formation, and are subjected to performance evaluations based on algorithmic inputs (A.I.), complicating the regulation of their employment. These issues represent significant human rights violations, as outlined by the UDHR, ICCPR, and other relevant human rights documents. The plight of platform workers underscores the need for comprehensive legal frameworks to address their unique challenges.

Global Perspective on Gig Work Rights

The International Labour Organization (ILO) has underscored the need to protect gig workers' rights across the globe. International experiences demonstrate both the urgency and the feasibility of comprehensive legal protections for gig workers. Numerous case studies from India and abroad document the struggles of gig workers. These include challenges related to pay discrepancies, lack of health coverage, and absence of grievance redress mechanisms. The use of algorithms in assigning work and evaluating performance introduces unique challenges. Algorithmic decisions often lack transparency and are difficult to appeal. Such decisions may also be biased or based on flawed data, making algorithmic governance a critical area of concern for gig worker rights. To improve conditions for gig workers, policymakers must focus on data transparency, worker representation in governance decisions, and enforceable contracts. Legal instruments should be restructured to better reflect the realities of platform work. This point further illustrates the systemic nature

Platform Workers

The term ‘Gig Workers’ and the term ‘Platform Workers’ were mentioned in the title of the

research. The first term is used in a wider sense as it points out a specific economy, whereas the second term denotes a particular worker in the gig economy. The definition of both terms is available under the Social Security Code of 2020 in India. Definitions are mentioned in the below table:

Table 1 : Definition of gig workers and platform workers.

Sl.No	Terms	Definitions
1.	Gig Worker	Performing or taking part in a work arrangement to earn money outside a traditional employer- employee relationship.
2.	Platform Worker	One organisation or individual gains access to the other through an online platform in exchange of payment. The nature is outside the traditional employer- employee relationship.

Reference: Section 2(35) & 2 (60) of Social Security Code, 2020

The distinction between gig workers and traditional employees lies in the traditional employer-employee relationship. To understand this distinction, it is essential to define what this relationship entails and how it separates gig/platform workers from employees. The Social Security Code, 2020, defines an employee as a person employed for wages to perform skilled work based on terms of employment, and an employer as someone who employs an individual in their establishment.

However, this framework does not apply to platform workers, who are hired for specific tasks via online platforms, without the presence of a traditional establishment. The definitions of gig worker and platform worker omit terms such as employment, employee, and wages, emphasizing instead that their work exists "Outside of Traditional Employment." This phrase captures the essence of gig/platform workers and sets them apart from conventional employees, though the distinction can sometimes blur.

Julius Cesar Trajano refers to this as 'Invisible Work,' as it occurs outside a formal establishment. Various terms such as 'Sharing Economy,' 'Crowd Employment,' and 'Crowd Sourcing' are used to describe these workers. According to a Eurofound report, the nature of platform work includes:

- The work is paid and has been organised through an online platform;
- The three main parties are the client, the worker, and the online platform.
- Aim: Carrying out specific work or solving specific problems
- Broken down tasks and the service provided on demand.

From a human rights perspective, it is crucial to analyse these definitions further. A recurring issue is that platform workers are often remembered only for their completed tasks and forgotten afterward, failing to acknowledge their humanity and rights.

Human Rights Violation

Being forgotten workers puts them in a difficult position to fight for their human rights, and they are the forgotten hands of the economy not invisible hands. The concept of human rights, rooted in international law, necessitates referencing key international legal instruments. The UN Charter's preamble highlights the global commitment to human rights, with Article 1 emphasizing the Charter's purpose to uphold equal rights for all. As platform workers continue to emerge in the modern workforce, it is crucial to ensure their human rights are protected. Several risks to these rights have been identified:

- **Inadequate Income and Poor Working Conditions:** Platform workers often face financial instability and substandard working environments.
- **Surveillance through Artificial Intelligence:** Algorithmic management and mediation of work raise significant privacy concerns.
- **Lack of Social Security:** An essential need for workers, both currently and in the future, is absent for many platform workers.

- **Ineffective Remedy and Grievance Redressal Mechanisms:** The absence of effective systems for addressing grievances and providing remedies is a major concern.

These risks highlight the urgent need for comprehensive protections to safeguard the rights of platform workers.

Table 2: Human Rights Violations

Sl. No	Categories	HR Violations
1.	Income and Working Conditions	<ul style="list-style-type: none"> • Standard of Living- UDHR Article 25 • Just and favorable working conditions- ICESCR Article 7
2.	Surveillance of Workers	<ul style="list-style-type: none"> • Privacy : UDHR Article 12 & ICCPR Art 17
3.	Social security	<ul style="list-style-type: none"> • Social security: ICESCR Article 9
4.	Grievance Recovery Mechanism	<ul style="list-style-type: none"> • Effective remedy: UDHR Article 2 and ICCPR Art. 8

Source: Artificial Intelligence and its Potential Impact on Human Rights in India

Two real-life stories of platform workers need to be mentioned, which is extracted from the report.

- The First Story is about the experience of a male Uber Driver in Kochi: "...While we can turn it [the Uber app] on and off whenever we want, there will not be any benefit for us if we turn it off like that. Because this has to be running continuously.... In the morning, when there is a trip, it will be 5 km away, and the actual journey will be 4 km. But they don't give us cash for the total 9 km; they only pay for the 4 km. We can only make up for this if we drive till the evening. On one trip or the other, we might get an extra fare, and only then will we get some benefit. So, if we stop in the middle, it is

over then and there. We have to work till the evening. We are trapped in it like this, it is just like going to an office. We cannot leave whenever we want. Many people have come into this, expecting that there is no one to control us, but in reality, there is control in the background.”[15] The entire platform work has promised the flexibility of time, however in reality it seems to be affecting worker’s lives compared to normal clerical jobs, where at least there is a guarantee for approaching any redressal mechanisms.

- ii. The second story is about the experience of a Swiggy Deliver Worker in Delhi: “A customer from her balcony was once shouting at me unnecessarily while using several abusive words. And a large part of that was directed toward my religion as a Muslim. Everyone in the neighbourhood could hear her. I felt helpless ... I was hesitant to complain because I was fearful of further discrimination. Many such instances happen regularly, and I have learned to act oblivious to them in order to keep working”. Faizal also mentioned how sometimes customers asked him to get off-the-app items while delivering their orders, even if he does not want to, as some of these are against his beliefs. “I am asked to get several things, sometimes pork and alcohol.”[16]

Artificial Intelligence (AI) & Human Rights Implementation

The International Bill of Human Rights guarantees a broad spectrum of rights. However, platform workers face significant barriers in enforcing these rights. Numerous studies and reports indicate that the use of Artificial Intelligence (AI) in monitoring work poses a substantial obstacle to protecting the human rights of these workers. AI's intervention in supervising tasks has led to various human rights infringements. Although hearsay is not considered valid evidence in legal contexts, as established by law, platform workers often endure challenging conditions due to such hearsay. Despite being transient, information gleaned from peers, news sources, riders, or customers influences workers' decisions, career paths, and future plans, functioning similarly to algorithmic gossip.

In the 1975 case of *Raj Narain v. State of UP*, the Supreme Court of India ruled that the right to information is a fundamental right under Article 19(1), which guarantees freedom of speech. This means that citizens have both the freedom to express themselves and the right to access information. However, platform workers monitored by AI are often denied this right to know, as platforms can claim confidentiality as a defence.

The flow of work within these online platforms can be summarized as follows:

Users	Algorithm	Workers
i. Requesting service (Delivery /Personal) ii. Rating the service	i. Allocates the work as requested by the users ii. Determines the quality of service by the rating of the user. iii. No transparency of its functioning to workers.	i. Workers perform the task without any question

Platform workers face severe privacy violations as AI constantly monitors their activities, Instances of this surveillance invading their privacy include:

1. **Geographical Limits:** If a delivery partner strays from their assigned area, they are immediately logged out and required to explain their actions to supervisors before being allowed to log back in.
2. **Peak Hour Pressures:** During busy periods like lunch or dinner, idle workers are compelled to accept orders promptly. Failure to comply can result in their ID being blocked.
3. **Holiday Restrictions:** Platforms often prohibit workers from taking time off on Fridays, Saturdays, and Sundays due to high demand. Violating this can lead to their ID being suspended.
4. **Forced Logging In:** Workers who haven't logged in are pressured by managers to do so if there aren't enough partners available for deliveries. This coercion persists through repeated calls from management.

These practices demonstrate a significant disregard for worker privacy and autonomy, contradicting the perceived flexibility promised by these jobs.

In India the most popular forms of online platform workers are delivery partners, car drivers

and ride sharers. There are also kinds of platform work where cross-border tasks are done. The biggest issues with such work are that recourse to any disputes. Because the cross-border deals with the question of jurisdiction. All jobs have issues, but online platform jobs have issues without any institution to resolve the issue.

Conclusion & Suggestion

Labour Law is the mother of Human Rights because the aspect has evolved when people were exploited as slaves. Once after evolved, it is not right to go back to the early stage, but it is happening in the case of platform workers. This is innovative way of slavery as they have been facing quite amount of exploitation. Secondly, industrial labourers have union, but these platform workers? It is not clear whether these workers are invisible or ignored to be visible. It has been recorded nearly 7.7 million workers have been engaged in gig workforce in 2020, and can hike up to 23.5 million by 2029-30. As per the PLFS, around 39.7% of male and 38.5% female were engaged in self-employment in a week during January – March 2023. Human Rights can be guaranteed only when there is recognition, and international documents on Human Rights ensure the same that being recognised is a Human Right. It is not right for these workers to be ignored until the new code comes to force. The judgement of UKSC in the case of Uber BV and others v Aslam and others needs to be considered as it has been observed that these workers do have nature of employer-employee relation.

The one solution possibly to prevent human rights violation in this sector could be introducing a redressal mechanism for grievances so that workers could resolve their griefs. As violations and problems are inevitable, a proper redressal mechanism can solve their issues. It can also put a check on those intermediaries not to violate human rights per se. The State of Rajasthan has taken an initiative of bringing a legislation recognising the rights of “Platform Based Gig Workers”. The name of the bill is The Rajasthan Platform Based Gig Workers (Registration and Welfare) Bill, 2023. The Bill has various provisions which are addressing issues analysed above. Therefore, the Government shall consider making the Bill applicable to all over India.