CRIMINAL LIABILITY OF CORPORATIONS FOR LABOUR EXPLOITATION IN THE GIG AND PLATFORM ECONOMY: A SOCIO-LEGAL ANALYSIS IN INDIA

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ABSTRACT

The rapid expansion of the gig and platform economy has transformed traditional labour relationships, creating new opportunities for flexible employment while simultaneously exposing workers to significant vulnerabilities. In India, digital platforms such as Uber and Swiggy operate on business models that classify workers as independent contractors, thereby limiting the applicability of conventional labour protections. This paper critically examines the issue of labour exploitation within the gig economy through the lens of corporate criminal liability, with a particular focus on the evolving framework under the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Sakshya Adhiniyam, 2023. It explores whether exploitative practices such as wage suppression, unsafe working conditions and algorithmic control can attract criminal liability for corporations and their managerial personnel. The study adopts a socio-legal approach to analyse the intersection of labour law, business law and criminal law in addressing gig worker exploitation. It highlights the challenges in establishing an employer–employee relationship, the difficulties in attributing mens rea to corporate entities and the evidentiary complexities associated with digital platforms. The paper further evaluates the adequacy of existing labour protections under the Code on Social Security, 2020 and identifies critical gaps in enforcement mechanisms. By drawing on comparative perspectives and emerging judicial trends, the study argues for a more integrated legal framework that strengthens accountability and ensures effective protection of gig workers. It concludes by proposing reforms aimed at aligning corporate practices with constitutional values of dignity, equality and social justice in the digital economy.

Keywords: Gig Economy; Corporate Criminal Liability; Labour Exploitation; Platform Workers; Digital Evidence.

INTRODUCTION

The rapid growth of the gig and platform economy has fundamentally altered the nature of work in India, creating flexible earning opportunities while simultaneously raising serious concerns about labour exploitation and legal accountability. Digital platforms such as Uber and Swiggy have redefined employment relationships by classifying workers as independent contractors rather than employees, thereby limiting the application of traditional labour protections. This shift has enabled corporations to operate with reduced regulatory obligations while exercising significant control over workers through algorithmic management, performance ratings and incentive structures. As a result, gig workers often face issues such as wage insecurity, absence of social security benefits, long working hours and unsafe working conditions, which collectively point toward forms of labour exploitation within a modern digital framework. While labour laws such as the Code on Social Security, 2020 attempt to recognize gig and platform workers, enforcement gaps and lack of clarity in legal status continue to undermine their effectiveness. From a criminal law perspective, the introduction of new statutes such as the Bharatiya Nyaya Sanhita, 2023 marks a significant development in addressing corporate misconduct, raising important questions about whether exploitative practices in the gig economy can attract criminal liability for corporations and their officers. Additionally, procedural and evidentiary aspects under the Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Sakshya Adhiniyam, 2023 introduce new dimensions in proving offences involving digital platforms, including the use of electronic records and platform data as evidence. In this context, the intersection of labour law, business law and criminal law becomes crucial in examining whether the existing legal framework is capable of addressing the realities of gig worker exploitation. Therefore, this study seeks to critically analyse the emerging concept of corporate criminal liability in the gig economy and evaluate the need for a comprehensive and integrated legal approach to ensure accountability, fairness and protection of workers' rights in India's evolving digital labour landscape.

CONCEPT AND NATURE OF GIG ECONOMY AND LABOUR EXPLOITATION

The gig economy represents a transformative shift in labour markets, characterized by short-term, flexible and task-based work arrangements facilitated primarily through digital platforms. Unlike traditional employment structures, gig work operates on a decentralized model where individuals provide services on demand without long-term contractual obligations. While this model offers flexibility and accessibility, it also raises serious concerns regarding labour exploitation, particularly due to the absence of formal employment protections. In India, the expansion of platform-based services such as ride-hailing and food delivery has intensified debates around worker rights, legal classification and corporate accountability. The lack of a clear employer–employee relationship often allows companies to bypass statutory obligations under labour laws, thereby exposing workers to economic insecurity and precarious working conditions. Understanding the conceptual framework of the gig economy and the nature of labour exploitation within it is essential to evaluate the adequacy of existing legal protections, including those under the Code on Social Security, 2020 and emerging criminal law frameworks like the Bharatiya Nyaya Sanhita, 2023.

2.1 Meaning and Structure of Gig Economy

The gig economy refers to a labour market system in which individuals engage in temporary, flexible and task-based work rather than traditional full-time employment. Workers, commonly referred to as "gig workers," perform services on a per-task or per-assignment basis, often mediated through digital platforms. This model is built on three key components: the service provider (worker), the platform (intermediary) and the consumer. The structure of the gig economy is largely platform-driven, where companies act as aggregators connecting service providers with customers. These platforms typically do not employ workers directly but instead classify them as independent contractors. This classification allows companies to avoid obligations such as minimum wage payments, social security contributions and employee benefits.

The Code on Social Security, 2020 provides a statutory definition of "gig workers" and "platform workers," marking a significant step toward recognizing this emerging category. However, the law stops short of granting them full labour rights, thereby maintaining a distinction between gig workers and traditional employees. This structural framework, while innovative, creates a legal grey area that facilitates flexibility for businesses but often results in reduced protection for workers.

2.2 Nature of Platform-Based Work

Platform-based work is characterized by the use of digital applications and algorithms to allocate tasks, monitor performance and determine compensation. Companies such as Uber and

Zomato exemplify this model, where workers rely on mobile applications to receive work assignments and interact with customers.

A defining feature of platform-based work is "algorithmic management," where decisions regarding work allocation, pricing and performance evaluation are made by automated systems rather than human supervisors. Workers are often subject to rating systems, incentive structures and penalties that are controlled by the platform. While this system enhances efficiency and scalability, it also limits worker autonomy and creates dependency on the platform.

From a legal perspective, platform-based work challenges traditional notions of employment, as the level of control exercised by platforms resembles that of an employer, even though workers are classified as independent contractors. This duality complicates the application of labour laws and raises questions about accountability and regulatory oversight.

2.3 Concept of Labour Exploitation in Informal Sector

Labour exploitation in the gig economy can be understood within the broader context of the informal sector, where workers lack formal contracts, job security and social protection. Exploitation occurs when workers are subjected to unfair conditions, including low wages, excessive working hours, lack of safety measures and absence of legal remedies. In India, constitutional provisions such as Article 23[1] prohibit forced labour and exploitation, while labour laws aim to ensure fair wages and working conditions. However, gig workers often fall outside the scope of these protections due to their ambiguous legal status. This results in a situation where workers bear the risks of employment without enjoying its benefits.

The judiciary has historically recognized the importance of protecting workers from exploitation. In **Bandhua Mukti Morcha v. Union of India**[2], the Supreme Court held that the need to eliminate exploitative labour practices and uphold the dignity of workers. Although this case dealt with bonded labour, its principles are relevant to the gig economy, where economic compulsion may force workers to accept unfavourable conditions. Labour exploitation in the gig economy is therefore not always overt but often manifests in subtle forms, such as unpredictable income, lack of bargaining power and dependence on platform algorithms. Addressing these issues requires a re-evaluation of legal definitions and protections

[1] Article 23 under Indian Constitution https://share.google/z0Vfl6fHreE8HU6G0
[2] Bandhua Mukti Morcha v. Union of India (1984) 3 SCC 161

to ensure that gig workers are not excluded from labour welfare measures.

2.4 Misclassification of Workers and Legal Consequences

Misclassification of workers is a central issue in the gig economy, where individuals who function as employees are labelled as independent contractors. This classification has significant legal consequences, as it determines the applicability of labour laws, tax obligations and social security benefits. By classifying workers as independent contractors, companies avoid responsibilities such as providing minimum wages, health insurance and retirement benefits. This practice not only undermines worker rights but also creates an uneven playing field in the labour market. The Code on Social Security, 2020[3] attempts to address this issue by introducing categories for gig and platform workers, but it does not fully resolve the problem of misclassification.

From a criminal law perspective, misclassification may give rise to liability under the Bharatiya Nyaya Sanhita, 2023 if it involves elements of deception, fraud, or exploitation. For instance, if a company deliberately misrepresents the nature of employment to avoid legal obligations, it could potentially attract provisions related to cheating or unfair practices. The courts have also examined the issue of employment classification in various contexts. In **Hussainbhai v. Alath Factory Thezhilali Union[4]**, the Supreme Court held that the true nature of employment must be determined based on the degree of control and economic dependence, rather than formal contractual terms. This principle is highly relevant to gig work, where the reality of control exercised by platforms may justify reclassification of workers as employees.

In the misclassification of gig workers not only deprives them of legal protections but also raises serious questions about corporate accountability and compliance with labour and criminal laws.

Corporate Structure and Business Models in the Gig Economy

The corporate architecture of the gig economy departs from conventional employer–employee models and is built around platform-centric, asset-light enterprises that intermediate between service providers and consumers. These firms leverage technology, data analytics and network

[3] Code on Social Security, 2020 https://share.google/HhZhT5DRSlT5U1DwW
[4] Hussainbhai v. Alath Factory Thezhilali Union (1978) 4 SCC 257

effects to scale rapidly while minimizing fixed labour costs. By structuring relationships through standard-form contracts and classifying workers as independent contractors, companies shift operational risks such as demand fluctuations, asset maintenance and downtime onto workers. This model has important implications for labour protection, corporate governance and legal accountability. While it enables efficiency and innovation, it also creates asymmetries in bargaining power and obscures responsibility for labour conditions. Indian company law especially directors' duties under the Companies Act, 2013 and emerging criminal law norms under the Bharatiya Nyaya Sanhita, 2023 provide a framework to assess whether such business models align with statutory obligations and broader standards of fairness.

3.1 Role of Digital Platforms

Digital platforms in the gig economy typically operate on an "aggregator model," where the company provides a technological interface that connects service providers with customers without formally employing those providers. Platforms like Uber and Zomato exemplify this structure. They control key aspects of the transaction pricing algorithms, customer allocation, quality standards and payment processing while contractually describing themselves as intermediaries. Legally, this model creates a duality: operational control resembles that of an employer, but contractual terms deny such status. Indian jurisprudence has looked beyond form to substance in determining relationships. In **Workmen of Nilgiri Cooperative Marketing Society Ltd. v. State of Tamil Nadu**[5], the Supreme Court held that factors such as supervision, control and integration into the business are relevant in identifying employment relationships. Applied to platform work, extensive algorithmic control and dependency may indicate a level of control inconsistent with pure intermediation. The aggregator model thus raises regulatory concerns about whether platforms should bear obligations akin to employers under labour and corporate law.

3.2 Profit Maximisation vs Worker Welfare

A defining feature of gig platforms is the prioritization of rapid growth and profit maximization, often achieved by optimizing costs through flexible labour arrangements. Dynamic pricing, incentive structures and commission-based earnings are designed to

[5] Workmen of Nilgiri Cooperative Marketing Society Ltd. v. State of Tamil Nadu (2004) 3 SCC 514

maximize platform efficiency and revenue. However, these mechanisms can lead to income volatility, long working hours and pressure to meet algorithmically set targets, affecting worker welfare.

Under Section 166 of the Companies Act, 2013[6], directors are required to act in good faith and in the best interests of the company, its employees, shareholders and the community. This provision suggests that corporate decision-making must balance profitability with stakeholder welfare. Excessive focus on cost minimization at the expense of fair wages or safe conditions may be inconsistent with these duties. In **Municipal Corporation of Delhi v. Female Workers**[7], the Supreme Court says the need to extend welfare protections even to non-regular workers, reflecting a broader constitutional commitment to dignity and social justice. The tension between profit and welfare in gig models therefore raises questions about whether current practices adequately reflect statutory and constitutional values.

3.3 Corporate Governance Failures

Corporate governance in gig platforms is often criticized for insufficient oversight of labour practices and opaque decision-making systems. Key decisions such as fare determination, deactivation of workers and allocation of work are driven by algorithms that may not be transparent or easily challengeable. Boards of directors and senior management may rely heavily on these systems without ensuring adequate checks, audits, or grievance redressal mechanisms.

The Companies Act, 2013 mandates transparency, accountability and responsible management. Failure to supervise critical operational systems, including AI-driven tools, can amount to a breach of directors' duty of care. In **Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan**[8], the Supreme Court emphasized that directors must exercise their powers in a manner consistent with fairness and the company's best interests and not in a way that is oppressive or prejudicial. Translated to the gig context, governance failures may arise where platforms ignore systemic issues like arbitrary deactivations, biased rating systems, or unsafe working conditions. Effective governance would require internal audits of algorithms,

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[6] Section 166 of the Companies Act, 2013 https://share.google/IjwuNvIEmlI9IHLdP
[7] Municipal Corporation of Delhi v. Female Workers (Muster Roll) (2000) 3 SCC 224
[8] Dale & Carrington Investment (P) Ltd. v. P.K. Prathapan (2005) 1 SCC 212

transparent policies and accessible dispute-resolution mechanisms.

3.4 Liability of Corporations in Labour Relations

The question of corporate liability in gig labour relations is complex due to the contractual classification of workers as independent contractors. Nonetheless, Indian law recognizes that corporations can be held accountable for acts carried out within their business operations. The doctrine of vicarious liability and principles of corporate criminal responsibility can extend to situations where corporate policies or systems contribute to unlawful outcomes. Under the Bharatiya Nyaya Sanhita, 2023, corporate entities may face liability for offences involving negligence, cheating, or acts endangering life if such outcomes are linked to their operations or management decisions. Additionally, obligations relating to worker welfare under the Code on Social Security, 2020 indicate a growing legislative intent to bring platform workers within a protective net, even if not fully equated with employees.

Judicially, corporate liability has been affirmed in contexts where organizational acts result in harm. In **Standard Chartered Bank v. Directorate of Enforcement**[9], the Supreme Court recognized that companies can be prosecuted for criminal offences and subjected to penalties. In the gig economy, this principle suggests that platforms cannot avoid liability merely by structuring relationships contractually; if their systems or policies contribute to exploitative or unsafe conditions, legal responsibility may still arise.

In the corporate structures and business models of gig platforms, while innovative, create significant legal and governance challenges. Addressing these requires aligning business practices with statutory duties, strengthening oversight and ensuring that corporate accountability extends to the realities of platform-based labour.

LABOUR LAW PERSPECTIVE ON GIG WORKER EXPLOITATION

The rise of the gig economy has exposed a structural gap in India’s labour law regime, which was historically designed for clear employer and employee relationships. Gig workers engaged through apps and short-term tasks often fall outside traditional definitions of “employee” or “workman,” limiting their access to statutory protections. While recent labour codes acknowledge gig and platform work, enforcement and coverage remain uneven. This section

[9] Standard Chartered Bank v. Directorate of Enforcement (2005) 4 SCC 530

examines how far existing labour laws apply to gig workers, the scope of their statutory rights and the persistent issues of wage insecurity, social protection and workplace safety. It also evaluates whether current provisions adequately address exploitation in platform-based work.

4.1 Applicability of Labour Laws to Gig Workers

A core challenge is whether labour laws extend to gig workers at all. Most legacy protections hinge on an employer–employee nexus, typically assessed through tests of control, supervision and economic dependence. Platform companies often classify workers as independent contractors, thereby avoiding obligations relating to wages, benefits and job security.

The Code on Social Security, 2020 is the first Indian statute to formally recognize "gig workers" and "platform workers." However, it stops short of granting them the full bundle of employee rights, creating a hybrid category with limited entitlements. Courts have historically looked beyond contractual labels to determine the real nature of relationships. In **Dharangadhra Chemical Works Ltd. v. State of Saurashtra**[10], the Supreme Court held that the "control test" in identifying employment. Applied to gig work where platforms control pricing, allocation and performance metrics this reasoning suggests that a purely contractual classification may not reflect reality. Despite this, the absence of explicit statutory inclusion means many protections remain inaccessible in practice.

4.2 Rights under Labour Codes

a) Code on Wages, 2019[11]

The Code on Wages, 2019 consolidates laws on minimum wages, payment of wages and equal remuneration. It mandates that employers pay at least the notified minimum wage and ensures timely payment without unauthorized deductions. However, gig workers are generally not treated as "employees" under the Code unless a reclassification occurs, which limits direct applicability. In substance, gig workers often earn through dynamic pricing and incentives, leading to unpredictable incomes that may fall below minimum wage thresholds if working time, expenses (fuel, maintenance) and downtime are accounted for. While the Code's principles fair remuneration and non-discrimination are relevant, their enforceability for gig

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[10] Dharangadhra Chemical Works Ltd. v. State of Saurashtra (1957) SCR 152
[11] Code on Wages, 2019 https://share.google/aY0uQs0Mm9D88f5Nj

workers remains weak without a clear legal status. Extending minimum wage floors or creating sector-specific standards for platform work would bridge this gap.

b) Code on Social Security, 2020[12]

The Code on Social Security, 2020 marks a significant step by recognizing gig and platform workers and enabling the creation of welfare schemes relating to life and disability cover, health and maternity benefits and old-age protection. It contemplates funding through a combination of government support and platform contributions. However, the framework is largely enabling rather than mandatory, with benefits dependent on scheme notification and implementation. Coverage is not universal and contributions, eligibility criteria and benefit levels remain uncertain across states and sectors. Consequently, while the Code signals legislative intent, its impact on ground-level protection is still evolving.

4.3 Issues of Wage Insecurity and Social Protection

Gig workers commonly face income volatility due to fluctuating demand, algorithmic pricing and incentive-linked earnings. Unlike salaried employees, they bear operational costs and risks, including fuel, vehicle maintenance and unpaid waiting time. This leads to effective earnings that can be inconsistent and, at times, inadequate for a basic standard of living. From a constitutional perspective, livelihood and dignity are integral to the right to life under Article 21[13]. In **Olga Tellis v. Bombay Municipal Corporation[14]**, the Supreme Court recognized the right to livelihood as part of the right to life. Translating this to gig work, persistent wage insecurity and lack of safety nets can undermine this right. Social protection is equally limited. While the Code on Social Security, 2020 provides a framework for welfare schemes, many gig workers lack effective access to health insurance, accident cover, or retirement benefits. The absence of portability and uniform standards across platforms further fragments protection. Strengthening mandatory contributions, ensuring portability of benefits and setting minimum income benchmarks are essential to reduce exploitation.

4.4 Occupational Safety and Working Conditions

Gig work involves significant occupational risks road accidents for delivery and ride-hailing

[12] Code on Social Security, 2020 https://share.google/HhZhT5DRSlT5U1DwW
[13] Article 21 https://share.google/z0Vfl6fHreE8HU6G0
[14] Olga Tellis v. Bombay Municipal Corporation (1985) 3 SCC 5455

workers, exposure to adverse weather, long hours and fatigue. Yet, formal safety standards and employer obligations are often unclear due to the independent contractor classification. The Occupational Safety, Health and Working Conditions Code, 2020 aims to regulate workplace safety across sectors, but its direct application to gig workers is limited. In practice, platforms may provide limited insurance or safety guidelines, but these measures are not uniformly regulated or enforced.

Judicially, the importance of humane working conditions has been emphasized in **People's Union for Democratic Rights v. Union of India**[15], where the Supreme Court underscored that labour protections are integral to constitutional guarantees. Extending this reasoning, gig workers should not be excluded from basic safety standards merely due to contractual labels. To address these gaps, there is a need for clear statutory obligations on platforms to ensure safety such as mandatory accident insurance, caps on working hours through app design, emergency support systems and transparent deactivation policies. Embedding safety-by-design in platform algorithms, coupled with enforceable legal standards, would significantly improve working conditions.

In while recent labour codes acknowledge gig work, their partial coverage and weak enforcement leave significant protection gaps. Bridging these requires clearer worker classification, enforceable wage and safety standards and robust, portable social security mechanisms tailored to the realities of platform-based work.

CRIMINAL LIABILITY FRAMEWORK UNDER NEW CRIMINAL LAWS

The overhaul of India's criminal law architecture through the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Sakshya Adhiniyam, 2023 has significant implications for addressing labour exploitation in the gig and platform economy. These statutes modernize substantive offences, streamline procedures and expand recognition of digital evidence features that are crucial where exploitation is mediated through apps, algorithms and platform-controlled workflows. Although none of these laws is exclusively tailored to gig work, they collectively enable the prosecution of corporate misconduct where exploitative practices amount to coercion, deception, negligence, or organized wrongdoing. The key challenge lies in mapping platform conduct often structured through contracts and

[15] People's Union for Democratic Rights v. Union of India (1982) 3 SCC 235

code onto established criminal doctrines such as mens rea, vicarious liability and proof beyond reasonable doubt. This section analyses the contours of corporate criminal liability, identifies offences relevant to labour exploitation and examines procedural and evidentiary dimensions under the new regime.

5.1 Corporate Criminal Liability under the Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 (BNS) retains and refines the principle that juristic persons can be held criminally liable for acts committed in the course of business. While a corporation lacks physical existence, liability is attributed through the acts and intent of its directing minds and responsible officers. This is particularly relevant in platform enterprises where policies, algorithms and incentive structures are centrally designed.

Corporate liability under the BNS can arise where offences are committed with the knowledge, consent, or neglect of those in charge of the company's affairs. In gig contexts, decisions about pricing, penalties, deactivation and workload allocation are embedded in platform design; if such systems foreseeably result in unlawful harm or coercion, liability may attach to the company and its key managerial personnel. The doctrine of attribution ensures that culpable intent (mens rea) can be inferred from systemic design choices, internal communications and governance failures.

Indian jurisprudence has affirmed corporate criminal liability even for serious offences. In **Iridium India Telecom Ltd. v. Motorola Inc.**[16], the Supreme Court held that a company can be prosecuted where the requisite intent can be attributed through its officers. Applied to gig platforms, this means that deliberate design of exploitative practices—such as deceptive earnings representations or coercive penalties—can ground criminal liability, subject to proof.

5.2 Offences Relevant to Labour Exploitation

(a) Forced Labour–Like Conditions

Although gig workers are not formally bound, certain platform practices may approximate coercive conditions economic compulsion, punitive deactivation, opaque penalties and pressure to meet algorithmic targets. The BNS criminalizes unlawful compulsion and practices

[16] Iridium India Telecom Ltd. v. Motorola Inc. (2011) 1 SCC 74

that resemble forced labour in substance, especially where consent is vitiated by coercion or deception. The constitutional backdrop is Article 23, which prohibits forced labour in all forms. In **People's Union for Democratic Rights v. Union of India (1982) 3 SCC 235**, the Supreme Court held that labour extracted under economic compulsion can fall within the ambit of forced labour. In a platform setting, if workers are compelled to accept unfavourable conditions due to algorithmic pressure or lack of alternatives, such practices may invite scrutiny under BNS provisions addressing coercion or unlawful compulsion, depending on facts and proof.

(b) Cheating, Exploitation and Negligence[17]

The BNS continues to criminalize cheating and dishonest inducement, which may be relevant where platforms misrepresent earning potential, costs, or terms of engagement. If workers are induced to join or continue under false pretences such as inflated income projections or concealed deductions liability for cheating may arise. Negligence-based offences are also significant. Platform design that disregards foreseeable risks such as unsafe delivery timelines, fatigue-inducing incentives, or lack of safety safeguards can amount to criminal negligence where harm results. The threshold requires proof that the conduct was grossly negligent or reckless. The Supreme Court in **Jacob Mathew v. State of Punjab**[18] clarified that criminal negligence involves a high degree of negligence amounting to recklessness. In the gig context, persistent disregard of safety risks in platform policies could meet this threshold if causally linked to harm (e.g., accidents due to unrealistic delivery windows).

(c) Organized Corporate Misconduct

Where exploitative practices are systematic embedded across regions and enforced through centralized systems they may be characterized as organized corporate misconduct. The BNS addresses organized wrongdoing through enhanced penalties and recognition of coordinated unlawful activity. For gig platforms, evidence of standardized policies that produce widespread harm uniform penalty systems, coordinated suppression of earnings, or systemic safety violations may support a finding of organized misconduct. Corporate liability can extend to senior management if knowledge or willful blindness is established. The challenge lies in proving the organizational nexus and intent, often through internal documents, audit trails and

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[17] Cheating, Exploitation and Negligence https://share.google/YU6LuJfFbHB8AkAe6
[18] Jacob Mathew v. State of Punjab (2005) 6 SCC 1

consistent patterns of conduct.

5.3 Procedural Aspects under the Bharatiya Nagarik Suraksha Sanhita, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) modernizes criminal procedure, with provisions particularly relevant to technology-mediated offences.

(a) Investigation

The BNSS strengthens investigative tools, including the use of electronic records, digital forensics and coordination with cyber units. In cases involving gig platforms, investigations may require collection of app data, server logs, algorithmic parameters and communications between the company and workers. The ability to secure, preserve and analyze such data is central to establishing intent, causation and scale. Investigators may also rely on expert analysis to interpret algorithmic decision-making and its impact on workers. This is crucial where harm arises from complex system design rather than a single overt act.

(b) FIR and Digital Complaints

The BNSS facilitates the filing of First Information Reports (FIRs) through electronic means, improving access to justice for gig workers who may be geographically dispersed or constrained by work schedules. E-complaints, online registration and standardized formats can lower barriers to reporting exploitation. In addition, digital acknowledgments and tracking of complaints enhance transparency and accountability in the registration process. This is particularly important in cases where multiple workers across locations experience similar grievances, enabling aggregation of complaints and identification of systemic issues.

(c) Trial Process

The BNSS introduces procedural efficiencies, including the use of electronic records in trial, streamlined summons and time-bound processes in certain categories. Courts can examine digital evidence, allow video conferencing for witnesses and rely on certified electronic records. For gig-related offences, trials may involve complex evidence data analytics, expert testimony on algorithms and large volumes of electronic records. Procedural flexibility under the BNSS aids in managing such complexity, though effective adjudication still depends on judicial capacity and technical expertise.

5.4 Evidentiary Challenges under the Bharatiya Sakshya Adhiniyam, 2023

The Bharatiya Sakshya Adhiniyam, 2023 (BSA) modernizes evidentiary rules, with a strong focus on electronic evidence central to cases involving digital platforms.

(a) Digital Evidence

The BSA recognizes electronic records as primary evidence subject to conditions of authenticity and integrity. This includes server logs, databases, emails and app-generated records. Proper certification and adherence to procedural safeguards are essential to ensure admissibility. The Supreme Court in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal**[19] clarified the mandatory nature of certification for electronic evidence under the earlier regime; the BSA continues to emphasize authenticity and reliability. For gig cases, compliance with certification requirements is crucial to avoid exclusion of key evidence.

(b) Platform Data (Apps, GPS, Logs, Emails)

Platform-generated data is often the most probative evidence in gig-related prosecutions. This includes:

1. **App data**: task allocation, acceptance/rejection rates, deactivation records
2. **GPS logs**: routes, delivery times, speed and location histories
3. **Transaction records**: fares, commissions, deductions and incentives
4. **Communications**: emails, in-app messages, policy updates and notices

Such data can establish patterns of conduct, demonstrate control and link corporate policies to outcomes. However, challenges arise in accessing proprietary systems, ensuring data completeness and preventing tampering. Chain of custody, audit trails and expert validation become critical.

Another difficulty is interpretability: algorithmic outputs may not be self-explanatory. Courts may need expert testimony to understand how inputs translate into decisions and whether those

[19] Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal (2020) 7 SCC 1

decisions foreseeably caused harm. The BSA's acceptance of expert evidence supports this, but effective use depends on the quality of expert analysis and judicial appreciation of technical material.

The new criminal law framework equips Indian courts and investigators with stronger tools to address labour exploitation in the gig economy, particularly through recognition of corporate liability, enhanced procedures and robust treatment of digital evidence. Nonetheless, practical enforcement hinges on the ability to attribute intent within complex organizational systems, access and interpret platform data and apply traditional doctrines to novel technological contexts. Clear prosecutorial strategies, specialized investigative capacity and evolving judicial standards will be essential to translate these statutory advances into meaningful accountability for corporate misconduct in the platform economy.

KEY LEGAL ISSUES IN CORPORATE CRIMINAL LIABILITY

The application of criminal law to labour exploitation in the gig economy presents several complex legal challenges, particularly when attempting to attribute liability to corporate entities. The intersection of labour, business and criminal law reveals structural gaps that make enforcement difficult despite the existence of modern statutes such as the Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Sakshya Adhiniyam, 2023. These issues stem from the unique nature of platform-based work, where traditional legal doctrines struggle to adapt to digital business models. The absence of clear employment relationships, difficulties in proving corporate intent, evidentiary complexities and enforcement limitations collectively weaken the effectiveness of criminal liability mechanisms. Understanding these issues is essential for evaluating the adequacy of the current legal framework and identifying areas requiring reform

6.1 Absence of Employer–Employee Relationship

One of the most fundamental legal challenges is the absence of a recognized employer–employee relationship between gig workers and platform companies. Most platforms classify workers as independent contractors, thereby excluding them from the protection of labour laws and complicating the attribution of legal responsibility. This classification creates a legal barrier in invoking criminal liability, as many offences relating to labour exploitation presuppose the existence of an employment relationship.

The Code on Social Security, 2020 acknowledges gig and platform workers but does not equate them with employees, leaving ambiguity in enforcement. Courts have traditionally adopted a substance-over-form approach in determining employment relationships. In **Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments**[20], the Supreme Court held factors such as control, supervision and economic dependence. Applying this reasoning to gig platforms suggests that the functional reality may differ from contractual labels; however, the absence of explicit statutory recognition continues to hinder effective legal action.

6.2 Difficulty in Fixing Criminal Liability on Corporations

Fixing criminal liability on corporations is inherently complex due to the abstract nature of corporate personality. Unlike natural persons, corporations act through agents, making it difficult to establish mens rea (criminal intent). In the gig economy, decision-making is often embedded in algorithms and automated systems, further complicating the attribution of intent. Under the Bharatiya Nyaya Sanhita, 2023, liability can be imposed on corporations where offences are committed with the consent, connivance, or negligence of those in charge. However, identifying the “directing mind” becomes challenging in large platform companies with decentralized operations and automated processes. The Supreme Court addressed corporate criminal liability in **Sunil Bharti Mittal v. Central Bureau of Investigation**[21], holding that individual directors cannot be held liable solely based on their position unless there is evidence of active involvement or intent. This principle creates an additional burden in prosecuting corporate officials, especially when decisions are diffused across technological systems rather than traceable to specific individuals.

6.3 Burden of Proof in Digital Labour Exploitation

Another significant issue lies in the burden of proof required to establish criminal liability. Under general criminal law principles, the prosecution must prove guilt beyond reasonable doubt. In cases of digital labour exploitation, this involves demonstrating not only the occurrence of harm but also the causal link between corporate conduct and that harm. The Bharatiya Sakshya Adhiniyam, 2023 recognizes electronic records as admissible evidence, but challenges persist in proving authenticity, integrity and relevance. Platform data such as algorithmic decisions, GPS logs and payment records can be complex and difficult to interpret

[20] Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments (1973) 2 SCC 529
[21] Sunil Bharti Mittal v. Central Bureau of Investigation (2015) 4 SCC 609

without expert assistance.

In **Anvar P.V. v. P.K. Basheer**[22], the Supreme Court held the importance of proper certification for electronic evidence. Although the evidentiary framework has evolved, the technical nature of digital data continues to pose challenges for both investigators and courts. Establishing intent, especially where decisions are automated, requires a nuanced understanding of how algorithms function and influence outcomes.

6.4 Enforcement Challenges under New Criminal Laws

Despite the progressive nature of the new criminal laws, enforcement remains a critical challenge. The Bharatiya Nagarik Suraksha Sanhita, 2023 introduces procedural improvements such as digital FIRs and streamlined investigations, but practical limitations persist in terms of institutional capacity, technical expertise and coordination between agencies. Investigating corporate misconduct in the gig economy requires specialized knowledge of digital systems, data analytics and platform operations. Law enforcement agencies may face difficulties in accessing proprietary data, understanding algorithmic processes and establishing jurisdiction in cases involving multinational corporations. Furthermore, gig workers often lack awareness of their legal rights and may be reluctant to initiate legal proceedings due to economic dependence on platforms. This creates a gap between legal provisions and their actual implementation.

While the new criminal law framework provides a foundation for addressing corporate liability in the gig economy, significant legal and practical challenges continue to limit its effectiveness. Addressing these issues requires not only legislative clarity but also institutional strengthening and increased awareness among stakeholders.

COMPARATIVE AND JUDICIAL PERSPECTIVES

The regulation of corporate liability in the gig economy has evolved differently across jurisdictions, reflecting diverse legal traditions and policy priorities. As platform-based work expands globally, courts and legislatures have increasingly confronted the challenge of balancing innovation with worker protection. Comparative analysis is particularly valuable for India, where the legal framework is still developing and must address the complexities of

[22] Anvar P.V. v. P.K. Basheer (2014) 10 SCC 473

digital labour markets. Judicial decisions across countries reveal a growing tendency to move beyond formal contractual classifications and examine the substance of relationships, especially in determining control, dependency and accountability. At the same time, corporate criminal responsibility is being interpreted in a more expansive manner to ensure that companies cannot evade liability through technological intermediaries. This section analyses international approaches, key judicial trends and their relevance to the Indian legal system.

7.1 International Approaches to Corporate Liability in Gig Economy

Globally, several jurisdictions have taken proactive steps to regulate gig work and impose accountability on corporations. A notable example is California's Assembly Bill 5 (AB5)[23], which introduced the "ABC test" to determine whether a worker is an employee or an independent contractor. Under this test, a worker is presumed to be an employee unless the company can prove otherwise, thereby shifting the burden onto corporations. This approach significantly strengthens labour protections and limits the scope for misclassification.

Similarly, the United Kingdom has adopted a middle-ground approach by recognizing gig workers as a distinct category entitled to certain employment rights. In **Uber BV v. Aslam[24]**, the UK Supreme Court held that Uber drivers are "workers" rather than independent contractors, emphasizing the degree of control exercised by the platform. This decision expanded access to minimum wage protections and paid leave.

The European Union has also moved toward a regulatory framework that emphasizes transparency, accountability and worker protection in platform-based employment. These approaches highlight a shift toward recognizing the realities of gig work and ensuring that corporate structures do not undermine labour rights. They also demonstrate the importance of clear statutory tests and regulatory oversight in addressing exploitation.

7.2 Judicial Trends on Corporate Criminal Responsibility

Judicial trends indicate a growing willingness to hold corporations accountable for wrongdoing, including offences arising from their operational practices. Courts have increasingly applied principles of corporate criminal liability to ensure that companies cannot

[23] California's Assembly Bill 5 (AB5) https://share.google/7GmRX7hTJQV1SZ4HN
[24] Uber BV v. Aslam [2021] UKSC 5

escape responsibility by acting through agents or automated systems. In **Tesco Supermarkets Ltd v. Nattrass**[25], the House of Lords developed the "identification doctrine," which attributes criminal liability to a corporation based on the actions and intent of its directing mind. This principle remains influential in determining corporate liability, including in cases involving complex organizational structures.

Indian jurisprudence has also evolved in this direction. In **State of Maharashtra v. Syndicate Transport Co. (P) Ltd.**[26], the Supreme Court recognized that corporations can be prosecuted for criminal offences, reinforcing the idea that legal personality does not shield companies from liability. More recently, courts have emphasized that corporate entities must adhere to legal and ethical standards in their operations, regardless of the medium through which activities are conducted. These judicial developments suggest that the law is gradually adapting to technological changes, including the use of AI and digital platforms. The emphasis is on ensuring accountability and preventing misuse of corporate structures.

7.3 Relevance to Indian Legal System

The comparative and judicial insights discussed above offer valuable guidance for strengthening India's legal framework. While India has introduced new criminal statutes such as the Bharatiya Nyaya Sanhita, 2023, their application to gig economy practices remains largely untested. Lessons from international models indicate the need for clearer statutory definitions of employment relationships, as well as mechanisms to prevent misclassification. Additionally, the recognition of corporate criminal liability must be effectively integrated with labour law protections. Existing statutes such as the Code on Social Security, 2020 provide a starting point, but stronger enforcement and clearer rights are necessary to address exploitation. Judicial approaches that focus on the substance of relationships rather than formal labels can play a crucial role in bridging legal gaps. By adopting a purposive interpretation of laws and considering the realities of platform work, Indian courts can ensure that corporate accountability is not undermined by technological innovation.

In comparative and judicial perspectives highlight the importance of a balanced and adaptive legal framework that protects workers while supporting economic growth. For India, integrating these lessons into domestic law will be essential to ensure effective regulation of

[25] Tesco Supermarkets Ltd v. Nattrass [1972] AC 153 (HL)
[26] State of Maharashtra v. Syndicate Transport Co. (P) Ltd. (1964) 4 SCR 165

the gig economy and to uphold principles of fairness, accountability and justice.

NEED FOR LEGAL REFORMS AND POLICY MEASURES

The rapid expansion of the gig and platform economy has outpaced the evolution of India's legal framework, creating significant gaps in the protection of workers and the accountability of corporations. While recent legislative developments particularly the Code on Social Security, 2020 and the new criminal statutes such as the Bharatiya Nyaya Sanhita, 2023 indicate progress, they remain insufficient to address the complex realities of platform-based labour. The current system continues to rely heavily on traditional classifications and fragmented legal approaches, which fail to capture the hybrid nature of gig work. As a result, there is an urgent need for comprehensive reforms that recognize gig workers, strengthen corporate accountability and integrate labour and criminal law mechanisms. This section proposes key reforms and policy measures aimed at creating a balanced and effective regulatory framework.

8.1 Recognition of Gig Workers as Employees/Workers

A foundational reform is the legal recognition of gig workers within the framework of labour law. The absence of a clear classification deprives them of essential rights such as minimum wages, social security and protection against unfair labour practices. While the Code on Social Security, 2020 introduces the categories of "gig workers" and "platform workers," it does not grant them the full status of employees, thereby limiting their access to statutory benefits.

Judicial reasoning has consistently emphasized the need to examine the real nature of employment relationships. In **Bangalore Water Supply and Sewerage Board v. A. Rajappa**[27], the Supreme Court adopted a broad interpretation of "industry" and underscored the importance of protecting workers engaged in diverse forms of employment. Applying this approach to the gig economy, it is evident that workers who are economically dependent on platforms and subject to their control should be recognized as workers, if not full-fledged employees. Such recognition would enable the extension of labour protections and reduce the scope for exploitation through contractual misclassification.

[27] Bangalore Water Supply and Sewerage Board v. A. Rajappa (1978) 2 SCC 213

8.2 Strengthening Criminal Liability for Corporate Misconduct

To effectively address labour exploitation, it is essential to strengthen the framework of corporate criminal liability. The Bharatiya Nyaya Sanhita, 2023 provides a basis for prosecuting corporate offences, but its application to gig economy practices requires clearer guidelines and enforcement mechanisms. Specific provisions addressing corporate misconduct in labour relations such as deliberate misclassification, exploitative wage practices and unsafe working conditions should be incorporated into the legal framework. Holding corporations accountable also requires extending liability to key managerial personnel where there is evidence of knowledge, consent, or negligence. This would ensure that responsibility is not diluted within complex organizational structures. Strengthening penalties and introducing deterrent measures can further enhance compliance and discourage exploitative practices.

8.3 Integration of Labour and Criminal Law Frameworks

A major limitation of the current system is the lack of integration between labour law and criminal law. Labour violations are often treated as civil or regulatory issues, even when they involve serious forms of exploitation. Integrating these frameworks would enable a more holistic approach to enforcement, allowing severe violations to attract criminal liability where appropriate. Procedural mechanisms under the Bharatiya Nagarik Suraksha Sanhita, 2023 can be utilized to investigate and prosecute offences involving digital platforms, while evidentiary provisions under the Bharatiya Sakshya Adhiniyam, 2023 facilitate the use of electronic records in such cases. A coordinated approach involving labour authorities, law enforcement agencies and regulatory bodies is necessary to ensure effective implementation.

8.4 Policy Recommendations

To address the challenges identified, several policy measures can be proposed. First, the government should enact comprehensive legislation specifically targeting gig and platform work, incorporating clear definitions, rights and obligations. Second, mandatory social security contributions from platform companies should be enforced to ensure adequate protection for workers. Third, regulatory authorities should establish standards for algorithmic transparency and accountability, requiring companies to disclose key aspects of their decision-making systems. Fourth, capacity-building initiatives should be introduced to equip enforcement agencies with the technical expertise required to handle digital evidence and platform-related cases. Finally, awareness programs should be conducted to educate gig workers about their rights and available legal remedies.

Meaningful reform requires a multi-dimensional approach that combines legislative clarity, institutional strengthening and policy innovation. By recognizing gig workers, enhancing corporate accountability and integrating legal frameworks, India can create a fair and sustainable system that balances economic growth with social justice.

CONCLUSION

The emergence of the gig and platform economy has fundamentally reshaped labour relations in India, offering flexibility and economic opportunities while simultaneously exposing workers to new forms of vulnerability and exploitation. This study has highlighted that the existing legal framework struggles to effectively address these challenges due to the absence of clear employment classification, fragmented labour protections and limited mechanisms for corporate accountability. Although statutes such as the Code on Social Security, 2020 recognize gig workers, their rights remain inadequately protected in practice. The new criminal laws, particularly the Bharatiya Nyaya Sanhita, 2023, has opened avenues for addressing corporate misconduct in cases of labour exploitation. However, significant challenges persist in establishing liability, especially in digital environments where decision-making is automated and diffused across corporate structures. The study also demonstrates that international approaches and judicial developments increasingly emphasize substance over form, reinforcing the need to reassess worker classification and corporate responsibility. There is a pressing need for a comprehensive and integrated legal approach that bridges labour and criminal law frameworks. Strengthening regulatory mechanisms, ensuring effective enforcement and promoting ethical corporate practices are essential to safeguarding the rights and dignity of gig workers. A balanced framework that aligns innovation with accountability will be crucial for achieving sustainable and just labour governance in India’s evolving digital economy.

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