WOMEN IN INDIA'S GIG ECONOMY: BETWEEN FLEXIBILITY, EXPLOITATION AND THE QUEST FOR LABOUR JUSTICE

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ABSTRACT

The Rise of Mobile-Based Gig Apps in India, People think that mobile-based gig apps are a thing for women in India because they can help women make more money. The idea is that women can work when they want and it is easy to get started. This study says that is not true. These apps are a way for companies to get out of taking care of their workers. The people who work for these apps have to deal with a lot of problems every day. The companies say they are not responsible because the workers are freelancers.

This paper looks at women who work in salons take care of homes and deliver things. It shows that there are no laws to protect these women. They do not get paid at the minimum wage they do not get help when they are pregnant and they do not have safe places to work. The study also looks at how hard it's to make sure that the law that is supposed to stop people from being treated badly at work is actually working. This law is called the Act and it is hard to enforce when people are working in private homes.

The study uses the constitution to come up with a new way to regulate these apps. It looks at the laws that're already in place including Articles 14, 21 and 23 and it thinks about how the laws might change in the future up to 2026. It also looks at laws in some states like Rajasthan, Karnataka and Telangana. The study says that companies need to be more transparent they need to be held accountable, for what they do and they need to make sure that the women who work for them are safe and can make a living. This is the way to make sure that mobile-based gig apps are really helping women in India.

Keywords: Gig Economy, Worker Misclassification, Algorithmic Control, Labour Justice, POSH Act, Constitutional Jurisprudence, Digital Forced Labour, Article 21, Platform Workers, Social Security, Pink-Collar Segregation.

Introduction: Operational Architecture and the Illusion of Autonomy:

Now simple web links and personal phones are completely changing everyday jobs across urban India. This sudden boom in internet data has changed traditional work markets in a way that nobody really anticipated. What is really interesting about this change is how fast women are signing up for these on-demand apps. The people who do marketing at these tech firms always talk about this trend as a big step toward equal rights for women. They make it sound like opening an app is a way for a woman to take care of her home and earn some extra money whenever she wants.

Look past the nice pictures they show and you will see a tough reality that is not what it seems. This freedom to choose your schedule is actually a way for companies to make workers take on all the risks. In life you do not really get to control your own calendar because of strict rules, constant tracking and tricky bonus systems. These tech companies are not just helping workers find jobs they are like control centers that tell you what to do.

When you look at the picture the freedom to choose your schedule is not really freedom at all. It is like a trap that uses problems like no childcare and women having to do all the housework to make women work long hours for low pay. The companies use a pay system that pays you for each task you complete which means you have to work at night to earn enough money. You do not get any extra pay for working late or any help with safety or any bonuses for working at night. Of changing the old ways of thinking about men and women work the app system just updates them for the internet. It creates a system where a woman has to stay and keep the app happy all the time just to earn enough money to survive. Women are signing up for these on-demand apps fast but the app system is not really helping them. The app system is a new way for women to work long hours, for low pay and women are still expected to do all the housework.

The Legal Vacuum, Corporate Semantics, and the Misclassification Doctrine:

1. **The Conceptual Mechanics of Contractual Misclassification**

The business model of digital platforms is based on a clever trick. They take advantage of a difference in labor law: the difference between a contract of service and a contract for services. A contract of service is like a job where you have a boss and you have to do what they say.

You also get benefits like leave and vacation time. On the hand a contract for services is like hiring someone to do a specific task. They are their boss and they decide how to do the work.

Digital platforms in India have put all their workers in the group. They call them " partners" or "freelance delivery agents". This means the platform does not have to give them benefits like funds or medical leave. The worker has to pay for everything themselves. They have to buy their equipment and uniforms. They even have to pay for their internet and travel expenses. This is not fair because the worker is not really their boss. The platform still tells them what to do and how to do it.

2. Judicial Metamorphosis: Moving Beyond Contractual Nomenclature

Courts have said that just because a contract says someone is a contractor it does not mean they really are. The court has to look at the situation. In India the courts have said that the key thing is who has control. If the employer tells the worker what to do and how to do it then the worker is an employee. This is what happened in a case called Dhrangadhra Chemical Works Ltd. V. State of Saurashtra. The Supreme Court of India said that the employer has to have control over the worker. It is not about what the contract says.

As time went on the courts started to use a test. This test is called the "integration test" or "organization test". It looks at whether the workers job's a key part of the business. If it is then the worker is probably an employee. This test was used in a case called Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments. When you apply this test to platforms you can see that the workers are not really independent contractors. They are employees.

3. Deconstructing the Platform Control Test

If you look at how digital platforms work you can see that they have a lot of control over the workers. They control the prices so the workers cannot negotiate. They also have rules about how the workers have to behave. The workers have to wear uniforms and follow steps. They even have to read from scripts. This means the workers are not really their bosses. They are being controlled by the platform.

The platforms also watch the workers all the time. They track their location and their ratings. If a workers rating goes down they can get punished. They might not be able to work in areas or they might even get kicked off the platform. This is like a boss firing an employee. It is not fair because the worker is not really in control

4. **Jurisprudence: The Global Shift**

Other countries are starting to realize that this is not fair. In a case in the UK the Supreme Court said that workers for a company called Uber were not independent contractors. They were employees. The court said that the company had much control over the workers. They set the prices and the rules. They even controlled the ratings. This means the workers were not really their bosses. They deserved benefits like minimum wage. Paid holidays. This is a deal, for India because it shows that the courts can make a difference. They can stand up for the rights of workers. Make sure they are treated fairly.

Constitutional Dilemmas, Algorithmic Exploitation, and the Contours of Digital Forced Labour:

1. **Article 21: The Constitutionalization of Algorithmic Deactivation**

Indian constitutional law has shown that the Right to Life under Article 21 is more than staying alive. It also includes the right to earn a living. The Supreme Court said this in Olga Tellis v. Bombay Municipal Corporation (1985). If someone loses their way to make a living they effectively lose their life.

In the app economy this fundamental right is often broken. Gig workers get their accounts blocked suddenly by a machine. Unlike companies they do not have to follow rules or have hearings before letting someone go. If a customer leaves a review or a facial-recognition tool does not work the algorithm locks the worker's profile.

This sudden loss of income happens without any warning or explanation. There is no manager to talk to. The worker is denied the right to be heard. By letting private companies use algorithms to terminate workers the state has allowed a zone to develop. This directly violates the protections of Article 21.

2. **Article 23: Re-evaluating Economic Coercion and "Begar" in the Digital Era**

Article 23 of the Constitution says that forced labor is not allowed. The Supreme Court explained this in People's Union for Democratic Rights (PUDR) v. Union of India (1982). The court said that "force" is not just violence. It can also be the pressure of necessity. If someone works for less than the minimum wage it is considered forced labor.

When we look at India's female gig workforce the reality is alarming. This issue is currently being discussed in the Supreme Court. Female platform workers often earn less than the minimum wage. They have to pay app commissions buy company kits and cover travel costs.

The apps design forces workers to comply. If they try to log off the algorithm penalizes them. This constant threat of being blocked combined with low pay turns the setup into modern forced labor. Workers cannot easily quit because they rely on the app to survive.

3. **Segregation Algorithmic Occupational and the Digital Gender Pay Gap**

Digital apps do not eliminate social biases. They automate them. The data shows that male gig workers dominate some sectors. Women are funneled into sectors, like beauty services and caregiving. These jobs have pay and require a lot of uncompensated emotional labor. The end result is a digital gender pay gap. Technology reinforces wage inequality.

Decentralized Workspaces, Physical Vulnerability, and the Failure of the POSH Act Framework:

1. **The Legal Deconstruction of the On-Demand Workplace**

The creation of the Sexual Harassment of Women at Workplace Act in 2013 was a step forward. It was meant to make sure every woman has a place to work. One of the points of this law also known as the POSH Act is how it defines a workplace. The people who made this law knew that work was changing and that people were not working in offices much as they used to. So, they made sure to include any place a woman goes to for work even if it is not an office.

For women who work in the gig economy like those who provide services in people's homes this definition is very important. When a woman who does beauty work or takes care of people accepts a job online and goes to someone's home that home becomes her workplace for the time when she's there.

This way of working creates a lot of safety problems. Unlike an office, which has security and people around a woman who works in someone's home is alone. She goes into a space that is controlled by the person who hired her and that person has a lot of power. The company that sent her there handles the money. It does not take care of her safety once she is in the home.

2. **The Breakdown of Systems That Help People**

The problem with the POSH Act is that it does not work well for people who work in the gig economy. The law says that any company with ten or more workers has to have a committee to deal with problems like harassment. Tech companies do not follow this rule because they say their workers are not really employees.

As a result, these big companies do not have a committee that can help women who have problems. When a woman is harassed or threatened in someone's home, she does not get any help. The company just tells her to leave the house if she feels unsafe. Then it makes sure she does not get sent to that house again. The company does not take the problem seriously. Just treats it like a small issue with the service.

This way of dealing with problems is not good enough. It treats violence against women like it is a technical problem. The companies should have a committee that can help women and work with the police to make sure the people who do things are held responsible. Instead, the companies just make the women deal with the problems, on their own and keep the money they make from the service.

The Code on Social Security 2020 is a law that the central government made to help the gig economy. The Code on Social Security 2020 is part of a project to make Indias old labor laws simpler. The Code on Social Security, 2020 has sections that define what a gig worker and a platform worker are. This is the time these terms have been defined in a law.

Structural Barriers:

1. **The Digital Divide and Technological Illiteracy as a Barrier to Grievance Redressal**:

When we talk about the Digital Divide and Technological Illiteracy we are talking about a problem. Many women who work with tech companies in India do not know how to use computers and phones well. These women can use the Digital Divide and Technological Illiteracy apps to find work and get around the city. They have a hard time when something goes wrong with the app. They get confused when they do not get paid the amount of money or when they need to complain about something.

The Digital Divide and Technological Illiteracy is an issue because the tech companies have stopped using real people to help their customers. Now they use computers to talk to customers, which's a problem for the women who do not know how to use computers very well. This creates a situation where the women're, at a disadvantage because they do not know how to use the Digital Divide and Technological Illiteracy tech very well. The Digital Divide and Technological Illiteracy is making it hard for them to get help when they need it which means they can lose money and feel helpless.

2. **The Problem of Occupational Health Hazards and No Help for Unpaid Care Work**:

The way gig platforms are set up completely forgets about the health needs of women that are related to their jobs and bodies. Women who work from home or deliver things spend a lot of time on the road. Waiting around without being able to use clean and safe public bathrooms. This leads to a lot of women getting tract infections and having serious health problems. Also the system that runs the platform does not take into account things like being pregnant recovering from childbirth or dealing with periods. Because women do not get paid time off to see a doctor if they take a break, from work the platform will lower their rating, which means they have to keep working even when they're very sick.

3. **Money Problems, Loan Troubles and Being Tied to Devices**:

To even start working on these platforms women have to buy phones and special equipment like uniforms or bags. Most women do not have a credit history so the platforms partner with loan companies that charge very high interest rates to help women buy these things. Then the money these women earn each day is automatically used to pay back these loans. This is a tough spot for women. They get stuck, on the platform. They cannot stop working. The reason is that women owe money. They have to keep paying it back. Women are stuck in a cycle of borrowing money and paying back loans that the platform helps to create. The platform is basically making it hard for women to stop working because women have to pay back the money they borrowed.

The Evolving Legislative Landscape (2020–2026): Central Inertia vs. State-Level Experimentation:

The Code on Social Security, 2020 has a problem. The Code on Social Security 2020 does not challenge the fact that many workers are misclassified. Of making the definitions of employee or worker include gig workers the lawmakers made a new category for them. This category is not as strong as the others. The Code on Social Security 2020 does this by keeping gig workers separate from the employment definitions. This means that gig workers cannot ask for things like wages limits on working hours or the right to form unions. The Code on Social Security 2020 does not let gig workers use the legal routes to solve disputes.

The social security framework that the Code on Social Security 2020 promises is not very strong. The Code on Social Security, 2020 has a section that talks about setting up a National Social Security Board for gig workers. This board is supposed to make plans for things like life insurance, disability support and help for mothers. However, the funding for these plans is not clear. The funding depends on fees from companies and grants from the government. The Code on Social Security, 2020 has been around for a while now. It is still not working well. This means that many female platform workers are not getting the help they need from the government.

Some states are now making their laws to help gig workers. This is because the government's plans are not working. The state of Rajasthan made a law called the Rajasthan Platform Based Gig Workers Act, 2023. This law is special because it deals with the problems of gig work directly. The law sets up a Welfare Board that has state officials, union leaders and tech executives on it.

The good thing about the Rajasthan model is how it funds the welfare plans. The law creates a tax called a Welfare Cess. This tax is between 1% and 2% of every transaction made through an app in the state. The tax is tracked in time and goes into a special fund. This fund is used to give workers health insurance, accident support, pensions and social safety nets. The Rajasthan model is good because it links the funding to the number of transactions not to the company's profits. This means that companies cannot hide the truth about their profits.

Other states like Karnataka and Telangana are also making laws. These laws are special because they deal with the problems of control. The laws want to regulate the architecture of the apps.

One of the features of these laws is that they recognize the Right to Algorithmic Transparency. This means that apps will have to explain to workers how they make decisions about jobs, pay and ratings. The apps will have to explain this in a simple way.

The laws also deal with the problem of automated firings. The laws say that apps cannot fire workers because of an automated algorithm. The company has to give the worker a notice and a chance to defend themselves.

The laws also protect a worker's Right to Refuse Tasks. This means that a female home-service worker can say no to a job without getting penalized. However, even these new laws do not explicitly say that workers should get a minimum wage or be considered employees. This means that the core economic exploitation is still not fully addressed. The Code, on Social Security, 2020 and these new laws are all trying to help gig workers. They are not perfect.

Algorithmic Redlining, Geofencing and Spatial Disadvantage:

The way these location based apps work's by using something called geofencing. This means they divide up areas and that affects women who do gig jobs. These apps send jobs to parts of the city. Women who live far from the city center often miss out on jobs because it takes them a time to get there. The app also looks at the work they have done before. That can affect whether they get jobs or not.

When an app sends a woman to a neighborhood to do a job she is not always safe. If she says no to a job in an area the app thinks she is not doing her job properly. This gets her into trouble. She might not get jobs and she might not get paid much. The app is basically punishing women for trying to stay safe. Women who do gig jobs through these apps have to deal with Algorithmic Redlining and Geofencing which's really unfair. Algorithmic Redlining and Geofencing are problems for these women.

The Commodification of Emotional Labor and Precarity of Customer Rating Economies:

There is a part of women's work on these platforms that's really exhausting. It is not about doing a job it is about being friendly and nice to people even when they are mean to you. The app uses a rating system to judge how well women are doing their jobs. This means that the person getting the service gets to decide how good the woman's work is. Women who work on these platforms have to put up with this system, which's part of the Customer Rating Economies.

This is not fair because if a woman's rating goes down she can get in trouble and even lose her job. So women have to put up with people being mean to them or making them do things they do not want to do just so they can keep their jobs. The app is making it possible for peoples biases and unfair ideas to hurt women's livelihoods, which's part of the Commodification of Emotional Labor. The Commodification of Emotional Labor is a problem. Women who work on these platforms have to deal with the Commodification of Emotional Labor every day. It is really tough for them. The Customer Rating Economies and the Commodification of Emotional Labor are problems, for women who do gig jobs through these apps. Women have to deal with the Customer Rating Economies and the Commodification of Emotional Labor all the time.

Conclusion and Transformative Policy Recommendations:

The situation of women working in India's platform economy is really bad. There is a difference between how fast technology is growing and how little women are protected by the law. The idea of working and independently is actually a way for companies to take advantage of women using old ways of thinking that are not fair. These companies are making a lot of money by not giving women the respect and fairness they deserve which's against the Constitution of India.

To make things better and create a workplace where women are treated with dignity the law in India needs to change. It needs to stop using ideas and make sure that women have all the rights they deserve. Here are some things that need to happen:

First the law needs to say that if a company uses computers to control what workers do how much they get paid and when they can work then that company is their employer. The company would have to prove in court that its workers are really independent and not just treated like employees.

Second all companies need to make sure they are following the rules to prevent harassment at work no matter what a worker's title is. They need to have a committee that includes experts and union representatives to deal with these issues. They also need to have ways for workers to stay safe like being able to call the police if they need help.

Third each state needs to create a board that helps workers, paid for by a small tax on each transaction made through the app. This money would be used to give women benefits like help with childcare, health insurance and paid time off when they have a baby.

Fourth companies should not be allowed to fire workers automatically using computers. Workers have the right to earn a living. Should not be punished without a fair process. Companies need to make sure that workers are treated fairly and have access to all the information used to make decisions, about their work.

By making these changes can India make sure that women are treated fairly and have safe and secure jobs. This is the way to make the platform economy a place where women can work with dignity.

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