Gig And Platform Workers Under Indian Labour Law

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***Abstract*—The rise of gig and platform work has transformed the world of labour in India. Millions of people now earn their livelihood through apps such as Uber, Ola, Swiggy, Zomato, Urban Company, and various freelancing platforms. These workers deliver food, drive cabs, provide home services, and perform digital tasks, often without clear employment status or social security. This paper examines the legal position of gig and platform workers under Indian labour law, with a focus on the Code on Social Security, 2020, judicial developments, and policy debates. It adopts a humanised approach, foregrounding workers' lived experiences income insecurity, algorithmic control, lack of bargaining power, and absence of basic protections. The paper argues that while Indian law has begun to recognise gig and platform workers, significant gaps remain in ensuring decent work, dignity, and social justice. Gig and platform work isn't a passing fad. It has become an integral part of India's urban and semi-urban economies. People depend on it for food, transportation, and convenience, and many workers rely on it for survival. By "recognising gig and platform workers" in the Code on Social Security, 2020, Indian labour law has made an important first step. However, acknowledgment alone is not sufficient. From the perspective of a rider rushing through traffic with no accident coverage, or a driver whose account is suddenly deactivated, the law remains distant. A truly humanistic approach demands that: - The law looks beyond formal labels to determine actual dependency and control. – Social security is no longer merely a legislative promise, but a tangible reality. – Platforms share responsibility for the wellandbeing of the workers who support their business. – Gig and platform workers are treated as workers with respect, voice, and fairness, not as disposable "partners". The challenge for politicians, courts, and society is to ensuring that technological progress does not come at the expense of fundamental labour rights. India can provide a paradigm of "digital-age labour law" by creating a framework that balances flexibility and justice. India may create a 'digital-age labour law' that prioritizes the people behind every app notification and completed assignment by balancing flexibility and justice.**

***Index Terms*—Labour, Social Security, flexibility, technology, Gig, platform, workers, focus, Fundamental Labour Rights, Dignity, Business, humanistic, demand etc.**

I. INTRODUCTION

Over the last decade, the image of the Indian worker has quietly changed. Alongside factory workers, office staff, and government employees, a new figure has entered our streets and smartphones: the gig and platform worker.

A food delivery rider weaving through traffic at midnight. A cab driver waiting for the next ride in the hot sun. A beautician travelling across the city for an on-demand home appointment. A graphic designer working from home for clients found through an online platform.

These people are not just "users on a platform" or "independent contractors" in a contract. They are human beings with families, financial responsibilities, and dreams. Yet, the legal system has often struggled to see them as workers deserving robust protection.

This paper explores:

- Who gig and platform workers are in the Indian context
- How existing labour law deals with them
- What changes have been made in recent codes and policies
- Where the gaps remain, especially from a human-centred perspective

The central question is: *Does Indian labour law protect the dignity, security, and rights of gig and platform workers, or does it leave them in a grey zone?

II. UNDERSTANDING GIG AND PLATFORM WORK

2.1 What is "gig work"?

"Gig work" refers to short-term, task-based or assignment-based work, often without a long-term employer–employee relationship. Instead of a permanent job, the worker performs multiple "gigs" for different clients or through platforms.

Key characteristics:

- Work is fragmented into small tasks
- Payment is usually per task or per assignment
- No stable, long-term contract in many cases
- High flexibility but also high insecurity

2.2 What is "platform work"?

"Platform work" is a subset of gig work that is organised through digital platforms or apps. The platform:

- Connects the worker with customers
- Sets or influences prices and commissions
- Tracks performance through ratings and data
- Uses algorithms to allocate tasks and sometimes to deactivate workers

In India, common examples are:

- Ride-hailing: Uber, Ola
- Food delivery: Swiggy, Zomato
- Home services: Urban Company, Housejoy
- Freelancing platforms: Upwork, Freelancer, Fiverr (often cross-border)

2.3 Why does classification matter?

Labour law traditionally distinguishes between:

- Employees / workmen – entitled to minimum wages, social security, working hour limits, protection from unfair dismissal
- Independent contractors – treated as running their own business, with fewer protections

Gig and platform workers often fall in between. Platforms call them "partners" or "independent contractors", but:

- The app controls allocation of work, incentives, and penalties
- Workers may depend on the platform for most or all of their income
- They cannot negotiate individual terms of service

This misalignment between legal labels and real control is at the heart of the legal and ethical debate.

III. LIVED REALITIES OF GIG AND PLATFORM WORKERS IN INDIA

To humanise the legal analysis, we must look at the everyday lives of these workers, not only at statutes and definitions.

3.1 Income insecurity and long working hours

Many platform workers:

- Are paid per ride or per delivery
- Face fluctuating demand, especially during off-peak seasons or crises
- Often work 10–14 hours a day to earn a basic income

A driver might spend hours waiting for rides, with no guarantee of minimum earnings. A delivery worker may rush to meet tight deadlines, just to avoid penalties and cancellations. There is often no assured minimum wage for the time spent logged in.

3.2 Costs shifted to workers

Worker usually bear:

- Fuel and vehicle maintenance
- Mobile data and smartphone costs
- Insurance premiums (if any)
- Fines and penalties, sometimes unilaterally imposed by the platform

This means that although the platform benefits from their labour, many risks and costs are shifted onto the workers.

3.3 Lack of social security and safety nets

Historically, gig and platform workers in India:

- Have not received provident fund (PF), employees' state insurance (ESI), or gratuity
- Lack paid leave, sick leave, or maternity benefits
- Are vulnerable in case of accidents, illness, or sudden deactivation

During crises like the COVID-19 pandemic, many platform workers continued working as "essential" workers, but often without adequate health protections or income support.

3.4 Algorithmic control and absence of voice

the app decides:

- Which worker will get which order

- How much the worker will be paid per trip
- When incentives are available and on what conditions
- When to suspend or "deactivate" a worker

Decisions are often opaque and one-sided. Workers:
- May not know why their ratings are low
- Have limited access to grievance redressal
- Rarely have the freedom to collectively bargain with platforms

This invisible control through technology makes it harder for them to be truly "independent".

IV. LEGAL FRAMEWORK: INDIAN LABOUR LAW AND GIG/PLATFORM WORKERS

4.1 Traditional labour laws and their limits

India's older labour laws, such as:
- The Industrial Disputes Act, 1947 - The Minimum Wages Act, 1948
- The Payment of Wages Act, 1936
- Social security legislations like the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and the Employees' State Insurance Act, 1948 were framed with factory workers, industrial establishments, and regular employees in mind.

Key features:
- Focus on employer–employee relationship
- Protections triggered by the worker's classification as "employee" or "workman"
- Less flexibility to accommodate fluid, app-based relationships Platforms typically argue that:
- They are technology intermediaries
- Workers are self-employed "partners"
- They only facilitate matching between customers and service providers

This narrative allows them to avoid being classified as "employers" under many laws, leaving gig and platform workers outside the traditional labour law regime.

4.2 The shift towards labour codes

To simplify and modernise labour regulation, India has adopted four labour codes:
1. Code on Wages, 2019
2. Industrial Relations Code, 2020
3. Occupational Safety, Health and Working Conditions Code, 2020
4. Code on Social Security, 2020

Among these, the Code on Social Security, 2020 (CSS 2020) is the most significant for gig and platform workers.

V. RECOGNITION OF GIG AND PLATFORM WORKERS IN THE CODE ON SOCIAL SECURITY, 2020

5.1 Definitions

The CSS 2020 introduces, for the first time in central labour legislation, explicit definitions of:
- Gig worker – A person who performs work or participates in a work arrangement and earns from such activities outside the traditional employer–employee relationship.
- Platform worker – A person engaged in or undertaking platform work, i.e., work arranged through an online platform.

This recognition is symbolically important because it:
- Acknowledges that such workers exist as a distinct category
- Creates a basis for designing social security schemes for them

However, the Code maintains them outside the standard "employee" framework, which has both pros and cons.

5.2 Social security schemes

The CSS 2020 allows the central and state governments to frame schemes for:
- Life and disability cover
- Accident insurance
- Health and maternity benefits
- Old-age protection - Creche and other benefits Funding can come from:
- Contributions by the platform aggregator
- Contribution by the government
- Possibly contributions by workers

Examples of "aggregators" mentioned include ride-sharing, food and grocery delivery, logistics, e-marketplaces, and professional services providers.

5.3 Positive aspects

From a human-centred viewpoint, there are some positive steps:
- Legal visibility: Gig and platform workers are no longer invisible in the statute book.

- Policy flexibility: The Code permits targeted schemes instead of forcing these workers into rigid, old structures.
- Shared responsibility: Aggregators are required to contribute financially for social security.

5.4 Limitations and concerns

However, several concerns remain:

1. No clear employment status
- The Code does not treat gig and platform workers as "employees" or "workmen".
- This means they may still not receive minimum wage guarantees, working hour protections, or protection from unfair dismissal.

2. Discretionary and scheme-based approach
- Many benefits depend on the government actually notifying schemes, allocating funds, and enforcing them.
- Without timely and robust implementation, rights remain on paper.

3. Limited worker voice in scheme design
- Gig workers and their unions are rarely central in the design of these schemes.
- A social security system that does not listen to the people it serves risks being misaligned with their real needs.

4. Enforcement and data issues
- Determining how much each platform should contribute can be challenging.
- The system relies on digital records controlled by platforms, creating issues of transparency and accountability.

VI. JUDICIAL AND POLICY DEVELOPMENTS

6.1 Indian judicial responses (overview)

Indian courts have only recently begun engaging seriously with the status of platform workers. While there is no single landmark Supreme Court judgment fully resolving their legal status, there are:
- Public interest litigations seeking recognition of rights
- Cases raising questions of social security and accident compensation
- Ongoing debates over whether platform workers should be treated as employees, independent contractors, or a third category

Courts have sometimes looked at substance over form, examining factors like:
- Degree of control by the platform
- Economic dependency of the worker
- Power imbalance in contract terms

This direction hints that, in future, courts may be willing to look beyond labels like "partner" and "user".

6.2 Comparative references influencing Indian debates

Globally, several legal systems have moved towards stronger protection:
- Courts in countries like the UK and parts of the EU have treated some platform workers as "workers" with minimum rights, even if not full "employees".
- Some jurisdictions require platforms to provide minimum pay, paid leave, or collective bargaining rights.

These developments influence Indian academic discourse and advocacy. Worker collectives in India use these examples to argue that Indian law should also evolve to recognise the real nature of the relationship, not just the contractual labels.

VII. HUMAN-CENTRED CRITIQUE OF THE CURRENT LEGAL POSITION

The current legal framework in India is in transition. While the CSS 2020 recognises gig and platform workers and opens doors for social security schemes, many deeper issues remain.

7.1 Dignity of labour and decent work

The ILO's concept of "decent work" includes:
- Fair income
- Security in the workplace and social protection
- Freedom to organise and participate in decisions
- Equality of opportunity and treatment

For many gig and platform workers in India:
- Income is unstable and often below living wage levels for the hours actually worked
- There is limited or no social security in practice

- Deactivation can happen suddenly, without transparent process
- Collective voice is weak or discouraged

From a human-centred perspective, this falls short of the ideal of decent work and of the constitutional vision of social and economic justice.

7.2 Power imbalance and "choice"

Platforms often highlight the flexibility of gig work: the ability to log in and log out at will. For some workers, this flexibility is genuinely valuable, especially for students, caregivers, or people doing gig work as a side income.

However, for many:

- Gig work is not a "choice" made from luxury. It is done because few secure jobs are available.
- They may have taken loans for vehicles to join the platform, becoming deeply dependent on the app for daily earnings.
- Refusing orders or logging out during peak hours can lead to penalties, lower ratings, or fewer future orders.

Thus, the freedom is often more theoretical than real. Law that ignores this imbalance may end up reinforcing injustice.

7.3 Fragmentation of responsibility

Traditional employment law pins responsibility on a clear employer. In gig and platform work: - Platforms present themselves as mere intermediaries.

- Customers may think that any problem belongs to the "company", not to the individual worker.
- The state struggles to determine who must contribute what, and how to enforce compliance.

This fragmentation can leave workers in a vacuum, where everyone benefits from their labour, but nobody fully takes responsibility for their welfare.

VIII. TOWARDS A MORE PROTECTIVE AND HUMANISED LEGAL FRAMEWORK

A human-centred approach to gig and platform workers in India requires both *legal reform* and policy imagination.

8.1 Clarifying employment status and basic protections Options include:

- Recognising many platform workers as "employees" or "workers" under specific conditions (for example, where the platform exercises high control and the worker depends on the platform for primary income).
- Creating an intermediate category with guaranteed basic protections, such as:
- Minimum earnings per hour worked or logged in
- Limits on working hours and mandatory rest periods
- Protection against unfair or arbitrary deactivation

The exact model can be debated, but *complete exclusion from core labour rights is hard to justify.

8.2 Strengthening and implementing social security schemes Schemes under the CSS 2020 should:

- Be implemented promptly with clear timelines and budgets
- Cover health, accident, disability, maternity, and old-age security
- Ensure that:
- Contributions from aggregators are meaningful
- Workers' contributions, if any, are affordable
- Benefits are easy to access without complex paperwork Technology can be used positively:
- Unified digital social security accounts linked to workers rather than to a single platform - Portability of benefits when workers move between platforms

8.3 Enabling collective voice and representation

Humanising law also means "listening to workers". Reforms can:

- Recognise and protect platform worker unions and collectives
- Require platforms to consult representative bodies when changing key policies (incentive structures, penalty rules, etc.)
- Establish independent grievance redressal mechanisms, not controlled solely by platforms This would shift the narrative from "users clicking on terms and conditions" to "workers participating in decisions that shape their lives".

8.4 Transparency and accountability of algorithms

As algorithmic management becomes central to gig work:

- Workers should have a right to know how ratings affect their access to work

- There must be safeguards against discriminatory or arbitrary deactivation
- Human review should be available for important decisions affecting livelihood

Legal standards can demand explainability and fairness in algorithmic decisions that have serious human consequences.

IX. CONCLUSION

Gig and platform work is not a temporary trend. It is now woven into the everyday functioning of India's urban and semi-urban economy. People depend on it for food, mobility, convenience—and many workers depend on it for survival.

Indian labour law has taken a crucial first step by "recognising gig and platform workers" in the Code on Social Security, 2020. But recognition alone is not enough. From the vantage point of a rider speeding through traffic with no accident cover, or a driver whose account is suddenly deactivated, the law still feels distant.

A truly humanised approach requires that:

- The law looks beyond formal labels and examines actual dependence and control.
- Social security becomes a lived reality, not just a promise in legislation.
- Platforms share responsibility for the welfare of those whose labour sustains their business.
- Gig and platform workers are treated not as disposable "partners", but as workers entitled to dignity, voice, and justice.

The challenge for policymakers, courts, and society is to ensure that technological innovation does not come at the cost of basic labour protections. If India can craft a framework that combines flexibility with fairness, it can offer a model of 'digital-age labour law' that truly centres the human being behind every app notification and completed task.