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Navigating Gig Work in India's New Labour Codes: Legal Challenges, Global Insights, and The Path to Social Security

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Abstract

In recent years there has been a surge in the PILs & protests demanding the categorization of gig workers as an employee & giving them all the rights, and securities just like a full-time employee. India is no exception, as the society is witnessing a tremendous growth in the Gig economy, debate is ongoing around the world about the categorization of gig workers as an "Employee" or "Independent Contractors." The efforts range from giving them a full-time employee status with all other social securities to not categorizing or treating them as a separate category. The Indian Government has taken measures including the 4 new labour codes which represent a significant step towards addressing the needs of gig workers, but their implementation & effectiveness still remains uncertain. Simultaneously, countries like the UK and the EU have made strides in clarifying gig workers' rights. The absence of legislative clarity in India places the onus on the judiciary to address this issue. Courts play a crucial role in interpreting gig workers' status, balancing their rights with the operational flexibility of platforms. India's court's response will shape not only the future of gig work but also the trajectory of labour rights in the digital age. This research article will delve into the legal interpretations and judicial pronouncements concerning gig work & recommend some changes that should be made. The research article will examine globally, how courts are dealing with the pertinent questions of the classification of gig workers, their entitlement to social security benefits, and the applicability of traditional labour laws in the context of platform-based employment.

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Keywords – *Gig economy, Gig workers, New Labour Codes, Employees-Independent Contractors, Hybrid Categorization.*

1. INTRODUCTION

British historian Tawny Paul explains that "*Before the industrialization in the 19th century, most people worked multiple jobs to piece together a living.*" So, the concept of the gig economy is not new. Still, it has grown significantly globally in recent years, mainly because of the pandemic, flexibility in preferences, & swift technological progress, etc.

The gig economy represents a market of labour, which is primarily based on independent contractors & freelancers rather than 'full-time' or 'permanent employees. According to the Ministry of Labor & Employment, a gig worker is someone involved in 'income-earning' pursuits out of an established 'employer-employee' framework, encompassing roles such as ridesharing drivers, parcel & food delivery personnel, etc. Further, there is another category called "Platform workers," gig workers who are all working online for digital platforms.

A survey conducted by the 'University of Pennsylvania' & The Indian Federation of App-based Transport Workers, (IFAT) titled "Prisoners on Wheels"[1] Informed about the challenges being faced by over 10,000 cab drivers' & delivery persons' across 8 major cities, aged between 21 to 40 years. The survey revealed a grim picture of overwork, low wages, no weekly off, financial hardships, discrimination & arbitrary work culture. Globally The World Bank reported that 6% of the world's labour force is involved in the gig economy, which underscoring its major role in the modern labour system.[2] The 'gig sector' in itself is broad & unfixed and can include a diversity of 'workers' who are external to a 'traditional workers' definition & in India, the Gig economy is undergoing exponential growth, which is being fuelled by digitalization & affordable internet access. Online platforms, like Ola, Uber, Zomato & swiggy, etc., have contributed or are integral to the exponential growth in the gig economy. The number of internet users in India is expected to grow by 45%, (from 62.2 crores in 2020 to 90 crores in 2025), driving further expansion.[3]

1 PAIGAM et al., *Report on Working and Living Conditions of App-Based Workers in India*, 1 TGPWU (2024), https://tgpwu.org/wp-content/uploads/2024/03/Report-Final-Print-1.pdf (last visited July 10, 2025).

2 N.P. Stromquist, *World Development Report 2019: The Changing Nature of Work,* 65 INT'L REV. EDUC. 321 (2019).

3 IAMAI, Internet Adoption in India (ICUBE 2021), https://www.iamai.in/sites/default/files/

As of now, in India, Gig sector jobs are at 8-18 million, expected to rise to over 9 crores in the 'non-farm sector' in the next 8-10 years.[4] As per Niti Ayog's estimates in the forthcoming decade, the gig economy in India can expect 'USD 250 billion' in transactions that would contribute to 1.25% of the country's GDP. In line with that, 4 industry sectors are Construction, Manufacturing, retail & transport & logistics, which have the highest potential to produce (somewhere around 70 million) Gigable jobs in the future.[5] More than that, the Gig economy is anticipated to increase at a compound annual growth rate (CAGR) of 12%. A report from Boston Consulting Group (BCG) suggests that the gig sector is likely to serve up to 9 crore jobs (almost 30% of India's *non-farm workforce*). It was also notable that gig involvement was high in 'developing countries'.[6] This expansion is about millions of people living their lives with few guarantees & even with fewer protections.

2. Understanding Gig Work: Pros & Cons Of The Gig Economy

So far, we have understood that Gig work is just like a short-term contract or project-based employment, which is not permanent. Despite this, for many people, the gig economy provides a flexible, if unstable, substitute for regular employment, enabling individuals to make a living even when there are no official job openings.[7] Also, digitalization has made remote work easy through digital platforms.

In modern times, the Gig economy has its pros and cons. On the one hand, it provides more flexibility, variety, independence, and better work-life balance; however, it comes with a compromise with the protection of work, irregular income, no benefits, and non-permanency in the job. So, this flexibility excludes them from social protections & benefits.[8] It opposes the traditional approach of full-time employment

research/IAMAI-KANTAR-ICUBE-2020-Report.pdf (last visited July 10, 2025).

4 NITI Aayog et al., *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work,* 1 NITI Aayog (2022), https://www.niti.gov.in/sites/default/files/2022-06/25th_June_Final_Report_27062022.pdf (last visited July 10, 2025).

5 *Id.*

6 Rajah Augustinraj et al., *Unlocking the Potential of the Gig Economy in India*, 1 Boston Consulting Group (2025), https://media-publications.bcg.com/Gig-Economy-Report-Executive-Summary.pdf

7 Tanmay Sachdeva, *The Gig Economy in India: Unpacking the Economic and Social Implications,* 15 Int'l J. Res. Publ'n & Seminar 166, 166–176 (2024).

8 R. Chaudhary & S. Mitra, *Labour Practices in the Emerging Gig Economy in India: A Case Study of Urban Clap*, 1 Initiative For What Works To Advance Women And Girls In The Economy (2019), https://iwwage.org/wp-content/uploads/2020/02/Labour-Practises-in-the-emerging-gig-economy-in-

by encouraging employment with no long-term commitment.

3. Distinguishing Roles of Gig Workers: Employees vs. Independent Contractors

The main distinction between 'Employees' & 'Independent Contractors' is the degree of restraint the business has over the workers. Independent Contractors are generally self-employed and they have more autonomy over how, when & where they are providing services, as a result, they are being paid based on the results they deliver.[9] Moreover, Independent Contractors often use their tools & methods for work. On the other hand, an employee is typically bound by the instructions of their employer, the employer has control over the working hours, methods, & the overall work environment. Adding to that Employees receive benefits such as health insurance, Social Security, fixed working hours, minimum wages under the Minimum Wages Act of 1948, and paid time off, etc. which are not typically provided to independent contractors.

Many techs, food delivery companies, and startups in India adhere to the 'Aggregator-Intermediary model', presenting gig workers as 'freelancers & Independent contractors' in place of employees.[10] Because gig workers are typically classified as independent contractors rather than employees, with the platform acting as the intermediary, they are often exempt from certain legal vicarious responsibilities and obligations and this is because they are seen as independent actors in the market, having more freedom in their work choices, but also being barred from benefits and protections from companies.[11]

Gig workers do not have the same rights as employees & also due to the lack of collectivization they are unable to form unions to represent their interests for the redressal of their grievances. Because of the fluid nature of Gig work Businesses prefer to work with 'freelancers' and 'independent Contractors' on a short-term

India.pdf

9 Masterly Legal, *Contractor vs. Employee: Understanding the Differences Between an Employee or Independent Contractor*, Masterly Legal (2024), https://www.masterlylegal.com/legal-considerations-for-hiring-and-managing-independent-contractors (last visited July 10, 2025).

10 Ctr. For Labour Laws, *The Unsettled Status Of Gig Workers In India: Towards A Comprehensive Legal Framework*, Ctr. for Labour Laws (2024), https://cll.nliu.ac.in/the-unsettled-status-of-gig-workers-in-india-towards-a-comprehensive-legal-framework/ (last visited July 10, 2025).

11 Valerio De Stefano, *The Rise of the 'Just-in-Time Workforce': On-Demand Work, Crowd Work and Labour Protection in the 'Gig-Economy,'* 2015 Ssrn Elec. J. 1 (2015), https://doi.org/10.2139/ssrn.2682602 (last visited July 10, 2025).

contract basis without having long-term commitments.[12] Because of that Gig workers encounter major challenges in terms of irregularity of wages and poor working conditions. Many platform-based workers earn less than the minimum wage in their area.[13]

4. Tracing Developments in the New Labor Code: An Overview of India's Measures for Gig Worker Policies

Over 500 million people work in India's organized and unorganized sectors, with the unorganized sector employing the vast majority of them (almost 90%). The Indian government has taken several initiatives for gig workers from time to time. The introduction of the new labour codes in the Parliament in 2020 was a major step by the government in ensuring social security for gig workers, which is yet to be implemented. Later, this will be discussed in further detail.

Along these lines, the Ministry of Labour & Employment developed the e-Shram Portal.[14] In 2021, it created a National database of Unorganized workers (NDUW), which would be seeded with Aadhar. This was the first national database specifically for workers in the informal sector, including migrant, construction, gig, and platform workers.

The term *Labour* is a concurrent list subject on which the Centre and states can make laws. Some states, like Rajasthan and Karnataka, have already taken the initiative to ensure the security of gig workers.

Some states like Rajasthan & Karnataka down the line framed acts & bills for unorganized & Gig workers. Rajasthan became the first state to enact legislation for gig and unorganized workers when it introduced the Rajasthan Platform-based Gig Workers (registration & Welfare) Act, of 2023. This law established a *"welfare board"* and *"unique IDs"* following the registration of gig workers. It levied a welfare charge on the aggregators *(digital intermediaries)* & established a Central Transaction Information and Management System (CTIMS) for tracking and monitoring the payments. The law also requires that gig workers have access to social security programs (both general and specific) based on their contributions, as determined by

12 R Chaudhary and Mitra, *supra* note 8.

13 Int'l Labour Org., *Platform Work and the Employment Relationship*, 1 Int'l Labour Org. (2025), https://webapps.ilo.org/static/english/intserv/working-papers/wp027/index.html (last visited July 10, 2025).

14 E-Shram, https://eshram.gov.in/indexmain (last visited Apr. 1, 2025).

the state government. It also has a grievance resolution procedure.

Additionally, the Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024 was introduced by the Karnataka state in July of that year. This bill suggested creating a board to oversee the collecting of welfare fees and manage the registration of gig workers and aggregators. The Bill requires aggregators to provide fair contracts to gig workers. These contracts must be written in clear language which is easily comprehensible by the gig workers. The Bill proposes to set up the Karnataka Gig Workers "*Social Security and Welfare Fund*" ("Fund") to benefit the registered platform-based gig workers. The Bill introduces a grievance redressal mechanism for the gig workers.

As we discussed earlier, long-awaited labour reforms are set to be rolled out soon, which have been already passed by the parliament in 2020. In the coming months to facilitate nationwide implementation of the new labour codes, the Ministry of Labour and Employment will conduct training workshops for state labour officials to ensure preparedness and address potential legal challenges.[15] As per the government, these new reforms would set an example of Minimum Government & Maximum governance & will ensure "ease of doing business."[16]

The 2nd "National Commission of Labor" presented its report in 2002 & endorsed that at the primary level, various labour laws should be codified into 4 or 5 codes, but no initiatives were taken from 2004-2014. Also, Labour Reforms remained unaltered during the 'economic reforms', which were carried out in 1991. After extensive discussions & Recommendations, 29 labour laws were codified into 4 Labour codes.

The Code on Wages, 2019,[17] Consolidates four labour laws and ensures minimum wage rights, timely payments, and equal pay for all workers, including 40 crores in the unorganized sector. It benefits 50 crore people across all sectors by instituting a floor pay to lessen regional inequities and requiring assessments every five years.

The Social Security Code, of 2020,[18] Amalgamated 9 Labour Laws, now benefit from ESIC and EPFO were expanded to all workers, including gig, platform, self-employed, and unorganized workers, under this code. It guarantees social security

15 *ELB E-Bulletin, Employee Benefits & Compensation-India,* MONDAQ (Dec. 19, 2024), 'https://www.mondaq.com/india/employee-benefits-compensation/1557438/elb-e-bulletin'.

16 Ministry Of Lab. & Emp't, Gov't Of India, *Labour Code* https://labour.gov.in/sites/default/files/labour_code_eng.pdf (last visited July 10, 2025).

17 The Code on Wages, 2019, No. 29 of 2019, India Code § 1 (India 2019).

18 The Code on Soc. Sec., 2020, No. 36 of 2020, India Code § 1 (India 2020).

equality for all, eliminates the need for gratuity service for fixed-term workers, and establishes a social security fund. Aadhaar-based UAN enabling "intact portability," a national workforce database, and online vacancy reporting are important steps.

The OSH (Occupational, Safety, Health & Working Conditions) Code, 2020,[19] consolidated thirteen previous legislations. In addition to improving protections for interstate migrant workers by allowing self-registration for legal identity, offering travel allowances, and guaranteeing benefits like ration portability and health. It mandates appointment letters, safe working conditions for women, and maternity benefits while reducing leave eligibility to 180 days of work and creating a national worker database.

The Industrial Relations Code, 2020,[20] Integrated 3 Labour Code & provides unemployment allowance under the Atal Bimit Vyakti Kalyan Yojna, reskilling wages during retrenchment, and faster dispute resolution through two-member Tribunals. It establishes a 51% vote threshold for sole trade union recognition or a negotiating council for collective agreements.

According to the government, the advantages of these four Labor Codes will be available to workers in both formal and informal employment. Furthermore, all workers will now be eligible for benefits like the "*Employees' Provident Fund (EPF),*" "*Employees' Pension Scheme (EPS)*", and full medical coverage under Employees' Insurance.

5. Social Security Provisions for Gig & Platform Workers under the New Labor Codes

The implementation of the new labour codes into practice would provide a significant opportunity to promote positive changes across the labour system. The main benefit is the "*formalization*" of the unorganized sector, which was largely informal. By extending legal protection & Benefits, such as 'better working conditions' & 'access to social security' to Gig workers, the codes have the potential to promote 'inclusivity,' and lower 'income inequalities,' & contribute to further balanced 'economic growth.'[21]

19 The Occupational Safety, Health, and Working Conditions Code, 2020, No. 37 of 2020, India Code § 1 (India 2020).

20 The Indus. Relations Code, 2020, No. 35 of 2020, India Code § 1 (India 2020).

21 SMA Legal, *Challenges and Opportunities in Implementing the New Labour Codes in India* (July 31, 2024), https://www.smalegal.in/home/challenges-and-opportunities-in-implementing-the-

Moreover, the compilation of 'various laws' into only 4 codes, has made adherence easy for businesses. This can contribute to the greater efficiency & supportive regulatory environment for industries & businesses. By prioritizing workplace flexibility, including streamlined hiring /firing and promoting contract work, the new codes aim to boost productivity and innovation by enabling businesses to quickly reorganize to market changes and optimize their work employees, recognizing the importance of adaptability in a dynamic economy.

Also, the codes defined an "*Inspector-cum-facilitator,*" who will have the responsibility of checking for compliance as well as facilitation in the businesses. There is also the provision of the minimum wage for unorganized workers under the code on wages, 2019. Under the Social Security Code, 2020, all unorganized & self-employed workers will have the benefit of the pension scheme. The Employees' State Insurance Corporation (ESIC) will now be available to workers in all sectors, including those in the unorganized sector. The government states that processes will be streamlined through a simple and accountable system, featuring a single registration, one license, and a single return covering all relevant codes.[22]

Besides that, a social security fund will be established to provide comprehensive 'social security coverage' for 40 crore unorganized workers, including gig and platform workers involved in gig economies. Workers will now be entitled to all 'benefits' and 'social security protections', even if they are employed on a fixed-term contract. More than that, the codes emphasize the importance of 'skill development' and 'social security' for workers. These codes aimed to foster a more incorporated, flexible, and endurable labour environment.

As per the government, A 'national database' of unorganized sector workers would be created via the on-portal registration & also an Aadhaar-based 'Universal Account Number (UAN)' to ensure 'seamless portability.'

Besides this, under "*The OSH code, 2020*", women's empowerment would be promoted such as Women are now permitted to work night shifts if they agree, and employers are required to ensure their safety and provide appropriate facilities during those hours. On top of these changes, female workers will now receive 12 to 26 weeks of paid maternity leave, and any workplace with 50 or more employees

new-labour-codes-in-india (last visited July 10, 2025).

22 Ministry Of Lab. & Emp't, Gov't Of India, Labour Code, *supra* note 16.

must provide a childcare facility.[23]

By making these provisions the new labour codes will guarantee minimum wages and social security benefits for 500 million workers in the organized, unorganized, and self-employed sectors.

The 4 New Labour Codes, passed by the Parliament in 2020, aimed to protect workers while ensuring ease of business. Putting these codes into practice creates difficulties and potential benefits for India's workers and economic growth. The purpose of consolidating 29 laws into 4 codes was to provide a simple law instead of numerous complex legislations, which could help both 'employers' & 'employees'.[24] Although the initiative was well-received & its purpose praised, the subsequent implementation.

6. Unclear Legal Status of Gig Workers & Challenges under the New Labor Codes

The process revealed some shortcomings and unresolved issues, primarily for the gig workers, that would require further clarification.

For the successful implementation of these codes, a major obstacle is making all the workers, employers, industrialists, startups, digital intermediaries, etc., fully aware of alterations such as rules on layoffs, closures, and retrenchments, as well as increasing gratuity and payouts and changing payroll policies.[25] Because inclusion of the Informal sector in the new labour code, which encompasses millions of low-skilled workers is a complex problem to handle. Therefore, it is essential to ensure that people working in the informal sector are not excluded through effective information dissemination, which would necessitate the construction of appropriate education and communication channels for public awareness in order to minimize confusion and non-compliance.

Aside from that, one of the main challenges is striking a balance between company interests and worker protection; the new labour code aims to balance commercial convenience with worker rights. However, businesses may desist the provisions that would 'expand costs' or 'limit flexibility', potentially leading to conflicts. So, it

23 The Occupational Safety, Health, And Working Conditions Code, 2020, *supra* note 19.

24 Khaitan & Co., *Understanding India's New Labour Codes: Challenges in Implementation* 1 (2021), https://www.mondaq.com/pdf/1072798.pdf (last visited July 10, 2025).

25 SMA Legal, *supra* note 21.

requires careful consideration from both sides for an impartial & endurable outcome.

The Social Security Code of 2020,[26] Proposes the definitions of 'Gig workers', 'Platform workers' & 'Unorganized workers' and establishes various programs for all types of 'workers' (& specifies the role that platform companies might be likely to play in a few of these programs).[27] These would require some more clarification, otherwise, ambiguity would arise in determining their eligibility for social security programs, as the potential overlap between these categories may cause confusion about which workers are qualified for which work. In addition to that treating gig workers as a distinct category external to the employee definition can deprive them of having the same benefits & legal rights as an employee.

Other than that, the code on Social Security, 2020, lacks a clear definition of 'benefits' and 'privileges' for gig, unorganized, and platform workers, and also it fails to provide a "*unified registration process*" and 'compliance platform' for them. Also, 'institutional social security' is only procured to formal employees. Formal employees are entitled to "*26 weeks*" of "*paid leave*" and "*job security*" during their maternity period since they are covered by "institutional social security" under the Maternity Benefit Act of 1961. On the other hand, social security programs exclusively provide financial benefits to informal workers. Due to their lack of complete protections, informal labourers are particularly vulnerable, as this disparity highlights.

In The OSH (Occupational, Safety, Health & Working Conditions) Code, 2020, There are no institutional protections for gig workers, such as minimum pay.[28] Additionally, it solely discusses migrant workers' safety and security, not those of other gig, platform, and unorganized labour.

Furthermore, Unorganized, Gig & Platform workers are not included under the 'Industrial Relations Code' 2020,[29] & are not placed under the 'Dispute resolution' procedure for instance under the 'Atal Bimit Vyakti Kalyan Yojna', only a worker of the organized sector would get financial assistance from the government if he loses his job. 'Gig workers' continuously lack 'job security' and have the constant risk of 'random termination' by the 'platforms. Rules should clearly define fair treatment,

26 The Code On Soc. Sec., 2020, *supra* note 18.

27 PRS Legislative Research, *Overview of Labour Law Reforms* (2025), https://prsindia.org/billtrack/overview-of-law-reforms (last visited July 10, 2025).

28 Occupational Safety, Health & Working Conditions Code, 2020, *supra* note 20.

29 Indus. Relations Code, 2020, *supra* note 20.

protecting workers from wrongful termination and discrimination. [30]

A greater clarity would be required on the distinction between workers & employees, overtime payment, etc. Also, special attention is required (due to the post-COVID remote working scenario) on the connection between organizations and the gig economy, such that workers are only acknowledged for social security benefits, but not recognized as having a traditional employer-employee relationship with the organization in question.[31]

In addition to the above-mentioned issues, another major problem is the fragmentation of workers across multiple states or cities in that situation, registration of all the Gig Workers seems unfeasible because navigating & registering all the Unorganized sector workers at one time at multiple places is quite hard & cannot be possible because of their uncertain job. Also, the responsibility of ensuring the registration of the workers is unclear & many of the workers lack access to the documents & processes needed for registration, such as Aadhaar-linked bank accounts, proof of work, etc.

Besides this, another challenge that emerges is that there is no provision mentioned in the codes for the recognizance of "*invisible labour.*" The unpaid work, or "*invisible work*" is a serious concern. It is primarily performed by women (90%), such as housework, childcare & elder care, which involves demanding responsibilities without typical employment benefits like weekends, fixed hours, vacations, recognition, or pay. Despite this unfortunately none of the new labour codes addresses this unrecognized & unregulated work. Based on a survey report from 'The National Statistical Office (*NSO*)', in the 2019 from Jan-Dec in Time Use Survey (TSU), 38.2% of individuals aged six & above were engaged in employment-related activities, in which 57.3% of males & 18.4% of females were employed. Overall, 53.2% of survey participants performed unsalaried home services for household members.[32] The burden of "*invisible labour*" is exacerbated by its lack of recognition, creating a seemingly endless and exhausting cycle.[33]

30 Bhatt & Joshi Assocs., *Legal Status of Gig Workers Under Indian Labour Laws: A Comprehensive Analysis* (2024), https://bhattandjoshiassociates.com/legal-status-of-gig-workers-under-indian-labour-laws-a-comprehensive-analysis/#The_Code_on_Social_Security_2020 (last visited July 10, 2025).

31 Khaitan & Co., *supra* note 24.

32 SMA Legal, *supra* note 21.

33 Narendra Modi & K. Chandru, *Emerging Challenges In Labour Laws* 1 Manupatra (2021), https://articles.manupatra.com/pdf/3e1601aa-8586-463e-936d-ef4648df3baa.pdf (last visited July 10,

Overcoming these challenges requires a comprehensive approach encompassing effective communication, strong compliance measures, targeted plans for the 'informal sector', and mindful agreement to balance worker interests and business needs. This will enable the new labour codes to create a more incorporated, yielding, and compatible labour environment in India.

7. Judicial Approaches in India

India's legal framework regarding the gig economy is gradually evolving & progressing, with the key court cases establishing precedents for protecting & acknowledging the *"rights of gig workers."* In the case of *The Dhrangadhara Chemical Works v. State of Saurashtra*[34]The court established the supervision and control test as the primary standard for establishing an employer-employee relationship in India. Also, using factors like the right to reject, paymaster, dismissal rights, alternative service duration, control and supervision, work nature, and establishment types, the court in *Balwant Rai Saluja v. Air India Ltd.*[35] developed an integrated testing approach to ascertain the nature of the relationship between the employer and the employee. Employee status, employer rights, pay, insurance contributions, and other aspects of employment are all impacted by this approach. Similarly, in *Ram Singh v. UT of Chandigarh,*[36] the Court stated that the test to ascertain employer-employee relationship must look at who has the power to select and dismiss workers, pay remuneration, organise work, and deduct insurance contributions.

The Gig workers, represented by the 'IFAT' ('Indian Federation of App-based Transport Workers'), filed a PIL before the 'Supreme Court', arguing that 'gig workers' for platforms like Swiggy, Zomato, Uber, & Ola should be classified as 'Unorganized Workers' & therefore there should be "Right to Social Security" for all gig workers also.[37] It highlighted the exploitation that gig workers face caused by long working hours, low pay, and lack of social safety nets, & demanded specific programs for 'health insurance', 'maternity benefits', pensions, and other support. The 'gig workers' have contested the idea of a 'Partnership' with Platform owners,

2025).

34 Dhrangadhra Chem. Works Ltd. v. State of Saurashtra, AIR 1957 SC 264 (India 1957).

35 Balwant Rai Saluja v. Air India Ltd., (2014) 9 SCC 407 (India 2014).

36 Ram Singh v. Union Territory, Chandigarh, (2004) 1 SCC 126 (India 2004).

37 Naveen Kumar, *Regulatory Framework and the Protection of Basic Rights of Gig Workers*, Bar & Bench (May 16, 2024), https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers (last visited July 10, 2025).

claiming it is a genuine 'employer-employee' relationship.[38]

In the famous case of *All India Gig Workers Union v. Uber India Systems Pvt. Ltd.*, gig workers opposed Uber's denial of *"social security benefits" and "minimum wages"* directly.[39]

These incidents demonstrate how Indian gig workers continue to struggle for *"fair compensation"* and *"benefits"* in the gig economy. By moving away from the present independent contractor model and toward a more traditional employer-employee arrangement, they hope to drastically change the relationship between digital platforms and their workers.

However, the legal status of gig workers remains unclear due to the lack of clear Supreme Court decisions or a strong case law framework, which causes them to lag behind the industry's anticipated 23.5 million workers by 2029 (NITI Aayog, 2022). These treatments take a reactive approach, addressing symptoms like overwork but ignoring underlying problems like social security or classification.

8. Comparative Judicial Analysis of the Global Gig Economy

Globally, the Gig economy is on the rise, and its regulation is a global issue; different countries are adopting diverse approaches to secure the rights & security of gig workers. Many asserted that either a novel categorization system should be introduced or workers should be considered employees.[40]

In 2019, California legislators passed a bill that categorized workers as 'independent contractors' rather than employees, which platform companies resisted.[41] In 2021 in the case of *Uber BV & Ors. vs. Aslam & Ors.* UK's 'Supreme Court' upheld that 'Uber drivers' should be categorized as 'workers' in place of 'independent contractors' because of the significant control of the company over them.[42] This classification

38 Indian Fed'n of App-based Transp. Workers, *Gig Workers' Access to Social Security: Writ Petition Summary,* Supreme Ct. Observer, https://www.scobserver.in/journal/gig-workers-access-to-social-security/ (last visited July 10, 2025).

39 *Id.*

40 Andrew Stewart & Jim Stanford, *Regulating Work in the Gig Economy: What Are the Options?*, 28 Econ. & Lab. Rel. Rev. 420, 420–437 (2017).

41 Cal. Assemb. B. 5, 2019–2020 Leg., ch. 296 (Cal. 2019), California Legislature Info https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5 (last visited July 10, 2025).

42 Uber BV v. Aslam, (2021) UKSC 5 (U.K. 2021).

means they are entitled to certain employment rights, such as minimum wage, paid vacation time, and protection from being unfairly fired. After this ruling, South African "*Uber drivers*" filed a mass-action lawsuit in Johannesburg's Labor Court against Uber BV & Uber SA, arguing drivers should be eligible for 'rights as employees.'[43] Likewise, Spain enacted the rider's law in Aug. 2021, establishing that delivery and distribution riders are presumed to be employees if the company they work for manages and controls them.[44]

Likewise, the 'European Commission' suggested a new ordinance aimed at guaranteeing full employee status for digital platform workers if their working conditions resembled traditional employment.[45] In fact, in March 2024, the "Platform Work Directive" was approved. A big step toward controlling the gig economy and improving working conditions for platform employees is this directive.[46]

Also, the Chinese government started taking steps to curtail the power of *the "big platform companies"* after the "*food delivery riders*" received a lot of media attention. New rules and guidelines were introduced to better protect gig workers who aren't officially considered employees. Particularly, the **"***Guiding Opinions on Labor Security Rights & Interests of Workers in Platform Employment"* specified that 'platform workers' should have a 'minimum wage' & 'occupational injury insurance,' and also made it compulsory for companies & platforms to have a Labor relation with 'full-time workers.'[47]

From the above judgments, it is clear that globally, all the countries are embracing distinct models or approaches to deal with this problem. This shows that by adopting new legislation, all are trying to restructure the regulatory environment in which both the workers & companies can cooperate.

43 Leigh Day, *Class Action for South African Uber Drivers,* Leigh Day (May 10, 2022), https://www.leighday.co.uk/news/news/2021-news/prominent-human-rights-lawyers-launch-class-action-for-south-african-uber-drivers (last visited July 10, 2025).

44 G.R. Pérez, *Spain Approves Landmark Law Recognizing Food-Delivery Riders as Employees,* EL PAÍS (May 12, 2021), https://english.elpais.com/economy_and_business/2021-05-12/spain-approves-landmark-law-recognizing-food-delivery-riders-as-employees.html (last visited July 10, 2025).

45 Eur. Comm'n, *Proposal for a Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work* 1 (Eur. Comm'n 2021), https://ec.europa.eu/social/main.jsp?catId=1313&langId=en (last visited July 10, 2025).

46 James Muldoon & Ping Sun, *The Global Gig Economy: How Transport Platform Companies Adapt to Regulatory Challenges – A Comparative Analysis of Six Countries,* 53 Indus. L.J. 481, 481–504 (2024).

47 Galia Popov, *China and International Labor Standards: New Guidelines Extend Labor Protections to Platform Workers,* 52 N.Y.U. J. Int'l L. & Pol. 130, 130–138 (2021).

9. Analysis & Reasoning of the Judgments: Lessons for India

In the landmark decision of the UK Supreme Court in *Uber BV & Ors. vs. Aslam & Ors.* Unlike a strict textual approach, the Court adopted an approach that considers the intent behind the legislation, called the "*Control test.*" According to the Court, Uber has greater control over regulating fares, Compulsory usage of the 'Uber app,' limitation on 'communication,' & 'Performance invigilating' through 'acceptance rates' and 'rating systems.'[48] The court determined that this authority/control showed a level of subservience & dependence similar to that of an employer-employee relationship; thus, drivers should be classified as workers. This decision has 'great implications' for the 'gig sector' and establishes a legal principle that prevents platforms like 'Uber' from avoiding employment responsibilities by simply labelling workers as independent contractors.[49] Likewise, Indian courts should use a similar approach to evaluate the level of influence platforms like Ola & Uber have over their workers and reclassify them a regular worker rather than as independent contractors.

This judgment is the perfect paradigm for the Indian Judiciary to look beyond the literal text in the laws to consider how to apply the provisions in the practical, real world to safeguard workers from the unfair treatment that is intrinsic in modern 'digital labour platforms. In the future, this case should be used as a reference to determine the employment status of people who are all engaged via digital platforms, & would put forward the rights of the workers across diverse gig sectors.[50]

Likewise, Spain's Supreme Court in 2021 passed a judgment that 'the riders' of a delivery company are 'employees.' This judicial stance sped up the government's measures towards the expansion of a "Riders Law," with the participation of the 'social partners.' The law also makes it compulsory for all businesses to communicate with food-delivery riders about the usage of Algorithms & AI that affect their hiring decisions, working conditions, & layoffs.[51] It has been noticed that after the judicial interference, some states have re-classified these 'gig workers' as 'employees' (e.g.

48 Casemine, *Uber BV & Ors v. Aslam & Ors: Establishing Worker Status for App-Based Drivers*, Casemine (2021), https://www.casemine.com/commentary/uk/(uber-bv-&-ors-v.-aslam-&-ors):-establishing-worker-status-for-app-based-drivers/view (last visited July 10, 2025).

49 *Id.*

50 *Id.*

51 El País, *Spain Approves Landmark Law Recognizing Food-Delivery Riders as Employees* El País English (2021), https://english.elpais.com/economy_and_business/2021-05-12/spain-approves-landmark-law-recognizing-food-delivery-riders-as-employees.html (last visited July 10, 2025).

'Japan'), whereas other states (e.g. 'the UK') categorized them as 'workers' (which is a novel class between 'employees' and 'self-employed' with a 'special set of rights').[52] This ruling immediately changes the riders' status from contractors to employees, requiring the company to formalize this change by issuing proper employment contracts.[53] In line with India's requirement to effectively regulate platform-based work, Indian courts should also advise platforms to reveal comparable algorithmic effects, improving accountability and fairness in the digital labour market.

On the contrary, the California Supreme Court ruled in favour of 'Prop. - 22' (a 2020 ballot measure) that permitted "*Uber*", "*Lyft*", and other platforms to categorize their 'workers' as 'independent contractors' in the place of employees.[54] This can be seen as a backlash from other countries' judgment where gig workers were considered as regular workers. So, India should draw from the UK & Spain model by guaranteeing gig workers' access to collective bargaining rights and dispute resolution procedures. This strategy would fortify the legal system and bring it into line with international best practices.

10. Conclusions & Recommendations

As we are witnessing, the gig economy is constantly on the increase. According to Niti Aayog's report "*India's Booming Gig & Platform Economy,*" By 2029, the gig economy is projected to involve nearly 23.5 million workers.[55] The report also highlights the burgeoning problems within the gig economy such as 'unsafe working conditions', 'the lack of minimum wages', unjust contracts, & the 'lack of employment benefits' like overtime pay, workers' remuneration & medical leave.[56]

52 IOE-EMP, *Spain: Supreme Court Decision on the Employment Status of Workers for a Delivery Company and Social Dialogue Process on a 'Riders Law'*, IOE-EMP (2020), https://industrialrelationsnews.ioe-emp.org/industrial-relations-and-labour-law-october-2020/news/article/spain-supreme-court-decision-on-the-employment-status-of-workers-for-a-delivery-company-and-social-dialogue-process-on-a-riders-law (last visited July 10, 2025).

53 *Id.*

54 Grace Gedye, Court Ruling Opens Door to Gig Driver Unionization Bill, Union Says, CalMatters (Mar. 17, 2023), https://calmatters.org/economy/2023/03/court-ruling-gig-driver-union/ (last visited July 10, 2025).

55 NITI Aayog, *supra* note 4.

56 Sahaj Mathur, *Labour Law and the Gig Economy: Towards a Hybrid Model of Employment*, Indiacorplaw (2022), https://indiacorplaw.in/2022/12/labour-law-and-the-gig-economy-towards-a-hybrid-model-of-employment.html (last visited July 10, 2025).

'Gig workers' are amongst the biggest ill-protected sections of the labour workforce & the uncertainty over their rights & security allows companies, & industries to exploit them without bearing liability for the same.[57] However, the legislatures have taken initiatives from time to time but due to loopholes & uncertainty over the legal status of the policies, the poor condition of gig workers is prevailing. Dealing with these issues requires a comprehensive strategy that includes clear communication, strong enforcement, specific plans for the informal economy, and careful balancing of worker rights and business needs.

Courts across globally are grappling with the issue of categorizing 'gig workers' as either 'employees' or 'independent contractors.' Also, it is not surprising that different countries have taken different approaches to deal with it. In countries like the UK, & Spain courts categorized gig workers as 'employees', On the Contrary in the US (California state), & others have categorized 'gig workers' as Independent Contractors. This variation is because the nature & purpose of gig work are very diverse, sometimes companies have greater control over the work (In the case of Uber BV vs. Aslam) & sometimes the workers act independently. So, gig work is a very tricky or complex problem because there can't be a strict classification of them as either 'independent contractors' or 'employees'. Strictly classifying gig workers as employees could impose significant financial burdens on platform companies (aggregators), including taxes, back pay, and penalties, potentially making their business models unendurable.[58] Conversely, classifying gig workers as 'independent contractors' risks perpetuating their abuse and denying them fundamental employment rights such as 'overtime pay' and 'sick leave.'[59]

To resolve this issue, we can adopt a third **"***Hybrid"* category of *"independent workers."* Like, Germany endorsed the concept of an *"employee-like person"*.[60] Also, as we discussed earlier the UK Supreme Court recognized drivers on riding platforms to be 'workers'**,** which is an 'intermediate category', & granted unique benefits & security.[61] Similarly, Italy also termed mail carriers with delivery platforms as *"pseudo-subordinate"***,** workers with controlled 'employment rights'.[62] The suggested

57 *Id.*

58 *Id.*

59 *Id.*

60 Slavina Spasova et al., *The EU Social Pillar: An Answer to the Challenge of the Social Protection of Platform Workers?*, 21 Eur. J. Soc. Sec. 300, 300–318 (2019).

61 Uber & Ors. vs. Aslam & Ors., *supra* note 35.

62 Seyfarth Shaw LLP, *Digital Platform Workers in Europe – Recent Developments*, Seyfarth Shaw LLP (June 2, 2021), https://www.seyfarth.com/news-insights/digital-platform-workers-in-europe-

classification would create a middle ground amid 'independent contractors' & 'traditional employees'. This approach would grant 'gig workers' some employment rights and benefits, establish shared responsibility between the company and the worker, and require adherence to the company's guidelines and procedures.[63] This blended or hybrid classification aims to improve gig workers' well-being by directly including them under labour law and giving them specific 'rights and benefits'.[64] Unlike classifying gig workers as full employees, this model preserves the flexibility inherent in gig work, allowing the aggregator business model to remain viable.

Despite being a major step in India's labour law regime, new labour codes don't represent a significant development & they are unable to sufficiently address the issues of gig workers in India. Earlier, we discussed that gig workers are not included in a dispute redressal mechanism under the Industrial Disputes Act of 2020, but a hybrid framework would bring them under the ambit of a redressal mechanism. Through this mechanism, they can also collectively bargain about their rights & securities.

In conclusion, *"Hybrid Model"* could be a considerable option for ensuring a better solution to this global problem. As we discussed earlier, gig workers can't be put into a strict framework of either an employee or an independent contractor. Gig workers will have the benefit of dispute settlements and collective bargaining with shared liability between workers & platforms through this third categorization.

recent-developments.html (last visited July 10, 2025).

63 Oxford Law Blogs, *Contemplating a Hybrid Model for Gig Work: Perspectives from India and the Code on Social Security, 2020*, Oxford Law Blogs (Jan. 26, 2022), https://blogs.law.ox.ac.uk/business-law-blog/blog/2022/01/contemplating-hybrid-model-gig-work-perspectives-india-and-code (last visited July 10, 2025).

64 Sahaj Mathur, *supra* note 52.