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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

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**THE PLATFORM WORKFORCE (THE "DIGITAL
PRECARIAT"): A CRITICAL APPRAISAL OF THE 2020
LABOUR CODES AND THE SOCIO-LEGAL
VULNERABILITY OF GIG WORKERS IN INDIA**

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ABSTRACT

The rapid proliferation of the digital platform economy in India has fundamentally disrupted the traditional "Master-Servant" paradigm, giving rise to a new class of labourers known as the Platform Workforce often referred to as the "Digital Precariat" due to their unstable working conditions. While the Government of India has sought to modernize the legislative landscape by consolidating 29 fragmented statutes into four Unified Labour Codes (2020), the legal status of gig and platform workers remains contentious. This paper provides a critical socio-legal and economic analysis of the New Labour Codes, specifically focusing on the Code on Social Security. It argues that while the formal recognition of gig workers is a progressive step, their exclusion from the Code on Wages and the Industrial Relations Code creates a "Legal Limbo." By analysing algorithmic management through the lens of constitutional social justice, this research identifies the gaps in the current "Aggregator-Worker" model. The paper concludes that without substantive rights to minimum wages and collective bargaining, the proposed social security framework remains a "legislative halfway house" that fails to meet the standards of Article 21 and Article 43 of the Indian Constitution.

I. INTRODUCTION

The transition from the smoke-stack industries of the 20th century to the algorithm-driven platforms of the 21st century has necessitated a seismic shift in Indian labour jurisprudence. Historically, Indian labour law was built upon the "Standard Employment Relationship," a bipartite model where the employer-employee bond was clearly defined by physical proximity,

fixed hours, and direct supervision.¹ However, the advent of the "Gig Economy" characterized by on-demand service delivery, algorithmic management, and decentralized work has rendered these traditional definitions obsolete.²

The contemporary Indian labour market is currently witnessing a historic legislative overhaul. The repeal of legacy acts, such as the Factories Act of 1948 and the Industrial Disputes Act of 1947, in favor of the four Unified Labour Codes (2020) signifies a move toward "Codification." The stated intent of this reform is to promote "Ease of Doing Business" while universalizing social security.³ Yet, beneath this administrative simplification lies a deep-seated jurisprudential tension. The gig worker, who provides the backbone for India's burgeoning digital services sector, exists in a socio-legal "grey area" formally recognized for the purpose of welfare contributions but legally excluded from the protective umbrella of industrial rights.⁴

This research paper interrogates this tension. It moves beyond a mere doctrinal reading of the statutes to perform a socio-legal and economic inquiry into the "vulnerability" of the digital workforce. By benchmarking the Indian legislative framework against global trends such as the UK's transition toward "Worker Status" this study seeks to determine whether the 2020 Codes truly fulfill the constitutional mandate of "Dignity of Labour" or merely provide a cosmetic solution to a structural crisis.

II. THE GENESIS OF CODIFICATION: SIMPLIFICATION VS. DILUTION

The consolidation of 29 central labour laws into four unified codes represents the most significant reform in India's industrial history since independence. The "Codification Doctrine" adopted by the legislature was ostensibly aimed at reducing the "compliance burden" on employers and

¹ See V.V. Giri, *Labour Problems in Indian Industry* (3rd ed., Asia Publishing House 1972).

² Jeremias Adams-Prassl, *The Concept of the Employer: On the Limits of the Labour Market* (Oxford University Press 2015).

³ Ministry of Labour and Employment, 'Annual Report 2022-23' (Government of India) <https://labour.gov.in/annual-reports>.

⁴ See Code on Social Security 2020, s 2(35) and s 2(61).

creating a more flexible labour market.⁵ However, an analytical critique of this shift suggests a move away from the "Protectionist Theory" of labour law toward a more market-centric approach.

Historically, the Supreme Court of India has held that labour laws are "welfare legislations" intended to balance the inherent inequality of bargaining power between capital and labour.⁶ By merging acts like the Minimum Wages Act (1948) and the Payment of Bonus Act (1965) into a singular Code on Wages, the legislature has simplified the definition of "wages," yet it has simultaneously introduced broad exemptions for "start-ups" and "small enterprises" that often characterize the gig ecosystem. The dilution of the stringency of inspections, replaced by "web-based randomized inspections," raises significant concerns regarding the enforcement of rights in the decentralized platform sector.⁷

Furthermore, the genesis of these codes reveals a prioritization of economic efficiency over substantive justice. While the Code on Social Security (2020) is the first to mention "gig workers," it does so without granting them the status of "workmen" under the Industrial Relations Code.⁸ This separation ensures that while the state can collect contributions for a welfare fund, the workers are denied the right to form unions or engage in collective bargaining against digital aggregators. This legislative strategy creates a "fragmented citizenship" for the gig worker, where they are recognized as a beneficiary of charity but not as a holder of fundamental industrial rights.

III. THE DEFINITIONAL DILEMMA: GIG WORKERS VS. TRADITIONAL EMPLOYEES

The central jurisprudential crisis within the Indian digital economy arises from the systematic misclassification of platform-based labourers. Digital aggregators persistently categorize these individuals as "independent contractors" or "partners" a nomenclature that intentionally

⁵ Report of the Second National Commission on Labour (2002), which first recommended the consolidation of Indian labour laws.

⁶ *Dharangadhra Chemical Works Ltd v State of Saurashtra* [1957] SCR 152 (establishing the 'Control Test' for the master-servant relationship).

⁷ Industrial Relations Code 2020, s 90.

⁸ Compare Industrial Relations Code 2020, s 2(zr) with Code on Social Security 2020, s 2(35).

circumvents the traditional employer-employee relationship.⁹This classification is increasingly challenged by the operational reality of Algorithmic Management, where technology-driven procedures coordinate labour with a degree of control that surpasses human supervision.¹⁰

3.1. Statutory Interpretation of Sections 2(35) and 2(61)

The Code on Social Security (2020) marks the first instance of "gig workers" and "platform workers" being recognized under a central Indian statute.¹¹ Section 2(35) defines a gig worker as one who earns from activities "outside of traditional employer-employee relationship."¹² Similarly, Section 2(61) identifies platform work as an arrangement where organizations utilize digital intermediaries to connect service providers with consumers.¹³ While this recognition is a progressive departure from legislative silence, it is an interpretive trap. By expressly defining these workers as existing outside the traditional employment paradigm, the Code reinforces their exclusion from the Code on Wages and the Industrial Relations Code, thereby denying them the right to minimum wages and collective bargaining.¹⁴

3.2. Control, Command, and the "Digital Leash"

The hallmark of an employment relationship has historically been the "Control Test"—the ability of an employer to dictate not just what is done, but how it is done.¹⁵ In the platform economy, this control is exercised through "Algorithmic Command." Platforms utilize real-time data to monitor worker pace, route efficiency, and customer ratings.¹⁶ Failure to meet these opaque parameters results in "digital deactivation" a euphemistic term for termination without due process or a transparent grievance redressal mechanism.¹⁷ This persistent surveillance and the power to

⁹ Dharangadhra Chemical Works Ltd. v. State of Saurashtra, (1957) SCR 152 (India)

¹⁰ Jeremias Adams-Prassl, The Algorithmic Management of Work and Its Implications in Different Contexts, ILO WORKING PAPER 46, 7-11 (2022).

¹¹ The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).

¹² Id. at § 2(35).

¹³ Id. at § 2(61).

¹⁴ See Industrial Relations Code, 2020, § 2(zr) (contrasting the narrow definition of 'worker' with the exclusion of gig workers).

¹⁵ Workmen of Nilgiris Coop. Mktg. Society Ltd. v. State of T.N., (2004) 3 SCC 514 (India).

¹⁶ International Labour Organization, World Employment and Social Outlook: The Role of Digital Labour Platforms in Transforming the World of Work 54 (2021).

¹⁷ Uber BV v. Aslam, [2021] UKSC 5.

unilaterally set pricing models suggest that the "autonomy" promised to gig workers is a legal fiction; they are, in reality, subordinates under a digital leash.¹⁸

3.3. Socio-Legal Vulnerability and the "Invisible Boss"

The "Invisible Boss" the algorithm operates on data-driven logic that prioritizes platform efficiency over worker well-being. Unlike traditional supervisors, algorithms cannot be negotiated with, and their decisions often lack human empathy or context.¹⁹ This creates a state of "Digital Precariousness," where workers are subjected to constant performance pressure to maintain their rating-based access to the platform. The legal failure to recognize this as a form of "constructive control" allows aggregators to enjoy the benefits of a loyal workforce while externalizing all operational and social risks onto the individual workers.²⁰

IV. THE WELFARE PARADOX: SOCIAL SECURITY VS. SUBSTANTIVE RIGHTS

The introduction of a dedicated social protection framework for gig workers under the 2020 Codes has been hailed as a landmark reform; however, it presents a profound "Welfare Paradox." While the state moves to institutionalize security, it simultaneously fragments the legal identity of the worker, creating a system where protection is divorced from the fundamental rights of industrial citizenship.²¹

4.1. The Limitation of the Aggregator Contribution Model

The Code on Social Security (2020) envisages a welfare fund financed by a "welfare cess" on aggregators, calculated at 1% to 2% of their annual turnover.²² While this imposes a statutory financial obligation on digital platforms, the actual dispersal of benefits remains contingent upon complex government notifications and the successful registration of workers on centralized portals

¹⁸ See V.V. GIRI, *LABOUR PROBLEMS IN INDIAN INDUSTRY* 14-18 (3d ed. 1972).

¹⁹ NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* 18-22 (2022).

²⁰ *Invisible Labour and Digital Exploitation: A Critical Legal Inquiry into Gig Work in India*, 7 *INT'L J. FOR MULTIDISCIPLINARY RES.* 214, 218 (2025).

²¹ See Ministry of Labour and Employment, *Annual Report 2022-23*, GOV'T OF INDIA, <https://labour.gov.in/annual-reports>.

²² Code on Social Security, 2020, § 114 (India).

like e-Shram.²³ This model effectively transforms a worker's fundamental right into an act of state-managed charity.²⁴ Furthermore, because gig workers are not categorized as "employees," they remain excluded from established statutory entitlements such as the Employees' Provident Fund (EPF) and Employees' State Insurance (ESI) on an equal footing with the organized sector.²⁵

4.2. Risk Externalization and the Absence of a Floor Wage

Under the platform business model, operational risks including fuel costs, vehicle maintenance, and personal insurance are systematically externalized onto the individual worker.²⁶ The New Labour Codes fail to provide a countervailing legal mechanism to address this economic imbalance. By specifically excluding gig workers from the Code on Wages (2019), the legislature has denied them the protection of a "Floor Wage," leaving their income entirely at the mercy of dynamic, algorithmic pricing models that often fluctuate below subsistence levels.²⁷

4.3. Constitutional Parity and the Mandate of Dignity

The current legislative design raises significant concerns under Article 14 (Right to Equality) and Article 21 (Right to Life and Dignity) of the Indian Constitution.²⁸ Jurisprudence from the Supreme Court has consistently held that the "right to life" includes the right to a livelihood that provides for the basic dignity of the individual.²⁹ A legislative framework that offers a degree of social insurance but denies the foundational rights of minimum wages and collective bargaining constitutes a "legislative halfway house." It fails the test of substantive justice by treating the digital workforce as a secondary class of citizens, thereby undermining the constitutional promise of social and economic justice.³⁰

²³ NITI Aayog, India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work 25-28 (2022).

²⁴ Compare Industrial Relations Code, 2020, § 2(zr) with Code on Social Security, 2020, § 2(35).

²⁵ . Jeremias Adams-Prassl, The Algorithmic Management of Work and Its Implications in Different Contexts, ILO WORKING PAPER 46, 7-11 (2022).

²⁶ PUDR v. Union of India, (1982) 3 SCC 235 (defining 'forced labour' as work performed for less than the minimum wage).

²⁷ Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545.

²⁸ Consumer Education & Research Centre v. Union of India, (1995) 3 SCC 42.

²⁹ Invisible Labour and Digital Exploitation: A Critical Legal Inquiry into Gig Work in India, 7 INT'L J. FOR MULTIDISCIPLINARY RES. 214, 218 (2025).

³⁰ Labour Reforms: Formalising and Safeguarding India's Gig & Platform Workforce, PRESS INFORMATION BUREAU (Dec. 9, 2025), <https://pib.gov.in/PressReleasePage.aspx?PRID=2200767>.

V. COMPARATIVE JURISPRUDENCE: GLOBAL BENCHMARKS IN GIG WORKER PROTECTION

As India navigates the implementation of its Unified Labour Codes, the global legal landscape offers critical precedents that challenge the binary classification of workers. International jurisdictions are increasingly moving toward a "purposive interpretation" of labour statutes, prioritizing the socio-economic reality of work over formal contractual labels.³¹

5.1. The United Kingdom: The "Worker" Status and the Uber Precedent

The most significant judicial intervention in the gig economy remains the UK Supreme Court's decision in *Uber BV v. Aslam*.³² The Court unanimously rejected the platform's contention that it acted merely as a technology intermediary. Instead, it held that drivers qualify as "workers" a distinct intermediate category that grants them a statutory floor of rights, including minimum wage and paid leave.³³ For Indian jurisprudence, the Uber ruling is a lesson in looking past "carefully crafted complex contractual structures" to identify the true "subordination and dependency" inherent in the relationship.³⁴

5.2. The European Union: The Presumption of Employment Directive

The European Union has advanced a transformative regulatory framework through the Directive (EU) 2024/2831 on improving working conditions in platform work.³⁵ This Directive introduces a "rebuttable legal presumption" of employment. If the facts indicate that a platform exercises "direction and control"—often determined by factors like price-setting, performance monitoring, or restricted working hours—the worker is legally presumed to be an employee.³⁶ This shifts the burden of proof from the individual to the platform, a stark contrast to the Indian framework where the onus remains on the worker to prove their status in a system that lacks clear categorization.³⁷

³¹ See Jeremias Adams-Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* 112-115 (2018).

³² *Uber BV v. Aslam*, [2021] UKSC 5.

³³ *Id.* at para 76 (emphasizing the vulnerability of individuals who have little say over their pay or working conditions).

³⁴ See S. Deakin, *The Changing Concept of the 'Employer' in Labour Law*, 30 *INDUS. L. J.* 72 (2021).

³⁵ Directive 2024/2831, of the European Parliament and of the Council of 23 October 2024 on Improving Working Conditions in Platform Work, 2024 O.J. (L 2831).

³⁶ *Id.* at Art. 4 (establishing the criteria for a rebuttable presumption of employment).

³⁷ *Fair Work for Platform Workers: Lessons from the EU Directive and Beyond*, 54 *INDUS. L. J.* 425, 428 (2025).

5.3. The United States: The "ABC Test" and California's AB5

In the United States, California's Assembly Bill 5 (AB5) codified the "ABC Test" to distinguish independent contractors from employees.³⁸ Under this rigorous standard, a worker is presumed to be an employee unless the hiring entity proves the worker is (A) free from control, (B) performing work outside the usual course of business, and (C) customarily engaged in an independent trade.³⁹ While corporate challenges have made the US landscape a site of ongoing litigation, the ABC Test represents a high-water mark for legislative efforts to prevent "misclassification" a concept that remains largely unaddressed in India's current Code on Social Security.⁴⁰

VI. CONCLUSION AND RECOMMENDATIONS: TOWARD A SUSTAINABLE GIG ECOSYSTEM

The transition from fragmented statutes to the Unified Labour Codes (2020) represents a watershed moment in Indian labour history. However, as this research has demonstrated, the formal recognition of gig and platform workers under the Code on Social Security is currently a "legislative halfway house." While it marks a departure from historic legal invisibility, it simultaneously institutionalizes a secondary tier of industrial citizenship.⁴¹ To fulfill the constitutional mandate of social justice and to accommodate the projected growth of 23.5 million gig workers by 2030, the following policy interventions are recommended:

6.1. Harmonization of the "Worker" Definition

The legislature must move beyond the restrictive binary of "Employee vs. Independent Contractor." Taking a cue from the UK Supreme Court's purposive approach in *Uber v. Aslam*, India should introduce a hybrid "Worker" category across all four Codes.⁴² This would ensure that while gig workers retain their operational flexibility, they are statutorily entitled to a "Floor Wage"

³⁸ California Assembly Bill 5 (AB5), codified at Cal. Lab. Code § 2775.

³⁹ *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018).

⁴⁰ Worker Classification and AB 5 FAQs, FRANCHISE TAX BOARD (Jan. 2, 2026), <https://www.ftb.ca.gov/file/business/industries/worker-classification-and-ab-5-faq.html>.

⁴¹ See Ministry of Labour and Employment, Gig Workers Recognised in Law for the First Time as New Labour Codes Take Effect, PRESS INFORMATION BUREAU (Nov. 21, 2025).

⁴² See *Uber BV v. Aslam*, [2021] UKSC 5; see also S. Deakin, The Changing Concept of the 'Employer' in Labour Law, 30 *INDUS. L. J.* 72 (2021).

and occupational safety standards, effectively bridging the gap between the Code on Social Security and the Code on Wages.⁴³

6.2. Algorithmic Accountability and Transparency

The "Invisible Boss" the algorithm cannot remain outside the purview of the law. Legal frameworks must mandate "Algorithmic Impact Assessments" to prevent discriminatory practices in work allocation and arbitrary "digital deactivations."⁴⁴ Establishing a statutory right to human review for automated decisions is essential to uphold the principles of natural justice within the digital workplace, ensuring that technology does not supersede due process.⁴⁵

6.3. Portability and the Digitization of Welfare

The effectiveness of the Social Security Fund depends on the seamless portability of benefits. By integrating the e-Shram database with existing schemes like Ayushman Bharat (PM-JAY) and PM-Suraksha Bima Yojana, the government can ensure that social security is attached to the worker's digital identity rather than a specific platform.⁴⁶ This would facilitate a "multi-platform contribution model" where multiple aggregators contribute proportionally to a single worker's unified welfare account.⁴⁷

In conclusion, the digital economy should not be an "extra-legal" zone where efficiency is bought at the cost of equity. The New Labour Codes provide the structural foundation for reform, but their success lies in their ability to evolve. By embracing a "Socio-Legal" and "Economic" synthesis, India can transform the gig economy from a site of precariousness into a resilient pillar of a Viksit Bharat.⁴⁸

⁴³ NITI Aayog, India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work 55-60 (2022).

⁴⁴ Jeremias Adams-Prassl, The Algorithmic Management of Work and Its Implications in Different Contexts, ILO WORKING PAPER 46 (2022).

⁴⁵ See Karnataka Platform Based Gig Workers (Social Security and Welfare) Bill, 2024 (proposing a formal grievance redressal mechanism for app-based workers).

⁴⁶ Labour Reforms: Formalising and Safeguarding India's Gig & Platform Workforce, PRESS INFORMATION BUREAU (Dec. 9, 2025).

⁴⁷ Regulation of Gig Work, ICRIER POLICY BANK (2026), https://icrier.org/policy_bank/regulation-of-gig-worker/.

⁴⁸ The Future of the Gig Workforce in India, OBSERVER RESEARCH FOUNDATION (Nov. 3, 2025), <https://www.orfonline.org/english/expert-speak/the-future-of-the-gig-workforce-in-india>.