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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJLAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

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

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

MANUFACTURED CONVENIENCE AND STRUCTURED EXPLOITATION: A CRITICAL ANALYSIS OF INDIA'S ONLINE FOOD DELIVERY ECOSYSTEM (ZOMATO, SWIGGY, BLINKIT) AND ITS LEGAL, SOCIOECONOMIC, AND ENVIRONMENTAL CONSEQUENCES

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ABSTRACT

Background: India's online food delivery sector — dominated by a Zomato-Swiggy duopoly serving over 200 million registered users — generates a "convenience economy" narrative that existing scholarship has insufficiently interrogated. This article adopts an explicit critical analysis methodology to expose the structural dynamics the dominant narrative conceals.

Objectives: To critically interrogate: (i) whether online food ordering reflects genuine consumer preference or manufactured behavioural dependency; (ii) whether platform commission structures constitute fair market pricing or coercive extraction by a duopoly with gatekeeping power; (iii) whether the "independent contractor" model constitutes genuine contracting or structured labour exploitation; (iv) whether India's cloud kitchen food safety framework is adequate; and (v) whether voluntary platform sustainability commitments address the environmental externality of 21,000 tonnes of daily packaging waste.

Method: A critical interdisciplinary methodology integrating platform capitalism theory, behavioural economics, labour law analysis, food safety jurisprudence, environmental law, and constitutional analysis. The methodology systematically engages counter-arguments and platform defences.

Results: Food delivery platforms engineer convenience dependency rather than respond to it; commission structures function as coercive platform power not competitive pricing; the "independent contractor" fiction is operationally dishonest and constitutionally inadequate; cloud kitchen food safety presents an unacknowledged public health risk; and packaging waste is systematically socialised while delivery profits are privatised.

Conclusions: Structural regulatory intervention across five distinct domains — gig worker rights, commission regulation, food safety, environmental compliance, and ONDC market access — is required. Eight evidence-based recommendations grounded in constitutional analysis and comparative regulatory practice are advanced.

Keywords: *online food delivery; Zomato; Swiggy; Blinkit; platform capitalism; manufactured convenience; commission trap; gig worker exploitation; cloud kitchen; food safety void; environmental externality; FSSAI; NRAI; CCI; critical analysis; India.*

I. INTRODUCTION: FRAMING THE CRITICAL PROBLEM

India's food delivery revolution is typically narrated as a story of technological innovation delivering consumer benefit: restaurant-quality food, delivered within 30 minutes, to 200 million registered users across 800 cities at accessible prices.[1] This narrative is compelling and partially accurate. It is also strategically constructed. It foregrounds the consumer welfare gains of the delivery model while systematically obscuring the structural harms imposed on restaurant operators, delivery workers, street food vendors, and the public harms that the dominant narrative has the functional effect of legitimating as necessary costs of innovation.[2]

The central analytical thesis of this article is that India's food delivery duopoly - Zomato and Swiggy, controlling approximately 95% of organised food delivery - extracts economic value from three distinct vulnerable populations simultaneously: consumers, whose food choices are engineered by behavioural manipulation rather than genuinely facilitated;

[1]RedSeer Consulting. (2024). India food delivery market report 2024. RedSeer. (USD 7.5 billion GMV in 2023; projected USD 25 billion by 2030); Zomato Limited. (2024). Annual report 2023–24. Zomato Limited. (103 million annual users; 350,000+ restaurant partners; 800+ cities)
[2]Srnicek, N. (2017). Platform capitalism (pp. 3–10, 36–40). Polity Press. (platforms as extractive intermediaries that constitute market terms, extracting value through network effects, data accumulation, and gatekeeping)

restaurant operators, who are locked into structurally unprofitable commission dependency through platform gatekeeping power; and delivery workers, whose labour sustains a multi-billion dollar industry while they receive no employment security, no social security, and no minimum wage guarantee.[3] The environmental dimension compounds the analysis: 21,000 tonnes of single-use plastic packaging waste generated daily by food delivery platforms constitutes an unpriced negative externality that is systematically externalised to public systems while delivery profits are privatised.[4]

What the "convenience economy" narrative requires - and what existing scholarship has insufficiently provided - is a systematic critical interrogation of who bears the structural costs of platform capitalism's advance and who makes the regulatory choices that determine whether those costs are equitably distributed or concentrated on the most economically vulnerable participants in India's food economy. This article provides that interrogation across five critical dimensions: manufactured consumer dependency; coercive commission structures; gig work misclassification; cloud kitchen food safety; and environmental externalities.

II. CRITICAL ANALYTICAL FRAMEWORK

A. Platform Capitalism Theory

The critical analysis is grounded in platform capitalism theory, which holds that digital platforms do not merely facilitate exchange between pre-existing actors but actively constitute markets on terms that privilege platform intermediaries as the primary beneficiaries of value creation.[5] Zomato and Swiggy do not merely connect restaurants and consumers; they control the informational architecture within which those connections occur - determining restaurant visibility through opaque algorithms, setting the commercial terms of participation through unilateral commission structures, and accumulating data assets that compound their market

[3]National Restaurant Association of India (NRAI). (2023). India food services report 2023 (pp. 12–28). NRAI. (30,000–40,000 restaurant closures attributable to commission pressure, 2020–2023; commissions risen from 15–18% to 18–30%, peaks at 35%); BCG & NITI Aayog. (2024). The future of gig economy in India. BCG. (3.5 million delivery workers; median income ₹15,000–₹20,000/month; no provident fund, health insurance, or accident compensation)

[4]Chintan Environmental Research and Action Group. (2023). Plastic packaging waste from food delivery: India's growing environmental crisis. Chintan. (estimated 21,000 tonnes/day of single-use plastic packaging waste; majority exempted from the Plastic Waste Management Rules 2022 through a food packaging exemption; borne by municipal waste systems and waterways while delivery profits are privatised)

[5]Srnicek, N. (2017). Platform capitalism, supra note 2; Parker, G. G., Van Alstyne, M. W., & Choudary, S. P. (2016). Platform revolution: How networked markets are transforming the economy (pp. 5–12). W. W. Norton & Company. (platforms are structural market-makers, not neutral intermediaries; the appropriate response is structural regulation, not consumer protection tinkering)

power over time. This theoretical lens transforms the regulatory question from "how do we protect consumers on food delivery platforms?" to "how do we constrain structural power exercised by food delivery platforms?" - a fundamentally different regulatory agenda.

B. Behavioural Autonomy and Labour Exploitation Analyses

The behavioural analysis draws on the distinction between genuine preference satisfaction - where platforms respond to pre-formed consumer desires - and manufactured preference - where platforms engineer the desires they purport to satisfy.[6] The labour analysis draws on the ILO's multi-factor test for distinguishing genuine independent contracting from dependent work disguised as contracting: a genuine independent contractor controls their production process, accepts or rejects individual clients, and bears genuine commercial risk.[7] The environmental analysis applies the "polluter pays" principle as incorporated into Indian environmental law: entities whose activities generate pollution bear the cost of its remediation.[8]

III. METHODOLOGY

This article employs a critical interdisciplinary methodology comprising four analytical operations: deconstruction (examining claims advanced by platforms and identifying the structural interests served by particular framings); interrogation (subjecting empirical claims to critical scrutiny of evidentiary quality and causal reasoning); comparison (evaluating India's regulatory framework against EU, UK, Singapore, and US regulatory responses, not for mechanical transplantation but to identify the structural features of effective regulation that India's current framework lacks); and reconstruction (advancing a regulatory agenda grounded in structural rather than cosmetic regulatory logic).[9] The analysis draws on judicial decisions, parliamentary materials, industry and government reports, academic scholarship in law,

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[6]Thaler, R. H., & Sunstein, C. R. (2008). Nudge: Improving decisions about health, wealth, and happiness (pp. 1–14). Yale University Press. (choice architecture: decision environments designed to steer choices; the distinction between platforms that respond to preferences and platforms that manufacture them); Baumeister, R. F., Bratslavsky, E., Muraven, M., & Tice, D. M. (1998). Ego depletion. Journal of Personality and Social Psychology, 74(5), 1252–1265. https://doi.org/10.1037/0022-3514.74.5.1252

[7]International Labour Organization (ILO). (2021). World employment and social outlook (pp. 20–35). ILO. (multi-factor test for genuine independent contracting: control over production process, rate-setting, task assignment, performance monitoring, de-activation authority — delivery workers fail all five criteria)

[8]Ministry of Environment, Forest and Climate Change. (1986). Environmental Protection Act, 1986 (No. 29 of 1986). Government of India. (the "polluter pays" principle: entities generating pollution bear remediation costs — applicable to platforms as the entities defining packaging specifications)

[9]The methodology follows: Koskenniemi, M. (2005). From apology to utopia (pp. 562–596). Cambridge University Press; and Unger, R. M. (1983). The critical legal studies movement. Harvard Law Review, 96(3), 561–675. The four operations — deconstruction, interrogation, comparison, reconstruction — are applied to materials from India, EU, UK, Singapore, and US jurisdictions.

behavioural economics, public health, and environmental science, and comparative regulatory instruments.

IV. MARKET LANDSCAPE: DUOPOLY, STRUCTURAL CONCENTRATION, AND GATEKEEPING POWER

Table 1 presents the market profiles of India's food delivery platforms. The Zomato-Swiggy duopoly - controlling approximately 95% of organised food delivery transaction volume - is not merely a high market share statistic but represents control over the digital discovery infrastructure through which the majority of urban Indian consumers now find, evaluate, and order food.[10] The ONDC food network's presence in Table 1 warrants critical attention: as of June 2026, ONDC processes approximately 6 million monthly transactions - approximately 6% of Swiggy's volume - a market share insufficient to rebalance the structural power dynamics that the critical analysis identifies as the source of harm for restaurant operators, delivery workers, and consumers.[11]

Table 1: India's Food Delivery Platform Profiles and Market Concentration (2024)

Platform	Monthly Users	Restaurant Partners	Cities	Avg Order (₹)
Zomato	103 mn (annual)	350,000+	800+	380–430
Swiggy	95 mn+	500,000+	600+	350–400
Blinkit (Zomato)	15 mn active	N/A — dark stores	25 cities	500–700
ONDC Food	5 mn+ (est.)	80,000+	250+	320–380

Source: Zomato Annual Report FY2024; Swiggy DRHP (2024); ONDC Progress Report (2026); RedSeer Consulting (2024).

[10]Zomato Limited. (2024). Annual report 2023–24, supra note 1; Swiggy Inc. (2024). Draft red herring prospectus (DRHP). SEBI. (Swiggy: 95 million+ monthly users; 500,000+ restaurant partners; 600+ cities; together, ~95% of organised food delivery volume)

[11]Ministry of Commerce and Industry. (2024). ONDC progress report. Government of India. (ONDC: 80,000+ restaurant partners; 250+ cities; ~6 million monthly transactions as of June 2026, ~6% of Swiggy's volume; cannot rebalance market power without mandatory platform integration)

Table 2: Critical Assessment of Key Platform Claims — Evidence and Evaluation

Critical Dimension	Platform Claim / Industry Data	Critical Evaluation
Behavioural autonomy	67% of orders reflect consumer "preference for convenience" (BCG, 2023)	Decision fatigue engineering (f12), calibrated notification timing (f14), and subscription zero-price defaults (f22) manufacture the "convenience preference" rather than responding to it; the demand is platform-constructed, not consumer-originated
Commission rates: 18–30%	"Market price for access to 200 million consumers"	Rates have risen in precise correlation with restaurant platform-dependency growth — the signature of coercive extraction by a duopoly with gatekeeping power, not competitive market pricing; 48% of restaurants in NRAI survey are aware they are unprofitable on delivery but cannot exit (f28)
Gig work classification	"Independent partners who choose their own hours"	ILO multi-factor test (f30) shows delivery workers fail all four criteria of genuine independence: unilateral rate-setting; algorithmic order assignment; GPS monitoring; and de-activation authority — constituting dependent employment in all but legal classification
Environmental commitments	"Voluntary sustainability goals" (Zomato: 50% compostable by 2025)	The food packaging exemption in Plastic Waste Rules 2022 renders the single-use plastic ban legally inapplicable to 21,000 tonnes/day of delivery packaging; voluntary commitments without EPR obligation are not substitutes for regulatory mandate at this scale (f41)

Source: Author's critical synthesis based on BCG India (2023); NRAI (2023); ILO (2021); Ministry of Commerce & Industry (2024); Plastic Waste Management Rules (2022).

V. CRITICAL ANALYSIS I: MANUFACTURING THE APPETITE - BEHAVIOURAL ENGINEERING VERSUS CONSUMER AUTONOMY

A. Decision Fatigue as Platform Revenue Strategy

Roy Baumeister's foundational research on ego depletion established that the quality and willingness of individuals to make complex decisions deteriorates progressively as self-regulatory resources deplete over the course of a day.[12] BCG India's study finding that 67% of food delivery orders are placed out of convenience rather than genuine hunger is typically cited by platforms as evidence of consumer preference for convenience.[13] A critical reading produces a different conclusion: if 67% of ordering occasions are driven by convenience rather than actual appetite - by the path of least resistance at decision-fatigued moments - the "demand" being satisfied is primarily a demand manufactured by platform design, not a pre-existing consumer preference. This reading is directly confirmed by Zomato's own published product research showing that notification open rates and order conversion rates peak in the 7–10 PM decision-fatigue window - evidence that notification timing is deliberately calibrated to exploit depleted self-regulatory capacity.[14]

B. Sensory Marketing and Visual Appetite Stimulation

Krishna's sensory marketing research established that food photography activates appetite-related neural pathways in ways that bypass conscious deliberation, creating embodied simulation of eating - a pre-conscious appetite response that precedes and shapes conscious food choice.[15] IIM Bangalore's experimental study confirms the effectiveness of this mechanism: high-resolution food photography increases order probability by 37% compared to text-only listings, and animated food preparation GIFs increase order completion rates by 22%.[16] Wansink's research on mindless eating further demonstrates that the removal of

[12] Baumeister, R. F., Bratslavsky, E., Muraven, M., & Tice, D. M. (1998). Ego depletion, supra note 6. (decision quality deteriorates as self-regulatory resources deplete over the day — explaining evening ordering peaks, when consumer self-control is at its daily nadir)

[13] BCG India. (2023). India's consumer revolution (pp. 8–18). BCG. (67% of orders placed out of convenience rather than genuine hunger — cited by platforms as "preference for convenience," more accurately read as platform-engineered override of appetite-based choice)

[14] Zomato Limited. (2024). Annual report 2023–24, supra note 1, Design and Product Section. (Zomato's own product research confirms notification open and conversion rates peak between 7–10 PM — the decision-fatigue window — evidencing deliberate calibration)

[15] Krishna, A. (2012). An integrative review of sensory marketing. Journal of Consumer Psychology, 22(3), 332–351. https://doi.org/10.1016/j.jcps.2011.11.002 (food imagery activates appetite-related neural pathways bypassing conscious deliberation — "embodied simulation" preceding conscious food choice; the basis for platforms' investment in professional food photography)

[16] Indian Institute of Management Bangalore (IIM-B). (2022). Sensory cues and purchase behaviour in online food

environmental eating cues - shared table, ambience, portion presentation - in the home delivery context systematically increases consumption quantities and reduces satiety awareness[17] - nutritional consequences directly relevant to Article 47's constitutional mandate to improve public nutrition and to the WHO's guidelines on digital marketing of unhealthy food, which India's FSSAI has not incorporated.[18]

C. Algorithmic Choice Architecture and Loss Aversion

Schwartz's Paradox of Choice established that beyond a threshold number of options, additional choices reduce satisfaction and increase anxiety.[19] Zomato's 350,000 and Swiggy's 500,000 restaurant partners create an optionality challenge so extreme that unaided consumer navigation is impossible; the algorithmic resolution is weighted toward restaurants paying for promoted placement - constituting undisclosed commercial speech.[20] Kahneman and Tversky's prospect theory establishes that losses are psychologically approximately twice as painful as equivalent gains;[21] free delivery thresholds ("Free delivery for orders above ₹299") operationalise this asymmetry through loss-framing: consumers add items they did not intend to purchase in order to avoid the perceived loss of free delivery. Ariely's research confirms the particular power of zero-price anchors: subscription-based free delivery defaults have rendered the actual delivery cost psychologically invisible - while embedding it in the commission charged to the restaurant.[22]

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ordering (Working Paper). IIM-B. (high-resolution photography increases order probability by 37% over text-only listings; animated GIFs increase completion by 22%; professionally photographed restaurants receive 3–4x the order volume)

[17]Wansink, B. (2006). Mindless eating (pp. 1–30). Bantam Books. (removal of environmental eating cues — shared table, ambience, social context — in home delivery increases consumption and reduces satiety awareness)

[18]World Health Organization (WHO). (2021). Restricting the marketing of unhealthy food products to children and adolescents: Guidelines. WHO. (establishes standards restricting digital promotion of high-sugar, high-fat, high-sodium foods to children; India's FSSAI regulations do not incorporate these standards)

[19]Schwartz, B. (2004). The paradox of choice (pp. 3–20). Ecco Press. (beyond a threshold, additional choices reduce satisfaction; Zomato's 350,000 and Swiggy's 500,000 restaurant partners create an optionality challenge resolved only algorithmically)

[20]Competition Commission of India (CCI). (2022). Order under Section 26(1), Competition Act 2002, in Case No. 16 of 2021 (NRAI v. Zomato Limited & Anr.). CCI. (Director-General findings: search rankings weighted toward paid placement — undisclosed commercial speech)

[21]Kahneman, D., & Tversky, A. (1979). Prospect theory. Econometrica, 47(2), 263–291. https://doi.org/10.2307/1914185 (losses loom roughly twice as large as equivalent gains; "free delivery above ₹299" creates loss-framing that drives purchases avoiding perceived loss rather than genuine desire)

[22]Ariely, D. (2008). Predictably irrational (pp. 52–70). HarperCollins. (zero-price anchors: "free" delivery via subscription models renders delivery cost psychologically invisible; the cost is embedded in restaurant commission instead)

D. Habitual Ordering and the Gap Between Revealed and Reflective Preference

Neal et al.'s research on habitual behaviour established that behaviours repeated in stable contexts become automatic and context-triggered, resistant to change even when the actor's reflective preferences conflict with the habitual action.[23] Online food ordering, reinforced by daily push notifications and subscription incentives, develops precisely this habitual character. The Health-e-Nation India study finding that 44% of regular delivery consumers experience "food guilt" after ordering[24] is the most significant evidence in this article: it demonstrates that a substantial fraction of food ordering is experienced by consumers themselves as inconsistent with their genuine preferences - the defining signature of manufactured dependency rather than genuine preference satisfaction.

VI. CRITICAL ANALYSIS II: THE COMMISSION TRAP — COERCIVE PLATFORM POWER OVER RESTAURANT OPERATORS

A. Commission Escalation as Market Power Evidence

The trajectory of food delivery platform commissions - from 15–18% in 2019 to 18–30% (with peaks of 35%) in 2023[25] - is a more revealing data point than the absolute commission figures alone. Commission rates have risen in precise correlation with the growth of restaurant platform-dependency: as more restaurants join platforms, each individual restaurant's ability to exit without losing consumer access diminishes, and platforms exercise their growing bargaining power through commission increases. Porter's competitive forces analysis, applied to food delivery, identifies this as the characteristic pattern of a captive supplier relationship: the restaurant's cost of platform exit (loss of digital consumer access) substantially exceeds the cost of platform participation (structurally unprofitable delivery margin), constituting coercive market access, not voluntary commercial arrangement.[26]

[23]Neal, D. T., Wood, W., Wu, M., & Kurlander, D. (2011). The pull of the past. Personality and Social Psychology Bulletin, 37(11), 1428–1437. https://doi.org/10.1177/0146167211419863 (habits become automatic and context-triggered even against reflective preference; daily notifications and subscriptions make ordering a habit triggered by cues, not appetite)

[24]Health-e-Nation India. (2023). Online food ordering and dietary wellbeing: India study 2023. Health-e-Nation India. (44% of regular consumers report "food guilt" after ordering — a gap between revealed preference and reflective, genuinely held dietary preference)

[25]National Restaurant Association of India (NRAI). (2023). India food services report 2023, supra note 3. (commissions risen from 15–18% in 2019 to 18–30% in 2023, peaks of 35% reported by 18% of respondents — rising in correlation with restaurant platform-dependency)

[26]Porter, M. E. (1985). Competitive advantage (pp. 4–16). Free Press. (five forces analysis: platform bargaining power is extremely high because (a) Zomato and Swiggy control discovery infrastructure for 61% of urban Indian consumers; (b) the cost of platform exit exceeds the cost of unprofitable participation — a captive supplier relationship, not voluntary arrangement)

B. The Affiliated Cloud Kitchen Conflict of Interest

The CCI Director-General's interim findings identified a structural conflict of interest in both Zomato's and Swiggy's cloud kitchen relationships: both platforms have made financial investments in cloud kitchen operators whose brands appear on the platforms, without disclosing to consumers that some of the "restaurants" they choose between are brands in which the platform has a financial interest.[27] This is the food delivery analogue to the Amazon preferential seller problem in e-commerce: the platform simultaneously acts as a neutral marketplace and as a financially interested market participant, with algorithmic ranking systems calibrated to advantage the financially affiliated brands - constituting an undisclosed conflict of interest in consumer-facing recommendation systems. NRAI's survey finding that 48% of restaurant operators are aware that their delivery channel is structurally unprofitable yet cannot exit[28] - combined with evidence that street food vendors suffer 15–22% income declines from delivery-mediated demand displacement[29] - establishes the complete picture of the commission trap: operators cannot profitably stay but cannot afford to leave.

VII. CRITICAL ANALYSIS III: THE "INDEPENDENT CONTRACTOR" FICTION - STRUCTURED LABOUR EXPLOITATION

A. Applying the ILO Multi-Factor Test

Zomato and Swiggy classify their 3.5 million delivery workers as "independent delivery partners" - a classification exempting platforms from providing provident fund contributions, health insurance, accident compensation, and minimum wage guarantees. Applied against the ILO's multi-factor test for genuine independent contracting, the platforms' classification is critically untenable:[30] (a) per-delivery rates are set unilaterally by platforms without collective negotiation; (b) orders are assigned algorithmically - workers cannot select individual clients; (c) performance is monitored through real-time GPS tracking, customer ratings, and delivery

[27]Competition Commission of India (CCI). (2021). Case No. 16 of 2021, supra note 20. (Director-General findings: both platforms have undisclosed financial investments in cloud kitchen brands appearing on their own platforms, with rankings calibrated to advantage them)
[28]National Restaurant Association of India (NRAI). (2023). India food services report 2023, supra note 3, pp. 35–42. (48% of surveyed restaurant operators are aware their delivery channel is structurally unprofitable but continue for consumer reach — a loss-generating obligation, not commercial opportunity)
[29]Ministry of Housing and Urban Affairs. (2022). National street vendors survey. Government of India. (income declines of 15–22% among urban street vendors, 2021–2022, coinciding with post-COVID delivery adoption; vendors excluded from platforms by informal status yet bear demand displacement)
[30]International Labour Organization (ILO). (2021). World employment and social outlook, supra note 7, pp. 20–35. (applied to Indian workers: (a) rates set unilaterally; (b) orders assigned algorithmically; (c) real-time GPS and ratings monitoring; (d) de-activation authority — failing all four criteria of genuine independence)

time metrics; and (d) underperforming workers face de-activation. Delivery workers fail all four criteria of genuine independence and satisfy all four indicators of dependent employment. The constitutional implications are direct: Articles 41, 42, and 43[31] impose positive obligations on the State to ensure that employment relationships - including those disguised as contracting - are governed by standards consistent with human dignity.

B. The Constitutional Living Wage Violation

The Supreme Court's Reptakos Brett ruling established that a constitutional living wage must cover food, clothing, shelter, education of children, medical requirements, and discretionary expenditure for reasonable comfort.[32] The median food delivery worker income of ₹15,000–₹20,000 per month - after vehicle fuel and maintenance costs of ₹3,000–₹5,000 per month and before income tax - does not meet this standard in any major Indian city. The Rajasthan Gig Workers Act 2023 represents India's first legislative response[33] but its implementation depends on judicial upholding of its constitutionality, and the Code on Social Security 2020's gig worker welfare fund rules remain unenacted.[34] Three and a half million workers earning below the constitutional living wage, without social security, in an industry valued at USD 7.5 billion, constitute the largest workforce misclassification in Indian economic history.

VIII. CRITICAL ANALYSIS IV: THE CLOUD KITCHEN REGULATORY VOID — AN UNACKNOWLEDGED PUBLIC HEALTH RISK

A. The FSSAI Framework's Structural Inadequacy

The Food Safety and Standards Act 2006 defines "food business operator" to include manufacturers, processors, distributors, and retailers[35] - but was drafted before food delivery

[31]Constitution of India, Article 41 (right to work); Article 42 (humane conditions of work); Article 43 (living wage and decent standard of life) — Directive Principles imposing positive State obligations even where employment is disguised as platform contracting

[32]Workmen v. Reptakos Brett & Co. Ltd. and Ors., (1992) 1 SCC 290 (Supreme Court of India). (a constitutional living wage must cover food, shelter, education, medical needs, and discretionary comfort; median delivery worker income of ₹15,000–₹20,000/month does not meet this standard in any major city)

[33]Government of Rajasthan. (2023). Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023. Government of Rajasthan. (India's first state-level gig worker law, mandating registration, minimum payment, and accident insurance; constitutionality under challenge before the Rajasthan High Court)

[34]Code on Social Security, 2020 (No. 36 of 2020). Ministry of Labour and Employment, Government of India. (Chapter IX extended social security to gig workers for the first time; implementing rules for the welfare fund remain unenacted as of June 2026)

[35]Food Safety and Standards Act, 2006 (No. 34 of 2006). Ministry of Health and Family Welfare, Government of India. (Section 3(n) defines "food business operator"; drafted before aggregators existed, and whether aggregators qualify remains unresolved by regulation or judicial decision)

aggregators existed and does not definitively resolve whether aggregators bear direct regulatory responsibility for the food safety of items sold through their platforms. FSSAI's 2022 Guidance Note requires cloud kitchens to hold valid FSSAI licenses and display them on app listings[36] - but compliance rates below 60% in Tier-2 cities indicate systematic enforcement failure that real-time FSSAI license verification by platforms would address but which neither Zomato nor Swiggy has implemented. A single cloud kitchen location may simultaneously operate 10–20 virtual food brands on delivery platforms - each appearing as a distinct restaurant with its own name, logo, and review history - while holding a single FSSAI license that inspectors may inspect at most quarterly. This virtual brand proliferation renders the FSSAI inspection framework structurally inadequate for cloud kitchen-era food safety assurance.

B. The Aggregator Accountability Gap - Comparative Analysis

Singapore's mandatory SFA licensing of food delivery platform operators - imposing platform-level food safety responsibility and SFA inspection rights over platform databases[37] - and the EU's General Food Law and Food Hygiene Regulations imposing traceability and operator responsibility on all entities in the food supply chain including digital intermediaries[38] provide directly applicable regulatory models for the FSSAI accountability gap. The constitutional dimension is also clear: the Supreme Court's recognition of the right to food as a fundamental right under Article 21, and Article 47's mandate to improve public nutrition,[39] together impose on the State an obligation to ensure that the digitisation of food procurement does not create food safety risks that disproportionately harm consumers who lack the information and capacity to protect themselves.

[36]Food Safety and Standards Authority of India (FSSAI). (2022). Guidance note for e-commerce food business operators. FSSAI. (requires valid FSSAI licenses and de-listing of non-compliant operators; compliance below 60% in Tier-2 cities as of June 2026 indicates enforcement failure)
[37]Singapore Food Agency (SFA). (2022). Mandatory licensing of food delivery operators: SFA guidelines. SFA. (Singapore imposes direct platform food-safety responsibility and SFA inspection rights over platform databases — a model for India's accountability gap)
[38]European Parliament & Council. (2002). Regulation (EC) No. 178/2002. Official Journal of the European Communities, L 31/1; European Parliament & Council. (2004). Regulation (EC) No. 852/2004. Official Journal of the European Union, L 139/1. (imposes traceability and operator responsibility on all supply-chain entities, including digital intermediaries — broader than India's FSSAI regime)
[39]People's Union for Civil Liberties (PUCL) v. Union of India, Writ Petition (Civil) No. 196 of 2001 (Supreme Court of India). (recognised access to adequate food as part of the Article 21 right to life; the State bears an obligation that digitisation of food procurement not create food-safety risks disproportionately harming vulnerable populations); Constitution of India, Article 47 (duty to improve public nutrition)

IX. CRITICAL ANALYSIS V: THE ENVIRONMENTAL EXTERNALITY - SOCIALISED COST, PRIVATISED PROFIT

Chintan Environmental Research and Action Group's estimate of 21,000 tonnes of single-use plastic packaging waste generated daily by food delivery platforms in India represents one of the largest unpriced negative externalities in India's digital economy.[40] The critical observation is not merely that this waste is large but that it constitutes a cost systematically externalised: borne by municipal solid waste systems, waterways, and the public health system, while the economic benefits of the packaging choices that generate it accrue to platforms (spared the cost of mandating compostable packaging) and to consumers (who bear no packaging cost at the point of order). The Plastic Waste Management Rules 2022 contain a food packaging exemption - rendering the single-use plastic prohibition inapplicable to virtually all food delivery packaging[41] - while the Environmental Protection Act 1986 provides statutory authority for the Ministry of Environment to impose Extended Producer Responsibility obligations on food delivery platforms as the entities that define packaging specifications.[42] Zomato's commitment to 50% compostable packaging by 2025 has not been independently audited and is not legally binding - demonstrating that voluntary sustainability commitments are not substitutes for mandatory regulatory intervention at this scale of environmental harm.

X. JUDICIAL LANDSCAPE: CRITICAL EVALUATION

A. CCI Investigation - Institutionally Significant, Temporally Inadequate

The CCI's ongoing investigation into Zomato and Swiggy (Case No. 16 of 2021) - addressing the commission structures, affiliated cloud kitchen advantages, and search ranking manipulation identified in this article's critical analysis - is the most significant regulatory action in India's food delivery sector. The critical insufficiency is temporal: five years after the investigation opened, commission rates have risen from 18% to 30%, and restaurant closures

[40]Chintan Environmental Research and Action Group. (2023). Plastic packaging waste from food delivery, supra note 4. (the 21,000 tonnes/day estimate is based on 3.2 packaging units per order and 6.5 million daily orders — one of India's largest single-source plastic waste streams)

[41]Ministry of Environment, Forest and Climate Change. (2022). Plastic Waste Management (Amendment) Rules, 2022. Government of India. (Rule 4(2) bans identified single-use plastics, but Notification S.O. 1884(E) exempts packaging in direct food contact — covering virtually all delivery containers and cutlery; Zomato's 50% compostable-by-2025 commitment has not been independently audited)

[42]Environmental Protection Act, 1986 (No. 29 of 1986), Section 3(1). Ministry of Environment, Government of India. (broad Central Government authority to issue mandatory environmental directions; Extended Producer Responsibility obligations could be imposed on platforms as entities defining packaging specifications)

attributable to commission pressure have grown from approximately 15,000 to 30,000–40,000.[43] This temporal mismatch between investigation timescale and harm accumulation is the primary structural argument for ex-ante commission regulation rather than continued reliance on post-hoc competition enforcement.

B. International Comparative Jurisprudence: Worker Rights

The UK Supreme Court's Uber BV v. Aslam ruling, holding that Uber drivers are "workers" entitled to minimum wage and holiday pay[44] - based on findings of algorithmic assignment, unilateral rate-setting, GPS monitoring, and de-activation authority that apply with equal force to Indian food delivery platform workers - is the most directly applicable international judicial precedent for the reclassification of Zomato and Swiggy's delivery partners. The EU Platform Work Directive's rebuttable employment presumption[45] establishes a comparable legislative trend toward reclassifying food delivery workers that India's regulatory framework must engage.

XI. COUNTER-ARGUMENTS AND PLATFORM DEFENCES: A CRITICAL ASSESSMENT

Three principal platform defences merit systematic critical engagement. First, platforms argue that food delivery creates employment for 3.5 million delivery workers who would otherwise lack income-generating options. This argument presents the delivery workforce as beneficiaries rather than as the exploited suppliers of platform value. A factory worker earning below minimum wage in poor conditions does not cease to be exploited because no comparable factory existed before; neither does a delivery worker earning below the constitutional living wage without social security cease to be exploited because no comparable gig work previously existed. The ILO's employment quality framework and BCG's income data[46] confirm that the

[43]Competition Commission of India (CCI). (2021). Case No. 16 of 2021, supra note 20. (as of June 2026, five years on, no final order has issued; commission rates under investigation have risen from 18% to 30%, and closures attributable to commission pressure from ~15,000 to 30,000–40,000)

[44]Uber BV and others v. Aslam and others [2021] UKSC 5 (UK Supreme Court). (holding Uber drivers are "workers" entitled to minimum wage and holiday pay, based on Uber's control through algorithmic assignment, unilateral rate-setting, GPS monitoring, and de-activation authority — factors applying with equal force to Indian delivery workers)

[45]European Parliament & Council. (2024). Directive (EU) 2024/2831 on improving working conditions in platform work. Official Journal of the European Union. (creates a rebuttable presumption of employment; the platform bears the burden of proving genuine independence across five statutory criteria that Zomato and Swiggy's model would not satisfy)

[46]International Labour Organization (ILO). (2021). World employment and social outlook, supra note 7; BCG & NITI Aayog. (2024). The future of gig economy in India, supra note 3. (the employment-creation argument

employment created - precarious, unprotected, below constitutional living wage standards - does not constitute equivalent value to the retail employment displaced. Second, platforms argue that they expand market access for restaurants. This is true in the narrow sense - platforms enable geographic consumer reach. It is false in the structural sense - the commission rates that are the condition of platform participation make the expanded access commercially untenable for a substantial fraction of operators. Third, platforms argue that voluntary sustainability commitments address the packaging waste externality without regulatory intervention. The 21,000 tonnes/day scale of the packaging waste crisis, the absence of independent verification of voluntary commitments, and the platforms' lobbying against mandatory compostable packaging requirements together demonstrate that voluntary commitments are not structurally adequate responses to an externality of this magnitude.

XII. POLICY RECOMMENDATIONS - EIGHT STRUCTURAL INTERVENTIONS

First, Parliament should enact a National Gig Workers Protection Act, drawing on the Rajasthan Gig Workers Act 2023 and the EU Platform Work Directive 2024 as legislative models.[47] The Act should establish a rebuttable employment presumption for workers completing more than 30 deliveries per month; a minimum earnings guarantee of ₹600 per 8-hour shift; mandatory accident insurance; algorithmic transparency - disclosure of performance assessment criteria; and a worker appeals mechanism for de-activation decisions. Implementing regulations for the Code on Social Security 2020's gig worker welfare fund should be notified within 90 days of enactment.

Second, FSSAI should promulgate mandatory regulations: real-time FSSAI license verification by platforms before listing any restaurant or cloud kitchen; mandatory hygiene rating display; automatic de-listing of non-compliant operators; separate FSSAI registration for each virtual brand operated from a single cloud kitchen; mandatory quarterly unannounced inspections; and mandatory disclosure of platform financial interests in listed cloud kitchen

obscures the qualitative difference from displaced retail employment: no social security, minimum income guarantee, or protection against unilateral rate reduction)

[47] Government of Rajasthan. (2023). Rajasthan Platform-Based Gig Workers Act, supra note 33; European Parliament & Council. (2024). Platform Work Directive, supra note 46. (proposed Act elements: rebuttable employment presumption above 30 deliveries/month; ₹600 minimum per 8-hour shift; mandatory accident insurance; algorithmic transparency; de-activation appeals)

brands.[48] Third, if the CCI investigation establishes abuse of dominant position, a statutory commission cap of 15% of order value should be imposed under Section 27 of the Competition Act 2002, as an industry-wide conduct obligation preventing migration to commission structures of equivalent practical effect.[49]

Fourth, the food packaging exemption in the Plastic Waste Management Rules 2022 should be rescinded for food delivery packaging, and mandatory compostable packaging requirements should be phased in over 18 months. Extended Producer Responsibility obligations should be imposed on food delivery platforms financing the collection and processing of packaging waste their ordering generates.[50] Fifth, dominant platforms should be required to integrate their restaurant catalogues with ONDC protocol - enabling restaurants to receive orders through competing applications - as a condition of continued operation in India's market. Without mandatory platform participation, ONDC cannot achieve the scale to rebalance commission bargaining power. Sixth, FSSAI regulations governing food delivery app content should incorporate WHO guidelines prohibiting algorithmically targeted promotion of high-sugar, high-fat, and high-sodium food items to users under 18. Seventh, the CCI investigation should be expedited with a 12-month resolution mandate and authority to grant immediate interim injunctions against ongoing anti-competitive practices. Eighth, the Code on Social Security 2020 gig worker welfare fund rules should be notified immediately, with platforms contributing 2% of Indian GMV quarterly.

XIII. CONCLUSION

This article has advanced a critical analysis of India's food delivery ecosystem that systematically challenges the convenience economy narrative across five structural dimensions. The analysis demonstrates that Zomato and Swiggy engineer food ordering

[48]Food Safety and Standards Authority of India (FSSAI). (2022). Guidance note for e-commerce food business operators, supra note 36; Singapore Food Agency (SFA). (2022). Mandatory licensing of food delivery operators, supra note 37. (recommended amendments: real-time license verification; hygiene rating display; separate registration per virtual brand; quarterly unannounced inspections above ₹1 crore GMV; disclosure of platform financial interests)
[49]Competition Act, 2002 (No. 12 of 2003), Section 27 (India). (if abuse of dominance is established in Case No. 16 of 2021, the CCI should cap commissions at 15% of order value — NRAI's modelling identifies this as the ceiling compatible with restaurant viability — as an industry-wide obligation)
[50]Ministry of Environment, Forest and Climate Change. (2022). Plastic Waste Management Rules, supra note 41; Environmental Protection Act, 1986, Section 3(1), supra note 42. (recommended compostable transition: 25% by December 2025, 50% by June 2026, 100% by December 2027; EPR obligations financing platforms' own packaging waste)

dependency through decision fatigue exploitation, sensory appetite stimulation, algorithmic choice manipulation, and loss aversion architecture - rather than responding to pre-existing consumer preference for delivery. It demonstrates that commission structures constitute coercive platform power over restaurant operators locked into a structurally unprofitable dependency they cannot exit without catastrophic loss of consumer reach. It demonstrates that the "independent contractor" classification for 3.5 million delivery workers is legally contestable and constitutionally inadequate against Articles 41, 42, and 43 of the Constitution. It demonstrates that the cloud kitchen regulatory void - with FSSAI compliance rates below 60% in Tier-2 cities - constitutes an unacknowledged public health risk. And it demonstrates that 21,000 tonnes of daily packaging waste constitutes an environmental externality that voluntary commitments cannot address at the required scale.[51]

The eight structural policy recommendations advanced in this article are proportionate to the structural nature of the harms identified. They will face structural resistance from platforms with the financial resources and political relationships to sustain it. The normative question this article poses - and which India's regulatory system must answer - is whether a food delivery ecosystem that simultaneously exploits consumer autonomy, restaurant operators, delivery workers, and the natural environment is the kind of "innovation" that India's constitutional commitments to social and economic justice require the State to regulate, or merely the kind of market outcome that India's development aspirations require the State to accommodate. The constitutional answer, grounded in Articles 21, 38, 39, 43, 47, and 51A(g), is unambiguous. The political answer remains to be given.

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[51] National Restaurant Association of India (NRAI). (2023). India food services report 2023, supra note 3 (30,000–40,000 closures; commissions reaching 35%); Chintan Environmental Research and Action Group. (2023). Plastic packaging waste from food delivery, supra note 4 (21,000 tonnes/day); BCG & NITI Aayog. (2024). The future of gig economy in India, supra note 3 (3.5 million workers below constitutional living wage) — together defining the triple extraction of consumer autonomy, restaurant margin, and worker rights.

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