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Corporate Control and Worker Rights in the Gig Economy: A Critical Legal Study

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Corporate Control and Worker Rights in the Gig Economy: A Critical Legal Study

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Abstract

The gig economy has fundamentally transformed the conventional labour relations by providing platform-mediated, flexible labour arrangements which question the existing legal frameworks. This paper critically discusses the regulatory issues relating to corporate practices in the gig economy, but with a major focus on the Indian legal context. It contends that the current labour laws, historically established based on clear employer employee relationships are insufficient to deal with the hybrid nature of gig work, in which workers must often be classified as independent contractors despite being subject to considerable control through digital platforms and algorithmic management.

The paper emphasizes ways in which companies are taking advantage of contractual arrangements, technology, and organizational design to reduce liability and still maintain a high level of control over employees. This leads to denial of basic labour protection like minimum wages, social security and right to collective bargaining. The paper also examines how current legislative measures, specifically the Code on Social Security, 2020, are limited and only partially and largely unenforceable safeguards are provided to gig workers.

The paper concludes that binary categorization of workers is not enough and promotes more complex regulatory approach reflecting the complexities of platform-based work. It highlights the importance of a joint initiative by the judiciary, legislature and policymakers to ensure corporate responsibility, protect the rights of workers as well as maintaining a balance between innovation and social justice. Finally, the study suggests a rights-based and adaptive legal framework so that the future of work in India could be inclusive, equitable as well as sustainable.

Keywords: *Gig economy, Labour Laws, Corporate practice, Employer-Employee relations, Online platforms.*

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1. Introduction

1.1. Background of the Study

The accelerated growth of the gig economy is one of the most profound changes in the modern labour markets, which is fundamentally changing the traditionally employer-employee relationship. Online platforms like Uber and Zomato have led to a paradigm shift of work based on short term and task based interactions as opposed to long term and contractual employment. This change has been aided by technological innovations, especially in mobile applications, algorithmic management and digital payment systems, which allows companies to organize large workforces without necessarily undergoing the legal obligations conventionally involved in employment relationships.

The paradigm of stable, full-time employment with definite hierarchies and recognizable employers has been historically the paradigm to base the labour law frameworks. The gig economy however, breaks this paradigm by introducing a digital platform in between that purportedly only connects service providers with consumers. Consequently, companies in this industry tend to market themselves as accumulators as opposed to hiring employees, thus escaping the liability of minimum wages, social security and unemployment benefits. This paradigm shift has seen the development of an underprivileged labour force that is being employed without the protection provided in the traditional labour laws.³

1.2 Conceptual Framework

Gig economy is a loose term describing a labour market where short-duration contracts, freelancing, and services mediated by a platform are widespread. Contrary to the old-fashioned system of employment, the gig economy is organized in the form of the digital platform that provides the transaction between the service provider and the consumer. These platforms act as mediators, and by using technology, they can control supply and demand in real time. The main characteristic of this model is the fact that there is no traditional employment relationship, instead being replaced by the contractual relationships, which define workers as independent contractors. One of the most important elements of the gig economy is the ability to differentiate between the employees, independent contractors, and gig workers. Employees are people who are directly controlled and supervised by an employer and are paid wages and benefits as a reward to their labour. On the contrary, independent contractors will work independently, offering their services to various clients without being under the control of a particular organization. Gig workers exist in a grey area, being technically considered independent contractors but behaving as though in a situation similar to employment. Such a hybrid position poses a considerable legal ambiguity,

³ International Labour Organization, *World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work*.

especially in the establishment of rights and liabilities.⁴ The lack of clarity in the concept of gig work is also increased by the role of technology in mediation of labour relations. The algorithms management system can delegate duties, track performance, and impose disciplinary actions without human intervention. This type of control contests traditional legal tests applied to establish employment relationships, including the “control test, and the “integration test. Consequently, the gig economy implies the necessity to re-examine the existing conceptualization of the law in order to effectively capture the realities of platform-based work.

1.3 Statement of the Problem

The main issue that this paper discusses is the regulatory *de facto* regarding corporate practices in the gig economy. Although the number of platform-based work grows very fast, the current legal frameworks have failed to keep pace with the changes in nature of the employment relationships. Corporations that work in the gig economy take this loop by designing their business in such a way that limits legal liability and maximizes control over workers. This has led to a system where gig workers are denied basic labour protections, such as minimum wages, social security, and occupational safety.

Critics however argue that this model creates a situation of precarious working conditions whereby economic risks which are faced by corporations are transferred to the workers. The lack of regulatory transparency permits organizations to sustain such an imbalance, and this raises the issue of fairness, equity and social justice.⁵ Moreover, the absence of effective regulation weakens the responsibility of corporate actors, allowing them to avoid responsibilities using contractual partners and technological intermediaries. This poses a major dilemma to the policymakers and legal experts who want to strike a balance between the positive aspects of innovation and the necessity to protect workers.

1.4 Study Objectives

The main aim of the research will be to critically examine the legal issues surrounding the regulation of corporate and business practices in the gig economy. The paper aims to discuss how far the currently established labour laws can go to address the peculiarities of the platform-based work and to identify the loopholes that enable corporations to get around the legal requirements.

The other central objective is to explore the nature of corporate practices in the gig economy, especially with regard to the classification of workers, algorithmic control, and avoiding liability. Through these practices, the study will evaluate

⁴ De Stefano, Valerio, *The Rise of the “Just-in-Time Workforce”: On-Demand Work, Crowd Work, and Labour Protection in the Gig Economy*, *Comparative Labor Law & Policy Journal* (2016).

⁵ Prassl, Jeremias, *Humans as a Service: The Promise and Perils of Work in the Gig Economy*, Oxford University Press (2018).

the legal consequences of such practices and how they affect the rights and welfare of gig workers. Lastly, the study will also seek to make legal and policy recommendations that can be used to improve the effectiveness of the regulatory framework and to provide a healthy balance between the interests of companies and the welfare of employees. The recommendations are aimed at contributing to the current discussion of the reform of the labour law in the fields of technical progress and evolving economic conditions.

1.5. Research Methodology

In this study, the authors use the methodology of doctrine and comparison to examine the legal issues that surround the gig economy. The doctrinal approach entails a close study of legislations, court rulings, and legal principles applicable in the labour law and corporate regulation. The main legislations are examined to determine how relevant they are to gig workers, e.g., the Code on Social Security 2020.

Besides the analysis of the doctrines, the study takes a comparative approach by analyzing the legal developments in other jurisdictions, including the United Kingdom and the European Union. This makes it possible to identify the best practices and assess other possible regulatory models. The judicial decisions, such as landmark cases such as *Uber BV v Aslam* are examined in order to understand how courts have dealt with the issues of worker classification and corporate liability. Secondary sources such as academic sources, government reports and policy documents are also included in the research to give a holistic picture of the topic.

1.6 Scope and Limitations

This study is mostly limited to the legalization of corporate practices in the gig economy, with special attention to the Indian context. Although the study takes into consideration comparative perspectives, the main aim of the research is to examine applicability and effectiveness of Indian labour laws in dealing with challenges of platform-based work. However, the study is subject to certain limitations. First, the fast-changing character of the gig economy implies that the differences in lawmaking may surpass the extent of this study. Second, there are no comprehensive judicial precedents in India, which restricts the possibility to make conclusive decisions on the interpretation of the current laws. Third, the research is based mainly on the analysis of the doctrines and lacks empirical data, which can limit its capacity to represent the lived experiences of gig workers.

2. The evolution of the gig economy and corporate structures.

2.1 History of Non-Traditional Work

The transformation of the gig economy cannot be viewed in isolation of the overall shift in labour markets that have occurred over the last century. In traditional terms, the nature of employment relationships was marked by a long-term stability, fixed wages, and clearly defined hierarchies between employers and their employees. Nevertheless, recent developments in the late twentieth century have seen a slow transition to labour flexibility due to the forces of globalisation, technological developments and neo-liberal economic policies. The emergence of informal labour, contractual work and outsourcing were the initial steps towards the departure of the traditional system of employment, the beginnings of the modern gig economy.

Informal labour has always been a major source of labour in a developing economy like India. Informal workers who engaged in daily wage labour, home-based production, and self-employment tended to work outside the formal regulatory framework. In a number of ways, the gig economy can be seen as a digitalized manifestation of this informal sector, where the technology takes the place of traditional intermediaries and results in direct contact between service providers and consumers. But in contrast to the traditional work of informal workers, the gig workers are organized and managed through advanced digital platforms that have a significant impact on labour conditions.⁶

The spread of smartphones, access to the internet, and digital payment system have only increased the pace of platform-based work. These and other technological innovations have been used by companies like Uber and Zomato to develop scalable business models that depend on a dispersed workforce. This has not only changed the nature of work, but has also provided challenge to the regulatory frameworks that govern labour relations.

2.2 Gig Platforms Business Models

The platform-based business model is at the heart of the gig economy, and this model is fundamentally different compared to the traditional corporate structure. Gig platforms are mediators that bring together service providers and consumers and enable transactions to occur via digital platforms. This model is commonly referred to as an aggregator model where the platform itself is not the direct provider of services but facilitates others to offer services. By assuming this form, businesses attempt to place themselves beyond the precincts of the traditional labour laws on the basis that they are only facilitators and not employers.

One of the key features of the gig platform is its light asset nature. In contrast to traditional companies, which invest in physical infrastructure and have a

⁶ Guy Standing, *The Precariat: The New Dangerous Class*, Bloomsbury Academic (2011).

permanent workforce, gig platforms are based on independent workers who bring their own tools and resources, including vehicles, smartphones, and internet connectivity. This greatly minimizes the costs of operation and transfers the economic risks to the workers. As an example, drivers related to ride-hailing services will bear costs associated with fuel, maintenance, and insurance, whereas the platform will be in control of prices and standard of services.

The business model of these platforms is also strengthened by the use of contractual framework to operate these platforms. Standard-form agreements, usually on a take-it-or-leave-it basis, treat workers as independent contractors, and expressly denies that a relationship of employment exists. Such contracts usually contain provisions that constrain the liability of the platform, subject them to arbitration, and limit workers in challenging unfair practices. Consequently, the contractual structure of gig platforms is vital in influencing labour relations and the allocation of rights and responsibilities.⁷

2.3 Characteristics of Corporate Practices

A complex combination of contractual structuring, incentives, and the use of algorithms to manage aspects of the gig economy characterizes corporate practices in the gig economy. Such practices help platforms to have substantial influence over workers even though it appears to be independent. The standard-form contract is one of the main tools of gig companies, which determines the conditions of work and the legal nature of the workers. Such contracts are normally non-negotiable and highly imbalanced in the favor of the platform which reflects a lack of balance in bargaining power.

Besides contract, gig economies utilize advanced incentive systems to control the actions of workers. These are dynamic pricing, surge bonuses, and performance-based rewards, which are meant to affect the actions of the workers towards the goals of the platform. Although these incentives present opportunities to earn more, they also present uncertainty and stress, as employees have to constantly achieve performance levels to be able to continue using the platform. The most pronounced aspect of corporate practices in the gig economy could be the practice of algorithmic management. The tasks are allocated with the help of algorithms, pricing is determined, performance is observed, and disciplinary measures are taken. This model of management does not require human touch, and this provides an environment in which automated systems make decisions as opposed to traditional supervisors. These algorithms are so opaque that they create serious legal issues, in particular, in connection with transparency, accountability, and fairness.⁸

⁷ Cherry, Miriam A., *Beyond Misclassification: The Digital Transformation of Work*, Comparative Labor Law & Policy Journal (2016).

⁸ Rosenblat, Alex, *Uberland: How Algorithms Are Rewriting the Rules of Work*, University of California Press (2018).

3. Legal Dispensability of Gig Workers Under Indian Law

3.1 Employer–Employee Relationship Test

The establishment of an employer-employee relationship is the core of the labour law since it determines the applicability of the statutory protections and the scope of the corporate liability. The Indian courts have traditionally applied various judicial tests to determine whether such a relationship does exist and these tests include the control test, the integration test, and the economic dependency test. Created under the influence of the traditional employment system, these tests are progressively confronted with the realities of the gig economy. The control test is a test that looks into the level of control and oversight by the employer on the worker. In *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, the Supreme Court highlighted the fact that existence of control and supervision is an important test of existence of an employment relationship.⁹

But in the gig economy control is frequently exercised indirectly via algorithms, as opposed to direct human management. An example is that using automated systems, platforms decide which tasks to allocate, which services to provide at what price, and which services to offer and at what price, thus exercising considerable control without formally becoming recognized as employers. The integration test, in turn, concerns the question whether the worker is an inseparable part of the business or it is an accessory. In the case of *Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments*, the Court ruled that employees who are incorporated into the mainstream activities of a business are more likely to be treated as employees.¹⁰

Application of this test to the gig economy reveals platform workers, including drivers and delivery personnel, are vital to the operations of the business, furthering the argument of considering them employees. The economic dependency test also looks at whether the worker is dependent on one entity to earn their livelihood. Gig workers can also rely on a specific platform to earn money, even though they will be officially considered independent contractors. This economic reliance destroys the sense of independence and gives rise to a similarity of relationship to employment. Nevertheless, the lack of a single statutory test in Indian law creates ambiguity and corporations take advantage of such loopholes and use them to their benefit.

3.2 Analysis in the labour legislations.

With the introduction of the Code on Social Security 2020, a major step towards the recognition of gig and platform workers in the Indian legal framework was made. The Code is the first instance to explicitly define what is meant by gig

⁹ *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, AIR 1957 SC 264.

¹⁰ *Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments*, (1974) 3 SCC 498.

workers and platform workers, thus recognizing their existence in a category of labour.¹¹ Nonetheless, such appreciation is mostly confined to the area of social security and it does not extend to the fundamental rights of labour like minimum wage, collective bargaining or unfair dismissal. Provisions under the Code have been made concerning the development of social security schemes to cover gig workers, such as, life and disability cover, health benefits and old-age protection. However, the actualization of these provisions is also not as definite since they are subject to the development of certain schemes by the government. Additionally, the Code does not make compulsory requirements to platforms to make contributions to these schemes, which inhibits its efficacy in guaranteeing worker welfare.

The Industrial Relations Code 2020 also demonstrates the shortcomings of the current laws. The Code mainly regulates the conflicts between employers and employees without involving the gig workers in its scope as they are treated as independent contractors. Consequently, the gig workers lack access to the means of collective bargaining and dispute resolution, which are parts and parcel of labour rights. In the same vein, the Minimum Wages Act, which is now incorporated under the Code on Wages, does not fully deal with the specifics of a gig-worker. As gig workers are not deemed as employees, they do not receive statutory minimum wages, and as such, they are exposed to the vagaries of their earnings and financial security.

3.3 Court Interpretation in India

Judicial interpretation is important in developing labour law especially where the legislative frameworks are unclear or inadequate. But in India, the courts have not made a complete jurisprudence regarding the status of gig workers. Although courts have been used in other contexts to deal with the issues surrounding the employment classification, there has been a paucity of application of these principles to the gig economy.

The Supreme Court, in *Bangalore Water Supply and Sewerage Board v. A. Rajappa*, took a liberal view of the term industry and argued that the law needs an expansive interpretation of the term industry to encompass a large group of workers.¹²

This reformist method is that courts might be open to reconsidering current legal notions to fit emerging models of work. The lack of particular cases dealing with gig workers, however, leaves a gap as to the direction in which the judicial intervention is applied.

¹¹ Code on Social Security, 2020, Section 2(35), 2(60)

¹² *Bangalore Water Supply and Sewerage Board v. A. Rajappa*, AIR 1978 SC 548.

More recently, Public Interest Litigations (PILs) have been initiated which seek to have the gig workers accepted as employees and the social security benefits extended. Although these cases suggest that the judiciary has become more conscious of the issue, it has remained cautious in its approach, often leaving the issue to be comprehensively overhauled by the legislature. This hesitation is a sign of the difficulty of the problem of innovation and protection of workers in the rapidly changing economic environment.

3.4 Constitutional Dimensions

The constitutionality of the legal status of gig workers needs to be analyzed as well in accordance with the provisions of the Constitution of India, especially the provisions of Articles 14 and 21 of the Constitution of India. Article 14 grants equality before the law and outlaws arbitrary discrimination, whereas Article 21 includes the right to life and livelihood. Such provisions offer a normative context on how fair and legitimate labour practices in the gig economy are.

The Supreme Court has always understood that Article 21 should be interpreted as including the right to livelihood, as in the case of *Olga Tellis v. Bombay Municipal Corporation*, the Supreme Court was able to find an interpretation of Article 21 that included the right to livelihood.¹³

When this concept is applied to gig workers, it is important to note that legal protections are necessary to help ensure economic security and dignity.

On the same note, Article 14 may be utilized to fight discriminatory practices that deny the gig workers the right to enjoy the same labour protection as do the traditional employees. The fact that workers who do similar jobs are treated differently begs the question of whether the current legal categories are rational and equitable. In addition, the Directive Principles of State Policy, especially Articles 38 and 43 stipulate the significance of social justice and provision of proper means of livelihood. These principles, although not justiciable, are guiding principles of both legislative and judicial action, which strengthens the need to comprehensively regulate the gig economy.

4. Corporate Practices and Regulatory Challenges

4.1 Misclassification of Workers

One of the key issues with the regulatory approach to the gig economy is the fact that workers are systematically misclassified as independent contractors as opposed to employees. Uber and Zomato are platform companies that use this classification to evade the responsibilities associated with minimum wages, social security and labour protections. Although workers are termed as self-employed under contracts, the substantive nature of the relationship usually indicates the characteristics of employment, such as the control over the work conditions and

¹³ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180.

economic dependence. The misclassification issue should be evaluated in terms of the working relationship realities, as opposed to contractual designations. The UK Supreme Court in *Uber BV v Aslam* determined that Uber drivers were considered to be workers, with the court referring to the fact that Uber had control over drivers, pricing, contractual terms and performance management.¹⁴

This argument is very applicable in the Indian context where the same operational structures are present but there is lack of judicial clarity. The lack of a clear legal stance enables platforms to further exploit this gray area, and misclassification is a core regulation issue.

4.2 Algorithmic Management and Control.

Algorithms management is a characteristic aspect of corporate activity in the gig economy, which allows platforms to maintain control over their functions through automated systems. Algorithms are used to assign tasks, determine compensation, and evaluate performance, effectively substituting the traditional managerial supervision. This brings an aspect of an invisible employer whereby control is in place without official recognition of an employment relationship.

Platforms deploy algorithmic systems to control the behavior of workers by using dynamic pricing, acceptance rates and performance ratings. Although opportunities to enjoy worker autonomy are claimed, these systems subject workers to organized control that is similar to conventional employment. The lack of transparency in the process of decision-making by algorithms is a cause of serious legal issues, especially in terms of transparency, fairness, and accountability. Workers are usually not able to comprehend or question the decisions that specifically affect their livelihoods.

Automated decision-making also makes it hard to apply the existing labour laws, which are aimed at governing the actions of human beings. As a result, it becomes increasingly required to have legal frameworks that specifically tackle algorithmic control and provide accountability in the digital labour markets.¹⁵

4.3 Evading Responsibility by Corporations

Multiple efforts are undertaken by Gig platforms to reduce legal liability, which is mainly achieved by structuring contracts and designing organizations. Form-based contracts expressly deny the existence of the employment relationship and frequently include the provisions which restrict the access to the judicial remedy. Such contracts are usually non negotiable as the bargaining power of the platforms and workers is unequal.

¹⁴ *Uber BV v Aslam*, [2021] UKSC 5

¹⁵ Frank Pasquale, *The Black Box Society* (Harvard University Press, 2015).

Also, platforms assume asset-light and decentralized corporate structures, where the platforms act as technology intermediaries, but not service providers. This enables them to keep a distance with the actual delivery of services whilst they still maintain control of operations. In this way of organising the business, corporations are interested in evading the labour law responsibility. The corporate veil doctrine also helps in avoiding liability whereby companies are able to protect themselves by using complex legal entities. Although courts in some instances have lifted the veil of incorporation to avert abuse, its use in the gig economy is not well developed. This poses considerable problems in enforcing corporate responsibility in platform-based business models.¹⁶

4.4 Wage, Social Security, and Welfare Issues

They do not have any right to minimum wages, paid leaves, or any other statutory benefits, which makes them economically unstable. Earnings can also be unpredictable and prone to algorithmic changes, which also exacerbates financial insecurity. The Code on Social Security 2020 is a legislative effort to deal with these issues by acknowledging gig workers and offering social security plans.¹⁷

Nevertheless, its effects are still minimal because of the lack of binding requirements on the platforms and because of its dependence on the implementation by the government. This leaves gig workers in the same precarious working conditions without proper institutional support.

Gig worker vulnerabilities were especially pronounced during the COVID-19 pandemic that revealed the absence of safety nets and the acute need to develop a comprehensive welfare approach.

4.5 Data Exploitation and Privacy Concerns

Data is an essential part of the gig economy as it is both a management resource and an economic one. Social media capture all data on worker behavior, which is utilized to streamline operations and make profits. Workers however do not have much control over the manner in which this data is collected, processed or used, which raises some privacy and exploitation concerns.

The Digital Personal Data Protection Act 2023 provides some key ideas, including consent, purpose limitation, and data minimization. Although these principles apply to gig work, their practical implementation is still unclear, especially when it comes to determining the responsibilities of platforms towards workers.

¹⁶ Stephen M. Bainbridge, *Corporate Law* (Foundation Press, 2015)

¹⁷ Code on Social Security, 2020

5. Comparative and International Perspectives

5.1 United Kingdom Approach

The United Kingdom has become a jurisdiction leader in dealing with the legal issues of the gig economy by using the judiciary. Another notable case in this respect is the ruling in *Uber BV v Aslam*, where the national labour law decision is that Uber drivers are workers and not independent contractors.¹⁸

The Court noted that the factual realities of the relationship as opposed to the labeling of the relationships as contracts were to be relied upon when determining the employment status.

When making its decision, the Court found that there are some critical indicators of control, among which is the control over the determination of fares, which are present in the Uber contract. The ruling dismissed the fact that digital platforms simply serve as an intermediary, but instead acknowledged that digital platforms play a substantive role in planning and regulating labour. Notably, the ruling applied statutory protection to gig workers, including minimum wage, paid leaves, among others, resulting in the establishment of the middle-level category of workers, which is not the same as either employees or independent contractors. The UK strategy is important in that it focuses on content and not form and is open to changing existing law to new labour relationships. It offers a convincing pattern to the jurisdictions such as India, where similar problems of misclassification and corporate domination still exist.

5.2 European Union Framework

The European Union has taken a proactive law-making role in regulating platform work, most notably with the proposed Platform Work Directive. This initiative aims at creating a presumption of employment whereby there are certain indicators of control, shifting the burden of proof onto platforms to prove that there is indeed a genuine independence. Included in the criteria of indicators of an employment relationship in the Directive are control over remuneration, performance supervision, and restrictions on autonomy. When these requirements are met, workers are assumed to be employees who are entitled to labour protection. This will help in dealing with the issues of misclassification by adopting functional realities over formalities of contract.

Besides the classification of jobs, the EU framework is also preoccupied with the concept of transparency of algorithms. It requires platforms to reveal the main details about automated decision-making systems, so that workers are aware of how the decisions that can influence their work are made. It is a considerable move in the direction of controlling algorithmic management and making it more responsible.

¹⁸ *Uber BV v Aslam*, [2021] UKSC 5.

The EU model provides a useful background to countries that want to update their legal systems by providing an in-depth regulatory approach that incorporates labour rights and data protection and technological regulation.

5.3 International Labour Organization (ILO) Standards

The International Labour Organization (ILO) has been instrumental in informing the global discourse on the gig economy, with the need to uphold the principles of the so-called decent work. Although current ILO conventions do not specifically target platform workers, the principles of equality, fair wages, social security, and safe working environments which underlie these conventions are directly applicable to the gig workers.

The ILO reports on digital labour platforms note that there are risks of precarious employment, income insecurity, and absence of social protection related to gig work. The organization proposes extending labour rights to platform workers, irrespective of their official classification and the creation of regulatory frameworks that are inclusive.¹⁹

Moreover, the ILO emphasizes the role of social dialogue and collective bargaining in finding solutions to the issues of the gig economy. Nevertheless, the principles of gig workers being independent contractors tend to limit their possibilities to organize and negotiate as a unit, which reduces the efficiency of these mechanisms.

The ILO normative framework is an effective point of reference in the legal frameworks of countries, and therefore, the need to have policies that will balance flexibility and protection of the workers.

5.4 Lessons for India

The comparative evaluation of the international strategies depicts some crucial lessons that India can learn in regulating the corporate practice in the gig economy. To start with, the fact that the issue of misclassification is solved by judicial intervention, as it was demonstrated in the UK, underlines the value of judicial intervention in solving the issue of misclassification. Courts in India can consider the same line of reasoning to reevaluate current legal tests in the face of platform-based work.

Second, the EU's legislative approach underscores the need for clear statutory presumptions that shift the burden of proof onto platforms. These may minimize ambiguity and improve enforcement, so that the workers are not denied any legal protection based on technical classifications.

¹⁹ International Labour Organization, *World Employment and Social Outlook 2021: The role of digital labour platforms*.

Third, the incorporation of algorithmic transparency into the EU structure provides a good insight into how one can regulate digital labour platforms. India can adopt the same to deal with matters regarding the use of data, surveillance, and automated decision-making.

Lastly, the focus of the ILO on decent work and social protection underscores the need to take a rights-based approach to regulation. Indian law should not merely simply classify people but must provide that all workers, irrespective of their status, should be entitled to basic protections and dignity.

Overall, although India has already made first steps by enacting legislative acts, such as the Code on Social Security 2020, a more complex and unified regulatory framework is needed. Reliance on the global best practices can help in the creation of a balanced strategy that will encourage innovation without compromising the rights of the workers.

6. Judiciary and Policy Roles in Interventions.

6.1 Labour Welfare and Judicial Activism

The courts have traditionally been playing a transformative role in broadening the labour rights in India, more so in cases where legislative frameworks have been behind socio-economic realities. Purposive interpretation has enabled the courts to provide greater protection to vulnerable workers and also emphasize the significance of social justice as a constitutional requirement. This culture of judicial activism offers a solid basis to confront the problems of the gig economy. The Supreme Court, in *Bangalore Water Supply and Sewerage Board v. A. Rajappa*, has taken a broad and inclusive interpretation to the term industry, and extended the protections of labour to a wide range of workers.²⁰

Likewise, in *People's Union of Democratic Rights v. Union of India* the Court made it clear that economic vulnerability should not be used to deny workers statutory protections, the point being that labour rights must be interpreted in a way that is consistent with the values of the Constitution.²¹

These precedents imply that the judiciary must have the doctrinal equipment, in addition to the normative dedication needed to fill the ambiguities of gig work. But in the case of platform-based jobs, the role of the judiciary has been restricted so far. The courts are still not clear on the status of gig workers or substantively bind digital platforms. This conservative stance is indicative of the difficulty of striking a balance between innovation and regulation but also reflects the necessity of having more active judicial involvement.

²⁰ (1978) 2 SCC 213

²¹ *People's Union for Democratic Rights v. Union of India* (AIR 1982 SC 1473)

6.2 Public Interest Litigation (PIL) and Gig Workers

The Public Interest Litigation (PIL) has become a significant instrument of promoting labour rights in India, especially to marginalized and unorganized workers. PIL has the flexibility to permit courts to address matters of systemic concern and to intervene in a case where individual workers may be unable to engage in such a case. PILs have been brought to recognize the gig workers as employees and extend them social security benefits in the context of the gig economy.

Such petitions generally invoke constitutional provisions like Articles 14 and 21, on the basis that omission of gig workers under labour protections is arbitrary discrimination and violation of the right to livelihood. Although courts have recognized the significance of these concerns, the courts have generally avoided passing clear judgments and instead have directed the government to act in the formulation of policy measures instead.

With the use of PIL in the gig economy, the potential and limitations of PIL are reflected. It offers a platform to raise systemic issues and start a judicial dialogue. However, PIL is an important instrument of influencing the legal discourse and triggering the legislative process.

6.3 Government Policies and Reforms

However, the Indian government has started to appreciate the importance of the gig economy and the regulatory measures that need to be taken in this regard. Policymaking, such as NITI Aayog reports, has emphasized the increased role of platform-based work and has prescribed reforms to better protect workers and maintain flexibility. On the state level, efforts have been made to offer welfare benefits to gig workers, such as insurance programs and registration systems. These attempts however tend to be incoherent and uneven in nature and as a result, inconsistencies in implementation arise. Furthermore, there is no comprehensive national framework that could enhance the scalability and effectiveness of such initiatives. The necessity of striking a balance between innovation and regulation based on the idea that overly strict policies can be counterproductive to the development of the digital economy has also been a topic of policy debate. Nevertheless, the flexibility that should be highlighted should be finely tuned so that it does not result in the oppression of workers and social injustice.

6.4 Emerging Need for Regulatory Synergy

The gig economy needs to be regulated in a coordinated manner that involves the interpretation of the law by courts, legislation, and policy innovation. The disjointed character of current interventions underscore the necessity to have a more coherent and holistic framework that considers the multifaceted issues of platform-based work.

The judicial intervention may be rather important in solving the legal ambiguity, establishing the normative standards, especially concerning the problem of worker classification and corporate accountability. Simultaneously, legislative reform is needed to ensure there are clear and enforceable rules, which reflect the realities of the gig economy. Policy initiatives, in their turn, could support these initiatives by providing solutions to the practical issues and helping to implement them. Regulatory synergy highlights the role of portraying these various approaches in order to create a balanced result. This type of structure should not just safeguard the rights of the workers, but it must also be flexible to the dynamism of technological innovation. It is crucial to achieve this balance to maintain the long-term sustainability and equity of the gig economy.

7. Critical Analysis

7.1 Gaps in Existing Legal Framework

The current Indian labour law framework is poorly suited to cope with the realities of the gig economy, mostly because of its reliance on a strict dichotomy that workers are employees or independent contractors. This dichotomy does not reflect the hybrid character of the gig work where both the aspects of control and independence exist simultaneously. Despite the fact that the Code on Social Security 2020 formally acknowledges gig and platform workers, it limits their protection to social security, without developing core labour rights like minimum wages or collective bargaining.²² This lack of connection between formal classification and functional realities makes it possible that platforms can exercise control without an assumption of legal responsibility. Also, lax enforcement mechanisms also contribute to the lack of effectiveness of the existing provisions, which results in a regulatory framework that is both fragmented and ineffective in practice.

7.2 Corporate Power vs Worker Protection

Gig economy is also typified by a structural lack of power, where platforms have substantial economic and technological superiority over workers. In platforms, unilateral decisions are made as to the working conditions without interrupting the illusion of worker autonomy through standard-form contracts and algorithmic management. This imbalance is similar to that of monopsonistic, where employees lack alternatives and must take up unfavourable terms.²³

The lack of collective bargaining rights is another aspect that contributes to this imbalance where workers are left without any effective mechanisms to negotiate or challenge exploitative practices. Therefore, the regulatory intervention should not only be focused on the issues of classification but also the overall power dynamics that are inherent in the platform-based work.

²² Code on Social Security, 2020 (India).

²³ Valerio De Stefano, *The Rise of the Just-in-Time Workforce*, Comparative Labor Law & Policy Journal (2016).

7.3 Requirement to Reclassify or hybrid category

The weakness of the binary classification model demands the consideration of an intermediate category, like the dependent contractors, to be closer to the truths of the gig work. This strategy, as depicted in *Uber BV v Aslam*, enables extension of much-needed labour protection without completely equating gig labour with traditional labour.²⁴ Such reform should however, be well designed so that it does not end up being ambiguous or weakening the already existing protections. It will be important to have clear statutory definitions and effective enforcement to ensure its success.

7.4 Regulatory issues in the digital economy

Platforms are usually used on more than one jurisdiction, making them harder to enforce and hold legally responsible. Moreover, algorithmic management brings about a sense of opaqueness that makes it hard to determine fairness and liability in situations where there is discrimination or arbitrary decisions are made.

The high rate of technological change also plays a role in the lag in regulation since legal frameworks are struggling to keep pace with changing business models. Simultaneously, over-regulation may lead to a lack of innovation and under-regulation may continue to exploit people. Thus, a more flexible and integrated solution is necessary - a combination of labour, corporate and technology law - in order to effectively regulate the gig economy.²⁵

8. Suggestions and Recommendations

8.1 Legal Reforms

The gig economy needs to be regulated properly by transforming the mere symbolic acknowledgment into the enforceable law. Although the Code on Social Security 2020 recognizes the existence of gig workers, it does not grant core labour rights or bind platforms to adhere.²⁶ Reform of the law should thus provide clear definitions of the terms gig and platform workers and extend the necessary protections, including minimum wages, occupational safety, and access to dispute resolution.

In addition, the law should require contribution to the social security schemes by the platforms so that the responsibility of the welfare of the workers is not on the individual responsibility. An effective legal system based on enforceability is needed to close the gap between the formal recognition and substantive protection.

²⁴ *Uber BV v Aslam*, [2021] UKSC 5

²⁵ Nick Srnicek, *Platform Capitalism* (Polity Press, 2017).

²⁶ Arun Sundararajan, *The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism* (MIT Press, 2016).

8.2 Strengthening Corporate Accountability

The issue of corporate accountability should be strengthened through the use of a substance over form approach in establishing the employment relations. Contractual classifications that are used to misrepresent the nature of control that is exercised over workers should not be allowed to evade liability. The doctrine of law which encompasses the principle of the lifting of the corporate veil should be invoked where there is an evasion of the labour obligations through the use of organizational structures.

Moreover, statutory obligations might be directly placed on platforms to guarantee the adherence to the labour standards and fair practices. These would re-focus corporate incentives and would facilitate responsibility in the business models based on platforms.²⁷

8.3 Algorithmic Transparency

Since the key element of the algorithmic management is the centrality of the numerous algorithms that have been created to aid in decision making within organizations. The regulatory frameworks must ensure that there is transparency in the automated decision making within the organizations. Services must be made to reveal critical parameters used to determine tasks allocation, prices, and performance evaluation, which would enable the workers to comprehend and challenge the unfavorable results.

The Digital Personal Data Protection Act 2023 offers a solid theoretical framework on which the regulation of data use can be implemented, but the combination of the two laws is still at an early stage of development. Introduction of independent auditors and mechanisms to oversee algorithm systems will increase accountability and decrease the risks of arbitrary or discriminatory decisions.²⁸

8.4 Worker Protection Mechanisms

Gig work is very precarious, and therefore, it is necessary to come up with strong worker protection mechanisms. This includes minimum income guarantees, access to health insurance, and safeguards against arbitrary deactivation. Social security models should be modelled to be portable and inclusive that will enable workers to enjoy benefits in various platforms.

It is also important to establish a good grievance redressal systems that are affordable and time saving. These are necessary measures needed in the assurance of economic security and dignity to gig workers in a fast changing labour market.²⁹

²⁷ David Weil, *The Fissured Workplace* (Harvard University Press, 2014)

²⁸ Karen Yeung, *Algorithmic Regulation: A Critical Interrogation*, Regulation & Governance (2018).

²⁹ Mark Freedland & Nicola Kountouris, *The Legal Construction of Personal Work Relations* (Oxford University Press, 2011).

8.5 Role of Judiciary and Legislature

Balanced regulatory framework involves both the judiciary and legislature acting in coordination to balance the regulatory framework. Although a legislative reform is needed to make existing legal principles reflective of the realities of gig work, judicial interpretation can also be instrumental in adjusting the existing legal principles to the realities of gig work.

Through a purposive approach to interpretation of labour laws, it is possible to ensure that protections to workers are not compromised through formal classifications. At the same time, the legislature should develop comprehensive legislation that would respond to the new challenges in the field like platform liability and algorithmic governance. To balance innovation and social justice in the gig economy, a synergistic approach is needed.³⁰

9. Conclusion

Gig economy has essentially reorganised traditional labour relations, introducing new work forms, which are flexible, mediated by technology, and characterised by decentralised corporate structures. Though the application of platforms like Uber and Zomato has helped in the growth of economies and creation of jobs, it has also revealed that there are still major loopholes in the legal frameworks of various countries. The main issue is that the traditional labour law is not capable of capturing the hybrid nature of gig work to a sufficient degree, which leads to the widespread misclassification of gig work, the lack of adequate worker protections in gig work, and the increased corporate responsibility of gig work.

This study has shown that the practices in the gig economy that allow platforms to exert significant control over workers without imposing the same legal responsibilities are corporate practices. The failure of existing laws, such as the Code on Social Security 2020, is an indicator of a larger gap between the theory of law and economic reality. Even though the Code is an important step towards identifying gig workers, its narrow scope and ineffective enforcement mechanisms make it an ineffective measure towards substantive protection.

In comparison, it is possible to note that other jurisdictions (United Kingdom and the European Union) were more progressive in their approaches, focusing on functional realities rather than contractual labels and introducing mechanisms to mitigate the issues of algorithmic management and worker classification. These changes underscore the need to implement adaptive and proactive regulatory measures that will keep pace with the dynamic nature of work.

³⁰ Brian Bercusson, *European Labour Law* (Cambridge University Press, 2009).

The paper also highlights the necessity to go beyond the dichotomous worker/non-worker dichotomy and to adopt a more nuanced system that accommodates the hybrid nature of employment. Meanwhile, regulatory intervention should target more structural problems, such as power imbalances, a deficiency of collective bargaining, and exploitation of data.

In conclusion, the regulation of the gig economy should have a balanced and coordinated approach that will reconcile innovation and social justice. The legislative reforms should be able to provide clear and enforceable standards and the judicial interpretation should ensure that such standards are applied in a manner that is consistent with constitutional principles of equality and dignity. Failure to deal with such issues risks the entrenching of precarious labour conditions and the subversion of the underlying purposes of labour law. A holistic and rights-based approach will enable India to design a framework that will promote the growth of the economy as well as the protection of the rights and welfare of the workers and will hence ensure that the future of work is inclusive and equitable.

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