Page: 246-274 *URL: www.lijdlr.com*

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

ISSN: 2583-7753

LawFoyer International Journal of Doctrinal Legal Research

[ISSN: 2583-7753]

Volume 4 | Issue 1

2026

DOI: https://doi.org/10.70183/lijdlr.2026.v04.11

THE FUTURE OF LABOUR RIGHTS IN THE GIG ECONOMY: BEYOND CONTRACTUAL CLASSIFICATION

K.Abitha[1]

I. ABSTRACT

The Rapid rise of the Gig Economy has redefined the contours of labour relations, challenging traditional notions of employment, control, and protection under labour law. Gig Workers often engaged as "Independent Contractors," occupy an ambiguous space between employee and entrepreneur, resulting in limited access to social security, minimum wages, and collective bargaining rights. This paper confronts the reality of algorithmic management, digital surveillance, and platform dependency, this article examines the inadequacy of the binary classification of "employee" and "independent contractor" is. To detect changing paradigms of protection, it examines international legal and policy responses, such as the "third category" or "worker" status implemented in countries like the United Kingdom and new changes in India's Code on Social Security, 2020[2]*. To ensure that technological advancement does not come at the expense of human welfare, the paper advocates for a rights-based approach based on the concepts of dignity, equity, and decent employment, going beyond simple contractual classification. The study, which emphasizes the role of regulatory innovation, collective representation, and digital accountability in shaping sustainable labour standards for the twenty-first century, envisions a future framework for gig work that integrates flexibility with fairness through comparative legal analysis and policy evaluation.*

II. KEYWORDS

Gig Economy, Labour Rights, Platform Work, Algorithmic Management, Social Security.

[1] Pursuing LLM (BUSINESS LAW) at Government Law College, Coimbatore (India). Email: abithabindhu.k@gmail.com

[2] Code on Social Security,2020(India).

 (ISSN: 2583-7753)

III. INTRODUCTION

In recent decades, one of the most significant changes to the global labour market has been the emergence of the gig economy. Mobile applications and algorithms that balance labour supply and consumer demand are increasingly mediating work, made possible by digital platforms like Uber, Swiggy, Zomato, and Amazon. This type of employment, which is sometimes referred to as platform labour or on-demand work, has upended conventional job paradigms and produced a parallel economy that is distinguished by technological efficiency, flexibility, and autonomy. However, there is a rising discussion about the erosion of traditional labour rights and the uncertain legal status of gig workers beneath the surface of innovation.

The traditional framework for labour laws, which is based on the dichotomy of "employee" and "independent contractor," is unable to effectively account for the intricate dynamics of gig work. Platforms frequently have substantial algorithmic control over pricing, performance measures, and employment access, despite their claims to provide flexibility and entrepreneurial independence. The lines between subordination and autonomy are blurred by this paradox, which results in the widespread misclassification of workers and denies them fundamental rights like social security, minimum salaries, collective bargaining, and protection from wrongful termination. The matter is more than just semantic; it affects the worker's relationship with the government, employers, and society at large as well as the degree of legal protection. These conceptual tensions assume particular urgency in jurisdictions experiencing rapid digital labour expansion, where regulatory frameworks are still evolving.

India's gig and platform economy has witnessed exponential growth over the past decade, emerging as a critical source of employment generation in an increasingly digitised labour market. According to NITI Aayog's landmark policy brief, India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work (June 2022), India had approximately 7.7 million gig workers in 2020–

21, a figure projected to rise to 23.5 million by 2029–30.[3] This rapid expansion reflects both structural shifts in employment patterns and the increasing reliance on digital platforms for service delivery. However, alongside its growth, the gig economy has intensified debates around labour precarity, legal classification, and access to social security, necessitating a re-examination of existing labour law frameworks.

A. Research Objectives

1. To analyse the inadequacy of contractual classification in regulating gig work.
2. To examine the impact of algorithmic management on labour rights.
3. To assess India's social security framework for platform workers following the 2025 implementation of the Code on Social Security, 2020
4. To propose a rights-based regulatory model for the gig economy.

B. Research Questions

1. Does contractual classification adequately protect gig workers' rights?
2. How does algorithmic management reshape power relations in digital labour?
3. To what extent does the Code on Social Security, 2020 address gig worker precarity post-implementation?
4. What legal reforms are necessary to ensure dignity and fairness in platform work?

C. Research Hypotheses

The existing contractual classification of gig workers as independent contractors is inadequate to protect their labour rights in the digital economy. Even after the operationalisation of the Code on Social Security, 2020, gig workers continue to experience structural precarity due to the absence of enforceable employment rights, algorithmic accountability, and collective bargaining mechanisms. A rights-based

[3] NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (Policy Brief, June 2022).

regulatory framework that transcends contractual status is therefore essential to ensure dignity, fairness, and social security for platform workers.

D. Research Methodology

This study adopts a doctrinal research methodology, primarily relying on the analysis of primary legal sources, including statutes, judicial decisions, delegated legislation, and official policy notifications, supplemented by secondary sources such as academic commentary and institutional reports. The comparative legal analysis focuses specifically on developments in the United Kingdom, Spain, the European Union, the United States (with emphasis on California), and Australia. Judicial decisions delivered between 2018 and 2025 have been examined, reflecting the most formative period of global platform labour litigation.

Policy reports and institutional materials have been sourced from official government portals, legislative databases, the International Labour Organization (ILO), the European Commission, and NITI Aayog publications. Primary sources have been prioritised to ensure doctrinal accuracy and authoritative interpretation of legal developments. Secondary literature has been used selectively to contextualise theoretical debates and support normative evaluation. Case laws and statutory instruments were selected based on their precedential value, relevance to employment classification, algorithmic management, or social security reform, and their demonstrable influence on subsequent legal or policy discourse.

Normative analysis is employed to assess whether these evolving frameworks adequately protect labour rights in the digital economy and to identify structural gaps requiring reform.

IV. CONCEPTUAL AND THEORETICAL FRAMEWORK

It is impossible to comprehend the evolution of labour relations in the twenty-first century without going over the theoretical and intellectual underpinnings of employment law again. The distinction between self-employment and traditional wage labour has become hazier due to the gig economy, which is fuelled by platform-based company models. To address the power disparity between employers and

employees, labour legislation historically developed during the industrial age. The law acknowledged that workers needed protection through social security, minimum wages, and collective rights because they were economically dependent and socially vulnerable. However, this system assumed a steady, long-term connection between an employer and employee, in which the employer had direct control over the operation of the business.

This model is becoming less relevant in the modern gig economy. Contracts that refer to employees as "partners" or "independent contractors" frame platform-mediated employment arrangements. The purpose of these classifications is to keep them out of the purview of labour laws. However, gig workers rely heavily on digital platforms to support themselves. Through algorithmic tools, the platforms manage crucial facets of their operations, including task assignment, pay rate determination, performance metrics setting, and account deactivation. These phenomena, sometimes known as algorithmic management[4], is a new kind of administrative control that is both imperceptible and unaccountable.

The control test, integration test, economic dependency test, and mutuality of obligation test are the tests used by traditional legal frameworks to identify whether an individual is an employee or an independent contractor. Each of these developed in an industrial setting, emphasizing mutual commitment, integration into the employer's business, or physical supervision. These standards, however, fall short in capturing the mixed realities of gig work. The sheer nature of algorithmic incentives and penalties ensures conformity with platform expectations, notwithstanding platforms' claims that they have no control over workers' choice of working hours. As a result, gig workers are governed through data-driven nudges and digital surveillance rather than outright directives. A relationship of profound economic subjugation is hidden behind the legal façade of autonomy.

A deeper fundamental problem is shown by the shortcomings of traditional tests: the nature of work itself has evolved. Visibility factories, offices, and visible supervision

[4] Valerio De Stefano,' The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowd work, and Labour Protection in the "Gig-Economy'' (2016) ILO Working Paper No71.

defined work in traditional employment. Digital labour involves remote, fragmented employment that is frequently mediated by apps that hide the worker-beneficiary link. This necessitates redefining "work" as any action that creates value in a digitally mediated system, regardless of its contractual or physical form. As part of a larger trend toward platform capitalism, a model in which digital infrastructures mediate economic exchange and extract value from both labour and data, gig work is not an exception to labour but rather an evolution of it.[5]

Theoretically, academics characterize this new workforce as belonging to the "precariat," a growing group of workers characterized by instability, lack of social protection, and absence of long-term security.[6] By shifting risks that are typically assumed by employers like equipment costs, insurance, and downtime to individual employees, the gig economy exacerbates this precarity. The language of flexibility conceals a system of reliance in which employees must always be available to keep their jobs and pay. The autonomy paradox, where the promise of independence is contingent on platforms' economic and technological power, is a sophisticated kind of control that is hidden under the illusion of freedom.

The fissured workplace hypothesis, which describes how businesses fragment employment relationships to minimise responsibility and externalise labour costs, can also be used to understand these dynamics.[7] The ultimate form of fissuring is seen in the gig economy, where platforms handle all transactions without hiring people. As a result, workers carry out essential corporate operations under duress but are not legally recognized or compensated, creating a disguised employment model. As a result, the traditional labour law classification of independent contractor vs employee is unable to handle the layered, hybrid, and algorithmically managed character of digital work.

A larger normative problem is also reflected in this conceptual crisis. The moral presumption that labour is a basis for human dignity and social involvement rather

[5] Nick Srnicek, *Platform Capitalism* (Polity Press 2017).
[6] Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury Academic 2011).
[7] David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Harvard University Press 2014).

than just a commodity has historically served as the basis for labour legislation. Ensuring equity, stability, and justice in workplace relations is the goal of regulation. The main concern as the workplace becomes more digitally transformed is not whether a person meets the legal definition of an "employee," but rather whether the law can still preserve these fundamental principles in novel situations. Therefore, a forward-thinking legal framework must acknowledge equality, dignity, and collective solidarity as universal rights that apply to all workers, regardless of their contractual status.

According to the study's conceptual framework, the gig economy is a structural progression of work rather than a passing trend. The legal system's reliance on antiquated classifications has resulted in a disconnect between workers' safeguards and their actual lives. To close this disparity, labour rights must be rethought from a universal perspective, recognizing that everyone who makes a meaningful contribution to the economy has a right to justice, protection, and a voice. Essentially, the gig economy's theoretical task is to redefine labour law's goal for the digital era rather than to redefine the worker.

V. CONTRACTUAL CLASSIFICATION AND ITS LIMITATIONS

Labour law has historically been based on the strict categorization of workers into "employee" and "independent contractor" categories. This dichotomy establishes who is eligible for and ineligible for protection under work laws. While independent contractors are only subject to private contracts, employees are entitled to statutory benefits such minimum salaries, social insurance, paid time off, and the ability to form a union. Although this difference was formerly suitable for industrial settings, the gig economy has made it increasingly insufficient. By portraying their employees as "independent" in appearance while treating them as employees in function, digital platforms have created a business model that deliberately takes advantage of this legal contradiction. At the heart of this classification challenge is the concept of contractual autonomy. Gig platforms often provide their workers with standard-form agreements declaring them to be independent partners.

These contracts emphasise freedom of choice, flexibility, and self-employment, yet in reality they are unilateral and non-negotiable. To obtain access to the platform, workers must digitally accept the terms, typically through a single click. This arrangement is characteristic of what legal scholarship describes as a "contract of adhesion," namely a standardised agreement imposed by a dominant party on a take-it-or-leave-it basis, reflecting a structural imbalance in bargaining power.[8] The contractual label of independence therefore does not reflect genuine autonomy; rather, it conceals an underlying relationship of economic dependency and operational control.

Legal systems around the world have sought to interpret this ambiguity using traditional tests, but these frameworks are unable to accommodate the complexity of platform work. Courts applying the control test have determined that, while platforms claim not to expressly direct workers, they still exercise significant algorithmic control via app-based management systems. The assignment of rides or deliveries, real-time tracking, client ratings, and performance deactivation all constitute a digital type of supervision. Workers may appear to be able to log in and out at will, but their salary and continuing access to employment are contingent on maintaining high acceptance rates and customer feedback scores. In substance, the platform retains authority comparable to that of an employer, even though the contract explicitly states otherwise.

The integration test, which determines if the worker is a part of the enterprise, is likewise unsuitable for the digital model. Gig workers carry out critical tasks driving passengers, delivering food, and providing services without which the platform cannot function. However, they are legally classified as external contractors. This false barrier enables platforms to avoid accountability for accidents, injuries, or unfair treatment, essentially externalizing all labour-related concerns. Similarly, the economic dependency test, which determines whether a worker is reliant on a single source of income, frequently finds that gig workers rely substantially on one platform

[8] Friedrich Kessler, 'Contracts of Adhesion - Some Thoughts about Freedom of Contract' (1943) 43 *Columbia Law Review* 629.

for income. Despite this, the lack of a legal employment relationship prevents them from receiving the benefits that would normally accompany such dependency. This structural mismatch reveals a fundamental flaw in employment law. Contractual classification presumes that legal form matches economic reality. In the gig economy, however, form and reality diverge dramatically. The law's dependence on contractual status provides a regulatory gap through which platforms can wield employer-like influence while avoiding employer-like liability. This has resulted in what pundit's call "control without accountability." Workers face the economic price of downtime, maintenance, and work-related dangers, whereas platforms benefit from flexible labour without the constraints of employment law. Such an imbalance contradicts the core goal of employment regulation: to safeguard the economically vulnerable and dependent.

Furthermore, this binary classification maintains a hierarchy of protection in the labour market. Those with normal job contracts have complete social security, whilst those outside the official system are invisible to law and policy. Gig workers fall into this "grey zone" of regulation they are neither entrepreneurs nor employees, but rather a new class of "semi-dependent" workers. In many countries, attempting to shoehorn them into existing categories has resulted in uneven results. Some courts, such as the UK Supreme Court in *Uber BV v Aslam*[9], have recognized platform drivers as "workers," establishing a middle ground between employee and independent contractor. Others, however, continue to support the contractual meaning, perpetuating the idea of independence. This judicial discrepancy demonstrates the futility of using classification as a means of protection.

In terms of policy, the emphasis on contractual classification diverts attention away from the larger issue of rights. Whether a person is classified as an employee or a contractor should not affect their claim to essential benefits such as fair pay, health insurance, and safe working conditions. The gig economy highlights the need to move beyond the status-based paradigm of labour regulation and toward a rights-based approach, in which protections are based on the nature of the work and the degree of

[9] Uber BV v Aslam (2021) UKSC 5.

dependency, rather than contractual wording. The assumption that employment rights should be determined by legal status is becoming increasingly problematic in a world where technology allows for fragmented, flexible, and distant work. Enforcement is another area where contractual classification's limitations are evident. The cross-border operations and digital interfaces of platforms make it challenging to enforce accountability, even in cases where rules are in place. Since many gig businesses do not have a physical location, jurisdictional supervision is made more difficult. Collective action is challenging since workers are scattered, isolated, and frequently ignorant of their rights. Under the guise of innovation, these structural obstacles enable exploitation to continue and strengthen the power disparity.

Finally, the emphasis on contractual classification is a legal anachronism a relic of industrial-era thinking applied to post-industrial reality. Labour law must develop from a framework based on employment status to one that reflects the current economy's continuum of work relationships. The binary difference between "employed" and "self-employed" fails to capture the variety of work arrangements enabled by digital platforms. The future of labour rights thus hinges on envisioning regulation in functional rather than formal terms, ensuring that all workers, regardless of contract form, are safeguarded by a universal baseline of rights and social security. In sum, the gig economy reveals the fragility of labour law's underpinnings. By sticking to out-of-date classifications, the law risks prolonging inequity and invisibility for millions of workers who form the foundation of the digital economy. The issue is not only to redefine who is an employee, but also to reinvent what it means to work—and to ensure that labour dignity is maintained even when the contract fails to recognize it.

VI. INTERNATIONAL JUDICIAL AND POLICY DEVELOPMENT

Across the world, courts and policymakers are grappling with the same question: how can labour rights be protected when traditional employment structures no longer fit the realities of digital work? The gig economy, by its very design, operates beyond the familiar boundaries of the factory, the office, and even the employer's premises. It connects workers and consumers through platforms that function as intermediaries,

often claiming to be mere "technology companies." Yet these platforms retain significant control over how work is organised, performed, and rewarded. Different jurisdictions have responded to this evolving challenge in distinct ways some through bold judicial reinterpretation, others through legislative reform.

One of the most significant global turning points came from the United Kingdom. In the landmark case In *Uber BV v Aslam*, the UK Supreme Court held that Uber drivers were "workers" under section 230(3)(b) of the Employment Rights Act 1996, a distinct intermediate category between employees and independent contractors, entitling them to minimum wage and paid leave protections.[10] but "workers" under the Employment Rights Act 1996. The Court observed that Uber exerted substantial control over its drivers determining fares, setting contract terms, and penalising those who refused rides. Despite being labelled as "self-employed," the drivers had little genuine autonomy. The Court's reasoning went beyond the wording of the contract to examine the reality of the relationship, recognising that contractual labels should not undermine statutory rights. This judgment effectively created a third category a middle ground between full employees and independent contractors extending rights such as minimum wage, paid leave, and rest breaks to gig workers.

A similar recognition emerged in Spain, where the government enacted the "Rider's Law" in 2021, following extensive protests and litigation by food delivery riders. The law presumes that riders working through delivery apps are employees, unless proven otherwise. This legislative presumption reversed the burden of proof, compelling platforms to justify any claim of independence. Spain's approach represents a proactive effort to prevent misclassification rather than merely reacting through court judgments. It demonstrates how legislative clarity can provide stronger protection in sectors marked by digital precarity.

The European Union has also moved toward a harmonised approach. In 2022, the European Commission proposed a Directive on Platform Work, which seeks to establish uniform criteria for determining employment status across member states.

[10] *Uber BV v Aslam [2021] UKSC 5, [119].*

The directive introduces a legal presumption of employment where platforms exercise certain forms of control, such as setting remuneration or monitoring performance through algorithms. Importantly, it also addresses the issue of algorithmic transparency, requiring platforms to disclose how automated decision-making systems affect workers' opportunities and income. The European model thus combines classification reform with digital accountability, recognising that technology itself has become a locus of labour regulation.

In contrast, the United States presents a more fragmented picture. Employment classification there largely depends on state-level laws and judicial tests, such as the "ABC Test" established in *Dynamex Operations West, Inc. v. Superior Court*, 416 P.3d 1 (Cal. 2018). Under this test, a worker is presumed to be an employee unless the hiring entity can prove that the individual is free from control, performs work outside the usual course of the business, and is independently engaged in an established trade. California codified this approach through Assembly Bill 5 (AB5) in 2019, enacted as amendments to the California Labor Code §§ 2750.3, 3351, and 3357. However, strong corporate lobbying led to partial rollbacks, particularly after the passage of Proposition 22, which exempted app-based drivers from employee status while creating a limited benefits framework. Proposition 22 subsequently faced constitutional challenges before California courts, reflecting the continuing instability and contestation surrounding platform worker classification in the United States. The American experience highlights the tension between regulation and innovation, where powerful platforms have shaped policy outcomes through political and economic influence.

Turning to Australia, the Fair Work Commission has taken a nuanced stance. In recent cases, the Commission recognised that despite contractual claims of independence, gig workers are often subject to detailed control over their work and therefore deserve certain rights. Australia has also initiated consultations for a "Fair Work Legislation Amendment," seeking to redefine employment relationships considering platform work. This shows a gradual movement toward a more inclusive understanding of employment that reflects digital realities.

In India, the situation remains at an early stage of development but shows promising direction. The Code on Social Security, 2020 marks a pioneering attempt to acknowledge "gig workers" and "platform workers" as distinct categories under labour law. The Code allows for the creation of welfare schemes to provide health insurance, old-age benefits, and maternity protection. While this recognition is a positive step, its implementation has been slow and fragmented. Many workers remain unaware of these provisions, and the absence of clear mechanisms for funding and enforcement limits the Code's effectiveness. Nevertheless, India's legislative initiative symbolises an important shift from denial to recognition, offering a foundation for future reforms. Beyond individual countries, international organisations have also begun to engage with the challenges of digital labour. The International Labour Organization (ILO)[11] has emphasised that fundamental labour rights—such as freedom of association, fair remuneration, and social protection—should apply universally, regardless of employment status. The ILO's policy recommendations urge member states to extend these rights to all forms of work, including those mediated by technology. Similarly, the OECD and World Economic Forum have advocated for portable social security systems and fair data governance, recognising that cross-border platform work requires global solutions.

Taken together, these global developments reveal a clear trend: the world is moving gradually away from rigid contractual classifications toward a function-based approach that considers the substance of the work relationship. Courts and legislators increasingly recognise that digital intermediation does not eliminate dependency it simply conceals it behind algorithms and contractual rhetoric. The emerging consensus, though varied in form, reflects a shared understanding that labour rights must evolve to meet the realities of digital capitalism. The comparative experience also underscores the importance of adaptability.

No single model fits all economies, yet the principles of fairness, transparency, and protection remain universal. Countries that have succeeded in reforming gig work

[11] International Labour Organisation, World Employment, and social Outlook 2021: The role of digital labour platforms in transforming the world of work (ILO,2021).

regulation have focused not merely on definitions but on outcomes ensuring that those who contribute labour receive dignity and justice in return. These international examples offer valuable lessons for India and other developing nations: that the future of labour rights cannot be built on outdated binaries but must be grounded in human-centred lawmaking that reflects both economic realities and ethical responsibilities in the digital age.

VII. INDIAN CONTEXT AND EMERGING CHALLENGES

The legal landscape governing gig and platform work in India has undergone a decisive transformation with the formal implementation of the Code on Social Security, 2020 on 21 November 2025.[12] This development marks a shift from symbolic recognition to operational social security entitlements for gig and platform workers. Through Notification S.O. 5319(E) issued by the Ministry of Labour and Employment, the Code has been brought into force, mandating concrete compliance obligations on digital labour aggregators.

The Code now operationalises social security schemes through compulsory aggregator contributions ranging from 1–2% of annual turnover, subject to a statutory cap of 5%, towards designated social security funds. Platform companies are legally obligated to register workers on the e-Shram portal, thereby integrating gig workers into a unified national labour database. The establishment of National and State Social Security Boards, along with the activation of grievance redressal mechanisms including toll-free helplines, reflects a move toward institutional enforcement rather than discretionary welfare.

Importantly, the implementation of the Code introduces portable social security, allowing workers to retain benefits across platforms and geographical locations. This is particularly significant in a labour market characterised by mobility and multi-platform engagement. While the Code does not alter employment classification, it creates a parallel welfare architecture that acknowledges the economic dependency of gig workers without conferring employee status.

[12] Ministry of Labour & Employment, Notification S.O. 5319(E) (21 Nov 2025).

Further, the Union Budget 2025–26 announced the extension of Ayushman Bharat PM-JAY healthcare coverage to platform workers, signalling the State's commitment to expanding universal health protection within the digital economy. Although the scheme is yet to be operationalised, its announcement reinforces the policy shift from exclusion to inclusion.

Nevertheless, critical challenges persist. The Code remains welfare-centric rather than rights-based, offering social security without collective bargaining rights, minimum wage guarantees, or protection against arbitrary algorithmic deactivation. Thus, while the post-2025 framework represents a historic advancement, it simultaneously exposes the limitations of partial recognition that stops short of structural labour empowerment.

VIII. TOWARDS A RIGHTS-BASED FRAMEWORK

The growing inadequacy of traditional contractual classifications has revealed one undeniable truth that the foundation of labour rights can no longer depend solely on the label of "employee" or "independent contractor." The gig economy has expanded the definition of work far beyond the conventional workplace, blurring lines of control, responsibility, and dependency. What this transformation demands are not just legal reform, but a philosophical shift from a system that protects only those who fit into predefined categories to one that recognises every worker as a bearer of fundamental rights. A rights-based framework, rooted in the principles of equality, dignity, and social justice, offers a sustainable path forward for the regulation of digital labour.

At its core, a rights-based model operates on a simple yet powerful premise: work creates rights, regardless of the form in which it is performed. Whether a person drives for a ride-hailing app, delivers food, writes code, or performs microtasks online, they contribute labour that sustains the digital economy. The protection of such work must therefore flow from its substance, not its status. This approach aligns with the moral and constitutional vision that underpins Indian labour jurisprudence that the right to livelihood and dignity under Article 21 of the Constitution extends to all individuals engaged in economic activity.

Similarly, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work (1998) emphasises that certain rights such as freedom of association, collective bargaining, and safe working conditions belong to all workers, irrespective of contractual classification or employment arrangement. A rights-based framework for the gig economy would need to address three core dimensions: economic security, digital accountability, and collective empowerment. The first involves ensuring fair and predictable income for gig workers through mechanisms such as minimum earnings guarantees, portable benefits, and social protection coverage. Portable benefits represent a crucial innovation for non-standard work. Instead of tying social security to a single employer, benefits can travel with the worker across platforms and gigs. Contributions may come from multiple sources the platform, the worker, and the state into a unified fund that supports health insurance, retirement savings, and accident compensation.

This would allow workers to maintain stability even as they move between different digital platforms. The second pillar digital accountability recognises that the gig economy's power imbalance is not only economic but also technological. Platform algorithms decide who gets work, how much they are paid, and when they are deactivated. Yet, these systems are often opaque, leaving workers powerless against automated decision-making. A rights-based approach must therefore include algorithmic transparency and data justice. Workers should have the right to know how algorithms affect their income, performance scores, and access to work. They should also challenge unfair automated decisions through accessible grievance mechanisms. This would bring the principles of natural justice into the digital realm, ensuring that technology serves human dignity rather than undermining it.

The third element, collective empowerment, restores the social dimension of labour. The fragmentation of gig work where individuals operate independently, connected only through apps has weakened traditional forms of worker solidarity. Yet new forms of digital collective organisation are emerging. Online unions, cooperative platforms, and worker associations are creating spaces for shared negotiation and

advocacy. A rights-based framework must recognise these collective voices and provide legal protection for digital unionisation. Workers should have the right to form associations, bargain collectively with platforms, and participate in decision-making about their working conditions. Such participation not only strengthens democracy in the workplace but also fosters long-term sustainability in platform governance. Globally, the shift towards this model is already underway. The European Union's proposed Directive on Platform Work explicitly combines rights-based protection with technological transparency.

It not only presumes employment in cases of control but also mandates disclosure of algorithmic management practices. Similarly, countries like Spain, France, and Canada have introduced laws that guarantee minimum earnings and insurance coverage for platform workers, regardless of their classification. These developments signal a broader international consensus that labour rights must evolve to meet the realities of digital capitalism, where traditional employer–employee boundaries are no longer sufficient.

In the Indian context, the movement toward a rights-based framework would complement the objectives of the Code on Social Security, 2020, but go beyond its limited welfare focus. Instead of viewing social security as a charity extended to the "vulnerable," the law must recognise it as a legal entitlement grounded in the right to livelihood and equality. This would require establishing clear institutional mechanisms such as national and state-level welfare boards, independent grievance tribunals, and mandatory platform contributions to welfare funds. Moreover, embedding accountability into the digital structure itself through audits of algorithms and transparency reports would ensure that technological innovation does not come at the cost of justice. Another vital component of a rights-based framework is inclusive participation in policymaking. The voices of gig workers, who best understand the realities of platform labour, must be heard in the formulation of laws and welfare schemes.

Involving worker representatives in advisory boards and regulatory committees can ensure that policies are grounded in lived experience rather than abstract theory. This

participatory approach aligns with the democratic ethos of the Indian Constitution, which envisions governance as a dialogue between the state and its citizens. Importantly, a rights-based framework does not oppose innovation it humanises it. The gig economy thrives on flexibility and creativity, but these qualities must not come at the expense of fairness. By embedding rights into the design of digital work systems, it is possible to strike a balance between technological progress and social justice. The future of work, therefore, must be shaped not only by algorithms and market forces but also by ethical and legal commitments to human well-being. In essence, moving towards a rights-based approach means acknowledging that the nature of work has changed, but its moral significance has not. Every worker whether in a factory, an office, or behind a smartphone screen contributes to the nation's economy and deserves protection, respect, and recognition.

IX. ALGORITHMIC MANAGEMENT AND DATA GOVERNANCE

In the digital economy, the employer is no longer a person it is an algorithm. The defining feature of platform work lies in how technology manages, monitors, and evaluates workers without human supervision. This phenomenon, known as algorithmic management, represents a fundamental transformation in the structure of labour relations. It replaces the visible authority of a supervisor with the invisible control of data-driven systems. For millions of gig workers, the app is not just a tool for finding work; it is their manager, evaluator, and gatekeeper all at once. Algorithmic management operates through a combination of data collection, performance tracking, and automated decision-making. Each task performed by a worker every ride completed, every delivery made, every rating received generates data that is continuously processed by platform algorithms.

These algorithms decide which worker receives the next assignment, how much they are paid, and whether they remain active on the platform. While this system appears efficient and objective, it masks a profound asymmetry of power. The worker is constantly monitored but rarely informed; the platform knows everything about the worker, but the worker knows almost nothing about the platform.

This technological opacity creates several legal and ethical challenges. The first is transparency. Gig workers are rarely told how algorithms calculate their earnings or determine task distribution. Incentive systems are modified without notice, and performance thresholds for deactivation remain unclear. Such practices violate fundamental principles of fairness and accountability that underpin labour law. In traditional employment, disciplinary actions or pay reductions would require justification and due process. In the gig economy, these actions occur automatically, through code and data, without explanation or recourse. The absence of procedural fairness in automated systems thus translates into a new form of digital inequality. Secondly, algorithmic management raises concerns about bias and discrimination. Algorithms are only as neutral as the data they are trained on.

When data reflects existing social biases related to gender, region, language, or customer preferences algorithms can reproduce and amplify those inequities. For instance, studies have shown that customer rating systems can unfairly penalise workers based on appearance, accent, or background. Because platforms use these ratings to allocate tasks or determine bonuses, such biases can directly impact income and job security. Without proper safeguards, algorithmic systems risk perpetuating the same inequalities that labour law was created to eliminate. Another critical issue is data ownership and privacy. Every gig worker continuously generates a vast amount of personal and behavioural data from GPS location to performance metrics, yet they have no control over how this data is used.

Platforms treat this information as proprietary, using it to optimise business operations and maximise profit. Workers, on the other hand, have no right to access, transfer, or monetise their own data. This imbalance challenges the very notion of autonomy in digital work. Recognising data as a form of labour means acknowledging that workers contribute not just their time and skills but also valuable digital assets that power the platform's algorithms. Protecting data rights, therefore, becomes an extension of protecting labour rights.

The issue of algorithmic governance also intersects with privacy and surveillance law. Continuous monitoring through GPS, camera access, and data analytics subjects'

workers to an unprecedented level of scrutiny. While platforms justify this as necessary for quality control, it effectively creates a digital panopticon a system of total visibility where the worker is always watched but never in control. Such surveillance can erode dignity and autonomy, core values that labour law seeks to preserve. India's Digital Personal Data Protection Act, 2023 (Act No. 22 of 2023) provides a statutory framework for safeguarding personal information, but it remains uncertain how effectively it can regulate the use of worker data by platforms.[13] The Act must evolve to include explicit provisions for algorithmic accountability and to ensure that consent in digital work arrangements is both informed and meaningful. Globally, regulators are beginning to address these issues.

The European Union's General Data Protection Regulation[14] (GDPR) introduced the "right to explanation" allowing individuals to seek information about automated decisions that affect them. The proposed EU Directive on Platform Work expands this principle further by requiring platforms to disclose the logic behind algorithmic management and provide human oversight in key decisions such as suspension or termination. These developments illustrate a growing recognition that technological transparency is a prerequisite for fairness in digital labour. India and other developing nations can draw from these examples to design context-sensitive regulations that balance innovation with accountability.

Ensuring algorithmic fairness also requires structural reforms. Platforms should be mandated to conduct regular algorithmic impact assessments, like environmental or data protection audits, to evaluate how their systems affect worker rights. Independent regulators or ombudspersons could oversee these processes to ensure compliance. Additionally, workers must have access to grievance redressal mechanisms where they can challenge unfair algorithmic decisions. This human

[13] Digital Personal Data Protection Act, 2023 (Act No. 22 of 2023). The Digital Personal Data Protection Act, 2023 has now become fully operational with the notification of the Digital Personal Data Protection Rules, 2025 on 13 November 2025. These Rules introduce binding obligations on platforms, including mandatory data breach notifications within 72 hours, appointment of Data Protection Officers, strengthened grievance redressal mechanisms, and enhanced transparency obligations for automated decision-making systems.

[14] European Union, General Data Protection Regulation (GDPR), Regulation (EU) 2016/679.

element of review restores the principle of natural justice in an otherwise automated environment. From a philosophical perspective, algorithmic management marks a new phase in the commodification of labour where even human performance is quantified, scored, and predicted. Yet it also opens opportunities for technological empowerment. If designed ethically, data systems can be used to enhance worker protection rather than undermine it.

For instance, blockchain-based work records can provide transparency in payments, data cooperatives can give workers collective control over their digital identities, and open-source algorithms can make management systems auditable. The goal should not be to reject technology but to democratise it transforming digital tools from instruments of control into instruments of empowerment. In the long run, the legitimacy of the gig economy will depend on whether it can integrate fairness and transparency into its digital infrastructure.

Platforms must recognise that algorithms are not neutral; they are legal and moral actors that shape real human lives. Therefore, they must be subject to the same principles of justice that govern all other forms of employment. Embedding these principles into law through data rights, transparency obligations, and participatory governance will ensure that technological progress remains aligned with human dignity.

The Digital Personal Data Protection Act, 2023 (Act No. 22 of 2023) has now become operational with the notification of the Digital Personal Data Protection Rules, 2025 on 13 November 2025. These Rules introduce binding obligations on platforms, including mandatory data breach notifications within 72 hours, appointment of Data Protection Officers, strengthened grievance redressal mechanisms, and enhanced transparency obligations for automated decision-making systems.[15] While certain core obligations take effect immediately upon notification, the Rules provide for a phased compliance framework, granting data fiduciaries an implementation period of up to 18 months, culminating in full compliance by May 2027. For gig workers, this marks

[15] Digital Personal Data Protection Rules, 2025 (notified 13 November 2025).

a critical regulatory development, as algorithmic decisions governing pay, work allocation, and deactivation are now subject to data governance standards and accountability norms.

X. COLLECTIVE BARGAINING AND DIGITAL UNIONISM

For most of the twentieth century, labour movements relied on physical workplaces, shared schedules, and visible hierarchies to organise workers. Trade unions emerged in factories, offices, and public institutions spaces where workers interacted, shared grievances, and collectively negotiated with employers. The gig economy, however, dismantles this physical and social foundation. Gig workers operate as isolated individuals, connected only by smartphone apps and algorithms. They rarely meet one another, have no fixed workplace, and are often classified as independent contractors who, by contract, have no legal right to unionise. Yet, despite these structural obstacles, a new wave of digital labour solidarity is emerging across the world.

The very technology that fragmented workers is now becoming the tool that unites them. Gig workers have begun to use digital communication WhatsApp groups, Telegram channels, and online forums to share experiences, coordinate strikes, and expose unfair practices. In India, associations such as the Indian Federation of App-based Transport Workers (IFAT)[16] and the All-India Gig Workers Union (AIGWU)[17] have become the backbone of this movement. These organisations, though not formally recognised as trade unions under existing labour laws, have mobilised thousands of drivers and delivery partners to demand fair pay, accident insurance, and transparency in rating systems.

Their efforts mark a significant transformation in labour activism from factory gates to digital chatrooms. One of the key challenges for these collectives is the absence of a legal identity. Under Indian law, the right to form associations and unions is

[16] Indian Federation of App-based Transport Workers (IFAT), registered trade union representing app-based transport workers in India.
[17] All-India Gig Workers Union (AIGWU), national collective representing platform and gig workers across sectors in India.

guaranteed by Article 19(1)(c) of the Constitution. However, statutory recognition of trade unions under the Trade Unions Act, 1926 generally presupposes the existence of an identifiable employer–employee relationship. Since gig workers are labelled as independent contractors, platforms argue that these workers cannot form or join unions for collective bargaining purposes. This contractual fiction undermines the constitutional right to association and limits workers' capacity to negotiate better terms.

The result is a legal invisibility of collective voice, where workers exist individually in law but collectively in reality. Nevertheless, judicial and policy trends around the world are slowly expanding the scope of collective rights in digital labour. The European Union's Directive on Platform Work explicitly recognises the right of platform workers to unionise and engage in collective bargaining, regardless of their contractual classification. Similarly, in Australia and Canada, courts and labour boards have acknowledged that dependent contractor's workers who rely economically on a single platform should have the same right to negotiate collectively as traditional employees.

These developments represent a shift from formalistic to functional definitions of labour relations, where the existence of dependency, not the contract label, determines the right to organise. In India, while statutory reform is still pending, grassroots movements are gradually shaping the narrative. In 2022, IFAT filed a writ petition before the Supreme Court seeking effective implementation of social security protections for gig and platform workers under the Code on Social Security, 2020, contending that aggregators must contribute to statutory welfare funds in a manner analogous to employers.[18] Such initiatives represent a broader demand for institutional recognition of digital collectives not only as advocacy groups but as legitimate participants in labour governance.

If courts and policymakers embrace this shift, India could move toward a more inclusive model of industrial relations that reflects the realities of platform-based

[18] *Indian Federation of App-based Transport Workers (IFAT) v. Union of India*, Writ Petition (Civil) No. 1068 of 2021 (Supreme Court of India) (pending).

work. Globally, innovative experiments are underway to strengthen collective bargaining in the platform economy. In the United Kingdom, for instance, after years of litigation, the App Drivers and Couriers Union (ADCU) successfully negotiated certain minimum conditions with Uber following the *Uber BV v Aslam* ruling. In Denmark, a landmark agreement between the platform *Hilfr ApS v 3F Trade Union* [19]created a hybrid model where freelancers who work regularly on the platform automatically become employees with benefits. These examples demonstrate that collective agreements are not incompatible with flexibility; rather, they can institutionalise fairness within new economic structures.

Digital unionism also extends beyond traditional labour rights. Many gig worker collectives now demand algorithmic transparency and data rights as part of their bargaining agenda. They seek access to information about how work is distributed, how pay is calculated, and how deactivation decisions are made. This expansion of bargaining demands reflects the changing nature of power in the gig economy from economic control to data control. By uniting around these shared digital issues, workers are redefining the very content of collective bargaining for the twenty-first century. To make digital unionism effective, the law must evolve to recognise new forms of representation. Legal frameworks could allow the registration of worker associations that represent freelancers and platform workers, even without formal employment status.

The state can also facilitate tripartite structures where platforms, worker collectives, and government bodies collaborate on setting minimum standards for pay, safety, and social security. These mechanisms would not only protect workers but also create regulatory stability for platforms, ensuring fair competition and long-term sustainability. Technology itself can also become an ally in this transformation. Digital tools can simplify union registration, enable real-time consultations, and allow workers across regions to participate in collective decision-making. The concept of platform cooperativism where workers own and manage the digital infrastructure themselves offers an alternative model of economic democracy. By turning platforms

[19] Hilfr ApS V 3F Trade Union (Denmark,2018).

into shared institutions rather than corporate monopolies, cooperative ownership can restore equity and transparency to the digital marketplace. Ultimately, collective bargaining in the gig economy is not merely about wages; it is about voice, recognition, and dignity. It represents a reclaiming of agency in a system designed for individualisation. The challenge before lawmakers is to align the spirit of collective solidarity with the realities of digital work. If law continues to view unionisation solely through the lens of conventional employment, millions of platform workers will remain excluded from the very rights that define decent work. But if the law evolves to embrace digital solidarity, it can transform the gig economy into a space where flexibility and fairness coexist.

In the end, the rise of digital unionism is more than a labour movement it is a social awakening. It reflects a generation of workers asserting that technology should not strip them of their humanity but rather enhance it. By recognising collective bargaining as a digital right, societies can reaffirm that even in an algorithm-driven world, justice still begins with the power of human voices joined together.

XI. SUGGESTIONS AND RECOMMENDATIONS

The evolving nature of gig and platform work necessitates a comprehensive reorientation of labour regulation that moves beyond contractual formalism and welfare symbolism. While recent legislative developments, particularly the operationalisation of the Code on Social Security, 2020, mark a significant step forward, the persistence of structural precarity among gig workers indicates the need for deeper and more rights-centred reforms. The following structured recommendations seek to bridge the gap between recognition and enforceable protection in the digital labour economy.

1. **Transition from Welfare-Centric to Rights-Based Regulation (Short to Medium Term: 1–3 Years):** Social security benefits should not operate in isolation from enforceable labour rights. Legislative reform within the next three years should introduce statutory minimum earnings guarantees, protection against arbitrary algorithmic deactivation, and mandatory dispute resolution mechanisms. Embedding these baseline protections would align

labour regulation with constitutional principles of dignity and equality and shift the framework from discretionary welfare to legal entitlement.

2. **Institutionalising Algorithmic Transparency and Accountability (Immediate to 2 Years):** Given the centrality of algorithmic management, regulatory rules should mandate disclosure of automated decision-making criteria that materially affect income and work allocation. Within a two-year compliance window, platforms should be required to conduct periodic independent algorithmic audits and establish human review panels for deactivation decisions. Such measures would integrate procedural fairness into digital governance structures.
3. **Legal Recognition of Collective Bargaining and Digital Unionism (Medium Term: 2–4 Years):** The right to form associations and engage in collective negotiation must be explicitly extended to gig and platform workers irrespective of contractual classification. Amendments to existing labour legislation or the introduction of a dedicated chapter within the labour codes could provide formal recognition to digital worker collectives. Establishing tripartite consultative mechanisms at national and state levels would further democratise platform governance.
4. **Strengthening Institutional Enforcement under the Code on Social Security, 2020 (Immediate and Ongoing):** National and State Social Security Boards must be adequately resourced to monitor aggregator contributions and scheme implementation. A structured enforcement roadmap including quarterly compliance reporting, digital contribution tracking, and independent oversight audits should be operationalised within the first two years of full implementation. Effective grievance redressal systems must be made accessible through multilingual digital interfaces and helplines.
5. **Operationalising Portable and Universal Social Security (Medium Term: 2–5 Years):** Social protection mechanisms must be fully portable across platforms and geographic regions. Within a five-year horizon, interoperable welfare databases and unified digital worker identification systems should be integrated with contribution tracking mechanisms to ensure seamless

continuity of benefits. A coordinated cost-sharing framework between aggregators and the State would enhance sustainability.

6. **Embedding Participatory Governance in Policy Formulation (Immediate and Continuous):** Gig workers and their representative organisations should be institutionally represented in advisory boards, welfare boards, and regulatory consultations. Formal guidelines mandating stakeholder consultations prior to major policy amendments would ensure that regulation reflects lived realities rather than contractual abstractions.

In sum, the sustainability of the gig economy depends on embedding justice, accountability, and human dignity within its legal and technological architecture. A phased yet time-bound implementation strategy combining rights recognition, technological accountability, institutional enforcement, and participatory governance can ensure that digital innovation progresses in harmony with labour protection rather than at its expense.

XII. CONCLUSION

The rise of the gig economy has redefined what it means to work in the twenty-first century. Flexible, technology-driven jobs have created new opportunities, but also new insecurities. This study has demonstrated that contractual classification alone does not adequately protect gig workers' rights; that algorithmic management reshapes power relations through invisible forms of control; and that, despite recent reforms such as the operationalisation of the Code on Social Security, 2020, structural precarity persists in the absence of enforceable employment rights and collective bargaining mechanisms. Traditional labour laws, built around factory floors and fixed employers, are therefore ill-equipped to address digitally mediated work relationships.

The future of labour regulation must rest on three pillars—dignity, fairness, and inclusion. Every worker, whether driving a cab, delivering food, or performing digital microtasks, deserves access to fair remuneration, social protection, and procedural justice. Law and policy must adapt to the fluid nature of platform-based labour, ensuring that technological governance operates within constitutional and human

rights boundaries. India, standing at a critical juncture, possesses both the responsibility and opportunity to design a forward-looking digital labour framework that integrates transparency, algorithmic accountability, and portable social security.

At the same time, this study has certain limitations. The analysis has primarily focused on ride-hailing and food-delivery platforms, which represent the most visible segments of the gig economy, while other forms of platform work—such as freelance digital labour, crowdwork, and content moderation—require deeper empirical and doctrinal exploration. Future research should therefore examine sector-specific regulatory responses, cross-border platform governance, and the long-term implications of artificial intelligence-driven labour allocation.

Ultimately, the gig economy should not become a site of structural vulnerability but a space of equitable innovation. Moving beyond contractual classification means recognising that work is defined not by legal labels but by economic contribution and human effort. The true measure of progress lies not in the speed of technological advancement, but in the justice with which societies protect those whose labour sustains the digital age.

XIII. REFERENCES

A. Legislation and Statutory Instruments

1. Code on Social Security 2020 (India).
2. Digital Personal Data Protection Act 2023 (Act No 22 of 2023) (India).
3. Digital Personal Data Protection Rules 2025 (India) (notified 13 November 2025).
4. Ministry of Labour and Employment (India), 'Notification S.O. 5319(E)' *Gazette of India* (21 November 2025).
5. Trade Unions Act 1926 (India).
6. California Labor Code §§ 2750.3, 3351, 3357 (as amended by Assembly Bill 5, 2019).
7. Royal Decree-Law 9/2021 (Spain).

B. Cases

1. *Dynamex Operations West, Inc. v Superior Court* 416 P.3d 1 (Cal 2018).
2. *Uber BV v Aslam* [2021] UKSC 5.
3. *Indian Federation of App-based Transport Workers (IFAT) v Union of India* Writ Petition (Civil) No 1068 of 2021 (Supreme Court of India) (pending).

C. Government and Institutional Reports

1. NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (Government of India, June 2022).
2. European Commission, *Proposal for a Directive on Improving Working Conditions in Platform Work* COM (2021) 762 final (2022).
3. International Labour Organization, 'ILO Declaration on Fundamental Principles and Rights at Work' (adopted 1998, amended 2022).
4. Union Budget 2025–26 (Government of India).

D. Books and Secondary Sources

1. Standing G, *The Precariat: The New Dangerous Class* (Bloomsbury Academic 2011).
2. Weil D, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Harvard University Press 2014).
3. Srnicek N, *Platform Capitalism* (Polity Press 2017).
4. Kessler F, 'Contracts of Adhesion—Some Thoughts about Freedom of Contract' (1943) 43 *Columbia Law Review* 629.