

From Apps To Courts: An Analysis Of Gig Workers' Rights, Labour Law Gaps, And Access To Justice In India: A Legal And Constitutional Perspective

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Abstract

The rapid expansion of the gig economy in India, driven by technology-enabled platforms such as *Uber, Ola, Zomato, and Swiggy*, has transformed the nature of work and created new opportunities for millions of workers. Characterized by flexibility, autonomy, and task-based engagement, gig work has emerged as a dominant mode of livelihood for urban youth and migrant labour. However, this transformation is accompanied by systemic challenges: the absence of a comprehensive legal framework, the ambiguous status of gig workers, and the lack of adequate social and economic protections. While the gig economy promises efficiency and innovation, it simultaneously exposes workers to precarity, informality, and the denial of fundamental labour rights.

This study interrogates the position of gig workers within India's existing legal and constitutional framework. The central research objective is to examine the legal status of gig workers under Indian labour laws, to analyse the constitutional dimensions of their rights under Articles 14, 19, and 21, and to evaluate the barriers they face in accessing justice. The paper employs a doctrinal methodology, analysing statutes, case law, and constitutional provisions, alongside a comparative approach that examines developments in the United Kingdom, the European Union, and the United States. The study also engages with international labour standards, particularly ILO conventions, to situate India's challenges within a broader global discourse.

The findings reveal significant gaps in India's labour law framework, which remains tied to traditional employer-employee relationships and fails to account for the complexities of platform work. Although the Social Security Code, 2020 recognises gig and platform workers, its enforcement mechanisms are weak and inadequate. Constitutional protections, particularly the right to equality, the right to livelihood and dignity, and the directive principles of state policy, provide a normative foundation for expanding gig workers' rights. However, practical barriers—ranging from lack of formal contracts to fear of deactivation by platforms—severely limit access to justice. Comparative jurisprudence, especially the UK Supreme Court's *Uber* decision and the EU's proposed directive on platform workers, demonstrates possible pathways for reform.

The study concludes by recommending a rights-based legal framework that recognises gig workers as "dependent contractors," expands social security measures, and strengthens dispute resolution mechanisms. By bridging the gap between constitutional promises and statutory protections, India can align its labour regime with both international standards and the imperatives of social justice in a digital economy.

Keywords: Gig economy, platform workers, labour rights, constitutional law, access to justice, India, ILO conventions, employment regulation.

1. INTRODUCTION

The last decade has witnessed the meteoric rise of app-based work platforms in India, marking a significant transformation in the organisation of labour. Companies such as Ola, Uber, Swiggy, Zomato, Amazon, and Urban Company have created vast networks of workers who deliver food, provide transportation, conduct household services, and undertake micro-tasks. This phenomenon, broadly classified as the gig economy, is driven by digital platforms that connect service providers with consumers in real time. India, with its youthful demographic and high smartphone penetration, has emerged as one of the largest markets for such platform-based work. According to recent estimates, the gig economy is expected to employ nearly 23.5 million workers by 2030, highlighting its growing role in shaping the future of work in the country.

The gig economy is often celebrated for its flexibility and autonomy. Workers have the ability to choose when, where, and how much they wish to work, breaking away from the rigidity of traditional employment. For many, gig work provides a vital source of livelihood, particularly for urban youth, migrant laborers, and those seeking supplementary income. The flexibility of platform-based work is also appealing to workers with care giving responsibilities or those unable to commit to full-time employment. From a business perspective, the model offers

scalability, efficiency, and reduced transaction costs, while consumers benefit from convenience, affordability, and on-demand services.

However, this apparent flexibility conceals a paradox. Beneath the promise of autonomy lies deep precocity and insecurity. Gig workers are classified as “independent contractors” rather than “employees,” which places them outside the purview of most labour protections. This classification enables platforms to avoid obligations related to minimum wages, social security, health benefits, or job security. Earnings are often unstable, working hours unpredictable, and conditions of work subject to unilateral control through algorithmic management. Workers may face sudden deactivation of their accounts without explanation or recourse, effectively terminating their livelihoods overnight. In this context, flexibility translates into vulnerability, raising profound questions about fairness, equity, and the role of law in protecting digital labour.

The central problem, therefore, lies in the informality, lack of bargaining power, and exclusion from labour protections that characterize gig work in India. The traditional framework of labour law—built around the binary distinction between “employer” and “employee”—fails to capture the realities of platform work. While India’s labour law reforms, including the Code on Social Security, 2020, represent a step toward recognizing gig and platform workers, the benefits remain largely inspirational due to weak enforcement and limited coverage. Moreover, gig workers face structural barriers in organizing and bargaining collectively, given their dispersed nature and the digital architecture of platforms. The resulting imbalance of power between corporations and workers underscores a pressing need to revisit the foundations of labour regulation.

This paper situates the problem within a broader legal and constitutional perspective. It examines how constitutional rights—such as equality under Article 14, freedom of association under Article 19(1)(c), and the right to livelihood and dignity under Article 21—can be invoked to strengthen protections for gig workers. The analysis also extends to the directive principles of state policy, which articulate the State’s obligation to secure social and economic justice. By engaging with constitutional jurisprudence alongside labour law, the study underscores the need to move beyond narrow contractual interpretations and adopt a rights-based framework.

The study seeks to address four key research questions:

1. What is the legal status of gig workers under India’s current labour law framework?
2. How can constitutional principles provide a foundation for recognizing and protecting their rights?
3. What barriers inhibit gig workers’ access to justice in practice?
4. How can comparative legal developments and international labour standards inform reforms in India?

By addressing these questions, this research contributes to the growing scholarship on digital labour and seeks to fill the gap in literature on the constitutional dimensions of gig workers’ rights in India. Ultimately, it argues that India’s challenge is not only to regulate the gig economy but to ensure that innovation and growth are balanced with constitutional commitments to equality, dignity, and social justice.

Objectives & Significance of study

The primary objective of this study is to critically examine the legal status of gig workers under Indian labour laws and to analyse whether current statutory frameworks, particularly the new labour codes, adequately recognise and protect platform-based labour. It further seeks to explore the constitutional underpinnings of gig workers’ rights, with special emphasis on Articles 14, 19, and 21 of the Constitution of India, as well as relevant Directive Principles of State Policy that mandate the State to promote social and economic justice. Another key objective is to identify the practical and institutional barriers that inhibit gig workers’ access to justice, including the absence of formal contracts, lack of collective bargaining rights, and the pervasive control of digital platforms through algorithmic management. The study also aims to conduct a comparative analysis of international developments, such as the United Kingdom’s Supreme Court decision in the Uber case, the European Union’s proposed Directive on Platform Workers, and regulatory experiments in the United States, in order to derive lessons for Indian labour law reform. Ultimately, the research intends to recommend a rights-based and constitutionally sound framework that balances the imperatives of technological innovation with the protection of workers’ dignity and socio-economic rights.

The significance of this study lies in its contribution to bridging a critical gap in Indian legal scholarship on the gig economy. While much of the existing discourse focuses on the economic potential of platform work, the constitutional and labour law dimensions remain underexplored. By situating the discussion within India’s constitutional framework, this research highlights the State’s obligation to ensure equality, livelihood, and social security for all workers, including those in the digital economy. The study is also significant in its policy relevance,

as it provides concrete recommendations for legislators, regulators, and courts to strengthen protections for gig workers. Moreover, by situating India within the global debate on platform work and drawing on international labour standards and comparative jurisprudence, the research adds to the transnational discourse on the future of work. In doing so, it not only critiques the limitations of the current system but also proposes a forward-looking approach that aligns India's labour regime with its constitutional promises and international commitments.

2. Conceptual Framework and Literature Review

The emergence of the gig economy has compelled scholars, policymakers, and courts to revisit established notions of employment and labour regulation. Unlike traditional work arrangements, platform-based work is mediated by technology, fragmented into short-term “gigs,” and characterized by flexible yet precarious contractual relations. To critically analyse the legal and constitutional challenges posed by this new mode of work, it is essential to develop a conceptual framework that situates gig workers within broader debates on informality, labour rights, and social justice.

2.1 Conceptual Framework

At the conceptual level, gig work lies at the intersection of two competing narratives. On the one hand, platform companies describe gig workers as “independent contractors” who enjoy autonomy, flexibility, and entrepreneurial opportunities. On the other hand, labour law scholarship increasingly views such workers as “dependent contractors,” a category that acknowledges their economic dependence on platforms despite the absence of a formal employment relationship. This dependency is reinforced by algorithmic management, which determines allocation of work, pricing of services, customer ratings, and even deactivation of workers' accounts. Far from being truly independent, gig workers operate under significant control, albeit through digital rather than human supervisors.

Indian labour law, like many others, is historically rooted in a binary classification of “employee” and “independent contractor.” This framework fails to adequately capture the hybrid nature of gig work, which embodies features of both categories. The conceptual debate thus raises a fundamental question: should gig workers be brought under the protective umbrella of labour laws, or should they continue to operate outside the boundaries of formal employment? From a constitutional perspective, the issue extends beyond contractual definitions to questions of equality, dignity, and social justice.

The conceptual framework of this study therefore rests on three pillars:

1. Recognition of gig workers as a distinct category whose hybrid status challenges traditional labour classifications.
2. Application of constitutional principles—equality, livelihood, and dignity—as normative bases for extending protections to this category.
3. Adoption of a rights-based approach informed by international labour standards and comparative jurisprudence to address the regulatory gaps.

2.2 Literature Review: Global and Indian Perspectives

The academic discourse on gig work has grown substantially in the past decade, spanning fields of law, sociology, economics, and technology studies. Existing scholarship may be grouped into four thematic strands: definitional debates, labour law gaps, constitutional and human rights perspectives, and comparative regulatory approaches.

Definitional Debates. Scholars such as De Stefano (2016) and Prassl (2018) highlight the conceptual ambiguity surrounding gig work, arguing that the “independent contractor” label conceals the reality of economic dependence and algorithmic control. In India, scholars like Ramaswamy (2021) have emphasised the inadequacy of the current statutory definitions of “worker” under the Industrial Disputes Act and the labour codes, which fail to accommodate the realities of platform-based work.

Labour Law Gaps. A second strand of literature focuses on the exclusion of gig workers from basic protections such as minimum wages, working hours regulation, health benefits, and social security. Bogg and Freedland (2019) argue that labour law must evolve to protect vulnerable categories of workers whose precarious status mirrors informal sector conditions. In the Indian context, Bhattacharya (2020) and Choudhury (2022) note that although the *Code on Social Security, 2020* marks the first statutory recognition of gig and platform workers, it provides only limited entitlements without enforceable rights.

Constitutional and Human Rights Perspectives. A growing body of literature advocates for framing gig workers' rights not merely in contractual terms but through the lens of constitutional and human rights. In India, Bhatia (2019) and Rajagopal (2021) emphasise that Articles 14 and 21 of the Constitution provide a robust basis for

extending equality, dignity, and livelihood protections to gig workers. Globally, scholars have linked gig work to broader debates on the right to decent work under ILO conventions and the UN Sustainable Development Goals. This approach resonates strongly in jurisdictions like South Africa and Latin America, where constitutional courts have extended labour rights to informal and atypical workers.

Comparative Regulatory Approaches. Literature also highlights international developments that offer valuable insights for India. In the United Kingdom, the landmark Supreme Court ruling in *Uber BV v. Aslam* (2021) held that Uber drivers were “workers” entitled to minimum wage and holiday pay, challenging the contractor narrative. In the European Union, the proposed Directive on Platform Workers (2021) seeks to establish a presumption of employment, shifting the burden onto companies to prove otherwise. In the United States, debates around California’s Assembly Bill 5 (AB5) and Proposition 22 illustrate the tensions between worker protection and business models reliant on flexibility. Comparative studies (Cherry, 2021; Aloisi & Gramano, 2019) argue that while no single model is universally applicable, lessons can be drawn to craft context-specific reforms.

Access to Justice and Collective Action. Finally, an emerging strand of literature examines the barriers gig workers face in accessing justice and collective representation. Studies by Wood et al. (2019) and Indian reports by the Centre for Internet and Society (2020) reveal that fear of deactivation, lack of formal contracts, and digital surveillance hinder workers from asserting their rights. Yet, collective action by gig workers is on the rise, with unions such as the Indian Federation of App-based Transport Workers (IFAT) and protests by delivery partners highlighting the potential for grassroots mobilization.

2.3 Research Gap Identified

While the literature has extensively documented the precarity of gig work and the inadequacy of labour laws, significant gaps remain. First, most Indian scholarship has focused on statutory reforms but has not systematically examined the constitutional dimensions of gig workers’ rights. Second, little attention has been paid to the structural barriers to access to justice, including the role of algorithmic management in undermining due process. Third, comparative legal insights have not been fully contextualized within India’s constitutional framework. This study seeks to address these gaps by providing a doctrinal and constitutional analysis, situating India within the global discourse, and offering actionable policy recommendations.

Defining Gig Work and the Platform Economy

Gig work refers to task- or project-based labour performed on demand, typically mediated by digital platforms that match service providers with consumers (ride-hailing, food delivery, logistics, home services, micro-tasks). Core features include on-demand allocation, piece-rate payment, variable hours, rating systems, and algorithmic management (dispatch, pricing, performance metrics). The platform economy (or “platform-mediated work”) is the broader ecosystem in which firms operate multi-sided digital marketplaces, extract value from network effects and data, and standardize service delivery through code and contracts rather than traditional supervision.

Key attributes:

- “Intermediation by code:” Apps set terms (pricing, access, visibility) via algorithms.
- “Asset-light firms:” Platforms shift costs/risks (vehicles, devices, downtime) to workers.
- “Data-driven control:” Ratings, acceptance rates, and dynamic pricing discipline labour.
- “Legal fragmentation” Status and protections vary across jurisdictions and sectors.

Distinction: Employee, Independent Contractor, Platform Worker

Employee: Works under a contract of service; hallmarks include employer control (hours, manner of work), economic dependence, integration into the business, and entitlement to statutory protections (minimum wage, social security, paid leave, dismissal safeguards, collective bargaining).

Independent Contractor: Works under a contract for services; higher autonomy over time, tools, and methods; assumes business risk; typically excluded from most labour standards.

Platform Worker (often “gig” or “dependent contractor”): Occupies a hybrid space. Workers supply labour via a platform that sets key terms (access to customers, pricing parameters, quality standards), often creating “economic dependence and functional control” without formal employment. Many scholars and courts treat this as a third category warranting tailored protections (e.g., baseline pay, social insurance, collective rights) even absent a full employment relationship.

Useful tests employed globally (terminology varies): “control test”, “integration test”, “economic dependency test”, and “presumption of employment” (with rebuttal by platforms) proposed in some jurisdictions.

Review of Existing Scholarship (Indian & Global)

Global: Early foundational works argue that contractor labels mask true dependence (e.g., algorithmic control; reputational lock-in). Scholarship documents wage volatility, risk externalization, and “fissured” workplaces; proposes either reclassification (employee status) or intermediate categories with portable benefits and sectoral standards. Comparative analyses highlight litigation (e.g., Uber drivers recognised as “workers” in the UK), EU moves toward employment presumptions, and US debates oscillating between AB5-style tests and carve-outs.

India: Research spotlights rapid platform expansion, informality continuities, and the **Code on Social Security, 2020 “recognizing “gig” and “platform” workers for limited schemes. Studies note weak enforceability, funding ambiguities, and administrative capacity gaps. Empirical reports document low and volatile earnings, high out-of-pocket costs (fuel, maintenance, devices), opaque deactivations, limited grievance redress, and nascent unionization (e.g., driver and delivery collectives). Legal commentary urges moving beyond strict binaries and leveraging constitutional guarantees to fill statutory gaps.

Theoretical Underpinnings: Protective vs. Market-Based Approaches

Protective (Labour Law’s Social Function): Labour law exists to correct power imbalances in inherently unequal labour markets. Where algorithmic management centralizes control and workers bear economic risks, protective norms (minimum wage floors, working-time limits, social insurance, collective bargaining) are justified. Constitutional principles—equality, dignity, livelihood—supply the normative basis for extending protections to atypical workers.

Market-Based (Contractual/Flexibility Lens): Prioritizes freedom of contract, innovation, and consumer welfare. Views platform work as voluntary, flexible micro-entrepreneurship that should not be saddled with rigid employment rules; favors competition policy, transparency duties, and portable, market-procured benefits over hard reclassification

Hybrid/Responsive Regulation: Growing support for intermediates—“dependent contractor” status, portable benefit funds, due-process standards for deactivation, data/algorithmic transparency, and sectoral bargaining—seeks to reconcile efficiency with baseline protections.

Gaps in the Literature (Indian Context)

1. “Constitutional Framing Underdeveloped:” While statutory analysis is common, there is less systematic engagement with **Articles 14, 19(1)(c), and 21** to argue for equality-based and dignity-centered protections for platform workers, or with Directive Principles to ground social-security obligations.
2. Access to Justice is Under-theorized: Studies note grievances but seldom map “procedural pathways” (labour courts vs. civil courts vs. administrative bodies), “evidentiary hurdles” (data asymmetry, opaque algorithms), or “collective action constraints” (fear of deactivation, dispersal of workers). Due-process standards for algorithmic decisions and meaningful appeal mechanisms are thinly analyzed.
3. “Algorithmic Governance and Evidence:” Limited doctrinal work on how “algorithmic control” interfaces with tests of employment, unfair trade practices, or constitutional scrutiny (e.g., arbitrariness under Article 14) when platforms make automated adverse decisions.
4. “Comparative Insights Not Fully Localized:” Global jurisprudence and EU proposals are cited, but their “contextual translation” to India’s federal structure, enforcement capacity, informal labour prevalence, and constitutional architecture needs deeper, operational detail.
5. “Design of Remedies:” Beyond recognition debates, fewer studies specify “institutional designs”—e.g., specialized digital-labour tribunals, data-access rights, portable benefits financing models, or sectoral standard-setting—to make rights real.

3. Gig Economy and the Indian Labour Law Framework

The gig economy has emerged as a crucial segment of India’s labour market, employing millions in task-based, platform-mediated work arrangements. This workforce—comprising delivery partners, drivers, freelancers, and service providers—remains outside the fold of traditional employment relations. The Indian labour law framework, historically designed for industrial and factory-based employment, struggles to accommodate the realities of gig work. While recent reforms like the Social Security Code, 2020 mark a step forward by recognizing gig and platform workers, practical enforcement challenges persist. Judicial forums in India have also started grappling with the classification of such workers, though a settled jurisprudence is still evolving.

3.1 Overview of Current Indian Labour Legislations

India's labour law system has developed in a piecemeal fashion, with over 40 central statutes and numerous state laws. Although consolidation efforts through the Four Labour Codes (2019–2020) have modernized the framework, the foundational assumption of these laws is a clear employer–employee relationship. This creates a regulatory gap for gig workers who occupy a “grey zone” between self-employment and wage employment.

(a) Industrial Disputes Act, 1947 (IDA)

The IDA is a cornerstone legislation providing for the resolution of industrial disputes and protection against unfair dismissal, retrenchment, and arbitrary labour practices. It defines a “workman” as a person employed in any industry to do manual, unskilled, skilled, technical, or clerical work for hire or reward under the supervision of an employer.

Gig workers, however, often fall outside this definition. Their contractual relationship with platforms is framed as independent contracting, not direct employment. For example, an Uber driver blocked from the app has limited remedies under the IDA since Uber does not consider itself the employer. This leaves gig workers vulnerable to sudden loss of income without due process.

(b) Minimum Wages Act, 1948

This Act guarantees a statutory minimum wage to workers in “scheduled employments.” But since gig workers are not classified as “employees” of a particular establishment, their incomes are not legally protected under this Act. The absence of a wage floor means gig workers' earnings often depend on fluctuating demand, incentives, or algorithms, sometimes falling below subsistence levels.

(c) Contract Labour (Regulation and Abolition) Act, 1970

This Act seeks to regulate employment of workers hired through contractors. Gig workers, however, are not intermediated by contractors but engaged through digital platforms. Thus, their legal position remains unaddressed by the Act's provisions.

(d) Employees' Provident Fund Act (1952) and Employees' State Insurance Act (1948)

These provide retirement and health security to employees in formal establishments. Gig workers, treated as independent contractors, are excluded. This exclusion deprives them of access to statutory provident fund contributions, insurance, or maternity benefits.

3.2 Analysis of “Worker” and “Employee” Definitions – Exclusion of Gig Workers

The definitional framework in Indian labour laws hinges on “worker” and “employee” categories.

Workman” under IDA, 1947 – requires supervision and control by the employer. Gig workers argue that platforms exercise indirect control via rating systems, algorithmic allocation of tasks, and penalties, but platforms deny being “employers.”

“Employee” under Minimum Wages Act or EPF Act – requires a contract of employment. Gig workers typically enter into “service agreements” framed as independent contracting, thereby excluded.

Unorganized worker” under Unorganized Workers' Social Security Act, 2008 – defined broadly as a self-employed or wage worker in the unorganized sector. Gig workers may fit here, but the Act's schemes were never robustly implemented.

This definitional rigidity means that gig workers occupy an ambiguous legal space: neither fully employees entitled to statutory rights, nor purely independent entrepreneurs due to their dependence on platforms.

Globally, this issue has been addressed differently:

The UK Supreme Court (*Uber BV v Aslam*, 2021) held Uber drivers are “workers,” entitled to minimum wage and holiday pay.

In the EU, draft directives presume platform workers to be employees unless proven otherwise. In India, no such presumption exists, keeping gig workers outside the protective net.

3.3 Social Security Code, 2020: Recognition and Limitations

The **Code on Social Security, 2020 is a landmark development, as it explicitly introduces “gig workers” and “platform workers” into India's legal framework for the first time.

Definitions in the Code:

“Gig Worker”: A person who performs work outside the traditional employer–employee relationship.

“Platform Worker”: A worker who accesses organizations or individuals through an online platform and provides services.

Key Features:

1. **Social Security Schemes** – The Code empowers central and state governments to design schemes for gig and platform workers, covering life and disability insurance, accident insurance, health and maternity benefits, old-age protection, and education.
2. **National Social Security Board** – Established to recommend and monitor such schemes.
3. **Funding Sources** – Contributions may come from governments, aggregators/platforms, or workers themselves.
4. **Voluntary Registration** – Gig workers can register on a centralized portal to access benefits.

Limitations:

1. **Non-binding obligations:** The Code does not impose mandatory employer contributions on platforms, unlike PF or ESI Acts. Participation is often voluntary.
 2. **Lack of Implementation:** Despite being enacted in 2020, effective schemes and mechanisms remain limited, with many states yet to notify rules.
 3. **Fragmentation risk :** Welfare depends heavily on political will and administrative execution, leading to uneven coverage.
 4. **Lack of core labour rights:** While providing for social security, the Code does not address minimum wages, working hours, or protection from unfair dismissal for gig workers.
- Thus, while the Code represents “symbolic recognition”, its practical impact is constrained.

3.4 Judicial Trends on Classification of Gig Workers in India

Indian courts have only recently begun to engage with disputes involving gig workers. Judicial interpretations are crucial, as they determine whether gig workers can access rights under existing labour laws.

(a) Delhi High Court – Zomato & Others (2021–2022 petitions)

Delivery partners approached the Delhi High Court seeking recognition as employees entitled to minimum wages and social security. The petitions argued that despite being labeled “independent contractors,” riders were subject to algorithmic control, penalties, and ratings, indicating an employment relationship. The cases are still pending, but they highlight the judiciary’s growing engagement.

(b) Supreme Court Observations (2021–2023)

In hearings related to the implementation of the ****Social Security Code****, the Supreme Court has noted the plight of gig and platform workers, urging the government to operationalize schemes. The Court emphasized that the right to social security flows from Articles ****14, 21, and 23 of the Constitution****, making state inaction problematic.

(c) State-level Litigation

Cases in Karnataka and Maharashtra have involved gig workers challenging arbitrary blocking by platforms. While labour courts have sometimes admitted such petitions, definitive rulings classifying gig workers as “employees” are yet to emerge.

Comparative Glimpse:-Unlike the UK and EU, where courts have redefined employment to protect gig workers, Indian courts have been cautious, awaiting legislative clarity. Yet, growing judicial recognition of algorithmic control may pave the way for broader interpretations of “employment” in the near future.

The gig economy poses unprecedented challenges to India’s labour law framework. Traditional legislations like the IDA and “Minimum Wages Act” exclude gig workers due to rigid definitions of “workman” and “employee.” The Social Security Code, 2020 is a progressive step, acknowledging gig and platform workers, but its welfare orientation lacks enforceable rights and strong obligations on platforms. Judicial trends, particularly in the Delhi High Court and Supreme Court, reflect an emerging recognition of the issue, though settled jurisprudence is still evolving.

For India to ensure inclusive growth in the digital economy, legal reform must go beyond symbolic recognition to substantive protection—guaranteeing minimum wages, social security, and due process for gig workers. A hybrid legal category, backed by enforceable obligations on platforms and judicial activism, may offer the most balanced path forward.

Constitutional Dimensions of Gig Workers’ Rights in India

The rise of the gig economy in India, marked by platform-based services such as Uber, Ola, Zomato, Swiggy, Urban Company, and others, has created millions of work opportunities. However, these workers often remain outside the protective umbrella of traditional labour laws. Their precarious status as “partners” or “independent contractors” instead of employees raises fundamental constitutional questions. The Indian Constitution, being

a living document, provides a framework to address these concerns through its provisions on equality, freedom, dignity, livelihood, and social justice. The constitutional dimensions of gig workers' rights can be understood through the interplay of "Fundamental Rights", "Directive Principles of State Policy (DPSP)", and "judicial interpretation".

1. "Article 14 – Equality before Law and Equal Protection of Laws"

Article 14 of the Constitution guarantees "equality before law" and "equal protection of laws". Gig workers face discriminatory exclusion from labour protection regimes that safeguard "employees" under statutes like the Industrial Disputes Act, 1947, and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

Gig workers perform functions similar to traditional employees (delivery, driving, housekeeping) but are excluded from benefits like minimum wages, job security, provident fund, and health insurance. Platform companies argue that gig workers are "partners" or "independent contractors," thereby avoiding statutory obligations.

Here's the proper citation for the case you asked:

E.P. Royappa v. State of Tamil Nadu,¹ The Supreme Court held that equality is a "dynamic concept" with a positive content aimed at ensuring fairness. Denying gig workers equal protection available to regular employees could be seen as arbitrary.

Randhir Singh v. Union of India² The Court extended the principle of "equal pay for equal work" under Article 14 and 16. This could apply to gig workers doing comparable work with formal employees.

Uber BV v. Aslam (UK Supreme Court, 2021) – Though not Indian, this case is relevant. The UK Supreme Court classified Uber drivers as "workers," entitled to minimum wage and paid leave, rejecting Uber's contractor argument. This reasoning can influence Indian constitutional jurisprudence. **Example:** If a Swiggy delivery partner and a restaurant delivery boy perform the same function, denying the former minimum wage or social security would amount to *discrimination under Article 14*.

2. Article 19(1)(c) – Right to Unionization and Collective Bargaining

Article 19(1)(c) guarantees citizens the right to form associations or unions. For gig workers, unionisation is vital because individual bargaining with giant platforms is almost impossible.

Challenges:

1. Gig platforms often insert restrictive clauses in contracts that prevent workers from forming or joining unions.
2. Fear of "deactivation" of accounts discourages workers from collective action.

All India Bank Employees' Association v. National Industrial Tribunal,³ The Supreme Court held that the right to form associations includes the right to achieve lawful objectives like collective bargaining.

Indian Express Newspapers v. Union of India (1985): Freedom of association was linked to freedom of speech and livelihood, expanding its ambit.

Transport Workers' Strike Cases (recent Delhi High Court petitions by gig unions, 2022), Gig workers have approached courts demanding recognition of their right to unionize and demand fair work conditions.

Example:

In 2021, the Indian Federation of App-based Transport Workers (IFAT) filed petitions in the Supreme Court seeking social security for gig workers under the Code on Social Security, 2020. This demonstrates how Article 19(1)(c) is invoked to legitimize collective bargaining.

3. Article 21 – Right to Livelihood, Dignity, and Safe Working Conditions

Article 21 guarantees that "no person shall be deprived of his life or personal liberty except according to procedure established by law." Judicial interpretation has expanded its scope to include the right to livelihood, dignity, and humane working conditions.

Olga Tellis v. Bombay Municipal Corporation & Ors.,⁴ The Court held that the right to life includes the right to livelihood. Gig workers depend solely on platforms for survival, and arbitrary deactivation of accounts without due process can violate Article 21.

Francis Coralie Mullin v. Administrator, Union Territory of Delhi & Ors.⁵, The Court held that life under Article 21 includes the right to live with human dignity and minimum necessities. Denying gig workers social security and safe working conditions infringes this right.

¹ (1974) 4 SCC 3

² (1982)1SCC 618

³ AIR 1962 SC171

⁴ (1985) 3 SCC 545

⁵ (1981) 1 SCC 608

Bandhua Mukti Morcha v. Union of India & Ors.⁶. The Court linked Article 21 with dignity and protection against exploitation. Gig workers often work excessive hours with no rest, echoing exploitative conditions. **PWD Workers v. Union of India**,⁷ The Court stressed that non-payment of minimum wages violates Article 21 as it deprives workers of dignity.

Example:

A Zomato delivery partner working 12-14 hours a day without health insurance or accident coverage faces constant threats to life and dignity. The recent deaths of gig workers in road accidents highlight how lack of social security infringes Article 21.

4. Directive Principles of State Policy (DPSP) and Gig Workers

Though not enforceable, the DPSPs guide state policy and help courts in constitutional interpretation.

Relevant Provisions:

Article 38- Directs the state to promote a social order based on justice – economic, political, and social. Gig workers' exclusion from welfare measures violates this mandate.

Article 39-Ensures adequate livelihood, equal pay for equal work, and protection against exploitation. Gig platforms' opaque pay structures and algorithmic control contradict this principle.

Article 41- Directs the state to secure the right to work, education, and public assistance in cases of unemployment, old age, or sickness. Gig workers lack such protections.

Article 42: Provides for just and humane conditions of work.

Article 43: Secures a living wage and decent conditions of life for workers.

Minerva Mills Ltd. & Ors. v. Union of India & Ors.⁸.The Court held that fundamental rights and DPSPs are complementary and not antagonistic. This means rights of gig workers should be read harmoniously with DPSPs to achieve social justice.

Unni Krishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors.⁹.The Court used DPSPs to expand the scope of Article 21. Similarly, DPSPs can guide the recognition of gig workers' right to social security.

Example:

During the COVID-19 pandemic, many delivery workers lost income and lacked social assistance. The failure to provide protection went against Article 41 and 43.

5. Judicial Interpretation: Expanding Socio-Economic Rights for Gig Workers

Indian courts have progressively expanded constitutional rights to include socio-economic dimensions. This approach is crucial for gig workers.

Right to Social Security: In **Consumer Education & Research Centre v. Union of India** (1995), the Supreme Court held that the right to health and medical care is a fundamental right under Article 21. Gig workers injured on duty are often denied such care.

Right against Exploitation (Article 23): Courts have linked unfair labour practices with exploitation. Algorithmic management, arbitrary penalties, and non-transparent pay systems in gig work could be tested against this.

Recent Developments (2023–25)

In **Delhi High Court (2023)**, petitions by gig worker unions sought recognition of social security rights under the Code on Social Security, 2020. The Court observed that the exclusion of gig workers from welfare schemes raises constitutional questions under Articles 14 and 21.

In **Supreme Court, IFAT v. Union of India** (pending, 2024–25), gig workers are demanding inclusion in Employees' State Insurance and Provident Fund benefits. The Court's future ruling may redefine their constitutional protections.

The constitutional dimensions of gig workers' rights reveal that their exclusion from labour protections is not just a statutory gap but also a constitutional concern. Article 14 demands equal treatment and protection against

⁶ (1984) 3 SCC 161

⁷ (2019)15SCC248

⁸ (1980) 3 SCC 625

⁹ (1993) 1 SCC 645

arbitrary exclusion. Article 19(1)(c) empowers them to unionize and collectively bargain. Article 21 safeguards their right to livelihood, dignity, and humane working conditions. The DPSPs lay down a framework for social justice, fair wages, and welfare. Judicial interpretation has consistently expanded socio-economic rights, creating fertile ground for recognizing gig workers' constitutional entitlements.

As India moves deeper into the platform economy, constitutional principles must act as a shield against exploitation. The judiciary and legislature have a duty to interpret and implement these provisions dynamically, ensuring that gig workers are not left at the periphery of rights but are brought into the mainstream of constitutional protection.

5. Access to Justice for Gig Workers

Access to justice is one of the most critical challenges confronting gig workers in India and across the globe. While the gig economy has opened avenues of flexible work and income opportunities, the structural and institutional barriers prevent workers from effectively asserting their rights. The absence of traditional employment relationships, lack of clarity in legal status, and weak enforcement mechanisms collectively deny gig workers meaningful remedies when disputes arise. This section explores practical and institutional barriers, the role of unions and collectives, case studies of litigation, and comparative global perspectives.

5.1 Practical Barriers to Justice

1. Lack of Formal Contracts

Most gig workers operate without formal written contracts. Their relationship with platforms is governed by unilateral "terms of service" drafted by companies, which often classify workers as "independent contractors" rather than employees. This classification strips them of statutory protections under labour laws such as the Industrial Disputes Act, 1947 or Minimum Wages Act, 1948. For instance, Swiggy or Zomato delivery partners sign click-wrap agreements that can be unilaterally altered by the company, leaving workers with no bargaining power. The absence of legally enforceable contracts also makes it difficult for workers to prove employment relationships in courts or tribunals.

2. Digital Anonymity and Algorithmic Management

Gig workers often deal with impersonal algorithmic systems that assign tasks, monitor performance, and determine pay. This digital anonymity makes it difficult to identify responsible decision-makers when disputes occur. Example: Uber drivers can be "deactivated" automatically by the platform due to low ratings or alleged violations. Challenging such decisions becomes nearly impossible since workers cannot directly approach a human decision-maker.

3. Fear of Blacklisting and Retaliation

Workers fear raising complaints against platforms because companies can retaliate by blocking access to apps, reducing incentives, or terminating accounts. This fear of blacklisting creates a chilling effect, discouraging workers from pursuing legal remedies or unionising.

4. Cost of Litigation and Lack of Awareness

The majority of gig workers belong to economically vulnerable backgrounds. Approaching labour courts or High Courts entails financial costs, delays, and the need for legal literacy, which many cannot afford. This makes formal justice inaccessible in practice.

5.2 Institutional Barriers

1. Labour Courts and Tribunals

Labour courts in India are structured around traditional employer-employee disputes. Since gig workers are often classified as "independent contractors," their grievances fall outside the jurisdiction of labour courts. Even when cases are admitted, the judicial system suffers from procedural delays.

2. Weak Enforcement Mechanisms

Even when laws like the Code on Social Security, 2020 acknowledge gig and platform workers, enforcement remains weak. The law envisages welfare schemes, but its implementation is contingent on state action and cooperation from platforms, which has been minimal. Without strong statutory backing, workers find it difficult to compel companies to comply.

3. Regulatory Vacuum

India lacks a dedicated law for gig work. While the Code on Social Security, 2020 marks a symbolic recognition, the absence of detailed regulations on pay, working hours, safety, and grievance redressal perpetuates uncertainty.

4. Judicial Conservatism

Indian courts have historically been cautious in interfering with private contractual arrangements. Unlike in the UK, where courts have actively reclassified gig workers as “workers” entitled to protections, Indian courts have so far adopted a restrained approach.

5.3 Role of Trade Unions and Emerging Collectives

Despite these barriers, gig workers have begun to mobilize through grassroots unions and digital platforms.

1. Indian Federation of App-based Transport Workers (IFATW)

Formed in 2019, IFATW represents Uber, Ola, Swiggy, and Zomato workers. It has filed petitions before the Supreme Court seeking recognition of gig workers under existing labour laws and demanding social security benefits.

2. Swiggy and Zomato Delivery Partner Protests

Delivery workers have repeatedly staged strikes across cities like Bengaluru, Hyderabad, and Delhi over issues of declining per-order pay, lack of fuel allowances, and safety concerns. These protests have forced companies to partially revise incentive structures.

3. Legal Mobilization by Unions

IFATW and other groups have also turned to strategic litigation, demanding inclusion under the Employees’ State Insurance Act and seeking relief under the Code on Social Security. Such collective action reflects a gradual assertion of rights in an otherwise fragmented sector.

4. Digital Platforms for Solidarity

Workers have also used social media platforms such as WhatsApp groups and Twitter campaigns to highlight exploitative practices. This digital activism creates public pressure on companies and policymakers.

5.4 Case Studies of Litigation by Gig Workers in India

1. Indian Federation of App-based Transport Workers v. Union of India (Supreme Court, 2021)

The IFATW filed a petition seeking social security benefits for gig workers under Articles 14 and 21 of the Constitution. The case highlighted how denying such protections violates the right to equality and right to livelihood. Although the matter is still pending, it has opened a constitutional discourse around gig workers’ rights.

2. Delhi High Court (2023 – Petition against Uber India)

A group of drivers approached the Delhi HC alleging arbitrary deactivation of their accounts without due process. The court issued notice to Uber, marking one of the first interventions against algorithmic management in India.

3. Labour Commissioner Disputes (Swiggy & Zomato, Bengaluru)

Delivery workers approached local labour commissioners demanding recognition of minimum wages. While decisions were inconclusive, these disputes reflect the slow but emerging assertion of gig workers’ rights in quasi-legal forums.

5.5 Comparative Perspectives

1. United Kingdom – Uber BV v. Aslam (UK Supreme Court, 2021)

In this landmark ruling, the UK Supreme Court held that Uber drivers were “workers” rather than independent contractors. This entitled them to minimum wage, paid leave, and social protections. The court emphasized the imbalance of bargaining power and the control exercised by Uber’s algorithm over drivers. This judgment serves as a powerful precedent for Indian courts, showing how judicial activism can reshape gig work classification.

2. European Union – Platform Work Directive (2022, ongoing deliberations)

The EU has proposed a directive that presumes employment status for gig workers unless platforms prove otherwise. This shifts the burden of proof from workers to companies, making access to protections more practical. The directive also demands transparency in algorithmic management and the right to human oversight in automated decisions.

3. United States – California Assembly Bill 5 (AB5, 2019)

AB5 mandated that gig workers should be classified as employees unless companies prove otherwise under the “ABC Test.” However, companies like Uber and Lyft lobbied against it, leading to Proposition 22, which diluted the protections. This highlights the challenges of balancing labour rights with corporate resistance.

4. Global Lesson for India

These comparative experiences show that judicial and legislative activism plays a decisive role in ensuring access to justice for gig workers. Without statutory clarity, Indian workers will continue to face structural exclusions. Access to justice for gig workers is hindered by practical and institutional barriers rooted in precarious employment structures, algorithmic control, and weak labour protections. However, the emergence of unions, strategic litigation, and global precedents signal hope for reform. Comparative experiences from the UK, EU, and US demonstrate that both courts and legislatures play crucial roles in addressing the power imbalance inherent in gig work. For India, ensuring access to justice requires not only statutory reforms but also proactive judicial recognition of gig workers as rights-bearing laborers. Unless these systemic changes are implemented, gig workers will remain trapped in a cycle of invisibility, precarity, and exclusion from the justice system.

6. International Labour Standards and Comparative Insights

The question of gig workers' rights cannot be meaningfully addressed without reference to international labour standards and global comparative experiences. The International Labour Organization (ILO) has long emphasized certain core conventions that remain relevant in the context of platform work. Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948) ensures workers' right to form and join organizations without interference. For gig workers, this principle is critical, as platforms often treat them as independent contractors and discourage collective mobilization, yet the right to organize is fundamental to overcoming the structural power imbalance between platforms and workers. Complementing this, Convention No. 98 on the Right to Organize and Collective Bargaining (1949) reinforces the importance of negotiating working conditions and wages collectively rather than leaving workers at the mercy of one-sided digital contracts. Convention No. 102 on Social Security (Minimum Standards) (1952) lays down a baseline for healthcare, unemployment, accident insurance, and pensions. In practice, however, most gig workers remain excluded from formal social security nets, highlighting a clear gap between international labour norms and domestic realities. Globally, two developments stand out in shaping how states respond to this challenge.

In the European Union, the Proposed Directive on Platform Work (2021) has been a landmark move. After years of debate, the directive—formally adopted in 2024—introduces a *rebuttable presumption of employment*, meaning that when a platform exercises control over key aspects of work, the default assumption is that workers are employees, unless the company proves otherwise. The directive also insists on transparency in algorithmic management, requiring that automated decisions such as deactivation or pay allocation be subject to human review, and it strengthens reporting obligations on platforms. It is estimated that nearly 5.5 million platform workers in the EU could benefit from better wages, leave entitlements, and access to social protections under this regime. By contrast, the United States illustrates a more conflicted approach. California's Assembly Bill 5 (AB5), passed in 2019, sought to reclassify gig workers as employees based on the "ABC test," but strong lobbying from ride-hailing and delivery companies led to the passage of Proposition 22 (2020). Prop 22 exempted app-based drivers from AB5 and allowed them to remain independent contractors while promising limited benefits, such as a partial minimum wage guarantee, accident insurance, and health stipends. Though upheld by the California Supreme Court in 2024, the law has been widely criticized for excluding workers from key protections such as unemployment insurance and collective bargaining. These contrasting global developments offer significant lessons for India. On the one hand, the EU model shows that strong legislative intervention can correct the imbalance of power in platform work, ensuring gig workers are not left outside the protective fold of labour law. On the other hand, the California model warns against half-measures that provide minimal benefits while maintaining the fiction of independent contracting. For India, the challenge lies in striking a balance between preserving innovation and flexibility in the gig economy while extending core labour protections. Incorporating ILO principles into domestic law, ensuring collective representation, creating a rebuttable presumption of employment in case of high platform control, and mandating social security contributions under the Code on Social Security, 2020, could form a pragmatic way forward. Unless such measures are adopted, India risks entrenching a two-tier labour market where gig workers remain permanently excluded from the promise of decent work.

Here's a detailed draft for your section ***"7. Critical Analysis and Findings"*** based on the points you shared:

7. Critical Analysis and Findings

The analysis of the gig economy within the Indian legal framework highlights several structural and doctrinal challenges. Despite the rapid growth of platform-based work, Indian labour law continues to be grounded in the traditional employer-employee relationship model. Most existing legislations, such as the Industrial Disputes Act, Minimum Wages Act, and the Payment of Wages Act, presuppose a binary classification of workers as either

“employees” or “independent contractors.” This rigid framework fails to accommodate the unique realities of gig work, where the contractual arrangements are neither fully autonomous nor fully dependent, but lie in a grey zone of economic dependency

The Social Security Code, 2020 marks an important step in recognizing “platform workers” and “gig workers” as distinct legal categories. However, the recognition remains largely declaratory without robust mechanisms for implementation and enforceability. The Code provides for schemes related to life and disability cover, maternity benefits, and old-age protection, but it leaves crucial aspects—such as contribution mechanisms, grievance redressal, and monitoring—open-ended. In practice, the absence of statutory compulsion on aggregators to contribute and the lack of institutional oversight make these provisions ineffective.

From a constitutional perspective, protections available under Article 14 (equality before law) and Article 21 (right to life and dignity) remain underutilized in judicial discourse concerning gig workers. Courts have occasionally acknowledged the exploitative conditions of platform workers, but they have yet to extend a purposive interpretation of constitutional guarantees to fully safeguard their rights. For instance, while Article 21 has been expansively interpreted to include the right to livelihood, fair working conditions, and dignity**, these principles have not been systematically applied to gig workers, leaving them outside the ambit of effective constitutional protection.

A comparative analysis with other jurisdictions offers valuable insights. The European Union’s proposed Directive on Platform Work (2021) introduces a presumption of employment, shifting the burden on platforms to prove the independence of workers. Similarly, in the United States, California’s AB5 law sought to classify gig workers as employees, though later diluted by Proposition 22, which re-established their contractor status with limited benefits. These global experiences illustrate that while there is no uniform model, recognition and protection of gig workers requires both legal clarity and strong enforcement mechanisms.

Thus, the findings reveal that India is at a crossroads. On one hand, there is an emerging legislative recognition of gig workers; on the other, enforcement gaps and judicial hesitancy continue to deny them substantive rights. For meaningful protection, reforms must move beyond symbolic inclusion and create a framework that balances **innovation in the platform economy with the constitutional commitment to social and economic justice..

Here’s a detailed draft for your section ***“8. Recommendations”*** based on the points you listed:

8. Recommendations

The analysis of the legal and constitutional position of gig workers in India underscores the urgent need for a comprehensive, multi-pronged strategy to bridge the gap between recognition and protection. The following recommendations are suggested to ensure both legislative clarity and effective implementation:

1. Legislative Reform: Clarity on Status of Platform Workers as “Dependent Contractors.”

Indian labour law must move beyond the rigid binary of “employee” and “independent contractor.” A middle category of “dependent contractors”, as recognised in several comparative jurisdictions, can capture the economic reality of platform workers who are not fully autonomous but remain subordinate to the algorithmic control of aggregators. Incorporating this category into the Industrial Relations Code and other labour statutes would help extend collective rights, minimum wage guarantees, and protections against arbitrary termination to gig workers. This clarity would also reduce prolonged litigation on the issue of classification.

2. Expansion of Social Security Measures.

The Social Security Code, 2020 must be supplemented with enforceable obligations on digital platforms to contribute to welfare schemes for gig workers. Presently, the Code’s provisions are too discretionary, making implementation uncertain.

The state should: Mandate health insurance, accident cover, and pension schemes for all registered gig workers. Establish a joint contribution model, where platforms, workers, and government share the responsibility of financing welfare schemes.

Create a unified digital registry of gig workers to ensure portability of benefits across platforms.

3. Strengthening Dispute Resolution Mechanisms.

Traditional dispute resolution forums are ill-equipped to handle the complexities of digital labour relations. The establishment of specialized tribunals or fast-track labour courts for gig workers would ensure quicker adjudication of disputes relating to wages, termination, or unfair practices. Such mechanisms should also provide for collective representation by unions or associations, considering the power imbalance between individual workers and large corporations.

4. Encouraging Collective Bargaining Rights for Gig Workers.

The right to organize and bargain collectively is central to correcting asymmetries of power in platform work. Legislative frameworks should explicitly protect the right of gig workers to unionize, free from retaliation or deactivation by platforms. At the same time, the state can facilitate the creation of sectoral-level bargaining councils for gig and platform work, where minimum conditions of employment, working hours, and payment standards can be negotiated. This would not only enhance workers' voice but also reduce industrial unrest in the digital economy.

5. Role of Judiciary in Interpreting Constitutional Rights Progressively.

The Indian judiciary has historically played a transformative role in expanding the scope of constitutional rights under Articles 14, 19, and 21. In the context of gig work, courts must adopt a "purposive interpretation" of these rights to address new forms of precarity. Judicial recognition of the "right to livelihood, safe working conditions, and equal protection of law" for gig workers will strengthen their claims for social justice. Recent global judgments—such as the UK Supreme Court's ruling in *Uber BV v. Aslam* (2021)—demonstrate how judicial creativity can reshape the contours of labour protection in platform economies. Indian courts can similarly pioneer a worker-centric jurisprudence in the digital age.

In sum, the way forward lies in harmonizing legislative clarity, institutional enforcement, and constitutional interpretation. By acknowledging gig workers as "dependent contractors," ensuring comprehensive social security, facilitating collective bargaining, and enabling judicial activism, India can craft a balanced regime that both fosters innovation in the gig economy and safeguards the dignity and rights of its workers.

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