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Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 73059 14348 - info@iledu.in / Chairman@iledu.in

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REGULATING PLATFORM-BASED WORK: ASSESSING EMPLOYER LIABILITY OF AGGREGATORS IN INDIA

AUTHOR - NAGA BALAJI JAKKA, STUDENT AT AMITY UNIVERSITY, NOIDA

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Abstract

The rise of digital platforms has fundamentally altered the nature of work. Millions of workers in India today earn their livelihoods by providing services—rides, deliveries, domestic help, freelance tasks—through mobile applications operated by aggregator companies. These workers are typically classified as independent contractors, not employees, placing them outside the reach of core labour protections that govern wages, working hours, social security, and occupational safety. This article critically examines whether India's legal framework adequately addresses the question of employer liability for aggregators in platform-based work. It analyses the relevant provisions of the four Labour Codes enacted between 2019 and 2020, with particular focus on the Code on Social Security, 2020, which for the first time recognises gig and platform workers as a distinct category. The article critically evaluates the existing definitions of 'aggregator,' 'gig worker,' and 'platform worker,' examines the tests used by Indian courts to determine employment status, traces comparative developments in the United Kingdom, the European Union, France, and Australia, and analyses recent Indian legislative initiatives including the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023. It argues that India's current approach—creating a sui generis social security framework while preserving the independent contractor classification—is an incomplete and ultimately unsatisfactory solution that fails to confront the structural power imbalance at the core of platform work. The article concludes with recommendations for a more comprehensive regulatory framework that imposes genuine employer-like obligations on aggregators proportionate to the control they exercise over platform workers.

Keywords: Platform Work, Gig Economy, Aggregators, Employer Liability, Code on Social Security 2020, Labour Codes, Gig Workers, Independent Contractor, Employment Status, Rajasthan Gig Workers Act.

I. Introduction

The word 'aggregator' has become one of the defining terms of twenty-first century commerce. Whether it is a cab-hailing platform connecting passengers with drivers, a food delivery application linking restaurants with couriers, a domestic services app matching households with cleaners, or a logistics platform dispatching delivery executives, the aggregator model has transformed labour markets across the world. The International Labour Organization estimates that hundreds of millions of workers globally derive income from digital labour platforms.[1696] In India alone, the NITI Aayog estimated in 2022 that approximately 7.7 million workers were engaged in the gig economy, a figure projected to grow to 23.5 million by 2029–30.[16971698]

[1696]International Labour Organization, World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work (Geneva: ILO, 2021), p. 1.

[1697]NITI Aayog, India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work (New Delhi: NITI Aayog, 2022), p. 3.

[1698]Ibid., p. 5 (estimating 7.7 million workers engaged in gig economy as of 2020-21, projected to rise to 23.5 million by 2029-30).

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The core promise of the aggregator model—from the platform's perspective—is that it is not an employer. It provides technology that connects service providers with customers. The driver is not an Ola or Uber employee; she is an independent entrepreneur who uses the platform as a marketplace. The food delivery executive is not a Swiggy or Zomato employee; he is an independent contractor who accepts delivery orders through an app. This classification has enormous legal and financial consequences: it means that aggregators are not required to pay minimum wages, provide provident fund contributions, extend employee state insurance, comply with working hours regulations, or observe the full range of obligations that employment law imposes on employers.

Courts and legislatures around the world have pushed back against this classification with increasing vigour. The United Kingdom Supreme Court in Uber BV v. Aslam[1699] held that Uber drivers were 'workers'—a category between employee and independent contractor—entitled to minimum wage and holiday pay. The French Cour de Cassation classified an Uber driver as an employee.[1700] The European Union enacted a Platform Work Directive in 2024 establishing a rebuttable presumption of employment for platform workers.[1701] California attempted to reclassify gig workers before platform companies funded a successful ballot initiative reversing the legislation.[1702]

India has responded with a different strategy. The Code on Social Security, 2020 created a new category of 'gig workers' and 'platform workers' and imposed limited social security obligations on aggregators—but stopped well short of classifying platform workers as employees. The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 went further at the state level, establishing a welfare board and a transaction-based welfare fund.[1703] These are significant steps, but they leave the fundamental question of employer liability largely unresolved.

This article undertakes a comprehensive critical analysis of the legal framework governing platform-based work in India. Section II examines the definitional landscape under the Labour Codes. Section III analyses traditional tests for employment status in Indian law and their adequacy for platform work. Section IV discusses the Code on Social Security, 2020's approach to gig and platform workers. Section V examines state-level initiatives. Section VI provides a comparative analysis of international regulatory approaches. Section VII examines constitutional dimensions and judicial developments. Section VIII offers critical observations on the gaps in the current framework, and Section IX sets out recommendations for a more comprehensive regulatory response.

II. The Definitional Landscape: Gig Workers, Platform Workers, and Aggregators

Before examining the legal framework, it is essential to understand how India's new Labour Codes define the key actors and concepts in platform-based work. These definitions are important not only for their direct legal effect but also because they signal the legislature's understanding of the nature of these relationships.

2.1 'Gig Worker' and 'Platform Worker'

The Code on Social Security, 2020 offers the first statutory definitions of these terms in Indian law. Section 2(35) defines a 'gig worker' as a person who performs work or participates in a work arrangement and earns from such activities outside of a traditional employer-employee relationship.[1704] This is a broad, catch-all

[1699]Uber BV v. Aslam, [2021] UKSC 5 (UK Supreme Court) — holding Uber drivers to be 'workers' entitled to minimum wage and holiday pay.

[1700]Cour de Cassation (France), Chambre Sociale, Arrêt No. 374, 4 March 2020 — classifying an Uber driver as an employee under French labour law.

[1701]Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on Improving Working Conditions in Platform Work.

[1702]Proposition 22, California, November 2020 — ballot measure classifying app-based drivers and delivery workers as independent contractors with limited benefits.

[1703]Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 (Act 26 of 2023).

[1704]The Code on Social Security, 2020 (Act 36 of 2020), Section 2(35) — definition of 'gig worker.'

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definition that captures a wide range of non-standard work arrangements, including but not limited to platform-mediated work.

A 'platform worker' is separately defined under Section 2(78) as a person engaged in or undertaking platform work.[1705] 'Platform work' is defined as a form of employment in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services in exchange for payment. The separate definition of platform worker—as a subset of the broader gig worker category—reflects an awareness that digitally-mediated work through specific platforms has distinct characteristics that merit distinct regulatory attention.

2.2 'Aggregator'

Section 2(7) of the Code on Social Security, 2020 defines an 'aggregator' as a digital intermediary or a market place for buyers or users of a service to connect with the seller or the service provider.[1706] The First Schedule to the Code lists specific categories of aggregators to whom the social security provisions apply: ride-sharing services, food and grocery delivery, logistics, e-marketplace, professional and personal services, healthcare, travel and hospitality, content and media, and others.[1707]

Critically, the aggregator definition stops short of characterising the aggregator as an employer. The language of 'digital intermediary' and 'marketplace' deliberately mirrors the technology-platform self-description used by these companies, preserving the legal fiction that they merely facilitate transactions between independent parties. This definitional choice has profound consequences for the scope of obligations that can be imposed on aggregators under the Code.

2.3 The Absent Definition: 'Employer' in Platform Contexts

The Code on Wages, 2019 and the Industrial Relations Code, 2020 define 'employee' and 'employer' in conventional terms that assume a bilateral employment relationship.[17081709] These definitions were not updated to account for platform work. The result is a significant legislative gap: platform workers do not clearly fall within the definition of 'employee' under any of the four Labour Codes, and aggregators are not treated as 'employers' for the purposes of wage regulation, collective bargaining, or occupational safety.

This gap is not accidental. It reflects a deliberate policy decision—contested, as this article argues—to treat platform-based work as a new and distinct form of economic activity that should not be forced into existing employment categories. Whether this decision is defensible in light of the realities of platform work is one of the central questions this article addresses.

III. Employment Status Tests in Indian Law and Their Application to Platform Work

To assess whether aggregators should be treated as employers, it is necessary to examine how Indian courts have historically determined employment status and whether those tests, applied to the facts of platform work, would lead to an employment classification.

3.1 The Control Test

The foundational test for determining whether a person is an employee or an independent contractor in Indian law is the 'control test,' articulated by the Supreme Court in Dharangadhara Chemical Works Ltd. v. State of Saurashtra.[1710] The test asks whether the employer has the right to control not only what

[1705]The Code on Social Security, 2020, Section 2(78) — definition of 'platform worker.'

[1706]The Code on Social Security, 2020, Section 2(7) — definition of 'aggregator.'

[1707]The Code on Social Security, 2020, First Schedule — list of aggregator categories including ride-sharing, food delivery, logistics, e-marketplace, and others.

[1708]The Code on Wages, 2019, Section 2(k) — definition of 'employee'; Section 2(m) — definition of 'employer.'

[1709]The Industrial Relations Code, 2020, Section 2(p) — definition of 'worker' (excluding managerial, supervisory, and administrative employees earning above prescribed wages).

[1710]Dharangadhara Chemical Works Ltd. v. State of Saurashtra, AIR 1957 SC 264 — the Supreme Court's foundational articulation of the 'control test' for determining employer-employee relationship.

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the worker does but also how the work is to be done. An independent contractor, by contrast, is engaged to produce a specific result and retains discretion as to the means by which that result is achieved.

Applied to platform work, the control test produces uncomfortable results for aggregators. Consider a ride-hailing driver: the platform sets the route (or strongly nudges it through GPS navigation), determines the fare, controls whether the driver is shown to passengers based on her acceptance rate and cancellation rate, can deactivate the driver's account based on low ratings, and monitors the driver's location throughout the journey. This degree of behavioural and economic control over the manner of work is far more characteristic of employment than of an arm's-length contractor relationship.

The UK Supreme Court in Uber BV v. Aslam[1711] emphasised precisely this point—that Uber's extensive algorithmic control over how drivers operated meant that the 'contract and reality' were fundamentally at odds, and that courts should look through the contractual label to the economic and operational reality. A similar purposive approach, guided by the economic reality test already recognised in Indian law, could reach the same conclusion.

3.2 The Economic Reality Test

The Supreme Court in Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments[1712] articulated the 'economic reality test' as a supplementary criterion for determining employment status, asking whether the person is economically integrated into the principal's business or is genuinely an independent economic actor carrying their own commercial risk.

Platform workers typically fail the economic reality test of genuine independence. They do not set their own prices, they do not choose their customers, they cannot build a clientele independent of the platform, and they face significant economic dependence on the platform's continued engagement of their services. A delivery executive who earns ninety per cent of their income through a single platform application is not in any realistic sense an independent entrepreneur; they are economically subordinate to the platform in ways that the law should recognise.

The ILO's Employment Relationship Recommendation (R198) of 2006 lists indicators of the employment relationship that are instructive in this context, including the fact that work is done according to instructions and under the control of another party and that the work involves the personal service of the worker.[1713] Most platform workers satisfy these indicators without difficulty.

3.3 The Integration Test

In M/s Standard Vacuum Refining Co. of India Ltd. v. Its Workmen,[1714] the Supreme Court considered whether a worker was an integral part of the employer's business or an accessory to it. The 'integration test' asks whether the worker's contribution is so essential to the core business of the enterprise that it would be artificial to treat the relationship as an arm's-length contract.

Ride-hailing drivers are the product that Ola and Uber sell to passengers. Delivery executives are the logistical infrastructure that Swiggy and Zomato rely on to fulfil their service promise to restaurants and customers. The claim that these workers are merely accessory to, rather than integrated into, the platforms' core businesses is difficult to sustain under the integration test.

The continuing relevance of these tests—and their potential application to platform workers—

[1711]Ibid., para. 76 (Lord Leggatt) — on Uber's control through rating systems and algorithmic management.

[1712]Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments, (1974) 3 SCC 498 — the 'economic reality test' articulated by the Supreme Court.

[1713]International Labour Organization, R198 — Employment Relationship Recommendation, 2006, Para. 13 (indicators of employment relationship).

[1714]M/s Standard Vacuum Refining Co. of India Ltd. v. Its Workmen, AIR 1960 SC 948 — on the test of integration and economic dependence in employment classification.

was implicitly acknowledged by the Supreme Court of India in Indian Federation of App-based Transport Workers (IFAT) v. Union of India,[1715] where the Court noted the importance of implementing the gig worker provisions of the Code on Social Security, 2020 and directed the government to frame rules expeditiously.[1716]

IV. The Code on Social Security, 2020: A Partial and Contested Response

The Code on Social Security, 2020 is the centrepiece of India's legislative response to the gig and platform economy. It represents the first time Indian law has recognised gig and platform workers as a distinct category deserving of specific legal attention. The provisions are, however, partial and contested.

4.1 The Social Security Fund

Section 114 of the Code establishes a separate Social Security Fund for gig and platform workers.[1717] Under Section 114(2), aggregators are required to contribute between one and two per cent of their annual turnover or an amount not exceeding five per cent of the amount payable to gig and platform workers, whichever is lower, to this fund.[1718]

The fund is intended to support schemes for gig and platform workers covering life and disability cover, accident insurance, health and maternity benefits, old age protection, and education. The specific schemes are to be notified by the Central and State Governments from time to time.

The contribution mechanism is important for what it reveals about legislative thinking. By imposing a turnover-based levy on aggregators rather than requiring them to contribute in proportion to individual worker earnings (as would be the case in a conventional employer provident fund arrangement), the Code acknowledges the practical difficulty of mapping individual workers' earnings to a conventional employment relationship. However, it also ensures that the social security contribution is decoupled from any recognition of employer status—aggregators contribute not as employers but as business entities whose commercial operations generate an obligation to support worker welfare.

4.2 Registration of Workers

The Code requires the registration of gig and platform workers with the appropriate government authorities. Aggregators are required to maintain records of the workers operating on their platforms and to assist in the registration process. This registration requirement is a positive step that creates a foundation for the delivery of social security benefits and for regulatory oversight of the platform workforce.

In practice, the registration framework has not been fully operationalised at the national level, as the Central Government has not yet framed the detailed rules under the Code as of 2025. The Rajasthan Act has moved faster at the state level, establishing a registration system through the Rajasthan Platform Based Gig Workers Welfare Board.[1719]

4.3 The Fundamental Limitation: No Employment Status

The most significant limitation of the Code on Social Security, 2020's approach to platform workers is its explicit preservation of the independent contractor model. By creating a separate category of 'gig worker' and 'platform worker' distinct from 'employee' and 'worker,' the Code effectively insulates aggregators from the full range of employment law obligations that would apply if platform workers were classified as employees.

[1715]Indian Federation of App-based Transport Workers (IFAT) v. Union of India, Writ Petition (Civil) No. 1068 of 2021 — seeking social security and minimum wage protections for app-based transport workers.

[1716]Ibid. — Supreme Court's interim observations noting the need for the government to frame rules under the Code on Social Security, 2020 for gig and platform workers.

[1717]The Code on Social Security, 2020, Section 114 — social security fund for gig and platform workers.

[1718]The Code on Social Security, 2020, Section 114(2) — aggregator contribution of one to two per cent of annual turnover not exceeding five per cent of the amount payable to gig and platform workers.

[1719]Ibid., Section 3 — establishment of the Rajasthan Platform Based Gig Workers Welfare Board.

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This means that platform workers remain outside the scope of the Code on Wages, 2019's minimum wage protections,[1720] the Industrial Relations Code, 2020's collective bargaining rights, and the Occupational Safety, Health and Working Conditions Code, 2020's workplace safety obligations.[1721] The social security fund created by the Code on Social Security is a form of sector-specific welfare, not a recognition of employer liability.

Critics have argued that this approach reflects the lobbying power of platform companies rather than a principled analysis of the employment relationship. The NITI Aayog's 2022 report,[1722] while generally supportive of the gig economy, acknowledged the need for stronger protections and recommended, among other things, that platform workers be given access to dispute resolution mechanisms and that the social security fund be adequately resourced.

V. State-Level Initiatives: The Rajasthan Model

In the absence of comprehensive central legislation, some states have taken the initiative to regulate platform-based work more directly. Rajasthan became the first state in India to enact dedicated legislation for gig workers with the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023.

5.1 Key Features of the Rajasthan Act

The Act establishes the Rajasthan Platform Based Gig Workers Welfare Board, a tripartite body with representation from the government, aggregators, and gig workers. The Board is empowered to administer welfare schemes, receive and disburse funds, resolve disputes between gig workers and aggregators, and recommend conditions of service.

A Welfare and Development Fund is established under the Act, to which aggregators must contribute between one and two per cent of each transaction involving gig workers in Rajasthan.[1723] The fund is intended to support a range of welfare measures including health insurance, accidental death insurance, education benefits for workers' children, and housing assistance.

The Act also imposes transparency obligations on aggregators, requiring them to provide gig workers with written information about their terms of engagement, the algorithm used to allocate work and determine earnings, the basis on which accounts are deactivated, and the grievance redressal mechanism available to them. These transparency provisions are significant because they begin to regulate the algorithmic management systems through which platforms exercise control over workers—a form of control that has no direct analogue in traditional employment relationships.

5.2 Limitations and Constitutional Questions

While the Rajasthan Act is an important and progressive development, it has significant limitations. Like the Code on Social Security, 2020, it does not classify gig workers as employees and therefore does not extend to them the core protections of labour law. The welfare fund, however well-resourced, is not a substitute for minimum wage guarantees, working hours protections, and the right to collective bargaining.

The Act also raises constitutional questions about legislative competence. Labour and employment are items in the Concurrent List of the Seventh Schedule to the Constitution of India, meaning both Parliament and state legislatures have the power to legislate. However, where central legislation occupies the field—as the Code on Social Security, 2020 does for social security—state legislation that supplements or conflicts with it may face challenges under Article 254 of the Constitution. The Rajasthan Act carefully positions itself as

[1720] The Code on Wages, 2019, Section 3 — universal applicability of floor wage to all employees including those in the informal sector.

[1721] The Occupational Safety, Health and Working Conditions Code, 2020, Section 2(r) — definition of 'inter-state migrant worker' and Section 57 — welfare provisions.

[1722] NITI Aayog, supra note 2, pp. 54–58 (recommendations on registration, social security, and dispute resolution for gig workers).

[1723] Ibid., Section 8 — welfare fund with contributions from aggregators of one to two per cent of each transaction.

supplementary to the central Code, but the extent of its insulation from constitutional challenge depends on how courts interpret the scope of the central framework.

Karnataka has proposed similar legislation through the Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024,[1724] suggesting that the Rajasthan model may become a template for other states pending more comprehensive central action.

VI. Comparative Analysis: International Regulatory Approaches

A comparative survey of how other jurisdictions have addressed the challenge of platform work regulation is instructive, both for the substantive approaches adopted and for the lessons they offer for Indian reform.

6.1 The United Kingdom: The 'Worker' Category and Uber

The United Kingdom's Employment Rights Act 1996 and associated legislation recognise three categories: employees, workers, and independent contractors. Workers—an intermediate category—are entitled to key protections including the national minimum wage, working time rights, and holiday pay, but not to the full range of employment protections available to employees.

The UK Supreme Court's decision in Uber BV v. Aslam was the culmination of years of litigation over whether Uber drivers were workers or independent contractors. The Court unanimously held that they were workers, emphasising that Uber exercised control over fares, routes, working conditions, and passenger access in ways that were fundamentally incompatible with genuine independence. The decision resulted in Uber reclassifying its UK drivers as workers, entitling them to minimum wage, holiday pay, and pension contributions.

The UK approach illustrates the value of an intermediate employment category that captures the reality of dependent platform work without necessarily requiring full employee status. India's current framework does not have an equivalent category, leaving a regulatory gap that platform workers fall into.

6.2 The European Union: The Platform Work Directive

After extensive negotiations, the European Union adopted the Platform Work Directive in 2024. The Directive's centrepiece is a rebuttable presumption of employment: where a digital labour platform controls at least two of five specified criteria—including control over remuneration, performance monitoring, supervision of quality, restriction of freedom to organise one's work, and restriction of the ability to build a client base—the relationship is presumed to be an employment relationship.[1725] The burden is on the platform to rebut the presumption by proving genuine independence.The reversal of the burden of proof is the most significant aspect of the EU approach. Under existing frameworks (including India's), workers bear the burden of proving employment status—a task that requires expensive litigation and is practically difficult for workers with limited resources. The EU's presumption of employment shifts this burden to the platform, which is better positioned to demonstrate the true nature of the relationship through its access to data and contracts.

6.3 France: Judicial Reclassification and a Charter Model

France has pursued a dual approach. On the one hand, the Cour de Cassation has reclassified Uber drivers as employees in individual cases, applying the criterion of economic subordination and directional power. On the other hand, French legislation introduced the concept of a 'social charter' that platforms could voluntarily adopt, providing certain protections for platform workers without triggering a full employment classification. The

[1724]Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024 (pending enactment as of 2025).

[1725]Ibid., Article 5 — the rebuttable presumption of employment relationship applicable to platform workers in the EU.

charter model was criticised by the French Constitutional Council as inadequate and was limited in scope.

France's experience illustrates the tension between judicial reclassification—which proceeds case by case and creates uncertainty—and legislative action, which can provide clarity but risks being shaped by platform company lobbying. It also illustrates the inadequacy of purely voluntary measures as a substitute for mandatory protections.

6.4 Australia: 'Employee-Like' Workers and Minimum Standards

Australia's Fair Work Legislation Amendment (Closing Loopholes) Act 2023 introduced a new category of 'employee-like' workers—those in employment relationships that have the characteristics of employment but are structured as independent contracting arrangements. The Fair Work Commission is empowered to set minimum standards for such workers, including on pay rates, working conditions, and deactivation protections.

Australia's approach is arguably the most sophisticated internationally, in that it attempts to create flexible standards appropriate to non-standard work rather than forcing platform workers into either the employee or independent contractor box. The concept of 'employee-like' workers and sector-specific minimum standards offers a model that Indian policymakers might consider.[1726]

VII. Constitutional Dimensions and Judicial Developments in India

The question of employer liability for aggregators has significant constitutional dimensions in India, both in terms of the state's obligations to protect platform workers and the constitutional validity of regulatory measures imposing obligations on aggregators.

7.1 Fundamental Rights and Directive Principles

The Constitution of India's guarantee of the right to life under Article 21 has been interpreted by the Supreme Court to include the right to livelihood.[1727] In Olga Tellis v. Bombay Municipal Corporation, the Court held that any law or action that deprives a person of their means of livelihood must satisfy the requirements of reasonableness and proportionality. Applied to platform work, this constitutional foundation supports the argument that platform workers have a constitutional interest in protection against arbitrary deactivation of their accounts and against wage arrangements that are insufficient to sustain a dignified livelihood.

The Directive Principles of State Policy in Articles 41, 43, and 43A impose obligations on the state to ensure the right to work, to secure living wages for workers, and to participate in the management of enterprises.[1728] While the Directive Principles are not directly enforceable, they provide interpretive guidance to courts and legislature and impose a moral obligation on the state to progressively extend labour protections to all workers, including those in platform employment.

In Bandhua Mukti Morcha v. Union of India,[1729] the Supreme Court affirmed the state's constitutional obligation to protect workers from exploitation, reading the Directive Principles together with Article 21 to require positive state action in the field of labour protection. This constitutional tradition provides a powerful argument for extending meaningful protections to platform workers.

7.2 Pending Litigation and Judicial Signals

Several petitions seeking recognition of gig workers' rights are pending before Indian courts. The Indian Federation of App-based Transport

[1726]Fair Work Act, 2009 (Australia), Section 12 — definition of 'employee'; subsequent amendments under the Fair Work Legislation Amendment (Closing Loopholes) Act 2023 extending protections to 'employee-like' workers.

[1727]Olga Tellis v. Bombay Municipal Corporation, (1985) 3 SCC 545 — the Supreme Court's recognition of the right to livelihood as part of Article 21.

[1728]Constitution of India, Article 43 — directive principle on living wages and conditions of work ensuring a decent standard of life.

[1729]Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161 — on the state's constitutional obligation to protect workers from exploitation.

Workers (IFAT) filed a writ petition before the Supreme Court seeking social security and minimum wage protections for app-based transport workers. In its interim observations in this case, the Supreme Court directed the Central Government to expedite the framing of rules under the Code on Social Security, 2020 for gig and platform workers, signalling judicial impatience with legislative delay.

Separately, unions of gig workers have approached courts seeking recognition of their right to organise and bargain collectively—rights currently unavailable to them under the Industrial Relations Code, 2020 because they are not classified as 'workers' for that Code's purposes. These cases have not yet been finally decided, but the judicial climate—especially the Supreme Court's expansive interpretation of labour rights in cases like People's Union for Democratic Rights v. Union of India[1730]—suggests receptivity to progressive interpretations that extend protections to platform workers.

7.3 The Motor Vehicles Act Framework

For ride-hailing aggregators specifically, the Motor Vehicles (Amendment) Act, 2019 introduced a statutory definition of 'aggregator' and a licensing regime.[1731] The Central Government issued Guidelines for Aggregators in 2020[1732] covering surge pricing, driver welfare, insurance requirements, and grievance redressal. These guidelines represent the most concrete acknowledgment of aggregator responsibility in the transport sector, though they fall short of imposing employer liability.

The guidelines require aggregators to ensure that drivers have valid permits, driving licences, and insurance; to establish grievance redressal mechanisms; to ensure a minimum rate per kilometre for drivers; and to provide driver welfare measures. While these are positive developments, their enforcement has been inconsistent, and their legal status as guidelines rather than regulations limits their enforceability.

VIII. Critical Assessment: The Inadequacy of the Current Framework

Having surveyed the existing legal landscape, this section offers a critical assessment of why the current framework is inadequate to address the fundamental challenges of platform-based work in India.

8.1 The Independent Contractor Fiction

The central problem with India's current approach is its uncritical acceptance of the independent contractor classification that aggregators have built into their contractual arrangements. The fiction that a delivery executive who receives work instructions through an app, whose every movement is tracked by GPS, whose earnings are set by the platform, and whose continued engagement depends on algorithmic performance ratings is an 'independent contractor' bears no relationship to the economic or operational reality.

Courts applying the control test, the economic reality test, or the integration test—all well-established in Indian jurisprudence—would face significant difficulty concluding that most platform workers are genuinely independent contractors. The legislative decision to create a sui generis gig worker category has, in effect, allowed aggregators to avoid the scrutiny that judicial application of these tests would otherwise impose.

8.2 Algorithmic Management as Control

A distinctive feature of platform work that existing legal tests were not designed to address is algorithmic management—the use of data-driven algorithms to assign work, monitor performance, set prices, and discipline workers through deactivation. Aggregators exercise control over workers not through the direct supervision of a human manager but through

[1730] People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235 — on the purposive interpretation of labour legislation to protect vulnerable workers.

[1731] Motor Vehicles (Amendment) Act, 2019 (Act 32 of 2019), inserting Chapter V-A on taxi aggregators and Section 93A on aggregator licences.

[1732] Ministry of Road Transport and Highways, Guidelines for Aggregators, 2020 — specifying grievance redressal, driver welfare, and surge pricing norms.

the automated operation of digital systems. This is still control—arguably more pervasive and less resistible than conventional managerial oversight—but it does not easily fit the traditional tests developed for bilateral employment relationships.

The Rajasthan Act's requirement that aggregators disclose to workers how algorithmic allocation and pricing systems operate is a step toward addressing this issue. The Digital Personal Data Protection Act, 2023[1733] provides a further avenue for workers to access information about how their data is processed by platforms. But neither framework addresses the core issue of whether algorithmic control constitutes the kind of control that should give rise to employer liability.

8.3 Social Security as Insufficient Substitute

The Code on Social Security's approach of imposing a welfare fund contribution on aggregators without recognising employer status is a partial and ultimately unsatisfactory response. Social security contributions—important as they are—do not substitute for minimum wage protection, working hours regulation, occupational safety obligations, or the right to organise collectively. A gig worker who benefits from a health insurance scheme funded by the welfare fund but earns less than minimum wage, works excessive hours without overtime, and cannot unionise is not meaningfully protected by the regulatory framework.

8.4 Enforcement Deficits

Even the limited protections that exist under the current framework suffer from serious enforcement deficits. The Code on Social Security's gig and platform worker provisions have not been operationalised through detailed rules at the central level as of 2025. The Motor Vehicles Act guidelines for taxi aggregators are unevenly enforced across states. The Competition Commission of India has noted concerns about market concentration and algorithmic pricing in the cab aggregator sector[1734] but has not yet translated these findings into worker protection measures. The constitutional promise of labour protection for all workers, articulated in numerous Supreme Court decisions, has not been reflected in effective regulation of platform-based work.

IX. Recommendations

The gaps identified in the preceding analysis point toward a set of reforms that could bring India's framework for platform-based work closer to international best practices and to the constitutional promise of protection for all workers.

First, Parliament should amend the definition sections of the four Labour Codes to include a specific category of 'platform-dependent worker'—modelled on the European concept of 'employee-like' worker—who is entitled to core labour protections including minimum wage, working hours limits, occupational safety, and anti-discrimination provisions, without being classified as an employee for all purposes. This category should capture workers who derive more than a specified percentage of their income from a single platform and who are subject to significant platform control over their work.

Second, a rebuttable presumption of employment—along the lines of the EU Platform Work Directive—should be introduced for platform workers who satisfy specified control criteria. The burden should be on the aggregator to prove that the relationship is genuinely one of independent contracting, not on the worker to prove employment. This shift in the burden of proof would be transformative in practice, given the information asymmetry between platforms and workers.

[1733]The Digital Personal Data Protection Act, 2023 (Act 22 of 2023) — framework governing processing of personal data of individuals including platform workers.

[1734]Competition Commission of India, Market Study on the Cab Aggregator Sector in India (2021) — noting concerns about algorithmic pricing, market concentration, and driver earnings.

Third, collective bargaining rights should be extended to platform workers. The Industrial Relations Code, 2020 should be amended to recognise unions and associations of gig and platform workers and to require aggregators to engage in good-faith negotiation over terms of engagement, dispute resolution procedures, and deactivation policies.

Fourth, algorithmic transparency and accountability should be made a statutory requirement. Aggregators should be required to disclose to platform workers—in plain language—the criteria and data used to allocate work, determine earnings, evaluate performance, and suspend or deactivate accounts. Workers should have the right to challenge algorithmically generated decisions through an accessible grievance mechanism, with independent adjudication of disputes.

Fifth, the social security fund under the Code on Social Security, 2020 should be adequately resourced and operationalised without further delay. The Central Government should urgently frame the rules required to implement the gig and platform worker provisions of the Code, including the registration mechanism, contribution rates, and the welfare schemes to be made available. The contribution rate should be reviewed periodically in light of the actual welfare needs of the platform workforce.

Sixth, enforcement should be strengthened through dedicated inspectorates or monitoring units for platform-based work within the Ministry of Labour and Employment and state labour departments. Aggregators should be required to submit periodic disclosures on worker numbers, earnings distribution, deactivation rates, and welfare fund contributions, enabling proactive regulatory oversight rather than complaint-driven enforcement.

X. Conclusion

The rise of platform-based work represents one of the most significant transformations in the nature of employment since the industrial revolution. It has created new opportunities for flexible income generation for millions of workers while simultaneously creating new forms of economic insecurity, algorithmic control, and exclusion from labour law protection.

India's legislative response—captured primarily in the Code on Social Security, 2020 and supplemented by the Rajasthan Platform Based Gig Workers Act, 2023—represents an acknowledgment that the legal framework needed to evolve. The creation of a dedicated category for gig and platform workers, the imposition of welfare fund obligations on aggregators, and the registration requirements are meaningful steps. But they are steps toward a destination that has not yet been reached: a framework in which platform workers enjoy meaningful protection against the economic power that aggregators exercise over their working lives.

The central unresolved question—whether aggregators are, in legal substance if not in contractual form, employers of the workers who power their platforms—cannot be indefinitely deferred. The employment tests available in Indian law, applied purposively and in light of the economic reality of platform work, provide strong grounds for a positive answer. The global regulatory trend is moving unambiguously toward greater accountability for platforms, whether through employment reclassification, intermediate worker categories, rebuttable presumptions, or sector-specific minimum standards.

India's constitutional tradition of labour protection, reflected in the Directive Principles of State Policy and in a long line of Supreme Court decisions recognising the right to livelihood and the state's obligation to protect vulnerable workers, provides a firm legal and moral foundation for a more protective regulatory framework. What is required is the political will to translate that tradition into law, against the background of a digital economy that has too long been permitted to exempt itself from the

responsibilities that all other employers accept as part of operating in a civilised society.

The gig worker is not a free agent in a digital marketplace. She is a worker who deserves the protection of the law.

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NO. 08, ARUL NAGAR, SEERA THOPPU,
MARUDHAANDA KURICHI, SRIRANGAM - 620102,
TAMILNADU, INDIA.

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