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# THE CONSTITUTIONAL STATUS OF GIG WORKERS IN INDIA

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## ABSTRACT

India's gig economy employs an estimated twelve million workers as of 2024–25, a figure projected to reach 23.5 million by 2029–30. Despite their economic significance, gig workers have historically occupied a zone of legal invisibility classified neither as 'employees' under traditional labour statutes nor as independent contractors entitled to full self-regulatory autonomy. This paper examines the constitutional status of gig workers in India by analysing the extent to which the fundamental rights guaranteed under Part III of the Constitution of India 1950 particularly Articles 14, 19, 21, and 23 apply to workers engaged through digital labour platforms. It further critiques the adequacy of the Code on Social Security 2020, the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023, the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act 2025, and the four Labour Codes notified in November 2025. Employing a combined doctrinal and empirical methodology, the paper identifies a structural research gap: while scholarship has addressed the social security dimension of gig work, the direct constitutional analysis mapping fundamental rights onto algorithmic workplace governance remains underdeveloped. The paper argues that algorithmic control, arbitrary deactivation, and wage opacity constitute violations not merely of statutory entitlements but of the constitutional guarantees of equality, dignity, and livelihood. It concludes by proposing a tripartite reform framework: mandatory employment-status presumption, algorithmic transparency obligations, and a portable, universal social security account for gig workers.

**Keywords:** *Gig Workers, Constitutional Rights, Article 21, Code on Social Security 2020, Algorithmic Control, Fundamental Rights, Labour Law Reform, Platform Economy, India*

## I. INTRODUCTION

India's digital economy rests upon the daily labour of millions of gig workers delivery executives, ride-hailing drivers, freelance coders, and domestic service providers who operate

through app-based platforms such as Zomato, Swiggy, Uber, Ola, and Urban Company. The National Institution for Transforming India (NITI Aayog) estimated that approximately 7.7 million workers were engaged in the gig economy in 2020–21, constituting 1.5 per cent of the total workforce.<sup>1</sup> By 2024–25, this figure had risen to approximately twelve million,<sup>2</sup> and the Indian government's Economic Survey 2025–26 projects non-agricultural gig work could account for 6.7 per cent of India's workforce by 2029–30.<sup>3</sup>

Yet the law has struggled to keep pace with this transformation. Gig workers do not fit neatly within the binary framework of 'employee' and 'independent contractor' upon which India's pre-existing labour legislation rests. The Industrial Disputes Act 1947, the Contract Labour (Regulation and Abolition) Act 1970, the Employees' Provident Funds and Miscellaneous Provisions Act 1952, and the Employees' State Insurance Act 1948 were all drafted for the factory floor and the formal employment relationship. None of these statutes contemplates work mediated by an algorithm, priced by surge-demand models, and terminated by an automated deactivation notice.<sup>4</sup>

The enactment of the Code on Social Security 2020 marked the first legislative acknowledgement of gig and platform workers as a distinct category of labour.<sup>5</sup> However, the Code stops well short of conferring enforceable employment rights; it merely empowers the Central Government to frame optional welfare schemes. The four Labour Codes formally notified in November 2025 the Code on Wages 2019, the Industrial Relations Code 2020, the Occupational Safety, Health and Working Conditions Code 2020, and the Code on Social Security 2020 complete this partial recognition, but three of the four Codes exclude gig workers entirely.<sup>6</sup>

Against this background, the present paper poses a question that prior scholarship has not fully engaged: what is the *constitutional* status of gig workers in India? The Indian Constitution guarantees fundamental rights to all persons, not merely to those who enjoy formal employment contracts. If algorithmic management arbitrarily deactivates a worker's account without notice, does that violate Article 14's guarantee of equality before law? If a gig worker earns below subsistence wages due to opaque platform pricing, does that engage Article 21's right to livelihood and dignity? If economic compulsion leaves a worker no option but to accept hazardous working conditions, does Article 23's prohibition on forced labour apply? These questions form the analytical core of this paper.

## II. IDENTIFYING THE RESEARCH GAP

A substantial body of scholarship examines gig work in India from the perspectives of labour

economics, social policy, and comparative law. NITI Aayog's 2022 report, 'India's Booming Gig and Platform Economy', provided the first systematic quantification of the sector and recommended a welfare-access mechanism. Subsequent academic contributions including work by Sankaran (2020) on informal labour and the Labour Codes, Gill and Gupta (2024) on algorithmic management, and Jaishree and Jha (2024) on partnership-contract illusions have mapped the social security deficit and the misclassification problem.

State-level legislative analyses have examined Rajasthan's 2023 Act and Karnataka's 2024 and 2025 legislation in detail.<sup>7</sup> Comparative studies have evaluated the European Union Platform Work Directive 2024 and Singapore's Platform Workers Act as potential models.<sup>8</sup> Judicial scholarship has traced the Supreme Court's evolving interpretation of Articles 21 and 23 in cases such as *Olga Tellis v Bombay Municipal Corporation* [1985]<sup>9</sup> and *People's Union for Democratic Rights v Union of India* [1982].<sup>10</sup>

However, three significant gaps persist in the existing literature. First, no study has conducted a systematic mapping of algorithmic control mechanisms task allocation, surge pricing, rating-based deactivation against the specific fundamental rights provisions of the Constitution. Second, the existing constitutional analysis rarely goes beyond Article 21 and the right to livelihood, leaving Articles 14, 19(1)(c), and 23 underdeveloped in the gig-work context. Third, empirical data on the lived constitutional experience of gig workers their awareness of rights, access to remedies, and encounters with algorithmic unfairness is sparse. The present paper addresses these three gaps.

### III. LITERATURE REVIEW

#### A. The Definitional Problem

Section 2(35) of the Code on Social Security 2020 defines a 'gig worker' as 'a person who performs work or participates in a work arrangement and earns from such activities outside of the traditional employer-employee relationship.'<sup>11</sup> This definition, while novel, is deliberately non-committal: it acknowledges gig work without classifying it as employment. Gill and Gupta (2024) argue that India's old contract-labour laws do not capture the new algorithmic control of gig work and that the classification system should be updated so that algorithmic task allocation is treated as equivalent to managerial supervision.<sup>12</sup> Jaishree and Jha (2024) contend that the 'partner' label deployed by Uber and Ola creates an illusion of entrepreneurial autonomy while real control remains with the platform.<sup>13</sup>

The Karnataka High Court's ruling that drivers using Ola would be considered employees of

the company on the basis that the company controls all aspects of the service, including fares, routes, and the devices used<sup>14</sup> represents the most significant judicial step toward piercing the contractor veil in India. In the parallel case of *All India Gig Workers Union v Uber India Systems Pvt Ltd*, workers contested Uber's refusal to provide minimum wages and social security benefits.<sup>15</sup> These cases signal that Indian courts are beginning to engage with the 'control test' as applied to platform work, though a definitive Supreme Court ruling has yet to emerge.

### **B. Constitutional Frameworks**

Article 21's expanded interpretation is the doctrinal anchor for constitutional claims by workers. In *Maneka Gandhi v Union of India* [1978],<sup>16</sup> the Supreme Court held that 'life' under Article 21 means more than mere animal existence; it includes the right to live with human dignity and all that goes along with it, encompassing livelihood, health, and fair working conditions. This was reinforced in *Olga Tellis v Bombay Municipal Corporation* [1985],<sup>17</sup> where the Court held that the right to livelihood is an integral part of the right to life and that 'if the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person of his right to life would be to deprive him of his means of livelihood.' These principles, applied to gig workers, yield a compelling argument: denying minimum wages, arbitrary deactivation, and opaque algorithmic penalisation each engage Article 21.

Article 14's guarantee of equality before law has been interpreted to prohibit arbitrariness. In *E P Royappa v State of Tamil Nadu* [1974],<sup>18</sup> the Court held that equality is antithetical to arbitrariness, and where an act is arbitrary it is implicit that it is unequal. Applied to gig work, algorithmic deactivation without reasons or appeal, differential rating systems that encode social bias, and opaque wage formulae each raise arguable Article 14 claims.

Article 23, which prohibits traffic in human beings and begar and other forms of forced labour, was expansively interpreted in *People's Union for Democratic Rights v Union of India* [1982]<sup>19</sup> to hold that any labour extracted without proper remuneration even when consented to due to economic compulsion constitutes forced labour. Bhattacharyya and Adhikary (2025) observe that the use of performance metrics without oversight is changing the structure of work relationships, and that where gig workers are economically coerced to accept penalty-laden contracts, an Article 23 argument is not fanciful.<sup>20</sup>

### **C. Legislative Developments**

The Code on Social Security 2020 represents the first legislative recognition of gig and platform workers in India, defining these categories and empowering the Central Government to frame welfare schemes under Chapter IX.<sup>21</sup> Section 114 envisages schemes providing life and

disability insurance, accident insurance, health and maternity coverage, and old-age protection. The Code also mandates the constitution of a National Social Security Board for gig and platform workers under Section 6. However, the Code makes such schemes discretionary: the government is empowered, not obligated, to create them.<sup>22</sup>

The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023 was the first state legislation to confer legal identity on gig workers.<sup>23</sup> Its key provisions include mandatory registration of aggregators and workers, a welfare cess of one to two per cent of the aggregator's annual state turnover, a dedicated Welfare Fund, and a time-bound grievance redressal mechanism. However, the Act's implementation stalled following a change of government in Rajasthan, illustrating the constitutional problem of labour policy fragmentation across states a consequence of labour being a Concurrent List subject under Schedule VII of the Constitution of India 1950.<sup>24</sup>

Karnataka's Platform Based Gig Workers (Social Security and Welfare) Act 2025 enacted following an Ordinance promulgated in May 2025 is the most comprehensive state legislation to date.<sup>25</sup> It establishes a Welfare Board, creates a dedicated fund financed through a per-transaction welfare fee, mandates contract transparency, requires written reasons for deactivation, and introduces obligations of algorithmic transparency and non-discrimination.<sup>26</sup> The Act applies to approximately 400,000 workers in Karnataka and establishes a two-step grievance redressal mechanism with strict timelines. Draft Rules released in July 2025 address registration procedures, automated monitoring systems, and the utilisation of the Welfare Fund. At the national level, the four Labour Codes formally came into force in November 2025, replacing twenty-nine separate enactments.<sup>27</sup> However, as observers have noted, only the Code on Social Security recognises gig and platform workers; the remaining three Codes covering wages, industrial relations, and occupational safety exclude them entirely.<sup>28</sup> This partial recognition means that gig workers continue to lack minimum-wage protection, the right to strike, collective bargaining rights, and occupational health and safety protections under central law.

#### **D. Comparative Perspectives**

Internationally, the European Union's Platform Work Directive 2024 takes the strongest regulatory approach, establishing a legal presumption of employment for platform workers and placing the burden of proof on platforms to rebut this presumption.<sup>29</sup> The Directive also mandates algorithmic transparency and creates enforceable rights against opaque automated management. Singapore's Platform Workers Act phases in mandatory social security

contributions over five years without requiring full employment reclassification, offering a middle path that India's framework has yet to adopt.<sup>30</sup> The United Kingdom's Supreme Court decision in *Uber BV v Aslam* [2021]<sup>31</sup> held that Uber drivers were 'workers' rather than self-employed contractors, applying a purposive approach to statutory interpretation that prioritised the reality of control over the form of contract. These comparative developments inform the reform proposals advanced in Part VI below.

## IV. RESEARCH METHODOLOGY

### A. Doctrinal Method

The doctrinal component of this research employs primary and secondary legal source analysis. Primary sources include the Constitution of India 1950; the Code on Social Security 2020; the Code on Wages 2019; the Industrial Relations Code 2020; the Occupational Safety, Health and Working Conditions Code 2020; the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023; and the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act 2025. These are supplemented by landmark Supreme Court decisions on Articles 14, 21, and 23, including *Maneka Gandhi v Union of India* [1978], *Olga Tellis v Bombay Municipal Corporation* [1985], *People's Union for Democratic Rights v Union of India* [1982], and *EP Royappa v State of Tamil Nadu* [1974]. Secondary sources include peer-reviewed articles, NITI Aayog reports, Parliamentary Standing Committee reports, the ILO's framework on algorithmic management, and comparative statutory material from the European Union and Singapore.

The doctrinal analysis proceeds in three stages: textual exegesis of the relevant constitutional provisions; synthesis of judicial precedent on the right to livelihood, equality, and forced labour; and application of those principles to the specific features of algorithmic platform work, including task allocation, rating systems, surge pricing, and deactivation procedures.

### B. Empirical Method

The empirical component is informed by secondary analysis of existing survey data and qualitative studies. This paper draws on the findings of a risk-matrix study conducted by Ijirss (2025–26), which involved 273 semi-structured interviews with gig workers across major Indian cities between June 2024 and January 2025, and an analysis of fifty platform contracts from Uber and Zomato for arbitration clauses and deactivation triggers, revealing that 78 per cent of platforms mandate opaque arbitration.<sup>32</sup> Additional empirical data is drawn from the Economic Survey 2025–26, which found that a substantial proportion of gig workers earn

below Rs 15,000 per month and face high income volatility, while remaining outside health insurance, maternity benefits, and old-age security.<sup>33</sup>

The empirical evidence serves to ground the doctrinal analysis in the lived reality of gig work. Constitutional claims are tested against documented experiences of deactivation without due process, wage opacity, algorithmic discrimination, and workplace hazards. This mixed methodology combining textual legal analysis with empirical grounding allows the paper to assess not only what the law says, but how it functions in practice for those it purports to protect.

### C. Scope and Limitations

The research is geographically limited to India, with comparative references to the European Union and Singapore for normative purposes. It focuses primarily on platform-based gig work ride-hailing, food delivery, and domestic services rather than freelance digital work or agricultural gig labour. The empirical component relies on secondary data; the authors acknowledge that primary field research with gig workers across multiple states would strengthen the findings. Finally, the analysis is current as of May 2026 and does not account for any legislative or judicial developments occurring after that date.

## V. ANALYSIS: CONSTITUTIONAL CLAIMS OF GIG WORKERS

### A. Article 21: The Right to Livelihood, Dignity, and Safe Working Conditions

The Supreme Court's judgment in *Olga Tellis v Bombay Municipal Corporation* established as settled law that the right to livelihood is inseparable from the right to life under Article 21.<sup>34</sup> The Court's reasoning was unambiguous: 'deprive a person of his right to livelihood and you shall have deprived him of his life.' Applied to gig workers, three categories of constitutional concern arise.

First, **wage opacity**. The Economic Survey 2025–26 found that platform-determined work allocation and opaque wage-setting mechanisms limit workers' bargaining power and that a substantial proportion of gig workers earn below Rs 15,000 per month.<sup>35</sup> Where wages are set by an algorithm that workers cannot scrutinise or challenge, the right to livelihood which includes the right to earn a dignified income is engaged. The Supreme Court's formulation in *Bandhua Mukti Morcha v Union of India* [1984]<sup>36</sup> that the right to live with dignity includes just and humane working conditions and fair wages directly applies.

Second, **arbitrary deactivation**. Platform contracts routinely permit account deactivation the effective termination of a gig worker's livelihood without written reasons, without notice, and

without any meaningful right of appeal. Karnataka's 2025 Act addresses this by mandating written reasons for deactivation and a structured appeal mechanism,<sup>37</sup> but no equivalent protection exists at the national level. Deactivation without due process is, in substance, deprivation of livelihood without 'procedure established by law' the very evil that Article 21 was designed to prevent.

Third, **occupational hazards**. Gig workers particularly delivery and transport workers operate under algorithmic management systems that reward speed and penalise delays, pushing workers toward unsafe driving practices.<sup>38</sup> The right to health, which is encompassed within Article 21 per *Consumer Education & Research Centre v Union of India* [1995],<sup>39</sup> is directly implicated. The exclusion of gig workers from the Occupational Safety, Health and Working Conditions Code 2020 at the national level means that this constitutional obligation currently lacks statutory implementation.

### **B. Article 14: Equality Before Law and the Prohibition of Arbitrariness**

The principle that Article 14 is antithetical to arbitrariness established in *EP Royappa v State of Tamil Nadu* [1974]<sup>40</sup> has significant implications for platform governance. The risk-matrix study referenced above found that 78 per cent of platforms mandate opaque arbitration clauses in their contracts, effectively preventing gig workers from accessing ordinary courts.<sup>41</sup> Such clauses, combined with the information asymmetry between platform and worker, raise the question of whether the absence of any State-mandated minimum procedural standard for deactivation, rating adjustment, or dispute resolution constitutes a failure of the State's positive obligation under Article 14 to ensure equal protection of the laws.

The constitutional validity of differential treatment under which workers performing identical tasks receive different protections depending on whether their work is sourced through a digital platform or through a conventional employer is also questionable under Article 14. Karnataka's 2025 Act itself acknowledges this tension, as it extends benefits only to platform-sourced work, leaving workers performing similar tasks through non-digital intermediaries without equivalent protection.<sup>42</sup> A classification that is untethered from any rational nexus to a legitimate legislative purpose is vulnerable to Article 14 challenge.

Algorithmic discrimination compounds the Article 14 concern. Nair (2022) demonstrated that gig workers face algorithmic discrimination along social axes,<sup>43</sup> and the East Asia Forum's April 2026 analysis confirmed that women gig workers face algorithmic bias and harassment without institutional protection.<sup>44</sup> Article 15's prohibition of discrimination on grounds of sex is engaged where platform algorithms systematically disadvantage women workers, and the

State's failure to mandate algorithmic auditing is arguably a failure of the positive obligation implicit in Articles 14 and 15.

### **C. Article 19(1)(c): Freedom of Association and Collective Bargaining**

Article 19(1)(c) guarantees every citizen the right to form associations or unions. The Supreme Court confirmed in *All India Bank Employees' Association v National Industrial Tribunal* [1962]<sup>45</sup> that unionism is fundamental to industrial democracy. Gig workers, classified as independent contractors, are denied access to collective bargaining mechanisms under the Industrial Relations Code 2020, which restricts trade union recognition and collective bargaining to 'workmen' within an employment relationship.<sup>46</sup> The exclusion of gig workers from collective bargaining is not merely a statutory gap; it is a constraint on the constitutional right of association. Without the ability to bargain collectively, gig workers cannot meaningfully exercise the constitutional rights to livelihood and dignity that Article 21 guarantees.

### **D. Article 23: Prohibition of Forced Labour**

The Supreme Court's expansive interpretation of Article 23 in *People's Union for Democratic Rights v Union of India* [1982] held that labour extracted under economic compulsion even where formally consented to constitutes a form of forced labour.<sup>47</sup> The conditions under which many gig workers labour—low earnings, algorithmic penalties for refusal of tasks, absence of alternative income sources, and performance-dependent access to insurance benefits that can be withdrawn without due process<sup>48</sup>—create a structural condition of economic compulsion that brings Article 23 into play. Where a worker cannot practically refuse to work for a platform without losing their sole source of income, and where the platform imposes conditions that no freely contracting party would accept, the economic coercion test articulated in *People's Union for Democratic Rights* is arguably satisfied.

### **E. Directive Principles of State Policy: The Interpretive Frame**

While the Directive Principles of State Policy (DPSPs) in Part IV of the Constitution are non-justiciable, the Supreme Court has consistently held since *Minerva Mills Ltd v Union of India* [1980]<sup>49</sup> that fundamental rights must be interpreted harmoniously with the DPSPs. Articles 38, 39, 41, and 42 requiring the State to secure a social order based on justice, to ensure adequate means of livelihood, to provide public assistance in unemployment and sickness, and to make provision for just and humane conditions of work provide the interpretive frame within which the constitutional claims of gig workers must be evaluated. The failure to extend occupational safety protections, minimum wage guarantees, and grievance redressal mechanisms to gig

workers represents not merely a legislative deficit, but a tension with the constitutional vision of socio-economic justice that Part IV embodies.

#### **F. The Concurrent List Problem: Constitutional Fragmentation**

Labour is a Concurrent List subject under Schedule VII of the Constitution of India 1950, empowering both Parliament and state legislatures to legislate.<sup>50</sup> As a researcher has noted, this means state governments are responsible for designing, notifying, and administering many of the schemes needed to make the Code on Social Security operational for gig workers, raising the possibility of uneven access as some states move quickly while others delay or deprioritise the effort due to political or fiscal constraints.<sup>51</sup> Rajasthan's stalled legislation after it was passed in 2023, contrasted with Karnataka's enacted 2025 framework, illustrates how workers' constitutional rights may ultimately depend on geography rather than law.<sup>52</sup> This fragmentation is itself a constitutional problem: a regime in which identical work commands different legal protections depending on where it is performed raises fundamental Article 14 equality concerns at the inter-state level.

### **VI. CONCLUSION AND REFORM PROPOSALS**

This paper has argued that the constitutional status of gig workers in India is one of structural invisibility acknowledged but unprotected by central labour law, variably protected by state legislation, and only partially secured by the judiciary's evolving interpretation of fundamental rights. The four Labour Codes notified in November 2025 represent a significant administrative achievement in consolidating twenty-nine statutes, but three of the four exclude gig workers entirely.<sup>53</sup> The Code on Social Security 2020's recognition of gig workers, while a landmark step, remains aspirational rather than enforceable: it empowers without obligating.

The constitutional analysis conducted in Part V reveals that algorithmic control, arbitrary deactivation, wage opacity, and algorithmic discrimination each engage fundamental rights provisions of the Constitution. The right to livelihood under Article 21, equality before law under Article 14, freedom of association under Article 19(1)(c), and the prohibition of forced labour under Article 23 collectively constitute a robust constitutional foundation for gig workers' rights. What is lacking is not constitutional principle, but statutory implementation.

Three reforms are proposed on the basis of this analysis. First, Parliament should enact an employment-status presumption modelled on the EU Platform Work Directive 2024 whereby workers engaged through digital platforms are presumed to be employees unless the platform demonstrates, by reference to statutory criteria, that the relationship is genuinely one of

independent contracting. This reform would resolve the misclassification problem at its root and bring gig workers within the full scope of existing labour protections. Second, mandatory algorithmic transparency obligations should be imposed on all platform aggregators, requiring them to disclose the criteria for task allocation, pricing, rating, and deactivation, and to submit to periodic independent audits. This would address the Article 14 arbitrariness concern and create the evidentiary basis for constitutional and statutory challenges. Third, a Universal Social Security Account as proposed in the draft Shram Shakti Niti 2025 merging EPFO, ESIC, e-Shram, and PM-JAY into a single portable identity, should be made mandatory and funded through a statutory contribution obligation on all platform aggregators, rather than being left to the discretion of State governments.

Gig workers in India are citizens with fundamental rights, and the Constitution of India applies to them no less than to any other worker.<sup>54</sup> The country's digital economy has been built on their labour, yet their legal invisibility persists. India now stands at a constitutional crossroads: one path leads to greater informalisation, where the gig economy operates outside Constitutional norms; the other leads toward a just and inclusive future of work, where innovation is matched by accountability and flexibility is balanced by fairness. The constitutional framework already provides the architecture for this second path. What remains is the legislative and judicial will to walk it.

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