

Algorithmic Governance and Gig Work: Rethinking Labour Rights Through Digital Constitutionalism

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Abstract

The rapid expansion of the gig economy in India has transformed the nature of work, employment relations, and labour governance. Digital platforms such as ride-hailing, food delivery, and logistics companies rely heavily on algorithmic management systems that control work allocation, performance evaluation, remuneration, and termination of gig workers. While these platforms offer flexibility and income opportunities, they also create new forms of precarity, surveillance, and power asymmetry. In recent years, legislative developments such as the Code on Social Security, 2020 have formally recognized gig and platform workers within the legal framework. However, this recognition largely adopts a welfare-oriented approach and falls short of granting enforceable labour rights or addressing the structural vulnerabilities created by algorithmic governance. The paper argues that mere statutory recognition, without substantive rights and procedural safeguards, is insufficient to meet the constitutional guarantees of dignity, equality, and livelihood enshrined in the Indian Constitution. Drawing upon the concept of digital constitutionalism, the paper situates gig workers as constitutional subjects whose rights are increasingly shaped by private digital platforms exercising quasi-sovereign power. It critically analyzes how algorithmic opacity, automated decision-making, rating-based exclusions, and unilateral deactivation practices potentially violate Articles 14, 19(1)(g), and 21 of the Constitution. It argues for a rights-based reimagining of gig worker protection grounded in constitutional values rather than discretionary welfare schemes. By reconceptualizing gig work through the lens of constitutional dignity and digital constitutionalism, this paper contributes to ongoing debates on the future of labour rights in the digital economy and underscores the need for constitutional oversight in regulating algorithmic work in India.

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1. INTRODUCTION

The growth of platform-based work in India has fundamentally altered traditional labour relations and regulatory frameworks. Digital platforms operating in sectors such as ride-hailing, food delivery, and logistics rely extensively on algorithmic management systems to control work allocation, pricing, performance evaluation, and termination of gig workers. These algorithmic systems increasingly function as the primary mechanism of labour governance, exercising significant control over workers' livelihoods. Although platforms often

emphasise flexibility and autonomy, gig workers frequently experience economic precarity, continuous surveillance, and unilateral decision-making. Automated rating systems, incentive structures, and account deactivation practices operate with minimal transparency or procedural safeguards, leaving workers with limited ability to understand or challenge adverse decisions. The absence of formal employment status further places gig workers outside the scope of traditional labour protections, deepening existing power asymmetries between workers and platforms. The Code on Social Security, 2020

marks a legislative shift by formally recognising gig and platform workers within India's labour law framework. However, this recognition adopts a predominantly welfare-oriented approach and does not extend core labour rights such as minimum wages, collective bargaining, or protection against arbitrary termination. Consequently, the structural vulnerabilities arising from algorithmic governance remain largely unaddressed, and workers continue to be regulated primarily through private digital systems rather than public law mechanisms. This paper argues that algorithmic governance by digital platforms raises serious constitutional concerns. Platforms increasingly exercise quasi-sovereign power by determining access to work, income stability, and occupational continuity. When such power operates without transparency, accountability, or due process, it implicates constitutional guarantees of equality, dignity, and livelihood under Articles 14, 19(1)(g), and 21 of the Constitution of India. Judicial recognition of dignity and livelihood as integral to the right to life reinforces the need for constitutional scrutiny of algorithmic work regulation. Drawing on the framework of digital constitutionalism, this paper reconceptualises gig workers as constitutional subjects whose rights are shaped by algorithmic systems. It argues for a shift from welfare-based regulation to a rights-oriented approach grounded in constitutional values, emphasizing the need for transparency, procedural fairness, and accountability in the governance of digital labour.

2. REVIEW OF LITERATURE

Shyamini T S, Rejuna C A , “Ripple Effect of Algorithmic Mechanism: Lessons from Global Gig Work Experience” (2025) -

The paper highlights that algorithmic governance in gig work tends to strengthen existing inequalities, especially for women and marginalized communities. It advocates for more inclusive labor regulations that focus on protecting workers' rights and promoting sustainable work environments.

Dr. Mahendra Soni, Dr. Shyam B. Choudhary, Rajkumar. Gade, Dr.Hariom Awasthi, “The Gig Economy And The Social Contract: Rethinking Labor Laws And Social Protection In The Digital Age” (2025) -

The paper demonstrates that the gig economy has weakened traditional labor rights and social protections. It suggests a re-examination of labor laws and social contracts to ensure that gig workers in countries like India receive adequate social security and legal protections.

Jasoon Chelat, “From 'Gig Work' to Algorithmically Mediated Work: Shifting the Focus to Technological Control in Work Regulation” (2024) -

The author points out that current laws have not effectively addressed the control exerted by algorithms in gig work. There is a need to pay more attention to the digital elements that influence workers' rights and conditions.

Sümeyye Elif Biber, “Digital constitutionalism in Europe: reframing rights and powers in the algorithmic society (Cambridge Studies in European Law and Policy)” (2022) -

The author discusses how digital constitutionalism in Europe offers a structured approach to redefining rights and powers in an algorithm-driven society. This framework could provide

useful insights into rethinking labor rights within the gig economy.

Zsolt Zódi, Bernát Török, “Constitutional Values in the Gig-Economy? Why Labor Law Fails at Platform Work, and What Can We Do about It?” (2021) -

The paper explores platform work and outlines the new challenges it poses for labor law due to its reliance on algorithms and data, as well as its network structure. It suggests the need for innovative legal methods to reexamine labor rights in the context of digital constitutionalism.

C. Popan, “Algorithmic Governance in the Gig Economy” (2020) -

The author argues that algorithmic governance in the gig economy influences workers' experiences and behaviors, leading to trends in entrepreneurship, solidarity, and cooperative alternatives. This calls for a reconsideration of labor rights through the lens of digital constitutionalism.

3. RESEARCH GAP

Existing scholarship on gig work in India largely focuses on employment classification, social security coverage, and welfare measures under the labour codes. While recent studies acknowledge the role of digital platforms in shaping work conditions, there remains limited legal analysis of algorithmic governance as a constitutional issue. In particular, the intersection between automated decision-making, labour rights, and constitutional guarantees of dignity, equality, and livelihood has not been sufficiently examined. Further, Indian labour law discourse has yet to meaningfully engage with the concept of digital constitutionalism to assess the quasi-sovereign power exercised by platforms. This gap is especially evident in the absence of doctrinal analysis linking algorithmic opacity, due process deficits, and platform control to Articles 14, 19(1)(g), and 21 of the Constitution. This paper seeks to address this gap by reframing gig work governance through a constitutional and rights-based lens rather than a purely welfare-oriented approach.

4. OBJECTIVES

- To examine how algorithmic governance structures regulate work, remuneration, and control in platform-based gig employment in India.
- To analyse the constitutional implications of algorithmic management on gig workers' rights to equality, dignity, and livelihood.
- To evaluate the adequacy of existing labour law frameworks, particularly the Code on Social Security, 2020, in addressing the challenges posed by digital platform governance.
- To explore the relevance of digital constitutionalism in developing a rights-based regulatory approach for protecting gig workers in the digital economy.

5. RESEARCH QUESTIONS

- How does algorithmic governance operate in regulating work, remuneration, and control in platform-based gig employment in India?
- What constitutional implications do algorithmic management practices have on gig workers' rights

under Articles 14, 19(1)(g), and 21 of the Constitution of India?

- To what extent does the Code on Social Security, 2020 address the challenges posed by algorithmic governance in the gig economy?
- How can the framework of digital constitutionalism contribute to a rights-based regulatory approach for protecting gig workers in India?

6. RESEARCH METHODOLOGY

This paper adopts a doctrinal and analytical research methodology. It relies on primary sources such as constitutional provisions, labour legislation particularly the Code on Social Security, 2020 and judicial decisions to examine the regulation of gig work in India. Secondary sources, including academic literature and scholarly writings on algorithmic governance and digital constitutionalism, are used to develop the theoretical framework. The study employs constitutional interpretation to assess the impact of algorithmic management on fundamental rights and identifies gaps in the existing labour law framework.

7. LIMITATIONS OF STUDY

This study is confined to a doctrinal analysis of Indian legal and constitutional frameworks governing gig work and algorithmic management. It does not include empirical data or field-based research on gig workers' experiences. Comparative perspectives are limited and used only for contextual understanding.

8. CONCEPTUAL FRAMEWORK OF ALGORITHMIC GOVERNANCE

Algorithmic governance involves platforms using automated systems for task allocation, ratings, pricing, and deactivations, creating opaque control over gig workers. In India, apps like Uber track GPS and behaviour, fragmenting work into surveilled tasks with 70-80% facing unexplained penalties.¹ Katzenbach describes it as a spectrum from black-box automation to oversight, stressing accountability gaps.² Digital constitutionalism views platforms as quasi-sovereigns, applying constitutional norms horizontally to curb Article 14 arbitrariness and Article 21 privacy erosion, as in Puttaswamy.³ This bridges traditional labour law to digital precarity, with NITI Aayog forecasting 23.5 million workers by 2030.⁴

9. GIG WORKERS UNDER THE CODE ON SOCIAL SECURITY, 2020

The Code on Social Security, 2020 marks India's first statutory recognition of gig and platform workers, defining a "gig worker" under Section 2(35) as "a person who performs work or participates in a work arrangement and earns from a single engagement," mediated online, explicitly excluding traditional employment contracts.⁵ Section 114 mandates Central/State Welfare Boards to frame schemes for life insurance, accident coverage, maternity benefits, old age assistance, and health/education support, funded by aggregator contributions of 1-2% of annual turnover (Section 142).⁶ The e-Shram portal facilitates registration, aiming to integrate 30 crore informal workers into social security nets. Yet, this welfare-oriented approach reveals profound limitations. First, it denies substantive labour rights: gig workers remain "independent contractors," forfeiting minimum wages, working hours regulation, dispute resolution under Industrial Disputes Act, 1947, or collective bargaining. Benefits are discretionary, scheme-based, and government-funded peripherally, resembling charity rather than entitlements. Implementation lags: as of 2025, e-Shram registrations hover below 10% of estimated gig workers, hampered by digital divides and platform non-compliance.⁷ Secondly, algorithmic control remains largely unregulated. The Code on Social Security, 2020 does not impose duties of transparency or procedural safeguards, enabling digital platforms to rely on rating-based assessments and automated exclusions without providing workers with meaningful avenues for challenge. Certain State-level interventions have sought to address this gap. The Karnataka Platform-Based Gig Workers (Social Security and Welfare) Act, 2024 introduces disclosure requirements relating to rating criteria and pricing mechanisms, and mandates advance notice of termination along with the right to appeal against such decisions. By contrast, while Rajasthan's 2023 legislation establishes a registration framework for gig workers and aggregators, it does not comprehensively regulate algorithmic decision-making, highlighting the absence of a uniform national approach.⁸

10. CONSTITUTIONAL VIOLATIONS AND JUDICIAL POSSIBILITIES

Algorithmic practices precipitate direct constitutional infractions. Article 14 mandates equality and non-arbitrariness; yet, rating algorithms embed biases, women drivers penalized for safety breaks, migrants for regional accents lacking auditable nexus.⁹ *Maneka Gandhi v. Union of India* elevated procedure to substantive fairness, extending to private deactivations as "state action" via platform dominance.¹⁰ Article 19(1)(g) protects the freedom to practise a profession or carry on trade, and unilateral platform terms that are modified without notice may operate as unreasonable restrictions lacking public interest justification. Article 21 has been interpreted to

¹ Deepashree R, *A Comprehensive Analysis of India's Gig Economy: Legal Frameworks, Algorithmic Governance and Social Realities*, (2025) 3(4) *Indian Journal of Law and Social Sciences* 532, 538-40, available at <https://ijlss.com/a-comprehensive-analysis-of-indias-gig-economy-legal-frameworks-algorithmic-governance-and-social-realities/> (last visited Jan 17, 2026).

² Christian Katzenbach, *Algorithmic Governance*, (2019) *Internet Policy Review*, available at <https://policyreview.info/concepts/algorithmic-governance> (last visited Jan 17, 2026).

³ Justice K.S. Puttaswamy (Retd.) v. Union of India, AIR 2017 SC 4161 : (2017) 10 SCC 1.

⁴ NITI Aayog, *India's Booming Gig and Platform Economy* (2022) 12-15, cited in Deepashree R, *supra* note 1 at 534.

⁵ Code on Social Security, 2020, s 2(35).

⁶ *Ibid*, ss 114, 142.

⁷ *Supra* note 1

⁸ The Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024, ss 13-15, available at <https://prsindia.org/bills/states/the-draft-karnataka-platform-based-gig-workers-social-security-and-welfare-bill-2024> (last visited Jan 17, 2026).

⁹ *Gig Workers, Misclassification, and the Crisis of Rights*, (2025) *International Journal of Creative Research Thoughts (IJCRT)*, available at <https://www.ijcrt.org/papers/IJCRT2509117.pdf>. (last visited Jan 17, 2026)

¹⁰ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 : (1978) 1 SCC 248.

include the right to livelihood and dignified work, as recognised in *Olga Tellis v Bombay Municipal Corporation*,¹¹ where deprivation of livelihood without viable alternatives was held unconstitutional. In the gig economy, income instability, pervasive surveillance, and constant performance monitoring undermine these guarantees, further aggravated by extensive data collection that implicates the right to informational privacy affirmed in *Puttaswamy*.¹² Judicial remedies remain viable. In *Indian Federation of App-Based Transport Workers v Union of India* (2023),¹³ the Court's direction for interim relief reflected openness to Article 21-based claims by gig workers.¹⁴ Courts may also refine existing control tests by accounting for algorithmic dominance rather than contractual labels, consistent with common law evolution. Public interest litigation seeking algorithmic transparency or fairness audits would similarly align with established judicial approaches to protecting collective rights.¹⁵

11. COMPARATIVE APPROACHES

The EU's Directive (EU) 2024/2832 on Platform Work introduces a rebuttable presumption of employment if platforms determine remuneration, schedules, or monitoring shifting burden to platforms.¹⁶ It requires meaningful human supervision over high-risk algorithmic systems, mandates disclosure of key operational criteria, and recognises consultation rights, with penalties for violations extending to fines of up to six per cent of global turnover. In *Uber BV v. Aslam*, the Supreme Court reclassified drivers as "workers" via multi-factor test: mutuality of obligation, platform control (routes, pricing), integration into business granting minimum wage, holiday pay.¹⁷ UK's Employment Rights Bill 2024 extends to zero-hour protections. Under the EU's Directive 2024/2832, an employment relationship is presumed where platform control is established, accompanied by obligations of algorithmic transparency and the imposition of penalties of up to six per cent of turnover for non-compliance. The UK *Uber v. Aslam* case used a multi-factor test for worker status, securing wages and holidays. Karnataka's 2024 Act requires disclosures, offering a local parallel. India could blend these via judicial tests and national presumptions.

12. RECOMMENDATIONS

Legislative Overhaul: Amend the Code to introduce "platform-dependent workers" with hybrid status, incorporating EU-style rebuttable presumptions of employment where algorithms dictate remuneration or monitoring. Mandate minimum earnings guarantees (e.g., 60% of average task value) and working hour caps, excluding pure contractors.

Algorithmic Accountability: Enact a national "Digital Platform Transparency Act" requiring annual audits, human-readable explanations for decisions (ratings/deactivations), and bias impact assessments. Platforms must notify workers 48 hours pre-deactivation with appeal rights, mirroring Karnataka's model but with independent tribunals.

Institutional Mechanisms: Establish a Central Platform Labour Authority with tripartite (government, platforms, unions) composition for scheme oversight and dispute resolution. Extending the e-Shram to enforce 100% registration, linking the benefits to algo compliance.

Judicial and Constitutional Expansion: Guidelines via Supreme Court PIL for horizontal rights application, evolving "control tests" to include algorithmic dominance (*Uber v. Aslam* influence). Recognize unions for collective bargaining, protecting strikes as Article 19(1)(c) facets.

Funding and Enforcement: A dedicated Gig Workers' Fund may be established through platform contributions of three to five per cent of turnover, supported by penalties for non-compliance, including fines up to ten per cent. Ethical oversight of algorithmic practices should be ensured through specialised AI governance bodies.

Stakeholder Engagement: Pilot state-level boards (expanding Rajasthan/Karnataka) before national rollout, incorporating worker feedback via apps.

These measures operationalize constitutional values, fostering equitable digital labour while sustaining platform growth. Implementation requires political will, but aligns with global standards, positioning India as a leader in algorithmic rights.

13. CONCLUSION

The rise of algorithmic governance in the gig economy has fundamentally altered labour relations, placing private digital platforms in positions of unprecedented regulatory power over work, income, and livelihood. While recent legislative measures such as the Code on Social Security, 2020 acknowledge gig and platform workers within the formal legal framework, the prevailing approach remains welfare-oriented and insufficient to address the structural imbalances produced by algorithmic control. The absence of transparency, procedural safeguards, and enforceable rights allows platforms to exercise unilateral decision-making that directly affects workers' dignity, livelihood, and autonomy. This paper has argued that gig workers must be understood not merely as beneficiaries of social protection schemes but as constitutional subjects whose rights are shaped and often constrained by algorithmic systems. Algorithmic opacity, automated deactivations, and rating-based exclusions raise serious concerns under Articles 14, 19(1)(g), and 21 of the Constitution, necessitating a shift from contractual formalism to a rights-based constitutional framework. Comparative developments, particularly in the European Union and the United Kingdom, demonstrate that algorithmic transparency, human oversight, and presumptions of employment are viable regulatory responses. Ultimately, effective governance of gig work requires constitutional oversight of algorithmic power. Integrating principles of digital constitutionalism into labour regulation through transparency obligations, due process

¹¹ *Olga Tellis v. Bombay Municipal Corporation*, AIR 1986 SC 180 : (1985) 3 SCC 545.

¹² *Supra* note 3

¹³ *Indian Federation of App-Based Transport Workers v. Union of India* (2023) (W.P. (C) No. 152 of 2023).

¹⁴ *supra* note 1 at 538.

¹⁵ *Common Cause, A Regd. Society v. Union of India*, AIR 2018 SC 1775 : (2018) 5 SCC 1.

¹⁶ *Directive (EU) 2024/2832 of the European Parliament and of the Council of 13 December 2024 on improving working conditions in platform work*, OJ L.

¹⁷ *Uber BV v. Aslam*, UKSC 5 (United Kingdom Supreme Court).

protections, and judicial scrutiny offers a pathway to reconcile technological innovation with constitutional values. Without such reforms, the promise of flexibility in the gig economy risks becoming a mechanism of systemic precarity, undermining the foundational commitment to dignity and social justice in the digital age.

Conflict of Interest

Conflict of interest declared none.

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