



# Gig Workers, Misclassification, And The Crisis Of Rights: A Constitutional Piercing Approach

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**ABSTRACT:** India has witnessed a major transformation in labour relations since the advent of the platform economy, the most prominent aspect of which is the misclassification of gig workers as independent contractors. Through this classification, digital platforms are legally exempted from their employer obligations such as minimum wages, social security, and the right to unionization, while they maintain substantial control over the work of workers through algorithmic control and performance metrics. While much of the literature views this issue through a policy or regulatory lens, this paper takes a constitutional and doctrinal legal approach. Through doctrinal methodology, this study critically analyses Articles 14, 19(1)(c), and 21 of the Indian Constitution and argues that gig worker misclassification is a systemic fundamental rights denial. The paper identifies a doctrinal gap: there is still no clear framework in India's legal jurisprudence that brings private platforms under constitutional accountability when they perform state-like functions. To bridge this gap, the paper proposes an original legal doctrine called *constitutional piercing*. In this framework, platforms are considered quasi-state actors, especially when they apply coercive algorithmic control and mediate people's livelihoods. Drawing on the public function theory and horizontal rights application of Indian jurisprudence, this framework reframes the legal understanding of employment and rights in the digital labour market. The conclusion is that gig worker misclassification is not just a policy loophole but a constitutional failure that must be addressed through a rights-based reform.

**Keywords** - Gig workers, Misclassification, Fundamental rights, Constitutional piercing, Platform Economy.

## 1. INTRODUCTION

India's digital economy is now at a constitutional turning point. From 7.7 million gig workers in 2020-21, the number is expected to reach 23.5 million by 2029-30 (Press Information Bureau 2024b). In such a scenario, the classification of platform workers is no longer just a technical question of labour law- it has now become a fundamental challenge for constitutional governance and democratic development. The delivery sector, which is dominated by platforms such as *Swiggy*, *Zomato* and *Blinkit*, shows this tension where "partner" contracts are used systematically to avoid the responsibilities of labour laws and derive maximum economic benefit from the dependency of workers. Section 114 of The Code on Social Security 2020 attempts to address this challenge by asking aggregators to contribute 1–2% to the workers' welfare fund.

But, even after four years, these provisions have not been implemented on the ground, creating what this paper terms “constitutional-developmental gaps”, i.e. structural deficiencies where platform misclassification violates fundamental rights on one hand and hinders inclusive growth on the other (Times of India 2024). The recent agitations on delivery platforms have exposed the true impact of misclassification. When *Blinkit* blocked the IDs of 150 workers during a protest in May 2025, or when *Zepto* workers went on strike for five days demanding basic facilities, it became clear how the lie of the “partner” story systematically denies constitutional protections. Those earning ₹10-15 per delivery and working 12-14 hours a day have neither the right to association under Article 19(1)(c), nor the protection of livelihood under Article 21 and are discriminated against as compared to formal employees, violating Article 14 of Constitution of India 1949.

This research fills a gap that has not been properly covered in scholarship until now. In this, the first methodical constitutional analysis of platform misclassification in India's delivery sector has been given. So far, most commentaries have talked only about “aggregator resistance,” however, this study clearly maps compliance failures. It proposes a rights-based litigation framework and shows that legal classification directly affects the outcomes of democratic development. The most important point of this research is a new idea: the “constitutional piercing” doctrine. This means that if any platform provides public service, then it will have direct responsibility for fundamental rights. It does not matter how this is labelled in the contract. Through doctrinal analysis, this paper highlights the structural gaps in cess contribution and suggests that policy reforms should be made. These reforms could align with constitutional mandates for digital labour governance.

The core theme of this paper comes from the Sociological School of Jurisprudence which considers law as a living instrument. This means that law should always evolve with new social and economic changes. The misclassification of platform workers in India shows that there is a huge mismatch between legal form and social function and mere textual or formal interpretation alone will not resolve this problem. Roscoe Pound asserted that the law should become a tool of “social engineering”. It can address structural injustices by balancing competing interests. Algorithmic control and power asymmetry are clearly visible in the context of the gig economy, but workers still do not have enforceable protections. Therefore, it is necessary to reconsider the interpretation of the Constitution. This paper extends Roscoe Pound's vision into the digital age, and proposes the doctrine of constitutional piercing that aligns the promises of Articles 14, 19(1)(c), and 21 of the Indian Constitution with the real-life situations of gig workers.

## 2. RESEARCH QUESTIONS

- i. How does contractual misclassification of platform workers undermine their fundamental rights under Articles 14, 19(1)(c), and 21?
- ii. Can gig economy platforms be interpreted as quasi-state actors when they regulate people's livelihoods using algorithmic control?
- iii. What are the doctrinal and constitutional gaps in India's existing legal framework with regard to digital labour governance and platform liability?
- iv. How does the proposed doctrine of “constitutional piercing” offer a rights-based resolution to address structural precarity in the platform economy?

### 3. RESEARCH OBJECTIVES

- i. Develop a constitutional framework to address misclassification of gig workers as a fundamental rights issue under Articles 14, 19(1)(c), and 21.
- ii. Examine whether digital platforms regulating livelihoods can be treated as quasi-state actors under Article 12.
- iii. Propose the “constitutional piercing” doctrine to impose constitutional obligations on private platforms performing public functions.
- iv. Provide a rights-based roadmap for litigation and policy reforms.

### 4. LITERATURE REVIEW

The intentional misclassification of platform workers as “independent contractors” allows platforms to escape employer obligations such as minimum wage, social security, and collective bargaining. While the global literature focuses more on employment status tests, algorithmic control, and labor preference, Indian scholarship is now gradually beginning to understand the constitutional, regulatory, and political aspects of this problem. This literature review provides a synthesis of interdisciplinary sources that understand the legal, constitutional, and empirical aspects of platform misclassification.

#### 4.1 From Labor Law to Platform Governance

Jaishree and Jha 2024 in their paper, argue that calling platform contracts “partnerships” creates an illusion while the real control is with the platforms. Gill and Gupta 2024 in their paper discuss how India’s old contract labor laws do not capture the new algorithmic control of gig work. They suggest that the classification system should be updated so that algorithmic task allocation is also considered as managerial control.

#### 4.2 Algorithmic Control and Conditional Rights

Anjali Anwar, Garcia, and Hui 2024 propose the concept of “conditional empowerment,” in which platforms use algorithmic systems to discipline and incentivize workers. Social benefits such as insurance are promoted but are performance-dependent and can be withdrawn without due process, creating a pseudo-state control. Bhattacharyya and Adhikary 2025 in their paper observe that the use of performance metrics without oversight is changing the structure of work relationships and privacy, which complicates the application of Articles 21 and 19(1)(c) of the Indian Constitution.

#### 4.3 Structural Precarity and Policy Exclusion

Nair 2022’s analysis shows that gig workers also face algorithmic discrimination along social layers such as caste and gender. Thomas 2024’s analysis of Fairwork India data shows that Indian platforms mostly fail in metrics such as fair pay, contract transparency and representation. Gohil and Jha 2024 in their paper analyzed data from the e-Shram portal and showed that only 0.13% of food delivery workers had registered for social protection. This clearly highlights the limitations of voluntary compliance models.

#### 4.4 Platform Work and Democratic Deficit

The effects of platform misclassification are not limited to labor regulation but also challenge India’s democratic structure and constitutional values. Nathan, Kelkar, and Mehta 2022 in their book “Platform economy, techno-nationalism, and gig workers in India” argue that platform governance in India is shaped by geopolitical pressure, investor lobbying, and digital development agendas, where labor rights are sidelined. Nair 2023 in her paper observes that gig work is not a disruption but an algorithmic extension of existing informal labor systems.

## Research Gaps

All the sources reviewed primarily highlight the legal and structural vulnerabilities of gig work. But these discussions rarely treat gig work as constitutional violations within the context of Articles 14, 19, and 21. Also, there is a lack of a legal analysis of platform governance as a quasi-governmental entity. The aim of this paper is to fill this gap by proposing the doctrine of constitutional piercing, in which the private platforms who while performing public functions, avoid legal obligations - should be made accountable within the scope of fundamental rights.

## 5. LEGAL CLASSIFICATION AND MISCLASSIFICATION IN INDIA

### 5.1 Traditional Tests for Employee Status

Indian jurisprudence has developed several detailed frameworks to differentiate between employees and independent contractors. One of the first tools was the “control test”, established in the case of *Dharangadhara Chemical Works v. State of Saurashtra*, 1956. This test measures whether the employer has control only over the results of work or over how, when, and where the work is performed. Subsequent Supreme Court judgments refined this to develop the “integration test”, which measures whether a worker is an integral part of the business operation. A “multi-factor test” is also used, which considers factors such as economic dependence, who provides the equipment, and how risk is distributed.

Table 1. Comparative Table: Traditional Employment Tests vs. Gig-Economy Conditions

Test	Classic Employee Indicators	Gig-Economy Realities	Platform Evasion Strategy
<b>Control Test – Does the employer control how/when/where work is done?</b>	Fixed schedules; supervision; assigned routes/tasks; monitored performance	Algorithms allocate tasks, track workers via GPS, enforce ratings, and determine earnings through dynamic pricing	Drafting “partner” contracts denying employment; labelling workers as “independent providers” while imposing acceptance-rate thresholds, uniform mandates, and deactivation powers
<b>Integration Test – Is the worker integral to the business operations?</b>	Work is core to enterprise; embedded in workflows; uses company systems/brand	Delivery agents perform core service (fulfilment); required branding/uniforms; embedded in platform logistics, navigation, ratings, and dispute resolution	Reframing workers as “self-employed entrepreneurs” while operationally embedding them in the platform’s core business
<b>Multi-Factor Test – Who bears economic risk, provides tools, ensures stability?</b>	Employer provides tools; limited risk to worker; predictable income; statutory benefits	Platforms supply app/infrastructure but shift costs (rentals, penalties, equipment) to workers; high income volatility; minimal or conditional insurance	Contractual clauses shifting risks and compliance costs to workers; per-delivery variable pay presented as entrepreneurial risk; benefits withdrawn without due process

But the main issue is that traditional legal frameworks do not apply to digital platform-based systems because their boundaries are not clear. Delivery workers are completely under algorithmic management, which distributes their work, decides their income, and constantly monitors their actions. Yet they are called 'contractually independent'. Legal scholars call this 'parasitic capitalism', where the employer exercises employee-level control over the workers but smartly avoids legal responsibilities.



## 5.2 The “Partner” Model in Platform Contracts

Platform agreements have now become a legal tool that easily passes traditional employment tests. For instance, *Swiggy's* ‘Delivery Partner Agreement’ clearly states that ‘employment relationship does not exist’ and the workers are called ‘independent service providers.’ Similarly, *Zomato*, in its own terms, calls its delivery personnel ‘Delivery Partners’ and indicates that the workers operate their ‘business’ through the platform. But the real strategy is hidden in the drafting of the contract. There direct control is denied, but the entire system is imposed through hidden conditions. Workers are compelled to maintain a minimum acceptance rate, keep customer ratings above a threshold, wear prescribed uniform, follow fixed delivery routes, and be available on duty during specific hours. The meaning of ‘independent’ is just the name, in reality the whole system tightly controls their behavior.

Failure to do all of these results in ‘deactivation’ without due process. Deactivation simply means quiet termination. While the name is kept ‘independent’, the control still remains at the employer-level. Algorithmic management that runs in the backend, controls in a more sophisticated way than traditional employers. Real-time GPS tracking monitors every movement, controls earnings according to a dynamic pricing demand algorithm, and machine-learning systems assess performance on multiple parameters.

## 5.3 Misclassification's Impact on Social Security Entitlements

Section 114 of the Social Security Code 2020 sets a requirement for aggregators to contribute 1–2% of their annual turnover, capped at 5% of worker payments, to fund social security schemes for gig workers. But when workers are classified in the wrong category, the platforms systematically escape these obligations. Parliamentary records confirm that “provisions under the Code relating to gig and platform workers have not come into force,” while this statute has been enacted in 2020 (Times of India 2024).

*Zomato* had a turnover of ₹274.2 crore in 2020 and had 1.62 lakh delivery partners and on this basis, the maximum contribution would have been ₹5.48 crore, i.e., just ₹282 per worker per year. *Swiggy* had a turnover of ₹277.6 crore and with 2.4 lakh workers, this would have come to a contribution of just ₹193 per worker per year. These amounts are far less than the benefits of the formal sector, where ESI contribution alone is about ₹325 per month for a minimum-wage worker (Press Information Bureau 2024a). This data shows how inadequate the theoretical contributions are even if they are implemented.

The most troubling thing is that workers report that platforms also shift the costs of compliance to them through reducing per-delivery rates, equipment rent charges, and penalty structures. The All-India Organization of Employers explicitly warned that these contribution requirements would create increased costs, which the platforms inevitably push over to the workers themselves by deducting such amounts from their income.

# 6. CONSTITUTIONAL DIMENSIONS OF MISCLASSIFICATION

## 6.1 Article 14: Equality Before Law

Platform misclassification systematically violates equal protection rights because it does not provide equivalent legal protections to similarly situated workers. Hon’ble Supreme Court in the case of *Daily Rated Casual Labor v. The Union of India* 1987 clearly states that employment classifications should be based on some “intelligible difference” that is directly related to the statutory objectives (Mathur 2020).

But delivery workers who perform substantially the same functions as formal employees, such as transportation, goods handling, customer service, get drastically different social security protections without any rational justification. This violation becomes even more glaring when the comparative benefit structures are considered. For instance, formal sector workers receive a total 15.25 percent of wages through

employers (12 percent Provident Fund plus 3.25 percent Employee State Insurance) but the delivery workers, who do economically equivalent work, receive theoretical contributions of only 0.1 to 0.3 percent based on current cess calculations. Such extreme disparity fails the “reasonable classification” test laid down by the Hon’ble Supreme Court of India in the case of *Anwar Ali Sarkar v. State of West Bengal 1952*.

Further, the lack of clarity and ambiguity in the definitions of the Code further intensify these violations. A worker may simultaneously fit into the categories of “platform worker,” “gig worker,” and “unorganized worker,” but there is still no certainty as to their applicable protections. This definitional confusion violates the requirement of Article 14 of Indian Constitution, that legal standards be clear and predictable.

## 6.2 Article 21: Right to Life and Livelihood

The Hon’ble Supreme Court of India has given a fairly broad interpretation to Article 21 in the case of *Olga Tellis & Ors vs Bombay Municipal Corporation & Ors. Etc 1985*, recognizing the right to livelihood and decent working conditions as essential parts of human dignity. But in delivery work where there are serious occupational hazards such as traffic accidents, robbery, physical assault and extreme weather, misclassified workers have neither accident insurance, nor medical coverage, nor disability benefits, which are part of the positive obligations of Article 21.

Recent empirical evidence clearly shows how Article 21 is being systematically violated. During the *Zepto* workers’ strike in Hyderabad in May 2025, protestors highlighted that they receive only ₹10 to ₹15 per delivery while their daily work hours extend to 12 to 14 hours, without access to any basic facility like toilets, rest areas, or drinking water. Similarly, *Blinkit* workers demanded that they should not be allowed to work during the peak heat hours from 12 noon to 4 pm, as extreme weather exposure violates their right to life (Abhinandan 2025).

This constitutional violation is not just limited to the individual level, but also undermines the social dimension of Article 21. The Indian Federation of App Based Transport Workers filed a petition in the Supreme Court and forcefully argued that when social security benefits are denied, the working conditions become such that they amount to forced labor prohibited under Article 23. Platform agreements are designed to maximize control but minimize legal obligations- a relationship structure that directly harms the dignity of delivery workers, violating the core protection of Article 21.

## 6.3 Article 19(1)(c): Freedom of Association

When platform companies misclassify delivery workers as “partners”, they systematically deny them their right to collective bargaining under Article 19(1)(c) of the Indian Constitution. The Trade Unions Act 1926 recognizes only organizations of “employees”, which means that platform workers have been practically excluded from the formal labor relations system. The violation of this constitutional right is not limited to just legal exclusion, rather the platforms also actively retaliate against collective action. During the *Blinkit* strike in Varanasi in April 2025, the company blocked the IDs of 150 protesting workers, and restored access only after they agreed in writing that they would not strike in future.

‘Digital retaliation’ is a new form of suppression whose effective answer has not yet emerged in constitutional jurisprudence. This pattern of strike suppression is repeated again and again on different platforms, which shows that efforts are being made to systematically stop worker organizations. When *Zomato* reduced pay by 30% by introducing the ‘Select to Go’ policy, it also modified the algorithms through which workers were penalized if they declined extra assignments. Such platform control mechanisms gradually force workers to accept inferior conditions. The result of this process is that their constitutional right of freedom of association practically gets demoralized (NITI Aayog 2022).

## 6.4 Public Function and State-Actor Theory

The unique point of this paper is that it proposes a very bold idea: major delivery platforms should be thought of as quasi-governmental entities under Article 12, over which constitutional obligations should apply. In today's digital age, these platforms exercise state-like powers like assigning which work will be done, fixing payments, enforcing behavioral rules, resolving disputes, and managing essential delivery infrastructure, and that took over millions of workers.

The public function doctrine, which originated in the case of *Marsh v. Alabama* 1946 and which the Indian Supreme Court upheld in the case of *Board Of Control For Cricket vs Cricket Association Of Bihar & Ors* 2016, saying that constitutional accountability will apply even if a private entity traditionally performs governmental functions.

Delivery aggregators today perform fundamental functions such as economic regulation by deciding pricing and commissions, public service delivery by coordinating essential goods, dispute resolution through algorithms and manual systems, and data governance through profiling/tracking, which feels like citizen-level surveillance. Therefore, constitutional obligations should be imposed on these platforms, regardless of their contractual status. When these entities evade social security duties through misclassification, they violate not only statutory rules but also constitutional dictates which protect fundamental rights.

## 7. DEVELOPMENT IMPLICATIONS AND POLITICAL ECONOMY

### 7.1 Misclassification and Developmental Exclusion

Misclassification is not just a legal or contractual issue; it has a direct impact on India's broader developmental goals, especially as gig workers are not legally recognized as employees. This automatically excludes them from social protection schemes, which are a core part of the UN SDGs, especially breaking the direct link with Goal 8 (Decent Work and Economic Growth). Despite international commitments to inclusive growth, in ground reality these platforms are systematically excluding these workers, thereby weakening both decent work and social security. Viewed through an economic lens, this exclusion creates a poverty trap. When delivery workers have neither accident insurance, nor health cover, nor a retirement safety net, any income shock like an accident or illness can put an entire family in trouble. Research in Puducherry shows that work that initially provided "respectable income" gradually became unsustainable because of the cost-shifting strategies of platforms like lower rates, higher delivery targets, and zero benefits (V. V. Giri National Labour Institute, n.d.).

Its impact is not limited to individual workers but on the entire economy. When misclassified gig workers such as delivery agents get sick or get into accidents, they do not have employer-provided insurance, leading them to often rely on government hospitals, which are run with taxpayers' money. In this way, platforms shift the burden of their responsibilities to the public system, leading to a "silent subsidy" where private profits of these companies are indirectly supported through the public health system. In simple terms, the profits of rich corporations are run on the back of public money, which is a reverse and unfair redistribution.

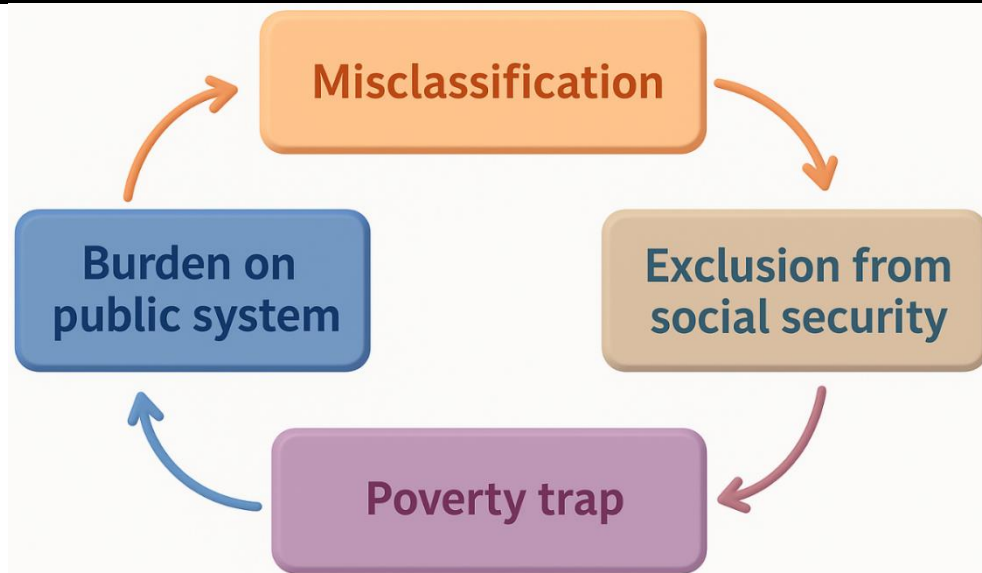


Figure 1. The Misclassification Cycle in India's Gig Economy

## 7.2 Democratic Deficit and Policy Capture

Platform misclassification creates a systematic democratic deficit in which workers are excluded from tripartite policy consultations and collective bargaining institutions. This was clearly shown in the drafting process of the Social Security Code where aggregator associations made detailed submissions against contribution requirements, while worker organizations did not have the institutional support to effectively advocate for their interests.

Corporate lobbying strategies show that platforms made sophisticated efforts to preserve the benefits of misclassification. The All-India Organization of Employers has warned that if contribution requirements are imposed, the platforms will pass on this burden directly to workers. This clearly shows that a coordinated strategy was developed to avoid compliance costs at the industry level. Such coordination results in regulatory capture, in which policy outcomes systematically favour the interests of the platform, not the welfare of workers.

This democratic deficit is also clearly understood from the registration experience of the e-Shram portal. Despite mandatory registration, major platforms complied only in September 2024 when the government put sustained pressure on them. Even after that, registration rates remained low, due to digital literacy barriers and the reluctance of platforms to actively support workers in getting access to government schemes (Jefferin 2025).

## 7.3 Federalism and State-Level Variations

India's federal structure makes the response to platform worker misclassification more complex, as labour regulation falls under the jurisdiction of both central and state governments. Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, passed on 24 July 2023, was the first state-level legislation that specifically addresses the rights of gig workers. After this, Karnataka passed the Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025 on 27 May 2025, and Telangana released the draft of the Gig and Platform Workers (Registration, Social Security and Welfare) Bill, 2025 for public consultation. All these show divergent approaches from states, such as there is a risk of conflict with the central schemes of the Social Security Code (N.Rahul 2025).

These variations reflect the deeper tensions within Indian federalism regarding digital economy governance. States have less regulatory capacity to effectively regulate multinational platforms, while central authorities face struggles over implementation in diverse regional contexts. India has over 52 federal labour laws and



over 200 state-enacted laws and amendments, creating a complex legal structure. Labour is a concurrent subject where both the central and state governments can legislate. This results in fragmented oversight, which platforms benefit from through jurisdictional arbitrage, a strategy in which firms choose jurisdictions where regulations are more favorable to them and bypass strict laws.

## 8. EMPIRICAL MAPPING OF COMPLIANCE GAPS

### 8.1 Cess Contributions Analysis

Parliamentary data shows that there is systematic non-compliance with the requirements of the Social Security Code on delivery platforms. Even after the 2020 enactment of Section 114, government statements confirm that “provisions for gig and platform workers have not yet been implemented”. This four-year implementation delay allows platform misclassification to continue, while workers are still excluded from promised protections (Times of India 2024). If you look at the numbers, they fail too. *Zomato's* turnover of ₹274.2 crore gives a cess of just ₹5.48 crore-which comes to around ₹282 per worker per year. *Swiggy's* figure is even less-193 per worker. When compared to 15.25% of wages in the formal sector going towards social security, these amounts seem to be just symbolic (Press Information Bureau 2024a).

Worker surveys also raise other compliance concerns, especially around contribution deductions. Many delivery workers report that whenever the government talks about bringing in contribution rules, the platforms immediately increase the commission or bring in new penalty rules. This clearly shows that companies are passing the cost pressure on to workers-while protecting their margins, and undermining the very welfare net for which these laws were enacted (The Economic Times 2025).

### 8.2 Strike Analysis and Worker Experiences

Recent strikes have provided empirical proof of the harms of misclassification and workers' resistance strategies. In a strike against *Zepto* in Hyderabad in May 2025, 100s of workers demanded basic amenities like toilets, drinking water, and rest areas that are available by default in formal employment. The workers striking for five days shows how desperate their working conditions are and how vulnerable the platforms become when workers take collective action.

The response to the *Blinkit* strike in Varanasi clearly shows that platforms adopt retaliation strategies that directly undermine the protections of Article 19(1)(c). The company shut down digital access of 150 protesters and took written pledges from them that they would not strike again. Such conduct is a systematic suppression of association rights, which the existing labour law cannot handle. Such digital retaliation cases require new legal frameworks, where coercion through technology is legally recognized in a clear manner.

Nowadays, a common pattern is emerging on every platform. For example, *Blinkit* reduced the delivery charge from ₹50 to ₹25 and on top of that introduced an extra cut of ₹15 on every delivery. Similarly, *Zomato* has implemented fake working-hours tracking and punitive rating systems, which run on completely opaque algorithms. When these practices are seen together, it is clearly visible that the industry is using a planned strategy. Its main objective is that companies should maintain full control over the workers, but stay away from employment obligations. In such a situation, a tight grip is being maintained on the workers without accepting any legal responsibility.

## 9. POLICY AND LITIGATION ROADMAP

### 9.1 Constitutional Piercing Doctrine

This paper proposes a new legal doctrine which we call “constitutional piercing”, in which digital labour platforms are treated as quasi-state actors and subject to constitutional obligations under Article 12 if they perform state-like functions. This doctrine has clear criteria: market dominance in essential services, complete hold over workers through algorithmic control, infrastructure providing access to public goods, and quasi-regulatory decisions such as pricing/access, in which case the platform will be held responsible for fundamental rights. Writing “independent” in the contract does not avoid constitutional responsibility when the actual work is state-like. This makes it legally feasible to enforce workers’ fundamental rights (fair process, non-arbitrariness, equality) against platforms.

*Indian Federation of App-Based Transport Workers v. Union of India* 2021 case, which is before the Hon’ble Supreme Court, is a foundational example of a constitutional challenge against platform misclassification. The petition was filed in September 2021 and represents more than 35,000 gig workers of platforms such as *Ola*, *Uber*, *Swiggy*, and *Zomato*. The main claim of the petition is that the “partner” agreements made violate Articles 14, 21, and 23 of the Constitution of India.

In recent hearings, the Supreme Court clearly showed its frustration over the inaction of the government. On 18 February 2025, Justice Dipankar Datta raised the question as to why there was a delay of 4.5 years in implementing the rules of the Social Security Code, while Justice Manmohan sarcastically said that “now only astrologers can tell when this Code will come.” The Supreme Court directed the Union Government to file an affidavit giving a clear timeline for implementing Chapter IX related to gig worker social security (Bakshi 2025).

Now this litigation framework must expand strategically to include some specific constitutional remedies like: Mandamus relief like immediate implementation of Section 114 after a delay of 4 years; Declaratory relief declaring platform misclassification a direct violation of Articles 14, 19(1)(c), and 21; interim compensation for workers who were systematically deprived of social security during this implementation delay; and constitutional interpretation recognizing major platforms as quasi-state actors—meaning they are bound by fundamental rights obligations regardless of contractual classification. This case is not just limited to individual worker welfare, rather its constitutional significance establishes precedent for the entire digital economy and redefines the boundaries of corporate constitutional responsibility.

### 9.2 Structural Reforms

Effective reform is possible only when we move beyond voluntary compliance to mandatory structural changes. The proposed specific cess slabs establish a progressive contribution system: Tier 1 platforms (those with more than 1,00,000 workers) will have to contribute 2% of their turnover plus 8% of worker payments. For the smallest platforms, this scale will be down to 1% plus 2%. This model addresses the proportionality concerns of the industry, but also ensures sustainable funding. Transparency mechanisms should be compulsory. This includes third-party audits, live dashboards where contributions are visible in real time, and workers have the right to audit/verify their own records. Every individual worker should have a direct right to access contribution records platform-wise, so that it is clearly known where the money is going. Independent auditors, who appointed the boards, will conduct compliance reviews every year, so that no gaps can be hidden. Public disclosure is also important thus detailed contribution reports and benefit distribution data should be openly available to everyone, to ensure accountability.

## POLICY ROADMAP

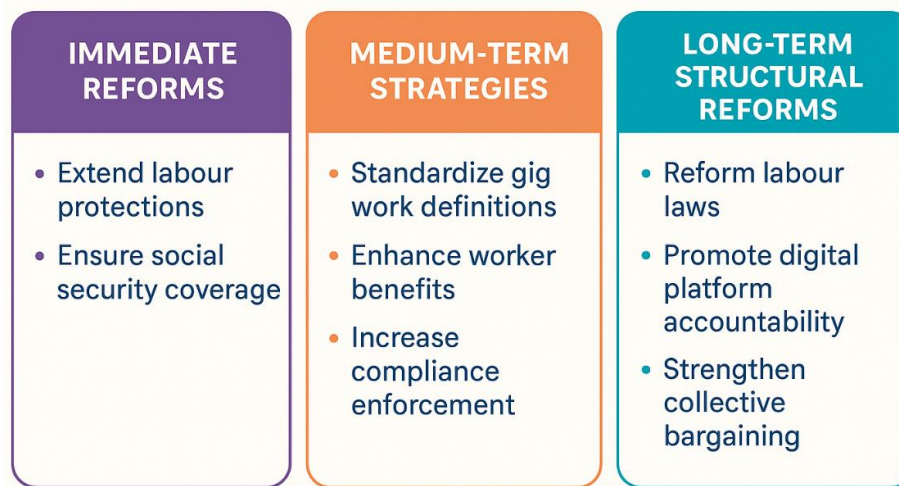


Figure 2. Policy roadmap for gig worker protections and platform reform

### 9.3 Legislative Amendments

Immediate legislative priorities should be that private contracts that violate the definitions of the Social Security Code should be overridden. Meaning, platform companies should not be allowed to misuse contractual clauses to classify workers as employees or deprive them of social security. This simply implies that it will not be possible to escape rights and benefits by applying the label of "independent contractor", if the actual conditions are those of the employer-employees, the contract will automatically be treated as void. A presumptive employment test should be introduced which will put legal responsibility on the platforms because they have the data, algorithms, scheduling, and payout records; so, they will provide proof that the relationship is genuinely independent. This change will reduce misclassification, resolve disputes quickly, and give workers real access to statutory benefits (such as social security, insurance, paid leave, grievance redressal).

The proposed National Social Security Board for Gig Workers should act as an independent trust, with neither government nor platform pressure to do anything, but only accountability and transparency. Governance will be tripartite, including government representatives, platform representatives, and worker representatives, so that no one side captures the system to its favor. To avoid regulatory capture, clear rules, conflict-of-interest disclosures, and periodic independent reviews will be required. The Board should also have the authority to invest the Social Security Fund in diversified investments (such as high-grade bonds, index funds, and low-risk instruments) so that the corpus is both safe and grows over the long term. Also, there should be strict risk limits, asset allocation policies, and annual performance disclosures. Judicial oversight will be mandatory, meaning workers should have clear legal rights that if the board mismanages funds or denies benefits, they can challenge it before the courts or designated tribunal. This ensures accountability and maintains the trust of workers.

## 10. CONCLUSION

This research shows that platform misclassification in India's delivery sector is not just a technical labour law issue. This is a systematic constitutional violation which destabilizes democratic development goals. Through 'partner fiction,' platforms gain benefits of employee-level control, but along with it, they also get the cover to escape from legal obligations. The result of this is that a constitutional-developmental gap is created. To fill this gap, immediate intervention is required at both judicial and legislative levels. The proposed 'constitutional piercing' doctrine is an approach whereby obligations of fundamental rights can be applied to digital platforms that perform public functions, regardless of their contractual classification.

When this approach is supported by empirical evidence, which shows that there are systematic compliance failures, and when it is combined with international comparative understandings, it becomes a strong pathway. This pathway helps align India's digital labour governance with constitutional mandates.

The impact of this issue is not only limited to the welfare of individual workers. This raises serious questions about corporate power, democratic governance, and inclusive development—especially as platforms are expanding essential services and employment relationships. Therefore, the governance structures of these platforms must reflect commercial interests as well as the core values of the Constitution of India. Now the choice is clear before the courts and policymakers—either they will protect constitutional rights and promote inclusive development through evolving regulatory frameworks, or they will continue such a digital economy which, in its nature, is linked to exclusion and democratic dissonance. Further, this research will do three things: first, empirically map compliance gaps across different sectors; second, develop litigation strategies for constitutional challenges; and third, rigorously assess the variations of state-level platform worker protection schemes. Only when scholarly attention, legal advocacy and policy innovation continue to be sustained, then India will be able to truly achieve its constitutional promises, such as dignity and equality. This process will ensure that these rights are strongly protected, even in the future of the digital economy.

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