



The gig economic women empowerment and legal protection of digital labor markets globalization digital labor and gender justice in India

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Abstract: In different jurisdictions digital platforms have transformed labour markets to create new types of work governed by algorithms. The gig economy in India has rapidly expanded in ride hailing food delivery and home service sectors with women making up a substantial share of it and being willing to work in it as a source of flexible income. However the legislation of platform work is based on the old paradigms of employer employee relationships which implies that social security and maternity benefits as well as the safety of workplaces are not fully accessible to everyone. In this paper it is intend to show how globalization has led to the expansion of digital labour markets and how gender legal protection in India is very inadequate. The present study is a combination of doctrinal and analytical methods that have been used to examine the constitutional guarantees in Articles 14, 15, 16, 21 and 39 of the Constitution of India under the Code on Social Security 2020 and under Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013. It also juxtaposes the information provided by NITI Aayog the International Labour Organization and the UK, US and Spains comparative experiences. The findings show that gender neutral legislative reforms do not solve the issues of algorithmic discrimination digital exclusion and the structural precariousness of women gig workers. The paper argues that substantive equality entails amongst other things a reform driven approach to legal reclassification focusing on algorithmic accountability and inclusive social security schemes as the means for realizing real empowerment of digital labour markets in India that have been globalized.

Key Words: Digital labour markets, Gig economy, Globalization, Gender justice, Platform regulation, Substantive equality, Social security.

1. INTRODUCTION:

A prominent example of the globalization of the twenty first century is undoubtedly the digital labour markets. Platform companies are global and therefore according to their business model they mostly use algorithmic management practices but they tailor their operations to the local national standards of the regulatory frameworks. India has turned into the largest gig worker market in the Global South and this phenomenon is set to grow significantly over the next decade as a result of the increased flexibility low entry barriers and the global supply chains. However this has caused disruption in labour law systems before.

Women's participation in the gig economy is a manifestation of both opportunity and risk. On the one hand the online platforms provide an avenue to earn money without the necessity of becoming a formal employee however the reality is that the majority of women are still engaged in the low wage service sectors and face increased risk of safety income instability and are the lack of statutory coverage. Globalization has exacerbated such contradictions multinational platforms now offer business models at the standard level classifying their workers as independent contractors thus limiting their liability and social security. The main research issue being debated here is the gap between the constitutional guarantee for gender equality in India and the application of legal loopholes to women in platform work.



The Code on Social Security 2020 defines gig workers and platform workers but the methods of its implementation are not yet complete which leads to an interpretative problem of decentralized digital labour.

Specifically this article will use traditional academic definitions. A "digital labour market" is an online intermediary system that through algorithmic procedures matches service providers and consumers without employment turnover contract. "Gig economy" refers to a mode of labor organization where the structural disadvantages are removed through the substantive equality concept rather than the formal prohibition of discrimination.

In this article it is argued that it is not enough to provide gender neutral regulatory solutions as the Indian gig economy can only be understood against the backdrop of economic globalization and labour in-formalization. Instead there is a need for a more gender responsive framework that is constitutionalism so that the digital economic integration does not become a means for perpetuating systemic inequity.

The research problem is that in the current Economical environment it is safe to say that the gig economy has evolved at a faster pace than the legislature development which could have regulated labour in this area. Although platform work has been identified as one of the tools for economic growth and digital inclusion women gig workers are still denied some basic benefits which are designed to protect women like maternity care social insurance contributions and are basically denied access to measures put in place for grievance redressal. The Code on Social Security 2020 has defined gig and platform workers but it does not provide clear and enforceable requirements of the employer which hence leaves that aspect to the whims of the decentralised platform labour.⁸ In addition the Sexual Harassment Act 2013 presupposes a definite workplace and employer employee relationship thus leading to the problem of defining the nature of labour in the case of decentralised platform labour. This discrepancy is further deepened by globalization. By the standardization of independent contractor models in different jurisdictions multinational platform companies are able to dodge social security payrolls. The result is that a structural contradiction exists whereby there are legal protections of equality and market forms that are disproportionately unfavorable to women. The unclear nature of gender sensitive legislation makes women gig workers fall into the grey free zone between being entrepreneurs and being employees thereby compromising both economic and substantive equality.

2. LITERATURE REVIEW:

Sanjita Das *Globalization and the Gig Economy in India Labour Justice in the Age of Digital Platforms (2025)* discusses how global digital platforms are affecting the labour markets in India when the unemployment rates among the youth are high and there has been an increase in the use of technology. Applying doctrinal comparison of labor codes and similar cases such as *Uber BV v. Aslam* it shows the models of platforms that give rise to precarious gig work in ride-hailing and delivery that are borderless. Results reveal economic benefits (90 million jobs projected by 2030) but social expenses such as lack of social security and political disparities in the implementation of the same which necessitate gender-sensitive policies. The research marks a gap that needs to be filled to discuss the issue of algorithmic discrimination in relation to women suggesting a system of functional reclassification of workers to be used in the given research.

The article of **Apurva Singhi** *Female Workers in the Indian Platform-Mediated Gig Economy Highlighting a Need for Reform (Mar. 3 2023)* directly supports the scope of this paper since it focuses on gender-specific safeguards of gig women in the context of the platform expansion in the era of globalization. Singhi seeks to unravel the legal loopholes in sexual harassment protections of female platform employees through the doctrinal discussion of the Sexual Harassment Act 2013 and case studies of the platform. Results indicate that the mediatory role of platforms avoids employer responsibility which creates social seclusion financial susceptibility to unreported attacks and political non-action of decentralized working environments. This means that the amendments to POSH necessary in gig situations are urgent. In conclusion of reforms should address virtual workplaces it lapses on the intersection of algorithmic bias which makes the substantive equality question of this study How can global platforms be safe without reclassification? The research problem is that the formal laws do not recognize feminized precarity but they include the grievance mechanisms of policy thrusts of Singhi.

The article **N. Arya et al.** *Women Engagement and the Gendering of India Digital Platform Economy (2024)* contributes to the examination of gendered precarity of globalization in the digital platform economy developed in this paper. Arya does an exploration of the platform experiences of women amid ignorance of data reviewing doctrinally the labor laws and through empirical work surveys of workers. Results reveal social isolation economic informality on algorithmic



ratings and political gaps in the enforcement of POSH with implications of gender audits. Arriving at a conclusion of responsive reforms it breaks the algorithmic accountability which is the reclassification question of this study How do global platforms reproduce exclusion? The issue is that law does not see feminized risks and it includes Arya metrics of policy based on equity.

Disha Pandey *Impact of Digitalization on Employment Pattern in India. (2024)* The globalization lens that supports the lens in this paper associates digital transition with gender disparities in gigs work. The purpose of Pandey is to evaluate the impact of digitalization on the employment after the Digital India based on secondary data and regression analysis of the GDP job composition and gender indicators. Results indicate 4.1% GDP growth through 2030 yet social marginalization through digital inequalities economic instability on feminized jobs and political requirements of skilling. Suggesting profession-wide changes it leaves gig-specific safety nets viewing the question of this study as to platform equity How does globalization create divisions? This issue is the labor market inflexibility which is integrated with Pandey inclusion strategies of substantive reforms.

The following paper is informed by **Tanmay Sachdeva** *The Gig Economy in India Unpacking the Economic and Social Implications (2024)* which sheds some light on the globalization-based gig precarity faced by women in the world. Sachdeva attempts to tear up the growth of gig through secondary data provided by NITI Aayog which indicates 7.7 to 23.5 million workers by 2030 under the impact of technological changes. Descriptive analysis exhibits economic flexibility and social insecurity low wages in feminized sectors and political demands of welfare. Suggesting skilling reforms it cuts across gender reforms which leads to this question How do platforms entrench inequity? The Research Problem informalization disregards equity takes into account the projections of policy by Sachdeva.

3. OBJECTIVES :

- To examine the constitutional and legal provisions relating to gig and platform workers in India.
- To explore the impact of globalization and platform capitalism on women in the workforce and their protection.
- To identify the gender specific structural issues in digital labor markets in India.
- To propose substantively equal reforms legally grounded.

4. RESEARCH QUESTIONS:

- 1) What are the implications of Articles 14 15 16 21 and 39 of the Indian Constitution for women who engage in gig work?
- 2) How does globalization influence the arrangement of workers and the policies in the platform economy in India?
- 3) What are the gender specific disadvantages of algorithmic management and informalized labor formations?
- 4) What legislative changes can be introduced to guarantee substantive equality and the successful protection of women gig workers?

5. RESEARCH METHODOLOGY :

The present study combines doctrinal research with an analytical approach. The primary legal materials for doctrinal analysis are the Indian Constitution the Code on Social Security 2020 and the Sexual Harassment of Women at Workplace (Prevention Prohibition and Redressal) Act 2013. To recognize consistent trends among interpreters relevant judicial decisions on worker classification and labor rights are also reviewed. The analytical parts rely on secondary sources for example a NITI Aayog report on the gig economy in India and research by the International Labor Organization (ILO) on women and platform work to offer supporting information. The development in the United Kingdom (*Uber BV v Aslam*) 10 the United States (the Californian model of AB5) and Spain is compared to determine the regulatory frameworks which combine the protection of workers and the technological innovation of platforms. The combination of policy analysis and interpretation of legal doctrines as a tool provides a great opportunity for a critical examination of the Indian legal framework through the lenses of globalization and gender justice.

6. THEORETICAL FRAMEWORK:

Women participation in the digital economy should be considered through the lenses of the feminist legal theory and constitutional doctrine of substantive equality. Feminist jurisprudence argues that the approach of formal equality of dealing with different groups as if they were the same without considering structural disadvantage is a mistake. In contrast substantive equality requires the state to take positive measures to remove systemic barriers.



Article 14 and 15 of the Constitution of India provide for equality before the law and prohibition of discrimination on the ground of sex. The right to life with dignity and the equal pay methods are protected under Article 21 and Article 39(d) respectively. These legal provisions collectively constitute a constitutional commitment to gender justice. However the informalisation of labour markets has been a consequence of the globalisation of labour relations leading to the decentralization of employment relationships and weakening the system of collective bargaining.

Platform capitalism represents a mode of algorithmic management which replaces the traditional oversight mechanisms through the use of rating systems fluctuations in prices and hidden methods of allocation. This form of a system of governance is a manifestation of labour under globalized neoliberal capitalism which tends to be flexible rather than secure. Historically women have been in the most vulnerable labour positions and therefore they are the main victims of these changes.

It is evident that the principles of constitutional equality have to be extended to the digital economy in order to respond to the above research questions. Should globalization reconstruct the labour markets then constitutional interpretation ought to be in line with such a reconstitution. The mere gender neutral application of labour laws would be incapable of addressing the various disadvantages arising from digital exclusion care giving burdens and threats to safety. Hence the conceptual framework calls for regulatory measures which effectively implement substantive equality in a labour space moderated through algorithms.

7. FINDINGS AND DISCUSSION :

7.1 INDIA DIGITAL LABOUR MARKETS AND THE RISE OF THE GIG ECONOMY:

Integration into global digital value chains has significantly enhanced the expansion rate of platform based services in India. NITI Aayog foresee that by the year 2030 there will be as many as 23 million gig workers in India most of them working for ride hailing logistics food delivery and home service industries which are mainly based on multinational or venture capital platforms.

Globalization affects this growth in three different ways. First cross border capital flows are financing rapid scaling of platforms. Second the standardized contract models seek to treat workers as independent contractors so as to reduce the compliance costs. Third artificial intelligence technologies developed in international markets are being copied domestically.

The participation of women in the gig economy is a balancing act between opportunity and constraint. On one hand flexible work arrangements provide the chance for earning and accommodate domestic duties on the other hand emphasis on less paying service sectors still leads to wage disparities. The pattern of occupational segregation in jobs reflects on the global trend of feminized labour industries.

Furthermore the digital divide remains very visible. According to government statistics women have less access to the internet and smartphones than men this limits access to higher paying digital activities and becomes a source of structural inequality. Globalization is thus generating an unfair inclusion whereby structural differences remain as markets get bigger.

This part is specifically Research Question 2 because it demonstrates that globalization is not just an economic phenomenon but also a regulatory issue. The transparency is lowered by the standardization of algorithms that are used by the cross border nature of the platforms to make them domestic to enforce. Hence the labour law system in India needs to evolve in line with globalized digital enterprise systems.

7.2 LEGAL SYSTEM THAT REGULATES WOMEN GIG WORKERS:

The constitutional provisions of India set out a normative framework for gig workers but lack direct enforcement provisions. Article 14 guarantees equality before the law Article 15 prohibits discrimination on the grounds of sex Article 16 guarantees equality of opportunity in public employment Article 21 protects the right to dignity and Article 39(d) promotes equal pay. However these are enforced through statutory measures. Section 2(35) and 2(61).16 The Code on Social security 2020 in Section 2(35) and 2(61) defines a gig worker and a platform worker respectively which is a progressive step but the platform based implementation will not be compulsory as per the scheme. Without mandatory requirements the question of access to social security arises. The Sexual Harassment of Women at Workplace (Prevention Prohibition and Redress) Act 2013 requires Internal Complaints Committees in establishments.17 However since gig platforms are typically treated as an intermediary but not an employer it leaves their compliance obligations unclear. Indian courts have previously applied functional tests of control to determine the employment status. Although there is no clear Supreme Court ruling on whether gig workers should be considered employees comparative jurisprudence including *Uber BV v Aslam* in the United Kingdom indicates that setting the price and monitoring performance can be used as grounds for worker reclassification.



Answering to Research Question 1 one can see that constitutional guarantees should in principle be applicable to all citizens including gig workers. However due to the absence of statutory provisions platforms are able to circumvent labour requirements. The problem of the current legal gap mainly affects women who among other things require maternity benefits health insurance and safety nets.

Therefore, even though India has acknowledged the gig workers in the legislation it has however not been fully implemented. To close that gap it is important to give a gender sensitive interpretation to the Code on Social Security and the Sexual Harassment Act.

7.3 GENDER-SPECIFIC CHALLENGES:

Women workers in the gig economy face gender specific challenges because of social norms and their position in digital governance. Dynamic pricing algorithms are the main reason for income instability as they are frequently changed without any predictable pattern. Rating systems which are customer biased will lead to women being punished more often than men. Without transparency workers will be left powerless to even dispute discrimination.

Exclusion from maternity benefits is a major concern. Women suffer a double loss of economic security and health rights because most gig workers are not covered by the Maternity Benefit Act 1961 simply due to their being classified as independent contractors. Safety becomes more of an issue in physical mobility and home entry sectors. Even though the platforms have emergency support features there's no legal regulation to ensure accountability.

The digital divide is one of the limitations of the situation. Further lower digital literacy and the lack of devices make it difficult for most women to have access to jobs that pay well and does not facilitate the negotiation of safer working conditions and fair wages.

The findings of the study addressed Research Question 3 by indicating that harms are gender specific not only because of discrimination but also due to the structural informalization of labour which is supported by algorithmic governance. These vulnerabilities are intensified by globalization as it prioritizes scalability and efficiency over worker protection.

7.4 COMPARATIVE JURISPRUDENCE:

In *Uber BV v. Aslam (2021)* the UK Supreme Court ruled that drivers are workers who can claim minimum wage and holiday pay under the Employment Rights Act 1996. but the decision was only made by considering functional control and not their contractual status.

In the US the Assembly Bill 5 (AB5) of California adopted the so called ABC test which presumes that workers are employees unless they demonstrate a very high level of independence thus indicating that lawmakers are willing to challenge platform classifications.

Spain's Rider Law (2021) can be considered as a piece of legislation that enforces the recognition of food delivery riders as employees and requires exposing the use of algorithmic management. It is a legislation that directly deals with digital labor regulation. Comparative analysis reveals that the regulatory adjustment process is doable. India can gain knowledge about the classification of workers mandatory social security contributions and transparency through algorithms.

7.5 POLICY RECOMMENDATIONS:

At the outset the government should clarify their employment status by law. The Social Security Code should contain a functional control test where platform workers will be considered dependent workers for the purpose of social security contributions. Secondly maternity and health benefits should be extended by facilitating the forced contributions of the platform to a national gig worker welfare fund. Thirdly the Sexual Harassment Act should be amended to specifically cover digital and decentralized workplaces thereby requiring the establishment of grievance redressal mechanisms for gig workers. Fourthly regulatory change should be complemented by digital inclusion programs especially for women such as subsidized phones and digital literacy programs. The actions would make substantive equality operational and thus they would be a direct answer to Research Question 4.

8. CONCLUSION :

Globalisation of the digital labour market has changed the face of employment in India by opening up opportunities as well as causing job insecurity. To be sure the gig economy has facilitated flip flop engagements however its legislative framework is still not adequate to respond to gendered precarities. The Articles 14, 15, 21 and 39 provisions on equality bring a normative imperative but the current legislative framework including the Code on Social Security 2020 and the Sexual Harassment Act 2013 lack strong enforcement measures of platform work. As depicted in this paper globalization



is leading to the informalization of labour thus multinational companies through their platforms can easily normalize the independent contractor models. Women are on the far side of the digital divide (both in terms of disconnection and care giving). Comparative jurisprudence shows that reclassification and algorithmic accountability can be legislated through a revision at the legislative level. A gender responsive regulatory intervention is necessary to bring the digital transformation in India in line with its constitutional vision of substantial equality. Women can be liberated from the gig economy only through a combination of market access and legal protection. Digital labour markets that are not structurally redesigned will probably end up reproducing the traditional inequalities under a technologically sophisticated veil.

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