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Vidisha Shekhawat
Manipal University Jaipur, India, vidishashekhawat5@gmail.com

Pranjal Khare
Jindal Global Law School, O.P. Jindal Global University, India, pkhare364@gmail.com

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Legal Protections for Gig Workers: A Comparative Socio-legal Study of Indonesia and India

Vidisha Shekhawat[1] and Pranjal Khare[2]

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Abstract

The platform economy has transformed the lines of labour in the last few years across both developed and developing countries. In the case of other countries, such as Indonesia and India, where informal employment has been a long-standing characteristic of the labour force, the rise of digital platforms, including Gojek, Grab, Swiggy, and Zomato, has added another layer of complexity to already existing labour issues. These services provide flexibility and earning potential, albeit in exchange for social safety nets and work rights. This paper undertakes a doctrinal and comparative socio-legal study to observe the way the legal jurisdictions of Indonesia and India are adapting to the emergence of platform-based gig work. Grounded on legal pluralism and access to justice approaches, the present research analyses the sufficiency of the existing labour laws regarding the changing characteristics of digital labour. Such statutory instruments, such as the Indonesia Omnibus Law on Job Creation or the India Code on Social Security, 2020, are used in the analysis to compare the way platform labour and its entitlements are conceptualised in different jurisdictions. Instead of conducting empirical data collection in the field, the study centres on legal sources, policy documents, and judicial opinions with the aim of finding out the normative premises behind whether the regulation of platforms is done. The research concludes that both states are prolific legislators with the tendency to implement economic liberalisation rather than labour rights, although rarely taking into consideration the vulnerability of the gig workers in the legal rhetoric. Through a socio-legal perspective, this paper indicates the contradictions between technological advancement, the dignity of workers, and legal responsibility. It demands the reconsideration of binary employment regimes and proposes implementing hybrid regulatory regimes that will consider the special status of platform workers. Finally, the article adds to the discourse of labour justice in the digital world a global south perspective that asks all policymakers to design legislation that is not total in its market-driven orientation but in social justice and equality of access to the law.

Keywords: Gig Economy, Platform Labour, Labour Law Reform, Socio-Legal Studies, Legal Pluralism, Comparative Law (Indonesia–India)

Abstrak

Ekonomi platform telah mengubah lanskap ketenagakerjaan dalam beberapa tahun terakhir, baik di negara maju maupun berkembang. Di negara-negara seperti Indonesia dan India, di mana pekerjaan informal telah lama menjadi ciri khas angkatan kerja, kemunculan platform digital seperti Gojek, Grab, Swiggy, dan Zomato menambah lapisan kompleksitas baru terhadap persoalan ketenagakerjaan yang sudah ada sebelumnya. Layanan-layanan ini memang menawarkan fleksibilitas dan potensi penghasilan, namun sering kali dengan mengorbankan jaminan sosial dan hak-hak kerja. Artikel ini menggunakan pendekatan doktrinal dan studi sosio-legal komparatif untuk menelaah bagaimana yurisdiksi hukum di Indonesia dan India beradaptasi terhadap munculnya pekerjaan berbasis platform. Dengan berlandaskan pada teori pluralisme hukum dan pendekatan akses terhadap keadilan, penelitian ini menganalisis sejauh mana hukum ketenagakerjaan yang ada saat ini mampu menjawab perubahan karakteristik kerja digital. Instrumen hukum seperti Undang-Undang Cipta Kerja di Indonesia dan Code on Social Security 2020 di India digunakan sebagai bahan perbandingan untuk melihat bagaimana masing-masing negara memaknai pekerjaan platform dan hak-hak yang melekat padanya. Alih-alih menggunakan pengumpulan data empiris lapangan, penelitian ini berfokus pada sumber hukum, dokumen

[1] Manipal University Jaipur, India
[2] Jindal Global Law School, O.P. Jindal Global University, India

kebijakan, dan putusan pengadilan guna mengungkap dasar normatif di balik pengaturan platform digital. Hasil penelitian menunjukkan bahwa kedua negara tersebut merupakan legislator yang produktif, namun cenderung lebih mengedepankan liberalisasi ekonomi dibandingkan perlindungan hak-hak pekerja, serta jarang mempertimbangkan kerentanan pekerja gig dalam wacana hukum mereka. Melalui perspektif sosio-legal, tulisan ini menyoroti kontradiksi antara kemajuan teknologi, martabat pekerja, dan tanggung jawab hukum. Artikel ini menyerukan perlunya peninjauan ulang terhadap rezim hubungan kerja yang bersifat biner, serta mengusulkan pembentukan rezim regulasi hibrida yang mempertimbangkan status khusus pekerja platform. Pada akhirnya, penelitian ini memberikan kontribusi terhadap diskursus keadilan ketenagakerjaan di era digital dari perspektif Global South, dengan menyerukan agar para pembuat kebijakan merancang peraturan perundang-undangan yang tidak semata-mata berorientasi pada pasar, melainkan juga pada keadilan sosial dan kesetaraan akses terhadap hukum.

Kata Kunci: *Ekonomi Gig, Pekerja Platform, Reformasi Hukum Ketenagakerjaan, Studi Sosio-Legal, Pluralisme Hukum, Hukum Perbandingan (Indonesia–India)*

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I. Introduction

The growth of digital platforms has changed the work landscape around the world, and such changes have had a significant impact on emerging economies. Digital platforms like Gojek, Grab, Swiggy and Zomato have deployed new labour models, generally known as gig work that challenge traditional forms of employment (Malia et al. 2024). Arrangements with digital platforms relating to food delivery, ride-hailing, and micro-tasking provide gig workers with a disadvantageous legal status. Since these arrangements classify gig workers as independent contractors, they lack rights to basic guarantees, such as minimum wage guarantees, social security and the right to ensure collective agreements (Mann 2021). Policymakers charged with the responsibility of regulating this industry should make sharp legal and policy inquiries on the arrangements between digital platforms and gig workers, focusing on their entitlements and consequences to their welfare.

The present paper compares the legal position of gig work in Indonesia and India, two Global South countries where gig work has developed rapidly, and the social impacts on workers. The two nations are currently experiencing fast platformisation of the urban workforce in a context of a substantial informal economy and fractured welfare regimes (Novianto, 2023). Both countries recently have made significant legislative changes relating to workers' welfare rights; Indonesia adopted the Omnibus Law on Job Creation (2020), and India the Code on Social Security (2020). Both laws contain provisions concerning platform workers, although their effectiveness in terms of protection of workers has been questioned (Behera and Mishra 2025).

This article critically examines and compares both pieces of legislation, their judicial interpretation and philosophies regarding the legal status of gig workers, through the prism of doctrinal and comparative socio-legal inquiry. The underlying discrepancies between formal classification and socio-economic realities in the lives of gig workers are explained in view of the legal pluralism and access to justice situation in Indonesia and India. While we acknowledge that the doctrinal and cultural differences between the two jurisdictions are substantial, we believe that a comparative analysis will give insights into broader challenges faced by Global South countries trying to navigate their way towards regulating digital labour through available legal frameworks. India and Indonesia are based on dissimilar legal traditions: common law in India and civil law in Indonesia, yet the pressures they face are very similar: a large informal sector and fractured welfare. These two similarities transcend jurisdictional borders and are reminiscent of many labour regimes in the Global South.

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The paper is organized in several stages, following the different issues and layers in relation to the issue of gig workers' legal protections. The paper starts by placing the investigation in relevant theoretical and conceptual frameworks, to define the place of platform labour in the larger contexts of socio-legal discussions on the issue. In our analytical approach, the conceptual frameworks of legal pluralism, law-in-context, and access to justice are used to design the analytical framework through which we interpret the legal position of gig workers in both countries and the social-legal consequences and realities for gig workers. It is followed by the analysis of the legal environments in Indonesia and India, involving an in-depth doctrinal discussion of how each of the jurisdictions has accounted for the spread of platform-based work in terms of recent law changes and policy statements. Through the comparison of the development and the content of regulation measures in the two countries, the analysis not only finds common problems but also jurisdiction-specific differences in direction and priority.

The empirical basis of the discussion that follows is an exploratory analysis of comparative contemporary systems of labour governance, which questions the effectiveness and limitations of the existing systems of control in laying emphasis on enforcement behaviour, definitional ambivalence, and institutional resistance by powerful platforms of control. The article then proceeds to develop a future analysis of plausible reform efforts, which is based on international case studies of platform labour governance and can be applied to understand the global socio-legal conditions of the Global South better. The resulting set of legal and policies recommendations regarding gig workers' protections are aimed at developing mechanisms that are just as well as adaptable, thus promoting a normative imperative to create labour law that can respond to the dynamic outline of labour in the digital age, including the affirmation of technological innovations and the protection of principles of fairness, dignity, and a wide-ranging system of social assurance.

II. Conceptual and Theoretical Framework

The acceleration of the spread of digital labour platforms has led to the creation of a new type of employment that deviates from traditional forms of regulating work (Pratomo et al. 2024). Platform labour, commonly raised in the wider context of the gig economy, combines features of dependent forms of work with independent, contracting type of work (Pichault and McKeown 2019). This kind of hybridity has led to a renewal of the intellectual discourse on labour law frameworks and legal relationships involved in the gig economy. To this end, the current article presents a theoretical outlook and methodological focus based on socio-legal theory scholarship and doctrinal comparative analysis. The concepts of legal pluralism and

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access to justice are utilized to connect the legal framework of gig work in Indonesia and India with the empirical situation on the ground. This approach will guide our analysis of the dynamic relationship between statutory law, platform governance and socio-economic impacts. In the end, this approach allows us to make more general remarks about the creation of legal protections for gig workers in the global south.

A. Defining Platform Labour: Legal and Structural Dimensions

The concept of platform labour as used in juridical scholarship refers to employment that is mediated, organised, and compensated through the presence of digital platforms, as algorithmically structured marketplaces. Ride-hailing services (e.g. Gojek and Grab), food delivery (e.g. Zomato and Swiggy), and task-based intermediaries (e.g. Urban Company) are such platforms (Putri, Darmawan and Heeks 2023). As much as the platform operators argue that the people making transactions in their platforms are independent service providers, the reality given by empirical studies and contract documents often show a labour relationship. The experience of platform workers that has been documented in various jurisdictions – including in Indonesia and India, indicate that workers are subject to unilateral control by the platforms over prices, punishments, evaluation of performance, and dismissal, all of which are aspects that denote some kind of employer-employee relationship, although not necessarily a formally accepted one (Rachmawati 2021).

This complexity is appreciated in legal instruments. In India informal gig workers and platform workers are included in the 2020 Code of Social Security, in Section 2(35) and 2(61), but neither type of worker is provided with basic labour rights. In Indonesia, Law No. 11 of 2020 on Job Creation (the Omnibus Law) has an indirect impact on platform workers by changing the types of employment regimes but is otherwise silent on responsibilities, rights, and protections attached to algorithmically controlled labour relationships. Such definitional confusion makes it necessary to approach law, not only as a formal machinery but also as a normative and institutional undertaking that must be viewed within the context of socio-economic impacts and realities.

B. Socio-Legal Perspective: Law in Context, Legal Pluralism, and Access to Justice

This paper makes a socio-legal argument to highlight the complex process of interconnection between legal norms and broader social, economic, and political contexts in which such norms are functioning. It denies the perspective of law as a self-contained logical scheme and instead uses it as an aggregation of practices, interpretations and institutional patterns simultaneously

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reflecting and shaping power relations. In the domain of platform work, the socio-legal perspective of this sort is crucial to realize the mismatch existing between the legal situation stipulated to the gig workers and their effective reliance on the platform operators.

The central idea behind this question is that of legal pluralism; simply that different legal and quasi-legal orders can coexist and in turn interact within a concept of a given social realm (Swenson 2018). The governance of the platforms exemplifies legal pluralism and can be considered a paradigm in its application because a variety of norms - private codes (terms of service, user agreements), algorithmic management rules, and state labour law come together to create a multidimensional normative environment (Beckmann and Turner 2018). They are not always transparent, and unilateral and lack procedures in place to protect an individual but are very much substantively binding to the way people work (Oomen 2014). On this basis, gig labour cannot be evaluated utilizing the prism of statutory law; instead, it requires the analysis of multiple normative regimes that define access to rights, remedies, and protection. In Indonesia, drivers whose Gojek accounts were suspended had no obvious legal claim since the regulations of the platform became superior to the ones of the labour law. This scenario demonstrates a conflict between private quasi-legal regimes and state labour laws, and forms a good example of legal pluralism in action. Real obstructors are unjustifiably high litigation charges, absence of special legal assistance mechanisms to address gig workers, and extensive judicial processes, which all reduce the possibilities for these workers to effectively obtain legitimate justice.

Thus, another essential concept in our approach is access to justice, which is not understood in a limited way of access to courts or legal counsel, but in an extended sense of the ability to claim rights, challenge domination and secure decent working conditions. The topic of gig work in Indonesia and India will show how workers are unlikely to access to dispute-resolution mechanisms and obtain due process and social protection (Yasih 2023). Such shortcomings are compounded by deep asymmetries between labour and platforms that are given the spur by loose regulation and unfavourable court decisions, deferring to business freedom and freedom to contract. A socio-legal approach that is centred on the concepts of law in practice, legal pluralism, and access to justice enables us to critically interrogate these asymmetries between the law and the socio-legal realities of gig workers.

C. Comparative Doctrinal Methodology: Justification and Scope

This discussion uses an analytical comparative approach combining doctrinal with socio-legal methods in examining platform labour laws and practices in Indonesia and India. Even though

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the two states have different legal backgrounds, with Indonesia's civil-law background as influenced by the Dutch colonial legal code, and India's common-law tradition as influenced by the British juridical system, both countries similar features in terms labour informality, accelerated technological change readiness, and socio-economic categorisation (Adnyani et al. 2024). A juxtaposition of doctrine reveals not only similarities, including incertitude in how to classify workers but also differences, including in the wording of statutes and the role of institutions.

The comparative exercise carried out in this paper goes beyond a descriptive exercise; it is analytical and normative, and it investigates the effectiveness, coherence, and adaptability of regulations. The subject matter of doctrine addresses legislative texts, judicial pronouncements and regulatory policies, but is augmented by a socio-legal critical approach that questions which interests statutes encode, the consistencies and exclusions which they reproduce, and the way platform labour is re-mapping the limits of the legal order. By combining both doctrinal accuracy and socio-legal richness, this critical inquiry therefore promotes socio-legal scholarship in the Global South. The framework created in this section allows for asking the question of the regulation of gig work with less ordered accuracy, greater situational specificity and orientation to normative concerns and therefore can provides meaningful insights.

The consulted sources encompass statutes, judicial decisions, secondary socio-legal literature, and policy reports (e.g. Fairwork ratings, government white papers). The choice was aimed at choosing materials that are directly involved with classification controversies, social protective mechanisms, and institutional changes. This guarantees the methodological transparency and enhances the socio-legal basis of the analysis.

III. Legal and Regulatory Framework Governing Platform Work In Indonesia

The administration of platform labour in Indonesia takes place in the broader context of informality, decentralisation and recent pro-market economic and legal reforms. Although the adoption of Law No. 13 of 2003 on Manpower signalled a significant reform of the country's labour laws, regulations issued the past 20 years did not provide the state the necessary tools to address the regulation challenges of the platform economy (Hakim 2025, Rhogust 2023). The current critical analysis will assess the development of labour regulation in Indonesia regarding gig workers, particularly the implication of Law No. 11 of 2020 (referred to as the Omnibus Law), its implementing regulations and how courts have interpreted them. We will argue that

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the current regulatory framework for gig workers in Indonesia is scattered, mediated, and too normatively rudimentary.

A. Historical and Legal Background

The labour vocabulary traditionally adopted in Indonesia is that of a binary separation of employments: on the one hand, those who would be categorised as having permanent relationships with employers; on the other hand, those with fixed terms of employment. Workers in both types of employment are given, as a rule, at least core protections: a minimum wage, social insurance, severance pay and the right to collective bargaining (Faisal et al. 2019). This model assumes a face-to-face contractual relationship between employer and labourer that the new digital market platforms are expressly attempting to avoid. The platforms Gojek, Grab, and Maxim, for instance, work based on the user agreements that define such elements of the workforce as drivers and delivery workers as independent partners (Mitra), thus avoiding legal commitments to statutory obligations in the Manpower Law (Darmastuti et al. 2023). Practically, this classification as independent workers is problematic, as the platforms have excessive control over the schedules, prices, penalties, and ratings of the workers, which closely resembles the characteristics of a dependent employment relationship.

B. The Omnibus Law on Job Creation (2020)

The passing of the Omnibus Law was presented by the government as a necessary paradigmatic change of the Indonesian labour and investment regime. Developed as an authoritative reaction to bureaucratic waste and a disjointed regulation system, the statute modified over 70 current statutes, including fundamental labour laws (Akhyar, Kiptiah and Elmy 2024). The proponents of the Omnibus Law insist that it makes the labour market more flexible and increases the appeal of Indonesia to investors. Conversely, trade unions, human rights organizations, and legal academics underscore the potential of the reforms to undermine basic protections of workers as well and question the need for a single centralization of regulation as it weakens procedural protections and decentralized regulations (Wicaksono and Tristiana 2025).

The Omnibus Law does not contain a definition of platforms, gig workers or platforms workers (Siregar, Soesilo and Primadhany 2024). However, its general deregulatory posture, namely the liberalization of employment through fixed-term employments, outsourcing regulations, and the ability to set minimum wages, has a significant impact on the legal and ideological climate within which platform work is conducted (Harahap et al. 2024). By making flexible and employer-friendly contractual norms the new standard, thus reducing normative

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obligation to job and collective security, the law contributes to a climate that enables the legal exclusion of platform workers. Government Regulation No. 35/2021 that regulates the use of digital contracts and platform-based models of service provision does not contain provisions on digital labour intermediated by platforms (Primana and Subekti 2025). The absence of platform labour as a legal category makes the issue of applicability of labour regulations subject to interpretation by administrative bodies and the judicial system, leading to inconsistent decisions and (partially) unrealized protections.

C. Judicial Responses and Administrative Practice

The Indonesian judiciary has yet to issue a conclusive decision on rights and responsibilities pertaining to platform work. Unlike in some countries, where the courts system established a precedent that overturned the classification of gig workers as independent contractors by granting them employee status – most prominently the United Kingdom (for example *Uber BV v. Aslam, 2021, UKSC 5*) and Spain *(The Riders Law, 2021*) – in Indonesia no standard judgment exist which establishes platform workers as falling into one of the categories of employee or independent contractor (Muldoon and Sun 2024). Part of this judicial silence can be attributed to structural constraints to legal mobilisation such as limited platform worker collective representation, processes of accessing justice and the loosely knit nature of dispute resolution in Indonesia. A good example was the case of Gojek drivers who challenged the right of the Gojek platform to deactivate their accounts. The court argued that private contract provisions defeated statutory protections, thus allowing a disjuncture between statutory protections and law in practice.

After this judgment, some significant administrative actions have taken place. In 2021, the Ministry of Manpower issued a policy on protective measures for non-standard workers that offers voluntary social insurance coverage to digital drivers through the Workers Social Security Agency, BPJS Ketenagakerjaan (Stevania and Hoesin 2024). Enrolment is voluntary, and contribution levels are relatively expensive for low-income platform workers, which practically cancels out the redistributive effect of the policy. More importantly, the government decided not to create a formal system of co-contribution and coverage compliance, hence continued the disparity between the control that exists in the platforms, and the control that is exerted by the state through its labour law regime regarding platform work.

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D. Normative and Structural Challenges

This lack of a specific regulatory regime reveals more subtle priorities in the legal and economic model the Indonesian government pursues. On the one hand, the state endeavors to promote innovation, digital entrepreneurship and foreign investment, whereas, on the other hand, the state has not made these policies consistent with the social justice principle and protection of workers' rights as mandated by the Constitution in Article 27(2) and Article 28D (2) of the 1945 Constitution (Rahman, Hajdu and Prabowo 2024). The legal ambiguity that follows this discrepancy in the employment status of platform workers affects applicability and access to workers' protections.

Moreover, Indonesian labour regulations are extremely centralised, which limits local governments' ability to address pressing issues relating labour in urban conditions (Mofea 2024). Along with regulatory capture by corporate interests and lax institutional supervision, this centralised labour law regime creates a de facto legal vacuum for Indonesian platform workers. The legal status of gig workers is such in Indonesia, that it leads to a situation in which we see gig workers everywhere while they remain invisible under the law; They don't exist as a separate legal category and don't fit in existing ones.

The restructuring of labour regulations through the Omnibus Law and related regulations, was defended by the government as a necessary tool for Indonesia to compete economically in the digital age, however, the new labour law framework fails to address the normative and institutional challenges of platformed work – one of the most significant exponents of Indonesia's digital economy (Dwiono, Ja'far, and Haryadi 2024). What is required here is a coherent framework that enables the legal machinery designed to regulate the changing world of work to fill the gap between promoting economic innovation and guaranteeing workers' rights to protections.

IV. Legal and Regulatory Framework Governing Platform Work In India

The setting of India is a fascinating locus for doing research on digital gig labour as it unites the features of a fast-developing participant of the platform economy with a drift of slow and dispersed labour law developments (Porwal and Kumar 2023). It is estimated that there will be 7.7 million individuals in platform-based and gig employment by the year 2022; in which case, India has been ranked among the most vibrant digital labour markets globally (Khalid 2025). Meanwhile, there is very little regulatory clarity on the issue of employment classification, social security entitlement and dispute resolution that hover over the sector. The post provides an overview of the labour law development in India relating to gig work, addressing the 2020

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Code on Social Security, the judicial interpretations, as well as the policy discourse in the country today to better understand the opportunity as well as the limitations provided by the state interactions with the platform economy.

A. Historical Context and Legal Treatment of Informality

The Indian labour market has always been informal; now, over 90 % of workers still stay out of the safety net of regular employment (Farooqui and Pandey 2020). This tradition is perpetuated in the platform economy where the gig workers are often paid on contracts mediated by apps which qualify them as independent contractors and are thus denied their legal rights by the government such as provident-fund payments, minimum wages or being covered by industrial disputes by the Industrial Disputes Act, 1947 and by the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (Pandey 2024). Before 2020, the lack of regulation allowed platform-based companies to exploit their one-sided classification of platform workers as independent contractors leading to a lack of justice and institutional recognition of these workers.

B. The Code on Social Security, 2020: Innovation and Ambiguity

To meet the repeated necessity of a more unified and more modernised labour law regime, the Indian Parliament responded by formulating the 2020 Code on Social Security and the rest of the 29 central labour acts into four labour-based codes through a larger project on unifying and codifying labour laws in India. Such are readable recognitions of modern types of labour: the official definitions of a gig worker [Section 2(35)] and a platform worker [Section 2(61)] have been created in the Code, thus admitting the new type of relations in the sphere of work. These definitions differentiate between gig and platform work; work outside of the traditional employment relationship on one hand and service delivery using online platforms on the other.

This type of recognition however has limited scope in operations. The Code does not define gig/platform workers as employees/workers under fundamental labour protection. Rather it imagines a distinct, optional social security system, the outlines of which will be established through executive rulemaking. As part of Chapter IX, the Code also empowers the central government to develop plans that will help take care of the gig and the platform workers in the realms of accident insurance, health benefits, and protection of age (Raman, Ramachandran and Sasikumar 2021). However, the fact that platform companies are not bound by any binding obligations to contribute to such schemes makes the regime experience low enforceability and thus prone to being under-implemented.

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Section 114 of the Code gives an opportunity to transfer a National Social Security Board to manage the welfare of gig workers, however, the institution has no impact on its autonomous regulation, and its main activity is advisory. Also, the rule-making process has been characterized by delay, transparency, and absence of stakeholder input, casting doubt on the democratic nature of the regulatory structure.

C. Judicial Interpretation and Institutional Silence

In other jurisdictions like the United Kingdom where the construct of the platform worker has been clearly defined through the verdicts of the courts, and in South Korea, where the nature of employment of platform workers has actively been decided through the judicial process, the Indian courts have been majorly reticent. In the cases such as *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India & Others* and *Delivery Executives v. Zomato Media Pvt. Ltd., Labour Commissioner, Bengaluru (2020),* the Indian courts have been unwilling to interfere or have categorised arguments as contractual matters over which labour adjudication is not applicable. This conservative approach can be viewed as the reflection of wider structural limits, especially, the evasion of establishing an employer-employee relationship with a high bar and the lack of statutory presumptions in the platform-mediated environment. The Indian courts applied contract law; they considered the disputes as commercial issues and not as labour rights issues. This judicial conservatism indicates that there is a greater institutional shyness in reinterpreting employment status to advantage the Indian digital growth story by in effect prioritizing contractual freedom over constitutional obligation to uphold social justice. It is a clear unwillingness to alter the definition of employment status.

Moreover, India does not have an administrative approach dedicated towards the grievance specific to a platform job. The Indian labour administration, unlike the countries where intermediary tribunals, or even labour inspectorates, have been introduced with jurisdiction over gig labour, is still based on factory- and establishment-based principles, partaking in none of the attributes of the mobile, decentralised type of gig work.

D. Civil Society, Policy Developments and Normative Evaluation

Though the state by large lacked the tendency to regulate the actions directly, civil society groups, trade unions, and university institutions have made active steps in investigating the working conditions of platform labour. Among them, there is the Fairwork India Ratings project that was created to gather and review empirical evidence about the implementation of fair-work standards by platform companies mainly through pay, working conditions, contracts, and

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collective representation arrangements (Rane 2023). The report published in 2022 gave bad grades on worker rights to companies like Flipkart and Urban Company, revealing a significant discrepancy between the rhetoric used in the industry and reality in the field (Ray et al. 2025). A growing consensus to the view that greater regulation is desirable is beginning to be reflected in the policy arena. In 2022, India, through the National Institution for Transforming India (NITI) Aayog, a leading think tank on public policy, released a report that suggested compulsory registration of platform employees and requiring aggregators to make matching payments to central welfare funds. However, these are only recommendations that are non-binding and non-justiciable.

The Indian approach to legal regulation of platform work is mainly evolutionary and limited to achieving a balance between existing fundamental parameters of labour arrangement. The Indian Parliament, via the Code of Social Security, 2020 recognized the presence of freelance and platform workers on the one hand but at the same time denied them corporate benefits, employment responsibilities or due process, thus, downplaying the transformational potential of the piece of legislation. The resulting taxonomy of workers brings in a third category of workers with no corresponding rights, a form of institutionalising a new precarity under the pretence of inclusion (Prasad 2023). Besides, the Indian system based on executive discretion and post-legislative regulations creates dilute legal certainty and increases the risk of regulatory capture. With no judicial activism or any form of independent regulatory responsibility, the possibility of ensuring the rights of gig workers depends on political commitment, mobilisationof civil society and future consistency of the policy.

The regulatory framework of the platform labour in India is embryonic in nature, bound by structural constraints and even political carefulness. Although the Code on Social Security, 2020 provides a normative basis to start with, it fails to provide a full-fledged solution. Without more explicit legal requirements, effective institutional support, and judicial activation, the country is facing the risk of establishing a stratified labour market where platform workers will become treated as formally recognised but substantively outsider actors. A socio-legal-sensitive rights-based framework is therefore necessary should India want to see its constitutional pledge of dignity, equality and justice to all workers – whether online or offline - to be realized.

V. Comparative Legal Analysis: Indonesia And India On Regulating Platform Work

The precarious inclusion framework is opposed to the Decent Work Agenda of the International Labour Organization that focuses on the employment security, social protection, and collective rights. Rhetoric of flexibilities in India and Indonesia, however, is an ideologically used

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argument to favour deregulation leaving these principles of decent jobs behind. There is an acute ambivalence in both India and Indonesia on the regulation of platform labour. Both jurisdictions are faced with the legal regulation of the digitally mediated, precarious employment practice against a background that is already subject to high informality at large and the lack of well-developed welfare systems and deeply impaired means of enforcement. Despite differences in the legal traditions of both nations, India with its common law tradition and Indonesia with its civil law system both consider the gig workers to play a marginal role when it comes to formal labour rights. It is an example of what can be referred to as so-called digitised informality: the expansion of already existing forms of informal labour into the platform economy, which is now veiled in algorithmic management and flexible contractual agreements.

A. Fragmented Legal Recognition and Regulatory Exclusion

One of the dilemmas at the heart of current debates is that of the legality of gig workers and platform workers. With the passing of the code on social security through the enactment of the Code on Social Security, 2020 the Indian government has taken a momentous step of formally recognizing these workers as classes of their own, the gig worker to Section 2(35), and the platform worker to Section 2(61). However, such an official grant is not accompanied by full employment which accompanies the status and the associate privileges that the status normally attracts such as a guarantee to minimum wages, dismissal protection systems and the prerogative to form unions (Dwivedi & Deepak 2024). That is why these workers attain only a partial, exclusionary legal identity i.e., surface identity without any substance. Things are still more clouded in Indonesia. The precise definition of platform work was not guaranteed through the Omnibus Law (Law No. 11 of 2020) and Government Regulation No. 35 of 2021 that came after it, however, platforms still work with the drivers and couriers as partners (Mitra), through which they passed beyond the basic appurtenance of Law No. 13 of 2003 by masking as such under the term “partners” (Yasih 2025). Consequently, gig workers are structurally marginalised and legalised in both jurisdictions with poor respect and strategic exclusion of workers by legal constructions of silence.

The exclusion of gig and platform workers is also structural in its arrangement of mechanisms of social protection. In India, the Code on Social Security allows the possibility to introduce welfare schemes to such personnel which will be handled within the framework of a centralised and national scale. However, such programs are voluntary and insufficiently funded, and they are more of a symbolic value unless employers’ co-contributions are mandated or

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regulated. The National Social Security Board which has limited institutional autonomy and no direct sanctioning powers.

Indonesia provides a similar concession in the form of Ministry of Manpower advisories on voluntary platform workers registration with the BPJS Ketenagakerjaan, but no legislative enforcement, platform co-payments or legal liability frameworks make the program practically nonoperative (Renyaan 2024). Scholarship therefore shows that in both settings, social protection is advanced without enforceability, and a model of selective inclusion is propagated, this model is representative of a state appreciation but a lack of redistribution commitment.

The role of the judiciary in solving the case of the rights and status of gig workers has been astonishingly limited too. In India, non-reinterpretation of employment relationships in terms of functionality by courts has been observed regarding deference given to contractual freedom even in cases where the constitution guarantees social and economic justice. Civil cases against companies like Swiggy and Uber have many times been thrown out or handed over to civil courts simply because there are no written employment standards. The same trend exists in Indonesia where the lack of authoritative jurisprudence on the classification of employment is explained by limitations of legal mobilisation, fragmentation of institutions, and incomplete development of public interest litigation in the labour law. This juristical quietism heightens the lack of clarity in the laws, without which digital labour enthusiasts are left without a solid system of formal recognition or legal recourse.

B. Institutional Quietism and the Rise of Platform Governance

In India as well as Indonesia, legal pluralism is evident on the ground: state law, and platform rule, interrelate in determining the terms of work of gig labourers. Terms of service on the platforms, algorithmic control systems, performance-based rating systems, and unilateral sanctions (an account suspension) represent what amounts to a quasi-legal regime that the platforms foist. These internal governance processes often supersede or circumvent state regulations leading to a parallel normative order. Although India has shown some institutional involvement by setting up policy thinktank groups such as NITI Aayog and academic programs such as Fairwork India, the engagement of these institutions is only advisory in nature. The perspective provided by Indonesia relegated to circulars and policy statements of ministers, cannot be summed up as coherent and authoritative enough to bring the governance of the platform under the umbrella of public accountability (Renyaan 2024). The institutionalisation of asymmetrical power relations in both settings, using technology and contract forms, places the domain of private regulation on top of labour laws.

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However, despite these similar paths, some diverging parts can be noted. Formal recognition of gig and platform workers in the statutory law added to the creation of a national welfare board in India and has provided an articulation of a regulatory starting point. Indonesia remains a country that treats the issue indirectly, placing platform labour in the general paradigm of labour reform and relying on advisories on the policy level without providing laws and provisions that define and regulate platform employment. Yet, despite this formal difference, neither country has substantially improved material results for workers. The lack of obligatory employer payments, innovative judicial practice, or enforcement of the regulatory framework makes the Indian and Indonesian models perform similarly under failures to provide decent working conditions for the platform labourers.

On a comparative analysis, it is found that a triad of exclusion related to both jurisdictions, i.e., doctrinal ambiguity, procedural inaccessibility, and normative fragmentation, limits the platform economy. In India, platform workers are defined legally but in practice are not guarded. They are made legally visible, but their protections do not grow in strength. This is the structural impact of the digital age on labour law which neither legal sensibility nor the pragmatism of regulation has been able to overcome. The lack of strong regimes of classification, enforceable social protections and judicial aggressiveness continues the culture of legal invisibility of an increasing workforce portion. Repairing this disjuncture will not be achieved by legislative means alone: what is needed is a rethinking of the premises of labour regulation in a platformed economy, one that puts at its heart respect to worker dignity, economic security, and democratic accountability in law and practice.

VI. Regulatory Implementation And Institutional Constraints

There are major barriers to implementing legal and policy regulations on platform labour in India and Indonesia other than the administrative side of day-to-day activities despite institutionalisation in law and regulation provision. Such barriers lie in structural asymmetries between normative occupational protection written into the labour law and the technocracy models of governance that characterise the digital economy (Rhogust 2023). Despite national law, policy tools and institutional efforts aimed at bringing platform workers under the social protections of society, the gap between the provisions of the law on the books and the law in action remains significant.

Some major barriers to legal change include a persistent vagueness in the language of the law and a persistent reliance on formalism in contract law. Both jurisdictions allow platform companies to avoid statutory duty due to the indeterminate definition of the terms, including

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gig worker, platform worker, or partner. Network-mediated labour has not made any regulatory progress because of the refusal to acknowledge it as a form of dependent labour. Such a standstill can best be observed in the case of Indonesia, where the fact that the legal classification of gig workers does not exist leads to a constriction of the abilities of labour inspection and law enforcement to intervene, control the compliance or, in other words: punish. A similar scenario exists in India, with the Code on Social Security providing the statutory status of gig workers but draft regulations are yet to be finalized on the state level or are otherwise inconsistently and dispersedly enforced, leaving a significant level of jurisdictional ambiguity.

The insufficiency of institutional resources increases the current deficit of implementation. In India, as well as Indonesia, the labour departments are persistently under-resourced, understaffed as well as internally restrained in terms of jurisdiction. The existing enforcement framework remains a vestige of the industrial-era designs aimed predominantly at work at a fixed location within a factory and formalized business structures, which were inappropriate to the modern labour market where it witnessed algorithmic control, geographic flexibility, and the division of contracts. All the regulatory check-ups, plotting mechanisms, as well as collective dispute-resolving procedures, are either inaccessible in the systems of regulatory bodies or are simply not relevant to the working conditions of gig workers. The decentralised and atomised nature of platform work undermines established call-points of claiming a right via an employer or via a workplace.

Another challenge is that institutions do not want to or cannot set binding requirements on platform firms. Both countries have a highly permissive attitude when it comes to regulation, focusing more on innovation, entrepreneurship, and digitalisation, as opposed to labour protection. Such a deregulatory spirit comes through in the choice of voluntary design of social protection schemes, in the absence of compulsory employer contributions, and reluctance to place statutory restrictions on working hours, monitoring devices, or one-sided deactivation. Such policies, even in their very absence, as illustrated in Indonesia, where gig workers are advised to subscribe to BPJS Ketenagakerjaan, or India, where aggregators are proposed to contribute to social security funds, can be defined as normative actions that resemble the act rather than working rights (Nathan, Kelkar and Mehta 2022).

The decentralization of powers and the lack of institutional integrity they produce, also contribute to inequality in policy outcomes. There are two or more ministries in India with overlapping jurisdiction on platform work, which include Labour and Employment, Skill Development and Electronics and IT, but these ministries are not effectively coordinated at the

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centralised level. Through decentralised labour governance, Indonesia has become a country where the local governments have had much variation in response to platform labour with metropolises like Jakarta taking a step further ahead of the rest of the territory. This decentralisation, deprived of parallel regulatory rules or financial transfers, gives a bandaging pattern of implementation that replicates the spatial disparities in the protection of workers.

Also, there is a lack of collective representation and voice towards platform workers. Gig workers have come under pressure to unionise, but the versatile and personalised work of digital labour has been challenging to orchestrate in traditional ways. This has denied a vital back-and-forth loop from where regulators can refine their policies and be answerable to them. Despite several associations by workers, such as the Indian Federation of App-based Transport Workers (IFAT) and driver groups in Indonesia, being formed and some digital labour collectives emerging (for example Strikeware), their policymaking power is low both because they are not legally recognized and because they are limited by resources and platform opposition (Ruyter and Rachmawati 2020).

Lastly, the political economy of regulation can also not be dispensed with. The state has cast the platform companies as strategic partners in digital economic development in the two states, job creation and urban mobility. This convergence of interests has even manifested itself in a regulatory framework where labour interests are subservient to growth discourses. Platform firms also engage in policymaking processes, which are influenced by lobbyists, industry associations, and public-private partnerships, and there is a notable absence of worker representation. The outcome is some sort of regulatory capture, where the state apparatuses of enforcement are either weakened or driven back as a means of encouraging voluntarism of compliance instead of protecting the rights of labour.

Embraced together, the outlined implementation challenges allow one to see something beyond the bureaucratic inertness; they allow seeing the essential ideological and institutional alignment with the platform-based forms of government and governance. Without a meaningful shift of regulatory emphasis, towards a more fundamental reconceptualization of regulatory priorities in which labour protection is prioritised over techno-economic expediency, the work of platform workers will continue to exist as a legally liminal sphere of activity with a precarious structural organisation. This, in turn, does not imply the mere clarity of legislation and strengthening of institutions but rather a paradigmatic break with the way in which digital labour is understood and evaluated as a value within development in national agendas.

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VII. Towards Inclusive Regulation: Normative Pathways and Policy Reform

There are various implementation challenges besides the abovementioned political lobbying by platform firms. For instance, the reliance of the states on gig companies for job opportunities and urban mobility along with the fiscal burden of employer contributions. These are hurdles that limit the state's responsiveness to proposed reforms despite their regularising appeal.

The reality of weak and incomplete legal acceptance of gig workers in India and Indonesia shows that incremental reform is not sufficient; the problem will require doctrinal and normative reconsiderations of the way in which labour can be conceptualised in the digital era. Despite having made cautious steps, neither of the jurisdictions has been able to turn the recognition of the existence of platform-based employment into rights that can be enforced, which is why a new generation of hybrid regulatory frameworks needs to be developed that will combine flexibility and dignity, autonomy, and accountability (Murdani and Wijayati 2023).

One of the initial reform priorities is a differentiated and legally enforceable status of dependent contractors or quasi-employees, a category that responds to the characteristic traits of gig work – without reducing them to the binary paradigms of employment and self-employment (Hakim 2025). Other jurisdictions, notably Spain, Italy and the Canadian province of Ontario, have developed such intermediary forms of employment, providing labour protection comparable to an employment contract, consisting of a minimum wage, social security and collective bargaining rights (Donini et al. 2017). To reduce cases of litigation on the issue of employment status, India and Indonesia may use the above examples to create statutory regimes that are informed by the sociolegal reality of platform work.

The second reform should encompass the extension of social protections which should be compulsory, universal and contributory. That would involve going beyond voluntary enrolment schemes, and into mandatory policies that obliged platform companies to co-contribute to national social security schemes. The Indian model, as presented in the form of the Code on Social Security, would become obligatory upon issuing detailed and enforceable rules that would prescribe the obligations of aggregators, the percentage split of contributions as well as the time of enforcement. Indonesia, as well, may standardize a platform-based contribution to BPJS Ketenagakerjaan, imposing fines to non-participants, and legal solutions to refusal. These would not only guarantee the existence of redistribution but also bring about the development of institutional accountability.

Third, the organisation of algorithmic regimes of control that govern the working conditions of platform labourers need to be dealt with in the direction of legal reform as well. Current labour laws do not suffice to govern algorithmic scheduling, performance judgment by

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automated procedures as well as unilateral deactivation, and managerial control applied using non-transparent and frequently non-negotiable technologies. Based on this, regulatory innovation needs to entail algorithmic transparency legislation that will mandate companies to share the reasoning and the measures when deciding how tasks are distributed, how much to charge and the penalties of accounts. These may be introduced in the form of statutory instruments or industry-based codes of conduct, as in the case of the European Digital Services Act and the Spanish Riders Law. On an institutional basis, India and Indonesia must go forward on centralisation and harmonisation of gig work rules. India has a complicated system of federal labour law that requires one strong to direct the ministries and harmonise the implementation of the safeguards that the gig workers should apply uniformly to all states. With highly decentralised labour governance, Indonesia should also distinguish in which spheres central and regional authorities regulate platform employment, so that cities where platform jobs are most popular have the ability to respond to the issues faced by these workers. Without this administration's consistency, the legal reworks will fail to stay holistic and not easily implemented.

Fourth, it is also very crucial to give formality and empowerment to gig worker collectives. Legal systems must recognize unions that are established by the workers in the platform sector, although they fail to meet the formal trade union standards. This would allow such collectives to take part in policy consultation, be representative of members in dispute, and negotiate minimum standards with platforms. Institutional models of the sample of collective contracts signed by platform unions in Denmark and certain Latin American regions are rather useful (Marenco 2023).

These lines of reform must end up depending on a larger reconceptualization of regulatory philosophy, i.e. a rejection of claims of platform exceptionalism and a conservatively normative commitment to the applicability to all workers, regardless of their technological intermediation, to labour rights. This strategy does not simply involve fiddling with the peripheral aspects of present labour law but reasserting its initial pledges to what is now thought to be dignity, equality and social protection in the face of technological restructuring. Given that digital labour is taking up a structural position in the workings of twenty-first-century economies, this inability to regulate digital labour fairly threatens to establish, in a systematic way of exclusion, a parallel workforce which will never enjoy the rights that labour law was meant to ensure.

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Table 1. Summary Table of Key Reform Recommendations

Reform Proposals	Implications
The Status of Dependent contractor	Offers hybrid benefits (salaries, social security) and still maintains flexibility.
Mandatory social security contributions	Guarantees employee compensation and responsibility.
Algorithmic transparency laws	Manages opaque digital, enhances protection of workers.
Union recognition for gig collectives	Facilitates collective bargaining and policy consultation.

VIII. Conclusion

The growth of the platform economy has spawned acute issues with traditional labour-regulatory patterns, specifically in India and Indonesia, where the existing conditions feature a high ratio of informal jobs, divided regulatory frameworks, and tight connection of state and capitalistic forces, which currently make safeguarding of social safeguards more difficult. This article analysed the implications of doctrinal regimes, institutional designs, and socio-legal justifications that organize the control of gig employment in these two Global South jurisdictions. It demonstrates that, even though platform workers in both India and Indonesia have started gaining legal recognition, this recognition is so far highly symbolic and has been provided without enforceable rights or institutional protection.

The comparative study suggests that the ambiguity of regulation and passive judicial approaches in combination with a relative concentration of private platforms governance, systematically contribute to the creation of a plural-legal regime that systematically marginalises gig workers. Despite their economic centrality, those workers are structurally marginal to the labour law system as well as the welfare system. More recently, new policies have focused largely on flexibility and entrepreneurship rather than rights and protections, fuelling a model of precarious inclusion. To address such gaps, the paper proposes a package of reform solutions that involve the alignment of the legal doctrine with the reality of the modern labour market. These reforms encompass creating hybrid categories of employment, instituting co-contributory models of social protection, regulating algorithmic forms of control and formalizing collective employee representation within gigs. Indeed, the future history of labour law in this digital economy will not merely depend upon changes in law in statute, but

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the willingness of the state to engage the normative presuppositions by which the kinds of labour that have to date been outside its protection have been excluded.

Labour law can regain the original mandate by reclaiming the indispensability of labour and the rights of workers regardless of the field in which they operate. In so doing, both India and Indonesia will require legal imagination, not just political determination: a regulatory imagination that correspondents with the demands of an ever more digitised and economically polarised global order.

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