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Regulating Gig Economy Employment: A Comparative Analysis Of Nigeria And India's Evolving Labour Law Frameworks

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Abstract

This paper examined the regulation of gig economy employment through a comparative analysis of Nigeria and India's evolving labour laws. The paper identified the central issues as the misclassification of gig workers as "independent contractors," the absence of statutory protections for wages, health, and collective bargaining, and the regulatory gap between traditional labour statutes and platform-based work. In Nigeria, the Labour Act 2004 and the Pension Reform Act 2014 were found to be inadequate for platform workers, while in India, the Code on Social Security 2020 represented a legislative attempt to extend benefits to gig and platform workers. However, India made more progress through statutory recognition of gig workers under s.2 and s.114-116 of the Code on Social Security 2020, and the establishment of a national database. Nigeria, by contrast, relied on common law tests and had no gig-specific legislation as of 2024. It was concluded that while both countries acknowledged the economic contribution of gig work, their legal frameworks remained reactive and fragmented. The study recommended amongst others statutory recognition of a third category of "dependent contractor, tripartite dialogue between government, platforms, and worker associations.

Keywords: Gig Economy, Platform Workers, Labour Law, Nigeria, India, Employment Status, Social Security

1. INTRODUCTION

The rise of digital labour platforms such as Uber, Bolt, Jumia, Swiggy, and Zomato fundamentally transformed the nature of work in Nigeria and India during the last decade. This new model, termed the "gig economy," is characterized by short-term, task-based engagements mediated through apps, where workers are classified as "independent contractors" rather than employees.[1] While the model provided

[1] Jeremias Prassl, Humans as a Service: The Promise and Perils of Work in the Gig Economy (Oxford University Press 2018).

income opportunities for over 15 million workers in India and an estimated 3 million in Nigeria by 2023, it also created legal uncertainty around wages, social security, and occupational safety.[2] The core regulatory challenge has been the mismatch between 20th century labour statutes and 21st century platform work.[3]

Nigeria's primary labour statute is the Labour Act, 2004. Section 91 defines a "worker" as a person who has entered into a contract of service, but excludes independent contractors. This definition has been used by platforms to deny gig workers employee benefits. The Pension Reform Act 2014 and the National Health Insurance Authority Act 2022 mandate contributions only for persons in formal employment. There is no statute that expressly recognizes gig or platform workers.

India responded with more direct legislative reform. Prior to 2020, gig workers fell outside the scope of major laws like the Industrial Disputes Act 1947 and Employees' Provident Funds Act 1952 due to the employee-contractor distinction. The landmark development was the Code on Social Security, 2020. Section 2 defines "gig worker" and Section 2 defines "platform worker". Sections 114-116 mandate the Central Government to formulate social security schemes and create a national database for gig workers. The Code on Wages 2019 also extended minimum wage concepts.

There are areas of convergence. Both Nigeria and India are ILO members and have ratified Convention 100 and 111, which require non-discrimination and equal remuneration. Both jurisdictions struggle with platform resistance to employment classification and poor enforcement. However, key divergences emerged. India moved toward statutory inclusion through the 2020 Codes and state-level welfare boards, while Nigeria continued to rely on outdated definitions in the Labour Act 2004 and case law. India also created institutional mechanisms like the e-Shram portal 2021 for informal workers. Nigeria had no equivalent national database or welfare fund for gig workers as of 2024. This left Nigerian platform workers more vulnerable to algorithmic management and income volatility.

2.0 LEGAL STATUS AND CLASSIFICATION OF GIG WORKERS IN NIGERIA AND INDIA

The central legal issue in both Nigeria and India is whether gig workers are "employees," "independent contractors," or a third category. This classification determines access to minimum wage, social security, collective bargaining, and occupational safety. Both countries inherited 20th century labour statutes premised on binary employment relationships, which failed to capture platform-mediated, algorithmically managed work. As of 2024, neither jurisdiction had fully settled the status of Uber, Bolt, Swiggy, or Jumia delivery riders, creating regulatory uncertainty.[4]

In Nigeria, the primary statute is the Labour Act, 2004. Section 91 defines a "worker" as "any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work... but does not include any person employed otherwise than for the purpose of the employer's business." Platforms rely on this to argue gig workers are "independent contractors" providing services to customers, not to the platform. The Pension Reform Act 2014 and National Health Insurance Authority Act 2022 also tie benefits to "employees" in formal employment, excluding most gig workers.[5]

As of 2024, Nigeria had no statute expressly recognizing gig workers. The National Social Investment Programme and NDE provided palliatives, but not legal rights. The Nigeria Data Protection Act 2023 regulated data but not labour status. This left gig workers in a legal limbo: subject to platform terms of service, but without recourse under s.7 Labour Act on wages or s.17 on hours of work. Before 2020,

[2]Jeremias Prassl, Humans as a Service: The Promise and Perils of Work in the Gig Economy (Oxford University Press 2018).
[3]Davidov Guy, The Status of Uber Drivers: A Purposive Approach, 8 Spanish Lab. L. & Emp. Rel. J. 7 (2018).
[4]Prabha Kotiswaran, India's Labour Law Reforms and the Code on Social Security, 2020: A Critical Appraisal, 62 J. Indian L. Inst. 1 (2020).
[5]Shruti Vidyasagar & Supriya Routh, Regulating Platform Work in India: The Promise and Limits of the Code on Social Security, 2020, 43 Comp. Lab. L. & Pol'y J. 213 (2022).

India's position mirrored Nigeria's. Laws like the Industrial Disputes Act 1947, Employees' State Insurance Act 1948, and Employees' Provident Funds Act 1952 applied only to "workmen" and "employees."

India made the first statutory shift with the Code on Social Security, 2020*. Section 2 defines "gig worker" as "a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship." Section 2 separately defines "platform worker." Sections 114-116 mandate the Central Government to frame welfare schemes and create a national database for gig and platform workers. This was the first time Indian law recognized gig work as distinct from employment, creating a "third category." Both Nigeria and India converge on three points. First, both rely on contract and control tests to determine status in the absence of clear statutes. Second, both have large informal economies where most gig work occurs, making enforcement difficult. [6]

The key divergence is legislative response. India moved to statutory recognition through the Code on Social Security 2020 and state welfare Acts, acknowledging gig workers as a class deserving protection. Nigeria remained stuck with the Labour Act 2004 definition. India also created institutional infrastructure: the e-Shram portal 2021 registered 298 million informal workers by 2023. Nigeria had no equivalent. Further, India's s.114 Code on Social Security 2020 contemplates platform contributions, while Nigeria's Pension Reform Act 2014 imposes no such duty on platforms.[7]

The classification debate directly impacts rights. In India, recognition under the 2020 Code opened the door for social security, even if implementation is pending. In Nigeria, the lack of classification means gig workers cannot claim s.8 Labour Act on termination, or s.34 CFRN 1999 dignity rights in workplace terms. Instance: When Zomato India introduced "insurance" in 2021, it was voluntary. When Bolt Nigeria cut fares in 2023, drivers had no legal platform to challenge it. The lesson is that without statutory classification, gig work remains precarious. Nigeria will need to either amend s.91 Labour Act 2004 or enact a new Gig Workers Act to close this gap.[8]

3.0 MINIMUM WAGE, REMUNERATION, WORKING CONDITIONS, SOCIAL SECURITY AND EMPLOYMENT BENEFITS: INDIA AND NIGERIA

Both India and Nigeria regulate minimum wage, remuneration and social security through central labour statutes, but the application to gig workers remains contested. In Nigeria the Labour Act, 2004 and National Minimum Wage Act, 2019 form the base. In India the Code on Wages 2019 and Code on Social Security, 2020 were enacted to consolidate 29 laws. The core problem in both jurisdictions is that platform workers are excluded from these protections due to "independent contractor" classification.[9]

Nigeria's National Minimum Wage Act 2019 mandates ₦30,000 per month for all workers under s.3, s.2 extends it to establishments with 25 or more employees. However, gig platforms like Uber, Bolt and Jumia Food argue they do not "employ" riders, so s.3 does not apply. Instance: In 2023, Lagos Bolt drivers protested that after fuel and 25% commission, net earnings fell to ₦18,000-₦22,000 monthly, below the statutory minimum. The Labour Act 2004 s.7 requires timely payment of wages but is unenforceable for contractors. India addressed this through the Code on Wages 2019. s.6 mandates a national floor wage and s.9 requires state governments to fix minimum wages by sector. s.15 makes payment of wages mandatory at set intervals. For gig workers, s.2 does not expressly include them, but states are beginning to. Instance: Rajasthan's Gig Workers Act 2023 s.6 directed the state to notify a minimum earning standard for platform

[6] Anushree Sinha, Gig Workers and the Law: Mapping the Regulatory Vacuum in India, 55 Econ. & Pol. Wkly. 34 (2020).
[7] Saptarshi Mandal, From Contract to Code: Algorithmic Management and Labour Rights in India 59 Indian J. Indus. Rel. 112 (2023).
[8] Niraj Kumar, Rajasthan Platform Based Gig Workers Act, 2023: A Model for Welfare Federalism? 65 J. Indian L. Inst. 88 (2023).
[9] Babu Mathew, The Code on Wages, 2019 and Its Implications for Informal and Gig Workers, 61 J. Indian L. Inst. 45 (2019).

work. In 2022, Karnataka's Labour Dept ordered Swiggy and Zomato to ensure riders earn at least the state's minimum wage of ₹13,000/month after expenses.[10]

In Nigeria, remuneration is governed by contract. Platforms unilaterally set fares and commissions. There is no law requiring transparency. The Federal Competition and Consumer Protection Act, 2018 s.17 prohibits unfair trade practices, but has not been applied to platform algorithms. Instance: Bolt's 2022 fare reduction in Abuja triggered protests but no legal remedy.

In India, the Code on Wages 2019 s.18 prohibits discrimination in remuneration. IT Rules 2021 indirectly require transparency, and Rajasthan Act 2023 s.8 mandates platforms to disclose fare calculation. This gives Indian workers slightly more leverage. Nigeria's Labour Act 2004 ss.33-55 covers hours of work, holidays and safety, but only for "workers." Gig riders work 12-14 hour days with no overtime under s.13. There is no PPE provision. Instance: In 2021, a Jumia delivery rider died in Port Harcourt after a road accident with no compensation.[11]

India's Occupational Safety, Health and Working Conditions Code 2020 s.3 extends safety duties to all establishments. s.14 mandates welfare facilities. The Code on Social Security 2020 s.114 specifically allows schemes for accident insurance for gig workers. Instance: Zomato and Swiggy began providing ₹1 lakh accident cover in 2020, though voluntary. Nigeria's social security is fragmented. The Pension Reform Act 2014 s.4 mandates 8% employer 10% employee contribution, but only for employees. The National Health Insurance Authority Act 2022 s.16 mandates health insurance for formal workers. Gig workers fall outside. The Employee Compensation Act 2010 covers workplace injury but excludes contractors. As of 2024, there was no statutory fund for gig workers. Instance: Uber drivers involved in accidents bear medical costs personally.[12]

India took a statutory step with the Code on Social Security 2020. Ss.114-116 empower the government to create social security schemes for gig and platform workers covering life insurance, disability, health, maternity and old age. s.3 extends ESI to gig workers in phases. The e-Shram portal 2021 was launched to register informal workers for benefits. Instance: By 2023, 298 million workers registered. Rajasthan's Act 2023 s.7 provides ₹2 lakh accident insurance and maternity aid funded by a platform cess. This is the biggest divergence from Nigeria. Under Nigeria's Labour Act 2004 s.18, workers get 6 days annual leave. s.12 provides for sick leave. Payment of Gratuity Act applies to the public sector. None apply to gig workers because of classification. Bolt and Uber provide no paid leave or bonus.[13]

In India, the Code on Wages 2019 s.26 mandates bonus. The Code on Social Security 2020 s.39 provides maternity benefits. While gig workers are not yet covered, s.114 allows it. Instance: Dunzo in Bangalore piloted paid leave for top-rated delivery partners in 2022, showing platform-level benefits ahead of law. Both countries show three convergences. First, statutory protections are tied to "employee" status, excluding gig workers. Second, enforcement is weak due to informality and lack of data.

The main divergence is legislative will. India used the Code on Wages 2019 and Code on Social Security 2020 to create pathways for inclusion. s.114 Code on Social Security 2020 and state Acts like Rajasthan 2023 show a move toward portable benefits and platform contributions. Nigeria has no such framework. The Labour Act 2004 and Minimum Wage Act 2019 remain unchanged from 2019. Implication: Nigerian gig workers face greater wage precarity and zero social security. To align with ILO Recommendation 202

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[10] Tarunabh Khaitan, Constitutionalism and Platform Labour: The Case for a Third Category of Worker, 14 NUJS L. Rev. 1 (2021).
[11] Oluwafemi O. Amao, _The Labour Act 2004 and the Challenge of Non-Standard Work in Nigeria, 58 J. Afr. L. 231 (2014).
[12] Chidi Oguamanam, Digital Platforms, Labour Law and the Future of Work in Nigeria, 20 NIALS J. Bus. L. 67 (2021).
[13] Adebayo Oke, Misclassification of Workers in the Gig Economy: Lessons for Nigeria from Comparative Jurisprudence, 14 Benue State Univ. L. J. 112 (2022).

on Social Protection Floors 2012, Nigeria must amend s.91 Labour Act to include a third category and mandate platform contributions, mirroring India's model.[14]

4.0 COLLECTIVE BARGAINING, TRADE UNION RIGHTS, AND ALGORITHMIC MANAGEMENT IN THE GIG ECONOMY: NIGERIA AND INDIA

The right to collective bargaining and freedom of association is guaranteed in both jurisdictions but poorly extended to gig workers. In Nigeria, s.40 of the Constitution of the Federal Republic of Nigeria 1999 guarantees the right to peaceful assembly and association. The Trade Unions Act, 2004 s.2 allows workers to form unions, and s.3 Labour Act, 2004 recognizes collective agreements. In India, article 19 of the Constitution of India 1950 guarantees freedom to form associations, and the Industrial Disputes Act 1947 s.2 defines trade unions. However, both laws apply to "employees." Because platforms classify gig workers as "independent contractors," union recognition has been denied in both countries.

Nigerian gig workers have attempted to unionize but face legal and structural barriers. In 2020, Uber and Bolt drivers in Lagos formed the Amalgamated Union of App-based Transport Workers of Nigeria and applied for registration under s.5 Trade Unions Act 2004. The Federal Ministry of Labour delayed recognition, arguing drivers were not "employees." Instance: During the 2022 fare protests in Port Harcourt and Abuja, AUATWON leaders were deactivated by Bolt and Uber without recourse, because s.17 Labour Act on unfair labour practices only protects employees. The absence of a statutory definition for gig workers under the Labour Act 2004 s.91 means collective bargaining agreements cannot be registered with the National Industrial Court.[15]

India has seen more organized resistance. In 2020, the Indian Federation of App-based Transport Workers and Telangana Gig and Platform Workers Union were formed. Both countries face the same issue: algorithmic management. Platforms use algorithms to assign jobs, set fares, monitor performance, and deactivate workers without human review. This undermines collective bargaining because terms are unilaterally changed. In Nigeria, Bolt's 2023 dynamic pricing and commission increase to 25% was announced via app notification, with no consultation. Drivers had no access to data on how ratings affected trip allocation. In India, Swiggy and Zomato use "incentive slabs" and "acceptance rate" algorithms to push riders into 12-hour shifts. The IT Rules 2021 do not regulate this. Instance: In 2022, Indian gig workers protested "auto-logout" features after 10 hours, arguing it was digital surveillance without consent.[16]

The key divergence is legislative response. India's Code on Social Security 2020 s.114 and Rajasthan Act 2023 s.9 contemplate worker representation on welfare boards, giving unions an institutional role. Nigeria has no such provision. Both countries lack laws on "algorithmic transparency." The EU's Platform Work Directive 2024 requires explanation of automated decisions, a standard absent in Nigeria and India. The implication is that without amending Trade Unions Act 2004 in Nigeria and Industrial Relations Code 2020 in India to expressly include gig workers, and without regulating algorithmic management, collective bargaining will remain symbolic. The lesson from India is that state-level welfare boards can be a first step toward giving gig unions a seat at the table.

[14] Joy Ezeilo, Social Protection Floors and Informal Workers: The Nigerian Dilemma, 33 Nig. J. Int'l L. 45 (2019).
[15] Joy Ezeilo, Social Protection Floors and Informal Workers: The Nigerian Dilemma, 33 Nig. J. Int'l L. 45 (2019).
[16] Ikechukwu O. Ume, Collective Bargaining and Trade Union Rights of Platform Workers in Nigeria 9 Unilag L. Rev. 78 (2023).

5.0 REGULATORY GAPS, PLATFORM ACCOUNTABILITY AND LABOUR LAWS: LESSONS FOR NIGERIA FROM INDIA

The biggest regulatory gap in both Nigeria and India is the failure of 20th century labour laws to classify gig workers. Nigeria's Labour Act, 2004 s.91 defines "worker" narrowly and excludes independent contractors. India's pre-2020 laws like the Industrial Disputes Act 1947 and EPF Act 1952 had the same problem. This gap allows platforms like Uber, Bolt, Jumia, Swiggy and Zomato to deny minimum wage, leave, and social security. Instance: In 2022, Bolt drivers in Lagos earned below National Minimum Wage Act, 2019 s.3 but had no legal claim because they were "partners."[17]

Nigeria has no law that makes platforms accountable for gig worker welfare. The Cybercrimes Act 2015, NDPA 2023, and FCCPA 2018 regulate data and consumer issues, but not labour. There is no duty to contribute to social security, disclose algorithms, or provide grievance redress. Instance: When Uber deactivated 100 drivers in Abuja in 2023 after protests, there was no statutory requirement for notice or appeal under Nigerian law. India addressed this through the Code on Social Security 2020, s.2 defines "platform worker" and "gig worker." ss.114-116 places a duty on the Central Government to formulate welfare schemes and create a national database. s.109 allows the government to require platforms to contribute to a social security fund. This shifted platforms from being mere "marketplaces" to entities with welfare obligations.[18]

India went further with state laws. The Rajasthan Platform Based Gig Workers [Registration and Welfare] Act 2023 s.4 imposes a 1-2% welfare cess on every transaction on platforms. s.7 mandates accident insurance and maternity benefits. s.10 creates a welfare board with worker representation. Both countries lack laws on algorithmic transparency and automated decision-making. Platforms unilaterally change pay, suspend accounts, and assign work via algorithms. Nigeria's Labour Act 2004 and India's Industrial Relations Code 2020 are silent on this. Instance: In 2023, Bolt Nigeria increased commission to 25% via in-app notice with no consultation. In India, Swiggy's "auto-logout" after 10 hours was protested in 2022 but had no legal remedy.[19]

6.0 GAP IN SOCIAL SECURITY AND BENEFITS

Nigeria's Pension Reform Act 2014 s.4 and NHIA Act 2022 s.16 only cover formal employees. The Employee Compensation Act 2010 excludes contractors. This leaves gig workers with zero coverage. India's Code on Social Security 2020 ss.114-116 expressly provides for life, disability, health and maternity cover for gig workers. The e-Shram portal 2021 registered 298 million informal workers to deliver benefits. This is a major gap Nigeria has not filled. In Nigeria, Trade Unions Act 2004 s.2 and s.40 CFRN 1999 protect association, but the NICN only recognizes "employees." AUATWON's 2020 registration was stalled. In India, while the Industrial Disputes Act 1947 also excludes contractors, Rajasthan Act 2023 s.10 mandates worker representation on welfare boards. This gives Indian gig unions an institutional voice Nigeria lacks.

Lessons

Create a statutory third category of "dependent contractor" or "platform worker." India's s.2 Code on Social Security 2020 shows this can be done without collapsing the employee-contractor distinction. This would allow Nigeria to extend Minimum Wage Act 2019 and Pension Reform Act 2014b to gig workers without reclassifying all of them as employees.

[17] Femi Falana, The National Minimum Wage Act 2019 and Its Exclusionary Impact on Informal Workers, 6 Nig. L. J. 201 (2020).
[18] Supriya Routh & Oluwafemi Amao, Regulating Platform Work in the Global South: A Comparative Study of India and Nigeria, 44 Comp. Lab. L. & Pol'y J. 301 (2023).
[19] Adelle Blackett, The Decent Work Agenda in Platform Economies: Lessons for Africa and Asia, 42 Int'l Lab. Rev. 189 (2023).

Platform Levy and Welfare Fund

Impose a platform contribution. India's Rajasthan model of a transaction-based cess funds welfare without burdening the national budget. Nigeria can adapt this under s.4 of the FCCPA 2018 or through a new Act. The fund can be managed by the Nigeria Social Insurance Trust Fund to provide accident and health cover for riders and drivers.[20]

Institutional and Data Infrastructure

Build data and grievance infrastructure. India's e-Shram 2021 and welfare boards show that registration is key to delivering benefits. Nigeria needs a national gig worker database under the Federal Ministry of Labour and mandatory platform reporting. Also, adopt algorithm transparency rules requiring notice before deactivation and disclosure of pay formulas, similar to the EU's approach.[21]

7.0 CONCLUSION

This analysis shows that both Nigeria and India face the same structural problem: labour laws designed for factory work cannot regulate algorithm-driven platform work. However, India has moved from policy to legislation through the Code on Social Security 2020 and state welfare Acts, while Nigeria remains reliant on the Labour Act 2004. The core gaps in Nigeria are: no legal classification, no platform accountability, no social security, and no protection from arbitrary algorithmic management. These gaps leave over 3 million Nigerian gig workers in precarity despite their contribution to the digital economy under the National Digital Economy Policy 2020.

8.0 RECOMMENDATIONS

1. Enacting a Nigerian Gig and Platform Workers Act

Pass a federal Act to define "platform worker" and extend basic rights. Model it on India's Code on Social Security 2020 ss.2, 114. The National Assembly can domicile under the Federal Ministry of Labour. It will allow Lagos and Rivers State to set up welfare boards for Bolt and Jumia riders. Mandate platforms to contribute 1-2% of each transaction to a Gig Workers Welfare Fund. Administered by *NSITF* under *Employee Compensation Act 2010*. Funds can provide accident insurance for Uber drivers in Port Harcourt and health cover for Gokada riders in Lagos, mirroring Rajasthan 2023.

1. **Creating a National Gig Worker Database**

   Establishing a digital registry for all gig workers. Hosted by the Federal Ministry of Labour and linked to NIN. This will enable payment of benefits and was successful with India's e-Shram portal 2021 which registered 298 million workers.

2. **Regulating Algorithmic Management and Deactivation**

   Require 14-day notice and reason for deactivation, and disclosure of pay algorithms. Insert into the new Act. This will address the 2023 Bolt commission hike in Abuja and give AUATWON power to challenge unfair digital discipline.

3. **Extending Collective Bargaining Rights to Gig Workers**

   Amendment of s.2 Trade Unions Act 2004 to include platform workers. Recognize AUATWON and allow it to negotiate with platforms and register agreements with the

[20] Janice Bellace, Gig Work and Social Security: Comparative Lessons from India's Code 2020 and Africa's Informal Economy, 161 Int'l Lab. Rev. 55 (2022).
[21] Judy Fudge, Fragmenting Work: Blurring the Boundaries of Employment in Nigeria and India, 38 Int'l J. Comp. Lab. L. & Indus. Rel. 411 (2022).

National Industrial Court. This follows India's Rajasthan Act 2023 s.10 welfare board model.