
BEYOND THE ALGORITHM: HOW INDIA'S NEW LABOUR CODES LEAVE WOMEN GIG WORKERS UNPROTECTED FROM SEXUAL HARASSMENT

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ABSTRACT

For a country whose female population is almost as high as its male population, the female workforce participation is profoundly meagre. Gig work offers women, who are often limited by a lack of education and skills, a gateway to financial independence. It promises them flexible hours and a possibility of balancing paid work with domestic responsibilities. However, in reality, this promise is mired with precarious working conditions, where safety is not guaranteed, especially for women who work in isolated and customer-controlled environments. Selvi, a beautician registered on a mobile app service platform, went for what turned out to be a routine appointment. But within minutes, she found herself "locked in a bathroom" with her client, making improper advances. After complaining, the mobile app service platform's response was chilling: "Take your things and run, we can't help you. " Selvi's ordeal is emblematic of a precarious state of affairs that plagues millions of women in India's growing gig economy, where flexibility and work opportunities exist alongside a staggering lack of legal protection from sexual harassment.

The Indian gig economy has been growing at an unprecedented rate, with 7.7 million workers currently engaged in platform-based work, which is expected to rise to 23.5 million in 2029-30. Women make up a substantial share, especially in beauty services, delivery, and caregiving. However, this technological transition has faltered in legal development, leaving women gig workers in a legal Gordian knot where regular labour laws do not apply.

On November 21, 2025, India launched its historic labour code reforms, comprising four comprehensive codes that replace 29 antiquated labour laws. Historically, the gig or platform worker was recognised in the Code on Social Security 2020 for the first time. However, behind the progressive-looking face, the codes have one problematic aspect, which is the protection of women gig workers against sexual harassment. According to research, fifty-

four per cent of freelance workers experienced incidents of sexual harassment, whereas eighty per cent of Indian women experienced harassment in the workplace.

In this article, a critical theory is presented. Although the Labour Codes enacted during the 2019-2020 financial year are a historic achievement for gig workers in India, they are insufficient in terms of addressing sexual harassment policy. In fact, they are deficient since they don't cover gig workers under the coverage of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, also known as POSH Act.

I. The Invisible Workforce

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¹ Vasudevan Sridharan, *India's Female Gig Workers Facing Harassment and Unsafe Conditions Seek Change and Justice*, S. China Morning Post (Nov. 22, 2024), <https://www.scmp.com/week-asia/economics/article/3287567/indias-female-gig-workers-facing-harassment-and-unsafe-conditions-seek-change-and-justice>

² NITI Aayog, *India's Booming Gig and Platform Economy* 15 (2022).

³ Code on Wages Act, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; Occupational Safety, Health and Working Conditions Code, 2020; see also Ministry of Labour & Employment, Notification No. S.O. 5123(E) (Nov. 21, 2025).

women gig workers against sexual harassment. According to research, fifty-four per cent of freelance workers experienced incidents of sexual harassment,⁴ whereas eighty per cent of Indian women experienced harassment in the workplace.⁵

In this article, a critical theory is presented. Although the Labour Codes enacted during the 2019-2020 financial year are a historic achievement for gig workers in India, they are insufficient in terms of addressing sexual harassment policy. In fact, they are deficient since they don't cover gig workers under the coverage of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, also known as POSH Act. Another issue is that they don't specify mechanisms for preventing sexual harassment under the Occupational Safety, Health and Working Conditions Code 2020.

II. The Legal Labyrinth: POSH Act and the Gig Economy Gap

The POSH Act 2013 originated from the Supreme Court's landmark directive in *Vishaka vs. State of Rajasthan*.⁶ The POSH Act directly defines the provision of sexual harassment, including physical contact and advances, making any sexually coloured remarks and any unwanted speech of a sexual nature.⁷ An ICC is formed in every organisation employing ten or more workers, comprising a senior woman employee, two representatives from the employee association, and an outside expert.⁸ These complaints are to be investigated within 90 days.⁹

However, the flaw in the Act is in the interpretation of 'workplace' as 'any place visited by the employee arising out of employment'¹⁰ and the employees in the conventional employer-employee relationship. The framework developed during the industrial period falls apart in the face of the relationships in gig-economy jobs facilitated by algorithms.

This incompatibility exists on several fronts. First, platforms define themselves as "technology intermediaries" rather than employers, thereby declining to fall under the POSH Act.¹¹ Third,

⁴ Fairwork India, *Fairwork India Ratings 2021: Labour Standards in the Platform Economy* 23 (2021).

⁵ Martha Farrell Found. & UN Women, *Baseline Survey Report on Sexual Harassment at Workplace in India* 7 (2016).

⁶ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

⁷ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, § 2(n).

⁸ *Id.* § 4.

⁹ *Id.* § 11.

¹⁰ *Id.* § 2(o).

¹¹ *ANI Techs. Pvt. Ltd. v. Registrar of Cos.*, W.P. No. 3225/2018 (Karnataka H.C., India).

in this context, gig workers' work environments become flexible—a beautician's, for instance, could be fifty different houses every month, and delivery workers will visit innumerable houses. The primary harassers will be strangers and will be third-party clients, who have absolutely no relation to any job environment. Third, platforms deliberately choose not to set up ICCs. An analysis of five leading Indian platforms revealed that hardly any of them have a mechanism to address harassment complaints.¹²

The Karnataka High Court rendered a landmark judgment in the case of *X vs ICC, ANI Technologies Pvt Ltd*, in 2024.¹³ The question arose in the context of a harassment case filed by a female commuter against an Ola driver, which was dismissed for lack of jurisdiction. The court employed a “control test” from the judgment of *Uber BV vs Aslam*.¹⁴ The court observed that, in the case of Ola and the driver, control encompassed the fare, payment handling, route selection, and a penalty imposed on the customer for cancellation. The court observed that these parties are employer and employee, and therefore, the petitioner was required to comply with the POSH Act.¹⁵

However, the order is stayed at present,¹⁶ And secondly, a High Court ruling cannot determine national policy. It would be restricted to Karnataka and would deal exclusively with the above-mentioned type of platform.

III. The 2019-2020 Labour Codes: Promise and Peril

The Labour Code Reforms represent Parliament's most extensive overhaul of the Labour law since Independence. The reforms involved consolidating 29 Labour laws into four Codes: The Code on Wages 2019, The Industrial Relations Code 2020, The Code on Social Security 2020, and The Occupational Safety, Health, and Working Conditions Code 2020, which took place between 2019 and 2020.¹⁷ The goal of the reforms was to streamline compliance, make it easier, provide greater protection to employees, and adapt labour laws to the ever-changing world of Work (such as the Digital Platforms).¹⁸

¹² Fairwork India, supra note 4, at 27.

¹³ *X v. ICC, ANI Techs. Pvt. Ltd.*, W.P. No. 46975/2023 (Karnataka H.C., May 28, 2024).

¹⁴ *Uber BV v. Aslam*, [2021] UKSC 5 (U.K.).

¹⁵ *X v. ICC, ANI Techs. Pvt. Ltd.*, supra note 13, ¶¶ 45–52.

¹⁶ *ANI Techs. Pvt. Ltd. v. X*, SLP (C) No. 15234/2024 (India July 15, 2024).

¹⁷ Code on Wages Act, 2019; Industrial Relations Code, 2020; Code on Social Security, 2020; Occupational Safety, Health and Working Conditions Code, 2020

¹⁸ Code on Wages Act, 2019, §§ 3–6 (India).

The Code on Wages provides a universal minimum wage for all workers.¹⁹ The Industrial Relations Code consolidates trade union and dispute laws into a single code. The two Codes that will most benefit Gig Workers are the Code on Social Security 2020 and the Occupational Safety, Health, and Working Conditions Code 2020, with the Code on Social Security 2020 being the first to define 'Gig Worker' and 'Platform Worker', while the OSH Code 2020 addresses Workplace Safety.

The Code on Social Security 2020 provides historic recognition of Gig Workers, and Section 2(35) defines Gig Workers as individuals performing Work outside the traditional employment relationship. Section 2(62) of the Code defines Platform Workers.²⁰ The Code provides for Aggregators to contribute to a Social Security Fund for Gig Workers and empowers the Government to create schemes for Life Insurance, Medical Benefits, Old Age Security, and Education for Gig Workers. Aggregators must maintain a current database of Gig Workers.²¹

The OSH Code 2020 extends protections to all individuals, regardless of their employment status or working conditions.²² Section 43 permits women to work night shifts, provided they obtain written consent and adequate safety measures are in place.²³ Section 3 enshrines the principle of equal pay for equal work.²⁴ The Code establishes grievance redressal mechanisms that require the formation of grievance committees.

While the provisions for Prevention of Sexual Harassment in the POSH Act (as well as the Health & Safety) were included in both the POSH and Health & Safety Codes, protections for gig workers are severely lacking.²⁵

Although Chapter III of the Occupational Safety and Health Code deals with issues of Health & Safety generally, it does not explicitly mention sexual harassment as being one of the most significant safety risks that gig workers face (i.e., Sexual Harassment). Therefore, although the POSH Act includes provisions to prevent sexual harassment, this chapter does not require gig worker companies to implement harassment prevention policies and procedures. Consequently,

¹⁹ Industrial Relations Code, 2020, chs. II–IV.

²⁰ Code on Social Security, 2020, §§ 2(35), 2(62).

²¹ *Id.*

²² Occupational Safety, Health and Working Conditions Code, 2020.

²³ *Id.* § 43.

²⁴ *Id.* § 3.

²⁵ Occupational Safety, Health and Working Conditions Code, 2020, ch. III.

the lack of a requirement for harassment prevention will ultimately leave gig workers vulnerable.

Section 43, "Night Shift Safety," emphasises the importance of having policies in place to protect women who work at night; however, it does not mandate that companies have a harassment prevention policy/ procedure.²⁶

The language in Section 111 of the POSH Act (designed to serve as a grievance mechanism) is pretty generic and not as explicitly tailored to gig workers' needs as the ICC structure created by the POSH Act; thus, it should be considered ineffective.²⁷

The current Social Security Codes also contribute to the problem by creating confusion through inconsistent definitions; they define both gig workers and unorganised workers, raising the question of whether gig workers are considered a subgroup of the unorganised worker classification or an independent category. If the latter is true, then inconsistencies may arise in the enforcement of the codes against gig companies.

IV. Ground Zero: Women's Lived Experiences in the Gig Economy

If one of the goals of mobilising the gig economy was to liberate women, then one can safely say that this dream is far from being fulfilled. Selvi and many other women gig workers like her go to work hoping to come back without being followed, assaulted or killed.

"How can I even tell my husband what I go through daily in my work? Female gig workers have zero safety," said Selvi.²⁸ The unique working conditions of these workers put them at constant risk. Many have reported having faced sexual harassment, denial of bathroom facilities, rude and abusive behaviour, violence and more.²⁹ "Since we work indoors, in private spaces, anything can happen to us. We often work late into the evening, and many times, we lose mobile network access." A study by the Consultative Group to Assist the Poor (CGAP)

²⁶ Id. § 23.

²⁷ Id. § 111.

²⁸ Vasudevan Sridharan, *India's Female Gig Workers Facing Harassment and Unsafe Conditions Seek Change and Justice*, S. CHINA MORNING POST (Nov. 22, 2024), <https://www.scmp.com/week-asia/economics/article/3287567/indias-female-gig-workers-facing-harassment-and-unsafe-conditions-seek-change-and-justice>.

²⁹ Sabah Gurmat, *No Bathrooms, No Safety, No Formalisation: For India's Women Gig-Workers, Companies' Promises Ring Hollow*, THE LEAFLET (Oct. 18, 2021), <https://theleaflet.in/labour-law/no-bathrooms-no-safety-no-formalisation-for-indias-women-gig-workers-companies-promises-ring-hollow>.

on gig workers further demonstrates that women are mostly restricted to indoor services at customers' homes, such as beauty services, childcare, and housekeeping, highlighting the high risk of their work.³⁰

Even in ride-hailing and delivery services, women have reported daily safety challenges, aggressive customer and peer behaviour, and discrimination, even after taking all safety precautions like working only during peak hours, sending location to friends, taking familiar routes, etc.³¹ Janani Rao shares about her experience of working with Swiggy, "The risk of accidents notwithstanding, given how unpredictable the traffic can be, the fear of harassment or feeling unsafe during deliveries was hard to deal with. Safety tools help, but they don't entirely ease the worry of being vulnerable."³² In a survey conducted by Fairwork project, covering 5000 workers spanning 180 platforms, which focused on location-based digital platform work- including ride hailing, food delivery, and at-home beauty treatments, the authors, Anjali Krishnan and Kavita Dattani have recounted, "With so many reports of violence and abuse, the thing that really came to the fore was the incidence of sexual harassment. It was shocking."³³

Company responses have been lacklustre at best. With the inapplicability of the safety net provisions to women gig workers, it's a "no master, no leash" situation prevailing in the current gig economy. Their responses have done more to stifle the promised "liberation" than to ensure it. Many delivery platforms have disallowed women from serving male customers or picking up gigs after 6 p.m.³⁴ Their responses included, 'Leave your stuff and run.' Selvi shares, "Even during emergencies, our companies don't respond for hours. One of my female colleagues was locked in a toilet for nearly two hours after a client snatched her phone for resisting sexual advances. When we complained, the company told us to give the customer a poor rating

³⁰ Madhavi Jha, *Women in the Gig Economy: Between Flexibility and Insecurity*, OBSERVER RSCH. FOUND. (Apr. 21, 2025), <https://www.orfonline.org>.

³¹ Safetipin, *Women on the Wheel: Gender in On-Demand Transport-Based Gig Work in South Asia* (May 2025), <https://safetipin.com/report/women-in-gig-work-in-south-asia/>.

³² *Women & the Gig Economy*, ISB SRITNE RSCH., <https://www.isb.edu/faculty-and-research/srini-raju-centre-for-it-and-the-networked-economy/womens-inclusion-in-the-gig-economy-an-unfulfilled-promise>.

³³ Orchie Bandyopadhyay, *India's Female Gig Workers: Digital Strike Opens New Battleground for Better Conditions*, BRIT. SAFETY COUNCIL (Dec. 9, 2024), <https://www.britsafe.in/safety-management-news/2024/india-s-female-gig-workers-digital-strike-opens-new-battleground-for-better-conditions>.

³⁴ Ning F. Ma et al., "Brush It Off": *How Women Workers Manage and Cope with Bias and Harassment in Gender-Agnostic Gig Platforms*, CHI CONF. HUM. FACTORS COMPUTING SYS. (2022), https://www.researchgate.net/publication/359802513_Brush_it_Of_How_Women_Workers_Manage_and_Cope_with_Bias_and_Harassment_in_Gender-agnostic_Gig_Platforms_Brush_it_Of_How_Women_Workers_Manage_and_Cope_with_Bias_and_Harassment_in_Gender-agnostic_Gig.

simply.” She further shares. “They also know we are vulnerable, need these jobs to run our families and don’t have the clout to make a fuss even if our dignity is ripped apart.”³⁵

Algorithmic management in gig models further adds to the problem.

This system substitutes for traditional human oversight, automates the processing of workers’ performance, and determines their availability for work opportunities, leaving no space for negotiation or grievance resolution. It imposes strict and rigid targets on workers of all genders, overlooking the problem of “time poverty” faced by women, owing to caregiving and other societal expectations.

The repercussions of this have been further reflected in a Teamlease survey, which showed an 8-10% wage difference between male and female delivery executives.³⁶ These problems make women gig workers’ sustenance in the field a lot more difficult and intolerable. For example, studies conducted in the UK show that women are more likely than men to exit the gig economy.³⁷ “It’s been quite the ride,” says Janani Rao, “For me, it was not just a job but a statement. I started part-time, but the income was low, and I had many safety concerns. However, I persevered and eventually went full-time for a more reliable income. But it was both physically and mentally draining. Even with a safety app and pepper spray, challenges persisted. It’s particularly tough for us women in the field.”³⁸

These gaps further exacerbate the low workforce participation rate among women, thereby affecting the economy as a whole. According to the McKinsey Global Institute, if women’s employment rates grow by 10 percentage points by 2025, India’s Gross Domestic Product (GDP) may increase by US\$0.7 trillion, or more than 25 per cent of its current GDP, clearly highlighting the importance of making the Gig economy sustainable to achieve true liberation.³⁹

³⁵ Id.

³⁶ Anand Nandkumar et al., *Women’s Inclusion in the Gig Economy: An Unfulfilled Promise*, ISB SRITNE RSCH., <https://www.isb.edu/faculty-and-research/srini-raju-centre-for-it-and-the-networked-economy/womens-inclusion-in-the-gig-economy-an-unfulfilled-promise>.

³⁷ Shinee Chakraborty, *Urban Gender Gap Threatens India’s Demographic Dividend*, Policy Circle (Nov. 12, 2025), <https://www.policycircle.org/society/urban-gender-gap-demographic-dividend/>.

³⁸ Ria Kasliwal, *Gender and the Gig Economy: A Qualitative Study of Gig Platforms for Women Workers*, ORF ISSUE BRIEF No. 581 (May 2023), https://www.researchgate.net/publication/384461027_Gender_and_the_Gig_Economy_An_Analysis_of_Women_Workers_across_Gig_Platforms.

³⁹ *Women & the Gig Economy*, supra note 32.

V: The Way Forward to an Inclusive Future

By now, the plight of these women and their constant vulnerability couldn't be any more real and visible. However, till now, the Government has only disregarded them. If our goal is to become the 3rd-largest economy by 2030, then institutional apathy toward Gig workers' problems, especially those of women, is not the way forward.⁴⁰ It's almost ironic that our neighbouring country, Pakistan, also extends POSH protections to its women gig workers, while the same privilege is not accorded to Indian women gig workers.⁴¹

It's high time for India to follow suit with countries like Canada and the EU and make legislative amendments to give gig workers "Employee" status and treat platform aggregators as "Employers". "Workplace" in the POSH Act should be redefined to include customers' homes, vehicles and digital spaces. The EU's Platform Work Directive should be studied for policy guidance.

For example, it's "Rebuttable Presumption" which mandates that "a gig worker be considered an employee by default unless explicitly proven to be otherwise by the platform" and another directive that mandates platforms to implement compulsory human oversight of AI tools and also evaluate the impact of AI-made or supported decisions regarding platform workers and how they have affected their working conditions and equal treatment, and further to share the results of the same with workers, should be emulated.⁴²

The pioneer efforts of platforms like Zomato in India should be the norm in all platforms. For instance, Zomato rolls out a questionnaire to ask its female delivery partners about safety levels in a specific area. If multiple women mark a location as unsafe, then it's reviewed and blocked.⁴³ Further, Zomato has a 24-hour human SOS team to assist workers during emergencies, along with mechanisms to send an ambulance and the police to the site within 12 minutes.⁴⁴ Nammayatri, another platform, also provides support to its women workers during

⁴⁰ Dilip Singh Kshatriya, *PM: India on Fast Track to Be 3rd Largest Economy*, NEW INDIAN EXPRESS (Jan. 12, 2026), <https://www.newindianexpress.com/nation/2026/Jan/12/pm-india-on-fast-track-to-be-3rd-largest-economy>.

⁴¹ Protection Against Harassment of Women at the Workplace Act, 2010 (Pak.).

⁴² Directive (EU) 2024/2831 of the European Parliament and of the Council of Oct. 23, 2024, 2024 O.J. (L 2831) arts. 5, 9.

⁴³ Deepinder Goyal, *Increasing Women Participation in Our Delivery Fleet*, ZOMATO BLOG (June 25, 2021) <https://www.zomato.com/blog/more-inclusive-delivery-fleet/>.

⁴⁴ *Zomato Launches Accelerated Safety Response Program for Delivery Partners*, PR NEWSWIRE (Dec. 18, 2024), <https://www.prnewswire.com/in/news-releases/zomato-launches-accelerated-safety-response-program-for-delivery-partners-302335070.html>.

vehicle breakdowns by connecting them with nearby male peers and on-the-ground support groups.⁴⁵ Platforms should have a dedicated helpline for women to reach out instantly.

Furthermore, to fully ensure women workers feel secure, platforms should allow them to serve only women customers, especially in ride-hailing services. This small change would go a long way in securing women drivers' late-night and long-distance gigs. This also ensures a woman rider's trip. For instance, in a survey conducted in Pakistan, 90% of the women riders opted for a female driver.⁴⁶ Nepal's Tootle already effectively informs its women workers of the customer's gender, thereby allowing them to make a choice.⁴⁷

It's high time even the judiciary stepped up and played a proactive role where the law is silent. Cases like *X v. ICC* should be upheld, and judicial activism, as undertaken in the *Visakha Guidelines*, must be repeated to extend the protective reach of law to women gig workers till the law speaks.⁴⁸

VI. Conclusion

The reforms in the labour code are a historic moment in Indian history. But their transformative power can only be achieved when their protective hand has touched every worker, particularly vulnerable women, in the gig economy.

There is a need to reinstate urgent parliamentary action to amend the Occupational Safety, Health and Working Conditions Code 2020 to require platform aggregators to comply clearly with the POSH Act. The recent Karnataka High Court ruling on platform workers, albeit suspended, sheds light on a possible way forward that Parliament should make law. The experience of international jurisdictions shows that full-scope protection for gig workers is not just a dream but highly feasible.

⁴⁵ *Namma Yatri Hits 100 Million Rides, Enables ₹1,600 Cr Driver Earnings*, BUS. STANDARD (June 6, 2025), https://www.business-standard.com/companies/news/namma-yatri-hits-100-million-rides-enables-1-600-cr-driver-earnings-125060600641_1.html.

⁴⁶ *Behind the Wheel: Pakistan's First Women-Only Ride-Hailing Service Promises Safer Commutes*, ARAB NEWS (Sept. 8, 2025), <https://www.arabnews.com/node/2614510/Pakistan>.

⁴⁷ Roy Huijsmans & Pritee Hamal, *Pros and Cons of Women-Friendly Rideshare Apps: Tootle & Seregela*, Tatler Asia, <https://www.tatlerasia.com/power-purpose/front-female/pros-and-cons-of-women-friendly-rideshare-apps-tootle-seregela>.

⁴⁸ *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

The economic development of India has to be measured not only by GDP growth but also by the fact that women employees can perform their tasks without harassment. Flexibility, opportunity, and empowerment are empty promises of the gig economy when women are forced to choose between economic survival and personal safety.

The day has to arrive when women gig workers like Selvi can walk into workplaces with confidence that they are not going to endure any more contraventions as these violations against their dignity are secured through sound legal provisions; when they do not have to worry that platforms are going to optimize their efficiency but take care of their workers as much as they do of efficiency; and when they have a complaint mechanism that is alive and functioning. As of now, the labour code reforms in India remain a half promise: legislative zealotry is negated by institutional indifference.

The invisible workforce should be observed. Women gig workers deserve no less than the protection of the law, as they make a significant contribution to the Indian economy and put their safety at risk in their daily lives. The half-time is long gone. It is time to have comprehensive, enforceable reform.