

A photograph of a city street, likely in Japan, showing a delivery person on a motorcycle. The person is wearing a dark jacket and a helmet, and has a large black delivery bag with the 'Uber' logo on the back. The motorcycle is a Honda, and the license plate is visible, reading 'N・2090'. The street is lined with buildings and signs, and there are traffic lights and a blue circular sign with a white arrow pointing right. The image is framed by an orange border.

● ● WageIndicator

THEORY & PRACTICE
IN THE GLOBAL WORLD
OF PLATFORMS:
INNOVATIONS
AND REGULATION

THEORY & PRACTICE IN THE GLOBAL WORLD OF PLATFORMS: INNOVATIONS AND REGULATION

INTRODUCTION

"In theory, there is no difference between practice and theory.

In practice, there is." — Yogi Berra

The contribution of gig economy workers during the COVID-19 pandemic has put forward a strong ground for the governments to recognise the importance of this fragmented and largely unorganised workforce.

Gig economy is bringing many new opportunities, but it's also a system with a precarious nature that calls for "a new social contract".

Institutions are needed to intervene globally by both legislating and putting into effect rules that allow Gig workers to access social and financial protection in a more equal way, according to the very fast changes of the digital era. There is not the perfect solution, but we must learn from good results - and mistakes so far.

CASE NUMBER 1

USA, Prop 22: benefits as a floor rather than a ceiling

- **In November 2020 California voters approved Proposition 22**, a ballot measure that allows gig economy companies to continue treating drivers as independent contractors.
- Major tech firms such as Uber and Lyft are **exempted from fully complying with labor laws**.
- Had the ballot measure failed, California gig workers would have been classified as employees per **Assembly Bill 5 (AB5)**, with all the additional benefits that come with that status. ([latimes.com](https://www.latimes.com))
- Drivers and labor groups oppose Prop 22 and say **working conditions remain poor**: the minimum wage in California is \$14 an hour as of January 2021 ([ktla.com](https://www.ktla.com)); they could be legally allowed to make 5\$ per hour. ([The Guardian](https://www.theguardian.com))
- Prop 22 could be used by companies in **other sectors** to move their workers to independent contract employment, instead of traditional employment, and to keep



their labor costs low. For example, Grocery delivery workers are being fired and replaced by on-demand DoorDash workers. ([The Verge](#))

- Prop 22 would **erode the power of local governments** to secure additional worker protections, such as targeted minimum wage protections for ride-hailing drivers, as has been done in cities such as New York and Seattle. Furthermore, as independent contractors, workers will find it more **difficult to leverage collective power** and make their voices heard because they are barred from formally unionizing. ([latimes.com](#))
- The ride-hailing and on-demand food delivery giant has published a white paper in which it **lobbies European policymakers** for what it couches as a “new standard” for platform work. ([TechCrunch](#))

CASE NUMBER 2

INDIA: lights and shadows of the Code on Social Security

In **October 2020** the Parliament passed three Codes in an attempt to overhaul the complex labour laws of the country. This includes the **Code on Social Security**, which, among other provisions, directs aggregators like ride-sharing services, food and grocery delivery services and ecommerce platforms, to **contribute 1 to 2 percent** of their total annual turnover towards social **security provisions for wor-**

kers. This includes disability and life insurance benefits, accident cover, maternity coverage, creche services, old-age protection, gratuity and provident fund contributions. ([Forbes India](#))

CoSS 2020 defines gig workers as “those earning from and participating in work arrangements outside of traditional employer-employee relationships” and platform workers as those gig workers engaged with digital platforms. ([Ola Mobility Institute](#))

Pros:

- The gig and platform workers come within the **safety net**. “For the first time globally, social security benefits will extend to gig and platform workers. Minimum wages will apply to all categories of workers, and they will all be covered by the Employees State Insurance Corporation” ([moneycontrol.com](#))
- CoSS 2020 has replaced multitudinous, archaic and overlapping legislation regarding the social security provisions for workers and their families. Traditionally, social security has been tied to employment, as seen in the case of formal employees enjoying pay and retirement and healthcare benefits, among others. Such a regime has rendered over 92% of the Indian workforce (i.e. those in the unorganised, informal sectors) unprotected. ([Ola Mobility Institute](#))
- The Code aims to **provide uniformity** in providing social security benefits to the



employees which was earlier segregated under different acts and had different applicability and coverage. ([Mondaq](#))

- Several **new concepts** such as gig workers, platform workers, fixed term employees etc. have been coined which were previously not recognized under any labour legislation. ([Mondaq](#))

Cons:

- **An immediate cost more than a benefit:** provisions hurt immediate incomes. Difficulties for workers to deduct even small amount of money from their monthly income for these benefits (“hand-to-mouth” lifestyle) ([Forbes India](#))
- The Social Security Code **does not consider the fluctuation of income** [which depend on factors like number of rides or deliveries per month] typical of gig work ([Forbes India](#)) Flourish Ventures report: About 47 percent could not cover their expenses for a month without borrowing money, while 83 percent had to use up their savings to survive through the crisis. ([Forbes India](#))
- **High costs for the aggregators.** “There is a lack of clarity on “turnover”, which could only be the revenue from the unit that hires gig workers and not the company’s overall turnover. The Ministry is yet to clarify this.” ([moneycontrol](#)) “The costs for companies would go up by 10 to 15 percent” (source: BetterPlace) ([Forbes India](#))
- There could be more difficulties to engage the Gig workers.
- **Some companies might pass on the cost to employees**, while others might consider hiring these workers full-time since they anyway have to shoulder the security benefits.
- The Code does not include other types of Gig workers (for example domestic workers).
- Platform businesses within and across industries are inherently **different in their nature of work**. A rideshare platform is different from an urban logistics platform, for instance.

- **Lack of awareness of social protection:** Gig workers are often unaware of all relevant social security benefits they can avail. Information, Education and Communication are key to increasing the awareness and utilisation of social security schemes. ([Ola Mobility Institute](#))

Good News

In February 2021 the Indian Finance Minister, Nirmala Sitharaman, proposed extending social security benefits to gig workers and other platform workers and launching a website to help these workers find employment and relevant information on the gig economy.

These workers will be protected by minimum wages. Women would be allowed to work in all categories and also during night shifts with adequate protection.

([The Indian Express](#))

The Indian Gig Economy in numbers

India has 15 million freelancers with its gig economy workers increasingly gaining independent contracts in industries like IT and programming, finance, HR, and design, among others

(ASSOCHAM, *Associated Chambers of Commerce and Industry of India*)

1.3 million people joined the gig economy in the second half of 2019.

(*Payoneer, Global Gig-Economy Index 2019*)

India’s gig economy will have a compound annual growth rate of 17 percent and will be valued at \$455 billion by 2023.

(ASSOCHAM, *Associated Chambers of Commerce and Industry of India*)

CASE NUMBER 3

FRANCE: the Mobility Orientation Law

In December **2019**, the **French** National Assembly passed the **Mobility Orientation Law** (loi d'orientation des mobilités, LOM). The Mobility Law includes some measures specifically of interest to VTC drivers. (Weblex.fr)

Pros:

- The Mobility Law gets out of the “gray zone” of the law the self-employed workers who collaborate with digital platforms using couriers and drivers, such as Uber or Deliveroo (leparisien.fr). It guarantees three fundamental rights: the right to disconnect, which allows workers to no longer be riveted to their smartphone during a race and refuse a customer (where today, workers are often penalized for refusal); the right to know in advance the minimum price of a race; the right to training. (cmslaw)
- The platforms are invited to write charters “specifying the contours of their social responsibility”.
- The Mobility Law seeks to increase the number of VTC drivers, intends to improve their care for people with reduced mobility and seeks to increase the number of VTCs running with low-polluting cars.

Cons:

- These new measures are judged insufficient by unions: *“The platforms will define their own rules. This will also defeat the action before the industrial tribunal of drivers who claim employee status”* (Syndicat des Chauffeurs Privés VTC)
- *“The platforms could rush to offer social protection to these workers who will, in fact, be subservient to them”*. (Union des auto-entrepreneurs)

CASE NUMBER 4

ITALY: the weakness of the collective agreement

- In **November 2019** the **Italian government adopted a law (nr. 128)** that “gives riders basic protections including sick leave and social security while still categorizing them as autonomous workers”.
- Under the law, delivery companies have 12 months to agree on a contract with workers’ representatives”. (politico.eu) If there’s no agreement, the Labor Ministry would step in to set further conditions including an hourly wage.
- In **September 2020** AssoDelivery (the association bringing together Glovo, Deliveroo, Just Eat, Uber Eats and Social Food), and UGL (the General Union of Labor, a right-leaning organization), undersigned **a collective agreement** to preclude the government from stepping in.

People in favour:

- *“The aim is to support the sustainable growth of a sector that, now amidst a health emergency, has shown itself to be essential and supportive to the economic activities that have been stricken by the difficulties of lockdown and social distancing”*, (medium.com) The agreement pushes for what Uber CEO Dara Khosrowshahi described as a **“third way”** for workers, whereby workers are classified as self-employed, but are provided with benefits like an hourly wage. (politico.eu) *“It validates flexible work”*.

People against:

- **Scarce representativeness** (UGL is a small union, not representative at all);
- Riders are **denied access to employment rights** because they are exclusively classified as self-employed. This means they will continue to be hired as occasional workers and operate with a VAT number; piecework pay is reintroduced (although it is forbidden by law): the 10 euros per hour refers to a whole hour spent in making deliveries,

so there is no guarantee that 10 euros are earned for one hour of work; the bonus of 600 euros shall be paid if at least 2,000 deliveries per year are made, but since deliveries are not decided by riders, the platform will hardly allow them to reach 2,000 deliveries per year; the 10% bonus payment is already provided for by law. The night work bonus payment shall be applied between 1.00 and 7.00 a.m. How many deliveries are made at that time? Almost none; the 20% bonus payment per hour worked shall only be granted if riders work on public holidays (not on Sundays), if it rains and if they work at night, i.e. practically never. (eesc.europa.com)

- **What do other unions ask to protect the workers?** Protections provided for by the national agreement on logistics and goods transport; a guaranteed minimum weekly working time; possibility of being classified as employees.
- On 17th of September 2020: Ministry told Assodelivery that its agreement with UGL is not valid. (politico.eu)

News not to be missed: what is happening to Italian Gig workers?

- **Deliveroo, Just Eat, Glovo-Foodinho, Uber Eats** - February, 2021 - The Inspectorate of Labor discovered **violations of insurance and safety obligations** in Milan and in other Italian cities too. The “big four” companies must hire over 60 thousands riders as “coordinated and continuous workers”. Otherwise specific “measures” will be taken. ([Il Sole 24 Ore](http://IlSole24Ore))
- **Just Eat** - February 2021 - From March riders in Lombardy will be hired with a contract and a fee of 9 euros per hour. The company would guarantee sickness and maternity leave and paid holidays (Scoober model). Unions: “Now the priority is to define a national collective agreement as soon as possible”. ([Il Sole 24 Ore](http://IlSole24Ore))
- **Deliveroo** - February 2021 - An Italian court ruled that an algorithm once used by Deliveroo to assess riders on its platform was discriminatory.

CASE NUMBER 5

SPAIN: the controversial Riders Law

- **In February 2021 the Ministry of Labor sent the social agents the latest version of the ‘Riders law’.** (elespanol.com)
- The Ministry of Labor is committed to giving a maximum of three months to the platforms to incorporate the distributors as salaried employees. Glovo, Deliveroo and other digital platforms dedicated to delivery “must register the working people in the General Social Security Scheme, at most, on the first day of the third month from the entry into force of this royal decree-law”.
- These changes will be implemented in the Workers’ Statute through the ‘Royal Decree-Law Against the Flight of Labor Law



- Through Digital Distribution Platforms’.
- The text also includes the creation of a tripartite commission in which the government, employers and unions will analyze “the evolution of digital platforms in the workplace” and publish an annual report on this matter.
- The companies have put three options on the table: operate with cooperatives of autonomous delivery men (ex. [the Cooperative Economy Act](#)), close commercial contracts with fleet companies (ex. see Just Eat and [Grupo Mox](#)) or adjust their model to eliminate any indication of an employment relationship and continue operating as before. ([economist.com](#))
- These are the most immediate changes, but many other digital platforms (such as Cuideo) remain unregulated. The representation of domestic workers (especially women) in the company and in collective bargaining cannot remain on the sidelines.
- March 2021 - The Ministry of Labor and Social Economy, the trade union organizations CCOO and UGT and the business organizations CEOE and CEPYME have reached an agreement** to establish the employment situation of the workers dedicated to the distribution or distribution of any product of consumption or merchandise through digital platforms.
- The **presumption of employment** is recognized for workers who provide paid delivery services through companies that manage this work through the algorithmic management of the service or working conditions, through a digital platform.
- The legal representation of the workers **must be informed of the rules contained in the algorithms** and artificial intelligence systems that may affect the working conditions by which the platforms are governed, including access to and maintenance of employment and the creation of profiles. (source: gov.es)
- March 2021 More than 2,000 [riders mobilized](#) in 12 Spanish cities to demand that the ‘rider law’ include the option of working as a freelancer.

A long battle

In September 2020 the Supreme Court ruled that the 'riders' who work for Glovo are false self-employed.

The doctrine of the Supreme Court came after a multitude of actions by the Labor and Social Security Inspectorate, a very large number of court decisions and our superior courts that have firmly affirmed the labor nature of the relationship that links riders with the platforms.

"A situation of labor exploitation of some companies that move billions and claim that the legislation allows them to validate their business model in which they ask to be governed only by supply and demand. A system without control and that exploits and impoverishes the most vulnerable people". (source: *Acuerdo de la mesa de diálogo social - Laboralización de riders y seguimiento de las plataformas digitales en el ámbito laboral*)

Just Eat and the fleet companies

The situation of Just Eat workers is actually much more precarious than what it seems. "I do not have a direct contract with Just Eat. Jobandtalent manages my day, my hours, where I have to go ..." a worker explains.

"Another company coordinates us, a garage where all the motorcycles are kept: they control entries, exits and write down the fulfillment or not of objectives. My contract is with Jobandtalent, but the user company is NewDriver, which is a subsidiary of the Mox Group in which Just Eat is a shareholder. This makes it very difficult for us to do a lot of things, including organizing ourselves to protect and improve our labor rights" another rider says. (elconfidential.com)

The "third way"

Companies like Uber Eats, Glovo and many others from the so-called 'gig economy' have opted for what they have come to call the 'third way'. A regulation that is situated halfway between the figure of the employee and the self-employed, giving more protections to the riders without overloading the labor cost structure of the companies. At the moment, almost all attempts to explore that figure have been in limbo. But it is not the only alternative that has been put on the table. In recent years, delivery companies operating with a cooperative model have multiplied in Spain and other European countries, being able to offer decent conditions to their workers, who at the same time are the "owners" of the company. (elconfidential.com)

GOOD REGULATION AROUND THE WORLD

AUSTRALIA

February 2021

Australia's Labor Party proposed a plan of reforms to improve job security and provide minimum pay to those in insecure work, gig workers included. Practical proposals: leave entitlements; a cap on rolling fixed-term contracts; same pay as hired co-workers. The Labor Party wants to extend the powers of the Fair Work Commission to include employee-like forms of work and allow the commission to make orders for minimum standards in new forms of work.

Deaths of food delivery riders throws spotlight on gig workers' conditions and denial of basic rights (award benefits, superannuation, the right to collectively bargain, the access to dismissal protections).

(source: [The Guardian](#))

CHILE

February 2021

The Congress of Chile has among its parliamentary agenda the debate of **a bill that seeks to regulate labor relations** and their respective **benefits** to service providers of digital platforms such as delivery applications.

(source: [laley.pe](#))

FRANCE

January 2021

The Minister of Labor, Elisabeth Borne has entrusted three personalities with a mission on the social and legal status of the self-employed working for web platforms such as Uber, Uber Eat or Deliveroo. It's a direct continuation of the report "Regulating digital work platforms" submitted to the Prime Minister in December 2020 by Jean-Yves Frouin, former president of the social chamber of the Court of Cassation. This document recommends the use of a third party - cooperative, like the Couriers Bordelais, portage or other forms to be invented - to "secure legal relations and workers without calling into question the flexibility provided by the statute of "independent".

But before initiating any regulatory and legislative changes, the Minister of Labor, in conjunction with Jean-Baptiste Djebbari, Minister for Transport, wishes to deepen the work on the operational nature of these regulatory measures.

(source: [latribune.fr](#))

SWEDEN

January 2021

Foodora and the Swedish Transport Workers' Union have agreed on a **collective agreement**. The details of the agreement are unknown, but the result could have a major impact on the gig economy. The agreement will take effect as early as March 1, but must



first be approved by both the union's and the company's boards. Negotiations between the parties have been ongoing since last spring. (source: svt.se)

DENMARK

January 2021

The Chamber of Commerce and 3F Transport signed a nationwide collective agreement for food delivery services to give couriers who deliver takeaway meals a regulated wage, pension and sick pay.

The delivery-giant Just-Eat, with its 600 couriers, is the first to sign the agreement.

(source: fagbladet3f.dk)

PHILIPPINES

January 2021

The House Committee on Ways and Means approved a bill that would provide legal and contractual protections to freelancers or self-employed individuals in the country.

Why: the Labor Code "does not define freelancers," adding that "there is also no formal contractual framework for freelancers in the law. About 1.5 million Filipinos were employed in the "gig" economy, or freelancing, prior to the pandemic.

(source: inquirer.net)

GERMANY

December, 2020

The German Ministry of Labor just published key points for the regulation of crowd work and gig work. These include a change in the distribution of the burden of proof for workers and improved possibilities for the collective organization of independent contractors. The Ministry has announced that it wants to ensure pension and accident insurance. According to the announcement, fair working conditions on platforms are to be ensured by prescribing minimum notice periods. The largest German trade union IG Metall (Industriegewerkschaft Metall) welcomes the approaches and emphasizes the importance

of collective action in a digital working environment.

(source: [Hugo Sinzheimer Instituut - Institute for Labour and Social Security Law](https://www.hugo-sinzheimer.nl/))

MALAYSIA

November 2020

The Ministry of Human Resources (MOHR) plans to make it mandatory for all workers, including self-employed and gig-economy workers to contribute to the Social Security Organisation (Socso).

Human Resources Minister Datuk Seri M. Saravanan said the existing act, the Self-Employment Social Security Act 2017 (Act 789), must be amended to enable the safety and interests of workers in the sectors concerned to be guaranteed.

(source: [malaymail.com](https://www.malaymail.com))

KENYA

November, 2020

Ajira Digital Program is a Government of Kenya initiative driven by the Ministry of ICT, Innovations and Youth Affairs to empower over one million young people yearly to access digital job opportunities. (source: [newstrends.co.ke](https://www.newstrends.co.ke))

MEXICO

November, 2020

The senator of the National Action Party, Xóchitl Gálvez Ruiz, sent **a proposal to the Senate of the Republic to regulate, in the Federal Labor Law, the labor relationship, rights and basic conditions that companies that generate income through digital platforms** should follow to deliver greater and better thanks to its workers.

The initiative seeks to add a Chapter XI Bis "Work through Digital Platforms" to Title Six of the law.

These initiatives would seek to regulate and guarantee that people who work for a platform such as Uber or Didi have access to legal and social security benefits.

(source: [explica.co](https://www.explica.co))