



## Protecting gig workers in Ghana: A study of trade unionism, collective bargaining, and labour law reform

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### Abstract

The rapid growth of the gig economy in Ghana, propelled by digital platforms such as Uber, Bolt, and food delivery services, has generated a new category of workers. However, their legal classification as independent contractors exclude them from the fundamental protections guaranteed under the Labour Act 2003 (Act 651), including the right to unionise, engage in collective bargaining, and access social security benefits. This misclassification produces a significant protection gap, exposing gig workers to unstable incomes, algorithmic management, and precarious working conditions. Adopting a doctrinal and comparative approach, this study interrogates the shortcomings of Ghana's labour legislation and trade union structures in responding to these challenges. It draws on lessons from innovative legal and collective bargaining responses in the European Union, the United Kingdom, and South Africa, where courts and policymakers have sought to extend rights to platform workers (International Labour Organization [ILO], 2021) [12]. The paper argues that urgent legal reform is required in Ghana, including a statutory redefinition of workers and the institutionalisation of sectoral bargaining, to guarantee meaningful protection for gig workers and ensure that the digital economy contributes to decent work and inclusive growth.

**Keywords:** Collective bargaining, Ghana, gig economy, labour law reform, worker classification

### Introduction

#### Background on the Rise of the Gig Economy Globally and in Ghana

The global labour market is undergoing a profound transformation, largely fuelled by rapid advances in digital technology and the proliferation of online platforms that facilitate short-term, task-based work arrangements (De Stefano, 2016) [6]. Commonly referred to as the gig economy, this model disrupts conventional employment relationships by blurring the boundaries between employees, independent contractors, and self-employed workers (Prassl, 2018) [17]. Gig work is characterised by flexibility and accessibility, but also by instability, algorithmic management, and the erosion of established labour protections. In advanced economies, multinational platforms such as Uber, Deliveroo, and Airbnb have become household names, symbolising both the opportunities and vulnerabilities of this new form of work. Courts and policymakers in jurisdictions such as the United Kingdom, the European Union, and the United States have been forced to grapple with fundamental questions about employment status, collective rights, and social protection for gig workers (Huws *et al.*, 2018) [10]. This shift is not confined to the Global North. In Africa, the gig economy is expanding rapidly, responding to structural challenges such as high youth unemployment, underemployment, and the growing penetration of mobile and internet technologies (Standing, 2011) [22]. For policymakers, digital platforms are often celebrated as a vehicle for entrepreneurship and job creation. However, critics argue that they replicate or even deepen the informalisation of labour by transferring risks to workers while limiting their access to collective bargaining and legal protection.

In Ghana, the gig economy is now a visible component of the urban economy, particularly in Accra, Kumasi, and other metropolitan centres. Ride-hailing platforms such as Uber, Bolt, and Yango dominate urban transportation, while food and parcel delivery services, including Glovo, Bolt Food, and a growing number of local startups, engage thousands of riders (Osei-Boateng, 2022) [16]. For many young Ghanaians, these platforms provide a critical income source and the perception of autonomy, enabling them to work according to their own schedules. Yet, this perception of flexibility often obscures deeper realities of insecurity: low and fluctuating earnings, lack of social security coverage, absence of formal dispute resolution mechanisms, and vulnerability to unilateral algorithmic decisions by platforms (ILO, 2023) [13]. The rise of the gig economy in Ghana, therefore, presents both an opportunity and a challenge. On the one hand, it offers much-needed livelihood opportunities in a labour market struggling with graduate unemployment and limited formal sector absorption. On the other hand, it raises urgent questions about worker rights, trade union representation, and the adequacy of Ghana's labour law regime to regulate new forms of work. This sets the stage for a broader examination of the extent to which existing legal frameworks and collective bargaining institutions can respond to the changing nature of work and protect gig workers in the digital era.

#### Statement of the Problem

The central problem this paper addresses is the fundamental misalignment between Ghana's labour law framework and the realities of gig work. The Labour Act 2003 (Act 651), the primary legislation regulating employment relationships, relies on a binary classification: a person is either an

employee, entitled to statutory protections, or an independent contractor, excluded from such protections. Digital platforms operating in Ghana, including ride-hailing and delivery services, consistently categorise gig workers as independent contractors. This legal classification generates severe consequences. It excludes gig workers from essential labour rights, including: the right to organise and bargain collectively, thereby preventing them from legally forming or joining trade unions; access to social security contributions, pensions, and health benefits under the Social Security and National Insurance Trust (SSNIT); entitlement to minimum wage and overtime pay, leaving earnings solely determined by algorithms and consumer demand; protection against unfair dismissal, as workers may be "deactivated" by algorithms without due process or recourse; and workplace health and safety guarantees, with all risks and costs borne by workers themselves, including accidents and maintenance expenses (Bamu, 2022) [2].

The result is a condition of heightened precarity in which workers carry entrepreneurial risks while remaining subject to algorithmic management and platform control. This paper argues that the classification of gig workers as independent contractors under the Labour Act is a legal fiction that sustains an unsustainable protection gap. Urgent reforms are therefore required, including legislative amendments to recognise an intermediate category of worker, the formal recognition of gig worker associations for collective bargaining, and innovative trade union strategies to ensure that the digital economy delivers both equity and decent work.

The primary objective of this research is to critically evaluate the inadequacies of Ghana's current labour law framework in addressing the realities of gig work and to propose viable pathways for extending labour protections to platform workers. This central aim will be pursued through the following specific objectives:

1. To examine the conceptual foundations of the gig economy and the conditions of precarity it introduces for workers, particularly with respect to income security, autonomy, and algorithmic management.
2. To analyse the limitations of the Labour Act 2003 (Act 651) in classifying and protecting gig workers, with specific reference to the binary distinction between employees and independent contractors.
3. To identify the practical, legal, and technological barriers that inhibit gig workers from unionising, exercising collective voice, and participating in collective bargaining.
4. To conduct a comparative analysis of legal and strategic responses to platform work in selected jurisdictions, including the United Kingdom, European Union, South Africa, and Kenya, to extract lessons that are contextually relevant for Ghana.
5. To propose concrete policy and legal reform options for Ghana, including the creation of an intermediate category of worker, the recognition of platform-based worker associations, and a potential roadmap for implementation to align Ghana's labour regulation with international best practices.

The scope of this research is limited to platform-based gig work within Ghana, with particular emphasis on the transportation and delivery sectors that have witnessed rapid expansion in urban centres such as Accra and Kumasi. It

does not extend to informal, non-platform-based casual labour, which, while significant in Ghana's wider informal economy, falls outside the focus of this study.

## Methodology

This research adopts a qualitative and doctrinal legal research methodology, grounded in the systematic analysis of legal texts and institutional practices. The doctrinal component entails a close reading and critical interpretation of primary legal sources, including the 1992 Constitution of Ghana, the Labour Act 2003 (Act 651), and relevant judicial decisions. These instruments form the backbone of Ghana's labour regulatory framework and provide the starting point for evaluating the adequacy of protections available to gig workers. In addition, the study engages with secondary sources such as academic literature, policy reports, and institutional publications from bodies like the International Labour Organisation (ILO), the Trades Union Congress (TUC), Ghana, and comparative labour law scholars to situate Ghana's regulatory challenges within broader global debates on platform work (Hutchinson & Duncan, 2012) [11]. A comparative analytical method will be employed to examine the legal frameworks and judicial responses of selected jurisdictions, including the United Kingdom, the European Union, South Africa, and Kenya. This approach is not intended to advocate for wholesale legal transplantation, but rather to draw context-sensitive lessons and highlight best practices that may be adaptable to Ghana's socio-economic and institutional environment (Watson, 1974) [27]. To coherently advance these arguments, the research is structured as follows. Following the introduction, the second section conceptualises the gig economy and reviews the existing literature on the subject. The third section critiques the Ghanaian legal and institutional framework, exposing its doctrinal and practical shortcomings. The fourth section analyses the specific challenges confronting gig workers in their attempts to organise collectively. The fifth section turns outward, drawing comparative lessons from other jurisdictions. The sixth section synthesises these analyses to propose concrete policy and legal reform options for Ghana. Finally, the conclusion summarises the findings and advances phased recommendations for lawmakers, trade unions, and other stakeholders.

## Conceptual Framework

This section establishes the intellectual foundation for the study by interrogating the central concepts of the gig economy, precarious work, and the standard employment relationship (SER). It then reviews key theoretical perspectives on trade unionism and collective bargaining in the digital era, before examining the global and African scholarly debates on platform work. The section concludes by identifying gaps in existing literature, highlighting the contributions that this research seeks to make to the Ghanaian and broader African context.

## Conceptualising the Gig Economy, Precarious Work, and the Standard Employment Relationship;

### The Gig Economy

The "gig economy" refers to a labour market system organised around short-term, task-based, and on-demand contracts facilitated by digital platforms such as Uber, Bolt, Jumia, and Glovo. These platforms act as algorithmic intermediaries, connecting fragmented workforces to

fluctuating consumer demands (De Stefano, 2016) [6]. Advocates of the gig economy emphasise its potential for efficiency, innovation, and labour market inclusion by enabling flexible participation for individuals otherwise excluded from traditional employment. However, critics argue that this model erodes long-standing labour protections, blurs the distinction between employer and contractor, and reconfigures the power dynamics of work. The triangular relationship among worker, client, and platform is neither entirely autonomous nor clearly subordinated, thus generating conceptual and regulatory ambiguity (Sundararajan, 2016) [23].

### **Precarious Work**

Gig work is widely theorised as a modern manifestation of precarious labour. Precarity is characterised by insecurity of tenure, volatility of income, absence of benefits, and limited collective protections (Vosko, 2010) [26]. Scholars highlight that algorithmic management exacerbates these insecurities by exercising opaque and unilateral control over task allocation, ratings, and disciplinary deactivation (Rosenblat & Stark, 2016) [19]. Workers are paradoxically framed as "entrepreneurs" enjoying autonomy, yet they remain subject to pervasive surveillance and technological forms of subordination (Aloisi, 2019) [1]. This precariousness undermines the basic guarantees of decent work as envisaged by the International Labour Organisation (ILO).

### **The Standard Employment Relationship (SER)**

The SER remains the normative benchmark of labour law. Traditionally, it involves continuous, full-time employment for a single employer, characterised by hierarchical subordination and regulated within a stable workplace. Post-war industrial relations systems, including Ghana's, were constructed on the SER, embedding rights such as minimum wages, paid leave, social security contributions, and access to collective bargaining institutions (Wood *et al.*, 2019) [28]. However, the classification of gig workers as independent contractors excludes them from this protective framework. This exclusion lies at the heart of the central legal and social dilemma of gig work: whether the SER can be adapted, or whether new frameworks are required to capture the hybrid realities of digital labour.

### **Theories of Trade Unionism and Collective Bargaining in the Digital Age**

Classical theories of industrial relations, particularly Dunlop's systems framework, assumed a stable tripartite structure of workers, employers, and the state, interacting within clearly defined rules and institutions. Collective bargaining was premised on cohesive workplaces and identifiable employers. The fissured and decentralised organisation of platform labour undermines this model, since the "employer" is obscured, the workforce is dispersed across geographical spaces, and management is mediated by algorithms rather than human supervisors.

In response, contemporary scholarship has developed new conceptual approaches. Woodcock and Graham (2020) advance the notion of "networked solidarity," which involves using digital tools to build cross-platform worker communities that transcend physical workplaces. Aloisi (2019) [1] advocates a shift from enterprise-level to sectoral or occupational bargaining, allowing industry-wide minimum standards to be negotiated in fragmented labour

markets. Other scholars highlight the emerging importance of "algorithmic bargaining," where trade unions contest algorithmic management systems and demand transparency in data-driven decision-making (Kellogg *et al.*, 2020). These perspectives highlight that effective worker representation in the digital age requires moving beyond traditional institutions of industrial relations, situating issues of data governance, platform accountability, and technological fairness at the centre of collective action.

## **Global and African Scholarly Debates**

### **Global Debates**

The most contentious issue globally is the employment classification of platform workers. Jurisdictions have adopted divergent responses. In the United States, California's Assembly Bill 5 introduced the "ABC test" to reclassify many gig workers as employees, though subsequent lobbying led to a partial reversal (Proposition 22, 2020) [18]. In the United Kingdom, the Supreme Court in *Uber BV v Aslam* [2021] [24] UKSC 5 recognised Uber drivers as "workers," thereby granting access to minimum wage and holiday pay. At the European Union level, the proposed Platform Work Directive seeks to introduce a rebuttable presumption of employment to address widespread misclassification (European Commission, 2021) [8]. Scholars such as Adams-Prassl (2019) and Cherry (2016) [4] evaluate these initiatives as evidence of both the adaptability and limits of labour law in the digital era, with debates centring on whether reforms should expand existing categories or invent entirely new legal statuses.

### **African Debates**

African contributions to the literature, while emerging, provide critical insights into the intersection between digital labour and structural labour market vulnerabilities. Empirical studies from Kenya, South Africa, and Nigeria document widespread challenges of low pay, algorithmic surveillance, and fragile livelihoods (Graham *et al.*, 2017) [9]. A recurring debate is whether platformisation formalises previously informal work or merely digitises existing patterns of informality without improving working conditions (Cherry, 2016) [4]. In contexts marked by high unemployment, weak enforcement capacity, and unions historically oriented towards the formal wage sector, the prospects of collective bargaining for platform workers are complex. In Ghana, these dynamics remain under-researched, though anecdotal evidence suggests that gig workers face similar vulnerabilities.

### **Identification of the Gap in Literature**

Despite the growing literature, significant gaps remain. First, Ghana-specific research is scarce. While Ghana is occasionally referenced in regional studies, there has been little sustained doctrinal and empirical analysis of its legal and institutional frameworks, particularly the Labour Act 2003 (Act 651) and the role of the Trades Union Congress (TUC) in responding to non-standard employment. Second, there is limited work connecting comparative models of regulation to the Ghanaian context. Much of the existing literature focuses on foreign innovations---such as the UK's intermediate "worker" category, South Africa's bargaining council system, or the EU's presumption of employment, without examining their adaptability to Ghana's economic, institutional, and legal realities.

This study, therefore, seeks to fill these lacunae by providing a Ghana-centred analysis of gig work regulation, grounded in doctrinal legal research, contextualised within global debates, and informed by comparative lessons. By linking theory, law, and policy, the research aims to propose a roadmap for reform that reconciles digitalisation with the constitutional and international commitment to decent work.

## **Constitutional and Legislative Protections**

### **Constitutional Protections under the 1992 Constitution**

The 1992 Constitution of Ghana serves as the supreme law of the country and provides the normative foundation for labour rights. It articulates broad guarantees of economic, social, and political rights that apply to all persons, thereby setting a constitutional benchmark against which labour legislation and policy must be measured. While many of its provisions are framed as obligations on the state, their language and scope suggest that they should extend to all forms of work, including emerging non-standard arrangements such as gig work.

### **Article 24: Economic Rights and Labour Protections**

Article 24 establishes the cornerstone of labour rights in Ghana. It declares that "every person has the right to work under satisfactory, safe and healthy conditions" and guarantees "equal pay for equal work without distinction of any kind." It further protects the right of workers to form or join trade unions and associations of their choice. The provision is deliberately broad, using the language of "every person" rather than "employee," which implies an inclusive approach to labour protections. Excluding gig workers from statutory protections such as collective bargaining and occupational safety undermines the spirit and letter of Article 24. By denying them the right to organise or minimum labour standards, Ghana risks perpetuating systemic inequities in contravention of constitutional guarantees. Comparative constitutional jurisprudence demonstrates a trend towards expansive interpretations of labour rights. For instance, the South African Constitutional Court in *NUMSA v Bader Bop* (2003) ZACC 2 held that freedom of association must be interpreted purposively to extend meaningful protections even to atypical workers. A similar interpretive approach could be adopted by Ghanaian courts to prevent the exclusion of gig workers.

### **Article 21(1): Freedom of Association**

Article 21(1) entrenches the right of all persons to form or join trade unions and other associations. This provision overlaps with Article 24, but its scope is even wider, protecting general associational rights beyond the labour context. For gig workers, this constitutional right is particularly significant. Even if they are excluded from the statutory definition of "worker" under the Labour Act, Article 21(1) provides a constitutional foundation for their right to organise into associations, unions, or cooperatives. However, the lack of statutory recognition for such associations creates a legal paradox: gig workers may form unions constitutionally, but those unions lack bargaining power or recognition under labour law.

### **Article 36: Directive Principles of State Policy**

Article 36 of the Constitution, found within the Directive Principles of State Policy, obligates the state to pursue policies that ensure social justice, economic opportunities,

and the protection of the rights of all workers. Though non-justiciable, these provisions act as a guiding framework for legislative and policy development. In the context of gig work, Article 36 reinforces the constitutional expectation that labour law should evolve to protect vulnerable and non-standard categories of workers. It imposes a moral and policy mandate on Parliament and the executive to reform outdated legal frameworks, such as the Labour Act, to capture the realities of the digital economy.

### **Towards an Inclusive Constitutional Interpretation**

The constitutional text, with its references to "every person" and "all workers," lends itself to an inclusive interpretation that transcends the rigid employee--contractor dichotomy embedded in statutory law. In practice, however, the realisation of these rights is contingent on enabling legislation--principally the Labour Act, 2003 (Act 651), which has failed to adapt to the changing structure of work. Courts and policymakers thus face a critical choice: either entrench exclusion by relying on outdated legal definitions or embrace a purposive constitutional interpretation that expands protection to gig workers. Adopting the latter path would not only align with Ghana's domestic constitutional framework but also ensure compliance with international labour standards under ILO Conventions 87 and 98, which guarantee freedom of association and the right to collective bargaining for all workers. In this regard, constitutional protections provide both a normative foundation and a legal imperative for reforming labour law to address the challenges posed by the platform economy.

### **The Labour Act, 2003 (Act 651) and Its Limitations**

The Labour Act, 2003 (Act 651), constitutes the central legislative framework governing employment relations in Ghana. It consolidates provisions on conditions of employment, rights to minimum wage, overtime pay, annual leave, unionisation, termination procedures, and dispute resolution. At the time of its enactment, the Act was a progressive statute, harmonising labour protections under a unified regime and embedding constitutional guarantees of fair labour practices under Article 24 of the 1992 Constitution. However, its regulatory design reflects an industrial-era paradigm of employment that no longer captures the complexities of the platform economy.

### **The Employee Independent Contractor Dichotomy**

Section 175 of the Labour Act defines a "worker" as a person employed under a contract of service, but explicitly excludes individuals engaged under a contract for services. This statutory dichotomy entrenches the traditional distinction between employees and independent contractors, thereby excluding gig workers from the protective scope of the Act. As most platform companies unilaterally designate their workers as "partners" or "independent contractors," gig workers remain outside the statutory guarantees of minimum wage, social security contributions, occupational health and safety, and protection from unfair termination. This exclusion not only entrenches precarity but also contradicts Ghana's international commitments under ILO Convention 87 (Freedom of Association and Protection of the Right to Organise, 1948) and ILO Convention 98 (Right to Organise and Collective Bargaining, 1949), which emphasise universal rights regardless of contractual labels.

### The Multi-Factor Test for Classification

Like other common law jurisdictions, Ghana applies a multi-factor test to determine employment status. Judicial and administrative bodies typically examine

- **Control:** the extent to which the employer directs the manner, timing, and processes of work.
- **Integration:** whether the work performed is integral to the core business of the employer.
- **Economic dependence:** whether the worker relies primarily on a single entity for income.
- **Provision of tools:** whether the worker supplies their own equipment or tools.

While this test introduces some flexibility, it has proven ill-suited to platform-mediated work. Platforms strategically design contractual arrangements and work processes to obscure their role as employers. By emphasising gig workers' ability to log in and out at will, their supply of tools (cars, bikes, smartphones), and their technical freedom to engage with multiple platforms, companies present workers as autonomous entrepreneurs. These narrative masks the pervasive algorithmic control exercised through digital systems of surveillance, work allocation, customer rating mechanisms, and unilateral deactivation.

### Mismatch with Platform Work and Regulatory Vacuum

The rigid binary classification under Act 651 fails to capture the hybrid nature of platform labour, where workers enjoy some autonomy yet remain subject to intensive algorithmic management. This regulatory vacuum produces several consequences

#### 1. Denial of Employment Protections

Gig workers are excluded from statutory entitlements such as paid leave, maternity protection, and redundancy pay.

#### 2. Absence of Collective Rights

As "independent contractors," they cannot form or join recognised trade unions under the Act, leaving them without representation in bargaining or dispute settlement forums.

#### 3. Weak Remedies for Arbitrary Termination

Deactivation by platforms, often triggered by opaque rating systems, occurs without recourse to the termination protections afforded under sections 62, 65 of the Act.

#### 4. Non-Compliance with International Standards

Ghana risks lagging behind comparative jurisdictions, many of which are moving towards hybrid or intermediate categories of worker status. For instance, the United Kingdom has recognised a "worker" category distinct from employees, while South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA) has affirmed the employee status of Uber drivers (*Uber South Africa Technology Services (Pty) Ltd v National Union of Public Service and Allied Workers*, 2021)<sup>[25]</sup>.

### Reform Pathways

To address these limitations, Ghana could pursue legislative and policy reforms along four dimensions

#### 1. Statutory Reclassification

Amend Act 651 to recognise an intermediate category of "dependent contractor" or "platform worker," extending basic protections such as minimum wage, health and safety, and unfair dismissal safeguards.

#### 2. Presumption of Employment

Introduce a statutory presumption that platform workers are employees whenever platforms meet criteria such as setting remuneration, supervising performance, or restricting autonomy. The burden would shift to the platform to prove genuine independence.

#### 3. Algorithmic Accountability

Mandate transparency obligations on platform companies regarding work allocation, pricing, and deactivation, enabling workers to challenge unfair algorithmic decisions.

#### 4. Collective Representation

Reform unionisation laws to allow gig worker associations to register as collective bargaining agents, even if their members are classified outside traditional "employment" categories.

### The Role of Traditional Labour Institutions in Ghana

#### The Trades Union Congress (TUC)

The Trades Union Congress (TUC) remains Ghana's largest and most established trade union federation, with considerable influence in formal sectors such as mining, manufacturing, and public service. Historically, the TUC has functioned as the dominant voice of organised labour in national policymaking and in Ghana's tripartite system of industrial relations. However, its institutional frameworks and organising strategies were developed in the context of traditional employment models, characterised by centralised workplaces, identifiable employers, and relatively stable employment relationships.

By contrast, platform labour presents an entirely different organisational challenge. Gig workers are geographically dispersed, often working alone in cars, motorcycles, or delivery routes. Their work is mediated by digital platforms that exercise algorithmic control while simultaneously denying the existence of an employment relationship. Under the Labour Act, 2003 (Act 651), only "employees" may form or join recognised trade unions, excluding gig workers who are classified as independent contractors. This structural exclusion prevents them from leveraging the institutional resources of the TUC. Although the TUC has expressed willingness to explore innovative strategies, such as engaging with informal worker groups and experimenting with sectoral bargaining models, these initiatives remain underdeveloped. Comparative evidence demonstrates that other labour federations have moved more decisively: for example, the German Trade Union Confederation (DGB) has established dedicated digital platforms for gig workers, while South African unions have engaged with sectoral determination mechanisms to cover workers beyond the traditional scope of employment law. For the TUC to maintain its relevance in the era of digital work, it must undergo a paradigm shift to embrace more flexible, digitally enabled models of organisation and advocacy.

#### State Enforcement Bodies

##### The National Labour Commission (NLC)

The NLC was established by Act 651 to resolve industrial disputes and ensure compliance with Ghana's labour laws. However, its jurisdiction extends only to disputes involving "workers" as defined by the Act, which excludes gig workers from its protective ambit. As a result, gig workers who face arbitrary deactivation, unilateral fare reductions, or

wage suppression cannot seek remedy through the NLC. Their grievances are instead adjudicated solely by platform companies under private contractual terms, often through opaque and unilateral dispute-resolution procedures.

### **The Labour Department**

The Labour Department is mandated to conduct workplace inspections and enforce occupational safety and health standards. Yet, because gig workers are not formally recognised as employees, their work environments, vehicles, delivery routes, and digital platforms fall outside the Department's inspection mandate. This omission leaves workers vulnerable to unsafe conditions, such as vehicular accidents, without access to the statutory protections guaranteed under international instruments such as ILO Convention 155.

### **Consequences of Institutional Exclusion**

The combined limitations of the TUC, NLC, and Labour Department create a regulatory void. Gig workers cannot unionise within recognised structures, lack access to statutory dispute-resolution mechanisms, and remain invisible to workplace inspection and compliance systems. This institutional exclusion undermines the constitutional guarantee of fair labour practices under Article 24 of the 1992 Constitution and contravenes Ghana's international obligations under ILO Conventions 87 and 98.

### **Ghana's International Labour Obligations**

Ghana is a long-standing member of the International Labour Organisation (ILO) and has ratified several conventions that are highly relevant to the regulation of gig work and platform-based labour. Ratification of these conventions imposes binding obligations under international law to respect, protect, and promote the rights contained therein. However, Ghana's current legal and institutional framework for labour regulation falls short of these commitments, particularly in relation to gig workers whose employment status remains precarious and undefined.

### **Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948)**

This convention guarantees all workers, without distinction, the right to form and join organisations of their own choosing without prior authorisation. It also prohibits interference by employers or the state in the functioning of such organisations. In the context of gig work, the exclusion of platform workers from the definition of "employees" under Ghana's Labour Act, 2003 (Act 651), effectively strips them of the ability to form legally recognised trade unions. This constitutes a de facto denial of their rights under Convention 87. By failing to ensure that gig workers can freely associate, Ghana risks violating its obligations to uphold one of the ILO's core conventions, which is considered a fundamental principle and right at work.

### **Convention No. 98 on the Right to Organise and Collective Bargaining (1949)**

Convention 98 builds upon Convention 87 by requiring states to actively promote collective bargaining mechanisms and to provide effective protection against anti-union discrimination. For gig workers in Ghana, the absence of statutory recognition for their associations, coupled with the lack of any obligation on platforms to bargain collectively,

creates a legal vacuum. Moreover, because these workers are classified as independent contractors, any attempt to coordinate fares or working conditions could expose them to liability under competition law rather than protection under labour law. This inconsistency directly contravenes Ghana's obligation under Convention 98 to enable and facilitate collective bargaining for all categories of workers.

### **Convention No. 155 on Occupational Safety and Health (1981)**

Convention 155 requires member states to establish a coherent national policy on occupational safety and health (OSH), covering "all branches of economic activity" and "all workers in these branches." Gig workers, particularly those in ride-hailing and delivery services, face serious OSH risks, including traffic accidents, exposure to hazardous weather, fatigue, and violence. However, they remain outside the purview of most statutory OSH protections in Ghana. Platforms typically disclaim responsibility by treating such workers as self-employed contractors, leaving them without access to formal safety regulations, training, or compensation mechanisms in the event of injury. This regulatory gap undermines Ghana's compliance with its Convention 155 obligations.

Taken together, these international commitments strengthen the normative and legal argument for reforming Ghana's labour laws to extend core protections to gig workers. They also highlight that failure to address gig worker precarity is not only a domestic issue but also an international compliance challenge. Aligning Ghana's national legislation with its ILO commitments would reinforce the constitutional right to fair labour practices under Article 24 of the 1992 Constitution and ensure that Ghana remains in step with evolving international labour standards. Comparative experiences suggest that countries that have modernised their legal frameworks in line with ILO principles, such as Spain through its Riders' Law (2021)<sup>[21]</sup> and parts of the EU through the draft Platform Work Directive, have made significant progress in closing the protection gap for platform workers. Ghana could therefore draw upon these examples to fashion reforms that are both context-sensitive and internationally compliant.

### **Relevant Ghanaian Case Law**

At present, Ghanaian courts have not directly adjudicated the employment status of gig workers, nor have they confronted the peculiar challenges posed by digital platforms and algorithmic management. This lacuna in jurisprudence leaves a critical gap in the legal protection of gig workers. However, insights can be drawn from existing employment law cases in Ghana, where courts have relied on traditional tests of employment to distinguish employees from independent contractors.

One instructive example is *Salah v Standard Chartered Bank* [2010]<sup>[20]</sup> (High Court, Accra), where the court applied the multi-factor test to determine employment status. The court considered elements such as the degree of control exercised by the employer, the mode of remuneration, the provision of tools and equipment, and the extent of integration into the organisation. While this approach provides some guidance, it was designed for conventional employment contexts, typically in banking, manufacturing, or professional services---and is ill-suited to the diffuse and technologically mediated nature of gig work.

The reliance on contractual terminology remains a recurring challenge. Ghanaian courts, much like their counterparts in other common law jurisdictions, often defer to the labels chosen by contracting parties. These risks reinforce the platforms' strategic classification of workers as "independent partners" or "service providers," rather than interrogating the substantive realities of dependency and control. If such reasoning were to be applied to gig economy disputes, courts might entrench precarious working conditions by privileging form over substance.

However, there is room for judicial creativity. Comparative jurisprudence illustrates that courts can move beyond rigid contractual labels to assess the economic realities of platform work. For instance, in *Uber BV v Aslam* [2021]<sup>[24]</sup> UKSC 5, the UK Supreme Court found that Uber drivers were "workers" entitled to basic employment protections, despite contractual provisions to the contrary. Similarly, South African courts have begun to recognise that digital platforms exert significant control over workers through algorithmic management, thereby warranting reclassification in some cases. Although Ghana has not yet witnessed such litigation, these developments provide persuasive authority that could inspire Ghanaian judges to adopt a purposive and protective interpretation of labour statutes.

The absence of Ghanaian case law on gig work reflects two structural issues. First, litigation is prohibitively expensive for individual gig workers, most of whom lack access to legal aid or trade union support. Second, the ambiguity of current statutory provisions, especially the Labour Act, 2003 (Act 651), creates uncertainty as to whether gig workers fall within its protective scope. These twin factors discourage legal claims, leaving gig workers vulnerable and effectively outside the boundaries of enforceable labour rights. Future litigation in Ghana could develop along two trajectories. On the one hand, courts might adopt a conservative stance, affirming the contractual classification of gig workers as independent contractors and thereby reinforcing the platforms' dominance. On the other hand, a more purposive judicial approach sensitive to the socio-economic realities of control, dependency, and vulnerability—could broaden the interpretation of "employee" to extend protections to gig workers. However, reliance on judicial innovation alone is insufficient. The judiciary can clarify ambiguities, but meaningful protection for gig workers requires deliberate legislative reform to modernise labour law in line with digital-era work arrangements.

### **Challenges to Unionisation And Collective Bargaining for Gig Workers**

The capacity of gig workers to unionise and engage in collective bargaining is constrained by a convergence of legal, technological, economic, and institutional barriers. These challenges are not merely logistical inconveniences but are deeply embedded in the structural design of platform work and the regulatory frameworks that govern labour relations in Ghana. Together, they generate conditions in which gig workers are rendered invisible to the protective guarantees of labour law, thereby undermining their capacity to negotiate fairer terms of employment.

### **Legal Barriers to Collective Bargaining**

The most profound impediment to collective organising among gig workers in Ghana stems from their legal

designation as independent contractors under the prevailing labour regulatory framework. This classification effectively removes them from the protective ambit of the Labour Act, 2003 (Act 651), creating a foundational legal void. This exclusion manifests in three critical ways. First, Section 79 of the Act guarantees the right to unionise exclusively for 'employees,' thereby rendering any formal association of gig workers legally precarious and vulnerable to challenge by platform companies. Second, this classification paradoxically exposes workers to legal risks under competition law; collective actions to standardise fares or working conditions, typical of trade union activity, may be construed as anti-competitive collusion among independent businesses. Third, even in the absence of such challenges, Ghanaian law imposes no statutory duty on platforms to recognise or negotiate with worker associations. Consequently, any nascent gig worker organisation lacks the enforceable bargaining power and institutional legitimacy conferred upon certified trade unions, leaving them without a formal mechanism to engage in collective bargaining.

### **Technological and Algorithmic Constraint**

The architecture of digital labour platforms compounds these legal obstacles by embedding managerial control within opaque algorithmic systems, creating a significant power asymmetry. Workers are subject to algorithmic governance, wherein applications unilaterally determine task allocation, pricing, and performance evaluations without avenues for meaningful negotiation or appeal. This technological management is reinforced by pervasive surveillance through GPS tracking and in-app communications, which enables platforms to identify and retaliate against organisers through subtle sanctions like 'shadowbanning' or outright deactivation. Furthermore, the very structure of platform work fosters atomisation. Unlike traditional workplaces that facilitate organic solidarity through shared physical spaces, gig workers operate in geographically dispersed and isolated environments—inside vehicles or behind smartphone screens. This spatial fragmentation critically undermines the formation of collective identity and the interpersonal connections that historically underpinned successful unionisation drives.

### **Structural Economic and Institutional Barriers**

Beyond legal and technological hurdles, the economic precarity intrinsic to gig work functions as a powerful structural deterrent to collective action. Workers' acute dependence on daily platform access for livelihood makes the threat of deactivation a potent disincentive against participation in strikes or organising activities. Concurrently, the financial strain of covering operational costs like fuel and maintenance leaves little disposable income or time to invest in unpaid organising efforts, rendering traditional industrial action prohibitively expensive. This instability is exacerbated by high workforce turnover and fluidity, which erode the sustained membership and organisational continuity necessary for building durable collective structures.

Finally, Ghana's institutional landscape remains ill-equipped to address these novel challenges. Traditional labour institutions, such as the Trades Union Congress (TUC), are structurally oriented towards representing workers in centralized, formal-sector enterprises and lack the strategies or digital tools to effectively organise a

dispersed, platform-mediated workforce. Similarly, state enforcement bodies like the National Labour Commission (NLC) and the Labour Department possess no clear jurisdiction over disputes involving independent contractors, effectively excluding gig workers from accessible, low-cost statutory dispute resolution mechanisms for grievances related to unfair deactivation, wage suppression, or unsafe working conditions.

### **Comparative Analysis: Lessons from Other Jurisdictions** **Comparative Jurisdictional Responses and Lessons for Ghana**

Several jurisdictions have experimented with varied legal and institutional responses to the challenges of regulating platform work. While none offers a perfect model, each provides distinct insights that can be adapted to Ghana's context. Examining these approaches highlights possible pathways for bridging the regulatory gap and ensuring that gig work aligns with the constitutional guarantees of fair labour practices and international standards of decent work.

#### **The European Union: Proactive Legislative Reform**

The European Union (EU) has taken a proactive stance with its proposed Platform Work Directive (2021), which represents one of the most ambitious international efforts to address the systemic misclassification of platform workers. The Directive introduces a legal presumption of employment wherever a platform exercises control over remuneration, supervises performance, or limits worker autonomy. In such cases, the burden of proof shifts onto the platform to demonstrate that the worker is genuinely self-employed. Importantly, the Directive also incorporates provisions on algorithmic transparency and accountability, requiring platforms to disclose the logic of automated decision-making and to subject disciplinary or dismissals to human oversight.

**Key Insight:** This systemic and legislative approach reduces reliance on protracted and expensive litigation, which can produce fragmented outcomes. Instead, it provides legal certainty, creates a level playing field, and rebalances power in favour of workers. By embedding algorithmic transparency, it also anticipates the unique risks of technological control.

**Lesson for Ghana:** Ghana could draw inspiration from the EU by enacting a Gig Workers Protection Act that introduces a similar presumption of employment. Such legislation would shift the burden of proof away from vulnerable workers, ensuring that default protections apply unless platforms can demonstrate genuine independence. Additionally, Ghana could integrate provisions on algorithmic accountability to prevent opaque digital control from undermining worker rights.

#### **The United Kingdom: Judicially Driven Recognition**

In the landmark case of *Uber BV v Aslam* (2021)<sup>[24]</sup>, the UK Supreme Court rejected Uber's contractual designation of drivers as "independent partners" and instead examined the substantive realities of the working relationship. The Court found that Uber exerted significant control over fares, routes, and performance, thereby placing drivers within the statutory definition of "workers." This intermediate category under UK law entitles individuals to minimum wage, paid leave, and working time protections, even if they are not full employees.

**Key Insight:** Judicial activism demonstrates the capacity of courts to reinterpret existing legal tests, such as the "control test" or "economic dependency test"---to reflect the structural realities of platform work. This allows the judiciary to close regulatory gaps without waiting for Parliament to legislate.

**Lesson for Ghana:** Although Ghana lacks a statutory "worker" category like the UK, its judiciary could play a similarly pivotal role by adopting a purposive interpretation of the Labour Act, 2003 (Act 651). A bold judicial ruling that prioritises the substance of employment relationships over contractual formality could set a precedent, compelling legislative reform and protecting gig workers in the interim.

#### **South Africa: Sectoral Bargaining Innovation**

South Africa has experimented with sectoral determination mechanisms, particularly for workers in transport and delivery. Under this system, the government sets minimum wages, working conditions, and sector-wide standards without requiring the prior existence of collective bargaining agreements. This approach effectively sidesteps the challenge of misclassification by applying universal rules to entire industries.

**Key Insight:** By focusing on sector-wide minimum standards rather than individual employment classifications, this model ensures that all workers in a particular industry---whether formally recognised as employees or not---enjoy a basic floor of rights. It addresses the collective nature of precarity in platform work and avoids the piecemeal outcomes of litigation.

**Lesson for Ghana:** The National Labour Commission could be empowered to adopt similar sectoral determination mechanisms for platform-based gig work. This would allow the establishment of minimum pay rates, safety regulations, grievance procedures, and working time standards across the ride-hailing and delivery sectors. Such an approach would guarantee universal protections, reduce inequality between platforms, and prevent a regulatory race to the bottom.

#### **Kenya: Grassroots Digital Mobilisation**

In Kenya, gig workers- especially in the ride-hailing and delivery sectors have relied heavily on grassroots mobilisation to make their voices heard. Organisations such as the Digital Taxi Forum have combined social media advocacy, coordinated street protests, lobbying of parliamentarians, and legal challenges to demand regulatory reforms. While these efforts have achieved limited immediate legislative change, they have succeeded in keeping the issue on the political agenda and building significant public awareness.

**Key Insight:** In contexts where legal and institutional reform is slow, persistent grassroots activism can generate the political will necessary to drive change. By mobilising public sympathy and media attention, workers can exert pressure on both government and platform companies to engage in dialogue and concessions.

**Lesson for Ghana:** Gig worker associations in Ghana could adopt similar hybrid strategies. By combining digital

campaigns, coalition-building with traditional unions, public demonstrations, and strategic litigation, they can build momentum for reform. This bottom-up mobilisation is particularly important in Ghana, where political responsiveness to organised social movements has historically catalysed legal and policy change.

### **Synthesis and Transferable Lessons for Ghana**

The comparative analysis demonstrates that while no single foreign model offers a perfect solution, each provides valuable insights into potential pathways for reform. The European Union's legislative approach illustrates the benefits of proactive statutory intervention in addressing misclassification and ensuring algorithmic accountability. The United Kingdom's judicially driven model shows the potential of courts to interpret existing legal tests purposively to extend protections, albeit in a piecemeal manner. The South African sectoral bargaining model highlights the utility of state-facilitated minimum standards in contexts where traditional employer-employee relationships are absent. Finally, the Kenyan grassroots experience underscores the centrality of mobilisation and advocacy in generating political will and placing the issue of gig workers on the legislative agenda.

For Ghana, the most viable strategy is unlikely to lie in the wholesale adoption of a single model but in a strategic hybrid approach. This would entail supporting strategic litigation to establish judicial precedents, while simultaneously lobbying for legislative reform that introduces a rebuttable presumption of employment, supported by the creation of a sectoral bargaining council for the platform economy. Crucially, these reforms must be underpinned by sustained grassroots mobilisation from gig worker associations to ensure the necessary political momentum for durable change.

### **Proposals for Policy and Legal Reform in Ghana**

Bridging the protection gap for gig workers in Ghana necessitates a multi-dimensional reform agenda that is legally sound, institutionally feasible, and socially just. The proposals outlined below constitute a set of mutually reinforcing measures designed to align Ghana's labour regime with the exigencies of the digital economy, while remaining consistent with constitutional guarantees and international obligations. This integrated approach must address the foundational issue of legal classification, create channels for collective voice, establish fair standards, and ensure effective enforcement.

### **Redefining the "Worker" in Ghanaian Labour Law**

The core of the regulatory dilemma lies in the persistence of an outdated binary classification system that rigidly distinguishes between "employees" and "independent contractors," a framework incapable of capturing the hybrid realities of platform work. Three primary pathways for redefinition emerge from comparative practice. First, judicial expansion of existing common law tests—such as those assessing control, integration, and economic dependency—offers a potential route. While this approach, exemplified in the UK Supreme Court's decision in *Uber BV v Aslam* (2021) <sup>[24]</sup>, can adapt existing law, it is inherently slow, costly, and risks producing fragmented jurisprudence. Second, a legislative solution could introduce a distinct intermediate category, such as "dependent

contractor" or "platform worker," into the Labour Act, 2003 (Act 651). This category would recognise economic dependency while accommodating operational autonomy, conferring tailored rights like collective bargaining and protection from arbitrary deactivation without imposing the full suite of employer obligations. Third, inspired by the European Union's proposed Platform Work Directive, Ghana could adopt a statutory rebuttable presumption of employment. This mechanism would legally presume an employment relationship exists where platforms control remuneration, supervise performance, or restrict autonomy, shifting the burden of proof to the platform to demonstrate genuine self-employment. The most robust and coherent framework would be a hybrid of the latter two options: amending the Labour Act to create a "platform worker" category while embedding a legal presumption that defaults platform work into this status. This dual strategy ensures comprehensive coverage, provides legal certainty, and avoids reliance on piecemeal and protracted litigation.

### **Mechanisms for Recognising Gig Worker Associations**

Legal reclassification must be complemented by institutionalised mechanisms that enable gig workers to exercise collective voice. To this end, legislation must formally recognise gig worker associations—including digitally native organisations—as legitimate bargaining agents. This recognition could be structured as platform-specific or sector-specific. Furthermore, acknowledging the dispersed and fluid nature of the platform workforce, traditional majority thresholds for union certification should be adapted. A lower membership threshold or evidence of substantial support should suffice to trigger a platform's duty to bargain. Complementing this, the National Labour Commission (NLC) should develop streamlined, digital-friendly certification processes to reduce bureaucratic barriers and align with the realities of platform-mediated organising.

### **Sectoral Bargaining for the Platform Economy**

Given the profound structural obstacles to enterprise-level bargaining in a fissured and algorithmically managed sector, sectoral approaches present a pragmatic and essential alternative. The NLC should be empowered to establish Platform Work Sectoral Councils for industries like ride-hailing and delivery. These tripartite-plus councils, comprising representatives of workers, platforms, and government, would negotiate binding minimum standards on critical issues such as earnings formulas, fair deactivation procedures, algorithmic transparency, and contributions to portable benefits funds. This sectoral model avoids a destructive "race to the bottom" by harmonising conditions across competitors, ensuring a level regulatory playing field, and establishing a baseline of decent work irrespective of the specific contractual label applied by any single platform.

### **Towards a Dedicated Gig Workers Protection Act**

While targeted amendments to the Labour Act are necessary, the complexity and novelty of platform work warrant consideration of a dedicated, standalone statute. A proposed Gig Workers Protection Act would provide a comprehensive and targeted regulatory response. Its core provisions should include a clear definition of "platform worker," the establishment of a rebuttable presumption of employment, and an enumeration of specific rights such as

algorithmic transparency, data portability, and the right to disconnect. Crucially, it should mandate platform contributions to a portable benefits fund, enabling workers to access social security, health insurance, and training entitlements that move with them across platforms and periods of work. Finally, the act should create a dedicated, low-cost dispute resolution mechanism within the NLC's structure, specifically designed to adjudicate platform-related grievances efficiently.

### **Enforcement and Social Dialogue**

The efficacy of any legal reform hinges on robust enforcement and inclusive governance. Consequently, institutions like the NLC and the Labour Department must be resourced and technically empowered to regulate the platform economy, including developing the capacity to audit algorithms for bias, fairness, and compliance with labour standards. Simultaneously, Ghana's traditional tripartite dialogue must evolve into a "tripartite-plus" model, formally incorporating representatives of gig worker associations and platform companies. This expanded social dialogue is vital for participatory governance and adaptive policymaking in the rapidly evolving digital labour market. To ensure uptake and compliance, sustained public awareness campaigns are also necessary to educate gig workers about their rights and provide accessible channels for redress.

### **Conclusion and Recommendations**

This study has established that the classification of gig workers in Ghana as independent contractors under the Labour Act, 2003 (Act 651), constitutes a legal fiction that institutionalises precarity. This classification denies a growing workforce segment fundamental protection, including rights to collective bargaining, minimum wage, and social security, revealing a profound misalignment between the statutory framework and the realities of algorithmically managed, digitally mediated work. Comparative analysis, while affirming that no single foreign model is directly transplantable, yields critical insights: the European Union's presumption of employment, the United Kingdom's judicial pragmatism, South Africa's sectoral bargaining mechanisms, and Kenya's grassroots mobilisation each offer valuable lessons for Ghana. Consequently, this paper argues that bridging the protection gap requires urgent, deliberate, and multidimensional reform. This reform agenda must synchronise legal reclassification, the creation of innovative bargaining frameworks, institutional capacity-building, and sustained worker mobilisation. The following recommendations propose a sequenced roadmap, prioritised by logical progression rather than fixed timetables, to translate constitutional guarantees of fair labour practices into tangible protections for gig workers.

### **Foundational Actions**

Immediate and initial steps should focus on correcting interpretive practices and initiating inclusive dialogue. The Ministry of Employment and Labour Relations should issue a policy directive mandating that employment status be determined by the economic reality of the work relationship, not contractual labels, thereby guiding the National Labour Commission (NLC) and judiciary. Concurrently, a tripartite-plus dialogue forum—incorporating government, traditional

unions, gig worker associations, and platform companies—must be established to negotiate interim standards on pay, safety, and dispute resolution. In parallel, worker associations should launch targeted outreach and legal support initiatives to educate workers and pursue strategic litigation, while platforms can build legitimacy through voluntary transparency and fair internal appeal mechanisms.

### **Systemic Development**

The subsequent phase of reform involves transitioning from dialogue to the development of structured legal and bargaining systems. Informed by ongoing consultations, Parliament should draft a Gig Workers Protection Bill to legally establish a new "platform worker" category, institute a rebuttable presumption of employment, and enshrine core rights such as algorithmic transparency and collective bargaining. Alongside legislative drafting, the NLC should convene a Sectoral Bargaining Council for key sectors like ride-hailing and delivery to develop and test binding standards on earnings, deactivation procedures, and data use. This stage requires constructive engagement from worker associations and platforms to build cooperative models and co-design prototypes for portable benefit schemes.

### **Consolidation and Institutionalisation**

The final, sustainable phase entails enacting comprehensive legislation and embedding new structures into the labour governance framework. Parliament must pass the Gig Workers Protection Act to create a permanent legal architecture. Enforcement capacity requires concomitant strengthening through dedicated funding and technical expertise for the NLC, including the development of algorithmic auditing capabilities. A critical outcome of this phase is the establishment of an industry-funded, portable benefits fund to provide social security that transcends platform affiliation. Ultimately, the tripartite-plus dialogue must be institutionalised as a permanent feature of Ghana's labour governance, ensuring adaptive, evidence-based, and participatory regulation of the digital economy.

### **Final Reflection**

In conclusion, protecting gig workers in Ghana demands an ecosystem of interdependent reforms, anchored in constitutional and international labour obligations. The proposed pathway, sequencing foundational dialogue, systemic development, and permanent institutionalisation, aims not only to mitigate precarity but also to harness the platform economy for inclusive growth. By implementing these measures, Ghana can bridge the present protection gap and position itself as a regional leader in forging a just and sustainable future of digital work.

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