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RIGHTS ADVOCACY

# LEGAL REFORMS for workers of the gig economy

**While countries such as Australia, the United Kingdom, and India have made strides in recognising gig workers' rights, Bangladesh has yet to take steps to ensure the legal protection of its platform workers. A comparative discussion on this matter will be helpful.**

MD. FAHMEDUL ISLAM DEWAN

The gig economy, notably via platforms such as Uber, Pathao, and Foodpanda, has created new possibilities and constraints in the labour markets across various countries, including Bangladesh. However, Bangladesh's primary labour law— Bangladesh Labour Act 2006 (BLA), was enacted before the rise of these digital and platform-based employment. This dated law ignores gig workers' working circumstances, denying them the essential rights and protections afforded to conventional employees.

The BLA governs workers' rights but does not include protection for gig workers. According to section 2(65) of the Act, a worker is any person, including apprentices, irrespective of whether the terms of his employment are expressed or implied, who works in any institution or industry, directly or through contractor, in exchange of wages or money for any skilled, unskilled, physical, technical, etc. Workers in the gig economy, such as ride-hailing drivers, delivery drivers, and freelancers, do not fall under this categorisation since there is no official employer-employee relationship. Without such a connection, gig workers are arguably ineligible for basic protections such as minimum wage, sick leave, health insurance, and employment security.

The Fairwork report "State of Work in the Bangladesh Gig Economy: Bangladesh Ratings 2022" by the Oxford Internet Institute has shown that many gig workers in Bangladesh earn less than the minimum wage after subtracting fuel and maintenance costs. As a result, these platforms have drawn criticisms for providing substandard working conditions and low compensation. This concerning situation needs to change urgently.

While countries such as Australia, the United Kingdom, and India have made strides in recognising gig workers' rights, Bangladesh has yet to take steps to ensure the legal protection of its platform workers. A comparative discussion on this matter will be helpful.

The Code on Social Security 2020 in India promotes the recognition of gig workers. This law recognises gig workers as participants in the platform economy and offers a variety of advantages, including welfare programs. However, the practical conditions of gig workers in India are still quite concerning. In the UK, the Supreme Court recently has ruled that Uber drivers should be considered "workers" under UK law, providing them with limited employment rights. Uber drivers were classed as employees since they rely on the platform for employment rather than being independent contractors. Additionally, Australia's attitude to gig employment is also evolving. According to the latest developments, the gig workers, being deemed as employee-like workers, are granted certain rights, and the Commission has recently announced a 3.5% increase to minimum wages starting 1 July 2025. Unfortunately, Bangladesh is yet to take any steps in this regard.

The exploitative tactics prevalent in the gig economy in general worsen the situation. For instance, in an article published in The Guardian on 11 January 2025, many gig workers must pay significant fees to access their earnings quickly. Similar exploitative practices are present in Bangladesh as well. Workers often face financial difficulty due to fees connected with obtaining their pay since they lack essential job rights such as paid sick leave, insurance, and minimum wage.

Bangladeshi gig workers have often complained about their compensation and revenue access fees, calling for better legal protections. However, the legal uncertainty surrounding the status of gig workers in Bangladesh impedes their protection. Bangladesh's disregard for these legal loopholes has also had negative consequences, with gig workers experiencing the most severe unfair working conditions.

According to a World Bank study from 2023, Bangladesh's gig economy generated 5% of GDP in 2020 and would continue to double by 2025. Legal changes that acknowledge gig workers' rights may increase productivity and attract new enterprises. Hence, Bangladesh must update its labour legislation to reflect the reality of the gig economy. A third legal categorisation for workers, known as dependent contractors or flexi-workers may be formed, with separate rights and benefits from those of ordinary employees. Fundamental safeguards such as a minimum wage, healthcare, social security, and accident insurance may guarantee that gig workers are not left vulnerable in a society increasingly dependent on their labour.

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LAW VISION

# Urgency of comprehensive AI regulation in Bangladesh

SATIRTHA CHAKMA

Artificial Intelligence (AI) is no longer the future—it is the present. From global finance to health, surveillance to academics, and the legal profession, AI systems are now integrated into many aspects of our everyday life. While countries all over the world are debating how to best deal with the problems created by AI by improving their legal framework, Bangladesh is a long way off. Such questions are important to deal with situations where an AI malfunctions. If an AI misidentifies a face, makes a wrongful or unintended transaction, or leaks personal data, who would be accountable? The user or the AI itself? Without clarified legal framework, the question of liability simply weighs heavily on the use and the usefulness of AI.

Recently, New Zealand's MP Laura MaClure illustrated the threat of deepfake technology by showing a manipulated, naked photograph of herself in the parliament. The UK's High Court has lately issued a warning to the lawyers to prohibit misusing AI after finding fake case-law citations. Similarly, the recent rise of Ghibli-style trends generated through ChatGPT has raised concerns over copyright and intellectual property rights.

Unethical use of AI poses unprecedented risks upon the user. Deepfakes, misinformation, or identity theft all are facilitated by the AI-powered tools. In Bangladesh, although the use of AI is limited, it often appears in connection with cybercrimes. Sadly, our laws have not caught up efficiently to prevent AI-related cybercrimes as well.

The Cyber Security Act 2023, the Information and Communication Act 2006, and the newly enacted Cyber Protection Ordinance 2025 address cyber offences but they are not tailored to address the complexities of AI. Even the 2025 Ordinance offers minimal guidance on AI-generated content or algorithmic decision making. The cyber tribunals, meanwhile, are overwhelmed and under-resourced and mostly dealing with defamation and digital harassment cases. The draft of the National Artificial Intelligence Policy 2024 is a positive step, but it, too, lacks clarity on fundamental issues such as transparency, ethical use, and human supervision. Moreover, it does little to recommend crimes prevention strategies ranging from harassment-like cybercrimes to organised crimes such as the Bangladesh Bank Heist of 2016.

Bangladesh ranked 75th out of 83 countries in the Global AI Index. This is not only about technology, but it also reflects a broader failure to prepare our legal, educational, and social institutions for the future. In contrast, countries such as the UAE are using AI to predict and prevent disasters, e.g., fire-related disasters, before they can occur by feeding the AI with vast data and training models. Sadly, we are still struggling with digital literacy and addressing digital divides.

What can we do? First, Bangladesh must enact a comprehensive AI law evaluating global best practices. It may follow the EU Artificial Intelligence Act, for example, which proposes a risk-based approach and mandates transparency, ethical use, and human supervision. Second, we need an independent AI regulatory authority to ensure accountability and investigate misuse. Third, we must include professional experts – technologists, academicians, lawyers, etc. in framing our AI policy.

And finally, we must treat data protection as a core fundamental human right. The public should be aware of who collects their data, how it is stored, and whether they can opt out from subscription. Without such enforcement, digital rights will continue to remain as a myth.

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LAW REVIEW

# An assessment of the Supreme Court Judges' Appointment Ordinance 2025

ATIQUR RAHAMAN

The newly enacted Supreme Court Judges' Appointment Ordinance 2025 marks a potentially significant move toward a fairer and more transparent judicial appointment process in Bangladesh. This initiative comes at a time when discussions and anxieties surrounding the selection of judges for the higher courts are prevalent. Hence, the details of the Ordinance need to be carefully assessed.

First, section 3 of the Ordinance establishes the Supreme Judicial Appointment Council, a newly formed permanent body that will assist the Chief Justice to advice to the President potential names for the appointment of Supreme Court judges. This council will consist of the Chief Justice (Chairperson), the senior-most serving judge of the Appellate Division (AD), the senior-most serving judge of the High Court Division (appointed from beyond the judicial service), the senior-most serving judge of the High Court Division (HCD) appointed from the judicial service, a retired judge of the AD of the Supreme Court nominated by the Chairperson, the Attorney-General, and a law professor or legal expert nominated by Chairperson.

However, section 4 of the Ordinance creates a potential conflict of interest by making the Supreme Court Registrar General (and if he is a candidate, the next senior-most officer who is not a candidate) as the Council's ex-officio Secretary. The problem here is that the officers of the Supreme Court Registry, including the Registrar General, are often themselves potential candidates for the post of Judges of the Supreme Court. Although the provision avoids direct conflict of interest by disqualifying the candidate himself, indirect conflict may still exist as the Secretary of the Council and the candidate would work in the same office. Moreover, the Ordinance's imposition of a minimum age-limit of 45 for judges creates further problems, as Article 95 of the Constitution does not have

any such age limit, and currently, there are reportedly at least ten judges in the HCD who are below 45. It is argued that the imposition of such an arbitrary age limit potentially excludes many qualified individuals who meet the constitutionally mandated experience requirements.

Additionally, the author argues that section 9 of the Ordinance introduces another significant conflict of interest concerning the appointment of senior HCD judges to the Appellate Division. The provision that favours the senior-most judge creates a situation where a member of the Supreme Judicial Appointment Council, who is also the senior-most HCD judge, can benefit directly from this rule.

Again, the simultaneous involvement of the Chief Justice in both the search committee and the final consultation process for judicial appointments potentially gives rise to another major concern regarding immense power being vested upon the Chief Justice's office. Consequently, to mitigate the risk of bias allegations and to meticulously preserve the integrity of the appointment procedure, the Chief Justice's participation could be limited to either of the two stages. Furthermore, including the Attorney-General may raise concerns about potential political qua executive influence in the council's decision-making.

It needs to be mentioned that recently, a public interest writ petition was filed with the HCD challenging the constitutional validity of sections 3, 4, 6, and 9 of the Ordinance. The petition argued that these sections are inconsistent with the Constitution. On 28 April 2025, the HCD decided to summarily dispose of the petition. The Court observed that the Ordinance is desirable for Bangladesh's national interest, particularly because the parliament is currently non-existent; it further noted that the next Parliament would have the opportunity to discuss it and that it is too early to do so. The court analogised the law with similar laws in the UK and Nepal, and distinguished its context from that of India, where the judge appointment Act was declared unconstitutional due to the long-standing "collegium system".

While intending to enhance transparency, the Ordinance may have paradoxically introduced new loopholes. It is submitted that implementing this Ordinance in its current form risks exacerbating the problems it seeks to address. As the HCD observed, more discussions on this matter can be done in the new parliament. At this historic moment when the whole nation is looking forward to seeing meaningful reforms, a carefully drafted law is imperative.

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