

“LEGAL STATUS AND SOCIAL SECURITY OF GIG AND PLATFORM WORKERS UNDER CODE ON SOCIAL SECURITY : A CRITICAL ANALYSIS”

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ABSTRACT:

The rapid expansion of the gig economy, driven by digital platforms and technological advancements, has significantly transformed traditional labour markets across the globe, including India. Gig and platform workers—such as ride-sharing drivers, food delivery personnel, and freelance digital service providers—operate in a flexible yet precarious employment environment that falls outside the ambit of conventional labour laws. Recognizing this emerging workforce, the Code on Social Security, 2020 marks a landmark development in Indian labour jurisprudence by formally acknowledging gig and platform workers and attempting to extend social security benefits to them. This paper critically examines the legal status and social security framework applicable to gig and platform workers under the Code on Social Security, 2020. It explores how the Code defines gig and platform workers as distinct categories separate from traditional employees, thereby excluding them from core labour protections such as minimum wages, job security, and collective bargaining rights. While the legislation introduces welfare-oriented measures, including provisions for life and disability insurance, health benefits, and old-age protection, these schemes remain largely discretionary and dependent on governmental implementation. The study highlights the inherent tension between flexibility and security within the gig economy, emphasizing that the absence of a clear employer-employee relationship results in a “legal vacuum” where workers possess limited enforceable rights. It further critiques the contribution-based funding mechanism involving aggregators, pointing out its potential inadequacies and implementation challenges. Additionally, the paper addresses practical concerns such as digital exclusion, lack of awareness, and administrative inefficiencies that hinder effective access to social security benefits.

Keywords: *Gig workers, Platform workers, Gig economy, Platform economy, Code on Social Security, 2020, Legal recognition, Legal status.*

INTRODUCTION:

The nature of work has undergone a profound transformation in the 21st century, largely driven by rapid technological advancements, digitalization, and the emergence of platform-based business models. The traditional employer-employee relationship, which formed the cornerstone of labour law regulation, is increasingly being replaced by flexible, on-demand work arrangements commonly referred to as the “gig economy.” In India, this transformation has been particularly significant

with the rise of digital platforms offering services such as ride-hailing, food delivery, logistics, and freelance professional work. Gig and platform workers—who perform tasks mediated through digital applications—have become an integral part of the modern economy, contributing substantially to economic growth, urban service delivery, and employment generation. However, despite their growing importance, these workers remain one of the most vulnerable segments of the workforce due to the absence of formal

employment relationships and the lack of adequate legal protection.

Traditionally, labour laws in India have been designed around the binary classification of “employers” and “employees,” with social security benefits and labour protections being contingent upon the existence of a clear employer-employee relationship. Gig and platform workers do not fit neatly into this framework, as they are typically classified as independent contractors rather than employees. This classification enables platform companies to avoid legal obligations relating to minimum wages, provident fund, gratuity, maternity benefits, and other statutory protections. Consequently, gig workers often face precarious working conditions characterized by income instability, absence of job security, long and irregular working hours, and lack of access to health care and social protection. The COVID-19 pandemic further exposed these vulnerabilities, highlighting the urgent need for a comprehensive legal framework to safeguard the rights and welfare of this emerging workforce.

In response to these challenges, the Government of India enacted the Code on Social Security, 2020 as part of a broader effort to consolidate and rationalize existing labour laws into four comprehensive labour codes. This Code represents a significant legislative milestone, as it is the first in India to formally recognize gig workers and platform workers as distinct categories within the broader classification of unorganised workers. By doing so, it seeks to extend certain social security benefits to these workers, thereby acknowledging their contribution to the economy and addressing their long-standing exclusion from labour welfare schemes. The Code provides for the formulation of various social security schemes covering areas such as life and disability insurance, health and maternity benefits, old-age protection, and skill development. It also introduces a novel mechanism requiring digital platform aggregators to contribute a specified

percentage of their turnover towards the welfare of gig and platform workers.

While the Code on Social Security, 2020 has been widely welcomed as a progressive step, it has also attracted considerable criticism from scholars, policymakers, and labour rights activists. One of the central concerns relates to the legal status of gig and platform workers under the Code. Although the legislation recognizes them, it does not classify them as “employees,” thereby excluding them from core labour rights and protections. Instead, the Code adopts a welfare-oriented approach, focusing on the provision of social security benefits without fundamentally altering the contractual nature of their work. This raises important questions about the adequacy of such an approach in addressing the structural vulnerabilities inherent in gig work. The absence of enforceable rights, coupled with the discretionary nature of social security schemes, further undermines the effectiveness of the Code in ensuring meaningful protection for workers.

At a broader level, the regulation of gig and platform work raises fundamental questions about the future of labour law in an increasingly digital and globalized economy. There is an ongoing debate on whether existing legal frameworks should be adapted to accommodate new forms of work or whether entirely new categories of labour rights need to be developed.

Against this backdrop, the present study seeks to undertake a critical analysis of the legal status and social security provisions applicable to gig and platform workers under the Code on Social Security, 2020. It aims to examine whether the Code adequately addresses the unique challenges faced by these workers and whether it succeeds in balancing the competing interests of flexibility, innovation, and worker protection. By analyzing the strengths and limitations of the existing framework, the study also seeks to contribute to the broader discourse on labour law reform in India,

emphasizing the need for a more inclusive and rights-based approach to social security in the gig economy.

OBJECTIVES:

1. To examine the legal status of gig and platform workers under the Code on Social Security, 2020.
2. To analyse the social security provisions available to gig and platform workers under the Code.
3. To evaluate the effectiveness of the Code in addressing the vulnerabilities of gig and platform workers.
4. To identify the challenges and gaps in the implementation of social security schemes for gig workers.
5. To suggest reforms for improving legal protection and social security coverage for gig and platform workers.

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DEFINITION OF GIG AND PLATFORM WORKERS UNDER SOCIAL SECURITY CODE, 2020:

Gig Worker – Definition:

Section 2(35) – Code on Social Security, 2020

A gig worker is defined as:

“A person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship.”

Platform Worker – Definition:

Section 2(61) – Code on Social Security, 2020

A platform worker is defined as:

“A person engaged in or undertaking platform work.”

CONCEPT AND EMERGENCE OF GIG AND PLATFORM WORKERS:

The concept of gig and platform workers has gained prominence in recent decades,

particularly with the rapid growth of digital technologies and the internet economy. Gig workers are individuals who engage in short-term, flexible jobs or “gigs,” often on a freelance or contractual basis rather than as permanent employees. Platform workers are a subset of gig workers who obtain work through digital platforms or apps that connect service providers with customers. These platforms act as intermediaries, enabling on-demand labor across various sectors such as transportation, food delivery, freelance services, and home maintenance.

The emergence of gig and platform work can be traced to broader economic and technological changes. One key factor is globalization, which increased competition among businesses and encouraged firms to adopt flexible labor practices to reduce costs and improve efficiency. Instead of maintaining a large permanent workforce, companies began outsourcing tasks and relying on temporary or contract workers. This shift created a foundation for gig work, where employment became task-based rather than long-term.

Another major driver is the advancement of digital technology, especially smartphones, mobile applications, and high-speed internet. These innovations made it possible to create digital platforms that efficiently match workers with customers in real time. As a result, companies could scale their operations quickly without directly employing workers. This gave rise to well-known platform-based services in transportation, delivery, and freelance marketplaces.

The gig economy also expanded due to changing worker preferences. Many individuals, especially younger generations, value flexibility, autonomy, and the ability to choose when and how much they work. Gig work allows workers to balance multiple jobs, pursue education, or manage personal responsibilities. For some, it provides supplementary income, while for

others, it becomes a primary source of livelihood.

However, the growth of gig and platform work has also raised important concerns. Unlike traditional employees, gig workers often lack job security, stable income, and access to social protections such as health insurance, paid leave, and retirement benefits. Since they are typically classified as independent contractors, companies are not obligated to provide these benefits. This has led to debates about labor rights, fair wages, and the need for regulatory frameworks to protect gig workers.

In addition, algorithmic management—where digital platforms use algorithms to assign tasks, set prices, and evaluate performance—has introduced new forms of control and surveillance. While platforms offer flexibility, they can also limit workers’ bargaining power and transparency.

LEGAL RECOGNITION OF GIG AND PLATFORM WORKERS UNDER SOCIAL SECURITY CODE,2020:

Section 2(35) – Defines “Gig Worker” as a person who performs work or participates in a work arrangement and earns from such activities outside of a traditional employer-employee relationship.

Section 2(60) – Defines “Platform Work” as a work arrangement outside traditional employment where organizations or individuals use an online platform to access other organizations or individuals to solve specific problems or provide services.

Section 2(61) – Defines “Platform Worker” as a person engaged in platform work.

Section 2(86) – Defines “Unorganised Worker”, under which gig and platform workers are broadly included.

LEGAL STATUS OF GIG AND PLATFORM WORKERS UNDER SOCIAL SECURITY CODE,2020 :

Despite recognition, the legal status of gig and platform workers remains ambiguous.

(a) Absence of Employer-Employee Relationship

Gig workers are treated as:

- * Independent contractors
- * Self-employed individuals

This classification allows platform companies to avoid obligations such as:

- * Minimum wages
- * Provident fund contributions
- * Gratuity and pension benefits

(b) Consequences of Ambiguous Status

- * Lack of job security
- * No protection against unfair termination
- * Absence of collective bargaining rights
- * Limited access to dispute resolution mechanisms

Critical View:

The Code creates a separate category but does not grant substantive labour rights, leading to what scholars call a “classification without protection” problem.

SOCIAL SECURITY PROVISIONS UNDER THIS CODE:

The Code attempts to extend social security benefits to gig and platform workers under a welfare-oriented framework.

(a) Chapter IX – Social Security for Unorganised, Gig and Platform Workers

This chapter empowers the government to frame schemes for:

- * Life and disability cover
- * Health and maternity benefits
- * Old age protection
- * Education and skill development
- * Any other welfare measures

(b) Section 109 – Framing of Schemes:

- * The Central Government shall frame and notify schemes for gig and platform workers.
- * State Governments may also introduce additional schemes.

Issue:

Schemes are not automatic; they depend on government action.

(c) Section 113 – Registration of Workers

- * Gig workers must register themselves to avail benefits.

* Registration requires:

- Self-declaration
- Aadhaar-based identification

Challenge:

Digital registration may exclude workers lacking technological access.

(d) Section 114 – Contribution by Aggregators:

- * Aggregators must contribute *1%–2% of their annual turnover*.
- * Contribution is subject to a cap of *5% of payments made to workers*.

Significance:

This is a unique funding model aimed at ensuring corporate responsibility.

ROLE OF GOVERNMENT AND INSTITUTIONS:

The Code establishes a shared responsibility model involving:

- Central Government – Policy framing and national schemes
- State Governments – Implementation and additional welfare schemes
- National Social Security Board (Section 6)– Advisory role for unorganised workers

These institutions are expected to ensure effective delivery of benefits and monitoring of schemes.

Critical Analysis of Social Security Framework:

(1) Welfare-Based Approach

The Code focuses on welfare schemes rather than enforceable rights.

Result: Workers cannot legally demand benefits.

(2) Lack of Mandatory Entitlements

* No guaranteed minimum benefits

* Dependence on policy discretion

(3) Inadequate Coverage

* Not all gig workers may register

* Informal nature leads to exclusion

(4) Weak Enforcement Mechanism

* No strict penalties for non-compliance by aggregators

* Difficulty in monitoring digital platforms

(5) Economic Dependency Ignored

Many gig workers depend entirely on platforms for income, yet:

They are not recognized as dependent workers

Need for Legal Reforms:

To strengthen the framework, the following reforms are necessary:

1. Recognition of gig workers as “dependent contractors”

2. Introduction of minimum guaranteed earnings

3. Making social security benefits legally enforceable

4. Strengthening aggregator accountability

5. Establishing grievance redressal mechanisms

LANDMARK CASELAWS RELATED TO GIG AND PLATFORM WORKERS:

1. Uber BV v. Aslam

Facts:

Uber drivers in the UK claimed that they were workers, not independent contractors, and sought minimum wage and other benefits.

Issue:

Whether Uber drivers are “workers” under UK labour law.

Judgment:

The UK Supreme Court held that drivers are “workers”, not independent contractors, and are entitled to minimum wage, paid leave, and other protections.

2. Ola Cabs Drivers Association v. Ola (ANI Technologies Pvt. Ltd.)

Facts:

Drivers alleged that Ola abused its dominant position and treated drivers unfairly.

Issue:

Whether Ola drivers are employees and whether there was abuse of dominance.

Judgment:

The Competition Commission of India held that drivers are independent contractors, not employees, and no abuse of dominance was established.

3. Foodora Case (National Labor Relations Board Advice Memo)

Facts:

Food delivery riders sought recognition as employees for unionizing.

Issue:

Whether gig workers are employees under labour law.

Judgment:

The NLRB held that riders were independent contractors, emphasizing flexibility and lack of employer control.

4. Dynamex Operations West, Inc. v. Superior Court

Facts:

Delivery drivers claimed they were misclassified as independent contractors.

Issue:

What test determines employee vs independent contractor.

Judgment:

The Court introduced the ABC Test, making it harder to classify workers as independent contractors, thereby strengthening worker protections.

5. People v. Uber Technologies, Inc.

Facts:

The State of California sued Uber for misclassifying drivers.

Issue:

Whether Uber drivers should be treated as employees under state law.

Judgment:

The court ruled that Uber drivers are employees under California law, requiring compliance with labour protections.

6. Independent Workers Union of Great Britain v. RooFoods Ltd.

Facts:

Deliveroo riders sought collective bargaining rights.

Issue:

Whether riders qualify as “workers” for unionization.

Judgment:

The Committee held riders were independent contractors, as they had substitution rights and flexibility.

7. Uber France Case (Criminal Court of Paris)

Facts:

Uber was accused of misclassifying drivers.

Issue:

Whether drivers were employees or independent contractors.

Judgment:

The Court held drivers were employees, citing control exercised by Uber over work conditions.

8. Dewan Mohideen v. Union of India

Facts:

A PIL was filed seeking social security benefits for gig workers during COVID-19.

Issue:

Whether gig workers are entitled to social security protection.

Judgment:

The Court directed the government to consider welfare measures and implementation of social security schemes for gig workers.

9. All India Gig Workers Union v. Union of India

Facts:

Gig workers sought recognition and inclusion under labour laws.

Issue:

Whether gig workers should be provided social security benefits.

Judgment:

The Supreme Court acknowledged the issue and emphasized the importance of policy intervention, leaving it to legislative action.

10. Sanjit Roy v. State of Rajasthan

Facts:

Workers employed under famine relief programs were paid less than minimum wages.

Issue:

Whether minimum wage applies to non-traditional workers.

Judgment:

The Supreme Court held that minimum wages are a fundamental right under Article 23,

reinforcing worker protection principles relevant to gig workers.

CONCLUSION:

The emergence of the gig economy has fundamentally altered the structure of labour markets across the world, including India. Digital platforms have created new opportunities for flexible employment and income generation, particularly for young workers, migrants, and individuals seeking supplementary sources of livelihood. Ride-hailing services, food delivery platforms, logistics networks, and freelance marketplaces have become an integral part of modern economic activity. However, the rapid growth of platform-based work has also exposed significant regulatory gaps in traditional labour law frameworks. Gig and platform workers often operate outside the scope of conventional employer–employee relationships, leaving them vulnerable to income instability, lack of job security, absence of collective bargaining rights, and limited access to social security benefits.

In this context, the Code on Social Security, 2020 represents an important milestone in the evolution of Indian labour law. For the first time, the legislation formally recognizes gig workers and platform workers as distinct categories of workers and attempts to incorporate them into the broader social security framework. By providing statutory definitions and enabling the formulation of welfare schemes, the Code acknowledges the changing nature of work and seeks to address the exclusion of gig workers from existing labour welfare measures. Provisions relating to social security schemes, worker registration, and aggregator contributions indicate a policy shift toward inclusive labour protection. The requirement that digital platform aggregators contribute a percentage of their turnover toward worker welfare reflects an innovative approach to financing social security in a rapidly evolving digital economy.

Another critical issue concerns the welfare-oriented nature of the social security provisions.

The Code empowers the government to frame various schemes for gig and platform workers; however, these schemes are largely discretionary and depend on policy decisions and administrative implementation. Unlike statutory labour rights, welfare schemes do not automatically create enforceable entitlements for workers. This approach raises concerns regarding the reliability and continuity of social security coverage, particularly in a sector characterized by high levels of informality and mobility. Without clear statutory guarantees and strong enforcement mechanisms, the effectiveness of these schemes may remain limited.

Furthermore, the implementation of the Code presents several practical challenges. The requirement for digital registration, while technologically efficient, may exclude workers who lack digital literacy or access to reliable internet infrastructure. Many gig workers operate in informal settings and may not be aware of the procedures required to access social security benefits. In addition, monitoring the compliance of digital platforms and aggregators poses a significant regulatory challenge.

The regulatory challenges surrounding gig work also reflect broader debates about the future of labour law in the digital age. Across the world, policymakers and courts are grappling with the question of how to classify platform workers and how to balance economic innovation with worker protection. Some jurisdictions have introduced intermediate categories such as “dependent contractors,” which grant certain labour rights while preserving flexibility in employment arrangements. Others have moved toward recognizing gig workers as employees under specific circumstances, particularly when digital platforms exercise significant control over work conditions. In comparison, the Indian approach remains relatively cautious, emphasizing welfare measures rather than redefining the legal nature of employment relationships.

In conclusion, the Code on Social Security, 2020 represents a significant step toward acknowledging the realities of the modern labour market and extending social protection to previously excluded categories of workers. By formally recognizing gig and platform workers and introducing a framework for social security schemes, the Code reflects a progressive attempt to adapt labour law to the challenges of the digital economy. However, the legislation remains limited in its ability to address the deeper structural vulnerabilities associated with gig work. The absence of a clear employment status, the discretionary nature of welfare schemes, and the challenges of effective implementation raise important questions about the adequacy of the current framework.

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