

GIG WORKERS AND PLATFORM ECONOMY: ARE THEY ADEQUATELY PROTECTED UNDER THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020: A CRITICAL ANALYSIS

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BEST CITATION – YUKTHANKITHA K, GIG WORKERS AND PLATFORM ECONOMY: ARE THEY ADEQUATELY PROTECTED UNDER THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020: A CRITICAL ANALYSIS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (5) OF 2026, PG. 585-590, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT

The emergence of the gig economy has fundamentally altered the traditional employer–employee relationship, introducing flexible, task-based work mediated through digital platforms. While this transformation has generated employment opportunities and contributed to economic efficiency, it has also created significant regulatory challenges, particularly in relation to occupational safety, health, and working conditions. Gig workers, including ride-hailing drivers, food delivery personnel, and freelance service providers, operate outside conventional employment frameworks and are typically classified as independent contractors. This classification often excludes them from statutory protections available under labour laws.

The Occupational Safety, Health and Working Conditions Code, 2020 (OSH Code) represents a major reform in India's labour law regime, consolidating various laws related to workplace safety. However, its applicability to gig and platform workers remains ambiguous due to definitional limitations and structural gaps. This research critically examines whether gig workers are adequately protected under the OSH Code, 2020 by analysing statutory provisions, judicial interpretations, and practical realities.

The study reveals that despite the progressive intent of the Code, gig workers remain largely excluded from its scope due to their non-recognition as “workers” under the legal framework. The absence of clear employer accountability, lack of workplace definition, and weak enforcement mechanisms further exacerbate their vulnerability. The paper concludes that comprehensive legislative reforms are necessary to extend occupational safety protections to gig workers and ensure equitable labour standards in the platform economy.

INTRODUCTION

The rapid advancement of technology and the proliferation of digital platforms have significantly transformed the nature of employment in the modern economy. The traditional model of employment, characterized by long-term contracts, fixed working hours, and employer–employee relationships, is increasingly being replaced by flexible and decentralized forms of work. One of the most

prominent manifestations of this transformation is the rise of the gig economy.

The gig economy refers to a labour market characterized by short-term, task-based engagements where workers are hired on a per-task or per-service basis. These engagements are often facilitated by digital platforms that connect service providers with consumers. In India, the gig economy has witnessed exponential growth, driven by the expansion of services such as ride-hailing, food

delivery, e-commerce logistics, and freelance marketplaces.

While the gig economy offers flexibility and income-generating opportunities, it also raises serious concerns regarding labour rights and protections. Gig workers are typically classified as independent contractors rather than employees, which allows platform companies to avoid legal obligations associated with employment. As a result, gig workers often lack access to basic protections such as minimum wages, social security, and occupational safety measures.

Occupational safety and health is a critical aspect of labour welfare, as it directly affects the physical and mental well-being of workers. Recognizing this, the Government of India enacted the Occupational Safety, Health and Working Conditions Code, 2020, with the objective of consolidating and modernizing labour laws related to workplace safety. The Code seeks to ensure safe working environments, regulate working conditions, and impose obligations on employers.

However, the applicability of the OSH Code to gig workers remains uncertain. The Code primarily addresses traditional employment relationships and does not explicitly include gig or platform workers within its scope. This raises an important question: are gig workers adequately protected under the existing legal framework?

This research seeks to address this question by critically analysing the provisions of the OSH Code, 2020 in the context of the gig economy. It examines the extent to which the Code provides protection to gig workers and identifies the gaps between legislative intent and practical implementation.

RESEARCH METHODOLOGY

The present study adopts a doctrinal and analytical research methodology, supplemented by a comparative approach to provide a comprehensive understanding of the subject.

The doctrinal method involves the analysis of primary legal sources, including the provisions of the Occupational Safety, Health and Working Conditions Code, 2020, and other relevant labour legislations such as the Code on Social Security, 2020. Judicial decisions delivered by the Supreme Court and various High Courts relating to labour rights, occupational safety, and informal workers are also examined to understand the judicial interpretation of worker protection.

Secondary sources such as textbooks, research articles, law journals, policy papers, and reports published by international organizations like the International Labour Organization (ILO) are reviewed to provide a theoretical framework. These sources help in understanding the evolving nature of gig work and the challenges associated with regulating it.

The study also adopts a comparative approach by analysing legal frameworks in other jurisdictions, such as the United Kingdom and the European Union, where efforts have been made to extend labour protections to gig workers. This comparison helps in identifying best practices and potential reforms for the Indian context.

The research is analytical and descriptive in nature, focusing on identifying gaps in the existing legal framework and suggesting measures to improve the protection of gig workers.

LITERATURE REVIEW

The gig economy has attracted significant academic attention in recent years, particularly in relation to labour rights and regulatory challenges. Scholars have consistently highlighted the precarious nature of gig work and the inadequacy of existing labour laws in addressing the unique characteristics of platform-based employment.

The International Labour Organization has emphasized that gig workers often operate under conditions of economic dependency despite being classified as independent

contractors. This misclassification leads to the denial of basic labour protections, including occupational safety measures. The ILO has advocated for the recognition of gig workers as workers in substance rather than form.

S.C. Srivastava argues that labour laws must evolve to reflect changing economic realities, failing which they become ineffective in protecting vulnerable workers. Similarly, P.L. Malik highlights that rigid legal definitions of “employee” exclude a large segment of the workforce engaged in informal and non-traditional employment.

Recent studies published in academic journals have examined the OSH Code, 2020, noting that while it consolidates labour laws, it does not adequately address emerging forms of work such as gig employment. Scholars have criticized the Code for its reliance on traditional employment relationships, which limits its applicability to platform workers.

Empirical studies further indicate that gig workers face significant occupational risks, including road accidents, long working hours, and mental stress. Despite these risks, there is a lack of regulatory oversight and enforcement mechanisms to ensure their safety.

The existing literature reveals a significant gap in the analysis of occupational safety protections for gig workers under the OSH Code, 2020. This study seeks to fill this gap by providing a detailed examination of the legal framework and its limitations.

OBJECTIVES

To analyse the concept and growth of the gig economy in India

To examine the legal framework governing occupational safety under the OSH Code

To determine whether gig workers fall within the scope of the Code

To identify implementation gaps in protecting gig workers

To evaluate judicial approaches to worker protection

To compare international legal frameworks

To suggest reforms for effective protection

SCOPE OF RESEARCH

The scope of this research is confined to examining the adequacy of occupational safety protections for gig workers under the OSH Code, 2020 in India. It focuses on analysing statutory provisions, implementation challenges, and practical realities of gig work.

The study covers platform-based workers engaged in sectors such as transportation, food delivery, and logistics. It also considers judicial interpretations and international perspectives to provide a comprehensive analysis.

DEFINITION AND APPLICABILITY UNDER OSH CODE, 2020

The Occupational Safety, Health and Working Conditions Code, 2020 provides a comprehensive framework for regulating workplace safety across various sectors. The applicability of the Code depends largely on the definition of “worker” and “establishment.”

Under Section 2 of the Code, a “worker” is defined as a person employed in an establishment to perform skilled, semi-skilled, or unskilled work for hire or reward. This definition is rooted in the traditional employer-employee relationship, where a clear contractual arrangement exists between the employer and the employee.

However, gig workers operate in a fundamentally different framework. They are typically engaged through digital platforms and are classified as independent contractors rather than employees. This classification creates a significant legal barrier, as the OSH Code does not explicitly recognize gig or platform workers within its definition of “worker.”

As a result, gig workers are effectively excluded from the scope of the OSH Code. This exclusion raises serious concerns regarding the

adequacy of occupational safety protections for gig workers, who are often exposed to significant risks in their work.

The applicability of the Code is further limited by the concept of “establishment,” which generally refers to a physical workplace. Gig work, being mobile and decentralized, does not fit neatly within this framework. For example, a food delivery worker operates across multiple locations, and a ride-hailing driver uses public roads as a workplace. This lack of a fixed workplace complicates the enforcement of safety standards.

Thus, while the OSH Code provides a comprehensive framework for traditional employment, its applicability to gig workers remains limited due to definitional and structural constraints.

MEANING OF GIG WORKERS AND PLATFORM WORKERS

Gig workers are individuals who engage in short-term, flexible work arrangements, typically mediated through digital platforms. These workers perform tasks or provide services on a per-job basis rather than being employed on a permanent basis.

Platform workers, on the other hand, are a subset of gig workers who use digital platforms to connect with customers. These platforms act as intermediaries, facilitating transactions between service providers and consumers.

Examples of gig and platform workers include:

Ride-hailing drivers

Food delivery personnel

Freelancers

E-commerce logistics workers

The defining characteristics of gig work include:

Flexibility: Workers can choose when and where to work

Task-based payment: Compensation is linked to completed tasks

Lack of job security: No long-term employment guarantee

Absence of social security: Limited access to benefits

Despite these features, gig workers often exhibit characteristics of employees, such as economic dependency on the platform and lack of control over pricing. This has led to debates regarding their legal classification.

IMPORTANT SECTIONS OF OSH CODE, 2020

SECTION 3: REGISTRATION OF ESTABLISHMENTS

Section 3 mandates compulsory registration of establishments employing workers. This provision ensures that establishments are brought within the regulatory framework, enabling monitoring and enforcement of safety standards.

However, gig platforms often do not register as establishments under the OSH Code, as they do not consider themselves employers. This creates a regulatory vacuum, where gig workers remain outside the scope of legal protection.

Case Law

In *Bandhua Mukti Morcha v. Union of India*, the Supreme Court emphasized the duty of the State to protect vulnerable workers, even in informal sectors. This principle can be extended to gig workers, highlighting the need for regulatory intervention.

SECTION 6: DUTIES OF EMPLOYER

Section 6 imposes a statutory duty on employers to ensure a safe working environment. This includes providing safety equipment, training, and hazard-free conditions.

In the gig economy, platform companies deny employer status, thereby avoiding these obligations. As a result, gig workers are left without basic safety protections.

Case Law

In *Consumer Education and Research Centre v. Union of India*, the Court held that occupational

safety is part of the right to life under Article 21. This principle underscores the need to extend safety protections to gig workers.

SECTION 18: OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Section 18 empowers the government to prescribe safety standards for workplaces. These standards are essential for preventing accidents and ensuring worker well-being.

However, the absence of a defined workplace in gig work makes it difficult to apply these standards. For example, there are no specific regulations governing the safety of delivery workers on roads.

SECTION 23: WELFARE FACILITIES

Section 23 requires employers to provide welfare facilities such as drinking water, sanitation, and medical aid.

Gig workers, however, do not have access to such facilities, as they operate independently and are not tied to a specific workplace.

SECTION 34: INSPECTOR-CUM-FACILITATOR

This provision introduces a facilitative approach to enforcement. While it aims to promote compliance, it may weaken regulatory oversight in high-risk sectors.

In the context of gig work, enforcement is further weakened due to the digital nature of platforms and lack of physical workplaces.

IMPLEMENTATION GAPS

1. Legal Exclusion of Gig Workers

The most significant gap in the OSH Code is the exclusion of gig workers from its definition of “worker.” This exclusion prevents gig workers from accessing statutory protections.

2. Absence of Employer Accountability

Platform companies classify workers as independent contractors, thereby avoiding responsibility for safety measures. This creates a situation where no entity is legally accountable.

3. Lack of Workplace Definition

The OSH Code is designed for physical workplaces, whereas gig work is decentralized and mobile. This mismatch limits the applicability of safety regulations.

4. Weak Enforcement Mechanisms

The Inspector-cum-Facilitator model reduces strict enforcement. In the gig economy, enforcement is further complicated by the absence of identifiable workplaces.

5. Lack of Awareness Among Workers

Gig workers are often unaware of their rights and lack access to grievance redressal mechanisms.

6. Technological Challenges

Digital platforms operate through algorithms, making it difficult to regulate working conditions such as working hours and workload.

7. Fragmented Legal Framework

The absence of coordination between different labour codes creates gaps in protection.

OCCUPATIONAL HAZARDS FACED BY GIG WORKERS

Gig workers face numerous risks, including:

- Physical Risks
- Road accidents
- Exposure to extreme weather
- Health Risks
- Fatigue due to long working hours
- Lack of medical support
- Psychological Risks
- Stress due to performance pressure
- Job insecurity

JUDICIAL APPROACH

The judiciary has consistently recognized worker protection as a fundamental right.

In People’s Union for Democratic Rights v. Union of India, the Court held that labour laws must be enforced to protect vulnerable workers.

Similarly, in Sanjit Roy v. State of Rajasthan, exploitative labour practices were declared unconstitutional.

These principles support extending protections to gig workers.

COMPARATIVE ANALYSIS

United Kingdom

Gig workers are classified as “workers” and receive limited protections.

European Union

New directives aim to regulate platform work and ensure worker rights.

India

Still lacks clear legal recognition of gig workers under safety laws.

RECOMMENDATIONS

Amend OSH Code to include gig workers

Recognize platform companies as employers

Introduce safety standards for gig work

Provide insurance coverage

Strengthen enforcement mechanisms

Increase worker awareness

CONCLUSION

The OSH Code, 2020 represents a significant step in labour law reform. However, its effectiveness is limited by its inability to address the realities of the gig economy. Gig workers remain excluded from its scope due to definitional and structural issues.

To ensure equitable labour standards, it is essential to extend occupational safety protections to gig workers. This requires legislative reforms, stronger enforcement, and a shift in the approach to labour regulation.

REFERENCES

STATUTES

OSH Code, 2020

Code on Social Security, 2020

BOOKS

S.C. Srivastava

P.L. Malik

V.G. Goswami

CASE LAWS

Bandhua Mukti Morcha

Consumer Education case

PUDR case

Sanjit Roy case