

ANALYSIS ON THE SAFETY AND HEALTH PROTECTIONS FOR GIG AND PLATFORM WORKERS UNDER THE NEW LABOUR CODES

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Abstract:

The swift expansion of gig and platform-based employment in India has generated unique opportunities for flexible job arrangements but has also subjected workers to increased risks related to occupational safety and health. Conventional labor laws frequently overlook the vulnerabilities faced by this workforce, which encompasses delivery workers, ride-share drivers, and freelance digital service providers. The introduction of the Occupational Safety, Health, and Working Conditions Code, 2020, as part of India's new labor regulations, represents a significant advancement toward including gig workers within the formal safety and welfare framework. This article analyzes the extent and effectiveness of these provisions in safeguarding gig workers against occupational dangers, ensuring their access to health services, accident compensation, and welfare initiatives. It assesses enforcement issues seriously, such as the informal character of platform work, the absence of employer accountability, and the limitations of digital surveillance. The paper emphasizes the necessity for flexible regulatory tools that strike a balance between worker protection and flexibility by analyzing case studies, government notifications, and comparative international practices. In order to protect the health and welfare of gig and platform workers in India's developing digital economy, the essay finds that bolstering regulatory control, requiring platform responsibility, and expanding social security benefits are crucial.

Keywords: Gig economy, platform workers, occupational safety and health, occupational safety health and working condition code 2020, labour law, india, worker protection, social security, digital employment, workplace welfare.

Introduction:

India's gig economy has grown rapidly in recent years thanks to platform-based business models, mobile connection, and technology. Delivery partners, ride-hailing drivers, and independent digital experts are examples of workers who work in app-based businesses and perform vital tasks without always having the same legal protections as regular employees. Although the flexibility of such work is typically praised, gig workers may suffer unregulated workplace risks. The Occupational Safety, Health, and Working Conditions Code, 2020 was

passed as part of India's significant labor law reform, which might be a game-changer. These rules offer to formalize safety and welfare safeguards for gig workers when combined with the Code on Social Security, 2020. This article critically analyzes the new legal framework, assesses its ability to protect the health and safety of gig and platform workers, finds enforcement loopholes, and suggests policy changes to address these flaws.

The gig and platform workforce:

A diverse and expanding segment of the Indian workforce consists of gig and platform workers. According to an NITI Aayog report cited by the Ministry of Labour & Employment, there were an estimated 7.7 million gig or platform workers in 2020–2021; by 2029–2030, that number is predicted to rise to 23.5 million. These employees frequently operate in non-traditional employment arrangements; many are independent contractors, paid on a task-by-task basis, or have platform-defined positions instead of hourly or salary compensation. The nature of gig employment entails some workplace hazards. For instance, food delivery employees may be subject to traffic accidents, long hours, exhaustion, and inclement weather. In addition to being at risk for accidents, ride hail drivers deal with stress brought on by long shifts, inconsistent pay, and insufficient sleep. Digital freelancers may experience overwork without regular breaks, mental strain, or ergonomic issues. Furthermore, the majority of gig workers lack health insurance, accident compensation, and workplace safety precautions because they are not officially employed. In traditional employment sectors, labor regulations lessen these risks, at least legally. However, gig workers have historically had less access to these safeguards due to the lack of a formal employer–employee connection.

Legal Framework: New Labour Codes In India

1. Overview:

In a far-reaching reform, India consolidated many existing labour laws into four major "Labour Codes": the Code on Wages, the Industrial Relations Code, the Code on Social Security, and the Occupational Safety, Health and Working Conditions Code.

1. The Occupational Safety, Health and Working Condition Code, 2020 (No. 37 of 2020) [10] consolidates and updates 13 old labour laws pertaining to safety, health, welfare, and working conditions.

2. The Code on Social Security, 2020 [7] provides a definition and makes available the scheme for social security measures for gig and platform workers.

These reforms were notified as part of a broader rationalization of labour regulation definitions under the Codes.

2. Definitions:

A significant advance is the legal recognition of "Gig Workers" and "Platform Workers" in the Code on Social Security. According to Section 2 of that Code

1. A Gig Worker is someone who performs work outside a traditional employer and employee relationship, usually through digital platforms.
2. A Platform Worker is defined more specifically as a person who engages via an online platform to provide services, solving specific tasks in return for payment.

This recognition is vital for the first time, these categories are explicitly included in social security legislation.

Occupational Safety And Health Provisions Under The Occupational Safety, Health And Working Conditions Code:

The Occupational Safety, Health, and Working Conditions Code specifically handles health and safety in the workplace, whereas the Social Security Code deals with welfare.

1. Coverage of Establishments and Workplaces :

The Occupational Safety, Health and Working Conditions Code is applicable to a variety of establishments, such as factories, mines, construction sites, and "other establishments" as defined by the law. However, a crucial question emerges: to what extent does the Code apply to gig workers who do not work in conventional "establishments"? The framework of the law is built on physical institutions, which may not necessarily translate well to work situations that are platform-based.

2. Duties of Employers and Aggregators :

The Occupational Safety, Health, and Working Condition Code places obligations on "occupiers," or those in charge of premises, to guarantee safe working conditions, offer welfare services, medical examinations, and worker training. This presents interpretive issues for gig work: can digital platforms or aggregators be regarded as "occupiers"? The Code's direct relevance to platform-based work may be limited because it does not always make this clear.

3. Health Check - Ups and Medical Provisions :

Workers, particularly those exposed to hazardous procedures, are required by the Code to undergo periodic medical examinations. Such regulations may greatly improve safety if they were expanded or modified to include gig workers who are at risk for things like traffic accidents or overuse injuries. However, implementation needs to be customized: location-based and mobile working necessitates creative health service delivery, such as through insurance partnerships or mobile clinics.

4. Working Hours and Rest :

The Code limits the amount of work that can be done in a single day and ensures breaks and recuperation. Due to the job's flexibility, gig workers—particularly delivery or ride-hailing drivers—are more susceptible to overwork and exhaustion. Enforcing required rest periods in situations where the "employer" is not directly assigning hours presents a challenge.

5. Inspection and Enforcement :

The Code gives inspectors the authority to enforce safety and health regulations. However, traditional inspections may be hampered by the dispersed nature of gig employment and the absence of physical workplaces. New enforcement tools like digital audits and platform-based compliance reporting might be required as a result.

Social Security Protections For Gig And Platform Workers:

The Code on Social Security, 2020 is where gig workers receive official recognition and possible welfare benefits, whereas the Occupational Safety, Health, and Working Conditions Code concentrates on workplace safety.

1. The Social Security Fund:

The Code requires the creation of a Social Security Fund to fund programs for gig and platform workers, including health and maternity benefits, life or disability insurance, accident coverage, and old age protection.

2. Funding Sources:

Contributions from aggregators, or platforms, are one important source of support. Aggregators might have to donate between 1% and 2% of their yearly revenue, up to a maximum of 5% of what gig workers are paid. Although its practical application has not yet been tested, this approach links platform income to worker welfare.

3. Enrollment and Assistance:

The Code allows platform and gig workers to register on national databases. For example, the e-Shram platform was introduced in August 2021 with the purpose of registering gig workers and other unorganized labor. In order to assist these workers in enrolling in social security programs, the government has also suggested helplines and assistance centers.

4. Execution of the Plan:

Many of these projects have not yet been completely implemented, despite the Code's obligation. Stakeholder engagements with aggregators, labor unions, and policy think tanks are reportedly proceeding, according to official sources. Whether platform workers actually receive protection will mostly depend on how social security benefits are actually implemented.

Problems and Deficiencies in the Existing Framework:

Despite these advancements, there are a number of restrictions and difficulties with implementation.

1. Legal Roles' Ambiguity:

As previously stated, because "occupiers" are defined in connection to physical facilities, it is not always apparent how the Occupational Safety, Health, and Working Condition Code applies to gig workers. This ambiguity may allow platforms to avoid direct liability under safety regulations.

2. Enforcement Challenges:

Conventional inspection systems are not made for a mobile, distributed workforce. Innovative methods beyond on-site inspections will be needed to ensure compliance from platforms dispersed throughout rural and urban areas.

3. Insufficient Knowledge:

It's possible that many gig workers are unaware of their rights under the new codes. Enrollment in social security programs and e-Shram registration may continue to be low in the absence of efficient outreach.

4. Limitations on Capacity:

Monitoring and auditing platform compliance may be challenging for state labor departments, who are already overburdened. To deal with this new class of workers, labor inspectorates require additional resources, training, and digital tools.

5. Sustainability of Finances:

Although aggregator contributions are required, if platforms underreport or evade their responsibilities, the contribution cap of 5% of payments may not provide enough money. Platforms may also oppose or legally contest these requirements.

6. Protection Trade vs. Worker Autonomy:

Flexibility is one of the characteristics that set gig labor apart. Strict Occupational Safety and

Health regulations, however, can limit this flexibility. Worker autonomy and safety responsibilities must be properly balanced by policy.

Global and Comparative Views:

It is helpful to evaluate how other nations handle social safeguards for gig workers and occupational safety and health in order to gain a better understanding of the Indian situation. Within the European Union, a number of nations mandate that platforms offer health benefits and social insurance, and several have implemented minimum labor standards that include safety training and rest periods. While there isn't a single federal Occupational Safety and Health regulation for gig work in the US, several states and towns have passed local laws or collective bargaining agreements, such as ride-sharing businesses providing drivers with restricted health coverage or access to rest areas. Such models could teach India valuable lessons. In particular, employing digital monitoring and predictive analytics to evaluate risk may be beneficial. Recent research has proposed using AI and machine learning to forecast workplace dangers in real time. Furthermore, worker-centric policy design is based on information from gig workers' personal experiences, such as how delivery workers deal with algorithmic management and wait times.

Policy Recommendations:

The report suggests the following policy changes to improve gig and platform workers' safety and health protections.

1. Make Legal Terms and Obligations Clear:

To clearly designate platforms or aggregators as "occupiers" or otherwise liable under safety and health rules, amend or adopt regulations under the Occupational Safety, Health, and Working Condition Code.

2. Creative Enforcement Techniques:

To gather information on working hours, incidents, rest periods, and near-misses, use

digital solutions such as applications or platform dashboards. Permit risk evaluations and remote inspections.

3. Boost Outreach and Registration:

Increase gig workers' awareness of their rights under labor laws. Increase e-Shram portal registration by streamlining the procedure and utilizing worker organizations for local outreach.

4. Capacity Building:

Educate labor department inspectors in mobile work risk assessment, platform auditing, and digital inspection.

5. Management of Social Funds and Financial Mechanisms:

Transparently track aggregator contributions. Think about offering rewards for platforms that surpass the minimum or matching contributions. Make sure that workers and aggregators are represented in the management of the Social Security Fund.

6. Innovation in Health Delivery:

Establish mobile health clinics, collaborate with insurance companies, or use telemedicine to give health examinations and medical care to remote gig workers.

7. Worker Participation in Policy Design:

To guarantee that gig workers' experiences influence regulations, institutionalize structures such as social security boards and safety committees where they can engage in policymaking.

Conclusion:

The Occupational Safety, Health and Working Condition Code, 2020 and the Code on Social Security, 2020 are two of India's new labor rules, which are historic reforms that provide gig and platform workers with legal safeguards for the first time. Promising advances include the Occupational Safety, Health and Working Condition Code's safety requirements, the provision for a social security fund, and the clear definitions of gig and platform workers. However, achieving their full potential

necessitates decisive action, including defining legal roles, developing innovative enforcement strategies, increasing awareness, developing capacity, and guaranteeing ongoing funding. Without these, there is a risk that the codes remain more aspirational than transformative. The stakes are considerable because government predictions indicate that gig workers will number over 23 million by 2029–2030. In addition to being a social justice issue, effectively protecting the health and safety of this workforce is essential to India's economic future. In order to safeguard those who drive the digital economy, regulatory frameworks must change as platforms multiply and the nature of labor changes.

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