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Original Article

The New Social Contract: Labour Laws in India's Gig Economy

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Abstract

This Article provides a comprehensive examination of the evolving legal framework governing India's gig economy, which for nearly a decade operated in regulatory ambiguity with approximately 7.7 million platform workers lacking basic employment protections. The analysis centers on the transformative yet contradictory nature of India's recent legislative interventions, which for the first time formally recognize gig and platform workers as distinct legal categories while deliberately stopping short of granting them full employee status.

The foundational shift occurred with the Code on Social Security, 2020, which introduced critical definitions for "gig workers," "platform workers," and "aggregators," establishing a tripartite framework beyond the traditional employee-independent contractor binary. This central legislation mandates aggregator contributions of 1-2% of annual turnover to a Social Security Fund and creates the e-Shram portal for portable, Aadhaar-linked welfare benefits acknowledging the multi-platform nature of gig work.However, the article reveals how India's federal structure has transformed states into "laboratories of democracy," producing a complex regulatory patchwork. Rajasthan's pioneering 2023 Act established foundational welfare boards and grievance mechanisms. Karnataka's 2025 Ordinance introduced more stringent worker protections, including a transaction-based welfare cess of 1-5%, mandatory weekly payouts, and protection against rating-based deactivation. Telangana's draft Bill breaks new ground by mandating algorithmic transparency and prohibiting algorithmic discrimination, addressing the black-box decision-making systems central to platform operations.Despite these advances, the article identifies a core unresolved tension: all current legislation maintains the legal fiction of workers as "independent partners" rather than "employees." This classification excludes gig workers from traditional labour law protections minimum wage, paid leave, provident fund access, and collective bargaining rights creating a framework that provides enumerated benefits without foundational employment rights. Worker unions have welcomed social security measures as preliminary steps while continuing to demand full employee recognition, arguing platform control over rates, tasks, and performance ratings constitutes de facto employment relationships.

Keywords: *Gig Economy, Platform Workers, Social Security, Labour Law Reform, Worker Classification*

Introduction

For almost ten years, India's gig economy worked in a legal gray area. Millions of workers accepted orders by swiping right, drove through busy traffic to deliver food, and provided services through apps, all while being in a gray area between "independent partner" and "employee." They were the hidden engine of an industry worth billions of dollars, but they didn't have any of the protections that come with formal employment, like a minimum wage, paid time off, or a provident fund. The time when the law wasn't clear is coming to an end quickly. India has made a big change by starting to build a set of rules just for the 7.7 million platform workers who are expected to be part of the workforce by 2030. But there isn't just one clear law that will lead to regulation. It is a complicated, multi-layered process that includes central codes and new state laws that are changing how the worker, the platform, and the state interact with each other. This new framework is a contradiction. It is a huge step forward because it is the first time that gig workers have been legally recognized and given access to social security. On the other hand, it doesn't go so far as to call them "employees," which means that the basic question of their rights is still up in the air. This article delves into great detail about India's gig economy and the laws that govern it right now.

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It looks at the main Code on Social Security, the aggressive state-level interventions, the ongoing problem of worker classification, and what the future holds for the millions of people who are trying to make a living in this new world of work.

The Foundation – The Code on Social Security, 2020

The Code on Social Security, 2020 (SS Code) is without a doubt the most important change to the rules for gig work. This central law, which combines and changes nine previous laws about social security, is the first Indian law to officially recognize "gig workers" and "platform workers." Before the SS Code, labor laws were black and white: you were either a formal employee with a lot of protections or you were never in the system at all. The Code broke this binary by adding a third, separate category. This recognition is very important; for the first time, the state recognized that a new kind of work needed a new kind of protection.

Defining the New Workforce

The Social Security Code introduces several critical definitions that form the bedrock of all subsequent regulation:

- **Gig Worker:** Defined as a person who performs work or participates in a work arrangement outside of a traditional employer-employee relationship. This broad definition captures the essence of the gig economy—short-term, task-based work organized through digital intermediaries.
- **Platform Worker:** A more specific sub-set of gig workers, defined as those who work outside of a traditional employer-employee relationship and access work or receive work assignments through the use of an online platform. This explicitly targets the app-based workforce of companies like Swiggy, Zomato, Uber, and Urban Company.
- **Aggregator:** This term refers to the digital intermediary i.e. the platform itself. An aggregator is defined as a digital intermediary or a marketplace for a buyer or user of a service to connect with the seller or the service provider. By legally defining the aggregator, the Code establishes clear responsibility for the platforms that control the ecosystem.

The Social Security Fund and its Financing

The Social Security Code sets up a way for welfare once the players have been defined. It gives the central government the power to make social security plans for gig workers and platform workers. These plans can include a number of benefits that were not available before, such as:

- Insurance for Life and Disability
- Health and maternity benefits
- Protection for the elderly
- Other benefits that the government may decide on.

The funding mechanism is the most important and debated part of this framework. The Code says that aggregators have to shell out into a Social Security Fund to pay for these plans. The contribution is set at a rate between 1% and 2% of the aggregator's annual turnover, with a crucial caveat: this contribution is capped at 5% of the total amount paid or payable to the gig workers and platform workers. This ensures that the financial burden on platforms, particularly startups, is not unlimited.

The Promise of Portability: The e-Shram Portal

One of the main features of the SS Code is the creation of an online national database. The e-Shram portal enables workers in the gig and platform industries to sign up for a unique identification number that is connected to their Aadhaar number, which will assist in addressing the major problem of gig work being so fluid in nature. The transferability of a worker’s social security benefits is due to the unique identifier assigned to the worker. This means that if a worker is employed with Zomato delivering food during the day and then picks up rides through Uber at night, or if they completely switch from one platform to another, the worker will still have access to benefits they earned while working on each of those platforms.

This system of transferability helps to demonstrate the nature of gig work, in that most people who work in gig industries will have jobs across multiple platforms and perform multiple tasks at the same time. While the SS Code was formally notified, its full implementation is still pending as it requires states to finalize their own rules. Nevertheless, it provides the overarching national framework upon which more detailed state-level initiatives are being built.

The States as Laboratories of Democracy

While the central government provided the skeleton, India's states have begun to put flesh on the bones. In the absence of fully operationalized central rules, several states have taken the lead, acting as "laboratories of democracy" and enacting their own comprehensive laws. These state laws often go further than the central code, addressing issues like algorithmic transparency, fair pay, and protection from unfair deactivation. This has, however, created a complex, multi-layered regulatory environment where a national platform must comply with different rules in different states.

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Rajasthan: The Pioneer

In 2023, **Rajasthan** became the first state in India to pass a law specifically for gig workers: the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023. The Act was a trailblazer, establishing the foundational principle that gig workers are entitled to state-sponsored social security. It mandated the creation of a Welfare Board and a dedicated fund, providing for insurance, health benefits, and a grievance redressal mechanism. Rajasthan's move broke the legislative inertia and provided a template for other states to follow.

Karnataka: The Comprehensive Enforcer

In 2025, **Karnataka** passed the Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, which is widely regarded as one of the most worker-friendly and comprehensive laws to date. It builds upon the framework laid by the SS Code and Rajasthan but introduces several stringent provisions that directly target the operational models of gig platforms.

Key features of the Karnataka Ordinance include:

- **A Dedicated Welfare Cess:** Perhaps its most significant provision is the creation of a welfare fund financed by a cess of 1% to 5% on each transaction facilitated by the platform. This is a departure from the central model, which is based on a percentage of annual turnover. By levying a fee per transaction, the Karnataka model ensures a steady, predictable flow of funds into the welfare corpus, directly linked to the volume of work being done in the state.
- **Contractual Clarity and Fair Pay:** The ordinance mandates that platforms provide workers with a clear written contract. Crucially, it requires **weekly payouts**, ensuring workers are not left waiting indefinitely for their earnings. It also stipulates a 14-day notice period for any changes to the contract, giving workers time to adjust to new terms.
- **Protection from Unfair Deactivation:** In a major win for workers, the law prohibits platforms from taking adverse action, such as deactivation or reduction in work allocation, based solely on a worker's ratings. It requires platforms to establish a dispute resolution committee for any platform employing more than 50 workers, providing a formal avenue for appeal against automated decisions.

Telangana: The Champion of Algorithmic Transparency

Also in 2025, **Telangana** introduced its draft Telangana Gig and Platform Workers (Social Security and Welfare) Bill. While it shares common goals with other states, its focus on the digital architecture of work makes it uniquely forward-thinking.

Key features of the Telangana Draft Bill include:

- **Welfare Board and Fund:** Similar to other states, it proposes a Welfare Board and a Social Security Fund financed by a 1-2% fee per transaction.
- **Notice Period for Termination:** It mandates a **7-day notice period** before terminating a worker's account, giving them an opportunity to respond and rectify issues.
- **Algorithmic Transparency and Anti-Discrimination:** This is the bill's defining feature. It requires platforms to be transparent about the algorithms that govern work allocation, rating systems, and pricing. It explicitly protects workers from **"algorithmic discrimination,"** ensuring that automated systems do not unfairly penalize workers based on biased data or opaque logic. This addresses a core concern of the modern gig economy, where critical decisions affecting a worker's livelihood are made by black-box algorithms with no human oversight.

The Core Contradiction – Employee vs. Partner

Despite the significant progress represented by these laws, a fundamental tension remains unresolved. All current legislation, both central and state, maintains the legal fiction that gig workers are not 'employees' but 'independent contractors' or 'partners'. This distinction is not merely semantic; it is the central battleground of the gig economy. The classification determines the entire scope of a worker's rights.

- **As 'Partners' or 'Independent Contractors'** , gig workers are excluded from the vast body of traditional labour law. They have no statutory right to a minimum wage, no entitlement to paid sick leave or annual leave, no access to the Employee Provident Fund (EPF), and no right to bonus payments under the Payment of Bonus Act. They are also legally barred from forming traditional trade unions to engage in collective bargaining, as that right is reserved for 'employees'.
- **As 'Workers' (the SS Code category)** , they gain access to the specific, enumerated social security benefits outlined in the new codes, but they remain excluded from the core protections of industrial and employment law.

The Demand for Employee Status

This is why worker unions, such as the Indian Federation of App-Based Transport Workers (IFAT), have welcomed the new social security measures as a first step but argue they are ultimately insufficient. Their core, consistent demand is for recognition as **'employees'** or full **'workers'** under the law. The unions argue that the 'partner' model is a misclassification designed to allow platforms to externalize costs and evade responsibilities. They point out that platforms exert significant control over their workers setting rates, determining tasks through algorithms, and

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monitoring performance through ratings which are classic indicators of an employer-employee relationship. If it looks like an employer and controls like an employer, they argue, it should be treated as an employer. The platforms, for their part, fiercely defend the current model, arguing that the flexibility of independent contracting is precisely what attracts workers to the gig economy in the first place. They contend that imposing employee status would destroy the business model, forcing them to treat a flexible, on-demand workforce as a fixed, full-time one.

The New Platform-Level Battles

This legal ambiguity has shifted the fight from the halls of parliament to the doors of company headquarters. In recent years, there has been a wave of high-profile protests by gig workers against platforms like Zomato, Swiggy, and Urban Company. These protests often center on the very issues the new state laws are trying to address: unfair pay cuts, arbitrary deactivation, and lack of transparency. Urban Company, for instance, faced intense scrutiny and protests from its beauticians and other service professionals over its rating system and what they alleged were punitive contract terms. Similarly, food delivery workers have repeatedly protested against frequent reductions in base pay and delivery fees, arguing that algorithms are being tweaked to depress their earnings. These protests, while not traditional strikes, function as a form of collective action, putting public pressure on platforms to behave more fairly even in the absence of full legal employee status.

The Road Ahead – A National Patchwork

The current legal landscape for gig workers in India is best described as a work in progress, characterized by a dynamic tension between central and state authorities.

The central government's four new labour codes, including the SS Code, are formally notified. However, their full implementation is stalled, awaiting the finalization of rules by the states. This delay has created a power vacuum that proactive states like Karnataka, Rajasthan, and Telangana have filled.

Interaction of State Laws with the Central Framework

Generally, labour is a concurrent subject in the Indian Constitution, meaning both the central and state governments can legislate on it. In case of a conflict, central law usually prevails, but state laws can be more stringent. It is likely that the national SS Code will provide a floor of rights a minimum standard of social security that applies everywhere. States will then be free to build upon this floor with more generous or specific provisions, such as Karnataka's transaction cess or Telangana's algorithmic transparency rules. This creates a complex compliance challenge for national platforms, which will have to navigate a patchwork of regulations. A single platform may have to comply with one set of rules for welfare fund contributions in Karnataka, another in Rajasthan, and a basic national standard elsewhere.

The Next Frontier: Collective Bargaining

Beyond the implementation of existing laws, the next frontier of the debate is already becoming clear: the right to collective bargaining. Even with social security, a worker whose pay is unilaterally cut by an algorithm has little recourse. The ability to collectively negotiate terms of work the modern equivalent of union bargaining is seen by many as the ultimate missing piece. Some platforms are experimenting with forming "platform worker associations" or engaging with nascent collective bodies, but these are a far cry from the legally protected right to strike or bargain collectively. Until gig workers are granted the status that enables them to organize and negotiate as a collective, their power relative to the platforms will remain limited. The push for this right is likely to be the central theme of the next phase of India's gig economy evolution.

Conclusion

India is at a pivotal moment in defining the social contract for its 21st-century workforce. The journey from complete invisibility to formal legal recognition is a monumental achievement. The Code on Social Security, 2020, has laid the groundwork, and pioneering states are building a more detailed and worker-protective framework upon it. Provisions for social security funds, welfare boards, protection from unfair deactivation, and algorithmic transparency are transforming the landscape. However, the structure remains incomplete. By maintaining the distinction between a 'worker' and an 'employee', the current framework provides a safety net but stops short of providing a solid foundation. It offers benefits but not rights; it provides for welfare but not for wage-setting or collective bargaining.

The gig economy in India has proven its resilience and efficiency. The next challenge is to prove that it can also be fair. The laws being written and debated today will determine whether the platform economy evolves into a new model of dignified, flexible work, or whether it remains a source of precarious livelihoods on the margins of the formal economy. The answer will be written not just in the texts of bills and codes, but in the lived experience of the millions of workers who power the apps on our phones.

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