

CONSTITUTIONAL PERSPECTIVES ON LABOUR RIGHTS IN THE 21ST CENTURY



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**EDITED BOOK ON
CONSTITUTIONAL PERSPECTIVES ON LABOUR RIGHTS IN
THE 21ST CENTURY**

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Social Security Code, 2020 and its Impact on Gig and Platform Workers: A Critical Assessment

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Abstract

The rise of the gig and platform economy has reshaped the modern workforce, offering flexibility and autonomy but often at the cost of social protection. In India, gig workers such as delivery partners, ride-hailing drivers, and online freelancers frequently operate without access to essential social security benefits like health insurance, provident fund, or pension. The Social Security Code, 2020 was introduced with the intent to bring these marginalized workers into the fold of formal social protection systems. For the first time, Indian legislation has explicitly recognized “gig” and “platform” workers as distinct categories deserving of welfare measures.

This research paper critically examines the extent to which the Code delivers on this promise. It unpacks the definitions provided, the schemes envisioned, and the mechanisms for funding and administration. While the recognition of gig workers is a landmark step, implementation remains riddled with ambiguities particularly concerning the contribution responsibilities of aggregators, registration hurdles for workers, and the lack of clarity on enforcement mechanisms. By analyzing the provisions through a legal, practical, and socio-economic lens, this study highlights the gaps between policy intent and potential ground realities. It further draws on international best practices to offer recommendations for creating a more inclusive and enforceable framework. Ultimately, the paper argues that while the Code is a

significant starting point, a more robust, participatory, and rights-based approach is necessary to truly safeguard the livelihoods and dignity of gig and platform workers in India's evolving labour landscape.

Keywords: Social Security Code 2020, Gig Workers, Platform Economy, Labour Law, India

Introduction

The global labour landscape is undergoing a profound transformation, driven by technological innovation, changing consumer behaviour, and evolving economic models. At the heart of this transformation lies the gig economy—a system of work characterized by short-term, task-based assignments often mediated by digital platforms. In India, this trend has gained rapid momentum, propelled by the growth of app-based services such as Ola, Uber, Swiggy, Zomato, and Urban Company. According to NITI Aayog, the number of gig and platform workers in India stood at approximately 7.7 million in 2020, and is expected to reach 23.5 million by 2030, comprising nearly 4.1% of the total workforce.

While the gig economy provides much-needed employment opportunities and flexibility—especially for youth, women, and migrant populations—it also exposes workers to economic precarity and legal ambiguity. Gig and platform workers are often classified as “independent contractors” rather than formal employees, thereby excluding them from key labour protections such as minimum wages, maternity benefits, health insurance, and pension schemes. Their employment relationships are mediated by algorithms rather than human supervisors, further limiting their ability to negotiate terms or seek grievance redressal.

In contrast, traditional employment models in India have historically included strong statutory safeguards under laws such as the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Employees' State Insurance Act, 1948, and Maternity Benefit Act, 1961. These legislations ensured health coverage, social security, and protection from arbitrary dismissal. However, gig workers—due to their informal and

non-standard employment status—have been largely excluded from the purview of such benefits, reinforcing their status as an invisible yet integral part of the economy. Recognizing the urgent need to bridge this protection gap, the Government of India introduced the Social Security Code, 2020. For the first time in Indian legislative history, the Code explicitly defines and acknowledges gig workers and platform workers under Sections 2(35) and 2(61), respectively. This legal recognition is both symbolic and substantive—it not only affirms the growing importance of this workforce but also proposes mechanisms for their inclusion in social security schemes such as life and disability cover, accident insurance, and health benefits.

However, significant concerns remain regarding the scope, enforceability, and operational clarity of the Code. Critics argue that the definitions used in the Code—such as “outside the traditional employer-employee relationship”—are vague and open to multiple interpretations⁶. Additionally, the absence of uniformity between this Code and other labour laws, including the Code on Wages, 2019 and the Industrial Relations Code, 2020, could lead to regulatory fragmentation and enforcement challenges.

This research paper aims to critically assess whether the Social Security Code, 2020 effectively addresses the structural vulnerabilities faced by gig and platform workers in India. It seeks to analyze the legal, economic, and institutional dimensions of the Code, explore its practical implications for workers and platforms, and offer recommendations for enhancing its inclusivity and implementation.

Legal Recognition of Gig and Platform Workers under the Code

The Social Security Code, 2020 marks a significant shift in Indian labour law by formally recognizing gig and platform workers as distinct classes within the labour ecosystem. This legislative reform reflects the growing relevance of digital and app-based employment in India, which has reshaped traditional labour models. For the first time, the Code acknowledges the changing nature of work and seeks to include workers operating beyond standard employer-employee relationships within the ambit of social security.

Section 2(35) of the Code defines a gig worker as someone engaged in “outside of the traditional employer-employee relationship,” while Section 2(61) describes a platform worker as an individual who accesses other organizations or individuals through an online platform and provides services on payment. These definitions serve both symbolic and practical purposes. Symbolically, they validate the economic contribution of gig workers, who have historically been left out of formal policy frameworks. Practically, the definitions pave the way for their potential inclusion in benefits like life and disability cover, accident insurance, and maternity support

Despite this formal recognition, several ambiguities in the definitions have raised concerns among legal scholars and policymakers. The phrase “outside of traditional employment” is vague and leaves ample room for interpretation. For instance, it does not clarify whether a worker who earns most of their income from a single platform would be treated similarly to a formal employee or remain outside the scope of employment benefits. This lack of clarity could allow platform companies to continue distancing themselves from any employer obligations by relying on loosely defined classifications.

Another key issue lies in the non-uniformity of definitions across India’s newly codified labour laws. The Code on Wages, 2019 and the Industrial Relations Code, 2020, for instance, do not use the same definitions for workers, creating potential for legal contradictions and enforcement issues. This fragmentation in legislative language may complicate the application of laws in real-world scenarios, weakening the implementation of protective provisions for gig and platform workers. Moreover, the Code falls short in outlining administrative and institutional mechanisms for registration, contribution collection, and benefit distribution. While the Code proposes the creation of welfare schemes funded by platform aggregators and central/state governments, it remains silent on how gig workers will be identified, how compliance will be ensured, and how disputes will be resolved. Without strong and clear institutional backing, the recognition risks being more

symbolic than enforceable. In addition, the Code lacks explicit enforcement provisions to hold platforms accountable for non-compliance. It also does not define penalties or grievance redressal systems for gig workers who are denied their due benefits. In the absence of regulatory oversight and worker representation in policymaking, implementation of the Code may face significant delays and resistance from private platforms

Coverage and Scope of Social Security Benefits

The Social Security Code, 2020 introduces a new and inclusive framework aimed at extending social protection to gig and platform workers in India. This is a landmark development, as previous labour laws were primarily designed for formal employment relationships and did not cover the growing segment of informal and digital workers. Under the new Code, gig and platform workers may receive a range of benefits, including life and disability insurance, health and maternity coverage, old age pensions, and education support for their children. The Code envisions that these benefits will be delivered through welfare schemes designed and implemented by the Central Government. It allows for the creation of targeted schemes for different worker groups, with funding contributions expected from three main sources: the government, platform aggregators (companies like Uber, Zomato, Swiggy), and the workers themselves. This model, known as the tripartite funding mechanism, aims to distribute the financial responsibility fairly among all stakeholders involved in the gig economy.

A significant proposal in the Code is the establishment of a National Social Security Board for gig and platform workers. This board is expected to play a central role in formulating, recommending, and monitoring social security schemes. It may include representatives from the government, employers, and the worker community. However, the actual composition, powers, and authority of this board are yet to be clearly defined. Without a well-structured and empowered body, there is a risk that welfare schemes may remain poorly implemented or delayed. Moreover, there is still ambiguity about eligibility criteria, scheme design, and how contributions will be tracked and collected. The absence of a centralized worker database or a

mandatory registration mechanism adds to the uncertainty. If workers are not registered or identified systematically, they may be left out of welfare benefits altogether, despite being legally entitled to them.

Registration and Access to Benefits under the Social Security Code, 2020

The Social Security Code, 2020, represents a significant step toward integrating gig and platform workers into India's formal social protection systems. One of the key provisions of the Code is the mandatory registration of these workers on a centralized online portal to become eligible for social security schemes. While this digital initiative is a move toward modernization and efficiency, it also introduces several practical challenges, especially in a country where digital penetration and literacy are uneven. According to Section 113 of the Code, every gig and platform worker is required to self-register through a portal specified by the Central Government. This digital-first approach can potentially streamline benefit delivery, improve transparency, and minimize the role of middlemen in accessing entitlements. It also allows for the creation of a centralized database that can be used for policy design and performance monitoring of welfare schemes.

However, in practice, this approach could alienate many intended beneficiaries. A significant portion of India's gig workforce comes from economically and educationally disadvantaged backgrounds. Many do not have access to smartphones or stable internet connections, particularly those in rural areas or engaged in part-time or low-paying platform work. Even among urban gig workers, digital literacy levels vary, and navigating government portals without assistance can be daunting. In such cases, mandatory online registration may become a barrier rather than a facilitator. Moreover, the burden of registration is placed entirely on the worker. There is no clear obligation for platform companies or aggregators to assist their workers in this process. Given the nature of gig work often involving long hours, high workload, and platform dependency many workers may lack the time, awareness, or resources to complete the

registration process on their own. This could lead to low participation in the schemes, undermining the very goal of social inclusion.

Furthermore, the Code does not clarify how disputes will be resolved if a worker claims benefits but is denied due to incorrect or missing data. In the absence of clear grievance redressal mechanisms or accountability measures for aggregators, many workers may fall through the cracks. This raises concerns about exclusion and the long-term sustainability of the social security architecture intended for gig and platform workers.

Comparative Legal Perspectives

The global gig economy has prompted widespread debate regarding the classification, rights, and protections of gig and platform workers. Countries around the world are responding with varied legislative and judicial approaches, each attempting to strike a balance between innovation, labor rights, and economic sustainability. A comparative legal analysis offers critical insight into how different jurisdictions are addressing the same fundamental question: how should gig workers be classified and protected under labour laws.

In the United Kingdom, a landmark judgment by the Supreme Court in *Uber BV v. Aslam* brought significant changes to the gig economy. The Court ruled that Uber drivers were not independent contractors but rather “workers” under UK employment law, entitling them to minimum wage, paid holidays, and other statutory protections. The Court emphasized the degree of control Uber exercised over its drivers, including fare setting, performance monitoring, and termination mechanisms, which effectively placed drivers in a subordinate relationship to the company. This ruling has been widely regarded as a turning point, setting a legal precedent that redefines worker-employer relationships in the platform economy.

Across the Atlantic, California’s Assembly Bill 5 (AB5) introduced in 2019 sought to reclassify many gig workers as employees by applying the “ABC test,” which presumed worker status unless the employer could prove otherwise. The legislation aimed to extend basic employment rights to

workers previously considered independent contractors. However, intense lobbying by platform companies such as Uber, Lyft, and DoorDash led to the passage of Proposition 22 in 2020, which exempted app-based transportation and delivery companies from AB5's requirements. Proposition 22 replaced full employment status with limited benefits, such as a guaranteed minimum earnings floor and partial health insurance subsidies, but critics argue it institutionalized a lower tier of labor protections.

In contrast, India's Social Security Code, 2020 adopts a more cautious approach. While it recognizes gig and platform workers as a distinct category eligible for welfare schemes, it does not reclassify them as employees. This classification avoids imposing traditional employer obligations on aggregators, thereby preserving platform flexibility but at the cost of comprehensive labor rights. The Indian model seems to favour gradual inclusion into the social security framework through contributory schemes rather than a wholesale transformation of employment definitions. This incremental approach may be politically expedient and economically flexible, but it falls short of providing enforceable labour rights akin to those in the UK or even partial protections like California's Proposition 22. Moreover, the absence of a strong judicial or administrative mechanism to enforce aggregator contributions and worker entitlements raises concerns about practical implementation.

A comparative analysis thus reveals that while India has taken a step toward acknowledging gig workers, it lags behind in terms of embedding these acknowledgments within a binding rights-based legal framework. The experiences of the UK and California illustrate the importance of robust enforcement and clear classification in achieving real protection for gig workers. India's future trajectory may well depend on whether it remains committed to an accommodative model or moves toward stronger labour integration policies.

Socio-Economic Impact on Gig Workers and the Critical Analysis of the Karnataka Ordinance in Light of the Social Security Code, 2020

The rise of platform-based gig work has redefined traditional labour relations in India. While the gig economy offers flexibility and autonomy, it also strips workers of stable income, legal protections, and social security benefits. This precarity was glaringly evident during the COVID-19 pandemic, when gig workers, particularly those involved in food delivery, transportation, and courier services, faced massive income losses, heightened health risks, and food insecurity without institutional support systems. Many of these workers belong to marginalized socio-economic groups who often resort to gig work due to lack of better alternatives rather than as a preferred career path. The absence of benefits like health insurance, retirement savings, paid leave, or job security reinforces cycles of poverty and economic stagnation. Studies show that a majority of Indian gig workers operate in informal conditions, with no formal contracts, leaving them vulnerable to arbitrary terminations and wage theft. While some platforms introduced short-term relief mechanisms during the pandemic, such as temporary funds or sanitization kits, these initiatives were inconsistent and lacked accountability.

The Social Security Code, 2020 attempted to bridge this gap by bringing gig and platform workers under the ambit of social protection. It mandated aggregators to contribute 1–2% of their annual turnover to a social security fund for the benefit of gig workers. However, the implementation of this provision has been slow, and its enforcement mechanisms remain vague. Moreover, the Code does not adequately define gig workers' rights, nor does it guarantee access to crucial benefits like maternity support or unemployment insurance. In response, Karnataka a leading hub for digital labour in India took a pioneering step by introducing a state-level ordinance aimed at providing welfare benefits to gig and platform workers. The ordinance proposes to extend social security schemes like health insurance, pensions, and accident coverage. While commendable, the initiative has several structural flaws. Informal or unregistered gig workers continue to be excluded, and the continued classification of such workers as “independent contractors” denies them the rights associated with formal employment.

Implementation challenges further undermine the effectiveness of the ordinance. The lack of a digital registry for gig workers, absence of monitoring frameworks, and unclear guidelines on aggregator contributions could derail the scheme's sustainability. Additionally, gig workers were not meaningfully consulted during policy formulation, which has led to poor awareness and limited participation. The ordinance also does not provide a clear legal grievance redressal mechanism for workers, leaving them in limbo when disputes arise.

To strengthen its legal foundation, the Karnataka ordinance must harmonize with the national Social Security Code and take cues from international models. For instance, California's Assembly Bill 5 (AB5) reclassifies certain gig workers as employees, granting them access to unemployment insurance and paid sick leave. Similarly, the European Union is moving towards granting gig workers a "dependent contractor" status, which balances flexibility with essential protections.

Challenges in Implementation

Despite the potential of the Social Security Code, 2020 to improve the welfare of gig and platform workers, its successful implementation faces several critical hurdles. One of the most significant issues is the absence of concrete timelines for the rollout of various schemes, including the establishment of the National Social Security Board for unorganised workers. Without a clear implementation roadmap and time-bound targets, the promises of the Code risk remaining aspirational rather than actionable.

Another structural challenge lies in the centralized nature of decision-making. The Code delegates considerable authority to the central government, which may result in uneven execution across Indian states. In a country as diverse and decentralized as India, a one-size-fits-all approach could hinder local adaptation and responsiveness. States with varying administrative capacities and political will may lag in enforcement or fail to prioritize gig worker welfare, thereby exacerbating regional disparities.

Moreover, the digital infrastructure necessary to register and track gig workers is still in its nascent stage. The unavailability of comprehensive, reliable databases impedes the identification of beneficiaries, thereby delaying service delivery and creating scope for exclusion errors. This is particularly concerning as many gig workers operate informally, often without formal contracts or documentation.

A further concern arises from the requirement of collecting sensitive data to administer social security benefits. To ensure effective targeting and accountability, the government and platforms may need access to personal information such as work history, income levels, and location data. However, in the absence of a comprehensive data protection framework in India, this raises serious concerns about privacy, consent, and the potential misuse of information. Without robust safeguards, the surveillance of gig workers could become an unintended consequence of well-intentioned welfare efforts. Additionally, the lack of a grievance redressal mechanism specific to gig and platform workers within the Code raises questions about enforcement. Workers may find it difficult to hold platforms accountable or to seek justice in cases of exclusion or unfair treatment. Given the unequal power dynamics between platforms and gig workers, such omissions further entrench their precarity.

Conclusion

The Social Security Code, 2020 marks a pivotal moment in India's evolving labour landscape, particularly in its attempt to include gig and platform workers within the fold of social protection. In doing so, it recognizes the transformation of employment models in a digital economy and signals an initial legislative willingness to adapt to these changes. However, while the symbolic recognition of gig workers is laudable, the effectiveness of the Code depends heavily on the practical enforcement of its provisions and the clarity of its legal commitments. The legislation falls short of addressing the core structural issue: the classification of gig workers. Without granting them the status of "employees" or providing them an equivalent legal footing, the Code limits the extent of rights these workers can assert.

Comparative jurisdictions, such as the United Kingdom and California, have taken more assertive stances—reclassifying gig workers to ensure the provision of minimum wage, insurance, and other employment benefits¹. India, in contrast, has adopted a more cautious, incremental approach that provides welfare without redefining employment relationships, arguably to avoid antagonizing tech platforms that thrive on labour flexibility.

To fulfill its promise, the Social Security Code must be treated as a starting point, not a final solution. Future legal reforms must center workers' voices and prioritize participatory mechanisms in policy design. Enforceable rights, well-defined obligations on platforms, and transparency in benefit disbursement will be essential to ensure the Code translates from paper to practice. Moreover, the forthcoming Digital Personal Data Protection Act must be harmonized with labour laws to safeguard workers' digital and economic rights concurrently. Ultimately, India must strive for a labour ecosystem that offers both flexibility and security. A nuanced legal architecture that reflects the complexities of the gig economy—one that is adaptive, equitable, and enforceable—can ensure that the benefits of technological advancement are shared not only among platforms and consumers but also among those whose livelihoods depend on it.

Recommendations

To ensure that the Social Security Code, 2020 delivers tangible benefits to gig and platform workers, a multi-pronged and inclusive policy approach is essential. These recommendations aim to improve coverage, enhance fairness, and foster long-term sustainability in the implementation of social security measures.

1. Mandatory and Simplified Worker Registration

A critical challenge is the lack of visibility and formal identification of gig workers in the system. Platforms should be mandated to facilitate the registration of all gig and platform workers onto government databases. This shared responsibility model—where aggregators act as co-enablers—can ensure greater compliance and reduce the procedural burden on individual

workers who often lack digital literacy or access¹. A centralized digital portal, linked with Aadhaar, could simplify this process.

2. Harmonization of Definitions Across Labour Laws

Discrepancies in the definition of terms like “gig worker”, “platform worker”, and “aggregator” across various labour codes can create confusion and enforcement challenges. A harmonized definition across the Social Security Code, the Occupational Safety, Health and Working Conditions Code, and the Industrial Relations Code would ensure legal clarity. This alignment would aid enforcement agencies, platform companies, and workers alike in understanding their rights and obligations under the law.

3. Tiered Contribution Framework Based on Worker Engagement

The existing contribution mechanism 1–2% of the aggregator’s annual turnover may not reflect the actual level of labour exploitation or worker reliance. A more equitable approach would be a tiered contribution model based on the number of active workers and the average number of hours worked per week. Such a framework would proportionally allocate responsibility based on workforce size and intensity of work, thereby creating a fairer system for both large and small aggregators.

4. Independent Grievance Redressal Forums

The establishment of neutral, accessible, and tech-enabled grievance redressal forums is critical to address disputes around benefit access, incorrect classification of workers, or non-compliance by aggregators⁴. These forums must be decentralized and designed with worker convenience in mind, such as mobile-based complaint portals or local facilitation centers.

5. Integration with Existing Welfare Schemes

To maximize impact and minimize administrative costs, social security benefits for gig workers should be integrated with existing welfare initiatives like Ayushman Bharat (for health insurance), PM-SYM (for pensions), and e-Shram (for identity and tracking) Leveraging existing infrastructure

would improve benefit delivery and avoid duplication of effort. Together, these policy measures can bridge the gap between recognition and realization of rights for India's gig and platform workforce. With timely implementation and robust enforcement, the Social Security Code can serve as a foundational framework for a just and inclusive future of work.

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