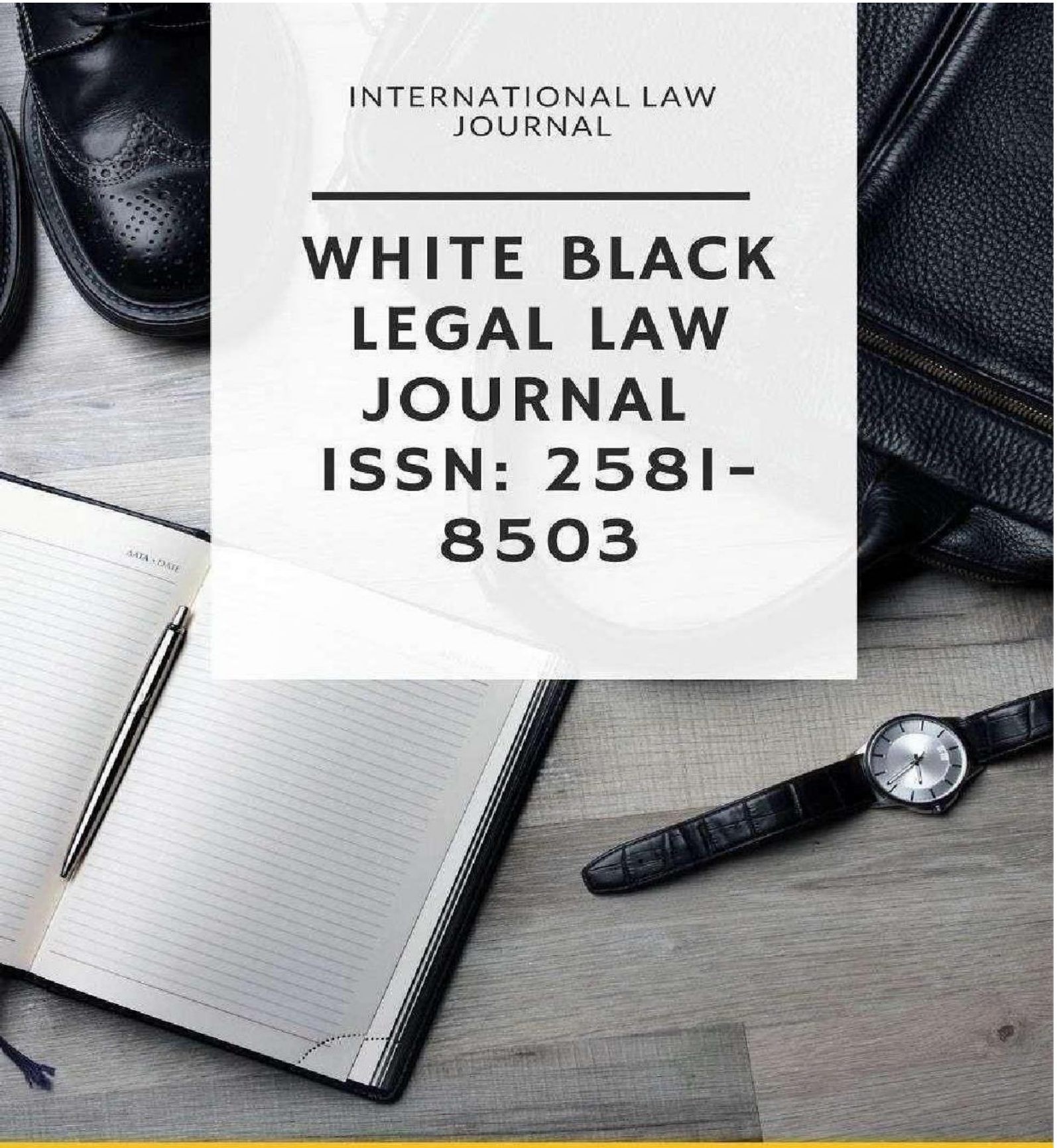


INTERNATIONAL LAW JOURNAL

WHITE BLACK LEGAL LAW JOURNAL

ISSN: 2581-8503

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

WHITE BLACK LEGAL

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

www.whiteblacklegal.co.in
Volume 4 Issue 2 | Oct 2026 ISSN: 2581-8503

FROM RECOGNITION TO REALISATION: GIG AND PLATFORM WORKERS UNDER THE CODE ON SOCIAL SECURITY, 2020.

AUTHORED BY - LALITHA VARSHINI.G
B.B.A L.L.B (HONS)

ABSTRACT

Gig and platform workers have hitherto remained outside the protective ambit of Indian labour law because platforms classify such workers as independent contractors. Yet the Code on Social Security, 2020 for the first time centrally defines gig workers, platform workers and aggregators and came into force on 21 November 2025, followed by the Social Security (Central) Rules, 2026, in May 2026. This paper explores whether the Code constitutes enforceable social security and investigates the constitutional dimensions of such protection, the unresolved classification problem, the Code's definitions, its aggregator funded Social Security Fund, and registration provisions. The paper compares the central code with Rajasthan and Karnataka statutes and with developments in the United Kingdom, the European Union and California. It argues that although the Code constitutes a paradigm shift, such protection remains contingent upon registration, aggregator contributions yet to be tested, and a classification framework which leaves an employment determination issue open. It concludes with reform recommendations.

INTRODUCTION

Platform-based work has become a visible component of urban livelihoods in India. Food delivery, ride-hailing, home-service and freelance online workers receive assignments through digital applications and get paid per task. NITI Aayog estimated that 7.7 million workers were engaged in the gig economy in 2020–21, about 2.6 per cent of the total workforce, and projected that the number would grow to 23.5 million by 2029–30.[2] The rapid growth of this workforce has not been matched by a corresponding legal safety net. Platforms treat gig workers as independent contractors, thereby excluding their inclusion as employer-linked schemes under the conventional employee laws, such as the Employees' Compensation Act, 1923, the Employees' State Insurance Act, 1948 and the Payment of Gratuity Act, 1972. The Code on

Social Security, 2020 (the Code) attempts to address this. It consolidates nine previous social security acts and, for the first time in a central statute, defines the terms 'aggregator', 'gig worker' and 'platform worker'.[4] The Code was brought into force on 21 November 2025, and the Social Security (Central) Rules, 2026, notified on 8 May 2026, lays out the registration, data-sharing and contribution mechanics that the statute left to subordinate legislation.[5] Recognition in the law comes first, but whether the benefits get delivered to workers also depends upon how the Code is drafted, funded and administered.

This paper therefore asks: does the Code on Social Security, 2020 translate legal recognition of gig and platform workers into enforceable social security? It makes three sub-inquiries. First, what is the constitutional and conceptual foothold for extending social security to such workers? Second, how does the Code address the problem of classification, funding and access? Third, what can India learn from state-level and foreign experiments?

The paper adopts a doctrinal method. It uses primary materials (the Constitution, the Code, the 2026 Rules and judicial decisions), supplemented with policy reports and secondary commentary and a comparative section with selected foreign jurisdictions. The Rules are recent, and commentary on them is largely practitioner-written; the paper therefore approaches secondary claims about their operation with caution. The scope is limited to social security. Wage regulation, occupational safety and collective bargaining are touched on only where they relate to that question.[1]

CONCEPTUAL FRAMEWORK: SOCIAL SECURITY AS SOCIAL JUSTICE

Social security is the protection that a society provides its members against economic and social distress as a consequence of contingencies such as sickness, maternity, employment injury, unemployment, invalidity, old age and death.[6] It is based on the premise that such risks as these are not purely individual and that the community has a responsibility about them. The International Labour Organization (ILO) regards social security as a human right and a necessity of economic and social development. The Social Security (Minimum Standards)

[1] Employees' Compensation Act 1923
Code on Social Security 2020, ss 2(2) (aggregator), 2(35) (gig worker) and 2(61) (platform worker)
SN Mishra, *Labour and Industrial Law*
ILO, Social Security (Minimum Standards) Convention 1952 (No 102); ILO, Social Protection Floors Recommendation 2012 (No 202).
ILO, Social Security (Minimum Standards) Convention 1952 (No 102); ILO, Social Protection Floors Recommendation 2012 (No 202).
ILO, *World Employment and Social Outlook 2021*

Convention, 1952 (No. 102) has nine branches of social security, and the Social Protection Floors Recommendation, 2012 (No. 202) asks states to guarantee at least a basic level of protection to all.[7] India has not ratified Convention No. 102, but its constitutional commitments, considered below, are consonant with those of this convention. Traditional social security systems are based upon the standard employment relationship: a worker and a single employer, with the latter providing a stable wage and fixed workplace, and contributing to the former's social security. Platform work breaks all elements of this relationship: workers may serve multiple platforms, have variable income, control their own hours but not always substantially, and do not have identifiable employers to contribute on their behalf. The ILO has remarked that digital labour platforms generate new forms of work as well as raise problems of classification, income security and access to protection.[8] Social security for gig workers thus involves either a shift in the understanding of the employment relationship, or a new mechanism of assigning responsibility to platforms which is independent of that relationship. Part 5 demonstrates that the Code elects the second.

CONSTITUITIONAL FOUNDATIONS

The Constitution does not mention gig work, but the text provides a solid foundation for its protection. Article 21 guarantees the right to life and personal liberty. The Supreme Court has interpreted it to include the right to livelihood, and, in Olga Tellis v Bombay Municipal Corporation, held that deprivation of the means of livelihood would deprive a person of life itself.[9] In Francis Coralie Mullin v Administrator, Union Territory of Delhi, the Court held that the right to life includes the right to live with human dignity, with the basic necessities of life.[10] Bandhua Mukti Morcha v Union of India applied the same reasoning to protect workers who had no bargaining power against their employers, and recognised that the State has a positive duty to ensure that such workers enjoy their fundamental rights.[11] The Directive Principles of State Policy point the same way. Article 38 requires the State to promote the welfare of the people by securing a social order informed by justice. Article 39 directs that the health and strength of workers must not be abused and that citizens have an adequate means of livelihood. Article 41 provides for public assistance in cases of unemployment, old age, sickness and disablement, and Article 43 aims at a living wage and conditions of work that ensure a decent standard of life.[12] These provisions are not directly enforceable, but the Court has used them to give content to Article 21 and to interpret labour legislation in favour of workers.[13] These authorities support two propositions that matter for this paper. First, the State is obliged to take

positive steps to protect economically vulnerable workers, and this obligation does not depend on whether a worker is formally an 'employee'. Second, the quality of protection is a constitutional question: a scheme that exists on paper but cannot be accessed in practice is unlikely to satisfy the constitutional promise of dignity and livelihood.[2]

THE LEGAL VACUUM: CLASSIFICATION AND THE UNORGANISED WORKERS ACT,2008

Before the Code, gig and platform workers fell outside Indian social security law for three related reasons. The statutes protected only 'employees', the courts had not decided whether platform workers are employees and the 2008 framework for unorganised workers was not designed for platform work. This Part examines each reason in turn, beginning with why the label of employment matters so much, then the legal tests used to apply it, the features of platform work that stretch those tests and finally the 2008 Act and the policy responses that preceded the Code.

4.1 Why classification matters

Indian social security law is grounded on status. A worker is protected only if the relevant statute treats the person as an 'employee' or 'workman' working for an 'employer' or an 'establishment'. The Employees' Compensation Act, the Employees' State Insurance Act, the Employees' Provident Funds Act, the Payment of Gratuity Act and the Maternity Benefit Act each define the protected person in terms of employment, and several add thresholds based on the size of the establishment or the level of wages.[14] A worker falling outside the definition receives no cover under these Acts, however dependent the worker may be on a single source of income.

The same applies to industrial relations. The Industrial Disputes Act, 1947 gave remedies such as protection against retrenchment and the right to raise an industrial dispute to a 'workman' and the Industrial Relations Code, 2020 does so for a 'worker'.[15] The Code on Social Security, 2020 consolidates the social security Acts but retains this structure for conventional employment, so the label 'employee' remains the gateway to the full range of benefits.

The consequences flow from this: an injured delivery rider who is not an 'employee' cannot claim statutory compensation for an accident at work, a woman platform worker cannot claim

[2] *Olga Tellis v Bombay Municipal Corporation* (1985) 3 SCC 545.
Francis Coralie Mullin v Administrator, Union Territory of Delhi (1981) 1 SCC 608.
Bandhua Mukti Morcha v Union of India (1984) 3 SCC 161. Constitution of India, arts 38, 39, 41 and 43.

maternity benefit from the platform, a worker reaching old age has no gratuity or provident fund built up through the platform and a worker whose account is deactivated has no claim to notice or severance. Classification therefore decides who bears the cost of the risks of work: the worker, the platform or the State.

4.2 Tests for identifying an employment relationship

The traditional starting point is the control test, under which a person is an employee if the employer has the right to direct not only what work is to be done but also how it is to be done.[16] The Supreme Court applied the test in Dharangadhara Chemical Works to decide whether salt manufacturers working for a company were its workmen. In Silver Jubilee Tailoring House it added that the right to control is the principal indicator but not the only one, and that its nature and extent varies from business to business.[17]

The control test was formulated for the factory and the workshop, where a supervisor can direct the manner of work. As work arrangements have changed, other indicators have been added to it. English courts have developed the organisation or integration test, which asks whether the worker is part of the business or only an accessory to it,[18] and the multiple factor test, which weighs control, ownership of tools, risk of loss, chance of profit and the parties' own description of their relationship in a single composite judgment.[19] Indian courts have accepted that no single test is conclusive and that the real relationship must be gathered from all the circumstances.

The practical problem is that these tests ask questions which platform work answers ambiguously. The worker owns the vehicle and the phone, which points to independence, but the platform owns the app, the customer relationship and the pricing, which points to integration. The worker bears the risk of fuel costs and idle time, but has little chance to increase profit except through working longer hours.[3]

4.3 Substance over form: the contract labour cases

The courts have held that the label the parties choose is not decisive. In Hussainbhai, the Court looked beyond a contractual arrangement through intermediaries and held that workers whose

[3] mployees' Compensation Act 1923, s 2(1)(dd); Employees' State Insurance Act 1948, s 2(9); Employees' Provident Funds and Miscellaneous Provisions Act 1952, s 2(f); Payment of Gratuity Act 1972, s 2(e); Maternity Benefit Act 1961, ss 2 and 5.
Industrial Disputes Act 1947, s 2(s)
Shivanandan Sharma v Punjab National Bank Ltd AIR 1955 SC 404
Silver Jubilee Tailoring House v Chief Inspector of Shops and Establishments (1974) 3 SCC 498.
Stevenson, Jordan & Harrison Ltd v MacDonald & Evans [1952] 1 TLR 101 (CA).

labour was integral to an establishment could not be denied employee status through the arrangement.[20] Nilgiri Cooperative Marketing Society applied the same reasoning to contract labour, holding that where the contract is a camouflage for real employment the workers are employees of the principal employer.[21]

The law then moved in both directions. In Air India Statutory Corporation, the Court held that when contract labour is abolished in an establishment the workers must be absorbed by the principal employer.[22] That holding was overruled in Steel Authority of India Ltd v National Union Waterfront Workers, which held that there is no automatic absorption and that the courts should look for a genuine employment relationship only where the contract is a sham.[23] Later, in Balwant Rai Saluja, the Court held that supervision by the principal employer is not enough to make contract workers its employees unless the contract is a sham.[24]

These cases demonstrate both the strength and the limits of the substance-over-form approach. It requires a fact-intensive inquiry, typically after a dispute has arisen, and it was developed for contract labour supplied through a third-party contractor. A platform has no such intermediary: it contracts directly with each worker, so the question is not whether a contractor is a cover for the platform but whether the platform itself controls the work. The sham-contract doctrine does not answer that question.[4]

4.4 Features of platform work

Platform work differs from conventional employment in ways that explain why the old tests apply poorly. First, the relationship is triangular: the platform, the worker and the customer are all parties to the transaction and the platform sets the terms between the other two.

Second, the tasks are allocated by an algorithm, often in real time, and the worker may have a few seconds to accept or decline. Third, the work is paid by the task, so income varies with demand, and the platform's pricing and the worker's hours. Fourth, the worker supplies the main assets, such as the vehicle and the phone and bears the cost of fuel, maintenance and data. Fifth, there is no fixed workplace and no continuous employment and many workers use more than one app.

The scale of this work is large and growing. NITI Aayog estimated that 7.7 million workers were engaged in the gig economy in 2020–21 and projected 23.5 million by 2029–30.[25]

[4] *Hussainbhai v Alath Factory Thezhilali Union* (1978) 4 SCC 257.
Workmen of Nilgiri Cooperative Marketing Society Ltd v State of Tamil Nadu (2004) 3 SCC 514.
Air India Statutory Corporation v United Labour Union (1997) 9 SCC 377.
Steel Authority of India Ltd v National Union Waterfront Workers (2001) 7 SCC 1.
Balwant Rai Saluja v Air India Ltd (2014) 9 SCC 407

International evidence suggests that these features are common across countries and that platforms use ratings, acceptance targets and automated deactivation as tools of management.[26][5]

4.5 The classification dispute

Platforms present themselves as technology intermediaries that connect independent service providers with customers. On this view, the workers choose when to log in, can decline tasks, may work for several platforms at once and use their own vehicle and phone, so they are independent contractors paid per task and not employees paid for their time.[27]

Workers and their unions describe a different arrangement. The platform sets the fare and the incentives, allocates tasks through an algorithm, rates each worker, penalises refusals or low ratings and can deactivate an account without notice.[28] On this view the platform exercises control, direction and discipline in everything but name and the worker's income depends on one or a few platforms with little power to negotiate terms.

No authoritative Indian decision has settled the question. Control is exercised through software rather than a supervisor, and it is directed at outcomes such as acceptance rates and ratings rather than at the manner of each task. Freedom over hours points towards independence, while platform-set pricing and unilateral discipline point towards employment.

A writ petition by app-based workers seeking recognition and statutory social security is reported to be pending before the Supreme Court.[29] The uncertainty is what the Code avoids by creating a separate category.

4.6 What the vacuum meant in practice

The absence of a legal status had practical effects on the daily lives of platform workers.

Accident risk is high for riders and drivers working long hours in traffic, but without employment status there was no employer liability for injury at work. Income is unpredictable and there is no sick pay or income support when a worker is unable to work.

There is no retirement saving through the platform and no maternity protection for women workers. Deactivation can end a worker's income overnight with no notice, reasons or appeal.

Studies of platform working conditions, including the Fairwork India ratings, have documented gaps in pay, conditions, contracts, management and representation across major platforms.[30] These findings are the factual background against which the Code should be assessed: a framework succeeds to the extent that it addresses these specific risks.

[5] NITI Aayog (n 2).
ILO (n 8)

4.7 The unorganised sector and the sector welfare Acts

Most Indian workers work outside the formal sector, in enterprises where no employer contributes to a social security fund. Before 2008, protection was fragmented. Sector-specific Acts created welfare funds for particular occupations, such as beedi workers, cine workers and construction workers, and financed them through cess.[31] Each Act covered a defined occupation, and none offered a general framework.

In 2004 the Government set up the National Commission for Enterprises in the Unorganised Sector (NCEUS) under Dr Arjun Sengupta. Its 2007 report examined conditions of work in the sector and recommended a national framework of social security for unorganised workers, which led to the legislation enacted in 2008.[32]

The cess-funded sector Acts matter for the present topic because they are the closest Indian precedent for the Code's approach. Charging a levy on those who benefit from the work, and not on the workers, is the model behind the aggregator contribution discussed in Part 5.

4.8 The Unorganised Workers' Social Security Act, 2008: scheme

The Unorganised Workers' Social Security Act, 2008 was India's first general statute for workers outside the formal sector. The Act defines an 'unorganised worker' as a home-based worker, a self-employed worker or a wage worker in the unorganised sector, and also include certain workers in the organised sector who are not covered by the Acts listed in a schedule.[33] It empowers the Central Government to formulate welfare schemes for unorganised workers on matters such as life and disability cover, health and maternity benefits and old age protection, and the State Governments to formulate schemes on other matters with a schedule listing existing schemes.[34] It created a National Social Security Board and State boards, whose functions are mainly to advise and monitor, and it provided for the registration of workers and the issue of identity cards through district administrations.[35][6]

4.9 The limits of the 2008 Act

Five features of the Act limited its usefulness for platform workers.

1. No enforceable entitlement. The Act lists the matters on which schemes may be made, but benefits flow only from schemes that the government chooses to notify, subject to

[6] Beedi Workers Welfare Fund Act 1976; Cine-Workers Welfare Fund Act 1981; Building and Other Construction Workers' Welfare Cess Act 1996; Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act 1996.
Unorganised Workers' Social Security Act 2008.

the availability of funds.[36]

2. No contribution from those who engage the workers. Funding comes mainly from government budgets. The Act does not impose a levy on those who use unorganised labour, unlike the sector Acts discussed in Part 4.7.
3. Weak institutions. The boards recommend and review but cannot compel a scheme to be made or a contribution to be paid.
4. Uneven implementation. Registration and coverage under the Act have been limited and benefits delivered largely through schemes that existed before the Act.[37]
5. Silence on platform work. The Act does not use the terms 'gig worker' or 'platform worker'. A platform worker could potentially be a self-employed or wage worker, but nothing in the Act or its schemes identified such workers, registered them or required platforms to contribute.

4.10 Policy responses before the Code

Before the Code took effect, the Government tried to bring gig workers within the existing structure. The e-Shram portal, launched in August 2021 as a national database of unorganised workers, was opened to registration by platform and gig workers.[38] The Union Budget for 2025–26 announced identity cards and e-Shram registration for gig workers, together with health coverage under the Pradhan Mantri Jan Arogya Yojana.[39] In parallel, the Code on Social Security, first introduced in Parliament in 2019 and enacted in September 2020, was being prepared to give gig workers a statutory basis.

These measures demonstrate that the State had begun to treat gig workers as a distinct group. They were, however, administrative measures: they did not create a statutory right to a benefit or place any obligation on platforms.[7]

4.11 The gaps the Code had to fill

The position before the Code can be summarised as three gaps:

1. A definitional gap. No statute recognised gig or platform workers as a category, and the general tests for employment gave no clear answer.
2. A financing gap. No party was obliged to contribute to the cost of social security for platform workers, so the burden fell on the State or on the workers themselves.
3. An institutional gap. The existing boards were advisory and there was no enforceable

[7] Unorganised Workers' Social Security Act 2008, ss 3–4.
Union Budget 2025–26, Budget Speech of 1 February 2025 (announcement on gig workers).

process for registering platform workers or claiming benefits.

THE CODE ON SOCIAL SECURITY,2020 AND THE 2026 RULES

A Code on social security, 2020 seeks to address the gaps identified in Part 4. This Part outlines the Code's background, its structure, its definitions and the four mechanisms designed to deliver social security to gig and platform workers: schemes, a fund, registration and a national board. It also records additions made by The Social Security (Central) Rules, 2026, and what remained undecided on the sources consulted for this paper.

5.1. Legislative background and commencement

The Code is one of four labour codes that consolidate 29 central labour laws. The other three are the Code on Wages, 2019, the Industrial Relations Code, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020.[40] The Social Security Code subsumes nine earlier enactments: the Employees' Compensation Act 1923, the Employees' State Insurance Act 1948, the Employees' Provident Funds and Miscellaneous Provisions Act 1952, the Employment Exchanges (Compulsory Notification of Vacancies) Act 1959, the Maternity Benefit Act 1961, the Payment of Gratuity Act 1972, the Cine-Workers Welfare Fund Act 1981, the Building and Other Construction Workers' Welfare Cess Act 1996 and the Unorganised Workers' Social Security Act 2008.[41]

Although Parliament passed the Code in 2020, it was brought into force only on 21 November 2025.[42] The Social Security (Central) Rules, 2026 were notified by the Ministry of Labour and Employment on 8 May 2026 and came into force on publication. They completed the rule-making for all four codes and superseded twelve older sets of rules, including the Unorganised Workers' Social Security Rules, 2009.[43] The long gap between enactment and operation matters to the analysis: nearly six years passed between the statute and its working rules.[8]

5.2. Where gig work sits in the architecture of the code

The Code distinguishes between three groupings. Employees of covered establishments receive traditional employer-linked benefits, including provident fund, state insurance, gratuity and maternity benefit. Unorganised workers receive schemes under the Code's chapter on unorganised, gig and platform workers. Gig and platform workers form a distinct sub-group

[8] Code on Wages 2019; Industrial Relations Code 2020; Code on Social Security 2020 IMPRI (n 1). MediaNama (n 5

within that chapter, with their own scheme-making power, their own contribution mechanism and their own board arrangements.[44]

The consequences of this design are that gig and platform workers do not become members of the provident fund or the state insurance scheme through the platform. Commentary on the Code describes the result as a separate, scheme-based architecture, supported partly by aggregator contributions, in place of the employer-contribution model that applies to employees.[45] Whether that architecture can deliver comparable protection depends on the schemes that are eventually notified, which Part 5.4 discusses.[9]

5.3. Definitions

The Code defines three terms. An aggregator is a digital intermediary or marketplace that connects a buyer or user of a service with the provider of that service. A gig worker is a person who performs work or participates in a work arrangement outside the traditional employer–employee relationship and earns from it. A platform worker is a person engaged in platform work, which is work outside that relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or provide specific services in exchange for payment.[46]

Three features of these definitions ought to be noted. Firstly they place gig and platform workers explicitly outside the traditional employer–employee relationship, so the Code does not decide the classification question discussed in Part 4; it sidesteps it. Secondly the obligation to contribute does not lie on every aggregator but those in categories listed in the Seventh Schedule to the Code, such as ride-sharing, delivery and e-commerce services.[47] Thirdly an aggregator that has more than one business is treated as a separate aggregator for each business, which prevents a company from combining its lines of business to reduce the base of the levy.[48]

The 2026 Rules extend the definition of an aggregator to its associate companies, holding companies, subsidiaries, limited liability partnerships and third parties, to prevent obligations from being passed to intermediaries.[10]

5.4. Schemes and benefits under section 114

Section 114 grants the Central Government the power to frame and notify suitable social

[9] Code on Social Security 2020, Chapter IX (ss 109–114)
[10] Code on Social Security 2020, ss 2(2), 2(35) and 2(61) (n 4).
Code on Social Security 2020, s 114(4) and the Seventh Schedule. The list of categories should be verified against the Schedule.
Code on Social Security 2020, s 114

security schemes for gig and platform workers on matters that include life and disability cover, accident insurance, health and maternity benefits and old age protection.[50] The power is discretionary: the Code says that the Government may frame schemes, and it does not itself confer any benefit on any worker.

This point is the central weakness of the framework. As reported in May 2026, no scheme had been notified on the ground of section 114, and the only benefit announced for gig workers was health cover under the Pradhan Mantri Jan Arogya Yojana, which had not yet been launched for platform workers.[51] Commentary published in mid-2026 similarly reports that cover only follows when schemes are notified.[52] The Code therefore creates the machinery to fund and register but leaves the content of the entitlement open.

5.5. The Social Security Fund and the aggregator contribution

The Code provides for a Social Security Fund for gig and platform workers under section 141, financed in part by contributions from aggregators.[53] Section 114(4) fixes the contribution at a rate to be notified by the Central Government that is not less than one per cent and not more than two per cent of the aggregator's annual turnover, subject to a ceiling of five per cent of the amount paid or payable by the aggregator to gig and platform workers.[54] Section 114(5) leaves the date on which contributions start to be notified separately.[55]

The 2026 Rules add the compliance procedure. Under Rule 49, an aggregator submits a self-assessment of provisional contribution by 30 June each year and a final audited return by 31 October. Interest is payable at one per cent a month on delayed payment, and an aggregator that has overpaid may claim a refund, which the designated authority must process within 90 days. Annual turnover for this purpose excludes taxes, cess and surcharges payable to the Central Government.[56]

Reports published as late as August 2026 state that the rate within the statutory band and the date of commencement had yet to be notified.[57] If that remains the position, the contribution procedure exists but no money is yet payable under it, and the Fund has nothing to disburse.[11]

5.6. Registration, eligibility and data obligations

The registration system has two sides. Workers must register through an Aadhaar-linked self-declaration if they are above the age of 16, and workers who do not keep their personal details updated, such as address, occupation, mobile number and skills, lose eligibility for schemes.[58]

[11] Code on Social Security 2020, s 114(5) Code on Social Security 2020, s 114(4)

Aggregators have separate duties under Rules 48 and 49: to register themselves on the designated portal, to share details of all currently engaged workers within 45 days of the Rules coming into force, to register each new worker in real time or daily, to report exits in real time and to update worker details every quarter.[59]

The eligibility for benefits depends on a minimum period of work. A worker qualifies only after working at least 90 days with a single aggregator, or 120 days across more than one aggregator, in the previous financial year. A worker is counted as engaged on any day on which any income is earned from an aggregator, however small, and eligibility ends when the worker turns 60.[60] These thresholds are a major point of the critical analysis in Part 7.

5.7. The National Social Security Board and administration

The Code does not create a separate board for gig workers. Section 114(6) makes the National Social Security Board constituted under section 6(1) the board for the purposes of the welfare of gig and platform workers.[61] The 2026 Rules specify its composition for this purpose: five representatives of aggregators, drawn in rotation from the categories in the Seventh Schedule, five representatives of gig and platform workers, drawn in rotation from different categories of work, and five experts from fields such as labour welfare, finance, law, administration, e-commerce and information technology. The quorum for matters concerning gig workers is six members. The Board may constitute expert committees to advise on welfare matters, estimate the number of gig workers and identify new categories of aggregators.[62]

The shared board is an administrative convenience but also means that gig worker issues are dealt with by a body whose mandate covers all unorganised workers, and the Code does not provide a separate grievance mechanism for gig workers other than the Board's advisory role.[12]

5.8. Relationship with the other labour codes

The Code on Social Security sits alongside the other three codes. Whether gig workers benefit from the Code on Wages, the Industrial Relations Code or the Occupational Safety, Health and Working Conditions Code depends on whether they are 'employees' or 'workers' under those codes. Because the Social Security Code places gig and platform workers outside the employer–employee relationship, the protections in the other codes, such as minimum wages, standing orders, retrenchment protection and employer duties on safety, are not extended to them by the Code.[63] Some commentary notes that coverage of gig workers under the safety

[12] Code on Social Security 2020, ss 6(1) and 114(6) (ICAI text, n 48).

code depends on rules still to be notified.[13]

STATE LAWS AND COMPARITIVE EXPERIENCE

The Code is not the only legal response to platform work in India, and India is not the only country to have grappled with the challenge. This Part first focuses on the State laws that preceded or followed the Code, and how they relate to it. It then turns to comparisons with the United Kingdom, the European Union, Spain, California and Singapore, and identifies lessons for India.

6.1 Why the States legislated

Labour is a subject on the Concurrent List of the Seventh Schedule to the Constitution, on which laws may be made by Parliament and the State legislatures. As relevant for this paper, the Concurrent List includes the welfare of labour, and provides for leave, provident funds, employers' liability, workmen's compensation, invalidity and old age pensions and maternity benefits, trade unions, and industrial and labour disputes.[65] A State law not inconsistent with a central law is not void merely because it is repugnant to a central law, unless the State law has the President's assent.[66]

Several States legislated because the Code, enacted in 2020, had not yet come into force or been implemented. When Rajasthan enacted its law, commentators noted that it did not contain any provision that conflicts with the Code, and could exist as a State law under the Concurrent List (see n 66).[14]

WHITE BLACK LEGAL

6.2 Rajasthan (2023)

Rajasthan was the first State to enact a social security law for gig workers. The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 was passed in July 2023.[67] It provides for a Welfare Board, a Social Security and Welfare Fund and a welfare cess on transactions on the platform. The Fund consists of the cess, contributions by registered workers, State grants and donations. Aggregators and primary employers must register with the Board within sixty days and furnish information on the workers they employ, pay the cess within the fifth day of the month and file monthly returns, with penalties for default.[68] Registered workers get a unique identification.

[13] Code on Wages 2019; Industrial Relations Code 2020; Occupational Safety, Health and Working Conditions Code 2020.
[14] Constitution of India, Seventh Schedule, List III (Concurrent List) Constitution of India, art 254

The Rajasthan Act has been critiqued on three grounds: it does not confer substantive rights directly but leaves these to the discretion of the Welfare Board; it does not impose any substantial obligations on aggregators apart from the cess; and it mirrors the construction workers' law model of a Board administered cess, despite the problems of location-specific claims by migrant workers who move between worksites.[69] The last critique anticipates the discussion in Part 4.7 on sector cess Acts as the closest analogy to platform cess.

6.3 Karnataka (2025)

Karnataka promulgated an ordinance on 27 May 2025, and the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025 was enacted by the State Legislative Assembly in August 2025.[70] The Act goes further than the Rajasthan Act in several respects.

- Board and fund. The Act provides for a Gig Workers Welfare Board and a Social Security and Welfare Fund, which is financed by the welfare fee, contributions by workers, government grants and donations. The Board is prohibited from incurring expenditure on administration that exceeds five per cent of the Fund.[71]
- Welfare fee. Aggregators are required to pay a welfare fee of not less than one per cent and not more than five per cent of the amount of each payout to a worker, as determined by the State Government.[72]
- Payment verification. Aggregators must report payments to workers; a system for verifying the payments and the cess deposits by aggregators is to be evolved by the Labour Department, so that the Board has information on every payout.[73][15]
- Rights and standards. The Act provides for standards on contracts, algorithmic transparency and disclosure of reasons for deactivation, and explicitly acknowledges the worker's right to refuse a work assignment without penalty.[74]

The Act, too, has limitations. By not providing for the appointment of workers on the Board or a minimum wage, it leaves these important issues to the discretion of the Government. Commentary points out that as of late 2025, the Welfare Board, the portals for registration, and the verification process are yet to be set up, delaying the benefits to workers.[75] Finally, the Act also reportedly contains provisions indicating that the State's welfare fee may be deemed to satisfy the aggregator's responsibility under the Code, until further notice.[76]

[15] Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023.

6.4 Other States

Other States have since followed. Commentary on the passage of the Karnataka Act indicates that Bihar and Jharkhand also enacted gig worker laws in August 2025, and that these laws are similar to the Karnataka Act, while a Telangana law was pending.[77] The status of these laws should be re-examined closer to the date of publication, as these are recent enactments.

6.6 United Kingdom

In Uber BV v Aslam, the UK Supreme Court held that Uber drivers were 'workers' for the purposes of the minimum wage and paid holiday directives, and were entitled to these as a matter of UK law. The Court rejected Uber's argument that the drivers were independent contractors, and found that their status as workers was not undermined by their contract terms. It was held that the drivers were working when online and within the territory, not just during the time of a trip. Of particular relevance to platform work, the Court stated that 'statutory norms designed to protect vulnerable workers' must be interpreted as applying to situations where 'an employer retains significant control over working hours, conditions of work, pay, terms and conditions of engagement, and workers' personal performance and behaviour'. The Court drew extensively on the evidence on the control exerted by Uber's 'algorithm' over the drivers' working opportunities, contract terms, rating systems and their ability to determine whether a driver would accept a booking.[79]

The UK decision is significant in two respects. First, UK employment law provides for an intermediate category of 'worker' who enjoys some rights, for instance to minimum wage and paid leave, that are between those of employees and the self-employed. The Employment Rights Act 1996 defines a worker as someone who is not an employee, but who receives certain benefits from an employer. This decision therefore allows the Court to confer rights on drivers without having to hold that they were employees. Similarly, the Indian Code creates an analogous intermediate category by statute. Second, the decision highlights that classification disputes may be resolved by a Court taking a purposive approach to statutes, which is a course open to Indian Courts.

6.7 European Union and Spain

The EU Directive (EU) 2024/2831 on improving working conditions in platform work was recently adopted. It contains a rebuttable presumption of employment in cases where there is evidence of control and direction of the worker by the employer. It also regulates algorithmic management by requiring transparency and human involvement in the management of work.

Member States are required to implement the Directive by the end of 2026, and the precise date should be double-checked. The Spanish Royal Decree-Law 9/2021, also known as the 'Rider Law', contains similar provisions applying to delivery workers, concerning the presumption of employment as well as informing workers' representatives of the algorithms affecting their working conditions.[82]

The approaches of the EU and Spain are noteworthy for creating a rebuttable presumption in favour of employment as a default position. This is the opposite of the approach in India, which would require workers to prove that they are employees in order to obtain the benefits attached to employee status. Both the EU Directive and the Spanish law also regard algorithmic management and automated decision-making as integral features of work organisation, and require that they be subjected to transparency and human scrutiny. This is an issue on which the Code remains silent.[16]

6.8 California

California's experience with Proposition 22 and the potential for political pushback against judicial findings of employee status is relevant to India. California's Supreme Court held in Dynamex Operations West v Superior Court that workers engaged in interstate commerce via an application were employees and not independent contractors. This ruling was codified in Assembly Bill 5, 2019. The platforms then funded a ballot initiative, Proposition 22, which created a new category of worker with limited employee benefits, which the California Supreme Court upheld in 2024.[84]

The California experience suggests that the categorisation of workers as employees is a politically charged issue, and that even if such a finding is made by a Court, as in the case of Dynamex, it may be superseded by a political decision to carve out an intermediate category of workers with limited benefits, as was the case with Proposition 22. This development has implications for India as well, given that the Code contains a similar provision creating a middle category of workers.

6.9 Singapore

A useful comparison may be drawn with Singapore, which has taken a different approach to regulating platform work. The Platform Workers Act, which came into force at the beginning

[16] *Uber BV v Aslam* [2021] UKSC 5.
[80] Employment Rights Act 1996, s 230(3)(b); National Minimum Wage Act 1998; Working Time Regulations 1998.
Real Decreto-ley 9/2021, de 11 de mayo (Spain), later converted into Ley 12/2021.

of 2025, provides for a separate legal status for platform workers. It requires that platform operators contribute to the Central Provident Fund and provide work injury compensation, and facilitates worker representation through platform work associations.[85]

This approach provides an alternative to the 'employee' versus 'independent contractor' binary, and is an innovative response to the challenges posed by platform work. It may serve as a useful model for India as well, given the potential of the 'middle category' approach to meet with similar political opposition as in the case of Proposition 22. The distinction made by the Act between an individual's status and their entitlements to social security is particularly pertinent to the discussion on the Code. Under the Singapore model, contributions to the Central PF are individual, whereas under the Code, they would be made to a fund for the benefit of all notified schemes.[17]

CRITICAL ANALYSIS

Whilst the previous parts have outlined what the Code provides, this part focuses on whether it provides enough provisions. There are ten areas to analyse. Firstly, how the Code recognises gig workers. Finally, an evaluation is given considering the three gaps identified in Part 4.11.

7.1 Recognition

The most significant provision of the Code is the shift away from gig workers being attached to an employer to being attached to a levy. This solves the practical issue of no identifiable employer and avoids litigation over the status of workers which has slowed protections in other countries. However, the Code assumes that gig workers are not an employment relationship.

The Code provides social security, however once schemes have been notified, it does not provide the other employment protections such as notice periods, minimum wage and collective bargaining. Other countries provide more. In the UK, an intermediary worker status allows the minimum wage and paid leave to be received. In the EU and Spain the presumption is that workers are in employment and the burden falls on the platform. [87] However, in India the category provided does not allow much. Only schemes can be provided and these will be notified by the Government. There is a danger that this category could become a permanent second tier of workers. This was seen in California with Proposition 22.[18]

[17] *Dynamex Operations West Inc v Superior Court* 4 Cal 5th 903 (2018); California Assembly Bill 5 (2019).
[84] *Castellanos v State of California* (Cal Supreme Court, 2024), upholding Proposition 22 (2020) Platform Workers Act 2024 (Singapore)
[18] Code on Social Security 2020, s 114(4) and the Seventh Schedule (n 47, n 48); MediaNama (n 5).

7.2 Scope

There are three issues with the scope of those protected. Firstly, this Code only requires aggregators in the categories listed in the Seventh Schedule to pay into the Fund. If a platform does not fall under these categories, they will not make any contributions even if their workers sign up. [88] Secondly, the Code creates a distinction between gig workers and platform workers but both are defined using the same criteria. This could cause confusion when trying to distinguish between the two statuses and independent contractors. Thirdly, many workers are employed via fleet operators, franchise models or staffing. The 2026 Rules expand the definition of aggregators to include associates, subsidiaries and third parties to overcome this issue to an extent, however it has yet to be seen how this will apply.

7.3 Registration Threshold

This could cause an issue where those most in need of protection may struggle to access the benefits. The worker would only qualify after working with one aggregator for 90 days or multiple aggregators for 120 days in the previous financial year. Once they reach 60, or fail to update their personal information, they will no longer be eligible. [89] Critics have highlighted that the disclosures from the platform indicate that the average delivery partner only works for less than 40 days in a year. Most gig workers will be seasonal, part time or work with multiple platforms meaning they will not meet the thresholds. [90] Whilst these figures come from a press report, they have highlighted a genuine issue with how the Code is designed. The threshold for regular workers may exclude those who use the platform to top-up their income.

Gig workers often lack digital skills and have unreliable contact details. Having to keep their profile up to date with their Aadhaar number adds a compliance issue. Before the Rules were introduced, registration for the e-Shram portal was inconsistent. Maharashtra led with 134,705 platform workers registered whilst some smaller states had very few. [91] The mandatory registration by aggregators using an application programming interface could help this issue but only if the portal and enforcement machinery is effective in meeting the deadlines. There are few protections to ensure aggregators do not under report. There are no protections to overcome the loss of benefits due to an administrative mistake.

7.4 Funding

There are three issues with funding. Firstly, the statutory rate is small, being between 1 and 2% of turnover with a maximum of 5% of payouts. The actual rate and when contributions should be made has been left to notification. At the time of writing (mid-2026), there has not been any

issued. [92] This means the process is in place but nothing is to be paid.

Secondly, the amount to be paid is reduced as turnover does not include the taxes, cess and surcharges payable to the Central Government. [93] Thirdly, there is no real protection. Aggregators will self assess and report an audited return. They will pay interest at 1% per month for late payments however there is no independent verification from the sources consulted. Even if the clause is well drafted, there is little use if there are no serious penalties.

In Karnataka the fee is charged as a percentage of the payout per transaction. It appears from the reports that the fee is deducted from the worker's payout. [94] The Code requires the aggregator to pay. The incidence of the levy should be analysed empirically. How it will be passed onto the worker via reduced payouts or increased prices should be considered in the recommendations.

7.5 Benefits

The Code has left it to future schemes to determine what will be provided. The main risks for platform workers are accidents/injuries, poor health, loss of income, old age and maternity (for women). The ILO recommend a national minimum floor to ensure essential healthcare and basic income security throughout life. [95] The only benefit mentioned so far is health insurance under the Pradhan Mantri Jan Arogya Yojana scheme. This does not cover all the issues and has not been launched for platform workers in the sources consulted. [96]

Another issue is portability. Many workers work with multiple platforms and often move between different states. Therefore, benefits should be portable. The national portal and Aadhaar number help this. However, there is no information on how contributions from multiple platforms will be combined for each worker. There is no income protection provided. The Code makes no mention of guaranteed income per hour logged in.[19]

7.6 Algorithmic Management

The Code makes no mention of how the algorithm will affect the gig worker. Decisions around task allocation, rating, sanctions and deactivation will all be made by an algorithm. In Karnataka the Act makes provisions for transparency and the reasons for deactivation must be in writing. In the EU Directive and Spanish Rider Law this issue is seen as an employment issue. [97] If the Code only provides benefits in India, it will not be a complete framework.

[19] Code on Social Security 2020, s 114(4)–(5) (n 48); KS&K Advisors (n 45); IMPRI (n 52).
[93] MediaNama (n 5).
[94] MediaNama (n 71, n 72)

Deactivation can mean that the worker will lose their income without any notice, reason or right of appeal. Those who are worried about being deactivated may not utilise their rights.

Equality and fairness are constitutional rights that apply to the State. Normally they will not apply to private platforms. This means the worker must rely on contractual, statutory or internal grievance procedures of the platform. Data protection does not help. Under the EU General Data Protection Regulation decisions cannot be taken solely based on automated processing. However, there is no equivalent provision in the Digital Personal Data Protection Act, 2023 for workers to have their decision reviewed by a human. [98] This could be an area for legislative consideration.

7.7 Data Protection

The 2026 Rules require a great deal of data sharing. The Aadhaar numbers, income and employment history of potentially millions of workers will have to be updated in real time. There is no mention of any data protection framework in the Rules and no conditions have been placed on compliance with the Digital Personal Data Protection Act. The Rules under this Act have not yet been in operation. [99] This could cause problems. It is unclear who will have access to this data, why they will have access and what remedies can be sought if it is misused. Limitations should be placed on what data can be used for, how long it can be stored and who can have access.[20]

7.8 Gender

Although a small portion of workers, the proportion of women is increasing. They are at risk of different issues. Maternity protection will depend on what the schemes provide. Personal safety could be an issue, particularly for women who work late or go into customers homes. This is not covered by the Code. It is also unclear how much the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 will apply as it is based around employers and workplaces. [100] These issues have been included as they are areas for further research. No data has been provided on female gig workers.

7.9 Collective Voice

Platform workers have proven that they can organise. In December 2025 around 40,000

[20] Directive (EU) 2024/2831 (n 81); Real Decreto-ley 9/2021 (n 82); MediaNama (n 5) and King Stubb & Kasiva (n 74), on the Karnataka Act.
Regulation (EU) 2016/679 (General Data Protection Regulation), art 22; Digital Personal Data Protection Act 2023. The comparison with the 2023 Act should be verified against its text.

delivery workers went on strike nationwide calling for social security, guaranteed income and protection from arbitrary deactivation. The Code gives workers no real voice except the five worker representatives on the National Social Security Board. This is an advisory board relating to welfare. There is no mention of the right to unionise or collectively bargain with the platform. As gig workers are not in an employment relationship under the Code, it is uncertain what position they will have under the Industrial Relations Code. Collective bargaining could cause issues as they are classed as independent contractors under the Competition Act, 2002. [102] Alternatives can be seen in Singapore with platform work associations and the emphasis on collective voice from the EU.[21]

CONCLUSION

The Code on Social Security, 2020 has moved India from silence to statute: it defines gig and platform workers and aggregators, provides for an aggregator contribution of one to two per cent of turnover (capped at five per cent of payouts), and requires aggregators to register workers and share data. It has not yet delivered enforceable social security. It leaves classification undecided, and the rate, the commencement date and the schemes themselves depend on notifications that had not been issued when the sources used here were published. Its eligibility rules (90 or 120 days of work and up-to-date registration) may also exclude many of the people it is meant to protect, and it does not regulate algorithmic management or give workers a collective voice. The paper therefore recommends that the Government should:
clarify classification through a presumption or purposive test;

- notify the schemes, the rate and the commencement date without delay;
- lower the eligibility barriers;
- strengthen enforcement of contributions;
- regulate deactivation and algorithms;
- align data collection with the Digital Personal Data Protection Act, 2023;
- coordinate central and State laws; and
- create a grievance channel and a collective voice for workers.

The study is doctrinal and relies partly on secondary sources for the 2026 Rules, so recognition should not yet be mistaken for realisation.

[21] MediaNama (n 5).
Industrial Relations Code 2020; Competition Act 2002, s 3.