

Code on Social Security, 2020

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Abstract

A comprehensive legal framework known as the Code on Social Security, 2020, was developed in India to offer social security benefits and protections to workers in the informal sector, including gig and platform workers. It discusses the difficulties these workers encounter, including unfair treatment, exploitation, and a lack of benefits. According to the code, employers who use online platforms to hire these individuals must pay into social security coffers a percentage of their wages. However, there are worries about possible abuse because platform work, gig work, and aggregators are not properly defined, and there are also insufficient enforcement mechanisms in place. The code requires improved enforcement, greater monitoring procedures for figuring out earnings, and more precise definitions in order to overcome these obstacles. It highlights how crucial it is to give unorganized workers access to social security benefits and recommends more study to determine its effects. To summarize, the Code on Social Security, 2020, is a noteworthy policy change towards a more comprehensive social security system, with the goal of improving the welfare and safeguards of freelancers and platform workers in India.

Keywords: Economy, security benefits, aggregators, framework

INTRODUCTION

In recent years, the gig economy has emerged as a significant phenomenon in India, characterized by an expanding workforce of platform and gig workers who rely on technology-driven platforms to access short-term, flexible employment opportunities. This rapidly evolving landscape has raised critical questions about the adequacy and effectiveness of existing labor regulations in addressing the unique challenges faced by gig and platform workers, who often fall outside the purview of traditional labor laws. In response to these concerns, the Indian government enacted the Code on Social Security, 2020, a comprehensive legal framework that aims to extend social security benefits and protections to the vast and diverse informal workforce, including gig and platform workers.

This research article aims to explore the complexities and challenges faced by gig and platform workers in the context of the Code on Social Security, 2020. The objectives of this research project include identifying the challenges faced by gig workers in India and how they navigate through them. Furthermore, this research aims to study the regulatory environment for the gig economy in India, analyze the potential exploitation and abuse by aggregators, and propose policy solutions to address the challenges faced by gig workers.

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The informal nature of platform and gig work has left many workers without access to traditional employment benefits and legal protections, making them vulnerable to exploitation, low wages, and poor working conditions. The Code on Social Security, 2020, seeks to address these issues by providing social security benefits and protection to workers in the informal sector, including gig and platform workers. However, the effectiveness of the Code and the adequacy of its proposed

solutions will depend on the specific needs of the workers, the implementation of the legislation, and the level of support provided by the government and other stakeholders.

Access to social security benefits remains a significant concern for gig and platform workers in India. Despite government initiatives such as the Pradhan Mantri Shram Yogi Maan-Dhan Scheme, which provides pension benefits to unorganized sector workers, challenges persist in ensuring comprehensive social security benefits for these workers. Addressing these challenges requires further policy interventions that consider the unique needs and circumstances of gig and platform workers.

Last, the potential for exploitation and abuse by aggregators is a critical issue that must be addressed. Ambiguities in the Code's definitions, the voluntary nature of welfare schemes, and the potential manipulation of contributions to social security benefits all present opportunities for aggregators to exploit the provisions of the Code. Stronger enforcement mechanisms and a robust dispute resolution framework are necessary to ensure the benefits of the Code reach the intended recipients and protect the rights and well-being of gig and platform workers in India.

LITERATURE REVIEW

Social Security in India—R.P. Yada

This book gives an exhaustive definition and analysis of various aspects related to social security in India. The book also has a huge say in the informal sector, wherein the sector speaks about the bulk of employment.

The Future of Work: Social Protection for Digital Platform Workers

Uma Rani and Marianne Furrer

It explores how social protection systems can adapt to the changing world of work and ensure social security for digital platform workers. It examines the current situation and challenges faced by workers on digital platforms, such as low wages, a lack of social protection coverage, and precarious working conditions. It also discusses possible solutions based on a set of guiding principles, such as universality, adequacy, solidarity, risk-sharing, and sustainability. It proposes a combination of contributory and non-contributory schemes that can provide comprehensive and adequate social protection to workers in all forms of employment. The article is relevant to a research project on Code on Social Security and Platforms and Gig Workers because it provides insights into the challenges and opportunities for extending social protection to workers in the digital economy. It also offers a framework of principles and possible solutions for adapting social protection systems to the future of work.

The Gig Economy: A Critical Introduction

Jamie Woodcock and Mark Graham

The book is a critical introduction to the gig economy, which refers to work that is performed through digital platforms and mediated by algorithms. The book examines how the gig economy works and what it is like to work in it. It shows that the gig economy has benefits but also costs for workers, who face risk and responsibility without adequate social protection. The book argues that this is not inevitable but a result of political choices and power relations. The book proposes four strategies for creating a fairer gig economy: collective voice, regulation, alternative ownership models, and public provision.

The book is relevant to our research project because it provides an analysis of the challenges and opportunities for workers in the digital economy. It also offers a framework of principles and solutions for improving working conditions and social protection for platform and gig workers.

A Critical Analysis on the CODE ON SOCIAL SECURITY 2020

Sivapriya Ambalavanan and Priyanka

The article by Sivapriya Ambalavanan and Priyanka titled “A Critical Analysis on the CODE ON SOCIAL SECURITY 2020” provides an in-depth analysis of the Code on Social Security, which was

introduced in India in 2020. The article critically evaluates the Code and provides insights on its provisions and implications.

The authors begin by providing an overview of the Code, its objectives, and its scope. They then analyze the Code's provisions related to social security schemes, benefits, and contributions. The article also examines the Code's implications for different stakeholders, including employers, employees, and the government.

One of the key strengths of the article is its critical evaluation of the code. The authors identify several areas where the Code could be improved, such as its provisions on gratuity, social security funds, and coverage of informal sector workers. The article also highlights the potential impact of the Code on different stakeholders, including its implications for labor market flexibility, social protection, and administrative capacity.

The authors provide a comprehensive review of the existing literature on social security in India, which contextualizes their analysis of the Code. The article cites several studies on social security schemes in India and their effectiveness in providing protection to workers. The authors also discuss the challenges faced by the informal sector in accessing social security benefits and the need for targeted policies to address their needs.

Overall, the article provides a valuable contribution to the literature on social security in India. The authors offer a critical perspective on the Code on Social Security 2020 and identify areas where it could be improved. The article's insights are relevant for policymakers, researchers, and practitioners interested in social protection and labor market issues in India. However, it is important to note that the code is a recent development, and its implementation and impact are yet to be fully evaluated.

Analysis of the concept of Social Security in India through various Judicial

Chaitanya Singh

"Analysis of the Concept of Social Security in India through Various Judicial" by Chaitanya Singh is an academic article that examines the concept of social security in India through an analysis of various judicial decisions. The author provides a comprehensive overview of the legal framework governing social security in India and argues that judicial decisions have played a crucial role in shaping the concept of social security in the country.

The article begins with an introduction to the concept of social security and its importance in India. The author explains that social security is a fundamental right under the Indian Constitution and that it encompasses a range of benefits and protections, including health care, income support, and insurance.

Next, the author provides a detailed overview of the legal framework governing social security in India. The author discusses the key laws and regulations related to social security. It then provides an analysis of various judicial decisions related to social security in India. The author examines several landmark cases, including *Olga Tellis v Bombay Municipal Corporation*, *Unnikrishnan JP v State of Andhra Pradesh*, and *People's Union for Democratic Rights v Union of India*. The author argues that these cases have played a significant role in shaping the concept of social security in India, particularly in terms of expanding the scope of social security benefits and protections.

Organising The Unorganised: A Comprehensive Review of The Social Security Code 2020

Sandhya Sharma and Sandhya Ragaur

"Organising The Unorganised: A Comprehensive Review of The Social Security Code 2020" by Sandhya Sharma and Sandhya Ragaur is an academic article that explores the key provisions of the Social Security Code 2020 and its potential impact on unorganized workers in India. The authors

provide a comprehensive overview of the code, highlighting its potential benefits and limitations, and discuss the challenges of implementing the code.

The article begins with an introduction to the Social Security Code 2020 and its objectives. The authors explain that the code aims to provide social security benefits to all workers, including those in the informal sector, and to create a comprehensive and unified system for social security in India. They also note that the code represents a significant shift in policy as it replaces a complex system of fragmented laws and regulations.

Next, the authors provide a detailed overview of the key provisions of the code. They discuss the different types of social security benefits included in the code, such as health insurance, life insurance, and disability insurance, and explain how these benefits will be provided. They also highlight the provisions for unorganized workers, including the creation of a social security fund to provide benefits to workers in the informal sector.

The article then discusses the potential benefits and limitations of the Social Security Code 2020. The authors argue that the code has the potential to significantly improve the lives of unorganised workers by providing them with access to social security benefits. However, they also note that the implementation of the code is likely to face significant challenges, particularly in terms of funding and administration.

In conclusion, "Organising the Unorganised: A Comprehensive Review of The Social Security Code 2020" provides a valuable overview of the key provisions and potential impact of the Social Security Code 2020 in India. The authors highlight the importance of the code in providing social security benefits to unorganized workers and call for further research and analysis to evaluate the effectiveness of the code in practice.

India's Booming Gig and Platform Economy

NITI Aayog

This report is a first-of-its-kind study that presents comprehensive perspectives and recommendations on the gig-platform economy in India. It analyses the size, scope, and potential of this sector, as well as its impact on employment, income, and welfare.

INFORMAL ECONOMY

Overview

The informal economy pertains to economic activities that operate beyond the purview of government regulation and formal legal frameworks and are not subject to taxation or government monitoring. This type of economy is often characterized by activities that are not recorded in official statistics, such as street vending, casual labor, and unregistered small businesses [1].

Although present in both developed and developing countries, the informal economy is more prevalent in the latter. In developing countries, it can constitute a significant portion of the economy, with estimates suggesting it can account for up to 50% of GDP [2] in some countries.

Typically associated with low wages, limited job security, and little or no access to social protection or benefits like health insurance or retirement plans, workers in this sector are usually self-employed and work in small-scale businesses primarily within the service sector. Others work within industries like agriculture, construction, or manufacturing, where they may be employed by small firms that remain unregistered with the government.

Despite presenting challenges for those working within this sector, such as lack of benefits and job security; it can provide a means of survival for those unable to secure formal employment while

contributing significantly to overall economic growth. However, it also perpetuates poverty and inequality while lacking regulation, which leads to exploitative labor practices, unsafe working conditions, and environmental degradation [3].

The relation of the informal economy to the platform and gig workers

The rise of digital platforms has created new opportunities for workers to participate in the informal economy. The platform economy refers to a type of economic activity where digital platforms, such as Uber, Lyft, Airbnb, and TaskRabbit, connect workers with customers who need services such as ridesharing, accommodation, and various tasks [4].

Gig workers are a type of platform worker who are employed on a short-term, project- or task-based basis rather than in a traditional, full-time employment relationship. They often work for multiple platforms and have more flexibility in their working hours, but they are not entitled to the same benefits as traditional employees, such as health insurance or paid time off.

The informal economy and platform economy share many characteristics. They both operate outside of the formal legal framework and are not regulated by the government. Workers in both sectors often have limited job security, low wages, and limited access to social protection [5].

However, the platform economy is different from the traditional informal economy in several ways: [6]

First, the platform economy relies heavily on technology to connect workers with customers, whereas traditional informal activities such as street vending and casual labor are often more localized and operate on a face-to-face basis. Second, platform workers often have more control over their working hours and can work from anywhere, whereas traditional informal workers are often tied to a specific location or market. Finally, the platform economy is often more visible than the traditional informal economy, as transactions are recorded digitally and platforms are subject to scrutiny by regulators, consumers, and the media.

The growth of the platform economy has raised questions about the regulation and protection of workers. While platforms provide new opportunities for workers to participate in the economy, they also raise concerns about the erosion of labor protections and the creation of a new class of precarious workers who lack social protections and benefits. Therefore, it is important for policymakers to develop regulations that balance the need for innovation and flexibility with the protection of worker rights and social welfare.

CHALLENGES FACED BY PLATFORM & GIG WORKERS

India has recently seen an increase in the gig and platform economy, with more specialists choosing gig and platform fill-in and stage-based work. Even though gig and platform work offer adaptability and enterprising opportunities, it likewise accompanies various difficulties for Indian laborers. We will now examine the challenges that these workers faced.

Lack of Benefits

One of the most pressing issues that gig, platform, and stage workers in India face is the absence of retirement benefits that are managed by the government [7]. In contrast to regular employees, gig and platform workers do not receive benefits like paid time off, health insurance, or retirement savings. As a result, they are financially vulnerable in the event of illness, injury, or other unforeseen circumstances. Additionally, gig and platform workers do not have access to unemployment benefits due to the absence of social security. Subsequently, it's difficult for them to compensate for the pay they lose in low-request or slow-year terms.

Unreliability of Earnings

Stage, gig, and platform workers frequently receive low and odd wages in India [8]. Low wages and murky compensation structures portray numerous gig and platform economy occupations in India. Due to the power imbalance, it can be difficult for platforms and workers to negotiate fair compensation for their services. Additionally, gig and platform workers may face pay variations because of sporadic interest, competition, and shifts in stage strategies, making it difficult for them to plan their finances and achieve financial stability.

No Job Security

Since they are regarded as independent contractors rather than employees, gig and platform workers in India frequently lack job security [9]. Gig and platform workers never had the same legal rights and protections as regular employees, like protection from unfair termination, notice periods, and job security. Because they are frequently at the mercy of platform policies and may be abruptly deactivated or fired without any recourse, gig and platform workers are in a precarious employment situation.

Exploitation and Unfair Treatment

In India, platform, gig, and platform workers frequently face exploitation and discrimination [10]. Inadequate safety measures, long working hours, and a lack of rest breaks characterize many gig and platform economy jobs in India. Customers, employers, and other gig and platform workers may also abuse, discriminate against, and harass workers. Due to their frequent lack of collective bargaining rights or representation, gig and platform workers may also have limited bargaining power to negotiate advantageous terms and conditions.

No Social Protection

India's gig and platform workers frequently have trouble gaining access to social security programs [11]. Numerous gig and platform laborers are not covered by the social assurance programs that are set up for standard workers, like the Employees' State Insurance Scheme (ESIS) and the provident fund (PF). It is possible that gig and platform workers won't have as much access to healthcare, retirement savings, and other social benefits in the event of an emergency.

Lack of Training Opportunities

These workers in India have a major defect: they lack access to skill development and training opportunities [12]. Gig and platform workers frequently find themselves working low-paying jobs with few opportunities for advancement because there are no formal training programs or initiatives for skill development.

Digital Divide

Not all gig and platform workers in India might have access to the necessary technological advancements [13]. The majority of gig and platform workers, particularly those from rural or poor areas, may find it challenging to gain access to smartphones, personal computers, and high-speed internet. As a result, their participation in the gig and platform economy and access to gigs and platforms with higher pay may be restricted [14].

Health and Safety Risks

Gig and platform workers, as frequently as conceivable, face prosperity and security risks in their workplace [15]. Many gig and platform jobs, like transportation or construction, require actual work, which could put workers at risk for injuries, accidents, and exposure to hazardous substances. However, their prosperity and success may be jeopardized if gig and platform workers aren't guaranteed to use secure equipment, good safety measures, or insurance [16].

Limited Social Recognition and Respect

Gig and platform work is frequently not socially accepted or respected. The self-esteem, dignity, and social status of gig and platform workers may be affected by stigma, discrimination, or a lack of

recognition for their work. This can make you feel like you must take care of everything, which makes the problems gig and platform workers in India face even worse. They frequently land low-paying jobs with few opportunities for professional development.

The digital divide, inadequate social support systems, restricted access to financial services, risks to health and safety, and a lack of social recognition and respect are some of the issues that platform and gig workers in India face [17]. A lack of opportunities for skill development and training, low and unpredictable earnings, job security, exploitation, and unfair treatment, and as well as access to benefits and social security, are additional issues. Advocacy for the rights of gig workers, policy interventions, regulatory mechanisms, social support networks, and policy interventions must all be part of a multifaceted approach to addressing these issues. For gig workers in India to thrive in the shifting workplace, it is essential to ensure that they are protected, empowered, and provided with the necessary support [18].

CODE ON SOCIAL SECURITY, 2020: THE RIGHT WAY?

Potential Exploitation and Abuse by Aggregators. The Code presents challenges and potential for exploitation by aggregators. Ambiguity in definitions may allow companies to minimize their responsibility, while the voluntary nature of welfare schemes could result in inconsistent implementation. The responsibility for contributions to social security benefits is another area of potential manipulation by aggregators. The lack of enforcement mechanisms within the Code may lead to inconsistent implementation and exploitation of its provisions.

The Ambiguity in Definitions and its Implications.

The Code on Social Security, 2020, aims to extend social security benefits to platform and gig workers. However, the ambiguity in the definitions of “platform work,” “gig work,” and “aggregator” could create loopholes that companies might exploit to avoid providing benefits to their workers.

Ambiguity in the Definition of “Platform Work”

The Code defines platform work as “a form of employment in which organizations or individuals use an online platform to access other organizations or individuals to solve specific problems or to provide specific services in exchange for payment.” The broad nature of this definition leaves room for interpretation, and companies might argue that certain types of work do not fall within the scope of platform work [19]. For example, a company could claim that workers who receive assignments through an app but perform tasks offline are not engaged in platform work, thus excluding them from the social security benefits outlined in the Code.

Ambiguity in the Definition of Gig Work’s

The Code defines gig work as “a work arrangement outside of a traditional employer-employee relationship in which a worker, called a gig worker, is engaged by an aggregator or directly by a service recipient through an online platform.” This definition does not provide clarity on the specific nature of the work arrangement and can be open to interpretation, making it difficult to determine whether certain workers fall within this category. For instance, companies might argue that workers who have a mix of traditional employment contracts and gig assignments are not solely gig workers and, therefore, not entitled to the benefits provided under the Code.

Ambiguity in the Definition of “Aggregator”

The Code defines an aggregator as “a digital intermediary or a market platform for a buyer or user of a service to connect with the seller or the service provider.” This definition does not clarify the extent of the aggregator’s responsibilities and obligations towards workers. Companies might take advantage of this ambiguity to argue that they are merely intermediaries that facilitate transactions between workers and clients and are not responsible for providing social security benefits to the workers.

Scenarios of Exploitation

Given the ambiguity in these definitions, companies could potentially exploit them in the following ways:

1. *Misclassification of workers*: Companies may deliberately misclassify workers as independent contractors rather than employees to avoid providing social security benefits. By blurring the lines between platform work, gig work, and traditional employment, companies can argue that workers do not fit within the scope of the Code.
2. *Fragmentation of work arrangements*: Companies may restructure their work arrangements to avoid being classified as aggregators under the Code. By breaking down their services into smaller units, they could claim that they are not directly responsible for engaging gig workers and are not required to provide social security benefits.
3. *Legal evasion*: Companies might exploit the ambiguity in definitions by creating complex legal structures that obscure their responsibility for providing social security benefits. For example, they might set up multiple subsidiaries or use intermediary entities to distance themselves from their obligations under the Code.

To mitigate these potential exploitations, the Code needs to be amended to provide clearer definitions for platform work, gig work, and aggregators. Doing so will ensure comprehensive coverage of all relevant workers and prevent companies from evading their responsibilities to provide social security benefits.

Specific Sections enabling the exploitation of the Code

The Code on Social Security, 2020, despite being a progressive step towards extending social security benefits to platform and gig workers, has several provisions that could potentially be exploited or abused by aggregators. This section discusses the possible ways in which the Code can be exploited and the specific sections that might enable such exploitation.

Misclassification of Workers

Potential Exploitation

Aggregators may deliberately misclassify workers as independent contractors rather than employees to avoid providing social security benefits. This misclassification allows companies to evade their obligations under the Code.

Enabling Section

The Code's ambiguous definitions for "platform work" (Section 2(1)(i)) and "gig work" (Section 2(1)(j)) leave room for interpretation, which could enable companies to argue that certain workers do not fall within the scope of these categories and are not entitled to the benefits provided under the Code.

Voluntary Participation in Welfare Schemes

Potential Exploitation

The Code permits aggregators to voluntarily contribute to welfare schemes for platform and gig workers, potentially leading to inconsistent implementation and coverage. Some aggregators may choose not to participate in these schemes, leaving their workers unprotected.

Enabling Section

Section 114(3) of the Code allows for voluntary contributions by aggregators to the social security funds for gig and platform workers. This provision could result in unequal access to benefits, as not all aggregators may opt to participate in the welfare schemes.

Manipulation of Contributions to Social Security Benefits

Potential Exploitation

The Code requires aggregators to contribute a certain percentage of their turnover to social security funds for the benefit of platforms and gig workers. However, there is a potential for manipulation by

aggregators in determining the relevant turnover, which could lead to reduced contributions and insufficient funds for social security benefits.

Enabling Section

Section 114(1) of the Code stipulates that aggregators are required to contribute to social security funds based on a percentage of their turnover. The lack of clarity and oversight mechanisms in determining turnover could enable aggregators to manipulate their contributions and evade their responsibilities.

LACK OF ENFORCEMENT MECHANISMS:

Potential Exploitation

The Code lacks specific enforcement mechanisms to ensure that aggregators comply with their obligations to provide social security coverage for platform and gig workers. The absence of penalties for non-compliance may lead to some aggregators evading their responsibilities and exploiting the Code's provisions.

Enabling Section

While the Code does not have a specific section enabling the lack of enforcement, the absence of clear penalties and enforcement provisions in the Code leaves room for non-compliant aggregators to exploit the situation.

To mitigate these potential exploitations, the Code needs to be amended to provide clearer definitions for platform work, gig work, and aggregators, mandate participation in welfare schemes, establish robust oversight mechanisms for determining turnover, and implement strong enforcement measures [20]. These amendments will ensure comprehensive coverage of all relevant workers and prevent companies from evading their responsibilities to provide social security benefits.

CONCLUSION

In conclusion, this research article has conducted a comprehensive examination of the Code on Social Security, 2020, focusing on its implications for platform and gig workers in India. The article has delved into the context of the informal economy, analyzed the challenges faced by platform and gig workers, and assessed the efficacy of the Code in addressing these issues.

The Code on Social Security, 2020, constitutes a significant development in India's labor law reforms as it endeavors to extend social security benefits to the expanding population of platform and gig workers. Traditionally excluded from standard social security benefits, the provisions of the Code carry the potential to enhance working conditions, income security, and mitigate the risks associated with non-standard forms of employment for these workers.

However, the article has identified several limitations in the Code that may compromise its effectiveness in realizing these objectives. Ambiguities in the definitions of platform work, gig work, and aggregators, the discretionary nature of welfare schemes, the possible manipulation of contributions to social security benefits, and the absence of robust enforcement mechanisms may impede the successful implementation of the Code.

Given these challenges, the article has underscored the necessity for continuous monitoring and evaluation of the Code's impact on platform and gig workers while advocating for their rights and interests to ensure comprehensive protection. Policymakers and stakeholders must collaborate to address the identified shortcomings and enhance the effectiveness of the Code on Social Security, 2020, as well as future labor law reforms in India.

By incorporating the proposed improvements and alternative approaches, a more equitable and just labor market for platform and gig workers in India can be achieved. This would not only contribute to

improved working conditions and social security coverage but also foster overall well-being and socioeconomic stability for workers across the nation.

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