A CRITICAL EVALUATION OF AGGREGATOR OBLIGATIONS AND SOCIAL SECURITY FUNDING FOR GIG AND PLATFORM WORKERS UNDER THE CODE ON SOCIAL SECURITY, 2020

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ABSTRACT

The rapid spread of the gig and platform economy has fundamentally unsettled how we think about work and its legal protections. By replacing the conventional employer-employee relationship with an algorithmic architecture of so-called 'independent contractors' and 'partners,' platform companies have, for years, found ways to sidestep statutory welfare obligations. The Indian Parliament's response the Code on Social Security, 2020 (CoSS) marks a watershed moment: for the first time, gig and platform workers receive legal recognition and prospective social security entitlements. Yet recognition alone does not guarantee protection. This article critically examines the substantive obligations the Code imposes on aggregators and asks whether the financial architecture of the proposed Social Security Fund is genuinely viable. By scrutinising the statutory cap on aggregator contributions, the bureaucratic hurdles around worker registration, and the persistent ambiguity surrounding the employment relationship, this paper argues that while the CoSS lays a necessary foundation, its current funding calculus and administrative design risk leaving platform workers in continued precarity.

INTRODUCTION

The Algorithmic Disruption of Labor Walk through any Indian city today and you will find the streets humming with a workforce governed entirely by invisible algorithms. Factory gates and punch cards belong to another era. In their place are smartphone notifications, dynamic pricing models, and user ratings that determine a worker's income in real time. The gig economy has, no doubt, opened up flexible income opportunities for millions. But this flexibility carries a steep human cost.

At its core, the platform economy is built on a legal arbitrage: the people who perform the actual work of the business are classified as 'independent contractors' rather than employees. 1[1]This classification is not merely semantic it has enormous practical consequences. Freed from the legal definition of 'employer,' platforms have largely avoided obligations around minimum wages, occupational safety, health insurance, and provident fund contributions. The workers themselves are left bearing the risks of capital expenditure (owning and maintaining a vehicle, for instance), market volatility, and workplace hazards, without the safety nets that employment law was designed to provide.[2]

It was in response to this growing gap that Parliament enacted the Code on Social Security, 2020 (hereinafter 'the Code' or 'CoSS'). Consolidating nine central labour enactments, the Code set out to universalise social security coverage. Its most talked-about feature was the explicit inclusion of 'gig workers' and 'platform workers' within its protective scope.[3] Many welcomed this as a progressive acknowledgment of how work has changed. But welfare legislation is only as good as its operational details. Imposing obligations on platforms termed 'aggregators' under the Code and designing a sustainable funding mechanism is a difficult balancing act. It must protect workers without discouraging the technological investment that drives the sector.

This paper interrogates that balance. It asks whether the obligations the Code places on aggregators are strong enough to cut through the illusion of independence that platforms have carefully cultivated, and whether the financial structure of the proposed Social Security Fund

[1] Aloisi, A. (2016). Commoditized Workers: Case Study Research on Labor Law Issues Arising from a Set of On-Demand/Gig Economy Platforms. Comparative Labor Law & Policy Journal, 37(3), 653–690.
[2] Fairwork India Ratings 2022: Labour Standards in the Platform Economy. Centre for IT and Public Policy (CITAPP), IIIT Bangalore.
[3] The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020 (India).

is realistic enough to deliver meaningful relief to the workers it is meant to serve.

TAXONOMY OF THE PRECARIOUS

Defining the Worker Before one can assess what the Code demands of aggregators, it is worth asking precisely who the legislation is trying to protect. The CoSS departs from the traditional binary of organised and unorganised labour by introducing a tripartite classification, distinguishing the 'unorganised worker,' the 'gig worker,' and the 'platform worker.'

Under Section 2(35) of the Code, a gig worker is defined as someone who performs work or participates in a work arrangement and earns from it outside of a traditional employer-employee relationship.[4] Section 2(61) defines a platform worker as someone engaged in or undertaking platform work, which is itself defined under Section 2(60) as a work arrangement again outside the traditional employment relationship in which organisations or individuals use an online algorithmic matching platform to provide specific services or solve specific problems.[5]

The immediate problem is the enormous overlap between these categories. Almost every platform worker is also a gig worker, though a gig worker say, an offline freelance consultant need not be a platform worker. Both categories also sit awkwardly within the broader umbrella of 'unorganised workers.' The attempt to capture the nuances of modern work is understandable, but the resulting taxonomy creates genuine administrative and jurisdictional confusion. The Code draws separate conceptual boxes without clearly explaining whether the benefits available to an unorganised worker automatically extend to a platform worker, or whether the two are channelled into distinct welfare streams.

There is, however, a more fundamental policy choice embedded in these definitions. By explicitly situating gig and platform workers outside the traditional employer-employee relationship, Parliament chose a path distinct from, say, the United Kingdom Supreme Court's approach in Uber BV v Aslam,[6] where drivers were classified as 'workers' entitled to minimum wage and holiday pay on the basis of subordination and control. The Indian Code does not challenge the misclassification at all it accepts the premise that platform workers are not

[4] Section 2(35), Code on Social Security, 2020.
[5] Sections 2(60) and 2(61), Code on Social Security, 2020.
[6] Uber BV v Aslam [2021] UKSC 5.

employees and builds a separate welfare structure around that premise. The consequence is significant: platforms are not burdened with employer liabilities under the Industrial Relations Code or the Occupational Safety, Health and Working Conditions Code. Their obligations under the CoSS are ring-fenced to specific welfare contributions, nothing more.

THE AGGREGATOR: PIERCING THE 'TECH COMPANY' DEFENCE

For years, platforms have relied on what legal scholars call the 'technology company defence.' The argument runs roughly as follows: we are not a transport company or a food delivery company we are a software intermediary connecting buyers and sellers. The CoSS dismantles this defence, at least for the purposes of social security, by creating the legal category of the 'aggregator.'

Section 2(2) defines an aggregator as a digital intermediary or marketplace through which buyers or users of a service connect with sellers or service providers.[7] Schedule VII of the Code then lists the categories of aggregators expressly covered, including ride-sharing services, food and grocery delivery platforms, logistics providers, e-marketplaces for wholesale or retail trade, and professional services platforms.

By naming these entities and gathering them into a Schedule, the state imposes affirmative statutory duties on them. Under the CoSS, an aggregator's primary obligations are twofold: facilitating the registration of platform workers and contributing to the social security fund for gig and platform workers.

That said, even this forward-looking step comes with significant limitations. The Code empowers the Central Government to frame schemes covering life and disability, accident insurance, health and maternity benefits, and old-age protection.[8] But the actual rollout of these schemes depends on rules that remain only partially implemented across states. The aggregator's obligation is essentially financial and administrative rather than relational. There is no duty to ensure fair working conditions, no protection against arbitrary algorithmic deactivation, no guarantee of a minimum living wage. The platform is simply required to pay a form of levy for the labour force it depends on.

[7] Section 2(2), Code on Social Security, 2020.
[8] Section 114(1), Code on Social Security, 2020.

THE FINANCIAL ARCHITECTURE: DECONSTRUCTING SECTION 114

The real substance of platform worker protection under the CoSS lies in Section 114, which sets out the funding mechanism for social security schemes. This provision has attracted more scrutiny than almost any other part of the Code and for good reason. It represents a compromise between capital interests and labour welfare, and the terms of that compromise matter enormously.

Section 114(4) provides that the schemes may be funded through contributions from the Central Government, State Governments, and the aggregators. Specifically, an aggregator's contribution is to be fixed at a rate between one and two percent of its annual turnover, as notified by the Central Government.[9] This is, however, immediately qualified: the contribution by an aggregator shall not exceed five percent of the total amount paid or payable by the aggregator to its gig and platform workers.[10]

This dual-cap formula one to two percent of turnover, capped at five percent of worker payouts calls for careful scrutiny.

The ambiguity of 'turnover'

The first difficulty is definitional. What exactly counts as an aggregator's 'turnover'? In the platform economy, gross merchandise value (GMV) routinely dwarfs actual corporate revenue. Consider a ride-hailing transaction: the passenger pays a total fare of ₹500, but the platform retains only ₹100 as commission. If the one to two percent contribution is calculated on the GMV, the financial burden on platforms could be substantial enough to render several existing business models unviable. If it is calculated only on retained commission, the fund generated for millions of workers may be far too small to be meaningful. Without definitional clarity in the subordinate rules, this ambiguity is an open invitation for aggressive corporate structuring and systematic underfunding of the social security corpus.

The five percent payout cap: a perverse incentive?

The five percent cap on worker payouts introduces a more troubling structural dynamic. Platform algorithms are notoriously opaque, constantly adjusting base rates, surge pricing, and

[9] Section 114(4), Code on Social Security, 2020.
[10] Proviso to Section 114(4), Code on Social Security, 2020.

incentive structures in response to supply and demand. By pegging the maximum social security contribution to the aggregate wages paid, the law inadvertently ties the welfare fund to the already-suppressed wages of the gig economy.

If platforms systematically lower base payouts and replace them with gamified, hard-to-reach incentives, the total 'amount paid' shrinks and with it, the ceiling of the platform's social security liability. Platforms operating on thin margins but processing enormous volumes of labour could hit the five percent cap quickly, effectively shielding the rest of their turnover from the one to two percent mandate. This formula protects capital during downturns but fails to proportionally grow the welfare fund during periods of rapid corporate expansion, since platforms rarely scale worker remuneration at the same rate they scale corporate valuation.

The Absence of Worker Contributions

The funding mechanism under Section 114 also notably lacks any mandatory co-contribution from gig workers themselves a departure from the contributory logic underlying the Employees' Provident Fund (EPF) and Employees' State Insurance (ESI) models. The pragmatic reason is obvious: workers already earning low wages should not be further burdened. Yet an entirely employer- and state-funded model for persons classified as 'independent contractors' raises real questions about long-term sustainability. If the corpus relies entirely on a small slice of corporate turnover, its capacity to fund comprehensive life, health, and old-age benefits for a rapidly growing, highly transient workforce remains genuinely uncertain.

ADMINISTRATIVE BOTTLENECKS AND THE REGISTRATION CONUNDRUM

Even if the funding mechanism generates an adequate corpus, the architecture for distributing benefits is beset with friction. Section 113 of the Code requires every unorganised worker, gig worker, and platform worker to register, subject to conditions including possession of an Aadhaar number.[11] The burden of registration falls primarily on the worker.

The reality of platform work makes this far more complicated than it sounds. The gig economy is defined by extreme fluidity. A single worker might deliver food for Zomato during the lunch

[11] Section 113(1), Code on Social Security, 2020.

rush, drive for Uber in the afternoon, and offer home services through Urban Company on the weekend. They might work intensively for three months, disappear from the platform entirely during the monsoon, and return a year later. This transient, multi-app mode of engagement makes administering benefits through a static registration system deeply problematic. If a worker is injured while logged into three different delivery apps simultaneously waiting for a ping from any of them which aggregator's contribution is responsible for the medical insurance claim? The Code offers no answer.

The launch of the e-Shram portal by the Ministry of Labour and Employment is a meaningful step toward building a National Database of Unorganised Workers (NDUW).[12] Millions have registered. But database entries and actual claim settlements are very different things. Translating a registration into a live entitlement requires a dynamic infrastructure capable of interfacing in real time with platform APIs. Currently, if a delivery partner dies in a road accident, the family must navigate a complex process of proving active engagement at the precise moment of the incident to unlock any platform-specific insurance. A state-administered fund must not replicate these private insurance friction points. The better approach is to decouple registration from the act of working and treat it instead as a universal entitlement card, with the state levying aggregators and crediting workers retroactively through an automated settlement system.

THE GLOBAL STRUGGLE: A COMPARATIVE PERSPECTIVE

To properly evaluate the Indian framework, it helps to situate it within the broader global contest over platform labour regulation. Jurisdictions across the world are grappling with the same central legal fiction: the 'independent contractor.'

In the United Kingdom, the landmark ruling in Uber BV v Aslam[13] reclassified drivers as 'workers' an intermediate statutory category distinct from both employees and independent contractors granting them rights to minimum wage and paid leave. The European Union has gone further, advancing a Directive on Platform Work that establishes a legal presumption of employment. Where a platform exerts control by setting remuneration, supervising performance electronically, or restricting choice over working hours the worker is presumed

[12] Ministry of Labour and Employment, Government of India, e-Shram Portal.
[13] Uber BV v Aslam [2021] UKSC 5.

to be an employee, shifting the burden of proof to the platform to rebut that presumption.[14]

California, by contrast, witnessed the passage of Proposition 22, a heavily industry-funded ballot initiative that carved app-based transport and delivery workers out of employee status entirely, substituting a diluted package of independent contractor welfare measures in its place.

The Indian CoSS sits much closer to the Proposition 22 model than to the EU Directive. By extending social security without altering the fundamental legal status of the worker, India has institutionalised the independent contractor classification. The legislature has reached an implicit bargain with the platforms: you may continue to exercise algorithmic control without the obligations of traditional employment law, provided you pay a fractional levy into a state-administered welfare fund. In a labour-surplus economy like India, where destroying the flexibility of the gig economy could displace millions of workers from even precarious income, this concession has its logic. But it also sets a ceiling on the depth of protection that workers can realistically expect.

CRITICAL LOOPHOLES AND UNADDRESSED VULNERABILITIES

A close reading of the Code reveals several significant legislative silences that quietly undermine the overarching goal of worker security.

The first is the complete absence of algorithmic transparency or grievance redressal. The CoSS is focused entirely on post-facto welfare health cover, accident insurance, old-age protection. It does nothing about the day-to-day precarity that platform algorithms generate. A worker's livelihood can be ended in an instant through an automated deactivation or a sudden algorithmic drop in their rating. Without an independent tribunal or a statutory grievance mechanism specifically designed to contest algorithmic decisions, social security functions as a bandage on a structural wound.

The second is the isolation of welfare from wages. Social security contributions are of limited value when the base wage is insufficient for basic survival. Platform workers across India regularly protest against declining rate cards and rising fuel costs. The Code on Wages, 2019 mandates a universal minimum wage, but its application to gig workers remains legally

[14] Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work, COM(2021) 762 final.

contested precisely because of their non-employee status. Funding a health insurance scheme through a one percent turnover levy while simultaneously allowing platforms to push wages toward or below the poverty line is a deeply contradictory approach to worker welfare.

Third, the Code fails to account for the intersectional dimensions of gig work. A substantial portion of the platform labour force is made up of migrant workers. The portability of social security benefits across state lines remains a critical unsolved problem. While the central fund theoretically addresses this, specific health infrastructure and insurance schemes are often implemented at the state level. A unified, pan-India digital ledger that tracks worker entitlements and benefit claims seamlessly across geographies and platforms is technically feasible but administratively absent.

CONCLUSION: TOWARD A RIGHTS-BASED WELFARE REGIME

The Code on Social Security, 2020 is, without question, a significant legislative intervention. Recognising gig and platform workers as a distinct legal category deserving of state-mandated welfare represents a genuine shift from the laissez-faire approach that previously governed this sector. It signals that the gig economy is not a passing phase but a permanent feature of the Indian labour market one that demands a legal response.

But a critical evaluation of the aggregator obligations and the funding mechanism reveals a framework that is more aspirational than operationally precise. The one to two percent turnover contribution, capped at five percent of worker payouts, threatens to underfund a safety net that must cover millions of workers. The definitional ambiguity around 'turnover,' combined with the heavy administrative burden placed on workers during registration, risks producing a system where benefits exist on paper but remain inaccessible in practice.

More fundamentally, the Code is a concession to platform capitalism. By extending social security without addressing the root causes of precarity algorithmic control, worker misclassification, and the absence of minimum wage guarantees the legislation treats symptoms rather than causes.

The success of the Code will ultimately depend on the quality of the subordinate legislation and rules framed by the Central and State Governments. Those rules must define 'turnover' in a way that forecloses corporate evasion. The state must build automated data pipelines between platform APIs and the National Social Security Board, creating seamless, passive contribution tracking that removes the burden from the worker. And the CoSS must be complemented by serious policy work on algorithmic transparency and minimum base rates for gig work.

Social security for platform workers cannot be treated as a charitable fund financed by a marginal corporate levy. It must be recognised as a fundamental right a necessary cost of doing business in a digital economy built upon the labour of a workforce that is invisible, precarious, and indispensable.