
THE FLEXIBILITY VS. PROTECTION PARADOX: ASSESSING THE RIGHTS AND SOCIAL SECURITY OF GIG AND PLATFORM WORKERS UNDER INDIA'S TRANSITIONING LABOUR LAW FRAMEWORK

Amolika Maheshwari, Ananya Singh & Tanishka Singh,
National Law Institute University, Bhopal

ABSTRACT

India's four Labour Codes have, for the first time, given statutory recognition to "gig workers" and "platform workers". That recognition sits in the Code on Social Security, 2020 alone and stops short of employment status, wage floors, collective bargaining or workplace safety rights. This paper examines how that design leaves a partial safety net, how courts and international instruments approach the underlying classification question, and why states such as Rajasthan and Karnataka have enacted parallel welfare statutes. It then assesses the administrative and federal difficulties these overlapping regimes create and proposes a multi-stakeholder governance model aligned with the ILO's 2026 Convention on decent work in the platform economy. The paper argues that the "third category" approach, without substantive rights attached, risks codifying precarity rather than resolving it.

Keywords: gig workers; platform workers; Code on Social Security, 2020; aggregators; employment classification; welfare boards; ILO Convention No. 193.

INTRODUCTION

India's labour market is overwhelmingly informal. Roughly nine out of ten workers earn their living outside formal, regulated employment, with little access to provident fund, insurance, maternity cover or collective representation.¹ For decades, the legal response was a thicket of central statutes, some dating from the colonial period, which the Government regarded as fragmented and burdensome. In 2019 and 2020, Parliament passed four consolidated Labour Codes (the Code on Wages, the Industrial Relations Code, the Code on Social Security and the Occupational Safety, Health and Working Conditions Code) to subsume 29 central enactments.² The Codes were brought into force on 21 November 2025, and the Ministry of Labour and Employment notified the central rules under them in May 2026, including the Social Security (Central) Rules, 2026.³ The transition is therefore no longer only prospective, but its practical effects are still unfolding.

Alongside this consolidation, the platform economy has grown rapidly. NITI Aayog's 2022 report estimated that gig workers numbered about 7.7 million in 2020-21 and could reach about 23.5 million by 2029-30.⁴ These workers deliver food, drive passengers, perform household services and carry out digital tasks, usually through an app that allocates work, sets prices and rates performance. They occupy a legal grey area. The platforms call them "partners" or independent contractors. Workers experience a degree of control, through algorithmic allocation, ratings and deactivation, that resembles employment. The law has had to decide whether to treat them as employees, independent contractors, or something in between.

¹Inst. for Hum. Dev. & Int'l Lab. Org., India Employment Report 2024: Youth Employment, Education and Skills (2024), https://www.ilo.org/sites/default/files/2024-08/India%20Employment%20-%20web_8%20April.pdf (reporting that nearly ninety percent of workers are informally employed).

²Code on Wages, 2019, No. 29 of 2019, India Code (2019) [hereinafter Wages Code]; Industrial Relations Code, 2020, No. 35 of 2020, India Code (2020) [hereinafter IR Code]; Code on Social Security, 2020, No. 36 of 2020, India Code (2020) [hereinafter Social Security Code]; Occupational Safety, Health and Working Conditions Code, 2020, No. 37 of 2020, India Code (2020) [hereinafter OSH Code].

³Press Info. Bureau, Gov't of India, Ministry of Lab. & Emp't, *Government Makes the Four Labour Codes Effective to Simplify and Streamline Labour Laws* (Nov. 21, 2025), <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=2192463®=3&lang=2> (rationalising twenty-nine existing central labour laws with effect from Nov. 21, 2025); Social Security (Central) Rules, 2026 (India) (notified May 8, 2026). See *Gig and Platform Workers Under the Social Security Code: The Aggregator Levy, e-Shram, and What Platforms Must Do Now*, Indian HRM, <https://www.indianhrm.com/guides/gig-workers-social-security-code> [hereinafter Indian HRM].

⁴NITI Aayog, India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work (2022), <https://www.niti.gov.in/hi/node/375> (estimating 7.7 million gig workers in 2020-21 and 23.5 million by 2029-30). See also Press Info. Bureau, Gov't of India, *NITI Aayog Launches Report on India's Gig and Platform Economy* (June 27, 2022), <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1837277®=48&lang=2>.

Thesis. While the Code on Social Security, 2020⁵ represents a historic step by formally recognising “gig” and “platform” workers, its failure to reclassify them as formal employees has resulted in an incomplete safety net, prompting state governments to enact fragmented, parallel welfare legislations that complicate the ease of doing business.

THE DEFINITIONAL SHIFT IN THE NEW LABOUR REGIME

The Historical Binary

Under the Industrial Disputes Act, 1947, the central protections of Indian labour law attached to the “workman” under Section 2(s),⁶ a person employed in an industry to do manual, skilled, technical, operational or clerical work for hire or reward. Persons outside that definition, including independent contractors, were left to the law of contract and had no access to statutory rights such as retrenchment compensation, conciliation or collective dispute resolution. The Unorganised Workers’ Social Security Act, 2008 offered a framework for welfare schemes, but whether platform workers fell within it was never settled, and that uncertainty is one of the issues raised in pending litigation.⁷

The law thus worked on a binary. A person was either a workman, with the full set of protections, or an independent contractor, with none. Platforms organised their contracts to fall on the second side of that line.

A Statutory Third Category

The Code on Social Security, 2020 breaks the binary. It defines a “gig worker” as a person who performs work or participates in a work arrangement outside the traditional employer-employee relationship and earns from it (Section 2(35)). A “platform worker” is a person engaged in or undertaking platform work (Section 2(61)). It also defines an “aggregator”, a digital intermediary or marketplace that connects buyers or users with service providers.⁸ Chapter IX provides for registration of such workers, the framing of social security schemes covering life and disability cover, health and maternity benefits, old-age protection and similar

⁵Social Security Code, *supra* note 2.

⁶Industrial Disputes Act, 1947, No. 14 of 1947, § 2(s), India Code (1947).

⁷Unorganised Workers’ Social Security Act, 2008, No. 33 of 2008, India Code (2008). The Industrial Disputes Act and this Act are among the central enactments subsumed by the Labour Codes. *See supra* note 3; *infra* note 27.

⁸Social Security Code §§ 2(35), 2(61); *see also id.* § 2 (defining “aggregator”).

needs, and the creation of a national board.⁹ Aggregators are required to contribute to a fund at a rate of one to two per cent of annual turnover, capped at five per cent of the amount paid to gig and platform workers.¹⁰

The Social Security (Central) Rules, 2026 supply further machinery. They require aggregators to share details of engaged workers on a government portal, constitute the National Social Security Board and tie eligibility to a minimum period of engagement, of 90 days with one aggregator, or 120 days across several, in the previous financial year.¹¹ Early commentary notes, however, that the benefits themselves remain largely unspecified, so the rules build the registration and contribution apparatus ahead of the entitlements.¹²

Recognition in Isolation

The significance of the third category is limited by where it appears. Gig and platform workers are named in the Code on Social Security, but they are not expressly brought within the Occupational Safety, Health and Working Conditions Code or the Industrial Relations Code, whose protections are framed around “employees” and “workers” in the traditional sense.¹³ The consequences are considerable.

- **No collective bargaining or dispute machinery.** The Industrial Relations Code governs trade unions, standing orders, strikes and the resolution of industrial disputes. Gig workers fall outside its core protections, which weakens their ability to negotiate collectively with platforms.¹⁴
- **No statutory safety regime.** Workers who ride in traffic or work in extreme heat are not covered by the OSH Code’s duties on employers regarding safe working

⁹*Id.* ch. IX (§§ 109–114); *id.* § 6, 114(6).

¹⁰*Id.* § 114(4).

¹¹Social Security (Central) Rules, 2026, *supra* note 3 (requiring aggregators to upload details of engaged workers to the designated portal within forty-five days of commencement and to update onboarding and exits thereafter, and conditioning scheme eligibility on engagement for at least ninety days with one aggregator, or one hundred and twenty days across multiple aggregators, in the previous financial year). *See Notified Social Security Code (Central) Rules, 2026: What Employers Need to Know*, Lexology, <https://www.lexology.com/library/detail.aspx?g=d55c3bc4-7b5a-487b-b21a-9ae502fec6d6c>.

¹²*See Welfare Governance for Gig Workers Under the Social Security (Central) Rules, 2026*, IMPRI Impact & Policy Rsch. Inst. (2026), <https://www.impriindia.com/insights/policy-update/welfare-governance-for-gig-workers-under-the-social-security-central-rules-2026/> [hereinafter IMPRI] (observing that the operative aggregator contribution rate under section 114 remains unnotified); Indian HRM, *supra* note 3.

¹³OSH Code, *supra* note 2; IR Code, *supra* note 2; *cf.* Social Security Code ch. IX.

¹⁴IR Code, *supra* note 2.

conditions.¹⁵

- **No clear wage floor.** The Code on Wages is directed at employees. A statutory minimum wage for platform workers, or protection against non-payment, is therefore not guaranteed by the Codes themselves.¹⁶

Recognition is thus confined to a welfare scheme, not a set of work rights. The worker is visible to the social security system but remains invisible to the rest of labour law.

THE CLASSIFICATION DILEMMA AND JUDICIAL SCRUTINY

The Indian Tests of Control

Indian courts decide employment status on the substance of the relationship. The traditional test of control and supervision, applied in *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*,¹⁷ asks whether the principal directs not only what is to be done but how. Later decisions, including *Silver Jubilee Tailoring House v. Chief Inspector of Shops and Establishments*¹⁸ and *Hussainbhai v. Alath Factory Thozhilali Union*,¹⁹ recognise that the test is not applied mechanically and that the economic reality, such as integration into the business, is relevant. In *Balwant Rai Saluja v. Air India Ltd.*,²⁰ the Court examined who exercised supervision and control over contract workers in deciding whether the principal was the real employer.

Applied to platforms, three elements stand out.

1. **Who assigns tasks.** On a platform, the algorithm allocates orders and rides. Workers often cannot see the destination or fare before accepting, and refusals may lower their ranking.
2. **Who pays and who sets the remuneration.** The platform usually fixes the price, collects the payment and decides the worker's share, as well as incentives and penalties.

¹⁵OSH Code, *supra* note 2.

¹⁶Wages Code, *supra* note 2.

¹⁷*Dharangadhra Chem. Works Ltd. v. State of Saurashtra*, A.I.R. 1957 S.C. 264 (India).

¹⁸*Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments*, (1974) 3 SCC 498 (India).

¹⁹*Hussainbhai v. Alath Factory Thozhilali Union*, (1978) 4 SCC 257 (India).

²⁰*Balwant Rai Saluja v. Air India Ltd.*, (2014) 9 SCC 407 (India).

- 3. Who exercises disciplinary authority.** Ratings, penalties and account deactivation function as discipline. A worker can lose income through an automated decision without notice or a hearing.

Platforms respond that workers choose when to log in, may work for several platforms and use their own vehicles and phones. They argue that these features are the opposite of subordination.

International Comparison

Courts and legislatures abroad have tested these arguments. In *Uber BV v. Aslam*,²¹ the UK Supreme Court held that Uber drivers were “workers” for the purposes of employment legislation. It looked at the reality of the relationship rather than the contractual label, and found that Uber set the fare, controlled the contract terms, monitored performance and constrained drivers’ choices, so that drivers were in a position of subordination and dependency. It also held that working time included the periods when a driver was logged into the app and ready to accept trips. This “worker” status is an intermediate category that gives access to minimum wage, paid leave and working time protections, but not full employee rights.²²

Other jurisdictions have gone in different directions. California’s Proposition 22 (2020) exempted app-based drivers from employee status in return for a limited package of benefits.²³ Spain’s 2021 “Rider Law” created a presumption of employment for delivery riders.²⁴ The European Union’s Platform Work Directive of 2024 introduced a rebuttable presumption of employment where facts indicating control are present and regulated algorithmic management.²⁵ Courts in France and the Netherlands have also found employment relationships on the facts.²⁶ These examples show that the question is open and that there is

²¹*Uber BV v. Aslam*, [2021] UKSC 5 (appeal taken from Eng.).

²²Employment Rights Act 1996, c. 18, § 230(3)(b) (UK); *Aslam*, [2021] UKSC 5.

²³Cal. Bus. & Prof. Code §§ 7448–7467 (West) (Protect App-Based Drivers and Services Act); *Castellanos v. State*, No. S279622 (Cal. July 25, 2024) (upholding Proposition 22 against a challenge based on the legislature’s workers’ compensation power).

²⁴Real Decreto-ley 9/2021, de 11 de mayo, B.O.E. 2021, 12 May 2021 (Spain) (adding Additional Provision 23 to the Workers’ Statute).

²⁵Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on Improving Working Conditions in Platform Work, arts. 5, 15, 2024 O.J. (L 2024/2831) (establishing a rebuttable presumption of employment and requiring transposition by December 2, 2026) [hereinafter Platform Work Directive].

²⁶Cour de cassation [Cass.] [supreme court for judicial matters] soc., Mar. 4, 2020 (Fr.) (Uber); Hoge Raad [HR] [Supreme Court] 24 March 2023, ECLI:NL:HR:2023:443, *FNV/Deliveroo* (Neth.). *But see* Gerechtshof Amsterdam [Court of Appeal] 27 Jan. 2026, ECLI:NL:GHAMS:2026:163 (Neth.) (holding on the facts that Uber drivers were not employees); Cour d’appel [CA] Paris, Jan. 11, 2024 (Fr.) (same, as to a particular Uber driver). *See generally* Eurofound, Platform Economy Database: Court Rulings, <https://apps.eurofound.europa.eu/platformeconomydb/actors/court>.

more than one workable response.

The Indian Litigation

In India, the issue is before the Supreme Court in a public interest petition filed by the Indian Federation of App-based Transport Workers (IFAT) against the Union and platforms such as Ola, Uber, Swiggy and Zomato.²⁷ The petitioners argue that treating workers as “partners” denies them social security and violates Articles 14, 21 and 23 of the Constitution, and they ask that gig workers be recognised as “unorganised workers” entitled to statutory benefits.²⁸ In 2024 the Court observed that rights under a statutory regime could not be denied simply by invoking a “policy decision”.²⁹ As of the latest available reports, the matter remains pending. The Union has defended a separate social security framework in preference to reclassification, while platforms resist any conversion of workers into employees.³⁰

Flexibility Versus Fair Pay

The aggregators’ case rests on flexibility. They say that workers value choosing their hours, that employee status would require fixed shifts and reduce the number of people the platforms can onboard, and that costs would be passed on to consumers. These arguments have force, since flexibility is valued by many workers and is part of the reason for the sector’s growth.

International labour standards point toward a different balance. The ILO’s Decent Work in the Platform Economy Convention, 2026 (No. 193), adopted on 12 June 2026, applies to digital platform workers regardless of their employment status.³¹ It requires measures on freedom of association, non-discrimination, occupational safety and health, fair and timely payment, social

²⁷*Indian Fed’n of App-Based Transp. Workers v. Union of India* (India) (writ petition filed Sept. 9, 2021) (pending). See *Social Security for Gig Workers | Day 2: “Pull up your socks!” Supreme Court Tells Union on Delays in Implementing the Social Security Code*, Sup. Ct. Observer, <https://www.scobserver.in/reports/social-security-for-gig-workers-day-2-pull-up-your-socks-supreme-court-tells-union-on-delays-in-implementing-the-social-security-code/>.

²⁸India Const. arts. 14, 21, 23; see *supra* note 27.

²⁹*India: Apex Court Asserts Gig Workers’ Rights Cannot Be Denied, Criticises Centre’s Delay on Social Security Protections*, Bus. & Hum. Rts. Res. Ctr., <https://www.business-humanrights.org/en/latest-news/india-supreme-court-asserts-gig-workers-rights-cannot-be-denied-criticizes-centres-delay-on-social-security-measures/> (reporting the Court’s observations at the hearing of Nov. 19, 2024).

³⁰See *supra* note 27; *IFAT v. Union of India & Gig Workers*, Aashaye in Judiciary, <https://aashayeinjudiciary.com/blog/ifat-v-union-of-india-gig-workers-rights> (summarising the Union’s defence of a separate social security framework and the platforms’ resistance to reclassification).

³¹Convention Concerning Decent Work in the Platform Economy (No. 193), Int’l Lab. Conf., 114th Sess., June 12, 2026, arts. 1(b), 2(1) [hereinafter ILO Convention No. 193], <https://www.ilo.org/sites/default/files/2026-06/ILC114-Instrument%20C.193-EN.pdf>.

security, correct classification, transparency in algorithmic decision-making, and access to remedies against deactivation.³² It binds only states that ratify it, and India has not done so, but it signals a global expectation that flexibility and basic protection are compatible.³³ The classification question therefore need not be settled to guarantee a floor of rights.

FEDERAL FRICTION: CENTRAL CODES VERSUS STATE WELFARE ACTS

Perceived Inadequacies of the Central Framework

Several features of the Code on Social Security have drawn criticism.

- **Dependence on registration.** Benefits depend on registration on a government portal, with eligibility linked to days of engagement. The burden falls largely on workers, many of whom move between platforms or have limited digital literacy, and the engagement threshold can exclude people with irregular work.³⁴
- **Unspecified benefits.** The Code authorises schemes but does not itself prescribe benefits. Until schemes are notified, the entitlement is largely potential.³⁵
- **Ambiguity in contribution.** The aggregator contribution is stated as a range of one to two per cent of turnover, subject to a cap by reference to worker payouts. The final rate, the treatment of turnover for different business models and the enforcement of the cap are matters left to notification, which creates uncertainty for both platforms and workers.³⁶
- **Limited accountability.** The Code contains little on grievance redressal for deactivation, transparency of algorithms or payment disputes.

State Interventions

States have used their legislative competence over matters of labour welfare, which falls within

³²*Id.* arts. 3(a), 3(d), 4, 9, 10(1), 12, 13, 15, 17, 21.

³³*Id.* art. 27(1)–(2) (binding only on Members whose ratifications are registered, and entering into force twelve months after two ratifications are registered). See Int'l Lab. Org., *How Will the New Convention n°193 Promote Decent Work in the Platform Economy?* (June 18, 2026), <https://www.ilo.org/resource/article/how-will-new-convention-n%C2%B0193-promote-decent-work-platform-economy>.

³⁴See Social Security (Central) Rules, 2026, *supra* note 3; IMPRI, *supra* note 12.

³⁵Social Security Code § 114; Indian HRM, *supra* note 3.

³⁶Social Security Code § 114(4); IMPRI, *supra* note 12.

the Concurrent List, to fill these gaps.³⁷

Rajasthan – The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023³⁸ was the first such statute in the country.³⁹ It provides for registration of platform-based gig workers and aggregators, a state welfare board, a welfare fee on transactions, grievance mechanisms and penalties for non-compliance by aggregators.

Karnataka – Karnataka's Platform Based Gig Workers (Social Security and Welfare) Act, 2025⁴⁰ began as a Bill in 2024, was promulgated as an ordinance in May 2025 and was later enacted.⁴¹ It establishes a tripartite welfare board and a welfare fund, requires registration of aggregators and workers, and imposes a welfare fee on each payout, in a statutory band of one to five per cent, with the actual rate set by the government.⁴² It adds provisions on transparency in automated decision-making and on protection against arbitrary deactivation, and creates grievance redressal and appeal mechanisms through the labour department. The Act also states that it is in addition to, and not in derogation of, other laws, which leaves open claims for employee status under other legislation.⁴³

Other states are following. Bihar and Jharkhand have legislated,⁴⁴ and Telangana enacted a law

³⁷India Const. sched. VII, List III, entry 24.

³⁸Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Act No. 29 of 2023 (Raj.) [hereinafter Rajasthan Act].

³⁹See *The Aakhya Weekly* #151 | Is Karnataka's Gig Law Built to Last?, Aakhya, <https://aakhya.substack.com/p/the-aakhya-weekly-151-is-karnatakas>; Al Jazeera, *Indian State's New Tax on Digital Platforms Sets Gig Workers Against Firms* (July 27, 2023), <https://www.aljazeera.com/economy/2023/7/27/indian-states-new-tax-on-digital-platforms-sets-gig-workers-against-firms>.

⁴⁰Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025, Karnataka Act No. 72 of 2025 (Kar.) (first published in the Karnataka Gazette Extraordinary on Sept. 12, 2025) [hereinafter Karnataka Act].

⁴¹Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025, Karnataka Ordinance No. 4 of 2025 (Kar.) (repealed and saved by the Karnataka Act); *Karnataka: Ordinance Promulgated for Welfare of Gig Workers*, Deccan Herald (May 27, 2025), <https://www.deccanherald.com/amp/story/india%2Fkarnataka%2Fkarnataka-ordinance-promulgated-for-welfare-of-gig-workers-3559689> [hereinafter Karnataka Ordinance Promulgated]. See also *India Needs National Legal, Social Security Architecture for Gig Workers: Congress*, Deccan Herald, <https://www.deccanherald.com/amp/story/india%2Findia-needs-national-legal-social-security-architecture-for-gig-workers-congress-3101394> (noting the release of the draft 2024 Bill).

⁴²Karnataka Act, *supra* note 40 (providing for a welfare board, a welfare fund, registration, and a welfare fee of one to five percent of the payout in each transaction); see PRS Legislative Rsch., *The Karnataka Platform Based Gig Workers (Social Security and Welfare) Bill, 2025*, <https://prsindia.org/bills/states/the-karnataka-platform-based-gig-workers-social-security-and-welfare-bill-2025> (explaining that the exact percentage depends on the category of aggregator, as determined by the State Government); Karnataka Ordinance Promulgated, *supra* note 41 (describing the board's composition under the ordinance).

⁴³Karnataka Act, *supra* note 40; Karnataka Ordinance Promulgated, *supra* note 41 (reporting a fourteen-day notice and written-reasons requirement before termination of a gig worker under the ordinance).

⁴⁴Bihar Platform Based Gig Workers (Registration, Social Security and Welfare) Act, 2025 (Bihar); Jharkhand Platform-Based Gig Workers (Registration and Welfare) Act, 2025 (Jhar.) [hereinafter Jharkhand Act]. See *The*

in April 2026 after circulating a draft bill in 2025.⁴⁵ The designs differ. Jharkhand's Act links the contribution to platform revenue rather than worker payouts, while Karnataka and Telangana peg it to payouts, with different ranges.⁴⁶

Comparing the Mechanisms

Feature	Central Code (2020)	Rajasthan (2023)	Karnataka (2025)
Nature of obligation	Scheme-based; registration on central portal	Registration with state board	Mandatory registration of aggregators and workers
Funding	1-2% of aggregator turnover, capped at 5% of payouts	Welfare fee on transactions	1-5% of payout per transaction
Institution	National Social Security Board	State welfare board	Tripartite welfare board and fund
Grievance redressal	Limited	Grievance mechanisms provided	Redressal and appellate mechanism
Algorithmic transparency	Not addressed	Limited	Addressed, with deactivation safeguards
Penalties	Under the Code's general provisions	Monetary penalties on aggregators	Monetary penalties on aggregators

Taken together, the state statutes go further than the Code in four respects: they make platform registration mandatory, they create dedicated boards with worker representation, they link

Bihar Gig Workers Law: A Bold Step Forward but a Step Back for Trade Unions, The Leaflet, <https://theleaflet.in/labour-law/the-bihar-gig-workers-law-a-bold-step-forward-but-a-step-back-for-trade-unions> (reporting passage of the Bihar Act in July 2025); *Jharkhand Platform-Based Gig Workers (Registration and Welfare) Act, 2025*, TeamLease RegTech, <https://www.teamleaseregtech.com/updates/article/54306/jharkhand-platform-based-gig-workers-registration-and-welfare-act-2025/> (reporting issuance of the Jharkhand Act on Jan. 6, 2026).

⁴⁵Telangana Platform Based Gig Workers (Registration, Social Security and Welfare) Act, 2026, Act No. 21 of 2026 (Tel.) (assented to Apr. 25, 2026; first published Apr. 28, 2026) [hereinafter Telangana Act].

⁴⁶*Compare* Jharkhand Act, *supra* note 44 (levy of one to two percent of aggregators' annual turnover, as reported), *with* Karnataka Act, *supra* note 40 (fee on payouts), *and* Telangana Act, *supra* note 45, §§ 20–21 (welfare fund fee at rates to be notified, verified against payments made to gig workers). *See IAMAI Flags Concerns with Jharkhand Gig Workers Bill*, MediaNama, <https://www.medianama.com/2025/09/223-iamai-provisions-jharkhand-gig-workers-bill/> (describing the Jharkhand levy as calculated on the platform's gross revenue).

funding to each transaction, which makes collection verifiable, and they provide grievance and penalty provisions that give the regime some bite.⁴⁷

The Constitutional and Commercial Tension

The state laws have not gone unchallenged. Platforms including Swiggy, Zepto, Eternal and Urban Company have challenged the Karnataka Act in the High Court. In mid-2026, the High Court declined to stay the Act and directed the platforms to deposit the welfare fee amounts with the court registry.⁴⁸ The State has argued that there is no conflict with the Central Code, since both address social security.⁴⁹ The dispute raises questions of legislative competence, repugnancy under Article 254⁵⁰ where Parliament and states legislate on the same subject, and whether a per-transaction fee is a tax or a regulatory charge. Their resolution will shape how far states can go.

IMPLEMENTATION CHALLENGES AND POLICY RECOMMENDATIONS

Overlapping Jurisdictions

A platform operating nationally may face registration under the central portal and separately under several state boards, each with different fee bases, rates and compliance calendars.⁵¹ The cost of compliance is real, and platforms argue that fragmentation raises the cost of doing business and may lead them to reduce operations in states with stricter regimes. There is also a risk that workers who move across state lines, as delivery and ride-hailing workers often do, lose continuity of benefits.

Against this, state action has arguably been necessary. It filled a vacuum created by the pace

⁴⁷See Social Security Code § 114; Rajasthan Act, *supra* note 38; Karnataka Act, *supra* note 40; Telangana Act, *supra* note 45, §§ 4, 10–11, 20–24, 26.

⁴⁸*Internet & Mobile Ass'n of India v. State of Karnataka* (Kar. High Ct. July 3, 2026) (India) (interim order declining a stay and directing deposit of the second-quarter welfare fee with the court registry). See *Karnataka HC Refuses to Stay Gig Workers Act, Directs Platforms to Deposit Welfare Fee*, MediaNama, <https://www.medianama.com/2026/07/223-karnataka-hc-gig-workers-act-welfare-fee/>; *Karnataka HC: No Stay on Gig Workers Act, Orders Zomato, Swiggy, Zepto to Deposit Welfare Fee*, LawBeat (July 4, 2026), <https://lawbeat.in/news-updates/karnataka-hc-no-stay-on-gig-workers-act-orders-zomato-swiggy-zepto-to-deposit-welfare-fee-1608889>.

⁴⁹See *supra* note 48.

⁵⁰India Const. art. 254.

⁵¹Social Security (Central) Rules, 2026, *supra* note 3; Karnataka Act, *supra* note 40; Telangana Act, *supra* note 45, §§ 10–11. Compare Telangana Act, *supra* note 45, § 20(4) (monthly deposit of the welfare fund fee), with JSA, *Karnataka Platform Workers Act*, in JSA Prism: Employment (Dec. 2025), https://www.jsalaw.com/wp-content/uploads/2025/12/JSA-Prism-Employment_December-2025.Karnataka-Platform-Workers-Act.Final_.pdf (describing quarterly self-declaration and deposit under the Karnataka Act).

of central implementation, it served as a laboratory for approaches such as transaction-based funding, and it forced the question of platform accountability onto the agenda. The better view is that the boards are a useful check, but the lack of coordination is the problem, not the existence of state-level regulation.

Barriers Facing Workers

Administrative design matters as much as legislative text.

- **Digital access and literacy.** Portal-based registration presumes smartphones, documents such as Aadhaar and bank accounts, and comfort with online forms. Many workers, particularly older and migrant workers, will struggle without assisted enrolment.⁵²
- **Fear of retaliation.** Workers who complain or assert rights may fear being deprioritised or deactivated by the algorithm. A grievance system that relies on individual complaints will therefore be underused unless it provides anonymity, collective representation and protection against retaliation.
- **Data asymmetry.** Eligibility depends on engagement days that platforms record. Without independent verification and access to their own data, workers cannot easily check what has been reported.⁵³

A Multi-Stakeholder Governance Model

The following model is proposed to reconcile flexibility with a baseline of protection.

1. **A coordinated national floor with state supplements.** The Central Government should set minimum standards on registration, portability, contribution base and core benefits, within which states may add protections. A single interoperable worker identity, linked to e-Shram, would allow benefits to follow the worker across states.⁵⁴

⁵²See Press Info. Bureau, Gov't of India, Ministry of Lab. & Emp't, *Year End Review 2025* (Dec. 30, 2025), <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=2209767®=3&lang=2> (reporting the launch of a platform worker module on e-Shram); Social Security (Central) Rules, 2026, *supra* note 3.

⁵³See IMPRI, *supra* note 12 (noting that eligibility depends on aggregators' reporting of engagement days, without independent verification).

⁵⁴See Press Info. Bureau, *Year End Review 2025*, *supra* note 52; Telangana Act, *supra* note 45, § 8(a) (providing

2. **Tripartite governance.** National and state boards should include worker representatives, including unions of gig workers, platform representatives and government, and should have a shared grievance forum for cross-state disputes.⁵⁵
3. **A floor of work rights independent of classification.** Consistent with Convention No. 193, a statutory minimum on occupational safety, such as accident insurance, rest provisions and protective equipment, and a minimum earnings standard measured per hour of active engagement, would give content to the protection without requiring employee status.⁵⁶
4. **Algorithmic accountability.** Platforms should be required to disclose how work is allocated, and pay is set, to give notice and reasons before deactivation, and to provide human review and appeal.⁵⁷
5. **Assisted registration and data access.** Registration should be supported through common service centres and worker organisations, and workers should have access to their own engagement and payment data.
6. **Ratification and review.** The Government should consider ratifying Convention No. 193 and review the design after a fixed period, using data on coverage and benefits.⁵⁸

CONCLUSION

The Code on Social Security marks the first time that Indian statute law has acknowledged gig and platform workers. That acknowledgement is real, but it has been delivered through a third category that carries welfare schemes and no work rights. Without wage floors, safety duties, collective bargaining and protection against arbitrary deactivation, the category risks codifying precarity: it makes the worker visible to the State while leaving the terms of work largely in the platform's hands. The state statutes in Rajasthan and Karnataka, and those following them,

a unique ID applicable across all platforms).

⁵⁵*Cf.* Telangana Act, *supra* note 45, § 4(1) (board including four representatives each of gig workers and aggregators); ILO Convention No. 193, *supra* note 31, art. 24(1) (requiring implementation in consultation with the most representative employers' and workers' organisations).

⁵⁶ILO Convention No. 193, *supra* note 31, arts. 4–5, 10(3) (requiring Members to consider extending minimum-remuneration measures to platform workers who are not in an employment relationship).

⁵⁷ILO Convention No. 193, *supra* note 31, arts. 13, 15; Platform Work Directive, *supra* note 25, ch. III; Telangana Act, *supra* note 45, §§ 12–14.

⁵⁸ILO Convention No. 193, *supra* note 31, arts. 26–27.

show both the appetite for stronger protection and the costs of fragmentation.

Two paths are open. The Central Government can expand the scope of the remaining Labour Codes, particularly the OSH and Wages Codes, to cover platform workers in a tailored way, or it can harmonise the scattered state welfare acts into a national framework with a common floor and room for states to build on it. Either path would be strengthened by the standards in ILO Convention No. 193. The challenge is to protect the flexibility that many workers value while ensuring that flexibility does not come at the expense of dignity, security and a living income.