GIG WORKER WELFARE AND CONSTITUTIONAL FEDERALISM IN INDIA: SUPPLEMENTATION OR REPUGNANCY UNDER THE CODE ON SOCIAL SECURITY, 2020?

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ABSTRACT

The rapid growth of India's platform-based gig economy has exposed structural gaps in traditional labour regulation. The Code on Social Security, 2020 introduced statutory recognition of gig and platform workers and created a framework for social security schemes funded through aggregator contributions. However, the absence of fully operationalised schemes and contribution rules has generated a regulatory vacuum. In response, several States, including Rajasthan, Karnataka, Telangana, Jharkhand, and Bihar have enacted or proposed dedicated gig worker welfare legislations establishing state welfare boards, transaction-based welfare levies, and grievance redressal mechanisms.

This paper examines whether such state enactments constitute permissible supplementation within the concurrent legislative field or whether they risk constitutional invalidity through repugnancy under Article 254 of the Constitution of India. Drawing upon the occupied field doctrine and Supreme Court jurisprudence on legislative inconsistency, the study argues that constitutional repugnancy arises only where there is direct and irreconcilable conflict between central and state law. Given the partial operationalisation of the central framework, it is difficult to conclude that Parliament has conclusively occupied the field of gig worker social security.

At the policy level, however, divergent state contribution models, compliance obligations, and welfare delivery mechanisms create regulatory fragmentation in a digitally integrated labour market. The paper concludes that while state laws presently operate as supplementary welfare regimes, long-term coherence requires harmonised central rule-making and cooperative federal coordination to ensure portability, fiscal clarity, and regulatory certainty in India's evolving platform economy.

Keywords: Gig Economy; Platform Labour Regulation; Social Security Law; Code on Social Security, 2020; Concurrent Legislative Powers; Article 254 of the Constitution of India; Repugnancy Doctrine

I. Introduction

Rise of the Gig Economy in India

The rapid digitisation of commerce and services has fundamentally restructured India's labour market. Digital platforms facilitating ride-hailing, food delivery, logistics, home services and freelance professional work have expanded at scale, enabling task-based engagements mediated through algorithmic allocation rather than traditional contracts of employment[1]. This structural shift enhances flexibility and market access, yet simultaneously destabilises employment-based labour regulation by decoupling work from the conventional employer-employee relationship that forms the foundation of statutory protection[2].

Policy estimates indicate that India's gig workforce stood at approximately 6.8 million in 2019–20 and is projected to grow to 23.5 million by 2029–30[3]. As one of the largest platform-based labour markets globally, India illustrates the scale at which digitally mediated work has become economically significant. However, labour legislation in India has historically hinged upon judicially developed tests of control, supervision, and economic dependency to determine employment status[4]. Workers classified as independent contractors fall outside statutory regimes governing minimum wages, provident fund contributions, maternity benefits, employment injury compensation, and collective bargaining protections[5]. The gig economy therefore exposes the limitations of relationship-centric labour law in addressing non-standard and technologically mediated work arrangements.

The regulatory gap surrounding gig labour has generated sustained academic and policy debate regarding whether platform workers constitute a distinct category warranting sui generis protection[6]. Internationally, the International Labour Organization has underscored the need to

[1] Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdwork, and Labour Protection in the "Gig-Economy"' (2016) 37 Comp Lab L & Pol'y J 471.
[2] Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (OUP 2018).
[3] NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022).
[4] *Dharangadhara Chemical Works Ltd v State of Saurashtra* AIR 1957 SC 264; *Silver Jubilee Tailoring House v Chief Inspector of Shops* (1974) 3 SCC 498.
[5] Employees' Provident Funds and Miscellaneous Provisions Act 1952; Code on Wages 2019.
[6] Guy Davidov, 'The Status of Uber Drivers: A Purposive Approach' (2017) 23 Spanish Labour Law and

recalibrate social protection systems to accommodate digital labour platforms and other non-standard forms of work[7]. India's legislative response must be understood against this global shift in labour governance.

Recognition under the Code on Social Security, 2020

The Code on Social Security, 2020 (CSS) marked a watershed moment in Indian labour law reform by statutorily recognising "gig workers" and "platform workers" as distinct categories under sections 2(35) and 2(61) respectively[8]. For the first time, Parliament acknowledged workers operating outside the traditional employment matrix while nonetheless requiring social security coverage. The Code empowers the Central Government to frame schemes relating to life and disability cover, accident insurance, health and maternity benefits, and old-age protection[9]. It further provides for the creation of a Social Security Fund and the constitution of a National Social Security Board to recommend welfare measures[10]. Section 113 mandates a centralised database of unorganised, gig and platform workers, operationalised through the e-Shram portal[11].

The CSS thus represents a conceptual shift from relationship-based protection to category-based welfare coverage. Although enacted in 2020, key schemes and contribution mechanisms remain pending operationalisation[12]. The present analysis treats this implementation status as a structural background condition, the constitutional consequences of which are examined in subsequent sections.

Emergence of State-Specific Gig Worker Legislations

Parallel to the central framework, several States have enacted or proposed standalone legislations regulating gig and platform work. Notable examples include the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023; the Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025; the Jharkhand Platform

Employment Relations Journal 6.

[7] International Labour Organization, *World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work* (ILO 2021).

[8] Code on Social Security 2020, ss 2(35), 2(61).

[9] ibid s 114.

[10] ibid ss 6, 109.

[11] ibid s 113.

[12] Ministry of Labour and Employment, Government of India, Notifications relating to Labour Codes (2020–2024).

Based Gig Workers (Registration and Welfare) Bill, 2024 and proposed frameworks in Telangana and Bihar[13].

These enactments generally provide for the following:

a. Mandatory registration of gig workers and aggregators;

b. Constitution of state-level welfare boards;

c. Imposition of transaction-based welfare fees on aggregators;

d. Structured grievance redressal mechanisms;

e. Procedural safeguards concerning termination or deactivation;

f. Data reporting and compliance obligations through state-administered systems[14].

While framed as welfare measures, these statutes extend beyond social assistance into regulatory governance of platform conduct. By imposing fiscal contributions, monitoring transactions, and regulating deactivation practices, state legislations reshape the operational architecture of digital platforms within their territories. In light of the same, it is pertinent to observe that labour is enumerated in the Concurrent List (List III) of the Seventh Schedule to the Constitution of India, permitting both Parliament and State Legislatures to enact laws relating to labour welfare and social security[15]. And that Article 254 provides that where a state law is repugnant to a Parliamentary enactment on a Concurrent List subject, the central law prevails to the extent of inconsistency[16].In light of the statutory recognition of gig and platform workers under the CSS and the proliferation of state-specific welfare regimes, a foundational constitutional question arises:

> *Can state gig worker legislations coexist with the Code on Social Security, 2020 as supplementary welfare measures within a cooperative federal framework, or do they*

[13] Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023; Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance 2025; Jharkhand Platform Based Gig Workers (Registration and Welfare) Bill 2024; Telangana Gig and Platform Workers (Registration, Social Security and Welfare) Bill 2025; Bihar Platform Based Gig Workers (Registration, Social Security and Welfare) Bill 2025.
[14] ibid (respective provisions on registration, welfare fee, grievance redressal and compliance reporting).
[15] Constitution of India 1950, Seventh Schedule, List III, Entries 23 and 24.
[16] Constitution of India 1950, art 254; M Karunanidhi v Union of India (1979) 3 SCC 431.

generate repugnancy under Article 254 and risk regulatory dissonance?

This inquiry implicates not merely labour policy but the constitutional architecture of Indian federalism. It also needs to be examined several questions such as whether the CSS occupies the legislative field relating to gig worker welfare, whether state-imposed welfare fees and compliance mechanisms create inconsistency, and whether the evolving regulatory architecture reflects cooperative federalism or emergent fragmentation in digital labour governance.

These questions have been discussed in eight parts further. Section II develops the conceptual background of gig work and examines the doctrinal limitations of traditional employer–employee tests in regulating platform-mediated labour. Section III analyses the statutory architecture of the Code on Social Security, 2020, including definitions, institutional mechanisms, and the emerging e-Shram framework. Section IV surveys state-level gig worker legislations and compares their regulatory models. Section V examines the constitutional framework governing concurrent legislative competence and the doctrine of repugnancy. Section VI evaluates whether state enactments supplement or conflict with the central framework, focusing on the occupied field doctrine and the potential problem of cumulative contributions. Section VII assesses broader policy implications arising from regulatory fragmentation, including compliance burdens, portability concerns, and the innovation–protection debate. Section VIII concludes by arguing for coordinated rule-making and a cooperative federal framework to ensure regulatory coherence in India's evolving gig economy.

II. Conceptual Background

Nature of Gig Work

The gig economy marks a structural departure from conventional industrial employment, replacing continuous contracts of service with platform-mediated, task-based engagements. Digital intermediaries, commonly termed as aggregators allocate work through algorithmic systems that match consumer demand with a dispersed labour pool[17]. Gig work is typically characterised by flexible scheduling, absence of guaranteed income, rating-based performance evaluation, and dynamic pricing[18].

[17] Valerio De Stefano, 'The Rise of the "Just-in-Time Workforce": On-Demand Work, Crowdwork, and Labour Protection in the "Gig-Economy"' (2016) 37 Comp Lab L & Pol'y J 471.
[18] Jeremias Prassl, *Humans as a Service: The Promise and Perils of Work in the Gig Economy* (OUP 2018).

Although workers retain formal autonomy over whether and when to accept tasks, this autonomy is mediated by algorithmic governance. Platforms influence allocation, pricing, incentives, visibility, and, in certain instances, deactivation through data-driven systems[19]. The resulting power asymmetry has also prompted scholarly critique that nominal independence may conceal functional economic dependency on platform infrastructure[20].

Employer–Employee Test: Doctrinal Limitations

Indian labour protections have traditionally been anchored in the existence of an employer–employee relationship. Courts have applied multiple tests, including control and supervision, integration, and economic dependency to distinguish a contract of service from a contract for service[21]. In *Dharangadhara Chemical Works Ltd v State of Saurashtra*, the Supreme Court emphasised the centrality of control[22], while in *Silver Jubilee Tailoring House v Chief Inspector of Shops*, it adopted a more pragmatic, multi-factor approach[23].

Despite doctrinal flexibility, these tests are structurally strained in the platform economy. Gig platforms frequently classify workers as independent contractors and avoid conventional supervisory hierarchies. Control, where exercised, is embedded in algorithmic systems that regulate performance metrics, acceptance rates, incentives, and reputational scoring rather than through direct managerial oversight[24]. This dispersed and data-driven form of governance complicates the application of jurisprudential tests developed in industrial contexts.

Further, gig workers commonly supply their own assets and operate across multiple platforms, reinforcing the appearance of entrepreneurial independence[25]. The absence of exclusivity and identifiable workplace establishments weakens the indicia traditionally used to establish employment status. Consequently, gig workers often remain outside statutory frameworks such as the Employees' Provident Funds and Miscellaneous Provisions Act 1952, the Employees' State Insurance Act 1948, and the Industrial Disputes Act 1947[26]. The result is a structural

[19] International Labour Organization, *World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work* (ILO 2021).
[20] Guy Davidov, 'The Status of Uber Drivers: A Purposive Approach' (2017) 23 Spanish Labour Law and Employment Relations Journal 6.
[21] *Hussainbhai v Alath Factory Thezhilali Union* (1978) 4 SCC 257.
[22] *Dharangadhara Chemical Works Ltd v State of Saurashtra* AIR 1957 SC 264.
[23] *Silver Jubilee Tailoring House v Chief Inspector of Shops* (1974) 3 SCC 498.
[24] Prassl (n 2); ILO (n 3).
[25] NITI Aayog, *India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work* (2022).
[26] Employees' Provident Funds and Miscellaneous Provisions Act 1952; Employees' State Insurance Act 1948;

exclusion, i.e., workers who may be economically dependent on platform ecosystems are nevertheless categorised as independent contractors in law.

Why Traditional Labour Law Failed Gig Workers?

The inadequacy of traditional labour law in addressing gig work arises from its conceptual reliance on the standard employment relationship. Indian labour statutes were historically designed for factory-based and establishment-centric models characterised by stable contracts, fixed wages, and clearly identifiable employers[27]. Protections are triggered by the existence of employment status rather than by the presence of economic vulnerability[28].

Platform-mediated work disrupts these assumptions in three principal ways. First, the relationship-centric design of labour law excludes workers who, despite income volatility and limited bargaining power, cannot satisfy formal employment tests. Second, digital labour decentralises regulatory accountability by structuring platforms as intermediaries in contractual documentation, thereby complicating the attribution of employer obligations[29]. Third, enforcement mechanisms premised on physical inspection, registers, and territorially bounded establishments are ill-equipped to regulate digitally dispersed workforces operating across jurisdictions[30].

Recognising these limitations, the Code on Social Security, 2020 introduced a category-based welfare model for gig and platform workers, decoupling social security from strict employer-employee classification[31]. This conceptual shift reflects an acknowledgment that digital labour governance cannot be coherently addressed through legacy employment doctrines alone. At the same time, the coexistence of category-based welfare schemes with traditional employment-based protections introduces new doctrinal and constitutional questions, particularly when state legislatures adopt parallel regulatory frameworks.

A clear understanding of these structural and doctrinal constraints is essential to evaluating whether India's emerging gig worker regime represents coherent adaptation or regulatory

Industrial Disputes Act 1947.
[27] Code on Wages 2019; Industrial Disputes Act 1947.
[28] Davidov (n 4).
[29] De Stefano (n 1).
[30] ILO (n 3).
[31] Code on Social Security 2020, ss 2(35), 2(61), 114.

divergence within the constitutional distribution of powers.

Comparative Approaches to Platform Worker Regulation

Comparative regulatory developments demonstrate that several jurisdictions have begun to reconsider the traditional classification of platform workers as independent contractors. Courts and legislatures have increasingly examined the substantive economic realities of platform-mediated labour rather than contractual labels, reflecting a broader shift in labour governance.

In the United Kingdom, the Supreme Court in *Uber BV v Aslam*[32] held that Uber drivers qualify as "workers" under the Employment Rights Act 1996. The Court emphasised that contractual terms drafted by the platform cannot be determinative where the practical relationship reveals substantial control over remuneration, performance monitoring, and access to work. By focusing on economic dependency and platform control, the judgment recognised that algorithmic management may constitute functional supervision even in the absence of traditional managerial hierarchy. The decision therefore extended statutory protections such as minimum wage and paid leave to platform drivers, signalling judicial willingness to reinterpret employment concepts in the digital economy.

At the legislative level, the European Union has adopted the EU Platform Work Directive to address structural precarity in platform labour markets[33]. The Directive introduces a rebuttable presumption of employment where platforms exercise specified indicators of control, including determination of remuneration, supervision of performance, and restriction of worker autonomy. It also establishes transparency obligations for algorithmic management systems and grants workers' rights to information and human oversight of automated decision-making. Rather than relying solely on post-facto litigation, the Directive seeks to create a harmonised regulatory framework across Member States by codifying criteria for employment classification and algorithmic accountability.

These comparative developments reveal two broad regulatory pathways. The United Kingdom model relies on judicial reinterpretation of existing labour law categories, while the European Union has moved toward legislative restructuring of employment classification and platform

[32] *Uber BV v Aslam* [2021] UKSC 5, [2021] ICR 657.
[33] Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work [2024] OJ L 2831.

governance. Both approaches attempt to address the gap between formal contractual independence and substantive economic dependency in platform labour markets.

India's regulatory trajectory differs in that the Code on Social Security, 2020 does not reclassify gig workers as employees but instead adopts a category-based welfare model extending social security benefits without altering contractual status. This distinctive approach reflects a policy choice to balance labour protection with platform flexibility. However, as state-level legislations introduce additional welfare obligations and procedural safeguards, the Indian framework increasingly raises questions not only of labour classification but also of constitutional coordination within the federal structure.

III. The Code on Social Security, 2020

Definition of Gig and Platform Workers

The Code on Social Security, 2020 (CSS) constitutes the first comprehensive statutory recognition of gig and platform workers within India's labour law framework. Section 2(35) defines a "gig worker" as a person who performs work or participates in a work arrangement and earns from such activities outside a traditional employer–employee relationship[34]. Section 2(60) defines "platform work" as work arrangements outside a traditional employment relationship facilitated through an online platform, and section 2(61) defines a "platform worker" accordingly[35].

These provisions are significant for two reasons. First, they decouple social security eligibility from formal employment status. Second, they recognise digital intermediation as a distinct organisational mode of labour. Unlike earlier statutes grounded in employment classification, the CSS adopts a category-based welfare approach, expanding the reach of social security to workers operating beyond conventional contracts of service[36].

Importantly, the Code does not reclassify gig or platform workers as "employees." Rather, it preserves their independent contractual status while creating a parallel welfare mechanism[37]. This legislative design reflects calibrated recognition, extending protection without disturbing

[34] Code on Social Security 2020, s 2(35).
[35] ibid ss 2(60), 2(61).
[36] ibid s 114.
[37] ibid s 2(35); see also Ministry of Labour and Employment, *Statement of Objects and Reasons, Code on Social Security Bill 2019*.

the foundational architecture of employment law.

Social Security Fund

A central pillar of the CSS is the establishment of a Social Security Fund for unorganised, gig, and platform workers. Section 109 mandates that the Central Government establish such a fund for welfare purposes[38]. The Fund may receive contributions from aggregators, government grants, corporate social responsibility allocations, and other prescribed sources[39].

Section 114 empowers the Central Government to frame schemes relating to life and disability cover, accident insurance, health and maternity benefits, and old-age protection for gig and platform workers[40]. The Code does not fix a statutory contribution percentage for aggregators; instead, it delegates this determination to subordinate rule-making.

The structure reflects a centralised pooling mechanism aimed at national-level administration of benefits. Unlike state-level transaction-based welfare levies linked to territorial operations, the CSS model contemplates a unified funding architecture. The constitutional and fiscal implications of potential overlap between these models are addressed in later sections.

National Social Security Board

The CSS provides for institutional oversight through the National Social Security Board for Unorganised Workers, Gig Workers and Platform Workers[41]. The Board is tasked with recommending appropriate schemes, advising on implementation, and facilitating coordination between stakeholders[42].

Its composition includes representatives of the Central Government, State Governments, aggregators, and worker groups[43]. This multi-stakeholder framework suggests that Parliament envisaged structured coordination rather than unilateral regulation. The statutory design suggests that the central legislature intended to create a unified national framework for gig worker welfare. The Board's advisory and recommendatory functions further indicate that

[38] Code on Social Security 2020, s 109.
[39] ibid s 109(2).
[40] ibid s 114.
[41] ibid s 6.
[42] ibid s 6(6).
[43] ibid s 6(3).

Parliament contemplated coordinated implementation rather than fragmented regulatory experimentation. Whether state-level welfare boards supplement or undermine this institutional architecture remains a central issue of analysis.

The e-Shram Framework

Section 113 mandates the creation of a comprehensive database of unorganised, gig, and platform workers[44]. In furtherance of this mandate, the Government operationalised the eShram portal, assigning registered workers a Universal Account Number (UAN) linked to Aadhaar-based identification[45].

The digital registry integrates access to selected welfare schemes, including accident insurance under the Pradhan Mantri Suraksha Bima Yojana and health coverage through Ayushman Bharat Pradhan Mantri Jan Arogya Yojana[46]. The framework aims to provide a unified interface for worker identification and benefit delivery.

The portability objective is particularly significant in the context of gig work, which is inherently mobile and not territorially confined. By centralising worker registration and benefit tracking, the CSS framework aspires to overcome the jurisdictional limitations of state-based welfare regimes. However, the introduction of state-specific unique identification systems and independent welfare funds raises concerns regarding interoperability and duplication of registration requirements.

Implementation Status and the Non-Notification Issue

Along with the other labour codes, the Code on Social Security, 2020 went into effect in November 2025 after receiving presidential assent in September 2020. Gig and platform workers are officially recognized under the Code, and Section 114 allows for the creation of social security plans for them that include contributions from aggregators. [47]Nonetheless, subordinate legislation and phased rule-making are still used to implement a number of operational aspects, such as the intricate structure of welfare programs and the mechanisms for aggregator contributions however, complete operationalization of these provisions is still

[44] ibid s 113.
[45] Ministry of Labour and Employment, Government of India, eShram Portal Framework (2021).
[46] Ayushman Bharat Pradhan Mantri Jan Arogya Yojana; Pradhan Mantri Suraksha Bima Yojana.
[47] Ministry of Labour and Employment, Government of India, Draft Rules under the Code on Social Security (2020–2024).

developing, despite the issuance of draft rules and consultations.

In this regard, it is important to remember that in *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India*,[48] the Supreme Court expressed concern over delays in operationalizing the statutory framework and requested responses from the Union Government regarding the implementation of social security protections for gig and platform workers. The Court is still considering the case at this time. As a result, even though the Code on Social Security, 2020 provides the legal framework for gig worker welfare at the federal level, its partial operationalization has resulted in a complicated regulatory environment where issues of overlap, repugnancy, and supplementation have gained constitutional significance.

IV. State-Level Gig Worker Legislations

Several States have enacted or proposed standalone welfare regimes governing platform-based gig workers. Prominent examples include the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, the Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025, the Jharkhand Platform Based Gig Workers (Registration and Welfare) Bill, 2024, the Telangana Gig and Platform Workers (Registration, Social Security and Welfare) Bill, 2025, and the Bihar Platform Based Gig Workers (Registration, Social Security and Welfare) Bill, 2025[49].

While these frameworks share the objective of extending social security protection, they differ significantly in fiscal design, institutional structure, compliance intensity, and dispute resolution architecture. This divergence introduces questions not merely of policy variation but of constitutional coordination within the Concurrent List.

While analysing the above state specific legislations, certain common elements are observable namely:

a. **Mandatory Registration:** Aggregators are required to furnish comprehensive databases of gig workers to State Welfare Boards, which in turn generate state-specific

[48] Indian Federation of App-Based Transport Workers v Union of India Writ Petition (Civil) No 1068 of 2021 (SC, pending).

[49] Rajasthan Platform Based Gig Workers (Registration and Welfare) Act 2023; Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance 2025; Jharkhand Platform Based Gig Workers (Registration and Welfare) Bill 2024; Telangana Gig and Platform Workers (Registration, Social Security and Welfare) Bill 2025; Bihar Platform Based Gig Workers (Registration, Social Security and Welfare) Bill 2025.

unique identification numbers[50].

b. **Creation of Welfare Boards:** Each statute establishes or proposes a state-level board responsible for administration of welfare schemes and monitoring compliance[51].

c. **Transaction Monitoring Systems:** Payments generated through digital platforms are required to be mapped onto state-administered verification or management systems (such as PWFVS, CTIMS, WFFVS, or MIS)[52].

d. **Welfare Fund Contribution:** Aggregators are mandated to contribute a percentage-based welfare fee calculated on transaction value or payout to gig workers[53].

e. **Grievance Redressal Mechanisms:** Most states provide for internal dispute resolution committees and/or government-appointed grievance officers[54].

Thus, although structurally similar, the intensity of regulatory obligations varies across jurisdictions. The absence of uniform design standards produces differentiated compliance regimes, thereby foregrounding the constitutional question of harmonisation within a shared legislative field.

Welfare Fee Models

A defining feature of state-level legislation is the imposition of a transaction-based welfare fee on aggregators. Rajasthan provides for a welfare fee to be levied at a rate notified by the State Government on the value of each transaction related to platform-based gig workers[55]. Karnataka prescribes a welfare fee ranging between one to five percent of the payout to gig workers per transaction, as notified[56]. Telangana stipulates a welfare fee between one and two percent of payouts[57]. Similar percentage-based models are contemplated in Jharkhand and Bihar[58].

[50] Rajasthan Act 2023, s 8; Karnataka Ordinance 2025, s 10; Jharkhand Bill 2024, s 12; Telangana Bill 2025, s 10.
[51] Rajasthan Act 2023, ch III; Karnataka Ordinance 2025, ch III; Telangana Bill 2025, ch III.
[52] Karnataka Ordinance 2025, s 21; Rajasthan Act 2023, s 18; Jharkhand Bill 2024, s 25; Telangana Bill 2025, s 20.
[53] Rajasthan Act 2023, s 11; Karnataka Ordinance 2025, s 20; Telangana Bill 2025, s 19.
[54] Karnataka Ordinance 2025, s 22; Jharkhand Bill 2024, s 18; Telangana Bill 2025, s 23; Rajasthan Act 2023, s 14.
[55] Rajasthan Act 2023, s 11.
[56] Karnataka Ordinance 2025, s 20.
[57] Telangana Bill 2025, s 19.
[58] Jharkhand Bill 2024, s 14; Bihar Bill 2025, s 22.

These welfare fees are credited to state-specific welfare funds administered by the respective Boards. Non-payment attracts interest often at twelve percent per annum and substantial monetary penalties[59]. Telangana further contemplates imprisonment for failure to comply with payment obligations[60].

The decentralised fiscal design contrasts with the Social Security Fund mechanism envisaged under section 109 of the Code on Social Security, 2020, which contemplates a centralised fund with contributions from aggregators to be determined by rules framed by the Central Government[61]. The coexistence of central and state contribution models raises potential concerns regarding overlapping financial liabilities and the doctrine of occupied field, which is examined in subsequent sections.

Termination Protections and Contractual Safeguards

Unlike the Code on Social Security, 2020, state enactments regulate deactivation and termination procedures.

Karnataka mandates specification of termination grounds within contracts and requires fourteen days' prior notice with written reasons, subject to natural justice[62]. Immediate termination is restricted to exceptional circumstances[63]. Jharkhand and Telangana similarly require prior notice and reasoned justification, with limited exceptions[64].

These provisions introduce statutory procedural safeguards into relationships otherwise governed by contract law. However, three concerns emerge firstly there exists no uniform evidentiary standards are prescribed for reviewing termination decisions. Secondly, the interaction with arbitration clauses commonly used by aggregators remains unclear and thirdly, the classification of gig workers as non-employees creates ambiguity regarding applicability of broader labour adjudicatory protections.

By regulating contractual termination in a field not expressly covered by the CSS, states arguably occupy adjacent terrain, raising questions about whether such intervention constitutes

[59] Rajasthan Act 2023, s 16; Jharkhand Bill 2024, s 20.
[60] Telangana Bill 2025, s 25.
[61] Code on Social Security 2020, s 109.
[62] Karnataka Ordinance 2025, s 14.
[63] Jharkhand Bill 2024, s 16.
[64] Telangana Bill 2025, s 13.

legitimate supplementation or indirect reclassification through procedural burdens.

Grievance Redressal Mechanisms

Most state frameworks mandate Internal Dispute Resolution Committees (IDRCs) at the aggregator level, with appellate review before Welfare Boards or designated authorities[65]. Telangana additionally permits arbitration and reference to remedies under the Industrial Disputes Act, 1947[66]. Rajasthan adopts a more centralised grievance filing system before state officers[67].

While these mechanisms enhance accessibility, they generate multiplicity in three ways namely:

a. Different threshold requirements (50 workers, 100 workers, etc.).

b. Differing appellate hierarchies.

c. No clear integration with existing labour courts or industrial tribunals.

This fragmentation may produce forum overlap and procedural uncertainty, particularly where disputes implicate wage classification or employment status. Parallel dispute resolution channels layered over central labour adjudicatory structures may implicate institutional inconsistency within the Concurrent List framework.

Compliance Obligations and Reporting Requirements

State statutes impose detailed compliance mandates, including quarterly or annual returns, transaction-level reporting, API integration with state monitoring systems, and maintenance of worker databases[68]. Penalties vary widely, Rajasthan prescribes fines up to ₹50 lakh for repeated violations[69], Jharkhand provides for graded fines with daily continuing penalties[70] while, Telangana authorises imprisonment for certain defaults[71].

[65] Karnataka Ordinance 2025, s 22.
[66] Telangana Bill 2025, s 23; Industrial Disputes Act 1947.
[67] Jharkhand Bill 2024, s 18.
[68] Rajasthan Act 2023, s 14.
[69] Rajasthan Act 2023, s 17.
[70] Jharkhand Bill 2024, s 21.
[71] Telangana Bill 2025, s 25.

In the above context three structural flaws warrant attention namely firstly, the technological Fragmentation which includes multiple state-level digital integration systems may create duplicative compliance infrastructure. Secondly, no Inter-State Adjustment Mechanism which entails that there is no statutory formula for reconciling contributions where workers operate across states and thirdly the absence of Clear Conflict Clauses this basically means that most statutes do not explicitly address interaction with central legislation, leaving repugnancy to judicial determination.

The accumulation of compliance burdens across jurisdictions produces a layered regulatory environment that intensifies the constitutional inquiry into whether state experimentation remains supplementary or crosses into regulatory fragmentation.

State legislations represent a proactive attempt to institutionalise gig worker welfare beyond the foundational recognition provided by the Code on Social Security, 2020. They expand protections through fiscal levies, procedural safeguards, and enforcement mechanisms.

However, variation in welfare fee percentages, reporting architectures, termination safeguards, and grievance models produces a non-uniform regulatory landscape. The central constitutional issue is not the legitimacy of welfare objectives, but whether the cumulative divergence results in repugnancy under Article 254 or remains permissible supplementation within the Concurrent List[72]. This tension becomes more pronounced when examined alongside the implementation trajectory of the central Code, that is addressed in the next section.

V. Constitutional Framework

The constitutional permissibility of state-level gig worker legislations must be examined within the framework of legislative competence under Article 246 of the Constitution of India and the doctrine of repugnancy under Article 254. Since labour is situated in the Concurrent List, both Parliament and State Legislatures possess the authority to enact laws in this domain. However, the coexistence of central and state enactments is subject to constitutional limitations designed to preserve legislative harmony.

Article 246 and Entries 23–24, List III

Article 246 distributes legislative powers between Parliament and State Legislatures based on

[72] Constitution of India 1950, art 254.

the Seventh Schedule[73]. Labour welfare, social security, and industrial relations fall within the Concurrent List (List III), thereby enabling both levels of government to legislate on matters concerning workers' rights and welfare[74].

The Code on Social Security, 2020 (CSS) has been enacted by Parliament in exercise of this concurrent competence[75]. Similarly, state-level gig worker legislations have been enacted under entries pertaining to labour welfare and social security in List III. Therefore, prima facie, States possess legislative competence to enact welfare measures for gig workers. Thus, legislative competence is not seriously in dispute. The critical question is whether the state enactments are constitutionally compatible with the central framework.

Article 254 – Doctrine of Repugnancy

Article 254(1) provides that where a state law is inconsistent with a central law enacted under the Concurrent List, the central law shall prevail to the extent of inconsistency[76]. Article 254(2) creates an exception where a state law, having received Presidential assent, may prevail within that state notwithstanding inconsistency, unless subsequently overridden by Parliament[77].

The doctrine of repugnancy is thus triggered only when three conditions are satisfied:

1. Both laws relate to a matter in the Concurrent List;

2. There exists an actual inconsistency or conflict;

3. Both laws occupy the same legislative field.

The Supreme Court has consistently emphasised that mere possibility of overlap does not constitute repugnancy; there must be direct inconsistency such that compliance with one law results in violation of the other[78].

In the context of gig worker legislation, repugnancy may be alleged if state laws may impose additional financial contributions beyond the aggregator contribution framework under the

[73] Constitution of India 1950, art 246.
[74] Constitution of India 1950, sch VII, List III.
[75] Code on Social Security 2020.
[76] Constitution of India 1950, art 254(1).
[77] Constitution of India 1950, art 254(2).
[78] *M Karunanidhi v Union of India* (1979) 3 SCC 431

CSS or create regulatory obligations inconsistent with central rules once notified or where it establish dispute resolution structures that undermine central adjudicatory mechanisms.

However, until central rules under sections 109–114 of the CSS prescribe a definitive contribution structure, the claim that Parliament has exhaustively occupied the field remains contestable[79].

Occupied Field and Exhaustiveness

The "occupied field" doctrine applies where Parliament demonstrates intent to create a complete and exhaustive code, leaving no scope for state supplementation[80]. The CSS establishes a national Social Security Fund and empowers the Central Government to frame schemes for gig workers. Yet it does not expressly prohibit state welfare contributions, nor does it include an exclusivity clause barring additional levies.

Thus, in the above context two structural gaps are relevant namely firstly it is to be noted that the CSS does not presently fix a mandatory aggregator contribution percentage and secondly, that it does not regulate termination safeguards or internal dispute resolution for gig workers.

In these domains, states arguably legislate in areas not fully operationalised at the central level. Whether such supplementation remains permissible once detailed central rules are notified is a question of future constitutional evaluation.

Articles 301 and 304: Freedom of Trade and Commerce

An additional constitutional dimension arises from Part XIII of the Constitution, which guarantees the freedom of trade, commerce and intercourse throughout the territory of India. Article 301 declares that trade and commerce across the country shall remain free, subject to the regulatory powers of Parliament and the States under Articles 302–304.

State-level gig worker legislations commonly impose a welfare contribution or transaction-based levy on aggregators, calculated as a percentage of the value of each platform transaction. While such levies are justified as social welfare measures for gig workers, they may invite

[79] Code on Social Security 2020, ss 109–114 (gig worker provisions pending operational rules).
[80] Constitution of India 1950, art 254(1).

scrutiny under Article 301 if they are characterised as restrictions on the free flow of commerce across states.

The Supreme Court's jurisprudence has distinguished between regulatory or compensatory measures and restrictions that impede trade. In *Atiabari Tea Co Ltd v State of Assam*[81], the Court held that a levy which directly restricts the movement of trade may violate Article 301 unless justified under Article 304. Subsequently, in *Automobile Transport (Rajasthan) Ltd v State of Rajasthan*[82], the Court clarified that regulatory or compensatory taxes that facilitate trade infrastructure or social regulation may be constitutionally permissible, even if they incidentally affect commercial activity.

Applying this understanding to gig worker legislation, two questions become relevant to ponder upon that is:

a. First, whether state welfare contributions imposed on platform transactions constitute a tax or regulatory charge affecting interstate commerce?

b. Second, whether such levies impose a discriminatory or protectionist burden on digital platforms operating across multiple states?

Article 304(a) permits states to impose taxes on goods imported from other states so long as they do not discriminate against interstate trade, while Article 304(b) allows reasonable restrictions in the public interest, subject to Presidential sanction for the enabling legislation[83]. If welfare contributions are interpreted as fiscal measures affecting interstate digital commerce, states may need to demonstrate that such levies serve a legitimate public interest objective and do not create protectionist barriers against platforms operating across state borders.

However, the argument that gig worker welfare contributions violate Article 301 is not straightforward. This is because platform-based services are typically digitally mediated and territorially diffused, making it difficult to characterise welfare contributions as restrictions on the physical movement of goods or trade routes, the primary concern in classical Article 301 jurisprudence. Moreover, where the levy operates as a social welfare contribution linked to

[81] *Atiabari Tea Co Ltd v State of Assam* AIR 1961 SC 232, (1961) 1 SCR 809.
[82] *Automobile Transport (Rajasthan) Ltd v State of Rajasthan* AIR 1962 SC 1406, (1963) 1 SCR 491.
[83] Article 304 of the Constitution of India (a)-(b).

labour protection, courts may treat it as a regulatory measure rather than a trade barrier.

Nevertheless, if different states impose divergent transaction-based welfare levies on platform aggregators, cumulative compliance costs could potentially create indirect barriers to nationwide digital commerce. In such circumstances, constitutional challenges may arise alleging that fragmented state-level fiscal regimes undermine the uniformity of the national digital market.

Although this argument has not yet been judicially tested in the context of gig worker regulation, Articles 301 and 304 provide an additional constitutional lens through which state welfare levies on digital platform transactions may be evaluated in future litigation. This dimension reinforces the importance of maintaining regulatory coordination between central and state frameworks in the evolving governance of the gig economy.

Article 254(2) and Presidential Assent in Practice

A crucial but often overlooked dimension concerns Article 254(2). If a state law inconsistent with a central enactment receives Presidential assent, it may prevail within that State notwithstanding repugnancy, unless Parliament subsequently enacts overriding legislation[84].

Accordingly, two practical questions arise:

a. **Have the relevant state gig worker enactments received Presidential assent?**

   For addressing this question, it is important to note that the Rajasthan Act, having been enacted as legislation, required gubernatorial assent and may have been reserved for Presidential consideration depending on perceived overlap with central law. Ordinances (such as Karnataka's) do not automatically enjoy Article 254(2) protection unless later enacted as legislation and, where necessary, reserved. Bills pending enactment (Jharkhand, Telangana, Bihar) would require Presidential assent if repugnancy concerns arise.

b. **What is the constitutional consequence?**

   With regards to the above question, it is to be noted that if presidential assent has been

[84] Constitution of India 1950, art 254(2).

validly obtained after consideration of potential repugnancy, the State law would prevail within that State even if inconsistent with the CSS. If assent has not been obtained in circumstances requiring reservation, the State law would be void to the extent of repugnancy under Article 254(1). Therefore, this inquiry is fact-sensitive and requires examination of the legislative history and assent records of each enactment. The absence of clarity on Presidential assent constitutes a significant constitutional variable in assessing validity. It is pertinent to note that the Supreme Court has articulated the principles governing repugnancy in a consistent line of authority. In *Deep Chand v State of Uttar Pradesh*[85], the Court held that repugnancy arises when there is direct conflict, when Parliament intends to occupy the whole field, or when the two enactments are irreconcilable. In *M Karunanidhi v Union of India*[86], the Court laid down a fourfold test:

1. Whether there is direct inconsistency between the two laws;
2. Whether such inconsistency is irreconcilable;
3. Whether both laws occupy the same field;
4. Whether the central law was intended to be exhaustive.

Thus, the Court emphasised that every effort must be made to harmonise both enactments before declaring repugnancy. Similarly, in *Zaverbhai Amaidas v State of Bombay*[87], the Court held that even if the state law is within competence, it becomes void to the extent of repugnancy once Parliament legislates on the same matter. More recently, the Court has reaffirmed the principle of harmonious construction in concurrent legislation, holding that repugnancy must be clear and unavoidable rather than speculative[88]. Applied to gig worker legislation, these precedents suggest that repugnancy would arise only if:

a. The CSS explicitly prescribes a uniform, exclusive aggregator contribution regime;
b. State-imposed welfare fees directly contradict or nullify central provisions; or

[85] *Deep Chand v State of Uttar Pradesh* AIR 1959 SC 648
[86] *M Karunanidhi v Union of India* (1979) 3 SCC 431.
[87] *Zaverbhai Amaidas v State of Bombay* AIR 1954 SC 752.
[88] *State of Kerala v Mar Appraem Kuri Co Ltd* (2012) 7 SCC 106.

c. Parliament demonstrates clear intent to create an exhaustive framework precluding state supplementation.

Structural Constitutional Tensions

Against the above discussed backdrop three constitutional fault lines emerge namely:

a. **Double Contribution Risk:** This includes that if central rules prescribe aggregator contributions without crediting state welfare fees, cumulative levies may generate irreconcilable financial obligations.

b. **Institutional Fragmentation:** Which pertains to multiple grievance and adjudicatory systems may undermine uniform labour governance.

c. **Assent Uncertainty:** This provides that the constitutional status of state enactments may hinge on whether Presidential assent under Article 254(2) was properly obtained.

These tensions do not automatically invalidate state legislation but signal areas where future central notification or parliamentary override could crystallise repugnancy. Parliament and State Legislatures both possess authority under Entries 23 and 24 of List III to legislate on gig worker welfare. The present constitutional inquiry is not one of competence but of compatibility. In the current regulatory posture, where central contribution rules remain evolving state enactments may plausibly be characterised as supplementary welfare measures. However, once the central framework becomes fully operational, the scope for constitutional friction may significantly narrow, particularly if Parliament signals an intention to create an exclusive and uniform national regime. Thus, the interplay between operationalisation, Presidential assent, and legislative intent will ultimately determine whether state gig worker statutes withstand repugnancy scrutiny.

VI. Do State Laws Supplement or Conflict?

The constitutional sustainability of state-level gig worker legislations turns on whether they operate as legitimate supplementation within the Concurrent List or whether they intrude upon a field occupied by Parliament under the Code on Social Security, 2020 (CSS). This inquiry may be structured around four axes: (i) the occupied field doctrine, (ii) the double contribution problem, (iii) the fiscal character of the welfare fee, and (iv) portability versus localisation

within a potentially "complete code."

The occupied field doctrine applies where Parliament intends to create an exhaustive and exclusive framework, leaving no scope for parallel state regulation[89]. The CSS establishes a national Social Security Fund for gig and platform workers and authorises the Central Government to determine aggregator contributions and welfare schemes[90]. However, the statute does not contain an express exclusivity clause prohibiting additional state welfare contributions[91]. Nor does it explicitly declare that aggregator contributions to the central fund are intended to be the sole financial obligation in respect of gig worker welfare[92]. In *M Karunanidhi v Union of India,* the Supreme Court held that legislative intent must be discerned from text, scheme, and purpose before concluding that Parliament has occupied the field[93]. The CSS provides a framework for national social security architecture, but it does not expressly foreclose supplementary state funding mechanisms. Accordingly, absent clear textual or structural evidence of exclusivity, state enactments may be viewed as additive rather than encroaching. The constitutional friction intensifies only if the central contribution model is framed as uniform and exhaustive.

Double Contribution and the Cess Question

This is another query pertinent in the above context. It is also the most constitutionally sensitive issue concerns cumulative financial liability. The CSS contemplates aggregator contributions to a central Social Security Fund, subject to ceilings prescribed by rules[94]. State enactments impose transaction-based welfare fees payable into state-specific funds. If both regimes operate simultaneously, aggregators may incur:

1. Central contributions under the CSS; and

2. State welfare fees calculated per transaction or payout.

The question is whether such dual imposition constitutes repugnancy or merely layered fiscal regulation. If Parliament ultimately prescribes a capped, nationally uniform contribution model

[89] Constitution of India 1950, art 254.
[90] *Deep Chand v State of Uttar Pradesh* AIR 1959 SC 648.
[91] Code on Social Security 2020, ss 2(35), 2(60).
[92] Code on Social Security 2020, ss 109-114.
[93] *M Karunanidhi v Union of India* (1979) 3 SCC 431.
[94] Code on Social Security 2020, s 109.

intended to standardise financial obligations across India, additional state levies may frustrate that uniformity and trigger Article 254 conflict. Conversely, if the central framework establishes minimum contributions without prohibiting supplementary state measures, dual obligations may survive as complementary welfare financing under Entries 23 and 24 of List III. The constitutional analysis, therefore hinges on whether the central contribution mechanism is interpretively characterised as exhaustive or baseline.

Is the Welfare Fee a Tax, Fee, or Cess?

A deeper fiscal constitutional dimension arises from the characterisation of the state-imposed welfare fee. Its validity may depend on whether it is properly classified as a regulatory fee or a cess linked to welfare objectives**,** or tax in substance**.**

If characterised as a regulatory fee, it must satisfy the doctrine of quid pro quo or at least demonstrate a reasonable correlation between levy and welfare benefit. The Supreme Court has distinguished fees from taxes on the basis of compensatory or regulatory nexus[95]. If treated as a cess earmarked for labour welfare, it may fall within Entries 23 or 24 of List III as an incident of labour welfare regulation.

However, if the levy is found to be primarily revenue-generating without direct regulatory nexus, it risks classification as a tax. In that scenario, the State must identify a taxing entry in List II or List III supporting such levy. Absent a specific taxing entry, reliance on residuary power under Entry 97 of List I would lie with Parliament, not the States.

This raises a subtle constitutional vulnerability particularly on two aspects that is, if the welfare fee functions substantively as a tax on digital transactions, it may exceed the regulatory competence of States under labour welfare entries and secondly, if properly structured as a welfare cess tied to identifiable worker benefits, it is more defensible as incidental to labour regulation. Thus, the constitutional fate of the welfare fee may turn not only on repugnancy but on fiscal classification.

Portability versus Localisation

The CSS envisions a nationally integrated social security architecture supported by a central

[95] *M Karunanidhi v Union of India* (1979) 3 SCC 431.

database. State enactments, by contrast, impose territorial registration, state-specific welfare boards, and transaction mapping to state systems. While territorial administration is constitutionally permissible, fragmentation creates operational asymmetry[96]. A gig worker active across multiple States may require multiple registrations and depend on distinct welfare funds.

In *State of Kerala v Mar Appraem Kuri Co Ltd***,** the Court held that repugnancy requires clear inconsistency rather than administrative inconvenience[97]. Localisation alone does not invalidate state legislation.

However, if state registration mechanisms obstruct inter-state recognition of worker identity or duplicate central contribution structures without adjustment mechanisms, functional conflict may arise not through textual contradiction but through structural incompatibility.

Is the CSS a "Complete Code"?

The classification of the CSS as a "complete code" is central to repugnancy analysis[98]. Where Parliament enacts a comprehensive and self-contained framework intended to operate uniformly across India, courts are more inclined to infer occupied field[99].

The CSS consolidates prior social security enactments and establishes a national architecture for gig worker welfare. Yet it leaves significant operational content particularly contribution percentages and scheme design to delegated legislation[100]. Completeness must be inferred not merely from structural breadth but from legislative intent to exclude parallel regimes. The CSS does not presently contain language expressly displacing state welfare funds or prohibiting additional levies.

Accordingly, while structurally comprehensive, the CSS does not unambiguously declare exclusivity. The determination of whether it evolves into a truly exhaustive code depends on the nature of central rules and subsequent parliamentary intent.

[96] Ministry of Labour and Employment, Government of India, 'eShram Portal'.
[97] *State of Kerala v Mar Appraem Kuri Co Ltd* (2012) 7 SCC 106.
[98] Code on Social Security 2020, Preamble.
[99] Code on Social Security 2020, ss 6, 109.
[100] *Zaverbhai Amaidas v State of Bombay* AIR 1954 SC 752.

At present, state gig worker legislations may be characterised as supplementary welfare regimes operating within concurrent competence. The occupied field doctrine does not automatically invalidate them in the absence of explicit exclusivity. Thus, the most serious constitutional vulnerability lies in the Cumulative financial burden if central contributions are framed as exhaustive; and the fiscal classification risk if state welfare fees are construed as taxes rather than regulatory cesses.

Thus, the supplementation-versus-conflict inquiry ultimately depends on three interpretive variables that is:

a. The design and language of central contribution rules;

b. The fiscal character of state welfare levies; and

c. Whether Parliament signals an intention to establish a uniform and exclusive national funding regime.

Until such central implementation occurs, the coexistence of state and central frameworks appears constitutionally sustainable, though administratively fragmented. The ultimate resolution may depend not merely on doctrinal interpretation but on the political choice between cooperative federal harmonisation and regulatory centralisation.

VII. Regulatory Fragmentation & Policy Implications

The coexistence of state-specific gig worker legislations alongside the Code on Social Security, 2020 (CSS) raises concerns that extend beyond constitutional doctrine. Even where repugnancy is not established, differentiated regulatory architectures may influence market behaviour, worker welfare delivery, and the long-term structure of platform governance in India.

Compliance Architecture and Market Effects

Digital platforms typically operate through integrated technological systems and centralised compliance teams. State-level enactments, however, require separate worker registration, distinct digital reporting interfaces, varying welfare fee calculations, and state-specific grievance structures.

The Supreme Court has recognised that legislative overlap must be evaluated in light of operational realities rather than abstract textual comparison[101]. Where identical economic activity is subjected to differentiated procedural and financial obligations across jurisdictions, transaction costs inevitably increase.

From a policy standpoint, multi-jurisdictional divergence may generate:

a. Increased compliance expenditure;

b. Pricing distortions across states;

c. Strategic allocation of platform resources based on regulatory intensity;

d. Heightened litigation risk concerning contribution calculations and procedural safeguards.

If central rules under the CSS prescribe uniform ceilings or reporting formats[102], the persistence of divergent state mechanisms may complicate regulatory coherence.

The broader policy concern is not merely administrative burden, but whether asymmetry produces economic inefficiencies that indirectly affect worker earnings and consumer pricing.

Portability and Welfare Delivery

Gig work is structurally mobile and platform-mediated. The CSS contemplates a nationally integrated social security framework supported by aggregator contributions and centralised schemes[103]. The eShram initiative further aims to create a unified worker database[104].

State enactments, by contrast, anchor welfare administration within territorial boards and state-specific funds. While localised oversight may enhance accountability and contextual responsiveness, it may also produce fragmented benefit structures.

The principle of harmonious construction articulated in M Karunanidhi v Union of India[105],

[101] *State of Kerala v Mar Appraem Kuri Co Ltd* (2012) 7 SCC 106.
[102] Code on Social Security 2020, ss 109–114.
[103] Idib.
[104] Ministry of Labour and Employment, 'eShram Portal'
[105] *M Karunanidhi v Union of India* (1979) 3 SCC 431.

suggests that concurrent regimes should be interpreted in a manner that preserves legislative purpose. If the central objective is nationwide portability of social security benefits, policy design must ensure interoperability between state funds and central databases.

Absent such coordination, workers operating across state boundaries may encounter duplicated registration, fragmented entitlements, or uncertainty regarding benefit accumulation. The policy challenge therefore lies in designing mechanisms for credit transfer, contribution adjustment, and inter-state recognition of welfare eligibility.

Innovation, Investment, and Social Protection

Gig worker regulation occupies a normative space between economic dynamism and labour justice. The platform economy depends upon flexible contractual arrangements and scalable digital systems. At the same time, precarious working conditions have generated demands for welfare guarantees.

Judicial recognition of employment relationships in platform contexts has historically turned on control and integration tests[106], illustrating the tension between contractual form and substantive dependency. State gig worker statutes seek to avoid full reclassification while introducing welfare contributions and procedural safeguards, thereby creating a hybrid regulatory category.

From an investment perspective, regulatory predictability is central to rule-of-law governance. Divergent termination safeguards, contribution percentages, and dispute mechanisms across states may affect expansion strategies, cost modelling, and capital allocation.

Conversely, inadequate social protection risks undermining constitutional commitments to distributive justice under Articles 38 and 43[107]. The Directive Principles reinforce the legitimacy of state intervention aimed at securing social security and decent working conditions. Thus, the policy debate is not framed as innovation versus regulation, but rather as the search for calibrated regulation that internalises welfare costs without destabilising platform viability.

[106] *Dharangadhra Chemical Works Ltd v State of Saurashtra* AIR 1957 SC 264.
[107] Constitution of India 1950, arts 38, 43.

Federal Design Choices

A process of decentralized experimentation across various jurisdictions is reflected in the current regulatory trajectory. Long-term divergence between central and state frameworks runs the risk of producing a structurally fragmented welfare ecosystem, even though such experimentation might promote policy innovation and enable governments to test various welfare models. More coordination is probably needed for long-term sustainability. This could involve the development of digital interoperability between central and state welfare platforms, the creation of formal intergovernmental consultation mechanisms, statutory systems that permit credit or adjustment of contributions to prevent cumulative financial burdens on platforms, and harmonized rule-making under the Code on Social Security (CSS).

This fragmentation might be better understood as a governance design challenge within India's federal structure rather than just a constitutional conflict. The main question is whether the gig worker welfare system should progressively move toward a more centralized regulatory framework or adopt a cooperative federalism model, in which both levels of government coordinate their efforts. The presence of various regulatory approaches has various practical ramifications.

It affects the accessibility and portability of welfare benefits for gig workers, changes the compliance architecture and cost distribution within platform markets, and represents a larger constitutional balance between the pursuit of social justice and economic flexibility. In the end, judicial intervention is unlikely to be sufficient to ensure the long-term coherence of gig worker regulation. Although concurrent legislative action by both levels of government is permitted by the constitutional framework, intentional institutional coordination and structured harmonization will be necessary to achieve sustainable policy outcomes.

VIII. Conclusion

This study demonstrates that state-level gig worker legislations reflect both an expansion of welfare protection and the emergence of a differentiated regulatory landscape within India's concurrent federal framework. The constitutional question is not one of legislative competence since labour welfare falls within Entries 23 and 24 of List III, but of compatibility under Article 254[108]. Judicial doctrine makes clear that repugnancy arises only in cases of direct and

[108] Constitution of India 1950, art 254.

irreconcilable inconsistency, or where Parliament intends to occupy the entire field[109]. The Code on Social Security, 2020 (CSS) establishes a national architecture for gig worker welfare[110], yet does not expressly exclude additional state-level welfare mechanisms.

The most constitutionally sensitive issue is cumulative financial liability. If central aggregator contributions are ultimately framed as uniform and exhaustive, additional state welfare fees may invite challenge under Article 254. The fiscal character of such levies whether properly regulatory cesses under labour welfare entries or revenue-generating taxes beyond state competence adds an additional layer of constitutional scrutiny.

Beyond doctrine, the policy implications are significant. Divergent contribution percentages, registration systems, grievance mechanisms, and compliance formats generate asymmetry in a sector that is technologically national and economically integrated. Without coordination, regulatory plurality risks producing inefficiencies, uncertainty, and barriers to benefit portability. At the same time, state experimentation reflects responsiveness to evolving labour precarity and aligns with constitutional commitments to social justice under Articles 38 and 43[111]. The challenge is therefore institutional design rather than constitutional polarity.

A sustainable framework will likely require: clear articulation of central contribution standards under the CSS, Structured mechanisms for fiscal adjustment to prevent cumulative burden, Digital interoperability between central and state welfare systems and Coordinated rule-making grounded in cooperative federalism. As the Supreme Court has emphasised, federal balance demands harmonisation wherever possible[112]. The future of gig worker regulation in India will depend less on invalidation through repugnancy and more on calibrated legislative coordination.

The evolution of this field ultimately presents a constitutional moment: reconciling platform capitalism with social security guarantees within a concurrent federal structure. Harmonisation, rather than centralisation or fragmentation, offers the most coherent path forward.

[109] *M Karunanidhi v Union of India* (1979) 3 SCC 431; *Deep Chand v State of Uttar Pradesh* AIR 1959 SC 648.
[110] Code on Social Security 2020, ss 109–114.
[111] Constitution of India 1950, arts 38, 43.
[112] *State of Kerala v Mar Appraem Kuri Co Ltd* (2012) 7 SCC 106.