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THE EVOLVING LANDSCAPE OF SOCIAL SECURITY FOR PLATFORM WORKERS- PROBLEMS AND PERSPECTIVES

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ABSTRACT

The 'new economic revolution' with advancement of technology has overhauled traditional types of employment into innovative and more flexible types of jobs, to the such extent that it has taken people or more precisely, workers, from mere roadside platforms to digital media platforms, thereby raising the standards of their employment as well. India is not an exception to such transformation. Over the last few decades, digital platforms in India have generated newer opportunities to gig and platform sector as there is low - entry barriers which fulfil the needs of the workers with diverse range of skill and the major beneficiaries of this economic reconstruction include women, young minds and differently abled people. However, rights of such gig workers still remain in shadows, leading to several instances of dispute between these gig workers, government and the company they work for. The issue began to gain momentum after the efforts of labour codes in providing legal recognition and protection to such gig workers. This research article throws light not merely on the existing legal position of gig workers but also on the 'to-be' implemented labour codes that govern their current status in India. It also comparatively analysis the position of such gig workers by way of judicial activism in India as well as other common law countries.

Key words: gig workers, platform workers, social security, labour legislations, Social Security Code.

Traditional Status of Employment in India

The new digital and economic revolution which is based on 'online software applications' or 'digital platforms' like Zomato, Uber, Swiggy, Ola etc. though provide more opportunities had placed the 'platform workers' outside the traditional 'employer- employee relationship' as well as aggregator instead of employer. This has driven the platform workers in to precarious condition as they fall outside the social security coverage. Therefore, an attempt has been made in this research paper to analyse the applicability of social security laws to platform workers

and lacunae present in the current social security system in accessing the social security benefits in India. Accordingly, the following research questions have been formulated to investigate the challenges in implementing provision and also to design a legal framework to fulfil the social security needs of the platform workers:

- How does the status of employment of platform workers differ from that of traditional employer- employee relationships?
- Do the existing labour legislations address the problems in the conditions of work of platform workers?
- What are the ‘occupational health and safety’ risks faced by the platform workers?
- Whether the existing social security legislations govern the platform workers and to what extent it protects and addresses the needs of platform workers in its safety net?
- Is there any need for a separate legislation and what are the challenges in designing the social security provision for platform workers?

Introduction

The adoption of novel digital technologies has reshaped the world of work by bringing a major shift in business and services that are being provided along with a wide range of new, to-be discovered opportunities in the future. India has the largest number of platform workers globally, comprising 20% of the worldwide gig workforce, according to the “ILO's World Employment and Social Outlook report (2021)”¹.

According to the “Report of Boston Consulting Group (2021)”, the “gig economy in India” is currently said to be employing between 8 to 18 million workers the report projects a growth rate of over 90 million jobs by the end of the decade².

The report of Niti Aayog has estimated³ that among the ‘BRICS countries’, “i.e., Brazil, Russia, India, China, and South Africa”, the aggregation of platform workers stood highest in India, and delivery sectors has the most concentration, followed by online web-based platforms and the taxi sector.

¹ “ILO expansion of the gig and platform economy in India: Opportunities for employer and business member organizations, 2024, p.5.”

² “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.12.”

³ “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, Pp.12-13.”

In addition to these verticals, A number of platform companies in other segments such as ‘hospitality’, ‘e- commerce’, ‘logistics’, ‘hyperlocal delivery’, etc. have also been emerged⁴.

This fourth industrial revolution has resulted in platform labour transforming the entire systems of production management and governance⁵.

This platform economy has generated unskilled and semi- skilled jobs and most of the persons migrated to urban cities to take up platform work for aggregators⁶.

According to the estimation of NITI Aayog:

“The gig workforce is expected to expand to 235 crore (235 million) workers by 2029- 30. The gig workers are expected to form 6.7% of the non- agricultural workforce or 41% of the total workforce in India by 2029- 30.”⁷ The increase of platform workers in the “digital labour platforms” increase the deficit of decent work and challenges for the entitlement of social security.

Social security is a cornerstone of the welfare state. It is a human right and serves as a tool to achieve social and economic justice. In India, legislations providing social security measures aim at providing protection and security against loss of earning due to work- related accidents and occupational diseases, sickness, maternity benefit, retirement benefits etc. The right to social security though ensured in documents, is not made equally available to all classes of persons, especially for platform workers, there are various practical constraints in implementing these rights.

Moreover, there is inadequacy in the scope of existing labour regulations to cover the platform workers. Therefore, there is a need for Legislative framework to regulate working conditions of gig workers so as to protect their rights and provide coverage for social security benefits as they fall outside the scope of the “traditional employer- employee relationship”.

⁴ “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.13.”

⁵ “Niti Aayog India’s Booming Gig and Platform Economy – Perspectives and Recommendations on the Future of Work, 2022, p.4.”

⁶ “(vidhi 2024 p.6).”

⁷ “Niti Aayog India’s Booming Gig and Platform Economy – Perspectives and Recommendations on the Future of Work, 2022, p.25.”

Conceptual Framework of Platform Workers in India

Delineating ‘Gig workers’ and ‘Platform Workers’

“The Code on Social Security, 2020” defines ‘the gig worker’ as: “a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationships”⁸.

As per the Code, a ‘platform worker’ means: “a person engaged in or undertaking platform work”⁹.

Moving forward from the legal jargon, a ‘gig worker’ is simply an ‘individual who performs temporary or short-term’ ‘contractual work’, ‘earning independently’ from such work. The definition includes a variety of roles including cab drivers, freelancers, and designers who offer services catered to their expertise on a project basis¹⁰.

‘Platform work’ refers to “a work arrangement outside of a traditional employer-employee relationship in which organizations or individuals use an online platform to access other organizations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the central government, in exchange for payment”¹¹.

Scope of employment of ‘Platform Workers’: Self-employed or Independent contractor

There are different classifications of workers in platform companies. They are¹²:

- An insignificant group of formal workers who are regarded as “employees”
- service partners who are delivery workers, treated as ‘independent contractors’ and
- Third party contract workers, primarily blue-collar, hired through various manpower agencies.

Despite the existence of various legislative provisions and explanations in analysing the status of platform workers in India, judiciary has also played its part in trying to decide as to whether the platform workers fall under the category of self-employed persons or independent

⁸ “The Gazette of India, Code on Social Security, 2020.”

⁹ “The Gazette of India, Code on Social Security, 2020.”

¹⁰ “Kumar, N. (2024) *Regulatory Framework and the Protection of Basic Rights of Gig Workers, Bar and Bench*. Available at: <https://www.barandbench.com/law-firms/view-point/regulatory-framework-and-the-protection-of-basic-rights-of-gig-workers>.”

¹¹ “The Gazette of India, Code on Social Security, 2020.”

¹² “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.28.”

contractor.

However, the question in issue has previously come up in various other countries as well like California and UK, whose judicial pronouncements have been referred to by Indian courts in arriving at a decision.

Position in California

Berwick v. Uber Technologies, Inc.,¹³ California was the first state to accord legal recognition and grant the status of ‘worker’ to ‘gig workers’, especially in case of Uber drivers. In the above case, the Labour Commissioner had held the petitioner to be an employee of Uber. Later in “**The People v. Uber Technologies, Inc., City & County of San Francisco**”¹⁴ Appellate court of the State of California held that all uber drivers must be classified as workers. The position however, was overturned in the year 2020 by referendum, proposition 22, holding that gig workers were not ‘workers’ or ‘employees’ but ‘independent contractors’. Subsequently in the case **Hector Castellanos v. State of California**¹⁵ the Superior Court of California declared the referendum unconstitutional.

Position in UK

The position in UK is very important, as far as the Indian context is concerned as the concept of workers has had a similar footing in UK as well as India. In **Uber BV v. Aslam**¹⁶ court analysed whether or not Uber drivers fall under the category of workers and as a result, if they are entitled to rights and benefits under the labour legislations or not, or whether they continue to retain the position of independent contractors, with Uber being merely a booking agent. Court finally held that they fall within the definition of workers as they enter into an agreement to perform the driver service.

Analysing Uber BV case

The case primarily stands on two main issues,

- i) Whether Uber drivers are workers?
- ii) If they are workers, what periods constituted their working time?

¹³ Labour Commissioner Case No.: 11-46739 EK (Cal 2015).

¹⁴ Super Ct. No. CGC-20-584402 (Cal 2020).

¹⁵ Case No. RG 21088725 of 2021.

¹⁶ [2021] UKSC 5.

The court considered the following aspects from the findings made by the Employment Tribunal:

- Uber dictates the fare which is calculated by the Uber application;
- The contract term is imposed by Uber if the driver has to perform the services;
- It is not the choice of the drivers whether to accept the request for rides which they logged on Uber;
- Uber tracks drivers' trip acceptance rates.
- If too many trips are declined or cancelled, they may not be allowed to log on again;

After analyzing Uber's authority to establish rates, impose contractual terms, oversee driver performance, prescribe routes, and limit driver-passenger communication, the court determined that Uber exerts substantial control over the transportation service provided by drivers through its application. Consequently, the court classified Uber drivers as workers.

Regarding the second point, the Supreme Court, referencing the employment tribunal's findings, noted that a driver is considered "working" under a specific contract when they simultaneously meet the following conditions: (a) have the Uber app activated, (b) are located within their authorized operational area, and (c) are prepared and available to accept trip requests.

The Court further observed that "before the employment tribunal there was an issue as to whether a driver's working hours should be classified as 'time work', that could only be the appropriate category if the driver is working only when carrying a passenger and not otherwise".

The Tribunal had the discretion to dismiss that argument. Furthermore, the tribunal was also justified in determining whether the claimants' working hours qualified as "time work." Given the common understanding that these hours did not meet the criteria for "salaried work" or "output work," the tribunal's conclusion that they constituted "unmeasured work" a residual or default category was also valid. Therefore, there are no grounds for overturning the employment tribunal's decision on this matter.

Therefore, the court held that Uber drivers are 'worker' as long as the driver has switched on the Uber application and it is immaterial whether they are actually doing or have a passenger

on board. Meanwhile, self-employed individuals work in business for themselves and are responsible for the business's success or failure. They can experience profit or loss. Although Uber drivers appear to be self-employed, they function as an integrated part of another's business.¹⁷

In the “United Kingdom of Great Britain and Northern Ireland”, the Supreme Court's decision in “*Uber v. Aslam*” classified Uber drivers as "workers," a status distinct from both "dependent contractors" and "employees." This afforded drivers specific rights and benefits, such as minimum wage and paid holidays, but not the full range of entitlements granted to employees.¹⁸

Later, in the case **Bates van Winkelhof v. Clyde & Co LLP**¹⁹ three different categories of workers were introduced, which include those employed under a contract, the self-employed and yet another class of workers who, despite being ‘self-employed’, provide their services as a part of business undertaking carried on. Court went on to observe that if the individual was integrated into the business and was still unable to market the services, it could lead to dependency and exploitation and thus to avoid it the individuals should get certain benefits.

Position in India

Delhi commercial driver Union v. Union of India²⁰ was the first case where the issue was raised in India, but was subsequently withdrawn. Later in the case **Hussainbhai v. Alath Factory Thozhilali Union**²¹ the employer-worker relationship was analysed and laid down to identify if the gig workers fall under the category of ‘worker’ or ‘employee’ or whether they are ‘individual contractors’ and how they have to be protected. This case was held to be very close to the case upheld by UKSC on giving test for ‘subordination’ and ‘dependency’.

However, in “**Balwant Rai Saluja v. Air India Ltd.**”²² the test of absolute and effective control was introduced as against the test of sufficient control wherein court held that if employer-employee relation is to be proved the following elements need to be fulfilled:

- a. power to appoint;

¹⁷ “Recent case: *Uber BV v. Aslam*, available at <https://harvardlawreview.org> accessed on 15th November, 2024.”

¹⁸ “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.27.”

¹⁹ LLP, [2014] UKSC 32.

²⁰ WP(c) 3933/2017 (Del HC).

²¹ “(1978) 4 SCC 257.”

²² (2014) 9 SCC 407.

- b. power to determine wages;
- c. power to dismiss;
- d. power to take disciplinary action;
- e. existence of continuous service; and
- f. power to control and supervise, in other words, ‘whether there exists complete control and supervision’.

Indian Judiciary, through this judgment employed an approach different from that of its counterparts. While the former case dealt with Industrial Disputes Act, 1947 and the latter with Factories Act, the gig worker can be classified as worker under one of the legislations but not both. This however, is also the reason for ambiguity that continues to persist till date.

Employment Status of Platform Workers

It is pertinent to note that the dynamic nature of work, on a global scale, brings forth varied and innovative types of work and working relations that may or may not fall within an employment relationship.

One of the most debated claims in the platform economy is whether platforms qualify as employers, and its employees as workers as often they are not considered so. Also, the absence of various legal implications and regulations, social security and other rights make it difficult to establish a “traditional ‘employer-employee’ relationship within the platform economy”²³.

Extent of Labour Legislations in Addressing The Problems in Working Conditions of Platform Workers

Gig workers are currently excluded from most labor legislation, with the exception of the “Social Security Code of 2020”. Neither the “Occupational Health, Safety, and Working Conditions Code (2020)” nor, the “Wage Code (2019)” which entitles minimum wage to workers, applies to gig workers in India. Similarly, legislation such as the “Sexual Harassment of Women at Workplace Act, 2013 (POSH Act)” and the “Maternity Benefit Act, 1961” are not applicable to gig workers because of the narrow definitions of "employer," "employee," and "workplace."²⁴

²³ “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.5.”

²⁴ “ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.33.”

India being one of the largest domains for informal labour, over the past decades, provides just minimal relief by labour protection policies. A more or less similar or rather a more precarious situation binds the future of platform workers. India's existing policies and regulatory framework primarily focus on the formal sector workforce, which constitutes a small portion of the total workforce. Consequently, these policies fail to adequately address the needs of gig and platform workers, who represent a substantial 90% of the total workforce, and struggle to apply existing industrial and labor legislation to this growing sector.²⁵

Occupational Health and Safety risks faced by the platform workers

Working conditions of gig jobs are detrimental to workers' health. Many drivers face demanding work hours, leading to physical exhaustion and a heightened risk of road traffic accidents. This risk is further intensified by stringent policies like the '10-minute delivery at the doorstep' enforced by some e-commerce platforms. These tight delivery deadlines compel drivers to rush, compromising their safety and well-being. Additionally, the constant pressure to meet such rapid delivery times can lead to chronic stress and burnout, making the job environment even more hazardous and unsustainable in the long run.

Platform workers provided the most crucial and indispensable services during the pandemic, COVID-19 period, but were also the ones who faced majority of the unfair working conditions, often exposing the gig workers to many health risks and hazards²⁶. Section 114 makes a provision for the Central Government enabling them to make 'social security schemes' for 'gig and platform workers' in matters such as cover for 'disability', insurance cover for 'accident', 'health' and 'maternity benefits', 'creche facility', protection in old age, and any other matters that the government determines. This creation of social security schemes is not mandated, and funding can come from various sources, including the Central Government, State Government, corporations, workers, or a combination of two or more parties.²⁷

²⁵ "ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.25."

²⁶ "ILO expansion of the gig and platform economy in India: opportunities for employer and business member organizations, 2024, p.11."

²⁷ "Section 114 of the Code on Social Security, 2020."

Scope and extent of Social Security cover and protection for platform workers in India

The first convention on ‘Social Security’ was adopted by the “International Labour Organization in 1952 (“C102”)²⁸, forming the basis for “social security principles”, and establishing “globally accepted minimum standards for nine different branches of social security” which include ‘medical-care’, ‘sickness benefit’, ‘disability benefit’, ‘health protection’, ‘old age pension’, ‘employment injury benefits’, ‘family and childrens benefits’, ‘survivors benefit’ and ‘unemployment benefit’. Moreover, the convention also considers the economic position of each country and accordingly provides flexibility clauses, thereby ensuring gradual universal coverage to the ratifying member states²⁹.

The concept of Social Security is also enshrined in the Indian Constitution, wherein the framers laid much emphasis on “the need for maintaining workers by the community”. Ensuring ‘Social security’, and ‘public assistance’ for workers in cases of ‘unemployment’, ‘old-age’, ‘sickness’, ‘disablement’³⁰, and ‘maternity relief’³¹, is also held to be the duty of the State³², under the “Directive Principles of State Policy (“DPSPs”)”.

While the State is responsible for “ensuring a decent standard of living and working conditions for all workers”, the “Directive Principles of State Policy” outlined in “Part IV of the Indian Constitution” function as objectives rather than enforceable mandates. Although courts cannot enforce these principles, the State has a duty to consider them when creating laws. This suggests that the provision of “social security” is contingent upon the economic capacity and developmental stage of each state.³³

Over the years litigants have often fought for social security at work i.e., to provide “social security” as a “socio-economic right”, in a way that it can be treated as “right to life”, a “fundamental right under Part III of the Constitution”.³⁴ However, such cases have sparingly seen success.

²⁸ “ILO Social Security (Minimum Standards) Convention 1952 (No. 102).”

²⁹ “Ulka Bhattacharyya & Sowmya Jha, Understanding Social Security for Gig Workers: Analyzing Recent Developments, NLIU Law Review, Vol. XI, Issue I, p.68.”

³⁰ “Article 41 of the Constitution of India, 1950.”

³¹ “Article 42 of the Constitution of India, 1950.”

³² “Article 43 of the Constitution of India, 1950.”

³³ “Article 41 of the Constitution of India, 1950.”

³⁴ “Ulka Bhattacharyya & Sowmya Jha, Understanding Social Security for Gig Workers: Analyzing Recent Developments, NLIU Law Review, Vol. XI, Issue I, p.69.”

India pioneered major social security programs in Southeast Asia with the “Employee State Insurance Act, 1948” (“ESI Act”), encompassing over 2.5 million employees. Further, the “Employees’ Provident Funds and Miscellaneous Provisions Act, 1952” (“EPF Act”) established retirement savings benefits for certain industries, covering approximately 1.6 million employees.³⁵ However, it is only the “formal workers” who benefit from these programs, which accounts to less than 10% of the total workforce in India³⁶ while the vast majority are still left unsecured. There has been only one exception to this which was brought about by amending the Employees’ Compensation Act³⁷, by which casual or informal workers were brought within the realm of compensation entitlement under the said legislation. This is important, as “casual workers” belong to the “unorganized workforce”, to which the Employees’ Compensation Act, 1923 is traditionally inapplicable.

One of the recent inclusions in Indian Legislations, that helps decide the obligation of the aggregator applications, is the ‘Social Security Code, 2020’, which, for the very first time recognized the concept of ‘gig workers’ and ‘platform workers.’³⁸ There do exist some differences in the definition of ‘gig workers’³⁹ and ‘platform workers’⁴⁰, the code doesn’t differentiate between them in any significant way. It further provides for the “compulsory registration of gig and platform workers” so as to enable them to avail social security benefits under the Code.

“The Social Security Code” envisages the constitution of six types of “social security organisations”: “Board of Trustees of Employees Provident Fund” (‘Central Board’), “Employees State Insurance Corporation” (ESIC), “National Social Security Board for Unorganized Workers” (NSSBU), “National Social Security Board for Gig and Platform

³⁵ “Ulka Bhattacharyya & Sowmya Jha, Understanding Social Security for Gig Workers: Analyzing Recent Developments, NLIU Law Review, Vol. XI, Issue I, p.70.”

³⁶ “Ulka Bhattacharyya & Sowmya Jha, Understanding Social Security for Gig Workers: Analyzing Recent Developments, NLIU Law Review, Vol. XI, Issue I, p.70.”

³⁷ “Workmen’s Compensation (Amendment) Act 2000, s 2(1)(n).”

³⁸ “The Code on Social Security, 2020, s.2(78) – defines “social security” as “the measures of protection afforded to employees, unorganised workers, gig workers and platform workers to ensure access to health care and to provide income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a breadwinner by means of rights conferred on them and schemes framed, under this Code.”

³⁹ “The Code on Social Security 2020, s 2(35) - defines “gig worker” to mean “a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship”

⁴⁰ “The Code on Social Security 2020, s 2(55) - defines “platform work” to mean “a work arrangement outside of a traditional employer-employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment”.

Workers” (NSSBGP), “State Unorganised Workers’ Board and State Building Workers’ Welfare Boards”. Of these, gig/platform workers are covered only by the ESIC and NSSBGP. However, the success rate of these organizations still remains an unanswered question.

Looking at “ESI Schemes” for gig and platform workers “section 45 of the Social Security Code” provides power to the Central Government to make schemes, beneficial for Unorganized, gig workers, platform workers and their families, in consultation with ESIC. It can be understood that if the current ESI scheme acts as a guide, it is presumable that both aggregators and platform workers will contribute to the ESI Fund. As far as the wage ceiling is concerned, for the employees to be covered, it is presently fixed at Rs.21,000/-. The wage of the gig workers, especially the cab drivers had earnings up to Rs.1,00,000/- per month during the financial year 2015-16, drastically fell to an average of Rs.22,000/- to Rs.25,000/⁴¹ due to steep increase in market competitors. In such cases, only if the wage ceiling is considerably low, it will help incentivise Uber “to keep the incentives hovering at such a rate that, without bringing any substantial increase in incentives, a significant number of its drivers always remain outside of the purview of ESIC”.⁴² The wage ceiling should therefore be fixed at a substantially high rate so as to make it costlier for the company and prevent them from evading their responsibility under the scheme when it is implemented.

Online retailing/ shopping platforms and online aggregators of goods and services are currently registered first under the “Companies Act, 2013”, and are regulated as technology companies under the “Information Technology Act, 2000”, under the “Ministry of Electronics and Information Technology”. The Ministry of Consumer Affairs, Food and Public Distribution, empowered by the “Consumer Protection Act, 2019”, introduced the “Consumer Protection (E-Commerce) Rules” in 2020. These rules aimed to enhance accountability and transparency for online retailers. Subsequently, the rules were amended in 2021.⁴³ Despite governmental intervention, gig workers' rights remain precarious, necessitating labor law reform. Gig workers continue to advocate for their fundamental rights.

⁴¹ “Sowmya Chatterjee, ‘No Easy Exit as Ola and Uber Drivers in India Face Spiralling Debt Trap’, *The News Minute*, available at: <https://www.thenewsminute.com/karnataka/no-easy-exit-ola-and-uber-drivers-india-face-spiralling-debt-trap-102558> (last visited on 26 Nov., 2024).”

⁴² “Shantanu Braj Choubey, ‘The Uber Conundrum: Analysing the Worker Rights of Uber Drivers in India’, *National Law School Journal*, Vol. 17, Issue 1, p.55, available at: <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1391&context=nlsj> (last visited on 26 Nov., 2024).”

⁴³ “Niti Aayog India’s Booming Gig and Platform Economy – Perspectives and Recommendations on the Future of Work, 2022, p.41.”

In “*The Indian Federation of App-based Transport Workers & Ors. v. Union of India & Ors.*,”⁴⁴ the Indian Federation of App-based Transport Workers, a trade union advocating for the rights of platform workers such as those employed by Ola, Uber, and Zomato, initiated “public interest litigation” in “the Supreme Court of India” during the 2020 pandemic. The litigation argued that gig workers’ “fundamental rights under Articles 14, 21, and 23 of the Constitution” were being violated. Because gig workers are not classified as employees under social security law, they are denied corresponding benefits.

Another case where efforts were taken to protect the rights of gig workers was “**All India Gig Workers Union v. Uber India Systems Pvt. Ltd.**”⁴⁵; in this case, gig workers came up against Uber’s arbitrary practices for exploiting its workers, demanding minimum wage and social security benefits. Just like these cases, there exist many cases in which gig workers have come up to protect their rights as employees, showing an increasing need for reforms in our current labour law.”

“The Rajasthan Platform Based Gig Workers Act, 2023”, a pioneering effort to address gig worker protection gaps at the state level, focuses on establishing a welfare board, defining cess collection methods, and enacting welfare schemes. However, it falls short of securing gig workers’ rights.⁴⁶

Karnataka followed suit, drafting the “Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024.” This legislation establishes “a board, welfare fund, grievance cell, and other mechanisms to regulate the social security and welfare of platform-based gig workers.”

The e-SHRAM portal, launched in August 2021 by India’s “Ministry of Labour and Employment”, is the country’s “first national database of unorganized workers”. It includes “construction workers, gig and platform workers, migrant workers, and others”. Workers registered on this Aadhaar-linked database are eligible for “accidental insurance coverage of INR 2 lakhs” under the “Pradhan Mantri Suraksha Bima Yojana”. The Ministry of Labour & Employment will cover the first year’s premium. The Ministry contends that “the government envisages e-SHRAM as a unified window, wherein all future social security benefits of

⁴⁴ “W.P. (C) No. 1068/2021 (Supreme Court of India).”

⁴⁵ “W.P. (C) 14048/ 2021.”

⁴⁶ “Model Law for Platform Based Gig workers (Working Draft), VIDHI centre for Legal Policy, p. 11”

unorganised workers will be delivered through this portal. In emergency and national pandemic situations, this database will be utilised to provide necessary assistance to the eligible unorganised workers.” A comprehensive framework that consistently protects gig workers across all states is still lacking.

Since the 2015 launch of the “Skill India Campaign (or National Skills Development Mission of India) in 2015”, there's been a significant push to equip the workforce with future-ready, industry-relevant skills. This initiative addresses the needs and aspirations of India's youth while acknowledging the challenges and opportunities within the skills development ecosystem.

Conclusion and Suggestions

Although gig workers form a major part of the informal working sector, till date their legal status continues to linger around, on the concept of whether or not, they are eligible to be brought under ‘workers’ definition, despite being from the informal economy and if so to what extent and so on. The same has been decided by the judiciary in various cases, where it was held that if the livelihood of workmen depends on the level of labour pooled in to produce goods and services for the benefit of enterprises. At this juncture it is important to note that in such cases, the absence of a direct relation or presence of intermediaries between worker and capitalist, cannot deter the real-life bond.

While looking at the possible way forward, it can be understood that conducting a test for the employer-employee relation, like the ‘singular test’, with regard to the labour codes may provide more efficiency in Indian labour legislations as bringing these gig workers under the labour code has itself paved half the way to achieving their rights. Further, providing them with skill initiatives, improving their payment as well as payment methods, inviting freelancer feedbacks and encouraging them to learn continuously can improve their standards on par with other ‘workers’ covered under Indian labour laws.

Thus, a positive solution to the issue can bring millions of gig workers under the cover of social security and labour legislations. To conclude with, it is presently visible that India as such has already began taking initiatives in creating a path for identifying such gig workers as a separate class. Liberating them completely from the clutches of informal world is something that can thus be expected in near future.