

## Closing the Gap: How Karnataka's New Bill and the Social Security Code Could Redefine Gig Worker Rights

### Introduction

India's rapidly evolving economy has witnessed a massive shift from traditional employment to widespread use of Gig and Platform workers. Initially, this trend began with a few e-commerce platforms, but now there are numerous such platforms, employing 7.7 million people as Gig-workers. As per Niti Aayog, gig workforce is expected to expand to 23.5 million workers by 2029-30. A large segment of India's workforce consists of Gig-workers, yet the country still lacks specific legislation to regulate their employment. The need for such regulation has long been recognized, but it became even more urgent during the COVID-19 pandemic, when the vulnerabilities of Gig-workers were starkly highlighted.

The Uber driver taking you to work or the Swiggy delivery person braving the rain to drop off your food, operate within a framework where their livelihood is intrinsically linked to digital platforms that facilitate their work. Often referred to as "**independent contractors**", these workers exist in a space between traditional employment and self-employment where they have the autonomy to choose their working hours but are bound by platform-specific algorithms that determine their delivery assignments, earnings, and performance metrics.

### The Legal Vacuum

Despite powering India's digital service revolution, these workers face significant challenges - no guaranteed minimum wages, limited social security and absence of basic employment benefits. This regulatory vacuum created a paradoxical situation where these workers, despite being integral to the platform economy, lack basic statutory protections. Recognising that welfare of such workers needs to be safeguarded, "**Gig-workers**" were legally acknowledged under the Code on Social Security, 2020 ("**Code**"). The Code made a pioneering attempt to recognize "**Gig-workers**" and "**Platform-workers**" as distinct categories. While the implementation<sup>1</sup> of the Code remains in legislative limbo, the State of Rajasthan passed the separate legislation relating to Gig-workers<sup>2</sup>.

### Legal framework under the Code

Interestingly, when defining the term "**Gig-workers**" under the Code, the legislators specifically referred to individuals as being "*outside the traditional employer-employee relationship*". Given that Gig-workers, as envisioned under the Code, are engaged outside the traditional employer-employee relationship, platforms/aggregators may continue to exert detailed control over workers through digital surveillance and strict rules, while also avoiding the basic employer obligations.

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<sup>1</sup> The Code on Social Security, 2020 received President's assent on September 28, 2020. The implementation of the Code by way of a separate notification is awaited (except the provision relating to identification of workers and other beneficiaries through their Aadhaar number).

<sup>2</sup> The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023 received Governor's assent on September 12, 2023. The Act however has not come into the force as of today.

Chapter IX of the Code focuses exclusively on the unorganised sector economy, with very few specific provisions dedicated to regulating the Gig and Platform workers. It mandates the workers to register themselves with the Central Government<sup>3</sup>- a prerequisite for workers to access any scheme benefits is subject to the fulfilment of conditions i.e., completion of 16 years of age and submission of a self-declaration prescribed by the Central Government.

The primary provision regarding the Gig-workers states that the Central Government *may* frame suitable social security schemes. The Code has provided a list of matters which the proposed scheme may relate to. Such scheme may cover life and disability cover, accident insurance, healthcare and maternity benefits, old age protection, creche and additional benefits defined by the Central Government. The details concerning implementation of such schemes, including administration, funding and role of aggregators, have not been clearly outlined and are left to be specified in future notifications.

The Code casts certain obligation on the aggregators and requires such aggregators to contribute towards funding of the social security fund. Such contributions may range from 1-2% of the annual turnover of aggregator (specified in the Seventh Schedule which includes ride sharing, food and grocery delivery services, logistics services). This is however subject to the limit of 5% of the amount paid or payable by an aggregator to Gig-workers and Platform-workers. This provision is subject to the further notification from the Central Government in this regard. Interestingly, the Central Government has a right to exempt aggregator or class of aggregator from paying such contribution<sup>4</sup>.

However, this broad-brush approach of the Code neglects the economic challenges faced by the Gig and Platform workers. It is evident that the Gig-workers have no stable income system. Therefore, failing to establish mechanisms that address the fluctuating nature of digital economy earnings, will keep the workers in a vulnerable position prone to financial risks. The Code is further undermined by its voluntary registration model and the prolonged delay in the implementation. Despite necessity, the Code remains more of a theoretical framework than a practical solution which leaves a gap in worker protection.

### **Government of Karnataka's Progressive Approach**

Breaking a new ground in Gig-worker protection, the Government of Karnataka has put forth the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024 ("**the Bill**")<sup>5</sup>. This Bill mandates comprehensive safeguards encompassing social security benefits, occupational health standards and safety measures while establishing clear-cut obligations for digital platforms/aggregators.

The Bill presents a more precise and inclusive definition of Gig-workers<sup>6</sup> compared to the vague characterization in the Code. While the Code ambiguously defines Gig-workers as those operating "*outside traditional employer-employee relationships*," the Bill takes a more pragmatic approach by defining them based on their actual work arrangements. It specifically recognizes Gig-workers as individuals performing tasks for payment under contractual terms, where the work is sourced through platforms in the following sectors:

- i. Ride-sharing services
- ii. Food and grocery delivery,

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<sup>3</sup> Section 113 of the Code on Social Security, 2020.

<sup>4</sup> 114(7) of the Code on Social Security, 2020

<sup>5</sup> The Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024

<sup>6</sup> Section 2(e) of the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024.

- iii. Logistics operations,
- iv. E-marketplace platforms (both marketplace and inventory models),
- v. Professional services,
- vi. Healthcare delivery,
- vii. Travel and hospitality sectors and
- viii. Content and media services.

The proposed Bill for Platform-Based Gig Workers (“PBGWs”) aims to provide them with greater protections and benefits. Firstly, it allows PBGWs to register with the state government and receive a unique identification number that is valid across all the platforms and apps they work for. This ID number enables them to access social security schemes based on their work contributions. The Bill also establishes a grievance redressal mechanism for PBGWs<sup>7</sup>.

Secondly, the Bill requires all aggregators and PBGWs to have fair, written contracts in simple language, which can be in Kannada, English, or any language listed in the Constitution of India. These contracts must give PBGWs the right to refuse or reject a certain number of work assignments without facing any consequences. Additionally, this Bill introduces the concept of ‘contractual liberty’ and ‘self-determination’ i.e., any changes to the contract terms must be communicated to the PBGW at least 14 days in advance, allowing them the option to terminate the contract without penalty<sup>8</sup>.

The Bill's worker-centric approach is further exemplified in Sections 15 and 16 of the Bill, which introduces crucial job security measures and income protection. It mandates that platforms can only terminate workers for specific contractual reasons, rather than arbitrarily. Platforms must also provide clear justification for any deductions from worker earnings, enhancing transparency.

### **Is there any overlap between the two statutes?**

The rights and entitlements provided under the Bill are intended to supplement and not replace any existing benefits or protections that are available to the PBGWs under other laws. The Bill would serve as an additional layer of protection for platform-based gig workers, complementing (rather than replacing) any other entitlements they may be eligible for under the Code or any other applicable laws. However, in the event the benefits under the social security scheme notified by the Central Government<sup>9</sup> or the State Government<sup>10</sup>, overlaps, the more favourable benefit to the PBGWs would take precedence.

### **Conclusion**

In conclusion, the rise of the gig economy in India has exposed the critical need for comprehensive legal frameworks to protect platform-based workers. The Bill represents a significant step forward, with provisions ensuring worker autonomy and restricting arbitrary treatment. However, the Bill requires further refinement, particularly in strengthening grievance redressal mechanisms. Similarly, the Code, while promising, remains incomplete and lacks enforceable protections. These legislative efforts, though important, risk becoming theoretical documents without swift and concrete implementation. The true test lies in developing robust policies through collaborative stakeholder efforts that can effectively address the unique challenges faced by Gig-workers and transform legislative intent into meaningful worker protection.

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<sup>7</sup> Section 7 of the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024.

<sup>8</sup> Section 12 of the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024.

<sup>9</sup> Section 114 of the Code on Social Security, 2020.

<sup>10</sup> Section 6 of the Karnataka Platform-Based Gig Workers (Social Security and Welfare) Bill, 2024.

**Authors:** Debjani Aich, Ruchi Goel and Varsha D Sinchana

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**Practice Areas:** Labour and Employment Law

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