



An Approximation of Employment-Centric Social Security Frameworks in India

| Yugank Mishra



Issue Brief

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I Yugank Mishra

I. CONTEXTS

The recent announcement of extending the social security net towards the gig and platform workers by the Union Minister for Labour and Employment (L&E) on a national scale is the latest in a series of regulatory interventions on platform-gig economy by Indian authorities, initiated since the Code on Social Security, 2020, with many state governments following suit (Ministry of Labour and Employment, 2024).

The public discourse in India regarding platform and gig economy regulations has mostly been conducted with an inadvertent focus on their implications for the recognition of the platform and gig workers as ‘workers’ within the industrial and labour jurisprudence (Khan & Sapkal, 2023; Shipra, 2024; Bhatia, 2023). Such a hard bound relationship between social security and formalization of the workforce seldom allows social security to be studied in its own right. Insofar as such regulations are the minutiae of India’s commitment to a welfare state, an analysis of social security frameworks in their own right may shed light on the various regimes of governmentality in post-independence Indian history (Foucault, 2009)². This may also be crucial to sifting through the conceptual and methodological ambiguity of the discourse of (in)formality of the Indian economy, which continues to riddle many within the public sphere (Jha, 2016, pp. 36-7).

1. See also, Writ Petition (Civil) no. 1068/2021 filed by Indian Federation of App-Based Transport Workers & Others against Union of India, Uber, Swiggy & Others, dated 24th September, 2021 [private collection] (Kashyap, 2021).

2. Most notable, for our purposes, has been the affirmation of India as a “welfare state” in the proceedings of a the Public Interest Litigation (PIL), “Problems and Miseries of the Migrant Labourers” filed for the extension of the National Food Security Act of 2013 to the migrant workers in the aftermath of COVID-19 pandemic. See Case no. MA 000094/2022 & 12853/2021 (PIL-W) in Hon’ble Supreme Court of India (Problems and Miseries of Migrant Labourers, 2021 & 2022) [Private Collection].

More immediately, however, the recent announcement and the incumbent deliberations on the governance framework for implementing the social security regulations provides an opportune moment to recapitulate the history of employment-based social security legislations in India (Ministry of Labour and Employment, 2024; Ministry of Labour & Employment, 2024a)³.

II. A TENTATIVE TYPOLOGY OF SOCIAL SECURITY FRAMEWORKS IN INDIA

Analytically speaking, the difference between the formal or organized sector and informal or unorganized sector employment in India is best understood as a spectrum of rights that the workers engaged therein enjoy (Jha, 2016; Mitchell, Mahy, & Gahan, 2014). On the one hand, this spectrum involves right to social security, such as provident funds, occupational safety and health insurances, industrial lock-out victim benefits, maternity benefits, gratuity, etc., and on the other hand, the right to representation, collective bargaining and security against flexible contracts⁴.

Relatedly, social security, in itself, entails a host of schemes, policies and legislations covering the poor, women, children, the elderly, the differently abled, those afflicted with food insecurity or those who face barriers to participate or enjoy equal opportunities for growth in the economy, amongst others. However, for the purposes of this article, we will be considering only those social security initiatives whose loci are employer-employee relations, directly, and those which acknowledge the power differentials within this, inclined towards the protection of the employee (Rahman & Pingali, 2024)⁵. Simply speaking, this article covers those social security initiatives which cover the life-cycle of the workers, excluding the entry of individuals within the workforce. These are called employment-based social security legislations, hereby.

Historically, we may note three regimes of employment-based social security initiatives in India—the first phase covering the formal or organized sector immediately in the post-independence period, epitomized by legislations such as Employees' State Insurance Act of 1948 (ESI), Employees' Provident Funds and Miscellaneous Provisions Act of 1952 (EPF)

3. Social Security, defined broadly as either a “principle, or a practice or a program of public provision” (Merriam-Webster, n.d.), acknowledges that there may arise ‘circumstances’ in the lives of individuals and peoples that may deprive them of their fundamental right to life and dignity, and the exercise thereof. Framed as such, social security is a cornerstone of many modern international and national constitutions (OHCHR, n.d.; Union of India, 1950).

These ‘circumstances’ may issue from historical or contemporary cultural, economic, political, social or ideological reasons and are, arguably, the very primum mobile of academic research and social dynamism.

4. Since all these rights are subjects of separate legal instruments, this characterization is ‘loosely’ applicable.

5. It must be noted that the social security initiatives not included within the scope of this essay may also, in some cases, acknowledge the disadvantage that employees or workers face; however, their primary locus is not ‘employer-employee’ relations, but rather other loci of identity, such as caste, class, gender, region, religion, etc. For e.g. refer to the National Food Security Act of 2013, which caters to cottage industry workers, domestic workers, garbage pickers or other such precarious segments of the workforce. Similarly, the social security schemes linked to the e-shram portal such as PM-SYM, NPS, PMJJBY, PMSBY, NSAP,

AB-PMJAY, Self Employment Scheme for Rehabilitation of Manual Scavengers, etc. have been left out of the purview of this article. This is due to the fact that the effective relationship thereby is between unorganized workers qua Indian citizens and the state authorities, with an acknowledgement of the vulnerabilities of informalization of the economic sector.

; then, the second phase targeting the informal or unorganized sector workers, epitomized in the Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act of 1996 (BOCW), the Unorganized Workers' Social Security Act of 2008 (UWSS)⁶; and finally, the recent gig-workers social security initiatives represented in the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act of 2023 (RGW) and the draft Code on Social Security, 2020 (CoSS)⁷[7]. This categorization has been arrived at by reading the bare acts symptomatically through aspects of accessibility and regulatory onus, financing, administrative structure and benefits.

Accessibility and Regulatory Onus

One of the most notably important differences in the three phases of social security regimes pertains to the question of "registration" of workers, which has a substantial bearing on the ease of access by the workers. Thus, in the first phase, in acts such as ESI and EPF, the regulatory onus lay on the 'establishments' and, by proxy, the employers, to register their workers, defaulting which the employers were liable for penalty (The Employees' State Insurance Act, 1948, p. Chapter 1; The Employees' Provident Fund and Miscellaneous Provisions Act, 1952, p. Chapter 1). The registration and entitlements of the workers is a 'trickle-down' process.

In contrast stands the second phase of social security legislations like BOCW, UWSS and MDWWB, where the provisions for the workers to register themselves through the government instituted welfare boards was introduced. Whereas in the BOCW, both the workers and the establishments or employers are to be registered (The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, Chapter 3 & 4), the latter is dropped in the case of USWW and MDWWB acts, where the workers would register themselves directly with the welfare boards (The Unorganized Workers' Social Security Act, 2008, § 10; Maharashtra Domestic Workers Welfare Board Act, 2008, § 12).

In the newest phase of the social security initiatives, curiously, the registration onus has again been reversed and put back on the 'aggregators' as employers (The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Chapter 3; Ministry of L&E, 2024)⁸.

Financing

Another pivot of differences to be noted in the three regimes pertains to the financing of the affairs of the schemes, such as benefits, subsidies, administrative, and infrastructure costs, etc. Whereas the

6. The analysis of which, here, also includes reading the Maharashtra Domestic Workers Welfare Board Act of 2009 (MDWWB).

7. For the purposes of analytical clarity, the transmutation of the social security net extended to the unorganized workers in the second phase into the 'eshram' program launched in 2021 has been kept outside the purview of this article for reasons given above (MoLE, 2024).

7. Workers and the establishments or employers are to be registered (The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, Chapter 3 & 4), the latter is dropped in the case of USWW and MDWWB acts, where the workers would register themselves directly with the welfare boards (The Unorganized Workers' Social Security Act, 2008, § 10; Maharashtra Domestic Workers Welfare Board Act, 2008, § 12).

8. Curiously, even though the gig and platform workers are to be registered by the aggregator qua employer through the e-shram portal, the portal, itself, is a self-registration mechanism for the workers.

schemes of the first phase were financed predominantly by the contributions of the employees and the employers, wherein the employers paid either equal to or more than the contributions of the employees (The Employees' State Insurance Act, 1948, § 26; The Employees' Provident Fund and Miscellaneous Provisions Act, 1952, § 6), the second phase was marked by predominance of fiscal financing through grants and loans by the various governments and contributions of the employees (The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, § 23; The Unorganized Workers' Social Security Act, 2008, § 4; Maharashtra Domestic Workers Welfare Board Act, 2008, § 15).

In the third phase, symptomized by the RGW act of 2023, the financing of the schemes has foregone the contributions by the employee and instead, incorporated fiscal financing and a welfare fee payable by the employee (but also levied on the 'consumers'), which is a certain proportion of the order value generated on the platforms (The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Chapter 4). Keeping in sync with the Niti Aayogs recommendation to allow for "augmentation of social security through innovative financing mechanisms" (2022, p. 7), this marks a shift in public finance mechanisms of social security schemes.⁹

Administrative Mechanism

One of the starkest differences between the first and the later regimes pertains to their administration. Whereas the first regime entailed legislative scheme centredness which led to the mushrooming of administrative bodies responsible for the functioning of the specific schemes only (The Employees' State Insurance Act, 1948, Chapter 2; India, 1952, Chapter 5), the trend since the second phase has been of an overarching 'welfare board' that oversees a host of schemes and benefits (The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, Chapter 2 & 5; The Unorganized Workers' Social Security Act, 2008, Chapter 4; Maharashtra Domestic Workers Welfare Board Act, 2008, § 3; The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, § 3).

Relatedly, there are similarities across all the regimes pertaining to the provincialization or decentralization of administration for last-mile delivery and the tripartite constitution of administration through nominations. Whereas the latter also appears to be the tendency in the third phase, the former—i.e. decentralization and last-mile delivery of services—is also being operationalized through digital and technological innovations (The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, Chapter 8).

Benefits

It has been noted by several commentators that the later regimes of social security in India have moved from a rights-based approach to a welfare-based approach (Migration and Asylum Project, 2022, pp. 66-7). Thus, again, one of the starkest shifts have been that whereas legislations from the earlier phases established occupational safety and health, maternity benefits, unemployment coverage, etc. as substantive of fundamental rights, the later phases have progressively hinged on the

9. Another shift in fiscal financing has been that of 'liberalization' or opening of the treasury into the currency and commodities markets. This tendency also informs the schemes mentioned above and has generated a vibrant debate.

function of the welfare boards to “ensure access to the benefits and schemes formulated by the state government” (The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, § 5 (f)).

This, however, must be subjected to enquiry, for though one may interpret these as ‘diluting’ the rights-based approach, there has clearly been a wider basket of benefits available. Thus, the later regimes have also incorporated family welfare, housing, education loans for children, funeral expenses, skill development, etc. apart from the medical and old-age insurances and maternity benefits (India, 2008, Schedule 1) Maharashtra Domestic Workers Welfare Board Act, 2008, § 10).

The recent spate of social security initiatives, epitomized by the focus on gig and platform workers, are also contemplating ease of access to finance by the workers for economic upward mobility (Niti Aayog, 2022, pp. 4-5)¹⁰.

III. CONCLUSION

Analytics aside, the ongoing design process of the social security framework best suited to the platform-based gig economy in India is testament to the changing terrain of increasingly complex industrial relations in India. At stake is the very validity of the traditional tripartite model of industrial relations and a push for creative solutions.

On the one hand, backsliding towards the first regime of employment-based social security framework (as is suggested from the mode of registration and regulatory onus) raises many concerns. Representatives such as All-India Organization of Employees have rightfully pointed out issues including the de-linking of value of social security benefits and the participation of platform and gig workers, such as hours or participation and earnings per gig, or the disproportionate financial burden on some ‘employer-aggregators’. The fact that, in this sector, the ‘turnover is a function of various factors unrelated to the workers’, has also been highlighted (All India Organization of Employees, FICCI, 2025). Imagine a worker engaged with more than one platform in a day or the pricing volatilities of these platforms!

On the other hand, if there is a move towards inadequate coverage or entitlements, it is safe to say that it will only add to the dissatisfaction that the platform and gig workers have been expressing through collective action, disrupting business as usual (Times of India, 2025; Singh, Panwar, K., & Kumar, 2024; Barik, 2023).

10. A pilot program launched by RBI Innovation Hub and Vivifi Finance for providing unsecured loans to the gig workers has already disbursed over 6,00,000 loans worth INR 27,000 Cr (Shukla, 2024).

IV. BIBLIOGRAPHY

All India Organization of Employees, FICCI. (2025, January 02). AIOE Submits Recommendations on Labour Codes for Gig Workers to Ministry of Labour and Employment. Retrieved from https://ficci.in/press_release_details/4996

Barik, S. (2023, April 18). Anatomy of a Strike: In a Workers Protest against Zomato-owned Blinkit, a new Flashpoint in Gig Work's Dismal Reality. Indian Express. <https://indianexpress.com/article/business/companies/anatomy-of-a-strike-in-workers-protest-against-zomato-owned-blinkit-a-new-flashpoint-in-gig-works-dismal-reality-8558544/>

Bhatia, A. (2023, July 30). Gig Workers First Major Victory in India: Rajasthan Leads the Way. The Wire. <https://thewire.in/labour/gig-workers-first-major-victory-in-india-rajasthan-leads-the-way>

Foucault, M. (2009). Security, Territory, Population: Lectures at the College De France, 1977-78. Palgrave Macmillan.

Jha, P. (2016). Oxford India Short Introduction: Labour in Contemporary India. New Delhi: Oxford University Press.

Kashyap, G. (2021, December 7). Glg Workers Access to Social Security: Writ Petition Summary (The Indian Federation of App-Based Transport Workers). Supreme Court Observer. <https://www.scobserver.in/reports/gig-workers-access-to-social-security-the-indian-federation-of-app-based-transport-workers-ifat-v-union-of-india-writ-petition-summary/>

Khan, A., & Sapkal, R. (2023). Amid a Legal Conundrum: The Fate of Platform Workers in India. Economic and Platform Workers, 58(29).

Maharashtra Domestic Workers Welfare Board Act, 2008. Mumbai: Government of Maharashtra.

Merriam-Webster. (n.d.). Social Security. Merriam-Webster. <https://www.merriam-webster.com/dictionary/social%20security>

Migration and Asylum Project. (2022). India's Labour Law: Landscape and Reforms. New Delhi: Migration and Asylum Project & Azim Premji Foundation.

Ministry of L&E. (2024, September 16). Registration of Gig and Platform Workers on e-shram Portal of the Ministry of L&E. Order no. W-11015/ 15/ 2024-RW (GPW). New Delhi: <https://labour.gov.in/sites/default/files/aggregators.pdf>.

Ministry of Labour & Employment . (2024). Government Actively Exploring Various Avenues to Ensure Gig and Platform Workers are Covered Under Social Security. New Delhi: Press Information Bureau [Press Release].

Ministry of Labour & Employment. (2024a, December 30). Secretary, Ministry of Labour & Employment Chairs Meeting to Review Social Security Scheme for Gig and Platform Workers. Press Information Bureau. <https://pib.gov.in/PressReleaselframePage.aspx?PRID=2088975#:~:text=The%20members%20%26%20special%20invitees%20of,%2C%20ILO%2C%20NCAER%2C%20OMI>

Ministry of Labour and Employment. (2024). Committee has been Formed to Develop Framework for Providing Social Security and Welfare Benefits to Gig and Platform Workers: Union Minister. New Delhi: Press Information Bureau [Press Release].

Mitchell, R., Mahy, P., & Gahan, P. (2014). The Evolution of Labour Law in India: An Overview and Commentary on Regulatory Objectives and Development. *Asian Journal of Law and Society*, 1(2), 413-53.

MoLE. (2024, August 05). E-Shram Portal. Press Information Bureau. <https://pib.gov.in/PressReleasePage.aspx?PRID=2041672>

Niti Aayog. (2022). India's Booming Gig and Platform Economy: Perspectives and Recommendations on the Future of Work [Policy Brief]. New Delhi: Niti Aayog (GoI).

OHCHR. (n.d.). About the Right to Social Security and Human Rights: OHCHR and the Right to Social Security. Retrieved from <https://www.ohchr.org/en/social-security/about-right-social-security-and-human-rights>

Problems and Miseries of Migrant Labourers, 12853/2021 & 000094/2022 (Hon'ble Supreme Court of India 2021 & 2022).

Rahman, A., & Pingali, P. (2024). *The Future of India's Social Safety Nets - Focus, Form, and Scope*. New York: Palgrave Macmillan.

Shipra. (2024, November 4). Who is to be Blamed for the Plight of Gig Workers?. *The Wire*. <https://thewire.in/rights/who-is-to-be-blamed-for-the-plight-of-gig-workers>

Shukla, S. (2024, December 30). RBI Innovation Hub Pilots Digital Unsecured Loans for Gig Workers. *Economic Times*. <https://economictimes.indiatimes.com/industry/banking/finance/banking/rbi-innovation-hub-pilots-digital-unsecured-loans-for-gig-workers/articleshow/116775810.cms?from=mdr>

Singh, S., Panwar, N., K., S., & Kumar, C. (2024, November 11). Calling out Exploitative Labour Dynamics on Platforms. *The Hindu*. https://www.thehindu.com/opinion/op-ed/calling-out-exploitative-labour-dynamics-on-platforms/article68853105.ece?fbclid=IwZXh0bgNhZW0CMTAAR3hUMZMWAoSPIdGYGDj2xDhD2dVpUQUstDARa2f1OGQzSsYujBDspKTn30_aem_EXIE0x4CxjXpPdJ2LILDxA

The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996. New Delhi: Government of India.

The Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023. Jaipur: Government of Rajasthan.

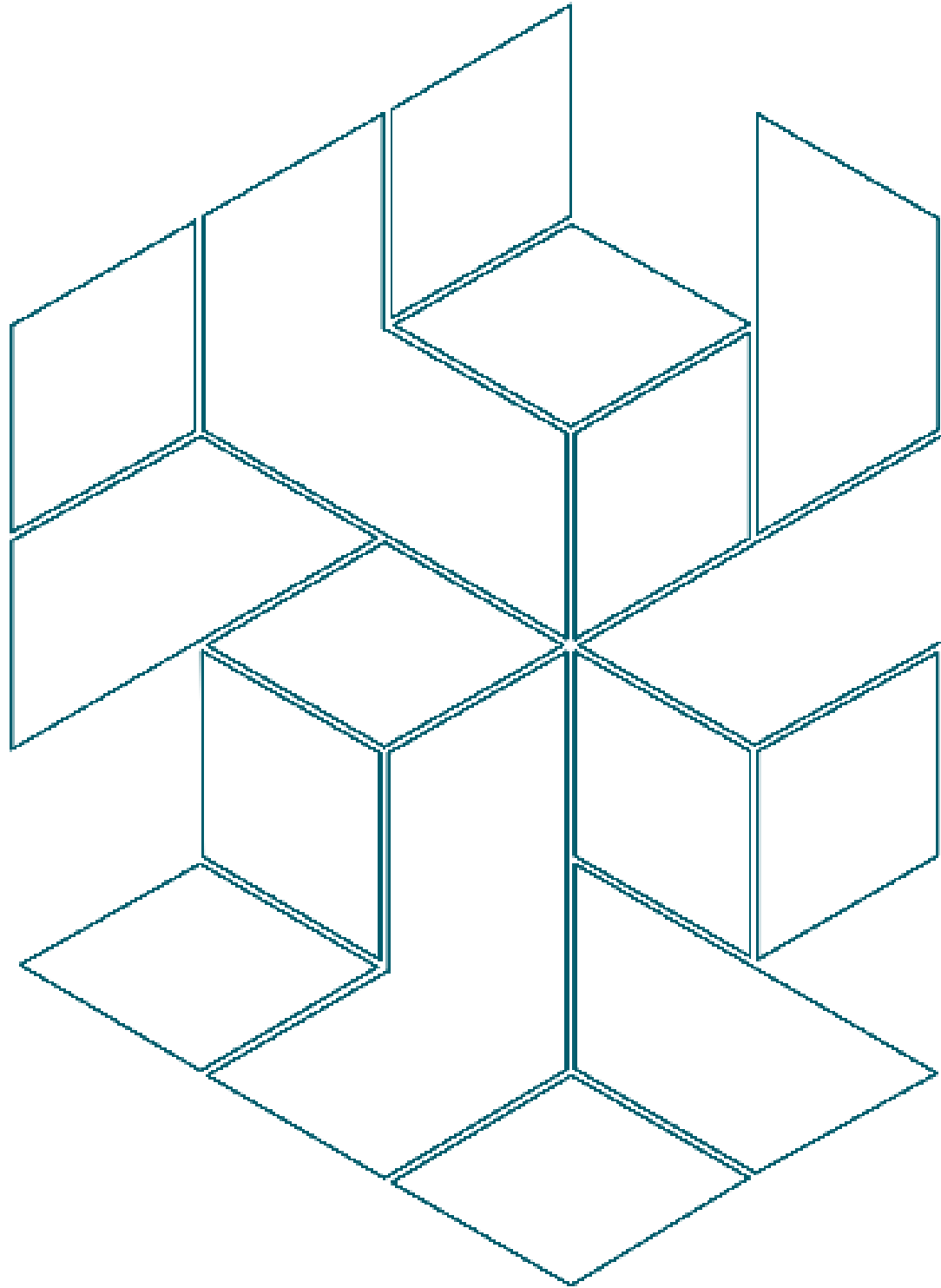
The Employees' State Insurance Act, 1948. New Delhi: Government of India.

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952. New Delhi: Government of India.

The Unorganized Workers' Social Security Act, 2008. New Delhi: Government of India.

Times of India. (2025, January 4). Cabbies hold protest over sharp drop in ride charges from Rs. 14 to Rs. 10 per km. *Times of India*. <https://timesofindia.indiatimes.com/city/hyderabad/cabbies-hold-protest-over-sharp-drop-in-ride-charges-from-14-to-10-per-km/articleshow/116925734.cms>

Union of India. (1950). Part IV: Directive Principles of State Policy. In U. o. India, *Indian Constitution (as of 2024)* (p. 21). New Delhi: Legislative Department, Ministry of Law and Justice, Gol.



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