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Implementation Gaps in India's OSH code 2020: Balancing Social Security and Occupational Safety for Gig and Migrant Workers

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ABSTRACT

The Code on Occupational Safety, Health and Working Conditions, 2020 is a significant step towards consolidating India's fragmented central labour laws by integrating 13 central labour laws into a single unified framework and ensuring occupational safety and welfare, especially for unorganised workers. However, despite its progress, the Code faces implementation gaps, particularly due to weak enforcement mechanisms and a shortage of labour inspectors. These gaps affect gig workers, platform workers, and migrant workers, who constitute a large workforce in India and remain largely outside the purview of formal regulatory protection.

There is a lack of awareness among these workers regarding registration through the e-Shram Portal, which further exacerbates their vulnerability. Nearly 90% of India's workforce is engaged in the informal sector, and this paper argues for the elimination of the wage ceiling in order to ensure inclusive coverage, the adoption of risk-based inspection, the provision of unemployment insurance coverage for emerging forms of employment, and the implementation of phased digital reforms through an Aadhaar-linked e-Shram Portal.

The study emphasises the need to transform occupational safety into a cornerstone of labour governance, ensuring equitable protection for all categories of workers.

Keywords: Occupational Safety, Gig Workers, Platform Workers, Migrant Workers, Labour Law Reforms, Unorganised Sector, e-Shram Portal, Social Security, Risk-Based Inspection, OSH Code, 2020.

I. INTRODUCTION

The Central Government proposed the implementation of four labour codes on 23 July 2019, through the Ministry of Labour and Employment. These codes received the President's assent on August 8, 2019, and came into force on 21 November 2025. The codes include the Code on

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Occupational Safety, Health and Working Conditions, 2020;² the Code on Wages, 2019;³ the Code on Social Security, 2020⁴; and the Code on Industrial Disputes, 2020;⁵. These have replaced around 29 central labour laws and reduced them from 1,436 rules to 351, ensuring unified registration, returns, and licensing.

Since labour laws fall under the Concurrent List of the Indian Constitution, both the Central and State Governments can make laws with respect to labour regulation. The Central Government states that there were around 100 state laws and 40 central laws with respect to labour legislation. The Second National Commission on Labour (2002) found that the existing labour legislation was complex, with inconsistent provisions and definitions. Therefore, to simplify and ensure uniformity in labour legislation, the Commission recommended that these central laws be consolidated into four labor codes. These codes were mainly established to simplify procedures and modernize labour regulation in India.

The major challenges in these labour reforms relate to the protection of workers' rights, including those in small firms, and addressing the problems faced by unorganised workers, especially gig, platform, and migrant workers. The main purpose of consolidating the laws into the OSH Code is to ensure simple compliance, reduce legal complexities, and enhance protection while recognising unorganised workers.

The gig and platform workers' economy is growing rapidly due to digitalisation and on-demand services, and it plays a critical role in providing employment, especially for youth, migrants, and semi-skilled labour. It also enhances the service sector, and India's gig economy employed over 7.7 million workers as of 2021–2022⁶. Projections indicate that it will reach 23.5 million workers by 2029–2030.⁷ This growth has especially boosted platforms like Uber, Rapido, Zepto, Swiggy, etc. This helps in boosting MSMEs through last-mile delivery and micro-entrepreneurship with low entry barriers. It also enables the participation of the female labour force in India. However, despite its growth, there are various issues that persist, such as low wages, long working hours, and unsafe conditions. There is a gap between this legal framework and its implementation, as the OSH Code 2020, enforced on 21st November 2025, provides for uniform and simple compliance, mandates safety standards, and ensures health check-ups and

² The Occupational Safety, Health and Working Condition code, 2020 No.37 of 2020, s 1(1) (enforced 21st nov 2025)

³ The Code on Wages, 2019, No.29 of 2019 s 1(2)

⁴ The Code on Social Security, 2020, No.36 of 2020, s 1(3)

⁵ The Industrial Relations code 2020, No.35 of 2020, s 1(4)

⁶ NITI Aayog, India's Booming Gig and Platform Economy, Policy Brief (June 27, 2022) https://www.niti.gov.in/sites/default/files/2023-06/Policy_Brief_India's_Booming_Gig_and_Platform_Economy_27062022.pdf

⁷ Id. (projecting growth to 23.5 million workers by 2029-30, representing over 2% of India's workforce)

proper working conditions for workers in establishments. However, these provisions are lagging due to the delayed implementation of state rules, inadequate inspections, and weak compliance mechanisms, as seen in the post-2025 scenario, where 85% of India's workers remain underserved. Even though unorganised workers such as gig and platform workers have been defined and recognized, the burden of registration still falls on them despite their low levels of awareness

II. OVERVIEW OF THE OSH CODE 2020

The occupational safety, health and working condition (OSH) code, 2020, consolidates 13 central labour law legislation into a single uniform, comprehensive code. These include the Mines Act, 1952, Factories Act, 1948, the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, the Working Journalists (Fixation of Rates of Wages) Act, 1958, the Motor Transport Workers Act, 1961, Dock Workers (Safety, Health and Welfare) Act, 1986, Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, Plantations Labour Act, 1951, the Contract Labour (Regulation and Abolition) Act, 1970, the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, the Sales Promotion Employees (Conditions of Service) Act,

1976, the Beedi and Cigar Workers (Conditions of Employment) Act, 1966, and the Cine-Workers and Cinema Theatre Workers Act, 1981, it covers registration of the establishment, workers welfare and enhances protection to previously excluded sectors such as gig and platform workers

This code also aims to simplify compliance for businesses via uniform online registration and licensing systems which help in fostering economic growth by standardised labour provisions which are also in compliance with international instruments like ILO (international labour organization) conventions

The main objective of the code is to ensure a safe and healthy workplace environment by ensuring a hazard-free workplace, annual health checkups and ensure that employers provide proper training, supply protection gear, appoint safety officers in larger setups and have to report accidents or diseases

III. GIG WORKERS: LEGAL STATUS AND PROTECTION GAPS

Gig workers are a rapidly growing sector in India, but they face ambiguous legal recognition because they are largely classified as "independent contractors" instead of being recognised as

employees, which creates a significant legal gap in protecting gig workers. While the Code on Social Security, 2020 recognises gig workers, platform workers and Migrant Workers by providing welfare schemes for them, the protection still remains due.

However, states like Rajasthan have made significant progress and advancement by enacting laws such as the Platform-Based Gig Workers (Registration and Welfare) Act, 2023, which mandates registration, employer databases, and unique IDs for welfare boards. Registered gig workers are eligible for schemes that cover old-age support, health care, occupational safety, insurance, and paid leave under the Social Security Code, 2020.

The term gig workers is defined under Section 2(35) of Code on Social Security, 2020.⁸ But the term gig workers is not defined under OSH Code 2020.

Constitutional protection under Article 14 (right to equality), Article 19 (freedom of trade, business, and occupation), and Article 21 (protection of life and personal liberty) offers a normative basis to ensure the protection of the livelihood of these workers.

Prior to the enactment of these codes, India lacked a unified legal framework for minimum wages, overtime pay, working hours, grievance redressal, and insurance with respect to gig and platform workers, leaving around 82% of workers informal and unprotected in India. This leads to a gap in the protection of these workers, and many platforms evade obligations under the Contract Labour Act, 1970 by denying the status of employee, which results in no formation of trade unions and the exploitation of these workers in India.

Many experts recommend that gig workers be recognised as dependent workers in India to expand their rights and align with International Labour Organization (ILO) standards and conventions or global models like the UK Uber ruling case, and to enhance the power of state welfare boards, increase the accountability of platforms, and balance the gig economy with equity.

IV. MIGRANT WORKERS UNDER OSH CODE

The term migrant workers are defined more broadly than the prior inter state migrant workers act 1979 under this code it is defined under section 2(1)(zf)⁹ as inter state migrant workers under OSH code 2020 and it is defined under Section 2(41) of Code on Social Security 2020.⁹

And migrant workers under this code have access to Building and other contraction workers cess fund and as well as public distribution system ration benefits irrespective of the fact that

⁸ The Code on Social Security, 2020, Section 2(35)[bare act]

⁹ The Code on Occupational Safety, Health and Working condition, 2020, section 2(1)(zf)[bare act] ⁹
The Code on Social Security, 2020, Section 2(41)[bare act]

whether they are in their home or destination state. And it also imposes obligation on employers to provide a to-and fro journey allowance so that the workers can visit their native place once every 12 months and mandates employer to register the establishment if there are 10 or more workers and to provide annual health checkups and under this code it also mandates that the central and state government to maintain an electronic portal / database for registration of inter state migrant workers by way of aadhar verification but this code is criticised for raising the registration from 5 to 10 excluding small units which employs over 70 percent of migrants and still identification remains tough because they are informally hired and they have lack of ID cards and there are low awareness among these migrants

V. IMPLEMENTATION GAPS IN THE OSH CODE

The Occupational Safety, Health and Working Conditions (OSH) Code, 2020 was mainly implemented in order to modernise the present labour laws, but it faces significant implementation gaps which threaten its effectiveness. Weak labour inspection mechanisms persist due to an acute shortage of inspectors, leading to inconsistent checks. The Code has transitioned from inspectors to inspector-cum-facilitators, because of which critics argue that it has made implementation ineffective by reducing active inspections, as it shifts to a lighter, advisory role instead of punitive enforcement.

The Code also relies on web-based systems, which lead to randomised inspections and require self-certification, imposing more obligations on employers, but this is missing in small and unorganised units. The digital system or compliance tools fail to reflect the ground reality because of outdated systems and are not fully available in low-connectivity regions, which causes a gap in real-time monitoring.

Since labour law falls under the Concurrent List, even though the central code has been passed, it is not fully operational until state governments frame their own rules. There are significant differences among states regarding leave carry-forward limits and overtime provisions.

This Code requires mandatory registration in cases where there are 10 or more workers, which excludes small firms because they may cap their employment at 9 or fewer in order to avoid compliance. Approximately 90 percent of India's workforce is unorganised and informal. The OSH Code, even though comprehensive, is difficult to apply in unregulated small businesses, homebased settings, and agriculture, which leaves most vulnerable workers unprotected.

Gig workers still remain largely untracked and fall outside the purview of regulatory compliance, which leads to vulnerability on these platforms in India. Therefore, without effective and integrated digital infrastructure, compliance monitoring will be ineffective.

VI. CORPORATE COMPLIANCE PERSPECTIVE

India has undergone a major transition from fragmented, sector-specific labour laws to a unified legal framework through the introduction of the four Labour Codes. This reform aims to reduce administrative burden while strengthening worker protection, and it reflects a shift towards a compliance-based approach rather than a purely punitive one.

Section 3 of the Code on Social Security, 2020¹⁰ deals with registration. It requires establishments employing 10 or more workers to complete a single electronic registration within 60 days from the date of applicability of the Code. Delayed registration may attract penalties. In the case of contractors, those engaging 50 or more contract workers are required to obtain a license. The Code also introduces a common license for multiple activities, thereby simplifying compliance procedures.

The Code imposes several obligations on employers. These include providing a safe and risk-free workplace, offering free annual health check-ups for employees above a certain age (even in nonhazardous establishments), and ensuring welfare facilities such as canteens in establishments with 100 or more workers and crèches where 50 or more workers are employed. Employers must also provide 24/7 medical facilities in certain cases.

With respect to women employees, the Code permits employment during night shifts (7 PM to 6 AM), subject to their consent and adequate safety measures. Additionally, employers are required to issue written appointment letters to all employees, ensuring transparency in employment terms.

Although the Code simplifies compliance, significant implementation gaps remain in India. While minor offences have been decriminalised, monetary penalties have been increased. In practice, many companies avoid formal employment structures by relying heavily on contract labour, which offers flexibility and avoids retrenchment obligations. This allows them to evade providing fulltime employee benefits such as leave entitlements and job security.

This “hire and fire” approach is particularly prevalent among MSMEs. It also shifts welfare responsibilities to the principal employer while, at the same time, formally recognising and providing limited empowerment to contract workers.

VII. SUGGESTIONS AND REFORMS

To bridge the implementation gaps in India’s labour codes, particularly concerning gig workers,

¹⁰ Code on Social Security, 2020, Section 3 [bare act]

platform workers, and migrant workers, the government must give primacy to digital integration and mandatory social security contributions.

Key measures should focus on utilising the e-Shram portal for comprehensive worker registration, along with ensuring employer accountability through regular audits and compliance checks.

Key Recommendations

- Broaden social security coverage by removing the ₹18,000 wage limit and reducing the minimum employee threshold to five, thereby making the system more inclusive.
- Improve safeguards for gig workers, platform workers, and migrant workers by introducing mandatory travel or journey allowances, ensuring Aadhaar-based portability of benefits, and providing relocation or displacement assistance across states, all of which can be effectively integrated through the e-Shram portal.
- Enhance labour inspection mechanisms by establishing a triple-tier labour inspection system through central funding and introducing AI-driven audits for gig platforms.
- Mandate quarterly compliance reports from aggregators.
- Introduce unemployment insurance for unorganised and gig workers with Aadhaar
 - verification.
- Establish dedicated migrant inspection cells with multilingual awareness initiatives.
- Integrate OSH welfare through a national database for real-time tracking.
- Adopt international best practices by incorporating Australia's risk-based inspection model to prioritise high-risk gig work tasks using data analytics. India can implement this by integrating such systems into the e-Shram portal. Additionally, adopt Japan's platform contract model, which mandates simple digital contracts via ONDC/UPI apps for gig and platform workers by leveraging India's 1.4 billion Aadhaar base at zero cost

VIII. CONCLUSION

The Code Occupational Safety, Health and Worker Condition, 2020 consolidates 13 central labour laws into a single unified framework; however, there is an enforcement shortage. Gig workers, platform workers, and migrant workers are the most vulnerable groups because they lack awareness regarding registration through the e-Shram portal. Since around 90 percent of workers in India belong to the unorganised workforce, India's OSH Code must eliminate wage ceilings and adopt risk-based inspections for gig and platform workers. Additionally, phased

digital reforms leveraging Aadhaar–e-Shram integration will help bridge implementation gaps and secure occupational safety as a cornerstone.

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