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Platform Workers vis-à-vis Legal Protection, in the Light of Recent Reforms in Labour Laws

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ABSTRACT

Platform work is an emerging domain in the Indian employment landscape. The rise of a plethora of online platforms to solve common day issues of the proletariat in urban as well as rural hinterlands, and increased access to smart mobile phones/internet connections is propelling the growth even further. While this is a welcome sign considering the lackadaisical growth of manufacturing sector jobs in India, however, it brings with it many more challenges. The lack of ownership on behalf of the online platforms towards the welfare of its workers is the prime concern. Furthermore, through the lenses of the recent reforms in labour laws.

Keywords: Worker, labour.

I. INTRODUCTION

When a former Wall Street hedge fund executive Jeff Bezos founded Amazon.com, seldom he would have realized that he is bringing a revolution in the employment market. As Amazon.com grew and many others like it sprung up across the planet, a new category of employees emerged. These workers were living the predicament of being the face of the organization they worked for at the same time not being treated as the permanent workers of the firm. In order to understand more about the platform workers, we first need to understand the meaning of the term platform. A Platform is an “online intermediary” that connects customers with a large pool of suppliers. The unique differentiator for platform businesses is the convenience they bring to the customers. Some of the major platform businesses in India are Ola, Urban Company, Swiggy, etc., recently promulgated code on social security defined “platform work” means 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. Thus, ‘Platform work’ means that there is no formal contract of employment between the employer and employees, however,

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they connect through an online platform to perform certain specific work or services in exchange for payment.[1]

A 'Platform worker' means and includes a person engaged in or undertaking platform work.[2]

II. THE SCALE OF PLATFORM WORKERS IN INDIA

India, a country with a deep-rooted tradition of in-store buying, astonished the globe when the world's largest retailer Walmart Inc. invested a whopping 16 billion USD in domestic e-commerce firm Flipkart to claim a majority stake [3]. This deal not only signified the commencement of a new era in the world of platform businesses in India but also heralded the power of youth-driven businesses. Recently Zomato, a food service platform, made a stellar debut at Dalal Street with an IPO, which provided a premium of 66% with respect to the issue price on the day of offering [4]. These gigantic financial transactions are sufficient to indicate a prospering market for platform businesses in India.

The Indian e-commerce market is slated to grow at a compounded annual growth rate of over 40% over the next couple of years. In the financial year 2025, the Indian e-commerce market is expected to create a demand of about 10.5 billion online shipments [5]. The number of delivery executives required to fulfil this enormous demand will also rise significantly over the years. As of May 2020, Amazon employed well over 1 lakh individuals in its delivery network and front-end supply chain roles [5]. Flipkart the homegrown e-commerce giant added more than 23,000 delivery executives between March and May 2021 (*just three months*) to bolster its supply chain [6]. The Urban Company, an online home services platform has more than 40,000 trained service providers with it [7]. Swiggy and Zomato, the food delivery platforms garner roughly 2 million orders per day each. Both Swiggy and Zomato employ more than 3,00,000 food delivery executives to fulfil this massive demand for their services [8]. The list for online platforms and the number of executives employed by them as service providers is endless, and every day it is expanding due to advantageous circumstances for the start-up ecosystem in the country. As per the latest ILO report 'World Employment and Social Outlook', India is the largest source of platform workers across the globe with more than 20% global share [9].

III. QUANDARY OF PLATFORM WORKERS

What if you are the face of an organization (*to its customers*) and when it comes to sharing the profit, you are told that you are an 'independent entrepreneur' merely selling your resources in return for payment? This is exactly the plight of the Platform workers in India. While this looks like a novel issue superficially, this has been a thriving tradition in the Indian informal sector.

The gig workers who sell their labour are paid, only when there is demand for their efforts, otherwise they are left at the whims of their kismet.

The platform workers are usually treated as ‘independent entrepreneurs’ by their lords. Independent entrepreneurs are expected to look after their own interests during the ebbs and peaks. The platforms exploit this idea by growing exponentially due to the efforts of platform workers during booms and relegating the responsibility of looking after the platform workers during their low phase. Platform workers are given flexibility and a sense of ownership while performing their duties but the cost they have to bear for this is enormous. The flexibility of work provided by the platforms is at best deceptive to a worker as he still has to abide by the mechanisms of the platform’s algorithm (*the workers have to comply with the harsh quality control rules of the platforms*). Moreover, in order to be employed by many of these online aggregator platforms, a worker needs to have unbridled access to vehicular assets. While this may be easy for urban or peri-urban workers, for workers coming from rural hinterland this is a mammoth constraint. In order to overcome it, many of these platform workers have to take loans (*which might be facilitated by platform companies*). This might overburden them financially as they may not have a continuous stream of income (owing to the demand-based nature of work) [10]. This uncertainty associated with their job debilitates the platform workers when the going gets tough during unsettling times. The word ‘partner’ is often used by online aggregator platforms for their front-end delivery agents or service executives, but in practice, they act conversely. But how can this dynamic be changed? The current dimensions of the relationship between the platform workers and the aggregator platforms can only be altered by holding the platforms accountable for the welfare of their workers not only during growth phases but also during lows. The treatment of platform workers as ‘independent contractors’ had led a majority of them to work under precarious conditions with little or no support in terms of health insurance. According to a poll conducted by the Indian Federation of App-based Transport Workers (IFAT), 95.3 percent of app-based workers (*out of 2128 contacted by the federation*) in six Indian cities did not have health insurance [11]. Moreover, inadequate access to paid time off or sick leaves (*which are considered as a bare minimum allowance given to a regular worker*) was crippling the morale of platform workers. The unionization of platform workers is low as compared to regular workers of any organization, thus their ability to collectively bargain for their welfare is low.

IV. CURRENT LABOUR LAWS AND NEGLECT OF THE PLATFORM WORKERS

The Indian state, once renowned over the entire globe for its textile exports, has today fallen

behind the likes of China. India exports less than one-tenth of the apparel exported by China [12]. In their book 'India's Tryst with Destiny,' Jagdish Bhagwati and Arvind Panagariya point out that more than 90% of textile workers in India work for firms with less than 50 employees. On the contrary, China is prospering with firms having more than 200 *workers (considered large organizations in the industry)*. What could be the prime reason behind this disparity in the two countries, which were growing on almost similar lines until as recently as the 1980s? The fundamental reason at the back of this is the presence of stringent labour laws in India. The textile industry is only the tip of the metaphorical iceberg of the dwindling manufacturing sector in India. The widespread availability of cheap labour and advantageous demographic dividend couldn't take India to the top of the global charts in terms of manufacturing capabilities. However, the services industry in India (*especially IT*) painted a different picture as a common worker (*those even at the lowest rungs*) in these industries could easily be classified as part of the management of the organization rather than as a worker.

In order to alter the crescendos of easy labour availability, the central government has introduced four new labour codes to replace 29 archaic labour laws from the legion. These new codes are named the Code on Wages, the Code on social security, the Code on occupational safety, health and working conditions, and Code on industrial relations. The government claims to have brought these codes to bring changes to the lives of more than 50 crore workers in the unorganized sector. The wage code incorporates four previous laws and applies to all employees in the organized and unorganized sectors. The social security code incorporates nine labour statutes and discusses worker welfare. The Code of industrial relations combines three previous pieces of legislation and establishes broad guidelines for workplace disputes and trade unions. The code on occupational safety, health, and working conditions incorporates 13 previous regulations and is applicable to manufacturing plants [13]. These codes aim to simplify the labour laws for the organizations intending to operate in India by lessening the problem of red-tapism due to complex web labour laws.

The word 'Platform workers' finds a mention only in the code on social security, where the government has tried to define it and catalogue its intent concerning future legislation on platform workers. The code calls for the establishment of a National Social Security Board to assist the central government in developing and monitoring welfare programs for platform employees, gig workers, and unorganized workers. It also briefly mentions the intention of the government to make a database on the platform workers to deliver the benefits related to the welfare *schemes (this may involve registration using the Aadhar card)*. The code also promulgates that the government may set up a national helpline number for the platform, gig,

and unorganized workers. The government will establish a social security fund for the social security and welfare of platform employees, gig workers, and unorganized workers, according to the code. The code ordains the aggregators to contribute 1-2% of their annual turnover to this fund (*the annual turnover of an aggregator will exclude all taxes payable to the government*). However, such contribution from the online aggregator should not exceed 5% of the amount payable to the platform worker [14]. While the efforts of the government to release a document like this, where the idea of platform workers finds a place is commendable, the code lacks on certain aspects to deliver the right respect to the profession that it deserves. The code fails to delineate platform workers from the shadow of the unorganized sector, as the nuances of the trait require a distinct view. This would have helped in ensuring both the flexibility of work/sense of ownership (*chief attractions of platform work*) and social security at the same time. Though the code includes social welfare funds for platform workers, it does not clarify the responsibilities of the stakeholders (*government and online aggregators*) in delivering welfare. Thus, the responsibility to deliver social security to platform workers needs to be jointly administered by the public (*government agencies*) and private (*online platforms*) bodies. The code correctly involves the central and state governments in providing social security to the workers; however, this tripartite arrangement between the central government, state government, and online platforms might create unnecessary inefficiencies and inconveniences [15]. Furthermore, the code is silent on whether platform workers should be classified as “on-demand employees” or “independent employees,” as this classification might drastically exacerbate their situation when they demand benefits from their employers. As a result, while the current social security law is a move in the right direction, it needs to evolve significantly to meet the needs of the burgeoning number of platform workers.[16]

The government tried to act robustly to help the businesses in the country to sustain and by easing the labour laws to attract investment. However, the Government first time statutorily recognized the term ‘Platform workers’ to segregate unorganized and gig workers in the Indian context. The central government made known its intentions to introduce **robustness** into the lives of platform workers. Though the measures introduced in the code were not in line with some of the best practices around the world, it was a step in the right direction by giving the platform workers their due in terms of social security. In order to introduce anti-fragility to the lives of platform workers, a clear shift towards viewing their services is required from the government. The government needs to ordain the platforms to treat its workers as its full-time employees, to extend the benefits of social security.[17] The current robustness of platform work can be transformed into anti-fragility by lending them the invisible but indispensable hand

of social security. The transformation of the platform work ecosystem into an anti-fragile mechanism rests on the shoulders of the government and platforms. Will the platform work ecosystem be antifragile? Is a question that only the government legislation in the future and their implementation by platform businesses will answer ...

The introduction of a code on social security by the government of India is an appreciable step towards the upliftment of platform workers in India. The code not only talks about the welfare of platform workers in our country but also suggests ways to introduce schemes for their benefit. The code, however, is mute on the timelines and exact responsibilities of executioners. This puts the workers in jeopardy, even though the government intends otherwise. Furthermore, the classification of platform workers as ‘on-demand’ employees is under serious consideration in the developed world. Sooner or later, India too would have to follow suit as a slapdash approach towards this issue might metamorphose into an uprising. The robustness in the lives of platform workers could be transformed to anti-fragility (*as enjoyed by online aggregator platforms*) by providing them the necessary social security net through their employers.

V. REFERENCES

- [1] https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf
- [2] https://www.business-standard.com/article/companies/walmart-infuses-1-2-bn-in-flipkart-valuing-the-e-commerce-firm-at-24-9-bn-120071401218_1.html
- [3] <https://www.moneycontrol.com/news/business/ipo/zomato-ipo-listing-food-delivery-giant-crosses-rs-1-lakh-crore-m-cap-after-stellar-debut-with-nearly-53-premium-7210471.html>
- [4] <https://www.livemint.com/companies/news/amazon-tops-the-charts-in-online-delivery-experience-11607566541416.html>
- [5] <https://timesofindia.indiatimes.com/business/india-business/amazon-to-hire-50000-more-for-delivery-supply/articleshow/75905659.cms>
- [6] <https://www.livemint.com/companies/news/flipkart-hires-23-000-workers-in-supply-chain-delivery-roles-11621932783720.html>
- [7] <https://www.businessinsider.in/business/startups/news/urban-company-on-lookout-for-15000-service-professionals-in-50-cities-in-india/articleshow/85447261.cms#:~:text=Urban%20Company%20claims%20to%20have,new%20services%20on%20its%20platform.>
- [8] <https://economictimes.indiatimes.com/tech/startups/zomato-expects-to-easily-hit-5000-orders-a-minute-on-new-years-eve/articleshow/88618472.cms?from=mdr>
- [9] https://www.researchgate.net/publication/356195089_A_Case_for_Worker-Centric_Platform_Economy_in_India
- [10] <https://www.thehindu.com/opinion/op-ed/a-secure-future-for-platform-workers/article32998179.ece>
- [11] <https://thewire.in/labour/india-gig-workers-protests-pil>
- [12] <https://www.statista.com/statistics/1094515/share-of-the-leading-global-textile-clothing-by-country/>
- [13] https://www.business-standard.com/podcast/current-affairs/four-labour-codes-that-everyone-is-talking-about-121122900040_1.html
- [14] <https://www.ijlmh.com/wp-content/uploads/Understanding-Gig-and-Platform-Workers-Addressing-the-Global-Issue-of-Misclassification.pdf>
- [15] <https://prsindia.org/theprsblog/relaxation-of-labour-laws-across-states>

[16] <https://www.thehindubusinessline.com/companies/urban-company-reports-11-qoq-growth-in-its-gig-workers-earnings/article64926499.ece>

[17] <https://timesofindia.indiatimes.com/blogs/voices/the-changing-face-of-bharat-owing-to-the-boom-of-the-edtech-sector/>

[18] https://www.business-standard.com/article/economy-policy/indian-e-commerce-to-grow-84-in-4-years-helped-by-covid-19-impact-study-121031000846_1.html
