BETWEEN PROMISE AND PRACTICE: DECODING DELHI'S DRAFT SOCIAL SECURITY FRAMEWORK

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ABSTRACT

India's labour law regime has from time immemorial focused on employer-employee relations, leaving gig and platform workers outside the scope of legislative protection. The Code on Social Security, 2020 was enacted to consolidate nine fragmented statutes to resolve the existing gap, but much of its substantive content is operationalised through government notifications. Delhi's Draft Code was notified in late July, 2025, giving a territorial effect to the central code. Though the draft strengthens procedural and institutional structure through its provisions, it remains substantively thin. There still exists no defined criterion for identifying gig and platform workers as "unorganised workers," thereby curtailing the intended beneficiaries from actually availing the reliefs. These gaps are further deepened by unresolved litigation before the Apex Court and instances such as nationwide gig-worker strikes as seen in December 2025. This illustrates a continuing tension between procedural reforms and enforceable substantive rights, pushing for the need for further legislative clarity.

Key Words: - *Code on Social Security, 2020; Delhi Draft Social Security Rules, 2025; gig and platform workers; unorganised workers; labour law reform in India*

I. Introduction

In India, the vast majority of workers function in the unorganised or informal sector, yet for decades the social security laws have been revolving around the formal employer-employee relationship.[1] This mismatch has left a large section of the workforce, including gig and platform workers, outside the protection of the law. The Second National Commission on Labour, in 2002, recommended a systematic consolidation of the then-present fragmented labour statutes to achieve better administrative efficiency and expanded worker coverage. These suggestions ultimately culminated in the historic enactment of four major labour codes between 2019 and 2020, which replaced 29 fragmented legislations. The Code on Social Security, enacted on 28 September 2020, represents the most significant consolidation, as it merged 9 varied statutes into a single unified framework.[2]However, the Code's promise of consolidation was only partially self-executing, as much of its substantive provisions was left to be operationalised by the government notifications.

II. Delhi's Draft Social Security Rules, 2025: Scope and Institutional Design

The Delhi government's notification of the draft code on social security rules, 28 July 2025, operationalises this central legislation at the territorial level. It derives its authority under sections 154, 156, and 158 of the Code on Social Security, 2020.[3]These empower the appropriate government, i.e. the Delhi Government, to frame and implement the rules while listing out the procedure to be followed. At present, the draft Code has been notified for feedback and is yet to be implemented.[4]Vide its application, the code aims to provide benefits to all the registered workers, whether organised employees, unorganised workers, contractual staff, gig workers, platform workers, inter-state migrants, or construction

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[1]Ministry of Statistics and Programme Implementation, Government of India, Annual Report: Periodic Labour Force Survey (PLFS), July 2023-June 2024, *available at:*https://mospi.gov.in/sites/default/files/publication_reports/AnnualReport_PLFS2023-24L2.pdf (Last Modified Sept. 22, 2024).

[2]PRS Legislative Research, "The Code on Social Security, 2020," *available at*: https://prsindia.org/billtrack/the-code-on-social-security-2020, last visited on July 12, 2026.

[3]The Code on Social Security, 2020 (Act 36 of 2020).

[4]Labour Department, Government of NCT of Delhi, Public Notice Regarding Advisory Dated 17.12.2025 and 22.12.2025 on GRAP, *available at*: https://labour.delhi.gov.in/sites/default/files/Labour/important-news/notice2509.pdf (Last Modified Dec. 22, 2025).

workers within its territory.[5]

The repealed legislationsmandated no stringent or effective provisions to provide social security to the informal sector, which the present draft seems to resolve. It provides social security through well-established institutional structures; compulsory schemes for the organised workforce, and discretionary schemes for the unorganised sector. It also includes explicit coverage for gig and platform workers, which, until its enactment, remained unrecognised.[6]The Delhi Social Security Code, 2025, aims to provide a procedural and institutional framework for implementing the central Code. For instance, in gratuity provisions, no change has been made to the entitlement provisions, and the Draft Code has retained the 15 days' wages per completed year of service.[7]However, it has conceptualised the open-ended substantive provisions by notifying the rules and timelines for the application of forms by applicants and employers. Therefore, the rules primarily focus on defining how the rights are exercised, while offering limited substantive clarity on the nature of benefits bestowed upon the workers.[8]The Draft Code has made the enforcement rule-based by prescribing over 20 forms for gratuity claims, appeals, accident notices, registers, and vacancies, thereby reducing procedural arbitrariness and administrative discretion.[9] A noteworthy addition made by the Draft Code is the introduction of mandatory registers that employers must maintain. These registers would record women workers' registrations, their age, marital status, number of children and maternity leave details. While the Central Code itself provides the provisions for maternity benefits, nursing breaks and creche facilities, the Draft Code add a layer of administrative traceability, ensuring better enforcement.[10] The provisions raise concerns regarding breach of privacy,

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[5]King Stubb & Kasiva, "Delhi Invites Public Input on Draft Social Security Rules," *available at*: https://ksandk.com/newsletter/delhi-invites-public-input-on-draft-social-security-rules (Last Modified Oct. 29, 2025).

[6]Press Information Bureau, "Social Security Boost for India's Gig Workers" (Backgrounder), *available at*: https://static.pib.gov.in/WriteReadData/specificdocs/documents/2025/aug/doc2025830624501.pdf (Last Modified Aug. 30, 2025).

[7]Numerica Consulting, "Gratuity Rules India 2025: Game-Changing Reforms Under the New Labour Code" (published Nov. 24, 2025, last verified Apr. 2026), available at: https://numericaconsulting.com/blog/gratuity-rules-india-2025-labour-code/#game-changing-reforms.

[8]Labour Department, Government of NCT of Delhi, *Draft Delhi Code on Social Security Rules, 2025 (F No 15(43)/Lab/2021/2262-2267)*, The Delhi Gazette: Extraordinary (Part IV, 28 July 2025) https://labour.delhi.gov.in/sites/default/files/Labour/important-news/delhi_code_security_rules_2025.pdf

[9]*Ibid*.

[10]*Regional Provident Fund Commissioner v. Hooghly Mills*, (2012) 2 SCC 489.

no data protection safeguards and discrimination.[11]

Moreover, the Social Security Code, 2020, has strengthened the institutional framework by creating the National Social Security Board for unorganised workers, State Unorganised Workers' Boards and Welfare Boards for building and construction workers. In furtherance, the Draft Code streamlines the details regarding the composition, tenure, and functioning of Delhi-levelled bodies. Two boards are created under the Draft Code: the Delhi Unorganised Workers Social Security Board and the Delhi Building and Other Construction Workers Welfare Board. The Draft even provides a provision for gender-inclusive membership by reserving a seat for women representatives.[12] Further, as established under Section 141 of the Social Security Code, 2020, the Delhi Social Security Fund redirects penalties towards welfare, thereby focusing on redistributive justice. It would receive its funding from the Central and State grants, construction cess, Corporate Social Responsibility dues, voluntary donations, prescribed fees, penalties and compounding amounts.[13] But there also lies a major substantive gap; there are no Delhi-specific provisions created for EPF and ESI contributions, wage ceilings and transitionsfor existing EPF and ESI members.[14] This is mentioned in the Central Code, and henceforth the Draft Code relies on the former's notifications.[15]

III. Substantive Gaps: A Comparative Analysis

A prescriptive analysis of the Draft Code can only be accomplished once it has been compared to the repealed legislation. The distinctions come out as the Draft Code is surprisingly silent on several core substantive matters that the earlier laws had settled. For example, under the Employees' Provident Funds Act 1952, contribution rates of both employers and employees, wage ceilings, and modalities for fund administration were all clearly stipulated.[16] However, according to the new code, as also mentioned above, the

[11] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
[12] Labour Department, Government of NCT of Delhi, Delhi Code on Social Security Rules, 2025, available at: https://labour.delhi.gov.in/labour/delhi-code-social-security-rules-2025-0 (Last Modified Aug. 1, 2025).
[13] *Supra* note 8.
[14] *Supra* note 8.
[15] S. Nadagoudar and R. Patil, "Social Security Code 2020: An Analysis" 10(2) *Christ University Law Journal* 19 (2021).
[16] Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Act 19 of 1952).

intricacies related to the provident fund have been left to the central government to specify via a scheme. The same approach is followed regarding state insurance policies.[17]These provisions have not been contextualised for the state of NCT of Delhi, and the draft has neither mentioned any sector-specific rate nor addressed the transition from EPF and ESI members from the old to the new statutory framework. Put simply, in accordance with the Draft Code, employers and workers will remain entirely dependent on the Central Government for clarification on these issues.[18]

A similar approach can be seen when it comes to the unorganised sector and the gig and platform workers. The Central Code empowers the central government to frame schemes for the unorganised, gig, and platform workers, to be implemented at the state level.[19] The Unorganised Workers' Social Security Act of 2008 also worked in this manner, where the state-designed schemes under centrally sponsored programmes were rolled out, though they were implemented imperfectly.[20] As per the new law, the Draft Code has set up a board to formulate schemes related to disability, health, maternity, old-age and other benefits, but it fails to provide any minimum content, or the transition or continuation of the existing benefits under the 2008 Act.[21] The code proudly presents the inclusion of platform and gig workers as a new subject of social security, but the draft fails to identify how exactly gig and platform workers are to be identified, leaving this new subject as nothing but a legal limbo.[22]

IV. Judicial Intervention: The IFAT Litigation

This legal limbo is presently before the Supreme Court of India in *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India,*[23] where IFAT argued that the control exercised by the companies over fares, task allocation, working hours, and performance monitoring is a direct indication of an employer-employee relationship, in addition to them

[17] *Supra* note 15.
[18] *Supra* note 8.
[19] *Supra* note 3.
[20] D.J. Shekhar, "Why the Code on Social Security 2020 Misses the Real Issues Gig Workers Face" *Forbes India*, Oct. 13, 2020.
[21] *Supra* note 8.
[22] *Supra* note 20.
[23] *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India*, Writ Petition (Civil) No. 1068 of 2021 (Supreme Court of India, order dated Feb. 18, 2025).

being termed as 'partners.' This entitles gig workers to be labelled as "unorganised workers" under the 2008 Act, invoking Articles 14, 21 and 23 of the Constitution. On February 18, 2025, the Court pressed the Union for a concrete timeline on implementation of Chapter IX ofthe Code. It also asked the companies to extend voluntary benefits rather than waiting for judicial compulsion. The case remains pending before the court, but it mirrors the Draft Code's own unresolved definitional gap.

A similar situation can also be seen with respect to the construction and building workers. The Act of 1996 had established a cess-based mechanism, under which a levy on construction costs was collected by the government and, in turn, the welfare boards established welfare schemes for the workers, including accident insurance, health care, pension and educational assistance.[24] Under the new code, a unified structure has been adopted to let go of the cess-based mechanism. The Draft Code successfully implements this by establishing a State Welfare Board, but fails to spell out how the already existing cess corpus and obligations created under the 1996 Act need to be transitioned. This raises a big concern amongst the stakeholders with respect to pending claims, existing beneficiaries and the utilisation of accumulated funds.[25]

V. Stakeholder Responses and Ground Realities

The July notification introducing the draft code called for feedback and suggestions from various stakeholders: workers-gig, platform, unorganised, organised, employers, general public, trade unions, etc.[26] While most of such responses were via post and direct mail, some have also been made available online. Trade Unions have criticised the draft code on groundssimilar to those used in preceding paragraphs to explain the draft's provisions. Others, like Gig worker associations, have also suggested some changes and expressed their grievances. They have demanded reforms like mandatory, not voluntary, registration linked to E-Shram platforms, thereby shifting the burden from not-so-educated workers to the platform. They have also criticised the workers' contribution with respect to funding,

[24] Building and Other Construction Workers' Welfare Cess Act, 1996 (Act 28 of 1996).

[25] S. Nandi, "Nearly 50% of Construction Workers' Welfare Cess Funds Unutilised" *Business Standard*, Oct. 29, 2024.

[26] Civis, "Public Consultation: Draft Delhi Code on Social Security Rules, 2025," *available at*: https://www.civis.vote/consultations/1311/read (Last Modified July 31, 2025).

and have proposed a cess of 2-5% on aggregator turnover to finance the prescribed benefits.[27] Another prominent suggestion has been maderegarding the prevention of procedural exclusion and the promotion of more democratic governance by reserving 30% of Board seats for worker representatives, backed by strict penalties in cases of non-compliance. Such suggestions have been made to operationalise the code from a mere procedural rulebook to a binding statutory right.

Amidst the ongoing debates over the implementation of the new code, in late December 2025, nationwide strikes were witnessed in major cities of India, such as Delhi and Hyderabad, raising concerns over the low pay, unsafe delivery conditions, absence of social protection, and lack of formal recognition under labour laws. Gig and Platform Workers Union called for sustained action from 25th to 31st December, 2025. Coordinated protests were organised demanding minimum wages, safety norms and legal recognition of their work status.[28] The strike illustrated the practical application of the gap between the existing laws and the substantive implementation as discussed above.

VI. Conclusion

The Draft Code risks creating rights on paper, without turning them into real, enforceable guarantees. A judgment as given by the Hon'ble Supreme Courthas held that collected funds, if not utilised properly, defeat the purpose of the social security legislation, reinforcing that procedural mechanisms must yield actual benefits, instead of merely being confined to the statute.[29] While the Draft Code enhances the procedural clarity and institutional structures, it remains substantively weak, as a large segment of workers remains dependent on government notifications. A reform is needed where laws align with the constitutional labour protections, ensuring that the promise of social security turns into lived realities.

[27] Gig Workers Association, "GigWA Feedback on Draft SS Rules by Delhi Government" (2025), *available at*: https://www.slideshare.net/slideshow/gigwa-feedback-on-draft-ss-rules-by-delhi-government/283671304.

[28] A. Singh, "As Gig Workers Strike on Dec 31, How Countries Have Acted on Their Rights and Where India Stands" *The Indian Express*, Dec. 30, 2025.

[29] *National Campaign Committee for Central Legislation on Construction Labour v. Union of India*, (2018) 5 SCC 607.