

Labour Law Reforms on Unorganized, Gig and Platform Workers Under the Code On Social Security: Issues and Challenges

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ABSTRACT:

With the introduction of the Code on Social Security in 2020, India's labour regulations governing gig, platform, and unorganised employees are expected to undergo major modification. The main problems and difficulties with the code's implementation are highlighted below, along with how they affect these weaker workforce sectors. The Code on Social Security aims to provide employees in the unorganised, gig, and platform sectors complete social security coverage, including advantages like health insurance, maternity benefits, and pensions. To effectively execute these changes, however, a number of issues must be resolved. The identification and registration of unorganised, gig, and platform employees, who often engage in informal and decentralised labour arrangements, is one of the main obstacles. To guarantee these employees' access to benefits, a solid system must be established for identifying and enrolling them in social security. Determining the job connection in the gig and platform economies presents another problem. The distinction between regular employment and self-employment is sometimes blurred since these employees frequently work as independent contractors. It is very difficult to determine their rights and obligations under the law while keeping the flexibility provided by gig labour.

KEYWORDS:

Exploration, Organic Material, Oil Gas, Petroleum Geology, Source Rock.

I. INTRODUCTION

The most undervalued and abused group of human labourers are the 91% of the workforce that work in the unorganised sector. There are no set working hours, vacations, paid time off, medical facilities, measures for workplace safety, or sufficient social protection. In reality, they are sometimes refused even the minimal salary. While there are 38 Central laws and more than 100 State laws, the organised sector of the economy has the most laws attempting to govern employees. If not, none of them apply to an employee who works in an unorganised industry. Even yet, there is little enforcement and very little coverage under these laws. According to the National Sample Survey Organisation of the Ministry of Statistics & Programme Implementation's periodic Labour Force Survey, which was conducted in 2017–18, there were around 47 crores of people employed nationwide, in both the organised and unorganised sectors. 38 crores of this total are in the unorganised sector, with 9 crores working in the unorganised sector [1]–[3].

According to the Annual Report of the Ministry of Labour, Government of India of Labour for 2020–21, more than 81 percent of the nation's workforce is employed in the unorganised sector. However, because of Covid-19 and the subsequent shutdown, it is anticipated that this number has increased. In addition to street vendors, mid-day meal workers, head loaders, brick kiln workers, cobblers, rag pickers, domestic workers, washermen, rickshaw pullers, landless labourers, own account workers, agricultural workers, construction workers, handloom workers, leather workers, audio-visual workers, and those engaged in embroidery and tailoring, a large number of unorganised workers work from home. In recent years, a brand-new class of platform and gig workers arrived in India and were given legal recognition under the Code of Social Security, 2020. There are roughly 3 million gig workers in India, comprising temporary employees who work as independent contractors, on internet platforms, in contracting companies, and as on-call staff.

The Unorganised employees' Social Security Act, 2008 (UWSS Act) was passed in order to offer social security to employees in the unorganised sector. The Act became operative on May 16, 2009, with immediate effect. The Act aims to provide unorganised employees with social security and welfare, as well as for other concerns related to or incidental to that goal. The aforementioned Act has been included into the 2020 Code on Social Security. On September 29, 2020, the President approved the Code. It hasn't yet come into effect however. The Unorganised Workers Social Security Act of 2008 covered unorganised workers who were in need of social security and welfare, but the Code on Social Security, 2020 (CSS) also specifically included gig workers and platform workers in the scope of social security programmes created under CSS. As a result, the CSS outlines social security for gig and platform employees as well as those employed in the unorganised sector for the first time in India.

II. DISCUSSION

WHO IS AN UNORGANISED WORKER?

According to Section 2(86) of the CSS, a "unorganised worker" is any employee who works from home, is self-employed, or is paid a salary in the unorganised sector. It also covers any employee in the organised sector who is not protected by Chapters III to VII of the CSS or the Industrial Disputes Act of 1947.

A review of the aforementioned definition reveals that the CSS adopted the definition of the same term under section 2(m) of the Unorganised Workers Social Security Act, 2008 with the exception that "the Industrial Disputes Act, 1947 or Chapters III to VII of this Code" has been used in place of "any of the Acts mentioned in Schedule II of this Act." It should be noted that the Industrial Disputes Act of 1947 will be included into the Industrial Relations Code of 2020 when the four labour codes are in effect, necessitating further amendments.

A review of the aforementioned definition necessitates examination and explanation of:

1. Home-based worker,
2. Self-employed workers,
3. Wage worker,
4. Unorganized sector.

Determining the breadth and coverage of the Industrial Disputes Act of 1947 and Chapters III to VII of this Code is necessary for the inclusive portion of the definition. Turning, let's look at them.

Home-based workers

The definition of "home-based worker" found in Section 2(e) of the UWSS Act has been accepted by Section 2(36) CSS, with the exception that "his" has been used exclusively in lieu of "his or her" to allow for arguments based on gender issues. But regardless, a "home-based worker" is someone who works for an employer to produce goods or services in their home or another location of their choosing aside from the employer's workplace in exchange for payment, regardless of whether the employer provides the necessary tools, supplies, or other inputs [4]–[6].

Self-employed workers

The definition of "self-employed worker" as stated in Section 2(f) of the UWSS Act was kept by Section 2(75) of the CSC. It refers to anyone who is not employed by an employer but engages in any unorganised sector occupation subject to a monthly earning cap that may be announced by the State Government or the Central Government, depending on the circumstances. It also includes anyone who owns cultivable land subject to a cap that may be announced by the State Government.

Wage worker

The definition of "wage worker" as stated in Section 2(n) of the UWSS Act was likewise kept by Section 2(90) of the CSC. It refers to anyone who is paid in the unorganised sector either directly by an employer or through a contractor, regardless of where they work, whether they work exclusively for one employer or for several, whether they are paid in cash or in kind, whether they are employed by a household as a domestic worker or as a migrant worker, or whether they are paid a monthly wage as determined by the Central Government.

Scope and Applicability of the Code on Social Security in Unorganized Sector

A number of rules and changes included in the Code on Social Security, which was enacted in 2020, are aimed at expanding social security coverage to employees in India's unorganised sector. The following explanation will help you understand the reach and application of the Code on Social Security in the unorganised sector:

The unorganised sector is defined as:

According to the Code on Social Security, the unorganised sector includes employees who participate in a variety of economic activities, including self-employment, casual employment, work from home, and other jobs with a similar nature. It comprises employees who often engage in ad hoc and distributed employment arrangements and are not protected by the standard employer-employee relationship.

Social Security Coverage:

Workers in the unorganised sector are intended to be covered by social security under the Code on Social Security. It creates a framework for delivering a range of social security benefits, including as health insurance, maternity benefits, old age security, and disability benefits.

Registration and Identification:

The Code places a strong emphasis on the need of registering and identifying employees in the unorganised sector in order to guarantee their eligibility for social security benefits. It requires the creation of registration processes and the issuing of individual identity numbers to qualified personnel.

Funding Mechanism:

The financing of social security programmes for employees in the unorganised sector is outlined in the Social Security Code. It details the payments that employees, businesses, and the government are expected to provide towards these programmes, assuring a long-term funding source.

Implementing Agencies:

The Code identifies the relevant governmental organisations and authorities in charge of carrying out and monitoring the social security programmes for employees in the unorganised sector. These organisations are entrusted with making it easier to register, collect contributions, and provide benefits to qualified employees.

Penalties and Compliance:

The Code places a strong emphasis on adhering to the social security obligations and penalises companies that don't. On behalf of its employees in the unorganised sector, it aims to make sure that employers adhere to their duties to provide social security coverage and make timely payments.

Transition Period:

Existing social security programmes for employees in the unorganised sector might be incorporated into the new framework during a transition period, according to the Code. This enables the social security requirements to be implemented gradually while taking into consideration the current programmes and their beneficiaries. The Code on Social Security aims to provide employees in the unorganised sector necessary benefits and protection by extending the reach of social security coverage to them. It aims to fill up the gaps in the social security coverage of employees in this industry and acknowledges the special qualities and difficulties they encounter.

Framing of Schemes for Unorganised Workers

The 2020 introduction of the Code on Social Security seeks to provide unorganised, gig, and platform workers in India full social security coverage. The Code emphasises the creation of plans for unorganised employees to secure their welfare and social security as part of the labour law changes. The following are some major concerns and difficulties in framing unorganised worker social security benefit plans:

Identification and Registration: Identifying and registering unorganised employees is one of the main issues. Many of them operate in distant locations, labour informally for pay, and lack official employment contracts. To provide social security benefits to these employees, a reliable identification and registration system must be developed.

Reach & Coverage: The unorganised workforce is a varied population with a range of professions and incomes. Reaching out to all qualified employees and ensuring complete coverage might be difficult. It necessitates creating flexible, inclusive policies that take into account the unique requirements and vulnerabilities of various groups of unorganised employees.

Financial Sustainability: When framing plans for unorganised employees, financial factors are taken into account. A significant difficulty is developing a long-term financial source to maintain social security payments for a large number of employees. To maintain the long-term survival of the programmes, it is necessary to strike a balance between the financial burden placed on the government, companies, and employees.

Accessibility and Awareness: Many unorganised employees may not be aware of their rights or how to use social security programmes. There are several obstacles to promoting the programmes and guaranteeing their accessibility. To close this gap, outreach initiatives, streamlined application procedures, and efficient communication channels are required.

Portability and Transferability: In quest of job prospects, unorganised employees often move across locations. To uphold their rights and provide ongoing coverage, it is essential to guarantee the portability and transferability of social security benefits. A difficulty that has to be solved is developing systems for smooth benefit transfer across states and professions.

Compliance and Enforcement: Sophisticated compliance procedures are necessary for the successful implementation of programmes for unorganised employees. It is essential to ensure that businesses make the required contributions and that employees follow the registration and reporting requirements. It is essential to improve enforcement procedures and encourage compliance via education, rewards, and sanctions [7]–[9].

Integration with Existing Programmes: A number of current social security programmes may already provide coverage for unorganised employees. To prevent duplication, guarantee effective benefit distribution, and simplify the overall social security system, the new schemes must be coordinated and integrated with the current ones.

Government, businesses, labour unions, and other stakeholders must work together to address these problems and difficulties. To determine the success of the schemes and make the required corrections, regular monitoring, assessment, and periodic reviews are needed.

An important step towards securing social security coverage and wellbeing for this disadvantaged group of employees is the structuring of unorganised worker schemes under the Code on Social Security. The goal is to develop a more inclusive and fair social security system in India by overcoming the obstacles and attending to the unique requirements of unorganised employees.

Important considerations for creating social security programmes for unorganised employees in accordance with Section 109 Subsections (1) and (2)

A reading of the aforementioned clauses indicates that they just list the welfare programmes without defining their scope or method of implementation. The topic on which the Central and State governments shall develop social security programmes for unorganised employees is assigned by the Code, according to a review of sub-sections (1) and (2) of section 109 of the CSS. However, there are some overlaps between the welfare programmes that the Central Government will announce in the fields of education and protection for the elderly. The stipulations of section 3 (1) of the UWSS Act are still there in the CSS, as can be seen by carefully reading the aforementioned sub-sections. Nevertheless, in contrast to the UWSS Act, it incorporates a new paragraph (iv) pertaining to education under section 109(1). This action on the topic is progressive.

The aforementioned sub-section, as mentioned therein, deals with the formulation of welfare schemes rather than specifically the social security schemes, despite the title of the chapter being "Social Security to unorganised workers, gig workers, and platform workers," a close examination of the aforementioned provisions also reveals. Although social security is often included in welfare rules, it is thought that in order to prevent any misunderstandings and to be more exact, social security should either be specifically mentioned or both social security and welfare should be used.

FUNDING OF SCHEME

By the Central Government

The scheme announced by the Central Government may be (i) fully funded by the Central Government, (ii) partially funded by the Central Government and partially funded by the State Government, (iii) partially funded by the Central Government, partially funded by the State Government, and partially funded by contributions obtained from the scheme's beneficiaries or employers, as may be specified in the scheme by the Central Government, or (iv) funded from any source, including

By the State Government

Like Central Government, any State Government-notified⁸ scheme may be funded in one of three ways:

1. Entirely by the State Government;
2. Partially by the State Government, with contributions from the beneficiaries of the scheme or employers as may be specified in the State Government-notified scheme; or
3. Funded from any source, such as the Corporate Social Responsibility Fund mentioned in clause (iv) of sub-section (3) of section 109.

The State Government may also ask the Central Government for financial support for the schemes it develops, and the Central Government may grant State Governments that support for the duration and under the terms and conditions it deems appropriate.

Important difficulties related to money from a fund for corporate social responsibility

Clause (c) above needs particular study. It should be noted that, in accordance with the Companies Act of 2013, every company with a net worth of at least Rs. 500 crores, a revenue of at least Rs. 1000 crore, or a net profit of at least Rs. 5 crores must establish a board-level committee for corporate social responsibility that is made up of at least three directors, one of whom must be an independent director.¹⁰ Additionally, any firm that must comply with CSR regulations must make sure that it spends at least 2% of its annual average net income from the three financial years before. The aforementioned clause was the topic of discussion at the Code in Social Security Bill hearing before the Parliamentary Standing Committee on Labour in 2019. Regarding the stipulations of Clause 109(3)(iv), it was proposed that the Companies Act 2013 be changed to impose an additional 1-2% charge over and above their CSR to make a direct or indirect contribution to the Fund for the Unorganised Workers. Furthermore, it was recommended that the government take into account taxing the populace. Both parties should provide unemployment benefits for employees who are properly registered with the Social Security Organisation. These are the policy issues that the government will decide. However, the financing model must be expanded, and a specified sum recovered as a fine during the composition of infractions must be included [10], [11].

III. CONCLUSION

In conclusion, the labour law changes made under the Code on Social Security regarding unorganised, gig, and platform employees represent an important step towards ensuring these workers in India have complete social security coverage and welfare. However, putting these changes into practise comes with a number of difficulties and brings up significant problems that must be resolved. Unorganised employees often operate in unorganised industries in distant locations, making identification and registration difficult. For these employees to get social security payments, an efficient system for identifying and registering them must be developed. It might be difficult to guarantee complete coverage and get in touch with all eligible employees across a range of professions and income brackets. Plans that are adaptable and inclusive that take into account the unique requirements and vulnerabilities of various groups of unorganised employees are required. Collaboration between the government, businesses, labour unions, and other stakeholders is necessary to address these problems and difficulties. The schemes must be regularly monitored, evaluated, and reviewed in order to determine their efficacy and make the required adjustments. A substantial step has been taken towards building a more inclusive and fair social security system for gig, platform, and unorganised employees with the labour law changes made under the Code on Social Security. To secure these employees' welfare, protection, and access to social security benefits, it is important to overcome the obstacles and cater to their unique demands.

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