

LEGAL PROTECTION FOR GIG WORKERS DURING CRISIS SITUATION: A STUDY OF EXISTING LAW IN INDIA

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Abstract—India's expanding gig economy has created millions of livelihoods through digital platforms such as Swiggy, Zomato, Uber, Ola, and Amazon, yet gig workers remain largely outside conventional labour protections. Their vulnerability becomes particularly evident during crises such as pandemics, floods, and lockdowns, when they continue to provide essential services without adequate institutional support. This study examines the legal protection available to gig workers in India during crisis situations through a mixed-methods approach combining a structured survey of 101 gig workers in Pune with an analysis of relevant central and state legislation, judicial pronouncements, and international standards. The findings show that 74.3% were unaware of government schemes or laws for gig workers, only 14.9% were registered on e-Shram, and 66.3% had worked during a crisis. Further, 81.2% received no platform financial support, 85.1% received no government support, 60.4% faced health risks, and 90.1% experienced income reduction. Among those who sought help, 77% reported unresolved complaints, while 81.2% did not feel legally protected during emergencies. Although the Code on Social Security, 2020 formally recognises gig and platform workers, gaps remain between statutory provisions and their practical delivery. The study recommends a dedicated Gig Workers Protection Act, mandatory platform contributions to a social security corpus, a National Gig Workers Emergency Fund, a 'dependent worker' category, and an accessible multi-channel grievance mechanism.

Keywords: Crisis Protection, E-Shram, Gig Workers, Labour Law, Social Security.

INTRODUCTION

The Indian labour market has been changing fundamentally because of digital platforms in food delivery, ride hailing, freight transport, freelance services and household services. NITI Aayog reported that there were an estimated 7.7 million gig workers in 2020–21 and estimates that they will be over 23.5 million by 2029–30. Although the number of gig workers is growing rapidly, most are excluded from the normal employment rights that include pension scheme membership, sickness insurance coverage, pay for holidays, statutory bonus payments and rights against unfair termination. The vulnerabilities of gig workers become even greater during emergency situations such as the COVID-19 lockdowns, floods, cyclones, riots, etc., where many gig workers continue to perform dangerous and/or vital work without receiving the appropriate institutional support.

REVIEW OF LITERATURE

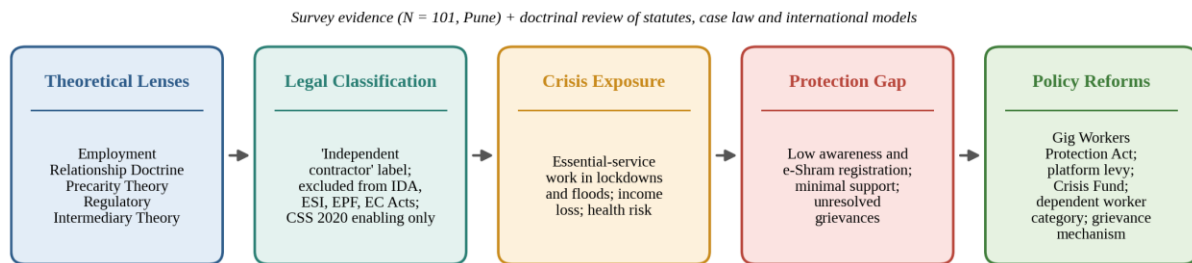
THEORETICAL FRAMEWORK

The 'Employment Relationship' Doctrine, which is based on ILO's (International Labour Organisation) 2006 Recommendation no. 198, looks into the factual aspects of the work relationship in order to determine whether a person is an employee or not. This means factors like how much someone relies on an employer for income, how much they are able to decide when and where to work and how integrated are they in to the employers' business operations could all have an effect on a determination of employment status. Similar to India, the Indian Courts have made an effort to determine whether the true dependency of the worker on the employer exists or if it merely appears to exist based upon the agreements between them. Thus, classification of gig workers as independent contractors may be considered to be a legal concept which is being examined through both legislation and judicial means.

Precarity Theory: The precariat is defined by "chronic insecurity" across labour market, employment, job, work, skills, income, and representational dimensions, according to Standing (2011). Indian gig workers are characterized in all these ways: there is no employment security for them; no job security from being deactivated at will; no minimum income guarantee; and no collective bargaining rights. The evidence presented in the data analysis section demonstrates the extent of each of the above.

Regulatory Intermediary Perspective: The regulatory intermediary perspective examines how platforms perform functions traditionally associated with employers, such as price setting, allocation, control, and termination, without necessarily assuming corresponding employment obligations. This perspective is consistent with the functional approach to employer responsibilities discussed by Prassl, under which obligations may be linked to the party performing specific employer functions. The conceptual framework of the study, which links these theoretical lenses to the legal and empirical analysis, is presented in Figure 1.

Figure 1: Study Framework and Key Constructs



Source: Developed for the present study.

REVIEW OF EARLIER STUDIES

Table 1 summarises the key studies, reports and legal sources reviewed for the present study.

Table 1: Synthesis of Literature Reviewed

Source (Year)	Key Contribution
NITI Aayog (2022)	First official estimate of India's gig workforce (7.7m in 2020–21; 23.5m by 2029–30); near-total absence of formal social security.
Vij & Jain (2021)	Statutory definitions of 'workman'/'employee' exclude most gig workers from IDA, ESI, and EPF Acts.
ILO (2021)	Digital platforms erode protections via misclassification; recommends extending protection irrespective of contract status.
Shyam Sundar (2020)	Proposed intermediate 'dependent contractor' category; CSS gig provisions are permissive, not mandatory.
Ministry of Statistics and Programme Implementation (2023)	90% of India's workforce is informal with no social security; growing urban gig participation, persistent gender gap.
Dasgupta & Singh (2019)	Platforms exercise employer-like control via algorithmic management while disclaiming employer obligations.
Rajas & Kumar (2022)	5-city survey (n=1,200): 78% lost >50% income in first lockdown; 67% no platform support, 91% no government aid.

Source (Year)	Key Contribution
Rajasthan Platform Based Gig Workers (Registration and Welfare) Act (2023)	The Rajasthan Platform-Based Gig Workers Registration and Welfare Bill 2023 has been passed by Indian State of Rajasthan to be the country's first state law for registering gig workers; paying a welfare fee with each transaction as well as the establishment of a three-party governing body. Although this bill does provide an important state-based structure, there are still many areas where its enforcement and scope need to be strengthened.
Kannan (2020)	Both the Unorganised Workers' Social Security Act, 2008 and the Code on Social Security, 2020 are enabling frameworks that do not mandate delivery of benefits.
<i>Uber Technologies Inc. v Aslam</i> (UKSC, 2021)	Uber drivers held 'workers' entitled to minimum wage/holiday pay via economic-reality test.
Patel (2023)	e-Shram penetration among gig workers below 2% despite 285m registrations; low awareness, no linked benefits.
Bhatt & Mehta (2022)	Platform insurance limited to on-duty accidents; government schemes need documentation many cannot produce.
Rani & Furrer (ILO, 2021)	Over 70% experienced arbitrary suspension/pay deductions with no effective grievance mechanism.
Ministry of Labour and Employment (2021a)	Noted delays notifying Labour Code rules; recommended a national Gig and Platform Workers Welfare Board.
Sharma & Gupta (2024)	Denial of social security to gig workers violates Articles 14, 19, and 21 of the Constitution.

Source: *Compiled from the literature reviewed.*

There are three thematic areas. Firstly, primary legislation excludes "worker" / "employee", from defining it as such in reference to 'platform' work; secondly, regulatory issues, include enforcement and actual delivery, (e.g., a lack of awareness and/or registration via the e-Shram portal), and thirdly, the body of international precedent and existing constitutional provisions, provide for much stronger legal protections for the gig worker class and therefore both legally viable and constitutionally grounded.

The Industrial Disputes Act, 1947 describes who is a "workman" in relation to an employer, however, gig workers are unable to meet that definition as they have no employer (the platform) claiming employer status. Similarly, the ESI Act, 1948 and the EPF Act, 1952 both require employers to provide either funding or coverage for employees which the platforms will not do. Likewise, the Employees' Compensation Act, 1923 states that employers are liable for injuries to their employee's which is consistent with the findings of the survey; where 68.3 % of the surveyed individuals said they would rely on themselves or their families if there was a work-related accident.

THE FOUR LABOUR CODES, 2019–2020: PROMISE AND PARALYSIS

Four Labour Codes are being developed by consolidating and rationalizing 29 Central labour legislation. For Gig Workers, the Code on Social Security, 2020 (CSS), is especially important as Section 2(35) defines "Gig Worker" and Section 2(61) define "Platform Worker." Chapter IX (sections 109-114) proposes welfare programs to cover all types of benefits including: Life, Disability, Accident, Health, Maternity and Old-Age Benefits. As such, the practical application of the provisions in the CSS regarding gig and platform workers requires both effective institutional mechanisms and delivery systems.

THE RAJASTHAN MODEL AND ITS SIGNIFICANCE

The Rajasthan Platform-Based Gig Worker Registration and Welfare Act of 2023 is India's first state statute to create a registration requirement for gig workers; impose a welfare charge on each transaction processed by platforms; and establish a three-party governing board to oversee these aspects.

CONSTITUTIONAL GROUNDING

Article 21 has also been used to interpret a person's right to sustenance or livelihood (*Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545), as well as their right to good health (*Paschim Banga Khet Mazdoor Samity v. State of West Bengal*, (1996) 4 SCC 37). Articles 14 and 19(1)(g) guarantee equality and protect the worker's right to engage in an occupation respectively. Sharma and Gupta (2024) argue it is hard to justify the denial of social protection to those deemed "essential" by the government during times of crisis, when such action would be contrary to Articles 14 and 19(1)(g).

Table 2: Mapping Key Statutes Against Gig Worker Coverage Gaps

Statute	Protection Offered	Why Gig Workers Are Excluded
Industrial Disputes Act, 1947	Protection against unfair dismissal, layoff compensation	Definition of 'workman' requires an employer–employee relationship; platforms are not employers.
ESI Act, 1948	Medical, maternity, disability, and death benefits	Coverage requires employer contributions; platforms disclaim employer status.
EPF Act, 1952	Retirement savings via provident fund	Applies only to 'employees' of covered establishments; gig workers are independent contractors.
Employees' Compensation Act, 1923	Compensation for work-related injury or death	Requires an employer–workman relationship; no employer present.
Code on Social Security, 2020	Life cover, accident insurance, health/maternity benefits (Chapter IX)	Provisions provide a statutory framework for social security schemes, but effective implementation and delivery remain important concerns.
Rajasthan GW Act, 2023	Registration, welfare fund, tripartite board	State-level legislation with registration, welfare fund, and tripartite governance mechanisms.

Source: Compiled from the respective statutes.

COMPARATIVE INTERNATIONAL PERSPECTIVE

United Kingdom: The United Kingdom recognizes a distinction in employment laws between employees, workers and independent/self-employed contractors. Workers have certain protections provided by statute (such as the National Minimum Wage Act 1998), such as paid holidays. The decision of *Uber Technologies Inc. v. Aslam* [2021] UKSC 5 establishes that drivers who work for Uber were 'workers' entitled to statutory protection and this was based upon a 'practical approach', to assess whether a worker is employed or self-employed. The U.K. court's decision may be seen as an example of the "intermediate classification" model that could be useful for comparative purposes; however, it does not bind Indian Courts.

European Union: The EU Platform Work Directive (2024), will create a rebuttable presumption of an employment relationship based on the existence of facts which indicate "direction" and "control". The burden will be upon the platform to rebut the presumption with evidence showing it has no obligation as employer or other employment obligations under local law. In addition to establishing clearer rules for determining employment status, the Directive creates new rights for workers regarding transparency in how they are managed using algorithms and ensures humans are responsible for

overseeing the use of these systems. These rights may provide useful insights into the types of reforms being considered regarding the process of classifying workers.

California: AB5 in CA (2019) created the "ABC Test" that could classify many gig workers as employees by establishing the three-pronged ABC test. Proposition 22 (2020), however, exempted gig work on platforms from this law by requiring employers provide minimum earnings, health care subsidies, and accident insurance to its gig workers. This is an example of how laws can have different effects based on whether they are broad-based or specific to individual industries/platforms.

LESSONS FOR INDIA

Table 3 compares the international models discussed above with the approach proposed for India.

Table 3: Comparative Summary – International Models of Gig Worker Protection

Dimension	United Kingdom	European Union (2024)	Proposed for India
Legal category	Worker (intermediate)	Rebuttable presumption of employment	Dependent worker
Classification test	Economic reality (purposive)	Direction and control test	Rebuttable presumption + economic reality
Minimum protections	NMW, paid holiday, rest breaks	Social security, algorithmic transparency	Min. wage, insurance, crisis fund
Enforcement mechanism	Employment tribunal	National courts + DPA oversight	District Welfare Officer + portal
Platform resistance	High (Supreme Court litigation)	High (intensive lobbying)	Expected high (Prop 22 parallel)

Source: Compiled from the literature reviewed.

SIGNIFICANCE OF THE STUDY

The study attempts to fill the gap between legal protections and real-life protections for gig workers during emergency situations. It examines both how central and state labour laws protect gig workers, and the lived experience of 101 gig workers in Pune that demonstrates how well these laws are working at the local level. By relating the legal provisions to actual experiences of workers during emergencies, it links the two together. Thus, the study is an attempt to show whether the new laws protect the most vulnerable segments of society.

STATEMENT OF THE PROBLEM

During lockdowns, floods and other declared emergencies, formally employed workers can fall back on paid leave, employees' compensation and ESI medical benefits. Gig and platform workers often continue to deliver essential services in these same periods, frequently at greater personal risk, yet no comparable safety net is assured to them. Although the Code on Social Security, 2020 now recognises these workers, little is known about whether its provisions actually reach them when a crisis strikes. The problem addressed by this study is, therefore, the gap between the legal recognition of gig workers and the protection they actually receive during crisis situations.

OBJECTIVES OF THE STUDY

1. Identify and review present labour laws and protective legal measures that are offered to gig workers when they face a crisis or an emergency in India.
2. Review the current legal status of gig workers and assess how their classification affects their rights and benefits.
3. Compare the legal protections and benefits that are extended to gig workers with those that formally employed workers receive when it comes to protecting them from emergencies.

4. Assess whether or not platforms (e.g., Swiggy, Zomato, Uber, Ola, Amazon) are supporting the safety, insurance, and/or financial well-being of their workers when facing crisis conditions.
5. Determine gaps in the present legal framework relating to social security and emergency protection for gig workers in India and suggest areas for policy reform.

SCOPE OF THE STUDY

The study covers gig and platform workers in Pune who are engaged in food delivery, ride-sharing, package delivery and freelance work through platforms such as Swiggy, Zomato, Uber, Ola and Amazon. On the legal side, it examines central labour legislation, the Code on Social Security, 2020, the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, relevant constitutional provisions and judicial decisions, and selected international models from the United Kingdom, the European Union and California.

LIMITATIONS OF THE STUDY

The survey is confined to 101 respondents in Pune; hence, the findings may not be generalised to gig workers in other cities or in rural areas. The data are self-reported and may be affected by recall bias, particularly for past crisis periods such as the COVID-19 lockdowns. Women form only 9.9% of the sample, which limits gender-based analysis. The survey data are analysed using percentages, and no inferential statistical tests are applied. Legal developments after the period of the study are not covered.

RESEARCH METHODOLOGY

Data for this study were obtained from a primary source; i.e., structured questionnaire administered on 101 GIG workers in Pune. Questions were divided into four categories, namely (i) Demographic Profile, (ii) Legal Awareness, (iii) Crisis Experience, (iv) Benefits Received by Gig Workers, (v) Grievances Redressed and (vi) Expectations of Government and Platforms. Respondent selection was done by the convenience sampling technique. The secondary source included laws at Central/State level, judgments of judiciary, Reports of Governments, ILO publications and Literature reviews. Quantitative Data from the Survey were analyzed statistically, and are represented as percentage values in Tables 4-8 and Figures 2. Qualitative Legal Material was studied through Doctrinal Analysis.

HYPOTHESIS

The study is descriptive and exploratory in nature; therefore, no statistical hypothesis was formulated or tested. The analysis is guided by the objectives of the study stated above.

DATA ANALYSIS AND INTERPRETATION

DEMOGRAPHIC AND WORK PROFILE

Table 4 shows that the sample is predominantly young and male: 61.4% of respondents are aged 21–30 years and 90.1% are men. Swiggy (29.7%) and Zomato (20.8%) are the most common platforms, and food delivery (35.6%) is the most common form of gig work.

Table 4: Demographic and Work Profile of Respondents (N = 101)

Survey Item	Distribution of Responses
Age	21–30 years: 61.4% 31–40 years: 26.7% Below 20: 6.9% Above 40: 5.0%
Gender	Male: 90.1% Female: 9.9%
Education	10th–12th standard: 48.5% Graduate: 27.7% Below 10th: 14.9% Postgraduate: 8.9%
Platform	Swiggy: 29.7% Other/Multiple: 21.8% Zomato: 20.8% Uber: 18.8% Ola: 12.9% Amazon: 8.9%
Nature of Gig Work	Food delivery: 35.6% Ride-sharing: 30.7% Package delivery: 14.9% Others: 9.9% Freelancing: 8.9%

Survey Item	Distribution of Responses
Work Experience	1–3 years: 37.6% 3–5 years: 34.7% Less than 1 year: 21.8% More than 5 years: 5.9%

Source: Primary survey data.

LEGAL AWARENESS

Awareness is low: 74.3% of respondents were unaware of any government scheme or law for gig workers, and only 14.9% were registered on the e-Shram portal.

Table 5: Legal Awareness Among Respondents (N = 101)

Survey Item	Distribution of Responses
Aware of any government scheme or law for gig workers	Yes: 25.7% No: 74.3%
Has heard of the e-Shram portal	Yes: 25.7% No: 74.3%
Registered on the e-Shram portal	Yes: 14.9% No: 85.1%
Aware of the Code on Social Security, 2020	Yes: 33.7% No: 66.3%
Believes gig workers are covered under labour law like regular employees	Yes: 13.9% No: 41.6% Not sure: 44.6%

Source: Primary survey data.

CRISIS EXPERIENCE

Table 6 indicates that 66.3% of respondents worked during a crisis, yet 81.2% received no financial support from their platform and 85.1% received no support from the government. Income fell for 90.1% of respondents, and 60.4% faced health risks while working.

Table 6: Crisis Experience of Respondents (N = 101)

Survey Item	Distribution of Responses
Worked during a crisis (COVID-19/lockdown/flood, etc.)	Yes: 66.3% No: 33.7%
Received financial support from platform during crisis	Yes: 18.8% No: 81.2%
Received government support during crisis	Yes: 14.9% No: 85.1%
Received safety or insurance support (mask/sanitizer/insurance)	Yes: 47.5% No: 52.5%
Income reduced during crisis	Majorly: 39.6% Slightly: 50.5% No change: 9.9%
Faced health risk while working during crisis	Yes: 60.4% No: 39.6%

Source: Primary survey data.

BENEFITS, PROTECTION, AND GRIEVANCE REDRESSAL

According to Table 7, 51.5% of respondents receive no benefits from their platform, and 68.3% depend on themselves or their family after a work accident. Although 56.4% sought help, 77.0% of those who complained reported that their issue was not resolved, and 81.2% do not feel legally protected during emergencies.

Table 7: Benefits, Accident Support, and Grievance Outcomes (N = 101)

Survey Item	Distribution of Responses
Benefits received from platform (multi-response)	None: 51.5% Accident cover: 29.7% Paid leave: 16.8% Insurance: 15.8% Medical benefits: 7.9%
Primary source of support after a work accident	Self/family: 68.3% No support: 12.9% Government scheme: 10.9% Company/platform: 7.9%
Supports equal benefits with regular employees during emergencies	Yes: 33.7% No: 66.3%
Major problems faced during crisis (multi-response)	Health risk: 52.5% No insurance: 32.7% No legal help: 32.7% Others: 23.8% No income: 20.8% Platform blocked ID: 4.0%
Attempted to complain or seek help	Yes: 56.4% No: 43.6%
Issue resolved (of those who complained)	Yes: 23.0% No: 77.0%
Feels legally protected as a gig worker during emergencies	Yes: 18.8% No: 81.2%

Source: Primary survey data.

WORKER EXPECTATIONS AND ACCESS TO STRUCTURAL BENEFITS

Table 8 shows that respondents most often expect safety measures (59.4%) and a minimum income guarantee (40.6%) from platforms. Only 23.8% receive a PF contribution or paid holidays, and only 18.8% find that gig work helps them obtain a bank loan.

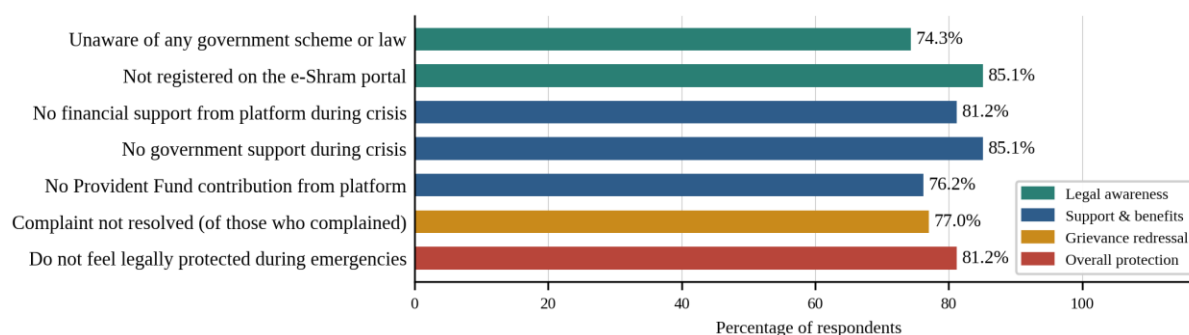
Table 8: Worker Expectations and Access to Structural Benefits (N = 101)

Survey Item	Distribution of Responses
Expected government support during crisis (multi-response)	All of the above: 38.6% Job security: 33.7% Financial aid: 32.7% Insurance: 31.7% Free medical aid: 27.7%
Expected platform or company support (multi-response)	Safety measures: 59.4% Minimum income guarantee: 40.6% Insurance: 34.7% Paid leave during crisis: 13.9%
Receives Provident Fund (PF) contribution from platform	Yes: 23.8% No: 76.2%
Gig work facilitates access to a bank loan	Yes: 18.8% No: 81.2%
Receives paid holidays from platform	Yes: 23.8% No: 76.2%

Source: Primary survey data.

The key protection gaps emerging from Tables 5 to 8 are summarised in Figure 2.

Figure 2: Key Protection Gaps Reported by Respondents (N = 101)



Source: Primary survey data (Tables 5–8).

FINDINGS OF THE STUDY

Legal awareness among gig workers is low, and e-Shram registration is limited. About two-thirds (66.3%) of respondents worked during declared crisis situations but received limited support from platforms or the government. Income was reduced for 90.1% of respondents during crisis situations, with 39.6% reporting a major reduction and 50.5% reporting a slight reduction. A substantial proportion of respondents lacked access to benefits such as paid holidays, Provident Fund (PF) contributions, and bank loans. Among respondents who complained or sought help, 77.0% reported that their issue was not resolved.

More than four in five (81.2%) participants reported that they did not feel legally protected during emergencies, representing a key empirical finding of the study. Although the Code on Social Security, 2020 has provided formal recognition of gig and platform workers as part of sections 2(35) and 2(61), there continues to be significant gap in how effective the provisions have been implemented and delivered in practice. The comparative review of international legal models highlights alternative approaches to worker classification and platform-based protection that may inform policy reform in India.

RECOMMENDATIONS OF THE STUDY

- Enact a dedicated "Gig Workers Protection Act" that establishes a rebuttable presumption of "dependent employment", creates a tripartite welfare board with funding through a transaction fee on platforms, and enforces mandatory minimums for the protection of gig workers' health and safety as well as their continued income and ability to resolve grievances.
- Strengthen the Code on Social Security, 2020, by requiring platforms to contribute to a social security corpus that provides e-Shram registered workers with comprehensive health insurance, accidental death/disability benefits, and maternity benefits.
- Create a National Gig Workers Emergency Fund that will provide e-Shram registered workers with emergency financial assistance (proposed at ₹500–₹1,000 per day) when there is an official emergency declaration.
- Design a new legal classification of "dependent workers," which would include those who receive a significant share, if not all, of their income from working on a single platform. The proposed dependent worker status would be entitled to minimum wage protections, require compulsory insurance, and require a reasonable number of days of paid emergency leave without having to be classified as employees under the Code on Wages, 2019.
- Establish a complaint process within mobile apps, District Gig Worker Welfare Officers, and an e-Shram module that allows for easy access to multiple channels of dispute resolution and complaint filing so that problems can be resolved quickly and effectively.

CONCLUSION

This paper analysed the legal rights for gig worker's protection from emergencies in India. Research included both an analytical examination of applicable Central and State legislation regarding gig workers, and an empirical analysis of the experiences of 101 gig workers in Pune. In conclusion, it is evident that there exists a considerable discrepancy between

what provisions exist through statute law concerning gig workers in India versus their experiences with these same rights in practice. The Code on Social Security, 2020 brings gig and platform workers within the scope of India's social security framework. However, translating these statutory provisions into accessible and effective protections remains challenging in practice. These barriers primarily involve the ability to access retirement savings plans, health insurance plans and job security measures during states of emergency.

The finding that 81.2% of respondents did not feel legally protected during emergencies reflects the experiences reported by this Pune-based sample. An examination of the worker classification in the UK, a rebuttable presumption in the EU, and AB5/Proposition 22 in California demonstrates that there are viable legal alternatives available to address this issue that may be applicable in the Indian context. Addressing this gap may require legislative reform informed by the Employment Relationship Doctrine, Precarity Theory, and the Regulatory Intermediary perspective, together with stronger enforcement at national and state levels.

FURTHER RESEARCH

The following areas could be targeted by researchers in the next stages:

- i. Longitudinal studies of gig workers under the CSS 2020 framework to assess changes in awareness, registration, implementation, and welfare outcomes.
- ii. Multistate comparative analyses of the legislative and regulatory frameworks governing gig workers.
- iii. Audit processes of specific digital platforms regarding compliance with minimum statutory requirements and internationally recognized best practices.
- iv. Research on women working in the gig economy, including barriers to participation and appropriate safety measures.
- v. Crisis simulation tests to examine whether gig workers can actually access emergency services through governments or through their own platform providers.
- vi. Systematic reviews of all Court and Tribunal judgments involving claims made by gig workers, in order to establish developing legal precedents.

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