

Summary: Background note on Developing Legislative Interventions for On-demand Platform Work in India

The recently enacted labour codes on wages, industrial relations, social security and occupational safety seek to consolidate the regulatory framework for labour in India. However, the codes do not address a fast-growing sector of the economy, viz. the on-demand digital platform based gig economy. Of the four codes, only the Code on Social Security, 2020 includes platform workers within its scope, but it merely requires that the state and central governments devise schemes intended to provide for social security, without imposing any obligations on the platforms/aggregators themselves.

In order to address this legislative gap, Vidhi Karnataka and Friedrich-Ebert-Stiftung (FES), in collaboration with the Indian Federation of App-Based Transport Workers (IFAT), had organised a roundtable discussion on the question of legislative interventions for on-demand platform work in India in October, 2022. A background note was prepared for the roundtable discussion, outlining important facets of the platform economy and the inadequacies of the current legal framework.

The reason for the inapplicability of the existing labour framework is because of fundamental differences in the way platform work is organised. The contractual, on-demand nature of platform work has led to platform workers being denied the status of 'employees', despite the aggregators exercising as much control over workers as traditional employers, through the algorithm. The denial of 'worker' status has been accompanied by the non-application of labour protections, even of the 'Fundamental Principles and Rights at Work' recognised by the International Labour Organisation. One central issue is 'algorithmic accountability' towards platform workers, by entitling workers to data and information on client ratings, modalities of work allocation, communication with other workers, and grievance redressal.

A review of global developments in this field reveals that other countries have sought to respond to the changes in labour organisation brought about by the platform economy through legal interventions. The European Union in 2019 approved rules mandating a minimum standard of labour rights for platform workers. Spain has introduced domestic legislation on algorithmic transparency for digital platforms.

In light of this, we must look at pathways for legislative interventions to protect platform workers in India, the most significant example of which is the recent Platform Based Gig Workers (Registration and Welfare) Act, 2023 enacted by Rajasthan. Since the labour codes enacted by Parliament do not address platform work, states have the opportunity to pave the way for the protection of platform workers, since 'labour welfare' is a concurrent subject under the Constitution.

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