

# The gig is up! Worker rights for digital day labour in India

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## List of abbreviations

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3PL	Third Party Logistics	GDPR	General Data Protection Regulation
ADCU	App Drivers and Couriers Union	IFAT	Indian Federation of App-based Transport Workers
COVID	Coronavirus Disease		

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# 1. Overview

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In the late 19th century, the advent of mass industrial production led to the birth of a new class of workers - day labour. In England, landowners were reduced to day labourers who could not even make a living wage.<sup>1</sup> In the US, black migrants barred from higher-paying factory jobs entered service sectors as restaurant waiters, porters, bootblacks, hotel redcaps, garment workers, and domestic servants, facing uncertain job security and employment in places that denied them service as customers.<sup>2</sup> The digital industrial era is witness to a similar upheaval, extending the contradictions of capitalist work organisations and throwing up new challenges for workers.

A new day labour class is emerging that comprises platform workers - workers employed in digitally-mediated labour markets. A census of platform workers is not available, but estimates suggest that they currently constitute about 3 million of the 500 million individuals who make up India's workforce,<sup>3</sup> and this number is expected to double by 2021.<sup>4</sup> However, the question of their labour rights assumes significance for several reasons that have to do with the transition into a digital industrial

**Platform workers are emerging as a new day labour class in the digital age.**

paradigm and its labour market configurations. Firstly, digitalisation has been accompanied by a rapid growth of trade in services - digital services, in particular.

As the share of the digital economy increases in global trade, the trend of servicification is poised to accelerate.

Secondly, digitalisation does not just enable a large part of the service economy to be tradeable; services themselves are also becoming digitally intensive. This means the production and consumption of any type of service is increasingly being developed through digital and data technologies (big data and AI, internet-of-things etc.). Thirdly, the decreasing marginal costs of providing digital services on the internet spur the expanding sphere of servicification of the economy, leading to the platformisation of value chains and the rise of the platform economy. India has the fastest-growing digital commerce market in the world, with over 4000 platform start-ups.<sup>5</sup> Estimates from June 2020 suggest that prospects for the

platform economy in India are buoyant; on-demand services show an annual growth rate of 17 per cent and may attain a market size of 455 billion US dollars by 2023.<sup>6</sup>

**India has the fastest-growing digital commerce market in the world, with over 4000 platform start-ups.**

The coronavirus (COVID) pandemic of 2019 has highlighted the critical importance of a growing platform economy and the vital role of platforms and the workers who scaffold it.<sup>7</sup> However, despite the sheen of formality, the rhetoric of opportunity, and promise of flexibility, research suggests that platform work will only intensify and reproduce the pre-existing informality that characterises the Indian economy.<sup>8</sup>

Platform workers lie beyond the pale of basic labour guarantees. As in many parts of the world, labour market conditions in post-COVID India are expected to amplify their precarity.<sup>9</sup> Remote freelancing arrangements are increasingly replacing formal employment in white collar occupations,<sup>10</sup> particularly in education<sup>11</sup> and health services,<sup>12</sup> where a platform boom is underway. Bidding for data entry and annotation tasks on crowdwork platforms such as M-Turk has turned out to be a main source of livelihood, rather than a side-hustle for the college-educated, in India's depressed job market.<sup>13</sup>

Even before the pandemic, with Indian consumers embracing a new urban sensibility, on-demand service aggregator platforms were beginning to gain traction,<sup>14</sup> while e-commerce was steadily displacing traditional retail.<sup>15</sup> Employment conditions in these sectors have been harsh - low pay, job insecurity, inscrutable work management practices, and no rights of representation or collective bargaining.<sup>16</sup> The COVID context has only rendered more visibility to the extreme precarity of platform workers. At the height of the lockdown, workers in ride-hailing, platform-based home services, on-demand delivery, and e-commerce logistics found themselves completely at sea without any assurance of minimum wages, health and safety insurance, or even an allowance for purchasing personal protection equipment.<sup>17</sup> Loan

and home rent moratoriums did not target taxi drivers and other platform workers.<sup>18</sup> Platform companies such as Ola, Uber, and Zomato set up relief funds for their workforce, appealing to the public through crowdfunding calls. The Indian Federation of App-based Transport Workers (IFAT) has flagged the lack of transparency and fairness in the distribution of these relief funds, as well as the unreasonableness of the eligibility criteria to access these funds. Zomato's relief scheme for instance, included a reimbursement of grocery and essential supply purchases by their on-demand delivery riders, but subject to the condition that the bills submitted were GST compliant. As IFAT highlights, "it is preposterous to expect that a [worker] who earns less than 15,000 INR per month [will] shop for daily essentials from shops that print GST compliant bills".<sup>19</sup> In short, corporate largesse

**The COVID context has only rendered more visibility to the extreme precarity of platform workers.**

at a moment of duress for platform workers amounted to little beyond virtue signalling.<sup>20</sup>

The digital economy and its platforms are here to stay.

Notwithstanding the employment contraction post-COVID, certain platform-mediated sectors, e-commerce

for instance, are expected to see a growth spurt in the short term.<sup>21</sup> Also, as markets adapt to a post-virus world, there is a likelihood that platform-based services will intensify in the medium term.<sup>22</sup> Paradoxically, however, the digital day worker of the 21st century is no better than her counterpart at the turn of the previous century.<sup>23</sup>

There is an urgent need, therefore, to redefine ideas of work and workers' rights so that they are adequate to the platform turn.

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This paper takes stock of the Indian legal landscape on labour protection for platform workers, identifying the specific lacunae that disenfranchise them, while delineating immediate, short-term remedies within the contours of existing legislation, as well as medium-term goalposts for transformative legal and policy change. The analysis builds on a desk review of Indian labour laws, legal policy debates on platform workers' rights in other parts of the world, and reflections from scholars and trade union activists actively engaged in the issue.

## 2. Taking stock of the deficits in the Indian legal landscape vis-à-vis platform workers' rights

India is currently in the middle of a mammoth overhaul of its prevailing legal framework on labour protection. Forty-four disparate central laws are being rationalised and recast into four codes: wages; industrial relations; social security; and occupational safety, health and working conditions. The Code on Wages was enacted by the Parliament in August 2019.<sup>24</sup> The other three Codes have been introduced in the Lok

**The main deficits of the Indian legal landscape with respect to platform workers' rights remain unaddressed.**

Sabha.<sup>25</sup> The draft Code on Industrial Relations and the draft Code on Social Security are expected to be passed in the Parliament's monsoon session of 2020.<sup>26</sup> The overhaul was an opportunity for the government to rectify the historical shortcomings of the law in relation to the governance of platform work arrangements. But as explained below, that moment has been squandered and the main deficits of the Indian legal landscape with respect to platform workers' rights remain unaddressed.

### a. Incomplete resolution of the tenuous employment status of platform workers and employer obligations of platform companies

The four labour codes fail to provide a satisfactory resolution on the employment status of platform workers. The Code on Wages (already enacted), and the draft Codes on Industrial Relations<sup>27</sup> and Occupational Safety, Health and Working Conditions<sup>28</sup> make no mention of platform work/platform workers. Only the draft Code on Social Security<sup>29</sup> offers a working definition of a platform worker and platform work.

Section 2(56) of the draft Code on Social Security defines a platform worker as "a person engaged in or undertaking platform work". Platform work, as indicated

**Three of the four labour codes make no mention of platform work/platform workers.**

in section 2(55), refers to "a form of employment in which organisations or individuals use an online platform to access other organisations

or individuals to solve specific problems or to provide specific services in exchange for payment". Platforms themselves are conceptualised not as employers, but as "aggregators", defined as "digital intermediaries/marketplaces for a buyer/user of a service to connect with the seller/ service provider" (Section 2(2)), providing employment "access" as described in Section 2(55)). In fact, Section 4(vi) of the statement of objects and reasons of the draft Code on Social Security explicitly states that "platform workers do not fall under traditional employer-employee relation [sic]".<sup>30</sup>

The reduction of platform work arrangements to a form of casualised self-employment is problematic on two counts. First, by enlisting workers as service providers/professionals, crowdwork and on-demand services platforms can continue to mask an employment relationship behind the fiction of self-employment and entrepreneurship.<sup>31</sup> The existence of an employment relationship is roughly determined by the degree of control and/or authority an employer exercises over a worker, with the specific requirements varying across jurisdictions.<sup>32</sup> Platform companies exercise significant control over workers, determining how work is assigned, performed, and compensated, without any corresponding obligations. Currently, in its services agreement, ride-hailing platform Ola designates drivers as "transport service providers" who list their vehicles on the OlaCabs' online portal.<sup>33</sup> Similarly, home services platform Urban Company uses the terminology of "partners"/"service professionals" for the workers it onboards, accepting no responsibility for disputes between clients and service providers.<sup>34</sup> The crowdwork platform Amazon Mechanical Turk specifies that "workers perform tasks for requesters in their personal capacity as an independent contractor and not as an employee of a Requester or Amazon Mechanical Turk".<sup>35</sup>

**Platform companies exercise significant control over workers, without any corresponding obligations.**

Second, the regulation of the entire maze of subcontracting arrangements through which many

individuals find themselves in indirect work relationships with platform companies is left untouched (See Box 1).

### Box 1. Subcontracting arrangements in platform work

Basudev Barman, labour researcher working with the International Transport Workers' Federation, highlights the complex reality of subcontracting arrangements operating in platform work arrangements in India, using the ride-hailing sector as a case in point:

*"Let's take the case of Uber. In addition to the standard case of a driver-owner attaching his taxi to the Uber platform and operating Uber services, there are at least three other kinds of work arrangements, all of which involve subcontracting. The first is that of a cab service owner attaching his taxi fleet to Uber. Uber is looking into formalising this arrangement in India. But the other two types of arrangements are completely in the shadows - a driver doing informal time share with a number of other drivers on the cab that he has registered with Uber; and a cab owner subletting his Uber taxi to a driver with whom he has an earnings-share arrangement."*

On-ground evidence suggests that subcontracting is also ubiquitous in the logistics and delivery backbones of e-commerce platforms. Major platform companies in India, such as Amazon, Swiggy, and (Walmart-owned) Flipkart, have preferred to outsource city-level delivery operations to third party logistics operators such as Shadowfax, E-comm Express, and DHL Express, especially in Tier 2 cities.<sup>36</sup> The supreme irony is that even as labour supply at the last mile is outsourced to these third party logistics (3PL) operators, platform companies attempt to gain a controlling stake in these businesses through the route of venture capital investments in the most promising 3PL companies. In December 2019, Flipkart led a 60 million US dollars investment in the logistics start-up, Shadowfax.<sup>37</sup>

This trend is only likely to accelerate. Market forecasts predict that between 2020 and 2024, the last-mile

**Between 2020 and 2024, the last-mile logistics sector is predicted to grow at a rate of 10.7 per cent.**

supply chains, traceable to a principal employer.

Unfortunately, the draft Code on Social Security fails to pin down the employer obligations of platform companies, reflecting an empirical blind spot about

logistics sector will grow at a rate of 10.7 per cent.<sup>38</sup> Clearly, this points to pyramid subcontracting arrangements, not very different from garment

employment contracts in the platform economy (similar to its predecessor, the Wage Code, which completely ignores platform work). This lacuna needs to be mended to ensure that minimum labour protection is extended. The government is expected to formulate detailed rules and regulations once the Code on Social Security enters into force. That will be the time to clarify compliance obligations for different types of platform companies, along with a worker classification schema that accounts for the multiple types of platformised work arrangements in different economic sectors.

## b. Failure to extend fundamental labour guarantees to platform workers

Taking a leaf out of the recommendations of the Global Commission on the Future of Work, even without a resolution of the employment status of platform workers, the labour code reform could have ensured the extension of fundamental labour guarantees to those in any form of platform-mediated work arrangement. But sadly, there has not been much progress in this direction.

The Code on Wages does not address minimum wage guarantees for platform workers. In the mainstream

literature on the platform economy, there is a tendency to highlight how minimum wage regulation may end up depressing the earnings of platform workers as it will limit the number of gigs they can accept in a day and also depress existing hourly rates paid by companies. Some research studies on the work conditions at Urban Company and Uber/Ola have called attention to how their payments and incentives structures have allowed workers to earn far beyond the hourly minimum wage stipulated by governments.<sup>39</sup> It is important to take these claims with a pinch of salt (See Box 2).

### Box 2. How platforms circumvent minimum wage law

Firms like Ola and Uber retain a reserve of drivers - enough to ensure they can service consumer demand, while framing their relationship with drivers in such a way that they are able to skirt legislation on minimum wage.<sup>40</sup> Platform companies are infamous for arbitrarily changing their payments and incentives structures as they gain market power, resulting in extreme unpredictability of earnings. In fact, platform workers' unions in India are calling for specific minimum wage guidelines precisely for protecting workers from such wage volatility, which becomes even more critical during economic slumps such as the current COVID crisis.<sup>41</sup> IFAT, in March 2020, appealed to the Prime Minister to provide urgent economic relief to app drivers and food delivery riders whose earnings had dwindled to 1000–1500 INR a week, hardly enough to put food on the table.<sup>42</sup> In its letter, IFAT called for the government to cap ride-hailing platforms' commission from drivers at five per cent, and direct on-demand delivery platforms to pay minimum wages to their workers.<sup>43</sup>

The draft Code on Social Security recommends that the central government formulate suitable social security schemes for platform workers on matters relating to "life and disability cover, health and maternity benefits, old age protections" and any other benefit as determined by the state (Section 114). When formulating these schemes, the central government may introduce obligations on platform companies by way of Section 114(2)(c), which states that every scheme may provide for "the role of aggregators".

Contributions from platform companies will have to be mobilised through the route specified in Section 109(3) (iv) - corporate social responsibility (CSR) obligations specified in the Companies Act. There are indications that the government is already thinking in this direction. In December 2019, the Labour Ministry mooted a

proposal to expand the definition of CSR spending to include corporate contributions towards social security funds for unorganised workers.<sup>44</sup> In April 2020, the ministry announced that it is embarking on the process of designing a social security scheme for gig and platform workers, sorting out the operational details and funding resources.<sup>45</sup> CSR spending obligations under the Companies Act, 2013 requires a minimum investment of 2 per cent of the average net profits made during the preceding three financial years into social and development programmes.<sup>46</sup> Considering that the winner-take-all business model of platform companies

**Ride-hailing and on-demand delivery platforms have failed to provide sufficient insurance cover to their workforce, even in dire situations like the pandemic.**

is predicated on extensive cash burn at the expense of profits for years on end, it is likely that these companies will use the absence of profits to explain away their obligation for CSR spending.

The draft Code on Occupational Safety, Health and Working Conditions has no special provisos pertaining to platform workers. This is a cause for concern as platform companies often shift the burden of health and safety costs to their workforce. Content moderators working with social media platform companies are often forced to sign disclosures stating their awareness of the impact their work might have on their mental health.<sup>47</sup> A 2019 survey of 2,000 ride-hailing workers across six Indian cities reveals that work-related diseases are distressingly common: chronic back pain due to long hours at the wheel, stomach ailments due to irregular lunch breaks, and stress-related disorders such as addictions.<sup>48</sup> Over 95 per cent had absolutely no health/medical/accident insurance cover.<sup>49</sup> In fact, ride-hailing and on-demand delivery platforms have failed to provide sufficient insurance cover to their workforce, even in dire situations like the pandemic. While schemes for sickness and disability benefits for workplace accidents could technically be organised through the Employees State Insurance Corporation under Section 45 of the draft Social Security Code, enforcement may prove difficult as platform companies could challenge co-financing obligations, taking advantage of the Code's conceptualisation of platform work as outside the traditional employer-employee relationship.<sup>50</sup> Such risks present longer-term challenges that need to be fixed through agile laws and rules that capture the reality of work in a platform economy.

The Standing Committee on Labour, in its April 2020 assessment, pointed out that the demands of unorganised sector workers have been given a short shrift in the current draft Code on Industrial Relations.<sup>51</sup> Not only has the draft failed to establish dispute resolution mechanisms for platform workers, it has also weakened the rights to unionisation and collective bargaining for the entire workforce.<sup>52</sup>

### c. Lack of imagination and vision about workers' data rights

Platform workers continue to be at the mercy of opaque data-enabled surveillance practices of platform companies - in particular, non-transparent ratings systems that affect their ability to find work.<sup>53</sup> Labour law reform for the 21st century cannot but be tuned in to workers' data rights, accounting for the complexities of different kinds of employment arrangements, including platform work.

The draft labour codes do not make any mention of workers' data rights. The only legal provision that touches upon this issue is Section 13 of the draft Personal Data Protection Bill (2019). This pertains to personal data processing in the context of an employment relationship, but rests on an incorrect and dangerous assumption that employers can serve as fiduciaries of the personal data of their employees/workers, without providing for additional safeguards against the imbalance of power.<sup>54</sup> The safeguards provided in Section 13 of the Bill for the processing of data in the context of an employment relationship are not easily extensible to platform workers, given their uncertain employment status. Platform workers have no guarantees against platform companies other than the generic protections available to all users of platform services. As experiences of European trade unions with the General Data Protection Regulation (GDPR) reveal, furthering workers' data rights can prove to be difficult without specific legal provisions to address the same (See Box 3).

**Furthering workers' data rights can prove to be difficult without specific legal provisions**

**Box 3. Uber drivers' struggle to assert data rights**

Over 2018–19, James Farrar, representative of the App Drivers and Couriers Union (ADCU) in the UK, along with three other Uber drivers repeatedly submitted subject access requests to Uber for data on the total time spent on the platform as well as GPS records, with little success. The drivers sought this data to calculate the hourly wage and make a case for a living wage and holiday pay requirements, building on the gains of an earlier court ruling [[Aslan, Farrar & Ors. v. Uber BV & Ors in 2015](#)] that affirmed Uber drivers as employees of Uber from the moment they log in. This data was essential to counter Uber's appeals against the pro-worker judgment.<sup>55</sup> After several attempts, the drivers were given only a limited dataset with GPS data, pick-up and drop-off points, and fare details.<sup>56</sup> The full datasets that would have been useful to the drivers, such as precise log-on and log-off times, all location data, individual ratings and reviews, were not provided. In March 2019, the drivers sent Uber a protocol letter threatening legal action if the datasets were not released. Following months of inaction from the company, the ADCU filed a legal complaint against Uber in Amsterdam in July 2020. It is difficult to predict how this will end, as Uber claims that not all the datasets the drivers are asking for, currently exist!<sup>57</sup>

### 3. The way forward for platform workers' rights in India

Undoubtedly, the road ahead for platform workers' rights in India is hard, as trade unions have been consistently sidelined by the central government in its efforts to usher in changes to the labour law.<sup>58</sup> Some unions have also critiqued the government for not being able to prevail upon companies to come to the table, and hence failing to uphold the social dialogue obligations committed to in the Tripartite Consultations (International Labour Standards) Convention, 1976 (No. 144), that India has ratified.<sup>59</sup>

Historically, for the global labour movement, the fight against misclassification of employment status - to expose disguised employment relationships and establish employer liability - has been a tried-and-tested route

for the effective enforcement of labour rights. But experiences from across the world suggest that it would be imprudent to rely exclusively on this strategy in the platform economy. In many jurisdictions, workers in ride-hailing and on-demand delivery sectors have gone to court over this issue. However, judicial pronouncements have been far from predictable. Some courts have upheld employee status claims of workers on the principle that the subordination of workers to algorithmic controls by the platform outweighs the limited independence they have in terms of controlling their work schedules. But there are other instances where judicial rulings have favoured platform companies by choosing to equate the flexibility of work schedules with workers' independence (See Table 1).

**Table 1: Global case law on platform workers' employment status**

Rulings in favour of workers	
Case	Rationale guiding the court decision
Matter of the Claim of Luis A. Vega (2020)	The Court of Appeals for the State of New York ruled that the on-demand delivery platform Postmates had a responsibility to contribute to the unemployment insurance fund of its courier delivery workers because of the degree of control it exercised over their conditions of work and remuneration. The Court clarified that the mere fact of courier delivery workers retaining some independence over their work schedule and routes could not be used as an argument against an employment relationship.
Uber France v. Mr. X (2020)	The French Court of Cassation held that an Uber driver is an employee and not an independent contractor, stressing the numerous ways in which the platform subordinates its drivers - drivers' dependence on the platform to access clientele, their inability to set prices, and the platform's control over ride-routing.
Association of Dutch Trade Unions v. Deliveroo Netherlands B.V. (2019)	A court in Amsterdam noted that a Deliveroo rider's dependence on the platform for the performance of work outweighed the purported independence of the driver.

Rulings in favour of platforms	
Case	Rationale guiding the court decision
Uber Technologies, Inc. Advice Memorandum (2019)	The United States Labour Board concluded that ride-hailing drivers were independent contractors because of drivers' complete control over their cars and schedules, ability to choose log-in locations, and the lack of prohibitions about working for competing ride-hailing apps.
McGillis v. Department of Economic Opportunity, Uber (2017)	The Court of Appeals in Florida ascertained that Uber drivers control whether, when, where, with whom, and how to accept and perform trip requests, and were not bound by any exclusivity clauses preventing them from working for Uber's competitors. This flexibility was seen as incompatible with an employer-employee relationship.
Case No. 19 Ca 6915/18	The Munich Labour Court observed that an obligation to perform work when demanded by an employer was a cornerstone feature of an employer-employee relationship. Since in online crowdwork, neither are crowdworkers obligated to accept gigs from platforms, nor are platforms bound to offer them, the Court concluded that there is no employer-employee relationship in such arrangements.
Fair Work Ombudsman, Australia (Investigation into Uber's employment arrangements)	In 2019, the Ombudsman concluded that a minimum requirement for an employment relationship is an employee's duty to perform work when demanded by the employer, a feature that is notably absent in the work arrangements of the on-demand economy.

Proposals to pitch for a third status of dependent self-employment for platform workers have also been suggested from some quarters as a way out of this quandary. But the criteria for meeting this third status, that of a significant percentage of a worker's business coming from a single platform,<sup>60</sup> is not easy to meet in all platform work arrangements.<sup>61</sup> As representatives of Indian unions working with platform workers have highlighted, this may be easy to establish in certain sectors such as ride-hailing where workers predominantly work for one platform, but not in others such as home services where only a small percentage of a worker's jobs may come from a single platform.<sup>62</sup>

A medium-term strategy for workers, therefore, needs much more than a single point focus on addressing misclassification. As Khamati Mugalla from the East African Trade Union Confederation reflected in an interview:

*"Without getting caught up in language battles [around employment status], we should find a way for enshrining labour guarantees for platform workers".*

Trade unions in India have also taken a similar stance. Ambika Tandon, researcher with the Centre for Internet and Society, shared these insights from discussions with union leaders:

*“The battle for employment status for platform workers is difficult. We need a highly nuanced approach to establish the duties of platforms in each of these cases. This will take a lot of time, understandably. But in the interim, union representatives concur that it is important to use the opportunity that the draft Social Security Code offers in the form of giving discretionary powers to the government to formulate welfare schemes for platform workers. Also, state level lobbying must continue - pushing state labour departments to establish dedicated welfare boards for platform workers, along the lines of traditional welfare boards for unorganised workers”.*

In this scenario, the most effective medium-term strategy for platform workers' rights seems to be one of battling for a universal labour guarantee that is not predicated on employee status. This proposal made by the ILO Global Commission on the Future of Work argues that “workers, regardless of their contractual arrangement or employment status, should enjoy fundamental workers' rights, an adequate living wage”.<sup>63</sup> Such a vision will also contribute to much-needed alliance building between platform workers and other sections of the informal workforce, in a country like India. At the same time, the devil is in the detail. As Sofia Scasserra, research scholar from Argentina puts it:

*“It is easy to say that platform workers have universal labour guarantees. But applying these guarantees through an effective legal regime is the real challenge. The right to minimum wage, union representation, health, leave - how do we apply these? Platform work is a special form of employment relationship we have not seen in the past, and we need to find a way to regulate it so universal guarantees are contextually and appropriately applied. That is why some sections of the Argentine labour movement are calling for a special legislation that is exclusive to platform workers”.*

Imperatively, it is vital that the Indian labour movement embarks on the project of calling for a model code of platform workers' rights. Minimum wages, social security, health and safety protection, collective bargaining, and data rights - all need to be reinterpreted in the context of platform work. The specifics of how these rights will apply to the various categories of platform workers - those in

directly-mediated platform work and those involved in subcontracting work arrangements with platform companies - must be broken down in this process. Further, even within directly mediated platform work, a sector-specific approach may be needed, as the employment contexts of on-demand delivery, ride-hailing, crowdwork and home service need to be accounted for.

**It is vital that the Indian labour movement embarks on the project of calling for a model code of platform workers' rights.**

Building on legal policy initiatives from other contexts, as highlighted in Table 2, unions and worker organisations in India must undertake the following sets of actions to further a four-point agenda for platform workers' rights.

#### **Agenda 1. Minimum wage guarantees**

- Lobby the central government to extend minimum wage guarantees to platform workers, clarifying standards for unskilled, semi-skilled and skilled jobs in different sectors of platform work.
- Revive social dialogue and bring platform companies to the negotiating table to co-evolve and adopt codes of conduct that guarantee fair wages for platform workers, and institute fair and non-exploitative, opt-in schemes that guarantee minimum wages in platformised work arrangements.

#### **Agenda 2. Social protection schemes**

- Petition the Ministry of Labour for the immediate roll-out of a comprehensive social protection scheme that covers all workers in non-standard work arrangements, including platform workers, building on the opportunities opened by the draft Code on Social Security. Advocate for a market-shared based mandatory contribution from platform companies to such social security schemes and penalties for non-contribution.
- Demand the constitution of a platform workers' welfare board, whose scope of work is integrated with traditional unorganised workers' welfare boards in different sectors.

### Agenda 3. Occupational health, safety, and working conditions

- Call for the design of schemes for occupational health insurance, sickness benefit, and disability benefit co-financed by platform companies in different sectors of platform-mediated work, in partnership with the Employees State Insurance Corporation.

### Agenda 4. Workers' data rights

- Call for a robust personal data protection framework, including specific guidelines on data processing in platform work arrangements. Mobilise around rights to data access, transparent data processing, right to explanation, and worker representation in platform governance.
- Popularise the idea of workers' economic rights in data; the claims workers have in the value generated from their interactions in platform-mediated work environments. Develop models for benefitting collectively from data dividends, such as, a workers' health fund or credit cooperative.<sup>64</sup>
- Advocate for policies on non-personal data that encourage/mandate data sharing by platform companies to provide impetus for worker-owned platform businesses in such sectors as ride-hailing, on-demand delivery, and so on.

As the reality of work transmutes, trade unions and worker organisations need to build solidarities across a broad spectrum of grassroots groups and organisations engaged in livelihood struggles. From minimum wage guarantee schemes, to social protection, occupational health and safety, and workers' data rights, nuancing and asserting claims with respect to sectoral specificities is vital. The fight for platform workers' rights is inextricably intertwined with the struggle to rein in the unbridled power of transnational digital corporations. Making market access rights of platform companies contingent on their respect for labour guarantees, linking up digital service tax proposals with cesses for workers' social security, and safeguarding the territorial sovereignty of the nation state to address labour rights violations

in emerging data value chains, are all policy advocacy agendas that are as important as the push for worker-centric labour codes. The Indian labour movement urgently needs to gather forces for this good fight, with a focus on intensifying existing linkages between institutional trade unions and grassroots unions of platform workers; and inter-movement dialogue between trade unionists, trade justice advocates, worker cooperatives exploring alternative platform enterprise models, and data rights activists.

**The fight for platform workers' rights is intertwined with the struggle to rein in the unbridled power of transnational digital corporations.**

**Table 2. Elements of a model code for platform workers' rights: examples from different country contexts**

Aspect of the labour code	Instances from the world
Minimum wages	<p><b>Minimum wage guidelines agnostic to employment status.</b> The New York City Taxi and Limousine Commission has issued rules specifying a minimum hourly wage rate for drivers, irrespective of whether they are classified as employees/contractors, thus becoming applicable even to ride-hailing drivers.<sup>65</sup></p> <p><b>Minimum wage guarantee through opting into a 'self-employed plus' status.</b> In Europe, Hermes, a German delivery firm, struck a deal in a collective bargaining agreement with the UK's GMB union. Hermes drivers can now opt in to a "self-employed plus" status, granting them a minimum wage and up to 28 days paid leave. In exchange, drivers who opt in, can no longer choose their routes; they must drive Hermes' prescribed delivery routes. Those who don't, can continue as freelancers with more flexibility, but without the same benefits.<sup>66</sup></p> <p><b>Fair wage guarantees evolved through tripartite dialogue.</b> In Italy, the local government of Bologna, food-delivery platforms and unions jointly developed a Charter of Fundamental Rights for Digital Workers that, on a voluntary basis, sets standards in line with the prevailing minimum wage for the corresponding sector, as well as compensation for overtime, holidays, and conditions that prevent them from working, such as bad weather.<sup>67</sup> Despite a call from the city mayor for a public boycott of platforms that refused to sign the charter,<sup>68</sup> only two companies employing about 1/3rd of delivery workers have signed up so far. Periodic monitoring efforts have ensured that the signatory companies honour their commitments,<sup>69</sup> but unsurprisingly, ensuring hundred percent coverage of the delivery workforce has proved to be difficult.</p>
Social protection	<p><b>Universal worker social protection, irrespective of employment status:</b> The governments of Austria, Sweden, Luxembourg, and Hungary extend various forms of social protection to workers, irrespective of employment status. In Austria, the coverage includes disability benefits, pension, healthcare, compensation for occupational illnesses/diseases, and occupation health and safety inspections. In Sweden, all workers are covered by maternity/paternity benefits, sickness benefits, pension insurance, occupational accident insurance,</p>

Aspect of the labour code	Instances from the world
Social protection	<p>and residence-based healthcare. In Hungary and Luxembourg, all workers have access to mandatory healthcare and pension insurance, although the status of accident insurance is unclear.<sup>70</sup> France has a health insurance scheme for self-employed workers (the RSI) that has been affiliated to its general social protection scheme for workers in traditional employer-employee arrangements, starting in 2018.<sup>71</sup></p> <p><b>Provisioning of social security as conditionality for platforms' license to operate.</b> In Uruguay, the government has permitted Uber and other platform companies to operate on the condition that they will ensure mandatory social security coverage of all drivers and facilitate this through an electronic application.<sup>72</sup></p>
Occupational health, safety, and working conditions	<p><b>Platform liability for accident insurance.</b> In France, Law no. 2016-1088, also called the "El-Khomri law", obliges platforms to cover workers' accident insurance, provided they generate a minimum threshold of revenue through the platform.<sup>73</sup></p> <p><b>Public agency-led workplace accident insurance for platform workers.</b> By virtue of the laws governing the transport sector, ride-hailing and on-demand delivery workers are mandatorily insured through statutory accident insurance schemes in Germany.<sup>74</sup></p>
Industrial relations	<p><b>Rights of unionisation and collective bargaining.</b> The Seattle City Council has conferred the right of unionisation and collective bargaining for platform workers in certain sectors, such as ride-hailing.<sup>75</sup> The El-Khomri law (Law no. 2016 – 1088) in France also gives workers the right to unionise and take collective action, such as strikes, without penalties or adverse effects on their contract with platforms.<sup>76</sup> The European Commission has currently launched a process to ensure that EU competition rules do not impede the right to collective bargaining for self-employed workers, including platform workers.<sup>77</sup></p> <p><b>Ombudsman for dispute resolution.</b> The Crowdsourcing Association and the German Metal Workers' Union (IG Metal) have established an Ombuds Office in partnership with eight platform companies. This office is tasked with resolving disputes among crowdworkers, clients, and the platforms, and enforcing a Crowdsourcing Code of Conduct adopted by the platforms.<sup>78</sup></p>

Aspect of the labour code	Instances from the world
Workers' data rights	<p><b>Charter on workers' data rights.</b> UNI Global has developed a list of 10 Principles for Workers' Data Rights<sup>79</sup> that delineates the various aspects of data protection in the context of platform employment and work. Critical ideas in this document include workers' rights to access data collected on them in the context of work arrangements, transparent worker data processing, workers' right to explanation, and the establishment of a multi-disciplinary, inter-company data governance body to govern data formation, storage, handling, and security issues with worker representation.</p> <p><b>Data rights for data-creating work.</b> The Just Net Coalition has adopted a set of 16 principles on digital justice aimed at wresting back collective control over the societal data commons enclosed by transnational digital corporations. Principle 6 of this document states that data-creating work ought to come with data rights. What this means is that platform workers, as data-creating actors on a platform, have a right to participate in the governance of that platform, for example, through adequate representation on the governing board. They also have the choice to collectively pool their data to evolve alternative worker-owned platform/data models.<sup>80</sup></p>

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