

# FOOD DELIVERY WORKERS IN INDIA: EMERGING ENTREPRENEURS OR INFORMAL LABOUR?





## **DEF COVID-19 GROUND REPORT SERIES: INTRODUCTION**

DEF COVID-19 GROUND REPORT SERIES is a collection of in-depth ground reports by the research team of Digital Empowerment Foundation. They have been collecting localised information about the masses and how they are impacted through various situations emerging because of the pandemic.

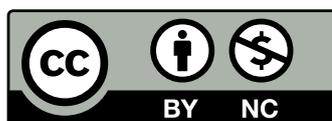
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*\*Names of the delivery workers quoted in this report have been changed to protect identities.*

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## FOOD DELIVERY WORKERS IN INDIA: EMERGING ENTREPRENEURS OR INFORMAL LABOUR?

**New Delhi:** A delivery worker with Zomato, Anand Kumar is frequently checking his phone at Malviya Nagar market in the hope that he will receive a new order. He had logged in at 10:40 in the morning, and received only 4 delivery orders till 4.30 in the evening, and earned only a total of 80 rupees.

Anand is among millions of workers who work for the food delivery platforms such as Zomato and Swiggy. In the recent past, food delivery services have emerged as key employers in the urban and peri-urban areas. These platforms facilitate the delivery of food from restaurants to customers, through a fleet of delivery workers. Having a motorbike/bicycle and a smartphone with an active Internet are the necessary requirements for this job. This seems straightforward and convenient for everyone except those who make the business possible — delivery workers [Riders].

Delivery workers in India are generally paid per delivery. Food delivery platforms term the delivery worker “independent contractors” or “delivery partners”. Delivery workers are not considered traditional “employees”. Consequently, these workers do not benefit from labour rights relating to pay, working hours, working conditions and collective bargaining rights which are emblematic of the informal workforce in India.

The deep-seated issues prevalent within the informal workforce stand to be aggravated within the platforms. Informalisation of the workforce has a long history in India. In 1991, Indian government opened up the economy to achieve a higher growth rate and to generate more formal jobs, since then only 61 million jobs have been created out of which 92 percent jobs have been in the informal sector<sup>1</sup>. During the interviews with food delivery workers of Swiggy and Zomato in New Delhi, it was found that many of them were migrants to the city and are dependent on incentives for their survival, since the basic income in itself does not suffice. But to earn incentives these workers have to often spend 12 hours on the jobs.

### Working Harder, Earning Less

Anand’s father passed away a few years ago, since then his mother who works as a seamstress, looks after him and his sister. He wants to share the responsibility with his ageing mother. “I joined Zomato only two months ago,” Anand began, “When I was looking for some work, a friend suggested joining delivery service work. First month was relatively better, as I received an

<sup>1</sup>Salve, P. (09 May 2019). 90% Of Jobs Created Over Two Decades Post-Liberalisation Were Informal. *IndiaSpend*. Retrieved from <https://www.indiaspend.com/90-of-jobs-created-over-two-decades-post-liberalisation-were-informal/> [22 March 2021].

“*Food delivery platforms term the delivery worker “independent contractors” or “delivery partners”. Delivery workers are not considered traditional “employees”. Consequently, these workers do not benefit from labour rights relating to pay, working hours, working conditions and collective bargaining rights.*”

“It is impossible to earn 300-400 rupees per day. To earn this much, one has to work for 12 hours or more in a day...If we take the fuel price, maintenance, and other expenses into account what would be left for us?”

*Sanjay, a delivery worker with Swiggy.*

incentive of two thousand rupees for joining the platform, and also some tips from the customers.”

Delivery workers like Anand earn a meagre 20-30 rupees for each delivery, based on the distance travelled, ratings, restaurant waiting time and weather conditions.

Despite working 12 hours a day, Anand earns four thousand rupees in a month which includes tips from the customers. He continued: “I can show my rate card. I get only 10 rupees for delivering 3 kilometers. Those who deliver on the bike get 15 rupees for the same distance.” He added: “The amount of time and work required for delivering these orders, the payment should be much higher.”

Anand, who aspires to be a doctor, said: “The corona virus has only worsened the situation. My mother’s income has also dipped, as nowadays there is not much work anywhere. I cannot afford to sit at home. Otherwise I will not be able to bear the expenses of studies.” He added: “I bought a smartphone and a bicycle as the nature of the work demands these things.”

37-year-old Sanjay Kumar, who has been working for Swiggy for the last four years, described a similar experience: “Initially, Swiggy used to pay a decent amount on per deliveries. I was earning around 20-25 thousand rupees a month. But the rate card has been decreasing with every passing year.” Sanjay is the only earning member in a family of five, added: “It is impossible to work at this rate.”

Anand and Sanjay along with other delivery workers were waiting for their next orders at South Delhi’s Malviya Nagar market which hosts a number of popular restaurants of the locality. The workers talk about Swiggy and Zomato making large profits from their hard work. By the evening, they are exhausted and resting on the bench, bracing for another exhausting peak time — dinner. One of them stated: “You know what is strange, delivering food with an empty stomach.”

Swiggy recently revamped their pay structure, reducing the base payment to 15 rupees for delivering 3 kilometers from the earlier 35 rupees per order. With this new payment structure, Sanjay said: “It is impossible to earn 300-400 rupees per day. To earn this much, one has to work for 12 hours or more in a day.” Sanjay asked: “If we take the fuel price, maintenance, and other expenses into account what would be left for us?”

“They have a complex system,” said Sanjay as his phone beeped for the next order. He further added: “I cannot decline the order, if I decline the order, my ID could be suspended. The order I have received has to be delivered near Chirag Delhi. The Swiggy app shows that it’s 3 kilometer away. But, to reach the location I have to take a 3 kilometer U-turn which will not be included in the

“Those who ordered were misbehaving with me, they abused me and refused to take the order. But I cannot do anything, as I have to follow Zomato’s instructions.”

*Suman, a delivery worker with Zomato.*

payment system. Swiggy cannot see that as they operate through machines.” He continued: “Machines cannot understand human labour.”

In 2018, Swiggy published an advertisement on Aasaanjobs.com, an online jobs portal, promising up to Rs 40,000 per month; the same jobs today promise up to 18,000 rupees per month<sup>2</sup>.

“Food delivery riders used to earn decent amounts of earnings before COVID-19, but income has been falling very sharply. And, I do not think it has anything to do with the COVID-19. These platforms function in this way; they offer a lot of bonuses and high rates for assignment when they initially on-board delivery workers, but with time they start cutting benefits,” said Rikta Krishnaswamy of All India Gig Workers Union (AIGWU).

The declining earnings and deteriorating working conditions also reflected in a report by Fair Work India, a wing of the UK-based Fair Work Foundation, which has evaluated and rated the working conditions of 11 platforms in India. Swiggy and Zomato, the market leaders of food delivery in India, were found to have the worst record — scoring 1 point on a scale of 10. The report noted: “While the potential of high wages and short payout cycles continues to draw workers to platform work, there was insufficient evidence that workers on seven of the eleven platforms earned the minimum wage rate after accounting for costs.”<sup>3</sup>

### Opportunities Come With Risks

In addition to the declining earnings, there are other unusual yet important concerns of the delivery workers. During the conversation for this report, delivery workers narrated multiple stories of being harassed by clients who placed orders (cash-on-delivery), snatched the food, and then assaulted them often in remote places and late at night.

“If any riders fails to deliver under any circumstances, Zomato penalises them with the order amount,” said 24-year-old Suman, a delivery worker with Zomato. “A couple of days ago, I went to deliver food in South Delhi’s Chattarpur. Those who ordered were drinking alcohol in their flat and refused to take the order. My repeated calls to the team leader went unheard. I called customer care and the attendee said ‘Deliver the order, we will see’.”

<sup>2</sup>Vaidyanathan, G. (22 December 2020). A Pandemic of Discontent: The Growing Woes of India’s Food Delivery Workers. *The Wire*. Retrieved from <https://thewire.in/labour/swiggy-workers-covid-19-paycut-job-loss> [22 March 2021].

<sup>3</sup>Fairwork. (2020). Fairwork India Ratings 2020: Labour Standards in the Platform Economy. *Fairwork*. Retrieved from [https://fair.work/wp-content/uploads/sites/131/2020/12/Fairwork\\_India\\_2020\\_report.pdf](https://fair.work/wp-content/uploads/sites/131/2020/12/Fairwork_India_2020_report.pdf) [22 March 2021].

“I was fined 532 rupees for the order in which I met with an accident. I called the team leader – a local Zomato employee of Malviya Nagar unit — but he did not listen. Now, I cannot work until my suspension is revoked.”

*Zahid, a delivery worker with Zomato.*

“Those who ordered were misbehaving with me, they abused me and refused to take the order. But I cannot do anything, as I have to follow Zomato’s instructions. I knew that Zomato would anyway penalise me with the order’s amount — 600 rupees. Therefore, I had to buy the food which was not received by the customer as a form of penalty,” added Suman. “I am not able to earn 600 rupees in a day despite working for 12 hours. Sometimes earnings of the whole day are penalised like this without any fault of ours.”

“Before COVID-19, the rate card was already low, now they have reduced it further. 15 rupees for delivering 3 kilometers is a cruel joke. For delivering 3 kilometers you have to come back 3 kilometers, which will not be paid by Zomato,” said Suman. “Slowly they reduced everything — from rate cards to incentives.”

“Minimum delivery charge should be 30-35 rupees per order as opposed to 15 rupees. Zomato is cutting down the rates, and fuel’s rate and other expenses are skyrocketing. I will leave this work as soon as I get any other job,” said Suman. “I cannot even pay the rent with this earnings.”

Food Delivery workers quoted in this report were observably discontent at the penalty system at Zomato. 27-year-old Zahid’s Zomato ID was suspended when he was unable to deliver an order on 28 January 2021. He met with an accident while on his way. “For these platforms, we are nothing and customers and restaurants are everything. We are just cockroaches living by the roadside all day just to survive.”

Zahid’s motorbike suffered damage and he broke his phone in the accident. He further said: “I was fined 532 rupees for the order in which I met with an accident. I called the team leader – a local Zomato employee of Malviya Nagar unit — but he did not listen. Now, I cannot work until my suspension is revoked.” Though Zomato and Swiggy offer accidental insurance to its deliver workers, none of the workers interviewed here reported to have claimed the benefits of this including Zahid.

“Struggle to secure basic rights and dignity should be fought through collectivisation and legal mechanisms. Since it’s a new phenomenon, it can take time,” said Dr. Dev Nathan, Professor at the Indian Institute of Human Development, New Delhi. “Corporates are powerful. They have not accepted the employee-employer status in California. In India, collectives have been started to form. It will be interesting how they take it forward.”

## Incentive Structure And Ramifications of Ratings

In addition to the basic pay, Zomato and Swiggy incentivises delivery workers on the basis of their performance. Zomato incentivises workers with rupees 75 on completing 6 orders, 125 rupees for 10 orders, 225 rupees for 14 rupees orders, 300 rupees for 19 orders, and 375 rupees for 22 orders Swiggy has conditioned incentives on completion of a target number of deliveries and performance.

Zomato ranks delivery workers on four hierarchical levels according to their “performance” — Diamond, Gold, Silver and Bronze. Delivery workers’ responses about the machines and rating system reflect the ways in which the system remains obscure to them. They say that those who have better ratings get better deliveries in terms of price, fairness, and incentives. Delivery workers who spoke for this report said that they do not know how they get orders, how their ratings drop and how the overall system works.

“To get the incentives I have to complete the target. Also, to get incentive, I cannot log out during dinner time which starts at 7 in the evening and ends at 10 in the night. All the talk of freedom of choosing work hours is shallow,” said Sanjay. “We are the most vulnerable section in this whole chain, surviving at the mercy of customers, platforms, and restaurants.”

“Incentives work in a slightly complicated way. The riders have to meet two conditions: achieving the target and scoring high ratings,” said Rikta of All India Gig Workers Union. “Penalties and deactivation of IDs are very common. Anybody complaints to the platforms about the issues they face, their IDs often get suspended.”

She added: “Sometimes rating is not just dependent on the riders’ performance and services, but there are several other factors at play. During monsoon for example, delivery can be delayed, bags can be wet which is something not on them. Delivery workers have been demanding that incentives should only be tied with the target not with the rating. It’s unfair in many senses.”

On 9 August 2020, when Swiggy announced a pay cut for its delivery executives, protests rose in multiple cities including Chennai and Delhi. The platform then threatened to block the IDs of striking workers, effectively leaving them out of work<sup>4</sup>.

“When Swiggy slashed the rates, riders went to talk to the labour commissioner. Commissioner replied that under which clause of labour law he shall be supposed to ask the management for conciliation.” said Rikta.

““When Swiggy slashed the rates, riders went to talk to the labour commissioner. Commissioner replied that under which clause of labour law he shall be supposed to ask the management for conciliation.””

*Rikta of AIGWU.*

<sup>4</sup>Kauntia, N. (27 December 2020). How Swiggy threatened to “suspend” protesting Delhi workers after second pay cut in seven months. *The Caravan*. Retrieved from <https://caravanmagazine.in/news/swiggy-pay-cut-delhi-worker-delivery-protests-aigwu> [21 March 2021].

“It is far from clear that the work offered by these platforms qualifies as “decent work” as defined by the International Labour Organisation (ILO), which says giving workers “the freedom to express their concerns, organise and participate in decisions that affect their working lives,” is fundamental.”

Many delivery workers explained that more delivery requests will be shown to the delivery workers at the highest rating level, while the lowest would often have to wait for several hours to receive a request which directly impacts their incentives. They describe the algorithm-driven systems as exploitative. A rider at Nehru Place commented: “Despite doing our best, we do not know how our rating fluctuates so frequently.”

Platforms function on the basis of asymmetry of information, raising questions on the transparency of their business model. The information asymmetry translates to unequal distribution of power between the stakeholders involved. As Ryan Calo and Alex Rosenblat argued: “Sitting between consumers and providers of services, however, sharing economy firms have a unique capacity to monitor and nudge all participants — including people whose livelihoods may depend on the platform.”

### The Rise Of Precarious Work

Sanjeev Kumar, a rider with Zomato, came to Delhi from Gopalganj district of Bihar in the beginning of 2019, in the hope of finding a job. “I looked for a job, any kind of job but was without luck. After struggling for months, I joined Zomato in January 2020. I badly needed a job as it was difficult to survive in a city like Delhi. Moreover, I needed to support my ageing parents, who are daily wage labourers in Bihar.”

“Initially, I was told that I will be able to earn 15-16000 rupees a month. But, the reality is very different. I have not been able to earn 5-6000 rupees a month despite working for 12 hours in extreme weather conditions. I have to pay the rent and look out for other expenses as well,” Sanjeev added. “The dream these companies sell, and reality is very different.”

Most workers cite the lack of employment opportunities in the country as one of the reasons for working in the platform economy. Many work in food delivery and other app-based jobs, often working for less than the minimum wage and without rights like sick leave or weekly paid day-off. According to a Business Standard report, published in 2019, the unemployment rate was at a 45-years high in 2017-18<sup>5</sup>. While quoting an National Sample Survey Office (NSSO) official, the report alleged that the government is withholding the unemployment data because of the approaching 2019 General Election. COVID-19 and the subsequent lockdown has only worsened the employment situation in the country<sup>6</sup>.

<sup>5</sup>Jha, S. (06 February 2019). Unemployment rate at four-decade high of 6.1% in 2017-18: NSSO survey. *Business Standard*. Retrieved from [https://www.business-standard.com/article/economy-policy/unemployment-rate-at-five-decade-high-of-6-1-in-2017-18-nssso-survey-119013100053\\_1.html](https://www.business-standard.com/article/economy-policy/unemployment-rate-at-five-decade-high-of-6-1-in-2017-18-nssso-survey-119013100053_1.html) [22 March 2021].

<sup>6</sup>Ray, A. Covid-19 lockdown impact: 5 million salaried Indian lost their job in July, show data. *LiveMint*. Retrieved from <https://www.livemint.com/news/india/covid-19-five-million-salaried-people-lost-their-jobs-in-july-shows-cmie-data-11597752797552.html> [22 March 2021].

Amitabh Kant, former CEO of Niti Ayog — a government think tank — said that the online platforms such as OLA and Uber had created more than 2 million jobs in the country<sup>7</sup>. While these platforms are generating jobs, the quality of jobs needs urgent scrutiny.

It is far from clear that the work offered by these platforms qualifies as “decent work” as defined by the International Labour organisation (ILO), which says giving workers “the freedom to express their concerns, organise and participate in decisions that affect their working lives,” is fundamental<sup>8</sup>.

ILO’s World Employment and Social Outlook- Trend 2019, while talking about the “Poor working conditions are main global employment challenge,” cautioned: “[Some] new business models, including those enabled by new technologies, threaten to undermine existing labour market achievements — in areas such as improving employment formality and security, social protection and labour standards — unless policy-makers meet the challenge.”<sup>9</sup>

Raghav Kumar joined Zomato as a delivery worker when he lost his job as a technician with an automobile company in Delhi during the COVID-19 lockdown. He said, “No one can survive in this kind of work. The nature of these companies is very exploitative. I cannot take leave for a single day. During COVID-19, the platforms provided us with just a single mask in the name of safety.”

He added, “Earlier, at the automobile company, I used to get a paid leave on Sunday, on which I used to do household chores. Here, if you take a leave, you will not be paid.”

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Raghav, a delivery worker with Zomato.

<sup>7</sup>CNBC-TV18. (31 January 2019). Niti Aayog tries to counter bleak unemployment data, says Ola & Uber helped create over 2 million jobs. *CNBC-TV18*. Retrieved from <https://www.cnbctv18.com/economy/niti-aayog-says-ola-and-uber-helped-create-over-2-million-new-jobs-pegs-total-new-jobs-at-8-million-2142841.htm> [22 March 2021].

<sup>8</sup>Fairwork. (2020). Fairwork India Ratings 2020: Labour Standards in the Platform Economy. *Fairwork*. Retrieved from [https://fair.work/wp-content/uploads/sites/131/2020/12/Fairwork\\_India\\_2020\\_report.pdf](https://fair.work/wp-content/uploads/sites/131/2020/12/Fairwork_India_2020_report.pdf) [22 March 2021].

<sup>9</sup>International Labour Organisation. (13 February 2019). Poor working conditions are main global employment challenge. *International Labour Organisation*. Retrieved from [https://www.ilo.org/moscow/news/WCMS\\_670171/lang--en/index.htm#:~:text=New%20data%20gathered%20for%20the,being%20and%20equality%20of%20opportunity.&text=%E2%80%99CSDG%20is%20not%20just,the%20quality%20of%20that%20employment.%22](https://www.ilo.org/moscow/news/WCMS_670171/lang--en/index.htm#:~:text=New%20data%20gathered%20for%20the,being%20and%20equality%20of%20opportunity.&text=%E2%80%99CSDG%20is%20not%20just,the%20quality%20of%20that%20employment.%22) [22 March 2021].

## Reorganising Labour Relations

The classification of workers as “independent contractors” or “delivery partners” compounded by the lack of legal security and increasing unemployment are pushing these riders to work 12 hours a day on less than the minimum wage. In the national capital, the monthly minimum wage is 15492 rupees (516 rupees per day) for unskilled workers<sup>10</sup>.

However, Nirmala Sitharaman, Finance Minister of India, in her 2021 budgetary speech said that minimum wages will apply to all categories of workers including those associated with platforms<sup>11</sup>. The central government passed the Code on Wages in August 2019, fixing the national minimum wage at Rs 178 a day. This was Rs 2 more than the minimum wage declared in 2017 and less than half the Rs 375 recommended by the expert committee that was created to determine the methodology for fixing a national minimum wage<sup>12</sup>.

However, the subject of labour is a concurrent matter and states too can legislate to regulate delivery [Platform] workers. Till now no state governments have taken initiative to legislate delivery workers. It remains open how the central government is going to structure the implementation of minimum wage.

Moreover, successive administrations have struggled with the implementation of minimum wage laws in the country. Nearly half of the regular workers in the formal sector across India are paid less than the minimum wage, noted the Periodic Labour Force Survey of 2017-28<sup>13</sup>.

In September 2020, the central government passed three laws — the Code on Occupational Safety, Health and Working Conditions 2020, the Industrial Relations Code, and the Social Security Code — aimed at attracting investments.<sup>14</sup> Replacing a number of

<sup>10</sup>PTI. (04 December 2020). Delhi government raises monthly DA for different categories of workers. *LiveMint*. Retrieved from <https://www.google.com/amp/s/www.livemint.com/news/india/delhi-government-raises-monthly-da-for-different-categories-of-workers/amp-11607096053017.html> [31 March 2021].

<sup>11</sup>Aryan, A. (02 February 2021). ESIC, other social security safety nets to cover gig economy workers. *Indian Express*. Retrieved from <https://indianexpress.com/article/india/budget-2021-esic-other-social-security-safety-nets-to-cover-gig-economy-workers-7170725/> [22 March 2021].

<sup>12</sup>Nanda, K, P. (13 July 2019). 375 minimum wage plan junked as government opts for 2 hikes. *Live Mint*. Retrieved from <https://www.livemint.com/news/india/rs-375-minimum-wage-plan-junked-as-govt-opts-for-rs-2-hike-1563035733771.html> [22 March 2021].

<sup>13</sup>Government of India. (May 2019). Periodic Labour Force Survey (PLFS) (July 2017 – June 2018). *Government of India*. Retrieved from [http://mospi.nic.in/sites/default/files/publication\\_reports/Annual%20Report%2C%20PLFS%202017-18\\_31052019.pdf?download=1](http://mospi.nic.in/sites/default/files/publication_reports/Annual%20Report%2C%20PLFS%202017-18_31052019.pdf?download=1) [22 March 2021].

<sup>14</sup>The Print Team. (24 September 2020). How Modi govt’s 3 new labour codes were passed in Parliament, and the changes they will bring. *The Print*. Retrieved from <https://theprint.in/opinion/how-modi-govts-3-new-labour-codes-were-passed-in-parliament-and-the-changes-they-will-bring/509385/> [22 March 2021].

“Moreover, successive administrations have struggled with the implementation of minimum wage laws in the country. Nearly half of the regular workers in the formal sector across India are paid less than the minimum wage, noted the Periodic Labour Force Survey of 2017-28.”

existing labour regulations, these “reforms” have been referred to as anti-labour rights in their substance. Some new provisions in these laws include allowing companies to downsize the workforce at will and increase working hours as opposed to mandatory 8 hours a day. Worker unions have been protesting against these laws, arguing that these would force workers into exploitative situations<sup>15</sup>.

The challenges of India’s largely informal job market coupled with an unsatisfactory labour rights record, have carried over into the digital marketplace. Platforms define themselves as “intermediaries” which implies that they are only facilitating transactions between service providers and customers; passing themselves off as neutral arbiters of these transactions rather than employers with obligations towards their employees. This allows them to bypass labour laws and exposes workers to new forms of vulnerabilities.

### COVID-19 Aggravated The Vulnerability

During the COVID-19 pandemic, previously invisible delivery workers gained new visibility as frontline workers around the world. The crisis highlighted both their value and the risks they face. In India, COVID-19 and the subsequent lockdown left delivery workers without any source of income and a safety net to fall back on, with the platforms under no obligation to cushion the losses of the delivery workers. The inherent precarization caused by increasing informalisation most evident at this time.

As Deependra Goyal, the co-head of the Zomato said: “Given the contractual nature of their work, these delivery partners depend on daily wages. They have little to no savings (not to forget their monthly rents, children’s education fees and other expenses), and they have hardly anything going on for them.”<sup>16</sup>

During the COVID-19 lockdown, Zomato set up a relief fund for its delivery workers. Goyal appealed: “Our food delivery universe consists of more than 250,000 delivery partners (DPs) in 500+ cities. And the ongoing crisis has affected them adversely as almost 350 cities have little to no business — leading to 1,00,000+ riders with zero earnings.” On the question why Zomato is not taking the responsibility for their welfare, he answered: “It is beyond our financial viability.”<sup>17</sup>

“The challenges of India’s largely informal job market coupled with an unsatisfactory labour rights record, have carried over into the digital marketplace.”

<sup>15</sup>Cox, J., Singhvi, S. (01 October 2020). New Labour Codes dilute workers rights and collective bargaining. *The Leaflet*. Retrieved from <https://www.theleaflet.in/new-labour-codes-undo-the-law-on-workers-rights-and-collective-bargaining/#> [22 March 2021].

<sup>16</sup>Deepinder Goyal. (12 April 2020). Zomato Rider Relief Fund. *Zomato*. Retrieved from <https://www.zomato.com/blog/rider-relief-fund> [23 March 2021].

<sup>17</sup>Ibid

Swiggy also set up a fund named “Swiggy Hunger Savior Covid Relief Fund” to be used for the protection and health of the riders and their families. “Our industry is built on the efforts of our delivery partners. It is in times like these, that we come together to appreciate and support those who are putting their lives at risk to serve others,” said Sriharsha Majety, Chief Executive Officer, Swiggy<sup>18</sup>.

Majety and Goyal’s positioning needs to be understood beyond the COVID–19 context. These platforms have been deflecting the question of rights, responsibility, and security for a long time. Food delivery platforms left their own delivery workers on the mercy of the customers. What is needed from them is a sense of justice and not merely the language of compassion or mercy.

### *Paradox of the Platforms*

Gig work is imagined as an economy run by equal stakeholders: corporations, service providers, and consumers, but the reality is starkly different<sup>19</sup>. On one hand, platforms term the delivery workers as “independent contractors” and on the other, compel them to conform to norms like wearing a uniform, mandating the use of the Aarogya Setu App during the COVID–19 pandemic<sup>20</sup> and in addition to this, the delivery workers have to follow the pay-per-delivery which is dictated by the platforms.

While pronouncing an judgement on the platforms such as Uber, Lyft, who classify their workers as independent contractor, California Supreme Court said: “When a worker has not independently decided to engage in an independently established business but instead is simply designated an independent contractor...there is a substantial risk that the hiring business is attempting to evade the demands of an applicable wage order through misclassification.<sup>21</sup>” The court said it could be extended to every employment sector<sup>22</sup>.

“Gig work is imagined as an economy run by equal stakeholders: corporations, service providers, and consumers, but the reality is starkly different.”

<sup>18</sup>TNM Staff. (31 March 2020). Swiggy sets up relief fund to provide sustenance support for delivery executives. *The News Minute*. Retrieved from <https://www.thenewsminute.com/article/swiggy-sets-relief-fund-provide-sustenance-support-delivery-executives-121544> [23 March 2021].

<sup>19</sup>Nair, G. (10 June 2020). The Gig Economy in the Pandemic. *The India Forum*. Retrieved from <https://www.theindiaforum.in/article/covid-19-and-gig-economy> [23 March 2021].

<sup>20</sup>Chakarvarti, A. (23 April 2020). Zomato, Urban Company make Aarogya Setu app mandatory for staff, delivery-partners. *India Today*. Retrieved from <https://www.indiatoday.in/technology/news/story/zomato-urban-company-make-aarogya-setu-app-mandatory-for-staff-delivery-partners-1670032-2020-04-23> [23 March 2021].

<sup>21</sup>Dolan, M., & Khouri, A. (01 May 2018). California Supreme Court Deals a Blow to Uber. *Governing*. Retrieved from <https://www.governing.com/archive/gov-tns-california-court-independent-contractors-uber-ruling.html> [23 March 2021].

<sup>22</sup>Ibid

Zomato and Swiggy’s “financial viability” argument used to deny support to their delivery workers is questionable. Despite the COVID–19 pandemic and a complete lockdown which contracted the Indian economy, Zomato and Swiggy both have expanded their operations and entered the grocery delivery business.

During the pandemic, Zomato’s delivery orders per minute count crossed 3200<sup>23</sup>. Zomato and Swiggy are still loss making adventures despite revenues growing at breakneck speed. Zomato’s net worth was 1900 crore rupees<sup>24</sup> in 2019 and raised investment of rupees 353 crore rupees in January 2020<sup>25</sup>. In February 2020, Swiggy’s valuation was almost 2400 crore rupees. It got 800 crore rupees from South African internet giant Naspers in February 2020 and even during pandemic 300 crore rupees from other venture capital firms in April 2020<sup>26</sup>. It is emblematic of capitalism in the era of technologies, where growth seems to be more important than profit<sup>27</sup>.

Despite growing revenue and expansion, the big tech firms left the delivery workers at the mercy of the customers. Though, the expansion of platforms would have been possible not just because of technologies but also availability of at-risk labour force. The benefits of growing revenue and expansion remain out of reach for workers who are dependent on systems that are rigged against them, especially without avenues for legal recourse or collectivisation. While the delivery workers are struggling for their survival, platforms have been spending crores on advertisements to attract new customers. In 2019 alone, food delivery platforms were expected to spend more than 300 crores on advertisement<sup>28</sup>.

Associate Professor at Columbia Law School, Lina M Khan who has studied the paradoxical nature of Amazon’s business model, argues the platform’s focus is on expansion rather than profitability. Expansion helps the platform extract data, allowing it to exert control greater than its market share and get rid of its

“Despite growing revenue and expansion, the big tech firms left the delivery workers at the mercy of the customers. Though, the expansion of platforms would have been possible not just because of technologies but also availability of at-risk labour force.”

<sup>23</sup>Chakarvarti, A. (01 January 2021). Zomato received over 3200 orders per minute on New Year’s eve. *India Today*. Retrieved from <https://www.indiatoday.in/technology/news/story/zomato-received-over-3200-order-requests-per-minute-on-new-year-s-eve-1755026-2021-01-01> [23 March 2021].

<sup>24</sup>Abrar, P. (17 January 2020). Food delivery app Zomato raises Rs 353 crore from Antfin Singapore. *Business Standard*. Retrieved from [https://www.business-standard.com/article/companies/zomato-raises-rs-353-cr-from-ant-financial-in-series-j-funding-round-120011701425\\_1.html](https://www.business-standard.com/article/companies/zomato-raises-rs-353-cr-from-ant-financial-in-series-j-funding-round-120011701425_1.html) [23 March 2021].

<sup>25</sup>Ibid

<sup>26</sup>Vaidyanathan, G. (22 December 2020). A Pandemic of Discontent: The Growing Woes of India’s Food Delivery Workers. *The Wire*. Retrieved from <https://thewire.in/labour/swiggy-workers-covid-19-paycut-job-loss> [22 March 2021].

<sup>27</sup>Surie, A. (16 January 2018). Are Ola and Uber Drivers Entrepreneurs or Exploited Workers? *Economic and Political Weekly*. Retrieved from <https://www.epw.in/engage/article/are-ola-and-uber-drivers-entrepreneurs-exploited-workers> [22 March 2021].

<sup>28</sup>S, Tiwari. (04 February 2019). Uber Eats, Zomato, Swiggy, plan 300 crore adblitz this year. *Live Mint*. Retrieved from <https://www.livemint.com/companies/start-ups/uber-eats-zomato-swiggy-plan-300-crore-ad-blitz-this-year-1549218885695.html> [23 March 2021].

“Currently, neither the central nor the state governments collect data on the number of gig workers in the country. The 2021 Union Budget proposes a portal that would collect relevant information on gig economy workers.”

competition<sup>29</sup>. She writes: “Online platforms serve as critical intermediaries, integrating across business lines positions these platforms to control the essential infrastructure on which their rivals depend. This dual role also enables a platform to exploit information collected on companies using its services to undermine them as competitors.<sup>30</sup>”

## A Step Forward?

The central government passed Social Security Code, 2020 aiming to bring at least 250 million unorganized workers, including gig workers, within the social security net in the next five years. Through this, the government expanded old-age pensions, health insurance, disability aids, and other benefits to all groups including gig, platform, and migrant workers<sup>31</sup>.

The Indian government currently defines a gig worker as someone working “outside the traditional employer-employee relationship”, while a platform worker is someone who provides services through an online platform. An unorganised worker is someone who works in the unorganised sector and is not already covered by the Industrial Disputes Act, 1947, or other provisions like provident fund and gratuity<sup>32</sup>. Platforms as “aggregators” are defined as digital intermediaries or marketplaces for connecting service providers and users under the Information Technology Act<sup>33</sup>.

Under the Code, aggregators such as Zomato, Uber, and Ola would have to contribute between 1-2% of their annual turnover to employee social security accounts, which will be capped at 5% of the total amount payable to workers. Under rule 50(2) of the Code, “every gig worker or platform worker... shall be required to be registered with Aadhaar, on self-declaration basis in the form on the portal, as specified by the Central Government.<sup>34</sup>”

<sup>29</sup>Khan, M, L. (January 2017). Amazon’s Antitrust Paradox. *Yale Law Journal*. Retrieved from <https://www.yalelawjournal.org/note/amazons-antitrust-paradox> [23 March 2021].

<sup>30</sup>Ibid

<sup>31</sup>Ministry Of Law And Justice. (29 September 2020). The Code On Social Security, 2020. *Government of India*. Retrieved from [https://labour.gov.in/sites/default/files/SS\\_Code\\_Gazette.pdf](https://labour.gov.in/sites/default/files/SS_Code_Gazette.pdf) [23 March 2021].

<sup>32</sup>Aryan, A. (02 February 2021). ESIC, other social security safety nets to cover gig economy workers. *Indian Express*. Retrieved from <https://indianexpress.com/article/india/budget-2021-esic-other-social-security-safety-nets-to-cover-gig-economy-workers-7170725/> [22 March 2021].

<sup>33</sup>Barik, S. (08 December 2020). App-Based Gig Workers Seek Clarity On How Social Security Schemes Will Be Funded. *Medianama*. Retrieved from <https://www.medianama.com/2020/12/223-ifat-recommendations-draft-social-security-rules/> [22 March 2021].

<sup>34</sup>Aryan, A. (02 February 2021). ESIC, other social security safety nets to cover gig economy workers. *Indian Express*. Retrieved from <https://indianexpress.com/article/india/budget-2021-esic-other-social-security-safety-nets-to-cover-gig-economy-workers-7170725/> [22 March 2021].

“As long as the architecture of the platforms remains obscure to the delivery workers, the incentive systems remain arbitrary, the working conditions unregulated, collective bargaining power inaccessible, and the reorganization of labour relations through service delivery apps would continue to push delivery workers on the edge.”

Currently, neither the central nor the state governments collect data on the number of gig workers in the country. The 2021 Union Budget proposes a portal that would collect relevant information on gig economy workers<sup>35</sup>.

Anshul Prakash, a Mumbai-based lawyer specialising in Employment Labour & Benefits, notes, “The arrangement pertaining to platform workers would continue as several industry members may want to utilise this concept through service platforms. Contribution to SS [Social Security Code, 2020] may be included as mark up for service charges payable by the service receiver.”

There are, however, overlaps in the definitions of unorganised workers, platform workers, and gig workers. The Wire article gives the following example: In the absence of appointment letters and regulation of work timings by the employer, a driver working for one app-based cab aggregator might work for its competitor as well, thus falling under the gig worker definition. However, he would also qualify as a platform worker since he pursues his job through an online platform. This driver might also be categorised as an unorganised worker because he is self-employed. “With such overlaps across definitions, it is unclear how schemes specific to these categories of workers will apply,” the article stated<sup>36</sup>.

Much clarity is needed on the definition of platform, gig and informal workers, along with that of platforms and aggregators. There is uncertainty about the government ministry under which the aggregators will operate, and the application of suitable legislative acts is missing from the Code. It also does not clarify the conditionality of the exemption of aggregators, along with the roadmaps of social security funds to be collected and delivered to the workers.

As gig work becomes more mainstream, traditional avatars of employer-employee relationships are likely to be disrupted, perpetuating further informalisation of work under platforms such as Swiggy and Zomato. As long as the architecture of the platforms remains obscure to the delivery workers, the incentive systems remain arbitrary, the working conditions unregulated, collective bargaining power inaccessible, and the reorganization of labour relations through service delivery apps would continue to push delivery workers on the edge. Policymakers, administrative agencies and other stakeholders need to focus on a more right-based framework for formalisation of gig/platform workers.

<sup>35</sup>Ibid

<sup>36</sup>Sarkar, K. (29 December 2020). For Unorganised Workers, New Social Security Code Creates Needless Confusion. *The Wire*. Retrieved from <https://thewire.in/labour/social-security-code-unorganised-workers> [23 March 2021].



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