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Ensuring Employee Status for Gig Workers: A Critical Analysis of the Rajasthan Act & Way Forward

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Ensuring Employee Status for Gig Workers: A Critical Analysis of the Rajasthan Act & Way Forward

Abstract: India has emerged as one of the leading countries for gig-platform workers, with a predicted potential of employing over 2.35 crore people by 2035. However, given the precarious nature of their employment, and the algorithmic bias of platforms that hinder prospects of meaningful employment, there is a need for reforms that empower and uplift the gig workers. The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023, is a tepid attempt to address the problems that plague the workforce. This article is a critical analysis of the lacunas and the contradictions with the Rajasthan Act. It evaluates the pain points of workers employed in the gig economy and through tools provided by design thinking talks about ensuring employee status for gig workers and proposes solutions for the same.

Introduction:

The Rajasthan Assembly passed the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023 (Government of Rajasthan, 2023) on July 24, becoming the first state in the country to make a novel attempt to bring platform workers under the ambit of a social security net. However, there are several flaws, ranging from missing definitions of the employee-employer relationship that perpetuates “exclusion from equitable inclusion” (Sen, 1999), and an absence of regulatory measures that can mitigate the hegemonic control of the panoptic algorithmic mechanism, built into the policy design. The Economic Survey of 2020-21 mentions “India had emerged as a leading country for flexi-staffing or gig-platform workers” (Government of India, 2021). It adds “the nature of job contract for a gig worker is different from the contract between an employer and employee/worker”, highlighting that contracts are “shorter and more specific.” The nature of employment is “either temporary or contractual” and payment is “more of piece rate... [rather] than a fixed salary” (ibid). This highlights the precarious nature of their employment, and also a need to improve the conditions for work. A 2022 NITI Aayog report states “The gig workforce is likely to expand from...77 lakhs (7.7 million) in 2020-21 to about 2.35 crores (23.5 million) by 2029-30,” (Rao, R.K., Kumar, K et al. 2022), highlighting the need to ensure social inclusion by negating the possibility for capability deprivation.

	Employment in Crores			Percentage		
	Employment	Non-Agri-Employment	Gig Workers	% of Non Agri to total Employ	Gig to total Employ	Gig to Non Agri.
2011-12 (actuals)	46.99	24.52	0.25	52.18	0.54	1.03
2017-18 (actuals)	45.50	26.38	0.53	57.98	1.16	1.99
2018-19 (actuals)	46.75	27.62	0.54	59.09	1.15	1.95
2019-20 (actuals)	51.10	28.79	0.68	56.34	1.33	2.36
2020-21 (projected)	51.66	29.37	0.77	56.86	1.49	2.62
2021-22 (projected)	52.22	29.97	0.87	57.39	1.67	2.91
2022-23 (projected)	52.79	30.58	0.99	57.93	1.87	3.23
2023-24 (projected)	53.37	31.20	1.12	58.47	2.09	3.58
2024-25 (projected)	53.95	31.84	1.27	59.01	2.34	3.97
2025-26 (projected)	54.54	32.49	1.43	59.56	2.63	4.41
2026-27 (projected)	55.14	33.15	1.62	60.12	2.94	4.89
2027-28 (projected)	55.74	33.82	1.84	60.68	3.29	5.42
2028-29 (projected)	56.35	34.51	2.08	61.25	3.69	6.02
2029-30 (projected)	56.96	35.21	2.35	61.82	4.13	6.68

Image 1: Projection of Gig Work Using Employment Growth (Source: NITI Aayog)

Similarly from an economic point-of-view, “the gig economy has the potential to service up to 90 million jobs in India’s economy” and can “contribute an incremental 1.25% (approximately) to India’s GDP over the long term” (Augustinraj, R., Bajaj, S. 2021).

Literature Review

A careful analysis of the Rajasthan Gig Workers Act exposes significant shortcomings in its design. From unwillingness to address pressing problems to missing provisions, the act is built on weak foundations. While the Act recognises gig work as formal employment, a glaring flaw in the design of the act stems from the government’s unwillingness to categorise gig work as work and mandate platforms to define gig workers as employees. The International Labour Organization in its R198 - Employment Relationship Recommendation, 2006 (No. 198) has highlighted that “there is protection offered by national laws and regulations and collective agreements which are linked to the existence of an employment relationship between an employer and an employee” (International

Labour Organization, 2006) ILO has highlighted that platform workers “tend to have less coverage by social protection schemes compared to other workers” (International Labour Organization, 2023) and the Rajasthan law fails miserably to address this issue. The ILO standard on this comes from the Social Security (Minimum Standards) Convention, 1952. Similarly, an ILO survey from 2021 has already shown that “online platform workers earn low wages... earning less than average workers” (ILO, 2021). Thus the Rajasthan government’s unwillingness to address issues of minimum wage let alone liveable wage in the policy is a structural flaw that perpetuates unfavourable inclusion. As Amartya Sen said, “...many problems of deprivation arise from unfavourable terms of inclusion and adverse participation, rather than what can be sensibly seen primarily as a case of exclusion as such” (Sen, 1999). The law also fails to address issues pertaining to the transparency of algorithms, and provisions for reporting abuse by customers. When it addresses issues related to setting up monitoring mechanisms to review compliance or ensure the protection of workers, the guidelines are at best opaque. Similarly, when the law makes provision for the creation of the Central Transaction Information and Management System (CTIMS), a data monitoring apparatus, for recording all welfare payments made to gig workers, the delineation of duties is inadequate, obtuse and confusing.

Theoretical Framework

Having discussed some of the issues in detail before, we aim to converge and understand what the larger problems are. From the vast array of concerns, we narrow them down into broader headings. One is the government’s unwillingness to deal with the classical definitions of employment by introducing provisions that classify gig workers as employees of the platforms through which they ply their trade. This furthers the pernicious loop of unfavourable inclusion, where the lack of a definitive status of employment prevents the workers from getting adequate pay, and working time regulation. The absence of employee status also prevents them from availing of employment protection, social security measures, and grievance redressal benefits from their employer.

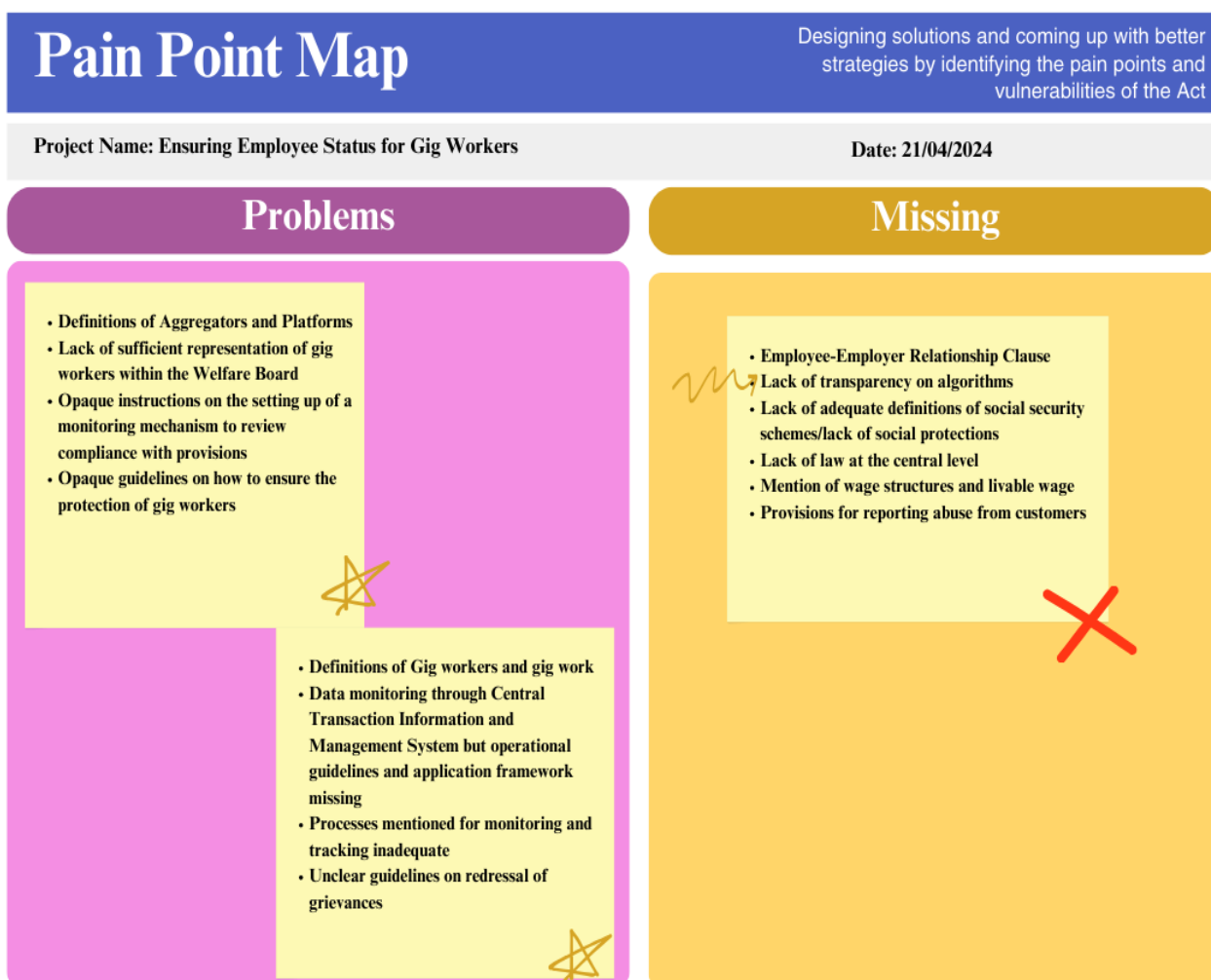
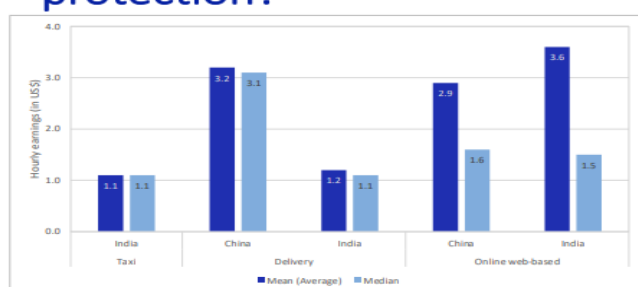


Image 2: Visual Representation of all pain points following policy regulation mapping

► How do workers fare in terms of earnings and social protection?



- Commission fees
 - Taxi: 15% - 44%
 - Freelance: 15% - 40%
- Bonus & Incentives
 - Taxi: 74% (India)
 - Delivery: 89% (India); 31% (China)
- Social protection benefits are quite low
- Working hours quite high (59 - 80 hours)

- Workers on microtask platforms earn 64% less compared to their counterparts performing similar work in the traditional sector

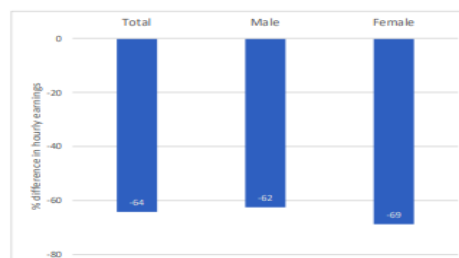


Image 3: Earnings and Social Protection of gig workers as opposed to employees.

(Source: ILO)

The other major concern would be the lack of transparency of algorithms. According to the ILO, algorithmic management characterises platform work, as it “offers and grants services or tasks to workers...calculates the rankings on which their activities and income depend, and decides whether they will continue to provide services for the platform or remain deselected from it” (International Labour Organization, 2022) Thus deactivation of accounts, lack of dispute resolution mechanisms and exclusivity clauses, unilaterally determined by platforms poses an insurmountable challenge for gig workers.



International
Labour
Organization

▶ Algorithmic management is defining the everyday experiences of workers

- ▶ Ratings and reputation are decisive for accessing work
- ▶ Rejection of work and low ratings are common
- ▶ Unable to refuse or cancel work without negative impacts
- ▶ Some workers face account deactivation
- ▶ Many are unaware of formal process for filing a complaint or seeking help
- ▶ Monitoring of work processes and tracking of workers

Advancing social justice, promoting decent work

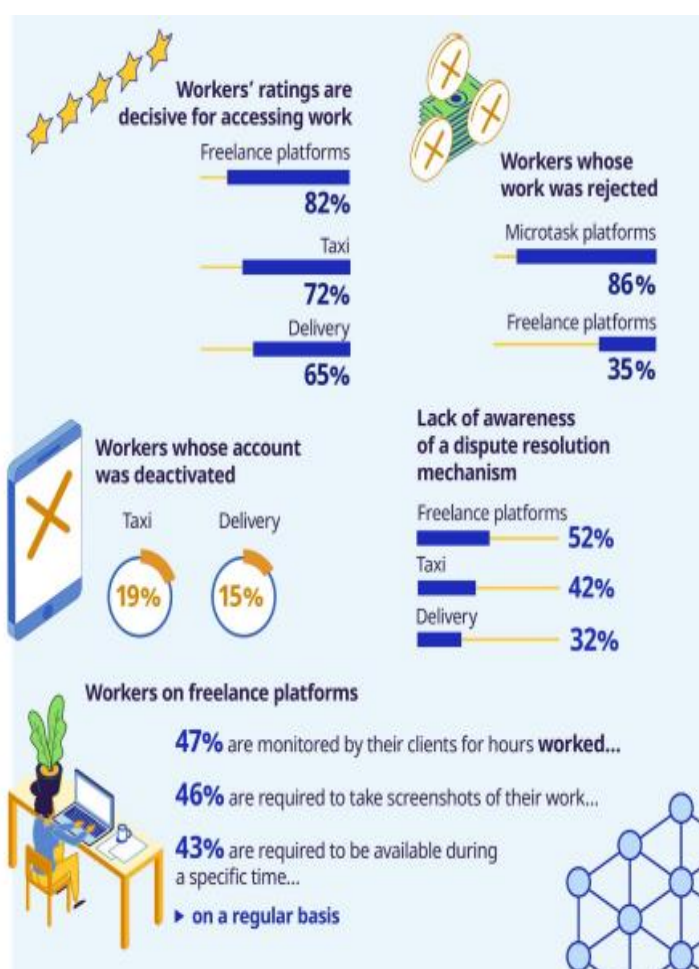


Image 4: Algorithmic management and the challenges it poses. (Source: ILO)

• 6 W/H's Map

1. What?



The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023



What

A. What is the problem?

Despite the act being a novel attempt to empower gig-workers, it fails to address some of the pertinent problems faced by gig workers. As already highlighted above, the major problem with the act is:

- (1) The government's unwillingness to mandate platforms to define gig workers as employees. The Act differentiates between aggregators and platforms helping these online entities surreptitiously pass on their burden of responsibility and evade accountability.
- (2) The lack of transparency of algorithms that the platforms use to delineate jobs, devise rankings and allow workers to continue providing services.

C. What are the assumptions being scrutinised?

The assumption we are scrutinising is the missing employee status of gig workers. The act makes no attempt at defining or mandating a gig workers as employees of the platforms they ply their trade to.

B. What would we like to know?

We would like to know the reason behind the act perpetuating the social exclusion of gig workers from becoming an employee of a platform. Here we see, that Amartya Sen's thesis of active exclusion at work. A gig worker is denied employee status by platforms (tech conglomerates) despite working for the platform. They are thus prevented from availing benefits of social security and protection that a regular employee enjoys.

Frame your design challenge: What (5W+1H) (Check appendix for text if the image is unclear)

Frame your design challenge

5Ws + 1H

2. Who

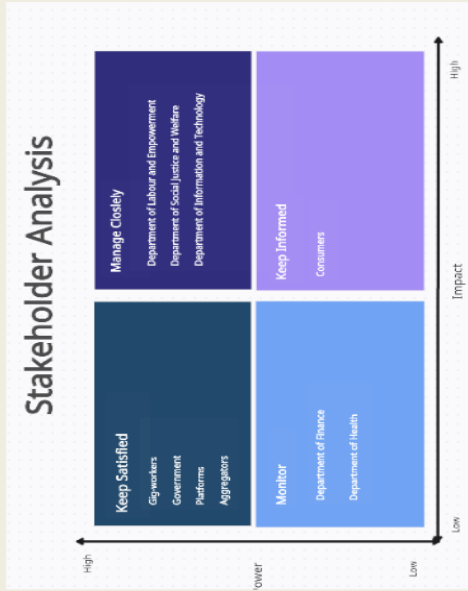


The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023

Who

A. Who is involved?

Since the act was implemented on a state level in Rajasthan, the major stakeholders involved are from the state government of Rajasthan.



The extreme user base should be catered to, that means gig-workers who are into the profession for sustenance/living, must be differentiated from those who do it for additional money.

B. Who is affected?

The gig-workers, the aggregators/platforms who are part of tech conglomerates and the government is affected by this.

C. Who decides?

The government as a regulatory body decides on how to monitor, tax and regulate the tech conglomerates who create these platforms. The aggregators or tech oligopolies decide on whether they will ply their trade with a particular geographical location. The algorithms on a particular platform decides how gig-workers must perform leading to unfair trade practices, information asymmetry and exploitation.



Image 6: Frame your design challenge: Who (5W+1H) (Check appendix for text

and Stakeholder analysis if the image is unclear)



The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023

Why

A. Why is this problem important?

As mentioned above the socio-political, economic and humanitarian concerns render the problem important.

B. Why does it occur?


The problem occurs due to the lack of power vested in the gig-workers, the workers cannot unionize as they are not formally recognised employees, similarly they are regulated and monitor through algorithms that determine whether they will retain. The sheer imbalance of power dynamics makes the problem poignant.

A. Why it was not yet solved?


The problem is an ill-defined problem and also there is a lack of political will to address the matter. The manner in which the political economy works prevents action from being taken as tech conglomerates often exercise significant influence in policy and decision-making.


4. Where

5Ws + 1H
Frame your design challenge



The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023





Where

A. Where does the problem occur?

The problem occurs in developing and underdeveloped economies where a robust mechanism protecting labour rights are missing and the social security net provided by the government is inadequate.

B. Where was it already solved before?

Court rulings in United Kingdom, California, United States, China, Spain and Uruguay have partially solved the issue. Australia through the "Fair Work Legislation Amendment (Closing Loopholes) Bill 2023" has tried to deal with the gig work-worker conundrum.

C. Where did similar situations exist?

The similar situation has existed in countries across the world ranging from the Australia, Brazil, China, New Zealand, Spain, United States, United Kingdom, and Uruguay.

Image 8: Frame your design challenge: Where (5W+1H) (Check appendix for text if the image is unclear and also for important court rulings)

5. When

5Ws + 1H

Frame your design challenge

The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023

When

A. When did the problem begin?

While the birth of the platform economy can be located in the 1990s, the problem related to economy is relatively new. The *Dynamex Operations v. The Superior Court of Los Angeles County* and *Charles Lee*, from 2005 in California, US can be regarded as one of the first cases reported on the matter.

B. When do people want to see results?

For gig workers the issue is significant and the minor victories from the Rajasthan Act have only enthused them. As stated by Sheikh Salauddin, the General Secretary of IFAT, "We now have two tasks ahead of us. First, to turn the Rajasthan Act into an exceptionally strong one by implementing it through effective rules. Second, to take it as a starting model to other states so that they can improve it in their legislation." (Matthew, 2023).


C. When can the project be started?

The project should be given immediate priority.


Frame your design challenge: When (5W+1H) (Check appendix for text if the image is unclear)

6. How

5Ws + 1H
Frame your design challenge



The Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023



How

A. How could this problem be an opportunity?

Reclassifying gig-workers who work for 40-45 hours a week as employees will be step in the right direction.

B. How could it be solved?

As mentioned above the issue can be solved by reclassifying workers as employees, while also addressing the issue of lack of transparency in algorithmic management.

C. What has already been tried to resolve the problem?

Floor wages that have been decided by the Central government and minimum wage provided by the state government has helped in addressing the problem. Similarly, the Code on Social Security, 2020, provides insurance against accidents, death, incapacity or retirement. It also have provisions for health and maternity benefits.

Image 10: Frame your design challenge: How (5W+1H) (Check appendix for text if the image is unclear)

• Empathy Map

During the empathy mapping stage, several documentaries and articles published online enumerating the experiences of the gig workers and their travails were referred to. Some of the news reports referred to during empathy mapping were: “India’s gig economy riders risk their lives to deliver food” by BBC News (Verma, 2022), and “India’s gig economy: Workers escape unemployment but face job security” by France 24 (Kumari & Alvarez, 2022). Another video by the Financial Times titled “Mental Health and the gig economy” played a pivotal role in shaping our understanding (Morton-Clark & Boyde, 2017). Similarly, newspaper articles from the news agency Scroll. in titled “An interview with the anonymous Twitter handle that is exposing the dark side of India’s gig economy” (Sharma & qz.com, 2021) and “We, the Voters: Gig workers clear on whom they intend to vote for” by the Indian Express (Tigga, 2024) helped shape my understanding.

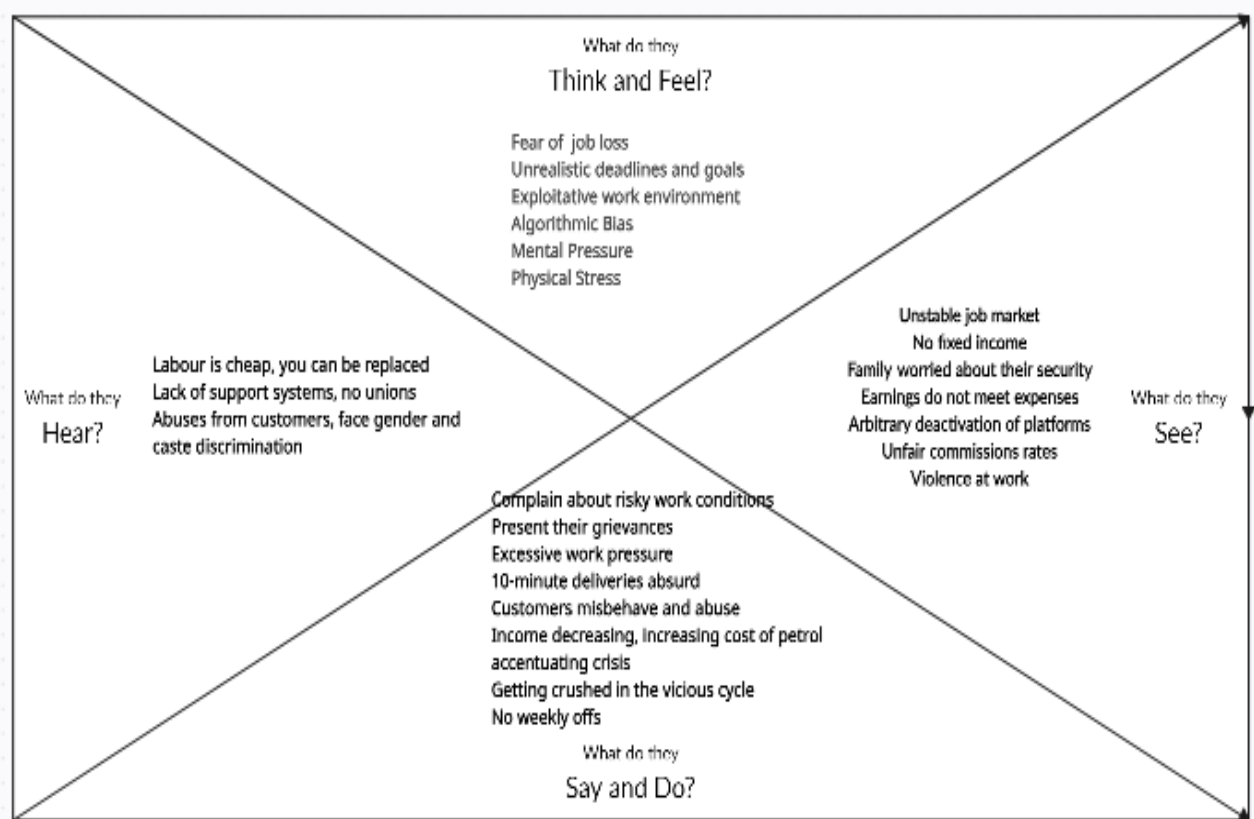


Image 11: Understand: Empathy Map

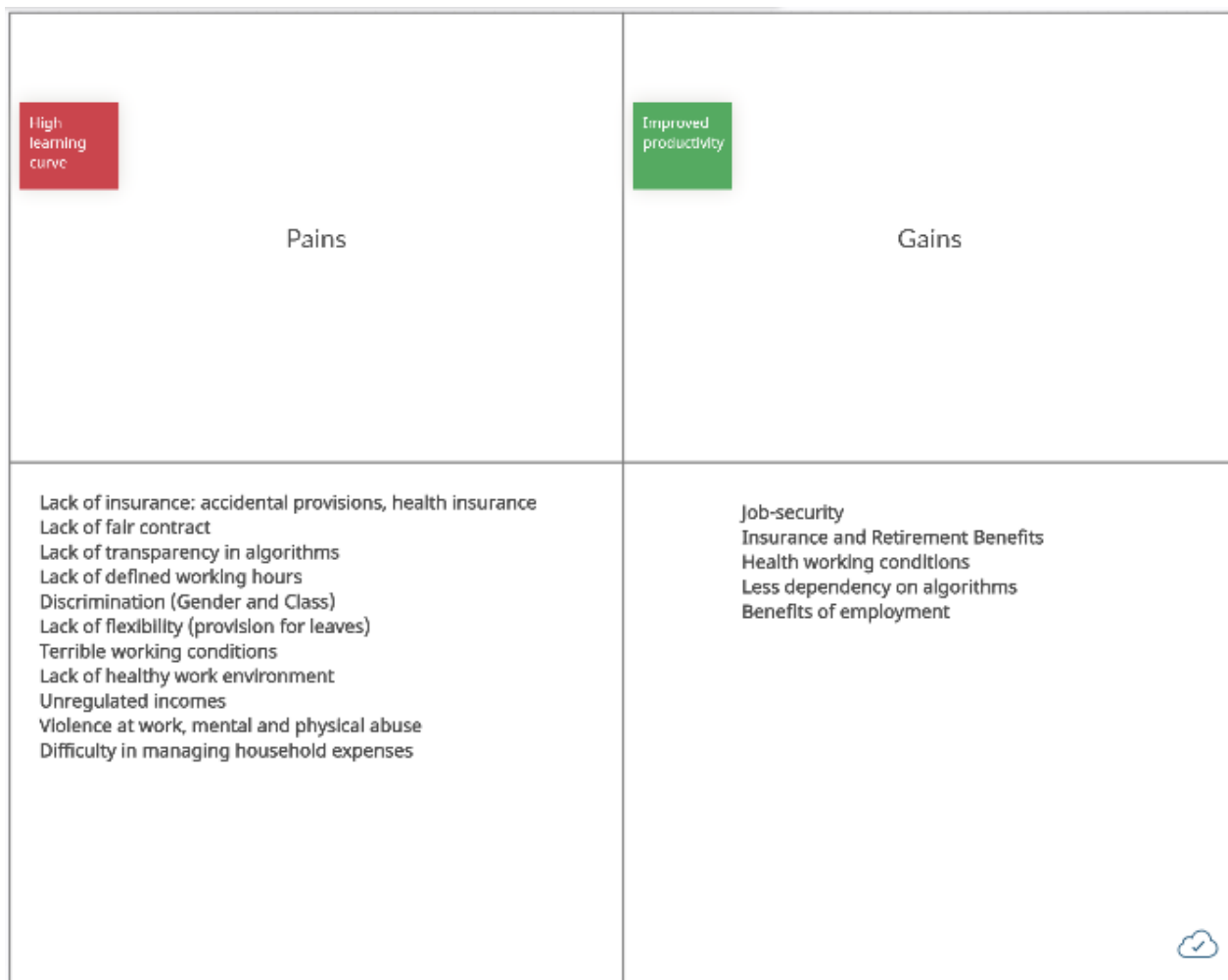


Image 12: Understand: Empathy Map

• Hooks Canvas

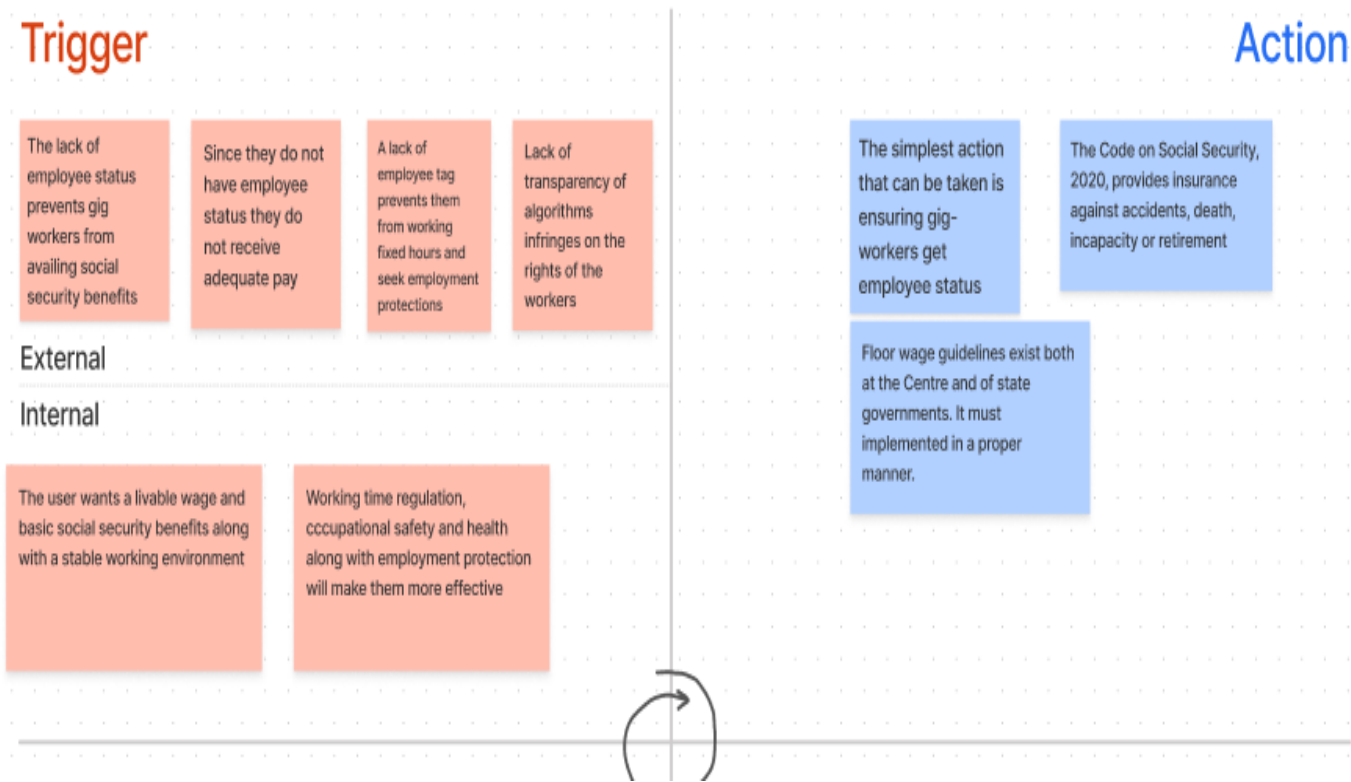


Image 13: Understand: Hooks Canvas

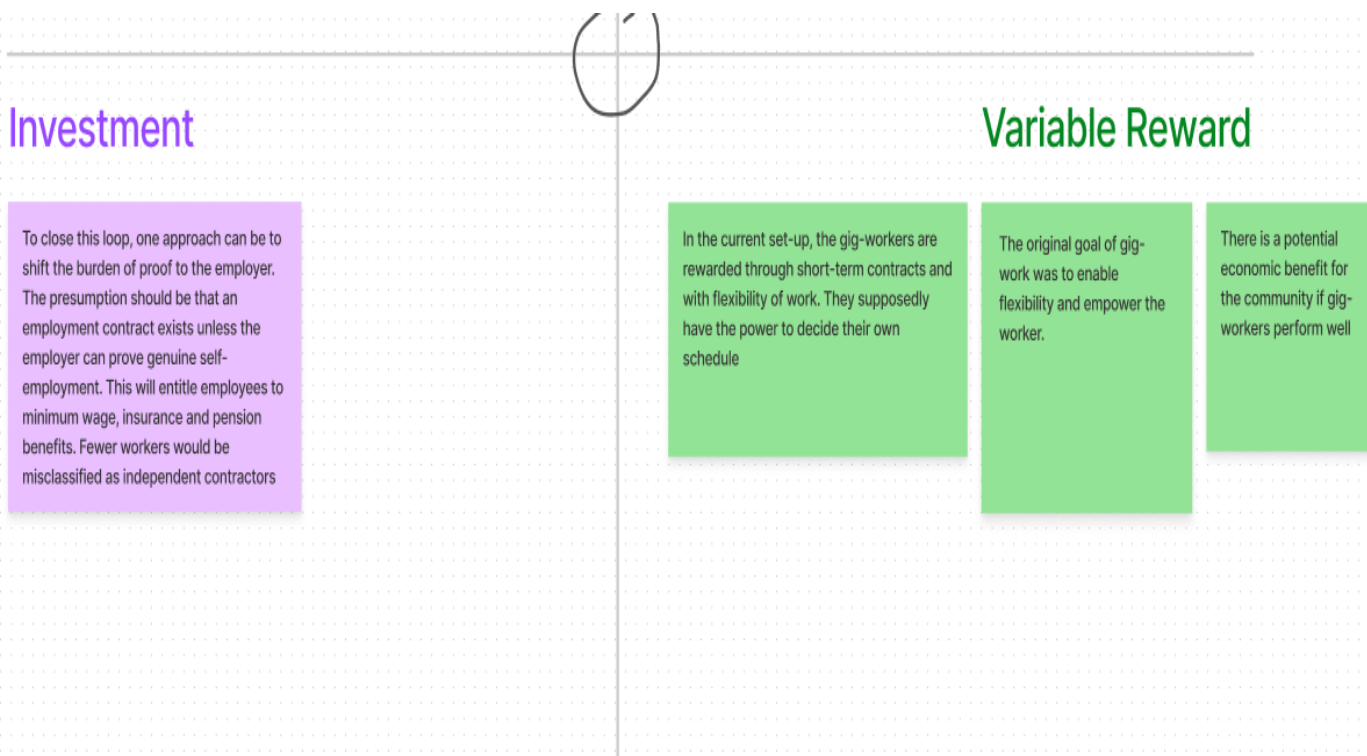


Image 14: Understand: Hooks Canvas

Since the paper isn't a primary study the issue of **persona mapping, group mapping and persona twins** remains beyond the ambit of our research.

Findings

As enumerated above, the problems faced by workers in the gig economy are multifold. During pain point mapping the paper highlighted two key major issues that self-employed workers face. However, we have decided to focus on the missing definitions of labour/employee. The problem is “ill-defined.” Establishing a definite employer-employee relationship will go a long way in arriving at a solution. I feel that in the context of the Rajasthan Act, the law fails to classify gig workers as employees. This leads to an ambiguity in the employer-employee relationship, leaving the gig worker susceptible to the whims and fancies of the platform/tech conglomerates. The workers cannot avail themselves of the bare minimum protections of adequate pay, working time regulation, occupational safety and health, and employment protection, all of which are rudimentary provisions for dignified work and living.

Problem

Statement

Our problem statement is the missing employee status of gig workers.

Solutions

The paper proposes these solutions having studied the Rajasthan Gig workers law and other international good practices:

Solution 1: All jobs/activities in the gig economy, even if they are mediated through IT tools, will be fully recognised as “work.”

Solution 2: The law will assume that all gig workers working for 40-45 hours for 50 weeks in a year are “employees” when there is a contract of personal service and other indicators in place. This will entitle these employees to benefits like healthcare, sick leave, paid leave, definitive work hours, accidental coverage and retirement benefits.

Solution 3: The other indicators mentioned above include allied factors that suggest an employment relationship, such as the right of control, and orders/specific directions on the discharge of duties that are dictated by platforms.

Solution 4: The onus/burden will be on the platforms/tech companies to demonstrably prove beyond doubt that an employee is self-employed.

Solution 5: Platforms/tech companies must additionally prove beyond reasonable doubt that algorithms do not affect the working conditions, access, and maintenance of employment and development of profiles if they want employees to be classified as self-employed.

Solution 6: All employees working in the gig economy will be entitled to a living wage, which will be derived following consultation between the central government and experts.

Solution 7: Platforms/tech companies should sensitise their algorithms to prevent the commodification of work that employees provide. They must also ensure the prevention of practices that treat humans as a service.

Prototype

A process flow of the policy intervention that this paper suggests has been drawn up and shared below. The process flow is a diagrammatic representation of the solutions posed by me in the ideate phase.

• Policy Intervention – Process Flow

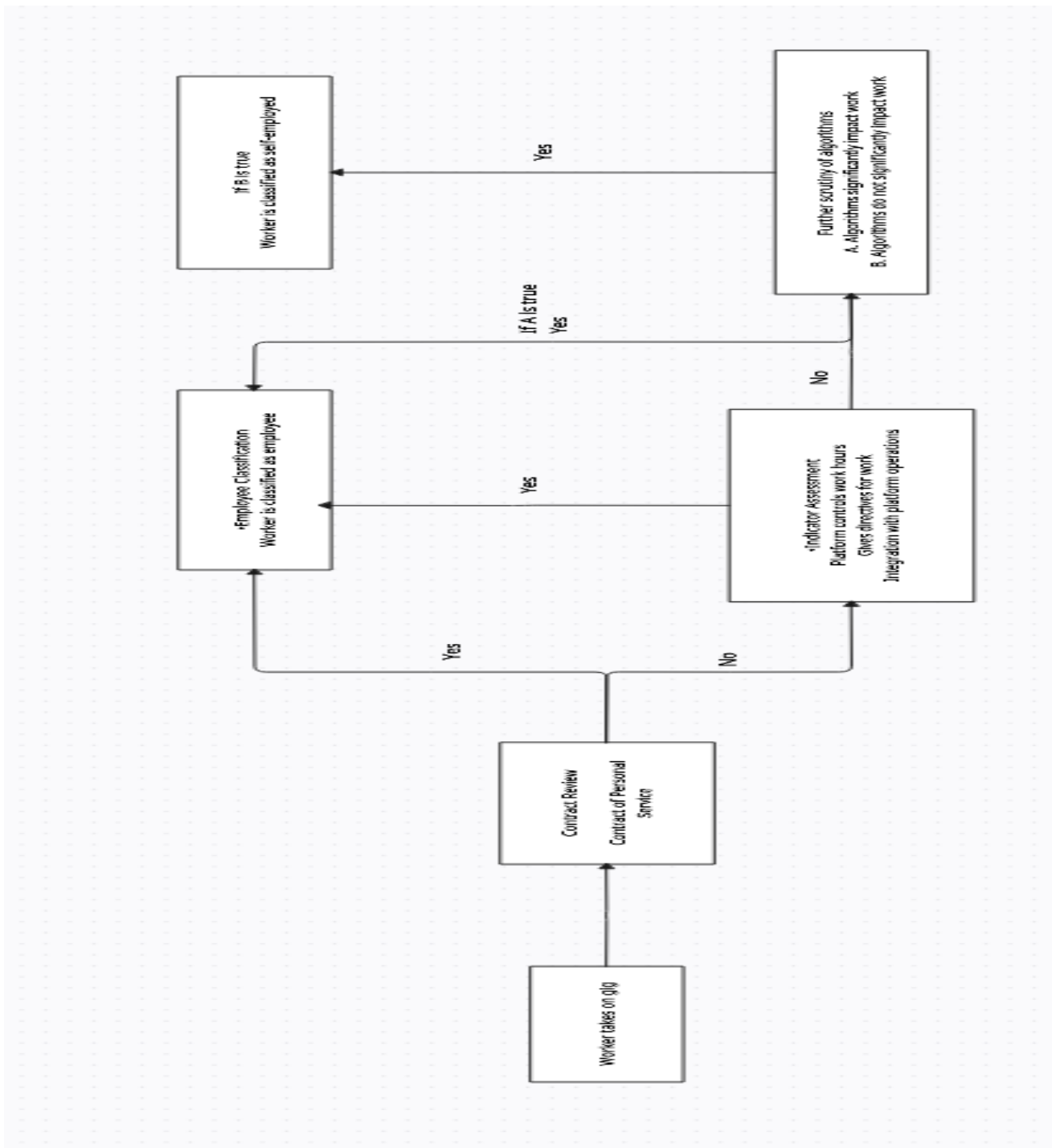


Image 15: Diagrammatic representation of the solutions posed

Conclusion

The solutions can be implemented in the Rajasthan Platform-Based Gig Workers (Registration and Welfare) Act, 2023. The amendments provided will ensure employee status for gig workers besides characterizing the labour they provide as work. It will also improve their working conditions, providing them a slew of social security measures and safety nets removing the precarity of their working conditions. This paper discusses how ensuring employee status for gig workers who are currently negotiated with as contractors by platforms/tech conglomerates on the pretext of allowing workers independence and an illusion of choice, can lead to social inclusion and end capability deprivation.

Entitlement	Employee	Gig Worker
Employee Status	✓	✗
Living Wage	✓	✗
Paid Leave	✓	✗
Maximum/Minimum Work Hours	✓	✗
Retirement Benefits	✓	✗
Protection from Unfair Dismissal	✓	✗
Health Insurance and Safety Laws	✓	✗

Image 16: Benefits available before Policy Intervention

Entitlement	Employee	Gig Worker
Employee Status	✓	✓
Living Wage	✓	✓
Paid Leave	✓	✓
Maximum/Minimum Work Hours	✓	✓
Retirement Benefits	✓	✓
Protection from Unfair Dismissal	✓	✓
Health Insurance and Safety Laws	✓	✓

Image 17: Benefits available after policy intervention

This paper makes suggestions for possible policy intervention. The solutions suggested can be implemented in collaboration with the Rajasthan government. Various gig worker unions that are important stakeholders in the process must also be negotiated with. To pinpoint precisely, the Department of Labour, the Department of Information and Technology and the Department of Social Justice and Welfare must collaborate to bring this idea to fruition. If the pilot is successful, suggestions will be provided to scale up this policy intervention.

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Image citation:

Image 1: Projection of Gig Work Using Employment Growth (Source: Rao, R.K., Kumar, K et al. (2022); NITI Aayog)

Image 3: Earnings and Social Protection of gig workers as opposed to employees. (Source: Rani, U, (2021), ILO)

Image 4: Algorithmic management and the challenges it poses. (Source: Rani, U, (2021), ILO)

Appendix: Image citation

Image 2: Court rulings on cases related to gig work in various countries (Source: ILO Report, 2022)

Image 3: Court rulings on cases related to gig work in various countries (Source: ILO Report, 2022)

Appendix

1. What?

A. What is the problem?

Despite the act being a novel attempt to empower gig workers, it fails to address some of the pertinent problems faced by gig workers. As already highlighted above, the major problems with the act are:

(1) The government's unwillingness to mandate platforms to define gig workers as employees. The act differentiates between aggregators and platforms helping these online entities surreptitiously pass on their burden of responsibility and evade accountability.

(2) The lack of transparency of algorithms that the platforms use to delineate jobs, devise rankings and allow workers to continue providing services.

B. What would we like to know?

We would like to know the reason behind the act perpetuating the social exclusion of gig workers by preventing them from becoming an employee of a platform. Here we see, that Amartya Sen's thesis of unfavourable inclusion is at work. A gig worker is denied employee status by platforms (tech conglomerates) despite working for the platform. They are thus prevented from availing benefits of social security and protection that a regular employee enjoys.

C. What are the assumptions being scrutinised?

The assumption we are scrutinising is the missing employee status of gig workers. The act makes no attempt at defining or mandating gig workers as employees of the platforms they ply their trade.

2. Who?

A. Who is involved?

Since the act was implemented on a state level the major stakeholders involved are from the state government.

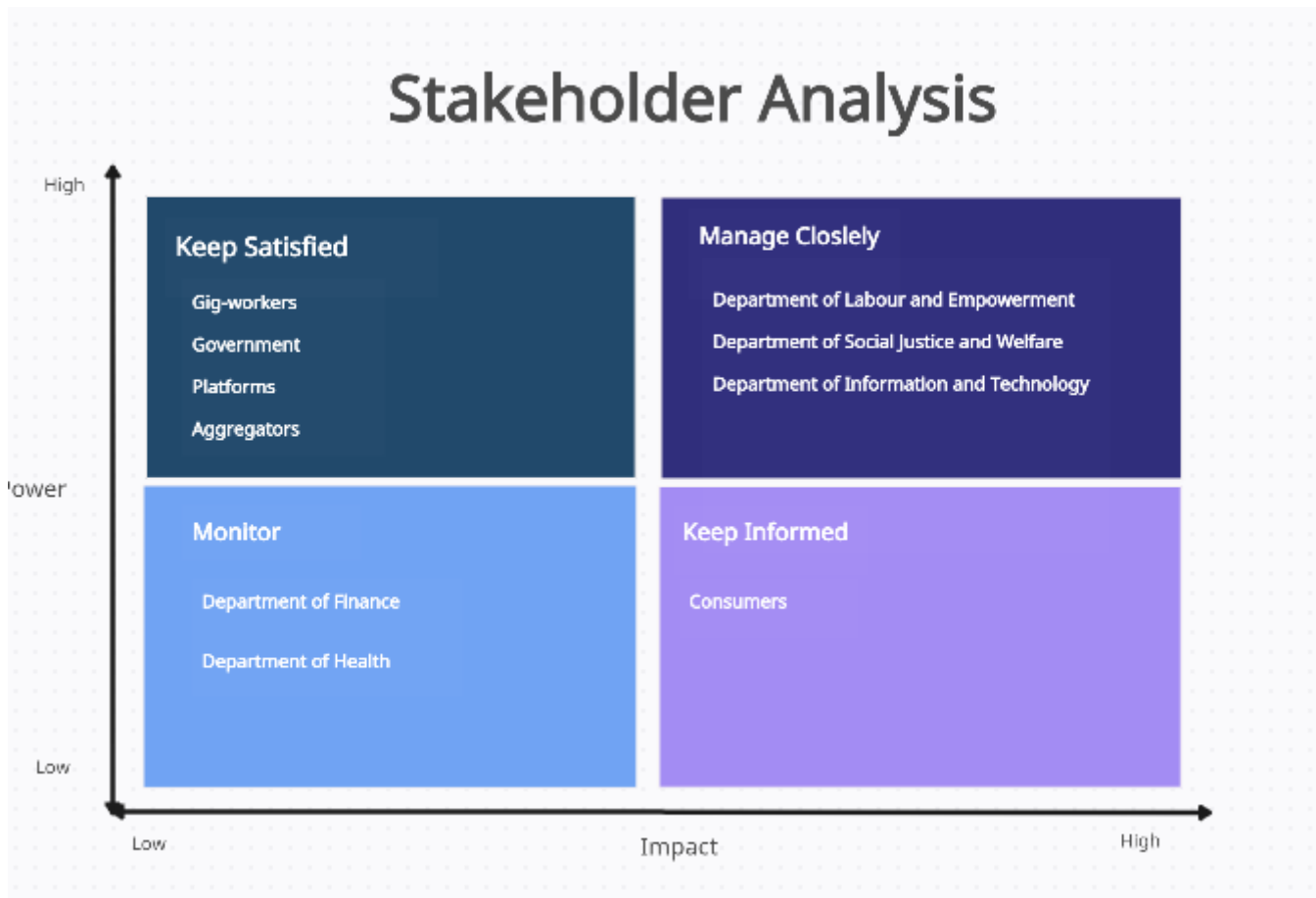


Image 1. Stakeholder analysis of all the respective groups impacted by the issue

The extreme user base should be catered to, which means gig workers who are into the profession for sustenance/living, must be differentiated from those who do it for additional money.

B. Who is affected?

The gig workers, the aggregators/platforms that are part of tech conglomerates, and the government are affected by this.

C. Who decides?

The government as a regulatory body decides on how to monitor, tax and regulate the tech conglomerates that create these platforms. The aggregators or tech oligopolies decide whether they will ply their trade with a particular geographical location. The algorithms on a particular platform decide how gig-workers must perform leading to unfair trade practices, information asymmetry and exploitation.

3. Why

A. Why is this problem important?

As mentioned above the socio-political, economic and humanitarian concerns render the problem important.

B. Why does it occur?

The problem occurs due to the lack of power vested in the gig workers, the workers cannot unionize as they are not formally recognised employees, similarly, they are regulated and monitored through algorithms that determine whether they will be retained. The sheer imbalance of power dynamics makes the problem poignant.

C. Why was it not yet solved?

The problem is ill-defined and also there is a lack of political will to address the matter. The manner in which the political economy works prevents action from being taken. Also, tech conglomerates often exercise significant influence in policy and decision-making.

3. Where

A. Where does the problem occur?

The problem occurs in developing and underdeveloped economies where a robust mechanism protecting labour rights is missing and the social security net provided by the government is inadequate.

B. Where was it already solved before?

Court rulings in the United Kingdom, California, the United States, China, Spain and Uruguay have partially solved the issue. Australia through the “Fair Work Legislation Amendment (Closing Loopholes) Bill 2023” has tried to deal with the gig work/worker conundrum.

C. Where did similar situations exist?

A similar situation has existed in countries across the world ranging from Australia, Brazil, China, New Zealand, Spain, the United States, the United Kingdom, and Uruguay.

► **Table 5. Court rulings on platform worker classification**

Judgment of the United Kingdom Supreme Court concerning Uber drivers, 19 February 2021 ¹	<p>Status: Dependent</p> <p>Arguments: The drivers have a dependent relationship with Uber because it is Uber that decides how much they receive for their work, imposes contractual conditions, penalizes rejection of services and restricts communication between clients and drivers.</p>
Judgment of the High Court of Justice of Brazil concerning Uber drivers, 28 August 2019 ²	<p>Status: Self-employed</p> <p>Arguments: The drivers have a subordinate relationship because they provide their services on a casual basis, without a fixed schedule and do not receive a fixed wage.</p>
Judgment of the District Court of Pennsylvania concerning UberBLACK drivers, 11 April 2018 ³	<p>Status: Self-employed</p> <p>Arguments: The drivers are free to log into and out of the app, do not work exclusively for one platform and have the chance to make what profits they wish.</p>
Judgment of the California Supreme Court concerning Dynamex drivers, 30 April 2018 ⁴	<p>Status: Dependent</p> <p>Arguments: The business belongs to the company and the drivers are a part of the business: it is the company that finds clients, conducts advertising, determines the price, and says where parcels should be collected and delivered.</p>
Decision of the People’s Court of Haidian District (China) concerning FlashEx delivery staff, 6 June 2018 ⁵	<p>Status: Workers</p> <p>Arguments: Workers have limited freedom to decide whether to accept requests or to determine their working hours; the platform derived profits from the work done by delivery staff.</p>
Judgment of the New Zealand Employment Court concerning Uber drivers, 17 December 2020 ⁶	<p>Status: Self-employed</p> <p>Arguments: Workers are not particularly vulnerable and do not lack understanding of what they have agreed to; it is they who determine when and for how long to log in and who supply the means needed to perform an activity, such as the vehicle or the data plan.</p>

Image 2: Court rulings on cases related to gig work in various countries (Source:

ILO Report, 2022)

<p>Judgment of the Spanish Supreme Court concerning Glovo delivery staff, 25 September 2020 ⁷</p>	<p>Status: Dependent</p> <p>Arguments: Workers perform their activities under instruction from the platform and do not have the resources needed to carry out their activity; there is no genuine freedom or independence on their part.</p>
<p>Decision of the Australian Fair Work Commission concerning UberEats delivery company, 21 April 2020 ⁸</p>	<p>Status: Self-employed</p> <p>Arguments: The platform does not exercise control over when and how much operatives work; the latter are not obliged to perform particular services, can accept services from competing platforms and do not present as an “offshoot” of the platform business, given that they do not have to wear its logo or uniform.</p>
<p>Judgment of the Court of First Instance of Montevideo (Uruguay) concerning Uber drivers, 14 February 2022 ⁹</p>	<p>Status: Dependent</p> <p>Arguments: Priority must be given to the facts based on the designation that the parties have given to the contract; the platform’s activity is transport because its income depends on the number of journeys made by drivers; the latter are integrated in the organization of the enterprise, which, according to ILO Recommendation No. 198, indicates the existence of an employment contract.</p>

Image 3: Court rulings on cases related to gig work in various countries (Source: ILO Report, 2022)

4. When

A. When did the problem begin?

While the birth of the platform economy can be located in the 1990s, the problem related to the economy is relatively new. The *Dynamex Operations v. The Superior Court of Los Angeles County* and *Charles Lee*, from 2005 in California, US can be regarded as one of the first cases reported on the matter.

B. When do people want to see results?

For gig workers the issue is significant and the minor victories from the Rajasthan Act have only enthused them. As stated by Sheikh Salauddin, the General Secretary of IFAT, “We now have two tasks ahead of us. First, to turn the Rajasthan Act into an exceptionally strong one by implementing it through effective rules. Second, to take it as a starting model to other states so that they can improve it in their legislation” (Matthew, 2023).

C. When can the project be started?

The project should be given immediate priority.

5. How:

A. How could this problem be an opportunity?

Reclassifying gig workers who work 40-45 hours a week as employees will be a step in the right direction.

B. How could it be solved?

As mentioned above the issue can be solved by reclassifying workers as employees, while also addressing the issue of lack of transparency in algorithmic management.

C. What has already been tried to resolve the problem?

Floor wages that have been decided by the Central government and minimum wage provided by the state government have helped in addressing the problem. Similarly, the Code on Social Security, 2020 (Ministry of Law and Justice, 2020), provides insurance against accidents, death, incapacity or retirement. It also has provisions for health and maternity benefits.

Theoretical premise of the policy-problem

As discussed above, the policy fails to address the issue of “unfavourable inclusion,” similarly the problems posed by the policy can be studied through different critical lenses. The differentiation of gig workers from employees despite the nature of their work and the hegemony of the algorithms raises questions about a panoptic design that bolsters control, fosters discipline and creates docile bodies. The role of the algorithm produces an automatic effect, there is “an enactment of surveillance, a subjectivization of power, as instilled in prisoners...that they may be under inspection at any time, night or day” (Elmer, 2012). Gig workers under the panoptic gaze of the algorithm, that “invariably offers and grants services or tasks, defines working time, calculates remuneration, implements ratings and rankings systems, and ultimately determines whether workers will continue to provide services” (ILO, 2024) must discipline themselves. Just

like Foucault's 'laboratory of power' (Foucault, 1979), the algorithm "cultivates a self-governance, an automatic subservience" (Elmer, 2012). Therefore the worker is disciplined through subtle coercion, forced into being docile to maintain their position as gig workers. Docility thus becomes a form of compliance as the gig workers are more susceptible to being banned from the platforms they work for as opposed to an employee who is better protected. Thus, "discipline produces subjected and practised bodies, "docile bodies" (Foucault, 1979). The gig worker/women/ the disenfranchised "Other" must be disciplined as enumerated in "Foucault, Femininity, and the Modernization of Patriarchal Power" by Sandra Lee Bartky. Bartky (2020) mentions how practices "aim to produce a body of a certain size and general configuration; those that bring forth from this body a specific repertoire of gestures, postures, and movements..." (Bartky, 2020) similarly gig workers must work as "humans-as-a-service", "for ten minutes", and then can be fired. The idea is succinctly described by Lukas Biewald, CEO of CrowdFlower, "You can actually find them, pay them the tiny amount of money, and then get rid of them when you don't need them anymore" (De Stefano, V. (2016). Thus gig workers bereft of definitive employment status must become the ideal body of labour, a docile body that retains its inferiority due to the missing employment status, but is coerced to perform the roles of the employee without commensurate and proportional benefits.

Understanding the panoptic design of the algorithms

The panoptic design of the algorithm perpetuates both discipline and control. The docile bodies of the workers are subdued and disciplined through their regular interaction with the algorithm that acts as the panopticon in this scenario. We witness Michel Foucault's thesis on the theory of power "as a bio-political phenomenon" (Elmer, 2012) at play, the theory is enumerated in Foucault's seminal treatise, "Discipline and Punish: The Birth of Prison."

Prototype

- **Policy Intervention – Process Flow**

Following my policy intervention, as a gig worker takes on a particular job via a platform, a review of their contract of personal service will be undertaken. If such a clause exists, then the worker immediately becomes an employee. If such a clause is absent, but the platform that facilitates their work, controls their work hours, and gives them directives related to work then such a worker will be classified as an employee. Similarly, if the work of the independent contractor is integrated with platform operations then too, the worker will be classified as an employee. However, in the absence of a contract of personal service and platform intervention, an additional layer of checks will be done to ensure that the platform that facilitates the work done by the gig workers uses algorithms that impact the work and daily functions of the employees. If the answer is yes then, a gig worker must be categorised as an employee of the platform. In the scenario that no contract of personal service exists, platforms do not control work hours, and algorithms do not impact the daily functions of the worker, only then can a gig worker be classified as self-employed.