

Inputs to the Rajasthan Platform Based Gig Workers (Registration and Welfare) Bill, 2023

IT for Change

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The introduction of minimum social security guarantees for platform and gig workers in a concrete manner is a significant move. The Rajasthan bill, in that regard, is a step in the right direction. This law is focused on an important facet of decent work – social security – and IT for Change’s inputs are limited to related aspects. The Rajasthan Platform Based Gig Workers (Registration and Welfare) Bill, 2023, once passed, will require additional structure through rules and guidelines and the guidance of the Board sought to be created within this framework. The Board, in particular, will need the active participation of all the stakeholders identified within this law to enable its success.

We believe the following should be maintained in the law as rights of platform-based gig workers:

1. A universal social security guarantee has to be included within the text of the law, under Section 13, without linkages to worker contributions. This guarantee ensures that workers who are unable to make minimum wage or are otherwise marginalized can still access social security benefits.
2. A right to inspect records of every transaction and challenge aggregator records of workers will enable resolving disputes about welfare cess collection (from the point of view of the state) or welfare amount eligibility (from the point of view of the worker).

In order to achieve these, several considerations need to come together. Our specific inputs to the draft bill are listed below.

Section in the Proposed Text	Suggestion by IT for Change
2. Definitions - (a) ‘aggregator’ means a digital intermediary for a buyer or user of a service to connect with the seller or the service provider and includes any	The definition of aggregator should be expanded (for the purpose of apportioning transaction risk correctly) to include any and all intermediaries which can be contractors, sub-contractor firms, fleet management firms, individual contractors, or any related corporate entities.

¹ This submission was developed by Sreyan Chatterjee, Shreeja Sen, and Nandini Chami.

<p>entity that coordinates with one or more aggregators for providing the services.</p>	
<p>2. Definitions -</p> <p>(i) 'primary employer' means those individuals or organizations who directly engage platform based gig workers for a particular task against payment.</p>	<p>Instead of creating two categories of primary employer and aggregator, the responsibility of the welfare of labor should vest with the platform, i.e., aggregator. Introducing multiple layers of responsibility creates ambiguity in this role and creates scope for platform companies to evade accountability. Additionally, tracking every customer, who may become a primary employer in this case, for fulfillment of their duties within this law is unlikely to be feasible.</p>
<p>4. Meetings of the Board</p> <p>(1) The Board shall meet at such time and place and observe such rules of procedure for transaction of business at its meetings as may be prescribed by regulations.</p>	<p>There should be a requirement for a written explanation to be submitted to the appropriate authority if the bi-annual meeting of the Board does not happen as laid down in the legislation. This is critical because a significant bottleneck in the functioning of multiple wage and welfare boards has been the lack of meetings and related consensus.</p>
<p>13. Rights of registered Platform Based Gig Workers. All Platform Based Gig Workers shall have the right to-</p> <p>(b) have access to general and specific social security schemes based on contribution made as may be notified by the Board;</p>	<p>There needs to be some consideration for a universal social security scheme that is not reliant on contributions as identified in this provision. By failing to provide or prescribe a minimal social security floor, there is a risk that schemes designed may place too much emphasis on workers' own contribution, which means that workers who are unable to make minimum wages or earnings in the first place will end up being further disadvantaged.</p> <p>Additionally, the cost of monitoring social</p>

	<p>security scheme eligibility (on the basis of hours worked, ratings, response rate, etc.) may affect the financial health of the social security schemes that will be framed under this legislation.</p> <p>Contributory social security legislation already exists in the form of the EPF and ESIC and a linkage in the legislation should be offered if that is the intention of the drafters.</p>
<p>14. Duties of aggregator and primary employer. Every aggregator and primary employer shall be required to-</p> <p>(b) provide the Board with the latest data of all platform based gig workers engaged by him within sixty days of enforcement of this Act;</p>	<p>For the Board to formulate schemes, we need to understand what are the types and specifics of the data that are required when we talk about the latest data of platform-based gig workers – is it registration of workers, transactions they engage with, etc? For example, payment data is included in the later sections, however, we find terms of engagement/contract, data from transactions, and consumer data to be missing.</p> <p>It would be good to lay this out upfront to ensure the rules have a specific direction.</p>
<p>15. Grievances Redressal Mechanism for Platform Based Gig Workers</p> <p>(2) The procedure, for the disposal of petition filed under sub-section (1), shall be such, as may be prescribed.</p> <p>(3) The officer so authorized under sub-section (1), upon inquiries, dispose the said petition by passing an order of redressal and may also issue a direction to the aggregator or primary</p>	<p>Two specific points need to be addressed –</p> <p>(a) access to the grievance redressal mechanism needs to be both collective and individual, particularly as this law does not explicitly provide protection against reprisals,</p> <p>(b) the process needs to be made time-bound as disputes being raised and being unresolved would reduce trust in the grievance redressal mechanism and thus defeat its purpose of maintaining industrial harmony.</p>

<p>employer, as the case may be, for payment of appropriate compensation.</p>	
<p>17. Penalties for contravention of provisions of this Act.</p> <p>(1)(ii) in case of an aggregator, which may extend up to five lakh rupees for the first contravention and up to fifty lakh rupees for subsequent contravention.</p>	<p>For certain offenses which are core to this regulation, the legislation should consider a turnover-based penalty. At these current levels of penalty sums, there is very little deterrent for platforms to comply.</p>
<p>18. Central Transaction Information and Management System</p> <p>(2) Every payment including its break up of commission charged, payment made to Platform Based Gig Workers, Goods and Services Tax (GST) deducted, and welfare cess deducted will be recorded on the Central Transaction Information and Management System (CTIMS) for each transaction related to Platform Based Gig Worker. The formats of payment shall be such as may be prescribed.</p>	<p>Instead of every payment, the regulatory insight will be strengthened considerably if the CTIMS was tasked with tracking every transaction over and above each and every payment. All payments may also not be digital or invoiced – cancelled rides for example are connected to response rates, shadow transactions, as well as disciplinary action against workers.</p>
<p>18. Central Transaction Information and Management System</p> <p>(3) The details of welfare cess collected and spent at the Platform Based Gig Workers level shall be disclosed and made available for inspection on the Central Transaction Information and Management System (CTIMS).</p>	<p>It should be clarified if the data available here is public access and or restricted to certain stakeholders. It is important to lay down the data-sharing rationale here as well as include specific processes and information rights for certain stakeholders and unions. If an independent intermediary body such as a data trust is being considered, the legislative space for the same should be clarified at this juncture.</p>