

# EVOLVING GOVERNANCE FRAMEWORK FOR WORKERS IN THE GIG ECONOMY

“Unpacking the Rise of Online Filipino Platform Work  
and the Gig Economy”

SERP-P Knowledge Sharing

28 October 2024

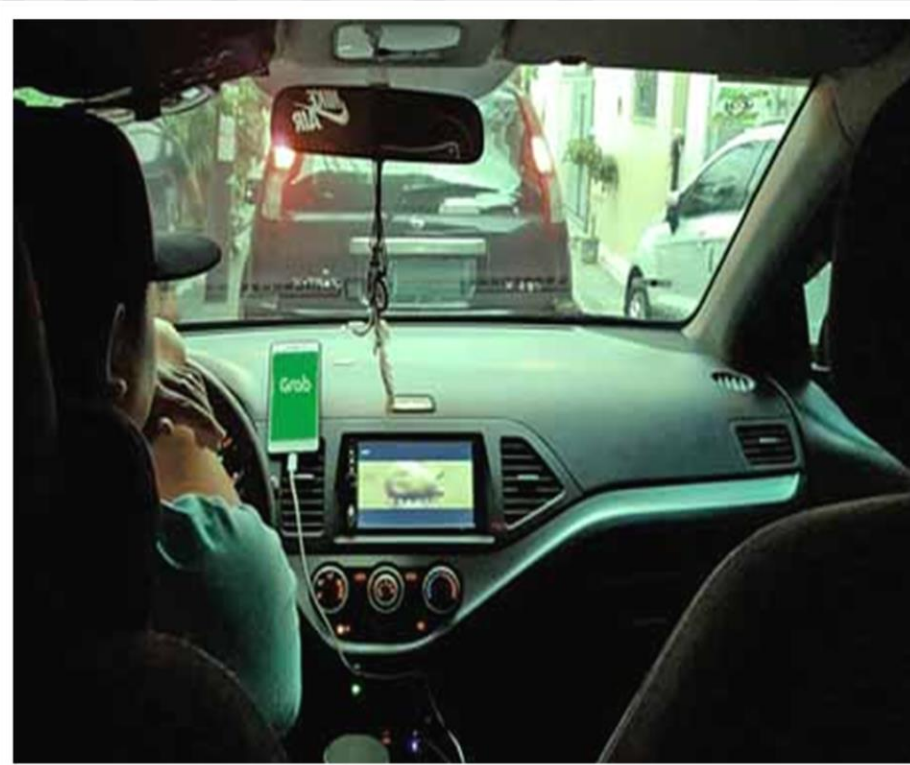


Miraluna S. Tacadao  
Chief, LEO

Workers Welfare Research Division



# Introduction



Sources: LinkedIn, Philippine Star, Top Gear, Tripzilla

**The Philippines is among the top suppliers of online labor.  
(ILO, 2021)**



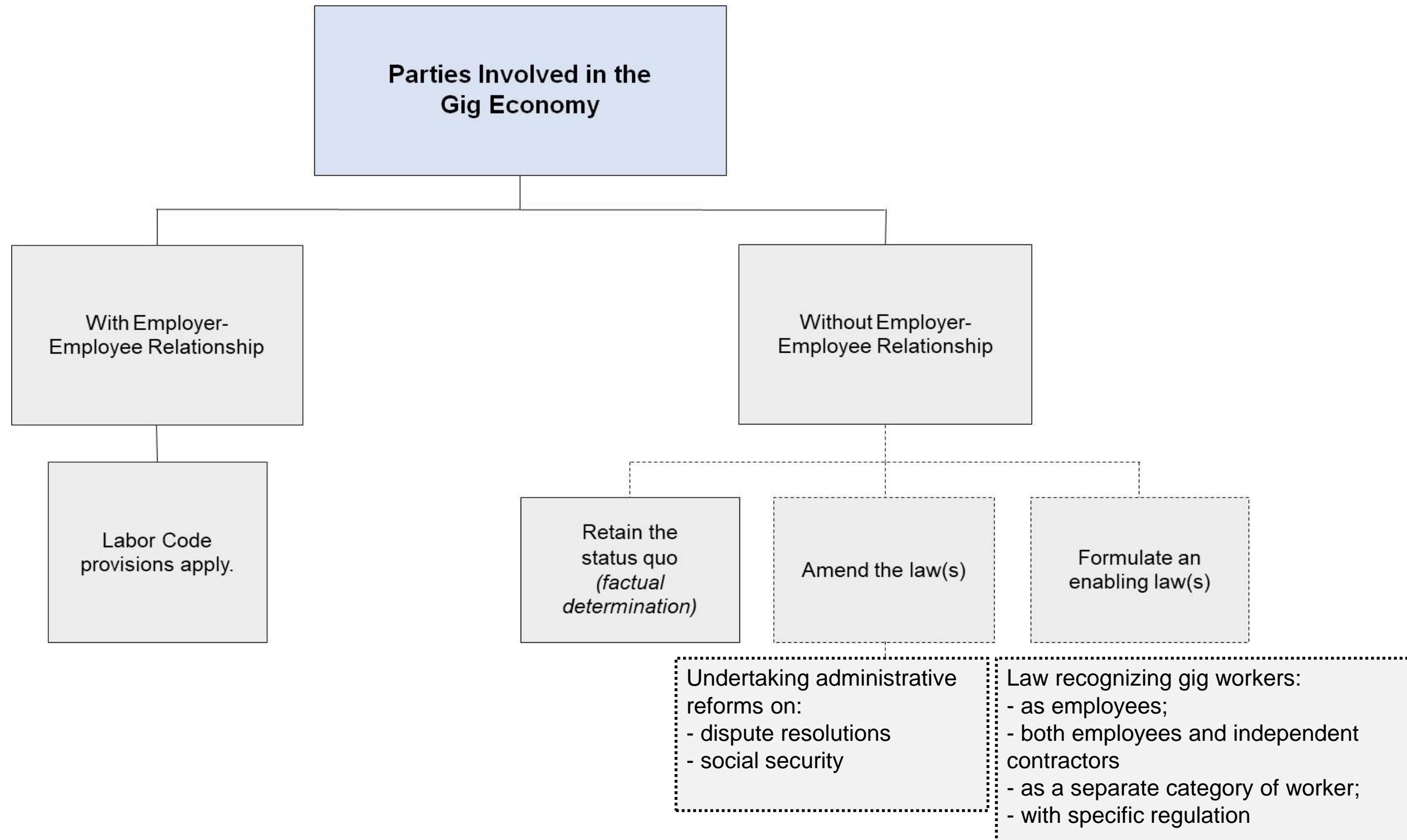
# Policy Issue

From the labor policy standpoint, one major issue is what might be the appropriate and effective combination of policy and institutional instruments that will enable the tripartite partners and other stakeholders to take advantage of the opportunities and manage the risks brought about by the emergence of the gig economy. In short, how should the labor market in the gig economy be governed?

Table 1

<b>GROUPS</b>	<b>PARTICIPANTS</b>	<b>MODE</b>
DOLE Attached Agencies, Bureaus, and Services	NLRC, NCMB, BWC, & LS	FGD ( <i>in-person</i> )
Employers' Group	ECOP, MBC, & PALSCON	FGD ( <i>virtual</i> )
Platform Company	Grab, Lalamove, & FoodPanda	KII ( <i>virtual</i> )
Workers' / Freelancers Group	FFW & TUCP	KII ( <i>virtual</i> )
	RIDERS-SENTRO	KII ( <i>in-person</i> )
	FHMoms	KII ( <i>virtual</i> )
National Government Agency	DTI	KII ( <i>virtual</i> )

# Analytical Framework



# Findings

## *A. Understanding the Gig Economy*



**Gig workers** provide **on-demand, part-time,** and **temporary services.**

# Findings

## A. Understanding the Gig Economy



**Gig workers** provide **on-demand, part-time, and temporary services.**

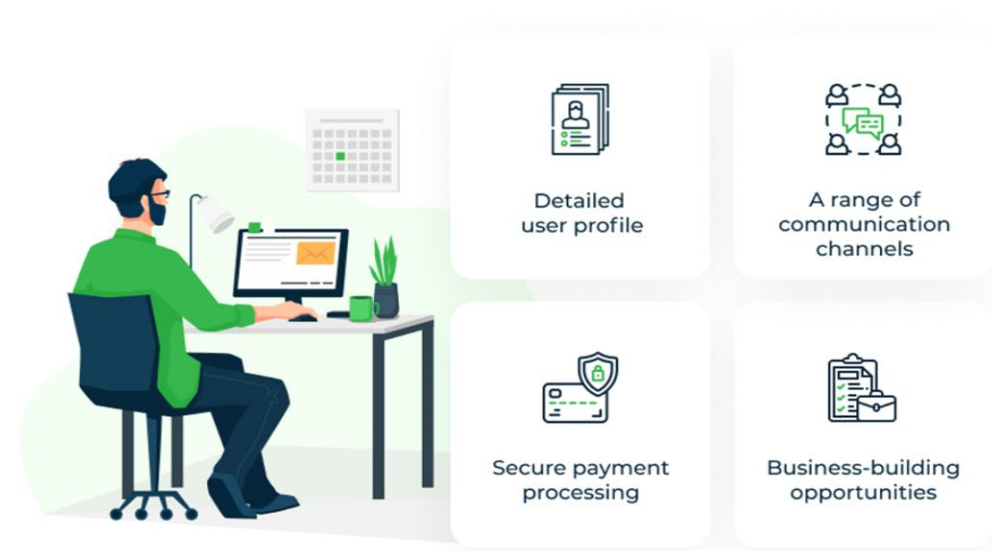


**Digital labor platforms** serve as **intermediaries** in **facilitating interactions** between the **customer or client** and **service provider.**

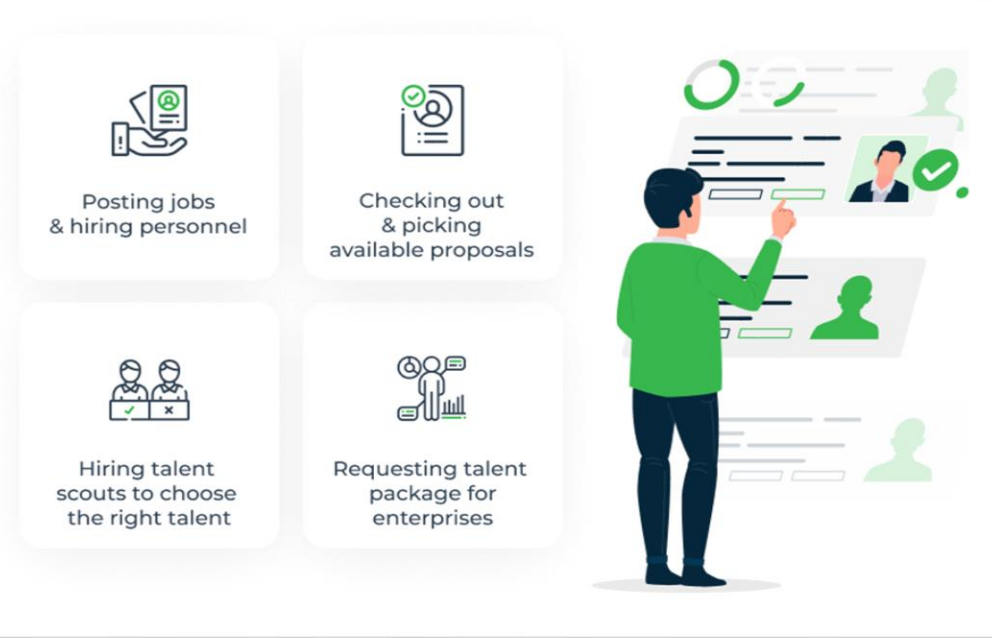


# Examples

## Upwork Opportunities for Freelancers

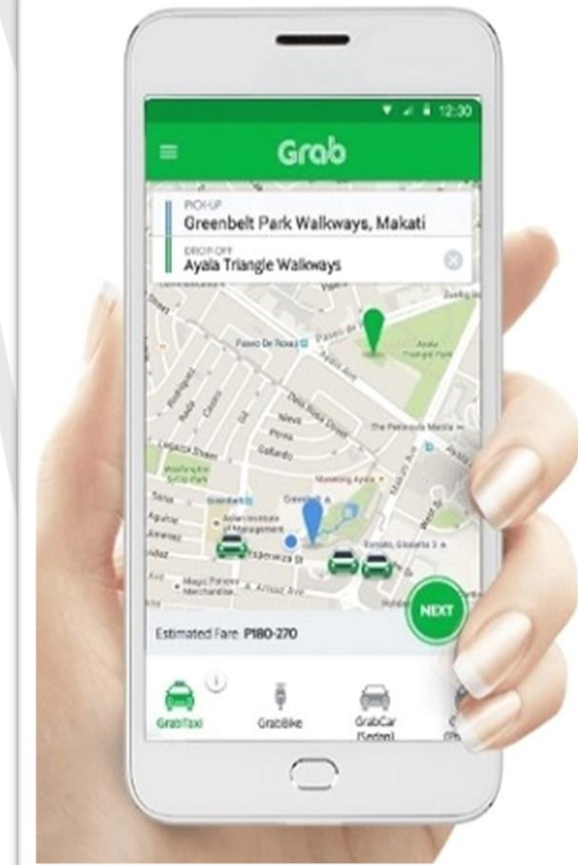


## How Upwork Works for Clients



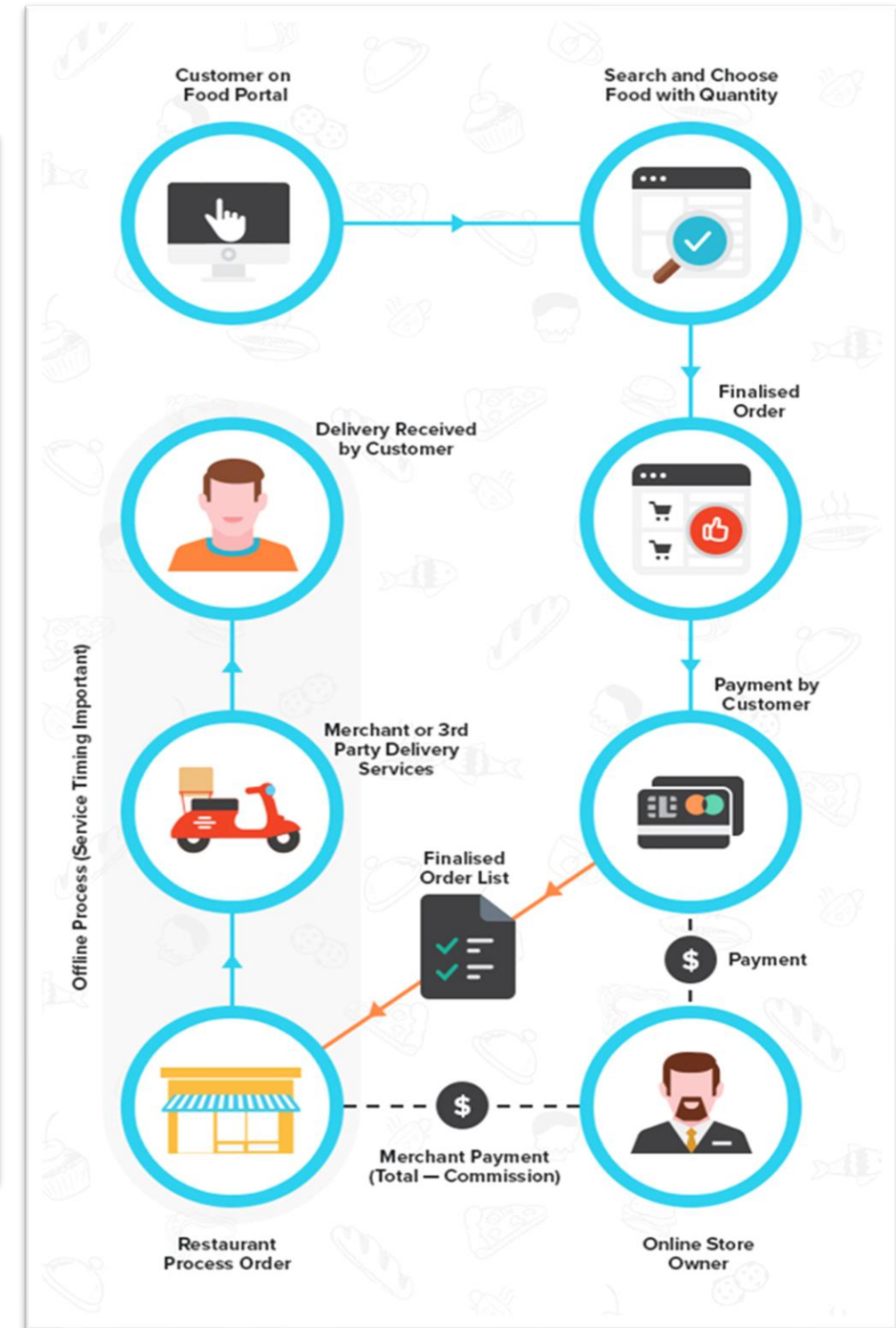
## How It Works

Use Grab to go anywhere freely.



- 1 Book A Ride**  
Set your pick up and drop off point and tap Next.
- 2 Get a Driver**  
We'll find you the nearest available driver.
- 3 Track Your Driver**  
Know your driver's details, location, and estimated arrival time.
- 4 Share Your Ride**  
Let your family and friends track your ride, and get to your destination with no worries.

Source:: Grab



Source:: [www.foodworktechnologies.com](http://www.foodworktechnologies.com)

Source:: <https://easternpeak.com/blog/how-to-develop-a-freelance-marketplace-like-upwork-and-keep-it-competitive/>



# Findings

## *A. Understanding the Gig Economy*



**Gig workers** are  
**independent**  
**contractors** in nature.

# Findings

## A. Understanding the Gig Economy



**Gig workers** are **independent contractors** in nature.



**Gig workers** work in **autonomy** and usually for **multiple clients**.

## ***B. Key Policy Questions arising on Gig Economy***



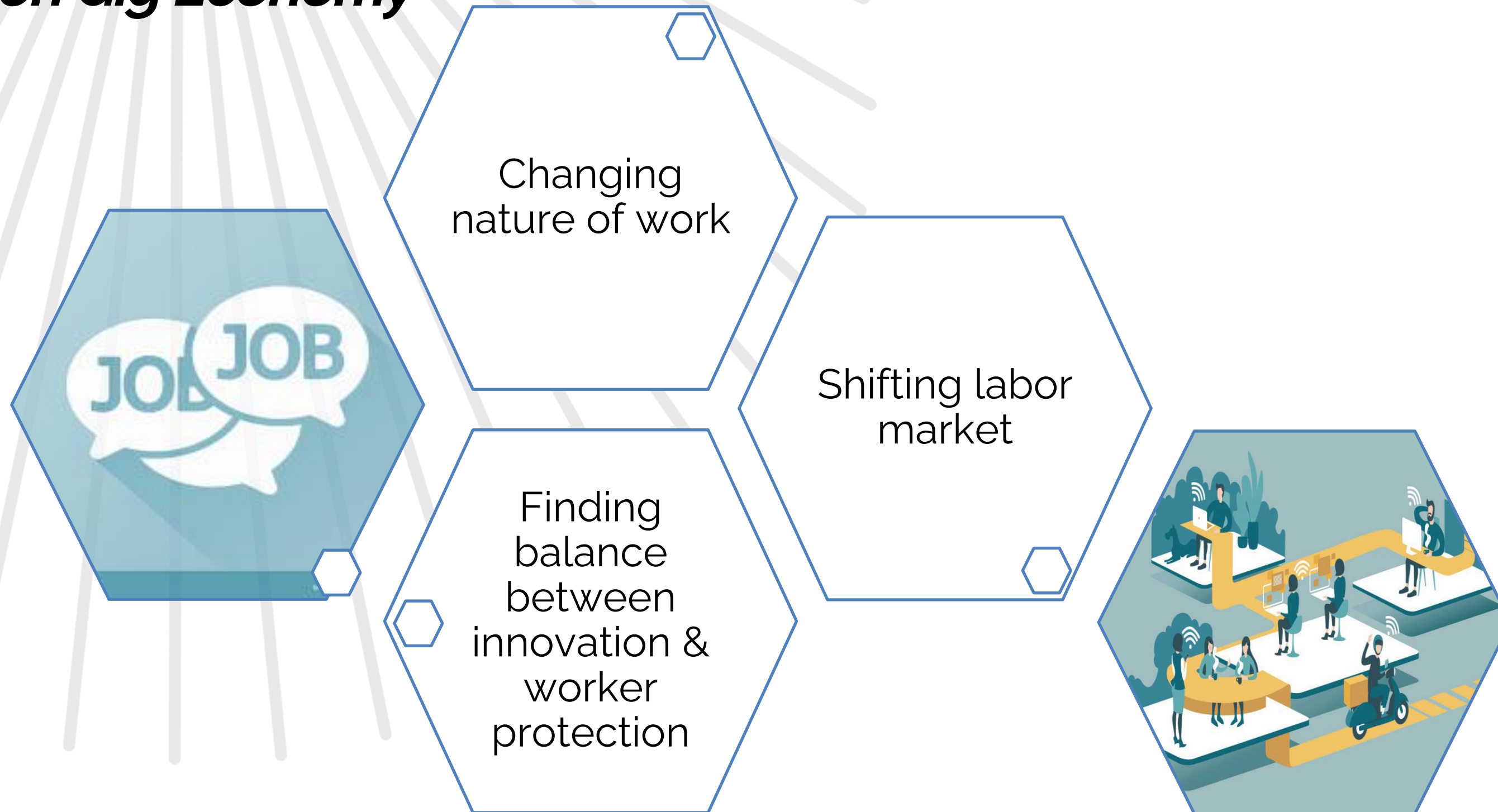
Changing  
nature of work



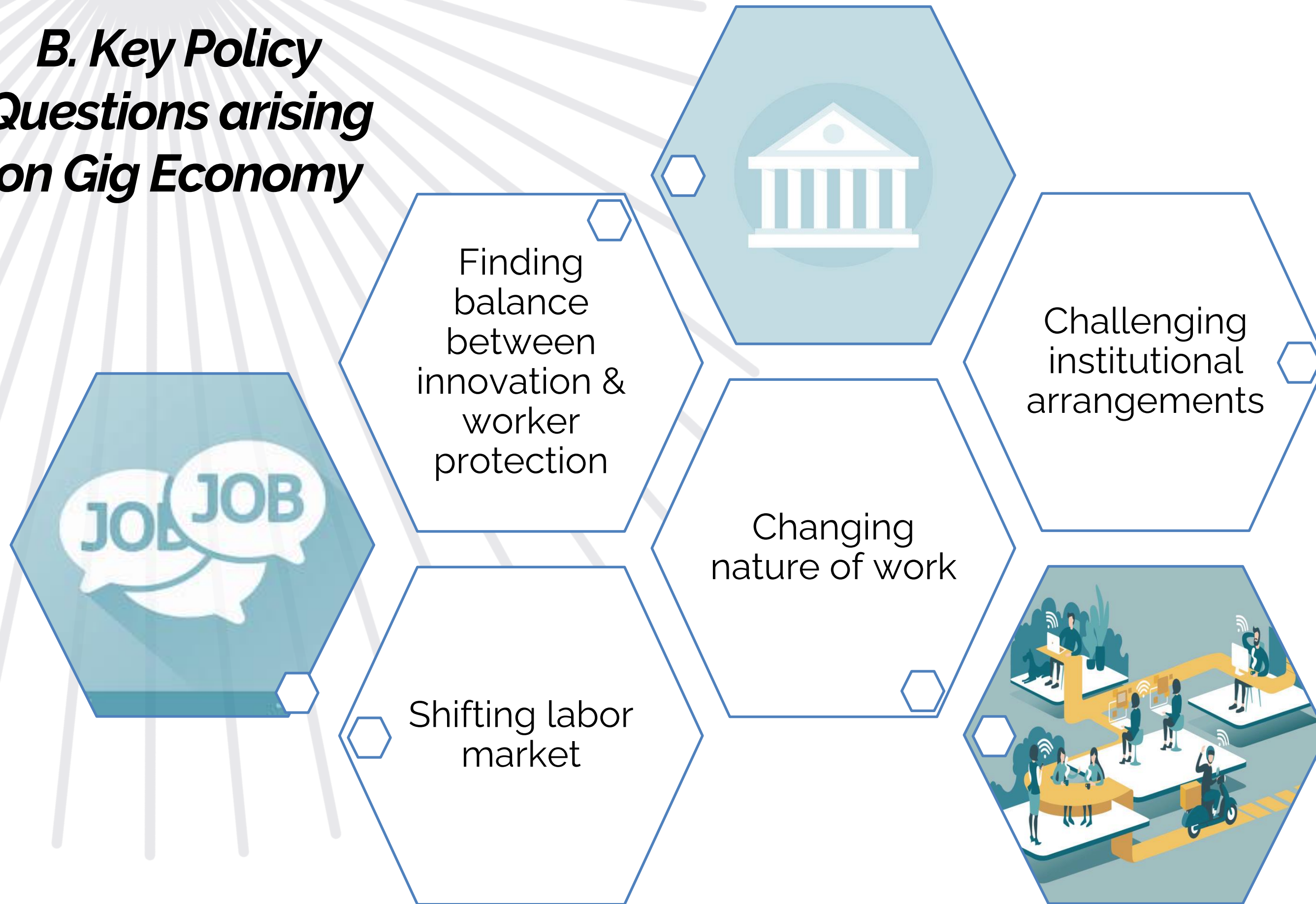
## ***B. Key Policy Questions arising on Gig Economy***



## ***B. Key Policy Questions arising on Gig Economy***



## ***B. Key Policy Questions arising on Gig Economy***





# Key Policy Questions arising on Gig Economy



Finding balance between innovation & worker protection

Shifting labor market

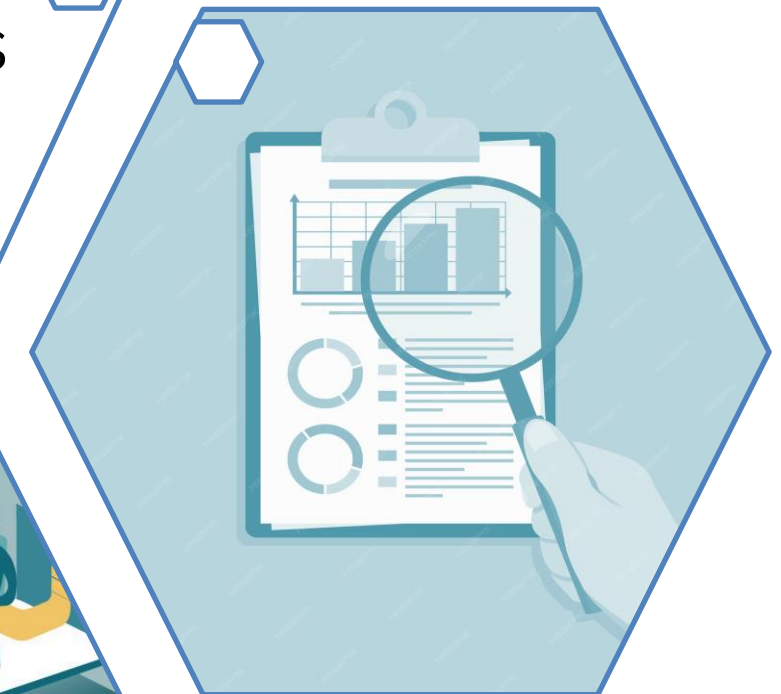


Changing nature of work



Challenging institutional arrangements

Measuring the size and contribution of gig economy




# Findings

## *C. Legal and Regulatory Frameworks to Accommodate Gig Workers*

### **1. RETAINING THE STATUS QUO**

DOLE Agencies	Employers' Group	Platform Groups	Workers' Group
<ul style="list-style-type: none"><li>Agreed that the determination of ER-EE relationship remains a question of fact, to be established using the tests.</li><li>Supreme Court ruling varies from one case to another.</li></ul>			<ul style="list-style-type: none"><li>Determination of ER-EE should not be on a case-to-case basis.</li><li>By default, employment relationships should be presumed as workers.</li></ul>

 The idea that there is no meaningful distinction between an employee and a worker often revolves around the notion that both terms essentially refer to individuals who perform tasks or provide services in exchange for compensation.

# Findings

## *C. Legal and Regulatory Frameworks to Accommodate Gig Workers*

### **2. RECOGNIZING GIG WORKERS AS EMPLOYEES**

DOLE Agencies	Employers' Group	Platform Groups	Workers' Group
<ul style="list-style-type: none"><li>▪ Presumption of employment is restrictive rather than proactive.</li><li>▪ Difficult to operationalize since work is short-term and working for multiple clients.</li></ul>		<ul style="list-style-type: none"><li>▪ May be a “bad policy” because platforms are subjected to all requirements of law for an employer.</li></ul>	<ul style="list-style-type: none"><li>▪ Favorable, by default, employment relationship should be presumed as workers.</li></ul>



This proposal would entitle gig workers to legal protections. However, the policy threatens the business models.



# Findings

## *C. Legal and Regulatory Frameworks to Accommodate Gig Workers*

### **3. RECOGNIZING GIG WORKERS MAY BE BOTH EMPLOYEES & INDEPENDENT CONTRACTORS AT THE SAME TIME**

DOLE Agencies	Employers' Group	Platform Groups	Workers' Group
<ul style="list-style-type: none"><li>▪ Defeats the essence of gig work (short-term).</li></ul>	<ul style="list-style-type: none"><li>▪ Will create confusion.</li></ul>	<ul style="list-style-type: none"><li>▪ Emphasis must be on labor protection, rather than categories.</li></ul>	<ul style="list-style-type: none"><li>▪ Assumption of employment relationship must be favorable to the worker.</li></ul>



Differentiating between employees and independent contractors is essential since laws treat both groups differently. When clarity exists, all parties can understand and work through their rights and responsibilities.

# Findings

## *C. Legal and Regulatory Frameworks to Accommodate Gig Workers*

### **4. FORMULATING A SECTOR SPECIFIC REGULATION (LABOR STANDARDS FOR FREELANCERS & DELIVERY RIDERS)**

DOLE Agencies	Employers' Group	Platform Groups	Workers' Group
<ul style="list-style-type: none"> <li>Idea of using labor standards applicable to EE-ER relationship as baseline for crafting independent contractor arrangement is encouraging approach.</li> <li>But there is a notion of creating a particular class.</li> </ul>	<ul style="list-style-type: none"> <li>Code of practice</li> <li>Social governance</li> <li>Self-regulation</li> </ul>		<ul style="list-style-type: none"> <li>Labor standards must be applied to all workers.</li> <li>Charter of Rights for Platform and Gig Workers.</li> </ul>



This option highlighted that labor standard rights must be granted regardless of your employment status or type of job you are engaged in, as Constitution guarantees equal protection of laws (Art. III, Sec. 1), and accords all members of the labor sector without distinction, full protection of their rights and welfare (Art. II, Sec. 18 and Art. XIII, Sec. 3).

# Findings

## *C. Legal and Regulatory Frameworks to Accommodate Gig Workers*

### **5. DEVELOPING A SPECIFIC CATEGORY OF WORKER FOR GIG WORKERS**

DOLE Agencies	Employers' Group	Platform Groups	Workers' Group
<ul style="list-style-type: none"><li>▪ Helpful to shed light on the formality and informality of workers in the gig economy.</li></ul>	<ul style="list-style-type: none"><li>▪ Beneficial, but another type of worker might evolve again.</li></ul>	<ul style="list-style-type: none"><li>▪ Timely and helpful but needs accurate data to create such category.</li></ul>	<ul style="list-style-type: none"><li>▪ Gig workers should be integrated in the formal sector and should be given basic protection of the law.</li></ul>

 The criteria and basis to be categorized under a “specific category” for gig worker must be defined, which accurate data is needed. .

# Findings

## C. Legal and Regulatory Frameworks to Accommodate Gig Workers

### 6. UNDERTAKING ADMINISTRATIVE REFORMS (i.e., DISPUTE RESOLUTION)

DOLE Agencies	Platform Groups	Workers' Group
<ul style="list-style-type: none"><li>SEnA is being offered provided that the parties voluntarily request such services. Alternatively, DO 151-16 may be amended.</li><li>Do not agree with a proposed additional division solely for the gig economy (currently)</li><li>Relevant provisions of Labor Code must be reviewed if the proposed bills seek to expand DOLE's enforcement and dispute resolution function (Art. 224, 234, and 275).</li></ul>	<ul style="list-style-type: none"><li>No Department that directly regulates the gig economy.</li><li>Best to resolve disputes is directly between the party raising the dispute and the platform representatives.</li><li>Presence of internal dispute resolution system.</li><li>Industrial Arbitration Court (like in Singapore).</li></ul>	<ul style="list-style-type: none"><li>Pending bills include a provision for grievance machinery (which ideally falls under the Labor Code).</li></ul>



# Findings

## *C. Legal and Regulatory Frameworks to Accommodate Gig Workers*

### **7. EXTENDING SOCIAL PROTECTION TO GIG WORKERS**

Employers' Group	Workers' Group	Platform Groups	DOLE Agencies
<ul style="list-style-type: none"><li>▪ Portable benefits</li><li>▪ Platform and client share on contribution (form of subsidy).</li><li>▪ Simplifying or streamlining administrative procedures by harnessing digital innovation.</li></ul>		<ul style="list-style-type: none"><li>▪ Had initiatives to encourage riders to fulfill government contributions.</li><li>▪ Provides incentives and other assistance.</li><li>▪ Improved areas i.e., simplified tax processes,</li></ul>	<ul style="list-style-type: none"><li>▪ A law mandating the social protection of gig workers.</li><li>▪ Clients/customer to shoulder a part of the social security of the gig worker.</li></ul>

# Findings

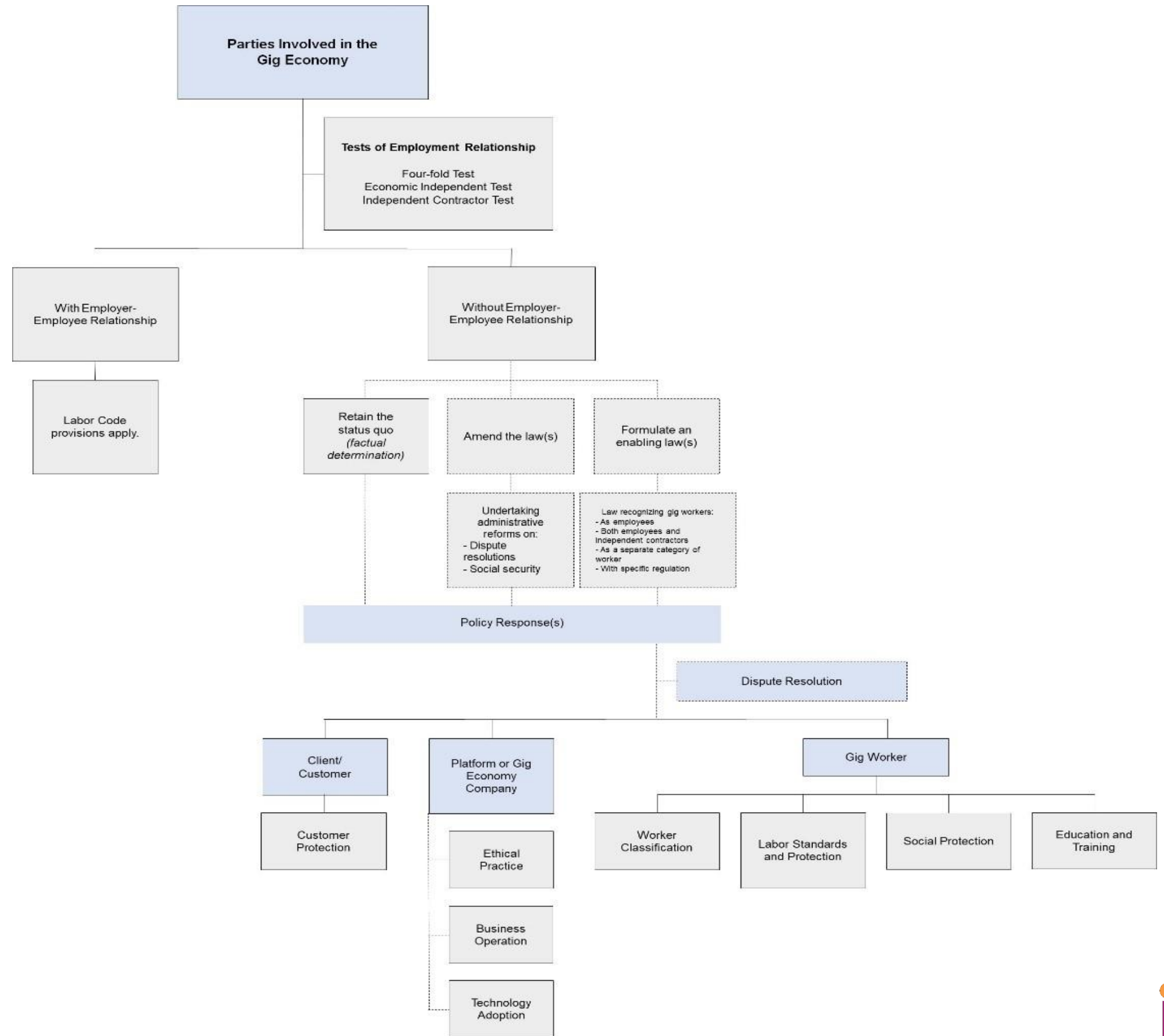
## *D. Support for the Gig Economy*



### **REGULATING THE GIG ECONOMY IS COMPLEX AND NECESSITATES BROADER FRAMEWORK**

Gig Workers	Platform	Clients/Customers
<ul style="list-style-type: none"><li>▪ Worker classification.</li><li>▪ Labor standards and protection.</li><li>▪ Social protection.</li><li>▪ Access to skills development and training</li><li>▪ Dispute resolutions.</li></ul>	<ul style="list-style-type: none"><li>▪ Ethical practice.</li><li>▪ Business operation.</li><li>▪ Technology adoption.</li></ul>	<ul style="list-style-type: none"><li>▪ Customer protection.</li><li>▪ Entrepreneurial support.</li></ul>

# [Proposed] Governance & Support Framework for Parties in the Gig Economy



# Policy Recommendations

## 1. Assess labor disputes resolution mechanisms.



*To expand DOLE's enforcement and dispute resolution functions.*

Relevant provisions of Labor Code:

- Article 224 (217) on mediation and conciliation or jurisdiction of the NLRC;
- Article 234 (228) on mandatory conciliation and endorsement of cases;
- Article 275 (262) on jurisdiction of voluntary arbitration over other labor disputes;
- Rule IV, Sec. 6 of D.O. 151-2016 (IRR of SEnA)-referral to OADR or small claims court.



# Policy Recommendations

## 2. Reinforce social dialogues through Tripartite Groups.

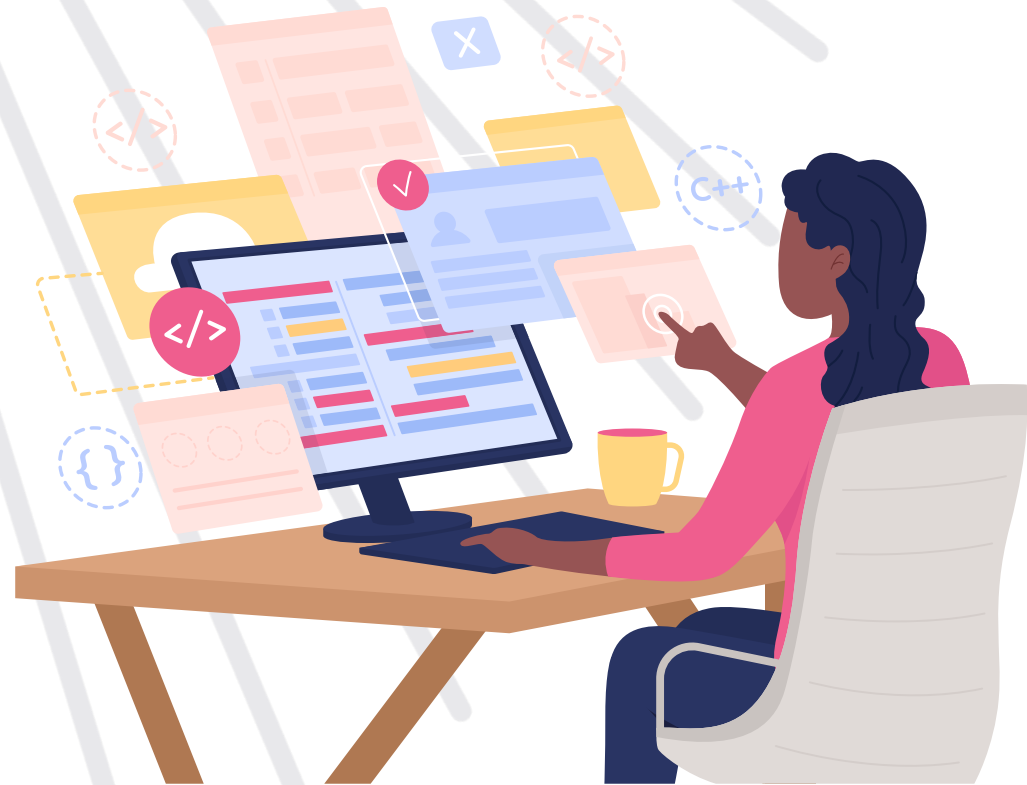


*To create a Tripartite Advisory Council or Technical Working Group:*

- Composed of concerned government agency/ies, platform companies and labor groups (e.g., FOPSCO, RIDERS-Sentro);
- Formulation of a Voluntary Code of Good Practices.

# Policy Recommendations

## 3. Improve learning and development.



*Raise awareness on the benefits and challenges in the gig economy to guide potential workers and students in making informed decisions.*

- Incorporating new forms of work (i.e., gig economy) as topic or module in Labor and Employment Education Services (LEES) or elective course under the Labor Education Act or RA 11151.

# Policy Recommendations

## 4. Improve data gathering (e.g., Labor Force Survey and administrative data) and labor market information.

- Maximize DOLE's membership in Inter-Agency Committee on Labor, Income and Productivity Statistics (IACLIPS).



# Policy Recommendations

## 5. Incorporate gender lens on policies.



*Map the gig economy from a gender lens:*

- Require a sex-disaggregated data
- Both men and women can access to social protection



# THANK YOU

---

 <https://ils.dole.gov.ph/>  [ilsdoleofficial](https://www.facebook.com/ilsdoleofficial)  [@ilsdoleofficial](https://twitter.com/ilsdoleofficial)