

Research on the Protection of Workers' Rights and Interests under the New Employment Pattern—Taking Xiasha Meituan Takeaway in Hangzhou as an Example

Zhong Qinxuan, Zhang Xinyi, Xu Zhensheng, Zhong Junjie, Lou Kaiyue, Lai Jiahui,
Yang Jinxiu

China Jiliang University, Hangzhou, China
1272624385@qq.com

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Abstract: The rapid expansion of the Internet platform economy, which supports the employment of workers, is a key component of the new employment forms in Hangzhou, but they also place a strong emphasis on protecting employees' rights and interests. The topic of Xiasha Meituan, Hangzhou, delivery workers' rights and interests is examined in this article. First, it is unclear how new employment forms for workers fit into the current regulatory framework; second, social security implementation is a constraint; third, platform enterprises exhibit a lack of social responsibility; and fourth, the new employment form's intrinsic worker quality is a limitation. The Hangzhou Municipal Government must create a new kind of labour relationship recognition mechanism, fortify and standardize industry management, create a humanized wage structure, guarantee the minimum pay for delivery staff, raise employee awareness of the protection of their rights, and take advantage of trade unions' advantages in this regard in order to address these issues.

1. Introduction

Recent developments in the digital economy and the vastly increased usefulness of big data have resulted in the emergence of new sectors and employment types. In the course of future economic and social growth, these advancements have changed the labour market based on the conventional employment model and are gradually turning into an irreversible new trend. The results of the ninth National Survey on the Status of the National Workforce show that there were about 402 million workers in the nation as of March this year. Of them, 84 million new employment forms represented around 20.8% of the total number of workers in the country, making them a very important portion of the workforce at large. It is evident that the new employment forms, especially the sharing economy and platform economy, which have a significant impact on the catering industry, e-commerce, online education, and many other industries, are crucial in expanding employment opportunities for workers, changing their employment practices, and providing flexible employment options. Many new professions have emerged as a result of the new job paradigm, which depends on cutting-edge information technology and the new prospects offered by "Internet +," such as takeaway delivery drivers, express delivery clerks, information clerks at shopping malls, Internet marketers, etc. The majority

of employee job types have been slightly enhanced, and it has also sparked interest in new industries among workers. It is obviously practical important to improve employment patterns, employment quality, and promote the quick development of China's economy and society.

However, the development of China's new employment paradigm is still in its infancy. As the platform economy and sharing economy both experience significant growth, the issue of defending the rights and interests of workers is gradually becoming more apparent. There are inconsistencies that need to be resolved right away between the call for the protection of workers' rights and interests under the new employment form and the current worker protection policies. Therefore, it will be more challenging to further develop new employment forms. The best way to achieve higher quality employment is to safeguard the legal rights and interests of the vast majority of workers covered by the new employment form, improve the workers' employment security system, and encourage the healthy and long-term development of new employment forms. This study looks into takeout riders, a common new type of job, with a focus on Meituan takeout riders specifically. It examines the current new form of employment's development dilemma in depth, hears the perspectives of practitioners, considers the new form of employment's future development direction based on a thorough comprehension of the new form of employment's operation process, and discusses the intricate relationships between the new and old forms of employment. Its objectives include supporting workers in realizing appropriate demands, accomplishing multi-win-win sharing, putting forward realistic suggestions for improving the system and mechanism for protecting employees' rights and interests, and stimulating the advantageous development of new employment forms.

2. The issue of safeguarding employees' rights and interests under the new employment form needs to be researched and solved

With the rapid growth of the digital economy platform, new occupations that depend on Internet platforms for employment, such as online auto drivers, food delivery employees, and network anchors, have become more well-liked. The new work pattern upends the traditional employment model and eases the strain on employment in our country, but it also has to address the persistent problems with protecting the rights and interests of employees. It is imperative to conduct a thorough investigation and find effective solutions to ensure that employee interests and labour rights are protected in new employment arrangements.

2.1 New forms of employment have broadened new channels of employment, and the scale of employees has continued to expand

New job forms that are distinct from the traditional employment mode have evolved as a result of the rapid development of the digital economy platform. New employment forms are more adaptable and diverse than traditional job forms in terms of skill requirements, employment techniques, time, and space, and they provide workers a more convenient and cost-free work experience. The emergence of new work models has somewhat altered the traditional labour market and given job searchers more options in terms of overall employment chances.

New employment opportunities have multiplied quickly and taken on significant importance in the labour force. According to the findings of the ninth survey on the state of the national workforce at the beginning of 2023, there are currently about 402 million people working in the nation, with 84 million of them in new employment, or 21% of all employees, and more than 200 million in flexible employment.

Second, the architecture of novel employment forms keeps evolving. The results of the ninth National Survey on the Status of the Workforce also reveal that the new employment pattern of workers is primarily distributed in the fields of transportation, life services, knowledge, and skills,

with the majority of workers being truck drivers, online car drivers, couriers, takeout delivery workers, network anchors, and other groups. The majority of agricultural household registration staff are young men, and the educational backgrounds of workers in various industries vary greatly. For example, while 38.0% of online car drivers have at least a junior college degree, 70.7% of truck drivers have only completed high school. Couriers and takeout delivery staff have only completed high school. With regard to household registration, age, educational background, gender, and other factors that frequently result in employment discrimination in traditional employment, the new employment form is more inclusive of job seekers and, to a considerable extent, it also does away with it[1].

2.2 The uncertainty of labour relations under the new employment form makes the protection of workers' rights and interests difficult

Employers and employees are typically expected to have a clear labour relationship in conventional forms of employment, and China's labour law, contract law, and other rules and regulations are largely based on the labour contract between employers and employees. The majority of them determine whether there is a labour relationship in the absence of labour contracts by using the "subordination" standard outlined in the 2005 Notice on Matters Relating to the Establishment of Labour Relations (Ministry of Labour and Social Security (2005) No. 12), and they safeguard employees' rights and interests in accordance with the identification of Labour Relations[2].

The Guiding Opinions on Safeguarding the Labour Security Rights and Interests of Workers in New Employment Forms were jointly published on July 16, 2021, by the Ministry of Human Resources and Social Security, together with eight other ministries and commissions. The new employment forms among them are broken down into three categories: those that are in line with the establishment of labour relations, those that are not entirely in line but the enterprise still conducts labour management on the workers, and those that people independently carry out business activities relying on the platform and engage in freelance work. The second category of workers among them may work for numerous employers at once, resulting in a weak labour management relationship between the employer and the employees and typically no set labour compensation. It must direct the business and the employee in reaching a written agreement and fairly establish the rights and obligations of the business and the employees. The third category of workers sign up individually on the site and perform labour work using the platform's data. However, the majority of employees under the new working arrangement receive labour compensation, and both parties' rights and obligations are modified in accordance with civil law.

According to the survey, the majority of the new employment forms do not yet adhere to the "subordination" requirements of conventional labour relations or have not signed labour contracts with the employment platform. As a result, a significant portion of workers employed under new employment models find it challenging to apply conventional criteria to define labour relations, which is manifestly detrimental to the protection of their labour rights and interests.

2.3 The top-level design requires all parties to implement the protection of the rights and interests of workers in the new employment form

Strategic plans for thoroughly constructing a modern socialist nation and thoroughly promoting the great rejuvenation of the Chinese nation were outlined in the report to the Party's 20th National Congress, and a number of tasks and missions concerned labour, employment, and related subjects. The report suggests that as institutional means to promote the standardized development of new employment forms, "support and standardize the development of new employment forms," "improve the protection system of workers' rights and interests, strengthen flexible employment, and [protect] workers' rights and interests in new employment forms". From the height of top-level design, it

indicates the path for the growth of new occupation forms. To protect the rights and interests of workers in new employment arrangements, action from all stakeholders is necessary.

The Implementation Measures for Safeguarding the Labour Security Rights and Interests of Labourers in New Employment Forms in Hangzhou (Trial Implementation), a proposal for implementation measures to protect the labour security rights and interests of workers in new employment forms, was released in May 2022 by the Hangzhou Human Resources and Social Security Bureau and other 10 departments. The job obligations of various government departments, labour unions, and enterprise issues are clearly specified in terms of the division of tasks. It is suggested to strengthen the regulatory responsibilities of functional departments and industry authorities, territorial management responsibilities, collaborative responsibilities of other departments, regulatory coordination responsibilities of industry organizations, and the primary responsibilities of enterprises, to strengthen coordination and policy cohesion, to form a joint force of joint management, and to realize that the protection of the legitimate rights and interests of individuals and other entities is a shared responsibility.

Therefore, it is imperative that all localities and departments concentrate on protecting the rights and interests of workers in new employment forms and take steps to put this protection into practice in order to actively implement the spirit of the Party's "twenty" and encourage the healthy development of new employment forms.

3. Research on the protection of workers' rights and interests in new employment forms

3.1 The labour contract signing rate is low, and the labour relationship is vague

In terms of labour relations, the majority of the Xiasha-Meituan distribution staff do not have labour contracts with the platform, which has led to the discovery of unequal labour and management relations between Meituan distribution staff and Meituan[3]. It is not a labour contract that was signed between the distributor and the platform company. Platform businesses typically use labour agreements or contract agreements as their preferred employment mode when establishing a working connection with franchisees or labour dispatch businesses. Although this employment model allows for some freedom for the deliverers, it is really designed to cut operating expenses and avoid employer duties [4]. Platform enterprises can delegate a portion of the risk and obligation associated with hiring employees to franchisees or staffing agencies by using labour contracts. This implies that certain labour rights and interests of deliverers, such as social insurance, wage benefits, labour protection, and other weak connections, may not be properly protected. Additionally, because of the nature of labour contracts, distribution workers find it difficult to dispute or defend their rights with platform firms because they cannot directly create labour connections with them or directly defend their rights against them.

Although the labour contract model gives deliverers some flexibility in their work environment, it really makes their instability and unpredictability worse. They don't have reliable financial security, their flexibility about working hours and conditions may be limited, and they don't have good channels for negotiating with platform businesses. As a result, the present system of labour contracts still has numerous issues with defending the rights and interests of delivery workers and fostering a productive workplace. Platform businesses, governments, and other important parties must collaborate to find a labour relationship management system that is more just and reasonable.

3.2 The labour rights and interests of workers are not fully protected

Although it involves platforms, merchants, customers, outside businesses, takeaway delivery staff, and other major bodies, Hangzhou Xiasha Meituan takeout also involves these parties. However,

these topics frequently disregard the deliverers' legitimate interest expectations. The platform typically unilaterally formulates the labour security rights and interests of delivery personnel, which results in the uncertainty of their working hours and pay on the platform as well as the uncertainty of their daily income level, which has a significant impact on their lives and work. Delivery workers typically are unable to bargain a salary with the platform and must instead acquiesce to its demands for labour laws, pay, and benefits. Additionally, because delivery employees and platforms do not have secure employment contracts, they are more susceptible to being taken advantage of and treated unfairly by delivery platforms. Platforms frequently refuse to cover necessary social insurance premiums for delivery workers due to the ambiguity of labour relations, which prevents them from having access to fundamental labour rights and interests that traditional workers should have, including medical care, old-age care, childbirth, and industrial injury coverage. The poll indicates that a sizable portion of delivery workers are uninsured. The lack of comparable social security forces workers in new job forms to deal with a variety of issues, including workplace accidents, illnesses, pensions, and other unstable aspects.

3.3 The wage structure is unreasonable and the income is not guaranteed

In Xiasha Meituan, the income of takeout delivery drivers has little security and is typically based on the volume of orders and the distribution distance, without a consistent base salary. This indicates that market competition frequently has an impact on their income levels. The Meituan platform has reduced the income range of take-out deliverers in order to cut costs due to the severe rivalry in the Hangzhou take-out market. As a result, their labour is not appropriately compensated, and they earn comparatively little money.

The pay scale for those who deliver food has issues as well. In addition to relying on orders for revenue, deliverers frequently provide the platform a commission. On some platforms, the commission deduction is too high, thus reducing the actual income of deliverers. The labour worth of delivery people is not adequately reflected by this irrational commission system, and the associated labour security has not been preserved. Additionally, certain platforms have issues with awkward cash withdrawal and expensive cash withdrawal, which further reduces the income of the people who deliver takeout. Deliverers can have lengthy cash withdrawal delays, which causes some inconvenience in their daily life. High withdrawal fees also cut into their real income at the same time. Additionally, the pay for delivery employees is frequently unpredictable and is influenced by things like the volume of orders, the weather, and market rivalry. The income of the delivery workers may considerably decline in the event of low order numbers or severe weather, adding a degree of unpredictability to their lives. Their family's economy is put under some strain by this unpredictability, which also raises their personal hazards.

3.4 Lack of awareness and ways to protect rights

The survey reveals that the majority of delivery employees in Xiasha Meituan have little formal education, limited access to information, and inadequate knowledge of labour laws, regulations, and avenues for rights protection. Typically, when people experience unfair treatment, they must face it alone and rarely recognize that they can protect their rights in order to gain the rights and interests they are entitled to. The cost of protecting rights is also high. Takeaway delivery people in Xiasha are frequently self-employed or temporary workers, and because Hangzhou is a developed city with higher living costs than its neighbouring cities, they are under more financial strain and frequently unable to afford the financial costs associated with protecting their rights, such as hiring attorneys and covering court costs.

Another issue is the difficulty of accessing rights protection. The process of protecting rights

requires delivery workers to deal with onerous legal requirements, and doing so is not easy. As a result, it is challenging for regular customers to quickly find reliable legal counsel and rights protection strategies. They are unaware of the labour association's structure, and some of the distribution staff aren't even aware that the association exists to defend the rights and interests of workers. The association is experiencing various management and responsibility shifting phenomena at once, and because of its shaky connection with the delivery platform, it is unable to adequately defend the rights of delivery staff.

4. The reasons for the formation of the protection of the rights and interests of workers in new employment forms

4.1 The position of workers in new employment forms is not clear under the existing regulations

Workers in new employment forms are not explicitly defined and positioned in the present labour law, nor are they included in the definition of workers in labour relations. Enterprise platforms and employees in new employment forms have a complicated and varied employment connection. There are numerous types of labour interactions, cooperative relations, and so forth in Xiasha, Hangzhou. The "new employment form" employment mode also involves a wider variety of subjects than the traditional employment mode, reflecting the flexible and unstable nature of the workers in the new employment form. This leads to a hazy distinction between the obligations and responsibilities of the new employment form workers and the platform enterprises, as well as difficulty in defining the obligations of employers.

4.2 Limitations in the implementation of social security

The employment of new employment forms is quite flexible, and there are many different aspects to the job connection. There are a lot of takeout workers who are simultaneously engaged on many platforms, which is relevant to the occupation of takeout delivery workers. It is challenging to describe the relationship between the new worker employment form and the enterprise platform, and it is challenging to comply with the requirements of the current insurance. In addition, some newly hired employees have a low awareness of social insurance and a low willingness to engage in insurance, while some businesses choose not to pay social insurance or pay it at a reduced rate in order to avoid their obligations. Due to their poor income and lack of awareness of their personal security, a sizeable portion of Meituan delivery workers in Xiasha, Hangzhou, feel intense pressure to pay for insurance.

The implementation of social security is somewhat impacted by the new employment pattern's significant worker mobility, numerous changes to the work environment, and local social security units' increased workload and demand to handle more cases.

The establishment of labour relations and the execution of employment contracts serve as the primary foundations for the implementation of social security under the traditional employment model, whereas under the new employment model, the employment relations of food delivery workers are complex and difficult to define, making it challenging to implement the rights and interests of social security.

4.3 The lack of social responsibility of the platform enterprises

Due to the Internet platforms' current rapid economic expansion, it is inevitable that some of them will pursue profits at all costs and limit takeaways' income potential in an effort to lower the cost of market competition. Unfair wage structures, excessive commission rates, and cash withdrawal fees

all have a negative impact on takeaways' actual revenue, which leads to an imbalance between their pay and revenue. In addition, there is a lack of social responsibility, as seen in instances where foreign vendors' rights and interests are not protected, wages are not paid on time, and social insurance is not paid. In addition, the present laws and regulations are insufficient to create a framework for Internet platforms' corporate social responsibility due to their lack of management expertise and the lack of an enforceable standard for their platform businesses.

4.4 The limitations of the workers' own quality in the new employment form

The research reveals that there are issues with takeaways in Hangzhou's Xiasha activities, including insufficient vocational skill training, a lack of awareness of the protection of pertinent legal rights, and a limited capacity for sustainable development. The new employment groups have vastly different cultures and skill sets, and a sizeable portion of the workforce lacks adequate professional and legal knowledge, awareness of protecting their own rights and interests, and comprehension of the status quo and requirements of the ongoing development of society. On the one hand, they lack the awareness necessary to protect their own rights and interests, which results in a lack of protection for such rights and interests. On the other hand, it is extremely conceivable that some workers will be eliminated as a result of today's rapid societal growth, shifting labour markets, and advancing technology. The needs of society are continually changing, and workers in new employment forms must increase their overall quality to satisfy these needs. They also need to be sufficiently knowledgeable of how to preserve their rights and interests.

5. Countermeasures and suggestions to promote the protection of the rights and interests of workers in new employment forms

Long-term protection of employees' rights and interests under new employment models necessitates both macro-control at the national level and proactive individual rights and interest protection. The following recommendations and countermeasures are made in light of the current Xiasha Meituan takeout scenario in Hangzhou:

5.1 Establishing a new type of labour relations identification mechanism

The old system of employment based on labour relations with "one face of thousands of people" is no longer able to adapt to the new system of employment with "one face of thousands of people." In order to achieve the goal of precisely positioning the rights and obligations of employees, it is important to build a labour identification mechanism under the new employment form and clearly identify labour relations from labour relations. To adapt to the features of the new employment form, it is important to, on the one hand, enhance labour laws and regulations, expand and modernize existing employment relations, and explain the legal extent of labour relations under the new employment form. On the other hand, it's important to fully take into account the characteristics of new employment models and assist workers in forging direct labour contacts with platform businesses. In this approach, even if there is a dispute between labour and capital, the government can use it as the foundation for defining corporate responsibility.

5.2 The government strengthens and standardizes industry management

On the one hand, the administrative department should consider the protection of workers' rights and interests under the new form of employment as an important content when formulating and standardizing policies for the takeout industry, and collaborate with relevant departments to

effectively protect these rights and interests in various areas like labour leave. The government strengthens supervision and management, require takeaway workers to clearly purchase social insurance, standardize the signing of labour contracts between businesses and their employees, confirm the employment relationship, severely penalize businesses that use trick psychology, and encourage businesses that engage in new forms of employment to form industry associations in order to standardize and unify industry management. Accidental occurrence should be decreased.

5.3 Humanized salary structure to ensure the basic salary of distribution personnel

The platform must adhere rigorously to the local government's minimum wage standard policy in order to guarantee that the salary of the Courier's regular employment can cover the necessities of living. The platform must establish a labour income distribution system that is in line with the distribution task and work intensity, reasonably set performance indicators like order volume and satisfaction, and appropriately extend the distribution time limit during specific inclement weather conditions. These requirements come from government agencies and industry associations.

5.4 Enhance employees' awareness of safeguarding their rights and give play to the advantages of trade unions in safeguarding their rights

The government has increased legal system publicity through the Internet and other channels, raised employee awareness of the legal system, offered free legal assistance, and permitted employees to use the legal system as a tool to protect their rights and interests.

The take-out industry should create its own trade union organization, encourage platform take-out employees to join it, choose trade union representatives, advance the employees' right to free speech, broaden the trade union's influence and effective coverage, and negotiate with platform businesses on important matters involving their personal interests. The government breaks the rule that the delivery platform cannot terminate the labour agreement unilaterally by using the trade union organization to communicate the reasonable requests of the workforce to the delivery platform and protecting the interests of the workforce.

References

- [1] Li Guanghong, Gao Haihong. *Research on the Construction of a Regulatory System for the Protection of Labour Rights and Interests of Workers in New Forms of Employment: An Analysis and Research Based on Shandong Province* [J]. *Journal of Jinan University (Social Science Edition)*, 2022, 32 (06): 124-134.
- [2] Wei Jie. *Research on Protection of workers' Rights and interests in new Employment Forms from the perspective of Incomplete labour relations* [J/OL]. *Academic Forum*: 1-8 [2023-07-10].
- [3] Lin Meiling. *Research on the Protection of Workers' Rights and Interests in New Forms of Employment and Countermeasures* [J]. *Employment and Security*, 2023, (05): 40-42
- [4] Zhang Zuohui, Gao Min, Ma Yun-fang. *Research report on the protection of labour rights and interests of workers in new employment forms: A case study of delivery workers in Shanxi Province* [J]. *Journal of Beijing Trade Union Executive College*, 2022, 37(02):39-47.