

Labour Models in Local Daily Service Platforms: Current Situation and Challenges

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I. Object of this study

II. Current labour models and workers' conditions

III. Challenges posed for protecting workers' rights

IV. Some considerations

Along with the development of technologies like mobile network and big data, local daily service digital platforms have expanded rapidly in China, creating a great number of job opportunities. Due to the needs for efficiency, cost control and risk avoidance, daily service platforms adopt diversified business models and corresponding labour models. This paper analyses labour models used by local daily service platforms and challenges confronting labour authorities in protecting workers' rights.

I. Object of this study

Local daily service platforms refers to businesses in the traditional daily service sector such as catering, housekeeping, beauty caring, ride-hailing, and etc. which integrates offline resources and online resources by means of the Internet and big data. Platforms use online and offline workers, and generally speaking, platforms tend to hire online workers on labour contracts, while adopting different models for offline workers. Therefore this paper chooses to focus on offline workers in takeaway delivery and ride-hailing — typical businesses of local daily service sector.

II. Current labour models and workers' conditions

1. Operational models and labour models

What labour models a platform uses depends on its operational models. Operational models of platforms in catering takeaway and ride-hailing sector can be roughly classified into three types: service-provider platforms, information-provider platforms and resource-sharing platforms. Some platforms tend to adopt multiple models rather than applying one single model. It also should be noted that platforms are still in their infancy and, as a result, operational models and labour models they use are constantly changed.

Labour model in service-provider platforms: Such platforms directly offer services to end-users, as traditional companies, but by means of the Internet or mobile network. Some service-provider platforms use traditional direct employment, signing labour contracts with workers, while some platforms tend to deploy agency workers. In the takeaway delivery sector, some platforms also contract out delivery to smaller companies or individuals.

Labour model in information-provider platforms: Such platforms act as information intermediaries between workers and end-users, rather than directly providing service to end-users. Therefore they don't employ offline workers for delivering service. Labour models of offline workers who provide service determined by companies joining in platforms. For example, Kentucky, McDonald's and other large chain businesses joining in takeaway delivery platforms generally recruit their own workers to deliver takeaway.

Labour model in resource-sharing platforms: It is still disputed that such platforms are information providers or service providers. Unlike traditional companies employing workers on labour contracts, platforms tend to use 'independent' workers to provide service and describe their relations as 'collaborative.'

Although in comparison to traditional employees ‘collaborative’ workers enjoy more freedom relating to work entry and exit, selection of work time, even in selection of work task, they are still subject to the rules of platforms to some extent.

2. Characteristics of labour models of platforms

This paper compares status of directly-employed workers in service-provider platforms and ‘collaborative’ workers in resource-sharing platforms.

(1) ‘Collaborative’ workers have more flexibility in entry and exit.

With respect to entry, direct employees of service-provider platforms need to go through procedures, including resume screening, face-to-face interview and signing labour contracts, before they start to work, while sharing-type platforms generally require simple conditions and only conduct online review of candidates’ application. For example, Mei-tuan Crowdsourcing Platform requires that as long as aged between 18-65, possessing a smart phone and health certificate, after uploading ID information and going through simple online training and exams, the applicant can start to work. In the ride-hailing sector, drivers now are required to take complicated exams. With respect to exit, ‘collaborative’ workers of sharing-type platforms usually can quit at any time, while direct employees of service-provider platforms are required to notify the platform in advance and go through some simple formalities before they quit the job. In spite of the fact that ‘collaborative’ workers enjoy more flexibility, they are still subject to rules set up by platforms.

(2) ‘Collaborative’ workers enjoy more flexibility in work.

In respect of working time, ‘collaborative’ workers, both in takeaway delivery platforms and ride-hailing platforms, have higher flexibility: they can select the time to start and to end works, and to determine the length of working time. For directly-employed workers, takeaway delivery platforms typically require them to be on duty during the peak hours (11:00-14:00 and 16:30-18:30) or night shift (after 21:00) and decide on their own for other time.

With respect to task selection, takeaway delivery platforms assign orders to directly employees, which generally are not allowed to refuse the order. Platforms set up rules of deducting wages, even dismissing for refusal of orders. For ‘collaborative’ workers in takeaway delivery businesses, they enjoy full freedom to decide what order to take, although there are incentives to encourage them to take more orders. In the ride-hailing sector, Didi¹ fast-ride drivers can no longer select orders but receive orders assigned to them.

With respect to how to execute specific work task, workers of both types are subject to control to a large extent. For instance, ride-hailing platforms set up rules regarding routes selection, while takeaway delivery platforms prescribe delivery time. In addition, certified drivers of Didi must follow some service standards, ranging from dressing to language.

(3) ‘Collaborative’ workers are covered by different remuneration system.

With respect to pay structure, end-users make direct payments to accounts of ‘collaborative’ workers, set up in platforms. The payments, in the form of service fees, are calculated on complex multiple factors, including service frequency, online time, and etc., and platform charges workers’ fees for information and management. For directly-employed workers, takeaway delivery platforms adopt a traditional pay structure, mainly composed of basic wage and piece pay. With respect to payment cycle, ride-hailing platforms and takeaway delivery crowdsourcing platforms transfer payments to workers’ personal bank accounts on a weekly basis, while directly-employed workers receive payments from platforms monthly. For both ‘collaborative’ workers and employees, service fees to be paid by customers and income of workers are determined ultimately by platforms.

¹ Didi is the largest ride-hailing platform in China, which merged with Uber China in 2016.

(4) Workers of both types need to provide themselves with or rent equipment necessary for service.

In terms of ‘collaborative’ workers, in the ride-hailing sector, a driver of Didi need to have a private car or a leased car; in the takeaway delivery sector, crowdsourcing platforms require workers to provide themselves with equipment like electric bicycles. For directly-employed workers, most takeaway delivery platforms currently provide them with vehicles, thermal insulating boxes and other equipment, but collect fees for using the vehicles, while some platforms allow workers to use their own vehicles.

(5) Workers of both types don’t work in conventional workplace.

Rather than working in a fixed workplace, offline workers of daily service platforms may work in a large range of areas. They don’t have face-to-face communication with management, but receive assignments from platforms through APP. In addition, they may work in a place different from where the platform is located, as some platforms may cover wide geographic areas.

(6) Workers of both types are subject to work-related rules of platforms.

With the help of information technology and big data, platforms set up detailed rules to manage and evaluate workers. For example, Feng-niao Crowdsourcing has designed a credit evaluation system of delivery workers, connected with order receiving and grade of subsidies. The platform also set punishment rules for cancelling an order after taking it, exceeding delivery time limit and etc. Didi also set up 12-point assessment system for drivers. Once 12 points are deducted, the driver will be suspended for one month.

3. Work conditions of platform workers

As daily services don’t require high skills, people engaged are generally young migrant workers of relatively low education and without professional skills. Attracted by flexibility of the work in platforms and constrained by the employment pressure, a growing number of people choose to work for platforms and tend to work on a full-time basis, making the job the single source of income. Therefore, the issue of protecting their rights will be increasingly prominent.

High mobility: Since platforms are still in initial stage of development, merger, reorganization and close-down of platforms take place often, leading to unstable employment in the sector. In addition, platforms frequently change rules for payments, giving rise to lack of stable income anticipation, low job security. All these lead to a high mobility of workers in the sector.

Long working hours: Workers, especially full-time workers, tend to work long hours to complete more orders and thereby get more income. As revealed by our survey, the average daily working time of full-time takeaway delivery workers is 9.5 hours. Although takeaway delivery workers can take a rest during non-peak hours, but due to the lack of rest area, most of them are in a standby state, which blurs the boundary of work and rest. According to a survey,² above 70% of drivers interviewed were online for more than 10 hours and 40% of drivers interviewed were online for more than 12 hours.

Lack of stable income expectation: The average monthly net income of drivers in Beijing is around MB 4,000 after deducting car depreciation, maintenance and gasoline expenses; the average monthly income is RMB 5,494 for full-time takeaway delivery workers, RMB 2,686 for part-time workers (in 2015 the average income in Beijing is RMB 6,463). However, platforms often adjust the income calculation rules, making the income of workers instable.

Inadequate protection: In case of social insurance, although some platforms pay social insurance fees at a low level for directly-employed workers, most platforms workers don’t join social insurance schemes (as self-employed, they can join the pension scheme and medical insurance scheme, but not the work-related injury insurance scheme). In case of working conditions, they are liable to health problems because of the need for completing lots of orders during peak hours, working long hours, and working in extreme

2 Survey on Survival Status on Ride-hailing Drivers, Standard Ranking Institute, October 2016, <http://mt.sohu.com/20161018/n470609064.shtml>.

weathers. They are also exposed to the risk of traffic accidents due to the time limit for delivery and the need to answer phone calls from customers.

III. Challenges posed for protecting workers' rights

1. Platform work has raised debate over the definition of labour relations.

The relationship between platforms and 'collaborative' workers is still intensely debated. Currently, there is no legal definition of labour relationship in Labour Law and Labour Contract Law. In practice, arbitrators settle related cases in accordance with a document issued by the Ministry of Labour and Social Security in 2005. It is prescribed that labour relations between employing units and workers exist, if all the following conditions are met: (1) the employing unit and the worker are legally qualified; (2) work rules of the units are applied to the worker, the worker is subject to management of the unit and works under the arrangements of the unit for remuneration; (3) work provided by the worker constitutes a part of the businesses of the unit. However, such definition lags behind the reality. In recent years disputes over confirmation of labour relations were settled with different results. In China, labour laws and regulations only cover employees, meaning that protections on minimum wage, working time, rest and holidays and etc., prescribed by labour laws and regulations, are not applicable to workers other than employees. If 'collaborative' workers are not classified as employees, they are not entitled to protections under labour laws and regulations.

2. Platform work poses challenges to labour inspection.

The development of daily service platforms exacerbates the de-organisation of employing units. Contractors or companies joining in platforms are often micro- and small-sized businesses, or individuals. For the reasons of small-scale operation, short life cycle, small number but rapid flow of employees, as well as lack of professional human resources management, micro- and small enterprises are more liable to breach of labour regulations. Furthermore, micro- and small businesses, joining in daily service platforms, may spread in different locations, even without stable business venue. Workers of daily service platforms usually don't have fixed workplace and may change jobs frequently, which increases the difficulty for labour inspection. All these make it difficult for labour inspection to cover them.

3. Platform work poses challenges to unionisation of workers and collective negotiation.

As daily service platforms may don't offer conventional workplace, workers of the same platform may scatter in different places, rather than working side by side as workers in traditional workplace. These make it difficult for workers to unite and negotiate collectively with employers. In addition, platforms possess financial and technical advantages and become dominant in setting up rules. Workers of platforms have no way to express their own voice and have no choice but to accept the rules set up by platforms. However, the lack of democratic participation of worker increases the risk of disputes.

IV. Some considerations

To keep abreast with the development of platform work aiming at solving prominent problems: Daily service platforms are currently at the initial stage of development, and under the dual influences of their own development and regulatory policies, their operational models and labour models are in frequent changes. Hence, we should closely follow changes of the sector and give priority to solving prominent problems in protecting workers' rights, while exploring new approaches to protect workers' rights beyond the scope of traditional labour relations.

To take different approaches to platforms of different operational models: For service-provider platforms, inspection and law enforcement should be strengthened to protect workers' rights. In regard to information-provider platforms, platforms may be encouraged to take advocacy and supervision

responsibilities. As to resource-sharing platforms, innovative approaches should be explored to guarantee labour rights, such as promoting platform associations to set up bottom line of worker utilization by formulating businesses norms, including employment.

To adapt labour laws and regulations to new realities: The definition of labour relationship should be updated in light of changing environment and labour models. It is necessary to review labour standards and explore expanding the coverage of some labour standards beyond employees.