

The Establishment of Labor-Management Balance Mechanism in China's Platform-Based Employment

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ABSTRACT

With the development of new forms of employment, there is a serious violation of the legitimate rights and interests of workers in their employment, which fundamentally stems from the imbalance in labor-management distribution. Faced with new forms of employment, countries have made various efforts. In China, multiple departments have jointly issued the "Opinions" to protect the legitimate rights and interests of workers in new forms of employment such as online delivery riders, ride-hailing drivers, truck drivers, and internet marketers. It is recommended to change the traditional "binary" management model and establish specialized regulations for employment in new formats, actively facilitating their participation in labor unions, and leveraging the power of labor unions to safeguard their legitimate rights and interests. Additionally, companies should standardize their employment practices, bringing practitioners within the scope of labor law protection. Even in the presence of non-labor relationships, it should also break through the boundary of the equal subject of the traditional civil law and interests of practitioners as much as possible. Moreover, companies should establish a positive corporate culture centered around labor, actively foster harmonious labor relations, and achieve a balance in labor-management distribution.

KEYWORDS

New forms of employment; Labor control; Labor-management distribution; Protection of workers' rights and interests.

1. Introduction

In recent years, with the significant development of network technology, new industries, new forms of employment, and new models have emerged, including high-tech manufacturing, emerging services, and renewable energy, known as the "Three New" Industries. This has led to the emergence of new forms of employment such as online delivery riders, ride-hailing drivers, truck drivers, internet marketers, and MCN-contracted internet celebrities. These new forms of employment are predominantly obtained through online platforms, becoming a profession for many individuals, often referred to as platform-based employment or platform work. According to relevant research, platform workers have experienced an increase in income compared to the past. However, in reality, their rights and interests are not adequately protected, primarily due to labor-capital inequality. It is essential to further explore how to safeguard their rights and interests and the considerations that the government, society, and labor unions need to make in this regard.

2. Overview of the current situation of platform-based employment

2.1 Development of China's "Three New" economy

According to the "Annual Statistical Bulletin on the Development of Human Resources and Social Security" (referred to as the "Statistical Bulletin") for 2020, China's new industries, new forms of employment, and new models have shown a consistent upward trend in recent years. In 2020 alone, the value added of high-tech manufacturing in the industrial sector increased by 7.1% compared to the previous year, accounting for 15.1% of the total. The value added of equipment manufacturing increased by 6.6%, accounting for 33.7%. Among the service sector enterprises above a certain scale, the operating income of strategic emerging service industries increased by 8.3% compared to the previous year. Investment in high-tech industries increased by 10.6% throughout the year. In 2020, the production of new energy automobile reached 1.456 million units, an increase of 17.3% compared to the previous year, while integrated circuit production reached 261.47 billion units, a growth of 29.6%. The online retail sales reached 11.7601 trillion yuan in 2020, representing a 10.9% growth when measured by comparable calibers. The number of newly registered market entities reached 25.02 million in 2020, with an average of 22,000 new registered enterprises per day, and the total number of market entities reached 140 million by the end of the year. The "Statistical Bulletin" first began reporting the development of "new drivers, new industries, and new models" in 2017 and continued to do so in 2018 and 2019 together with "new drivers." It wasn't until 2020 that it was reported independently.

Therefore, the "new industries, new forms of employment, and new models" have emerged as emerging industries in recent years, collectively referred to as the "Three New" model by the All-China Federation of Trade Unions. Due to its promotion and the growth of new employment models, it is referred to as "new forms of employment" and has formed eight major groups, including truck drivers, delivery riders, nursing staff, domestic service workers, shopping mall information personnel, online food delivery riders, real estate agents, and security guards (referred to as the "eight major groups"). Based on the products or services provided by platform economy practitioners, they can also be classified into six categories: goods-based practitioners (mainly engaged in physical product sales, such as sellers on e-commerce platforms), service-based practitioners (mainly providing online and offline services, such as online education, ride-hailing, and domestic services), content-based practitioners (mainly engaged in content creation and sharing services, such as short video production, live streaming platform hosts, etc.), capital-based practitioners (mainly providing financial, investment, credit, and other services, such as peer-to-peer lending platforms, stock investment platforms, etc.), data-based practitioners (mainly providing data analysis, mining, and application services, such as big data platforms, artificial intelligence, etc.), and social-based practitioners (mainly providing social interaction, communication, and dating services, such as social networking platforms, socializing with strangers). The All-China Federation of Trade Unions actively supports the "Three New" industries and assists the "eight major groups" in establishing labor unions to safeguard the healthy development of new industries. From the perspective of labor law, it actively ensures the sound development of labor relations in new forms of employment and protects the legitimate rights and interests of workers from infringement.

With the development of new forms of employment in the economy, the employment opportunities they create are worthy of recognition. However, along with these opportunities, various problems have arisen, leading to increased labor-capital conflicts and contradictions. As a new phenomenon, new forms of employment require specialized legal regulations. Therefore, compliance with capital and labor employment become a crucial issue.

2.2 Legal regulations on platform employment in China

On July 23, 2021, the Ministry of Human Resources and Social Security, the National Development

and Reform Commission, the Ministry of Transport, the Ministry of Emergency Management, the State Administration for Market Regulation, the National Healthcare Security Administration, the Supreme People's Court, and the All-China Federation of Trade Unions jointly issued the "Opinions on Safeguarding the Labor Rights and Interests of Workers in New Employment Forms" (referred to as the "Opinions") (Ministry of Human Resources and Social Security, No. 56, 2021). The Opinions specifically address the employment of workers in new employment forms such as online delivery riders, ride-hailing drivers, truck drivers, and network marketers who rely on internet platforms for employment. Although the scope of new employment forms is broader than platform-based employment, platform-based employment is undoubtedly one of the main targets of regulation based on the examples listed in the Opinions.

Of particular importance, the Opinions classify the employment relationship in new employment forms into labor employment and labor service employment. If the conditions for establishing a labor relationship are met, the enterprise should sign a labor contract with the worker in accordance with the law. For cases where enterprises organize workers to complete work through labor dispatch and other forms of cooperative employment, they should select enterprises with legitimate business qualifications and supervise their protection of workers' rights and interests. The enterprise should fulfill the responsibilities of the labor dispatching unit in accordance with the law. In cases where other forms of cooperative employment, such as outsourcing, are adopted, and the rights and interests of workers are harmed, the platform enterprise should assume corresponding responsibilities according to the law. In cases where the conditions for establishing a labor relationship are not fully met but the enterprise manages the workers (referred to as "not fully meeting the conditions for establishing a labor relationship"), the guidance is for the enterprise and the worker to sign a written agreement to reasonably determine the rights and obligations between them. Individuals who engage in independent business activities and freelancing through platforms are governed by civil law, which regulates the rights and obligations of both parties. Based on the "dualistic approach" of non-labor law and labor law, the Opinions emphasize the use of the "triadic approach" of "outsourcing" outside of civil law and labor law to ensure the protection of workers' legitimate rights and interests in non-labor relationships. This article specifically focuses on the issue of profit sharing or commission deductions between workers and platforms.

2.3 Standards for determining platform employment relationships

2.3.1 Control as the essential characteristic of employment relationships

According to Coase (1937), the essence of an enterprise lies in the relationship of "direction" and "control." Employment is characterized by employers exercising a certain degree of control over the work process of employees for their own interests. The relationship between capital and labor depends on their relative importance and position in the production process, and control represents the essence of the labor-capital relationship in the current new employment situation. Therefore, control touches upon the inherent nature of employment relationships, and it is a significant criterion for determining employment relationships. Employment is the traditional criterion for determining labor relationships. However, platform-based employment in the sharing economy exhibits non-standard employment forms, where the essence of employment lies in the employer's control over workers within a certain scope. Whether it is ride-hailing drivers, delivery riders, or couriers, employers exercise dual control over the labor process and the results of labor through behavioral control, financial control, and the relationship among the parties. The obligation of employers, in contrast, is to provide working conditions, remuneration, and ensure labor safety. Therefore, "control" becomes an indicator for determining whether there is an employment relationship between platform enterprises or organizations and labor providers.

2.3.2 Control as the consequence of employment relationships

"Control" is not only an essential characteristic of "employment" but also a result of employment

relationships. Compared to labor control in traditional economies, platform economies have undergone new changes, mainly manifested in the coexistence of labor freedom and labor control. Labor freedom is reflected in the freedom to choose labor space and time, while labor control is mainly manifested in the control of the labor process. Employment itself is a product of the market, emphasizing that capital needs labor to achieve expanded reproduction and value creation. The capitalization of employment emphasizes the innovation of labor in the capital market and the capital value of hired labor. It even allows workers to invest both their labor and personal assets in enterprise production, thereby creating labor value and combining labor with personal capital to enhance the capital strength of enterprises. This is an innovative model in the context of the sharing economy. Therefore, new forms of employment emphasize the combination of labor ownership and the "residual control right". Control emphasizes the impact of the relative power (importance) of contracting parties on the form of contracts, and the control of employment by capital reflects the increased power of workers. However, compared to the control exerted by employers, workers are still in a disadvantaged position. Under the influence of new mechanisms such as employer incentives and customer rating systems, they may unwittingly enter into a cooperative relationship with passive participation, with cooperation even surpassing resistance. Workers in platform employment are controlled by algorithmic systems, unable to break free. "The atom of time is the element of profit", and time directly affects the acquisition of labor remuneration. The competition for time is an important arena for labor-capital struggles. Internet platforms and workers go beyond the scope of labor income in terms of labor-capital distribution and add value and income generated by workers' own capital.

2.3.3 Control as the essential characteristic of employment relationships

During the era of liberal capitalism, with the dominance of capital, employers had control over working hours. In order to create the greater value, employers would set longer working hours, leading to unbearable conditions for workers who could no longer endure it, resulting in strikes and demands for shorter working hours. During the monopoly capitalism period, as the workers' movement matured, workers achieved the standardization of an 8-hour workday and a 40-hour workweek. At the same time, employers introduced more scientific management and technological equipment, significantly increasing labor intensity. Although the control point of the labor process was no longer solely based on the length of time, employers eventually acquiesced to workers' demands for shorter working hours after profiting from intensified labor under overwork conditions. In the 1970s, capitalism entered the post-industrial era, where consumers became involved in the labor process. The Taylorist division of labor and management control was loosened, and more flexible labor was required. In the tripartite model of laborers-employers-consumers, with the separation and collusion of consumers and capital, workers were provided with space for autonomy. Employers set projects or tasks and actively participated in the labor process through platform technology and advanced algorithms, despite their absence. The project itself alleviated significant time pressures. Then, until the outbreak of COVID-19 in 2019, the recession may have fuelled rising unemployment and put pressure on flexible working practices, but homeworking has continued to thrive and grow.

In the platform economy supported by internet technology, the introduction of flexible forms such as flexible working hours further confuses the representation of workers' time freedom (Anon, 2013). This control becomes more concealed, stringent, and fragmented, leaving workers with no choice. The employment models in new forms of employment often employ mechanisms of work autonomy, payment and incentive systems, and star rating systems, enabling workers to willingly or passively accept platform control, thereby generating a sense of identification and achieving capital reproduction. If a few years ago employees favored factors such as salary package components, career progression within the same employer, job stability, and interpersonal relationships, nowadays, employees essentially value the balance between personal life and work life (HAYS, 2022). However, although there is a coexistence of employer control and workers' freedom to choose time and location in

platform employment, behind this freedom lies the chaos in the employment of new formats. There is a severe imbalance between employers and workers, exacerbated by the influence of modern technology. Workers in new forms of employment face even greater difficulties and have a more passive position. Therefore, labor relationships in platform employment should be included in labor law protection. Whether it is ride-hailing drivers or delivery riders, they are tightly controlled by the system and passively or willingly accept high-intensity labor control.

2.4 Analysis of the basis for defining employment relationships in new forms of employment - Analysis of the "dualistic approach" theory

In the new employment models, scholars have disclosed the characteristics of labor relationships from different perspectives. In the new forms of employment supported by networks and information technology, employers utilize networks to strengthen technical control over workers, breaking through certain elements of traditional employment relationships. The personal and organizational aspects of labor are weakened, while data attributes are enhanced, and labor becomes multi-layered and easily obscured. Therefore, it is necessary to adopt an approach based on the "weighted ordinal method" and intervene in the new triangular employment model of "platform + organization + individual". Starting from the payment subject of labor compensation, it is necessary to refer to the interpretation and deconstruction of the standards for determining labor relationships in individual platform employment, comprehensively assess the degree of labor management, and adjust the traditional attributive determination standards or break the institutional framework and knowledge system of the "dualistic approach" that separates "attributive labor" and "independent labor" in labor law and civil law. Instead, multiple criteria should be used for determination.

The theoretical community generally defines the employment status of new employment forms using either labor law or civil law. However, the logic of this "binary" protection model faces significant challenges in the context of new employment forms. Many practitioners, especially those in intermediate positions such as riders, ride-hailing drivers, delivery personnel, live-streamer, esports players, and others, do not appear to have a managerial relationship with platform operators. If the conclusion is drawn that they are not subject to platform constraints and that the platform is not legally responsible for them, it would undoubtedly mean being "naked" or trapped in the system. If we carefully examine the legal relationship between them, it is evident that their situation does not fully comply with the criteria for determining employment relationships, nor does it constitute a civil legal relationship between equal parties. Therefore, the simple "binary" approach fails to provide sufficient protection. Consequently, various parties are actively exploring how to protect the legitimate rights and interests of this group.

3. New employment forms and the issue of unfair labor distribution

3.1 The root cause of problems in new employment forms - Unfair labor distribution

Whether it is hiring, control, "de-unionization," or companies using high-tech algorithms to replace regular labor with "informal" labor, the focus is always on the distribution of interests to create more profit for the employers. Therefore, regardless of whether it is new or traditional employment, regardless of how the combination of capital and employment changes, the distribution of interests remains the fundamental and core issue of labor and capital. Since the antagonism between labor and capital is inherent, the distribution of interests between labor and capital is always in opposition, where one party gains more while the other loses. Even with continuous innovation to improve labor productivity, the relative status of laborers and their fate controlled by capital will not be changed. The introduction of machine assembly lines for large-scale production, continuous technological innovation, and the adoption of advanced technology to improve productivity are all aimed at increasing the total amount available for distribution and obtaining greater profits. The purpose of a series of operational commands is simply to enhance control, making workers more dependent on

capital. The platform economy adopts monopolistic practices, exploitative competition, and relentless extraction of surplus labor and its high surplus value. It even connects every second of employees' hectic work pace with precise calculations of small amounts, disregarding the basic rights and safety of employees. It is the unfair distribution of labor and capital that deviates from the development concept of achieving common prosperity in China. Even if the income of both labor and capital increases, the absolute value of the increase between labor and capital is always in favor of capital, so fairness is relative. It is merely a disguise used by employers in various ways under the guise of new employment relationships to secure more profits for themselves, or "platforms obtain and conceal profits in the name of freedom". Platforms employ incentive-based salary systems, star rating mechanisms, and utilize consumer supervision to control the essence of workers' work processes, aiming to make workers more accepting than dissatisfied, and cooperation outweighs resistance, thus achieving the reproduction of capital.

3.2 Concealing unfair labor distribution through "de-labor relationship"

The basic law that constrains employment relationships is labor law. However, in new employment formats, it is common for employment entities to evade labor law responsibilities and "de-labor relationship." De-labor relationship refers to laborers no longer being employees who use labor as part of the traditional labor relations, and the labor process does not involve the inherent combination of labor and capital. De-labor relationship removes labor contract-based employment, de-employer employment, and conceals the facts of labor relationships. Its essence lies in eliminating the formal employment relationship between capital and labor, evading related responsibilities and obligations. In the digital economy, de-labor relationship takes the form of "non-employment system", "crowdsourcing", "sharing", "gig work", "labor-capital cooperation", and other forms. These often use civil law's contracting, subcontracting, labor relation, or labor law's labor dispatch, part-time work, and other flexible forms of employment to replace the formal forms of individual or collective labor contracts. In doing so, it avoids the defined employer-employee relationship under labor contract law, evades the employer's responsibilities to pay social insurance for employees, ensure labor safety, and provide social security. Especially in the new economic format, the laborer's voluntary participation as a platform service provider, using their own capital, has brought ambiguity to the determination of labor relations. Laborers' involvement in the relationship between the platform and practitioners operates on the edge of labor law and can even be exploited by the platform as a shield to violate the legitimate rights and interests of workers.

3.3 The incentivization methods for unfair distribution of labor are virtual in nature

The virtual "illusion of hope" traps workers repeatedly. Taking ride-hailing platforms as an example, both the conditions for becoming a practitioner and the process of labor are under the control of platform companies. In addition to meeting basic requirements such as driving experience and health conditions for employment, ride-hailing drivers need to meet certain requirements regarding vehicle registration, age, and specifications. The driver's work is dependent on the platform's technical support and passenger demand. The process typically involves receiving ride requests, dispatching by the platform, providing services to passengers, online settlements, job evaluations, and handling complaints and responsibility assignments. Among the platform, passengers, and drivers, drivers act as intermediaries utilizing the platform to fulfill passenger demands. The entire labor process lacks autonomy because all the aforementioned steps must be completed within the designated platform. This implies that the platform tracks the driver's work throughout the entire process. Clearly, this tracking constitutes a form of actual control, monitoring everything from the starting point, route, and destination of the trip to the completion of tasks, and even the driver's words and actions, all in real-time.

Apart from platform control, the introduction of customer service ratings is also an important means of control. In new employment forms, employers adopt an assessment method combining

"onlineization " and performance ratings to evaluate employees. Particularly, the integration of dispatching orders after precise calculations enables dual control over the labor process and outcomes. On the one hand, integrated dispatching involves online acceptance of orders, which not only subjects the practitioner's labor process to platform "supervision" but also enables the employer to control income distribution. On the other hand, with the introduction of the customer's "service rating" evaluation system, service quality becomes linked to income. This skews income distribution towards drivers with higher service ratings, creating income disparities among practitioners. As a result, this performance-based approach continually stimulates workers' work enthusiasm, especially within certain time periods, such as clearing performance records within a month. In other words, employers continuously stimulate practitioners with "desired goal," leading to intensified competition and an inward focus among practitioners.

Overall, ride-hailing platforms currently adopt different models for various practitioners based on their length of service and evaluations. These models include commission-free schemes and deduction of service information fees ranging from 20% to 30%. The flexibility has significantly increased, allowing ride-hailing drivers to withdraw their service fees on the same day, which has led to the expansion of this group and even the emergence of an inward trend.

4. Legal regulations on employment in new forms of employment

4.1 Overview of legal regulations on employment in new forms of employment in various countries

In the United Kingdom, the criteria used to determine the status of borrowed employees and independent contractors or "independent workers" involve tests of control and economic reality. These tests are employed to ascertain the employment relationship between labor and management and subject it to legal regulations. The UK also adopts the Organizational Test method, which broadly defines the relationship between internet platforms and workers as non-employment, business contracting, or employment relationships.

In France, labor outsourcing regulations are used to regulate platform employment relationships, but "any form of outsourcing" (*marchandage*) is prohibited. Any attempt to evade legal provisions on severance pay, seniority, minimum wages, and collective agreements through engineering outsourcing is considered invalid. Unlike France, Japan places greater emphasis on distinguishing between labor outsourcing and dispatching and provides two criteria: directive supervision and independence. The outsourcing employment model involves companies gathering talent to work together and disbanding after task completion, allowing members to engage in other work individually. In practice, a phenomenon of falsely labeling outsourcing as dispatching or selectively using the most favorable method persists.

In Germany, "similar workers" or "similar employees" (*Arbeitnehmerähnliche Personen*) refers to individuals who exhibit economic dependency and require social protection compared to regular employees. If a worker establishes a contract and receives remuneration primarily or substantively from a principal, indicating economic dependence, their protected status is directly derived from this dependency. Germany has specific legislation such as the Domestic Employment Act and the General Equal Treatment Act for similar workers, along with provisions for paid leave applicable to them.

Differing from continental European countries, the United States adopts the joint employer system. Previously, this standard primarily focused on whether the actual employer had direct and immediate control over the worker. However, in the 21st century, this standard no longer accommodates workplaces where employment conditions are indirectly controlled or unexercised. The emphasis is on the shared responsibility between platform intermediaries and outsourcing companies.

Based on the recognition and legal regulations of employment in new forms of employment in different countries, it is once again evident that employment in these new forms is not a legal vacuum. It is a common practice for countries worldwide to incorporate it into the scope of legal adjustment,

especially within the purview of labor law. When determining employment relationships in new forms of employment, the qualitative changes should be revealed through a quantitative assessment of working time, shifting the focus from the subjective consciousness of the worker to the awareness of the subject. It should be considered comprehensively within the three-party model of worker-employer-consumer to reflect the true relationship between labor and management in the new form of employment and genuinely safeguard the rights of workers and maintain a balance in the distribution between labor and management.

4.2 China's legal regulations on employment in new forms of employment

4.2.1 Establishing a theoretical framework of "employment relationship"

"De-employment relationship" is a common challenge faced by countries worldwide and is a typical practice for new economy enterprises to evade labor law responsibilities. The Uber case serves as a prime example. Uber platform exercises strict control over drivers through its application to provide standardized services to passengers. As drivers are an essential component in delivering these services, they cannot provide distinctive services or set their own prices. Additionally, Uber prohibits drivers from establishing further contact with passengers. Drivers can only continuously accept orders from the Uber platform, receive labor compensation, meet platform assessments, and receive passenger ratings. They have little or no ability to improve their economic status through professional or entrepreneurial skills. In reality, their only means of increasing income is by extending working hours to meet Uber's performance indicator. Therefore, there is no written agreement or labor contract between Uber and drivers, but drivers are subordinate to the Uber platform, establishing an employment relationship between the two. Consequently, drivers hold a worker status and are entitled to enjoy the national minimum wage stipulated in Section 28(1) of the National Minimum Wage Act. Uber platform is not just a booking agent as advertised but an employer, thus bearing the corresponding responsibilities towards its drivers. The court's determination process follows the precedent-based method of recognizing the "employment relationship".

China should break free from the dichotomous thinking and actively explore alternative governance models. Under the dichotomous approach, if an employment relationship is recognized, a series of rules and rights systems under the "Labor Law" will be applicable for protection. If an employment relationship is not recognized, basic labor rights, social insurance, dismissal protection, and economic compensation safeguards will not apply. Therefore, the focus of regulation in new forms of employment should be on non-employment relationship aspects outside the scope of labor law protection. In reality, the labor activities of service providers between platforms belong to "business-related labor" and possess significant personal attributes. The remuneration obtained through platforms carries the economic attribute of the right to subsistence. Drawing on Germany's practice of "similar employees," China can adopt an approach of "adding civil law" while introducing a mandatory protection mechanism based on contracts in new forms of employment. This mechanism includes pricing and remuneration guarantee systems, continuous online duration control systems, occupational risk protection systems, dispute complaints, and relief systems, ultimately establishing a "three-part transition" of "attributive labor - business-related labor - independent labor". By adopting a "third way" beyond the simple dichotomy of labor law and civil law, China can construct a model of labor law specifically tailored to employment in new forms of employment.

4.2.2 Achieving fair distribution of labor compensation in platform employment

The distribution of interests has always been at the core of labor compensation. Since the emergence of labor relations, there has been a fundamental antagonistic relationship between labor and capital. Even with the emergence of new employment patterns brought about by economic globalization and internet development, the main contradiction between labor and capital remains the issue of fair and equitable distribution of interests. In contrast to the distribution of production factors and labor products in commodity societies, the distribution in the "three new" economies usually involves three

main participants: platform companies, workers, and consumers. As a third-party platform provider, the platform charges commissions and advertising expenses from companies, while companies generate income through the platform. Consumer behavior, preferences, and consumption patterns become resources for data mining by the platform and form a part of the production that can be reused. The platform provides certain forms and amounts of subsidies to consumers during the consumption process as a reward for their contribution. Therefore, the distribution in the model of new employment supported by data is more complex because it involves not only labor and capital but also the involvement and participation of consumers. This is made possible by the technological and actuarial capabilities of digital platforms. Thus, whether there is monopolistic or unfair competition by companies in the new employment patterns, and whether they obtain excessive monopoly profits through technology, are crucial factors affecting labor compensation in the new employment patterns.

Furthermore, in the new employment patterns, workers are not just simple labor inputs; they also contribute their own assets. For example, ride-hailing drivers need to provide vehicles that meet platform requirements, and delivery riders need to have their own motorcycles. Therefore, the income received by workers should include not only the price of their labor but also the price of their own assets. This is one of the manifestations of the uniqueness of workers in new employment patterns. Despite the effort to recognize the "labor relationship" between them to the maximum extent and extend protected rights, it is still impossible to simultaneously recognize the value created by their self-owned assets in completing labor tasks. Even though it is possible to determine the value of self-owned assets from the perspective of property ownership in civil law, it cannot simultaneously satisfy the protection of workers' social right and interests. Therefore, it is necessary to supplement the "dichotomy" with recognition of the value created by workers' self-owned assets or establish a "third way" beyond the "dichotomy" to improve labor laws or the Civil Code, and construct a fair and reasonable distribution system that includes both the value of labor and the value created by self-owned assets.

In the new employment patterns, whether it is an employment relationship or a labor service relations, whether it is regulated by labor laws or civil laws, or has other bases and models, the legitimate rights and interests of workers should be prioritized. Fair distribution should not only be reflected in interests but also in aspects such as time, safety, social rights protection, and even respect for dignity. Therefore, the distribution within labor and capital is a broad concept that corresponds to the objects of control and command between labor and capital. Capital's ability to control labor is inevitably a content of antagonism between labor and capital, and therefore falls within the scope of distribution between labor and capital. Especially when it comes to flexible working arrangements, although such control is covered by the appearance of flexibility and freedom, it still cannot escape the nature of control. Among the many distribution objects, economic interests are the core, and social rights are supplementary and essential components that cannot be ignored.

Adhering to a labor-centered work orientation is an essential requirement of the people-oriented development ideology and the policy of wholeheartedly relying on the working class. The core of "people-oriented" should be the working people as the center. In China, the vast majority of workers, who account for the vast majority of society, are always the main body of "the people", the main producer of material materials on which human society relies for existence and development, and support the material basis of human practical activities (Tu et al., 2022). It is necessary to effectively safeguard the labor and economic rights and interests of employees in terms of employment, income distribution, social security, labor safety, and health. It is also important to promote the improvement of the social insurance system, including for workers facing difficulties, and enhance social security benefits. The implementation of the "Opinions" is of groundbreaking significance, and various departments and trade unions at all levels have formulated corresponding implementation plans within their respective scope of authority and regulatory targets. The "Opinions" have been implemented at the grassroots level, firmly grounded, and promptly put into practice.

4.2.3 Actualization of incentive measures for platform employment

Incentives abound, with the most common being bonus incentives, and the longer-term approach being equity incentives. Incentives aim to stimulate employees' enthusiasm for work and create greater value for the company.

Bonus incentives primarily apply to ordinary employees who receive economic compensation or other material and non-material rewards in addition to their wages based on outstanding performance. However, when formulating rewards, companies should ensure clear goals and avoid making unrealistic promises or setting unattainable targets. It is important to be honest, fulfill commitments promptly and completely. Some companies, in order to promote economic development, may set goals that exceed employees' capabilities. From one perspective, this can stimulate employees' greater potential, but it may also lead to excessive competition within the company or result in a sense of resignation. If the goals are simply unattainable, employees may choose to give up rather than being continuously fatigued. Without clear project goals and a lack of specific activity definitions, even with strong management capabilities, overall performance will not be optimal. If there is a lack of reasonable methods for evaluating performance and correct incentive policies, coupled with unclear responsibilities and powers between organizations, especially between project organizations and functional organization of the company, the driving force for the company's internal growth will be lost. Therefore, the desired goals of a company should be realistic, at least not for long. This would discourage employees, depriving them of the motivation to progress or possibly prompting them to seek employment elsewhere, thereby losing the function and value of incentives. Equity incentives are merely a means, especially considering that the recipients are generally senior management personnel, and the proportion of equity incentives is relatively small. Moreover, they are subject to many restrictions in exercising their rights. According to the provisions of the "Administrative Measures for Equity Incentives of Listed Companies," the incentive targets may include directors, supervisors, senior management personnel, and core technical (business) personnel. For state-owned holding companies, the scope of equity incentives is generally limited to directors and senior management personnel of listed companies, as well as core technical personnel and key management staff who directly impacts the overall performance and sustained development of the listed company. In general, the amount of equity used for incentives accounts for approximately 10% of the total share capital, and each incentive recipient usually receives no more than 1% of the equity. Additionally, a reservation mechanism is established for future introduction of talents or rewarding outstanding contributors, and the exercise period for incentive stock options is no less than 2-3 years.

Critical thinking also plays an important role in re managing employees. The restructuring of teams and the investment in employees with strong critical thinking skills is one of the strategies practiced by employers (Fiore et al., 2002). Professionals who display this competence will have a continuous progression in what is characterized as their "(...) professional development and in social and interpersonal contexts (...)" benefiting not only decision-making processes but also problem solving (Dwyer & Walsh, 2019).

When implementing equity incentives for senior management personnel (hereinafter referred to as "executives"), it is important to establish a closed-loop management system by integrating labor contracts and rules and regulations. The scope of incentives should be limited to executives who demonstrate loyalty, diligence, and achieve performance targets within a certain period. For executives who have already received equity incentives, whether in the form of actual shares, options, or virtual stocks, the labor contract should include provisions for exit mechanisms and prices, including statutory exit, mandatory exit, and application for exit. These provisions are intended to regulate improper behavior, such as executives misappropriating company interests, and require them to bear liability for compensation. It is evident that using equity incentives to bind executives aims to strengthen their obligations of loyalty and diligence.

4.2.4 Actively establishing unions to safeguard the legitimate rights and interests of new employment practitioners

As early as 2015, the All-China Federation of Trade Unions (ACFTU) initiated concentrated efforts to enroll migrant workers into trade unions, with a focus on industries such as logistics (express delivery). Starting from early 2018, the ACFTU deployed nationwide efforts to enroll workers into trade unions, particularly targeting employees in the "three new" economic sectors, which include new employment patterns, new industries, and new business models. The ACFTU established a special fund of 5 million yuan and has so far enrolled approximately 6.547 million workers as union members. The number of participants in Chinese trade unions has reached a historical high.

Following the issuance of the ACFTU's "Opinions" providing comprehensive guidance on the enrollment of the "eight major groups," a nationwide campaign titled "Concentrated Action for New Employment Practitioners to Join Trade Unions" was launched. The goal is to continue from July 2021 to the end of December 2022, establishing over 240,000 grassroots union organizations nationwide and enrolling more than 16 million new union members, including over 8 million members from four key groups: new truck drivers, ride-hailing drivers, delivery personnel, and takeout delivery workers. Active exploration and practical measures are being taken to explore organizational forms, membership enrollment methods, service approaches, and incentive safeguards for new employment practitioners, with the aim of establishing a batch of replicable, promotable, and successful models.

To maximize the inclusion of new employment practitioners into trade unions, the ACFTU actively implements the spirit of the "Opinions" and specifically carries out enrollment and inclusion of employees in new employment patterns such as truck drivers, ride-hailing drivers, delivery personnel, and takeout delivery workers nationwide. Various forms of enrollment, including online application, establishment of mobile enrollment windows, and holding communication meetings with workers, are being actively expanded and promoted. These initiatives aim to facilitate the convenient and rapid enrollment of new employment practitioners into trade unions and enhance the coverage of union organization. To ensure real-time effectiveness, the ACFTU has deliberately selected Jiangsu and Anhui provinces to conduct online enrollment pilot projects for truck drivers through freight platform enterprises. "Truck Driver" homes have been established in multiple locations to serve as demonstration and driving forces. With the assistance of big data platforms, members are promptly included in databases for real-time dynamic management. The gradual realization of clear occupational statistics and accurate data collection of key groups, especially the four key groups, is intended to grasp the characteristics and distribution of new employment practitioners, as well as the state of union construction in major enterprises, fulfilling the ACFTU's responsibilities in practice.

4.2.5 Establishing a positive corporate culture

A company with a strong culture has vitality because it demonstrates the company's vision, reflects its social responsibility, and represents its values. Corporate culture is the fundamental experience, consensus, and common knowledge for a company's development. For companies, ideas are strength, concepts are wealth, and culture is the core competitiveness. As "three new" enterprises emerge, grow, and expand, they are inevitably faced with various crises such as product quality, management level, public relations, and social image. However, the crisis of values is the most fundamental one. At the beginning of their development, "three new" enterprises tend to focus on building their core competitiveness, emphasizing growth above all else, and easily overlook moral and cultural development. This makes it difficult to resist social risks. Therefore, "three new" enterprises should establish and adhere to a positive corporate culture from the outset, embodying exemplary development and ethical standards, and emphasizing the assumption of social responsibility alongside economic development. In today's human resources management, it is essential to fully recognize the guiding significance of a people-centered approach and establish a labor-oriented corporate culture that operates within the framework of public order, moral norms, and legal regulations, generating both execution and restraint.

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