



Lin, Ou (2023) *Workers' spontaneous struggles and resistance in the on-demand economy in China*. PhD thesis.

<http://theses.gla.ac.uk/83711/>

Copyright and moral rights for this work are retained by the author

A copy can be downloaded for personal non-commercial research or study, without prior permission or charge

This work cannot be reproduced or quoted extensively from without first obtaining permission in writing from the author

The content must not be changed in any way or sold commercially in any format or medium without the formal permission of the author

When referring to this work, full bibliographic details including the author, title, awarding institution and date of the thesis must be given

Enlighten: Theses

<https://theses.gla.ac.uk/>
research-enlighten@glasgow.ac.uk

**Workers' Spontaneous Struggles and Resistance in
the On-Demand Economy in China**

Ou Lin

**Submitted in fulfilment of the requirements of the
Degree of Doctor of Philosophy**

**School of Law, College of Social Sciences
University of Glasgow**

April 2023

Abstract

This thesis concerns on-demand workers' struggles and resistance in China and the question, in particular, of how the workers' choices are structured by the particular legal, social and economic contexts within which they live and work. As a novel form of employment, on-demand work has gained popularity and has attracted a large workforce; however, the regulation of on-demand work is still in its early stages, leaving many workers without adequate labour protections. Many on-demand workers have expressed their grievances and discontent through a variety of individual and collective actions. What remains unclear is why they feel discontent and what factors influence their choice of different forms of struggle and resistance. These factors also give some indication as to how labour laws could be amended to provide effective protection of on-demand workers' rights and interests.

Advocating an 'economic sociology of law' approach to the study of labour law, Dukes (2019) suggests that contracting for work ought to be conceived of as social behaviour that is likely economically motivated and, at the same time, influenced by actors' perceptions of the applicable rules, social norms, and shared understandings of what is standard or fair or reasonable practice in the specific context. Here, this approach is used to analyse and explain how Chinese delivery riders, as the targeted participants in the qualitative research, think of their work and make decisions that are influenced by their economic interests and their perceptions of labour laws, social norms, and shared understandings.

The research illustrates that delivery riders have a multifaceted perception of their work. On the one hand, they experience precarious working conditions, disrespect, and discrimination under the bureaucratic and algorithmic control of platforms, worsened by the presence of a duopoly market. Compared to more stable factory jobs, on the other hand, on-demand work provides better opportunities for making money and enjoying flexibility and freedom within the confines of existing labour laws and social and economic circumstances.

Individual riders have attempted to improve their working conditions through both formal and informal channels. Due to a number of factors, however,

including the use of outsourcing by the platforms, the limitations of litigation, the unregulated nature of the platform labour market, unequal bargaining power, the lack of anti-retaliation laws and unreliable labour security administration, there is very little room for riders to voice their concerns. Riders have also attempted to ‘game’ the algorithms and to use social media and mainstream news-reporting but these strategies are not always effective. When there is no good alternative, radical forms of resistance may occur, including self-harm and suicide.

On-demand riders have formed occupational communities and have used these to address the challenges collectively, however, the success of their protests can be inhibited by the weak trade union system and non-supportive laws and government attitudes towards collective action. Platforms may try to undermine riders’ solidarity by using various repressive strategies. Moreover, the deteriorating employment environment also hinders collective mobilisation.

The current legal, social, and economic context constrains the individual and collective struggles of riders in a wide variety of ways. While they may have a basic awareness of their legal rights, on-demand riders show a strong tendency to prioritise the right to subsistence or the economic conditions necessary for subsistence when attempting to express their discontent. Prioritisation of the right to subsistence or the economic conditions necessary for subsistence is also reflected in policy documents issued by the government in China to regulate on-demand work. To truly improve the working conditions of on-demand workers, it would be necessary to grant them the right to strike with the support of strong trade unions and to improve their rights to social security.

Acknowledgments

Resigning from my post in China to pursue a second PhD degree and to undertake childcare as a single parent abroad was a daunting decision for me, especially with the unexpected challenges of the COVID-19 pandemic looming over almost the entire duration of my doctoral studies. Reflecting on my journey, however, I realise that it was probably among the best decisions I have made in my life.

During the process, I have received immense support and guidance from those around me, which has helped me achieve both academic and personal success. I am deeply grateful to my supervisors, Ruth Dukes and Mark Wong, who provided me with invaluable support, direction, and inspiration throughout the process of completing this thesis. I owe an enormous debt of gratitude to Gregoris Ioannou, who formally served as my supervisor during the first two years of my PhD studies. Despite relocating to the University of Sheffield, he generously continued to provide me with invaluable supervisory guidance and support in my 3rd year as well. I feel incredibly fortunate to have had such an exceptional supervision team. There are no words that can fully express my gratitude and appreciation for their guidance and support throughout my research journey.

The opportunity to dedicate myself to this PhD was made possible by the funding opportunity granted to me by Ruth Dukes' *Work On Demand* project funded by the European Research Council (grant agreement No 757395). A special thanks is owed to Ruth for believing in me and giving me her unwavering support. I will apply these invaluable lessons in my future endeavours, and I thank her for being an exceptional mentor.

I would also like to express sincere thanks to Dr. Eleanor Kirk, who has been incredibly supportive and has provided me with a wealth of information and opportunities. I would like to thank Dr. Alessio Bertolini, Dr. Vera Pavlou, Dr. Bastian Struve, Professor Quanxing Wang, Professor Tianchang Xie, and Professor Yefang Qian, for their insightful discussions and encouragement. I am also grateful to Professor Emiliios Christodoulidis for his constructive feedback during annual reviews. I wish to extend my sincere thanks to my fellow PhD office mates, Dr. Lenina Miller Westoby and Haticesare Temel, for their friendship and

camaraderie. I would also like to express my gratitude to Mary and David for their friendship and assistance since we first met in Shanghai in 2018, which has provided immense help to me over the years in Glasgow. I also owe a debt of gratitude to Professor Joseph Bauer, who introduced me to the couple and has always cared about my research and career since we met in South Bend in 2011. Many thanks go to Rory and Viv for their kindness in accepting the task of proofreading and completing it with meticulous attention to detail within a short time. And I would like to express my heartfelt gratitude to Mr. Blair, the IT Training Officer, for his incredibly patient assistance in formatting my thesis.

I am immensely grateful to the participants in my fieldwork, who were honest and open in sharing their feelings and opinions with me. Their contribution is the cornerstone to completing my thesis, and their hard work, tolerance, and optimism inspired me to continue further research on labour laws.

Finally, I would like to thank my family for their endless patience and understanding throughout my academic journey. Their unconditional support has been a source of strength and motivation for me.

Chapter 1 of the thesis was published in the *Industrial Law Journal*, Volume 51, Issue 2, as 'Regulating On-demand Work in China: Just Getting Started?'.

Author's declaration

“I declare that, except where explicit reference is made to the contribution of others, that this dissertation is the result of my own work and has not been submitted for any other degree at the University of Glasgow or any other institution.”

Printed Name: Ou Lin

Signature:

Table of Contents

Abstract	i
Acknowledgments	iii
Author’s declaration	v
List of Tables	ix
List of Figures	x
Introduction	1
Good job or bad job?	3
Empowerment or precarisation?	3
Individualised legal mobilisations or informal individual struggles?.....	6
Pessimistic or optimistic outlook?.....	6
Structure of the thesis.....	7
Chapter 1 On-demand work in China	9
Introduction	9
1. On-demand work in China	10
1.1 The development of the platform economy	10
1.2 The workforce in the on-demand sector.....	11
1.3 The working conditions of on-demand worker	14
2. The legal regulation of on-demand work: recommendations contained in regulatory documents	16
2.1 A brief introduction to labour law in China	16
2.2 Judicial and arbitration cases relating to on-demand work	18
2.3 Temporary measure: local interpretative guidance	21
2.4 The new development: the third employment category	23
3. The government response to on-demand work.....	25
3.1 A novel form of employment and important source of employment	25
3.2 On-demand workers’ rights.....	29
3.3 Soft administrative measures.....	32
4. Trade Union Response.....	33
4.1 Trade unions emerging for on-demand workers	33
4.2 Limitations of existing union rights for on-demand workers	36
Conclusion	38
Chapter 2 Theoretical Framework and Methodology	40
Introduction	40
1. What is the economic sociology of labour law?.....	40
1.1 The dominant research methodology in Chinese labour law scholarship	40
1.2 The limits of <i>Rechtsdogmatik</i> to tackle on-demand work.....	41
1.3 On-demand work and the economic sociology of labour law approach	43
2. Research design, research questions and outline of fieldwork.....	45
2.1 Research design and research questions	45

2.2 Conducting the fieldwork.....	49
2.3 Participants.....	52
3. Data collection and analysis	55
3.1 The outline of the data produced	55
3.2 How the data were analysed	56
Conclusion	60
Chapter 3 Bad job? Being an on-demand rider in China	61
Introduction	61
1. Work under a regime of bureaucratic control.....	62
1.1 Two types of riders: team riders and on-demand riders.....	62
1.2 New development: different types of special on-demand delivery riders.....	65
1.3 Work in the shadow of duopoly and labour market intermediaries	70
2. Work under a regime of algorithms control.....	74
2.1 Low paid and long working hours	75
2.2 Dangerous work	85
2.3 Difficulties caused by imperfect algorithms	90
3. Undignified work in an unfriendly social environment	91
4. Temporary work	94
Conclusion	95
Chapter 4 Good job? Wages first, freedom and flexibility second	97
Introduction	97
1. Wage first	98
1.1 Migrant workers and low wages in manufacturing.....	98
1.2 Migrant workers' long-standing idea of 'going out and making money'.....	106
1.3 Social insurance contributions seen more as loss than benefit	109
1.4 The advantages of being a rider to make money	113
2. Freedom and flexibility second	117
2.1 Temporal flexibility and rest breaks at work	117
2.2 Unbearable shiftwork.....	119
2.3 Low barriers to entry vs ubiquitous age and gender discrimination.....	121
Conclusion	125
Chapter 5 On-demand riders' individual struggles and resistance	126
Introduction	126
1. The formal channels for riders' struggles and resistance.....	127
1.1 Litigation difficulties in the context of subcontracting.....	128
1.2 Party capability and access to justice	133
1.3 Difficulties for resorting to labour security administration.....	139
1.4 Fear of retaliation	143
2. Informal channels for riders' resistance and struggle	145
2.1 Public oversight	145

2.2 Riders' daily resistance	149
2.3 Resistance and struggles with suppliers.....	154
2.4 Some radical forms of resistance and struggles	155
Conclusion	156
Chapter 6 On-demand riders' collective action	158
Introduction	158
1. Spontaneous collective action in the two cities	160
1.1 An example of collective action in Hangzhou.....	160
1.2 An example of collective action in Changsha	163
1.3 Ineffective collective action.....	164
2. Riders' occupational communities	167
3. Legal obstacles to collective action	171
3.1 Offline: mass incidents and gathering a crowd to disturb social order.....	171
3.2 Online: real name registration and internet censorship	173
4. Platforms' repressive strategies	176
4.1 Instilling fear through training.....	177
4.2 Diluting structural power through over-recruitment	178
4.3 Undermining associational power by breaking occupational communities	180
5. Slowing economic growth under the 'dynamic zero-COVID' policy	186
Conclusion	188
Chapter 7 Conclusion	190
1. Summary of the approach and main research findings	190
2. Implications from the research	194
3. Limitations and avenues for further research work	198
Regulatory Documents.....	201
Abbreviations	207
Bibliography	208
Appendix.....	220
1.Participants' information in Changsha	220
2.Participants' information in Hangzhou.....	223

List of Tables

Table 1: The workforce of the leading on-demand apps in China.....	12
Table 2: Basic characteristics of participants	53
Table 3: The main benefits of having accounts with different ranks on Ele.me (Fengniao)	63
Table 4: The main benefits of having accounts with different ranks on Meituan	63
Table 5: An example of multiple order system	65
Table 6: KPI for Youxuan riders of Ele.me (Fengniao) in one district of Hangzhou	66
Table 7: Types of riders	68
Table 8: Fines for delayed ordinary orders for Ele.me (Fengniao) ordinary on-demand and Youxuan riders	81
Table 9: Fines for delayed ordinary orders for Meituan ordinary on-demand and Lepao riders	81
Table 10: The excluded items of minimum wages in the main provinces.....	101
Table 11: Pay scale of Foxconn (different plants may vary slightly)	103
Table 12: Minimum wage of major cities in 2021	103
Table 13: The current contribution rate of work units and employees	110

List of Figures

Figure 1: Location of fieldwork sites	48
Figure 2: Distribution of cases involving riders	128
Figure 3: Map of registration and delivery service cities of subcontractors of platforms	129
Figure 4: Number of cases for Ele.me (Fengniao)	133
Figure 5: Number of cases for Meituan.....	133

Introduction

As in other parts of the world, working for on-demand platforms like Didi, Meituan, and Ele.me, as well as using their services, first became popular in China in or around 2015. To develop the relevant markets, platforms initially provided various subsidies to workers and customers, even operating at a loss. This was the ‘honeymoon period’ for all parties. I can still remember Didi drivers expressing their delights as to how easy it was to make money, while as a customer, I paid significantly lower fares compared to traditional taxis. At that time, workers and customers were enjoying the benefits of the emergence of such platforms. They introduced friends or relatives to join in or shared the ‘good news’ with them. Most workers approached the development with a sense of optimism and excitement. Thanks to various promotions and policy support, the major on-demand platforms experienced explosive growth.

Once the platforms had gained control of their target markets, the ‘honeymoon period’ came to an end and reality hit the on-demand workers. They gradually discovered that the service fee was rising, or the piece rates were getting lower, and that they had to bear all the risks, including the possibility of serious injury or even death, with no sick pay or other forms of security. In short, under the label of being ‘partners’ with the platforms, they were unlikely to receive any labour protection as they do not qualify as ‘employees’ under Chinese labour law. Much like in other countries, this work arrangement has presented significant challenges for Chinese labour law. The government has defined it as a novel form of employment and has been cautious to intervene. Instead, it seeks to regulate the platform-worker relations through soft administrative measures and non-compulsory regulatory documents. Despite their monopoly on labour representation, the state-run trade unions federated to the All-China Federation of Trade Unions (ACFTU) play only a limited role in representing the interests of on-demand workers. This has led to the adoption of the term ‘spontaneous’ to describe the struggles and resistance of on-demand workers, who lack any formal organisational structure.

It has been almost a decade since the emergence of on-demand platforms in China. As more and more cases and reports of on-demand workers’ suffering

under the control of algorithms come to light, it seems that their working conditions are not improving but actually worsening. Since government legislation and regulation is progressing slowly, it is interesting and important to understand the perspectives of on-demand workers themselves and how they react to the lack of labour rights. Do on-demand workers think of themselves as independent contractors akin to small-business owners or as workers who *should* have labour rights? Do they feel themselves to be fairly or unfairly treated by platforms? What kind of labour rights do they care about? In the face of unfair or ill-treatment, what kind of action can they and do they take?

Chinese labour law research mainly focuses on how labour laws should interpret the novel form of employment and provide protection to on-demand workers within the traditional labour law framework. Scholarly research almost always adopts the dominant method of *Rechtsdogmatik* or 'black-letter' analysis of the law. It follows that these discussions are somewhat disconnected from the real needs and perceptions of on-demand workers. Research in other subjects, such as sociology and industrial relations, mainly provides a detailed account of the labour process of work or actions, with less emphasis on the role of law in shaping such processes.

This thesis is based on qualitative empirical research and is the result of several years research into on-demand work, which has employed a combination of legal and sociological methods. Aiming to analyse and understand how workers' choices are shaped and constrained by existing labour laws in a broader social and economic context, it uses a review of the existing literature, analysis of legal rules and court decisions and 60 semi-structured in-person interviews with food delivery riders conducted in two cities between April and July of 2021. The thesis aims not only to provide insight into on-demand workers' perceptions of their work and their struggles and resistance but also to further explore the factors that restrict or encourage their choices of action. It seeks to show how on-demand workers' individual options and needs are constrained by the legal, social, and economic context within which they live and work. By detailing workers' choices of action in the platform economy, it additionally provides an

important contribution to understanding the broader picture of workers' resistance in China.

Good job or bad job?

On-demand workers' willingness to take action is strongly influenced by their perceptions of their working conditions. From the workers' perspective, the question of whether on-demand work is a good or bad job is more complicated than you might think. On the one hand, it is certainly true that platforms in China use various types of bureaucratic and algorithmic control to repeatedly lower the piece rate, impose various punitive fines, and divide riders into different types. As a result, workers have no choice but to cope with long working hours, suffer disrespect, discrimination, 'occupational diseases', no career development, and risk injury or even death just to earn a living. Compared to factory work, however, on-demand work offers the potential to earn more money. As this thesis will show, this is an important priority for many migrant workers, who make up the majority of on-demand workers, especially in a country with weak social welfare protection, particularly for rural citizens. On-demand work also provides more flexibility and freedom, particularly when contrasted with rigid shift work, inadequate rest break policies, and prevalent age and gender discrimination in the manufacturing industry.

Empowerment or precarisation?

In contrast to many Western countries, Chinese workers face greater difficulties in organizing resistance because of the strict ban on independent unions and the unclear legal status of the right to strike. Despite this official antagonism, however, workers' resistance continues to be voiced and demonstrated. Following several large-scale protests in factories in the Pearl River Delta region in the 2000s, labour activism underwent a particularly significant transformation, characterized by increased empowerment, maturity, and radicalization. One noticeable change was the shift in workers' demands from defensive to offensive, as well as from purely economic to political demands, such as demanding union elections. Additionally, labour struggles moved from being solely rights-based to interest-based, and from legalistic to a more

transgressive and extra-legal action repertoire.¹ One interpretation of the changes, however, is that Chinese workers are simply confronting global trends towards precarisation rather than becoming more empowered.²

When it comes to collective resistance among on-demand workers, the strict ban on independent unions and the unclear legal status of the right to strike have remained unchanged. One difference is that most factories have trade unions that are affiliated with the ACFTU. While their roles may be limited, when protests occur, these trade unions can at least assist in resolving disputes. For on-demand workers, although the ACFTU has greatly increased membership through recruitment, its coverage remains very limited. The majority of on-demand worker protests do not involve trade unions at all. At the same time, however, it is becoming more challenging for NGOs to function as a progressive force in helping on-demand workers. Since 2015, many of them have experienced stagnation or have been forcibly shut down by the government.

The two parties involved, on-demand workers and platforms, have distinct characteristics. Compared to traditional factories, platforms are often more powerful relative to workers due to their monopoly positions in the relevant markets as well as their extensive use of algorithms to manage and collect data on workers. And platforms do not even need to rely on local governments to implement more repressive strategies due to the nature of the work arrangement. Additional features that contribute to the complexity of worker mobilisations include the heterogeneous composition of the workforce and the different goals and attitudes towards work of, for example, part-time and full-time workers, as well as the high turn-over that characterises these jobs.

During the 2000s, a series of factory workers' protests resulted in several victories. The labour shortage that occurred during this time was a contributing factor to the success of these protests, as it effectively augmented the

¹ Nang, L.P. and Ngai, P., 'The Radicalisation of The New Chinese Working Class: A Case Study of Collective Action in the Gemstone Industry' (2009) 30(3) *Third World Quarterly* 551; Chen, F. and Tang, M., 'Labour Conflicts in China: Typologies and Their Implications.' (2013) 53(3) *Asian Survey* 559.

² Lee, C.K., 'Precarisation or Empowerment? Reflections on Recent Labour Unrest in China' (2016) 75(2) *The Journal of Asian Studies* 317.

bargaining power of workers in the marketplace. Today, on-demand workers are facing a more challenging situation compared with the Chinese economy experiencing a slowdown after three decades of rapid growth. In addition, the long-term 'dynamic zero-COVID' policy has had an unprecedented negative impact on the economy. Despite these challenges, the supply of on-demand workers has significantly increased in recent years. The government has also prioritised employment above other policy objectives.

Perhaps the single most important similarity between factory workers and on-demand workers is that the majority of them are rural migrant workers who have felt the impact of long-term policies concerning the urban-rural divide. They have experienced significant social and economic inequality when compared to urban citizens. This inequality has yet to be fully abolished. For instance, the social insurance benefits of rural migrants are significantly lower than those given to urban citizens. If we consider the inequality in the broader context of China's reactive welfare state, driven by economic necessity,³ it is understandable that the main reasons for resistance among both factory and on-demand workers are issues related to wages, lawful compensation, or reduced piece rates.

Given the unfavourable constraints faced by on-demand workers in China, it is very impressive that they have taken the initiative in organizing numerous protests. They have built up loose 'occupational communities' to assist with mobilisation. They have no labour laws to rely on and cannot therefore ask for them to be enforced. Unlike their Western counterparts, they have only demanded basic improvements, such as increased piece rates or cancelling allowances. They have not asked for either employment status or improved labour rights. Moreover, there is a tendency for on-demand workers in China to mobilise less as their victories are often unsustainable.

³ Ringen, S. and Ngok, K., 'What Kind of Welfare State is Emerging in China?' (2013) Working Paper, The United Nations Research Institute <<https://www.files.ethz.ch/isn/173452/Ringen%20and%20Ngok.pdf>> Accessed on March 10, 2023.

Individualised legal mobilisations or informal individual struggles?

It seems likely that both factory workers and on-demand workers face common obstacles, such as the absence of laws which could protect them against employer retaliation, unequal ‘party capabilities’, and limited access to labour security administration.⁴ Since factory workers fall within the scope of protection of labour laws, they might first take legal action. Only when this institutionalised channel fails (which it often does) do they resort to public disruption.⁵ However, the primary hurdle to successfully accessing the courts or mediation is typically the need to establish one’s status as an ‘employee’. Another distinguishing factor is that factory workers can easily identify their employers, while this poses a challenge for on-demand workers due to the complex outsourcing arrangements between platforms and intermediaries.

Without recourse to the courts, on-demand workers often resort to informal means to voice their complaints, such as seeking help from the media or appealing directly on social media or, as a last resort, engaging in self-harm or in illegal activities. Alternatively, they tolerate their situation or simply quit their job as a way of coping with their grievances. As this thesis illustrates, on-demand workers tend to possess a good understanding of the algorithms used by the platforms and can use this knowledge to engage in everyday acts of resistance. Rather than passively accepting algorithms, on-demand workers engage in a continual learning and exploration process that greatly benefits their work. It is important to note that the ultimate control and power still lies with the platforms, however, since they can react to the workers’ practices by fixing any loopholes or otherwise modifying the system as they see fit.

Pessimistic or optimistic outlook?

The possibilities for on-demand workers to mobilise effectively are severely limited. While they may have a basic awareness of their legal rights, moreover,

⁴ I take the term ‘party capabilities’ from Galanter, M., ‘Why the “Haves” Come Out Ahead: Speculations on the Limits of Legal Change’ (1974) 9(1) *Law & Society Review* 95.

⁵ Lee, C.K., *Against the law: Labour Protests in China’s Rustbelt and Sunbelt* (University of California Press 2007).

they often prioritise earning as much money as possible and enjoy the flexibility of their work compared to traditional factory jobs. Any grievances or discontent they express, typically concerns reduced pay rates or other financial losses.

If we take the perspective that the state uses workers' protests as a 'fire alarm' mechanism that alerts local government to particularly egregious labour violations,⁶ then we can nonetheless conclude that the struggles and resistance of on-demand workers have played a significant role in prompting the government to respond. This is evidenced by the issuance of the Guiding Opinions on Protecting the Labour Rights and Interests of Workers Employed in Novel Forms in July 2021 by eight departments jointly. After a series of Opinions that did not touch the core issues, this significant and impactful Opinions has finally introduced a third category of employment and outlines relevant rights, providing practical solutions to address the concerns of on-demand workers. Moreover, on-demand workers' protests are occasionally able to undermine or lead to a reduction in the exploitation by the platforms. Platforms are continuously changing their repressive strategies and compromising - albeit temporarily - with on-demand workers.

Structure of the thesis

This thesis is organised into seven chapters. Chapter 1 reviews the existing literature and analyses the relevant law to provide an overview of on-demand platforms and on-demand work and of the response of the government and the legal system to them. It also discusses the limitations of trade unions to bring about positive change. In the second chapter, I explain my choice of an economic sociology of labour law approach to study on-demand workers' struggles and resistance in preference to *Rechtsdogmatik*(black-letter), which is the dominant approach to labour law scholarship in China. Additionally, I describe my fieldwork in China and discuss how I interpret the data using thematic analysis.

⁶ Gallagher, M.E., *Authoritarian Legality in China: Law, Workers, and the State* (Cambridge University Press 2017); Lee, 'Precarisation or Empowerment? Reflections on Recent Labour Unrest in China' (n2).

Drawing primarily on my own data, Chapters 3 and 4 delve deeper into the perceptions of the working lives of food delivery riders. The results are complex and nuanced and well demonstrate how various legal, economic and social factors have shaped the riders' views on their work. While the working conditions of delivery riders are precarious, it still seems to be an attractive option for earning money and achieving a sense of flexibility and freedom, especially when compared to working in a factory. In Chapter 5, I explain how the formal channels available to riders for expressing their grievances through individual actions are constrained by the design of current labour laws, leading them to resort to informal channels that are either unstable or limited in terms of effectiveness. Chapter 6 addresses riders' collective actions and the legal, economic and social factors that shape their decision-making when it comes to taking collective action. I finish the thesis with a conclusion (Chapter 7) that focuses on the implications of my findings for on-demand workers' labour rights in the longer term.

Chapter 1 On-demand work in China

Introduction

This chapter aims to provide an overview of on on-demand work in China. On-demand apps allocating gig work to individuals in a specific geographical area, of which Didi Chuxing (a company which provides car-hailing services) is the most prominent, first appeared in China in the early 2010s. From 2015, with the support of the Chinese government, they skyrocketed in size and significance, particularly in the transportation and delivery service sectors. Today, it is estimated that around 2.6%⁷ of the total employed population in China is engaged in on-demand work, and on-demand workers are mainly young, male rural migrants.

As in other countries, the legal status of on-demand workers has been widely debated. Chinese labour law accords rights to employees only and the vast majority of on-demand workers do not have contracts of employment. Without the protection of the law, they are vulnerable to low pay, long working hours and, in many cases, unsafe and degrading working conditions. While there is widespread consensus in China that on-demand workers need more protection, steps taken in that direction to date have been small indeed. Confronting their poor working conditions and lack of labour rights, hundreds of on-demand workers have organised protests, demonstrating their determination to fight for their rights. The legislature has no plans to tackle the issue of on-demand workers' legal status. However, the government has chosen instead to emphasise the positive contribution that platforms can make to the Chinese economy by creating novel forms of employment. Trade unions are too weak and compromised to be relied upon to force a change in the law.

This chapter seeks to situate on-demand work within the current legal, social and economic context in China. It begins by outlining the development of on-demand platforms and on-demand work in China and the response of the judicial and arbitration system, mainly advised by regulatory documents, which has

⁷ Statistics were collected before October 2020; therefore, this figure is expected to be higher in 2023.

chiefly involved reaffirming the principle of respect for the contractual terms agreed by the parties and the development of establishing a new category of employment. Part 3 addresses the policy priorities of central government in respect of the platform economy and the adoption of soft administrative measures by the government to address issues which arise in the platform economy. Part 4 considers the limits of the capacity of trade unions to effect positive change.

1. On-demand work in China

1.1 The development of the platform economy

Both policy and academic discourse on on-demand work, and its discussion in mainstream media, tend to make use of the terms ‘sharing economy’ and ‘platform economy’. While prominent on-demand apps, such as Didi Chuxing, have typically been discussed separately and extensively, the development of on-demand apps more generally has usually been treated as one aspect of the development of the sharing or platform economy. Most sharing economy companies appeared in China in the early 2010s, developing slowly at first. The year 2015 was hailed as epoch-making for the sharing economy.⁸ This was when the Chinese government first gave its official approval to the arrival of the sharing economy, with the term ‘develop sharing economy’ appearing for the first time in the state official documents at the Third Plenary Session of the 18th Central Committee of the Communist Party, and later written into the Proposal for a 13th Five-Year Plan (2016-2020) for Economic and Social Development. Since then, the sharing economy has repeatedly been referred to in the Annual Government Work Reports, from 2016 until 2020. The term ‘platform economy’ first appeared in the 2018 Government Work Report and was thereafter consistently referred to until 2020, together with the sharing economy. The government has never clarified the difference between the two terms but rather has tended to use them in conjunction with one another to refer to the digitally based new economy. Accordingly, this chapter uses them interchangeably.

⁸ He, W.J., ‘The Epoch-making Year for China Sharing Economy’ (2015) 24 China Economic Information 32.

With the strong support and endorsement of the government, the sharing economy expanded rapidly. A series of reports detailed its explosive growth and the equally explosive growth of the associated workforce.⁹ In 2015, the market size of China's sharing economy was about 195.6 billion Yuan, employing around 50 million people and accounting for about 5.5 per cent of the total workforce. By 2019, the market size had reached 328.8 billion Yuan with 78 million people engaged in providing services, accounting for around 10.08% of the total employed population, calculated at the end of 2019 as 774.71 million.¹⁰ The definition of sharing economy in the reports is widely drawn: 'the sum of economic activities that make use of modern information technology to integrate and share large amounts of decentralized and idle resources to meet diverse needs'. This includes Uber, Didi, Airbnb, Coursera, even the peer-to-peer lending platform LendingClub. The figure of 78 million workers therefore includes but is much broader than the category of on-demand workers with which this thesis is concerned.

1.2 The workforce in the on-demand sector

While there are no official data detailing the size of the on-demand workforce, an approximate figure may be arrived at by aggregating data provided by the main apps. While locally based labour platforms offer a range of services, including manicures, catering and other domestic services, the prominent platforms, which spread in large, as well as most small and medium sized cities or counties, operate mainly in the fields of private transport (car hailing and designated driver) and food and other deliveries. For the most part, these prominent platforms have succeeded in creating monopolies in their target markets and have begun to make profits.¹¹ A very rough estimate of the

⁹ State Information Centre, 'China Annual Sharing Economy Report in 2016,2017,2018,2019,2020' <<http://www.Sic.Gov.Cn/News/568/6010.Htm>>Accessed October 9, 2020.

¹⁰ National Bureau of Statistics of China, 'Statistical Communiqué of the People's Republic of China on the 2019 National Economic and Social Development' (2020) <http://www.stats.gov.cn/english/PressRelease/202102/t20210228_1814177.html>Accessed October 9, 2020.

¹¹ Yang, Y.Y. and Goh, B., 'Chinese Food Delivery Firm Meituan Posts First Quarterly Profit Since Listing' (REUTERS, 2019) <<https://www.reuters.com/article/us-meituan-dianping-results-idUSKCN1VD0YR>>Accessed October 9, 2020; Kharpal, A., 'Chinese Ride Hailing Giant DiDi Says

workforce of the main platforms is in excess of 20 million, accounting for around 2.6% of the total employed population, as calculated in 2019.

Table 1: The workforce of the leading on-demand apps in China¹²

Name	Field	Size of workforce(million)	Business area (cities, counties)	Date of Data
Didi Chuxing	Transport (car hailing)	11.66	Over 400 cities	2018
Didi Daijia	Transport (designated driver)	2.18	Over 200cities	2016
E Daijia	Transport (designated driver)	0.2	Over 298 cities	November 2020
Fengniao Peisong (Ele.me)	Delivery (food takeaway delivery mainly)	3	over 1,200 cities and counties	August 2020
Meituan Peisong	delivery (food takeaway delivery mainly)	3.99	over 2,800 cities and counties	May 2020
Dianwoda	Delivery (food takeaway delivery mainly)	4	Over 350 cities	2020
FlashEX	Rush delivery (no food takeaway)	1	over 220 cities	2020
UU Paotui	Delivery (no food takeaway)	2.22	Over 170 cities	August 2020
Dada Kuaisong	Delivery (no food takeaway)	0.634	over 2,400 cities and counties	March 2020

The COVID-19 global pandemic, which started in 2020 and lasted for three years in China, had a major impact on the on-demand sector from the start but it has rapidly recovered. In fact, some on-demand platforms were among the businesses that benefited from the pandemic as they became an important force

Core Business is Profitable as Signs of Recovery Take Hold' (CNBC, 2020) <<https://www.cnbc.com/2020/05/07/chinese-ride-hailing-giant-didi-says-core-business-is-profitable.html>>Accessed October 9, 2020.

¹² Note:(1) Some of this data is taken from the platforms' websites and platform reports except Didi Daijia from Didi, 'Didi Daijia Held a 60% Share of the Designated Drive Market' (CCIDnet, 2016) <<http://m.ccidnet.com/particle/10115700>>Accessed October 9, 2020. (2) Statistical standards of workforce that platforms used varies, for example 'workers' might include all those who completed at least one order and earned income through the app (Didi Chuxing), all active riders (Meituan Peisong and Dianwoda), riders employed by platforms and agencies (Fengniao Peisong and Meituan Peisong). (3) The administrative division is complicated in China. By the end of 2018, there were 672 cities in China, see: National bureau of statistics of China, 'The 70th Anniversary of The Founding of New China Economic and Social Development Achievements of The Series of Reports of 17' (Finance China, 2019) <<http://finance.china.com.cn/news/20190815/5055373.shtml>>Accessed October 9, 2020.

in meeting the daily needs of people during the epidemic. A typical example is that of food and other daily necessities delivery platforms. People were afraid to go out or were in lockdown and had to rely on riders to meet their daily needs. The number of riders earning income from Meituan increased 16.4% in the first half of 2020.¹³ The proportion of online food delivery revenue to the total revenue of the catering industry nationwide has increased from 12.8% in 2019 to 25.4% in 2022.¹⁴

Who are these workers, couriating food and other goods on electric motorbikes or on public transport, dressed in different coloured uniforms, or driving customers from A to B, dressed no differently to taxi drivers, shuttling constantly across streets day and night? As with the workforce statistics, a more detailed profile of the workers can be gleaned from data published by the main platforms, which taken together suggest that on-demand workers are mainly young, male rural migrants. Specifically, data from the top three platforms in Table 1, employing the most workers, suggest that more than 90% of the workers are male, with rural migrants accounting for almost 80%, and young workers more than half.¹⁵ The representation of other groups on on-demand platforms is also rising: unemployed urban residents, workers made redundant from industrial jobs, demobilised and transitioning soldiers,¹⁶ university graduates,¹⁷

¹³ Meituan Research, 'Employment Report on Meituan Riders in The First Half of 2020', (199IT, 2020) <<http://www.199it.com/archives/1086268.html>>Accessed October 9, 2020.

¹⁴ State Information Centre, 'China Annual Sharing Economy Report 2022' (2023) <<http://www.sic.gov.cn/archiver/SIC/UpFile/Files/Default/20220222100312334558.pdf> >Accessed March 9, 2023.

¹⁵ The data are taken from the following reports and news items: Didi Research, 'Technology Advancement and Women's Development: Women's New Employment Report on Didi 2019' (199it, 2019) <<http://www.199it.com/archives/843423.html>>; Meituan Research, '2016 China Takeaway O2O Industry Insights Report' <<https://about.meituan.com/news/institute>>accessed 8 October 2020; Meituan Research, 'The New Urban Youth:2018 Takeaway Rider Employment Report' <<https://about.meituan.com/news/institute>>; Fengniao Peisong, '2018 Takeaway Rider Group Insights Report' <<http://www.nbd.com.cn/articles/2018-12-28/1286600.html>>; Li,J., 'The new generation of migrant workers has changed their career choices' (People's Daily Overseas Edition, 20 October 2019) <http://paper.people.com.cn/rmrbhwb/html/2019-10/29/content_1952966.htm> all accessed 8 October 2020.

¹⁶ Didi Research, 'New Economy New Employment: 2017 Employment Reports on Didi Platform' (199IT, 2017) <<http://www.199it.com/archives/646093.html>>Accessed October 9, 2020.

¹⁷ Meituan Research, 'The New Urban Youth:2018 Takeaway Rider Employment Report' (2019) <https://s3plus.meituan.net/v1/mss_531b5a3906864f438395a28a5baec011/official-website/c21d0443-decf-41d5-9813-ef8eaa6516d0>Accessed October 9, 2020.

and young manufacturing workers (also mainly rural migrants) who have ‘escaped’ from the traditional factories and production lines.¹⁸

1.3 The working conditions of on-demand worker

Platforms claim to offer a novel form of employment providing flexible working time, equal opportunities, high income or security of income, and freedom. In fact, working conditions are poor, dangerous in some respects, and even injurious to the dignity of the worker, who is subjected to the control of the algorithms and rating systems. Since income is highly contingent on working time, long hours are common. Accurate figures concerning the proportion of workers who are solely, mainly, largely or only partially reliant on platforms for their income are difficult to find. Reports provided by the platforms may be more likely to emphasise the flexible and part-time characteristics of the work, but academic and third party research has demonstrated that a large number of workers actually work full-time or earn the main part of their income from these apps.¹⁹ Even the platforms’ own reports state that almost 10% of workers work more than 8 hours daily and over 60% of workers have no other source of income.²⁰ In fact, average hourly and monthly earnings are below the local minimum hourly wage and average monthly wage.²¹ The supposedly high income comes at the expense of the workers’ time and health.

The pressure and the risks that workers experience as a result of management by algorithms have increased over time as the platforms succeeded in creating monopolies and then used their monopoly power to cut piece rates and bonus rates in order to make profits. (As elsewhere, labour costs account for the

¹⁸ Yin, F.X., ‘Actively Resolving the Structural Contradictions of Employment in China’s Manufacturing Industry’ (2019) 7 China Development Observation 45.

¹⁹ More detailed data can be found from: Green Ranking, ‘2016 Car Hailing Driver Living Conditions Survey Report’ (199IT, 2016) <<http://www.199it.com/archives/527027.html>> Accessed October 9, 2020; Zhen, H.G. and others, ‘“Platform Workers” and “Downloaded Labour”: Group Characteristics and Labour Process of Couriers and Food Delivery Workers in Wuhan’ (Tencent, 2020) <<https://new.qq.com/rain/a/20200330A0DUR500>> Accessed October 9, 2020; Feng, X.N, ‘The Labour Rights and Protection of Delivery Riders in Beijing and The Factors Affecting Them’ (2018) 33 Labour Security World 8.

²⁰ Didi Research, ‘New Economy New Employment: 2017 Employment Reports on Didi Platform’ (n.16); Meituan Research, ‘The New Urban Youth:2018 Takeaway Rider Employment Report’ (n.17).

²¹ Zhou, X., ‘Meituan Data Are Not Credible, Riders Really Earn Less Than City Minimum Wage’ (Guancha, 2020) <https://www.guancha.cn/zhouxiang/2020_09_16_565266.shtml> Accessed October 9, 2020.

greater part of the costs incurred by platforms). For on-demand drivers, driving fatigue and traffic accidents pose a very serious threat. After a number of traffic accidents were reported, and vicious crimes perpetrated by workers against customers, including sexual assault, rape and murder, Didi Chuxing launched its *Didi ride-hailing driver's anti-fatigue driving rules to reduce drivers' tiredness*. The primary concern here was the safety of customers rather than workers. According to Didi itself, an average of 6,000 drivers a day were then forced to log off from their apps for at least 6 hours to counter driving fatigue, and more than 170,000 drivers were forced to log off to rest for at least 20 minutes.²² The very existence of these rules stands as testimony to the possibility of long working hours without adequate breaks, and the way in which the service hour criteria and restrictive calculation of billing time serve to encourage workers to keep working without breaks.²³

For delivery riders, the risks are even more pronounced. A recent magazine article, which drew a great deal of attention, 'Delivery Riders, Stuck in the System', characterised the issue as follows. 'Delivery time is the most important indicator in the setting of the algorithm, and late arrival is not allowed. Once it happens, it means bad reviews, reduced income, or even being fired.'²⁴ Similarly, one rider wrote in an online forum, 'Delivering food is a race against death, a competition with traffic police, and becoming a friend with red lights.'²⁵ The frequency of traffic accidents and deaths is astonishing.

²² Cheng, W.C., 'Didi Chief Security Officer Hou Jinglei: More than 170,000 Drivers Are Forced to Rest Every Day' (Beijing News, 2020) <<http://www.bjnews.com.cn/finance/2020/08/07/756309.html> >Accessed October 9, 2020.

²³ The rules include a short-shift strategy and a long-shift strategy. The first requires that all Didi ride-hailing driver service hours (from the time the driver receives the order to the end of the billing) accumulate 4 hours with one 20 minute break. If the time is less than 20 minutes, the latter strategy requires the driver to take a 6-hour break after reaching a certain billing time (from the time the passenger gets into the car and the driver clicks to start billing until the end of billing) before going online, and the certain billing time is either 10 hours or 9 hours.

²⁴ Lai, Y.X., 'Delivery Riders, Stuck in the System' (Medium, 2020) <<https://medium.com/@daokedao1234/delivery-riders-stuck-in-the-system-translation-%E4%BA%BA%E7%89%A9-%E7%9A%84-%E5%A4%96%E5%8D%96%E9%AA%91%E6%89%8B-%E5%9B%B0%E5%9C%A8%E7%B3%BB%E7%BB%9F%E9%87%8C-%E7%BF%BB%E8%AF%91%E6%88%90%E8%8B%B1%E6%96%87-98fcff2c01fb> >Accessed October 9, 2020.

²⁵ Lai, Y.X., 'Delivery Riders, Stuck in the System' (n 24).

In the first half of 2017, data from the Traffic Police Corps of the Shanghai Public Security Bureau showed that in Shanghai, an average of one delivery rider was injured or killed every 2.5 days. In the same year, there were 12 casualties among Shenzhen delivery riders within 3 months. In 2018, on average, one rider was injured or killed every day in Chengdu.²⁶

Moreover, in order to meet the demands of the algorithm, riders may be forced to act in undignified ways: kneeling before the doorman of a residential property or university campus to beg to be allowed to enter,²⁷ performing extra, unpaid work for customers, such as disposing of rubbish,²⁸ or begging customers to give good reviews. In order to survive, these workers must do whatever it takes to satisfy the customer and the ratings system.

2. The legal regulation of on-demand work: recommendations contained in regulatory documents

2.1 A brief introduction to labour law in China

As in many other countries, the business model of platforms raises the question in China of the workers' legal status. More precisely, what has been at issue in both policy and academic debates is the legal status of on-demand workers. In Chinese statutory law, a distinction is drawn between a labour relationship under the labour laws, and a labour services relationship governed by civil law. The existence in principle of a third form of working relation, namely an 'employment relationship' has been recognised by only one Interpretation of the Supreme People's Court (SPC).²⁹ This Interpretation initially threw oil on already

²⁶ Lai, Y.X., 'Delivery Riders, Stuck in the System' (n 24).

²⁷ Yan, S.S., 'Northeast Forestry University Responded to "Security Guard Asked the Rider to Kneel": Suddenly Kneeling Security Guards Was Also "Confused"' (Guancha, 2019) <https://www.guancha.cn/politics/2019_04_17_497992.shtml?s=zwyxgtjb >Accessed October 9, 2020; Zhang, C.Y., 'The Rider Was Stopped to Get in a Residential Property, Kneeling in Front of Doorman' (The Paper, 2020) <https://www.thepaper.cn/newsDetail_forward_7671889?hotComm=true>Accessed October 9, 2020.

²⁸ Lin, F.F., 'A Dispute over A Bag of Rubbish, Who is Right, Customer or Rider?' (Fjnews, 2018) <http://fjnews.fjsen.com/2018-07/03/content_21216299.htm?page=pc >Accessed March 9, 2020.

²⁹ Interpretation of the Supreme People's Court of Some Issues Concerning the Application of Law for the Trial of Cases on Compensation for Personal Injury (2003), articles 9 and 11. 'Employment relationship' is not a statutory terminology as 'the authority of judicial interpretations is by far unclear, they are outside the formal hierarchy of legal norms though the SPC is authorized by the

hot debates concerning the character and interrelation of different employment statuses, but the relevant section was deleted in the revised version of the same Interpretation in 2020.

The complex set of classifications of employment statuses in Chinese law does not map very clearly onto concepts familiar to labour lawyers in Europe or the West more generally.³⁰ That said, the worker, or ‘person engaged in labour’ who has a ‘labour relationship’ with a ‘work unit’ come closest to the concepts of ‘employee’ or ‘worker’, ‘contract of employment’ and ‘employer’ in UK labour law. In respect of platform work, the critical issue in Chinese law is whether or not the worker has a labour relationship with the platform. Only where there is a labour relationship, will labour laws apply.

Whether there is a labour relationship between an on-demand worker and either a platform or an intermediary is decisive in respect of the worker’s entitlement to labour and social insurance rights. The current system of labour laws was instituted by the enactment of the Labour Law in 1994, just one year after the decision was taken to establish a socialist market economic system. Between 1994 and 2006, the State Council and the former Ministry of Labour and Social Security enacted many supporting administrative regulations regarding the contract of employment, collective agreements, hours and wages, labour protection, employment promotion, labour market management, vocational training, social insurance and so on.³¹ For labour legislation, 2007 was an important year.³² In February 2007, the National People’s Congress Standing Committee issued its legislative plan for that year, providing for four new labour and social security statutes: the Employment Promotion Law, the Employment Contract Law, the Labour Dispute Mediation and Arbitration Law and the Social Insurance Law. The first three laws were enacted in 2007 and the last in 2010, completing the framework of Chinese labour legislation to date. The

legislation to make it.’ See Wang, C., ‘Study on the Interpretations of the Supreme People’s Court’ (2016) 28 Peking University Law Journal 263.

³⁰ Cooney, S., ‘The ‘Labour Relationship’ in Chinese Jurisprudence: Mistranslating Definitional Barriers to Labour Protection’ (2019) University of Melbourne Legal Studies Research Paper No. 824.

³¹ Wang, X.Q. and Shi, C., ‘Review and Reflections on 70 Years of Labour Law in New China’ (2020) 3 Seeker 118.

³² Guan, H., ‘Analysis About the Sixty-Year Development and Relative Prospect of China Labour Law’ (2019) 12 Law Science Magazine 1.

Employment Contract Law and associated Regulations on the Implementation of the Employment Contract Law had an enormous influence on the rights and duties of employers and employees, serving to improve significantly the position of the latter. The ensuing large-scale publicity campaigns drew people's attention to labour issues and enhanced employees' own awareness of their rights.³³ In general, employees' substantive labour rights and labour standards in China closely resemble or even exceed employee rights in much of the West.³⁴ With the exception of collective rights, no significant discrepancy was found to exist between most of the provisions in China's Labour Law and Employment Contract Law and international labour standards.³⁵ In addition, a sizable body of administrative regulations, local laws and local administrative regulations clarifies, supplements, and even improves upon the basic labour laws in line with the particular conditions and imbalanced development among vastly different regions. With respect to on-demand work, two specific features of Chinese labour law must be highlighted: firstly, that labour rights and social security rights apply only to employees; secondly, that a labour dispute must be referred to arbitration before it can be raised before a court.

2.2 Judicial and arbitration cases relating to on-demand work

A huge number of disputes between platforms and workers have been heard by the courts and arbitration agencies,³⁶ most of these involving the matter of the existence of a labour relationship. Further disputes have concerned issues such as remuneration and occupational accident compensation, which also raise the question of employment status. In respect of workers' rights and benefits, the existence of a labour relationship functions as an 'all or nothing' mechanism and

³³ Yao, G.X., 'The Boundaries of Rights-Reflections on Labour Contract Law' (2011) 5 Economic Perspectives 37.

³⁴ Estlund, C., 'China's Complicated Relationship with Workers' Rights' (World Politics Review, 2017) <<https://www.worldpoliticsreview.com/insights/21000/china-s-complicated-relationship-with-workers-rights>> Accessed October 9, 2020.

³⁵ Jiang, Y., 'On China's Labour Law and the International Labour Standards' (2016) 2(1) Dispute Settlement 7.

³⁶ A number of courts mentioned the explosive growth of the cases concerning the on-demand platforms. Such as Labour Dispute Trial White Paper (2010-2018) announced by No.1 Intermediate People's Court of Beijing Municipality, Nanjing Labour Dispute Trial White Paper 2018 announced by Nanjing Intermediate People's Court, White Paper on the Trial of Employment Disputes in Novel form of businesses in Qingdao (2016-2018) announced by Intermediate People's Court of Qingdao.

this can serve to aggravate tensions between the platforms and workers.³⁷ In deciding whether a worker is an employee, the only official guidance available to courts is a Notice issued in 2005 by what is now the Ministry of Human Resources and Social Security (MOHRSS),³⁸ which includes a series of substantial and formal criteria. One criterion highly relevant to on demand workers' legal status is whether 'the worker is subject to the work unit's rules and labour management and engages in paid work arranged by the work unit'.³⁹ In applying it, judicial experience and academic opinion both suggest that the key question for courts is whether a worker is personally, economically and organizationally subordinated to the employer's authority and control as regards the work to be performed.⁴⁰ Where a worker has a traditional job too and only works part time via the platform, or the intermediary/platform has a labour contract with a worker or uses traditional control methods, there will be little doubt that s/he is an employee of either the intermediary or the platform. For those for whom platform work is the primary or sole source of income, implying a relation of economic dependency, if not sufficient personal or organizational dependency, the matter is rather more complicated and controversial.

Through an examination of a series of cases decided from 2014 to 2020 and published on the official website China Judgments Online,⁴¹ it can be found that the courts demonstrated a reluctance to identify labour relationships between on demand workers and platforms or intermediaries. All claims requesting

³⁷ Lou, Y., 'The Construction of the Social Insurance System for Platform Worker' (2020) 2 Chinese Journal of Law 190.

³⁸ Notice Concerning Matters Relevant to the Establishment of a Labour Relationship (Document No.12 of MOHRSS,2005).

³⁹ Paragraph 2(2) of the Notice.

⁴⁰ Huang, YQ., *Labour Law New Perspective* (China University of Political Science and Law Press 2003) 94-96.

⁴¹ I used the key word 'rider(qishou)' in the full text search and chose the case decision date from 01/01/2014 to 31/12/2020. I firstly chose the civil cases judgments decided by courts from Beijing, Shanghai and Jiangsu Province separately, and chose cases in the two categories of 'labour contracts' and 'employment relationships', approximately 220 cases were found. Excluding the cases in which intermediaries signed labour contracts with riders or had a traditional control relationship with riders and which were upheld by the appellate courts, 51 cases were finally collected. The 51 cases can be divided into two kinds based on the nature of the claims, one is for identifying labour relationships, the other is for personal injuries compensations. Note: (1) the cases are limited in three main areas which just included 'riders', on-demand workers in other industries were not included; (2) Not all judgments are published on the website according to the Provisions of the Supreme People's Court on the Issuance of Judgments on the Internet by the People's Courts (2016).

recognition of the existence of a labour relationship were rejected.⁴² In cases concerning personal injury compensation where there was no intermediary, the dominant opinion was that the platform itself was an intermediary and that the workers had to bear the burden of personal injury after insurance.⁴³ In cases concerning personal injury compensation where there was an intermediary, courts used many different terminologies to describe the relationships, such as labour service relationships,⁴⁴ employment relationships,⁴⁵ labour employment relationship,⁴⁶ cooperation relationship,⁴⁷ ‘performing duties’ or ‘duty behaviours’.⁴⁸ In no case was a ‘labour relationship’ identified. Whatever terminology the courts use, it remains the case that if there is no ‘labour relationship’, the worker is not entitled to labour law protection. In respect of on demand workers, ‘labour relationships’ have only been held to exist in a small number of cases.⁴⁹ In the 2017 case of *Li Xiangguo v. Beijing Tongcheng Biying Technology Co. Ltd*,⁵⁰ the court analysed in detail that a ‘considerable’ degree of personal subordination and a ‘highly visible’ degree of economic subordination existed indicative of the existence of a labour relationship. This was a most commendable attempt to address the challenge of bridging the gap between the terms of the law and the factual circumstances and characteristics of a particular working relation.⁵¹

⁴² (2019) Jing 0105 MinChu No.86060; (2020) Jing 0105 Minchu No.38306; (2020) Su 01 MinZhong No.2138; (2020) Su 07 MinZhong No.1334; (2020) Hu 01 MinZhong No.7540; (2020) Hu 0118 MinChu No.3496; (2019) Su 0115 MinChu No.17870; (2019) Su 0312 MinChu No.3933; (2018) Su 0214 Min Chu No.5328; (2018) Su 0311 MinChu No.313.

⁴³ Seven of ten cases were decided in this way. (2020) Su 04 Minzhong No.4622; (2020) Su 0102 MinChu No.1605; (2020) Hu 02 MinZhong No.3154; (2020) Jing 03 MinZhong No.4460; (2019) Hu 0104 MinChu No.7635; (2019) Hu 0106 MinChu No.33486; (2018) Hu 010 MinChu No.20843.

⁴⁴ (2020) Hu 011 MinChu No.14690; (2020) Hu 0112 MinChu No.34956; (2020) Hu 0112 MinChu No.4291; (2020) Hu 0112 MinChu No.4667; (2019) Hu 104 MinChu No.1334; (2019) Jing 0108 Min Chu No.4140; (2019) Hu 0117 MinChu No.17912.

⁴⁵ (2020)Hu 0115 MinChu No.48904; (2020)Hu 0115 MinChu No.20040; (2020)Hu 0114 MinChu No.614; (2020) Hu 0109MinChu No.5877; (2020) Jing 0115 MinChu No.3687; (2019) Hu 0115 MinChu No. 84182;(2019) Hu 0109 MinChu No.24838; (2019) Hu 0112 MinChu No.29000; (2019) Jing 0113 MinChu No.19923; (2019) Jing 0105 MinChu No.23702; (2020) Su 05 MinZhong No.9203; (2019) Su 1002 MinChu No.4878; (2019) Su 0102 MinChu No.5847; (2019) Hu 0105 MinChu No.22760; (2018) Jing 0112 MinChu No.39176;

⁴⁶ (2020) Hu 0117 MinChu No.1157.

⁴⁷ (2019) Jing 0108 MinChu No.51659.

⁴⁸ (2020) Jing 0101 MinChu No.4714; (2019) Hu 01 MinZhong No.14383; (2019) Hu 0115 MinChu No. 88622.

⁴⁹ (2017) Jing 0108 Minchu No.53634; (2017) Yu 05 XingZhong No.351, etc.

⁵⁰ (2017) Jing 0108 Minchu No.53634.

⁵¹ Yan, T., ‘The Concept of Labour Relation: Crisis, Perseverance and Rebirth’ 2018 (6) China Law Review 127.

Generally, courts tend to exercise caution in cases involving on demand work. In most cases, they briefly explain the sensitive issues in a few sentences, and the reasoning part of the judgment does not analyse the relationship between the platform and the worker in any detail.⁵² Given the limited scope of judicial activism in China and the lack of a good fit between the traditional subordination approach and on demand work, it seems unlikely that the courts will begin, of themselves, to treat on demand workers as having labour relationships.

2.3 Temporary measure: local interpretative guidance

To date, there is no government plan to modify the law or establish clear administrative regulations to assist the courts in deciding the legal status of on-demand workers. In light of the challenges involved and the urgent needs for adjudication, some local judiciary bodies and administrative departments have felt compelled to draft their own general interpretative guidance, which is classified as local regulatory documents. While such guidance is not legally binding, it can have a significant impact on judicial decision making.⁵³ Nearly all of the interpretative documents concerning on-demand work express a preference for respecting the terms of the contract for work, while disregarding the potential for sham contracts. In July 2017, for example, Jiangsu Provincial Employment and Personnel Dispute Arbitration Commission issued guidance, which clearly states:

‘If the worker has not entered into a labour contract with the online platform and has signed an agency contract or other type of contract, the legal relationship between the two parties shall generally be determined by their own agreement.’⁵⁴

⁵² Nanjing Intermediate People's Court Civil Fifth Division Research Group, 'Labour Disputes under the Sharing Economy: Difficulties and Solutions' (2020) <http://www.njfy.gov.cn/www/njfy/xwzx_mb_a39200331130480.htm> accessed on 20 October.

⁵³ Shi, L.C., 'The Predicament and Wayout of the Local Interpretative Judicial Documents' (2017) 4 *Journal of South China University of Technology (Social Science Edition)* 69.

⁵⁴ Minutes of the Seminar for Labour and Personnel Disputes Concerning difficult issues in Jiangsu Province (Document No.1 of Jiangsu Provincial Employment and Personnel Dispute Arbitration Commission ,2017).

In July 2018, Guangdong Higher People’s Court and Guangdong Provincial Employment and Personnel Dispute Arbitration Commission jointly issued an Opinion, article 2 of which contained a similar statement:

‘The nature of the labour relationship between an online platform and the relevant workers shall, in principle, be determined by their agreement. If the two parties have a self-financing contractual relationship or have an operating contract or investment contract, which establish a risk-sharing and benefit-sharing distribution mechanism, the employment relationship between the two parties shall not be recognised.’⁵⁵

In 2020, Jiangxi Provincial Higher People’s Court, Jiangxi Province Human Resources and Social Security Department stated:

The platform and workers concerned have a written labour contract and implement it, which can be recognised as a labour relationship; the two sides entered into contracts, such as contracting, leasing, joint venture, with the objective of sharing operational risk, benefit and distribution mechanism; the relationship should be recognised as mutually agreed and should not be recognised as an employment relation.⁵⁶

Given the terms of these local judicial interpretative documents and the limited scope of judicial activism in China, it seems safe to conclude that the 2007 case of *Li Xiangguo v. Beijing Tongcheng Biying Technology Co., Ltd.* was highly exceptional. According to the Report on Legal Research of the Forms of Employment of Food Delivery Platforms published by Beijing Zhicheng Migrant Worker Legal Aid and Research Centre in September 2021,⁵⁷ out of 1907 effective judgments related to the forms of employment of food delivery

⁵⁵ Notice of Guangdong Higher People’s Court and Guangdong Provincial Employment and Personnel Dispute Arbitration Commission on the Opinions on the Interface between Arbitration and Litigation of Labour and Personnel Disputes (Documents No.2 of Guangdong Higher People’s Court, 2018).

⁵⁶ Notice of Jiangxi Provincial Higher People’s Court and Jiangxi Province Human Resources and Social Security Department on Answers to Several Issues Concerning Handling Labour Dispute Cases (Trial Implementation) (Document No.67 of Jiangxi Provincial Higher People’s Court, 2020).

⁵⁷ Beijing Zhicheng Rural Migrant Workers Law Aid and Research Centre, ‘Legal Research Report on the Employment Model of Delivery Platforms’ (2021) <<https://zgnmg.org/wp-content/uploads/2021/09/zhicheng-report-on-food-delivery-workers.pdf>> Accessed February 9, 2023).

platforms, the proportion of cases in which courts recognised the existence of a labour relationship between platforms and riders was only 1%.

2.4 The new development: the third employment category

Probably in response to the growing demand for protection of on-demand workers and the dominant perspective, the Ministry of Human Resources and Social Security, in conjunction with the Supreme Court and other 6 central departments, jointly published the Guiding Opinions on Protecting the Labour Rights and Interests of Workers Employed in Novel Forms in July 2021,⁵⁸ which finally establishes a third employment category⁵⁹ for workers ‘who do not meet the employee status standard but are subject to some degree of control from the enterprise.’ The Guiding Opinions is classified as a departmental regulatory document instead of an administrative regulation, which is not legally binding as stipulated by legislation but plays a significant role in shaping citizens’ rights and obligations in practice.⁶⁰ However, the Opinions do not specify what rights and related standards are available to this category of workers. Although the second part of the Opinions on remedying the shortcomings in the protection of workers’ rights and interests in novel forms of employment includes a list of labour rights, only some of the listed rights: (1) the right to be employed by multiple platforms; (2) the right to guaranteed a minimum wage payment; (3) the right to independent participation in social insurance; (4) the right to participate in occupational injury insurance; (5) the right to democratic consultation on the development of rules and algorithms of platforms, correspond to the third category of workers.⁶¹ In fact, more non-specific language is used in this part, for example, ‘promote the inclusion of this type of worker in the scope of protection of the minimum wage’. To follow up the

⁵⁸ Document No. 56 of the Ministry of Human Resources and Social Security, 2021.

⁵⁹ Scholars hold differing opinions on whether such groups can be classified as a third employment category. Please see Qian, F.Y., ‘Codification of Labour Laws and the Realisation of Rights’ (2021) 5 *Oriental Law* 171; Wang, Y.T., ‘No.56 Document Starts A New Era of Three Categories of Employment’ (China Economy, 2021) <http://views.ce.cn/view/ent/202107/28/t20210728_36756375.shtml> Accessed February 9, 2023; Chang, K., ‘The Nature, Characteristics and Legal Regulations of Platform Work’ (2021) 4 *China Law Review* 31.

⁶⁰ Huang, R.J., ‘The Legal Definition and Effectiveness of Regulatory Documents’ (2014) 7 *Legal Science* 10.

⁶¹ Fan, W., ‘The Incomplete Labour Relationship: Three Unresolved Issues’ (2022) 7 *People’s Judicature* 28.

Opinions, many local Departments of Human Resources and Social Security, in conjunction with the other local supreme courts and departments have issued their own local implementing opinions.

The adoption of departmental regulatory documents or local regulatory documents to address urgent or complex issues in practical adjudication is not a new strategy when laws and administrative regulations fail to provide clear guidance in the field of labour law. The 2005 Notice Concerning Matters Relevant to the Establishment of a Labour Relationship mentioned is one of the best examples. The regulatory document issued by the former Ministry of Labour and Social Security has become the main basis for the courts and Labour Dispute Arbitration Commissions to determine the labour relationship in practice. Regulatory documents have played a critical role in the field of labour law in China and there are more than 800 regulatory documents in force.⁶²

As the Opinions themselves and the local implementing opinions have only recently been issued, it remains to be seen whether they will make a difference in protecting on-demand workers' rights. Perhaps it is not realistic to have excessively high expectations in the near future. Firstly, according to the limited judicial cases which took place after the Opinions was introduced, it appears that the courts have tended to expand the scope of the third category of workers, which has excluded some workers who should have been considered as employees.⁶³ Secondly, as discussed in the later chapters, it will be seen that most of the rights recommended by the Opinions are not what this category of workers really care about. Thirdly, in line with the contemporary goal of promoting employment stability addressed by the government, as discussed in the following section, courts tend to be cautious about imposing additional burdens on enterprises. In December 2022, The Supreme Court issued Opinions on Providing Judicial Services and Guarantees for Stable Employment, which surprisingly emphasises the role of courts in supporting efforts to ensure employment stability. In the part concerning the strengthening of protection of the legal rights and interests of workers in novel forms of employment, it points

⁶² Zheng, C.G., 'It is the Right Time to Codify Labour Laws' (Bjnews,2023) <<https://news.ruc.edu.cn/archives/421274> >Accessed March 10, 2023.

⁶³ Fan, 'The Incomplete Labour Relationship: Three Unresolved Issues' (n 61).

out that ‘it may protect workers who do not meet the employee status standard but are subject to some degree of control from the enterprise’ in accordance with the relevant provisions of Guiding Opinions on Protecting the Labour Rights and Interests of Workers Employed in Novel Forms. The use of the word ‘may’ instead of ‘must’ indicates that courts can exercise discretion to promote employment stability. One improvement in the Opinions in terms of determining the relationship between platform and worker is the suggestion that courts should make a prudent determination on the basis of actual facts of employment and a series of factors instead of merely adhering to the contract terms as stipulated in the local opinions mentioned earlier.

3. The government response to on-demand work

3.1 A novel form of employment and important source of employment

In 2012, following three decades of high growth (average 9.78%) since the opening-up policy began in 1978, the national government officially announced that the Chinese economy had entered a state of ‘new normal’, or ‘economic new normal’. Growth had shifted down a gear, from high speed to medium-to-high speed, and the expectation of an annual rate would be reduced in the 13th Five-Year Plan (2016-2020) to 6.5%. The two engines for high speed growth, demographic dividend and economic globalization, are now in decline. The ‘unlimited’ low-cost labour supply seemed at last to be drying up and China has lost its competitiveness in respect of labour costs relative to ASEAN (Association of South East Asian Nations) countries.⁶⁴ Following the global financial crisis of 2008, foreign demand and investment have weakened.⁶⁵ To meet the ensuing challenges, the Chinese government has embarked on a series of top-down national structural reforms from ‘supply-side’ reforms in 2015, to ‘cutting excessive industrial capacity and de-leveraging’ in 2017. Meanwhile, disagreement between China and WTO members became apparent in 2017 over whether or not China should qualify for WTO membership. Perceptions of a

⁶⁴ Cui, Y. and Lu, C., ‘Are China’s Unit Labour Costs Still Competitive? A Comparison with ASEAN Countries’ (2018) 32(1) Asian-Pacific Economic Literature 59.

⁶⁵ Xu, S.D. in Wu J.L. and others (eds) *China’s New Economic Orientation: How to Get Out of the Growth Dilemma* (CITIC Press Corporation 2017)1–5.

market economy were revealed to diverge as the United States and the European Union took it in turns to formally reject China's market economy status.⁶⁶ In 2018, the China-United States trade war began and at the very end of 2019, the COVID-19 pandemic.

Given the notoriously 'unreliable and inaccurate' nature of official Chinese statistics,⁶⁷ it is difficult to know exactly how hard the job market has been hit by these events. The urban surveyed unemployment rate officially released from 2018 fluctuated around 5% in 2018 and 2019, and a spokesperson from the National Statistics Office reported that 'the employment situation in China remains generally stable'.⁶⁸ It is said, however, that the economy as a whole shrank in the first quarter of 2020, the first contraction since 1992, as production and spending were frozen by the country's lockdown.⁶⁹ The official urban surveyed unemployment rate soared to 6.2% in February 2020, the number of rural migrant workers fell by more than 50 million, the unemployment rate fell to 5.9% in March, still higher than the previous 5%, new urban employment fell 29% in the first quarter, and according to third-party data, hiring demand fell by more than 25%.⁷⁰ The most recent data shows that economic growth turned from negative to positive in the second and third quarters of 2020, the urban surveyed unemployment rate is falling steadily, and the employment situation is generally stable.⁷¹

In contrast to these official figures, a wealth of government documents or policies tell a different story about employment, namely that it has become a sizable and growing challenge in recent years. Back in 2015, Premier Li Keqiang

⁶⁶ Qin, Y., 'The Boundaries of and Responses to China's Economic Internal Circulation' (FT News, 2020) <<https://m.ftchinese.com/story/001088908?archive>>Accessed October 12, 2020.

⁶⁷ Plekhanov, D., 'Quality of China's Official Statistics: A Brief Review of Academic Perspectives' (2017) 35(1) The Copenhagen Journal of Asian Studies 76.

⁶⁸ Zhang, Y., 'The Overall Employment Situation is Stable, and the Expected Employment Goals are Well Achieved' (China Economy, January 19, 2020) <http://www.ce.cn/xwzx/gnsz/gdxw/202001/19/t20200119_34154606.shtml>Accessed October 12, 2020.

⁶⁹ 'China's Virus-hit Economy Shrinks for First Time in Decades' (BBC, 2020) <<https://www.bbc.co.uk/news/business-52319936>>Accessed October 12, 2020.

⁷⁰ Xiong, X. and Z, Z., 'China Employment Report 2020: Preventing Unemployment Wave' (Sina, 2020) <<http://finance.sina.com.cn/zl/china/2020-04-24/zl-iirczymi8049495.shtml>>Accessed October 12, 2020.

⁷¹ National Bureau of Statistics of China, 'Introduces the Performance of the National Economy in the First Three Quarters of 2020' (2020) <<http://www.gov.cn/xinwen/zhibo2/20201019fbh4/index.htm>>Accessed October 29, 2020.

announced ‘mass entrepreneurship and innovation based on the internet+’⁷² in his Government Work Report, characterizing these as a new engine to expand employment given that the employment aggregate pressure still persisted in the economic new normal.⁷³ In 2018, ‘ensuring stability in six areas’ was first proposed at the Central Economic Work Conference, with ‘ensuring stability in employment’ appearing at the top of the list of six issues to be addressed. In the 2019 Government Work Report, the employment-first policy was elevated to the status of a macro policy for the first time, with the aim of increasing society-wide attention and support for employment. In the Meeting of the Standing Committee of the Political Bureau of the Chinese Communist Party in April 2020, ‘ensuring security in six areas’ was proposed, with ‘ensuring security at work’ placed first. During the pandemic, Premier Li Keqiang praised and voiced his support of the ‘street-stall economy’- encouraging people to set up open-air stalls as their full or part-time jobs, creating self-employment to absorb the newly unemployed.⁷⁴ All of this indicates that employment is high up on the government’s policy agenda. In this context, the sharing economy has been welcomed by the government as a means of stimulating employment. Together with the term ‘sharing economy’, the term ‘novel forms of employment’ was mentioned in the Government Work Reports from 2016 to 2019. In late December 2019, the State Council issued Opinions on Further Stabilising Employment, which state: ‘as the risks and challenges at home and abroad increase, the national government has relied heavily on the sharing economy to expand employment and entrepreneurship’. The Premier said: ‘China’s greatest employment potential is embedded in the emergence of novel forms of business, especially in the service sector; there is still plenty of room for employment.’⁷⁵

⁷² ‘China Boosts Mass Entrepreneurship and Innovation’ (2015)

<http://english.www.gov.cn/policies/latest_releases/2015/06/16/content_281475128473681.htm> Accessed October 20, 2020.

⁷³ Ministry of Human Resources and Social Security of China, ‘The State Council Promulgating Employment and Entrepreneurship Policy under the New Circumstances’ (2015)

<<http://www.scio.gov.cn/32344/32345/32347/32797/xgzc32803/Document/1431935/1431935.htm>> Accessed October 20, 2020.

⁷⁴ Zhou, X., ‘China Turns to “Street Vendor Economy” to Help Manage Unemployment Crisis’ (South China Morning Post, 2020) <<https://www.scmp.com/economy/china-economy/article/3087770/china-turns-street-vendor-economy-help-manage-unemployment>> Accessed October 12, 2020.

⁷⁵ Xiao, L.P., ‘The Sharing Economy is Expected to be the Main Driver of Job Expansion’ (Beijing News, 2018) <<http://www.bjnews.com.cn/finance/2018/07/16/495198.html>> Accessed October 20, 2020.

In July 2020, in the aftermath of the COVID-19 lockdown, the State Council emphasised again the importance of ‘bolstering novel forms of employment’.⁷⁶

Initially, in 2015, the government focused on encouraging a culture of entrepreneurship rather than a culture of employment⁷⁷ through the ‘internet+’. More recently, it has emphasised the importance of job creation to mitigate rising unemployment, to some extent regardless of the quality of the jobs. On February 25, 2020, the Ministry of Human Resources and Social Security, in conjunction with the State Administration of Market Regulation and the National Bureau of Statistics, jointly published a list of 16 new professions, which is the second such list released since the 2015 edition of the Occupational Classification System. On-demand delivery riders feature on the list, officially named as *delivery personnel for online orders*,⁷⁸ and this again demonstrates the government’s commitment to promoting this novel form of employment.

Aligning themselves with national government policy, platforms have made bold claims about their capacities to provide jobs. Nearly all the main on-demand platforms have published reports outlining the significant contribution they have made to employment levels. A 2017 Didi Chuxing report stated, for example, that ‘Didi played a role as the reservoir and stabiliser of employment.’⁷⁹ A second Didi report concerned women’s employment on the platform.⁸⁰ Meituan Peisong also claimed to have become a reservoir of employment, playing an effective role in stabilising employment levels during the pandemic.⁸¹ In September 2020, at the initiative of Didi Chuxing and with the participation of a number of digital economy platforms, the ‘New Economy and New Employment Promotion Alliance’ was established, which, guided by the government’s

⁷⁶ Opinions on Supporting Flexible Employment through Multiple Channels (Document No. 27 of the General Office of the State Council, 2020).

⁷⁷ Lee, C.K., ‘China’s Precariats’ (2019) 16 (2) Globalizations 137.

⁷⁸ ‘The Ministry of Human Resources and Social Affairs Intends to Release 16 New Occupations: Delivery Personnel for Online Orders, Artificial Intelligence Trainer, etc.’ (The Paper, 2020) <https://www.thepaper.cn/newsDetail_forward_5415474> Accessed October 20, 2020.

⁷⁹ Didi Research, ‘New Economy New Employment: 2017 Employment Reports on Didi Platform’ (n 16).

⁸⁰ Didi Research, ‘Technology Advancement and Women’s Development: Women’s New Employment Report on Didi 2019’ (n 15).

⁸¹ Meituan Research, ‘Meituan Delivery Riders’ Employment Report During Covid 19 Pandemic from 2019-2020’ (2020) <<https://about.meituan.com/news/institute>> Accessed: October 15, 2020.

employment promotion policy, aims to help more workers to earn an income via apps.⁸²

Since March 2022, the importance of the platform economy in stabilising growth and employment has been re-emphasised as the massive nationwide COVID-19 lockdowns have led to increased downward pressure on the domestic economy. The State Council issued the Notice on the Package of Solid Economic Stabilisation Policies and Measures in May 2022, which specifies that ‘full play should be given to the stabilising role of the platform economy in employment and the development expectations of platform enterprises and their symbiotic small and medium-sized enterprises should be stabilised’.

3.2 On-demand workers’ rights

In contrast to the emphasis given in government documents and policies to the platforms’ role in the growth of employment, on-demand workers’ rights have been rather less prominent. National and local government have never had motions to discuss or recognise that there is a labour relationship between platforms and workers. More attention has been paid to the apparently more pressing issue of on-demand worker’s accident insurance. Traffic accidents are the greatest risk posed to on-demand workers,⁸³ but the current work-related injury insurance is contingent on the existence of a labour relationship. In 2017, the National Development and Reform Commission and seven other government authorities issued guidance, which specifically mentioned the need to ‘study measures for social insurance participation and payment for those flexibly employed in the sharing economy, and effectively strengthen the protection of workers’ rights and interests.’⁸⁴ In 2019, the General Office of the State Council published an Opinion, which stated its intention ‘to protect the rights and interests of workers engaged in the platform economy, specifically to study and

⁸² ‘Didi and Other Platforms Establish “New Economy and New Employment Promotion Alliance” to Empower Employment with Technology’ (Sohu, 2020) <https://www.sohu.com/a/420605573_362042> Accessed October 15, 2020.

⁸³ Dong, L., ‘The Institute of Law of Chinese Academy of Social Sciences: Traffic Accidents are the Greatest Risk Posed to On-demand Employment’ (Ycwb, 2020) <http://news.ycwb.com/2020-06/08/content_870886.htm> Accessed October 15, 2020.

⁸⁴ Guiding Opinions on Promoting the Development of the Sharing Economy (Document No.1245 of the Department of Technology of the National Development and Reform Commission,2017).

improve social security policies for workers engaged in platform employment, and launch a pilot project on occupational injury protection'.⁸⁵ The China No.1 Central Document of 2020 again addressed the need to 'launch a pilot project on occupational injury protection for workers in new types and new models of businesses.'⁸⁶ Clearly, the priority of government is to establish an occupational injury system, considered as a novel form of social insurance tailored to on-demand workers. Some cities or districts have begun to launch experimental insurance schemes.⁸⁷ For the most part, these are not compulsory, and the amount of compensation and allowances awarded are not high; however, these are early days and the effects remain to be observed over the course of the next few years.

Regarding the additional basic labour rights of on-demand workers, including working time, sick leave and so on, though both national and local government have mentioned the need 'to protect workers' legal rights', they have been reluctant to specify which rights should be protected and how. In the opinions issued in July 2020, the national government expressed for the first time the need to:

Study and formulate policies on platform employment and labour security, clarifying the responsibilities of platforms in the protection of workers' rights and interests, guide and affiliate platforms to negotiate with workers on matters such as labour remuneration, rest and leave, and occupational safety and security, and guide industrial (industry and local) trade unions to negotiate with industry associations or representatives of industrial enterprises to formulate industry norms on labour quotas, working-hour standards, rewards and punishments.⁸⁸

⁸⁵ Guiding Opinions on Promoting the Well-regulated and Sound Development of the Platform Economy (Document No.38 of the General Office of the State Council, 2019).

⁸⁶ Opinions on Focusing on Priorities in Areas of "Agriculture, Rural Areas and Farmers" to Secure the Success in Realizing Moderate Prosperity in All Respects as Scheduled (Document No.1 of the CPC Central Committee and the State Council, 2020)

⁸⁷ Chen, L., 'A National Occupational Injury Protection System Needs to Be Established Urgently' (Legal Daily, 2020) <http://www.legaldaily.com.cn/index/content/2020-02/19/content_8120947.htm> Accessed October 15, 2020.

⁸⁸ Opinions on Supporting Flexible Employment through Multiple Channels (Document No. 27 of the General Office of the State Council, 2020).

It can be inferred from this statement that the national government intends to delegate decision making in this context to negotiations between trade unions and platforms. There have been a small number of local regulations or policy documents pronouncing on the rights of on-demand workers, including, for example, the Opinions issued by the Department of Human Resources and Social Security of Zhejiang Province in December 2019.⁸⁹ This mentioned that in respect of working hours,

New types and new models of businesses, and workers may reach agreement through negotiation, and may specify rest and leave or economic compensation methods in the labour contract or other types of agreement, and may implement a special working-hour system in accordance with the actual production situation upon approval by the local human resources and social security department.

The Opinions issued by Shenyang Municipal Bureau of Human Resources and Social Security in 2020 is worded in nearly identical terms.⁹⁰ The basic message of these opinions was essentially the same as that contained in the recent opinion of the national government. The question arises, and is addressed in the next section, of how on-demand workers and others in ‘novel forms of employment’, with only weak trade union support, could possibly build sufficient bargaining power to negotiate with the giant monopoly platforms.

The most recent development, the Guiding Opinions on Protecting the Labour Rights and Interests of Workers Employed in Novel Forms issued in July 2021. While the document innovatively creates a third category of employment and mentions some relevant rights discussed in section 2.4, whether and how it would be implemented is questionable, especially considering the current pressing issue of stabilising employment.

⁸⁹ Guiding Opinions on the Optimization of Employment Service of New Types and New Models of Businesses (Document No.63 of Zhejiang Province Human Resources and Social Security Department, 2019).

⁹⁰ Guiding Opinions on the Optimization of Flexible Employment Service in New Industries (Document No.33 of Shenyang Municipal Bureau of Human Resources and Social Security, 2020).

3.3 Soft administrative measures

Rather than resorting to mandatory administrative measures, governments tend to adopt softer measures to deal with issues arising from the emergence of new platforms. The most common measures used by state and local governments to regulate are administrative regulatory talk and administrative guidance. Both the administrative regulatory talk and administrative guidance are non-compulsory. They seek to guide or assist the concerned parties' behaviour through suggestion, advice, instruction, reminder, encouragement and so on, although they have not been stipulated in detail in statutes or regulations and their nature remains debatable.⁹¹ Over the years, state and local governments have held many regulatory talks or meetings with on-demand platforms relating to the protection of workers' rights and interests and other issues. For example, car-hailing platforms have been summoned by state or local transportation departments for regulatory talks more than 20 times in 2022 alone.⁹² In September 2021, the Ministry of Human Resources and Social Security, along with the All-China Federation of Trade Unions and other state administrative departments, held a joint administrative guidance meeting with the aim of protecting the labour rights and interests of workers from ten leading platform enterprises, including Meituan, Ele.me, Didi, and Dada.⁹³

The reason why the administrative departments choose to use these soft measures to a large extent is that they serve as temporary measures during the transitional phase. Their regulatory capacity to deal with new tasks and challenges that completely exceed the coverage of current regulations is insufficient.⁹⁴ Assessing the effectiveness of these measures is difficult, as they

⁹¹ Wu, H., 'The Nature of Administrative Guidance and its Legal Control' (2001) 2 *Administrative Law Review* 45; Ran, Y.Y., 'How to Regulate Administrative Regulatory Talk?' (2017) 5 *People's Tribune* 108; Wang, H., 'Administrative Regulatory Talk in Risk Society: Response, Reflection and Improvement' (2018) 35(1) *Studies in Law and Business* 22.

⁹² Ma, X., 'Gaode and Other Platforms have been Summoned to Talk for 22 Times' (China Economy, 2022) <http://finance.ce.cn/stock/gsgdbd/202208/25/t20220825_38057130.shtml> Accessed February 2, 2023.

⁹³ Han, L.Z., '4 Departments to Guide the Leading Platforms to Protect Workers Involved in Novel Forms of Employment' (Yicai, 2021) <<https://m.yicai.com/news/101169924.html>> Accessed: February 3, 2023.

⁹⁴ Zhou, X., 'Meituan Data Are Not Credible, Riders Really Earn Less Than City Minimum Wage' (Guancha, 2020) <https://www.guancha.cn/zhouxiang/2020_09_16_565266.shtml> Accessed October 9, 2020.

often lack remedies and tend to focus on specific questions rather than overall planning, which could undermine their credibility.

4. Trade Union Response

According to the terms of the Trade Union Law:

All workers doing physical or mental work in enterprises, public institutions and government organs within the Chinese territory who earn their living primarily from wages shall have the right to participate in and form trade union organisations.

This widely worded provision can be interpreted as extending the right of freedom of association to workers who do not fall within the category ‘employees’. The rationale here may be that trade union membership is not tied to the status of employee but rather to wage income that is the main source of livelihood, and wage income is not confined to wages paid under a labour contract. The income that on-demand workers earn from platforms can be considered a wage.⁹⁵ Some legal scholars have argued that the criteria of ‘wage income’ is not clear and that the legitimacy of on-demand workers’ participation in trade unions is therefore debatable.⁹⁶ However, the official All-China Federation of Trade Unions (ACFTU), the only lawful trade union in China, has in practice opened the door to those workers whose wage incomes are not earned under an employment contract.

4.1 Trade unions emerging for on-demand workers

In March 2018, ACFTU launched a pilot campaign aimed at promoting the membership of workers in the new industries, novel forms of business and new models of employment, specifically workers in the so-called ‘eight major groups’: truck drivers, couriers, nursing staff, domestic workers, security guards,

⁹⁵ Wang, X.Q. and Wang, Q., ‘Recognition of Labour Relationship and Protection of on-Demand Workers in China’ (2018) 4 Law Science 57.

⁹⁶ Ban, H.X., ‘Beyond Labour Relation: The Expansion and Path of Collective Labour Rights under Platform Economy’ (2020) 8 Law Science 160.

online food delivery couriers, sales and real estate agents.⁹⁷ The goal of the campaign is to recruit flexibly employed workers who tend not to have labour contracts. While food delivery couriers are included in the ‘eight major groups’, car-hailing drivers and other on-demand workers are not. Some local trade unions have interpreted the groups very narrowly or rigidly, so that, for example, some on-demand delivery workers employed in logistics and express delivery were refused membership of a trade union because ‘they are technically part of the transportation sector, and not part of the ‘eight groups’ specified by ACFTU’.⁹⁸

In any case, ACFTU has demonstrated its welcoming attitude towards these flexibly employed workers. However, its efforts to organise such workers are still at a very early stage. As it stated in the regular press conference in the first quarter of 2019:

The main plans of ACFTU for workers in new industries and new business forms this year is comprised of four elements. The first is to effectively organise the workers and let them join the union as soon as possible to give them a sense of belonging. The second, very important, is to actively investigate and research the possibility of including these workers under the protection of our relevant legal system. The third is to provide accurate assistance services to the workers. The fourth is to strengthen ideological guidance, strengthen education, and build our new working-class so that they can play their role in society.⁹⁹

In January 2018, prior to the ACFTU pilot, the first trade union federation for the online food delivery industry was established in the Putuo District of Shanghai. This federation includes 5 online delivery riders’ allied unions and

⁹⁷ Wang, Q.J., ‘The ACFTU will Push Forward the Unionization of Eight Major Groups’ (People Daily, 2018) <<http://politics.people.com.cn/n1/2018/0411/c1001-29917885.html> >Accessed September 15, 2020.

⁹⁸ China Labour Bulletin, ‘Dianwada Riders’ Strike’ (2019) <<https://clb.org.hk/zh-hans/content/%E5%B1%B1%E4%B8%9C-%E7%AC%AC58%E4%B8%AA%E6%A1%88%E4%BE%8B%EF%BC%9A%E5%A8%81%E6%B5%B7%E7%82%B9%E6%88%91%E8%BE%BE%E9%AA%91%E6%89%8B%E7%BD%A2%E5%B7%A5>>Accessed October 20, 2020.

⁹⁹ ACFTU, ‘The ACFTU’s First Quarter Press Conference (2019) <http://www.acftu.org/template/10041/news_file.jsp?aid=97870 >Accessed: October 20, 2020.

more than 400 members. However, the membership is made up of riders from third-party distribution companies (agencies), rather than on-demand workers.¹⁰⁰ In September 2019, the first collective agreement for the online food delivery industry was reportedly signed by representatives from Bengbu delivery riders' trade union and three food delivery distribution companies in Bengbu City, but again the members were from the distribution companies.¹⁰¹ It seems that the newly established online food delivery trade unions primarily recruit agency riders rather than on-demand workers.¹⁰² These newly established trade unions follow the traditional model of establishing unit or firm-based unions, with the units for the online food delivery industry being platform headquarters or food delivery sites or distribution companies. Whether on-demand riders have been approached or recruited by these unions is not known. The most recent documents from the Shanghai Federation of Trade Unions, in July 2020, show that it has been conducting a pilot membership recruitment activity to establish industrial trade unions which can recruit workers from informal employment and non-standard employment who are not already members of any trade union.¹⁰³

In July 2021, ACFTU issued the Opinions on Effectively Safeguarding the Labour Rights of Workers in Novel Forms of Employment, which primarily focuses on promoting the establishment of trade unions, recruitment of members, and collective negotiation as key measures to protect workers in the novel forms of employment. In September 2021, ACFTU issued the Several Opinions (Trial Implementation) on Promoting the Recruitment of Workers in Novel Forms of Employment into Trade Unions. The second part of the Opinions specifies the pathway for workers in novel forms of employment to join a trade union. This pathway is in addition to the traditional method of joining a union offered by

¹⁰⁰ Wei, W., 'The First National Trade Union Federation for the Online Food Delivery Industry was Established in Shanghai' (China News, 2018) <<http://www.chinanews.com/sh/2018/01-04/8416637.shtml>> Accessed October 20, 2020.

¹⁰¹ Chen, Y.C., 'The Nation's First Collective Agreement for the Online Food Delivery Industry was Signed' (Beijing News, 2019) <<http://www.bbnews.cn/p/4532.html>> Accessed October 15, 2020.

¹⁰² T, L.Q., 'The First Trade Union Federation for the Online Food Delivery Industry was Established in Tianmen' (Hubei Daily News, 2018) <http://m.xinhuanet.com/hb/2018-07/17/c_1123136197.htm> Accessed: October 15, 2020); Zhou, C., 'The First Trade Union for Instant Delivery Riders was Established in Guangzhou' (YCWB, 2019) <http://news.ycwb.com/2019-01/09/content_30172276.htm> Accessed October 20, 2020.

¹⁰³ 'Shanghai Federation of Trade Unions Response to Proposal No. 0922 of the Eleventh Third Session of Shanghai's Political Consultative Conference' (2020) <<http://zwzx.eastday.com/zgh/2020091512.pdf>> Accessed October 20, 2020.

their employers. Workers who do not meet the standard employee status, as well as individuals who conduct business activities independently through platforms, may join trade unions outside of the platforms. Furthermore, unions within the platforms are encouraged to recruit these workers into their membership. In January 2023, ACFTU issued a Notice on Promoting the Establishment of the Mechanism for Negotiation and Mediation of the Rights and Interests of Workers in the Novel Forms of Employment, which focuses on establishing a mechanism for negotiation and mediation between workers and 12 leading platforms.

4.2 Limitations of existing union rights for on-demand workers

It appears that ACFTU has prioritised the recruitment of workers in the novel forms of employment into trade unions. A more fundamental problem relating to on-demand workers' participation in trade unions, concerns the role and position of trade unions in general in China, and their ability to promote on-demand workers' interests once those workers have been organised. Two related concerns arise: The first is that workers have no right to organise their own independent unions. The collective representation of workers is the sole province of ACFTU and its affiliates, whose officials are appointed by and directly accountable to the governing Chinese Communist Party (CCP).¹⁰⁴ ACFTU has rarely been a staunch advocate for workers' interests, rather it has traditionally seen itself as a servant of the CCP, a so-called 'mass organisation' dedicated to ensuring harmonious labour relations and smooth economic development for the benefit of everyone.¹⁰⁵ We might go so far as to say that ACFTU is not truly a trade union but rather an organ of the state.¹⁰⁶

The second concern is that the right to strike and its legal consequences are not clearly recognised under Chinese law. China revised its Constitution and abolished the right to strike in 1982, and the new Labour Law and Trade Union Law do not explicitly permit strike action. The Trade Union Law refers only to

¹⁰⁴ Estlund, C., 'China's Complicated Relationship with Workers' Rights' (n 34).

¹⁰⁵ 'CLB Conducts an In-depth Investigation into the All-China Federation of Trade Union's Reform Initiative' (China Labour Bulletin, 2020) < <https://clb.org.hk/content/holding-china%E2%80%99s-trade-unions-account> > Accessed October 20, 2020.

¹⁰⁶ Taylor, B. and Li, Q., 'Is the ACFTU A Union and does It Matter?' (2007) 49(5) Journal of Industrial Relations 701.

‘stop work or slow down measures’. In the vast majority of cases concerning industrial action, the courts have characterized strikes as unlawful violations of the employer’s rules and regulations.¹⁰⁷ Even if strikes are still a grey-zone or even unlawful, however, rising labour unrest in the late 2010s pushed ACFTU and its affiliates to make some reforms, especially in the southern and eastern areas, to improve trade union elections and internal democracy,¹⁰⁸ or to establish sectoral-level negotiation.¹⁰⁹ Sectoral-level negotiations are dependent on external economic conditions,¹¹⁰ however, and trade elections have been indirect and only quasi-democratic in nature.¹¹¹

While workers’ trade union consciousness has grown, and some limited reforms have been implemented in particular regions, the much more significant matters of the party-led leadership of ACFTU and the right to strike remain unresolved. Rather than organizing collective action or taking other substantial steps in furtherance of the members’ interests, trade unions use their resources to engage in a wide variety of side line activities like poverty alleviation and educational and training programs. ACFTU’s work plan for workers in the new industries and new business forms, referenced above, tells the same story. Even though, by April 2016, 2.829 million affiliated trade unions had reportedly been established nationwide, covering 302 million employee members,¹¹² and even though, by August 2020, ACFTU had recruited 6.547 new million members from the ‘eight major groups’.¹¹³ As my fieldwork has shown, however, union coverage is still far from reaching on-demand workers.

¹⁰⁷ Wang, Y.T., ‘The Judicial Logic of Workers’ Collective Action Governance-Based on 308 Published Strike Case Decisions from 2008-2014’ (2015) 122(2) *Law and Social Development* 178.

¹⁰⁸ Hui, E.S.I. and Chan, C.K.C., ‘Beyond the Union-Centred Approach: A Critical Evaluation of Recent Trade Union Elections in China’ (2015) 53(3) *British Journal of Industrial Relations* 601.

¹⁰⁹ Friedman, E.D., ‘Economic Development and Sectoral Unions in China’ (2014) 67(2) *Industrial and Labour Relations Review* 481.

¹¹⁰ Hui, E.S.I. and Chan, C.K.C., ‘Beyond the Union-Centred Approach: A Critical Evaluation of Recent Trade Union Elections in China’ (n 108).

¹¹¹ Friedman, E.D., ‘Economic Development and Sectoral Unions in China’ (n 109).

¹¹² Yan, Y. and Tai, H., ‘2.829 Million Affiliated Trade Unions Have Been Established Nationwide, Covering 302 Million Members’ (People’s Daily Online, 2017) <<http://acftu.people.com.cn/n1/2017/0410/c197470-29200210.html>> Accessed October 25, 2020.

¹¹³ Hao, H., ‘ACFTU Has Recruited 6.547 New Million Members from the “Eight Major Groups”’. (Workers’ Daily, 2020) <<http://cpc.people.com.cn/n1/2020/0828/c432352-31840620.html>> Accessed October 25, 2020.

Even if on-demand workers unionise in large numbers, the question remains: what kind of role can trade unions play in improving the working terms and conditions of on-demand workers? It seems unlikely, given the current political and legal context, that the trade unions will organise collective action in furtherance of their interests. What is perhaps more likely is that ACTFU and local trade unions may assist the workers to submit proposals or motions to the national and local governments. During the municipal ‘two sessions’¹¹⁴ in Shanghai, in January 2020, for example, the Shanghai Federation of Trade Unions submitted a proposal ‘Promoting the Establishment of an Employment Security System for Flexible Employment Groups’, including delivery riders, on-demand drivers and couriers etc.¹¹⁵ In addition, it is possible that ACTFU and its affiliates could act to negotiate collective agreements with platforms or otherwise help on-demand workers to communicate with the platforms, which is currently still in the initial stage.

Conclusion

On-demand platforms have already absorbed a significant proportion of the employed population in China and look set to continue to expand. On-demand workers are subject to poor, unsafe and degrading working conditions and, being defined in almost all cases as self-employed, are without legal rights. The legal regulation of on-demand work is primarily by regulatory documents which should not be legally binding. The agreement of parties in the judicial and arbitration system to accord respect to the terms of the workers’ contracts for work reinforces their hardship. The recent establishment of a third category of employment for workers who do not meet the employee status standard but are subject to some degree of control from the enterprise is innovative, but what rights and related standards are available to this category of workers is not yet

¹¹⁴ The annual plenary sessions of the provincial People’s Congress and provincial Political Consultative conference that make provincial-level political decisions.

¹¹⁵ Ge, J.J. and Han, Q. (eds), ‘Targeting Online Taxi Drivers and Delivery Riders, Shanghai Federation of Trade Unions’ Proposal: Pay Attention to the Legitimate Rights and Interests of Flexible Employment Groups’ (People’s Daily Online ,2020)
<<http://sh.people.com.cn/n2/2020/0114/c134768-33716827.html> >Accessed October 20, 2020.

clearly defined; moreover, it may not be explained correctly due to the pressure of stabilising employment.

The government regards on-demand work as an important source of employment and has mainly adopted soft administrative measures such as administrative regulatory talks and administrative guidance to address issues arising from the platform economy. Although minimum wages or rest periods have been introduced, the priority at national and regional levels is to improve the situation of on-demand workers concerns relating to occupational injury insurance.

Given the limited and compromised nature of trade unions in China, on-demand workers cannot rely on trade unions to force regulatory reforms or the redefinition of their legal status. While the self-regulatory initiatives of the platforms, such as Didi's anti-fatigue driving rules, signal a measure of willingness to take greater account of the interests of others, especially customers, they also seem unlikely to develop in the direction of protecting workers' rights and interests.¹¹⁶ Under these conditions, as the main actor in the on-demand economy, the on-demand workers' responses and choices are crucial. Have they acted, to date, like passive entities subject to the digital 'panopticon'?¹¹⁷ Or, to the contrary, have they already taken action themselves, individually or even further collectively, to fight for their rights?

¹¹⁶ Jiang, Q.H. and Wang, H., 'China's Regulatory Approach to the Sharing Economy: A Perspective on Ride-Hailing' (2020) 1 *Journal of Law, Technology & Policy* 85.

¹¹⁷ Foucault, M., *Discipline and Punish: The birth of the Prison* (Vintage Books, 1995).

Chapter 2 Theoretical Framework and Methodology

Introduction

Before turning to Chapter 3, in which I provide a more detailed description of the working lives of on-demand delivery riders, this chapter presents the theoretical framework and methodology employed in subsequent chapters. Firstly, I wish to explain why I use an economic sociology of labour law approach to study on-demand workers' struggles and resistance, comparing this to the limits of the dominant *Rechtsdogmatik* approach to labour law scholarship in China. Then I shall describe the design and methodology of the qualitative research in detail. In the final section, I shall introduce how the data has been interpreted through thematic analysis.

1. What is the economic sociology of labour law?

1.1 The dominant research methodology in Chinese labour law scholarship

After over 20 years of recovery and reconstruction of Chinese legal scholarship since the end of the Cultural Revolution, an influential jurisprudence scholar concluded in 2001 that three research paradigms developed successively in the study of law: jurisprudence of political science and law (*zhengfa faxue*), interpretations of law (*quanshi faxue*), and social science of law (*sheke xuepai*).¹¹⁸ The jurisprudence of political science and law, which began to develop in 1978 and flourished throughout the 1980s, justified the legitimacy and legality of law as an independent discipline from the perspective of political science since law has long been subordinate to politics/government in China. Interpretations of law have focused on legal provisions and concepts, which is equivalent to *Rechtsdogmatik* (black-letter).¹¹⁹ The social science of law has attempted to explore the socio-historical basis behind the law and the actual operation of law in Chinese society and what conditions constitute the operation from

¹¹⁸ Su, L., 'It was Happening - an Overview of the Development of Contemporary Chinese law' (2011) 3 Comparative Jurisprudence 1.

¹¹⁹ *Rechtsdogmatik* has been introduced in Chinese law since 2013-14 and has replaced other similar terms. See Lei, L., 'Rechtsdogmatik: Reflections on Ten Sets of Questions' (2021) 2 Social Science Research 9.

interdisciplinary studies. It was predicted that the latter two would play leading roles in the future of Chinese legal scholarship and that the paradigm of social science of law would hold a rather important place in China, possibly even more important than the similar one in Europe and the United States. Almost 20 years later, though the size and fields of social science of law have been expanding, the prediction seems too optimistic compared to the prosperous development of the *Rechtsdogmatik* paradigm, with the increasing number of scholars returning from study in Germany or influenced by the German legal tradition.¹²⁰ Since 2014, there have been considerable academic debates in Chinese legal scholarship between social science of law and *Rechtsdogmatik* within the jurisprudence community and with scholars from other legal disciplines involved to varying degrees.¹²¹ However, the debates have not received much attention from Chinese labour law scholars, who have been influenced dominantly by *Rechtsdogmatik*. Labour scholars tend to interpret and analyse the normative rules and principles within the closed system of law. It is hard to see any research conducted not by *Rechtsdogmatik* from the mainstream labour law scholarship.

1.2 The limits of *Rechtsdogmatik* to tackle on-demand work

Chinese labour law scholarship has not experienced a crisis or decline in Chinese labour law compared to its counterparts in most of the western world, as the concepts and paradigms developed during the Fordist era have become increasingly ill-suited to capturing the realities of post-Fordist working relations.¹²² On the contrary, the labour law scholarship in China has been flourishing in recent years since the passage of the Labour Law in 1994 and later more critical labour legislation enacted in 2008.¹²³ Another possible reason why Chinese labour law has not been facing a crisis is that collective labour law, a fundamental aspect of Western labour law, has never been the primary focus in

¹²⁰ Hou, M., 'The Tradition and Challenges of Social Sciences of Law'(2014) 5 *Studies in Law and Business* 74.

¹²¹ Hou, M., 'Research Pattern of Law and Social Sciences: from Division to Integration' (2017) 2 *Legal Science* 80.

¹²² Dukes, R., 'The Economic Sociology of Labour Law' (2019) 46(3) *Journal of Law and Society* 396.

¹²³ Liu, B.X. and others, 'A 70-Year Review of China's Labour Relations Research and Its Prospect' (2020) 34(2) *Journal of China University of Labour Relations*.

China. Nevertheless, more and more non-traditional employment relationships characterised by flexibility, temporality, instability, and insecurity have been appearing in China just as in other parts of the world. Furthermore, the Chinese labour law scholars have noticed that it is these non-traditional relationships which are challenging the current structure of labour law, which is based on the Fordist model of employment. On-demand work, a typical example of post-Fordist working relations, has prompted a flurry of attention from Chinese labour scholars. As myriad papers were presented and discussed in recent years, the main opinion holds that the existing labour law framework and theories are not outdated but are flexible and adaptive to the new challenge.¹²⁴ Therefore, labour scholars have tried to interpret the purported novelty of on-demand work within the traditional framework from the paradigm of *Rechtsdogmatik*, either improving the standards of labour relations or absorbing the intermediate employment category.

Whether these legal suggestions or interpretations can tackle the new issues created by on-demand work, which has distinctive features that differ from the Fordist model, and whether they meet on-demand workers' realistic needs, may be doubted. In particular three main issues arise. First, labour laws only cover a small number of workers in China, only 16.8% of the employed population is protected by labour laws based on different official statistics¹²⁵. The narrow coverage of labour laws leads to some key questions: whether the exiting framework of labour laws is really fit for purpose and can they provide effective solutions to the new work model? Secondly, the state-initiated labour laws have not been implemented/enforced very well in practice;¹²⁶ in particular workers in labour-intensive industries have not obtained enough protection.¹²⁷ Given that on-demand work is also a labour-intensive industry, it is questionable whether these proposals, established on the basis of existing labour law, can reasonably and feasibly address the issues. Lastly, the fact that many employees in the

¹²⁴ Xie, 'Determination of Labour Relations of Online Platform Work' (n 50); Wang, X.Q, 'Preliminary Thoughts on Forms of Employment and Labour Relations Issues in the Context of "Internet Plus"' (2017) 8 China Labour 7.

¹²⁵ Huang, Z.Z., 'Reidentifying the Chinese Working People: Historical Evolution of Labour Regulations and Contemporary Informal Economy, (2013) 5 Open Times 56.

¹²⁶ Lee, 'Precarisation or Empowerment? Reflections on Recent Labour Unrest in China' (n2).

¹²⁷ Qu, B.X., 'Has China's Labour Contract Law Worked? Evidence from China Employer-Employee Survey' (2017) 5(5) Studies in Labour Economics 82.

manufacturing industry, usually under labour law protection, voluntarily choose on-demand work with zero protection.¹²⁸ If it is the case that factory workers voluntarily give up labour law protection, can these proposals or interpretations from the perspective of labour law provisions still be meaningful to on-demand workers?

All three issues, which demonstrate the underlying conflicts between labour law legislation and the new work model, probably firmly link to broader and more complicated social, economic and legal aspects, rather than just the labour law provisions. Social necessities and social opinion are more or less in advance of the law.¹²⁹ Does the ‘law in the books’, which *Rechtsdogmatik* endorses, work effectively for the new types of working relation? Is this the best way to tackle the reality of on-demand work?

1.3 On-demand work and the economic sociology of labour law approach

With these questions in mind, I wrote a research proposal aiming to find the real rights and needs of on-demand workers by means of empirical research supported by a grant from the Humanities and Social Sciences Foundation of the Ministry of Education of China in 2016. This was at the beginning of the rapid growth in the platform economy. As I had become used to the *Rechtsdogmatik* approach, I didn’t fully realise that I was proposing a methodological shift until I read about the economic sociology of labour law approach as expounded by Ruth Dukes.¹³⁰

Building on the economic sociology of law, the economic sociology of labour law proposes that analysis begins with the contract for work as the primary legal institution in the world of work and systems of labour law. The contracting behaviour ought to be conceived of as, at once, economic, social and legal: as social behaviour that is likely economically motivated but influenced too and

¹²⁸ Zhan, J., Li, R.Y. and Meng, D.X., ‘Why do Young People Prefer Delivering the Take-out to Going to Factories? -Study on the Total Compensation System of New Generation Manufacturing Workers in China’ (2019) 13(1) Journal of Beijing Vocational College of Labour and Social Security 20.

¹²⁹ Maine, H.S., *Ancient law* (Gaunt, Incorporated 1998) 20.

¹³⁰ Dukes, ‘The Economic Sociology of Labour Law’ (n 122).

perhaps to a very significant degree - by actors' perceptions of the applicable rules, social norms, and shared understandings of what is standard or fair or reasonable practice in the specific context. I was excited to find that the proposed approach aligned closely with my own ideas about how best to approach my research on the new working relations in China. The focus of the economic sociology of labour law is the contract for work, and the process of contracting for work was considered as a form of private ordering instead of the collective labour institutions which labour law is mainly concerned with.¹³¹ What features of the working relations in China, even contracts of employment, can be considered as a complete private ordering because of the formalised and superficial collective bargaining¹³². Under the weak or default non-trade union conditions, the Rechtsdogmatik discussions based on the state-initiated labour laws have ignored the aspect of actual private order of working relations and actors' individual calculations. The actors, especially workers, in on-demand economy, are not the formalised legal person in the book who are just passive to accept the contract arrangements, waiting only for help from the government and academics; rather, they are participants who make rational choices based on their economic, social and legal context restrictions. The phenomenon of factory employees, who chose to be delivery riders without labour law protection rather than staying in work in a factory under the labour law protection, is a very good example of how some workers seek autonomy.

During the fieldwork for the Ministry of Education project in Beijing, Shanghai and Hangzhou, I gained insight into the poor working conditions of on-demand delivery riders, and along with the delayed responses both governmental and legal, I began to think about how delivery riders fight for their rights and interests in their own way. In particular, I asked myself, what kinds of assistance or restrictions in their struggles and resistance is provided by the existing labour laws and by the economic and social situation in which they find themselves. This is a topic that had not yet received much academic attention.¹³³ More

¹³¹ Ibid.

¹³² Ding, A.J., 'Analysis Workers' Collective Rights Defense' (2011) 25(4) Contemporary Law Review 124.

¹³³ The limited direct research on riders' struggles and resistance have mainly been analysed from the algorithm-mediated labour. Sun, P., 'Your Order, Their Labour: An Exploration of

detailed and fundamental questions can be further discussed from the point of view of the economic sociology of labour law as follows: why do workers choose on-demand work when there is clear evidence of the poor working conditions and absence of protection from labour law? How are workers' choices of struggles and resistance perceived, shaped and restricted within their particular economic, social and legal context? Moreover, what kind of labour rights do they need in practice? None of these questions can be answered by relying on *Rechtsdogmatik*. How workers' choices are shaped and constrained by the existing labour laws in a broader social and economic context became the main focus of my research.

Given the nature of my research questions and chosen economic sociology of labour law approach, it was clear that empirical research (not much used by Chinese scholars of labour law) would be central to my project. More specially, qualitative methods designed to answer questions about experience, meaning and perspective, most often from the standpoint of the participant¹³⁴ would be used. Qualitative methods can be helpful in exploring the experiences and perspectives of on-demand workers within specific legal, social, and economic contexts. They can help bridge the gap between how law operates in practice and how law is interpreted 'in the books' and provide a nuanced understanding of how on-demand workers navigate their rights and interests in the face of existing legislative, social, and economic constraints or support.

2. Research design, research questions and outline of fieldwork

2.1 Research design and research questions

This thesis examines workers' spontaneous struggles and resistance in the on-demand economy by drawing on original qualitative research carried out

Algorithms and Labouring on Food Delivery Platforms in China' (2019) 12 Chinese Journal of Communication 30; Lei, Y.W., 'Delivering Solidarity: Platform Architecture and Collective Contention in China's Platform Economy' (2021) 86(2) American Sociological Review 279; Liu, C and Friedman, E., 'Resistance under the Radar: Organisation of Work and Collective Action in China's Food Delivery Industry' (2021) 86(1) The China Journal 68.

¹³⁴ Hammarberg, K., Kirkman, M. and De Lacey, S, 'Qualitative Research Methods: When to Use Them and How to Judge Them' (2016) 31(3) Human Reproduction 498.

between April and July of 2021, involving 60 food delivery riders from two Chinese different cities, Hangzhou and Changsha. The reasons that food delivery riders rather than other on-demand workers are my targeted participants is that they are a significant group for observing and interpreting the legal protection of on-demand work. Considering car-hailing drivers, the largest group of on-demand employment in China, for comparison: firstly, the entry requirements to be a delivery rider are lower both in terms of financial and skill requirements; a driving license is the minimum requirement to be a car-hailing driver and most drivers own a car. In contrast, anyone who wants to be a delivery rider only needs an electric scooter (or they can rent it) and a smartphone, and this low threshold attracts the less competitive groups in the job market. Currently, the number of delivery riders exceeds nearly 7 million, based on Table 1 in Chapter 1, making them the second largest group of on-demand workers. Their extensive involvement and depth of experience in on-demand work can provide a comprehensive picture of this form of employment. Second, riders are probably the most vulnerable group among on-demand workers due to the transportation they use and the strict requirements for the delivery time, which means the micro action patterns or rules that they need to follow are more complicated, either directly or indirectly.

In order to give a broad overview of on-demand workers' experience of struggles and resistance and to make possible comparisons under the diversified economic and social background in China, my initial plan was to do my fieldwork in three provincial capital cities, Hangzhou in Zhejiang province, Guangzhou in Guangdong Province and Changsha in Hunan Province. Hangzhou lies in the Yangtze River Delta in the east, and Guangzhou lies in the Pearl River Delta in the south. Both are in the most developed areas of China, each with a huge number of delivery riders. Changsha is a central city that recorded much on-demand workers' unrest on the China Labour Bulletin.

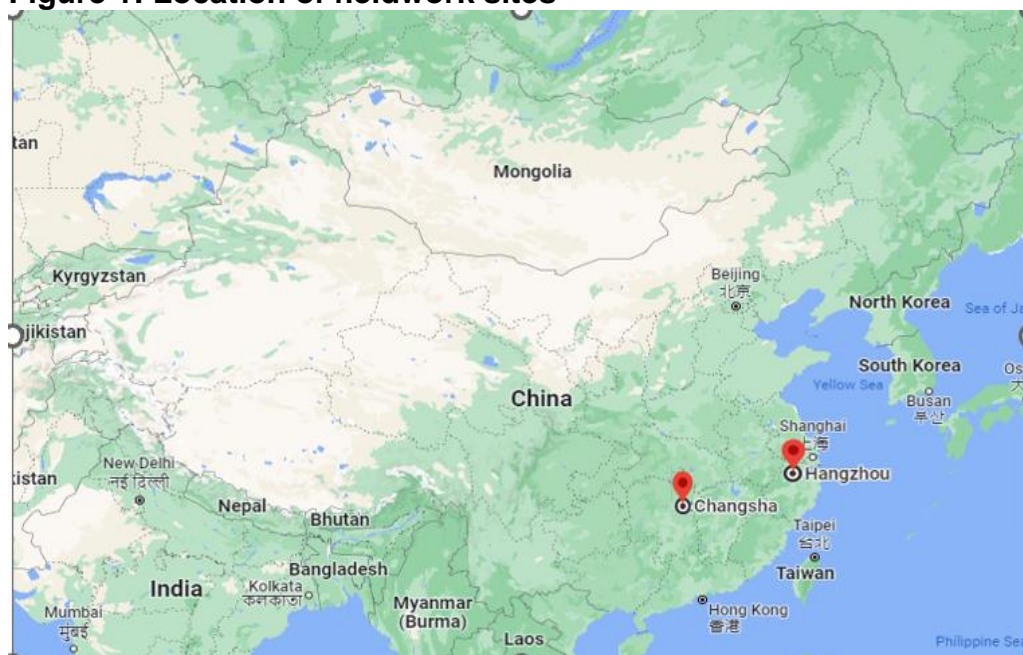
The COVID-19 pandemic disrupted my plan to some extent. International travel had been very difficult and costly, and my flights were postponed several times. The University of Glasgow strongly recommended online interviews, which were seen as a practical alternative to in-person interviews during the pandemic. It

was my belief, however, that the in-person interview, which is considered the ‘gold standard’¹³⁵ in qualitative research, cannot be replaced, especially for the on-demand delivery sector. The synchronous communication in time and place of in-person interview is very important to better understand and experience delivery riders’ daily lives and their perception of work and law. In addition, being physically present allows full immersion and in-situ observations in each site. Furthermore, it is more practical to recruit and interview delivery riders in the fields given their very busy and tiring routine and the time differences between China and UK.

Notwithstanding the challenges, I finally flew back to China in April 2021. After 21 days of self-isolation according to the local government’s policy, I started my fieldwork in Hangzhou and Changsha. I had to give up Guangzhou since a COVID outbreak occurred in the city that summer. After careful assessment, I concluded that I could not afford the strict travel restrictions and particularly the unpredictable risks and cost of being locked down in a city where I had few contacts. I focused on Hangzhou and Changsha (See Figure 1) and managed to interview 60 delivery riders in three months of continuous effort in case of another unpredictable Covid outbreak. I was fortunate to complete my last interview and departed a day before a few new cases were reported in Changsha and more restrictions were implemented. There are minor differences concerning the policies of platforms and distinct difference regarding the backgrounds of delivery riders. However, their struggles and resistance in the two cities have a lot in common, as discussed in the subsequent chapters.

¹³⁵ McCoyd, J.L. and Kerson, T.S., ‘Conducting Intensive Interviews Using Email: A Serendipitous Comparative Opportunity’ (2006) 5(3) Qualitative Social Work.389.

Figure 1: Location of fieldwork sites



A partial participant observation and semi-structured interviews were used jointly to gain hands-on understanding of and insights into what it is like to work as delivery riders, as well as delivery riders' perceptions of labour conditions and their struggles and resistance in the face of poor labour conditions. Participant observation is the process of enabling researchers to learn about the activities of the people being studied in their natural settings by observing and participating in those activities.¹³⁶ I worked as a part-time delivery rider on the two major platforms, Meituan and Ele.me(Fengniao), particularly in the first two weeks of my fieldwork in Hangzhou. By participating, I not only improved my understanding of the complex algorithms and policies of platforms, as well as their delivery procedures, but also became proficient in the same jargon and symbolic system¹³⁷ used by delivery riders. This greatly contributed to the success of the subsequent interviews and interpretation of information provided by participants. Unless we are vulnerable to and accountable for how the action happens in the same ways (or at least in somewhat similar ways) as other participants in the setting we are studying, we can only claim partial participation.¹³⁸ Particularly, given the duration and my part-time status of

¹³⁶ Kawulich, B. B., 'Participant Observation as a Data Collection Method' (2005). 6 Forum: Qualitative Social Research <<https://doi.org/10.17169/fqs-6.2.466>> accessed February 9, 2021.

¹³⁷ Vidich, A.J., 'Participant Observation and the Collection and Interpretation of Data' (1955) 60(4) American Journal of Sociology 354.

¹³⁸ Erickson, F., 'Mere Ethnography: Some Problems in Its Use in Educational Practice' (1979) 10 Anthropology & Education Quarterly 182.

being a rider, a partial participant observation would be a more appropriate description in this context. I wrote an electronic brief field diary on my phone to record my observations and impressions when I was in the field. Overall, the short-period partial participation mainly helped me to obtain an initial understanding of the job, which further set the stage for building trust with delivery riders, shaping my interview questions and interpreting the interview data. I conducted the interviews a bit later than my riding experiences. My participation as a rider continued throughout the fieldwork, although less so than in the first two weeks.

The semi-structured interviews varied slightly according to the profile of the interviewee, but generally included major themes communicated to interviewees in advance: (1) terms and conditions of work for different types of delivery riders; (2) delivery riders' responses to and experience of these terms and conditions of work; (3) riders' views and ideas about the on-demand delivery job and their previous jobs; (4) riders' individual choices of struggles and resistance; (5) riders' views and ideas about the collective choices of struggles and resistance. The last two themes not only observe riders' relationship with the platforms, but also their internal relationship among different types of riders, and their relationship with suppliers and customers. All these themes were divided into more detailed questions during the interviews, which aimed to ultimately explore delivery riders' views of the job and their choices of actions in the legal, economic and social context.

2.2 Conducting the fieldwork

Delivery Riders wearing the uniforms of the two platforms can be spotted frequently on the streets in the two cities, but the locations where I could meet and talk with them were mainly the food courts or outside of a clutch of 'greasy spoon' cafes. In the delivery riders' own words, they hang out where there are lots of orders. Though almost the whole world was impacted by the COVID-19 pandemic during my fieldwork period in 2021, life had essentially returned to normal in the two cities due to the success of the zero-case policy in China. As mentioned in Chapter 1, most delivery riders are full-time and work more than 10 hours a day without holidays or weekends, which means their work setting

occupies almost all their life. The optimal timing for conducting interviews occurs when they are waiting for orders during off-peak hours. Most delivery riders prefer to stay in some fixed places with a group of familiar riders. I usually stayed with them and took orders sometimes. I chatted with them and revealed my identity as a researcher. Most of the delivery riders were easy to approach and happy to share their feelings and experience with me; some even had expectations that interviews would help them to improve their situations indirectly as the research may raise awareness for others to understand their work and help to better their lives; some considered me as a journalist and approached me actively to complain. I saw how they spent their spare time chatting and browsing on phones and how they ‘grabbed’¹³⁹ orders, ran to pick up the food, and drove off on their electric scooters. Participants were recruited through purposive and snowball sampling. It was easy to meet ‘acquaintances’ after a few days. These acquaintances can be considered as ‘gatekeepers’ who played a very positive role in my interviews; some of them later chose to become participants. Some introduced me to other riders who led or actively organised protest activities, or made recommendations about how I might recruit new participants into the study. As the research aimed to understand the emergence of solidarity in and through action, I deliberately recruited interviewees who were involved in the mobilisations, as their perspectives were deemed the most relevant to the research goals.

Delivery slots can usually be divided into breakfast, lunch, afternoon tea, supper and night snack time from almost 5 am to 2 am, or even all night. In order to increase participant diversity, I stayed with delivery riders at different time slots except late at night and chatted with them. The earliest time that I went into the field was just before 6 am and I was surprised to find that many riders were already waiting outside the breakfast shops or had already made deliveries. I occasionally went into the field at night as summer nights are busy and midnight snacks are popular in Changsha. Most interviews were conducted in off-peak times (normally 8:00 am to 10:00 am and 2:00 pm to 3:30 pm) when there were fewer orders. Some participants had to take unexpected orders and leave during

¹³⁹ I have chosen the word ‘grab’ here because, although platforms dispatch orders to riders, the algorithmic arrangements compel them to compete with other riders to grab orders at the same time, in order to maximise their income per delivery. More details are provided in Chapter 3.

the interview, so some of the interviews were conducted on two or more occasions. If riders had time, I invited them to a quiet place nearby to be interviewed. However, most interviews were conducted at sites where delivery riders rested, such as under trees or outside areas of convenience shops. They felt more comfortable to talk openly or they were too tired to move away. Nearly all interviews conducted in Changsha were outside while the riders were having lunch after rush hour, and the temperature every day was around 39 or 40 degrees. It was hard for delivery riders to find a cool place to rest as the greasy spoons are scattered in a few buildings which were not in a pleasant environment because of cost considerations. While sitting outside the convenience stores, where even the benches were hot, delivery riders were eating their boxed meals while sweating all over their bodies and chatting with me or being interviewed. This experience has given me a much deeper understanding of their working conditions.

I was aware that delivery riders were disadvantaged and vulnerable as a group, based on my preliminary investigations, as well as the fact that this has been repeatedly mentioned or discussed in various news media and academic papers in recent years. However, I did not use this presupposition as the basis for the study; I did not want to adopt a simplistic sympathy for their position and bring this feeling onto the interviewees. Rather, I treated them as the experts in their contexts, and tried to understand how they made 'meaning' in their own lives and jobs. I followed their action patterns or norms and used delivery riders' jargons as much as possible to communicate with them, as well as in the presentation of the findings. In addition, the partial participant observation helped me to keep an appropriate distance from delivery riders and their setting rather than risk becoming too intimate and emotionally connected as I immersed myself totally in their world.

I usually started with the question, 'Do you have good orders today?', to encourage riders to talk about their daily lives without any restrictions. After they had talked at some length about this question, my next question would be 'why do you choose this on-demand delivery job or why do you choose to work such long hours?'. Generally, the interview questions aimed to interpret legal

and other field-specific terminology used in daily communication, while also being broad enough to give delivery riders room to talk about their individual experiences and understanding of their work. If what they talked about was remote from the subject matter, I would draw them back to the main topics.

Every interview lasted between 35 and 100 minutes, normally lasting with 45 minutes. The informed consent was readily provided by all participants, which was beyond my expectations. Only two participants refused to have the interviews recorded. I gave repeated and detailed verbal and written explanations and communications of the purpose of my research. In particular, I emphasised that I could not change or solve everything that they complained about, which helped participants understand my role as a researcher rather than as a journalist. Before each interview began, I advised participants that they could withdraw from the research at any time without giving a reason either before or after they signed the consent form, only a very few riders quit the interviews because of their busy schedules.

2.3 Participants

The ages of the 60 participants ranged from 20 to 54 years, with more than 50% aged between 25 and 35. The following table provides a summary of this information (see Table 2). I recruited participants from just two platforms, Meituan and Ele.me (Fengnaio), as their market shares were dominant. There were no other food delivery platforms in Changsha, and very few delivery riders worked for other platforms in Hangzhou. Many delivery riders have had work experience on both platforms or worked for both at the same time. It is common for them to frequently switch between the two platforms or among different types of delivery riders. The interviews might have a slightly lower representation of female riders compared to their actual numbers. I made every effort to recruit more female riders, but some women were hesitant to engage in conversation or express their interests through either caution or shyness. It is more likely that they usually have to take more caring and parenting duties and have little time to be interviewed. I engaged in conversation with three female riders, and they agreed to be interviewed. However, they were busy with their families during off-peak times and the interviews during peak time were

constantly being interrupted by new orders. I tried to communicate with them on Wechat, but mostly they ignored my messages. Finally, I had to give up. This also once again proves that my decision to insist on in-person interviews was wise. Poorly educated riders make up the majority but surprisingly more highly educated riders than I had expected joined in the sector. This is partly due to the pandemic's impact on industries and businesses (for example a rider with a bachelor degree who previously worked in the international tourism industry in Shenzhen).

Many delivery riders told me that the turnover was very high but there were still some riders who had more than 3 years of work experience. The rider with the longest work experience that I interviewed had more than 7 years' experience, which meant that he started in the sector right at its beginning. I interviewed two team leaders and one district leader. A big difference between Hangzhou and Changsha was that riders in Changsha were primarily from other cities in the same province (26/30), while riders in Hangzhou were mostly from other provinces (28/30). A plausible explanation for the difference is that Zhejiang Province is one of the most developed areas and residents have more economic and social resources to secure better jobs.

Table 2: Basic characteristics of participants

Characteristics	Number
All	60
Gender	
Male	58
Female	2
Platform	
Meituan	29
Fengniao	21
Both	10
Types of riders ¹⁴⁰	
Team riders	4
Meituan Lepao	14

¹⁴⁰ The explanation of type of riders is in chapter 3.

Ele.me Youxuan	12
Ordinary on-demand riders	28
District on-demand rider leader (Zhanzhang)	1
Same-city core rider	1
Types of work	
Part-time	4
Full time	56
Age	
Age 20-25	12
Age 26-30	15
Age 31-35	18
Age 36-40	7
Age 41-45	4
Age 46-50	1
Age 51+	3
Educational attainment	
University or three -year college	11
High school or secondary specialised school	15
Junior high school	25
Primary school	9
Experience	
Less than 6 months	12
7 months -1 year	8
Between1-2 years	15
Between 2-3 years	9
Between 3-5 years	13
More than 5 years	3
Marriage status	
Married	34
Single/divorced	26
Hometown (province)	
Hunan	26
Hubei	3
Jiangxi	2

Shanxi	2
Anhui	10
Henan	7
Shandong	1
Gansu	2
Guangxi	2
Zhejiang	2
Yunnan	1
Fujian	1
Jiangsu	1

I planned to interview staff in the local trade unions in the two cities, but the plan was cancelled for the following reasons: (1) All the participants and other delivery riders I chatted had not heard of and did not know of any trade union members approaching them. It appears that trade unions had not conducted any activities with riders at and before the time I was doing my fieldwork; (2) My identity as a PhD student from a Western country might be sensitive to local trade unions led by the ACFTU, given the tightening political situation. My gatekeeper suggested to me that I should hide my identity when approaching the trade unions but that would have violated ethical standards.

3. Data collection and analysis

3.1 The outline of the data produced

58 recordings were transcribed and in respect of 2 interviews without audio recordings I took notes of highlights. All were fully anonymised via the use of pseudonyms and each manuscript is kept separately from the participant profile which will include his/her personal data. Not all the main questions that I designed are included in every manuscript due to the participants' individual experiences or time limits. Some manuscripts may cover some questions more deeply while some do not. For example, for participants who took part in collective action, the content usually covers more details about collective action and skips other matters.

At the beginning, I was concerned as to whether there would be enough content for me to observe how the workers' struggles and resistance were shaped economically, socially and legally, or if my questions needed to be more specific concerning the research questions being explored. However, I found a natural and close connection between what they shared and what I expected. For example, it was common for delivery riders to tell me about their income compared to other jobs they took, when they explained their choice of long working hours. I had also not expected that so many delivery riders would share their working experiences with me and to compare the factory jobs they previously did to their current on-demand jobs. They talked about wages, work overtime, the weekly and monthly payroll cycle, how their children could not go to school in the cities where they work, etc. These points directly concerned the economic, social and legal context and how these shaped their choices. Due to the participants' cooperation and frank exchange of views, data concerning delivery riders' vividly lived experiences of struggles and resistance, and how they dealt with actual situations were successfully collected.

3.2 How the data were analysed

Qualitative data analysis is about telling 'stories', about interpreting, and creating, not discovering and finding the 'truth' that is either 'out there' and findable from, or buried deep within, the data.¹⁴¹ The aim is to interpret and create each delivery rider's story and, finally, address the commonality of riders' understandings and perceptions of the work in the situations in which they find themselves. This falls within the researcher's theoretical perspective, reflections and the method used. The content of rider narratives, comprising both facts and opinions, was subsequently subjected to thematic analysis which singled out the elements that described common experiences and perspectives indicating generalised conditions.

Thematic analysis is a prevalent method partly due to its flexibility and freedom from any theoretical approach or epistemological persuasion,¹⁴² and summation

¹⁴¹ Braun, V. and Clarke, V., 'Reflecting on Reflexive Thematic Analysis' (2019) 11(4) *Qualitative Research in Sport, Exercise and Health* 589.

¹⁴² Braun, V. and Clarke, V., 'Using Thematic Analysis in Psychology' (2006) 3(2) *Qualitative Research in Psychology* 77.

of key features of a large data set through a well-structured approach to handling data,¹⁴³ and illustrates the data in great detail and deals with diverse subjects via interpretations.¹⁴⁴ It is also useful for the researcher to see and make sense of collective or shared meanings and experiences, identify what is common to the way a topic is talked about or written about, and to make sense of those commonalities.¹⁴⁵ In the context of exploring on-demand delivery riders' shared struggles and resistance from 60 semi-structured interviews, thematic analysis is useful because it enabled me to examine, from a social constructivist position, delivery riders' day-to-day work experiences and action choices, the barriers that hinder and the opportunities that support their actions, and the conditions, particularly the legal conditions, in which they live and which constrain and enable their choices.

I followed Braun and Clarke's 6-step framework for doing thematic analysis, which is arguably the most influential approach, especially in the social sciences.¹⁴⁶ The steps mainly include the process of reading, coding, finding themes, analysing and interpreting. At first, I read and re-read each transcript multiple times, but I didn't ignore the audio recordings as they not only brought me back to the settings but also allowed me to experience and discern the participants' tone and feelings more precisely. Then, as I became more familiar with the transcripts and audio recordings, some codes in the analysis emerged naturally from them. NVivo was then used to extract and organise the main points. For example, regarding the labour conditions discussed in Chapter 3, codes like 'platform monopoly', 'outsourced', 'long working hours', 'high fines', 'transfer order fee', and 'traffic accidents' emerged naturally, then were followed by expanding, deleting and categorising codes when more reflections emerged. Almost 20 codes and more sub-codes were identified in the analysis. I could then attempt to understand and conclude what was communicated about

¹⁴³ King, N., 'Using Templates in the Thematic Analysis of Text' in Catherine, C. and Gillian, S. (eds) *Essential Guide to Qualitative Methods in Organisational Research* (SAGE Publications 2004).

¹⁴⁴ Boyatzis, R.E., *Transforming Qualitative Information: Thematic Analysis and Code Development* (SAGE Publications 1998).

¹⁴⁵ Braun, V. and Clarke, V., 'Thematic Analysis' in Cooper, H. E and others (eds), *APA Handbook of Research Methods in Psychology: Research Designs: Quantitative, Qualitative, Neuropsychological, and Biological*, Vol 2 (American Psychological Association 2012).

¹⁴⁶ Maguire, M. and Delahunt, B., 'Doing A Thematic Analysis: A Practical, Step-by-Step Guide for Learning and Teaching Scholars' (2017) 9(3) *All Ireland Journal of Higher Education* 3351.

riders collectively throughout the codes. As a whole, the codes present the delivery riders' perception of being a rider instead of being other types of worker, which include their perception of labour conditions in the on-demand economy; delivery riders' relationship with platforms, suppliers and customers; the individual or collective actions they chose to take; and the rights they expected to exercise, at a collective level.

Since the field diary is brief, I didn't code it, but it provides insights as to how to interpret the interview data. For example, in my diary, I noted that many individuals worked as part-time delivery riders during the morning and evening hours, outside of their regular job when I went to the fields in early morning and at night and found the 'hidden group'. This fact helped me to better understand the ecosystem among different types of delivery riders and to interpret how different types of riders see each other.

The analysis then proceeded to the significant step of 'generating themes'. I rigorously explored and combined codes to form broad themes in order to build a multifaceted understanding of on-demand workers' perceptions of their jobs and their struggles and resistance for labour rights in China. A common pitfall is to use the main interview questions as the themes.¹⁴⁷ Instead, I reminded myself of the overarching research questions. I ensured that the themes captured the key points in relation to the research questions and represented some level of pattern, rather than simply summarising or organising the facts or questions. A group of themes emerged for each chapter. For example, considering the choices of those factory workers who quit and entered into the on-demand industry, I identified the themes 'income (money)' and 'freedom and flexibility', which include a bundle of codes such as the minimum wage, the definition of wage, and overtime. The frequency of instances of a theme or narrative within a dataset does not automatically indicate that it is more or less important than another, which has fewer instances across the dataset.¹⁴⁸ Not all the codes or themes I found were mentioned many times in the interviews. The code, wage arrears, that a few participants mentioned, is a crucial point to consider if the

¹⁴⁷ Clarke, V and Braun, V., 'Teaching Thematic Analysis: Overcoming Challenges and Developing Strategies for Effective Learning' (2013) 26 *The Psychologist* 120.

¹⁴⁸ Braun, V. and Clarke, V., 'Using Thematic Analysis in Psychology' (n 142).

facts beyond the interviews that migrant workers have suffered wage arrears for a long time is considered.

What also needs further explanation is how the findings of the interviews and the partial participation are related to the analysis of the legal, social and economic situations, which, as stated, form a particular focus throughout the thesis. It is, of course, the case that some questions with legal, social and economic aspects were included when I designed the interview. At the same time, however, it was a journey for me to discover and identify relevant elements not covered in the questions but hidden behind the explicit terms of the interviews, and finally to interpret and create my own views built on interrelations between labour laws and economy and society and discoveries from the interviews and the field diary.

For example, I designed questions concerning riders' daily or monthly incomes. There is a direct link here between the questions and wage laws. More questions could be reflected or stimulated from the facts gleaned from the interviews, such as whether the wage laws provide a detailed account of the riders' wages. What are the differences between riders' wages and workers' wages in other industries, etc? Another example concerns the shift work in factories mentioned by some participants, which I hadn't included in my questions. Initially, I was skeptical about whether this was relevant to my research questions but then I researched current work shift and night work provisions in labour law and was able to confirm that the workers' experience of shift work in factories provided a very good explanation as to why they had chosen to be delivery riders. In my field diary, I noted that most of the delivery riders I talked to, but didn't formally interview, were living apart from their families. Some mentioned plans to reunite with their children during summer holidays in the city. This gave me a deep insight into the issue of unequal social rights. In general, (i) facts and opinions found from the interviews and (ii) insights derived from the field diary and (iii) my reflections and (iv) my understanding of the labour laws and social and economic context, derived from legal analysis and a literature review, were mutually stimulating and together shaped the analysis and interpretation of on-demand workers' choices of actions.

Conclusion

The dominant *Rechtsdogmatik* (black-letter) approach in Chinese labour law scholarship cannot sufficiently accommodate the new challenges of on-demand work as the coverage of labour laws is very limited and existing labour laws are not endorsed or trusted by workers in labour-intensive industries, which is similar to the on-demand service industry. To better understand the novel forms of employment and provide appropriate labour protection to the growing workforce involved in the industry, it is sensible to employ economic sociology of law as the main approach to explore how on-demand workers as active participants make rational choices of struggles and resistance, shaped by the particular economic, social and legal context in which they live and work.

The research methods used to conduct this research are qualitative methods, especially in-depth, semi-structured interviews held with 60 different types of delivery riders who work for the two main platforms, Meituan and Ele.me (Fengniao), and partial participation in two cities. The empirical data were analysed through thematic analysis to single out those elements with broader significance, and then the empirical insights complemented with the insights and reflections from secondary sources in the construction of an explanatory account. The aim of this research design and data analysis is to provide a fine-grained understanding of how on-demand workers in contemporary China are constrained or enabled in their choices of struggles and resistance within the legal, social, and economic framework.

As a result of the COVID-19 outbreak in China, the originally planned fieldwork in three cities has been reduced to two. As a qualitative sample this was in no way representative, yet it was balanced and diverse enough to recruit a variety of riders to capture an overview of delivery riders' choices of action in an indicative manner.

Chapter 3 Bad job? Being an on-demand rider in China

Introduction

What kind of terms and conditions do on-demand riders work under? In Chapter 1, I drew on the existing literature to provide a brief and quite general description of on-demand workers' working conditions. Supplementing the literature with my own interview data, and insights gleaned through my partial participation, Chapter 3 provides a more detailed description and analysis of on-demand delivery work and riders' perceptions of their working conditions. This will serve as the foundation for the examination, in Chapters 5 and 6, of why riders take various actions to try to improve their situation.

The control strategies used by platforms impact directly on the riders' working conditions. Large and sophisticated organisations have traditionally adopted methods of bureaucratic control and technical control to direct the labour process so as to maximise the value created by workers' labour.¹⁴⁹ Over the past decades, the development of algorithmic technologies has allowed employers to transform the exercise of both kinds of control.¹⁵⁰

Part 1 explains that rather than relying solely on algorithms, platforms in China continue to use bureaucratic control to establish a complex organisational structure controlling riders with different rules and goals. A duopoly of the two platforms and labour market intermediaries assist platforms in making use of bureaucratic control. Part 2 states that all types of riders must work long hours and suffer high risk of accidents or even death in order to obtain the so-called 'high' income under the control of algorithms. Part 3 explores riders' perceptions regarding the attitude of other stakeholders and the public. It concludes that riders are treated with disrespect by customers and others and

¹⁴⁹ Edwards, R.C., *Contested Terrain: The Transformation of the Workplace in the Twentieth Century* (Basic Books 1996).

¹⁵⁰ Kellogg, K.C., Valentine, M.A. and Christin, A., 'Algorithms at Work: The New Contested Terrain of Control' (2020) 14(1) *Academy of Management Annals* 366.

that the work is not dignified. Part 4 explains why most riders consider it a transitional job.

1. Work under a regime of bureaucratic control

The major characteristics of bureaucracy include a fixed division of labour, a hierarchy of positions and authority, administration based on written documents and adhering to general rules, thorough and expert training of personnel, and full-time commitment to official activities.¹⁵¹ If, as the platforms claim, they are merely intermediaries providing a matching function between customers and riders, there would be no need to divide riders into different groups, establish hierarchies, or set up detailed disciplinary rules, aside from providing basic transaction rules. However, what these two platforms (Meituan and Ele.me) have done and continue to do is to establish a more complicated organisational structure of riders, with various rules and hierarchies. This differs from their western counterparts, which tend only to have a single type of organisational structure for on-demand delivery work, and a single form of platform-worker relationship.

1.1 Two types of riders: team riders and on-demand riders

In China, two types of riders, team riders (Zhuansong/Tuandui) and on-demand riders (Zhongbao), have been coexisting and complementary since the birth of the platform economy. Team riders, originally hired by platforms and now by labour outsourcing companies, make up a small proportion of the platforms' workforce. They accept orders from a few fixed suppliers dispatched within a straight-line 3 kilometres delivery radius set by algorithms. They are full time and may or may not have basic pay, plus a piece rate, paid monthly. There are many team rider stations in a city and a station master (zhanzhang) will be assigned who is in charge of riders in the station. This type of rider can usually be considered an 'employee' under Chinese labour law,¹⁵² even if most of them

¹⁵¹ Weber, M., *From Max Weber: Essays in Sociology* (Gerth, H.H. and Wright, M.C. eds, 1st edn, Routledge 1946).

¹⁵² So far, the majority of court cases finding riders to be employees are team riders.

do not have labour contracts and their labour rights are not respected in practice. They are not the focus of this research.

On-demand riders are gig workers similar to those in other countries. They constitute the largest part of the platform workforce. They can choose to accept or refuse the dispatched orders or grab orders, and they are paid daily. According to the policies of both platforms, there are 10 ranks of on-demand riders. A higher rank means more orders can be taken per delivery, as well as other privilege (see Tables 3 and 4). The rank generally corresponds to the number of orders riders take weekly or monthly, so their ranks will be downgraded if they don't work for a couple of days. There are not many bureaucratic controls of these riders except for basic in-person training.

Table 3: The main benefits of having accounts with different ranks on Ele.me (Fengniao)

Account rank	Maximum number of orders per delivery on Ele.me
1-3	6
4-5	9
6-7	11
8-9	12
10	13

Table 4: The main benefits of having accounts with different ranks on Meituan

Account rank	Maximum number of extra orders based on basic number of orders per delivery	Extra income for Meituan (RMB/per order)
1-3	Basic number of orders (4 in Hangzhou)	
4-6	4	
7-8	6	0.3
9-10	7	0.4

The above two tables indicate that these two platforms implement a multiple-order system for riders. This multiple-order system is distinct from similar systems on most delivery platforms in the west, which offer only a limited number of multiple orders. For example, Deliveroo UK's multiple-order system mainly involves stacked orders, where a rider is assigned orders from two different customers who are located close to each other and who ordered from

the same restaurant around the same time.¹⁵³ Uber Eats' multiple-order system primarily involves 'batched' orders, which refer to orders from the same restaurant or merchant at the same time, which may be dispatched to a single rider. The system also includes back-to-back orders, where riders may receive a request for another order while making a delivery. However, the rider must complete the current delivery before the app navigates him/her to the next location.¹⁵⁴

The multiple-order system on the two Chinese platforms is more extensive and flexible. Simply put, platforms and riders utilise the time gap between orders to dispatch or accept more orders. Assuming that Ele.me dispatches the first order to a rank 3 rider who is permitted to deliver 6 orders per slot and is waiting nearby the food court at 10:30 am, the rider would not immediately go to pick up the order but wait. Then five minutes later, a second order is dispatched; the rider starts to pick up orders; the third and fourth orders come in at 10:40 am, and the last two orders come in at 10:45 am; all orders require to be delivered within 40 minutes. Orders may come from the same restaurant, other restaurants within the same food court, or from somewhere else located roughly close to the delivery route (see Table 5). The delivery addresses are also in close proximity to each other, for example, located either in the same building or different buildings within the same residential compound, or in nearby residential compounds. Once the 6 orders are dispatched, the system would stop dispatching (or the rider could adjust his/her individual maximum orders on the app if he/she thinks he can't manage to do it), navigate the optimal delivery routes to the rider, which need not be delivered in the order in which they are dispatched, for example if orders 5 and 6 are the closest. In practice, the process is more complicated as the delivery time may vary depend on the delivery distances and other factors or because platforms don't dispatch orders every 5 minutes on a regular basis. Therefore, the duration of time per delivery is not fixed. In short, simply relying on the platform's navigation is insufficient

¹⁵³ Deliveroo, 'What is a Stacked Order?' <<https://riders.deliveroo.co.uk/en/support/orders/what-is-a-stacked-order>> accessed February 10, 2020.

¹⁵⁴ Uber, 'Back-to-Back and Batched Orders' <<https://www.uber.com/us/en/deliver/basics/making-deliveries/delivering-multiple-orders/#:~:text=Batched%20orders%20are%20when%20you,the%20same%20restaurant%20or%20merchant.>> accessed February 10, 2023.

to successfully fulfil the maximum multiple order (13 or 12 orders for the highest-level riders on Ele.me and Meituan respectively). Riders also need to make careful calculations based on their high degree of familiarity with the delivery routes and conditions.

Table 5: An example of multiple order system

Orders	Dispatch time	Required delivery time
1	10:30 am	11:10 am
2	10:35 am	11:15 am
3	10:40 am	11:20 am
4	10:40 am	11:20 am
5	10:45 am	11:25 am
6	10:45 am	11:25 am

1.2 New development: different types of special on-demand delivery riders

Noteworthy are the new segmented types among on-demand riders established by the two platforms in recent years. Henceforth, I will use the term ‘special on-demand riders’ to include these types and ‘ordinary on-demand riders’ to refer to the on-demand riders described above.

In 2019 and 2020, Meituan and Ele.me launched the ‘Lepao plan’ and ‘Youxuan plan’ respectively, one after another for on-demand riders, still hired through intermediaries. The plans run weekly. All on-demand riders can enrol on them voluntarily, but platforms or intermediaries have the right to select based on the workers’ previous delivery data. If they pass the selection, they cannot quit the plan during the week in question, and they will be paid weekly (actually after 10 days as the riders’ delivery data take time to process). On-demand riders recruited by Lepao or Youxuan, prioritise getting dispatched orders but with less flexible working time and freedom to refuse or choose orders. The ranking of riders continues to apply here mainly deciding the number of orders riders can take each time. Riders are arranged into different teams with 20 to 40 riders or more in general, and every team will be designated a team leader. Both platforms require team leaders to organise short meetings every week that need to be video recorded (once a week for Meituan, three times a week for Ele.me in 2021). Their meetings usually take place outdoors, such as in the open area of

food courts or in nearby parks. With the teams' permission, I observed a couple of meetings. Team leaders usually talk about their delivery data, safety issues, introduce and explain new policies, and so on. Most of the team members attend and those who can't make it are required to provide a reason for their absence. Team leaders report to the district manager mainly online, but they sometimes needed to attend in-person meetings. Team leaders' salaries rely on members' delivery data except for the earnings from their own deliveries. If the signed riders qualify for the basic weekly KPI (key performance indicator), they can continue to sign up the following week and be part of the same group,¹⁵⁵ or they can be eliminated from the plans.

Table 6 provides a general framework of KPI for Youxuan riders of Ele.me in one district of Hangzhou. Basically, riders have to qualify with a certain minimum number of orders and working hours per week. Based on my fieldwork, it seems that the time slots and detailed requirements might vary slightly between different cities or even between districts and platforms. Generally, districts or cities, where the platforms have just launched the plans have more relaxed policies. Overall, the basic requirements are not difficult to complete.

Table 6: KPI for Youxuan riders of Ele.me (Fengniao) in one district of Hangzhou

Name	Time slot	Minimum length of time online and number of orders per slot	Requirements for a week
Lunch peak time	10:30 am-1:30 pm	≥ two hours and a half ≥ 6 orders	≥18 slots be chosen a week; Can have one day off in a week, but one slot, usually the lunch peak time, has to be chosen on the day off; Lunch and supper peak time slots are mandatory to be chosen per day; Cannot refuse dispatched orders and
Afternoon teatime 1	1:30 pm-3:30 pm	≥one hour and a half ≥3 orders	
Afternoon teatime 2	3:30 pm-5:30 pm	≥one hour and a half ≥3 orders	
Supper peak time	5:30 pm-8:00 pm	≥ two hours ≥ 6 orders	
Night snack time 1	8:00 pm-10:00 pm	≥one hour and a half ≥3 orders	
Night snack time 2	10:00 pm-12:00 pm	≥one hour and a half ≥3 orders	

¹⁵⁵ The detailed policies run on a basis of different cities, districts, or seasons. When there is a shortage of delivery riders, the requirements will be loosened. In the two cities where I conducted my fieldwork, it is more competitive in Hangzhou than in Changsha.

			<p>have 10 chances (4 is free, 6 needs to pay) to transfer orders they don't like by bearing the cost by themselves;</p> <p>Low tolerance for bad customer ratings, riders who get three bad ones in a week cannot continue to sign up next week.</p>
--	--	--	---

Other types of riders operating in much the same way as Lepao and Youxuan have also been launched. A plan called ‘same-city core rider’ was launched by the two platforms in some cities, where the main difference is that this type of ride only takes long-distance orders. I was lucky to encounter one same-city core rider, who rode from another district in Hangzhou to deliver, and I was able to interview him. I had not known of this type of rider before I met him, as there was little relevant information about the plan on apps, and most riders didn't seem to know about it. There are fewer opportunities to interview or find same-city core riders than other special on-demand riders because they have long delivery distances and won't have much time to wait at a fixed location.

“Only those orders over 5km are counted as same-city core orders, and there is a ‘same-city core’ tab next to the order. We can see same-city core orders 60 seconds before ordinary on-demand riders. If we don't grab them, they will be shown to them. We just need to complete 10 orders daily per week, 10 orders at any time in 24 hours, but actually, I work almost 12 hours a day.” (HZ20, 31, male, a same-city core rider with 2 years' experience)¹⁵⁶

According to riders' social-media,¹⁵⁷ Meituan has more recently introduced another plan called ‘Changpao rider’ in a few cities, according to which the on-

¹⁵⁶ CS and HZ are the abbreviations for Changsha and Hangzhou, respectively, as used in the following chapters. The length of riders' working experience is not just about the experience they have in their current position, as they frequently switch between different platforms or types of riders.

¹⁵⁷ Rider Pang, S.D., ‘The New Mode of Delivery Takeaway, Changpao’ (Bilibili, April 24, 2021) <https://www.bilibili.com/video/BV1uB4y1c75o/?spm_id_from=333.788.recommend_more_video.-1> accessed February 15, 2022. I can see the screenshot from Meituan app in the video, but I can't find it on my own app, I speculate only riders who are in the cities the plan has been launched can see on the app.

demand riders can sign up and quit daily and have priority to get shorter distance orders.

In general, Lepao or Youxuan riders are dominant and more highly advertised by platforms than other types of special on-demand riders. Among the three current main types of riders (see Table 7), they ran from weak to strong in terms of flexibility as team riders, special on-demand riders and ordinary on-demand riders. Given the priorities platforms provide, lots of ordinary on-demand riders who ‘voluntarily’ joined in Youxuan or Lepao felt compelled to do so.

“The income for an ordinary on-demand rider is not stable, while it would be stable for being a Lepao ride. At most, there is a difference of over RMB 100 a day.” (CS5, 45, male, a Lepao rider within 3 years’ experience)

“Lots of riders joined Youxuan (or Lepao), the former top ordinary on-demand riders joined, the ordinary on-demand order numbers are not stable anymore as the platform is prioritising Youxuan riders.” (HZ20, 31, male, a Meituan same-city core rider with 2 years’ experience)

Probably more types will be introduced, or the policies of existing types of riders will be ‘perfected’ by platforms after they get more experience and data. Whether the working relations of these new types of riders are such that they should be regarded as employees, has not been paid sufficient attention by either scholars or courts.¹⁵⁸ For the most part, both scholars and courts have treated on-demand riders as a homogeneous group, not recognising the significant differences between different classes of riders. In practice, special on-demand riders are treated exactly like ordinary on-demand riders by the platform.

Table 7: Types of riders

Platform	Types of riders	Main details
	Team riders	Full time; paid monthly; dispatched orders mostly.

¹⁵⁸ A few courts decided riders within Lepao or Youxuan plan are employees, but they are just case by case decisions and not the norm.

Meituan Ele.me (Fengniao)	On-demand riders (full time or part-time)	Special on-demand riders	Lepao/Youxuan riders	Weekly signed; paid weekly; prioritise getting dispatched orders; limits to refuse or choose orders.
			Same-city core rider	No fixed working time requirement but need to deliver a specific number of orders (varies based on cities) every day; paid weekly; delivery radius usually around 5 kilometers; have the priority to grab 'same city' order one minute earlier than ordinary on-demand riders. Others are similar to Lepao/Youxuan
			Changpao (Just for Meituan, Ele.me has not launched it in 2021)	Daily signed; Have the priority to get short-distance dispatched order; Paid daily.
	Ordinary on-demand riders	No fixed working time; can grab orders or accept dispatched orders; paid daily.		

It may be supposed that the main reason for designing these different types of on-demand delivery riders is to ensure sufficient numbers of riders are working during peak time slots or inclement weather; that less desirable orders are accepted and delivered on time; and that the delivery quality is high. Food delivery is time-sensitive, so long waits could mean lost customers and bad customer experiences, therefore, it is essential to maintain adequate delivery capacity, particularly during peak slots. Before Youxuan or Lepao plans were launched, the number of team riders was limited, and ordinary on-demand riders could refuse orders without harsh punishments. Bad orders include orders requiring a long distance to be covered on foot or many stairs to be climbed, due to the fact there are some big gated residential communities prohibiting riders to enter or buildings up to 7 storeys without lifts. Riders have to wait for a long

time and are forced to cancel, or platforms have to increase the delivery rate. Such difficulties are exacerbated during inclement weather or special holidays when orders greatly increase.

“In the past, there were many orders waiting ‘in the hall’ [on the app] for a long time, particularly at peak times and during bad weather as ordinary on-demand riders can freely choose to refuse and grab the orders they want. No one is willing to deliver orders which require you to climb many stairs at peak times as there are so many orders in the hall. We can wait until the price of bad orders has been increased by platforms. They have to meet their customers’ needs or they would lose them. You know, sometimes the price of bad orders can be increased for RMB10 or more.” (HZ23, 30, male, a Lepao rider with 3 years’ experience)

Additional indirect aims or by-products of the design of these special plans will be discussed in Chapter 5.

1.3 Work in the shadow of duopoly and labour market intermediaries

As described above, the two platforms have recently developed a well-functioning and complicated hierarchical structure of different types of riders with different terms and conditions. The success and the speedy establishment of the organisational structure might be attributed, at least partly, to the existence of a duopoly in the sector.

By the end of 2020, the total order volume and the transaction scale of the national takeaway market in China reached 17.12 billion and 835.2 billion yuan respectively.¹⁵⁹ After several rounds of fierce competition between different delivery platforms in recent years, a duopoly has emerged, consisting of the two platforms Meituan and Ele.me. In 2020, these dominated with almost 59% and

¹⁵⁹ Fu, W.J. (ed), ‘The Total Order Volume of China’s National Takeaway Market Reached 17.12 Billion, with A User Base of Nearly 500 Million People’ (Yicai, January 1, 2021) <<https://www.yicai.com/news/100898828.html>> accessed June 8, 2022.

36% market share respectively.¹⁶⁰ Their delivery areas have covered almost all major cities and even some towns and the delivery service has expanded from food at the beginning to more inter-city express deliveries for groceries, flowers, medication and more, though food delivery is still their major business. The operational models of the two giant platforms are similar. On the one hand, the clients and suppliers are connected through their takeaway apps ‘MeituanWaimai’ and ‘Ele.me’, while on the other hand, the riders accept and deliver orders via their own smartphones through separate delivery apps under their unified delivery brands ‘Meituan Delivery’ and ‘Fengniao Delivery’. With the two giants’ rapid development, as stated on their official websites, almost 7 million riders altogether have been recruited.

The direct consequence of the duopoly for riders is the reduction in pay rate. Nearly every interviewee complained that the piece rate has been decreasing every year. During my fieldwork, the starting pay rate for ordinary on-demand riders was around RMB4-5 per order for the two platforms in the two cities.

“The golden time for takeaway delivery is gone. They paid more than 10 Yuan per order when they started. It was easy to make money in the first couple of years, now it is almost 4 Yuan per order.” (CS15, 36, male, an ordinary on-demand rider with 6 years’ experience)

“When there was competition before, there wasn’t this kind of piece rate at all. Now, when Meituan cut their pay rate, Ele.me followed later. We don’t have many choices.” (HZ6,28, male, a Youxuan rider with more than 6 months’ experience)

“To be honest, the piece rate will continue to decrease as Meituan has controlled the market”. (HZ15, 32, male, a Meituan district leader with more than 3 years’ experience)

¹⁶⁰ Li, B., ‘The All-China Federation of Industry and Commerce’s Proposal: Strengthening Anti-Monopoly Regulation of Food Takeaway Platforms’ (NBD, March 32021) <<http://www.nbd.com.cn/articles/2021-03-03/1644168.html>> accessed June 8, 2022.

Another consequence of the duopoly for riders is that the two platforms have introduced similar bureaucratic control strategies, or more precisely, Ele.me has followed Meituan policies mostly as Meituan is in the dominant position. Therefore, the two platforms provide quite similar types of riders only with subtle differences for riders to choose between. Riders are not just ‘stuck in the system (algorithms)’, but also ‘stuck in the bureaucratic control system’.

Moreover, the two platforms have both made use of labour market intermediaries to recruit and manage riders in order to insulate themselves from risks associated with changes in market demand and potential employment law compliance.¹⁶¹ Nowadays, Meituan and Fengniao have outsourced nearly all ‘rider businesses’ to different intermediaries,¹⁶² which means that whatever types of contracts riders sign, they don’t directly sign with Meituan or Fengniao but with the intermediaries. Most riders know the fact well, and they even know that there is not just one intermediary sometimes but a chain.

“I know we belong to the labour outsourcing company because the wage transfer records indicate the company, actually different companies. The names of outsourcing companies have changed frequently.” (HZ1, 30, male, an ordinary on-demand rider with almost 4 years’ experience)

“We need to sign the electronic agreement several times in one year as the intermediary has changed frequently”. (CS5, 45, male, a Lepao rider with 3 years’ experience)

“I don’t know who the boss is; they are nesting labour outsourcing companies.” (HZ 7, 30, male, a Youxuan team leader with 3 years’ experience)

As these intermediaries’ largest income source is management taken from the orders completed by riders, riders’ piece rate undoubtedly would be impacted.

¹⁶¹ Wang, Q., ‘Determination of Labour Relationships and Liabilities for Triangular Work Relationships on the Platform’ (2020) 12 Law Science 176; Sun, P. and Chen, J.Y., ‘Platform Labour and Contingent Agency in China’ (2021) 1 China Perspectives 19.

¹⁶² A representative of Meituan admitted in a TV program in 2021 that all the registered riders are outsourced instead of their employee. ‘Meituan: Nearly 10 Million Delivery Riders Are Outsourced’ (May 10, 2021) <<https://finance.sina.com.cn/tech/2021-05-10/doc-ikmyaawc4385085.shtml>> accessed July 8, 2022.

Much worse, not only have the platforms monopolized, but labour outsourcing companies and call centres have also been showing the trend of monopolizing. The biggest labour outsourcing company of the internet workforce, Quhuo, has been listed on Nasdaq in 2020, and their prospectus shows that of the 40,800 average monthly active workers, 39,900 are riders.¹⁶³ The trend has possibly further exacerbated the decrease in pay.

“The rider stations went it alone before, but Meituan has had a deal with a big company. Then they unified the prices on all sites, the pay price was reduced from RMB 8 per order to RMB7.5.” (HZ23, 30, male, a Lepao riders with 3 years’ experience)

Call centres provided by platforms serve customers, suppliers and riders to report, consult and complain. For riders, call centres are almost the only channel for them to communicate with platforms regarding bad reviews, fines and so on.¹⁶⁴

“It is useless to call customer services. They are outsourced too, and they basically just said they were sorry and so on.” (HZ25, 30, male, a Lepao riders with 5 years’ experience)

Labour market intermediaries have not had a significant impact on the platforms’ bureaucratic control strategies, aside from including their names on contracts. In contrast, the growing monopoly of customer service centres and intermediaries may increase riders’ dependence on team leaders if they can’t readily solve their problems.

¹⁶³ Wang, H.X., ‘The Most Powerful Labour Market Intermediary: Backed by Two Giants, Annual Revenue of 2 Billion!’ (Eastmoney, 2020).

<<https://caifuhao.eastmoney.com/news/20200714064510673619920>> accessed June 10, 2022

¹⁶⁴ I first heard about the extent of customer service outsourcing by platforms from my participants. There is no specific source to verify this, but I found an outsourcing company of call centres listing Meituan as their customer on its website.<<http://manyiddc.27ty.com/internet/278.html>> Accessed: June 10, 2022.

2. Work under a regime of algorithms control

Algorithms are at the core of almost every company operating in the digital platform economy.¹⁶⁵ And how platform organisations adopt algorithms to monitor and control the workforce has been researched in the greatest detail in the settings of platform work.¹⁶⁶ This section does not aim to delve into the specific details of how algorithms monitor and control riders' behaviour in tasks such as assignment, rating, restrictions, and tracking of their delivery work, mentioned in the references, but rather to investigate the reality of riders' working lives under algorithms' control.

It is clear that algorithms have played a critical role in shaping the poor and unsafe working conditions suffered by riders in order to optimise the efficiency and profit of platforms. But in the fieldwork, most riders didn't even know the term 'algorithm' and what exactly it meant. It strikes me that their perception of the term/functioning of algorithm is vague, but their understanding of the impact and how the decisions made by an algorithm affects their work is - in fact - remarkably clear. What impressed them most is how the 'platforms' closely monitor their deliveries to an unbelievable degree. For instance, if they took a shortcut that was not indicated on the map, and repeated it a few times, the delivery time for the same route would correspondingly reduce. However, their opaque component of pay, various targeted bonus activities, lower piece rate and so on are discussed below are all the result of the mysterious 'black box'.

¹⁶⁵ Park, S. and Ryoo, S., 'How Does Algorithm Control Affect Platform Workers' Responses? Algorithm as a Digital Taylorism' (2023) 18(1) *Journal of Theoretical and Applied Electronic Commerce Research* 273.

¹⁶⁶ Such as: Rosenblat, A., *Uberland: How Algorithms are Rewriting the Rules of Work* (University of California Press 2018); Wood, A.J. and others, 'Good Gig, Bad Gig: Autonomy and Algorithmic Control in the Global Gig Economy' (2019) 33(1) *Work, Employment and Society* 56; Wu, Q.J. and others, 'Labour Control in the Gig Economy: Evidence from Uber in China' (2019) 61(4) *Journal of Industrial Relations* 575; Kellogg, K.C., Valentine, M.A and Christin, A., 'Algorithms at Work: The New Contested Terrain of Control' (n 143); Muller, Z., 'Algorithmic Harms to Workers in the Platform Economy: The Case of Uber' (2019) 53 *Columbia Journal of Law & Social Problems* 167; Möhlmann, M. and others, 'Algorithmic Management of Work on Online Labour Platforms: When Matching Meets Control' (2021) 45(4) *MIS Quarterly* 1999; Wood, A.J., 'Algorithmic Management Consequences for Work Organisation and Working Conditions' JRC Working Papers Series on Labour, Education and Technology, No. 2021/07, European Commission, Joint Research Centre (JRC), Seville.

2.1 Low paid and long working hours

‘Earn more than RMB10,000 monthly’ was a famous advertising slogan used by Meituan to attract new riders and shape public perceptions of riders’ high income. Most riders find it difficult to make this amount. According to the platforms’ own reports and to my fieldwork, the projected sum is accurate in respect of only a few top riders. Even for them, it comes at a high cost in terms of long working hours and few holidays.

The components of riders’ pay on the two platforms decide how much riders can earn, and they are far more complicated than the piece rate itself would suggest. Platforms frequently adjust or change certain details of the pay components, but the basic structure of the components is stable. To gain a view of the actual wages earned by riders, it is important not only to consider the link between wage components and working hours, but also to examine the wage discrepancies among different types of riders. Moreover, some unavoidable expenses or costs should be deducted. The following introduction to the components of riders’ pay and expenses is based on my fieldwork.

2.1.1 The components of delivery riders’ pay

In terms of the components, one characteristic that should be mentioned in advance is that no matter what kinds of components are used, they are all well controlled by the algorithm, which means they fluctuate according to a series of factors, such as distance, time slot, weather, the price of orders, difficulties of delivering, and so on. Ultimately, it is a payment system designed and based on real-time market changes that depend on a series of factors especially the actual number of riders online and the number of orders, or precisely related to riders’ specific work scenarios. Riders have no idea of the legitimacy and rationality of this algorithmic mechanism of pay, or of its boundaries as an incentive and constraint mechanism for the platforms.

“I don’t know how the platform calculates my wage, and it is too complicated. Many criteria, all are decided by the system, few riders can calculate it

precisely by themselves.” (HZ22, 30, male, a Youxuan rider with more than 3 years’ experience)

Though there are several components, the first and most important is still the piece rate. Not only do platforms use their monopoly to determine the piece rate, but they also use algorithms. The basic piece rate for ordinary on-demand riders is around RMB4.5-5 for the two platforms in the two cities.¹⁶⁷ However, the price of a piece rate is not determined solely by the number of ‘pieces’; the ‘piece’ in piecework refers to the particular work scenario, and its price fluctuates within a range around an anchor price. Special on-demand riders have either differential pricing¹⁶⁸ (Fengniao) or piece rate (Meituan) plus rewards. If riders qualify with the minimum daily length of time and orders in a week, certain rewards per order would be added, and the total piece rate is equivalent or a bit more.

Riders have an intuitive understanding of this arrangement. In terms of the correlation between pay component and specific work scenarios:

“Meituan does like this. The piece rate is low when there are enough riders, and it will be increasing slowly if there aren’t. Like previous days, which were sweltering hot (more riders don’t want to go out to work), so the piece rate was high from 14:00 pm to 17:00 pm, higher than the supper peak time. The piece rate was very low after 17:00 pm as the weather turned cool and all riders went out.” (CS30, 29, male, a Lepao rider with no more than 6 months’ experience)

Riders are also aware that there is a fluctuation in the piece rate and that it contains some sort of implied inducement or compulsion.

“Sometimes, they are different even the same customer at the same place who placed two orders from the same suppliers. Yesterday, I was there with two

¹⁶⁷ I have made these speculations based on my participants’ interviews and individual experiences. The delivery fee varies most of the time, and platforms do not provide detailed explanations. In general, Fengniao is a bit higher than Meituan, and the fee is also higher in Hangzhou compared to Changsha, but the difference is relatively narrow.

¹⁶⁸ It works like a pay scale. Such as delivering orders 0-200 is RMB4.35; order 200-250 is RMB5; The more orders, the higher the piece rate.

orders on the platform which I didn't grab. Then I was dispatched for one of two, the price is RMB6.5, but the price for the other order on the platform is RMB6, I can just grab it. It is impossible for me not to grab it for the same customer due to the difference of RMB0.5.” (CS10, 31, male, a part-time ordinary on-demand rider with 1 year experience)

However, riders' knowledge of this complex, piece-rate based pay component is limited and incomplete.

“For example, they will raise the piece rate a bit at 11:00 am, then cut it down after 1:00pm, almost RMB1 lower. We can't figure it out, it's all up to the platforms.” (CS13, 32, male, an ordinary on-demand rider with 2 years' experience)

The second component is the weather allowance provided on a case-by-case basis. The allowance usually starts from RMB0.5-1, which is not fixed and not guaranteed all the time, even if the daily highest temperature is more than 35°C, which the related regulation stipulates an employee allowance.¹⁶⁹ When I asked interviewees about the weather allowance, riders said:

“It doesn't depend on the heat. It depends on the number of orders on the platform right now. If orders can't be grabbed, they will give you an allowance even if it's not hot. If there are no orders, even if it's 50 degrees, it's impossible to give you one. It is different on rainy days. If it is raining, they will give you RMB0.5.” (CS2, 33, male, a Youxuan team leader with more than 7 years' experience)

“Not every order has a weather allowance. It may be RMB1.50, it may be RMB0.50, or nothing at all. I accepted several orders with a weather allowance of RMB1.50 yesterday noon, while the riders next to me who accepted the order 10 minutes before or after me, they only got RMB 0.50 or even none.” (HZ25, 30, male, Meituan rider with more than 5 years' experience)

¹⁶⁹ Notice on the Issuance of Management Measures to Prevent Heatstroke and Reduce Temperature (Document No.89 of the State Administration of Work Safety, 2012).

Another important component of riders' pay is bonuses. It can be seen as innovation of riders' pay system by platforms in recent years to cut the piece rate or utilise riders with the help of algorithms. Along with the piece rate cut, platforms often launch a series of long (many weeks) or short-term (a couple of hours or days) bonus activities with different specific goals targeting different objectives. This struck me as similar to 'the game of making out', a sort of competitive game workers play with the rules governing the labour task, described by Michael Burawoy,¹⁷⁰ offering different levels that riders can challenge according to their ability.

"Previously, it was simple, there was just a piece rate. Now they give you the bonus. The so-called bonus is that they cut the piece rate down and add the difference to the bonus. Only if you reach their requirements you can then get it, or you can't. The difference still belongs to you at the previous price. They changed the rules of the game." (HZ20, 31, male, a same-city core rider within 2 years' experience)

Most of the time, these activities aim to incentivise riders to deliver more or to retain a stable number of riders at specific times, such as holidays and cold days in winter, in order to ensure a balanced distribution of riders in specific time and space areas and to optimise their delivery. Compared to the 'Lepao' or 'Youxuan' plans, which partially improve the delivery capacities for a specific period of time on a weekly basis, the bonus mechanism aims to provide more flexible solutions for specific work scenarios to address the balanced distribution and optimisation of riders in diverse times and spaces.

Therefore, the content of the bonus mechanism is often designed by algorithms with flexibility based on specific work scenarios.

"For example, if they know it will be raining tomorrow, they will launch an activity with ladder bonuses. If you deliver more orders in the specific time slots, more bonuses. During last winter (2020), the highest bonus was RMB8,000,

¹⁷⁰ Burawoy, M., *Manufacturing Consent: Changes in the Labour Process Under Monopoly Capitalism* (University of Chicago Press 1982).

but you cannot go back to your hometown since the Spring Festival holidays are included.” (HZ11, 35, male, a Lepao riders with almost 2 years’ experience)

“Basically they have bonus activities in holiday times. For example, the piece rate won’t be lower than RMB10 during Spring Festival if the bonus is included.” (CS14, 26, male, an ordinary on-demand rider with 1 years’ experience)

Riders are also aware of the platforms’ intention to set up bonus mechanisms:

“When the weather is cold or hot, which is not as comfortable as spring and fall, they have many bonus activities. They also have activities in spring or fall, but the bonus is low.” (HZ25, 30, male, a Lepao rider within more than 5years’ experience)

All the bonus activities are targeted to specific groups and sometimes they are not the same for the same type of riders by algorithm. For the summer or winter, except for the short-term activities, some long-term activities are designed especially for Youxuan or Lepao riders, which usually take a couple of weeks to complete. Riders can quit at any time, but the more weeks they join, the higher bonus they can get. Some activities are just for luring new riders.

“If you don’t deliver much, they will entice you to deliver more through targeted activities. When you keep delivering, the activities will be decreased. Last August or September, my husband tried for a few days and then quit until the Spring Festival. Then the platform offered him an activity including RMB 1880 with 128 orders in three days. Generally, people would not be able to resist the temptation to deliver.” (CS10, 35, female, a Lepao rider with 1 year’ experience)

Of course, the algorithms would not allow riders to obtain the bonus easily. The restrictions on activities are harsh. For example, only the orders which riders delivered during lunch peak time count. Platforms are good at keeping a balance between stimulating and disappointing riders. Most of the riders can obtain certain bonuses but only a very few can get the highest bonus. The purpose of this design is to maximise the overall delivery capacity, prioritising the efficient

use of riders as a means to an end, rather than optimising the delivery capacity of each individual rider. The expectations of the individual rider are strongly influenced by the riders as a whole with uncertain boundaries of delivery capacity, which can create a conflict between the riders as a whole and the individual rider or a limitation on the individual rider put by the riders as a whole. In this process, the relationship between individual riders and riders as a whole, platforms become the ultimate controller of the payment structure of riders by mastering all the delivery data of the riders.

Riders feel the platforms:

“have the big data; For example, you have to deliver xx orders in three hours to get the bonus. You are just a few orders short of the required total orders, but definitely there is someone who can complete it. They intended to limit you, so they won’t dispatch orders to you at the final time.” (HZ11, 35, male, a Lepao ride with almost 2 years’ experience)

“Possibly 6 or 7 out of 30 riders in our team can get the highest bonuses. You must keep delivering more and more every day. A week is seven days, you can’t take any time off. They can count it so tight.” (CS12, 31, male, a Lepao riders with 3 years’ experience)

Anyway, the bonus promotions have an external motivational effect on riders:

“Some riders don’t care about the piece rate anymore in order to qualify for the requirements of bonus activities, and the platforms lower the piece rate sometimes when they have such activities” (CS28, 45, male, an ordinary on-demand rider with no more 6 months’ experience)

2.1.2 Unavoidable expenses

A fine or penalty is the first unavoidable expense for all types of on-demand riders. There are very detailed and complicated policies on both platforms concerning fines or penalties which riders are required to master. Many

situations could lead to a fine and it is not an exaggeration to say that every rider has experienced being fined.

“The number of fines has been increasing. The fine for not wearing a uniform and helmet has been set in the last year or two; There wasn’t such a fine before.” (HZ22, male, 30, a Youxuan riders with almost 4 years’ experience).

The cost of fines is very high compared to the piece rate (the highest fine could reach RMB 500), and they are more severe for special on-demand riders. This is partially confirmed by the fines of delayed orders in Tables 8 and 9.

Table 8: Fines for delayed ordinary orders for Ele.me (Fengniao) ordinary on-demand and Youxuan riders

Delayed length of time (minutes)	Deduction percentage from delivery fee for ordinary on-demand riders	Deducted amount for Lepao riders (RMB)
<5	10%	
5 ≤ delayed time <10	30%	
10 ≤ delayed time <20	50%	
≥ 20	70%	
< 12		2
12 ≤ delayed time <20		4
≥ 20		6

Table 9: Fines for delayed ordinary orders for Meituan ordinary on-demand and Lepao riders

Delayed length of time (minutes)	Deduction percentage from delivery fee for ordinary on-demand riders	Deducted amount for Lepao riders (RMB)
0-6	40%	3
6-12	50%	3
12-18	60%	5
18 above	70%	7

For those who don’t know the policies very well, particularly new riders, older riders or those poorly educated, fines are a significant expense. On my first day of being a rider, I was fined for my first order from Fengniao because of a 30 seconds’ delay, and later I was fined RMB2 for another order because I forgot to click on the App to confirm that I had already picked up the food in the restaurant. The total delivery fee was RMB4.3. One of the participants, aged 54

and with only a primary school education, shared his records on Meituan with me. The fines during May 2021 amounted to RMB79, around 1.5% of his total monthly income (RMB5,456). He said:

“This year is better, I got fewer fines that I need to pay RMB50, I got a lot last year.” (HZ17, 54, male, an ordinary on-demand rider with 2 years’ experience).

For Lepao or Youxuan riders, except for the fines, the cost of transferring orders is also a necessary and significant expense as they must accept dispatched orders. Once they are dispatched, a bad order, for example. an order where they have to walk a long distance to deliver, during the peak period, or a new order which is not on the same route or in the same direction as other orders already dispatched, will ruin their short ‘golden time’ for making money. The transfer function could help them cope with the difficulties, though it is costly and does not always work. One participant told me,

“The weekly average cost of transferring orders is RMB50 for me; I have to add RMB5 to one order directly in order to transfer it successfully during lunch peak time, I have paid RMB 15 this afternoon.” (HZ30, 37, male, a Lepao rider with more than 2 years’ experience).

Another participant said,

“Usually I need to pay RMB30-40 weekly for transferring orders, sometimes RMB60-70 or more, and at least RMB300 at least monthly.” (CS12, male, 31, a Lepao rider with 3 years’ experience).

As mentioned above, the order transfer function is limited to both total and free times. Riders must weigh the considerations of when it is optimal to transfer an order. However, it still makes economic sense to transfer ‘bad’ orders sometimes even at the cost of a significant fee. The process is like an auction. The rider adds at least RMB2 which is the minimum transfer fee to the order and the order is then shown in the ‘hall’, waiting to be accepted by other riders. If no one responds, the rider can increase the fee or he/she could offer a higher fee first. If it still fails to be accepted, the rider has to deliver it himself. In

other words, the cost of bad orders used to be paid by the platform but now it has been transferred to the riders. For ordinary on-demand riders, though, they can freely refuse more orders. It is not unlimited and platforms stop dispatching orders during the day when the number of rejections reaches a certain level.

“We make money mainly from the lunchtime slot. If the system dispatches orders to XX residential community (which is notorious for long-distance walking and long waiting times for lifts), I will try to transfer it to others. I have to walk at least 10 minutes to the building where customers live and spend maybe another couple of minutes waiting for the lift. All the buildings are more than 30 storeys high, even if no one else uses the lift, it takes a few minutes to go up and down. Including picking up the food and time spent on the road, the delivery time is almost over, I can only deliver a few orders, even when they also have dispatched some orders for the same community to me and increased the delivery fee. If I pay some money and transfer it successfully, the system may dispatch me good orders, and I can deliver 12 orders at a time, in that case, I make more money and it is easier.” (HZ30, 37, male, a Lepao rider with more than 2 years’ experience)

Another possible cost arises from damage to delivered items. Delivered items can be stolen on the way or at the place where riders have asked for to be left. Though some kinds of damage in specific situations can be exempted according to the policies, riders still need to bear some losses. Usually, the price of orders is not expensive as most are light meals, but if the order is expensive, the loss would be huge. An extreme case occurred when one of the participants’ orders was stolen when he was delivering other orders. The order was worth over RMB300 and he had to pay it all.

And there are more invisible costs¹⁷¹: scooters, batteries, and phone fees, which are their necessary expenses. Among them, batteries are the most expensive part. Nearly all the riders use electric scooters in China, which means riders need at least one rechargeable battery. High-quality batteries cost more than the scooters themselves and have a high risk of being stolen, so most riders

¹⁷¹ In fact, when riders tell me their income, they usually don’t include these invisible costs and just mention the amount they received from the platform.

choose to rent them.¹⁷² The monthly price for renting a battery is currently around RMB280-300 in the two cities. Moreover, the mandatory business insurance fee discussed below is also an unavoidable cost.

2.1.3 Long working hours

According to the two surveys from Fengniao and Meituan, delivery riders' monthly income in 2018 mostly amounted to between RMB4,000 and 8,000, with 40% and nearly 30% of riders earning RMB4,000-6,000 and RMB6,000-8,000 at Fengniao and 18% and 25% of riders earning RMB4,000-5,000 and RMB5,000-8,000 at Meituan, respectively. A small proportion of riders earn above RMB8,000. The participants' average monthly income varies from almost RMB5,000 to RMB15,000.¹⁷³ At some specific times, a few participants can earn even more. Overall, it seems they make fairly good money, but all at the cost of long working hours. Overtime and no free weekends or holidays are common occurrences. To put it simply, as the components of pay are tightly controlled by algorithms, the more money a rider wants to make, the longer he/she needs to work. The participants who earn the highest shared their working routine with me:

"I usually work from 10 am to 11 or 12 pm. Sometimes I go home at 8 pm or 9 pm if I feel tired or I have got enough orders, and I don't take a day off every week. I don't have time to chat with other riders except when they phone me; I am busy with deliveries". (HZ30, 37, male, a Lepao rider with more than 2 years' experience)

"I work from 9 am or 10 am to after 8 pm every day. I never take a break during the day. Sometimes I don't have meals. It is a very intense job. A normal person couldn't stand it. I have never had a break from last year until now. Even at the Spring Festival I did not go back home." (CS12, male, 31, a Lepao rider with 3 years' experience)

¹⁷² Renting batteries to riders has become a new business model, with battery shops popping up in convenient locations for riders.

¹⁷³ Fengniao Peisong, '2018 Takeaway Rider Group Insights Report' (n 15); Meituan Research, 'The New Urban Youth:2018 Takeaway Rider Employment Report'(n 17).

Otherwise, those who work standard or fewer working hours, are not earning anywhere near as much as advertised. Not to mention those who are new and not familiar with the routes and apps.

“I work 8 to 9 hours a day, I go out before 10 am and go home at around 7:00 pm or 8:00 pm, I go back to have a rest after lunch peak time, so I just earn RMB1,600 weekly”. (HZ3, 27, male, a Youxuan rider with almost 5 years’ experience)

2.2 Dangerous work

2.2.1 Accident and sudden death

Delivery riders’ high rate of traffic accidents already mentioned in chapter 1 clearly shows the danger of the work. What makes it so dangerous is not only the scooter itself and terrible weather, but more importantly, the tight delivery time and long working hours. Moreover, insurance currently provided by platforms cannot fully compensate workers for their losses. In Chapter 1, the magazine article titled ‘Delivery riders, stuck in the system’ is referenced, which reveals a series of data on riders’ traffic accidents. In my fieldwork, participants reiterated significant concerns about this issue, highlighting the high frequency or even ubiquity of traffic accidents in the industry.

“Riders are killed in accidents. We risk our lives to make money, I have been a rider for 6 years, and I have had 2 accidents at least.” (CS15, male, 36, an ordinary on-demand rider with 6 years’ experience)

“Of course, it is dangerous, no matter how careful I am, while delivering orders, it doesn’t mean the other cars and trucks won’t hit us. You know how reckless some drivers are. We are just meat clad in iron. Although our physical labour intensity is not great, my brain is fatigued and tense. The string in my head is tight. Sometimes you are slightly distracted. I do not pay full attention and there is a car in front of me, which startles me. Just for a second, there might be an accident.” (CS17, 45, male, an ordinary on-demand rider with more than 2 years’ experience)

Delivering in bad weather can result in more accidents; however, it is also the time when there are more orders.

“The dazzling sun made my head feel dizzy, and I started to feel a bit lightheaded when I concentrated for too long.” (CS22, 22, male, a Lepao rider for less than 1 years’ experience)

“Strong winds and heavy rain are the worst. The raincoat doesn’t work and it is hard to see the road ahead. The roads are slippery and the scooter is liable to tip over, and even if I have my phone in a rain cover, it easily gets wet.” (HZ19, 21, male, an ordinary on-demand rider with 4 months’ experience)

Some ordinary on-demand riders can choose not to work during bad weather or take a rest at any time, but special on-demand riders and those who want to make money must work even in bad weather. For some riders, terrible weather conditions may present an opportunity with high risks as well as ‘high’ returns.

In addition to the weather conditions, the various strict delivery policies set by platforms may also directly affect the safety of riders on the road, especially the delivery time. Although delivery times fluctuate depending on various situations just as the piece rate, there is a trend towards tighter and more precise control of delivery times, mainly driven by self-learning algorithms. Participants complained:

“They never stop exploiting you, particularly the delivery time. For example, the delivery time from here to XX was 40 minutes. They found you can deliver it in 35 minutes every time, then they cut it from 40 minutes to 35 minutes.” (HZ26, 24, male, a Lepao rider with 1 years’ experience)

“During peak times, it is not an exaggeration to say that I don’t have time to drink or go to the toilet. They calculate the delivery time very tightly. If they dispatch 7 orders, basically the time they give is just the right amount.” (CS12, male, 31, a Lepao rider with 3 years’ experience)

A low piece rate combined with shortened delivery times further worsens the safety of riders. Given the low piece rate, riders usually expect more orders dispatched by platforms though they have the discretion to adjust the number of orders they want to accept on apps under the multiple order system. Even if a rider has the highest account rank, there is no guarantee that he/she will be dispatched the maximum number of orders. Therefore, most of riders would not lower the number of orders they can accept.

“The piece rate is too low; If you want to make money, you must deliver more orders, and also must deliver more orders during the same delivery. If you just take 3 or 4 orders at one delivery, and one order is just RMB 4, which takes nearly one hour to fetch and deliver, you can’t make money.” (CS12, same as above)

“How can I make money if I reduce the number of orders I can accept?” (HZ19, 21, male, an ordinary on-demand riders with less than 6 months’ experience)

If no maximum orders are dispatched, they try to grab orders in the ‘hall’ on apps, sometimes even while delivering on the road, which poses an increased risk of accidents.

“I ride with one hand and grab orders with the other hand along the way.” (HZ20,31, male, a same-city core rider with 2 years’ experience).

It is really a fight during such peaks time. I often saw riders running to fetch and deliver orders or running fast while reading order information on their phones. I even saw riders riding and talking to customers on the phones or managing orders at the same time (lots of riders have phone holders on their scooters). All of these have led to a common practice of riders driving on the wrong side of the road, running red lights or violating other road rules and ultimately to accidents or death.

“After all, we are pressed for time, it is a high-risk job. Like last year, several riders died on the road within a span of one month or more.” (CS4, 22, male, an ordinary on-demand riders with 18 months’ experience).

Not just traffic accidents, sudden death seems to be no stranger to riders. There is no data or research to indicate the proportion of sudden death of riders or the direct links between the death and the job, but some cases have been reported,¹⁷⁴ and at least 9 related court decisions¹⁷⁵ are found on China Judgements Online. Based on the cases in which details of the working hours were provided, some links between long working hours and sudden death can be inferred.

“At 23:34 pm on 05/03/2021, 110 Command Centre received a report that a rider opposite the primary school in XX Road, xx District, seems not too comfortable.”¹⁷⁶

“XX (the rider) parked his scooter and came into the public restroom at 9:05 pm (where the rider was dead)...”¹⁷⁷

“XX (the rider) came back home at 7:45 pm...”¹⁷⁸

In the fieldwork, some participants mentioned cases they had heard of where riders around them had died suddenly while delivering orders.

“Last year, a rider had a sudden death at xx square. It was said he was the king of orders. You know, the riders who had sudden death are always those ‘kings of order’”. (CS 29, 51, male, an ordinary on-demand riders with more than 2 years’ experience).

¹⁷⁴ ‘Image of Delivery Rider Who Died Suddenly: Died After Only Four Months on the Job, Even Veterans Couldn’t be Avoided’ (2021) <<https://finance.sina.com.cn/tech/2021-01-09/doc-iiznezxt1530662.shtml>> accessed July 10, 2022.

¹⁷⁵ I used the keywords ‘rider’ and ‘sudden death’ in the full text of the judgments from 01/01/2015 to 31/12/2021 and delete those that didn’t really involve riders’ sudden death. (2021) Lu 0304 Minchu No.2196; (2021) Liao 0103Minchu No.14438; (2019) Shan 01Minzhong No.164; (2020) Jing 01xingzhong No.731; (2020) Wan 03 Minzhong No.1607; (2020) Yu 03Minzhong No.2888; (2019) Chuang 01Minzhong No.19641; (2021) Liao 04 Minzhong No.2783; (2021) Lu 01Minzhong No.9219.

¹⁷⁶ (2021) Liao 0103Minchu No.14438.

¹⁷⁷ (2021) Lu 01Minzhong No.9219.

¹⁷⁸ (2020) Wan 03 Minzhong No.1607.

2.2.2 The business accident insurance

Given delivery riders cannot have injury insurance due to their non-employee status, the platforms provide similar mandatory business insurances, which covers accidental death and disabling injury, accidental medical, personal third liability insurance and sudden death. RMB3 are deducted automatically from the first order daily, and if an ordinary on-demand rider takes orders from both platforms, RMB6 will be deducted. The insurance only takes effect after grabbing the first order, and the maximum compensation is strictly limited,¹⁷⁹ and of course, lots of documents or evaluations need to be provided if riders want to claim the compensation. What shocked riders and the public, according to a report on the case of an Ele.me rider who died suddenly while delivering in 2020, is Ele.me actually only used RMB1.06 of RMB3 to buy insurance for riders and the remaining part was collected as a service fee.¹⁸⁰ Later Ele.me raised the insurance compensation of sudden death to RMB600,000. Rides generally consider the insurance as too insipid to taste and too wasteful to discard. In fact, the compensation is far beyond providing enough protection for riders or their families.

“This insurance is mostly useless, but anyway it is somewhat useful. After all, if something happens, at least we have this insurance, although we can’t get much compensation.” (CS29, 51, male, an ordinary on-demand rider with 6 months’ experience).

Another participant said from his own experience:

“It definitely offers some help, but not much. My leg was hit by another rider and he claimed the insurance, and they reimbursed me RMB1,700 for medical expenses and lost wages, very plain expenses, the lost wages are RMB100 per

¹⁷⁹ According to the insurance contracts on the two platforms, the maximum compensation for the accidental death and disabling injury and sudden death on Ele.me is RMB650,000 and RMB600,000 respectively, while they are RMB600,000 on Meituan; the maximum compensation for accidental medical on both platforms are RMB50,000; The maximum compensation for personal third party liability insurance is RMB300,000 on Ele.me, while Meituan is RMB50,000 for third party’s property loss and RMB200,000 for third’s party’s personal loss.

¹⁸⁰ Wang, L., ‘Reflection on the Sudden Death of a Delivery Rider’ (January 12, 2021) <http://zqb.cyol.com/html/2021-01/12/nw.D110000zgqnb_20210112_1-05.htm> accessed July 15, 2022.

day. They didn't check my transaction history of the bank, I tried to ask for more. They asked me to offer the income statement from Meituan, I know if I do this, it will take a couple of months. Why do I waste so much time for such a small amount of money?" (CS11,38, male, an ordinary on-demand rider with 3 years' experience).

Some participants told me they have bought other business insurances for themselves and their family in case of various kinds of accident.

2.3 Difficulties caused by imperfect algorithms

Algorithms have become the mechanism for platforms to control and manage riders, but the current algorithm technology of platforms is not perfect, which has created significant obstacles for riders to deliver smoothly. Riders complained that the matching and dispatch system does not function optimally, severely impacting the efficiency of deliveries and leading to reduced income and unreasonable fines. Usually, riders rely on the platform to match them with the maximum number of orders along their route to successfully deliver at their highest capacity. However, the platform often dispatches disorganised orders in different directions or gives non-optimal arrangements, causing frustration among the riders.

"The dispatch system is frustrating. Sometimes, when I am downstairs in a customer's building, I cannot deliver their order. I am directed to deliver other orders first and then come back to deliver this order. If I choose to deliver this order first, then the other order will be overdue." (HZ30, 37, male, a Lepao rider with more than 2 years' experience).

"Sometimes, customers' addresses are inaccurate. For instance, the distance between me and the customer may be short, but there could be a river between us with no bridge. Unfortunately, the navigation system provided by the platform is unaware of this. I can't complain aloud to the platform. Although they suggest that I take a photo, it is of no use if I only take a photo of the river." (HZ2, 29, male, a Youxuan rider with more than 2 years' experience)

The imperfect algorithm, combined with the multiple order system, puts riders under greater stress and time constraints during peak hours, which again increases the risk of accidents.

3. Undignified work in an unfriendly social environment

The social prestige of riders is low in China, and in some people's eyes, this job appears to be unskilled and low-status.¹⁸¹ It is fair to say whatever their daily working environment, or more broadly their social environment, it is not very kind and comfortable. One participant said,

“You just go out and ask around. Not many people look up to riders, whether they are suppliers, customers, or passers-by.” (CS12, male, 31, a Lepao rider with 3 years' experience).

Comparing riders, platforms, suppliers, and customers involved in the daily delivery work, “We are the most vulnerable group among the four parties, platform, businesses, customer, and us.” (HZ30, 37, male, a Lepao rider with more than 2 years' experience).

It has happened sometimes that riders are insulted¹⁸² by customers or complaints are made by suppliers. It has also happened for riders to be asked to do some unpaid work for customers, such as buy cigarettes or take out the garbage, as mentioned in Chapter 1. Actually, platforms even encourage riders to do such things in order to attract more customers.

“When they train us, they ask us to take the initiative and ask customers if they had any trash to be taken down, and that's how it used to be.” (CS14, 26, male, an ordinary on-demand rider with 1 years' experience).

¹⁸¹ Gao, J.W., 'Social Mobility and Urban Identity of Food Delivery Riders in the New Forms of Employment' (2021) <<https://zhuanlan.zhihu.com/p/388827056>> accessed June 8, 2022.

¹⁸² Zhu, B.W., 'A University Student Who Ordered Food Ranted Riders' (The Paper,2021) <https://m.thepaper.cn/rss_newsDetail_15749012?from=>> accessed June 8, 2022.

Another participant said, *“customers are always right; Whatever grievances we have, the platform supports them.”* (HZ16, 33, male, a Youxuan rider with 1 year’ experience).

Although platforms have improved their rating system to exclude these bad reviews that are not the responsibility of riders, but rather the result of unreasonable demands from customers,

“if customers are clever, they give me a bad rating based on bad service, but do not mention the specific reason. The platform will take the bad review at face value.” (HZ25, 30, male, a Youxuan rider with 5 years’ experience).

Most participants said that they would agree to customers’ requests additional to the delivery if they had the time. Just a few participants refused and noted that it is an unpaid service.

“I know I don’t need to do this, but you know if you do this for them, they will be happy and probably forgive other misdemeanours and give me a good rating.” (CS12, male, 31, a Lepao rider with 3 years’ experience)

The harsh treatment by customers or businesses is possibly understandable for riders as they are in the service industry.

“There is no way, we are in the service industry, it is common to meet nasty customer”. (CS26, 35, male, a part-time ordinary on-demand rider with 1 year’ experience).

What riders find even more difficult to accept as unjustified treatment is visible or invisible discrimination, disrespect and demeaning behaviour. What riders mention most and think is unfair is that many neighbourhoods or business districts do not allow in riders on scooters but do allow couriers or other delivery persons on either scooters or other vehicles. Their uniforms and delivery boxes with logos are burdens sometimes that lead them to be treated unfairly. One participant was confused,

“I don’t know what the differences between another delivery person and us is. One day, I followed a delivery man from Fresh Hema (an in-store and online retail fresh food supermarket). The security guard just stopped me when he saw my uniform. I argued with him.” (CS7, 35, female, a Lepao rider with more than 1 year experience).

Some participants complained about security guards’ bad attitudes and they look down on them.

“I rented a flat in the neighbourhood, one day I finished my work and went back to my flat. When I passed the main gate, the guard stopped me. I explained and showed my key and access card to him, but he didn’t believe me!” (HZ1, 30, male, an ordinary on-demand rider with almost 4 years’ experience).

“I can tell by the peculiar look I get from others in the neighbourhood when I wear my uniform, and when I wear a factory uniform, people will respect me more.” (HZ9, 36, female, a Lepao rider with less than one-year experience)

I was surprised that the social stigma carried and accepted by riders when one participant told me:

“I will take off my uniform when I go to eat with friends, I feel it is not good to wear it. I heard the boss of a restaurant where I often have lunch with and another owner of a nearby business, they said they don’t want us to have lunch here during peak time. It doesn’t mean they don’t welcome us, but when the white collars from the nearby office buildings come to have lunch and they see a group of riders sitting there, they probably turn away and go elsewhere.” (HZ11, 35, male, a Lepao rider with more than 2 years’ experience).

What he meant was that these businesses were not up-market restaurants, just greasy spoons situated near office buildings. Last year, a luxury high-end shopping mall in Beijing prohibited riders from entering, reflecting a similar

public perception of riders.¹⁸³ Given so much negative feedback, one participant said,

“there are some people who would rather do other jobs which earn less than riders. They don’t want to be looked down on.” (HZ1,30, male, an ordinary on-demand rider with almost 4 years’ experience)

4. Temporary work

Given their precarious situation, few riders see being a rider as a long-term arrangement but rather only a transitional one. In other words, the harsh work is unsustainable. Riders believe that they can make money from the work currently if they work hard, but the danger, bad working conditions, few career development opportunities, and low social prestige prove it is not good to do so for too long. Many participants seem to agree that their role as riders is temporary, and they express this sentiment using similar language.

“I won’t do it forever. I can make money from it now, I will quit after I make enough money, if I can’t make money from it anymore, I will quit.” (CS12, male, 31, a Lepao rider with 3 years’ experience)

“It is too dangerous, I will just do it for a few years, then I will do other jobs after I have saved some money.” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience)

After a few years of working in harsh conditions, some riders begin to show symptoms of ‘occupational disease’.

“I have had spinal disc herniation as I ride for too long. Now, when I get up in the morning, I can’t feel half of my palms.” (CS15, 36, male, an ordinary on-demand rider with 6 years’ experience).

¹⁸³ ‘Judging People by Their Clothes? Beijing SKP’s Refusal to Allow Delivery Riders into the Mall Sparks Controversy’ (People’s Daily, 2020) <<https://wap.peopleapp.com/article/rmh14541295/rmh14541295>> accessed November 1, 2020.

“I have arthritis; it was too cold in winter, and there are no types of equipment sufficient to protect the joints in the cold. It is definitely not a job you can do for a long time.” (HZ4, 35, male, an ordinary on-demand rider with 3 years’ experience)

Based on the various restrictive conditions associated with this type of work at present, as mentioned above, it is hard to say that there is a career development path for riders. Most of them do not have a strong sense of identification with this work.

“It is boring. Either you make money or not, my mind is a blank every day when I come back home. Because I don’t have focus, even if I make RMB400 or RMB500 per day, I have had nothing in my mind and hit the hay. You don’t know where you can go; You don’t have focus, you can’t reach out to other social circles, I feel lost.” (HZ24, 25, male, an ordinary on-demand rider with more than 2 years’ experience).

The career ceiling of riders is possibly team leadership. Team leaders are in charge of special on-demand riders while also delivering orders themselves. *“The chance of promotion is very rare, there are thousands of riders, and a very few can be promoted [to be management].”* (HZ1, 30, male, an ordinary on-demand rider with almost 4 years’ experience).

It is understandable that many riders don’t view being a rider as a long-term career option, but whether they can find a better job is another problem they need to face.

Conclusion

Being a rider is definitely not a good job. The platforms use various types of bureaucratic control and algorithmic control to repeatedly lower the piece rate, impose various high fines and to divide riders into different types to ensure sufficient availability. Due to the competitive structure of the market and to the demands of daily life, riders have no choice but to cope with long working hours, suffer disrespect and discrimination and risk accidents or even death to earn a

living. It is no wonder that lots of riders don't see being a rider as a long-term job, but whether there are any other viable alternatives is unclear to many of the riders, who therefore become more willing to accept on-demand work. The next chapter will explore some of the trade-offs described by the riders themselves.

Chapter 4 Good job? Wages first, freedom and flexibility second

Introduction

As discussed in Chapter 3, it would be difficult indeed to say that being a rider is a good job. However, the huge growth in the number of riders in recent years and the phenomenon that lots of factory workers quit work in factories to become riders, and that young workers show a preference for being riders over being factory workers,¹⁸⁴ seems to tell another story. Since China's *Reform and Opening Up* in the late 1970s, manufacturing has attracted a large proportion of migrant workers.¹⁸⁵ Most manufacturing is still labour-intensive and requires a substantial workforce, which means that unskilled or semi-skilled workers have options to choose either to be riders or factory workers.

During my fieldwork, it was surprising that nearly every participant who had experience of factory work complained about his or her factory life. Most of them said with a strong determination that they would never go back to factory work in the future, and some even thought highly of the delivery work in comparison. *“This job is the king among all the jobs I have done before, absolutely the king.”* (HZ10, 30, male, a Lepao rider with almost 3 years' experience). At first, I doubted what they said as working conditions for on-demand workers seemed to me to be worse than in factories in several respects. After the interviews, I fully understood their choices. In this chapter, I will explain, based on the qualitative evidence I gathered and with reference to the legal, social, and economic context, how on-demand delivery work attracts workers despite its reputation for dangerous and poor working conditions. As a comparison, the participants with factory experience are mainly addressed, but there are commonalities among other participants' choices.

¹⁸⁴ 15% of the 3 million riders for Fengniao were factory workers before, which is the largest group among riders. 27.2% of one million new riders increased for Meituan during the epidemic came from manufacturing companies. Zhao, Y, 'What Will Happen to China's Manufacturing Industry When All the Young People Go for Takeaway?' (China Digital Times, July 28,2020) <<https://chinadigitaltimes.net/chinese/651065.html>> accessed June 1, 2022.

¹⁸⁵ Liu, P.L., 'The Current Situation and Changing Trend of Migrant Workers in the Manufacturing Industry' (2020) (9) People's Tribune 54.

I use the two themes ‘income’ and ‘freedom and flexibility’ to explore what workers prioritise when it comes to their choice of work. In part 1, I take the wage in manufacturing as a comparison to demonstrate how the wage and the minimum wage laws have shaped the phenomenon of low wages in manufacturing, and how migrant workers’ ideas of ‘going out and making money’ and their view of social insurance contributions as more of a loss than a benefit, further shapes their preference for on-demand delivery work. Moreover, no wage arrears and having the wage paid quickly are also the factors for workers to choose to be riders.

Part 2 examines that freedom and flexibility are the other reasons for workers to choose to be riders. Compared to the harsh rest breaks and unbearable shift work policies in manufacturing without legal regulation, the flexibility and freedom in the on-demand sector are preferable, even taking account of ‘algorithmic control’. In addition, compared to the ubiquitous age and gender discrimination in the job market, on-demand work has very low barriers to entry and provides relatively good opportunities for discriminated-against groups.

1. Wage first

1.1 Migrant workers and low wages in manufacturing

As China has become the world’s manufacturer in the last two decades, rural migrant labourers have become ‘special forces’ and a ‘comparative advantage’.¹⁸⁶ From a mere 62 million in 1993, the number of migrants living and working away from their home villages reached 280 million by the end of 2016.¹⁸⁷ Their low wages, in other words, the low-cost labour, is a major component in China remaining competitive in global markets.¹⁸⁸ The average nominal and real wage of migrants has increased as the country’s eastern coastal

¹⁸⁶ Chan, K.W., ‘The Global Financial Crisis and Migrant Workers in China: “There is No Future as a Labourer; Returning to the Village has No Meaning”’ (2010) 34(3) *International Journal of Urban and Regional Research* 659.

¹⁸⁷ National Bureau of Statistics of China., ‘Monitoring and Survey Report on Migrant Workers in 2016’(2017) <http://www.gov.cn/xinwen/2017-04/28/content_5189509.htm#1> accessed July 1, 2022.

¹⁸⁸ Banister, J., ‘Manufacturing in China Today: Employment and Labour Compensation’ (2007) *Economics Program Working Papers* <<https://ideas.repec.org/p/cnf/wpaper/0701.html>> accessed June 1, 2022.

region, where the majority of manufacturing is located, has been experiencing a ‘labour shortage’ since 2003-2004.¹⁸⁹ But it is debatable that China has a true labour shortage.¹⁹⁰ Even though governments have urged it to update, China’s manufacturing industry is still primarily made up of low- and medium-end (labour-intensive) firms with low value that rely on low labour costs. Factory workers’ earnings remain low, with a pay structure that combines a low ‘basic wage’ (Jibengongzi) with a ‘high overtime rate’. What is worse is that there has been a tendency to lower basic wages and increase overtime rates over the last decade or so.¹⁹¹

1.1.1 Wage, basic wage and minimum wage

The scope of wages has never been clearly defined in labour law. The Payment of Wages Tentative Provisions issued by the former Ministry of Labour in 1994 is the most authoritative legislation regulating wages. However, these Provisions, which were published about 20 years ago and had only 20 provisions, provide only limited instructions.

The term ‘basic wage’ was mentioned in another Notice regarding calculating overtime,¹⁹² and it has been widely used in the real world such as recruitment ads. But there is no definition of a basic wage in current labour law, though it was indeed defined in an abolished regulatory document in 1951,¹⁹³ when the planned economy and state-own enterprises dominated.

The term approximately equivalent to the ‘basic wage’ in labour law is the minimum wage. In 1993, China’s Ministry of Labour issued the Regulations on Enterprise Minimum Wages. It was repealed and replaced by more expansive Minimum Wage Regulations 2014. According to the new regulations, there isn’t a

¹⁸⁹ Wang, Z., ‘China’s “Labour Shortage” and Migrant Workers’ Lack of Social Security’ (2014) 153(4) *International Labour Review* 649.

¹⁹⁰ Knight, J., Deng, Q. and Li, S., ‘The Puzzle of Migrant Labour Shortage and Rural Labour Surplus in China’ (2011) 22(4) *China Economic Review* 585.

¹⁹¹ Pan, Y. and Xu, Y., ‘Monopoly Capital and Chinese Workers: A Case Study of the Foxconn Factory System’ (2012) 2 *Cultural Review* 48.

¹⁹² Article 44, Interpretations of Some Articles of the Labour Law (No.289 of the General Office of the Ministry of Labour, 1994).

¹⁹³ Provisions on the Composition of Gross Wages (Finance and Economic Commission under the Government Administration Council, 1951). The Civil Servant Law accurately defines the basic wage, but it is a different wage system and doesn’t apply to other work units.

national minimum wage. Instead, the task of creating and enforcing minimum wages has been delegated to provincial governments or equivalent municipalities, who are free to set varying minimum salary levels in their administrative territories.¹⁹⁴ There are two forms of the minimum wage: the monthly rate for full-time workers and the hourly rate for part-time workers, who have a 'labour relationship' with 'work units'. The monthly minimum wage is based on 40 hours per week as the Labour Law stipulated that the standard for full-time work is no more than 8 hours per day and 5 days per week. The hourly minimum wage is not the simple proportion of the monthly minimum wage; it is to be higher to account for some factors set out in the provisions, using a 'formula'.¹⁹⁵

The components of the minimum wage are not clearly defined, but there are only a few exclusions. According to Article 12 of the new regulations, the following parts should be excluded from the local minimum wage: (1) Wage for extra work; (2) Allowances under special working environments and conditions such as mid-shift,¹⁹⁶ night shift, high temperature, low temperature, underground, toxic and hazardous conditions; (3) The welfare and treatment of workers stipulated by acts, regulations and the state. The main point here is how the provincial governments explain the welfare and treatment in Section 3 as they have never been defined before, particularly the social insurance contributions and housing provident fund, which usually account for a certain percentage of wages.

In truth, the extent of welfare and treatment is viewed differently by different provincial governments (see Table 10). A few provinces or municipalities

¹⁹⁴ Each province has 3 to 4 different minimum wage rates/levels: various cities, districts, and areas in the province are classified into 3 to 4 groups, each applying a different MW rate/level. Subsequent to the national-level Provisions, some provinces have adopted province-level regulations stipulating a frequency that is different from the national level regulation. For example, Hunan Province and Guangdong Province announced that it would adjust the minimum wage every three years. ILO, 'The Institutional Features of Minimum Wage in China' (2020) <https://www.ilo.org/global/research/global-reports/global-wage-report/WCMS_765118/lang-en/index.htm> accessed June 1, 2022.

¹⁹⁵ ILO, 'The Institutional Features of Minimum Wage in China' (n 194).

¹⁹⁶ There are no laws or regulations specify the scope of mid-shift, we can only find them in some regulatory documents. In an abolished local labour department regulatory document, middle-shift is defined as the period between 14:00 or after 14:00 and work until 22:00 or after 22:00. Notice on the Implementation of Mid-Shift Allowance in Municipal State-Owned Enterprises (Document No.273 of the Tianjin Municipal Labour Bureau, 1986).

excluded the social insurance contributions and housing provident funds completely, while others, particularly those with thriving manufacturing industries, like nearly all the coastal provinces: Zhejiang, Fujian, Guangdong, and Jiangsu, don't specify or choose to exclude only part. The different choices made by local governments may be attributed to their varying understanding of the possible functions it serves: for example, some aim to keep wages low in order to attract more firms and increase tax income.¹⁹⁷

Table 10: The excluded items of minimum wages in the main provinces¹⁹⁸

Province	Excluded items				
	Article 12 (1)	Article 12 (2)	Article 12 (3)		
			Social insurance contributions	Housing provident fund	Others
Beijing	✓	✓	✓	✓	
Shanghai	✓	✓	✓	✓	Food allowance; commuting allowance; housing allowance
Zhejiang (Hangzhou)	✓	✓			

¹⁹⁷ Siu, K. and Unger, J., 'Work and Family Life among Migrant Factory Workers in China and Vietnam' (2019) 50(3) Journal of Contemporary Asia 341.

¹⁹⁸ Notice on Adjusting the Minimum Wage Standards in Beijing Municipality (Document No.77 of the Beijing Municipal Human Resources and Social Security Bureau, 2021); Notice on Adjusting the Minimum Wage Standards in Shanghai (Document No.18 of the Shanghai Municipal Human Resources and Social Security Bureau, 2021); Minimum Wage Regulations in Hunan Province (Amended) (Document No.208 of Government of Hunan Province, 2017); Notice of on Adjusting the Minimum Wage Standards in Jiangsu Province (Document No.72 of the Department of Human Resources and Social Security of Jiangsu Province, 2021).

is the capital)					
Hunan (Changsha is the capital)	✓	✓	✓	✓	Non-monetary income paid to workers through meals, housing, etc.
Guangdong	✓	✓			
Fujian	✓	✓			
Jiangsu	✓	✓		The worker's contribution at the lowest limit	

1.2.1 Low basic wage in manufacturing

“We had to work overtime in the factory, if we don’t, we can just earn around RMB2000. Our basic wages are low.” (HZ20,31, a same-city core rider with 2 years’ experience.)

The monthly ‘basic wage’ offered to migrant workers in most manufacturing firms is virtually the same as or similar to the legal minimum wage.¹⁹⁹

“I do not know how the factory works now. When I worked in the factory in Guangzhou, they offered just the minimum wage, labour laws say 8 hours a day, but you can work overtime. What we earned was mainly from the overtime” (HZ28, 22, male, a team rider with no more 6 months’ experience).

¹⁹⁹ Chan, A. and Siu, K., ‘Analyzing Exploitation: The Mechanisms Underpinning Low Wages and Excessive Overtime in Chinese Export Factories’ (2010) 42(2) Critical Asian Studies 167.

In other words, most manufacturing workers can only earn the same or somewhat more than the minimum wage if they only work 8 hours a day, 5 days a week. The pay scale for unskilled workers is cited from the recruitment brochure of Foxconn in 2021(see Table 11),²⁰⁰ which is the world’s largest contract manufacturer of electronics and the biggest assembler of Apple products.

Table 11: Pay scale of Foxconn (different plants may vary slightly)

Item (unskilled worker)	Probation period (3 months)	After Probation (starts from the 4th month)	Outstanding workers (300-600 Yuan Allowance)
Standard/basic wage (per month)	1900	2100	2300-2600
Total monthly income	2800-4500	3200-4800	3800-5500

For reference, by December 2021, the minimum wages in the two cities I conducted my interviews and the major cities where manufacturing is located. (See Table 12):

Table 12: Minimum wage of major cities in 2021

City name	The monthly rate (RMB)	The hourly rate (RMB)	Announced time (Year)
Shanghai	2590	23	2021
Hangzhou	2280	22	2021
Changsha	1700	17	2019
Shenzhen	2360	22.2	2021
Foshan, Dongguan etc.	1900	18.1	2021

Much worse, although the minimum wage in China has shown a clear upward trend,²⁰¹ a recent paper that examined minimum wage data from 31 provinces and municipalities in the whole country from 2008 to 2019²⁰² demonstrates that it has risen substantially behind the standard recognised particularly by the central government’s Promoting Employment Planning (2011-2015), which is that

²⁰⁰ See Foxconn recruitment page: <<http://www.foxconnjob.com/contact.aspx?t2=2>> accessed September 1, 2022.

²⁰¹ Xie, Y. and Wang, Y.L., ‘China’s Minimum Wage Standard: Development, Composition, and Level’ (2015) 6 Research on Development 144.

²⁰² Zhang, P.S. and Wu, S.Y., ‘Trends and Policy Considerations on China’s Minimum Wage Standards - An Analysis Based on the Minimum Wage Standards of Provinces in 2008 and 2019’ (2021) 8 China Human Resources and Social Security 44.

the ratio of the minimum wage to the average wage of local staff and workers should be at least 40%.²⁰³ Probably under the increasing pressure of rising labour costs and reducing the cost of real-economy enterprises,²⁰⁴ most provinces and municipalities tend to be conservative in adjusting the minimum wage as they take it as a significant factor that may raise labour costs.²⁰⁵

1.3.1 Work overtime to make money

Overtime is the main way for factory workers to increase income. According to the Labour Law, enterprises can extend the work time after consultation with trade unions and workers. The extended working hour for a day shall generally not exceed one hour; if such an extension is required due to special reasons, the extended hours shall not exceed three hours a day under the condition that workers' health is guaranteed (Article 41). However, the total extension in a month shall not exceed thirty-six hours. Employees must be paid at least 150% of the wage they receive for regular hours, at least 200% of the regular wage if the overtime is on a 'day of rest' (weekend), and at least 300% of the regular wage if the overtime is on a statutory holiday (Article 44). Most firms take maximum advantage of these rules. Since the 'basic wage' is often low, or barely above the minimum wage, factory workers rely heavily on working overtime to earn more money. Many riders described their previous experience working in factories:

"You need to work 6 days a week and work overtime every working day in factories in Guangdong. Finally, you get around RMB4,000 in your hand, but you need to pay for food, so actually we don't get RMB4,000 in the end." (CS14, 26, male, an ordinary on-demand rider with 1 years' experience)

²⁰³ Document No.6 of the State Council, 2012; All-China Federation of Trade Unions Guidance on Promoting the Increase and Implementation of the Minimum Wage Standard (Documents No.18 of the General Office of ACFTU,2006) also stated: "to make the minimum wage standards to the local average social wage of 40-60% of the level gradually in 3 to 5 years".

²⁰⁴ One year later, of the Promoting Employment Planning, the State Council issued Notice of the State Council on Issuing the Work Plan for Reducing the Cost of Real-Economy Enterprises in 2016.

²⁰⁵ Ye, S., 'An Analysis of Minimum Wage Standards from the Perspective of Social Law' (2013) 1 Journal of Gansu Political Science and Law Institute 92.

“I worked in several factories here (Hangzhou). Their salaries are just more than RMB4,000. You have to work overtime every day, even the weekend in factories, you rely on working overtime.” (HZ24, 25, male, an ordinary on-demand rider with more than 2 years’ experience)

“We just got the minimum wage if we didn’t work overtime, less than RMB3,000”. (HZ13, 26, a team rider with two months’ experience)

The wage base for calculating overtime is critical. The Labour Law states the base for calculating overtime shall be the worker’s ‘wages for normal working hours’ (Article 44). The term ‘wages for normal working hours’ was explained in a Notice as ‘the wage corresponding to the worker’s own job position as stipulated in the labour contract’,²⁰⁶ but in another Notice,²⁰⁷ the wage regarding calculating overtime is defined as the workers’ ‘basic wage’. These inconsistent and unclearly defined provisions have led to difficulties in their application.

Nearly all the local governments have passed detailed wage rules. In terms of the wage base for calculating overtime, the general rule is: the wage base shall be decided on according to (1) the wage base agreed in the employment contract between unit and worker; (2) the wage base specified in the collective agreement where it is not specified in the labour contract; (3) the wage that the employee gets from regular work. In addition, the wage base cannot be lower than the minimum wage in localities.²⁰⁸ Again, usually, the agreed wage base is equal or somewhat higher than the minimum wage in localities.²⁰⁹ Even for those who don’t work in manufacturing, such as other informal industries, the wage base is likely to be the minimum wage.

²⁰⁶ Notice on the Issuance of Opinions on Several Issues Concerning the Implementation of the Labor Law (Document No.309 of the General Office of the Ministry of Labour, 1995).

²⁰⁷ Notice of on Circulating the Interpretations Regarding Some Articles in Labour Law (Document No.289 of the General Office of the Ministry of Labour, 1994).

²⁰⁸ Regulations of Beijing Municipality on Payment of Wage (2003) Article 44; Measures of Shanghai Municipality for the Payment of Wages by Enterprises(2016) Article 9; It varies in details in different provinces or Municipalities, but the order to determine wage base is almost the same.

²⁰⁹ Lin, F.Y., ‘Issues Related to Overtime and Overtime Pay’ (2013) 2 China Labour 38.

After overtime and other welfare income are calculated together, the annual wage of manufacturing workers in 2020 was merely RMB61,324 or RMB 5,110 monthly. This also included skilled workers, while the annual wage of the low-skilled or unskilled workers in the assembly lines was less than RMB5,000.²¹⁰ This amount still falls short of the wages earned by some of the participants in my research from on-demand work. Additionally, the amount of RMB5,000 only meets the minimum earnings reported by some of the participants I interviewed. Given the growing labour shortage in manufacturing, the new recently issued 14th Five-Year Plan's Employment Promotion Plan (2021) addressed 'raising wages for workers, particularly front-line workers'.

1.2 Migrant workers' long-standing idea of 'going out and making money'

In my fieldwork, almost all riders share a common idea, which is to 'return to their hometown after making enough money'. *"Go out to work is to make money to send back home."* (HZ2, 29, male, a Youxuan riders with more than 2 years' experience).

"I don't care about the type of the contract, all that matters is how much I can make." (HZ25, 30, male, a Lepao riders with 5 years' experience)

"I came here to make money. My home and my family are not here. I don't need to take one day off a week or rest a lot. When I rest, there is nothing to do anyway, I just lie in bed and look at my phone. It is better to come out and deliver." (HZ11, 35, male, a Lepao riders with almost 2 years' experience)

These statements were repeated by most of the migrant participants, who did not consider much settling in the cities. There is no doubt that living in the city is better than the vast majority of rural areas in China, given the huge disparities in educational, cultural and economic opportunities. Probably, a

²¹⁰ Zeng, Q.X. and Xiong, W.D., 'How to Solve the Problem of "Difficulty in Recruiting Workers" in the Manufacturing Industry?' (Workers' Dairly, October 19, 2021) <<https://news.ruc.edu.cn/archives/347980>> accessed July 1, 2022.

more rational explanation is that the chances for most migrant workers to settle in cities are slim rather than that they don't want to stay.

From the 1950s until its dismantling in the 1980s, the urban-rural dual structure system based on *hukou* status (residential/household registration) essentially locked rural residents down in their birthplace and limited their freedom of movement. The state-enforced rural-urban divide created a regime of unequal citizenship. Social welfare was constructed according to an institutional redistributive model in urban areas, with state provision of cradle-to-grave welfare support for urban citizens. In rural areas, a residual welfare model was used. State support was limited to emergency and disaster relief, with peasants receiving only small amounts of cash and in-kind assistance.²¹¹ In the late 1980s, the full implementation of the *Reform and Opening Up* created labour shortages in the eastern coastal regions. The government adjusted the policy to permit peasants to work in urban areas without changing their citizen status to meet the new demand. In 1989, the number of rural migrant workers increased rapidly from less than 2 million at the beginning of the *Opening Up* to 30 million. After Deng Xiaoping, the chief architect of China's *Reform and Opening Up*, made a series of speeches in his Southern Tour in early 1992 to hasten the pace and scope of economic liberalisation and internationalisation, the migrant worker population grew, by 1993, to more than 62 million nationwide.²¹² Since then, it has grown continuously and rapidly with rural migrants becoming a vital part of the Chinese labour force.

Since they moved *en masse* to the cities, rural migrants have experienced unequal treatment economically, culturally and socially. According to the fifth national survey on the workforce situation conducted by ACFTU in 2002-2003, migrant workers still rank last among the 25 occupational groups, both socially and economically.²¹³ In the early period, rural migrants were also almost totally excluded from social welfare entitlements. Until 2003, the national government

²¹¹ Zhang, H.P., 'The Evolution of China's Urban-Rural Relations in the Past Seven Decades: from Separation to Integration' (2019) 3 *China Rural Economy* 1.

²¹² The Investigating Group of Rural Migrant Workers' Problems, 'Reporting on the Problems of Chinese Rural Migrant Workers' (2006) 5 *Reform* 5.

²¹³ Wang, B.Z., 'China's Rural Migrant Workers' Road to Struggle for Rights and Its Future' (2004) *Labour Movement Research* 26

gradually recognised rural migrants' basic rights in the cities. Since then, a series of policy reforms have been implemented to accord rural migrants equal rights with urban workers. The 2010 Social Insurance Law and the broader policy changes to the *hukou* restrictions also aspire to integrate migrants into urban social insurance programs, improving the portability of social insurance benefits.²¹⁴ Granting urban residency in an orderly manner to rural people who have moved to cities has been one of the Government's priorities since the 2010s.

However, the number of migrant workers settling in cities and becoming urban residents is less than expected. The current population policy is to: 'strictly control the population size of megacities and reasonably determine the conditions for settling in large cities; Gradually and in an orderly manner relax the household registration restrictions in medium-sized cities, and fully relax household registration restrictions in towns and small cities.'²¹⁵ This means that migrant workers can get urban residency without obstacles in towns and small cities, which are less appealing as the job opportunities and income are less. In general, the better the cities, the higher the obstacles. The data shows that the majority of migrant workers go to medium or large cities.²¹⁶ Many basic residential rights still cannot be obtained or equal treatment without residency. A typical case is children's education. Children have to return to their hometown to be educated if no residency or required certain number of years of social security records can be provided by their parents. The left-behind children, who are living without one or both of their parents that migrated to work, have substantially increased in number.²¹⁷ Moreover, the cost of settling in cities is a more practical problem. Housing, education, health care are all great burdens compared to most migrant workers' income.²¹⁸ Therefore, for most un-skilled

²¹⁴ Gallagher, *Authoritarian Legality in China: Law, Workers, and the State* (n 6).

²¹⁵ Opinions on Further Promotion of Reform of the Household Registration System (Document No.25 of the State Council, 2014).

²¹⁶ Xin, Y., 'Facing the Three Major Contradictions in the Process of Rural Migrant Workers' Urban Citizenship' (Yicai, 2017) <<https://www.yicai.com/news/5327308.html>> accessed June 1, 2022.

²¹⁷ Hu, H., Lu, S. and Huang, C., 'The Psychological and Behavioural Outcomes of Migrant and Left-behind Children in China' (2014) 46 *Children and Youth Services Review* 1.

²¹⁸ As a reference, the average price of second-hand housing is RMB33,868/m² in Hangzhou and RMB11715 /m² in Changsha in 2020, while the No.1 city Shenzhen is RMB87957/m². Please see <<https://finance.eastmoney.com/a2/202101021759304827.html>> accessed August 1, 2022.

and semi-skilled workers without a good education or family support, it is obviously more realistic to make money as their primary goal.

“Flats even in remote areas in Hangzhou cost millions, I don’t even think about it. What I can think is to make money and go back to build a house.” (HZ14, 30, male, Meituan ordinary on-demand riders with less 6 months experience)

1.3 Social insurance contributions seen more as loss than benefit

While firms must pay different kinds of social insurance for employees, platforms don’t pay any insurance for riders, except for business accident insurance. When the portion of social insurance to be paid by the employer is taken into consideration, the difference between the income of riders and of factory workers is not large, or maybe better for those low or medium-income riders. However, migrant workers do not consider social insurance as an important factor.²¹⁹

The basic social insurance system in China was also sharply divided by the urban-rural distinction for a long time. Four mandatory types of basic social insurance have been well established for urban employees. Two mandatory pension schemes - the Basic Old-Age Insurance for Employees (BOAI) for urban employees of enterprises, and the Public Employee Pension (PEP) for civil servants and employees in the non-profit public sectors - were established in 1951 and 1953 respectively (PEP was merged with BOAI in 2015). The Urban Employee Basic Medical Insurance (UEBMI) was created for urban employees of enterprises in 1997.²²⁰ Three other basic social insurances - work-related injury insurance, unemployment insurance and maternity insurance - were also created many years ago (maternity insurance was merged with unemployment insurance in 2019). Except for work-related injury insurance fully paid by the work unit, all others shall be jointly paid by work units and employees, normally work units’ contribution is more than the employee (see Table 13). According to the Social

²¹⁹ Tian, Y. and others, ‘Institutional Design and Incentives for Migrant Workers to Participate in Social Insurance in China: Evidence from a Policy Experiment in Chengdu City’ (2021) 9 *Frontiers in Public Health* <<https://doi.org/10.3389/fpubh.2021.736340>> accessed August 1, 2022.

²²⁰ Opinions on the Health Care Reform and Development (Document No.3 of the CPC Central Committee and the State Council, 1997).

Insurance Law in 2010, which addressed broadening social insurance coverage for workers regardless of Hukou, migrant workers must be included in the four types of insurance if they are employees. And other groups in the urban areas, private or individual business owners, part-time employees and persons in flexible employment can participate in BOAI and UEBMI voluntarily, but they have to pay the insurance premiums themselves. The work-related injury insurance and unemployment insurance are still only open to employees.

Table 13: The current contribution rate of work units and employees²²¹

	BOAI	UEBMI	Work-related injury insurance	Unemployment insurance
Work unit	16%	7-12%	0.2%-1.62%	0.5%-2%
Employee	8%	2%	0%	0.3%-1%

Rural residents have still relied on the ingrained Chinese tradition that children care for elderly parents as no such above pension scheme existed for them for a long time, and the old Rural Co-Operative Medical Scheme (RCMS) nearly collapsed in the 1980s.²²² Since the early years of the new century, a series of actions has been taken to improve rural residents' social security. The New Rural Co-operative Medical Scheme (NRCMS) was started in 2002,²²³ and after several non-successful pilot projects aimed at creating an old-age insurance program in rural areas, the New Rural Resident Pension (NRRP) was set up for all rural residents in 2009. Moreover, in order to make up for the inadequate coverage of the BOAI and UEBMI, schemes called Urban Resident Pension (URP) and Urban Residents Basic Medical Insurance (URBMI) aimed at those who are seeking employment and those who are not employed urban residents were launched in 2011 and 2007 respectively. Later, the NRRP and UPR were merged into a

²²¹ 'How is the Individual Social Security Account Calculated?' (Sohu, August 12, 2021) <https://www.sohu.com/a/482892327_120130950> accessed July 1, 2022.

²²² Cao, P., '1949-1989: Evolution and Evaluation of China's Rural Cooperative Medical Care System' (2006) 5 The Journal of Yunnan Provincial Committee School of the CPC 41.

²²³ Opinions on Further Strengthening Rural Health Work (Document No.13 of the CPC Central Committee and the State Council, 2002).

uniform Urban and Rural Resident Basic Old-Age Insurance (URRBOGI) since 2014,²²⁴ and the NRCMS and URBMI have been merged into a uniform Urban and Rural Resident Basic Medical Insurance (URRBMI) in 2016.²²⁵

Although URRBOGI and URRBMI have covered most rural and non-working urban residents, the benefits are far less than the BOAI and UEBMI. For example, the national average pension of BOAI is RMB3350 in 2020,²²⁶ while the national minimum pension of URRBOGI is RMB93 in 2020,²²⁷ and the minimum pension of URRBOGI is RMB260 in Hangzhou in 2020.²²⁸ It is definitely impossible to maintain a basic living on such a low pension. The URRBOGI provides different contribution levels (12 levels from RMB100-2,000 per year and local governments can set more levels or raise the contribution)²²⁹, but above 80% of the insured have chosen the lowest level.²³⁰ Similarly, UEBMI provides significantly more health benefits to insured persons than URRBMI until now.²³¹

Even though there are still striking urban-rural health and pension inequalities, the insurance provided by factories are not very attractive to migrant workers, as reflected by some of the participants in this research. There can be several reasons: Firstly, the real contribution rate and base are far lower than the statutory contribution rate and base.²³² According to a white paper published by an impartial third party in 2017, more than 70% of businesses do not set

²²⁴ Opinions on Establishing a Unified Basic Pension Insurance System for Urban and Rural Residents (Document No.8 of the State Council, 2014).

²²⁵ Opinions on Integrating the Basic Medical Insurance Systems for Urban and Rural Residents (Document No.3 of the State Council, 2016).

²²⁶ National Bureau of Statistics of China, 'Statistics Bulletins on the Development of Human Resources and Social Security in 2020' (2021) <<http://www.mohrss.gov.cn/SYrlzyhshbzb/zwgk/szrs/tjgb/202106/W020210728371980297515.pdf>> accessed July 1, 2022.

²²⁷ Notice on Raising the Minimum National Basic Pension Insurance for Urban and Rural Residents (Document No.67 of the Ministry of Human Resources and Social Security, 2020).

²²⁸ Chen, Y. and others, 'Does the New Rural Pension Scheme Improve Residents' Livelihoods? Empirical Evidence from Northwestern China' (2021) 16(4) PLoS One <<https://doi.org/10.1371/journal.pone.0250130>> accessed August 1, 2022.

²²⁹ Opinions on Establishing a Unified Basic Pension Insurance System for Urban and Rural Residents (Document No.8 of the State Council, 2014).

²³⁰ Cui, Z.H., 'Improving the Social Security System Covering the Rural Population: Current Situation, Problems and Suggestions' (2020) 41 Journal of Xinjiang Normal University (Philosophy and Social Sciences) 75.

²³¹ Fu, X. and others, 'Influencing Factors of Inequity in Health Services Utilisation among the Elderly in China' (2018) 17 International Journal for Equity in Health 1.

²³² Song, W.X., 'Social Insurance Contribution as Enterprises' Cost and Policy Adjustments' (2017) 1 Chinese Social Security Review 63.

contribution bases based on employees' actual income, and 22.9 per cent pay contributions on a minimum basis.²³³ As factory workers' wages are already low, the contributions don't matter a lot to them.

"They pay our social insurances contributions at the lowest levels. I can make more money by delivering food and I can buy insurance myself. The most important thing is more money." (HZ24, 25, male, an ordinary on-demand rider with more than 2 years' experience).

Secondly, the difficulties in transferring social insurances between provinces or even cities make them give up even trying to transfer. Almost half of all migratory workers travel between provinces in search of jobs.²³⁴ For a long time, the provincial social insurance funds or even cities within provinces have not been pooled together. Migrant workers must transfer their social insurance relationship when they move between cities or provinces to work in order to continue accruing benefits. Despite the fact that a set of rules governing the transfer of social insurance has been issued,²³⁵ there are still some obstacles that discourage workers from transferring,²³⁶ particularly since the amount of social insurance is small. Thirdly, and probably most importantly, the lack of understanding of the importance of social insurance as they live without it for a long time and the burden of making ends meet, lead some of them to prefer actual money in their hands.

"I don't care much about (social insurance), I am from a rural area, I prefer to keep money in my hands, I can manage my personal finances by investing independently." (HZ26, 24, male, a Lepao rider with 1 year' experience)

²³³ Ban, H.X., 'Beyond Labour Relations: The Expansion and Path of Collective Labour Rights under Platform Economy' (2020) 8 Law Science 160.

²³⁴ National Bureau of Statistics of China, 'Monitoring and Survey Report on Migrant Workers in 2010-20'.

²³⁵ Notice on Forwarding the Interim Measures of the Ministry of Human Resources and Social Security and the Ministry of Finance for the Transfer and Continuation of the Basic Pension Insurance Relations of Urban Employees (Document No.66 of the General Office of the State Council, 2009).

²³⁶ Tan, H.Z., 'Explore Further Improving the Cross-Provincial Transfer and Continuation of Basic Pension Insurance for Employees' (2015) 21China Labour 4.

“Social security? What I think is that having money in my hands is the most important thing. As we can get the pension at 60 years old if we contribute for 15 years, then I can start paying it from 45 years old.” (HZ12, 22, male, a Lepao rider with no more than 2 years’ experience)

Fourthly, under the current limitations, some riders find it difficult to have a definite expectation for the future, which leads them to ignore the importance of social insurance based on long-term operation.

“You can’t even think about your immediate future; all you can think about now is the problem of eating. How can I still think about living to 90 years old and having to go to the hospital?” (HZ11, 35, male, a Lepao rider with more than 2 years’ experience)

“When I worked in a factory in Jiangsu Province, they followed with the laws and bought all the insurances for me based on my actual wage, all together are more than RMB2,000. The factory paid more than RMB1,500 and I paid more than RMB800. This is too much for me. We need to buy insurance for at least 15 years and get it back when I am 60 years old, I don’t even know if I can live until 60 years old. I asked them not to buy insurance for me but give that money to me. They didn’t agree.” (CS16, 25, male, an Ele.me team rider with three months’ experience)

1.4 The advantages of being a rider to make money

1.4.1 Payroll time and wage arrears

According to Article 7 of The Payment of Wages Tentative Provisions, there are four types of payroll cycle: monthly, weekly, daily and hourly. Traditional work units usually adopt a monthly payroll. For some migrant workers with loans, particularly those who start to find jobs with limited savings or have low monthly income and heavy family burdens, the monthly payroll is a disadvantage. However, ordinary on-demand riders and special on-demand riders can be paid daily and weekly respectively.

“We are out to make money. Who will carry a lot of money to find jobs? I brought RMB800 with me, I had waited 45 days to get the salary for my first month at Foxconn, I needed to borrow money from others” (HZ10, 30, male, a Lepao Riders with more than 2 years’ experience).

“I left home to make money. How can I call my family to ask for money to make ends meet?” (CS9, 30, male, a Youxuan rider with 2 months’ experience)

“Some people became a rider as a last resort. They don’t have money, they can make money fast by delivering food. A few riders want to join in Youxuan but don’t, because they need to wait 10 days to get paid and they can’t wait.” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience)

In addition, migrant workers in various parts of China have suffered massive, long-term and pernicious wage arrears for a long time, particularly those in construction, infrastructure projects, labour-intensive production, and service sectors such as hospitality and retail.²³⁷ And that is despite the fact that the Tentative Provisions states that wages must be paid at least once a month and on time. The Chinese government has taken many measures to combat wage arrears, including legislation and more channels for migrant workers to get their wages back,²³⁸ but it is a difficult problem to solve completely and effectively. In contrast, riders’ daily income arrives in their account on the second day, or their weekly income arrives two or three days after their working week, and it is always on time.

“In my previous job I was in wage arrears, which made it impossible for me to make ends meet. I can’t even afford my meals. Here I can get paid weekly, I have cash flow, so I don’t need to borrow money and my life will be much easier.” (CS22, 22, male, a Lepao rider with less than 1 years’ experience)

²³⁷ Hong, H.C., ‘The Poverty of China’s Migrant Worker’ Social Rights’ (2007) *Modern China Studies* <<https://www.modernchinastudies.org/us/issues/past-issues/98-mcs-2007-issue-4/1025-2012-01-05-15-35-22.html>> accessed October 2, 2022.

²³⁸ General Office of the State Council’ Opinion on Comprehensively Managing the Problem of Non-Payment of Migrant Workers’ Wages (No.1 of the General Office of the State Council 2016); Regulations on Ensuring Wage Payment to Migrant Workers (Document No. 724 of the State Council, 2019).

“I have not been paid back for a couple of times in other industries in the past, now the platforms never have wage arrears, it is very good.” (HZ17, 54, male, an ordinary on-demand riders with 2 years’ experience)

“Of course, it (daily or weekly pay) is better, I feel steady and sure with my wage in my hand”. (CS25, 21, male, a Youxuan rider with almost 1 year’s experience)

1.4.2 The opportunity to earn more as a rider

As shown in Section 1.2, manufacturing workers earned around RMB5,000 per month on an annual basis in 2020. Given that factories typically provide free or low-cost housing and meals and must pay social insurance contributions for the workers, workers’ total monthly income should be a bit higher. It is difficult to make accurate comparisons with riders’ income as the data are of varying standards. However, it is true that a number of riders can indeed earn above manufacturing workers’ average wages and a few top riders can earn even more. For most riders, being a rider rather than working in manufacturing is a rational, practical decision even though they all know well the poor labour conditions and high risk of accidents.

“I can earn almost RMB1000 per month more than when I was in the factory. Don't underestimate this amount; it will be highly beneficial to me. I came out here to make money, of course, income is the most important thing, the salary in the factory was too low.” (CS9, 30, male, a Youxuan rider with less than 6 months)

“Long hours are a trade-off for money but it is still better than the factory.” (HZ30, 37, male, a Lepao rider with more than 2 years’ experience).

“I worked a couple of months in Foxconn in my hometown. The wage was too low, RMB3,000 to RMB4,000. If we don't work overtime, I can only make little more than RMB2,000. The monthly income here is at least three times that for working in the factory.” (HZ20, 31, a same-city core rider with 2 years’ experience.)

Even where the income of a rider is equivalent to or less than a factory worker, on-demand work comes with a hope or expectation of earning more. The factory worker's wage is fixed; even overtime can be anticipated and fixed based on the overall extra work time and the wage base. However, delivery can have more expectations, surprises, and possibly more income.

“In the factory, everything is fixed, I know how much I can earn monthly, even if it is piece rate, I still know generally how much I can make hourly, and I must never stop working. But food delivery is different, if I am lucky, I get 10 good orders in one delivery time and can make RMB50 or more, and I don't need one hour. if it is nighttime or in bad weather, it will probably be more than RMB100,” (HZ29, male, 32, a Lepao team leader with 5 years' experience).

To compare, assume the wage base is the minimum wage of RMB2,280 in the factory, the hourly overtime on weekdays should be $2280/20.5$ (monthly workdays)/8 (daily working hours)*1.5 \approx 20.9, even if the wage base is a bit more, definitely no more than RMB50 overtime per hour for factory workers. It is of course, not every time that riders can have so many good orders, but they can wait with a sense of hope, and it is better to wait with hope than to work on the assembly line all the time. It is the same in the manufacturing or delivery industry to the opportunity to have work extra time in order to make more money. The expectation is more appealing and important for those who are willing to work hard and eager to make more.

“Yes, it is impossible for everyone to make so much money. Isn't there a Pareto principle? Only 20% riders can earn over RMB10,000. What 80% of riders make is equivalent to a factory worker because we need to pay for everything, flat renting, motorbike, meals, etc., but everyone thinks he/she can be the one who makes RMB10,000 monthly.” (HZ26, 24, male, a Lepao rider with 1 year's experience)

2. Freedom and flexibility second

One of the often-cited benefits of gig work is its ostensible provision of ‘freedom’ and ‘flexibility’ to workers.²³⁹ However, algorithms have also tightened the control of the labour process,²⁴⁰ which makes the flexibility and freedom in the on-demand sector largely illusory. Under the current labour legislation in China, riders who used to work in manufacturing had distinct experiences and feelings of the freedom and flexibility, that made them choose between the two kinds of work arrangements.

2.1 Temporal flexibility and rest breaks at work

Work breaks are considered important in improving productivity and health during work, and demonstrably reduce fatigue and the risk of injury.²⁴¹ The Labour Law of 1994 acknowledges the right to rest, but there is only a basic framework that doesn't substantively address that right. Provisions of the State Council on Working Hours of Workers and Staff issued in 1995, which has only nine articles, cannot provide more substantive rules as well. There are no general laws regulating rest breaks at work or daily rest in China. In Article 27 of the Regulations for Administrations of Special Working Time (Consultation Paper) drafted by the Ministry of Human Resources and Social Security in 2012, it states ‘under the condition that the enterprise guarantees normal production and operation, enterprises should ensure that workers receive at least 20 minutes of rest time after more than 4 daily working hours, rest time is counted as working time’, but the regulations was not passed at last.

In China's labour-intensive industries, semi-automated assembly line technology is common. Workers mainly work with machines to do repetitive and monotonous tasks at a steady pace, dictated by the machine. They perform work independently of one another, rather than within an integrated team, and have fewer chances to chat with colleagues; pauses or errors are not allowed either,

²³⁹ Anwar, M.A. and Graham, M., ‘Between a Rock and a Hard Place: Freedom, Flexibility, Precarity and Vulnerability in the Gig Economy in Africa’ (2021) 25(2) *Competition & Change* 237.

²⁴⁰ Feng, X. and Zhan, J., ‘Research on Labour Process in Platform Economy in the Age of AI - Taking the Take - Away Riders as An Example’ (2019) 3 *Journal of Social Development* 61.

²⁴¹ Scholz, A. and others, ‘Functional Work Breaks in A High-Demanding Work Environment: An Experimental Field Study’ (2018) 61(2) *Ergonomics* 255.

as these could result in chaos on the assembly line.²⁴² Consider the final packaging process for the production of iPads as an example. The whole process is divided into 32 steps, which take about 20 minutes from the first to the last step. One of the operators has to put the data cable into the box in 5 seconds. This is repeated 5,000 times a day, during a total of 25,000 seconds or about 7 hours.²⁴³ Nearly every participant who worked in the factories used the term ‘work like a robot’ to describe their working life and complained that the timing and frequency of toilet visits are even controlled to keep the assembly line continuously manned. Generally, they have almost one hour to have lunch, which is not included in their working time. Some ‘good’ factories may permit rest breaks at work, such as 10 minutes rest after two hours of continuous work. It is mostly at the factories’ discretion. And overtime work is frequently scheduled after regular working hours. Further, some assembly lines are extremely noisy. Even if they are allowed to have breaks, there are no legal rules to set the sound levels around workers during rest periods. Moreover, all these are against a background in which workers become nearly as much locked in places as the machinery due to overwork.²⁴⁴

“I worked in a factory for two years, I had had enough. Nearly 10 working hours a day and I never stop; no freedom at all. We can’t take phones on to the shop floor. You have to take turns to go to the toilet. How many people on one assembly line and how long will it take to get to your turn?” (CS14, 26, male, an ordinary on-demand rider with 1 years’ experience)

On the one hand, delivering food is quite different, not just *“while delivering food, you can meet different people and go to different places.”* (HZ11, 35, male, a Lepao rider with more than 2 years’ experience), but also riders have more flexibility to rest.

²⁴² Walker, C.R., Guest, R.H. and Turner, A.N., *The Foreman on the Assembly Line* (Garland 1987).

²⁴³ Xu, H, ‘From Assembly Line to Day Labour: Precarious Labour and the Plight of Young Migrant Workers’ (Sohu, 2020)<https://www.sohu.com/a/364880336_617382> Accessed September 1, 2022.

²⁴⁴ Edwards, *Contested Terrain: The Transformation of the Workplace in the Twentieth Century* (n 142).

“It is difficult to have a rest except for having meals in the factories, now even if I work for 12 hours a day, I actually deliver for 6 or 7 hours; the remaining time I was waiting for orders, but I still need to keep an eye on my phones and scroll the phone to check new orders, but I can have a rest if I like.” (HZ22, 30, male, a Youxuan rider with more than 3 years’ experience).

On the other hand, during rush hours they are the same as or worse than workers on the assembly line. They can’t stop if they want to make money. However, the working time design is more flexible than factories even for Lepao or Youxuan plan riders who belong to the organisational structure with less flexible working time and authority to refuse or choose orders. For example, Lepao or Youxuan riders can take half an hour break every time slot. The lunch peak time slot is from 10:30 am to 1:30 pm, so the minimum length of time online for riders is two and a half hour, not three hours, as there are 30 minutes under discretionary time. The following quotations illustrate this sense of freedom felt and expressed by many riders in the fieldwork.

“Freedom means I can talk to you now and if I like to have a cigarette, I can have it at any time. But in the factory, you don’t have any chance to smoke.” (HZ10, 30, male, a Lepao rider with almost 3 years’ experience).

“If I don’t want to deliver on one day, I can complete the required minimum number of orders and go to an area without or with less orders, or I can adjust the numbers of order, I want to take.” (CS22, 22, male, a Lepao rider with less than 1 years’ experience)

2.2 Unbearable shiftwork

Shiftwork has a long history in particular industries. Factory managers realised decades ago that running an assembly line around the clock was cheaper and more efficient than shutting down production at night and starting it up again in the morning.²⁴⁵ Shiftwork is of course common in many Chinese factories. Shiftwork in manufacturing in China often consists of two shifts, with day and

²⁴⁵ Bird, R.C. and Mirtorabi, N., ‘Shiftwork and the Law’ (2006) 27 Berkeley Journal of Employment and Labour Law 383.

night shifts rotating weekly. The standard working time stipulated in labour laws is only '8 hours per day and no more than 40 hours per week, while the scope of per day is not specified, it is usually 8 hours during 24 hours. If the night shift is 8 hours or less than 8 hours, no overtime needs to be paid to workers. And the wage calculation criteria for day and night shifts are the same. The unadopted Regulations for Administrations of Special Working Time referred to the night shift as the situation where the enterprise arranges workers to work for 2 hours or more during the period from 10:00 pm to 6:00 am the next day. This is to say, there is no other legislation for factories to arrange workers to take shifts if the night shift is 8 hours long. The only exception is that it is not allowed for female employees who are more than 7 months pregnant according to the Special Rules on the Labour Protection of Female Employees.

Given the fact that there are few national rules governing shiftwork, some local governments established night shift allowances.²⁴⁶ But some provinces have not updated the criteria since the 1990s.²⁴⁷ For example, the allowance for 12 hours of continuous night work is RMB4.4. While Guangdong, China's largest industrial province, has yet to establish night shift allowance guidelines.

The continuous change from day shift to night shift is harmful to workers' health.²⁴⁸ This is a concern raised by several riders when comparing factory work with on-demand work.

"You do not know how hard it is to work at night. We took turns, two days were the day shift, then two days were the night shift, you were not used to it, it changed." (HZ22, 30, male, a Youxuan rider with more than 3 years' experience).

"We had two-day shifts from 7:00 am to 7:00 pm or 9:00 am to 9:00 pm, and two-night shifts, then rested two days, it was very hard to bear." (CS9, 30,

²⁴⁶ Labour Regulations Governing the Special Economic Zones in Guangdong Province (1988) Expired.

²⁴⁷ Luo, F.F., 'There is Still No National Standard on Night Shift Allowance, and Some Local Standards Have Been Stagnant for More Than 20 Years' (2016) 10 Employment and Security 45

²⁴⁸ Wang, X.S. and others, 'Shift Work and Chronic Disease: The Epidemiological Evidence' (2011) 61(2) Occupational Medicine 78.

male, a Youxuan rider for 2 months' experience). Workers can't refuse work shifts due to the unequal bargaining power, and the current small amount of night shift allowance falls far short of making up for the harm.

Some ordinary on-demand riders work late at night or even the whole night, and there are time slots for Lepao or Youxuan plan riders. As stated before, the difference is that they have the flexibility to decide for themselves. More importantly, the piece rate is higher than in day time, and the orders are usually fewer, which mean they don't need to keep delivering all the time and can sometimes take a nap.

2.3 Low barriers to entry vs ubiquitous age and gender discrimination

There is no unified equality legislation in China; the provisions on anti-discrimination are scattered across several laws,²⁴⁹ the majority of which are general principles aimed at promoting the idea of equality but lacking particular guidance.²⁵⁰ Remedies are limited; those who suffered discrimination can only resort to the courts if they can provide enough evidence.

One of the most serious forms of discrimination in the job market in China, age discrimination, is not specified in the legislation. The Employment Promotion Law, Article 3 states 'The workers seeking employment shall not be subject to discrimination on the basis of ethnicity, race, gender, religious belief, etc.' Age discrimination was explicitly included in the draft Law, but it was removed when the draft was finally passed. Due to a lack of regulation, businesses, government organisations and institutions of all types have been emboldened to discriminate based on age, and it has become prevalent.²⁵¹ Blatant age discrimination appeared on nearly all kinds of recruitment notices. Provisions on Recruitment of Civil Servants (for Trial Implementation) (passed in 2007 and revised in 2019) followed the abolished Interim Regulations on State Civil Servants, which

²⁴⁹ Article 33 in the Constitution Law 2018 confirms the right to anti-discrimination, also see Article 3 in Labour Law 1994 and Articles 3, 25 and 26 in the Employment Promotion Law 2015.

²⁵⁰ Zhang, S., 'Narrow Definition of Employment Discrimination - The Starting Point of China's Legal Regulation on Employment Discrimination' (2011) 25 Contemporary Law Review 108

²⁵¹ Wang, M.Y., 'Eliminating Age Discrimination is the Primary Content of Protecting Equal Employment Rights' (2010) 3 Law Science 123.

stipulated that applicants must be over 18 and under 35 years old, leading to the perception that high-quality workforces are those under 35 years old in other industries.²⁵² ‘Under 35 years old’ has been a clear requirement on most recruitment notices since then. According to a recent report on the Employment of Middle Aged and Senior Aged Job Seekers published by the influential recruitment website Zhilian Zhaopin in 2021, 80.1% of job seekers over 35 years old believe age is the biggest obstacle to finding a new job, 20.6% of respondents aged 51 to 55 had been dismissed because of their age, and middle aged and senior aged job seekers with poor educational background face more pressure in finding work.²⁵³ With senior job seekers, the question isn’t always whether they have freedom or flexibility, but rather whether they can get hired at all. Even where they have a job, discrimination is common when it comes to promotion.

A considerable proportion of riders are aged above 35, according to the reports from the two biggest food delivery platforms.²⁵⁴ Generally, the older riders are, the less educated they are. Some of them only have a primary school education, which means they will certainly get the worst positions in the labour market, or part-time jobs with the lowest pay, or will be unemployed. They don’t even have the qualifications to apply for assembly line jobs. Nearly all the semi or unskilled jobs with Foxconn are only open to applicants from 18 to 45 or even 38.²⁵⁵ The qualifications for riders are far more lenient; anyone aged 18 to 60 (Ele.me) or 57 (Meituan) can apply, and there are no educational prerequisites. (The age requirement for Lepao is below 53 and Youxuan is below 50.) The data provided by the two platforms show there are quite a number of older people working as riders. 8 participants in my fieldwork were over 40 years old.

²⁵² Ai, L., ‘Legal Regulation Against Age Discrimination in Employment under the Background of Aging Population’ (2021) 61 Jilin University Journal Social Sciences Edition 36.

²⁵³ Zhao, L.Y. and Yuan, G.X., ‘The Causes and Coping Strategies of the “35-Year-Old Phenomenon”’ (2020) 28 People’s Tribune 132.

²⁵⁴ Fengniao Peisong, ‘2018 Takeaway Rider Group Insights Report’ (n 15); Meituan Research, ‘Meituan Riders’ Employment Report during the COVID-19 Pandemic in 2019 and 2020’ (2020) <https://s3plus.meituan.net/v1/mss_531b5a3906864f438395a28a5baec011/official-website/ed3e2bb5-13dd-46ca-93ba-30808a1ca852> Accessed September 1, 2022.

²⁵⁵ See Foxconn recruitment page: <<http://www.foxconnjob.com/contact.aspx?t2=2>> Accessed September 1, 2022.

“If I were a few years younger, I would definitely not deliver food, now I can only find jobs likes security guards or cleaners, the salary is very low.” (CS17, 45, male, an ordinary on-demand rider with more than 2 years).

“At my age, there are not many choices; what kind of work can we find? It is good enough to make RMB 4000-5000 monthly and get it paid on time as a rider.” (HZ17, 54, male, an ordinary on-demand rider with 2 years’ experience)

“It is hard for people aged 40 or 50 years old, without a good diploma; what does he/she do for a living? Then the on-demand job is coming.” (CS11, 38, male, an ordinary on-demand rider with 3 years’ experience)

Gender discrimination has received more attention in legislation than age discrimination. In addition to the laws mentioned above, the Law on the Protection of Women’s Rights and Interests and related regulations also address this issue. However, the same shortcomings as with other legislation prevent women from being treated equally with men in the job market. Chinese women have suffered unfair treatment either in job opportunities, salary, or unpaid domestic care.²⁵⁶ Despite the fact that the female labour force participation rate is not lower, it has been declining in recent years.²⁵⁷

In fact, women have been suffering more difficulties in the job market with the announcement of the ‘universal two-child policy’ in 2015, following more than 30 years of one-child policies, due to the aging population. The Ministry of Human Resources and Social Security, Ministry of Education and Seven other departments issued the Circular on Further Regulating the Recruitment of Employees to Promote the Employment of Women in 2019, by prohibiting specific types of discrimination in the recruitment process but has yet to yield significant results. Furthermore, when the labour market is affected by negative influences, such as the COVID-19 pandemic, female workers are more likely to

²⁵⁶ Liu, H.B., Li, L. and Yang, Y.C., ‘Gender Equality in China’s Economic Transformation’ (2014) <<https://cnlgbtdata.com/files/uploads/2020/01/8da8b3114494a28be31a86a6cb1a714f.pdf>> Accessed October 1, 2022.

²⁵⁷ ILO, ‘Labour Force Participation Rate, Female (% of Female Population Ages 15+) (Modeled ILO Estimate) – China’ (2023) <<https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS?end=2019&locations=CN&start=2019&view=map>> Accessed February 3, 2023.

be impacted and compelled to leave the labour market.²⁵⁸ Informal employment has become the main channel for women.²⁵⁹ Women have fewer options than men, particularly those from rural areas with limited education; assembly line or informal jobs are almost their only options, and age discrimination is another barrier. On the other hand, platforms do not impose any limits on women who choose to ride. Women account for nearly 9% of riders across the two platforms, with varying ages.²⁶⁰

For unskilled or semi-skilled young women, it is probably not hard to find a job in the manufacturing or service industries, but both usually require to extra work time or shift work, which mean they can't take care of their families. In order to have both, making money and taking care of dependants and household chores, many women choose to be ordinary on-demand riders rather than special on-demand riders. As I mentioned in the data collection section of Chapter 2, I was unable to interview many of them as they were so busy switching between food delivery and domestic work. The two female participants were special on-demand riders, one's son is a left-behind child, while the other who resided in Changsha told me her timetable:

"I go out at around 10:00 am, so I can send my son to school in the morning, I usually choose the lunchtime slot and the first-afternoon snack slot, and the supper time slot, so I have time to pick up my son in the afternoon, I sent him home and continue to deliver. After I finish my supper time slot, I can get home before 9:00pm, so I still have some time to check his homework. My son is a good boy, and he knows I have a hard job, I don't need to worry a lot." (CS7, 35, female, a Lepao rider with more than one year's experience)

²⁵⁸ Wang, Y. and Ge, H.Y., 'The Impact of Labour Market Shocks on Women's Employment and Wages' (2021) 291 *Population and Health* 45.

²⁵⁹ Xie, Y.Q., 'A Study on the Factors Affecting Women's Informal Employment - An Empirical Analysis Based on the Chinese Social Survey' (2021) 35 *Journal of China University of Labour Relations* 97.

²⁶⁰ Fengniao Peisong, '2018 Takeaway Rider Group Insights Report' (n 15); Meituan Research, 'Meituan Riders' Employment Report during the COVID-19 Pandemic in 2019 and 2020' (n 254).

Conclusion

In a country with long-term weak social welfare protection for rural residents, income is the top priority for most migrant workers when it comes to choosing jobs. The current wage laws have not made manufacturing or other informal industries comparatively attractive to workers. Flexibility and freedom are also important factors for workers to enter into food delivery, particularly when compared to rigid shift work, poor rest breaks rules, and the ubiquitous age and gender discrimination in manufacturing. In contrast to the compulsory overtime system characteristic of assembly line work, on-demand workers might have a sense of control over their working time - at least they can turn off their phones without incurring direct punishment. Worker acquiescence in the face of the degradations and hardships of on-demand work may result, in part, from prior experience of the assembly lines. Combining together the income, flexibility and freedom, the choice to become a rider makes complete sense.

In the next chapter, I will turn to discuss how, despite rationalising the choice of becoming a rider, there are also considerations regarding poor working conditions or ill-treatment, and how riders attempt to express their grievances individually.

Chapter 5 On-demand riders' individual struggles and resistance

Introduction

As was shown in Chapters 3 and 4, extreme inequality between on-demand riders and platforms causes unfair treatment and precarious working conditions, even though the sector could provide a certain measure of freedom and flexibility to riders and a so-called 'high' income. Most on-demand riders are aware of their precarious situation but some have nonetheless taken individual action to express their grievances through formal or informal channels, sensing that acquiescence might not be sustainable.

The first part of the chapter introduces the main formal channels through which some riders try to complain. These are litigation and the labour security administration. Given the precarious conditions of riders, however, very few resort to formal channels. The first question the riders confront is to whom they can complain, due to the outsourcing arrangements used by the platforms and the limits of the current mediation and litigation jurisdictions. The lack of retaliation protection in labour law also prevents some from complaining, since they must seek to continue making money from the sector. And the shortage of 'party capability' perceived by the riders, limited legal aid, and an ineffective labour security administration force them to choose to tolerate most grievances.

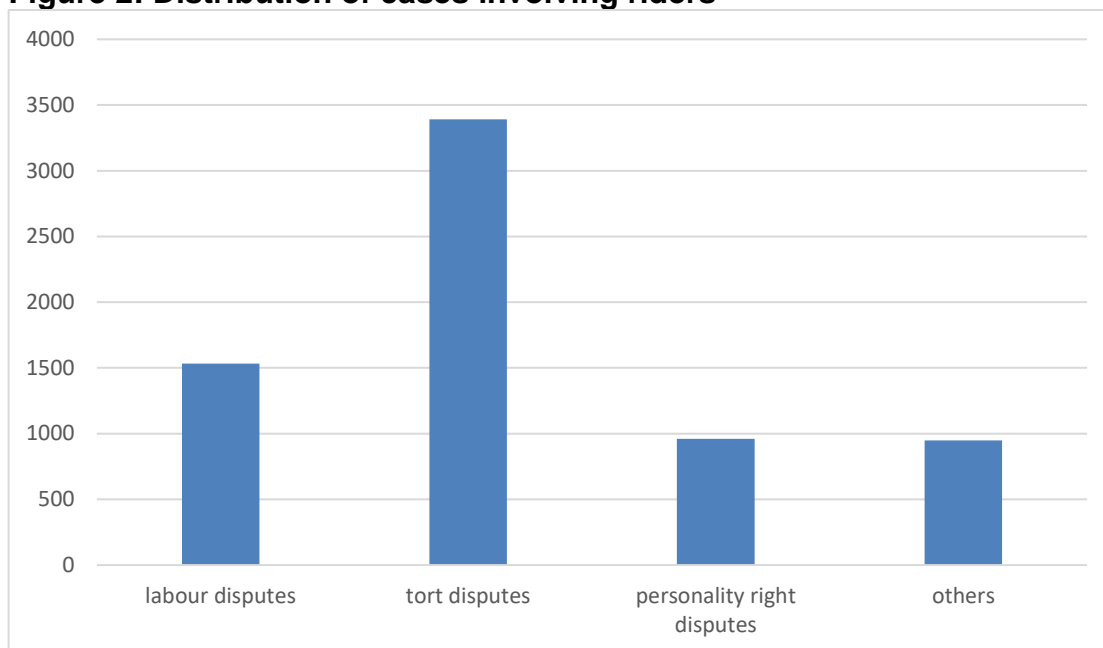
The second part of the chapter introduces the informal channels that some riders have developed to fight against unfair treatment. They actively use traditional and social media to mobilise public opinion, seek help, and express their grievances. They explore many ways to 'game' the algorithms and use bugs in the policies of platforms. They are also good at developing different tactics to target 'bad' suppliers. Riders also use some radical forms of resistance to express their grievances.

1. The formal channels for riders' struggles and resistance

In China, the formal channels for riders to complain are arbitration, litigation or an appeal to the labour security administration. The increasing number of court cases relating to platform workers is evidence of the degree of riders' legal awareness of how to fight for their rights and interests. However, looking closely at the cases, it can be seen that most cases were brought not by on-demand riders but by team riders, who usually have traditional work arrangement contracts with subcontractors or platforms even without written labour contract. Team riders have made claims concerning accidents or issues relating to the determination of labour relationships. By searching for the word 'rider' in all judgments in the database, China Judgments Online, up to 23 July 2022, I found 6,834 cases under a civil cause of action, which included 1,533 cases of labour disputes, 3,392 cases of tort disputes and 960 cases of personality right disputes (including life, health, physical, name, likeness, and reputation disputes).²⁶¹ (see Figure 2). Of these 1,533 labour disputes cases, the two provinces, Hunan and Zhejiang, to which Changsha and Hangzhou belong respectively, had 63 and 38 cases respectively, while only 3 and 2 respectively were actually filed by on-demand riders, excluding a few cases not related to platform workers, most of which were filed by team riders. The number of labour disputes brought to court by on-demand riders is therefore not as large as might have been expected, given the large number of riders and the hardships they suffer at work.

²⁶¹ The labour dispute case is classified as a category of civil causes of actions in China. Most torts and personality rights disputes are related to accidents. Choosing one over the other entails differences in litigation strategies.

Figure 2: Distribution of cases involving riders



Why are on-demand riders hesitant to use formal channels to demand better treatment and better terms and conditions? We now turn to this question.

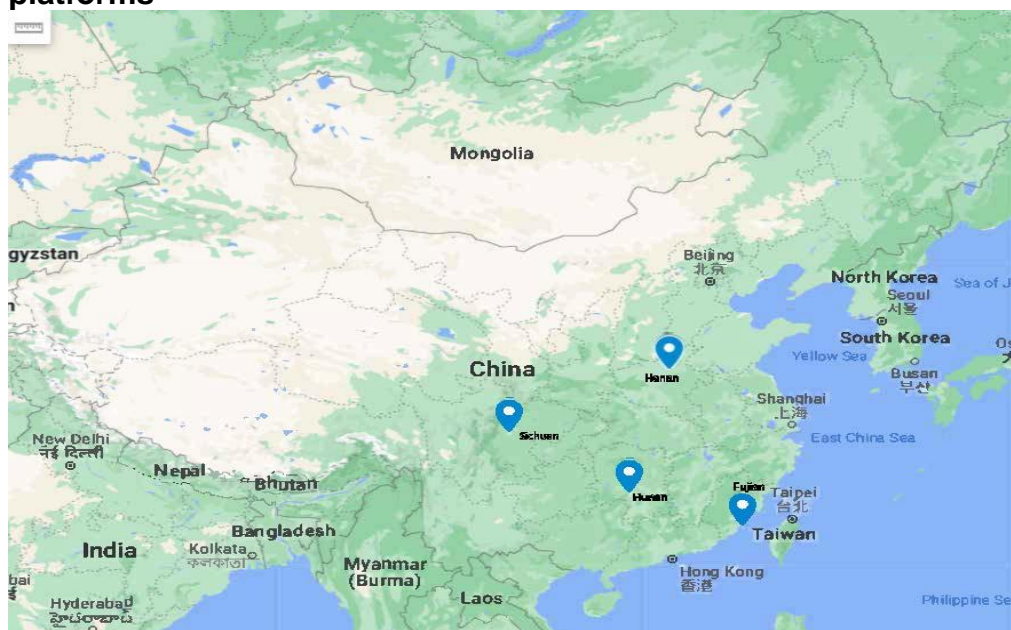
1.1 Litigation difficulties in the context of subcontracting²⁶²

In a world dominated by outsourcing, on-demand riders can usually find two types of electronic agreement regarding the job on the apps, to which they become a party by default. One is usually titled the ‘service cooperation agreement’ (Ele.me/Fengniao) or ‘delivery personnel for online orders agreement’ (Meituan), specifying the labour market intermediary as the third party. Since the relevant law requests that the first part of a company’s name should be the place where it is registered, it is obvious to riders that intermediaries tend to be registered in other provinces or cities, far from the city and province where the riders work. During my own experience of delivery work, for example, while conducting partial participant observation in Changsha, I noticed that the subcontractors on my Fengniao and Meituan apps were registered in Henan and Fujian respectively (See Figure 3). The other agreement is either titled the ‘on-demand platform service agreement’ (Meituan), specifying that the other party is Shanghai Sankuai Zhisong Technology Co. Ltd.,

²⁶² The term “outsourcing” and “subcontracting” are used interchangeable in this thesis.

which is actually the operator of the Meituan platform; or the ‘Fengniao on-demand (Zhongbao) user agreement’, indicating that the other party is the operator of the platform. This is further explained as follows: ‘the operators of the platform are the various legal entities that operate the platform and can be found on the publicly stated license information at the bottom of the first page of the app’ under the article ‘information regarding the party’. The name on the business license now is Shanghai Lazhasi Information Technology Co. Ltd. So the operators of both Meituan and Fengniao are registered in Shanghai.

Figure 3: Map of registration and delivery service cities of subcontractors of platforms



Labour subcontracting is not new in the Chinese labour market and is rampant in some sectors. One particularly egregious example is the situation of ‘no boss’ in the construction industry caused by multiple layers of subcontractors. The system usually begins with a giant property developer, shifting down the production chains to a construction company (often a state-owned company) that only takes charge of project management and equipment arrangements for its contractors. This state-owned company usually has a number of big contractors located throughout the country, who are responsible for providing raw materials and labour for the project. They rely on labour-supply subcontractors to recruit labour, manage daily work assignments and pay wages upon completion of the project. In return, these subcontractors further depend on their labour-use facilitators, usually their relatives or co-villagers, to recruit

workers from their own or surrounding villages.²⁶³ With the restrictions imposed by the amended Labour Contract Law in 2012 and a regulation entitled Interim Provisions on Labour Dispatch in 2014, on labour dispatch as a means for employers to reduce labour costs in the past, labour outsourcing has become an increasingly popular alternative because it has not been subject to legal restrictions. Employers have come to rely on it even more.

The main feature that differs with on-demand riders from most other outsourced workers, who can at least contact the last layer of subcontractor directly, is that most of them have no opportunity in reality to meet with any staff working for the subcontractors. The ‘contactless’ subcontracting system and the new model of work via apps lead on-demand riders to have diverse attitudes when it comes to the question of whether they have a boss, and for whom are they really working, even though they are clearly aware of their outsourced status.

“I saw the subcontractor’s name on the agreement, but why is he/she my boss? We work for the platform, which asks us to wear its uniforms, use its delivery box, can fine us and deactivate our accounts. The platform is, of course, my boss.” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience)

“I know we are subcontracted workers, as we have no relationship with the platforms.” (HZ24, 25, male, an ordinary on-demand rider with more than 2 years’ experience)

“I don’t know who is my boss. If we have an accident, the platform won’t be liable for us.” (HZ3, 27, male, a Youxuan rider with almost 5 years’ experience)

“Meituan said we are subcontracted workers. But in my view, while I am alive, I belong to Meituan. Dead, I am Meituan’s ghost. Anyway, I rely on Meituan to make money.” (HZ29, 32, male, a Lepao team leader with 5 years’ experience)

²⁶³ Ngai, P. and Yi, X., ‘Legal Activism or Class Action? The Political Economy of the “No Boss” and “No Labour Relationship” in China’s Construction Industry’.

No matter what opinions on-demand riders have, the only channel for them to raise their complaints within the system is via the call centres mentioned in Chapter 3, which have few discretionary powers and are far from adequate in dealing with their issues. If on-demand riders want to resort to formal procedures outside the system, the main question is to decide what action strategies they will take and to whom they will complain.

Firstly, they can choose between litigation and ‘tipping off’ to the labour security administration departments.²⁶⁴ If they choose the former, generally, there are two litigation pathways for on-demand riders. One is to bring a labour service/contract for service complaint directly to the court. The other is to follow the so-called ‘labour dispute’ resolution process, which includes the option of ‘pre-arbitration and then two trials’, by first filing a labour arbitration claim and then appealing to the court if unsatisfied with the arbitral decision and appealing the court’s decision to a higher court. Usually, if riders win labour disputes, they will obtain far more in terms of either interests or rights than from the labour service lawsuits.

China has made considerable progress in facilitating workers’ access to labour arbitration and the courts. The litigation fee is minimal and riders can choose to file labour disputes at a labour dispute arbitration commission either in the place where a labour contract is executed or where the employer resides.²⁶⁵ It is feasible that on-demand riders would choose the arbitration commission in the place where they deliver, given the fact that for most riders neither the operators of platforms nor the subcontractors are based in the same cities as them. But after the arbitration decision, riders could be met with unexpected and challenging situations, particularly if they win. According to the law, the party who is dissatisfied with the arbitration decision can appeal to the local people’s court in the place where the employer is located or where the labour contract is carried out.²⁶⁶ The subcontractor or the operators of the platform will strategically choose the court in the place where they reside, calculating

²⁶⁴ The labour security administration will be discussed in the following section.

²⁶⁵ Article 21, Labour Dispute Mediation and Arbitration Law of the People’s Republic of China.

²⁶⁶ Article 3, Interpretation (I) of the Supreme People’s Court of Issues Concerning the Application of Law in the Trial of Labour Dispute Cases.

that either local courts will perhaps favour them or the cost would be considerable for the riders. It would be costly and practically impossible for riders to deal with the appeal in a place which might be thousands of kilometers away from their workplace.

In an article written by the team at the Beijing Zhicheng Migrant Workers Legal Aid and Research Centre,²⁶⁷ a case is described in which very significant legal assistance was provided to a team rider, but the litigation ultimately failed. The client was a team rider who had a severe accident whilst making a delivery in Beijing. At first, with their help, the client won the mediation, and his labour relationship with the subcontractor was recognised. They were starting to prepare to apply for the ascertainment of the work injury. However, the subcontractor, registered in Sichuan Province, appealed to the court in Sichuan, a province which is thousands of kilometres away from Beijing. The rider had never been there and knew no-one there. Even though the centre contacted other legal aid organisations in Sichuan, they lost the two trials in Sichuan.

As the defendant, some riders chose to sue the subcontractor, and some chose to sue both the subcontractor and the operators of the platforms. Based on the case data, it seems that platforms successfully insulate themselves from legal action by riders. A search for the word 'rider' in all judgments in the database China Judgments Online to 23 July 2022, refined with a second search for 'Shanghai Lazhasi' and 'Shanghai Sankuai' among party names, found 389 cases and 339 cases under civil causes of action respectively, of which only 39 cases and 45 cases were labour disputes (see Figures 4 and 5).

²⁶⁷ Beijing Zhicheng Rural Migrant Workers Legal Aid and Research Centre, 'How Can the Law Break Through the "Trap" of Labour in Food Delivery Platforms?' (2021) <<https://m.huxiu.com/article/455967.html>> Accessed August 1, 2022.

Figure 4: Number of cases for Ele.me (Fengniao)

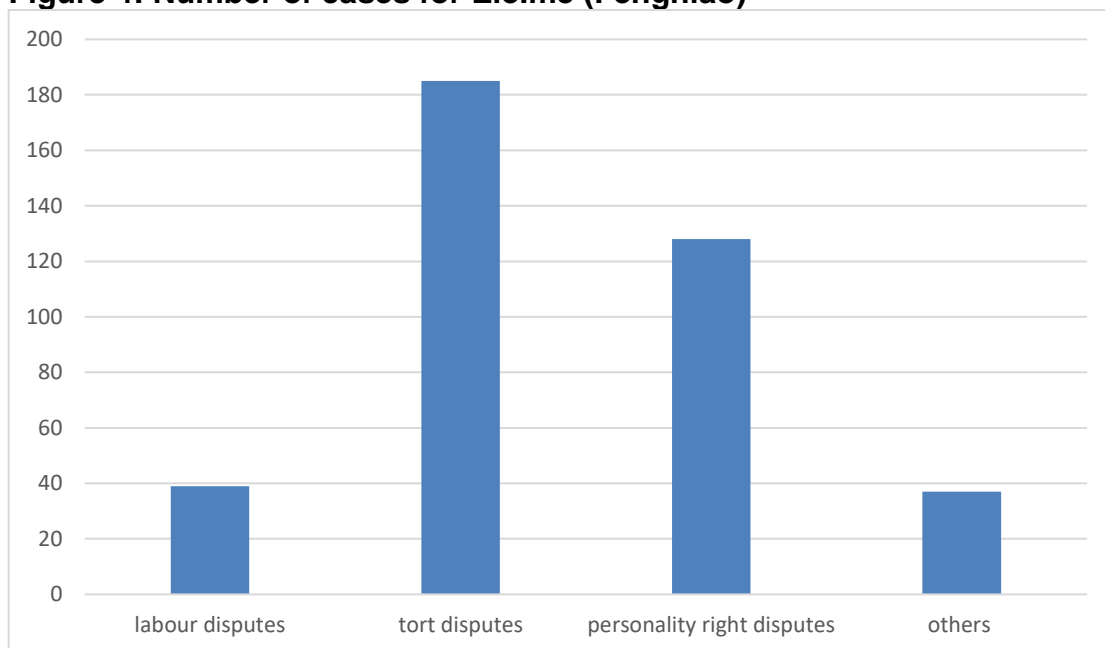
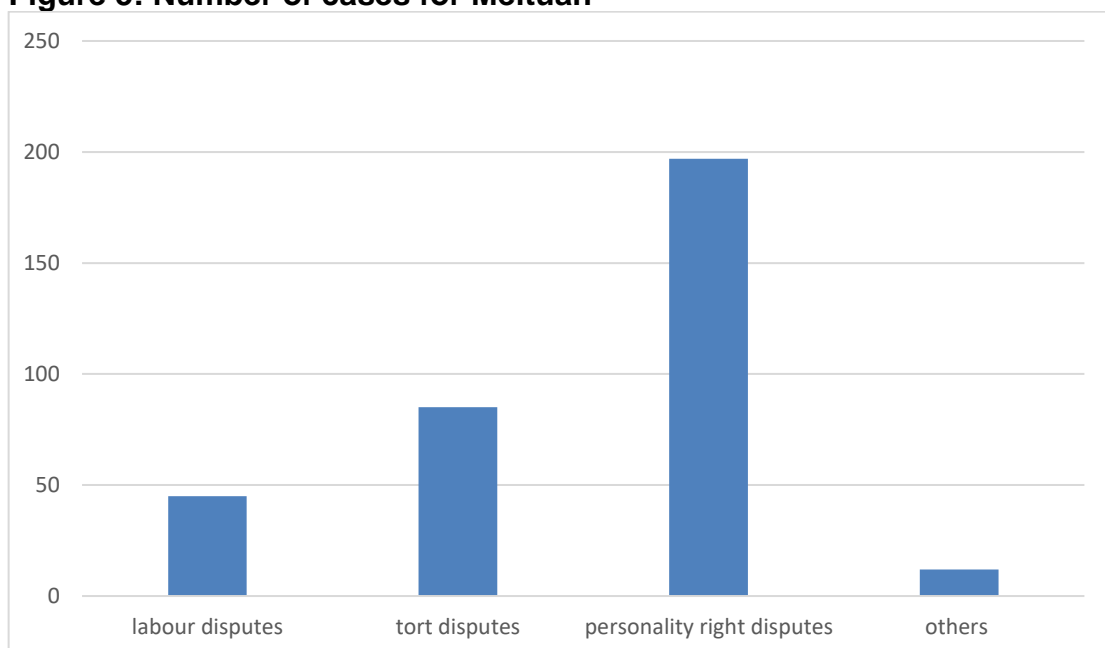


Figure 5: Number of cases for Meituan



1.2 Party capability and access to justice

In a seminal article from 1994, Marc Galanter devised the party capability theory, which explores how the ‘haves’ or repeat players in legal contests, with more resources, experience and status, will have advantages over the ‘have-nots’ or ‘one shotters’, who have fewer resources, experience and status.²⁶⁸ He

²⁶⁸ Galanter, M., ‘Why the ‘Haves’ Come Out Ahead: Speculations on the Limits of Legal Change’ (1974) 9 Law & Society Review 95.

also noted that legal contests take place, for the most part, between individuals on the one side and large organisations on the other.²⁶⁹ Although the theory itself focuses on the litigation process, it can also be applied to riders' perceived ability to handle conflicts with platforms. In the conflicts, the riders (very likely to be 'one-shotters') are clearly the 'have-nots', while the platforms (very likely to be 'repeat players') are the 'haves', and it is also a contest between individuals and large organisations. The riders have clearly noticed that there is inequality in power and resources between themselves and platforms. Riders have assessed their capabilities to fight against platforms and calculated the cost and possible gains.

“The key point here is that people like us, we can't afford the lawsuit with them, let's not talk about the final result. The process would force us to give up. We can't afford to play with them. What they do is that if the law favours them, they will talk about the law to you. If the law doesn't favour them, they will find ways to stall until you can't take anymore.” (HZ8, 31, male, a Youxuan rider with more than 1 year's experience)

“We all think it is unfair, but do you think capitalists will change? No, they won't. They all hire the best professional lawyers who have thoroughly studied all the laws and help capitalists to avoid the rules that are not in their favour. As an individual, how can I possibly fight them?” (HZ21, 43, male, an ordinary on-demand rider with 1 year's experience)

“As an individual, your chances of winning against a company are rare. If you insist on suing, it would not be worth it. It will be a lengthy process and consume lots of your energy. Finally, the loss is ours, they are powerful and can ride roughshod over us.” (HZ26, 24, male, a Lepao rider with 1 year's experience)

Sometimes, their poor education and the heavy workloads sometimes inhibit or exhaust their motive or desire to complain.

²⁶⁹ Galanter, M., 'The Duty Not to Deliver Legal Services' (1976) 30 University of Miami Law Review 929.

“Riders cannot fight against big platforms and big companies, I just ask you one question. Most riders are not well-educated. If they target you specifically, how can you react to them from the legal perspective when we are all more dead than alive after delivering orders?” (CS8, 40, male, an ordinary on-demand rider with 2 months’ experience)

“I am poorly educated, what can I do? Only blame myself for not being smart when I signed the contract. People said it was an arbitrary contract, but I don’t understand the terms. I don’t know where the arbitrary clauses are.” (HZ28, 22, male, an Meituan team-rider with 6 months’ experience)

These opinions are universal and similar responses can be found from individual one-shotters to organised repeat players. In terms of the traditional employees and employers in China, employers enjoy many advantages over employees in litigation despite the fact that the government has taken many steps to improve employees’ access to litigation, with the number of labour dispute cases increasing rapidly as a consequence. In 2015, Aaron Halegua explained in detail the significant gap in China between workers’ huge legal needs and limited private and public legal services.²⁷⁰ Put simply, legal fees are always an issue when employees try to find private lawyers, and the general ban on contingency fee arrangements and the possible political risks for lawyers make it even more difficult. Although the size, sophistication and impact of the formal government-operated legal aid system has continuously grown, it remains far from adequate to meet demand. The quality of representation is uneven. The specific eligibility rules and practices, as well as the general funding and operation of the legal aid system, vary between provinces, municipalities and even districts etc. The number of actual cases handled by trade unions’ legal offices is quite low. The pro bono legal service is less developed. The new restrictions on popular ‘barefoot’ lawyers, who lack a license to practice law make it difficult for them to continue their work. There are fewer basic-level legal workers who sit

²⁷⁰ Halegua, A., ‘Who Will Represent China’s Workers? Lawyers, Legal Aid, and the Enforcement of Labour Rights’(2016)<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2845977> Accessed September 1, 2022.

between licensed lawyers and unlicensed barefoot lawyers. Free law school clinics service is limited.

The number of basic-level legal workers have decreased further. In 2013, there were over 70,000 local-level legal workers handling 837,000 litigation cases and 605,000 non-litigation matters nationwide.²⁷¹ However, in 2020, there were only over 63,000 local-level legal workers handling 673,000 litigation cases and 127,000 non-litigation matters nationwide.²⁷²

The labour NGOs have been atomised and their operations have been further weakened. Since 2015, there has been a crackdown on labour NGOs as a result of change in the political climate. More ‘sophisticated’ strategies of repression and control have emerged—for instance, the adoption of new laws and regulations which increase bureaucratic control over NGOs and severely limit their access to funding. These have far more serious consequences at both an individual and an organisational level.²⁷³ Meanwhile, employers try different ‘malicious’ tactics to delay litigation and increase the litigation cost for workers. They are becoming more aware of the law and increasingly sophisticated in how they exploit it.

Compared to the normal one-shotters (employees) in China, riders’ with platforms are even more limited. The current platform labour market is unregulated, and most issues are related to their employment status, while neither statutes nor judicial precedents favour them. Their rivals are the monopoly giants who have already analysed the existing laws thoroughly and insulated themselves from legal risk through outsourcing.

More positive developments concern governmental legal aid and trade unions. The Legal Aid Law was promulgated in 2021 and specifies that ‘requests for determination of labour relationships or payment of labour remuneration’ and ‘requests for compensation of physical harms from job injuries, traffic

²⁷¹ Ibid.

²⁷² Ministry of Justice of China, ‘Statistical Analysis of Lawyers and Local Legal Service Work in 2020’ (2021) <http://www.moj.gov.cn/pub/sfbgw/zwxxgk/fdzdgnr/fdzdgnrtjxx/202106/t20210611_427394.html> Accessed August 1, 2022.

²⁷³ Franceschini, I. and Nesossi, E., ‘State Repression of Chinese Labour NGOs: a Chilling Effect?’ (2018) 80(1) *The China Journal* 111.

accidents, food or drug safety accidents, or medical accidents’ can be made by parties in financial hardship. Legal Aid and Legal Aid institutions may provide a form of legal aid services of ‘representation in mediation and arbitration in labour disputes’, while the abolished Legal Aid Regulation promulgated in 2003 only confirmed ‘requests for payment of labour remuneration’. The newly eligible cases ‘determination of labour relationships’ and ‘requests for compensation for physical harm from job injuries, traffic accidents, food or drug safety accidents, or medical accidents’ are very relevant for riders. Some local trade unions have also been provided with special legal aid services for workers engaged in novel forms of employment.²⁷⁴

However, according to the Legal Aid Law, the government legal aid is supported by the local government budget. The fact that government budgets are caught in an unexpectedly severe budget squeeze due to the long-term zero-case COVID-19 policy and mass testing, slumping land sales and tax breaks²⁷⁵, all diminish the chance of increasing legal aid. Many trade unions and workers alike find it difficult to access legal aid.²⁷⁶ The primary question for trade unions is how to increase their coverage and make their legal aid available to riders as the traditional firm- and workplace-level unions are not suitable. In fact, viewing the fieldwork in Hangzhou and Changsha, neither the government nor trade union legal aid is available to riders. They have not heard of any legal aid service that either trade unions or the government conduct or advocate for them. Riders only have very limited awareness of the legal aid that is available, in principle, to them.

“If you go to the police station to report a case, sometimes the police will let us talk to the lawyer sitting in the police station and I don’t know if he charges

²⁷⁴ Chen, W., ‘Providing A Legal “Protective Umbrella” for Workers in Novel Forms of Employment’ (Workers’ Daily, 2022) <<https://www.chinanews.com.cn/sh/2022/07-08/9798361.shtml>> accessed September 1, 2022

²⁷⁵ Bloomberg News, ‘China Budget Dilemma Is Whether to Boost Debt or Slow Growth’ (2022) <<https://www.bloomberg.com/news/articles/2022-06-17/china-budget-squeeze-means-more-debt-or-slow-growth-for-regions#xj4y7vzkg?leadSource=verify%20wall>> Accessed September 1, 2022

²⁷⁶ Halegua, A., ‘Who Will Represent China’s Workers? Lawyers, Legal Aid, and the Enforcement of Labour Rights’ (n 270).

for his services or not.” (HZ22, 30, male, a Youxuan rider with more than 3 years’ experience)

All of this means that riders will typically only resort to litigation if they suffer big financial losses or there is an incident which results in serious injuries or death. Everything else they will choose to tolerate. Exceptionally, a very few riders, usually with better education and who are not one-shotters due to previous experience, may use formal channels as their first choice.

“I would not go to court for a RMB200 fine. I probably would file a complaint if the amount is over RMB10,000.” (CS9, 30, male, a Youxuan rider with less than 6 months’ experience)

“I got my wage paid back from mediation when I worked as a team rider. I know legal matters because I had a lot of legal experience by reason of previous family stuff, I kept all the evidence.” (HZ21, 43, male, an ordinary on-demand rider with almost 1 year’s experience)

A case I was involved in during fieldwork in Hangzhou provided a glimpse into the complex feelings of riders about formal legal channels. A supplier suspected a rider had stolen another takeaway meal when the rider came to pick up his order. The supplier printed out the rider’s photo, captured on camera, and posted it on the gate of his restaurant, stating that the rider was a thief. Other riders who picked up takeaways from the restaurant recognised the rider on the photo, sent the post to the rider’s Wechat group, and notified the rider. The rider was angry and called the police, but the supplier was aggressive and refused to remove the poster and apologise. The rider became furious and wrote in the Wechat group that he would find a lawyer to sue the supplier. On the second day, the other riders asked him if he had taken action. The rider replied by asking if anyone could introduce to him a lawyer. I sent him a private message, which suggested that I could help him to write the indictment and then he could submit it to the court by himself without a lawyer. He accepted my suggestion, and I quickly finished the indictment and sent the electronic file to him. He shared the indictment with the group at once but didn’t submit it to the

court. The reason was that the other riders had shown the indictment to the supplier and the supplier removed the poster.

“I just want to let the supplier know that I am not one to be trifled with. Now I am not mad anymore, and the matter is not worth taking to court, given the time and money needed. Even if I win, I probably will get an apology and little compensation; it is not cost-effective.” (HZ11, 35, male, a Lepao riders with almost 2 years’ experience)

The rider who later became my participant actively used the possibility of legal action to threaten the supplier, even though he was reluctant ever to pursue the action. He also admitted that he wouldn’t have paid money to a lawyer to write an indictment. He had grievances but was weighing things up in terms of the trade-off between the costs and benefits of litigation. The other party in this case was a small restaurant owner who likely had similar resources to the rider. If the parties were platforms, the riders’ concerns would be even more significant.

1.3 Difficulties for resorting to labour security administration

In addition to litigation, riders can choose to report issues to the labour security administration departments or more specifically, to the labour inspection departments. Labour inspection adopts a fragmented model in China, which includes labour security supervision and specialised labour supervision.²⁷⁷ Specialised labour supervision, which is mainly concerned with workplace safety and occupational health, is administered by the work safety administrative departments. Riders’ complaints relate more to the labour security supervision. In terms of the labour security supervision, at the central level, the MOHRSS (The Ministry of Human Resources and Social Security), the highest labour administration organ under the State Council, established a Labour Inspection Bureau, which provides guidance to local labour inspectorates and coordinates and develops national policies and joint programmes to ensure the unified implementation of labour laws in the country. At the local level, the labour

²⁷⁷ Huang, Q.G. and Jiang, Y., ‘The Dilemma, Challenges, and Development of China’s Fragmented Labour Inspection Model’ (2016) 18 China Labour 53.

administration department belongs to the local people's government at the same level but receives guidance and supervision from higher level labour administration departments as well.²⁷⁸

According to the Regulations on Labour Inspection (2004), only employees have the right to make a complaint to the labour inspection departments if they consider that the employing entity infringes upon their legal rights and interests in labour security; however, any organisation or individual has the right to tip off the labour inspection department regarding any act violating labour security laws, regulations or rules (Article 9). Given the fact that most riders are not employees, they cannot make a complaint but only tip off the labour inspection departments. For tip-offs, in contrast to the detailed complaint procedures, no follow up procedures are stipulated in the Regulations and Several Provisions of Regarding the Implementation of the Regulations on Labour Inspection.

If riders don't want to tip off labour inspection departments, an alternative is to call the mayor's hotline. The hotline number 12345, which rhymes with 'if you have trouble, find the government', is standardised in almost every city.²⁷⁹ It is easy to remember and actually used by some riders. The effectiveness of mayor's hotlines varies from city to city. Normally, if they receive labour complaints, the hotline will transfer them to the labour inspection departments or provide alternative suggestions.

Most participants know about labour inspection departments or mayors' hotlines but those who had had experience with them, tended to be disappointed rather than satisfied.

"I called them about unreasonable fines, but they didn't pay attention. They told me I need to complain to the labour inspection department where the employing entity resides. So I called the mayor's hotline in Shanghai, you know, where Fengniao is registered. They said they would reply to me later, but they

²⁷⁸ ILO Report, 'Labour Administration Reforms in China' (2013)
<https://www.ilo.org/global/topics/labour-administration-inspection/resources-library/publications/WCMS_224430/lang--en/index.htm> Accessed September 1, 2022.

²⁷⁹ Liu, W., 'Presentation of Political Commitments and the Formalization of Mayor's Hotline' (2021) 10 public Administration and Policy Review 79.

never did. Now, I have no other option, I'll have to accept the fines.” (HZ22, 30, male, a Youxuan rider with more than 3 years' experience)

“Because we are outsourced, you can only call the labour inspection department where the subcontractor is registered. Do you think they will care about it?” (HZ22, 30, male, a Youxuan rider with more than 3 years' experience)

The Regulations specify that the labour inspection of an employing entity shall be under the jurisdiction of the labour inspection at the county level or at the level of a city divided into districts at the locality of employment by the employing entity (Article 13). Therefore, riders have to call the number in other cities or provinces. Even if the labour inspection departments accept their tip-offs or complaints, the distance makes it difficult or impossible to conduct the investigation effectively. Moreover, local labour inspection departments are often constrained by local government, taking into account the objectives of the local government and then selectively enforcing them.²⁸⁰

The shortage of labour inspectors and insufficient funding for labour inspection make it difficult for it to carry out proactive enforcement of laws in the workplace.²⁸¹ By the end of 2011, China had established 3,291 labour inspectorates at all levels with a total of 25,000 labour inspectors.²⁸² This number is clearly insufficient compared to the large working population in China. There is no updated data on the labour inspectors in recent years. It seems there is no significant improvement. Due to the shortage of staff and funds, labour inspectorates have mainly relied on reactive inspections and complaints,²⁸³ rather than conducting their own investigations. As a result, there is a lack of preventative enforcement.

²⁸⁰ Fan, B.J., 'The Predicament and Outlet of Labour Inspection in Our Country's Transitional Period' (2013) 6 Journal of Jiangsu Normal University (Philosophy and Social Sciences Edition) 130.

²⁸¹ Zhao, D., 'The Predicament of Small Horses Pulling Big Carts' in Labour Inspection,' (2011) <<https://www.chinanews.com.cn/fz/2011/02-28/2872433.shtml>> Accessed September 1, 2022.

²⁸² ILO Report, 'Labour Administration Reforms in China' (n 269).

²⁸³ Zhuang, W. and Ngok, K., 'Labour Inspection in Contemporary China: Like the Anglo-Saxon Model, but Different' (2014) 153 International Labour Review 561.

In practice, most riders do not have enough ability or legal knowledge to find and keep proof in advance. Two riders shared their experience of being refused to give their contracts when they were team riders.

“I went to the labour inspectorate. They asked me to provide my contract, but they (the intermediary) refused to give me my contract. They did give me a contract and asked me not to fill in the start date. They said they would fill it in later. The delivery records would also be deleted by them completely. So I cannot provide any proof.” (CS15, 36, male, an ordinary on-demand rider with 6 years’ experience)

“We can fill in the start date, but we can’t get the contract in our hands. We are not even allowed to take a photo of the contract.” (CS18, 28, male, a Youxuan rider with almost 2 years’ experience)

The unfair treatment suffered by some team-riders is obviously illegal. Intermediaries or platforms’ refusal to provide a copy of the contract or deleting delivery records are illegal ways to prevent riders from accessing proof. It should be the labour inspectorates’ duty to inspect these illegal practices but instead it has become a barrier for riders seeking to access justice.

The success or failure of the complaints or tip-offs is always passed on to other riders and has a positive or negative effect on other riders in a similar situation. The neglect of duty of some local labour inspectorates may increase riders’ negative attitude toward their effectiveness.

“It is useless. Other riders complained to the labour inspectorates, but it didn’t solve anything. I won’t do it again.” (CS8, 40, male, an ordinary on-demand rider with 2 months’ experience)”

“I called the labour inspectorate regarding our social insurances. The staff said they would write it down, but then there was no follow-up. Or you cannot get through on the telephone.” (HZ 7, 30, male, a Youxuan team-leader with 3 years’ experience)

“They told me that they accepted my complaint and I could check the process online. But there were no updates at all after the acceptance. When I checked it online, it was always being processed. I guess it is still being processed even now. It is useless. There are thousands of people who have wage arrears. They can’t manage it all.” (CS24, male, 32, a Youxuan team leader with more than 2 years’ experience)

1.4 Fear of retaliation

It is common for Chinese employers to retaliate against workers who raise complaints.²⁸⁴ On-demand riders sometimes do not take action through formal legal or administrative channels due to a fear of retaliation by the platforms. Possibly the only but very effective retaliation method for platforms is to deactivate riders’ accounts, permanently or temporarily, which, in a duopoly market, can amount in essence to permanent expulsion.

The current law only provides explicit protection from retaliation for union officials,²⁸⁵ and for employees who complain to or assist the labour security administration.²⁸⁶ The latter, which is related to individual disputes, is limited to the labour security administration and fines are the only civil punishment. For other situations, the only protection is that an employer cannot terminate an employee’s employment without a due cause according to Article 39 of the Labour Contract Law. Among the six causes listed in Article 39, the cause of having ‘seriously violated a workplace regulation or rule’ has been the most common weapon used by employers to unilaterally terminate employment.²⁸⁷ The vague boundaries of ‘serious violation’ leave much room for employers and courts. In actual trials, there is a tendency for the courts to readily endorse workplace regulations or rules established by employers and not to give much consideration to the appropriateness of workplace regulations and severity of

²⁸⁴ Halegua, A., ‘Allow Workers to Protest Without Fear of Reprisals’ (2016) <https://www.academia.edu/38136305/Allow_Workers_to_Protest_Without_Fear_of_Reprisals> Accessed September 1, 2022.

²⁸⁵ Article 51, Trade Union Law.

²⁸⁶ Article 101, Labour law.

²⁸⁷ Zhang, T.P., ‘Disciplinary Dismissal: Case Analysis and Rules Construction - Centred on Article 39(2) of the Labour Contract Law’ (2017) 18 Journal of Law Application 92.

violations.²⁸⁸ Some debated issues, such as prying or disclosing salaries, internal whistleblowing, posting unfavourable comments against employers, are mostly considered as fair reasons for dismissal by courts.²⁸⁹

Given the insufficiency of the protection afforded by the law, suing an employer involves a significant risk for any employee who seeks to keep his/her job, even if they are aware that employers' behaviours are illegal. A 2012 survey of migrant workers in Guangzhou found that over 80% of respondents feared losing their job if they sued their employer.²⁹⁰ Suing itself might not be considered as a 'serious violation of workplace regulations', but employers can easily find other excuses to terminate employment.

In terms of platforms, in the current unregulated market, they can easily deactivate riders' accounts without notifying riders the concerned or by giving vague reasons, if they think the riders have engaged in improper behaviour. Meituan's policies of 'serious violation on the app', which addressed a series of activities, would permanently deactivate accounts and prohibit registration. Fengniao even set up a catch-all provision regarding deactivating accounts in their violations policies. In the duopoly market, the choices for riders are very limited: going to other platforms, quitting the sector or embarking on litigation with highly unpredictable results.

"I am earning their (platforms') money. If I sue them, I can't deliver anymore. They will deactivate my account. Their policies are not fair. Yes. We can sue them, but the result is nothing more than they ask you and the platform to negotiate. A good result is getting some compensation from the platform, but the outcome is probably you can't deliver anymore." (HZ11, 35, male, a Lepao rider within almost 2 years' experience)

²⁸⁸ Li, F.J. and Dong, H.Z., 'Research on Enterprise Disciplinary System - Drawing on the Experience of Germany, France, and Japan' (2014) 234(3) Journal of Tianjin Normal University (Social Science) 32.

²⁸⁹ Tuo, Q., 'Exploration of the Boundary of Disciplinary Dismissal - An Empirical Study Based on Typical Cases' (2019) 11 World of Labour Protection 9.

²⁹⁰ Halegua, A., 'Allow Workers to Protest Without Fear of Reprisals' (n 284).

“Do not mention suing. You can’t complain too much in the (Lepao team) group chat. If you talk too much, you would be moved out and even have your account deactivated. Then you can’t make money even if you want to.” (CS3, 28, male, a Lepao rider with 1 year’s experience)

“If you post negative comments online or social media, basically your account will be deactivated, or your comments will be deleted.” (HZ28, 22, male, a team rider with no more 6 months’ experience)

Most of the riders are not included in the scope of the weak anti-retaliation law as they are not employees, which means they don’t have any external channel to get their accounts back.

2. Informal channels for riders’ resistance and struggle

As formal channels for expressing their grievances are limited, many riders resort to traditional methods of publicly voicing their complaints and challenging the algorithms and management of platforms through daily acts of resistance. Some riders also reach out to suppliers to express their grievances. In some cases, a few riders have even taken the extreme course of action of resisting by suicide or other violent means.

2.1 Public oversight

For a long time now, China’s rural migrant workers have tried to utilise the media to express their grievances and seek justice.²⁹¹ There are two main approaches available to them. One is to rely on the mainstream media’s assistance to voice their conditions and the other is to express their grievances through social media.

²⁹¹ Chan, A., *China’s Workers Under Assault: Exploitation and Abuse in A Globalizing Economy: Exploitation and Abuse in a Globalizing Economy* (Routledge 2001); Sun, W., ‘Desperately Seeking My Wages: Justice, Media Logic, and the Politics of Voice in Urban China’ (2012) 34(7) *Media, Culture & Society* 864.

2.1.1 Do you know anyone working for the media?

During my fieldwork, some riders mistook me for a journalist and approached me to ask me to spread to the public information about their conditions and experiences. I even got a few WeChat friends requests from riders, followed by long paragraphs telling me their grievances and asking me to report on their suffering. Even almost a year after the fieldwork, I still got a participant's message asking if I knew of any contacts with the media. From the point of view of riders, the media is possibly the fastest and most effective channel to help them get what they want. Participants shared many stories of success with me, which had resulted from media reporting. They hope that the public attention puts pressure on the platforms, which can solve their issues differently and fairly, as well as raise awareness of their precarious situations with the government and public. Also, the successful cases have intensified their faith in reporting to the media:

“If you want to fight for your rights, you must get public attention. That would be impossible, if you don't get public attention. What do you fight for?” (HZ11, 35, male, a Lepao rider with almost 2 years' experience)

“Did you see it on Tiktok? There was a Fengniao Rider who died suddenly. He died on his way to deliver his 39th order. Fengniao only paid RMB2,000 compensation, stating that the rider had no connection with them. It was reported in TV programmes and caused an uproar. In the end, Fengniao paid RMB600,000.” (CS8, 40, male, an ordinary on-demand rider with 2 months' experience)

“Last Spring Festival bonus activity set the standards too high. A few weeks later, we found it was too difficult to reach the standards. Basically no one could get the bonus. Some riders contacted the media and spread the information to different media. After many relevant reports Fengniao later changed the standards, so that nearly everyone could get a bonus of some kind.” (HZ23, 30, male, a Lepao riders with 3 years' experience)

In contrast to litigation, the first choice for some riders is to find a media organisation with successful experience.

“If I have a serious grievance, I will try to get the media to report about it. If you don’t find a way to ensure a media report and just go to court, they have legal experts. They are such a big company, they can play with you in many ways. When I was a team rider, the subcontractor refused to pay our wages; We contacted the local TV, and they broadcast a report and we complained to the labour security administration. Finally, we got our wages paid.” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience)

Compared to this successful experience, court reports suggest that riders who were in similar or apparently worse situations, and chose to take legal action, lost their cases. Among the cases related to on-demand riders in the two cities, one case involved the death of a rider as the result of an accident while delivering food. His family followed the procedures, went to mediation first and then to the courts asking for the determination of a labour relationship with the subcontractor, but they lost the case.²⁹²

It is of course true that not all the riders who seek assistance from the media get the results they want. Still, if the current labour laws don’t specify clearly the relationship between platforms and riders, it is obvious that litigation will be mostly in vain and probably going to the media is a better choice for riders. No matter whether or not their claims are eventually addressed, at least they can make the public and government aware of their suffering. The difficult issue for riders is how to contact the media and get their stories reported. One popular approach is to call the hotlines of local popular TV programmes. Not every instance of perceived unfair treatment by a rider is considered newsworthy from a journalist’s perspective, however, and the attention and external pressure that media reports can bring is often short-lived and not sustained over the long term.

²⁹² (2021) Xiang 0121MinChu No.8798.

“The reporters also need to see if the facts are good enough to report.” (HZ21, male, 43, an ordinary on-demand rider with 1 year’s experience)

“Media reports are helpful. You need to get the support from everyone. If no one follows up (the complaint), the capitalists will not give a shit.” (HZ26, 24, male, a Lepao rider with 1 year’s experience)

2.1.2 Post complaints on social media

Social media has become an essential part of leisure time and entertainment for young migrant workers in China.²⁹³ It has also become popular across the whole population of riders, particularly the short-form video-sharing apps. Nearly all participants watch Tiktok or Kuaishou while waiting for orders or in their leisure time. Many riders are not limited to watching but also share their experiences as riders on the apps. Some become prominent influencers among other riders and even the general public. Social media plays a multifaceted role for riders, such as sharing and obtaining information, recording their daily lives and earning money. Some riders also use this channel to express their grievances against the platforms and to mobilise public opinion.

“I record my life as a rider, but it is also a way to express my grievances and my feelings. This is the way, isn’t it? I need a way to express myself. If I keep it all inside, I will explode.” (HZ1, 30, male, an ordinary on-demand rider with 4 years’ experience)

That said, this channel is strictly monitored by platforms. The two platforms expressly state in their agreements with riders that criticising platforms amounts to a severe violation, and that the accounts of any rider who does so will be terminated. The internet real name policy implemented by the government makes riders, who post unfavourable comments online, easy to spot by the platforms.

²⁹³ Liu, J. and others, ‘Enriching the Distressing Reality: Social Media Use by Chinese Migrant Workers’ In Proceedings of the 17th ACM conference on Computer Supported Cooperative Work & Social Computing <<https://doi.org/10.1145/2531602.2531632>> Accessed August 1, 2022.

“Where riders post negative comments about platforms on either a riders’ forum or WeChat group, something about the piece rate cut or strike news or information, the platforms will contact WeChat to complain. For example, last time, a Fengniao rider posted some negative comments on Bilibili (another video-form sharing website), I watched it, and it was soon deleted. Sometimes, to gain the audience’s sympathy, riders who post would introduce themselves at the outset, such as who they are and which platform and station they are working for. If the click rate is high and the platforms find it, they will try to delete it.” (HZ26, 24, male, a Lepao rider with 1 year’ experience).

2.2 Riders’ daily resistance

James Scott’s ‘hidden transcripts’ theory introduced the notion of subtle forms of what he called ‘everyday resistance’, which require little coordination or planning, and can be used both by individuals and by groups to resist without directly confronting or challenging elite norms.²⁹⁴ Riders in China sometimes adopt similar hidden resistance strategies, which can work effectively to some extent. Research has found that some riders remade a set of ‘labour algorithms’, for example, that could facilitate their work performance by allowing them to pretend to complete the work without actually delivering any food in order to obtain a bonus. Riders also transfer their orders to each other either formally or informally. Veterans often choose the route they trust instead of the route recommended by the platform. Riders join WeChat groups to share and circulate information. They download many delivery apps at the same time and constantly switch their work conditions to get more orders from different delivery platforms,²⁹⁵ and they use virtual positioning systems to interfere with the positioning of the platforms’ algorithms.²⁹⁶ Recently, riders have developed more strategies in line with the evolving algorithms and management of

²⁹⁴ Scott, J.C., *Weapons of the Weak: Everyday Forms of Peasant Resistance* (Yale University Press 1985)

²⁹⁵ Sun, P., ‘Your Order, Their Labour: An Exploration of Algorithms and Labouring on Food Delivery Platforms in China’ (n 126).

²⁹⁶ Huang, H., ‘Algorithmic Management in Food Delivery Platform Economy in China’ (2022) *Technology, Work and Employment* <<https://doi.org/10.1111/ntwe.12228>> Accessed October 1, 2022.

platforms. In one rider's words, "*We have to play with platforms within their rules.*" (CS12, 31, male, a Lepao rider with 3 years' experience)

Fengniao Riders combine virtual positioning software and placing orders for themselves to get better routes and orders. As mentioned in Chapter 3, both platforms adopt multiple order systems and dispatch orders to riders on the same or similar route, with Fengniao allowing up to 13 orders per time for their highest level of riders. Delivering orders to university campuses or student halls is typically more efficient than to residential compounds, as riders are not permitted to enter student accommodation halls or campuses and must leave the delivery in a designated area. This results in significant time savings for the riders. During my fieldwork at a food court in Hangzhou, which was located near several universities, if all 13 orders were to be delivered to students, the riders could complete the deliveries within half an hour. Instead of simply waiting passively for the dispatch of these profitable orders, it was therefore very tempting for riders to take the risk and obtain them 'illegally'.

Fengniao riders usually have two phones. One must be an iPhone in which they install the app. Because its positioning is floating around the accurate position (not precise), it is harder for the algorithms to monitor them than other domestic phones with more precise positioning when they use a virtual positioning software. This prohibited software enables riders to accept or grab orders even when they are not physically present in the best area for receiving orders. In other words, it can misrepresent their actual location.

In order to maximise the number of good orders obtained through the software, a high level of sophistication is required, including the ability to accurately calculate time, evaluate timing, and possess a strong familiarity with the delivery area. Suppose that riders have 13 orders in their hands, all to be delivered to student halls or campuses. After a rider has delivered more than 2/3 of those orders, he uses the virtual positioning software to present his position back to the food courts, which are optimal locations for the rider to await new orders or 'grab' additional orders. Since the riders still have orders to be delivered to student halls, the algorithms prioritise matching new orders along the same route if any have been placed by customers.

Sometimes, if a rider does not succeed in being dispatched or in grabbing the additional orders, he may try to use his second phone to place a 'fake' order to be delivered to a student hall or campus in the name of another phone number (He can't use the same number as Fengniao can tell. That's why a second phone is necessary). If he 'grabs' this order, then Fengniao may dispatch more orders on the same route to him. To guarantee or at least increase the chance that other riders won't grab this 'fake' order, he will deliberately add some special messages in the message columns, such as 'please go to the market and buy 10 kilo fish' and 'please buy ten cartons of cigarettes for me on your way to deliver.' Simply put, he increases the apparent difficulty of delivering that order. Most riders can tell this order from an ordinary order quickly and would not 'grab' this order. If everything goes smoothly and there are sufficient orders, a 'gaming' rider may easily deliver more than 100 orders during the lunch slot, far more than would otherwise be possible. Assuming the piece rate is the basic price, RMB4.5, the rider can make at least RMB400 during two hours. This unfair competition makes some other riders angry and riders who do this therefore carry the risk of being reported to the platforms or having their orders 'grabbed' by others, or being dispatched to other areas by Fengniao, but it is still worth doing because the benefits are so attractive.

"You need to have a very sharp mind. You need to calculate every step. You can't make any mistake. If you make a mistake, it's all over. You should know every order and their required delivery time, you need to calculate which order you deliver first and next, you can't just follow the routes the platform provide. You need to decide when you use the virtual positioning software. Of the thousands of riders who deliver around the xx food court area, no more than ten can game the system very well." (HZ8, 31, male, a Youxuan rider with more than 1 year' experience).

This loophole doesn't exist on the Meituan App due to its more advanced and stricter algorithms. Even though Meituan riders are unable to use the virtual positioning software, however, competent riders won't just let the algorithm decide everything for them, particularly the delivery route at peak times. Most

of them try their best to 'grab' an order intended for a good route before the peak time or, if necessary, choose to pay the extra transfer fee to others.

"I would never just let the algorithm dispatch orders randomly at peak times. To optimise my delivery route, I keep an eye on the 'order hall' on the app to 'grab' an order that presents a good route. One is enough as the algorithm will dispatch orders similar to the previous order." (HZ12, 22, male, a Lepao rider with no more than 2 years' experience)

Therefore, usually prior to the lunch rush peak hours, at around 10:30 am, passers-by can see a remarkable scene where both sides of the streets in front of takeaway restaurants are occupied by delivery riders sitting and staring intently at their phones, frequently refreshing the pages with their hands.

The extra phone and virtual positioning software are also helpful sometimes in dealing with punishment fines by the platform. One of the fine exemption rules is that riders will not be fined if it is the suppliers' fault that the food was given to them very late. But the standard is strict in order to prevent riders from cheating. Riders can only report to platforms with a photo of the supplier's site showing the real-time after having had to wait for at least 10 minutes on at least two occasions. Veterans know those suppliers who provide orders slowly, so they take photos of these suppliers' sites on one phone in advance, and when they want to use this procedure, they don't need to be at the site. They can use their iPhone with the virtual positioning software to closely take a photo of the photo of the supplier on the extra phone and then report to the platforms.

In respect of the 'bad' orders that are mandatorily dispatched by algorithm and cannot be transferred even with extra fees, riders sometimes would call customers at the suppliers' sites and tell them gently how long they will need to wait, asking them whether they would like to wait, nonetheless, or not. Usually when customers know that they have to wait at least one hour, most of them won't choose to wait. The main point here is that riders are not allowed to prompt customers to cancel orders. Riders need to use language skills that allow customers to voluntarily give up the orders.

Some riders, particularly Lepao/Youxuan riders who can't refuse orders, don't want to be dispatched orders due to the bad weather or health conditions. In such cases, they will keep themselves away from the activity circle or an area with few suppliers after they finish the basic requirements of orders as they know the algorithm dispatches orders to them according to their position.

Some Fengniao riders have repeatedly researched the logic behind the algorithms' dispatch of orders. They try to 'raise an account (yanghao, 养号)' to explore the rules of the algorithms, and are then able to be assigned the best route. The first step for riders is to accept only 'good' orders, such as those from the food courts to university campuses, even if they will be fined or their order will be reduced for refusing the 'bad' ones. It takes time to let the algorithms know that the account prefers a specific route. But once the algorithms record the delivery trajectory of the account, it becomes profitable for the rider. It is a trial process that needs time and patience, so not many riders take the risk. But for those who manage it, they can ultimately easily make more money.

"Other riders told me, when you first start to 'raise an account', you must forget how much you can earn for the day, you are raising it. You only accept orders from the food court to the university campuses and refuse all other orders. I know a few riders who manage to deliver orders to the university campuses, and just deliver to some specific campuses which they like." (HZ11, 35, male, a Lepao ride with almost 2 years' experience)

"Yes, the index of dispatching orders will decrease if I don't accept other orders. But the index restarts weekly. You just need to insist and raise the account." (CS26, 35, male, a part-time ordinary on-demand rider with 1 years' experience)

Fengniao riders have also found another 'policy bug'. One way to avoid a penalty for late delivery is for riders to report to the call centre that their customer's actual positioning is different from the address they provided. If this is confirmed, then all other orders delivered late during this delivery could also be exempted.

“Once we report, the call centre usually doesn’t have time to re-check one by one at peak time, so it is a technique that we could use in an emergency. But you cannot report many in one day. They would be suspicious.” (CS4, 22, male, an ordinary on-demand riders with 18 months’ experience)

Some veterans swap between Lepao/Youxuan riders and ordinary on-demand riders according to the number of orders in different seasons. Usually, Lepao/Youxuan could get more orders according to the ‘order priority’ principle, particularly in summer and winter when there are more orders than in spring and autumn. Veterans choose to join a Lepao/Youxuan group even if they have few chances to reject orders, because more orders mean more money. But when it turns into spring or autumn, which are the low-seasons for the takeaway sector as the weather is better and more people prefer to go to restaurants, some veterans choose to be on-demand riders. Given the limited total number of cases, the ‘order priority’ principle doesn’t make a big difference between ordinary on-demand riders and Lepao/Youxun riders. Therefore, veterans choose to work as the ordinary on-demand riders, who have more control over their own working schedules, so that they can get some rest in the low seasons.

2.3 Resistance and struggles with suppliers

Compared to the giant platforms and customers who are protected by anonymity policies, suppliers are more easily accessible to riders. Riders can contact and meet suppliers in person, and easily access their websites and relevant information. Normally, riders and suppliers maintain a peaceful, symbiotic relationship. However, on occasion, some ‘bad’ suppliers can become a source of frustration and grievance for riders. Common issues include suppliers using abusive language or displaying negative attitudes, as well as providing orders to riders excessively late.

A mild form of resistance involves the riders refusing to deliver orders from the suppliers. They just ignore the order for the whole day, and generally the customer will apply for a refund and riders won’t lose much. When some suppliers cross the line too much, riders show them effective resistances. Some

riders report the suppliers' unhygienic conditions to the relevant government department, which leads to the closure of the shop.

“The takeaway shops generally have sanitary problems. If we report them, most of time the shop will be punished.” (CS6, 20, male, a Lepao rider with 4 years' experience)

If the supplier is very bad, some riders choose other aggressive actions. They either make negative comments about the supplier to the customer at the time of delivery or order food from the supplier and then give bad reviews. In order to increase the supplier's bad reputation, some riders even add salt to the food after they pick up orders from the supplier. These are extreme courses of action, and most riders don't consider them.

Generally, riders have more ways to deal with bad suppliers rather than bad platforms as the inequality between riders and most suppliers is much less. The conflicts between riders and suppliers are not serious, however, and also are not very common. Acts of resistance aimed at suppliers will not change riders' working conditions significantly.

2.4 Some radical forms of resistance and struggles

“Sometimes, I have a feeling that I want to kill someone. It is not fair. The platforms decide everything unilaterally. All clauses are arbitrary, not a single clause favours the riders.” (CS15, 36, male, an ordinary on-demand rider with 6 years' experience)

Over the last few decades, some migrant workers in China have resorted to suicide or 'suicide shows' as a radical means of securing wage arrears.²⁹⁷ Though it is rare, a few riders have followed this tradition, adopting radical forms of resistance to express their grievances, discontent and despair. In 2021, for example, a 43 year old team rider in Jiangsu province poured petrol over his

²⁹⁷ Hillenbrand, M., 'The Cliffhangers: Suicide Shows and the Aesthetics of Protest in China' (2020) 16(2) Public Culture 147

body and set himself alight in a bid to have his RMB5,000 wages paid.²⁹⁸ In the same year, a rider in Shenyang grabbed and accepted 253 orders in a short time during one night, aiming to express his frustration with Meituan's arbitrary clauses. He didn't deliver the orders but just clicked 'pick up orders' and 'delivered orders' in an internet cafe. The app showed that he had earned RMB1,200, but he never withdrew the money and closed his account immediately. He also shared his action in the riders' Wechat group.²⁹⁹ On other occasions, some riders have chosen to stab customers who have given them bad reviews.³⁰⁰

Thanks to the contribution of social media, most riders are aware of the radical forms of resistance taken by other riders. The news of a rider 'grabbing' 253 orders broke just as I was conducting fieldwork in Hangzhou. Some participants came forward to tell me about it. Most participants did not agree with these extreme actions, but they had sympathy for those who had chosen these courses of action. Several media reports have drawn attention to these extreme actions, but neither the government nor the platforms have directly responded. Nevertheless, it is possible that these incidents could have indirectly impacted on the government, leading them to issue more regulatory documents on the novel forms of employment in recent years, regardless as to whether or not they have been actually implemented.

Conclusion

Undoubtedly, individual riders are not passively tolerating the control of the platforms; on the contrary, they develop and explore different ways to fight for their labour rights and interests. But neither the formal channels nor the

²⁹⁸ 'Review of the 2021 Incident Where an Ele.me Delivery Rider Self-Immolated: "I Don't Want My Life Anymore, I Want My Hard-Earned Money"' (2022)

<<https://www.163.com/dy/article/HD7L937S0543BCJM.html>> Accessed November 1, 2022

²⁹⁹ 'A Delivery Driver in Shenyang, in Order to Resist Meituan's Unfair Clauses, Accepted a Large Number of Orders Late at Night and Forcibly Marked Them as Delivered at the Pickup Location' (2021) <<https://finance.sina.com.cn/chanjing/gsnews/2021-06-25/doc-ikqciyzk1694590.shtml>> Accessed November 1, 2022.

³⁰⁰ 'A Meituan Delivery Rider Publicly Killed a MINISO Store Employee' (2019) <<https://finance.ifeng.com/c/7sevb96Zp9U>> Accessed November 1, 2022.

informal channels provide enough strength for individual riders to fight against platforms.

Most riders' legal awareness has increased in comparison to the older generation of migrant workers, and they know their basic labour rights. But the outsourcing arrangements and the limits of litigation, unregulated platform labour market, the unequal party capability, the lack of anti-retaliation laws and the unreliable labour security administration do not give much space for riders to choose the formal channels to complain. Most of the court cases which relate to riders are traffic accidents. A few cases relate to the determination of labour relationship and wage arrears, but it is rare to find that riders have gone to court for other basic labour rights like holiday pay or holiday compared with their counterparts in other countries.

Informal channels are also limited. Public' awareness has played a role in improving riders' working conditions, but it is not a long-term mechanism and only targets specific cases. Most of the time, it cannot solve the problems for the whole group. In principle, the bugs or loopholes of the algorithms or policies of platforms can be easily updated by platforms. That no such updates are forthcoming, raises the suspicion that platforms might tolerate them quite deliberately, for competitive reasons. More bugs or loopholes are found on the Fengniao app than the Meituan app, while Fengniao's market share is still less than the number one, Meituan. *"I think Fengniao knows we are using the virtual positioning software. It is not difficult to monitor. They just deliberately let us use it. Anyway, their order volume is less than Meituan. They need to attract riders."* (HZ8, male, 31, a Youxuan rider with more than 1 year' experience). As for tactics used by riders towards suppliers, these may be more effective; however, individual suppliers have little ability to influence the riders' position in the labour market. When there is no real alternative, radical forms of resistance become more attractive.

Chapter 6 On-demand riders' collective action

Introduction

Though the workforce is spatially dispersed and individualised, an increasing number of research studies have shown that it has been possible for on-demand workers to take collective action.³⁰¹ Labour unrest has also occurred in the Chinese platform economy, with the number of incidents being the highest globally.³⁰² Two recent papers have made excellent observations on collective action in China's food delivery industry from a labour process perspective, drawing a comparison between team riders and on-demand riders.³⁰³ As explained in chapter 3 above, these two types of riders should not be considered homogeneous, as they have distinguishable terms and conditions. The work arrangements between team riders and platforms/intermediaries are like those between employees and employers. Team riders usually have long fixed working hours and are strictly subjected to platforms/intermediaries. On-demand riders have more flexibility than team riders, and they are initially gig workers who can freely choose when and how long they work in other countries. However, platforms have introduced more sub-types of on-demand riders in China.

Lei examines the ways in which labour control and management in China's food-delivery platform economy can lead to collective resistance by analysing 68 in-depth interviews, ethnographic data, and 87 cases of strikes and protests that occurred between 2017 and 2018. The research finds that legal control and

³⁰¹ Tassinari, A. and Maccarrone, V., 'Riders on the Storm: Workplace Solidarity among Gig Economy Couriers in Italy and the UK' (2020) 34 (1) *Work, Employment and Society* 35; Panimbang, F., 'Solidarity Across Boundaries: A New Practice of Collectivity among Workers in the App-Based Transport Sector in Indonesia' (2021) 18(8) *Globalizations* 1377; Cant, C., *Riding for Deliveroo: Resistance in the New Economy* (Polity 2019); Cini, L., Maccarrone, V. and Tassinari, A., 'With or Without Unions? Understanding the Diversity of Gig Workers' Organizing Practices in Italy and the UK' (2022) 28(3) *European Journal of Industrial Relations* 341; Bessa, I. and others, 'A Global Analysis of Worker Protest in Digital Labour Platforms' (2022) ILO Working Paper 70 <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_849215.pdf> Accessed October 1, 2022.

³⁰² Trappmann, V., and others, 'Global Labour Unrest on Platforms: The Case of Food Delivery Workers' (2020) Friedrich Ebert Stiftung <<https://library.fes.de/pdf-files/iez/16880.pdf>> accessed November 1, 2022.

³⁰³ Lei, Y.W., 'Delivering Solidarity: Platform Architecture and Collective Contention in China's Platform Economy' (n 133); Liu, C. and Friedman, E., 'Resistance under the Radar: Organisation of Work and Collective Action in China's Food Delivery Industry' (n 133). The two papers use different terminology to refer to team riders and on-demand riders, with Lei's paper using the term 'service platform couriers' and the other paper using the term 'station-based couriers.'

management and the other two dimensions of technological and organisational control and management reinforce each other, escalating grievances, enhancing the appeal of collective contention, and creating opportunities for mobilising solidarity and collective action among on-demand workers. For example, the non-negotiated clickwrap agreement enables intense algorithmic control and management by giving platforms unbridled legal and technological power. When riders' remuneration decreased drastically, or unfair new platform rules were introduced, workers not only discerned this power but also considered it and the rules made by such power to be 'despotic'. Furthermore, Lei concludes that the unregulated area of the relation between platforms and on-demand riders establishes a disjuncture between their sense of injustice that challenges the legitimacy of contracts and the claims that dispute resolution institutions can accept, making collective action more appealing than formal resolution channels.

Liu and Friedman provide an account of the emerging form of labour unrest among team riders and on-demand riders by analysing 61 semi-structured, in-person, and online interviews conducted between 2019 and 2020. They find that on-demand riders have similar grievances to team riders. However, on-demand riders have less workplace bargaining power, which suggests they might need to take an extra step to achieve the same results through collective action. Riders could choose to organise on a larger scale and/or pursue a more public attention-seeking form of resistance designed to bring external pressure to bear on the platform.

Both articles demonstrate that on-demand riders in China have a heightened sense of shared injustice and can address their grievances collectively. But how do on-demand riders organise collective action? How do internal forces and external legal, social and economic conditions impede or facilitate their collective action? How do platforms respond to riders' collective actions? Has collective action improved their working conditions?

Drawing on findings from my fieldwork, this chapter aims to address these questions that have not yet been sufficiently explored in the existing literature. In the absence of trade unions and NGOs that cannot step in to fill the

representative gap and support on-demand riders, the chapter begins with two examples of spontaneous collective action that occurred before my fieldwork in the two cities. Then based on the two cases, it uses the sociological concept of the 'occupational community' to argue that the internal conditions among on-demand riders to organise have developed. However, external conditions, including legal changes and platforms' repressive strategies, pose significant barriers to on-demand riders' organisation. In addition, slow economic development during the COVID-19 pandemic has severely restricted potential collective action. Without steps to remove these barriers, it seems unlikely that on-demand riders will be able to improve their labour rights by taking collective action.

1. Spontaneous collective action in the two cities

During the three months of fieldwork in 2021, no collective action occurred in the specific areas of the two cities. Prior to my fieldwork, however, riders in both areas had engaged in spontaneous collective action. While it may have been challenging for riders who took part in the action, whether actively or as bystanders, to recall every detail of what occurred in the past, this time interval also provided an opportunity for reflection and observation. This time gap allowed for a more precise and focused reconstruction of events and an observation of how different actors responded to the collective action.

1.1 An example of collective action in Hangzhou

A large spontaneous collective action occurred in 2020 during the transition period when Meituan introduced a new type of rider called 'Lepao' and reduced the piece rate for ordinary on-demand riders. Prior to the new plan, there were only team riders and ordinary on-demand riders. As mentioned in Chapter 3, ordinary on-demand riders could use their not too restricted 'privilege' of refusing orders to wait for an increased piece rate or additional bonus for some bad orders. Furthermore, the piece rate was also higher at that time. Therefore, to successfully implement the 'Lepao' plan, Meituan reduced the piece rate for ordinary on-demand riders and decreased the number of orders allocated to them.

Riders discussed the changes in person while awaiting orders at rest areas and on WeChat groups. No trade unionists or NGO officers were involved, only a few activists from among the riders. Most orders were provided by restaurants in a few large food courts in the district, and riders often waited for orders in the same or adjacent places. As a result, most riders were familiar with one another, even if they did not know each other's names. Therefore, they had ample opportunities to discuss the new policy and its implications while waiting for orders and also to form and talk on WeChat groups. When their grievances reached a certain level, it naturally led to a majority consensus that they needed to take some action together against Meituan.

Over 200 regular on-demand riders who primarily received orders from Meituan in two neighbouring delivery areas started to 'log off' from the app at the lunch peak time on the same day. They also attached placards to their scooters, with slogans such as 'Meituan on-demand riders, stop accepting orders', and patrolled outside food courts while honking their horns in areas where they typically waited for orders, as well as on main streets.

Not all on-demand riders joined in, but over 200 riders had already affected normal deliveries. The immediate effect was the 'explosion of orders' on the Meituan app, which needed more delivery riders. The protests lasted less than a week, but on the first evening, some activists were apprehended and turned in to the police on charges of disturbing the social order. *"I did not participate, but I was aware that some activists were taken to the police station."* (HZ10, 30, male, a Lepao rider with almost 3 years' experience). Consequently, on the second day, most riders chose to rest by the river at the edge of their normal delivery area instead of patrolling the streets. The following day or two, the solidarity among the riders gradually weakened. Some riders chose to return to work, while some chose to continue to protest. By the end of the week, nearly all the riders returned to work.

"A few riders were taken to the police the first night. Although most riders did not deliver on the second day, some returned to work two or three days later. Many orders stopped delivering for several days. However, while we didn't

deliver, some riders chose to deliver.” (HZ1, 30, male, an ordinary on-demand rider with 4 years’ experience)

Meituan appointed a marketing manager to negotiate with riders’ representatives during the protests. The manager promised to increase the piece rate and did so, but within a couple of months of the protests, the rate decreased again. This temporary conciliatory behaviour by platforms in the face of riders ‘logging off’ is not unique to China.³⁰⁴ Moreover, some activists’ accounts were blocked permanently, and the WeChat groups used to communicate the protests were deleted by group owners due to the external pressure.

“They patrolled from xx to xx, which brought some of the SWAT (Special Weapons and Tactics) officers, and some riders’ accounts were all blocked.” (HZ22, 30, male, a Youxuan rider with more than 3 years’ experience).

“The WeChat groups were deleted because the group master had to take responsibility, even if they were not aware of the inappropriate comments made by other riders in the group. As the group master, they were accountable for the group’s overall conduct, including any misguided conversations within it.” (HZ1, 30, male, an ordinary on-demand rider with 4 years’ experience)

Whether group masters indeed have to bear such kinds of responsibility will be addressed in section 3. I followed up on the participant’s answer by asking how he knew this rule, and he mentioned that his friend, an activist and a WeChat group master in the protest, had been taken to the police station for a few days. Riders did not know the exact number of blocked accounts, and they only knew that some riders’ accounts, either their friends or someone else they had heard of, were blocked. Platforms may also choose to block only some participants’ accounts to ensure that they maintain their delivery capacity. However, the deterrent effect had already been achieved by selecting a small portion of activists and blocking their accounts.

³⁰⁴ Cant, C., *Riding for Deliveroo: Resistance in the New Economy* (n 301).

1.2 An example of collective action in Changsha

Compared to the action in Hangzhou, the protest in Changsha in the summer of 2018 was much larger, with the riders being more proactive. It also happened before the introduction of special types of on-demand riders. Due to an announcement from Fengniao that it would reduce its high-temperature allowance (workers had been receiving an allowance of RMB1.5 per order), ordinary on-demand riders protested to express their grievances for more than 3 days. Many on-demand riders who worked on Meituan and Fengniao could switch from one to the other at will. Not only did riders who exclusively used the Fengniao app to make deliveries participate, but also some who used both Meituan and Fengniao to make deliveries joined in. The protest was initiated in face-to-face chat among riders, and then they communicated and coordinated through WeChat groups.

“More than 10 thousand on-demand riders participated in the protest. We had dozens of WeChat groups. Every group had almost 500 members. (The maximum number of people allowed in a group according to WeChat policy).” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience).

“Not just riders in one district, nearly all on-demand riders in Changsha were mobilised, we had more than 10 WeChat groups, and there were more than 400 members in every group.” (CS15, 36, male, an ordinary on-demand rider with 6 years’ experience)

Riders not only ‘logged off’ from the app and honked and rode scooters with similar protest slogans to the riders in Hangzhou, they also formed informal picket lines. Some riders stood outside the main gates of the community compounds where many takeaway restaurants are located and prevented non-participating riders from taking orders. In order to effectively stop other riders from taking orders, they even took some extreme action, including releasing the air from the tires of other riders’ electric scooters or damaging their scooters.

“As soon as they saw non-participating riders picking up orders, they either released the air from their tires or moved their scooters. Those riders cannot

deliver even if they wanted to.” (CS15, 36, male, an ordinary on-demand rider with 6 years’ experience).

“At least 1/3 of on-demand riders in Changsha actively participated in the protests. Some riders did not go to the streets or join the picket line, but they stopped taking orders. Perhaps only 1/5 of riders continued to work.” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience).

The police arrested some activists there as well. The manager in charge of Fengniao in Changsha negotiated with riders, increased the high-temperature allowance, and gave each of the main leaders of the protest a ‘red packet’ containing hundreds of Yuan. Finally, the protest stopped, and most riders returned to work. However, the increased allowance was temporary and only lasted a few months before being reduced again. After some time, Fengniao blocked all the main leaders’ accounts. *“They all left the industry as their accounts were blocked.”* (CS15, 36, same as above). The reasons for blocking didn’t indicate their connection to the protests, but it was clearly relevant.

This protest was probably the largest one spontaneously organised by riders thus far, and no local trade unions or NGOs were involved. The riders who joined in the protest used the exact term ‘spontaneous’ to describe it, *“we did not have specific leaders. It was spontaneous it began with a group of riders in XX district, and later more and more riders joined in.”* (CS15, same as above)

1.3 Ineffective collective action

Besides the two protests mentioned above, on-demand riders engaged in several smaller protests before my fieldwork. Like the two protests, however, nearly all were generally short-lived, defensive, and unsuccessful or unsustainable. As time passed and I asked riders about the effects and perception of these protests, most of them expressed a pessimistic tone and low morale, regardless of whether they had participated in the protests or not. Having experienced or witnessed numerous unsuccessful collective action, they had little hope for the success of future protests.

Firstly, no mechanisms are in place to ensure that the outcomes of protests can be sustained.

“It was ineffective. The platform only made a compromise temporarily. Soon they would continue to reduce the piece rate. Look how many times they have reduced the piece rate in recent years. You have no way to fight them. At most, (the protests) occasionally embarrassed them. Ultimately, riders had to take orders and make money, and the platform would still reduce the piece rate.” (CS15, same as above; HZ1,30, male, an ordinary on-demand rider with almost 4 years’ experience)

Secondly, some activists had to leave because there were no channels to release their blocked accounts after each protest. As discussed in Chapter 5, the anti-retaliation law only protects employees, which means riders have to demonstrate labour relationships with platforms if they want to raise claims before the courts or report matters to the labour security administrations.

Thirdly, spontaneous protest means an unstable structure consisting of a loosely connected network without centralised financing or a fixed structure for leadership, decision-making, and recruitment.³⁰⁵ Protests organised under such a loose structure are often susceptible to breaking apart and may quickly lose momentum; moreover, participants may overestimate the likelihood of repression while underestimating the possibility of success.³⁰⁶

“Riders did not have a concerted goal, and not every rider participated. As a result, the protests had little effect.” (HZ10, 30, male, a Lepao rider with almost 3 years’ experience). *“There are so many riders in this area, but you cannot organise all of them. Protests do not work”*. (CS21, 53, male, an ordinary rider with more than 1 year’ experience)

Only a few riders held a positive attitude towards the possibilities of protest:

³⁰⁵ Bimber, B., Flanagan, A.J. and Stohl, C., ‘Reconceptualizing Collective Action in the Contemporary Media Environment’ (2005) 15(4) Communication Theory 365.

³⁰⁶ Polletta, F., ‘“It Was Like A Fever...” Narrative and Identity in Social Protest’ (1998) 45(2) Social problems 137.

“The protests had a positive impact as they made the platform aware of our stance. It is unlikely that they will reduce the rate so quickly in the future. The platform wanted to test our tolerance level. If we don’t protest when they lower the rate, they may continue to decrease it soon.” (CS18, 28, male, a Youxuan rider with almost 2 years’ experience)

The continuous failure of protests to achieve unsustainable results provide a lesson to riders and made them more realistic and practical.

“In Changsha, we protested at least four times. We did it too last year. However, they were ineffective. The more protests, the worse we get.” (CS2, 33, male, a Youxuan team leader with more than 7 years’ experience).

They now tend to focus on making money and are more indifferent to protests. I was invited to join one of the riders’ WeChat groups in Hangzhou. After more than one year following my fieldwork, I have not seen any discussions on the piece rate reduction or collective protests. No big protests like the above examples occurred again in the two cities, although the rate was reduced at least twice in both cities.

“Did you see the Meituan rider strike in Shenzhen? Hundreds of riders in that district protested together. They all wore Meituan uniforms and helmets and carried their delivery boxes on their electric scooters. They showed their solidarity, but unfortunately, it was still ineffective!” (CS13, 32, male, an ordinary on-demand rider with 2 years’ experience)

How did various factors contribute to the failure of these protests and make it extremely difficult for on-demand riders to engage in collective action to advocate for their interests and rights? It is clear that the current trade union system presents a significant obstacle to successful worker collectivisation. The riders themselves, platforms, governments and economic conditions also play a role.

2. Riders' occupational communities

Existing experience of mobilising contingent workers in the UK suggests that solidarity within groups of contingent workers and between them and the broader union is essential for successful mobilisation.³⁰⁷ In the Chinese context, on-demand riders' collective solidarity is the essential driving force for spontaneous action. The on-demand work model has been identified as possessing unique features that distinguish it from traditional types of work. However, these same features make it more difficult for on-demand workers to establish solidarity.

The 'occupational community' concept can serve as a useful analytical tool to comprehend and observe the emergence of collective interest and solidarity among on-demand riders. An occupational community might be defined as a collectivity of workers sharing a common position in work and employment that gives rise to shared social norms and relations of solidarity.³⁰⁸ An occupational community encompasses work and non-work social relations, embedding work in a social life that is shaped but not determined by the work embedded within it.³⁰⁹

On-demand work is usually spatially dispersed, meaning workers cannot meet and collaborate in a geographically confined workplace like the factory model. Therefore, it is not easy for workers to build an occupational community and foster shared social norms and relations of solidarity. However, studies of on-demand workers' collective action have found that digital technologies provide a crucial free space for on-demand workers to identify with each other and present a rich potential for worker solidarity and collective action.³¹⁰ In China,

³⁰⁷ Simms, M. and Dean, D., 'Mobilising Contingent Workers: An Analysis of Two Successful Cases' (2015) 36(1) *Economic and Industrial Democracy* 173.

³⁰⁸ Dukes, R. and Streeck, W., 'Labour Constitutions and Occupational Communities: Social Norms and Legal Norms at Work' (2020) 47(4) *Journal of Law and Society* 612.

³⁰⁹ Salaman, G., *Community and Occupation. An Exploration of Work/Leisure Relationships* (Cambridge university press 1974) 19.

³¹⁰ Zhou, Y. and Pun, N., 'Affording Worker Solidarity in Motion: Theorising the Intersection between Social Media and Agential Practices in the Platform Economy' (2022) *New Media & Society Online First*; Cant, C., *Riding for Deliveroo: Resistance in the New Economy* (n 292); Maffie, M.D., 'The Role of Digital Communities in Organising Gig Workers' (2020) 59(1) *Industrial Relations: A Journal of Economy and Society* 123; Woodcock, J., *The Fight against Platform Capitalism: An Inquiry into the Global Struggles of the Gig Economy* (University of Westminster Press 2021).

on-demand riders have developed an occupational community based on daily in-person communication combined with social media use. The core of riders' solidarity is based on the mutual trust established in their real-life acquaintanceships.

As mentioned in the introduction and chapter 3, many on-demand riders in China are full-time and have long work hours. Given the regularity of their peak delivery times, delivery drivers tend to have consistent daily routines. Furthermore, their scooters, uniforms and delivery boxes make them easily identifiable to each other. Often, they go to the same restaurants to have meals. Their peak and non-peak schedules are the same; their delivery and rest areas are comparatively fixed. These circumstances provide ample opportunities for them to socialise and build relationships. Some of them also choose to rent or share an apartment with fellow riders. It is natural for them to talk or even play games/cards together while waiting for orders. Their migrant background means they don't have family living in the city. The chat during waiting time also plays a vital role in their social life. It is fair to say that they 'live' at delivery work. At the food courts, where riders mainly take orders, it is common for riders delivering in these areas to know each other or at least recognise familiar faces, even if they don't know each other's names or belong to different delivery groups. Moreover, studies show that rural-to-urban migrant workers from the same place of origin tend to concentrate in the same workplace and build up a social network that could be defined as similar to the native place enclave (NPE) in the factory model in China.³¹¹ According to my fieldwork, although NPEs are not very common in the on-demand sector and most riders don't show a strong inclination toward other riders from the same place of origin, it was found that some riders from specific provinces have a close NPE. They worked, rested, and even rented together. For example, I was very impressed with a group of riders from Guangxi Province in Hangzhou. They always stayed together in a fixed place while waiting for orders, even if they didn't join the same team or work on the same platform. They also shared apartments and introduced their friends or relatives to this industry. In short, all

³¹¹ Wei, Q.W. and Gao, W., 'A Different Face of Social Network: Employer-Based Enclave and Migrant Workers' Rights and Interests' (2019) 39 Chinese Journal of Sociology 160.

these factors create a supportive environment for riders to build an occupational community.

As people working in the environment for a while, many riders considered themselves colleagues. They have a sense of closeness to other riders.

“Sometimes I will approach and talk to other riders I didn’t know in the lifts.” (CS5, 45, male, a Lepao rider with 3 years’ experience). They naturally empathised with each other, as their shared participation in work-related social activities reinforced their sense of solidarity. In contrast to colleagues in factories, riders often gather to complain about platform rules and share bad/good delivery experiences, but much less to talk about their private lives. Their daily chats focus squarely on the work. They helped each other regardless of whether they belonged to different platforms.

“When the security guards made difficulties for me, or I had a traffic accident, I asked for help from other riders. Even if we don’t know each other, some will stop and help me.” (CS17,45, male, an ordinary on-demand rider with more than 2 years’ experience).

This natural empathy and shared solidarity result in the fact that some on-demand riders who are reluctant to participate in radical protests, would, at least, not log into their accounts for the duration of the protests.

“I don’t think their protest is effective. While I didn’t participate, I would not be against it. Instead, I went to other areas to deliver or log off.” (HZ11, 35, male, a Lepao ride with almost 2 years’ experience)

The occupational community that has gradually formed extends online, mainly via WeChat groups and other social media. Though most riders in a WeChat group don’t know each other, they usually can find indirect contacts as they were added to the group by an acquaintance. Technologies helped riders expand their occupational communities, but the fundamental basis is still the constant physical daily interactions and their discussions of work routines. In organising collective action, they usually discuss details offline and then spread them via online chat.

On-demand workers' occupational communities are not firmly established or enduring due to the high turnover rate of riders, particularly in the context of continuous piece rate reductions and unsuccessful protests. Many experienced riders who joined during the honeymoon between riders and platforms have chosen to leave. Meanwhile, the activists who had to leave and new riders keep coming in, resulting in a constantly changing community. The space and time for fostering an occupational community are ever narrower and shorter. *"There are too many new faces in recent years."* (HZ19,21, male, an ordinary on-demand rider with 4 months' experience). Secondly, full-time on-demand riders constitute most or all of their occupational communities, while part-time riders are less frequent or not included. Part-time riders rarely communicate with full-time riders, and don't join WeChat groups, and have no interest in protests as they already have a job, or even worse, they could be a breaker of protests.

"Our attitude towards the job is different from other riders. We don't take it as seriously. We can do it or not. When they are protesting, I will deliver" (CS26, 35, male, a part-time ordinary on-demand rider with 1 years' experience).

Thirdly, these somewhat loose online occupational communities can easily be infiltrated as nearly all riders' WeChat groups are informal and have no strict criteria to join. Part of the reason for the failure of the protest in Hangzhou is that other riders added managers to riders' WeChat groups, where they were able to get up-to-date information and strategies discussed in the group and to target the main activists quickly and easily. In Changsha, riders are more experienced. *"We only add veterans to our WeChat groups. New riders can't get in."* (CS2, 33, male, a Youxuan team leader with more than 7 years' experience). In addition, WeChat has a rule limiting every group to a maximum of 500 members, which limits the information to be broadcast precisely without distortion and the possibility of forming a broader united community. Fourthly, without the support of trade unions, it can be challenging to harmonise riders' individual needs and expectations. As a result, collective solidarity can only be forged in times of need or crisis. Finally, platforms take targeted steps to disrupt or divide occupational communities, which we will discuss later.

3. Legal obstacles to collective action

On the basis of the existing literature, Chapter 1 highlighted how the need for more clarity in the legal framework surrounding industrial action, combined with the dominant position of the ACFTU in China, creates a challenging environment for on-demand riders to engage in collective action. Despite ACFTU's efforts to address the rights of on-demand workers and prioritise food-delivery workers in their agenda, there needs to be more tangible progress in improving on-demand workers' conditions. In my fieldwork, I observed that ACFTU has not engaged at the shop floor level to recruit or organise riders. Moreover, specific laws positively undermine the ability of workers to engage in collective action.

3.1 Offline: mass incidents and gathering a crowd to disturb social order

It has been a long time since collective action taken by workers has been considered a 'mass incident' by government, with interventions needed to maintain social order.³¹² The term 'mass incident' was initially used in government documents as a political term. It was first defined in the Provisions on Handling Mass Public Security Incidents by Public Security Organs in 2000. This term refers to collective behaviours that violate national laws, regulations, and rules, disrupt social order, endanger public security, and violate personal and property safety in both public and private domains. A specified list includes actions such as illegal gatherings, parades, and demonstrations with a large number of people, as well as strikes that significantly affect social stability.

The Provision permitted the police to take mandatory measures, such as 'forcibly taking individuals involved from the scene or detaining them immediately' but did not specify any penalties. It only referred to 'following the law'. One of the relevant laws that may apply is the crime of gathering a crowd to disturb social order as stipulated in the Criminal Law. 'Gathering' is defined as 'three or more people in an organised and planned manner to disrupt...'.³¹³

³¹² Lee, C.K. and Zhang, Y., 'The Power of Instability: Unraveling the Microfoundations of Bargained Authoritarianism in China' (2013) 118(6) *American Journal of Sociology* 1475.

³¹³ Article 290, Criminal Law 2020.

Provided that the extent is not very serious, however, workers who engage in collective action are generally subject to public security punishments for disturbing social order by the police, according to Public Security Administration Punishments Law, rather than criminal punishments. These punishments may include warnings, fines of RMB200, or detention for 5-10 days, along with the possibility of a fine of RMB500. Most riders have learned well from the numerous cases over a long time and from platforms' explicit reminders during training to know the name and elements of these crimes and the associated punishments (details will be discussed in 4.1 below).

The police tend to target leaders or activists for fines or detention. In 2008, the Provisions 2002 was replaced by the Internal Provisions for Police Handling of Mass Incidents, which specify that 'if there are situations such as gathering to cause trouble..., measures should be taken immediately to stop them. The ringleaders and key personnel should be forcibly removed from the scene or detained at the opportune moment.' (Provision 13(4)). This means that the organisation of protests involves significant risks and, usually, that the protests will quickly end if the police detain the leaders or activists. The tendency to punish leaders could also deter other riders, making it difficult for new leaders to emerge in their place. In the protest described above, in Hangzhou, this is why riders changed the tactic and went to rest by the river instead of patrolling the street or food courts on the second day because the leaders were detained for 'disturbing the social order'. *"Whoever takes the lead must suffer. Now they don't allow someone to take the lead. If you take the lead, you will suffer."* (HZ1, 30, male, an ordinary on-demand rider with 4 years' experience)

In addition, reporting on mass incidents is restricted in order to avoid adverse effects among the general public. The expired Provisions stipulated that 'without approval from on-site command, no one is allowed to engage in activities such as recording audio, taking video or photos, conducting interviews, or reporting at the scene of the incident' (Provision 10 (6)). The new Provisions go even further, stating that 'after a mass incident occurs, public security agencies should closely monitor information on the internet and through mobile text messages, promptly block and delete harmful information, and prevent

real-world harm' (Provision 17). The restriction of news related to collective action by riders may deter some from participating or sharing information, making it challenging to establish a broad occupational community. While relevant news may still be spread through social media, the scale of dissemination may be reduced, especially in the case of small collective protests. Additionally, there is a risk of misinformation being circulated or deleted, which can further complicate the situation and potentially cause harm.

3.2 Online: real name registration and internet censorship

Undoubtedly, social media is critical in expanding riders' occupational communities, broadcasting views and information and coordinating protests for on-demand riders. However, the gradual tightening of real-name registration and internet censorship in recent years created significant obstacles for riders' protests.

Internet real-name registration is the first obstacle. This began with a local regulatory document issued in 2011, *Several Provisions of the Beijing Municipality on the Administration and Development of Microblogging in Beijing*, which stipulates the principle of 'background real name, foreground voluntary'. This means that users must henceforth provide their true identities to register, though usernames can still be freely chosen. Though it is only a local document, the headquarters of most microblog companies, including the very popular 'Sina Weibo', a hybrid of Twitter and Facebook, are in Beijing. Since 2012, therefore, new users of microblogs have to provide true identities to those companies. Unless they provide their true identities, users registered before 2011 can only browse the platforms.

Microblogging companies were required to fully implement the Provisions by 2017. In 2016, *Administrative Measures for the Online Payment Business of Non-Banking Payment Institutions* came into effect, requiring China's largest multi-purpose social media to implement real-name registration. The *Cybersecurity Law* was issued in 2016 and came into effect in 2017. Its Section 24 stipulates that all network operators must require users to provide real identity information. This legal provision is widely considered a sign of the full

implementation of the internet real-name system. In 2017, the Cyberspace Administration of China issued the Provisions on the Management of Internet Post Comments Services, stipulating that all post-comment service providers must verify identification information for registered users and not provide post-comment services to users whose identification information has yet to be verified. After that, Sina Weibo set a deadline for users registered before or after 2011 to reveal their true identities. So far, the internet real-name system has been effectively enforced.

Along with the real-name registration is the implementation of internet censorship, which is particularly harsh to collective action. The censorship constitutes two main parts. The first is that tens of thousands of information officers and internet police are active at all levels of government to monitor negative information content online.³¹⁴ The criteria are vague. To avoid making mistakes, local politicians may take a stricter attitude to negative information even if this information is tolerated or encouraged by the central government.³¹⁵ The other is the internet operators' or service and content providers' self-censoring. Any potentially negative information content could be deleted/removed, and people posting them could be warned or even imprisoned. In 2019, the new Provisions on Ecological Governance of Network Information Content specified ten categories of negative information content, which do not include information involving collective action. However, an additional catch-all provision may apply instead. Not just online information but also social media is censored. For example, the Chinese government has taken steps to regulate and, when it has felt necessary, to censor WeChat group discussions.³¹⁶

This reality is even less favourable for collective action. According to a large-scale experimental study on censorship in China conducted in 2013, criticism of the state, its leaders, and their policies are routinely published, while posts with

³¹⁴ Chen, X.Y. and Peng, A.H., 'The Internet Police in China: Regulation, Scope and Myths' in David Kurt Herold and Peter Marolt (eds), *Online Society in China Creating, Celebrating, and Instrumentalising the Online Carnival* (Routledge 2011).

³¹⁵ Qin, B., Strömberg, D. and Wu, Y., 'Why Does China Allow Freer Social Media? Protests Versus Surveillance and Propaganda' (2017) 31(1) *Journal of Economic Perspectives* 117.

³¹⁶ Harwit, E., 'WeChat: Social and Political Development of China's Dominant Messaging App' (2017) 10(3) *Chinese Journal of Communication* 313.

the potential for collective action are much more likely to be censored, regardless of whether they are for or against the state.³¹⁷ The study also demonstrates that the censorship programme curtails collective action by silencing comments that represent, reinforce, or spur social mobilisation, regardless of content.³¹⁸ Since Xi came into power, internet censorship has been further expanded and strengthened.³¹⁹ For example, in addition to critical content about Congress and leaders, WeChat also censored neutral and potentially positive references to government policies and ideological concepts.³²⁰ Moreover, recent advances in automated text analysis, machine learning techniques, computer vision/image analysis by AI and high-powered computing have substantially reduced the costs of identifying critical users and censoring messages.³²¹ Digital surveillance technologies, such as spy malware and automated mass-detection systems, are widely used in authoritarian countries.³²²

The direct impact of real-name registration and internet censorship on on-demand riders' collective action is that they can easily be monitored and targeted while coordinating protests via social media, making protest information difficult to broadcast. The indirect impact would make fostering on-demand riders' online occupational communities across a broad area difficult. According to Section 9 of the 2017 Internet Group Information Service Management Provisions, the founders and managers of internet groups are required to perform group management responsibilities to regulate the group's online conduct and publication of information in accordance with laws, regulations, user agreements, and platform agreements, thereby building a

³¹⁷ King, G., Pan, J. and Roberts, M.E., 'Reverse-Engineering Censorship in China: Randomised Experimentation and Participant Observation' (2014) 345 (6199) *Science* 1; King, G., Pan, J. and Roberts, M.E., 'How Censorship in China Allows Government Criticism but Silences Collective Expression' (2013) 107(2) *American political science Review* 326.

³¹⁸ King, G., Pan, J. and Roberts, M.E., 'How Censorship in China Allows Government Criticism but Silences Collective Expression' (n 317).

³¹⁹ Miao, Y., 'Managing Digital Contention in China' (2020) 5 *Journal of Cyber Policy* 218.

³²⁰ Ruan, L. and others, 'The Intermingling of State and Private Companies: Analysing Censorship of the 19th National Communist Party Congress on WeChat' (2021) 246 *The China Quarterly* 497.

³²¹ Edmond, C., 'Information Manipulation, Coordination, and Regime Change' (2013) 80(4) *Review of Economic Studies* 1422.

³²² Gohdes, A.R., 'Repression in the Digital Age: Communication Technology and the Politics of State Violence' (2014) PhD dissertation at University Mannheim <<https://madoc.bib.uni-mannheim.de/37902/>> Accessed November 22, 2022.

civilised and orderly space for online groups. This means that founders and managers of internet groups become personally liable if they don't take proper action when other members broadcast sensitive or prohibited information. Again, this is another potential barrier to the emergence of new leaders and activists, broadcast protest information and develop bigger online occupational communities.

As a response to these rules and practices, on-demand riders have taken to avoiding the use of phrases such as 'stop delivering (bu pao)' or have used other mild words instead of 'strike' or other radical words that could easily be suspected of broadcasting protests online or on social media.

"They shared a video in the WeChat group, simply stating that they were playing by the river and inviting others to join them." (HZ24, 25, male, an ordinary on-demand rider with more than 2 years' experience).

"It is not a strike; we simply paused our deliveries". (HZ1, 30, male, an ordinary on-demand rider with 4 years' experience).

"Even if I am summoned to the police, they have no way to punish me. I said I don't want to deliver; I don't break laws." (CS2, 33, male, a Youxuan team leader with more than 7 years' experience)

This course of excuses may be workable for ordinary on-demand riders, but it may not apply to activists, as protests have occurred. Someone should take responsibility for any harm or adverse effects that have resulted.

4. Platforms' repressive strategies

Even though the space for on-demand riders' collective action is minimal due to the current legal system and the particular characteristics of on-demand work, platforms don't lower their guard. Instead, they use every means available to them to prevent potential collective action and the formation of on-demand riders' occupational communities.

4.1 Instilling fear through training

Because the current law is ambiguous concerning strikes, the platforms further reiterate to riders throughout training that they will not be tolerated. When a newcomer wants to register as an on-demand rider, he/she must undertake a series of online courses and pass the related tests before he/she has permission to make deliveries. One course concerns platforms' policy and strikes are clearly defined as serious violations of the platforms' policy. Strikes are among 10 behaviours that 'cross the red line' for riders. Those who 'organise and instigate a strike, a petition or gather a crowd and make disturbances' will have their account permanently blocked.³²³ These rules appear in the tests repeatedly.

"They make it clear that you cannot gather together to stop accepting orders. If you do not want to deliver, you should refrain from doing so alone, but you cannot unite with other riders to stop accepting orders." (HZ24, 25, male, an ordinary on-demand rider with more than 2 years' experience)

The rules and tests constitute basic training. In addition, platforms also give all riders who violate specific rules for the first time (such as transportation rules) extra in-person training to reinforce riders' attention to all their rules. They message the riders about the training time and place, informing them that they will face punishment if they do not attend.

When the type of Lepao/Youxuan riders is established, platforms have more opportunities to train riders. They request team leaders to have one or more meetings with members. Although those meetings are not solely focused on preventing collective action, the issue may be addressed, particularly if there have been protests in other areas.

Legal rules are helpful tools for platforms aiming to shape riders' attitudes to protests. Instead of, or in addition to stating that collective action is not allowed as their policies require, the platforms also point out legal limitations and

³²³ Rules of Reward and Punishment for Riders on Fengniao app. Meituan has similar rules.

prohibitions and warn that leaders and activists will be punished by the state for breaching the law.

“They mentioned this during training. If they identify the leader of a protest, they will report them directly to the police. They warned that if a crowd is gathered and disturbances are made, it won't be Meituan that punishes the riders, but rather the police, according to the law.” (CS8, 40, male, an ordinary on-demand rider with 2 months' experience)

The platforms also take advantage of the current lack of clarity regarding on-demand workers' employment status to create the illusion that both riders and platforms have the freedom to choose: 'reducing the piece rate is the platforms' right, and delivering or not is the riders' freedom.' While riders can choose to quit, they are not permitted to engage in collective action. During the fieldwork, I was told this many times by riders, always using similar words. Management conveyed this message to riders through in-person training, meetings and team leaders.

4.2 Diluting structural power through over-recruitment

Beverly Silver categorises labour power as either associational or structural power. Structural power is determined by workers' skills, position in production, location and situation in the market.³²⁴ Research has found that food delivery platform workers have structural power because these platforms operate a 'just-in-time' system.³²⁵ During protests, when on-demand riders log off collectively at peak time, platforms often struggle to meet the increased demand for delivery services. Since they can only assign more orders to team riders and those who have not participated in protests, some orders on the platform may have to be delayed or cancelled. This has resulted in an increase in structural power for riders in such situations.

³²⁴ Silver, B.J., *Forces of Labour. Workers' Movements and Globalization Since 1870* (Cambridge University Press 2003).

³²⁵ Vandaele, K., 'Will Trade Unions Survive in the Platform Economy? Emerging Patterns of Platform Workers' Collective Voice and Representation in Europe' (2018) ETUI Research Paper-Working Paper <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3198546> Accessed December 3, 2022.

One way for platforms to minimise this structural power is to recruit more riders. A similar strategy was found in the app-based transport sector in Indonesia.³²⁶ Suppose platforms can recruit more possible riders online, particularly more new riders who don't have any personal experience of the considerable differences in piece rate. In that case, this will alleviate the shortage of riders 'just in time'. Both platforms advertise jobs everywhere, with appealing slogans like 'monthly wage above RMB10,000 with flexible working time and high wage'. They also encourage current riders to invite their friends and relatives in, offering a high reward to those who do. The invite advertisement is always prominent on the apps, and the bonus is very attractive. When I conducted my fieldwork, riders complained that the orders became fewer as more newcomers joined. Experienced and new riders need time to get to know each other and build trust. More and more new faces come in, however, while some experienced riders gradually leave due to frustration with reduced piece rates and failed protests. The process of knowing and understanding becomes unstable and longer, leading to a weak and unsustainable occupational community and weakening structural power.

While writing this chapter, I contacted one Youxuan team leader in Changsha, who told me that he had left the industry together with at least 1/2 of his previous team members due to the decreasing piece rate.

"More and more new faces. We just gather together to talk with veterans. We don't have much to talk about with newcomers." (CS15, 36, male, an ordinary on-demand rider with 6 years' experience)

"Do you know that there is no shortage of riders? This is because platforms are actively recruiting new riders". (HZ26, 24, male, a Lepao rider with 1 year' experience)

Riders have speculated on the purpose behind platforms' aggressive recruitment of new riders and have expressed their frustrations with it.

³²⁶ Panimbang, F., 'Solidarity Across Boundaries: A New Practice of Collectivity among Workers in the App-Based Transport Sector in Indonesia' (n 301).

“The purpose behind expanding the recruitment of riders is obvious - to push veterans out of the market. Veterans are aware of the previous piece rate and are likely to complain about the new piece rate. On the other hand, newcomers are unaware of the previous piece rate and therefore have a fresh perspective on the work, making them feel excited about completing a few orders and earning money.” (HZ11, 35, male, a Lepao ride with almost 2 years’ experience)

“If we go to protest, the app won’t stop working, and we will be fired. (Platforms) won’t worry about it. They advertise that the job can make over RMB10,000. You can see their advertisements everywhere.” (HZ21, male, 43, an ordinary on-demand rider with 1 year’s experience)

4.3 Undermining associational power by breaking occupational communities

Though it has been said that the atomised nature of the work controlled by algorithm leaves no similar opportunities for riders to communicate like traditional workers in workplaces,³²⁷ I explained earlier in this chapter that riders can communicate effectively in person and online, building occupational communities in which they offer one another mutual support and solidarity. Workers’ efforts can be undermined when platforms take steps to divide their occupational communities, mainly by changing on-demand riders’ organisational structure and designing different algorithmic tactics.

4.3.1 Changing on-demand riders’ organisational structure

While platforms have generally tended to treat on-demand riders as a homogeneous and atomised workforce, workforces have, in practice, been segmented according to the riders’ background, such as their ethnicity or migrant background, and whether their reliance on earnings from work allowed them to choose to be regular riders or occasional riders.³²⁸ In China, the two main platforms divided riders into team riders and on-demand riders from the

³²⁷ Heiland, H., ‘Controlling Space, Controlling Labour? Contested Space in Food Delivery Gig Work’ (2021) 36(1) *New Technology, Work and Employment* 1.

³²⁸ Tassinari, A. and Maccarrone, V., ‘Riders on the Storm: Workplace Solidarity Among Gig Economy Couriers in Italy and the UK’ (n 301).

outset but have recently sub-divided the group of on-demand riders introduced in Chapter 3. The different rider ‘plans’ for on-demand riders have successfully broken that group into smaller parts. The following analysis takes the most influential Lepao and Youxuan plans and ordinary on-demand riders as its example, since the types of ‘same-city core riders’ and ‘Changpao riders’ have similar effects, and team riders represent only a small section of riders.

As the two platforms stated, the Lepao and Youxuan plans provide excellent on-demand workers with excellent conditions and more stable incomes. ‘Excellent riders’ mean those with a series of good delivery data, such as delivery numbers and punctuality rate, and, in the case of Fengniao, those who do not exceed a specific age limit.³²⁹ ‘Excellent conditions’ mainly mean the priority to get dispatched orders in return for more constraints. By specifying ‘excellent riders and conditions’, on the one hand, platforms try to imply Yepao/Youxuan riders’ superiority to ordinary on-demand riders,

“Youxuan riders are the team riders among on-demand workers, the most elite force, we are above the ordinary on-demand riders, it is awesome” (HZ7, 30, male, a Youxuan team leader with 3 years’ experience).

“If we are in the same queue, we are VIPs and can go ahead of them.” (HZ6, 28, male, a Youxuan rider with more than 6 months’ experience).

On the other hand, they push riders to work harder and accept more constraints.

“If you just mess around, and don’t want to deliver stuff on either rainy days or hot days, of course, you should be expelled.” (HZ14, 30, male, a Meituan ordinary on-demand rider with less 6 months experience).

It has been a successful management innovation to optimise delivery capacity for the two platforms. Though the two platforms have never disclosed why they launched the Lepao/Youxuan Plans, some experienced riders have speculated

³²⁹ Fengniao recruits ordinary on-demand riders between the ages of 18 and 60, while Youxuan riders can only be between the ages of 18 and 50, according to the rules on the app.

that the main aim was to guarantee that the less attractive orders would always be delivered.

“Before Lepao/Youxuan launched, there were always some orders on the order page that took a long time to be picked up by a rider, or were never picked up” (CS9, 30, male, a Youxuan rider with less than 6 months’ experience).

“For the orders that need to be delivered to a place more than 4 kilometres away, the delivery fee was almost RMB7 at first, then went up to almost RMB10. However, no one wanted to take the order, and it was eventually cancelled due to the long waiting time, which had a negative impact on the platform.” (HZ18, 50, male, a part-time ordinary on-demand rider with more than 6 months’ experience).

The limited ‘transfer order’ or ‘refusal order’ authorities granted to Lepao/Youxuan riders have made up the gap perfectly. The mandatory available time every day and limited bad review requirements for them can also fix the problems of the shortage of riders in bad weather and at peak time and delivery quality. More importantly, the piece rate can be curbed.

All of these lead to a subtle emotional change in the two types of on-demand riders. Ordinary on-demand riders disapproved of what they understood to be Lepao/Youxuan riders’ choice to compromise, to accept bad orders with a low piece rate.

“Some were bad orders, they had to go to the buildings.... Since they chose to join in, chose to compromise, so they have to accept them” (HZ1, 30, male, an ordinary on-demand rider with almost 4 years’ experience).

Meanwhile, Lepao/Youxuan riders thought that some ordinary on-demand riders were lazy and didn’t want to be disciplined and make more money.

“Some ordinary on-demand riders are excellent, some are part-time or newbie. But some are very lazy, they just want freedom, delivering orders only when they want.” (HZ23, 30, male, a Lepao rider with 3 years’ experience).

Moreover, the different management models somewhat reduced the possible information exchange and discourse between the two groups. When they are free, Lepao/Youxuan riders are inclined to talk among themselves. Their small group-based structures intensify the tendency, since they have their own WeChat groups and chances to meet each other in their weekly meetings. While the main goal of the policy may not have been to divide riders, that has been its effect.

“We can’t unite together anymore. We have been divided by the form of small teams.” (HZ27, 31, male, a Youxuan rider with 3 years’ experience)

“Now if we (Lepao) go to protest, the platform will increase the piece rate, those ordinary on-demand riders who don’t join Lepao or Youxuan will take these orders.” (CS12, 31, male, a Lepao rider with 3 years’ experience)

4.3.2 Designing algorithmic tactics

The two platforms have employed different algorithmic tactics to suppress and combat on-demand riders’ efforts to establish occupational communities. Meituan’s tactic is to keep riders constantly on the move to deliver as much as possible. This works particularly well for Lepao riders as they are given limited freedom to refuse or cancel orders. The system usually dispatches only a few orders at one time for them, except for peak time, to make sure that as many riders as possible have orders to deliver.³³⁰

“I am always on my way to deliver. I receive one or two orders commonly during the 40 minutes delivery time after the peak time. Can you imagine that I can earn just RMB4.5 for 40 minutes? But I have no choice; I have to accept the order otherwise my delivery data will not look good. After I deliver this order,

³³⁰ As shown in Chapter 3, the number of orders that riders can complete during one delivery time is important, given that the piece rate is low. The duration of a delivery time can range from 30 to 45 minutes, depending on the distance of the order. The average piece rate is around RMB4 to 4.5, except in special situations such as bad weather. For reference, the hourly minimum wage for non-full-time work in Hangzhou since 2017 has been RMB18.4.

the system may dispatch me another if it has one.” (CS7, 35, female, a Lepao rider with more than 1 year experience).

This tactic explains the finding from my fieldwork that there is less chance of seeing Meituan riders gathered together to chat after peak time than Fengniao riders.

“I don’t know all the members of my team. We don’t have much time to meet except for our weekly meeting.” (HZ9, 36, female, a Lepao rider with less than one-year experience).

Fengniao’s tactics are different. The waiting time for riders may increase because the system tends to prioritise dispatching orders to riders who already have orders in hand. Therefore, it is crucial for riders to either accept or be dispatched an order in a good location, as the algorithm is more likely to dispatch additional orders in the same location to those riders. Fengniao’s system encourages winner-takes-all outcomes, and the income gap between a rider with a good order record and a bad order record is huge. Generally, good orders from university accommodation halls and office buildings are also good in this respect as mentioned in Chapter 5. It is like hitting the jackpot if one rider can grab or be dispatched such an order, so either Youxuan riders or ordinary on-demand orders will stare at their smartphones throughout their waiting time, constantly refreshing the screen. There is huge competition to get good orders and, as explained in chapter 5, some riders even place a ‘fake’ order to increase their chances. The difficulty is that the riders who place the order cannot guarantee that they will be the ones to grab their order on the ‘order grab page’. If another rider grabs the order, the first rider might cancel the order or refuse to answer the phone. The riders who ‘grabbed’ the order may end up wasting time on it and miss out on other delivery opportunities during peak hours. Such unfair competitive behaviour may arise among Youxuan riders or ordinary on-demand riders and may destroy any chance of trust and friendship.

“You may not be aware that some riders have had conflicts and even physical altercations over these issues many times.” (HZ3, 27, male, a Youxuan rider with almost 5 years’ experience).

I witnessed a Youxuan rider accidentally accepting a fake order that he couldn't transfer, even if he was willing to pay a high transfer fee. The rider who made the order did not cancel it, leaving the delivery rider with no choice but to pick it up and complete the delivery. Almost half an hour later, I met the rider again on the road and he was cursing because the rider who placed the order was not answering his calls. This delay caused him to waste much time, which resulted in him being unable to deliver other orders during peak hours.

4.4 Using their monopoly power

On-demand rider protests are typically small and localised, which only poses a limited and short-term threat to the platform's ability to complete order deliveries. If necessary, however, platforms can use their monopoly power to defuse the crisis. They can transfer riders temporarily from other regions or even cities to meet the shortage of deliveries.

“When Lepao was just launched in Hangzhou, Fengniao transferred some riders from other cities to stabilise the market. So, if riders go to protest, they can deactivate all the accounts and transfer some riders from other areas to deliver.” (HZ27, 31, male, a Youxuan rider with 3 years' experience).

Or they can increase the piece rate sharply to induce those participating in protests to return to delivering or ordinary on-demand riders to deliver more. The two platforms are giants, so they won't care about short-term financial loss.

“They are not concerned about temporary losses, as these losses will eventually be recovered from riders” (HZ16, 33, male, a Youxuan rider with 1 year' experience).

Most riders cannot afford to stop working for a prolonged period without any income. They still have to pay for their accommodation, battery rent, daily expenses, and support their families, which cannot be put on hold due to the protests. The resource difference between the platforms and the riders prevents protests from lasting too long and forces riders to think again about their actions.

“If orders cannot be delivered, Meituan will compensate the business. Meituan has lots of money. This protest is only happening in one city. They don’t care. But I cannot keep protesting. If I have no income today and tomorrow, I still have to pay my rent the day after tomorrow. I spent RMB30 on a meal today, and no one can reimburse me. I have no choice but to continue delivering.”
(HZ10, 30, male, a Lepao rider with almost 3 years’ experience)

5. Slowing economic growth under the ‘dynamic zero-COVID’ policy

As noted in Chapter 1, China’s economy had already been experiencing a slowdown prior to the COVID-19 pandemic after three decades of rapid growth. During the three-year pandemic, the long-term ‘dynamic zero-COVID’ policy had an unprecedented impact on the economy, particularly due to the extensive lockdowns implemented throughout the country in 2022. As a result, many enterprises, especially small and medium-sized enterprises and self-employed businesses, were forced to close permanently.³³¹ In April 2022, the country’s primary indicator of consumer activity, national retail sales, fell 11.1% compared to the previous year, twice as much as most economists had predicted. Consequently, the financial situation of many families deteriorated, and in July 2022, the unemployment rate for people aged 16-24 in urban areas reached a record high of 19.9%.³³² In late November 2022, public protests spontaneously erupted across multiple Chinese cities against the economic and social impacts of the Chinese Communist Party’s ‘zero-COVID’ policy. In addition, compounded by factors such as rising tensions between the US and China and looming concerns about Xi Jinping’s ‘new era’, foreign direct investment in China hit an 18-year low in the second half of 2022 (July-December), down 73% compared to the same period last year.³³³

³³¹ White, E. and others, ‘How China’s Lockdown Policies Are Crippling the Country’s Economy’ (2022) <<https://ig.ft.com/china-covid-economy>> Accessed October 1, 2022.

³³² National Bureau of Statistics of China, ‘The Policy of Giving Priority to Employment Continues to Be Strengthened, And the Overall Employment Situation Remains Stable’ (2023) <http://www.stats.gov.cn/xxgk/jd/sjjd2020/202301/t20230118_1892286.html> Accessed January 26, 2023.

³³³ Chuan Shou Yi Zhi, ‘Foreign Investment in China Decreased by 73% in the Second Half of 2022.’ (2023) <<https://cn.nikkei.com/china/ceconomy/51563-2023-02-28-10-22-16.html?start=1>> Accessed March 1, 2023

The lifting of Covid restrictions at the end of 2022 has not made the adverse effects on the economy and employment vanish. Many local governments had already announced plans to strengthen their economies, with most of them emphasising the significance of ‘job stability and expansion’ in early 2023.³³⁴ Though the March 2023 Report on the Work of the Government states that the 2022 year-end surveyed urban unemployment rate fell to 5.5%, it also admits, moreover, that

‘the expectations of private investors and businesses are unstable. Many small and mid-size enterprises and self-employed individuals face great difficulties. The task of maintaining employment stability is challenging...., take concrete measures to fully implement the employment-first policy and place a higher priority on promoting the employment of young people, particularly college graduates.’

These wordings indicate the severity of the current employment situation.

During the pandemic, there was a significant increase in the number of delivery riders. This can be attributed to the fact that the food delivery sector is one of the few sectors that has experienced rapid growth during this time. However, it also highlights the growing difficulty of finding employment in other sectors. Small and medium-sized enterprises, which account for more than 80% of urban employment opportunities, were especially severely impacted during the pandemic. As expected, if their employees lose their jobs, they may have limited alternative employment options, and on-demand work could be one of the few choices available to them. There are no accurate data to prove the possibilities as platforms no longer provide detailed data about riders, but some of my interview participants experienced an increase in the number of riders as mentioned above. There was even a recent rumour stating that the delivery rider positions in a specific area of Guangzhou had reached full capacity,

³³⁴ For example: Shanghai Action Plan for Increasing Confidence, Expanding Demand, Stabilising Growth and Spurring Development. (Document No.1 of the Shanghai Municipal People's Government,2023); Guanzhou Municipal Government on Several Measures to Support the High-Quality Development of Market Entities and Promote Economic Growth, Leading to an Overall Improvement in the Economic Operation. (Document No.4 of the Guangzhou Municipal People's Government, 2023).

resulting in the suspension of recruitment; however, Meituan promptly denied these allegations.³³⁵

Based on the above description, it is undoubtedly the case that the significant increase in the population of delivery riders during the pandemic has provided a sustainable workforce for platforms. This has also given platforms the leverage to further reduce the piece rate. It has weakened riders' structural power and their ability to build occupational communities, with the result that there have been fewer, or even no, collective actions. In fact, the piece rate has been reduced multiple times, in the period following my fieldwork, without any protest.

Conclusion

In the two cities where I conducted my fieldwork, there appears to be slight variation in the volume and nature of collective action taken by on-demand riders. While I cannot claim national uniformity in the dynamics of resistance, analysing collective action in two cities indicates that the form of resistance and the obstacles I have identified may exist elsewhere.

Undoubtedly, the weak trade union system and non-supportive or even hostile attitudes of the law and government towards collective action inhibit the development and success of on-demand riders' protests. Even though the fieldwork demonstrates that occupational communities of on-demand riders with shared collective interests and rights can be formed through frequent in-person chats during their wait time, and then expanded online, it also demonstrates that platforms can deploy different strategies to undermine or destroy on-demand riders' solidarity. The massive imbalance between platforms and on-demand riders makes on-demand riders' occupational communities vulnerable and unsustainable.

³³⁵ Li, A.Z., 'Online Rumors have Circulated Claiming that Delivery Rider Positions in Guangzhou Have Been Filled Up, But the Site Manager has Stated: "We Have Been Actively Recruiting All Along."' (2023)
<<https://m.21jingji.com/article/20230325/herald/8993c16b68090f8be1d5aff869f9c771.html>>
accessed May 28, 2023

The fundamental issue regarding on-demand riders' collective resistance is not new. The law should recognise workers' right to strike and facilitate the implementation of the right to strike. Without such changes to the law, on-demand riders in China will have only the slimmest of chance to improve their labour conditions and rights through collective action.

Chapter 7 Conclusion

This thesis set out to analyse and explain on-demand workers' spontaneous struggles and resistance in China through an exploration of the workers' own perceptions of their working lives and of the legal, social and economic factors which shape those perceptions and the workers' decision-making. Using an 'economic sociology of labour law' approach and drawing on 60 in-depth interviews, partial participation observation and legal analysis, four thematic chapters were constructed to present the findings and discussion. These addressed on-demand workers' perceptions of positive and negative aspects of their work, the focus of their struggles, and the ways in which they protest or resist perceived injustices, whether collective or individual, resulting from a complex interplay of legal, social, and economic factors.

1. Summary of the approach and main research findings

Both my research questions and my chosen economic sociology of labour law approach were shaped by my wish to understand how workers' spontaneous struggles and other forms of resistance were structured by the existing legal framework - primarily the laws regulating on-demand work and the laws regulating trade union rights and protest - and by additional legal, social and economic factors. On the face of it, on-demand work was highly precarious, low-paid and potentially demeaning and dangerous. Why then were workers opting for it in ever-increasing numbers? Why, once in the job, did they only exceptionally organise collective protests and demonstrations against their ill treatment, low pay and poor working conditions?

It seemed to me that workers' perceptions of on-demand work and their actions when they feel unfairly treated must be influenced by their perceptions of previous or existing applicable rules, social norms, and shared understandings of what is standard, fair, or reasonable in given circumstances. Moreover, analysis of workers' decision-making and of these rules, social norms, and understandings would be key to identifying a practical and reasonable solution for on-demand workers, and even workers in general. What I have done in my thesis, then, is to uncover the hidden rules, social norms, and understandings that underlie the

choices made by on-demand workers. I accomplished this through a combination of a literature review, legal analysis and conducting interviews and partially participating as a food delivery rider, while also developing and utilising my own theoretical understanding of the key concepts.

As a novel form of employment, on-demand work has attracted a great deal of attention from Chinese labour law scholars. The core debate has concerned the question whether there should be labour relationships between platforms and on-demand workers and, otherwise, what kind of legal protection could be provided to them. Research has overwhelmingly been conducted using the dominant *Rechtsdogmatik* (black-letter) approach. At the beginning of my own research on on-demand work, I also attempted to understand on-demand workers' rights and interests with reference only to the law and the legal system. While traditional labour lawyers are equipped to integrate certain findings and insights from philosophical and conceptual inquiry into their work, they may lack the means to engage with research that classifies and maps the social world.³³⁶ My years of experience with labour law and my knowledge of its ineffectiveness in many situations made me doubt whether this traditional approach really addresses the real needs of on-demand workers. It might be possible to provide a perfect theoretical solution to the novel type of employment but is this really what on-demand workers expect and would it deliver the kinds of changes they want? I began to experience a desire to get closer to on-demand workers and to provide them with the opportunities they surely deserved to express their own opinions about the work, rather than being treated solely as a non-speaking legal entity.

Using an economic sociology of labour law approach, my study has uncovered many interesting findings. In Chapters 3 and 4, on-demand workers' own perceptions of the work were shown to be quite different to those of the general public. Despite having to work long hours, endure disrespect, discrimination, and even risking injury or death without adequate labour law protection, many riders are willing to tolerate these challenges. Some even perceive on-demand work as

³³⁶ Deakin, S., 'The Use of Quantitative Methods in Labour Law Research: An Assessment and Reformulation' (2018) 27(4) *Social & Legal Studies* 456.

a good job because it provides the possibility of making more money and enjoying more flexibility and freedom. This is especially true when on-demand work is compared to working in traditional factories, which have historically absorbed a significant portion of the workforce in China. Various factors contribute to shaping the workers' comparatively positive perception of on-demand work, including the current wage and minimum wage laws, weak social welfare system that particularly affect rural citizens over the long term, rules regarding rest breaks and shift work, age and gender discrimination, and the overall economic environment.

When examining on-demand workers' struggles and resistance for their labour rights, an overarching finding is that the primary focus of their struggle has been centred around the reduction of rates or allowances, which reduce their income, while other basic labour rights have either been ignored or not addressed. This does not necessarily mean that on-demand workers are unaware of their other labour rights. Rather, it is the legal, social, and economic context that constrains their ability to pursue further needs beyond income-related struggles.

As to *how* on-demand workers protest or resist perceived injustices, one important factor is the weak trade union system which has meant that struggles and resistance being predominantly spontaneous rather than organised. Most of the time, individual forms of resistance, whether formal or informal, are more practicable and lawful. The formal channels for individual riders to fight for their labour rights - litigation and labour security administration - may seem accessible at first glance but are accompanied by numerous obstacles. The intricate outsourcing arrangements established by platforms and intermediaries, the lack of protection against retaliation, the significant gap in 'capabilities' between the duopoly platforms and riders, and, most importantly, the ambiguous legal status of riders in labour law, limited legal aid, and an ineffective labour security administration, combine to force workers to choose formal individual channels only as a last resort. Alternatively, it appears that expressing grievances through informal channels is often more effective and accessible to riders. Some riders actively utilise traditional and social media to voice their grievances and have experienced successful outcomes. Additionally,

they have undertaken forms of ‘everyday resistance’, especially by making use of the algorithms and finding loopholes in the system. They have also developed some daily tactics to deal with bad suppliers. In extreme desperation, some riders also resort to more radical forms of resistance to express their grievances. These informal individual actions indicate riders’ wisdom, resilience and despair in the face of grievances. However, the media is not always reliable, and when platforms update their algorithms, existing forms of ‘everyday resistance’ can become ineffective. As a result, most riders only resort to such actions in cases involving substantial financial loss or personal injury.

Fundamental rights to freedom of association, collective bargaining, and strike action, serve as the cornerstone for workers to address the power imbalance between themselves and their employers. Realising these rights can be near impossible for riders, especially given the absence of strong trade unions and the uncertain legal status of the right to strike. Nonetheless the precarious nature of their work has compelled riders to collectively fight for their right to subsistence even without the leadership of trade unions. The examples of collective resistance among riders demonstrate that they can establish occupational communities, even though they are dispersed and lack a favourable environment for solidarity such as is found in traditional factories. Due to the restrictive legal framework towards collective action and a series of repressive strategies employed by platforms, coupled with the pressing need for subsistence amid a slow economy, the space for riders’ collective action has, however, been severely limited. The continuous failure of their protests to achieve lasting change has broken their morale and led to frustration about the prospects for future protests.

The good news is, then, that even in the absence of trade unions and NGOs that cannot step in to fill the representative gap and support on-demand workers at present, ‘occupational communities’ that lay the foundation for solidarity among on-demand riders can develop and many spontaneous collective actions have occurred across the country. It remains clear, however, that legal obstacles, whether online or offline, repressive strategies by platforms, and slow economic development pose significant barriers to on-demand workers’ organisation.

2. Implications from the research

Today, one of the most striking features of the pursuit of labour rights by on-demand riders is the prioritisation by the riders of the right to subsistence or the economic conditions for subsistence. Wages or labour remuneration are the fundamental criteria for riders to determine the reasonableness and legitimacy of the type of work or work conditions, while the rights to health and safety, personal freedom, rest, holiday pay, and human dignity figure only as secondary criteria. In discussion with riders, questions concerning the quality of work often centred around how to ‘make more money’ or guarantee the right to subsistence or personal economic conditions for survival. The kind of right to subsistence that riders seek can be found in Article 25 of the Universal Declaration of Human Rights and Article 11(1) of the International Covenant on Economic, Social and Cultural Rights. Article 25 UDHR recognises the right of everyone to an adequate standard of living for themselves and their families and Article 11 CESCR recognises the right of everyone to an adequate standard of living for himself and to the continuous improvement of living conditions. China ratified the Covenant in 2001, and as we shall see, the creation of opportunities for workers to earn a living is a high-ranking policy priority for the Chinese state.

Riders choose on-demand deliveries over other types of work primarily due to their expectation of receiving comparably higher remuneration, which is rooted in their desire to ensure a more suitable and improved standard of living for themselves and their families. This perception of work as a means of providing economic conditions for survival is clearly expressed in the daily language and actions of the riders interviewed during the fieldwork. Most riders prioritise making money over concerns like long working hours, holiday entitlements, sick pay and so on. The majority of these riders are migrant workers, some of whom have proactively moved from the manufacturing industry to the platform economy. As was shown in Chapter 4, on-demand work is understood by some workers to have certain advantages compared with factory work, even though factory workers are entitled to full labour law protection.

Why do riders still prioritise the right to subsistence when seeking employment, despite China becoming the world’s second-largest economy after forty years of

Reform and Opening Up? Part of the explanation lies with China's unequal and relatively basic social security system. Although a social security system that covers the entire population has been established in China, the long-standing urban-rural dual structure system has created significant differences between rural and urban citizens regarding social benefits, as mentioned in Chapter 4. Rural citizens receive very limited support, especially in terms of pensions, leading them to develop a self-reliant mindset. In a situation where individuals have to bear almost all risks by themselves, it is understandable why making money is seen as the top priority. Overall, China's social security system aims to ensure basic protection only, which implies that neither rural nor urban citizens can rely on it. The second possible reason is that current labour laws encourage or allow factory employers to cultivate a culture of low wages, with reliance on overtime work and a lack of flexibility or freedom in working conditions. Moreover, the limits on workers' collective and autonomous organisation restrict workers' space for further action. These factors contribute to making a job, even with full labour law protection, less attractive for some than the possibility of high-wages but similarly long working hours and high-risk on-demand delivery work without labour law protection. These factors also explain why delivery riders often focus their struggles on issues related to reduced piece rates or allowances rather than on other labour rights. When the external economic circumstances are getting worse, the need for a stable income becomes even more pressing, which can further reinforce the priority for making money over other concerns.

As mentioned briefly above, the prioritisation of the right to subsistence or the economic condition of survival is also reflected in policy documents issued by the government and in the daily functions performed by it. In recent years, for example, the State Council, as the highest administrative body, has greatly emphasised guaranteeing wage payments to migrant workers and addressing employment levels for all workers. Employment is the prerequisite for the right of workers to survive or to have the economic conditions necessary for survival. Amidst the economic slowdown caused by the Zero-Covid policy and other factors, the government has made employment a top priority. This has prompted the government to pay attention to the favourable aspects of on-demand work

and to characterise it as a novel form of employment, which can provide more jobs. A cautious approach has been adopted to its regulation. Rather than imposing more official regulations, the government intends to regulate the novel form of employment through soft administrative measures and regulatory documents. In the most recent and innovative regulatory document, *Guiding Opinions on Protecting the Labour Rights and Interests of Workers Employed in Novel Forms*, a third employment category was established for workers who do not meet the employee status standard but are still subject to some degree of control from the enterprise. The document specifies certain labour rights that are available to workers in this third employment category. However, this new development appears to be subordinate to the right to subsistence or the economic conditions necessary for survival. In its most recent Opinions on Providing Judicial Services and Guarantees for Stable Employment issued in December 2022, the Supreme Court emphasises that employment is fundamental to people's well-being. The Court advocates for the implementation of an employment-first policy and supports efforts to stabilise market entities and ensure employment. This indicates that, at present, the government and judiciary are prioritising employment or the right to subsistence over other labour rights.

The government's prioritisation of the right to subsistence or the economic conditions necessary for survival for workers does not, however, mean that they have completely disregarded other rights, such as health and safety, personal freedom, and human dignity. Rather, it means that other rights, beyond the right to subsistence or the economic conditions necessary for survival, are considered of secondary importance. The meaning of 'secondary' here can be interpreted in two ways. The first is that other rights can be partially or completely substituted for the sake of the right to subsistence or the economic conditions necessary for survival. The second is that when other rights could serve to facilitate the realisation of the right to subsistence or the economic conditions necessary for survival, they can be acquiesced to, permitted, or even encouraged by the government. While other rights may go beyond what is necessary to achieve the goal of the right to subsistence or the economic conditions necessary for survival, the government may not encourage them or

may impose restrictions that it deems necessary. As was demonstrated in Chapters 5 and 6, platform workers encounter fewer institutional obstacles or power suppression when they engage in individual remedies or protests instead of collective action. This might be because collective action is more likely to exceed the goal of subsistence or economic conditions for survival and lead workers to pursue other objective, such as individual freedom and collective rights.

What is the future for on-demand workers' labour rights? As my doctoral research has demonstrated, it is evident that it is crucial to consider on-demand workers' struggles and resistance to labour rights within the present legal, economic, and social context. The personal choices of riders and their desired labour rights are not only limited by the existing labour laws and the broad legal framework but also by the depth and breadth of the current market economic order and the extent of social norms and social support within China. To some extent, the internal tensions and links between these three factors define the possible content and boundaries of on-demand workers' labour rights. More specifically: in principle, the newly established 'third employment category' directly determines the future for on-demand workers. Even if on-demand workers are included in this category, however, only a limited number of rights are available, according to current Opinions, and these do not include many core labour rights. The listed rights may be expanded or supplemented in the future through regulatory documents. But how to interpret the third employment category is a current issue. Now it is situated within the economic and social goal of 'carrying out the employment-first strategy,' as stated in the Supreme Court's opinions, prioritising the right to survival. It may be inferred that a significant expansion of the scope of the third employment category and the labour rights afforded to the entity in this category is unlikely to occur.

What could truly improve the working conditions of on-demand workers is granting them the right to strike with the support of strong trade unions and improved rights to social security. These two conditions would ensure that workers no longer have to fight solely for their right to subsistence and could improve their ability to negotiate with platforms. Given the current political and

economic situation, it may take a long time to achieve this. The recent *Notice on Promoting the Establishment of the Mechanism for Negotiation and Mediation of the Rights and Interests of Workers in the Novel Forms of Employment*, issued by the ACFTU in 2023, indicates that they are on the right track. It may be a more practical choice for on-demand workers to negotiate collectively under the leadership of the ACFTU; however, whether on-demand workers will ever be included in this mechanism remains to be seen.

3. Limitations and avenues for further research work

The limitations of conclusions drawn from the accounts of 60 riders working in two cities in China go without saying, especially given the vast scope of the on-demand economy, which covers many sectors, and the significant social and economic differences that exist across different regions of China. One of the three targeted cities had to be excluded due to the impact of COVID-19. When viewed and analysed in the wider research context, however, it is fair to say that the unique data collected in person during the COVID-19 pandemic, on which my study is based, aligns well with what is already known about the working lives, choices, struggles, and resistance of on-demand workers. While this reinforces the data's validity, there is obvious scope for further qualitative and quantitative research on these questions.

During the fieldwork, I noticed that the main form of entertainment for riders was watching short videos on social media platforms. Additionally, several riders have created and published content about their work experiences on major social media platforms and have become influential figures among their peers and the public. Due to ethical approval restrictions, I was not able to draw on this material but only on my in-person interviews and partial participant observations. As a result, I have been unable to explore whether and how the 'online occupational communities' have developed across multiple cities or the whole nation, and to include online channels/forms for on-demand workers to voice their grievances or organise. This could be a fruitful line of enquiry in the future.

During my fieldwork, I observed that female riders exhibit distinct characteristics compared to male riders. This could be attributed, in part, to the fact that some of them have taken on more family and childcare responsibilities. This phenomenon is not limited to the on-demand delivery industry but is also evident in other on-demand industries that may attract more female workers, such as the on-demand cleaning industry. It would be beneficial to conduct separate research on female on-demand workers to determine why they choose this type of work and how legal, social, and economic factors shape their decisions.

Finally, the third employment category, which is designed to address the issues related to on-demand work, has been established only recently. While it is too early to say for sure how on-demand riders feel about this new development, it is clear that more research is needed to determine whether this category will promote better working conditions for them.

Whether the focus lies with online occupational communities, female riders, or the third employment category, this thesis has demonstrated, above all, the importance to such research of the riders' own perceptions and opinions and of analysis not only of the law but also of economic motivations, constraints, social norms and understandings etc. My findings contribute to a more comprehensive and nuanced understanding of on-demand workers' working conditions and their choices of actions in the platform economy beyond a narrow focus on labour law. With the establishment of the third employment category, the research on platform labour has entered the stage of constructing specific rights. The findings can provide a valuable starting point for reflecting on the scope and extent of the protection that labour laws can offer to on-demand workers, as well as identifying potential gaps and limitations. Additionally, the research can shed light on the role of other legal frameworks and government policies, such as discrimination law and social welfare policies, in protecting the rights and interests of on-demand workers.

When considering legal frameworks or government policies for on-demand work, it is important to recognise that they should not be oversimplified and idealised descriptions, but treated, rather, as complex entities. Researchers should not

only take into account ‘the social or cultural needs of the time and place in all their possibilities of overlapping and of conflict and in all their phases, economic, political, religious and moral, but also consider the actors’ own suggestions, imitations, traditional faiths or beliefs, and particularly the belief in logical necessity or authority expressing the social want or demand for general security.’³³⁷ From this perspective, the timing of this thesis’ completion might be just right.

³³⁷ Pound, R, *Interpretations of Legal History* (Macmillan 1923) 21.

Regulatory Documents

Minutes of the Seminar for Labour and Personnel Disputes Concerning difficult issues in Jiangsu Province (Document No.1 of Jiangsu Provincial Employment and Personnel Dispute Arbitration Commission ,2017) 《江苏省劳动人事争议疑难问题研讨会纪要》 苏劳人仲委〔2017〕1号

Notice of Guangdong Higher People's Court and Guangdong Provincial Employment and Personnel Dispute Arbitration Commission on the Opinions on the Interface between Arbitration and Litigation of Labour and Personnel Disputes (Document No.2 of Guangdong Higher People's Court, 2018) 广东省高级人民法院广东省劳动人事争议仲裁委员会关于印发《广东省高级人民法院广东省劳动人事争议仲裁委员会关于劳动人事争议仲裁与诉讼衔接若干意见》的通知粤高法〔2018〕2号

Notice of Jiangxi Provincial Higher People's Court and Jiangxi Province Human Resources and Social Security Department on Answers to Several Issues Concerning Handling Labour Dispute Cases (for Trial Implementation). (Document No.67 of Jiangxi Provincial Higher People's Court, 2020) 江西省高级人民法院、江西省人力资源和社会保障厅印发《关于办理劳动争议案件若干问题的解答（试行）》的通知 赣高法〔2020〕67号

Guiding Opinions on Protecting the Labour Rights and Interests of Workers Employed in Novel Forms (Document No. 56 of the Ministry of Human Resources and Social Security, 2021) 人力资源社会保障部、最高人民法院等八部门联合发布《关于维护新就业形态劳动者劳动保障权益的指导意见》人社部发〔2021〕56号

Opinions on Supporting Flexible Employment through Multiple Channels (Document No. 27 of the General Office of the State Council, 2020). 《国务院办公厅关于支持多渠道灵活就业的意见》 国办发〔2020〕27号

Guiding Opinions on Promoting the Development of the Sharing Economy (Documents No.1245 of the Department of Technology of the National

Development and Reform Commission,2017). 《关于促进分享经济发展的指导性意见》的通知 发改高技〔2017〕1245号

Opinions on Focusing on Priorities in Areas of ‘Agriculture, Rural Areas and Farmers’ to Secure the Success in Realising Moderate Prosperity in All Respects as Scheduled (Document No.1 of the CPC Central Committee and the State Council, 2020) 中共中央、国务院印发《关于抓好“三农”领域重点工作确保如期实现全面小康的意见》 中发〔2020〕1号

Guiding Opinions on the Optimisation of Flexible Employment Service in New Industries (Document No.33 of Shenyang Municipal Bureau of Human Resources and Social Security, 2020). 辽宁省沈阳市人力资源和社会保障局发布《关于优化新业态灵活用工劳动关系服务的指导意见》 沈人社发〔2020〕33号

Guiding Opinions on the Optimisation of Employment Service of New Types and New Models of Businesses (Document No.63 of Zhejiang Province Human Resources and Social Security Department, 2019). 《浙江省人力资源和社会保障厅关于优化新业态劳动用工服务的指导意见》 浙人社发〔2019〕63号

Notice on the Issuance of Management Measures to Prevent Heatstroke and Reduce Temperature (Document No.89 of the State Administration of Work Safety, 2012). 《国家安全生产监督管理总局卫生部 人力资源和社会保障部 中华全国总工会关于印发防暑降温措施管理办法的通知》 安监总安健〔2012〕89号

Promoting Employment Planning (2011-2015) (Document No.6 of the State Council, 2012) 国务院关于批转促进就业规划（2011-2015年）的通知 国发〔2012〕6号

All-China Federation of Trade Unions Guidance on Promoting the Increase and Implementation of the Minimum Wage Standard (Document No.18 of the General Office of ACFTU,2006) 《中华全国总工会办公厅关于推动提高和落实最低工资标准的指导意见》 总工办发〔2006〕18号

Notice of on Adjusting the Minimum Wage Standards in Beijing Municipality (Document No.77 of the Beijing Municipal Human Resources and Social Security Bureau, 2021) 《北京市人力资源和社会保障局关于调整北京市 2021 年最低工资标准的通知》京人社劳发〔2021〕77 号

Notice on Adjusting the Minimum Wage Standards in Shanghai (Document No.18 of the Shanghai Municipal Human Resources and Social Security Bureau, 2021) 《上海市人力资源和社会保障局关于调整本市最低工资标准的通知》沪人社规〔2021〕18 号

Minimum Wage Regulations in Hunan Province (Amended) (Document No.208 of Government of Hunan Province, 2017) 《湖南省最低工资规定（2017 年修改）》湖南省人民政府令第 208 号

Notice of on Adjusting the Minimum Wage Standards in Jiangsu Province (Document No.72 of the Department of Human Resources and Social Security of Jiangsu Province, 2021). 《江苏省人力资源社会保障厅关于调整全省最低工资标准的通知》苏人社发〔2021〕72 号

Notice On the Implementation of Mid-Shift Allowance in Municipal State-Owned Enterprises (Document No.273 of the Tianjin Municipal Labour Bureau, 1986) 天津市劳动局文件《关于市属国营企业实行中班津贴的通知》（津劳工字[1986]273 号）

Notice of on Circulating the Interpretations Regarding Some Articles in Labour Law (Document No.289, of General office of the Ministry of Labour, 1994). 《劳动部办公厅关于印发《关于〈劳动法〉若干条文的说明》的通知》劳办发〔1994〕289 号

Provisions on the Composition of Gross Wages (Finance and Economic Commission under the Government Administration Council, 1951) 《政务院财政经济委员会关于工资总额组成的规定》(1951)

Notice on the Issuance of Opinions on Several Issues Concerning the Implementation of the Labor Law (Document No.309 of the General Office of the Ministry of Labour, 1995). 关于印发《关于贯彻执行〈中华人民共和国劳动法〉若干问题的意见》的通知 劳部发〔1995〕309号

Shanghai Action Plan for Increasing Confidence, Expanding Demand, Stabilising Growth and Spurring Development (Document No.1 of the Shanghai Municipal People's Government, 2023) 《上海市提信心扩需求稳增长促发展行动方案》沪府规〔2023〕1号

Guangzhou Municipal Government on Several Measures to Support the High-Quality Development of Market Entities and Promote Economic Growth, Leading to an Overall Improvement in the Economic Operation. (Document No.4 of the Guangzhou Municipal People's Government, 2023) 《广州市关于支持市场主体高质量发展促进经济运行率先整体好转的若干措施》穗府〔2023〕4号

General Office of the State Council' Opinions on Comprehensively Managing the Problem of Non-Payment of Migrant Workers' Wages (Document No.1 of the State Council 2016) 《国务院办公厅关于全面治理拖欠农民工工资问题的意见》国办发〔2016〕1号

Regulations on Ensuring Wage Payment to Migrant Workers (Document No. 724 of the State Council 2019). 《保障农民工工资支付条例》国令第724号

Notice on Forwarding the Interim Measures of the Ministry of Human Resources and Social Security and the Ministry of Finance for the Transfer and Continuation of the Basic Pension Insurance Relations of Urban Employees (Document No.66 of the General Office of the State Council, 2009). 《国务院办公厅关于转发人力资源社会保障部财政部城镇企业职工基本养老保险关系转移接续暂行办法的通知》国办发〔2009〕66号

Opinions on Establishing a Unified Basic Pension Insurance System for Urban and Rural Residents (Document No.8 of the State Council, 2014) 《国务院关于建立统一的城乡居民基本养老保险制度的意见》 国发〔2014〕8号

Notice on Raising the Minimum National Basic Pension Insurance for Urban and Rural Residents (Document No.67 of the Ministry of Human Resources and Social Security 2020) 《人力资源社会保障部财政部关于2020年提高城乡居民基本养老保险全国基础养老金最低标准的通知》 (人社部发〔2020〕67号)

Opinions on Establishing a Unified Basic Pension Insurance System for Urban and Rural Residents (Document No.8 of the State Council 2014). 《国务院关于建立统一的城乡居民基本养老保险制度的意见》 国发〔2014〕8号

Opinions on Integrating the Basic Medical Insurance Systems for Urban and Rural Residents (Document No.3 of the State Council 2016). 《国务院关于整合城乡居民基本医疗保险制度的意见》 国发〔2016〕3号

Opinions on Further Strengthening Rural Health Work (Document No.13 of the CPC Central Committee and the State Council, 2002). 《中共中央 国务院关于进一步加强农村卫生工作的决定》 中发〔2002〕13号

Opinions of the CPC Central Committee and the State Council on the Health Care Reform and Development (Document No.3 of the CPC Central Committee and the State Council, 1997). 《中共中央国务院关于卫生改革与发展的决定》 中发〔1997〕3号

Opinions on Further Promotion of Reform of the Household Registration System No.25 (Document No.25 of the State Council, 2014). 《国务院关于进一步推户籍制度改革的意见》 国发〔2014〕25号

Notice on Promoting the Establishment of the Mechanism for Negotiation and Mediation of the Rights and Interests of Workers in the Novel Forms of

Employment (2023) 全国总工会印发《关于推进新就业形态劳动者权益协商协调机制建设工作的通知》（2023）

Abbreviations

All-China Federation of Trade Unions (ACFTU)

Basic Old-Age Insurance for Employees (BOAI)

Chinese Communist Party (CCP)

Covenant on Economic, Social and Cultural Rights (CESCR)

Key performance indicator (KPI)

Native place enclave (NPE)

New Rural Co-operative Medical Scheme (NRCMS)

New Rural Resident Pension (NRRP)

Public employee pension (PEP)

Rural Co-operative Medical Scheme (RCMS)

Special Weapons and Tactics (SWAT)

Uniform Urban and Rural Resident Basic Medical Insurance (URRBMI)

Uniform Urban and Rural Resident Basic Old-Age Insurance (URRBOGI)

Universal Declaration of Human Rights (UDHR)

Urban Employee Basic Medical Insurance (UEBMI)

Urban Resident Pension (URP)

Urban Residents Basic Medical Insurance (URBMI)

Bibliography

- Meituan Research, 'The New Urban Youth:2018 Takeaway Rider Employment Report' (2019) <https://s3plus.meituan.net/v1/mss_531b5a3906864f438395a28a5baec011/official-website/c21d0443-decf-41d5-9813-ef8eaa6516d0>Accessed October 9, 2020.
- 'A Delivery Driver in Shenyang, in Order to Resist Meituan's Unfair Clauses, Accepted a Large Number of Orders Late at Night and Forcibly Marked Them as Delivered at the Pickup Location' (2021) <<https://finance.sina.com.cn/chanjing/gsnews/2021-06-25/doc-ikqciyzk1694590.shtml>> accessed November 1, 2022.
- 'A Meituan Delivery Rider Publicly Killed a MINISO Store Employee' (2019) <<https://finance.ifeng.com/c/7sevb96Zp9U>> accessed November 1, 2022.
- 'China Boosts Mass Entrepreneurship and Innovation' (2015) <http://english.www.gov.cn/policies/latest_releases/2015/06/16/content_281475128473681.htm>Accessed October 20, 2020.
- 'China's Virus-hit Economy Shrinks for First Time in Decades' (BBC, 2020) <<https://www.bbc.co.uk/news/business-52319936>>Accessed October 12, 2020.
- 'CLB Conducts an In-depth Investigation into the All-China Federation of Trade Union's Reform Initiative' (China Labour Bulletin, 2020) < <https://clb.org.hk/content/holding-china%E2%80%99s-trade-unions-account> >Accessed October 20, 2020.
- Cooney, S., 'The 'Labour Relationship' in Chinese Jurisprudence: Mistranslating Definitional Barriers to Labour Protection' (2019) University of Melbourne Legal Studies Research Paper No. 824.
- Deakin, S., 'The Use of Quantitative Methods in Labour Law Research: An Assessment and Reformulation' (2018) 27(4) Social & Legal Studies 456.
- 'Didi and Other Platforms Establish "New Economy and New Employment Promotion Alliance" to Empower Employment with Technology' (Sohu, 2020) <https://www.sohu.com/a/420605573_362042 >Accessed October 15, 2020.
- 'How is the Individual Social Security Account Calculated?' (Sohu, August 12, 2021) <https://www.sohu.com/a/482892327_120130950> accessed July 1, 2022.
- 'Image of Delivery Rider Who Died Suddenly: Died After Only Four Months on the Job, Even Veterans Couldn't be Avoided' (2021) <<https://finance.sina.com.cn/tech/2021-01-09/doc-iiznezxt1530662.shtml>> accessed July 10, 2022.
- 'Judging People by Their Clothes? Beijing SKP's Refusal to Allow Delivery Riders into The Mall Sparks Controversy' (People's Daily, 2020) <<https://wap.peopleapp.com/article/rmh14541295/rmh14541295>> accessed November 1, 2020.
- 'Meituan: Nearly 10 Million Delivery Riders Are Outsourced' (May 10, 2021) <<https://finance.sina.com.cn/tech/2021-05-10/doc-ikmyaawc4385085.shtml>> accessed July 8, 2022.
- 'Review of the 2021 Incident Where an Ele.me Delivery Rider Self-Immolated: "I Don't Want My Life Anymore, I Want My Hard-Earned Money"'(2022) <<https://www.163.com/dy/article/HD7L937S0543BCJM.html>> accessed November 1, 2022.
- 'Shanghai Federation of Trade Unions Response to Proposal No. 0922 of the Eleventh Third Session of Shanghai's Political Consultative Conference' (2020) <<http://zwzx.eastday.com/zgh/2020091512.pdf> >Accessed October 20, 2020.
- 'The Ministry of Human Resources and Social Affairs Intends to Release 16 New Occupations: Delivery Personnel for Online Orders, Artificial Intelligence Trainer, etc.' (The Paper, 2020) <https://www.thepaper.cn/newsDetail_forward_5415474>Accessed October 20, 2020.
- ACFTU, 'The ACFTU's First Quarter Press Conference' (2019) <http://www.acftu.org/template/10041/news_file.jsp?aid=97870 >Accessed: October 20, 2020.
- Ai, L., 'Legal Regulation Against Age Discrimination in Employment under the Background of Aging Population' (2021) 61 Jilin University Journal Social Sciences Edition 36.

- Anwar, M.A. and Graham, M., 'Between a Rock and a Hard Place: Freedom, Flexibility, Precarity and Vulnerability in the Gig Economy in Africa' (2021) 25(2) *Competition & Change* 237.
- Ban, H.X., 'Beyond Labour Relations: The Expansion and Path of Collective Labour Rights under Platform Economy' (2020) 8 *Law Science* 160.
- Banister, J., 'Manufacturing in China Today: Employment and Labour Compensation' (2007) Economics Program Working Papers <<https://ideas.repec.org/p/cnf/wpaper/0701.html>> accessed June 1, 2022.
- Beijing Zhicheng Rural Migrant Workers Legal Aid and Research Centre, 'How Can the Law Break Through the "Trap" of Labour in Food Delivery Platforms?' (2021) <<https://m.huxiu.com/article/455967.html>> accessed August 1, 2022.
- , 'Legal Research Report on the Employment Model of Delivery Platforms' (2021) <<https://zgnmg.org/wp-content/uploads/2021/09/zhicheng-report-on-food-delivery-workers.pdf>> Accessed February 9, 2023).
- Bessa, I. and others, 'A Global Analysis of Worker Protest in Digital Labour Platforms' (2022) ILO Working Paper 70 <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms_849215.pdf> accessed October 1, 2022.
- Bimber, B., Flanagin, A.J. and Stohl, C., 'Reconceptualizing Collective Action in the Contemporary Media Environment' (2005) 15(4) *Communication Theory* 365.
- Bird, R.C. and Mirtorabi, N., 'Shiftwork and the Law' (2006) 27 *Berkeley Journal of Employment and Labour Law* 383.
- Bloomberg News, 'China Budget Dilemma Is Whether to Boost Debt or Slow Growth' (2022) <<https://www.bloomberg.com/news/articles/2022-06-17/china-budget-squeeze-means-more-debt-or-slow-growth-for-regions#xj4y7vzkg?leadSource=uverify%20wall>> accessed September 1, 2022.
- Boyatzis, R.E., *Transforming Qualitative Information: Thematic Analysis and Code Development* (SAGE Publications 1998).
- Braun, V. and Clarke, V., 'Reflecting on Reflexive Thematic Analysis' (2019) 11(4) *Qualitative Research in Sport, Exercise and Health* 589.
- , 'Thematic Analysis' in Cooper, H. E and others (eds), *APA Handbook of Research Methods in Psychology: Research Designs: Quantitative, Qualitative, Neuropsychological, and Biological*, Vol 2 (American Psychological Association 2012).
- , 'Using Thematic Analysis in Psychology' (2006) 3(2) *Qualitative Research in Psychology* 77.
- Burawoy, M., *Manufacturing Consent: Changes in the Labour Process Under Monopoly Capitalism* (University of Chicago Press 1982).
- Cant, C., *Riding for Deliveroo: Resistance in the New Economy* (Polity 2019).
- Cao, P., '1949-1989: Evolution and Evaluation of China's Rural Cooperative Medical Care System' (2006) 5 *The Journal of Yunnan Provincial Committee School of the CPC* 41.
- Chan, A. and Siu, K., 'Analyzing Exploitation: The Mechanisms Underpinning Low Wages and Excessive Overtime in Chinese Export Factories' (2010) 42(2) *Critical Asian Studies* 167.
- Chan, A., *China's Workers Under Assault: Exploitation and Abuse in A Globalizing Economy: Exploitation and Abuse in a Globalizing Economy* (Routledge 2001).
- Chan, K.W., 'The Global Financial Crisis and Migrant Workers in China: "There is No Future as a Labourer; Returning to the Village has No Meaning"' (2010) 34(3) *International Journal of Urban and Regional Research* 659.
- Chang, K., 'The Nature, Characteristics and Legal Regulations of Platform Work' (2021) 4 *China Law Review* 31.
- Chen, F. and Tang, M., 'Labour Conflicts in China: Typologies and Their Implications' (2013) 53(3) *Asian Survey* 559.
- Chen, L., 'A National Occupational Injury Protection System Needs to be Established Urgently' (Legal Daily, 2020) <http://www.legaldaily.com.cn/index/content/2020-02/19/content_8120947.htm> Accessed October 15, 2020.

- Chen, W., 'Providing A Legal "Protective Umbrella" for Workers in Novel Forms of Employment' (Workers' Daily, 2022) <<https://www.chinanews.com.cn/sh/2022/07-08/9798361.shtml>> accessed September 1, 2022.
- Chen, X.Y. and Peng, A.H., 'The Internet Police in China: Regulation, Scope and Myths' in David Kurt Herold and Peter Marolt (eds), *Online Society in China Creating, Celebrating, and Instrumentalising the Online Carnival* (Routledge 2011).
- Chen, Y. and others, 'Does the New Rural Pension Scheme Improve Residents' Livelihoods? Empirical Evidence from Northwestern China' (2021) 16(4) PLoS One <<https://doi.org/10.1371/journal.pone.0250130>> accessed August 1, 2022.
- Chen, Y.C., 'The Nation's First Collective Agreement for the Online Food Delivery Industry was Signed' (Beijing News, 2019) <<http://www.bbnews.cn/p/4532.html>> Accessed: October 15, 2020).
- Cheng, W.C., 'Didi Chief Security Officer Hou Jinglei: More than 170,000 Drivers are Forced to Rest Every Day' (Beijing News, 2020) <<http://www.bjnews.com.cn/finance/2020/08/07/756309.html> > Accessed October 9, 2020.
- China Labour Bulletin, 'Dianwada Riders' Strike' (2019) <<https://clb.org.hk/zh-hans/content/%E5%B1%B1%E4%B8%9C-%E7%AC%AC58%E4%B8%AA%E6%A1%88%E4%BE%8B%EF%BC%9A%E5%A8%81%E6%B5%B7%E7%82%B9%E6%88%91%E8%BE%BE%E9%AA%91%E6%89%8B%E7%BD%A2%E5%B7%A5>> Accessed October 20, 2020.
- Chuan Shou Yi Zhi, 'Foreign Investment in China Decreased by 73% in the Second Half of 2022.' (2023) <<https://cn.nikkei.com/china/economy/51563-2023-02-28-10-22-16.html?start=1>> accessed March 1, 2023.
- Cini, L., Maccarrone, V. and Tassinari, A., 'With or Without Unions? Understanding the Diversity of Gig Workers' Organizing Practices in Italy and the UK' (2022) 28(3) European Journal of Industrial Relations 341.
- Cui, Y. and Lu, C., 'Are China's Unit Labour Costs Still Competitive? A Comparison with ASEAN Countries' (2018) 32(1) Asian-Pacific Economic Literature 59.
- Cui, Z.H., 'Improving the Social Security System Covering the Rural Population: Current Situation, Problems and Suggestions' (2020) 41 Journal of Xinjiang Normal University (Philosophy and Social Sciences)75.
- Deliveroo, 'What Is a Stacked Order?' <<https://riders.deliveroo.co.uk/en/support/orders/what-is-a-stacked-order>> accessed February 10, 2020.
- Didi Research, 'New Economy New Employment: 2017 Employment Reports on Didi Platform' (199IT, 2017) <<http://www.199it.com/archives/646093.html>> Accessed October 9, 2020.
- Didi, 'Didi Daijia Held a 60% Share of the Designated Drive Market' (CCIDnet, 2016) <<http://m.ccidnet.com/particle/10115700>> Accessed October 9, 2020.
- Ding, A.J., 'Analysis Workers' Collective Rights Defense' (2011) 25(4) Contemporary Law Review 124.
- Dong, L., 'The Institute of Law of Chinese Academy of Social Sciences: Traffic Accidents are the Greatest Risk Posed to On-demand Employment' (Ycwb, 2020) <http://news.ycwb.com/2020-06/08/content_870886.htm > Accessed October 15, 2020.
- Dukes, R., 'The Economic Sociology of Labour Law' (2019) 46(3) Journal of Law and Society 396.
- Dukes, R. and Streeck, W., 'Labour Constitutions and Occupational Communities: Social Norms and Legal Norms at Work' (2020) 47(4) Journal of Law and Society 612.
- Edmond, C., 'Information Manipulation, Coordination, and Regime Change' (2013) 80(4) Review of Economic Studies 1422.
- Edwards, R.C, *Contested Terrain: The Transformation of the Workplace in the Twentieth Century* (Basic Books 1996).
- Erickson, F., 'Mere Ethnography: Some Problems in Its Use in Educational Practice' (1979) 10 Anthropology & Education Quarterly 182.

- Estlund, C., 'China's Complicated Relationship with Workers' Rights' (World Politics Review, 2017) <<https://www.worldpoliticsreview.com/insights/21000/china-s-complicated-relationship-with-workers-rights>>Accessed October 9, 2020.
- Fan, W., 'The Incomplete Labour Relationship: Three Unresolved Issues' (2022) 7 People's Judicature 28.
- Fan, B.J., 'The Predicament and Outlet of Labour Inspection in Our Country's Transitional Period' (2013) 6 Journal of Jiangsu Normal University (Philosophy and Social Sciences Edition) 130.
- Feng, X. and Zhan, J., 'Research on Labour Process in Platform Economy in the Age of AI - Taking the Take-Away Riders as An Example' (2019) 3 Journal of Social Development 61.
- Feng, X.N., 'The Labour Rights and Protection of Delivery Riders in Beijing and The Factors Affecting Them' (2018) 33 Labour Security World 8.
- Foucault, M, *Discipline and Punish: The birth of the Prison* (Vintage Books, 1995).
- Franceschini, I. and Nesossi, E., 'State Repression of Chinese Labour NGOs: a Chilling Effect?' (2018) 80(1) The China Journal 111.
- Friedman, E.D., 'Economic Development and Sectoral Unions in China' (2014) 67(2) Industrial and Labour Relations Review 481.
- Fu, W.J. (ed), 'The Total Order Volume of China's National Takeaway Market Reached 17.12 Billion, with A User Base of Nearly 500 Million People' (Yicai, January 1, 2021) <<https://www.yicai.com/news/100898828.html>> accessed June 8, 2022
- Fu, X. and others, 'Influencing Factors of Inequity in Health Services Utilisation among the Elderly in China' (2018) 17 International Journal for Equity in Health 1.
- Galanter, M., 'Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change' (1974) 9(1) Law & Society Review 95.
- Galanter, M., 'The Duty Not to Deliver Legal Services' (1976) 30 University of Miami Law Review 929.
- Gallagher, M.E., *Authoritarian Legality in China: Law, Workers, and the State* (Cambridge University Press 2017).
- Gao, J.W., 'Social Mobility and Urban Identity of Food Delivery Riders in the New Forms of Employment' (2021) <<https://zhuanlan.zhihu.com/p/388827056>> accessed June 8, 2022.
- Ge, J.J. and Han, Q. (eds), 'Targeting Online Taxi Drivers and Delivery Riders, Shanghai Federation of Trade Unions' Proposal: Pay Attention to the Legitimate Rights and Interests of Flexible Employment Groups' (People's Daily Online ,2020) <<http://sh.people.com.cn/n2/2020/0114/c134768-33716827.html> >Accessed October 20, 2020.
- Gohdes, A.R., 'Repression in the Digital Age: Communication Technology and the Politics of State Violence' (2014) PhD dissertation at University Mannheim <<https://madoc.bib.uni-mannheim.de/37902/>> accessed November 22, 2022.
- Green Ranking, '2016 Car Hailing Driver Living Conditions Survey Report' (199it, 2016) <<http://www.199it.com/archives/527027.html>>Accessed October 9, 2020.
- Guan, H., 'Analysis About the Sixty-Year Development and Relative Prospect of China Labour Law' (2019) 12 Law Science Magazine 1.
- Halegua, A., 'Allow Workers to Protest Without Fear of Reprisals' (2016) <https://www.academia.edu/38136305/Allow_Workers_to_Protest_Without_Fear_of_Reprisals> accessed September 1, 2022.
- Halegua, A., 'Who Will Represent China's Workers? Lawyers, Legal Aid, and the Enforcement of Labour Rights' (2016) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2845977> accessed September 1, 2022.
- Hammarberg, K., Kirkman, M. and De Lacey, S., 'Qualitative Research Methods: When to Use Them and How to Judge Them' (2016) 31(3) Human Reproduction 498.
- Han, L. Z, '4 Departments to Guide the Leading Platforms to Protect Workers Involved in Novel Forms of Employment' (Yicai, 2021) <<https://m.yicai.com/news/101169924.html>>Accessed February 3, 2023.

- Hao, H., 'ACFTU Has Recruited 6.547 New Million Members from the "Eight Major Groups"'. (Workers' Daily,2020) <<http://cpc.people.com.cn/n1/2020/0828/c432352-31840620.html>> Accessed October 25, 2020.
- Harwit, E., 'WeChat: Social and Political Development of China's Dominant Messaging App' (2017) 10(3) Chinese Journal of Communication 313.
- He, W.J., 'The Epoch-Making Year for China Sharing Economy' (2015) 24 China Economic Information 32.
- Heiland, H., 'Controlling Space, Controlling Labour? Contested Space in Food Delivery Gig Work' (2021) 36(1) New Technology, Work and Employment 1.
- Hillenbrand, M., 'The Cliffhangers: Suicide Shows and the Aesthetics of Protest in China' (2020) 16(2) Public Culture 147.
- Hong, H.C., 'The Poverty of China's Migrant Worker' Social Rights' (2007) Modern China Studies<<https://www.modernchinastudies.org/us/issues/past-issues/98-mcs-2007-issue-4/1025-2012-01-05-15-35-22.html>> accessed October 2, 2022.
- Hou, M., 'Research Pattern of Law and Social Sciences: from Division to Integration' (2017) 2 Legal Science 80.
- , 'The Tradition and Challenges of Social Sciences of Law'(2014) 5 Studies in Law and Business 74.
- Hu, H., Lu, S. and Huang, C., 'The Psychological and Behavioural Outcomes of Migrant and Left-behind Children in China' (2014) 46 Children and Youth Services Review 1.
- Huang, H., 'Algorithmic Management in Food Delivery Platform Economy in China' (2022) Technology, Work and Employment<<https://doi.org/10.1111/ntwe.12228>> accessed October 1, 2022.
- Huang, Q.G. and Jiang, Y., 'The Dilemma, Challenges, and Development of China's Fragmented Labour Inspection Model' (2016) 18 China Labour 53.
- Huang, R.J., 'The Legal Definition and Effectiveness of Regulatory Documents' (2014) 7 Legal Science 10.
- Huang, Z.Z., 'Reidentifying the Chinese Working People: Historical Evolution of Labour Regulations and Contemporary Informal Economy, (2013) 5 Open Times 56.
- Hui, E.S.I. and Chan, C.K.C., 'Beyond the Union - Centred Approach: A Critical Evaluation of Recent Trade Union Elections in China' (2015) 53(3) British Journal of Industrial Relations 601.
- ILO Report, 'Labour Administration Reforms in China' (2013) <https://www.ilo.org/global/topics/labour-administration-inspection/resources-library/publications/WCMS_224430/lang-en/index.htm> accessed September 1, 2022.
- ILO, 'Labour Force Participation Rate, Female (% of Female Population Ages 15+) (Modeled ILO Estimate) – China' (2023) <<https://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS?end=2019&locations=CN&start=2019&view=map>> accessed February 3, 2023.
- ILO, 'The Institutional Features of Minimum Wage in China' (2020) <https://www.ilo.org/global/research/global-reports/global-wage-report/WCMS_765118/lang-en/index.htm> accessed June 1, 2022.
- Jiang, Q.H. and Wang, H., 'China's Regulatory Approach to the Sharing Economy: A Perspective on Ride-Hailing' (2020) 1 Journal of Law, Technology & Policy 85.
- Jiang, Y., 'On China's Labour Law and the International Labour Standards' (2016) 2(1) Dispute Settlement 7.
- Kawulich, B. B., 'Participant Observation as a Data Collection Method' (2005). 6 Forum: Qualitative Social Research <<https://doi.org/10.17169/fqs-6.2.466>> accessed February 9, 2021.
- Kellogg, K.C., Valentine, M.A. and Christin, A., 'Algorithms at Work: The New Contested Terrain of Control' (2020) 14(1) Academy of Management Annals 366.

- Kharpal, A., 'Chinese Ride Hailing Giant DiDi Says Core Business Is Profitable as Signs of Recovery Take Hold' (CNBC, 2020) <<https://www.cnbc.com/2020/05/07/chinese-ride-hailing-giant-didi-says-core-business-is-profitable.html>>Accessed October 9, 2020.
- King, G., Pan, J. and Roberts, M.E., 'How Censorship in China Allows Government Criticism but Silences Collective Expression' (2013) 107(2) *American political science Review* 326.
- , 'Reverse-Engineering Censorship in China: Randomised Experimentation and Participant Observation' (2014) 345 (6199) *Science* 1.
- King, N., 'Using Templates in the Thematic Analysis of Text' in Catherine, C and Gillian S (eds) *Essential Guide to Qualitative Methods in Organisational Research* (SAGE Publications 2004).
- Knight, J., Deng, Q. and Li, S., 'The Puzzle of Migrant Labour Shortage and Rural Labour Surplus in China' (2011) 22(4) *China Economic Review* 585.
- Lee, C.K., *Against the law: Labour Protests in China's Rustbelt and Sunbelt* (University of California Press, 2007).
- , 'China's Precariats' (2019) 16 (2) *Globalizations* 137.
- , 'Precarisation or Empowerment? Reflections on Recent Labour Unrest in China' (2016) 75(2) *The Journal of Asian Studies* 317.
- Lee, C.K. and Zhang, Y., 'The Power of Instability: Unraveling the Microfoundations of Bargained Authoritarianism in China' (2013) 118(6) *American Journal of Sociology* 1475.
- Lei, L., 'Rechtsdogmatik: Reflections on Ten Sets of Questions' (2021) 2 *Social Science Research* 9.
- Lei, Y.W., 'Delivering Solidarity: Platform Architecture and Collective Contention in China's Platform Economy' (2021) 86(2) *American Sociological Review* 279.
- Li, A.Z., 'Online Rumors have Circulated Claiming That Delivery Rider Positions in Guangzhou have been Filled Up, But the Site Manager has Stated: "We Have Been Actively Recruiting All Along."' (2023) <<https://m.21jingji.com/article/20230325/herald/8993c16b68090f8be1d5aff869f9c771.html>> accessed May 28, 2023.
- Li, B., 'The All-China Federation of Industry and Commerce's Proposal: Strengthening Anti-Monopoly Regulation of Food Takeaway Platforms' (NBD, March 32021) <<http://www.nbd.com.cn/articles/2021-03-03/1644168.html>> accessed June 8, 2022.
- Li, F.J. and Dong, H.Z., 'Research on Enterprise Disciplinary System - Drawing on the Experience of Germany, France, and Japan' (2014) 234(3) *Journal of Tianjin Normal University (Social Science)* 32.
- Lin, F.F., 'A Dispute over A Bag of Rubbish, Who is Right, Customer or Rider?' (Fjnews, 2018) <http://fjnews.fjsen.com/2018-07/03/content_21216299.htm?page=pc>Accessed March 9, 2020.
- Lin, F.Y., 'Issues Related to Overtime and Overtime Pay' (2013) 2 *China Labour* 38.
- Liu, C. and Friedman, E., 'Resistance under the Radar: Organisation of Work and Collective Action in China's Food Delivery Industry' (2021) 86(1) *The China Journal* 68.
- Liu, B.X. and others, 'A 70-Year Review of China's Labour Relations Research and Its Prospect' (2020) 34(2) *Journal of China University of Labour Relations* 1.
- Liu, H.B., Li, L. and Yang, Y.C., 'Gender Equality in China's Economic Transformation' (2014) <<https://cnlgbtdata.com/files/uploads/2020/01/8da8b3114494a28be31a86a6cb1a714f.pdf>> accessed October 1, 2022.
- Liu, J. and others, 'Enriching the Distressing Reality: Social Media Use by Chinese Migrant Workers' In Proceedings of the 17th ACM conference on Computer Supported Coperative Work & Social Computing <<https://doi.org/10.1145/2531602.2531632>> accessed August 1, 2022.
- Liu, P.L., 'The Current Situation and Changing Trend of Migrant Workers in the Manufacturing Industry' (2020) (9) *People's Tribune* 54.
- Liu, W., 'Presentation of Political Commitments and the Formalization of Mayor's Hotline' (2021) 10 *public Administration and Policy Review* 79.

- Lou, Y., 'The Construction of the Social Insurance System for Platform Worker' (2020) 2 Chinese Journal of Law 190.
- Luo, F.F., 'There is Still No National Standard on Night Shift Allowance, and Some Local Standards Have Been Stagnant for More Than 20 Years' (2016) 10 Employment and Security 45
- Ma, X., 'Gaode and Other Platforms have been Summoned to Talk for 22 Times' (China Economy, 2022) <http://finance.ce.cn/stock/gsgdbd/202208/25/t20220825_38057130.shtml> Accessed February 2, 2023.
- Maffie, M.D., 'The Role of Digital Communities in Organising Gig Workers' (2020) 59(1) Industrial Relations: A Journal of Economy and Society 123.
- Maguire, M. and Delahunt, B., 'Doing a Thematic Analysis: A Practical, Step-by-Step Guide for Learning and Teaching Scholars' (2017) 9(3) All Ireland Journal of Higher Education 3351.
- Maine, H.S, *Ancient law* (Gaunt, Incorporated 1998) 20.
- McCoyd, J.L. and Kerson, T.S., 'Conducting Intensive Interviews Using Email: A Serendipitous Comparative Opportunity' (2006) 5(3) Qualitative Social Work.389.
- Meituan Research, 'Employment Report on Meituan Riders in The First Half of 2020' (199IT, 2020) <<http://www.199it.com/archives/1086268.html>> Accessed October 9, 2020.
- , 'Meituan Delivery Riders' Employment Report During Covid 19 Pandemic from 2019-2020' (2020) < <https://about.meituan.com/news/institute>> Accessed: October 15, 2020.
- , 'Meituan Riders' Employment Report during the COVID-19 Pandemic in 2019 and 2020' (2020)< https://s3plus.meituan.net/v1/mss_531b5a3906864f438395a28a5baec011/official-website/ed3e2bb5-13dd-46ca-93ba-30808a1ca852> accessed September 1, 2022.
- Miao, Y., 'Managing Digital Contention in China' (2020) 5 Journal of Cyber Policy 218.
- Ministry of Human Resources and Social Security of China, 'The State Council Promulgating Employment and Entrepreneurship Policy under the New Circumstances' (2015) <<http://www.scio.gov.cn/32344/32345/32347/32797/xgzc32803/Document/1431935/1431935.htm>> Accessed October 20, 2020.
- Ministry of Justice of China, 'Statistical Analysis of Lawyers and Local Legal Service Work in 2020' (2021) <http://www.moj.gov.cn/pub/sfbgw/zwxgk/fdzdgnr/fdzdgnrtjxx/202106/t20210611_427394.html> accessed August 1, 2022.
- Möhlmann, M. and others, 'Algorithmic Management of Work on Online Labour Platforms: When Matching Meets Control' (2021) 45(4) MIS Quarterly 1999.
- Muller, Z., 'Algorithmic Harms to Workers in the Platform Economy: The Case of Uber' (2019) 53 Columbia Journal of Law & Social Problems 167.
- Nang, L.P. and Ngai, P., 'The Radicalisation of The New Chinese Working Class: A Case Study of Collective Action in the Gemstone Industry' (2009) 30(3) Third World Quarterly 551.
- National Bureau of Statistics of China 'Statistical Communiqué of the People's Republic of China on the 2019 National Economic and Social Development' (2020) <http://www.stats.gov.cn/english/PressRelease/202102/t20210228_1814177.html> Accessed October 9, 2020.
- , 'Statistics Bulletins on the Development of Human. Resources and Social Security in 2020' (2021) <<http://www.mohrss.gov.cn/SYrlzyhshbzb/zwgk/szrs/tjgb/202106/W020210728371980297515.pdf>> accessed July 1, 2022.
- , 'Introduces the Performance of the National Economy in the First Three Quarters of 2020' (2020) <<http://www.gov.cn/xinwen/zhibo2/20201019fbh4/index.htm>> Accessed October 29, 2020.
- , 'The 70th Anniversary of The Founding of New China Economic and Social Development Achievements of The Series of Reports of 17' (Finance China, 2019) <<http://finance.china.com.cn/news/20190815/5055373.shtml>> Accessed: October 9, 2020.
- , 'The Policy of Giving Priority to Employment Continues to be Strengthened, And the Overall Employment Situation Remains Stable' (2023)

- <http://www.stats.gov.cn/xxgk/jd/sjjd2020/202301/t20230118_1892286.html> accessed January 26, 2023.
- , Monitoring and Survey Report on Migrant Workers in 2016 (2017)
<http://www.gov.cn/xinwen/2017-04/28/content_5189509.htm#1> accessed July 1, 2022.
- Ngai, P. and Yi, X., 'Legal Activism or Class Action? The Political Economy of the "No Boss" and "No Labour Relationship" in China's Construction Industry' (2011) 2 *China Perspectives* 9.
- Pan, Y. and Xu, Y., 'Monopoly Capital and Chinese Workers: A Case Study of the Foxconn Factory System' (2012) 2 *Cultural Review* 48.
- Panimbang, F., 'Solidarity Across Boundaries: A New Practice of Collectivity among Workers in the App-Based Transport Sector in Indonesia' (2021) 18(8) *Globalizations* 1377.
- Park, S. and Ryoo, S., 'How Does Algorithm Control Affect Platform Workers' Responses? Algorithm as a Digital Taylorism' (2023) 18(1) *Journal of Theoretical and Applied Electronic Commerce Research* 273.
- Plekhanov, D., 'Quality of China's Official Statistics: A Brief Review of Academic Perspectives' (2017) 35(1) *The Copenhagen Journal of Asian Studies* 76.
- Polletta, F., "'It Was Like A Fever..." Narrative and Identity in Social Protest' (1998) 45(2) *Social problems* 137.
- Pound, R., *Interpretations of Legal History* (Macmillan 1923) 21.
- Qian, F.Y., 'Codification of Labour Laws and the Realisation of Rights' (2021) 5 *Oriental Law* 171.
- Qin, B., Strömberg, D. and Wu, Y., 'Why Does China Allow Freer Social Media? Protests Versus Surveillance and Propaganda' (2017) 31(1) *Journal of Economic Perspectives* 117.
- Qin, Y., 'The Boundaries of and Responses to China's Economic Internal Circulation' (FT News, 2020) <<https://m.ftchinese.com/story/001088908?archive>> Accessed October 12, 2020.
- Qu, B.X., 'Has China's Labour Contract Law Worked? Evidence from China Employer-Employee Survey' (2017) 5(5) *Studies in Labour Economics* 82.
- Ran, Y.Y., 'How to Regulate Administrative Regulatory Talk?' (2017) 5 *People's Tribune* 108.
- Rider Pang, S.D., 'The New Mode of Delivery Takeaway, Changpao' (Bilibili, April 24, 2021)
<https://www.bilibili.com/video/BV1uB4y1c75o/?spm_id_from=333.788.recommend_more_video.-1> accessed February 15, 2022.
- Ringen, S. and Ngok, K., 'What Kind of Welfare State is Emerging in China?' (2013) Working Paper, The United Nations Research Institute
<<https://www.files.ethz.ch/isn/173452/Ringen%20and%20Ngok.pdf>> Accessed on March 10, 2023.
- Rosenblat, A., *Uberland: How Algorithms are Rewriting the Rules of Work* (University of California Press 2018).
- Ruan, L. and others, 'The Intermingling of State and Private Companies: Analysing Censorship of the 19th National Communist Party Congress on WeChat' (2021) 246 *The China Quarterly* 497.
- Salaman, G., *Community and Occupation. An Exploration of Work/Leisure Relationships* (Cambridge university press 1974) 19.
- Scholz, A. and others, 'Functional Work Breaks in A High-Demanding Work Environment: An Experimental Field Study' (2018) 61(2) *Ergonomics* 255.
- Scott, J.C., *Weapons of the Weak: Everyday Forms of Peasant Resistance* (Yale University Press 1985).
- Shi, L.C., 'The Predicament and Wayout of the Local Interpretative Judicial Documents' (2017) 4 *Journal of South China University of Technology (Social Science Edition)* 69.
- Silver, B.J., *Forces of Labour. Workers' Movements and Globalization Since 1870* (Cambridge University Press 2003).
- Simms, M. and Dean, D., 'Mobilising Contingent Workers: An Analysis of Two Successful Cases' (2015) 36(1) *Economic and Industrial Democracy* 173.

- Siu, K. and Unger, J., 'Work and Family Life among Migrant Factory Workers in China and Vietnam' (2019) 50(3) *Journal of Contemporary Asia* 341
- Song, W.X., 'Social Insurance Contribution as Enterprises' Cost and Policy Adjustments' (2017) 1 *Chinese Social Security Review* 63.
- State Information Centre, 'China Annual Sharing Economy Report 2022' (2023) <<http://www.sic.gov.cn/archiver/SIC/UpFile/Files/Default/20220222100312334558.pdf>> Accessed March 9, 2023.
- , 'China Annual Sharing Economy Report in 2016,2017,2018,2019,2020' <<http://www.Sic.Gov.Cn/News/568/6010.Htm>> Accessed October 9, 2020).
- Su, L., 'It was Happening - An Overview of the Development of Contemporary Chinese law' (2011) 3 *Comparative Jurisprudence* 1.
- Sun, P. and Chen, J.Y., 'Platform Labour and Contingent Agency in China' (2021) 1 *China Perspectives* 19.
- Sun, P., 'Your Order, Their Labour: An Exploration of Algorithms and Labouring on Food Delivery Platforms in China' (2019) 12 *Chinese Journal of Communication* 30.
- Sun, W., 'Desperately Seeking My Wages: Justice, Media Logic, and the Politics of Voice in Urban China' (2012) 34(7) *Media, Culture & Society* 864
- T, L.Q., 'The First Trade Union Federation for the Online Food Delivery Industry was Established in Tianmen' (*Hubei Daily News*, 2018) <http://m.xinhuanet.com/hb/2018-07/17/c_1123136197.htm> Accessed October 15, 2020.
- Tan, H.Z., 'Explore Further Improving the Cross-Provincial Transfer and Continuation of Basic Pension Insurance for Employees' (2015) 21 *China Labour* 4.
- Tassinari, A. and Maccarrone, V., 'Riders on the Storm: Workplace Solidarity Among Gig Economy Couriers in Italy and the UK' (2020) 34 (1) *Work, Employment and Society* 35.
- Taylor, B. and Li, Q., 'Is the ACFTU a Union and does It Matter?' (2007) 49(5) *Journal of Industrial Relations* 701.
- Tian, Y. and others, 'Institutional Design and Incentives for Migrant Workers to Participate in Social Insurance in China: Evidence from a Policy Experiment in Chengdu City' (2021) 9 *Frontiers in Public Health* <<https://doi.org/10.3389/fpubh.2021.736340>> accessed August 1, 2022.
- Trappmann, V. and others, 'Global Labour Unrest on Platforms: The Case of Food Delivery Workers' (2020) *Friedrich Ebert Stiftung* <<https://library.fes.de/pdf-files/iez/16880.pdf>> accessed November 1, 2022.
- Tuo, Q., 'Exploration of the Boundary of Disciplinary Dismissal - An Empirical Study Based on Typical Cases' (2019) 11 *World of Labour Protection* 9.
- Uber, 'Back-to-Back and Batched Orders' <<https://www.uber.com/us/en/deliver/basics/making-deliveries/delivering-multiple-orders/#:~:text=Batched%20orders%20are%20when%20you,the%20same%20restaurant%20or%20merchant.>> accessed February 10, 2023.
- Vandaele, K., 'Will Trade Unions Survive in the Platform Economy? Emerging Patterns of Platform Workers' Collective Voice and Representation in Europe' (2018) *ETUI Research Paper-Working Paper* <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3198546> accessed December 3, 2022.
- Vidich, A.J., 'Participant Observation and The Collection and Interpretation of Data' (1955) 60(4) *American Journal of Sociology* 354.
- Walker, C.R., Guest, R.H. and Turner, A.N., *The Foreman on the Assembly Line* (Garland 1987).
- Wang, H.X., 'The Most Powerful Labour Market Intermediary: Backed by Two Giants, Annual Revenue of 2 Billion!' (*Eastmoney*, 2020).
- Wang, H., 'Administrative Regulatory Talk in Risk Society: Response, Reflection and Improvement' (2018) 35(1) *Studies in Law and Business* 22.

- Wang, L., 'Reflection on the Sudden Death of a Delivery Rider' (January 12, 2021) <http://zqb.cyol.com/html/2021-01/12/nw.D110000zgqnb_20210112_1-05.htm> accessed July 15, 2022.
- Wang, M.Y., 'Eliminating Age Discrimination is the Primary Content of Protecting Equal Employment Rights' (2010) 3 Law Science 123.
- Wang, Q., 'Determination of Labour Relationships and Liabilities for Triangular Work Relationships on the Platform' (2020) 12 Law Science 176.
- Wang, Q.J., 'The ACFTU will Push Forward the Unionization of Eight Major Groups' (People Daily, 2018) <<http://politics.people.com.cn/n1/2018/0411/c1001-29917885.html>> Accessed September 15, 2020.
- Wang, X.Q., 'Preliminary Thoughts on Forms of Employment and Labour Relations Issues in the Context of "Internet Plus"' (2017) 8 China Labour 7.
- Wang, X.Q. and Shi, C., 'Review and Reflections on 70 Years of Labour Law in New China' (2020) 3 Seeker 118.
- Wang, X.Q. and Wang, Q., 'Recognition of Labour Relationship and Protection of on-Demand Workers in China' (2018) 4 Law Science 57.
- Wang, X.S. and others, 'Shift Work and Chronic Disease: The Epidemiological Evidence' (2011) 61(2) Occupational Medicine 78
- Wang, Y.T., 'Explanatory Path and Normative System of "Employee - Like Person" for Platform Employment' (2020) 3 Global Law Review 85;
- , 'No.56 Document Starts A New Era of Three Categories of Employment' (China Economy, 2021)<http://views.ce.cn/view/ent/202107/28/t20210728_36756375.shtml>Accessed February 9, 2023.
- , 'The Judicial Logic of Workers' Collective Action Governance-Based on 308 Published Strike Case Decisions from 2008-2014' (2015) 122(2) Law and Social Development 178.
- Wang, Z., 'China's "Labour Shortage" and Migrant Workers' Lack of Social Security' (2014) 153(4) International Labour Review 649.
- Weber, M., *From Max Weber: Essays in Sociology* (Gerth, H.H. and Wright, M.C. eds, 1st edn, Routledge 1946).
- Wei, Q.W. and Gao, W., 'A Different Face of Social Network: Employer-Based Enclave and Migrant Workers' Rights and Interests' (2019) 39 Chinese Journal of Sociology 160.
- Wei, W., 'The First National Trade Union Federation for the Online Food Delivery Industry was Established in Shanghai' (China News, 2018) < <http://www.chinanews.com/sh/2018/01-04/8416637.shtml> >Accessed October 20, 2020.
- White, E. and others, 'How China's Lockdown Policies Are Crippling the Country's Economy' (2022) <<https://ig.ft.com/china-covid-economy>> accessed October 1, 2022.
- Wood, A.J. and others, 'Good Gig, Bad Gig: Autonomy and Algorithmic Control in the Global Gig Economy' (2019) 33(1) Work, Employment and Society 56.
- Wood, A.J., 'Algorithmic Management Consequences for Work Organisation and Working Conditions' JRC Working Papers Series on Labour, Education and Technology, No. 2021/07, European Commission, Joint Research Centre (JRC), Seville.
- Woodcock, J., *The Fight against Platform Capitalism: An Inquiry into the Global Struggles of the Gig Economy* (University of Westminster Press 2021).
- Wu, H., 'The Nature of Administrative Guidance and its Legal Control' (2001) 2 Administrative Law Review 45.
- Wu, Q.J. and others, 'Labour Control in the Gig Economy: Evidence from Uber in China'(2019) 61(4) Journal of Industrial Relations 575.
- Xiao, L.P., 'The Sharing Economy is Expected to be the Main Driver of Job Expansion' (Beijing News, 2018) <<http://www.bjnews.com.cn/finance/2018/07/16/495198.html>> Accessed October 20, 2020.

- Xiao, Z., 'The Theoretical Reflection and Alternative Paths of the Third Category of Worker System' (2017) 4 *Global Law Review* 79.
- Xie, Y. and Wang, Y.L., 'China's Minimum Wage Standard: Development, Composition, and Level' (2015) 6 *Research on Development* 144.
- Xie, Y.Z., 'Determination of Labour Relations for Online Platform Work' (2018) 30(6) *Peking University Law Journal* 1546.
- Xin, Y., 'Facing the Three Major Contradictions in the Process of Rural Migrant Workers' Urban Citizenship' (Yicai, 2017) <<https://www.yicai.com/news/5327308.html>> accessed June 1, 2022.
- Xiong, X. and Z, Z., 'China Employment Report 2020: Preventing Unemployment Wave' (Sina, 2020) <<http://finance.sina.com.cn/zl/china/2020-04-24/zl-iirczymi8049495.shtml>> Accessed October 12, 2020.
- Xu, S.D. in Wu, J.L. and others. (eds) *China's New Economic Orientation: How to Get Out of the Growth Dilemma* (CITIC Press Corporation 2017)1–5.
- Xu, H, 'From Assembly Line to Day Labour: Precarious Labour and the Plight of Young Migrant Workers' (Sohu, 2020)<https://www.sohu.com/a/364880336_617382>Accessed September 1, 2022
- Yan, S.S., 'Northeast Forestry University Responded to "Security Guard Asked the Rider to Kneel": Suddenly Kneeling Security Guards Was Also "Confused"' (Guancha, 2019) <https://www.guancha.cn/politics/2019_04_17_497992.shtml?s=zwyxgtjb>Accessed October 9, 2020.
- Yan, T., 'The Concept of Labour Relation: Crisis, Perseverance and Rebirth' (2018) 6 *China Law Review* 127.
- Yan, Y. and Tai, H., '2.829 Million Affiliated Trade Unions Have Been Established Nationwide, Covering 302 Million Members' (People's Daily Online,2017) <<http://acftu.people.com.cn/n1/2017/0410/c197470-29200210.html>>Accessed October 25, 2020.
- Yang, Y.Y. and Goh, B, 'Chinese Food Delivery Firm Meituan Posts First Quarterly Profit Since Listing' (REUTERS, 2019) <<https://www.reuters.com/article/us-meituan-dianping-results-idUSKCN1VD0YR>>(Accessed October 9, 2020);
- Yao, G.X., 'The Boundaries of Rights-Reflections on Labour Contract Law (2011) 5 *Economic Perspectives* 37.
- Ye, S., 'An Analysis of Minimum Wage Standards from the Perspective of Social Law' (2013) 1 *Journal of Gansu Political Science and Law Institute* 92.
- Yin, F.X., 'Actively Resolving the Structural Contradictions of Employment in China's Manufacturing Industry' (2019) 7 *China Development Observation* 45.
- Zeng, Q.X. and Xiong, W.D., 'How to Solve the Problem of "Difficulty in Recruiting Workers" in the Manufacturing Industry?' (Workers' Dairly, October 19, 2021) <<https://news.ruc.edu.cn/archives/347980>> accessed July 1, 2022.
- Zhan, J., Li, R.Y. and Meng, D.X., 'Why Do Young People Prefer Delivering the Take-out to Going to Factories? -Study on the Total Compensation System of New Generation Manufacturing Workers in China' (2019) 13(1) *Journal of Beijing Vocational College of Labour and Social Security* 20.
- Zhang, C.Y., 'The Rider Was Stopped to Get in a Residential Property, Kneeling in Front of Doorman' (The Paper, 2020) <https://www.thepaper.cn/newsDetail_forward_7671889?hotComm=true>Accessed October 9, 2020.
- Zhang, P.S. and Wu, S.Y., 'Trends and Policy Considerations on China's Minimum Wage Standards - An Analysis Based on the Minimum Wage Standards of Provinces in 2008 and 2019' (2021) 8 *China Human Resources and Social Security* 44.
- Zhang, S., 'Narrow Definition of Employment Discrimination - The Starting Point of China's Legal Regulation on Employment Discrimination' (2011) 25 *Contemporary Law Review* 108

- Zhang, T.P., 'Disciplinary Dismissal: Case Analysis and Rules Construction - Centred on Article 39(2) of the Labour Contract Law' (2017) 18 *Journal of Law Application* 92.
- Zhang, Y., 'The Overall Employment Situation is Stable, and the Expected Employment Goals are Well Achieved' (*China Economy*, 2020) <http://www.ce.cn/xwzx/gnsz/gdxw/202001/19/t20200119_34154606.shtml> Accessed October 12, 2020.
- Zhao, D., 'The Predicament of Small Horses Pulling Big Carts' in Labour Inspection,' (2011) <<https://www.chinanews.com.cn/fz/2011/02-28/2872433.shtml> > accessed September 1, 2022.
- Zhao, L.Y. and Yuan, G.X., 'The Causes and Coping Strategies of the "35-Year-Old Phenomenon"' (2020) 28 *People's Tribune* 132.
- Zhao, Y., 'What Will Happen to China's Manufacturing Industry When All the Young People Go for Takeaway?' (*China Digital Times*, July 28, 2020) <<https://chinadigitaltimes.net/chinese/651065.html>> accessed June 1, 2022.
- Zhen, H.G. and others, "Platform Workers" and "Downloaded Labour": Group Characteristics and Labour Process of Couriers and Food Delivery Workers in Wuhan' (Tencent, 2020) <<https://new.qq.com/rain/a/20200330A0DUR500>> Accessed October 9, 2020.
- Zheng, C.G., 'It is the Right Time to Codify Labour Laws' (*Bjnews*, 2023) <<https://news.ruc.edu.cn/archives/421274> > Accessed March 10, 2023.
- Zhou, C., 'The First Trade Union for Instant Delivery Riders was Established in Guangzhou' (*YCWB*, 2019) <http://news.ycwb.com/2019-01/09/content_30172276.htm> Accessed October 20, 2020.
- Zhou, X., 'Meituan Data Are Not Credible, Riders Really Earn Less Than City Minimum Wage' (*Guancha*, 2020) <https://www.guancha.cn/zhouxian/2020_09_16_565266.shtml> Accessed October 9, 2020.
- Zhou, X., 'China Turns to "Street Vendor Economy" to Help Manage Unemployment Crisis' (*South China Morning Post*, 2020) <<https://www.scmp.com/economy/china-economy/article/3087770/china-turns-street-vendor-economy-help-manage-unemployment> > Accessed October 12, 2020.
- Zhou, Y. and Pun, N., 'Affording Worker Solidarity in Motion: Theorising the Intersection between Social Media and Agential Practices in the Platform Economy' (2022) *New Media & Society Online First*.
- Zhu, B.W., 'A University Student Who Ordered Food Ranted Riders' (*The Paper*, 2021) <https://m.thepaper.cn/rss_newsDetail_15749012?from=> accessed June 8, 2022.
- Zhuang, W. and Ngok, K., 'Labour Inspection in Contemporary China: Like the Anglo-Saxon Model, but Different' (2014) 153 *International Labour Review* 561.

Appendix

1. Participants' information in Changsha

Identifying Number	Gender	Age	Hometown (Province)	Education	Years of delivery experience.	Platforms and types of rider
1	Male	24	Hunan	Junior high school	1	Meituan Ordinary on-demand rider
2	Male	33	Hunan	High school	>7	Ele.me Youxuan team leader
3	Male	28	Hunan	Junior high school	1	Meituan Lepao rider
4	Male	22	Hunan	Secondary specialised school	1.5	Ordinary on-demand rider for the two platforms
5	Male	45	Hunan	Junior high school	3	Meituan Lepao rider
6	Male	20	Hunan	Junior high school	4	Meituan Lepao rider
7	Female	35	Hunan	Secondary specialised school	>1	Meituan Lepao rider
8	Male	40	Gunagxi	Junior high school	1-2 months	Meituan ordinary on-demand rider
9	Male	30	Hunan	Three -year college	1-2months	Ele.me Youxuan rider
10	Male	31	Fujian	Three -year college	1	Part-time ordinary on-demand rider for the two platforms
11	Male	38	Hunan	University	3	Meituan ordinary on-demand rider
12	Male	31	Hunan	Junior high school	3	Meituan Lepao rider
13	Male	32	Hunan	Junior high school	2	Ordinary on-demand

						rider for two the platforms
14	Male	26	Hunan	High school	1	Ordinary on-demand rider for two the platforms
15	Male	36	Hunan	Junior high school	6	Ordinary on-demand rider only for Ele.me
16	Male	25	Hunan	Junior high school	More than 3 months	Ele.me team rider
17	Male	45	Hunan	High school	2-3	Ordinary on-demand rider only for Meituan
18	Male	28	Hunan	University	1.7	Ele.me Youxuan rider
19	Male	20	Hunan	Junior high school	1	Ordinary on-demand rider only for Meituan
20	Male	35	Hunan	Junior high school	1	Part-time ordinary on-demand rider for the two platforms
21	Male	53	Hunan	Junior high school	>1	Ordinary on-demand rider for the two platforms
22	Male	22	Hubei	Secondary specialised school	<1	Meituan Lepao rider
23	Male	31	Hubei	Junior high school	>1	Part-time team rider for Ele.me
24	Male	32	Hunan	University	>2	Ele.me Youxuan team leader
25	Male	21	Hunan	University	1	Ele.me Youxuan team rider
26	Male	35	Hunan	High school	1	Ele.me part-time ordinary on-

						demand rider
27	Male	36	Hunan	Junior high school	3-5	Meituan Lepao rider
28	Male	45	Hunan	Junior high school	< 6 months	Ele.me Ordinary on-demand rider
29	Male	51	Hunan	Junior high school	6 months	Meituan Ordinary on-demand rider
30	Male	29	Hunan	Junior high school	6 months	Meituan Lepao

2.Participants' information in Hangzhou

Identifying Number	Gender	Age	Hometown (Province)	Education	Years of delivery experience	Platforms and types of riders
1	Male	30	Anhui	Three - year college	<4	Ordinary on-demand rider for the two platforms
2	Male	29	Guangxi	Junior high school	>2	Ele.me Youxuan rider
3	Male	27	Hunan	Junior high school	<5	Ele.me Youxuan rider
4	Male	35	Shandong	Junior high school	3	Ordinary on-demand rider for the two platforms
5	Male	38	Anhui	Junior high school	1	Ordinary on-demand rider for the two platforms
6	Male	28	Gansu	Three - year college	>6 months	Ele.me Youxuan rider
7	Male	30	Anhui	High school	3	Ele.me Youxuan team leader
8	Male	31	Jiangxi	Junior high school	>1	Ele.me Youxuan rider
9	Female	36	Hubei	Junior high school	<1	Meituan Lepao rider
10	Male	30	Henan	Junior high school	<3	Meituan Lepao rider
11	Male	35	Henan	Junior high school	<2	Meituan Lepao rider
12	Male	22	Anhui	Junior high school	<2	Meituan Lepao rider

13	Male	26	Anhui	Junior high school	2 months	Ele.me team rider
14	Male	30	Henan	Junior high school	<6 months	Meituan ordinary on-demand rider
15	Male	32	Anhui	High school	>3	Meituan district ordinary on-demand leader (district leader)
16	Male	33	Shanxi	High school	1	Ele.me Youxuan rider
17	Male	54	Zhejiang	Primary school	2	Ele.me ordinary on-demand rider
18	Male	50	Anhui	Primary school	>6 months	Part-time Ele.me ordinary on-demand rider
19	Male	21	Henan	Primary school	4 months	Meituan ordinary on-demand rider
20	Male	31	Henan	Secondary specialised school	2	Meituan same-city core rider
21	Male	43	Zhejiang	Three - year college	1	Ordinary on-demand rider for the two platforms
22	Male	30	Henan	High school	>3	Ele.me Youxuan rider
23	Male	30	Gansu	Secondary specialised school	3	Meituan Lepao rider

24	Male	25	Jiangxi	Secondary specialised school	2	Ordinary on-demand rider for the two platforms
25	Male	30	Anhui	Junior high school	5	Meituan Lepao rider
26	Male	24	Henan	Junior high school	1	Meituan Lepao rider
27	Male	31	Anhui	University	3	Ele.me Youxuan rider
28	Male	22	Yunan	Junior high school	< 6 months	Meituan team rider
29	Male	32	Shanxi	High school	5	Meituan Lepao team leader
30	Male	37	Jiangsu	Three - year college	>2	Meituan Lepao rider